

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

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING A SAND AND GRAVEL LEASE TO NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY TO EXTRACT SAND AND GRAVEL FROM 16.636 ACRES, MORE OR LESS, OF NAVAJO NATION TRUST LANDS, AND AN ACCESS ROAD OF 2.842 ACRES, MORE OR LESS, OF NAVAJO NATION TRUST LANDS LOCATED WITHIN THE TEEC NOS POS CHAPTER VICINITY, NAVAJO NATION (APACHE COUNTY, ARIZONA)

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Resources and Development Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 500 (A).
- B. The Resources and Development Committee of the Navajo Nation Council has authority to give final approval of all land withdrawals, non-mineral leases, permits, licenses, rights-of-way, surface easements and bonding requirements on Navajo Nation lands and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfers include, renewals, and terminations. 2 N.N.C. § 501 (B) (2).

SECTION TWO. FINDINGS

- A. Navajo Engineering and Construction Authority, P.O. Box 1910, Shiprock, New Mexico 87420, has submitted a request for a sand and gravel lease to occupy 16.636 acres and an access road right-of-way of 2.842 acres, more or less, of Navajo Nation Trust Lands within the Teec Nos Pos Chapter vicinity. The proposed Sand and Gravel Lease is attached hereto as **Exhibit A**. The proposed Terms and Conditions for the access road right-of-way is attached as **Exhibit D**.
- B. The proposed Sand and Gravel Lease consists of 16.636 acres and an access road consists of 2.842 acres, more or less, of Navajo Nation Trust Lands located in the Teec Nos Pos Chapter vicinity (Apache County, State of Arizona), as described in **Exhibit B**.

- C. The land user consents have been obtained and are attached as **Exhibit C**.
- D. Environmental and archaeological studies and clearances have been completed and are attached hereto and incorporated herein by this reference. The Finding of No Significant Impact, Environmental Assessment EA-17-17672 is attached as **Exhibit E**. The Cultural Compliance Form NNHPD No. HPD-17-140 is attached as **Exhibit F**. The Cultural Resources Survey is attached as **Exhibit G**. The Teec Nos Pos, Arizona Gravel Pit Biological Evaluation is attached as **Exhibit H**. The Teec Nos Pos Gravel Pit Mining Lease Application Environmental Assessment is attached as **Exhibit I**.
- E. The Mining Plan is attached as **Exhibit J**. The Stormwater Pollution Prevention Plan is attached as **Exhibit K**.
- F. The Teec Nos Pos Chapter supports the approval of the sand and gravel lease in the Teec Nos Pos Chapter vicinity. Resolution TNPCH-02-05-17 is attached as **Exhibit L**.
- G. The Navajo Engineering and Construction Authority Board of Directors through Resolution NECA3-1-17, attached as **Exhibit M**, is requesting approval of the sand and gravel lease and the access road.
- H. The Navajo Engineering and Construction Authority's Statement of Purpose is attached as **Exhibit N**.
- I. Executive Official Review Document No. 009559, entitled "NECA, Sand and Gravel Lease Teec Nos Pos" has completed an Executive Official Review with various Departments and Programs including the Navajo Nation Department of Justice and found "sufficient" or "approved". Executive Official Review Document No. 009559 is attached as **Exhibit O**.

SECTION THREE. APPROVAL

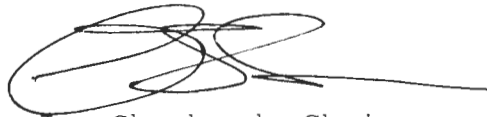
- A. The Resources and Development Committee of the Navajo Nation Council hereby approves a Sand and Gravel Lease for the a sand and gravel lease to occupy 16.636 acres and an access road right-of-way of 2.842 acres, more or less, of Navajo Nation Trust Lands in the Teec Nos Pos Chapter vicinity, Navajo Nation (San Juan County, New Mexico) to Navajo Engineering and Construction Authority (NECA). The location

is more particularly described on the survey maps attached as **Exhibit B**.

- B. The Navajo Nation hereby approves the Sand and Gravel Lease and access road right-of-way subject to, but not limited to the Sand and Gravel Lease and Terms and Conditions in the attached **Exhibit A** and **Exhibit D**.
- C. The Navajo Nation hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to implement 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 Twin Arrows Navajo Casino & Resort, Leupp, 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 17th day of December 2018.

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

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

Motion: Honorable Walter Phelps
Second: Honorable Leonard Pete

Chairperson Alton Joe Shepherd not voting.

Standard Form Gen.

Lease for Trust Land

Dated 02/05/18 for Sand & Gravel

NAVAJO NATION SAND AND GRAVEL LEASE

THIS AGREEMENT for a Sand and Gravel Lease (Lease) is made and entered into this _____ day of _____, by and between the Navajo Nation, whose address is Post Office Box 1910, Window Rock, Arizona 86515, and _____, herein called the Lessee and whose address is at _____.

Definitions:

Sand & Gravel means: ~~Borrow~~ ^{Borrow} (Earth), Sand and Natural or Processed Gravel,

Department means the Navajo Nation Minerals Department.

Navajo Nation (Nation) means the Navajo Tribe of Indians.

Secretary means the Secretary of the U.S. Department of the Interior or his/her designated representative.

Performance bond means a surety bond, collateral bond or self-bond or a combination thereof, by which a lessee assures faithful performance of all the requirements this lease and mining and reclamation plan.

Reclamation means those actions taken to restore mined land as required to a post-mining land use approved by the Department.

Resources Committee means the Resources Committee of the Navajo Nation Council.

Slope means average inclination of a surface, measured from the horizontal. Normally expressed as a unit of horizontal distance to vertical distance.

Stabilize means to control movement of soil, or areas of disturbed earth by modifying the geometry of the mass, or by otherwise modifying physical or chemical properties, such as by providing a protective surface coating.

Ton means 2000 pounds.

Water table means the upper surface of a zone of saturation.

The Navajo Nation hereby grants Lessee a Lease right to extract sand and gravel from NE/4 of Section 35, Township 41N, Range 29E, Township ~~XXXXXX~~ Range ~~XXXXXX~~ G&SRBM, Apache County, State of Arizona. The Lease occupies an area of 30.04

acres, more or less, and the access road right-of-way consists of 6.19 acres, more or less. The location maps and legal descriptions of the Lease and the access road are shown in attached Exhibit "D" ~~respectively~~. The Lease shall be subject to the following terms and conditions.

1. The Lease shall be valid for a period of five (5) years effective the date it is approved by the Secretary. This date shall be known as the Effective Date of the Lease.
2. Payments to the Nation by the Lessee:
 - (i) An annual advance royalty for each lease year. The first payment in the amount of Eight Thousand dollars (\$ 8,000.00) is due within ten (10) days of the Effective Date. Subsequent annual advance royalty payments are due on or before each anniversary of the Effective Date. The annual advance royalty payment shall be credited against production royalties only during the year for which the advance royalty has been paid.
 - (ii) A royalty at the rates of \$ 2.00 per ton for each ton of material removed and sold from the Lease premises. The royalty payment shall be made on a monthly basis within fifteen (15) days following the month for which the royalty is due.
 - (iii) Annual consideration of \$ 4,828.20 for the access road right-of-way. The first payment is due (unless it is paid in lump sum for the entire term of the lease) within ten (10) days of the Effective Date and all subsequent payments shall be made on or before each anniversary of the Effective Date.
 - (iv) The subsequent annual advance payments, the royalty rate and the right-of-way consideration (if not paid in lump sum) shall be subject to annual adjustments on each anniversary of the Effective Date. The adjustments shall be based upon the increase in the Consumer Price Index (CPI), U.S. City Average for All Urban Consumers. The CPI for ~~February 2017~~ March 2018 shall be used as the base for all adjustments.
3. Mining and Reclamation Plan: The Lessee shall provide a mining and reclamation plan (Plan) to the Nation and to the U.S. Department of the Interior (DOI). The Lessee shall comply with all the requirements of the approved Plan. Lessee shall obtain the approval of the Nation and the DOI prior to making any changes in the approved Plan. The plan will include the area to mine with drainage control; annual tonnage estimates for the mining area; and the planned reclamation timing to coincide with the mining. As a general rule, slopes will not exceed 5:1 and majority of the revegetation species will be native to the area.
4. Bond: The Lessee shall furnish a performance and reclamation bond for One-Hundred-Fifty Thousand dollars (\$ 150,000.00). The Lessee shall maintain this bond at all times even if the Lease has expires or is terminated. The bond shall only be released with the written consent of the Navajo Nation. The bond shall only be released with the written consent for the Navajo Nation. The bond may also be

increased by the Navajo Nation and/or the DOI. The Lessee shall request a bond release to DOI only after the Lease has been expired or terminated and Lessee has fulfilled all its obligations, including payments to the Nation and reclamation, under the terms and conditions of this Lease.

5. **Records and Reports:** The Lessee shall maintain accurate records of all sand and gravel material extracted, stockpiled, sold and removed from the Lease and the royalty due and paid to the Navajo Nation. A copy of the records shall be provided to the DOI and the Navajo Nation Minerals Department (P.O. Box 1910, Window Rock, AZ: 86515) on a monthly basis within fifteen (15) days following the sale month. Monthly production reports must be filed even if there was no sale of material.
6. **Method of Payments:** All required payments under Section 2 of this Lease shall be made to the Department, in lawful money of the United States. A copy of the payments shall be provided to the DOI.
7. **Disposition of Minerals and Surface:** The Navajo Nation expressly reserves the right to use, lease or otherwise dispose of the minerals not covered by this Lease and the surface of the lands embraced within this Lease under existing laws and laws hereinafter enacted. Lessor further reserves the right to grant additional leases for the extraction and removal of sand and gravel or for any other purposes from the lands described herein. Such disposition and use shall be subject to the prior rights of the Lessee herein to use of so much of the said surface as is necessary in the extraction and removal of sand and gravel described in accordance with this Lease.
8. **Diligence:** The Lessee shall exercise diligence in the conduct of its mining operation and the land described herein shall not be held for speculative purposes, but in good faith for the extraction of sand and gravel and shall begin operation within one (1) month of the Effective Date and shall continue production thereafter at the rate specified in the plan.
9. **No work shall commence until the mandatory mine health and safety training has been provided to the workers pursuant to 30 CFR, Part 46.** The Lessee shall maintain the required training plan pursuant to the provisions of 30 CFR, Part 46. The Department shall be listed in the training plan if the Lessee wants the Department to conduct the training. The Lessee may contact the Department to arrange for the training.
10. **The Lessee may develop, use and occupy the area under the Lease for the purpose of removing sand and gravel material.** The Lessee may not develop, use or occupy the area under the Lease for any other purpose without the prior written approval of the Nation and the Secretary. Such approval of the Nation may be granted upon conditions or withheld at the sole discretion of the Nation. The Lessee may not develop, use or occupy the area under the permit for any unlawful purpose. Any unlawful use of the land within the Lease shall render the Lease void at the option of the Nation and/or the Secretary.

11. Sand and gravel material shall not be used for projects outside the Nation unless it is expressly authorized by the Resources Committee of the Navajo Nation Council.
12. In all activities conducted by the Lessee within the Navajo Nation, the Lessee shall abide by all laws and regulations of the 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, Parts 162 and 169;
 - b. Title 30, Code of Federal Regulations, Parts 46 and 56;
 - c. The Navajo Nation Mine Safety Code 18 N.N.C. § 401;
 - d. All applicable federal and 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 practice.
 - e. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq., and
 - f. The Navajo Nation Water Code, 22 N.N.C. § et seq., Lessee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
13. The Lessee shall ensure that the air quality of the Nation is not unduly degraded during operations by violating federal and Nation's applicable laws and regulations.
14. The Lessee shall clear and keep clear the lands within the Lease area to the extent compatible with the purpose of the Lease, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during any surface disturbance activities.
15. The Lessee shall at all times during the term of the Lease and at the Lessee's sole cost and expense, maintain the land subject to the Lease and all improvements located thereon and make all necessary reasonable repairs.
16. The Lessee shall obtain prior written permission to cross an existing permit or lease areas, if any, from the appropriate parties.

17. The Lessee shall be responsible for and promptly pay all damages when they are sustained, from actions the Lessee causes.
18. The Lessee shall indemnify and hold harmless the Nation and the Secretary and their respective authorized agents, employees, land users and occupants against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of area under the Lease by the Lessee.
19. The Lessee shall not assign, convey, transfer or sublet in any manner whatsoever, the lease or any interest therein, or in or to any of the improvements on the land subject to the lease, without the prior written consent of the Nation and the Secretary. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Nation may be granted, granted upon conditions or withheld at the sole discretion of the Nation.
20. The Nation may recommend termination of the Lease by DOI for violation of any of the terms and conditions stated herein.
21. At the termination of the Lease, the Lessee 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 from the Nation, the Lessee shall provide the Navajo, at the Lessee's sole cost and expense, with an environmental audit assessment of the premises at least thirty (30) days after completion and notification to the Nation that all required reclamation has been performed.
22. Holding over by the Lessee after the termination of the Lease shall not constitute a renewal or extension thereof or give the Lessee any rights hereunder or in to the land subject to the Lease or to any improvements located thereon.
23. The Nation and the Secretary shall have the right, at any reasonable time during the term of the permit, to enter upon the premises, or any part thereof, to inspect the same and any improvements located therein. The Nation and Secretary have further right to audit all payments due to the Nation.
24. By acceptance of the grant of Lease, the Lessee consents to the full territorial legislative, executive and judicial jurisdiction of the 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 Lessee within the Navajo Nation or which have a proximate (legal) effect on persons or property within the Nation.
25. By acceptance of the grant of the Lease, the Lessee covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Nation on the basis that such jurisdiction is inconsistent with the status of the 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 Lease or to the Nation.

26. Any action or proceeding brought by the Lessee against the Nation in connection with or arising out of the terms and conditions of the Lease shall be brought only in the Courts of the Nation, and no such action or proceeding shall be brought by the Lessee against the Nation in any court of any state.
27. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Nation.
28. Except as prohibited by applicable federal law, the law of the Nation shall govern the performance and enforcement of the terms and conditions contained herein.
29. 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 Lessee, and the term "Lessee" whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.
30. There is expressly reserved to the Nation full territorial legislative, executive and judicial jurisdiction over the area under the Lease and all lands burdened by the Lease, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the area under the Lease and all lands burdened by the Lease shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.
31. The Lessee is required to maintain and submit a certificate issued by an insurance company authorized to do business in the United States, and on the Navajo Nation, certifying that the applicant has a public liability insurance policy in force for the mining and reclamation operations pursuant to this Lease. Such policy shall provide for personal injury and property damage protection in an amount adequate to compensate any person injured or property damaged as a result of the mining and reclamation operations, including the use of explosives. Minimum insurance coverage for bodily injury and property damage shall be \$ 500,000 for each occurrence and \$1,000,000 aggregate.
 - a. The policy shall be maintained in full force during the term of the Lease and the liability period necessary to complete all reclamation requirements under the Plan.

- b. The policy shall include a rider requiring that the insurer notify the Department and DOI whenever substantive changes are made in the policy including any termination or failure to renew.
32. The Lessee shall maintain a minimum 200.00 feet buffer zone with the San Juan River.
33. All employees of the Lessee shall be thoroughly familiar with the Lessee's emergency response plan.
34. The Lessee shall obtain the permission of permittees of existing mineral, oil and gas lease holders, operators and rights-of way permittees when crossing these leases and rights-of-way.
35. The Lessee shall not extract sand and gravel located in the vicinity of oil and gas wells, including abandoned wells unless written authorization is obtained from the Navajo Nation and those federal agencies having jurisdiction.

THE NAVAJO NATION

Date

By _____
Russell Begaye, President
The Navajo Nation

Date

By _____
_____, President



**THE
NAVAJO
NATION**



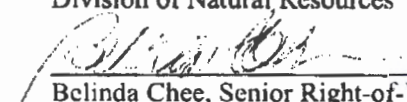
**RUSSELL BEGAYE
PRESIDENT**

**JONATHAN NEZ
VICE - PRESIDENT**

Utah Land Office/General Land Development Dept.
Post Office Box 410
Montezuma Creek, Utah 84534

MEMORANDUM

To: Ms. Elcrina Yazzie, Program Manager
General Land Development Department
Division of Natural Resources

From: 
Belinda Chee, Senior Right-of-Way Agent
Utah Land Office/General Land Development Department

Date: September 21, 2018

Subject: Field Clearances Revision for Navajo Engineering and Construction Authority

Pursuant to the Field Clearance revision request, the Utah Land Office has completed below cited Field Clearances with Mr. Dale Redhouse, Grazing Committee Member of Teeenospos Chapter, and two (2) Grazing Permittces. No surface damage compensation is required for this Sand and Gravel size reduction. Thus, the proposed project will be forward to General Land Development Department for further process and approval. The proposed project is described below:

Revision: Sand and Gravel Lease and Access Road Right-of-way Application for the Teeenospos Gravel Pit, NLTDS No. 9559. NECA has reduced the size from the first version quantity of 22.51 acres to 19.478 acres due to an overlap with Apache County's application. Located southwest of United States Highway 160 mile marker 459.55 and Navajo Route 5043 and in Section 35 of Township 41 North, Range 29 East, Teeenospos Chapter, Apache County, Arizona.

All of the original Field Clearance documents are attached. For any inquiries, call me at (435) 651-3504 or email at belchee@frontier.com Thank you.

Attachments

cc:
Aminerson Barber, Estimator/Project Coordinator/NECA
Elerina Yazzie, Department Manager/GLDD/DNR/NN
Dale Redhouse, GCM/Teeenospos Chapter/NN
Akhtar Zaman, Director/Minerals Dept./NN
Bill Freeman/NNEPA/NN
Bertha Spencer, Realty/BIA
File, Utah Land Office/GLDD/DNR/NN

FIELD CLEARANCE CHECKLIST

(This form covers only damages and compensation to individual land users. It does not cover consideration or other fees to the Navajo Nation. If necessary, use the back of this form for completion.)

Project Identification:

Applicant: Navajo Engineering and Construction Authority, Post Office Box 969, 1 Uranium Boulevard, Shiprock, New Mexico 87420.

Identification:

Purpose: Revision: Sand and Gravel Lease and Access Road Right-of-way Application for the Teechnospos Gravel Pit, NLTDS No. 9559. NECA has reduced the size from the first version quantity of 22.51 acres to 19.478 acres due to an overlap with Apache County's application.

Location (Legal Description): Located in southwest of United States Highway 160 mile marker 459.55 and Navajo Route 5043 and in Section 35 of Township 41 North, Range 29 East, Teechnospos Chapter, Apache County, Arizona.

Amount of land affected: 19.478 acres

Land status: Trust Fee Other

1. List of land use/grazing permittee whose land use rights will be affected project:


	<u>Names</u>	<u>Census No.</u>	<u>Type of and Use Right</u>
a.	James Litson		Grazing Rights
b.	Darlene Litson		Grazing Rights
c.			
d.			

2. Are all land users in the above list no. 4 with claims to the affected lands shown in the Branch of Land Operations records? Yes No
3. Have the Grazing Committee or Land Board Member (whichever is appropriate) for the affected area confirm the list no. 4 by signing acknowledgement form below.

ACKNOWLEDGEMENT

I acknowledge that due notice was given to the affected community of the proposed project, and according to my records and to the best of my knowledge, the list no. 4 includes all land users who have rights in the affected lands.

9-21-18
Date


Dale Redhouse, Grazing Committee Member
Teechnospos Chapter

09
District

4. Are any damages expected to individual improvements? Yes No

If yes, contact the Director of Navajo Land Administration because special arrangements will have to be made to compensate for these damages.

If no give full explanations why:

No damages is expected to individual improvement. Nominal surface/grazing damages is expected on the projects. Surface damage compensation will be paid out to the affected grazing permittees. And the disturbed grazing area will be reclaimed/reseed per Bureau of Indian Affairs regulations after the completion of the project.

5. List of land users where diminishment in value of land use rights is expected and/or where land use rights is expected to be enhanced as a result of the project. Specify whether or not there is diminishment or enhancement in value of land use rights. Note whether or not land users have consented and which consent forms were used. (If no expected damages, use Consent Form No. 1.)

	<u>Names</u>	<u>Expected Diminishment</u>	<u>Expected Enhancment</u>	<u>Did Land Users Consent? Form?</u>
a.	James Litson	None	None	Yes, Consent # 3
b.	Darlene Litson	None	None	Yes, Consent # 3

List again the land users from list no. 8 where land use rights value will be diminished as a result of the project. Specify if land users is to receive compensation and the monetary amount in-kind compensation to be received, and use Consent Form No. 2. Indicate whether compensation is be received is adequate for the estimated damages to land use rights. Note whether land users have consented and which consent forms used. (If waiver of compensation for damages, use Consent Form No. 3.)

	<u>Names</u>	<u>Compensation Amount</u>	<u>Is Amount Adequate</u>	<u>Did Land Users Consent? Form?</u>
a.	James Litson	\$0.00 Waived	Yes	Yes, Consent # 3
b.	Darlene Litson	\$0.00 Waived	Yes	Yes, Consent # 3

How, when and by whom will land users be paid compensation? If any, is it spccified in list no. 9 above?

Surface damages compensation will be paid out accordingly to the Grazing Committee Member's Payment Recommendation.

6. Is a topographical map of the project attached? Yes No
7. Was the project fully explained to the land users? Yes No
8. Which chapter will be affected by the project? Tecenospos Chapter
9. Are supporting chapter resolution attached? Yes No

10. Will chapter receive any payments or benefits from the project?

Yes No If yes, what will be received?

Approved by:

Field Clearance Conducted by:

Utah Land Office/General Land Development Department

General Land Development Department
(GLDD)



Belinda Chee, Senior Right-of-Way Agent

(GLDD approval necessary only if the
Field Clearance was conducted by
other than GLDD Office)

Date: September 21, 2008

GRAZING COMMITTEE RECOMMENDATION

Date: September 20, 2018

Project Name/Legal Description: Revision: Sand and Gravel Lease and Access Road Right-of-way Application for the Tecnospos Gravel Pit, NLTDs No. 9559. NECA has reduced the size from the first version quantity of 22.51 acres to 19.478 acres due to an overlap with Apache County's application. Located southwest of United States Highway 160 mile marker 459.55 and Navajo Route 5043 and in Section 35 of Township 41 North, Range 29 East, Tecnospos Chapter, Apache County, Arizona.

Pursuant to the Shiprock Agency Grazing Committee Resolution dated July 20, 2007, in determining eligibility for grazing permittee/land use permittee to receive surface damage compensation; I Dale Redhouse, Grazing Committee Member of District 9, Tecnospos Chapter recommend this/these individual (s) as:

/ X / Recipient(s) of the surface damage and /or nuisance compensation deriving from the above referenced project from Navajo Engineering & Construction Authority and compensation to be distributed as follows:

/ X / The permittees to consent to the above-referenced project:

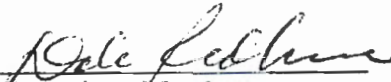
No.	Name:	Census No.	Soc. Sec. No.	Any Livestock Tally?	% Distribution
1)	James Litson		N/A	N/A	N/A
2)	Darlene Litson		N/A	N/A	N/A

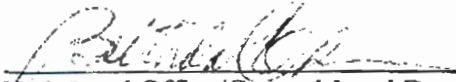
Witnesses: _____

Remarks:

CONCURRENCE:

ACKNOWLEDGEMENT:


Grazing Committee Member
Dale Redhouse, Tecnospos Chapter


Utah Land Office/General Land Development Department
Belinda Chee, Senior Right-of-Way Agent

CONSENT FORM 3
(Waiver of Compensation for damages)

CONSENT TO USE
NAVAJO TRIBAL LANDS

TO WHOM IT MAY CONCERN:

I, James Litson ^{and Carlene Litson}, hereby grant consent to the Navajo Nation and the Bureau of Indian Affairs, Window Rock, Arizona, to permit:

Navajo Engineering and Construction Authority, Post Office Box 969, 1 Uranium Boulevard, Shiprock, New Mexico 87420.

To use a portion of my land use area for the following purpose(s):

Revision: Sand and Gravel Lease and Access Road Right-of-way Application for the Teecnospos Gravel Pit, NLTDs No. 9559. NECA has reduced the size from the first version quantity of 22.51 acres to 19.478 acres due to an overlap with Apache County's application. Located southwest of United States Highway 160 mile marker 459.55 and Navajo Route 5043 and in Section 35 of Township 41 North, Range 29 East, Teecnospos Chapter, Apache County, Arizona.

As shown on the map showing the location of the proposed project attached.

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:

9-21-2018
Date

X James Litson
Land User Signature / Thumbprint

2018/09/05, 1/45
Census No. _____
Permit No. 9-2293

Address: P.O. Box. , Teecnospos, Az.

Witness: _____

9-21-18
Date

Dale Redhouse
Grazing Committee
Dale Redhouse, Teecnospos Chapter

District No. 09

ACKNOWLEDGEMENT OF FIELD AGENT

I acknowledge that the consents of this consent form was read / 11 or fully explained / 11 to the land user in Navajo / 11 or English / 11 (Check where applicable)

Belinda Chee
Field Agent Signature
Belinda Chee, Senior Right of Way Agent

JAMES LITSON
DARLEEN LITSON

.0110; .0127; .0142

United States
Department of the Interior
Office of Indian Affairs

Assigned Brand WL District No. 9
Date Issued OCTOBER 14, 1993 Permit No. 9-2293

	Sheep Units
Horses Permitted <u>4</u> , Totalling _____	<u>20</u>
Sheep and Other Livestock Permitted _____	<u>35</u>
Total Permitted _____	<u>55</u>

Season of Use _____ This District YEARLONG
Elsewhere and Dates _____

GRAZING PERMIT

Navajo Reservation
Window Rock, Arizona

PERMIT CONDITIONS

BY AUTHORITY of law and pursuant to the regulations in Part 72-Navajo Grazing Regulations, Title 25 C. F. R.-and amendments thereto, the above-named Indian is hereby granted permission to hold and graze the number and kind of livestock as specified above on the Navajo Reservation for the time and in the district or districts as stated above and thereafter until further notice, subject to compliance with the Range Management Plan for the district or districts and any changes made in accordance with and pursuant to the said Grazing Regulations as amended:

This permit shall not be assigned, sublet, or transferred except as provided in said Grazing Regulations.

The Superintendent shall make decisions relative to the interpretation of the terms of this permit and enforcement of Grazing Regulations.

Done at the Navajo Agency on this FOURTEENTH day of

OCTOBER, 19 93

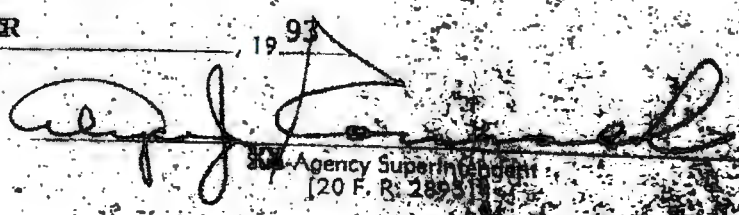

Agency Superintendent
(20 F. R. 2893)



EXHIBIT " D "

NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS

NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY (GRANTEE)

1. The term of the right-of-way shall be for five (5) years, beginning on the date the right-of-way is granted by the Secretary of Interior.
2. Consideration for the right-of-way is assessed at \$ 24,141.00 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 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, maintaining, and operating an access road. The Grantee may not develop, use or occupy the right-of-way for any other purpose, nor allow others to use or occupy the right-of-way for any other purpose, without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation. The Grantee may not develop, use or occupy the right-of-way for any unlawful purpose.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
 - a. Title 25, Code of Federal Regulations, Part 169; subject to the terms of this right-of-way.
 - b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archaeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices;
 - c. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., and the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq.; and
 - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq. Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.

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

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



**FINDING OF NO SIGNIFICANT IMPACT
ENVIRONMENTAL ASSESSMENT EA-17-17672
TEEC NOS POS GRAVEL PIT LEASE APPLICATION ENVIRONMENTAL ASSESSMENT**

Navajo Engineering and Construction Authority

Location: Cow Butte, AZ Quadrangle USGS 7.5 Minute Series Maps

Section 35, T41N, R29E, NMPM

Apache County, Arizona

NECA will submit a lease application with the Navajo Nation and the Bureau of Indian Affairs (BIA) for a five-year lease to conduct gravel mining operations west of Teec Nos Pos, Arizona on Navajo Tribal Trust lands. NECA has selected a site on an alluvial terrace west of the Toh Dastini Wash, on the south side of U.S. Highway 160, adjoining Navajo Route N5403. The proposed action will involve expanding an existing gravel pit to excavate and crush gravel material for use in various construction projects in the Agency. The proposed gravel pit would encompass 30.04 acres. The proposed federal action would be a five-year lease approval from BIA and the Navajo Nation. The gravel pit tract lies within Teec Nos Pos Chapter, Arizona.

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, Federal Endangered Species Act Threatened and Endangered Species, Navajo Endangered Species List (NESL) Special Management Species, Migratory Birds, Air Quality, Esthetics and Visual Resources, Cultural Resources, and Cumulative Effects.
- 2. Public Health and Safety:** Based on the EA, the proposed pit would not require new access road construction. The existing U.S. 160 highway and Navajo Route N5403, located on the northeast side of the proposed mine area will be used to access the proposed lease (EA Section 2.2 NECA Gravel Pit Operations (Preferred Alternative)). For safety and security measures the active operational areas would be fenced to prevent unauthorized access by people and for livestock safety (EA Section 1.2 Purpose and Need for the Project). There will be no impacts to public health or safety.
- 3. Clean Water Act (CWA) Compliance:** When a project spans, crosses or results in work in a river bed, stream bed or wetland, permits from the U.S. Army Corps of Engineers (ACOE) and/or the Navajo Nation Environmental Protection Agency, Water Quality Program may be required, including: Section 401, Water Quality Certification; Section 402(p), Storm Water Pollution Prevention Plan, if the project activity will disturb surfaces of ½ acre or more; and Section 404, Permit for Discharge of Dredge or Fill Material into Waters of the US. The applicant shall submit and obtain approval for all required applications prior to construction. The applicant shall adhere to all mitigation measures and strategies developed with the U.S. Army Corps of Engineers and the Navajo Nation Environmental Protection Agency: The Nationwide Permit (NWP) program under Section 404 of the Act provides for fills to waters subject to jurisdiction under Section 404 for certain discharges. Based on the EA, NECA would

prepare a Stormwater Pollution Prevention Plan (SWPPP) as required by Section 402 (p) of the Clean Water Act. A Notice of Intent for a National Pollution Discharge Elimination System (NPDES) construction permit application would be applied for with the U.S. Environmental Protection Agency (EA Section 3.3.3 Mitigation).

4. **Unique characteristics of the geographic area.** The project area is not unique within its geographical setting and is similar to many other areas of tribal land in the region. There are no prime farmlands, wild and scenic rivers, wilderness areas, refuges, park lands, unique ecological areas, or other unique or rare characteristics of the land and aquatic environs that will be significantly affected.
5. **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.
6. **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.
7. **Degree to which this action will establish a precedent for future action with significant effects.** This project does not set a precedent for similar projects that may be implemented by the BIA or other agencies.
8. **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.
9. **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:** The Navajo Nation Historic Preservation Department (NNHPD) issued Cultural Resources Compliance Form (CRCF), NNHPD No. HPD-17-140, dated March 15, 2017, stating that no historic properties would be affected with no conditions.

In the event of a discovery of a previously unidentified or incorrectly identified cultural resource(s), all operations in the immediate vicinity of the discovery must cease, and the NNHPD must be notified.

10. **Degree to which the action may affect threatened, endangered, or sensitive species or their habitat:** The Navajo Nation Department of Fish and Wildlife (NNDFW) issued Biological Resources Compliance Form (BRCF), NNDFW Review No. 16dan1107A, issued March 22, 2017. A conditional approval was granted with no avoidance/mitigation measures and with conditions of compliance.

Conditions of compliance include: Site preparation of the gravel pit shall avoid the Burrowing Owl (*Athene cunicularia*) breeding season of 01 MAR-15 AUG. If the breeding season cannot be avoided, pre-action surveys will be required. The survey area must include a 0.4 (¼ mi) buffer from the edge of disturbance. Activity will not be allowed within a ¼ mile of an active nest burrow until the young have fledged the nesting area.

- 11. 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.
- 12. 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. The proposed mining operations and infrastructure construction will be for the beneficial use of the population. The project would have no disproportionate effects on minorities or low-income population (EA Section Socioeconomics and Environmental Justice).
- 13. Climate Change, its effect on the proposed action and its environmental impacts:** 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. Analyzing greenhouse gases emission and the effects of climate change relevant to a proposed action - particularly how climate change may change an action's effects of a proposed project is currently not available. No mitigation of the proposed project would be required. (EA Section 3.1.1 Climate).

CONCLUSION

The proposed action is the Preferred Alternative. It does not constitute a major federal action, with normally required 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.

Acting Justin A. Vairvai
Regional NEPA Coordinator

11/30/17
Date



United States Department of the Interior
Bureau of Indian Affairs
Navajo Regional Office
P.O. Box 1060
Gallup, NM 87305

MC: 460 Branch of Environmental Quality Act Compliance & Review

DEC - 4 2017

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

Dear Mr. Robbins:

The Environmental Assessment (EA), EA-17-17672, received April 6, 2017, for the Navajo Engineering and Construction Authority (NECA)'s proposed Teec Nos Pos Gravel Pit Lease Application Environmental Assessment was reviewed in the Branch of Environmental Quality Act Compliance and Review, Navajo Regional Office.

NECA will submit a lease application with the Navajo Nation and the Bureau of Indian Affairs (BIA) for a five-year lease to conduct gravel mining operations west of Teec Nos Pos, Arizona on Navajo Tribal Trust lands. NECA has selected a site on an alluvial terrace west of the Toh Dastini Wash, on the south side of U.S. Highway 160, adjoining Navajo Route N5403. The proposed action will involve expanding an existing gravel pit to excavate and crush gravel material for use in various construction projects in the Agency. The proposed gravel pit would encompass 30.04 acres. The proposed federal action would be a five-year lease approval from BIA and the Navajo Nation. The gravel pit tract lies within Teec Nos Pos Chapter, Arizona.

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, please contact Ms. Harrilene Yazzie, Supervisory Environmental Protection Specialist at (505) 863-8287.

Sincerely,

Acting
Regional Director, Navajo

Enclosure



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

CULTURAL RESOURCE COMPLIANCE FORM

ROUTE COPIES TO:	NNHPD NO.: HPD-17-140
<input checked="" type="checkbox"/> CASA	OTHER PROJECT NO.: CASA 16-38

PROJECT TITLE: Cultural Resource Inventory, Navajo Engineering and Construction Authority's Teec Nos Pos Gravel Pit and Access Road, Apache County, Arizona

LEAD AGENCY: BIA/NR

SPONSOR: Ammerson Barber, NECA, PO Box 969, Shiprock, New Mexico 87420

PROJECT DESCRIPTION: The proposed undertaking will involve the expanding an existing borrow pit to mine and crush materials for use in road construction projects. The area of effect is 36.23-acres along with a 5,388.68-ft long by 50-ft right-of-way access road. Ground disturbing activities will be intensive and extensive with the use of heavy equipment.

LAND STATUS:	Navajo Tribal Trust													
CHAPTER:	Teec Nos Pos													
LOCATION:	T.	41	N.	R.	29	E-	Sec.	25, 26, & 35	Cow Butte	Quadrangle,	Apache	County	Arizona	G&SRPM
PROJECT ARCHAEOLOGIST:	Mary Errickson													
NAVAJO ANTIQUITIES PERMIT NO.:	B16515													
DATE INSPECTED:	10/06/16 – 10/07/16													
DATE OF REPORT:	02/16/17													
TOTAL ACREAGE INSPECTED:	54.58 – ac													
METHOD OF INVESTIGATION:	Class III pedestrian inventory with transects spaced 15 m apart.													
LIST OF CULTURAL RESOURCES FOUND:	None													
LIST OF ELIGIBLE PROPERTIES:	None													
LIST OF NON-ELIGIBLE PROPERTIES:	None													
LIST OF ARCHAEOLOGICAL RESOURCES:	None													

EFFECT/CONDITIONS OF COMPLIANCE: No historic properties affected.

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

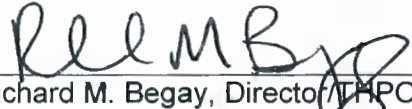
FORM PREPARED BY: **Tamara Billie**
FINALIZED: March 13, 2017

Notification to Proceed
Recommended

☒ Yes ☐ No

Conditions:

☐ Yes ☒ No


Richard M. Begay, Director/THPO
The Navajo Nation
Historic Preservation Office

3/13/17
Date

Navajo Region Approval


☒ Yes ☐ No

Acting BIA – Navajo Regional Office


MAR 15 2017

Date



Cultural Resource Inventory
Navajo Engineering and Construction Authority's
Tee Nos Pos Gravel Pit
Apache County, Arizona

Prepared by:

Mary Errickson
Complete Archaeological Service Associates
P.O. Box 1777
Cortez, Colorado 81321

CASA 16-38



Prepared for:

Navajo Engineering and Construction Authority
P.O. Box 969
Shiprock, New Mexico 87420

Submitted to:

Navajo Nation Historic Preservation Department
P.O. Box 4950
Window Rock, Arizona 86515

Permit:
NNCRIP B16515

February 16, 2017

Abstract

A cultural resource inventory was carried out for a proposed 30.04 acre gravel pit with 1.02 miles of access road at the request of Navajo Engineering and Construction Authority (NECA). The inventory was conducted by Mary Erickson of Complete Archaeological Service Associates (CASA) on October 6-7, 2016. The project areas are located on Navajo Tribal Trust lands within the Tsee Nos Pos Chapter of the Northern Agency. The project was carried out under the provisions of Navajo Nation Cultural Resource Inventory Permit B16515, issued to CASA.

Materials obtained from the pit will be utilized in local road construction projects in the Four Corners area. A 36.02 acre tract, including the staked pit and a 50 foot buffer zone, was inventoried for the 30.04 acre gravel pit. The proposed pit area will expand an existing pit which was previously used by Nielsons, Inc. A 150 foot-wide corridor (18.56 ac) was inventoried for a 50 foot-wide ROW (6.19 ac) along 5,388.68 feet of existing access road. Total area of effect for the project is 36.23 ac, which includes 30.04 ac for the pit and 6.19 ac for the access road. Total survey area is 54.58 ac which includes 36.02 ac for the pit and 18.56 ac for the access road.

No cultural resources were identified during the project. A determination of "No Historic Properties Affected" is recommended for Navajo Engineering and Construction Authority's proposed Tsee Nos Pos Gravel Pit and Access Road at the locations described in this report.

INTRODUCTION

A cultural resource inventory was carried out for Navajo Engineering and Construction Authority for a proposed 30.04 ac gravel pit and 5,388.68 feet of access road near Teec Nos Pos, Arizona. (Figures 1-2). The fieldwork was conducted by Mary Errickson of Complete Archaeological Service Associates (CASA) on October 6-7, 2016. The project areas are located on Navajo Tribal Trust lands within the Teec Nos Pos Chapter of the Northern Agency. The project was carried out under the provisions of Navajo Nation Cultural Resource Inventory Permit B16515, issued to CASA.

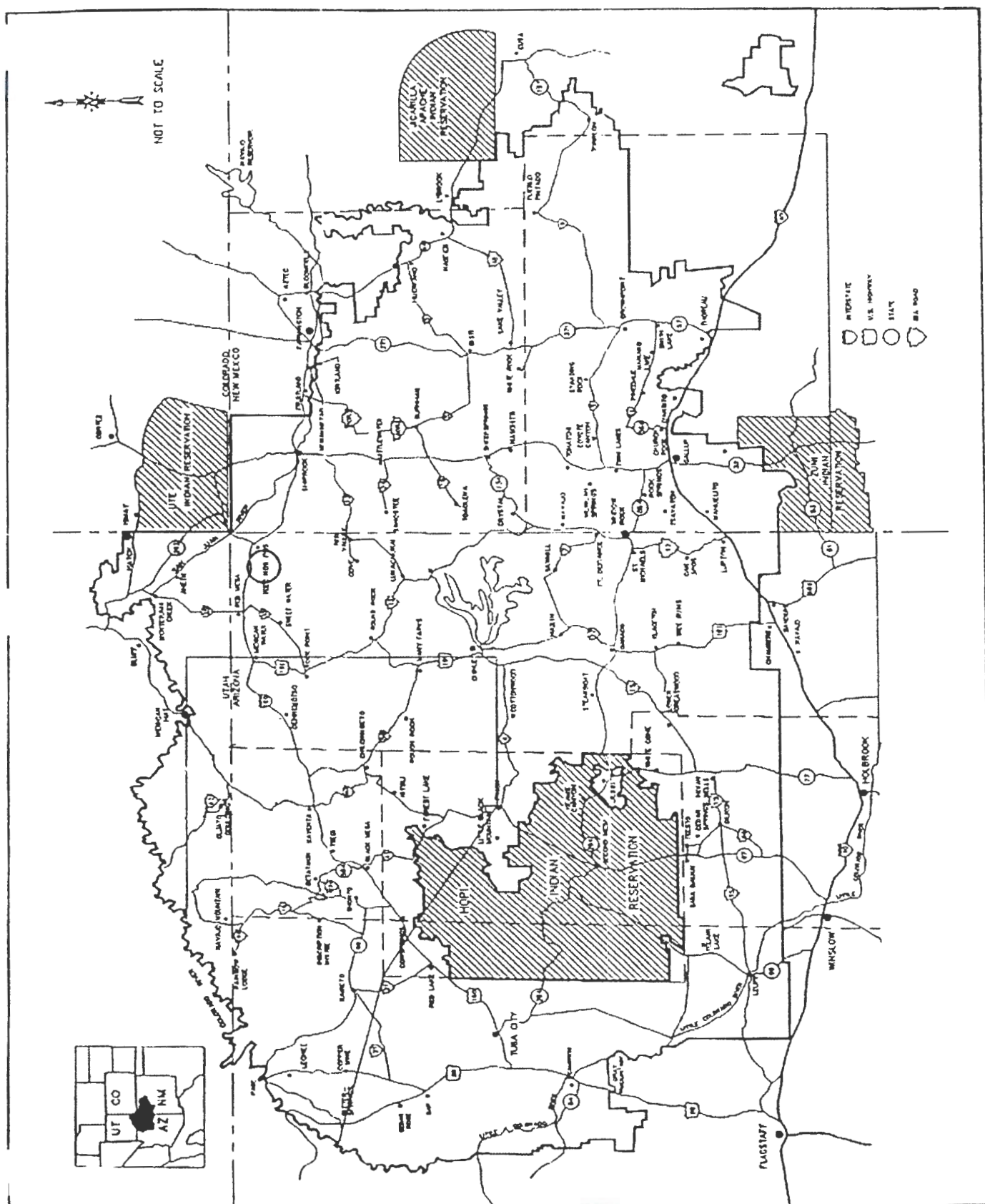
PROJECT LOCATION AND DESCRIPTION

The project area is located approximately five miles west of the Teec Nos Pos Chapter House and 0.25 mile south of U.S. 160 in Apache County, Arizona. Materials obtained from the pit will be utilized in local road construction projects in the Four Corners area. The 7.5 minute USGS quadrangle map for the project is Cow Butte, Ariz-Utah dated 1982. A legal description of the proposed project is presented in Table 1. Total area of effect for the project is 36.23 ac, which includes 30.04 ac for the pit and 6.19 ac for the access road. Total survey area is 54.58 ac which includes 36.02 ac for the pit and 18.56 ac for the access road.

Table 1. Locational information, gravel pit and access road.

Project Feature	Easting 12:	Northing	T	R	1/4s	Sec
Gravel Pit			41N	29E	E1/2 of NW W1/2 of NE	35
a - NW Corner	660300	4087880				
b - SW Corner	659964	4087458				
c - SE Corner	660156	4087335				
d - NE Corner	660526	4087719				
Access Road			41N	29E	S1/2 of SW SE of SE of SE N1/2 of NE	25 26 35
BOI.	661483	4088037				
Bend	661356	4087977				
Bend	661237	4088019				
Bend	660936	4088020				
Bend	660854	4087866				
EOL at Pit	660376	4087608				

The Teec Nos Pos area is situated on the Four Corners Platform of the Colorado Plateau between the Black Mesa Basin and Defiance Plateau to the south, San Juan Basin to the east, the Blanding Basin to the north, and the Monument Uplift to the west. The project area lies on the lower northern slopes of the Carrizo Mountains, which are the remnants of seven laccolithic intrusions during the late Cretaceous Period. The light-colored Dakota sandstone and other older sedimentary formations were thrust upward and domed. The Dakota Sandstone caps the small buttes



and mesas of the area. Teee Nos Pos itself lies in an exposure of the Brushy Basin Member of the Morrison Formation.

The project area lies on ridges and slopes covered with ancient San Juan River terrace gravels, flows of volcanic gravels, and thin aeolian deposits. These slopes are cut by small-large washes trending northward toward the San Juan River. The project area lies in a sparsely populated area between Toh Dahtsini Wash to the east and Dry Farms Wash to the west.

The proposed pit area will expand an existing pit which was previously used by Nielsons, Inc. The pit to be mined follows the contours of the top and eastern slopes of a prominent gravel-covered ridge which slopes to the north. The ridge drops off sharply along its western side. The nearest resident is located approximately 0.5 mile to the southeast. The access road is a bladed and previously graveled road which was used by Nielsons, Inc.

Elevation of the pit varies slightly between 5560 feet on the northwest side to 5640 feet at its southern edge. The project area is located within the Upper Sonoran Life Zone. The dominant plant community is a scrub-grassland. Vegetation within the pit includes russian thistle, snakeweed and lesser amounts of Mormon tea, rabbitbrush, narrow leaf yucca, and shadscale.

PREVIOUS RESEARCH AND CULTURE HISTORY

A record search was conducted at the offices of the Cultural Resource Compliance Section of the Navajo Nation Historic Preservation Department in Window Rock on August 24, 2016. No previously recorded sites have been identified within 100 m of project areas. The existing pit was inventoried in the late 1990s (HIPD 99-927).

Gilpin (1986) conducted a Class II survey along Teee Nos Pos Wash just east of the project area. A total of 11 habitation sites dating between A.D. 950-1150 were recorded. Gilpin recommended that these sites be included in a National Register District and for inclusion in the Chacoan Protection System. The inventory of the Questar Southern Trails Pipeline 92 (HIPD 02-1232) recorded numerous sites in the vicinity of Teee Nos Pos. The inventory report of Navajo Routes 35(1) and 5037 from Rock Point to Red Mesa by PIII Associates also provides a comprehensive overview of the natural and cultural environment of the general area (Tipps 1995). Background information on the culture history of the project area can be found in Hurst (1992) and King (1995).

The record search conducted through the Traditional Cultural Property (TCP) Department indicated that one TCP is located in the general vicinity of the project area. *Tiis nashas* /Tee Nos Pos Spring/Canyon (#352) lies approximately 4.5 miles east of the proposed pit. The TCP Department has determined that there will be no adverse effects to this TCP as a result of the undertaking (see Attachment A). An interview was conducted with Mr. Steven Benally, Teee Nos Pos Chapter Community Service Coordinator. Mr. Benally indicated that there were no TCPs or graves within or near the project area and that the Teee Nos Pos Chapter supported the expansion of the gravel pit. Since the interview, the Chapter has passed a resolution in favor of the re-opening of the pit.

Mr. David Jim, a grazing permittee and closest resident to the pit, was also interviewed. Mr. Jim stated that he knew of no TCPs or graves within or near the project area and had no objections to the project. He stated that there had once been a pen in the area but that it had been abandoned and totally dismantled. NECA had previously discussed the project with Ms. Minnie Begay, a long-time, local resident who indicated to NECA that there were no TCPs or graves and that she had no objections to the expansion of the pit.

SURVEY METHODOLOGY

The Class III inventory was conducted by Mary Erickson on October 6 and 7, 2016. The project area was inventoried by the archaeologist walking multiple, parallel, zig-zag, pedestrian transects spaced no more than 15 m apart within the staked pit and a 50 foot buffer zone. A 150 foot-wide ROW was inventoried for a 50 foot-wide ROW along the access road. Total area of effect for the project is 36.23 ac, which includes 30.04 ac for the pit and 6.19 ac for the access road. Total survey area is 54.58 ac which includes 36.02 ac for the pit and 18.56 ac for the access road.

Sites are defined as cultural manifestations containing ten or more artifacts in a 10 square meter area and/or the location of an event, a prehistoric or historic activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historic, archaeological, or traditional cultural value regardless of the value of the existing structure. Isolated occurrences (IOs) are any non-architectural feature or assemblage of less than 10 artifacts in an area 10 square meters or less.

INVENTORY RESULTS

No cultural resources were identified during the project.

RECOMMENDATIONS

A determination of "no historic properties affected" is recommended for Navajo Engineering and Construction Authority's proposed Teece Nos Pos Gravel Pit and Access Road at the locations described in this report.

REFERENCES

- Gilpin, Dennis
1986 The Teece Nos Pos Anasazi Community Study. NNCRMP 86-168. Navajo Nation Cultural Resource Management Program, Window Rock.
- Hurst, Winston
1992 Previous Archaeological Research and Regional Prehistory. In *Cultural Resource Inventory and Evaluative Testing Along SR-262, Utah-Colorado State Line to Montezuma Creek, Navajo Nation Lands, San Juan County, Utah*. UDOT Project Nos. STP-0262(1) 23 and STP-0262 (1)31. Abajo Archaeology, Bluff.
- King, Beth
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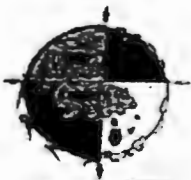
Cultural Resource Inventory
Navajo Engineering and Construction Authority's
Tec Nos Pos Gravel Pit and Access Road
Apache County, Arizona

Prepared by
Mary Errickson
Complete Archaeological Service Associates
P.O. Box 1777
Cortez, Colorado 81321

CASA 16-38

ATTACHMENT B
TCP RECORD SEARCH

Permit
NNCRIP B16515



THE NAVAJO NATION
Historic Preservation Department

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

TRADITIONAL CULTURAL PROPERTY (TCP) RECORD
SEARCH VERIFICATION FORM

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

Project Information	
DATE	8/24/16
RESEARCHER & COMPANY	Mary Errickson - CASA
PROJECT NAME	NECA's Teec Nos Pos Borrow Pit
PROJECT/PERMIT NUMBER	CASA 16-38
PROJECT LOCATION	Teec Nos Pos, Arizona

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

A thorough search of TCP records in NNHPD on the above state indicates the following:	
<input 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 checked="" type="checkbox"/>	Project may proceed with the following stipulations: Note TCP# 332 in report & findings
<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: 8/24/16
-----------------------------	--	---------------

****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.) Surface user(s): grazing-permit holder(s) (individuals whose consents for right-of-way have been sought by developer); any other residents in or within view of the proposed project area. 2. Chapter(s) within which the proposed project is located: chapter officers and/or delegate(s) of the Navajo Nation Council; at the request of any of these individuals, the developer's consulting anthropologist will also make a presentation at a meeting of general chapter membership. 3. Other knowledgeable people recommended by the present surface user(s), chapter officials, and chapter members.

ATTACHMENT A
PLAT MAPS

Prepared by Navajo Engineering and Construction Authority

Teec Nos Pos, Apache County, Arizona

Section 26

Section 25

Section 35

Access Road

Section 36

SCALE: 1"=1000'

LAND TIE LINE

All bearings on this map for Tract "A" are forward geodetic bearings obtained from a survey using Global Positioning System originating from the north east corner of Section 33, T. 41 N., R 30 E. Q.&S.R.B.M.

The Legal Description Land Tie to the True Point of Beginning of Tract "A" from the above point is S 85° 22' 58" W, a distance of 23966.11 feet.



EXPIRES 6/30/18

ENGINEER'S CERTIFICATION

I, Danny Lee, do hereby certify that I am employed by Navajo Engineering and Construction Authority (NECA); that I am an Arizona Professional Engineer; that this map was prepared by me or under my direct supervision, and is based on an actual field survey performed during July of 2016, and that this map and survey are true and correct to the best of my knowledge and belief.

GRAVEL TRACT

A tract of land located west of the Navajo Nation community of Teec Nos Pos, situated in the north east $\frac{1}{4}$ of Section 35, Township 41 North, Range 29 East G.&S.R.B.M., on the Navajo Nation, County of Apache, State of Arizona, being more particularly described by metes and bounds as follows, to wit: Beginning at point "a", at the south corner of the tract herein described, whence the north east corner of said Section 33 (a 2006 BLM brass cap found in place) bears S85°22'58"W a distance of 23966.11 feet;

Thence, from the Point of Beginning, Point "a", N59°53'32"W, a distance of 627.91 feet to point "b";

Thence, N37°39'31"E a distance of 1755.64 feet to point "c";

Thence, S54°23'30"E a distance of 899.72 feet to point "d";

Thence, S46°52'27"W a distance of 1727.62 feet to the point and place of beginning, point "a".

Containing 30.04 acres, more or less.

LEGEND



BRASS CAP



QUARTER CORNER



TRACT BOUNDARY
(SET 1/2" REBAR)

LAND TIE LINE

Sheet: 1 of 1

Drawn by: WC

Checked by: AL

Surveyed by: SL

NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY

Name: TeechesPos Gravel ROW

Date: 08/17/16

Date: 08/19/16

Date : 08/02/16

P.O.BOX 969 SHIPROCK, NEW MEXICO 87420 (505)368-5151

TEEC NOS POS, ARIZONA GRAVEL PIT BIOLOGICAL EVALUATION

PLS: NE/4 Section 35 Township 41 North Range 29 East, G&SRM

Lat & Long: 36° 55' 21.6" N 109° 12' 4.2" W, NAD 83

UTM: 660,284 m E 4,087,604 m N, Zone 12

NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY

No. 1 Uranium Blvd

P.O. Box 969

Shiprock, New Mexico 87420

Prepared by

DENALI ENVIRONMENTAL SERVICES

P.O. Box 1127

Fort Defiance, Arizona 86504

October, 2016

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Figures 1. Project Location Topographic Map

Table 1. Teec Nos Pos Gravel Pit, Arizona Location Coordinates.

Table 2. U. S. Fish and Wildlife Endangered Species Act Listing.

Table 3. Navajo Endangered Species List.

Table 4. Migratory Bird Treaty Act Listed Species.

Table 5. Primary Contacts Made During Preparation of this Document.

Appendix A Navajo Department of Fish & Wildlife Data Response Letter

TEEC NOS POS, ARIZONA GRAVEL PIT BIOLOGICAL EVALUATION

1.0 Introduction

Navajo Engineering and Construction Authority (NECA) of Shiprock, New Mexico propose to apply for a gravel pit permit approximately seven miles west of Teec Nos Pos, Arizona. The proposed gravel pit would commensurate highway construction and maintenance projects in the Four Corners Region. In regard to the Navajo Department of Fish and Wildlife Biological Resource Conservation Plan, the propose gravel pit would be located in a designated Area 3 (Low Sensitivity) location in the Teec Nos Pos Chapter. Figure 1 illustrates the location of the propose gravel pit for your review.

1.1 Description of the Proposed Action

NECA plans to reopen an existing gravel pit, previously used for road construction projects in the past. NECA would continue mining the southwest side of the abandoned pit. The gravel source would be used in support of various road construction projects and other water pipeline construction and maintenance projects in the four corners region. The propose gravel pit, at 30.61 acres, would be used for crushing coarse rock, gravel processing, gravel stockpile, and equipment staging area. During operations, a dozer, front end loaders, motor grader and eighteen wheel trucks would be stored onsite. The propose gravel pit location is shown in Figure 1.

Existing roads will be upgraded to provide access to the existing pit. New access roads to the parcel will not be required. No other support infrastructure would be required for the propose project area.

All disturbed surface areas would be re-vegetated consistent with the American Association State Highway & Transportation Officials (AASHTO) Standards at Section 625 (mulching and seed mix) for Federal Projects (FP-03), and Supplemental Specifications form the basis of the plan. Adherence to the AASHTO reclamation standard would minimize potential impacts to the potential nesting and foraging species after mining. Mining and stockpiling the gravel material source will begin on the site as soon as the revocable use permit is approved by the BIA.

NECA would also prepare a *Stormwater Pollution Prevention Plan* (SWPPP) as required by Section 402 (p) of the Federal Water Pollution Control Act (formerly the Clean Water Act). A Notice of Intent for a NPDES permit application would be applied for with the U.S. Environmental Protection Agency in Washington, DC.

1.2 Location

The proposed gravel pit project is located on USGS topographic map entitled *Cow Butte, AZ/UT 7.5* minute quadrangle map at Figure 1. The waypoint descriptions of the project locations are shown at Table 1.

Table 1. United State Geological Survey Map Waypoint Descriptions of Teec Nos Pos Gravel Pit, Teec Nos Pos, Arizona.

Project Description	Public Land Survey G&SR PM	Latitude and Longitude NAD 83	UTM, Zone 12
Northwest Corner BOP	NE/4 Section 35 T41N R29E	36° 55' 21.6" N 109° 12' 4.2" W	660,284 E 4,087,604 N
Southwest Corner	NW/4 Section 35 T41N R29E	36° 55' 11.3" N 108° 12' 13.9" W	660,050 E 4,087,283 N
Southeast Corner	NE/4 Section 35 T41N R29E	36° 55' 7.5" N 109° 12' 5.1" W	660,269 E 4,087,170 N
Northeast Corner EOP	NE/4 Section 35 T41N R29E	36° 55' 15.5" N 109° 11' 55.3" W	660,508 E 4,087,419 N

The propose gravel pit is located south of the U.S. Highway 160, Teec Nos Pos Chapter, Shiprock Navajo Agency, San Juan County, New Mexico. Elevation is 5,600 feet amsl.

2.0 ENDANGERED SPECIES ACT / NAVAJO SPECIES OF CONCERN LIST / MIGRATORY BIRD TREATY ACT

The listing of threatened and endangered species (T&E) in this document is compiled by the Navajo Department of Fish and Wildlife, Navajo Natural Heritage Program (NDF&W-NNHP). The Program, under a Public Law 93-638 contract with the Navajo Regional Office, Bureau of Indian Affairs, would review the T&E data request and craft a data response letter (listing) for the proposed undertaking. The NNHP data response letter is shown in Appendix A.

2.1 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. Under contract, authorized by Public Law 93-638 the Indian Self Determination and Education Assistance Act of 1993, NDF&W carries out the ESA consultation function for the Navajo Regional Office, Bureau of Indian Affairs. NDF&W would review the biological evaluation document for the proposed project and would approve the report via a Biological Resource Compliance Form.

2.2 Navajo Species of Concern List (NESL)

The Resource Committee of the Navajo Nation Council, Resolution RCS-41-08 (NDF&W RCP, 2008) mandates the consideration of the 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

**Figure 1. Proposed NECA Gravel Pit, Teec Nos Pos, AZ
USGS 7.5 Minute Quadrangle Map: Cow Butte, AZ/UT
Northwest Corner**

PLS: NE/4 Section 35 T41N R29E G&SRM
L&L: 36° 55' 21.6" N 109° 12' 4.2" W NAD 83
UTM: 660,284 m E 4,087,604 m N Zone 12

Southwest Corner

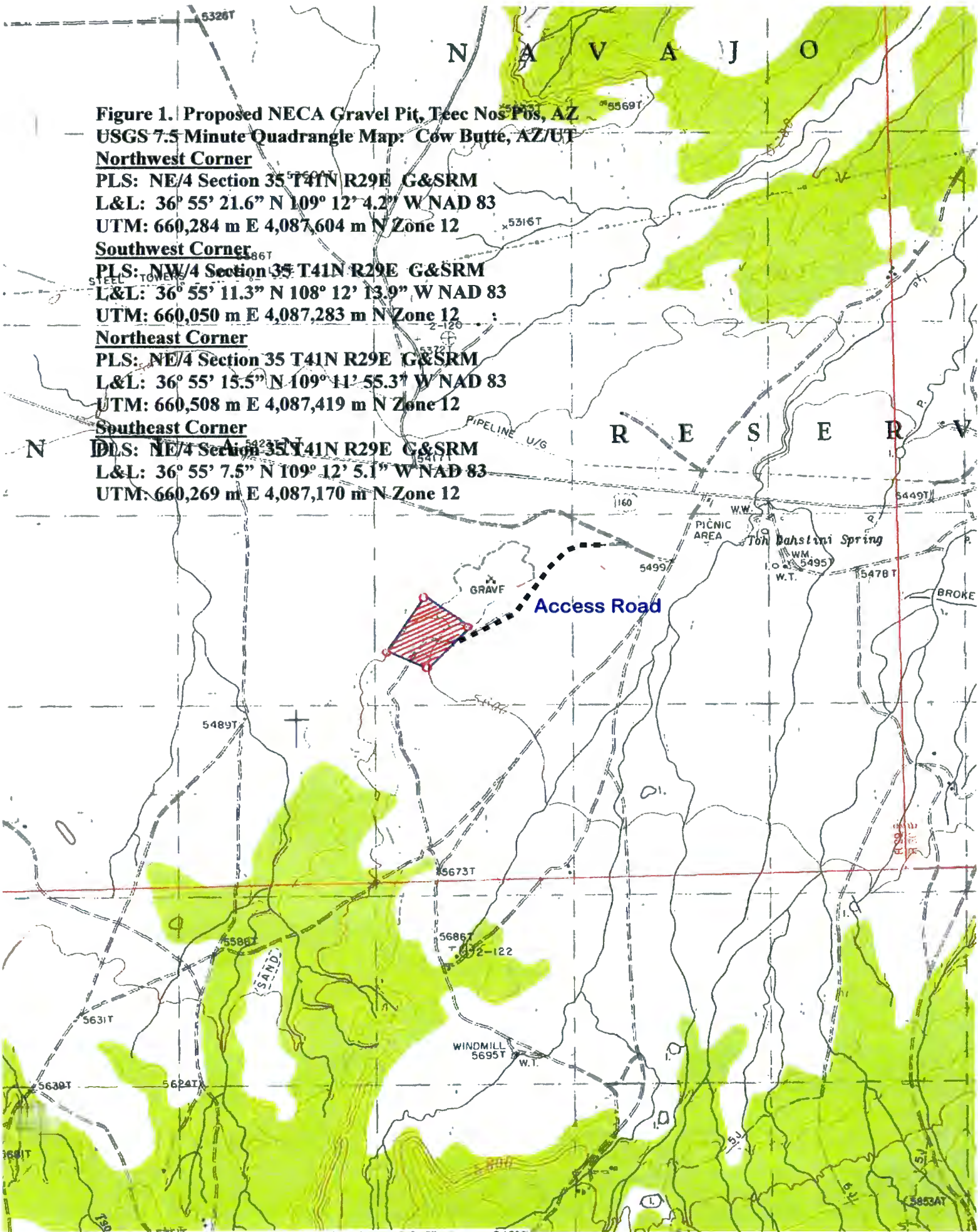
PLS: NW/4 Section 35 T41N R29E G&SRM
L&L: 36° 55' 11.3" N 108° 12' 13.9" W NAD 83
UTM: 660,050 m E 4,087,283 m N Zone 12

Northeast Corner

PLS: NE/4 Section 35 T41N R29E G&SRM
L&L: 36° 55' 15.5" N 109° 11' 55.3" W NAD 83
UTM: 660,508 m E 4,087,419 m N Zone 12

Southeast Corner

PLS: NE/4 Section 35 T41N R29E G&SRM
L&L: 36° 55' 7.5" N 109° 12' 5.1" W NAD 83
UTM: 660,269 m E 4,087,170 m N Zone 12



the future. The NDF&W will actively seek information on those species to determine if they warrant inclusion in a different group or removal from the list (NDF&W-NNHP, 2008).

2.3 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.

3.0 METHOD OF SURVEY

3.1 Offsite Survey Methods

The NDF&W- NHP was consulted via a data request letter. The Natural Heritage Program responded September 7, 2016 with a listing of two U.S. Fish and Wildlife Endangered Species Act (ESA) species at Table 2 and seven Navajo Endangered Species List (NESL) special management species at Table 3. The Migratory Bird Treaty Act (MBTA) listing on the Colorado Plateau was accessed using the USFWS website, activated September 20, 2016 at Table 4.

3.2 Onsite Survey Methods

Onsite pedestrian survey of the proposed gravel pit was conducted on August 2, 2016. The entire project area was covered during the field survey. The weather was sunny with ambient temperatures near 75°F. All plant and wildlife species and signs of wildlife observed in the project area were recorded and digital photos of the project area were taken. Binoculars were used to survey for raptors and potential nesting sites on nearby mesas. Onsite habitat was evaluated for all USFWS ESA, NESL, and MBTA species. All conservation status species that have the potential to occur in the proposed project and action areas were evaluated, see Tables 2 and 3.

3.3 Action Area

The proposed project action area would encompass 30.61 acres, as shown in Figure 1. The action area would also include the access road, and gravel pit zone of influence, which would consist of the surrounding terrain within a 1/8-mile (0.12 mile) radius of the gravel pit boundaries.

4.0 FINDING AND DETERMINATION OF SPECIES EFFECTS

4.1 Existing Land Uses

Mining and rangeland are the predominant land use in the area. Un-reclaimed pits, remnants of previous mining, are evident in the project area. Relative to the propose gravel pit on the south side, numerous small open pits are located throughout the mining area starting from 3/4 mile northeast. A large open abandoned pit is located on the south side where current mining operations are proposed. Another large open pit is located 150 yards northeast. The pits are typically 20 yards wide and 50 yards long at both locations. The entire mine area was abandoned without regrading or reclamation. Pit in-slopes have not been reduced, as well as overburden piles located on the perimeter. Undisturbed vicinity properties are open rangeland of the Native Grassland - Savannah Plant Community, comprised of Pinyon-Juniper, shrubs, perennial grasses and annual species. See cover photograph.

U.S. Highway 160 is located approximately one mile north of the pit. A dirt road running north and south is located 3/8 mile east. A livestock windmill is located approximately 3/4 mile east. Carrizo Mountains dominate the southern landscape. A major pipeline is located approximately 1/2 mile north of the proposed and existing pit. The nearest home is located north of the abandoned pits at approximately 1/2 mile north, north of the pipeline right of way.

4.2 Physical Description

Located south of the proposed project area, the Carrizo Mountain is the prominent land form in the area. The proposed gravel pit would be located north of the mountain at elevations of 5,600 feet above mean sea level (amsl).

4.2.1 Topography

The general land form is characterized by high plateaus, mesas, to steep rock outcrops formed by the Carrizo Mountain uplift. Off the mesas, cobble stone hills slope three-four degrees northward toward the San Juan River. The San Juan River, with an east to west flow, cuts the landscape anticline at a perpendicular angle that exposes and erodes steep rock outcrops, of sandstone, clays and shale on the north side of the mountain. The proposed project area is located on the north side within the San Juan River Watershed. While the general topographic gradient of the project area moderately slopes three to four degrees to the north, surface water flow to the north as well. The surface topography and geology/soils along the proposed project area is not expected to present any specific problems for the project.

4.2.2 Soils & Geology

Located in a Native Grassland Savannah Plant Community, soils are of the Millet-Blanding-Strych Association. Millet soils at 55% of the association are loamy upland and gravelly textured. Blanding soils at 20 % of the association are sandy. Soil texture ranges from coarse sand to pebble and rocky. The Strych soils at 15 % are cobbly slopes along the escarpments. The soils in the project vicinity were formed primarily from alluvial deposits, pebble rock from alluvial sandstone, limestone and shale. The alluvial sediment is material that was deposited in valleys and ancient river terraces (NRCS, 2016).

The proposed project area is located on the Upper Jurassic Era Morrison Formation, the Salt Wash Member. The Salt Wash Member is white and moderate-orange very fine to medium-grained sandstone, grayish-red shale, and gray limestone (Cooley, M.E, J.W. Harshbarger, J.P. Akers, and W.F. Hardt, 1969).

4.3 Vegetation and Wildlife - Biotic Resources

The Teec Nos Pos Gravel Pit is located in the Great Basin Native Grassland Savannah Ecosystem of northeast Arizona, at an elevation of 5,600 amsl. Perennial grasses of the grassland biome are represented by the following species: Ring muhly *Mulenburgia torreyi*, Blue grama *Bouteloua gracilis*, Galleta *Hilaria jamesii*, Indian ricegrass *Oryzopsis hymenoides*, Bottlebrush squirrel tail *Sitanion hystrix*, Needle and thread *Stipa comata*, Red-three awn *Aristida longiseta*, and Sand dropseed *Sporobolus cryptandrus*. Alkali sacaton *Sporobolus airoides* can be found in the swales and

in the low areas along arroyos and washes (Turner, R.M. & Brown, 1994).

Forbs, although widely scattered in the grassland community, are represented as Aster *Aster spp*, Coneflower *Ratibita*, Indian paint brush *Castilleja applegatei*, Thistles *circuimmus* and Groundsel *Senecio*. These forbs will present showy flowers during the spring and wet season.

Shrubs such as Four-wing saltbush *Atriplex canescens*, Sagebrush *Atremisa spp.*, Winterfat *Ceratoides lanata*, Cholla *Opuntia spp.*, Soapweed yucca *Yucca glauca*, Rabbit brush *Chrysothamus*, and Snake weed *Gutierrezia* would be scattered throughout the biome. Grazing and human activity may alter the distribution of snakeweed, rabbit brush, and sagebrush.

Annual plants such as Cheatgrass *Bromus tectorum*, Russian thistle *Salsolia kali*, Tansy mustard *Descurainia obtusa*, Sunflower *Helianthur annus*, and Kochia weed *Bassia hyssopifolia* occur on the biome (De Witt I., Robert, 2006).

A distinct fauna of the Great Basin Grassland include the Whitetail antelope ground squirrel *Ammospermophilus leucurus*, Great Basin pocket mouse *Perognathus parvus*, Ord's kangaroo rat *Dipodomys ordi*. White-tail prairie dogs *Cynomys gunnisoni* occur on the grasslands. Other mammals include the coyote *Canis latrans* and black-tailed jackrabbit *Lepus californicus* (Brown, D. E., 1994).

Several birds are characteristic of the Great Basin Desert Grassland – Sage thrasher *Oreoscoptes montanus*, Sage sparrow *Amphispisa belli*, and Horned lark *Eremophila alpestris* (Brown, D. E., 1994).

Due to its long cold winters in the grassland reptiles are not as well represented. Common species include the Sagebrush lizard *Sceloporus graciosus*, and the Great Basin Spadefoot toad *Scaphiopus intermontanus*, and collared lizard *Crotaphytus collais*. The Northern desert horned lizard *Phrynosoma platyrhinos*, Northern whiptails *Cnemidophorus tigris tigris*, Great Basin gopher snake *Pituophis melanoleucus deserticola* and Great Basin rattlesnake *Crotalus viridis* are a few of the other common species (Brown, D. E., 1994).

4.4 FEDERAL ENDANGERED SPECIES ACT (ESA) THREATENED AND ENDANGERED SPECIES

Onsite field surveys for ESA threatened and endangered species were conducted by the staff of Denali Environmental Services August 2, 2016. Based on the field surveys, determinations of effect were created for the ESA species. No ESA listed species, or potential habitats, were found in the proposed project area. Table 2 summarizes the potential for federally listed species that would occur in the project area. The proposed action alternative would have no effect on the listed federally ESA, NESL, and MBTA species.

4.4.1 Welsh's Milkweed *Asclepias wilshii* ESA T NESL G3 Species Habitat Associations

The specie Inhabits active sand dunes derived from Navajo sandstone in sagebrush, Juniper, & Ponderosa Pine communities, 5,000 to 6,230 elevations. Navajo Nation distribution includes

Coconino County, north of Tuba City, south of Monument Valley in Navajo and Apache Counties.

Table 2. Habitat descriptions and presence of USFWS listed (ESA) Threatened (T), Endangered (E), or Candidate (C) species potential to occur on the project area.

SPECIES/ STATUS	HABITAT ASSOCIATIONS	PRESENCE
Welsh's Milkweed <i>Asclepias wilshii</i> ESA T NESL G3	The specie Inhabits active sand dunes derived from Navajo sandstone in sagebrush, Juniper, & Ponderosa Pine communities, 5,000 to 6,230 elevations. Navajo Nation distribution includes Coconino County, north of Tuba City, south of Monument Valley in Navajo and Apache Counties.	NP - The milkweed is not present on the proposed project area. No milkweed species were observed on the proposed project area. Previous mining activity and existing land uses, i.e., livestock grazing, and road access, has rendered the area unsuitable for this species habitation.
Southwest Willow Flycatcher <i>Empidonax traillii extimus</i> ESA E NESL G2 MBTA	Breeds/nests in dense riparian tree & shrub communities associated with rivers, swamps and other wetlands, including lakes and reservoirs. The bird nest in native vegetation including willows, seepwillow, boxelder, buttonbush & cottonwood, also thickets of non-native tamarisk & Russian olive. Nest is constructed 6.5 to 23 feet above ground on saturated soils along riparian and riverine ecosystems.	NP - Habitat not present and species unlikely to occur within the project area. The proposed gravel pit construction and operation would have no effect on the Southwest Willow Flycatcher; riparian and riverine ecosystems are not present in the project area.

Potential to Occur in the Project or Action Area & Determination of Effect

The Milkweed plant and habitat is not present on the proposed project area, nor vicinity properties. No milkweed species were observed on the proposed project area during the onsite field visit. Previous mining activity and existing land uses, i.e., livestock grazing, and road access, has rendered the area unsuitable for the species habitation. No effect on the Welsh's Milkweed.

Mitigation

Since there would be no effects on Welsh's Milkweed, no mitigation measures for the ESA / USFWS endangered species are recommended.

4.4.2 Southwest Willow Flycatcher *Empidonax traillii extimus* ESA Endangered, MBTA

Species Habitat Associations

The species breeds/nests in dense, shrubby habitats, usually in close proximity to surface water or saturated soils in and along riparian and riverine ecosystems.

Potential to Occur in the Project or Action Area & Determination of Effect

Natural riverine habitat and riparian ecosystems are not present in the project area; species is unlikely to occur within the project area. There would be no effect on the federally listed Southwest Willow Flycatcher endangered bird species, or their habitat.

Mitigation

Since there would be no effects on Southwest Willow Flycatcher, no mitigation measures for the

ESA / USFWS endangered species are recommended.

4.5 NAVAJO ENDANGERED SPECIES LIST (NESL) SPECIES OF CONCERN

Onsite field surveys for NESL threatened and endangered species were conducted by the staff of Denali Environmental Services August 2, 2016. Based on the field surveys, determinations of effect were created for the ESA species. No species of concern, or potential habitats, were found in the proposed project area. None of the special management fauna and flora NESL species were observed at the time of the onsite field survey. Table 3 summarizes the Navajo listed Species of Concern that would occur on the proposed project area. The proposed action alternative would have no effects on any of the listed NESL special management species or their habitat.

4.5.1 Golden Eagle *Aquila crysaetos* NESL G3 , MBTA

Species Habitat Associations

The Golden Eagle nests on steep cliffs, normally adjacent to foraging habitat of desert grasslands or desert scrub, that provide primary prey of prairie dogs, cotton tail and jack rabbits (NNHP, 2008). Nests are reused and tend to become a huge mass of sticks and debris. Golden Eagle foraging habitat is present within the proposed project area, and action area. Small mammals, such as prairie dogs, jackrabbits, cottontail rabbits, field mice, gophers, etc., are of marginal abundance in the project area.

Potential to Occur in the Project or Action Area & Determination of Effect

Direct impacts to the Golden Eagle would include the temporary loss of 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. Existing & future land uses (livestock grazing, roadway use, housing, & mining) of the property would render the area partially unsuitable for the raptor species.

Mitigation

Since there would be no direct effects on the Golden Eagle, no mitigation measures for the NESL endangered species are recommended.

4.5.2 Mountain Plover *Cottus bairdi* NESL G4

Species Habitat Associations

The plover is occasionally found in upland grassland habitat, often far from water sources. The plover nest in flat to rolling grassland, semi desert, or badlands, in areas of short and sparse vegetation, bare areas and grazed rangeland. Nest is in the shape in dirt, next to grass clumps. Breeding of the species on the Navajo Reservation occurs in New Mexico. Potential habitat includes grassland between the Chuska Mountains and Black Mesa, and southwest of Black Mesa to the Little Colorado River. Breeding of the species on the Navajo Reservation occurs in New Mexico.

Potential to Occur in the Project or Action Area & Determination of Effect

Suitable habitat and species are suspected to occur within the project area. Direct impacts to the plover would include the temporary loss of nesting & foraging habitat. Field surveys did not reveal nesting habitat in the proposed location. However, it is possible that the species may forage in proximity or fly through the proposed project and action areas.

Table 3. Habitat descriptions and presence of NESL listed (G2 to G4) Navajo Nation species potential to occur on the project area.

SPECIES & LISTING	HABITAT ASSOCIATIONS	PRESENCE
FAUNA		
Golden Eagle <i>Aquila crysaetos</i> NESL G3	The Golden Eagle nests on steep cliffs, normally adjacent to foraging habitat of desert grasslands or desertscrub, that provide primary prey of prairie dogs, cotton tail and jack rabbits (NNHP, 2008). Nests are reused and tend to become a huge mass of sticks and debris. Golden Eagle foraging habitat is present within the propose project area, and action area. Small mammals, such as prairie dogs, jackrabbits, cottontail rabbits, field mice, gophers, etc., are of marginal abundance in the project area.	S - Direct impacts to the Golden Eagle would include the temporary loss of 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. Existing & future land uses (livestock grazing, roadway use, housing, & mining) of the property would render the area partially unsuitable for the raptor species.
Western Burrowing Owl <i>Athene cunicularia</i> NESL G4, NBTA	Inhabits desert shrub & grassland shrub-steppe dominated by mixed grasses. Casual vagrant to prairie dog colonies, occupying abandoned holes. Grassland communities (6,200-6,400 ft.).	NP - Habitat suitable but species is not suspected to occur within the project area. No prairie dog colonies or short grassland occur within the project or action area. The proposed action alternative would have no effect on the listed NESL owl species or their habitat.
Mountain Plover <i>Cottus bairdi</i> NESL G4	The plover is occasionally found in upland grassland habitat, often far from water sources. The plover nest in flat to rolling grassland, semi desert, or badlands, in areas of short and sparse vegetation, bare areas and grazed rangeland. Nest is in the shaped in dirt, next to grass clumps. Breeding of the species on the Navajo Reservation occurs in New Mexico. Potential habitat includes grassland between the Chuska Mountains and Black Mesa, and southwest of Black Mesa to the Little Colorado River.	S – Suitable habitat and species suspected to occur within the project area. Direct impacts to the plover would include the temporary loss of nesting & foraging habitat. Field surveys did not reveal nesting habitat in the proposed location. However, it is possible that the species may forage in proximity or fly through the proposed project and action areas.
Peregrine Falcon <i>Falco peregrinus</i> NESL G3	Nesting habitat rock outcrop formations greater the minimum height of 45 meters is present in the high country of the Chuska Mountains. And the foraging resource of their preferred prey in the surrounding area would support falcon and other raptor populations.	S Although the specie was not sighted in the survey area during the field survey, suitable habitat and species suspected to occur within the project area.

Northern Leopard Frog NESL G4	Northern Leopard Frog is a medium-sized frog species that requires wetland and aquatic habitats. It inhabits wet meadows and fields bordering springs, slow streams, marshes, bogs, ponds, canals, flood plains, reservoirs, lakes, and is usually found near permanent water with rooted aquatic vegetation.	NP - Habitat not present and species unlikely to occur within the project area. Previous mining activity and existing land uses, i.e., livestock grazing, nearby family residential areas, and road access, has rendered the area unsuitable for species habitation.
FLORA		
Cronquist Milk-vetch <i>Astragalus cronquistii</i> NESL G3	Inhabits Salt desert shrub and black-brush communities on sandy or gravelly soils derived from the Cutler and Morrison Formations. Also known to occur on the Mancos Shales at 4,750 to 5,800 feet elevation. On the Navajo Reservation the plant is known from south of Bluff and Aneth, Utah, near the Utah border with Colorado, San Juan County, Utah.	NS - Habitat suitable but species is not suspected to occur within the project area. The milkweed is not present on the proposed project area. No milkweed species were observed on the proposed project area. Soils and geology of the propose project are suitable for the milkweed. Previous mining activity and existing land uses, i.e., livestock grazing, nearby family residential areas, and road access, has rendered the area unsuitable for species habitation.
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.		
CH - Designated Critical Habitat assigned to this species.		

Mitigation

There is grassland habitat adjacent to the project area that would be suitable for the Mountain Plover, however the species was not sighted during the field survey, no nest were located. No direct mitigation is recommended for the Mountain Plover.

4.5.3 Peregrine Falcon *Falco peregrinus* NESL G3

Species Habitat Associations

Nesting habitat rock outcrop formations greater the minimum height of 45 meters is present in the high country of the Carrizo Mountains. And the foraging resource of their preferred prey in the surrounding area would support falcon and other raptor populations.

Potential to Occur in the Project or Action Area & Determination of Effect

Although the specie was not sighted in the survey area during the field survey, suitable habitat and species suspected to occur within the project area. The falcon range locally on the Navajo Indian Reservation in the Chuska Mountains, Canyon DeChelly, Black Mesa north to Glen Canyon, the Dilkon Butte region, and canyon reaches of the San Juan, Colorado and Little Colorado Rivers.

Mitigation

No direct effects to the Peregrine Falcon are anticipated. No other direct mitigation is recommended for this species.

4.5.4 Northern Leopard Frog NESL G4

Species Habitat Associations

Northern Leopard Frog is a medium-sized frog species that requires wetland and aquatic habitats. It inhabits wet meadows and fields bordering springs, slow streams, marshes, bogs, ponds, canals, flood plains, reservoirs, lakes, and is usually found near permanent water with rooted aquatic vegetation.

Potential to Occur in the Project or Action Area & Determination of Effect

Wetland and aquatic habitats are not present and the species unlikely to occur within the project area. Previous mining activity and existing land uses, i.e., livestock grazing, nearby family residential areas, and road access, has rendered the area unsuitable for species habitation.

Mitigation

Northern Leopard Frog is not present on the proposed project area. No mitigation is recommended for the Northern Leopard Frog.

4.5.5 Western Burrowing Owl *Athene cunicularia* NESL G4, NBTA

Species Habitat Associations

Inhabits desert shrub & grassland shrub-steppe dominated by mixed grasses. Casual vagrant to prairie dog colonies, occupying abandoned holes in grassland communities at 6,200-6,400 ft.

Potential to Occur in the Project or Action Area & Determination of Effect

Habitat suitable but species is not suspected to occur within the project area. No prairie dog colonies or short grassland occur within the project or action area. The proposed action alternative would have no effect on the listed NESL owl species or their habitat.

Mitigation

Grassland habitat surrounds the project area that would be suitable for the owl. The species was not sighted during the field survey. Prairie dog colonies are not present as soils are shallow with a rock substrate. No nests were located. No direct mitigation is recommended for the Western Burrowing Owl.

4.6 MIGRATORY BIRD TREATY ACT LISTING

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 4.

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.

Table 4. 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. Specie not present.	Zero
American Bittern <i>Botaurus lentiginosus</i>	Wading bird inhabits wetlands, usually dense marsh reeds, rushes and sedges.	No suitable habitat present.	Zero
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 mountains, open country.	No conflict anticipated.	Low
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.	No conflict anticipated	Low
Golden Eagle <i>Aquila crysaetos</i>	Open grasslands or desert scrub, In mountainous canyon terrain. Nest on cliffs and trees	Little 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.	Little conflict anticipated	Low
Prairie Falcon <i>Falco mexicanus</i>	Nests and forages in grassland, and open Juniper Savannah.	Little 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.	No conflict anticipated	Zero
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	Zero

Flammulated Owl <i>Otus flammcolus</i>	Inhabits pine-oak woodland, ponderosa pine forest.	Suitable habitat not present.	Zero
Burrowing Owl <i>Athene cunicularia</i>	Inhabits grassland shrub-steppe dominated by mixed grasses. Casual vagrant to prairie dog colonies, occupying abandoned holes.	Not present, Zero conflict anticipated.	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.	No suitable habitat.	Zero
SW Willow Flycatcher <i>Empidonax traillii</i>	Inhabits brushy habitats in wet areas; also in pastures, mountain meadows.	Suitable habitat, species absent.	Low
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. No conflict anticipated.	Zero
Pinyon Jay <i>Gymnprjomus 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
Juniper Titmouse <i>Baeolophus ridgwayi</i>	Inhabits juniper-pinyon woodland.	No suitable habitat.	Zero
Veery <i>Catharus fuscescens</i>	Inhabits dense moist woodlands and streamside thickets. Casual in the Southwest.	No suitable habitat.	Zero
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
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
Brewer's Sparrow <i>Spizella breweri</i>	Inhabits mountain meadows and sagebrush flats.	No conflict anticipated	Zero
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
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 on the project area.	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.	Zero
Cassin's Finch <i>Carpodacus cassinii</i>	Woodland Ecosystem. Species inhabits evergreen woodlands.	No suitable habitat in project area.	Zero

Although migratory birds could potentially occur in the area, none were observed during the environmental site visit on August 2, 2016. The proposed action alternative would result in a short-term and small scale loss of vegetation due to construction. This construction project would disturb a fraction of the project area, which was previously totally disturbed during previous mining. The proposed project activities is expected to be confined to the project areas. 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 construction equipment is removed, 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 cable concrete mat construction would have no significant effects on migratory bird species.

Mitigation of Migratory Birds

NDF&W policy mandates that prior to construction the proposed activity would require a preconstruction survey of potential nesting birds on the right-of-way, should construction occur during the breeding season. Any bird nests found within the proposed project area will be reported to the NNHP biologist for appropriate mitigation prior to construction activities.

NECA will minimize the possibility of unintentional take of migratory birds. Should the proposed project involve vegetative disturbance (brush and tree removal), no construction activities from May 15 to July 31 will 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 the NNHP biologist. The operator will monitor any active nests located from a nest survey.

Following construction activities, other than the cable concrete implant, the construction staging areas would not require reclamation. Avoidance to the breeding season will minimize potential impacts to migratory birds.

4.7 Wetlands Habitat

The US Fish and Wildlife Service Rock Point, AZ, NM, UT, CO National Wetlands Inventory Map was reviewed. The proposed project and action area would not traverse any wetland areas as defined by the USACE Wetlands Delineation Manual of 1987 (USACE, 1987). There are no jurisdictional wetlands within the proposed project area. The atypical existing gravel pit and access roads do not exhibit the required wetland criteria of hydric soils, hydrophilic vegetation and wetland hydrology according to the USACE, 1987 manual. There are no wetland occurrences on or near the proposed project area. No wetland mitigation measures are recommended for the site.

5.0 CONCLUSIONS

The preferred alternative and project description is logical and desirable. Project engineering feasibility has been considered. No wetland occurrences. The proposed project should have no effect on ESA threatened and endangered species, NESL sensitive species, or MBTA species. The construction effect of the proposed action is discountable and insignificant.

There is no federally designated critical habitat in vicinity of the pit. No wetland or riparian habitat occurrences. The proposed land use and permitting action would have no effect on threatened, endangered or any sensitive species. No permanent loss of native vegetation is anticipated. Once the locations are regraded, natural vegetation and wildlife species would be expected to return to the area.

Mitigation Measures

During the proposed construction, the contractor will contract their haulage and disposal of solid waste during construction and after construction. Solid waste would be placed in dumpsters to be disposed of at a licensed landfill, on a weekly basis, by a qualified waste hauler. Contracted portable toilets would be placed onsite, and serviced weekly by the contractor.

With the exception of occasional small illegal trash dumping along the access road, there are no Recourse Conservation and Recovery Act (RCRA) sites. There are no Comprehensive Environmental Response Conservation and Liabilities Act (CERCLA) sites, or Toxic Substance Control Act (TSCA) sites on or near the proposed project area.

Navajo Engineering and Construction Authority would craft a Clean Water Act § 401 Water Quality Certification and § 402 National Pollution Discharge Elimination System (NPDES) & Stormwater Pollution Prevention Plan (SWPPP) for this permit approval action. CWA consultation with the U.S. Environmental Protection Agency is in progress.

The project would remain less-than significant by the following mitigation: 1) Minimizing ground disturbance within the proposed project area, 2) CWA certification - installation of strawbails, and

silt fencing, and 3) A NECA Teec Nos Pos Gravel Pit Reclamation Plan would be created in addition to the American Association State Highway & Transportation Officials (AASHTO) Standards at Section 625 (mulching and dryland seed mix) for Federal Projects (FP-03), and Supplemental Specifications. Adherence to the AASHTO reclamation standard will minimize potential impacts to disturbed ground cover, including any potential nesting and foraging habitat.

NECA will comply with all applicable federal, tribal law and regulations and obtain necessary permit for the implementation of the proposed project. All areas of proposed project were inspected in the field to ensure that potential impacts to biotic resources would be minimized through the implementation of the proposed action and regulative requirements. These measures are described for all resources potentially impacted in Section 4.0 of this BE, and, in the ultimate, provide the Diné People a better quality of life.

6.0 LIST OF EA DOCUMENT PREPARERS AND COOPERATING ENTITY/AGENCY

BE document was prepared by Mr. Leonard Robbins, PES, Denali Environmental Services, Fort Defiance, Arizona 86504

Table 5. Summary of 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	NDF&W-NHP	No
Dexter D. Prall	GIS Supervisor	NDF&W-NHP	No

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**TEEC NOS POS GRAVEL PIT MINING LEASE APPLICATION
ENVIRONMENTAL ASSESSMENT**

Branch of Environmental Quality Act Compliance & Review
Navajo Regional Office, Bureau of Indian Affairs, Gallup, New Mexico



PLS: NE/4 Section 35 Township 41 North Range 29 East, G&SRM

Lat & Long: 36° 55' 21.6" N 109° 12' 4.2" W, NAd 83

UTM: 660,284 m E 4,087,604 m N, Zone 12

NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY

No. 1 Uranium Blvd

P.O. Box 969

Shiprock, New Mexico 87420

Prepared by

DENALI ENVIRONMENTAL SERVICES

P.O. Box 1127

Fort Defiance, Arizona 86504

April, 2017

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TEEC NOS POS GRAVEL PIT LEASE APPLICATION ENVIRONMENTAL ASSESSMENT

1.0 Introduction

Navajo Engineering and Construction Authority (NECA) of Shiprock, New Mexico will be making a lease application with the Navajo Nation and the Bureau of Indian Affairs for a five-year lease to conduct gravel mining operations west of Teec Nos Pos, Arizona. NECA has selected a site on an alluvial terrace west of Toh Dastini Wash, on the south side of U.S. Highway 160, adjoining Navajo Route N5403. The proposed undertaking will involve expanding an existing gravel pit to excavate and crush gravel material for use in various construction projects in the Agency. The proposed federal action would be a five-year lease approval from the Bureau of Indian Affairs and the Navajo Nation. The gravel pit tract lies within Teec Nos Pos Chapter, Arizona.

1.1 Description of the Proposed Action

NECA plans to reopen an existing gravel pit, previously used for road construction projects in the past. The proposed gravel pit would encompass 30.04 acres. NECA would continue mining the southwest side of the abandoned pit. The estimated quantity of source material reserve is approximately 300,000 tons of recoverable sand and gravel at the proposed pit. The gravel source would be used in support of various road construction projects and other water pipeline construction and maintenance projects in the four corners region. The propose project area would be used for crushing coarse rock, gravel processing, gravel stockpile, and equipment staging area. During operations, a dozer, front end loaders, motor grader and eighteen wheel trucks would be stored onsite. The propose gravel pit location is shown in Figure 1.

Overburden would be stripped from the terrace material source above the pit. Removal of topsoil and overburden material will employ two Caterpillar 623 dozers.

In the pit, the hard gravel material would be drilled and blasted. The loose material would be excavated and hauled to a rock crusher and pulverized into gravel. The gravel would be stockpiled on the equipment staging area. The excavation activity would not require natural buffer zones to the undisturbed areas on the mesa. With regard to aesthetics and scenic values, the company would take steps to minimize the spill of sand, rock and spoil material over the edge of the mesa that would further impact the natural flora or fauna. Top sides of the mesa containing mineable sand and rock material would be pulled inward with a steel-track excavator or equivalent. When the mined area is reclaimed, the top edge of the mesa would appear undisturbed, a few feet lower.

Crushing operations would involve a Caterpillar 980 front end loader, primary-secondary crushers and conveyor lines, a vibrating screen plant with conveyor lines, radial stackers at production stock piles, generator trailer, control van, water truck and water tank for dust suppression. Electrical generators will supply power to the control van/trailer, crushing and conveyor equipment.

Gravel loading and haulage equipment would involve a 980 Caterpillar front end loader, and eighteen wheel tractor-trailer belly dumps. Road maintenance would require a Caterpillar 140G

grader, and a 4,000 gallon water truck. All the equipment, including truck scales, would operate and stored onsite. An office trailer would also be located on site.

A road grader Caterpillar 140G will be used to upgrade the existing access road. A new access road to the parcel will not be required, existing roads will be upgraded. The existing access road, BIA Navajo Route N5403, will provide haulage from the gravel pit location to U.S. Highway 160. Aggregate truck haulage would involve approximately 1.02 miles from the gravel pit to Navajo Route N5403. The Navajo Department of Transportation would maintain the rights of way for N5403. During pit operations, the access route would be watered to control particulate matter (dust) during haulage. The access road will be graded and maintained when the gravel pit is operating. Truckers will be instructed to be considerate of local traffic. Impacts to adjacent road areas would be minimal due to intermittent use.

Upon completion of the project, NECA will reclaim and reseed the site with native vegetation in accordance with the American Association State Highway & Transportation Officials Standards (AASHTO) at Section 625 (mulching and seed mix) for Federal Projects (FP-03), and Supplemental Specifications form the basis of the plan (AASHTO, 2004), and Upon completion of the project, NECA would reclaim and reseed the site with native vegetation in accordance with the *Teec Nos Pos Gravel Pit Mining and Reclamation Plan* (NECA RP, 2017) at Appendix E. Adherence to the reclamation plans will minimize potential impacts to the potential foraging species. Access to the area would be via the existing dirt and graveled roadways. No permanent loss of native vegetation is anticipated. In addition, all work areas would be cleaned of all rubbish and materials, and all parts of the work would be left in a neat and presentable condition.

Temporary erosion controls would be installed and maintained in accordance with the *Stormwater Pollution Prevention Plan* (NECA SWPPP, 2016) for the project. A SWPPP Notice of Intent for a Section 402 (p) NPDES permit of the Federal Water Pollution Control Act (formerly the Clean Water Act) would be applied for from the U.S. Environmental Protection Agency in Washington D.C.

1.2 Purpose and Need for the Project

The purpose of the proposed action is to provide sand and gravel for future construction projects, such as highway construction. The gravel can also be used in concrete mix in building foundations, driveway and sidewalk materials for homes, commercial buildings, public buildings, government health and school facilities, as well as other infrastructure construction.

NECA estimates that over a five year period, operations of aggregate crushing, processing, and stockpiling would be intermittent. Active operations would be based on sales events: low mining activity during winter months and seasonally high activity during the spring and summer months, depending on the sales demand and gravel supply. The entire acreage may not be mined over a five year period, as contract sales would predict the extraction events. Hauling episodes would also be governed by the sales period. Hours of operation would be at ten hours per day, sun-up to sun-down. The property will be permitted for approximately five years. Mining and stockpiling the

material source may begin on the site as soon as the lease is approved by the Navajo Nation and the Bureau of Indian Affairs.

The entire gravel pit area perimeter will not be fenced. For safety and security measures the active operational areas would be fenced to prevent unauthorized access by people and for livestock safety. Local customary grazing users will maintain the traditional use of the pit area that is not being actively mined.

1.3 Location

The proposed gravel pit project is located on USGS topographic map entitled *Cow Butte, AZ/UT 7.5* minute quadrangle map at Figure 1. The waypoint descriptions of the project locations are shown at Table 1.

Table 1. United State Geological Survey Map Waypoint Descriptions of Teec Nos Pos Gravel Pit, Teec Nos Pos, Arizona.

Project Description	Public Land Survey G&SR PM	Latitude and Longitude NAD 83	UTM, Zone 12
Northwest Corner BOP	NE/4 Section 35 T41N R29E	36° 55' 21.6" N 109° 12' 4.2" W	660,284 E 4,087,604 N
Southwest Corner	NW/4 Section 35 T41N R29E	36° 55' 11.3" N 108° 12' 13.9" W	660,050 E 4,087,283 N
Southeast Corner	NE/4 Section 35 T41N R29E	36° 55' 7.5" N 109° 12' 5.1" W	660,269 E 4,087,170 N
Northeast Corner EOP	NE/4 Section 35 T41N R29E	36° 55' 15.5" N 109° 11' 55.3" W	660,508 E 4,087,419 N

The propose gravel pit is located south of the U.S. Highway 160, Teec Nos Pos Chapter, Shiprock Navajo Agency, San Juan County, New Mexico. Elevation is 5,600 feet amsl.

1.4 Project Authorization

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 lease approval would allow NECA to reinvest and utilize the property for a long term.

Teec Nos Pos Chapter has passed a resolution approving the proposed gravel pit site, shown at Appendix B.

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

lease. The approval of the lease would allow the operator to withdraw a tract of land, on which to further construct, operate and maintain a new school and infrastructure. This document addresses potential impacts and mitigation for the approval of the lease. The proposed land use of Indian trust land is administered by Bureau of Indian Affairs.

2.0 ALTERNATIVES INCLUDING THE PROPOSED ACTION

2.1 Alternative Site Considered and Eliminated from Detailed Analysis

Alternate sites of adequate sand and gravel quality and quantity for construction projects are not available in alternate areas. The alternative locations were considered and eliminated after an analysis of soil volume, rocky outcrops and numerous sighting of archaeological evidence. Soil and rock samples were collected and tested at the locations. Soil and rock samples at the alternative sites did not pass the *Unclassified Rock Material Specifications* test required in the *FP-96* highway standard, thus eliminated from further consideration.

2.2 No Action Alternative

This alternative would not allow NECA to acquire a gravel pit permit. Consequently, a gravel operation would not be created and future construction projects would have to get construction materials elsewhere and at a higher price. Some proposed projects may not be constructed, due to the high cost of the gravel aggregate.

2.2 NECA Gravel Pit Operations (Preferred Alternative)

NECA proposes to establish sand and gravel operations at the Teec Nos Pos location. The proposed project location soil and rock samples met the *FP-96* highway standard for highway construction. The existing site has favorable characteristics for pit operations: shallow soils and rocky outcrop conditions. The proposed gravel aggregate operation would be used in future construction projects in the Four Corners vicinity. The proposed pit would not require new access road construction. The existing U.S. 160 highway and Navajo Route N5403, located on the northeast side of the proposed mine area, will be used to access the proposed lease.

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 3.1.13 to add to the overall understanding of the environmental setting of the project area.

3.1.1 Climate

Teec Nos Pos, Arizona is the nearest weather station to the project area. The proposed gravel pit project is located in a semi-arid climate. The Teec Nos Pos Chapter experiences four distinct climatic seasons and has an annual average maximum temperature of 68.3°F and average minimum temperature of 42.1°F. Summer highs reach the 93.1 °F range with summer lows in the 59.4°F average. Winter highs are usually in the 41.5°F range with lows at 20.0°F. Average annual precipitation is 8.09 inches in the project area. The average annual snowfall is 5.4 inches (WRCC

2017). Due to the small size and nature of the proposed project areas, climate would have no effect on the proposed project.

The propose action, expansion of an existing gravel pit, is not listed among the standard of performance for new stationary source in accordance with 40 Code of Federal Regulation part 60, National Ambient Air Quality Standard. Climate change results from the incremental addition of greenhouse gases (GHG) emissions from millions of individual sources, which collectively may have an impact on a global scale. Climate change is a particularly complex challenge given its global nature and the inherent interrelationships among its sources, causation, mechanisms of action, and impacts (CEQ, 2016). With respect to cumulative impacts on regional air quality and climate change from greenhouse gas emissions, 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. Analyzing greenhouse gases emission and the effects of climate change relevant to a proposed action – particularly how climate change may change an action's effects of a propose project – is currently not available. No mitigation of the proposed action would be required.

3.1.2 Geology and Seismicity

The proposed project area is located on the Salt Wash Member of the Upper Jurassic Era Morrison Formation. The Salt Wash Member is white and moderate-orange very fine to medium-grained sandstone, grayish-red shale, and gray limestone (Cooley, M.E, J.W. Harshbarger, J.P. Akers, and W.F. Hardt, 1969). Located south of the proposed project area, the Carrizo Mountain is the prominent land form in the area. The propose gravel pit would be located on the north flank of the Carrizo Mountain. No active faults have been identified or mapped in the project area (Cooley, M.E, J.W. Harshbarger, J.P. Akers, and W.F. Hardt, 1969). Due to the dormancy and lack of these structures, the proposed project would have no effect on geology and seismicity.

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.

According to the 2004 census, there are currently more than 715 housing units located in the Teec Nos Pos Chapter. And approximately 1,323 people reside in the Chapter. Native Americans make up 98.4% of the population (NN DED/LSRI, 2004). Teec Nos Pos 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 Chapter (including the CHR, Special Diabetes Project, Senior Citizens Center) and the Navajo Nation Department of Head Start are the major employers in the area. The Shiprock Agency BIA government, Navajo Nation government, Navajo Housing Authority, Dine College, Indian Health

Service Hospitals, and commercial retail stores are located at Shiprock and Farmington, 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. Ranches on tribal trust lands are relatively small; not large enough to sustain a viable operating ranch for the entire family. 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 traditional use areas. The farm and ranch setting 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 (98.4%). The proposed mining operations and infrastructure construction 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 Teec Nos Pos Chapter has approved a supporting resolution for the project, shown at Appendix B. The Bureau of Indian Affairs, as federal trustee, would ultimately approve the mining lease. The proposed mining operations and new infrastructure construction would allow the people to lead better lives in the community and surrounding areas, and would further provide a better quality of life for the Diné People.

3.1.5 Land Use and Zoning

Traditional land use in the proposed project area is used for rangeland, livestock production and an occasional individual home site. In the rural areas, ranching is the predominant life style in the region. The retired elderly in the area still carry on the ranching life style, as raising livestock has been a sustainable economy in the past. The proposed gravel pit expansion is located on tribal trust land that has historically been used for multi-family grazing land. The tribal trust areas are currently grazed by domestic livestock: sheep, cattle, and horses. Grazing permits are issued to local Navajo families. According to local chapter officials, there are no existing and future land plans to utilize this parcel for other purposes. Teec Nos Pos Chapter has passed a supporting resolution supporting the proposed permit as shown in Appendix B.

Mining and rangeland are the predominant land use in the area. Un-reclaimed pits, remnants of previous mining, are evident in the project area. Relative to the propose gravel pit on the south side, numerous small open pits are located throughout the mining area starting from 3/4 mile northeast. A large open abandoned pit is located on the south side where current mining operations are proposed. Another large open pit is located 150 yards northeast. The pits are typically 20 yards wide and 50 yards long at both locations. The entire mine area was abandoned without regrading or reclamation. Pit in-slopes have not been reduced, as well as overburden piles located on the perimeter. Undisturbed vicinity properties are open rangeland of the Native

Grassland - Savannah Plant Community, comprised of Pinyon-Juniper, shrubs, perennial grasses and annual species.

U.S. Highway 160 is located approximately one mile north of the pit. A dirt road running north and south is located 3/8 mile east. A livestock windmill is located approximately 3/4 mile east. Carrizo Mountains dominate the southern landscape. A major pipeline is located approximately 1/2 mile north of the proposed and existing pit. The nearest home is located north of the abandoned pits at approximately 1/2 mile north, north of the pipeline right of way.

3.1.6 Prime Farmland

Dry farm land is very limited in the proposed project area. There are no irrigated fields. A few agriculture fields (family plots) are located in the project area. These fields would be used to grow traditional crops such as corn, beans, and squash. No mitigation is required for farmland.

3.1.7 Recreation

The Town of Teec Nos Pos presents several sources of recreational opportunities. Recreation facilities include baseball, softball fields, and outside basketball courts at the Teec Nos Pos Elementary School.

Navajo Department of Fish and Wildlife designates the project area and Carrizo Mountains as a big game hunting unit. Navajo big game species include deer, elk, bear, desert bighorn sheep, and wild turkey. Desert bighorn hunting occurs along the San Juan River canyon lands west of Bluff, Utah.

Rodeos or "Chicken Pulls" are also a traditional sport and form of outdoor recreation in the region. Rodeo grounds are located in Teec Nos Pos. Several rodeos are held during the summer. Horseback riding is another recreational source, as horses and horse stables were observed.

Outdoor recreation would come in relation to the traditional livestock raising to the people in the vicinity. In contrast to their government jobs, fence building, ranching, farming activities would provide the ultimate form of outdoor recreation to the local families. This type of outdoor recreation (life style) would provide the relaxation, at the same time feeling of accomplishment, and family member reinforcement.

Recreation opportunities would not be impacted in this development; no mitigation is required for any recreational adversity.

3.1.8 Traffic

The existing dirt roads are located adjacent to the propose project area. Motorized traffic using the existing roads will not be a factor during construction and operation of the gravel pit. The propose project area is located in a predominantly rural setting. Traffic will not be a significant factor in this proposed action. No mitigation is proposed.

3.1.9 Noise

Noise from construction and operation activities will not have a significant adverse effect on the

local population and environment. Construction activities will generate noise levels in the 90 to 100 db range for a short duration, less than one hour. No mitigation is required for any noise adversity.

3.1.10 Floodplain

The proposed gravel pit is not located on any floodplain; nor located in a flood prone area. The site topography generally dip north at approximately 5-8 degrees, which allows for ample drainage. Flood Insurance Rate Maps, as published by the Federal Emergency Management Agency, were reviewed. The project area is excluded from any floodplain designation by the agency (FEMA, 2017), website activated April, 2017.

3.1.11 Wetlands and Riparian Habitat

The US Fish and Wildlife Service Rock Point, AZ, NM, UT, CO National Wetlands Inventory Map was reviewed. The proposed project and action area would not traverse any wetland areas as defined by the USACE Wetlands Delineation Manual of 1987 (USACE, 1987). There are no jurisdictional wetlands within the proposed project area. The atypical existing gravel pit and access roads do not exhibit the required wetland criteria of hydric soils, hydrophilic vegetation and wetland hydrology according to the USACE, 1987 manual. The map indicates livestock impoundments and are classified as Palustine (*PUSAh*), unconsolidated shoreline, temporary flooded, and a dike/impoundment. *PUSAh* locations are located throughout the project area. These water impoundments are livestock watering points. The project would have no effect on the impoundments, as wetlands or riparian habitat occurrences do not exist on the project site. 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 wetlands or riparian habitat occurrences on or near the proposed project area alignments. No mitigation measures are recommended for wetland/riparian areas.

3.1.12 Hazardous, Toxic, and Radiological Waste

Other than the existing gravel pit, there are no other previous industrial uses of the area. The proposed gravel pit and adjoining property have never been used as a gas station, motor repair facility, commercial printing facility, dry cleaner, photo developing laboratory, junk yard or landfill, or as a waste treatment, storage, disposal, processing or recycling facility. The propose project does not contain any damaged or discarded automotive or industrial batteries, pesticides, paints or other chemicals (stored or used). 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 or spills of petroleum products on the properties.

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 surface topography and geology/soils along the proposed project area is not expected to present any specific problems for the project. At an elevation of 5,600 feet above mean sea level, general land form is characterized by high plateaus, mesas, to steep rock outcrops formed by the Carrizo Mountain uplift. Off the mesas, cobble stone hills slope three-four degrees northward toward the San Juan River. The San Juan River, with an east to west flow, cuts the landscape anticline at a perpendicular angle that exposes and erodes steep rock outcrops, of sandstone, clays and shale on the north side of the mountain. The proposed project area is located on the north flank of the uplift, within the San Juan River Watershed. General topographic gradient of the project area moderately slopes three to four degrees to the north, surface water flow 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 proposed project is located in the Desert Grassland-Savannah Plant Community. Soil survey entitled: *Shiprock Area, Parts of San Juan County, New Mexico and Apache County Arizona* indicate the project soils are of the Millet-Blanding-Strych Association. Millet soils at 55% of the association are loamy upland and gravelly textured. Blanding soils at 20 % of the association are sandy. Soil texture ranges from coarse sand to pebble and rocky. The Strych soils at 15 % are cobbly slopes along the escarpments. The soils in the project vicinity were formed primarily from alluvial deposits, pebble rock from alluvial sandstone, limestone and shale. The alluvial sediment is material that was deposited in valleys and ancient river terraces (NRCS, 2017).

3.2.2 Effects

Under normal construction operations, onsite topography would not require cut and fill for the proposed project. Topography at the project area would not be a problem. No significant mitigation would be required for onsite topography.

Soils will be impacted. The mine site access road at 1.02 miles, at 6.19 acres, would be upgraded to accommodate the mobility of heavy equipment to the gravel pit, ingress and egress. Truck haulage of aggregate from the pit during mining operations would be constant during the lease period. Approximately 30.04 acres of land would be disturbed during mining operations. A total area of effect would be 36.23 acres of land, that could be disturbed during mining operations.

3.2.3 Mitigation

Upon completion of the project, NECA will reclaim and reseed the site with native vegetation in accordance with a proposed *NECA Reclamation Plan for Teec Nos Pos Gravel Pit, Teec Nos Pos, Arizona* (NECA RP, 2017). Topsoil removal and stockpiling will begin on the site as soon as the use lease is approved by the BIA.

NECA would also file a National Pollution Discharge Plan, Clean Water Act Section 402 (p), Notice of Intent with the U.S. Environmental Protection Agency in Washington DC, as the company would also prepare a *Stormwater Pollution Prevention Plan* (SWPPP) to stabilize soil erosion and enhance re-vegetation onsite.

3.3 Water Resources and Water Quality

3.3.1 Existing Conditions

NECA has selected a gravel pit site on an alluvial terrace one-mile southwest of Toh Dastini Wash, where windmill 9-T-527, water tank and trough are located. The livestock shallow well is located on the east bank of the wash. The bulk of the surface water of the proposed project area and access road would drain toward the Toh Dastini Wash. The wash would contain an intermittent water flow during the spring runoff. Primary discharges of these drainages would occur 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).

Navajo Tribal Utility Authority (NTUA) operates the Teec Nos Pos Community Water System seven miles east of the proposed project area. There are no community water systems in the project area. Safe drinking water to residents in the project area would not be significant. There are no water wells, or water storage tanks at the location or at locations in the upper watershed.

3.3.2 Effects

The proposed project construction work or other related activities would not have impact on any springs, wells or aquifer recharge areas. No impacts to the surface and natural ground water in the vicinity of the proposed project may be expected by the approval of the lease application. Previous mine excavation and access road surface disturbance have stabilized.

3.3.3 Mitigation

NECA would also prepare a *Stormwater Pollution Prevention Plan* (SWPPP) as required by Section 402 (p) of the Federal Water Pollution Control Act (formerly the Clean Water Act). A Notice of Intent for a National Pollution Discharge Elimination System (NPDES) construction permit application would be applied for with the U.S. Environmental Protection Agency in Washington D.C. In accordance with the NPDES, a Stormwater Pollution Prevention Plan (SWPPP) would be developed and maintained at the gravel pit. Temporary erosion controls, including straw bales, silt fences, rolled excelsior bales, and rip rap, will be installed and maintained according to the SWPPP. These measures are to control soil erosion onsite.

The proposed gravel pit would not have any impact to any existing community water system. No other mitigation is required.

3.4 Vegetation and Wildlife Biotic Communities – Pinyon-Juniper Savannah Ecosystem

3.4.1 Existing Conditions

The Teec Nos Pos Gravel Pit is located in the Great Basin Native Grassland Savannah Ecosystem of northeast Arizona, at an elevation of 5,600 amsl. Perennial grasses of the grassland biome are represented by the following species: Ring muhly *Mulenburgia torreyi*, Blue grama *Bouteloua*

gracilis, Galleta *Hilaria jamesii*, Indian ricegrass *Oryzopsis hymenoides*, Bottlebrush squirrel tail *Sitanion hystrix*, Needle and thread *Stipa comata*, Red-three awn *Aristida longiseta*, and Sand dropseed *Sporobolus cryptandrus*. Alkali sacaton *Sporobolus airoides* can be found in the swales and in the low areas along arroyos and washes (Turner, R.M. & Brown, 1994).

Forbs, although widely scattered in the grassland community, are represented as Aster *Aster spp*, Coneflower *Ratibida*, Indian paint brush *Castilleja applegatei*, Thistles *cirsuimmus* and Groundsel *Senecio*. These forbs will present showy flowers during the spring and wet season.

Shrubs such as Four-wing saltbush *Atriplex canescens*, Sagebrush *Atremisa spp.*, Winterfat *Ceratoides lanata*, Cholla *Opuntia spp.*, Soapweed yucca *Yucca glauca*, Rabbit brush *Chrysothamhus*, and Snake weed *Gutierrezia* would be scattered throughout the biome. Past grazing and human activity may alter the distribution of snakeweed, rabbit brush, and sagebrush.

Annual plants such as Cheatgrass *Bromus tectorum*, Russian thistle *Salsolia kali*, Tansy mustard *Descurainia obtusa*, Sunflower *Helianthus annuus*, and Kochia weed *Bassia hyssopifolia* occur on the biome (De Witt I., Robert, 2006).

A distinct fauna of the Great Basin Grassland include the Whitetail antelope ground squirrel *Ammospermophilus leucurus*, Great Basin pocket mouse *Perognathus parvus*, Ord's kangaroo rat *Dipodomys ordi*. White-tail prairie dogs *Cynomys gunnisoni* occur on the grasslands. Other mammals include the coyote *Canis latrans* and black-tailed jackrabbit *Lepus californicus* (Brown, D. E., 1994).

Several birds are characteristic of the Great Basin Desert Grassland – Sage thrasher *Oreoscoptes montanus*, Sage sparrow *Amphispiza belli*, and Horned lark *Eremophila alpestris* (Brown, D. E., 1994).

Due to its long cold winters in the grassland reptiles are not as well represented. Common species include the Sagebrush lizard *Sceloporus graciosus*, and the Great Basin Spadefoot toad *Scaphiopus intermontanus*, and collared lizard *Crotaphytus collais*. The Northern desert horned lizard *Phrynosoma platyrhinos*, Northern whiptails *Cnemidophorus tigris tigris*, Great Basin gopher snake *Pituophis melanoleucus deserticola* and Great Basin rattlesnake *Crotalus viridis* are a few of the other common species (Brown, D. E., 1994).

3.4.2 Effects

Vegetation and soils will be impacted. The mine site access road at 1.02 miles, at 6.19 acres, would be upgraded to accommodate the mobility of heavy equipment to the gravel pit, ingress and egress. Truck haulage of aggregate from the pit during mining operations would be constant during the lease period. Approximately 30.04 acres of land would be disturbed during mining operations. A total area of effect would be 36.23 acres of land, that could be disturbed during mining operations.

3.4.3 Mitigation

Upon completion of the project, NECA will reclaim and reseed the site with native vegetation in accordance with a proposed *NECA Reclamation Plan for Teec Nos Pos Gravel Pit, Teec Nos Pos*,

Arizona (NECA RP, 2017). Topsoil removal and stockpiling will begin on the site as soon as the use lease is approved by the BIA.

NECA would also file a National Pollution Discharge Plan, Clean Water Act Section 402 (p), Notice of Intent with the U.S. Environmental Protection Agency in Washington DC, as the company would also prepare a *Stormwater Pollution Prevention Plan* (SWPPP) to stabilize soil erosion and enhance re-vegetation onsite.

3.5 Federal Endangered Species Act (ESA) Listed Species

Onsite field surveys for ESA threatened and endangered species were conducted by the staff of Denali Environmental Services August 2, 2016. Based on the field surveys, determinations of effect were created for the ESA species. No ESA listed species, or potential habitats, were found in the proposed project area. Table 2 summarizes the potential for federally listed species that would occur in the project area. The proposed action alternative would have no effect on the listed federally ESA, NESL, and MBTA species. No extraordinary environmental circumstances were noted during the reconnaissance.

3.5.1 Welsh's Milkweed *Asclepias wilshii* ESA T NESL G3

3.5.1.1 Species Habitat Associations

The specie inhabits active sand dunes derived from Navajo sandstone in sagebrush, Juniper, & Ponderosa Pine communities, 5,000 to 6,230 elevations. Navajo Nation distribution includes Coconino County north of Tuba City, south of Monument Valley in Navajo and Apache Counties.

3.5.1.2 Potential to Occur in the Project or Action Area & Determination of Effect

The Milkweed plant and habitat is not present on the proposed project area, nor vicinity properties. No milkweed species were observed on the proposed project area during the onsite field visit. Previous mining activity and existing land uses, i.e., livestock grazing, and road access, has rendered the area unsuitable for the species habitation. No effect on the Welsh's Milkweed.

3.5.1.3 Mitigation

Since there would be no effects on Welsh's Milkweed, no mitigation measures for the ESA / USFWS endangered species are recommended.

3.5.2 Southwest Willow Flycatcher *Empidonax traillii extimus* ESA Endangered, MBTA

3.5.2.1 Species Habitat Associations

The species breeds/nests in dense, shrubby habitats, usually in close proximity to surface water or saturated soils in and along riparian and riverine ecosystems.

3.5.1.2 Potential to Occur in the Project or Action Area & Determination of Effect

Natural riverine habitat and riparian ecosystems are not present in the project area; species is unlikely to occur within the project area. There would be no effect on the federally listed Southwest Willow Flycatcher endangered bird species, or their habitat.

3.5.1.3 Mitigation

Since there would be no effects on Southwest Willow Flycatcher, no mitigation measures for the ESA / USFWS endangered species are recommended.

Table 2. Habitat descriptions and presence of USFWS listed (ESA) Threatened (T), Endangered (E), or Candidate (C) species potential to occur on the project area.

SPECIES/ STATUS	HABITAT ASSOCIATIONS	PRESENCE
Welsh's Milkweed <i>Asclepias wilshii</i> ESA T NESL G3	The specie Inhabits active sand dunes derived from Navajo sandstone in sagebrush, Juniper, & Ponderosa Pine communities, 5,000 to 6,230 elevations. Navajo Nation distribution includes Coconino County, north of Tuba City, south of Monument Valley in Navajo and Apache Counties.	NP - The milkweed is not present on the proposed project area. No milkweed species were observed on the proposed project area. Previous mining activity and existing land uses, i.e., livestock grazing, and road access, has rendered the area unsuitable for this species habitation.
Southwest Willow Flycatcher <i>Empidonax traillii extimus</i> ESA E NESL G2 MBTA	Breeds/nests in dense riparian tree & shrub communities associated with rivers, swamps and other wetlands, including lakes and reservoirs. The bird nest in native vegetation including willows, seepwillow, boxelder, buttonbush & cottonwood, also thickets of non-native tamarisk & Russian olive. Nest is constructed 6.5 to 23 feet above ground on saturated soils along riparian and riverine ecosystems.	NP - Habitat not present and species unlikely to occur within the project area. The proposed gravel pit construction and operation would have no effect on the Southwest Willow Flycatcher; riparian and riverine ecosystems are not present in the project area.

3.6 Navajo Endangered Species List (NESL) Species of Concern

Onsite field surveys for NESL threatened and endangered species were conducted by the staff of Denali Environmental Services August 2, 2016. Based on the field surveys, determinations of effect were created for the ESA species. No species of concern, or potential habitats, were found in the proposed project area. None of the special management fauna and flora NESL species were observed at the time of the onsite field survey. Table 3 summarizes the Navajo listed Species of Concern that would occur on the proposed project area. The proposed action alternative would have no effects on any of the listed NESL special management species or their habitat.

3.6.1 Golden Eagle *Aquila crysaetos* NESL G3 , MBTA

3.6.1.1 Species Habitat Associations

The Golden Eagle nests on steep cliffs, normally adjacent to foraging habitat of desert grasslands or desertscrub, that provide primary prey of prairie dogs, cotton tail and jack rabbits (NNHP, 2008). Nests are reused and tend to become a huge mass of sticks and debris. Golden Eagle foraging habitat is present within the propose project area, and action area. Small mammals, such as prairie dogs, jackrabbits, cottontail rabbits, field mice, gophers, etc., are of marginal abundance in the project area.

3.6.1.2 Potential to Occur in the Project or Action Area & Determination of Effect

Direct impacts to the Golden Eagle would include the temporary loss of 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. Existing & future land uses (livestock grazing, roadway use, housing, & mining) of the property would render the area partially unsuitable for the raptor species.

3.6.1.3 Mitigation

Since there would be no direct effects on the Golden Eagle, no mitigation measures for the NESL endangered species are recommended.

3.6.2 Western Burrowing Owl *Athene cunicularia* NESL G4, NBTA

3.6.5.1 Species Habitat Associations

Inhabits desert shrub & grassland shrub-steppe dominated by mixed grasses. Casual vagrant to prairie dog colonies, occupying abandoned holes in grassland communities at 6,200-6,400 ft.

3.6.5.2 Potential to Occur in the Project or Action Area & Determination of Effect

Habitat suitable but species is not suspected to occur within the project area. No prairie dog colonies or short grassland occur within the project or action area. The proposed action alternative would have no effect on the listed NESL owl species or their habitat.

3.6.5.3 Mitigation

Grassland habitat surrounds the project area that would be suitable for the owl. The species was not sighted during the field survey. Prairie dog colonies are not present as soils are shallow with a rock substrate. No nests were located. No direct mitigation is recommended for the Western Burrowing Owl.

3.6.3 Mountain Plover *Cottus bairdi* NESL G4

3.6.2.1 Species Habitat Associations

The plover is occasionally found in upland grassland habitat, often far from water sources. The plover nest in flat to rolling grassland, semi desert, or badlands, in areas of short and sparse vegetation, bare areas and grazed rangeland. Nest is in the shaped in dirt, next to grass clumps. Breeding of the species on the Navajo Reservation occurs in New Mexico. Potential habitat includes grassland between the Chuska Mountains and Black Mesa, and southwest of Black Mesa to the Little Colorado River. Breeding of the species on the Navajo Reservation occurs in New Mexico.

3.6.2.2 Potential to Occur in the Project or Action Area & Determination of Effect

Suitable habitat and species are suspected to occur within the project area. Direct impacts to the plover would include the temporary loss of nesting & foraging habitat. Field surveys did not reveal nesting habitat in the proposed location. However, it is possible that the species may forage in proximity or fly through the proposed project and action areas.

3.6.2.3 Mitigation

There is grassland habitat adjacent to the project area that would be suitable for the Mountain Plover, however the species was not sighted during the field survey, no nest were located. No direct mitigation is recommended for the Mountain Plover.

3.6.4 Peregrine Falcon *Falco peregrinus* NESL G3

3.6.4.1 Species Habitat Associations

Nesting habitat rock outcrop formations greater the minimum height of 45 meters is present in the high country of the Carrizo Mountains. And the foraging resource of their preferred prey in the surrounding area would support falcon and other raptor populations.

Table 3. Habitat descriptions and presence of NESL listed (G2 to G4) Navajo Nation species potential to occur on the project area.

SPECIES & LISTING	HABITAT ASSOCIATIONS	PRESENCE
FAUNA		
Golden Eagle <i>Aquila crysaetos</i> NESL G3	The Golden Eagle nests on steep cliffs, normally adjacent to foraging habitat of desert grasslands or desertscrub, that provide primary prey of prairie dogs, cotton tail and jack rabbits (NNHP, 2008). Nests are reused and tend to become a huge mass of sticks and debris. Golden Eagle foraging habitat is present within the propose project area, and action area. Small mammals, such as prairie dogs, jackrabbits, cottontail rabbits, field mice, gophers, etc., are of marginal abundance in the project area.	S - Direct impacts to the Golden Eagle would include the temporary loss of 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. Existing & future land uses (livestock grazing, roadway use, housing, & mining) of the property would render the area partially unsuitable for the raptor species.
Western Burrowing Owl <i>Athene cunicularia</i> NESL G4, NBTA	Inhabits desert shrub & grassland shrub-steppe dominated by mixed grasses. Casual vagrant to prairie dog colonies, occupying abandoned holes. Grassland communities (6,200-6,400 ft.).	NP - Habitat suitable but species is not suspected to occur within the project area. No prairie dog colonies or short grassland occur within the project or action area. The proposed action alternative would have no effect on the listed NESL owl species or their habitat.
Mountain Plover <i>Cottus bairdi</i> NESL G4	The plover is occasionally found in upland grassland habitat, often far from water sources. The plover nest in flat to rolling grassland, semi desert, or badlands, in areas of short and sparse vegetation, bare areas and grazed rangeland. Nest is in the shaped in dirt, next to grass clumps. Breeding of the species on the Navajo Reservation occurs in New Mexico. Potential habitat includes grassland between the Chuska Mountains and Black Mesa, and southwest of Black Mesa to the Little Colorado River.	S – Suitable habitat and species suspected to occur within the project area. Direct impacts to the plover would include the temporary loss of nesting & foraging habitat. Field surveys did not reveal nesting habitat in the proposed location. However, it is possible that the species may forage in proximity or fly through the proposed project and action areas.
Peregrine Falcon <i>Falco peregrinus</i> NESL G3	Nesting habitat rock outcrop formations greater the minimum height of 45 meters is present in the high country of the Chuska Mountains. And the foraging resource of their preferred prey in the surrounding area would support falcon and other raptor populations.	S Although the specie was not sighted in the survey area during the field survey, suitable habitat and species suspected to occur within the project area.

Northern Leopard Frog NESL G4	Northern Leopard Frog is a medium-sized frog species that requires wetland and aquatic habitats. It inhabits wet meadows and fields bordering springs, slow streams, marshes, bogs, ponds, canals, flood plains, reservoirs, lakes, and is usually found near permanent water with rooted aquatic vegetation.	NP - Habitat not present and species unlikely to occur within the project area. Previous mining activity and existing land uses, i.e., livestock grazing, nearby family residential areas, and road access, has rendered the area unsuitable for species habitation.
FLORA		
Cronquist Milk-vetch Astragalus cronquistii NESL G3	Inhabits Salt desert shrub and black-brush communities on sandy or gravelly soils derived from the Cutler and Morrison Formations. Also known to occur on the Mancos Shales at 4,750 to 5,800 feet elevation. On the Navajo Reservation the plant is known from south of Bluff and Aneth, Utah, near the Utah border with Colorado, San Juan County, Utah.	NS - Habitat suitable but species is not suspected to occur within the project area. The milkweed is not present on the proposed project area. No milkweed species were observed on the proposed project area. Soils and geology of the propose project are suitable for the milkweed. Previous mining activity and existing land uses, i.e., livestock grazing, nearby family residential areas, and road access, has rendered the area unsuitable for species habitation.
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.		
CH – Designated Critical Habitat assigned to this species.		

3.6.4.2 Potential to Occur in the Project or Action Area & Determination of Effect

Although the specie was not sighted in the survey area during the field survey, suitable habitat and species suspected to occur within the project area. The falcon range locally on the Navajo Indian Reservation in the Chuska Mountains, Canyon DeChelly, Black Mesa north to Glen Canyon, the Dilkon Butte region, and canyon reaches of the San Juan, Colorado and Little Colorado Rivers.

3.6.4.3 Mitigation

No direct effects to the Peregrine Falcon are anticipated. No other direct mitigation is recommended for this species.

3.6.5 Northern Leopard Frog NESL G4

3.6.5.1 Species Habitat Associations

Northern Leopard Frog is a medium-sized frog species that requires wetland and aquatic habitats. It inhabits wet meadows and fields bordering springs, slow streams, marshes, bogs, ponds, canals, flood plains, reservoirs, lakes, and is usually found near permanent water with rooted aquatic vegetation.

3.6.5.2 Potential to Occur in the Project or Action Area & Determination of Effect

Wetland and aquatic habitats are not present and the species unlikely to occur within the project area. Previous mining activity and existing land uses, i.e., livestock grazing, nearby family residential areas, and road access, has rendered the area unsuitable for species habitation.

3.6.5.3 Mitigation

Northern Leopard Frog is not present on the propose project area. No mitigation is recommended for the Northern Leopard Frog.

3.6.6 Cronquist Milk-vetch *Astragalus cronquistii* NESL G3

3.6.6.1 Existing Conditions

The milk-vetch inhabits salt desert shrub and black-brush communities on sandy or gravelly soils derived from the Cutler and Morrison Formations. The plant is also known to occur on the Mancos Shales at 4,750 to 5,800 feet elevation. On the Navajo Reservation the plant is known from south of Bluff and Aneth, Utah, near the Utah border with Colorado, San Juan County, Utah.

3.6.6.2 Effects

No milkweed species were observed on the proposed project area. Soils and geology of the propose project are suitable for the milk-weed. Previous mining activity and existing land uses, i.e., livestock grazing, nearby family residential areas, and road access, has rendered the area unsuitable for species habitation.

3.6.6.3 Mitigation

Habitat suitable but species is not suspected to occur within the project area. The milkweed is not present on the proposed project area. No mitigation is recommended for the Conquist milk-vetch plant.

3.7 Migratory Bird Treaty Act Listing

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 area indicates there are 27 avian species occurring on the southern Rocky Mountains and Colorado Plateau. See Table 4.

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.

3.7.2 Effects

Although migratory birds could potentially occur in the area, none were observed during the environmental site visit on August 2, 2016. The proposed action alternative would result in a short-term and small scale loss of vegetation due to construction. This construction project would disturb a faction of the project area, which was previously totally disturbed during previous mining. The proposed project activities is expected to be confined to the project areas. 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 construction equipment is removed, wildlife and migratory bird species would be expected to return to the area. To avoid any potential effects to migratory bird species or migratory

Table 4. 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. Specie not present.	Zero
American Bittern <i>Botaurus lentiginosus</i>	Wading bird inhabits wetlands, usually dense marsh reeds, rushes and sedges.	No suitable habitat present.	Zero
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 mountains, open country.	No conflict anticipated.	Low
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.	No conflict anticipated	Low
Golden Eagle <i>Aquila crysaetos</i>	Open grasslands or desert scrub, In mountainous canyon terrain. Nest on cliffs and trees	Little 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.	Little conflict anticipated	Low
Prairie Falcon <i>Falco mexicanus</i>	Nests and forages in grassland, and open Juniper Savannah.	Little 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.	No conflict anticipated	Zero
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	Zero

Flammulated Owl <i>Otus flammcolus</i>	Inhabits pine-oak woodland, ponderosa pine forest.	Suitable habitat not present.	Zero
Burrowing Owl <i>Athene cunicularia</i>	Inhabits grassland shrub-steppe dominated by mixed grasses. Casual vagrant to prairie dog colonies, occupying abandoned holes.	Not present, Zero conflict anticipated.	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.	No suitable habitat.	Zero
SW Willow Flycatcher <i>Empidonax traillii</i>	Inhabits brushy habitats in wet areas; also in pastures, mountain meadows.	Suitable habitat, species absent.	Low
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. No conflict anticipated.	Zero
Pinyon Jay <i>Gymnprjomus 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
Juniper Titmouse <i>Baeolophus ridgwayi</i>	Inhabits juniper-pinyon woodland.	No suitable habitat.	Zero
Veery <i>Catharus fuscescens</i>	Inhabits dense moist woodlands and streamside thickets. Casual in the Southwest.	No suitable habitat.	Zero
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
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
Brewer's Sparrow <i>Spizella breweri</i>	Inhabits mountain meadows and sagebrush flats.	No conflict anticipated	Zero
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
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 on the project area.	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.	Zero
Cassin's Finch <i>Carpodacus cassinii</i>	Woodland Ecosystem. Species inhabits evergreen woodlands.	No suitable habitat in project area.	Zero

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 mining operation would have no significant effects on migratory bird species.

3.7.3 Mitigation of Migratory Birds

NECA will minimize the possibility of unintentional take of migratory birds. NDF&W policy mandates that prior to construction the proposed activity would require a preconstruction survey of potential nesting birds on the right-of-way, should construction occur during the breeding season. Should the proposed project involve vegetative disturbance (brush and tree removal), no construction activities from May 15 to July 31 will 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 the NNHP biologist. Any bird nests found within the proposed project area will be reported to the NNHP biologist for appropriate mitigation prior to construction activities. The operator will monitor any active nests located from a nest survey.

Following construction activities, the construction staging areas would not require reclamation. Avoidance to the breeding season will minimize potential impacts to migratory birds.

3.8 Air Resources

3.8.1 Existing Conditions

Air quality in the area near the proposed project is generally good and is not located in any of the areas designated by the USEPA as "non-attainment areas" for any listed pollutants regulated by the Clean Air Act. The primary sources of air pollution are dust from blowing wind on disturbed or exposed soil, wood burning from residential heating and cooking, and exhaust emissions from motorized equipment. No visibility studies have been conducted in the project area. However, regional visibility in the project area can be considered to be good.

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. 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.

3.8.3 Mitigation

Disturbed soils during any road upgrade and maintenance would be dampened by watering for dust suppression and soil compaction.

3.9 Esthetics and Visual Resources

3.9.1 Existing Conditions

No esthetics or visual 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

Ground disturbing activities with regard to the proposed undertaking will be extensive with the use of explosives and the use of heavy equipment. Currently, the primary ambient air pollutant in the project area is an occasional wind-blown dust devil, from loose topsoil common during times of gusting winds during the spring and summer. Dust from vehicular traffic along unimproved roads, in the vicinity, are common in the area.

3.9.3 Mitigation

In accordance with the NECA Mining and Reclamation Plan the gravel pit would be regraded to the approximate original contours. In slopes would be reduced to a 4:1 slope. Head walls would be reduced to a terrace profile. 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

At the request of Navajo Engineering and Construction Authority, a cultural resource inventory and report was carried out by Complete Archaeological Service Associates (CASA) of Cortez, Colorado. CASA crafted a field report for the 30.04 acre gravel pit, with a 1.02 miles of access road, entitled: *Cultural Resource Inventory, Navajo Engineering and Construction Authority's Teec Nos Pos Gravel Pit and Access Road, Apache County, Arizona*. A Cultural Resource Compliance Form, NNHPD Number HPD-17-140, has been created for this undertaking, as shown in Appendix C.

3.10.2 Effects

As part of the archeological inventory, interviews regarding traditional cultural properties (TCPs) were conducted with chapter officials. No sacred sites or traditional cultural resources were identified within the proposed site. According to the archaeology field inventory "No historic properties would be affected".

3.10.2 Mitigation

The project sponsor 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 must cease and the Navajo Nation Historic Preservation Department must be notified at (928) 871-7198.*

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 would be no other proposals or other right of way applications planned in the reasonably foreseeable future in the area. The proposed lease 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 holders would relinquish less than an acre of trust land to the development.

5.0 PUBLIC INVOLVEMENT

In a public meeting, the Teec Nos Pos Navajo Chapter was consulted, and passed resolution in support of the project. The Navajo Regional Office, BIA, Branch of Environmental Quality Act Compliance and Review would make a Finding of No Significant Impact (FONSI) determination as result of their review. The Navajo Land Development, General Land Development Office, and the Navajo Regional Office Real Estate Services would review and consider the five-year lease application, and process the application for approval.

6.0 COORDINATION AND REVIEW OF THE EA

Complete Archaeological Service Associates of Cortez, Colorado conducted the project archeological survey and crafted a field report entitled: *Cultural Resource Inventory, Navajo Engineering and Construction Authority's Teec Nos Pos Gravel Pit and Access Road, Apache County, Arizona*. According to the field inventory "No Historic Properties Affected" is recommended for the proposed site. A NHPD concurrence letter and *Cultural Resource Compliance Form* is created for the project.

NECA conducted consultation with the Navajo Department of Fish and Wildlife, Navajo Nation. The consultation would assure mandated protection of ESA and Navajo threatened and endangered species. The Navajo Department of Fish and Wildlife website was consulted for the Biological Resources Land Clearance Policy and Procedures. A NDF&W-NHP concurrence letter and a *Biological Resource Compliance Form* at Appendices D is created for the project.

7.0 CONCLUSIONS & COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS

The preferred alternative is reasonable. No significant adverse impacts to the human environment have been identified in the development of this environment assessment.

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.

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.

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 direct 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 project site 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 exists 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.

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 site.

8.0 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.

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MINING PLAN

Teec Nos Pos Gravel Pit

Navajo Engineering & Construction Authority - Shiprock, New Mexico

Navajo Engineering and Construction Authority (NECA) has applied for a mining lease for a period of five-years to produce sand and gravel at a new gravel pit, located within the Teec Nos Pos Chapter boundary in Apache County, Arizona. The gravel pit is situated on an alluvial terrace west of Toh Dastini Wash. Access to the site will be possible by an existing single-track dirt road off Navajo Route 5403 and south of US 160, Mile Marker 459.55. The previously mined area will accommodate stockpiling, processing of aggregates, equipment and material storage, intermittent production of asphalt and concrete utilizing aggregates from the site and other activities related to production of materials for construction projects. Aggregates will not be washed onsite. Water for dust control will come from the San Juan River, a source that will be permitted by the Navajo Nation of Department of Water Resources.

The proposed mining lease area is approximately 22.51-acres for pit and 6.19-acres for access road in size and contains sparse vegetation. The gravel pit site is composed of soil that is cobbly sandy loam and, allowing runoff to course in an easterly or western direction; which, ultimately will drain into San Juan River via Toh Dastini and Farms wash.

Personnel working on the site will be required to take part in a 24-hour Mine Safety and Health Administration (MSHA) training session or an eight-hour refresher course before beginning work, depending on whether they have been through MSHA training previously.

The property will be fenced for safety and security to prevent unauthorized access by people and livestock to areas where mining, aggregate processing and stockpiling are taking place. All fencing will be removed after reclamation activities are complete.

Temporary erosion controls will be installed and maintained in accordance with our Stormwater Pollution Prevention Plan. Topsoil stripping and stockpiling of the unmined area will be performed as needed, before crushing operations begin, when the need for additional gravel is determined. It is expected that aggregate crushing, processing, and stockpiling will begin upon receipt of a purchase order for materials, or when there are sizeable road projects in the area. We expect that aggregate crushing, processing, and stockpiling operations will be intermittent over the 5-year term of the mining lease, as sales of aggregates and projects require. We also expect that hauling of aggregates from the location will be intermittent, governed by sales. In general, we expect that hours of operation will be sunup to sundown, Monday through Friday, with the normal shift being ten-hours per day.

From visual observations at the location and the depth of the sand and gravel layers from previous mined areas, we estimate that there could be as much as three hundred thousand (300,000) tons of recoverable sand and gravel remaining on the site. We expect the depth to vary as we move across the site. Excavation will move in a southwesterly direction to the property limit. It is our intention to maintain an earthen berm along the mesa edge for safety purposes and as part of our storm water prevention plan. This earthen berm will be smoothed into the final grade upon completion. The final grade of the area to be mined upon completion will be the bottom of the existing alluvial layer, with minor grading to minimize erosion. This final grade cannot be estimated until the alluvial material is removed. No slopes will be steeper than 3-to-1.

Although it is not possible to provide an exact list of the equipment that will be used in the gravel pit operation during the five-year term of the lease, we will describe the size and type of equipment that we expect to use. The crushing spread will most likely consist of the following equipment:

- Cat 980 or equivalent sized loader
- Primary crusher
- Conveyor line to secondary crusher
- Secondary crusher
- Conveyor line to screen
- Vibrating screening plant
- Conveyors to radial stackers (as many as 4 conveyor lines)
- Radial stackers at product stockpiles (as many as 4)
- Generator trailer
- Control van
- Water tank for dust control system
- 4,000-gallon water truck

Removal of topsoil and overburden will most likely include the following equipment:

- 2 each Cat 623 scrapers
- 5,000-gallon water wagon

Gravel hauling will most likely include the following equipment:

- Cat 966, 950, or 930 loader
- Truck tractor and belly-dump or end-dump trailer units as required
- 4,000-gallon water truck for dust control
- Cat 14G or 140G blade for road maintenance

Contour maps are attached that show the existing topography and estimated final surface contours. Please keep in mind that the final contour map is based on an estimate of the depth of the gravel deposit. The final contours may change based on the actual depth and gradient of the alluvial deposits, however, the grade of slopes and drainage patterns will remain as stated within this mining plan. The differences between the present topography and final surface are demonstrated in the attached maps. In general, we expect the top of the mesa to be lowered by no more than 25-feet by removing the layer of alluvial material.

During mining and aggregate processing activities, dust control will be provided by spray bars on processing equipment and water trucks for excavation operations, stockpile, and traffic areas within the lease area. When hauling occurs, the access roads will be watered as needed to control dust. Water for dust control will come from the San Juan River, a source to be permitted by the Navajo Nation Department of Water Resources. NECA will comply with air quality requirements of the Navajo Nation during all operations of the Teec Nos Pos Sand and Gravel Pit.

Access to the sand and gravel mine will be from US 160 and N5403. Route 5403 is an existing graded gravel road that serves homes south of the proposed mine. Signs will be posted on N5403 and US 160 warning of truck traffic when hauling is taking place. The existing gravel access road will be graded and maintained when the gravel pit is operating. Employees and truckers will be instructed to be considerate of local traffic.

Solid waste will be placed in dumpsters to be disposed of at a licensed landfill by a qualified waste hauler. No hazardous materials will be used on the site.

At times, fuel and petroleum products may be stored on site. Waste oil will not be stored on site. Fuel and petroleum product storage on site will be contained within an area surrounded by an earthen berm. The enclosed area and berm will be covered with an impermeable liner to prevent contamination of soil with petroleum products. The enclosed area will be sufficient in size to contain at least twice the contents of the largest tank or container in the containment. A standard spill kit containing absorbent materials, empty containers, and a shovel will be maintained at the site. Spills of petroleum products will be handled according to the standard policies regarding cleanup and disposal of contaminated soils, which require that contaminated soils be removed and transported to a licensed disposal facility, Envirotech of Farmington.

Upon completion of mining and removal of aggregates from the area remaining to be mined, NECA will reclaim and reseed the site with native vegetation. Reclamation will be in accordance with NECA's reclamation plan for Teec Nos Pos gravel pit, which will be reviewed and approved by the Navajo Nation EPA. Prior to topsoil replacement and seeding, the disturbed areas will be graded to minimize erosion, with no slopes steeper than 3-to-1. Drainage from the area flows naturally to Toh Dastini and Farms wash and into San Juan River and that natural drainage will be maintained. The existing access road leading into the gravel pit will remain after reclamation, since it is a Navajo Nation Department of Transportation route and used by nearby area residents.

A copy of a site map is attached.

RECLAMATION PLAN

TEEC NOS POS GRAVEL PIT

Navajo Engineering and Construction Authority

The proposed gravel pit is situated on an alluvial terrace with sparse vegetation that slopes towards the Toh Dahstini Wash, which eventually drains into the San Juan River. The gravel pit site is approximately 22.51-acres and 6.19-acres for access road, more or less. New roads are not required to access the property.

The areas to be mined will be stripped of six-inches of topsoil, which will be stockpiled along the perimeter of the property closest to the area to be mined and replaced upon completion of mining. The topsoil will be stockpiled in an out-of-the-way location, just outside the area to be mined. That location will be determined by the crushing manager just prior to beginning mining of a particular area. The topsoil will be stockpiled by scrapers, so it will be a long pile somewhat wider than a scraper at the top, with slopes no steeper than 4 to 1. The topsoil will be sprayed with water using water trucks equipped with spray bars and compacted by construction equipment traffic during construction of the stockpiles to prevent erosion. Temporary erosion control measures, as outlined in the Storm Water Pollution Prevention Plan (SWPPP), will be installed at the foot of the stockpiles to prevent movement of topsoil from the site.

Top soil will not be removed from previously mined areas before being used for aggregate stockpiles and processing, asphalt or concrete production. Aggregates will not be washed on site.

At times, fuel and petroleum products may be stored on site. Waste oil will not be stored on site. Fuel and petroleum products stored on site will be contained within an area surrounded by an earthen berm. The enclosed area and berm will be covered with an impermeable liner to prevent contamination of soil with petroleum products. The enclosed area will be sufficient in size to contain at least twice the contents of the largest tank or container in the containment. A standard spill kit containing absorbent materials, empty containers, and a shovel will be maintained on site. Spills of petroleum products will be handled in accordance to Navajo Engineering and Construction Authority (NECA) standard policies regarding cleanup and disposal of contaminated soils, which require that contaminated soils be removed and transported to a licensed disposal facility, Envirotech of Farmington.

If an asphalt hot plant is used on site, it would be temporary. The ground surface under the rotary drum dryer and tanks containing petroleum products for the hot plant are covered with an impermeable liner to prevent contamination of the ground surface. This is detailed in the standard Spill Prevention Control and Countermeasure Plan for the hot plant.

Upon completion of mining and removal of aggregates from the area remaining to be mined, the disturbed areas of the site will be graded to minimize erosion, leaving no slopes steeper than 4-to-1. Drainage from the terrace flows naturally towards Toh Dahstini Wash and San Juan River and, that natural drainage will be maintained. The topsoil will be replaced in mined areas. The ground surface will be ripped to loosen areas compacted by traffic. Areas to be reclaimed will be ripped and processed to provide a surface capable of supporting vegetation. The existing access road through the gravel pit will remain since it provides the only access route to the nearby residences. The site will be disked and seeded using the specifications contained in Section 625 of FP-03, a copy of which is attached. The seed mix will be obtained from the Bureau of Indian Affairs Shiprock Agency Natural Resources, since they have the ability to tailor the seed mix to the existing plants in the area and they are located nearby. There will be no watering of the site. The seed will be allowed to germinate when natural moisture is sufficient to maintain growth. The success of the revegetation will be determined by acceptance of the Navajo Nation Environmental Protection Agency, who will perform the final certification of reclamation.

Upon completion of reclamation, the area will be suitable for limited livestock grazing, as it was in the past. In the mining plan, we stated that the final grade would be the bottom of the alluvial layer. This will result in a gently rolling surface that will minimize run-off and allow for natural percolation of precipitation, which will result in improved vegetation.

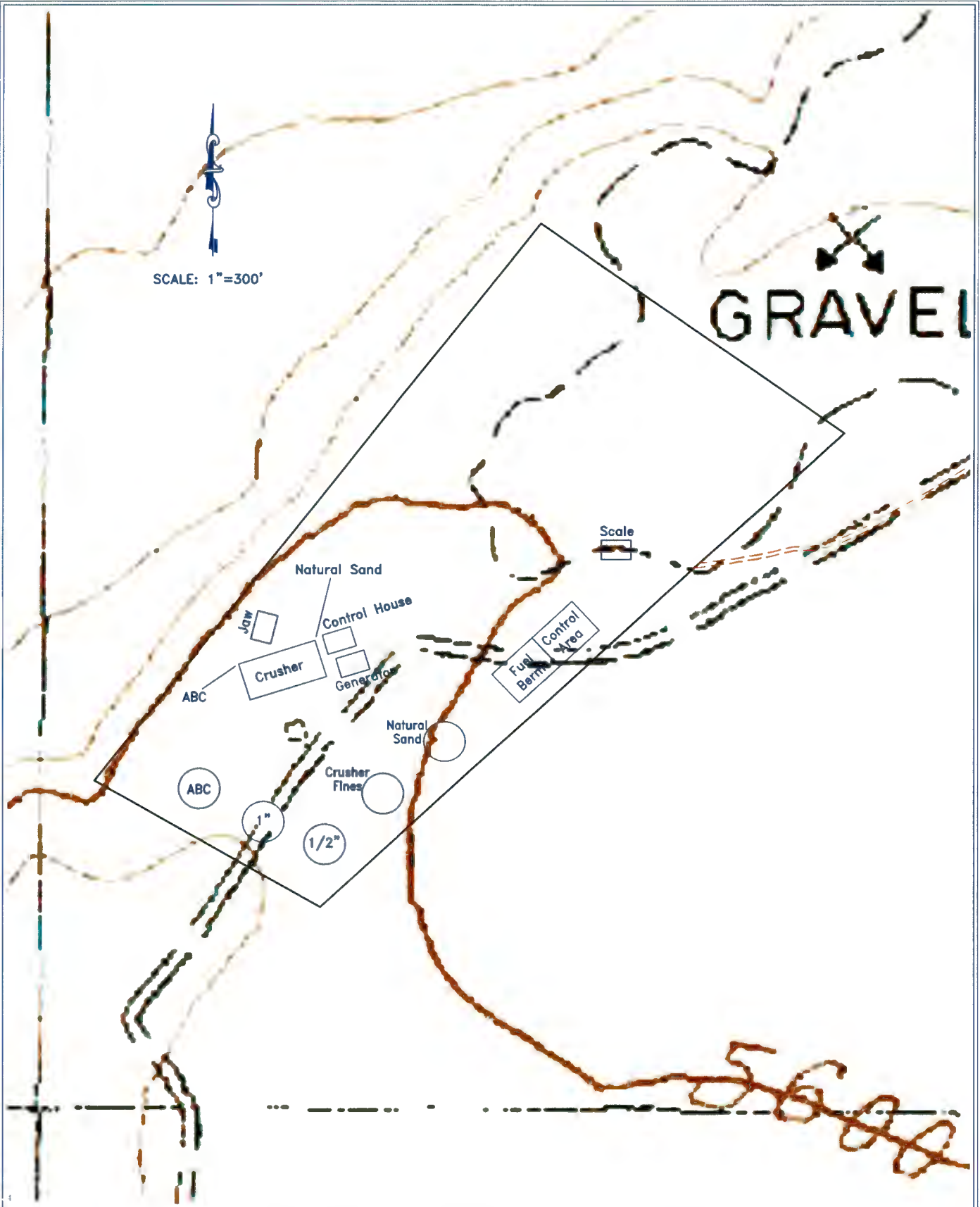
The underlying material will allow the precipitation to percolate into the soil, rather than run off. If standing water is observed after completion of reclamation, those areas will be regraded to eliminate the standing water.

Protection of the ground surface from spills of petroleum products is covered by the Spill Prevention Control and Countermeasure Plan for the hot plant. Prevention of erosion is covered by the Storm Water Pollution Prevention Plan. Temporary erosion control measures installed under the SWPPP will be left in place until the seeding and reclamation is complete. Dust control on the site will be maintained by water trucks equipped with spray bars. The fencing will be removed after reclamation activities.

The site is approximately 19.478-acres in size and we expect to disturb most of that area. The Sand and Gravel Lease has been requested for a period of five-years, and extensions of the lease in the future are likely, depending on the demand for sand and gravel products, and, as a result, the length of time taken to extract the gravel. We expect reclamation to take place when the Sand and Gravel Lease ends or the gravel is completely extracted and removed from the site. A copy of the location map for the gravel pit is attached.

According to the standard terms and condition that will be attached to the Navajo Nation Resources and Development Committee Resolution, and,

eventually, the Mining Lease, final certification of reclamation will be by the Navajo Nation Environmental Protection Agency.

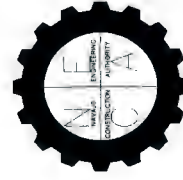
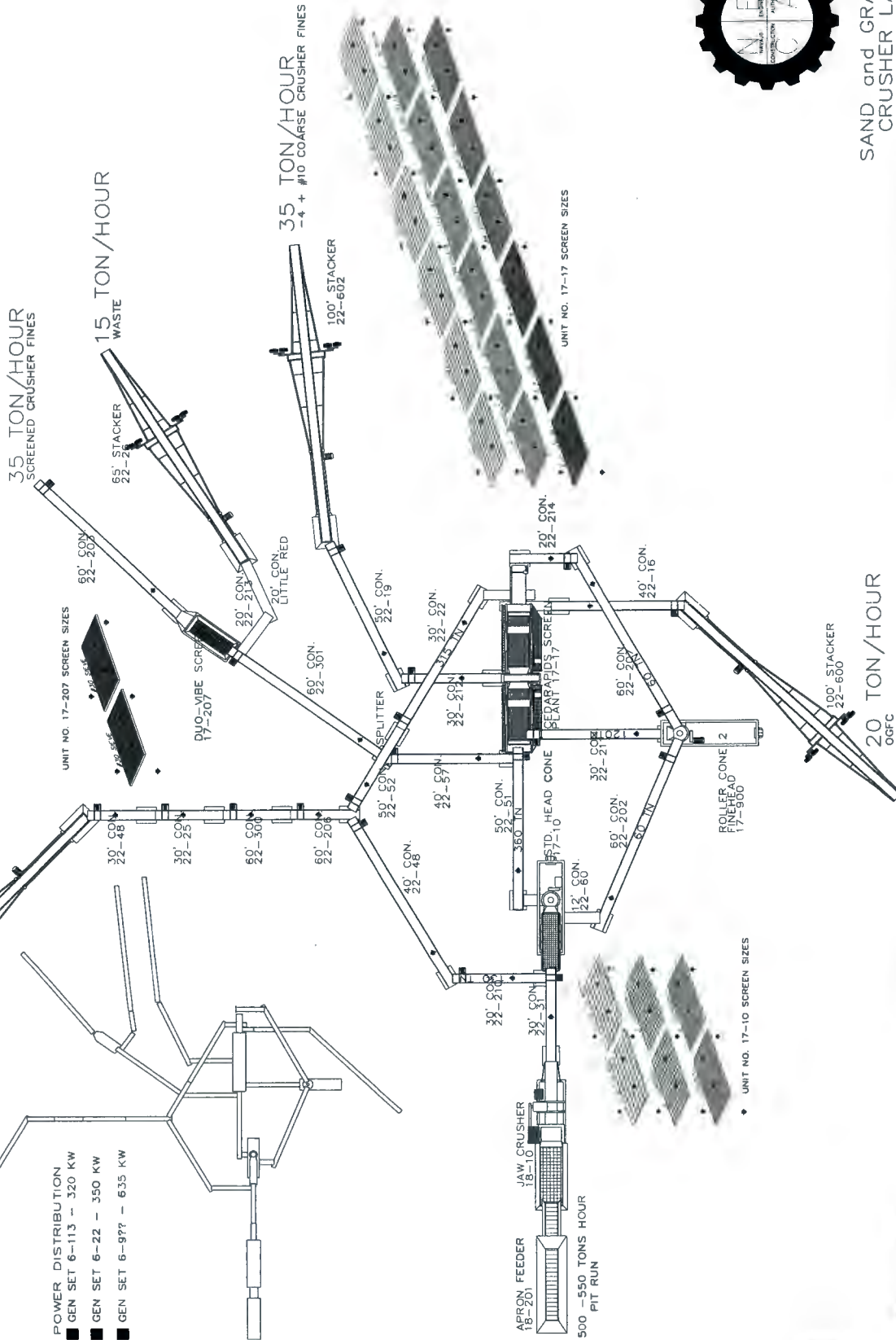


Sheet: 1 of 1	Drawn by: WC	Checked by: AB	Quadrangle Name:	NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY
Name: TNP crusher.dwg	Date: 10/30/17	Date: 10/30/17	Cow Butte	P.O.BOX 969 SHIPROCK, NEW MEXICO 87420 (505)368-5151

TYPICAL CRUSHER SET UP

445 TON/HOUR
BASE COURSE

- POWER DISTRIBUTION
- GEN SET 6-113 - 320 KW
 - GEN SET 6-22 - 350 KW
 - GEN SET 6-97? - 635 KW



SAND and GRAVEL PIT
CRUSHER LAYOUT

Tier I Qualified Facility SPCC Plan

Maintain a complete copy of the Plan at the facility if the facility is normally attended at least four hours per day, or for a facility attended fewer than four hours per day, at the nearest field office. When making operational changes at a facility that are necessary to comply with the rule requirements, the owner/operator should follow state and local requirements (such as for permitting, design and construction) and obtain professional assistance, as appropriate.

Facility Description

Facility Name	TEEC NOS POS GRAVEL TRACT		
Facility Address	TEEC NOS POS , AZ		
City	TEEC NOS POS	State	AZ ZIP 86514
County	APACHE	Tel. Number	1-928-674-5664
Owner or Operator Name	NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY		
Owner or Operator Address	P.O. BOX 969		
City	SHIPROCK	State	NM ZIP 87420
County	SAN JUAN	Tel. Number	505-368-5151

I. Self-Certification Statement (§112.6(a)(1))

The owner or operator of a facility certifies that each of the following is true in order to utilize this template to comply with the SPCC requirements:

I, Daniel Gourneau, Safety Manager certify that the following is accurate:

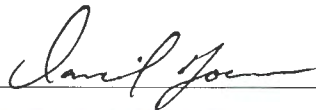
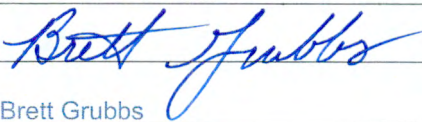
1. I am familiar with the applicable requirements of 40 CFR part 112;
2. I have visited and examined the facility;
3. This Plan was prepared in accordance with accepted and sound industry practices and standards;
4. Procedures for required inspections and testing have been established in accordance with industry inspection and testing standards or recommended practices;
5. I will fully implement the Plan;
6. This facility meets the following qualification criteria (under §112.3(g)(1)):
 - a. The aggregate aboveground oil storage capacity of the facility is 10,000 U.S. gallons or less; and
 - b. The facility has had no single discharge as described in §112.1(b) exceeding 1,000 U.S. gallons and no two discharges as described in §112.1(b) each exceeding 42 U.S. gallons within any twelve month period in the three years prior to the SPCC Plan self-certification date, or since becoming subject to 40 CFR part 112 if the facility has been in operation for less than three years (not including oil discharges as described in §112.1(b) that are the result of natural disasters, acts of war, or terrorism); and
 - c. There is no individual oil storage container at the facility with an aboveground capacity greater than 5,000 U.S. gallons.
7. This Plan does not deviate from any requirement of 40 CFR part 112 as allowed by §112.7(a)(2) (environmental equivalence) and §112.7(d) (impracticability of secondary containment) or include any measures pursuant to §112.9(c)(6) for produced water containers and any associated piping;
8. This Plan and individual(s) responsible for implementing this Plan have the full approval of management and I have committed the necessary resources to fully implement this Plan.

I also understand my other obligations relating to the storage of oil at this facility, including, among others:

1. To report any oil discharge to navigable waters or adjoining shorelines to the appropriate authorities. Notification information is included in this Plan.
2. To review and amend this Plan whenever there is a material change at the facility that affects the potential for an oil discharge, and at least once every five years. Reviews and amendments are recorded in an attached log [See Five Year Review Log and Technical Amendment Log in Attachments 1.1 and 1.2.]
3. Optional use of a contingency plan. A contingency plan:
 - a. May be used in lieu of secondary containment for qualified oil-filled operational equipment, in accordance with the requirements under §112.7(k), and;

- b. Must be prepared for flowlines and/or intra-facility gathering lines which do not have secondary containment at an oil production facility, and;
- c. Must include an established and documented inspection or monitoring program; must follow the provisions of 40 CFR part 109; and must include a written commitment of manpower, equipment and materials to expeditiously remove any quantity of oil discharged that may be harmful. If applicable, a copy of the contingency plan and any additional documentation will be attached to this Plan as Attachment 2.

I certify that I have satisfied the requirement to prepare and implement a Plan under §112.3 and all of the requirements under §112.6(a). I certify that the information contained in this Plan is true.

Signature		Title:	<u>NECA SAFETY MANAGER</u>
Name	<u>Daniel L. Gourneau</u>	Date:	<u>12-6-17</u>
Signature		Title:	<u>NECA Manager of Engineering</u>
Name	<u>Brett Grubbs</u>	Date:	<u>12-6-17</u>

II. Record of Plan Review and Amendments

Five Year Review (§112.5(b)):

Complete a review and evaluation of this SPCC Plan at least once every five years. As a result of the review, amend this Plan within six months to include more effective prevention and control measures for the facility, if applicable. Implement any SPCC Plan amendment as soon as possible, but no later than six months following Plan amendment. Document completion of the review and evaluation, and complete the Five Year Review Log in Attachment 1.1. If the facility no longer meets Tier I qualified facility eligibility, the owner or operator must revise the Plan to meet Tier II qualified facility requirements, or complete a full PE certified Plan.

Table G-1 Technical Amendments (§§112.5(a), (c) and 112.6(a)(2))	
This SPCC Plan will be amended when there is a change in the facility design, construction, operation, or maintenance that materially affects the potential for a discharge to navigable waters or adjoining shorelines. Examples include adding or removing containers, reconstruction, replacement, or installation of piping systems, changes to secondary containment systems, changes in product stored at this facility, or revisions to standard operating procedures.	<input type="checkbox"/>
Any technical amendments to this Plan will be re-certified in accordance with Section I of this Plan template. [§112.6(a)(2)] [See Technical Amendment Log in Attachment 1.2]	<input type="checkbox"/>

III. Plan Requirements

1. Oil Storage Containers (§112.7(a)(3)(i)):

Table G-2 Oil Storage Containers and Capacities		
This table includes a complete list of all oil storage containers (aboveground containers and completely buried tanks) with capacity of 55 U.S. gallons or more, unless otherwise exempt from the rule. For mobile/portable containers, an estimated number of containers, types of oil, and anticipated capacities are provided.		<input type="checkbox"/>
Oil Storage Container	Type of Oil	Shell Capacity (gallons)
A – Steel tank mounted on skids	Diesel, off-road	5000
B - Steel tank mounted on skids	Gasoline	1800
Total Aboveground Storage Capacity ^c		6800
Total Completely Buried Storage Capacity		0
Facility Total Oil Storage Capacity		6800

gallons
 gallons
 gallons

^a Aboveground storage containers that must be included when calculating total facility oil storage capacity include: tanks and mobile or portable containers; oil-filled operational equipment (e.g. transformers); other oil-filled equipment, such as flow-through process equipment. Exempt containers that are not included in the capacity calculation include: any container with a storage capacity of less than 55 gallons of oil; containers used exclusively for wastewater treatment; permanently closed containers; motive power containers; hot-mix asphalt containers; heating oil containers used solely at a single-family residence; and pesticide application equipment or related mix containers.

Please note that the owner or operator is still responsible to respond to spills from exempt containers and report any spills that reach navigable waters; consequently, the owner or operator may want to consider providing secondary containment for these containers. Facilities with containers not subject to the SPCC rule should consult with local authorities or agencies to determine whether there are regulatory or code requirements, for instance fire and safety codes, that apply to the containers. Also, note that exempt containers and any other object stored in secondary containment structures, e.g., dikes and berm, for tanks regulated by the SPCC rule reduce their containment capacity, increasing the potential for a reportable oil discharge.

^b Although the criteria to determine eligibility for qualified facilities focuses on the aboveground oil storage containers at the facility, the completely buried tanks at a qualified facility are still subject to the rule requirements and must be addressed in the template; however, they are not counted toward the qualified facility applicability threshold.

^c Counts toward qualified facility applicability threshold.

2. Secondary Containment and Oil Spill Control (§§112.6(a)(3)(i) and (ii), 112.7(c) and 112.9(c)(2)):**Table G-3 Secondary Containment and Oil Spill Control**

Appropriate secondary containment and/or diversionary structures or equipment is provided for all oil handling containers, equipment, and transfer areas to prevent a discharge to navigable waters or adjoining shorelines. The entire secondary containment system, including walls and floor, is capable of containing oil and is constructed so that any discharge from a primary containment system, such as a tank or pipe, will not escape the containment system before cleanup occurs.	<input type="checkbox"/>
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^a Use one of the following methods of secondary containment or its equivalent: (1) Dikes, berms, or retaining walls sufficiently impervious to contain oil; (2) Curbing; (3) Culverting, gutters, or other drainage systems; (4) Weirs, booms, or other barriers; (5) Spill diversion ponds; (6) Retention ponds; or (7) Sorbent materials.

Secondary containment structures, e.g., dikes or berms, can be constructed with various materials such as: metal, concrete, earthen materials, liners, asphalt, and other coatings. Although different materials can be used, the material and containment construction must enable the secondary containment structure to prevent discharges to navigable waters or adjoining shorelines. For the secondary containment structure to serve this purpose, it must be able to contain the oil spill until it is cleaned up. Whether it can do this depends primarily on the ability of the containment material to slow down or prevent the flow of the spill through the material, (i.e., the material's imperviousness to the spill). Note that the rule does not specify how to design the secondary containment system to meet the impervious standard. The facility owner or operator determines how best to provide secondary containment based on good industry practices, oil product properties, and other specific factors and conditions at the facility.

Note that EPA considers shop-fabricated double-walled tanks that employ overfill and leak detection measures and are constructed to industry standards as meeting the secondary containment requirements in the SPCC rule. This clarification can be found in EPA Memorandum, Subject: Use of Alternative Secondary Containment Measures at Facilities Regulated under the Oil Pollution Prevention Regulation (40 CFR Part 112), OSWER 9360.8-38. More detailed information on secondary containment, including design and construction, is available in the SPCC Guidance for Regional Inspectors, EPA 550-B-05-001, at http://www.epa.gov/emergencies/content/spcc/spcc_guidance.htm.

3. Inspections, Testing, Recordkeeping and Personnel Training (§§112.7(e) and (f), 112.8(c)(6) and (d)(4), 112.9(c)(3), 112.12(c)(6) and (d)(4)):

Table G-5 Inspections, Testing, Recordkeeping and Personnel Training	
An inspection and/or testing program is implemented for all aboveground bulk storage containers and piping at this facility. [§§112.8(c)(6) and (d)(4), 112.9(c)(3), 112.12(c)(6) and (d)(4)]	<input type="checkbox"/>
The following is a description of the inspection and/or testing program (e.g. reference to industry standard utilized, scope, frequency, method of inspection or test, and person conducting the inspection) for all aboveground bulk storage containers and piping at this facility:	
<ol style="list-style-type: none"> 1) An assigned knowledgeable employee does periodic visual inspections of the aboveground oil storage containers, including all aboveground container piping using Attachment 3.1 to document inspections; records of inspections 2) consist of the monthly inspection checklist and the annual inspection checklist in the Steel Tank Institute (STI) SP001 inspection standard. Visual inspections of oil storage containers follow the inspection schedule in Attachment 3.2 of this plan. 3) The liquid level gauges on the off-road diesel, on-road diesel, and gasoline ASTs are also adjusted, tested, and inspected monthly following the gauge manufacturer's procedures by the assigned farm worker; Attachment 3.1 documents these inspections. 4) An assigned knowledgeable employee also visually inspects the dispensers at the Fuel Transfer Area for indications of deterioration and discharges, including the transfer hoses and fittings, at least monthly. 5) Workers inspect the earthen berm containments on a weekly basis for signs of deterioration, discharges (leaking tanks or piping), or accumulation of oil. In addition, workers inspect the berm containments after any heavy rainfall. These inspections are documented in Attachment 3.1. As the berm containments do not have drains, the collected rain is pumped from the berm containments by using a portable pump but only after the inspection shows that there is no oil or oil sheen present. If oil or oil sheen is detected on rainwater in the berm, then oily rainwater is pumped into the 250-gal waste oil tote for disposal by the waste oil hauler contractor or the contractor is requested to remove the oily rainwater in the berm contents for disposal. Each drainage activity is recorded in Attachment 3.3. Record keeping for disposal of waste oil or oil-contaminated water accumulated in the berm area is in Attachment 3.3 of this plan. 	
Inspections, tests, and records are conducted in accordance with written procedures developed for the facility. Records of inspections and tests kept under usual and customary business practices will suffice for purposes of this paragraph. [§112.7]	<input type="checkbox"/>
A record of the inspections and tests are kept at the facility or with the SPCC Plan for a period of three years. [§112.7(e)] [See Inspection Log and Schedule in Attachment 3.1]	<input type="checkbox"/>
Inspections and tests are signed by the appropriate supervisor or inspector. [§112.7(e)]	<input type="checkbox"/>
Personnel, training, and discharge prevention procedures [§112.7(f)]	
Oil-handling personnel are trained in the operation and maintenance of equipment to prevent discharges; discharge procedure protocols; applicable pollution control laws, rules, and regulations; general facility operations; and, the contents of the facility SPCC Plan. [§112.7(f)]	<input type="checkbox"/>
A person who reports to facility management is designated and accountable for discharge prevention. [§112.7(f)]	<input type="checkbox"/>
Name/Title: <u>Byron Smith, Field Safety Officer</u>	
Discharge prevention briefings are conducted for oil-handling personnel annually to assure adequate understanding of the SPCC Plan for that facility. Such briefings highlight and describe past reportable discharges or failures, malfunctioning components, and any recently developed precautionary measures. [§112.7(f)] [See Oil-handling Personnel Training and Briefing Log in Attachment 3.4]	<input type="checkbox"/>

4. Security (excluding oil production facilities) §112.7(g):**Table G-6 Implementation and Description of Security Measures**

Security measures are implemented at this facility to prevent unauthorized access to oil handling, processing, and storage area. ☐

The following is a description of how you secure and control access to the oil handling, processing and storage areas: secure master flow and drain valves; prevent unauthorized access to starter controls on oil pumps; secure out-of-service and loading/unloading connections of oil pipelines; address the appropriateness of security lighting to both prevent acts of vandalism and assist in the discovery of oil discharges:

- 1) Residences in the area is about two (2) miles away with a full view of the fuel storage and transfer area. If there was a spill, we would be close by to smell the fuel.
- 2) Tank fill pipes are capped and locked when not in use; these tanks do not have drain valves.
- 3) Fuel dispensers and their pump control switches are locked when not in use.
- 4) The drums and totes are located in the area, which is locked when not in use.
- 5) Motion-activated lights are mounted above the entrance and at the fuel storage and transfer area next to the tank berm. We can see the lights from the house and when they come on, we check to see if there are trespassers or problems with the equipment.
- 6) Fuel nurse tank and the pick-up truck with tank are parked in a shed, which is locked when they are not in use.

5. Emergency Procedures and Notifications (§112.7(a)(3)(iv) and 112.7(a)(5)):**Table G-7 Description of Emergency Procedures and Notifications**

The following is a description of the immediate actions to be taken by facility personnel in the event of a discharge to navigable waters or adjoining shorelines [§112.7(a)(3)(iv) and 112.7(a)(5)]:

- 1) Shutdown pumping in event of a spill during fuel transfer operation.
- 2) Eliminate potential sources of ignition such as open flames or sparks.
- 3) If possible, safe, and trained to do so, identify and secure source of the discharge and contain the discharge with sorbents, sandbags, or other material from the spill kits.
 - a. The main spill kit is in the area opposite the fuel dispensers at the fuel storage and transfer area.
 - b. A spill kit is in the shop.
 - c. Each shed has a spill kit.
 - d. A spill kit is in the nurse tank truck cab and on the nurse tank trailer.
- 4) Contact regulatory authorities and other response personnel and organizations (see subsection 6).

6. Contact List (§112.7(a)(3)(vi)):

Table G-8 Contact List	
Contact Organization / Person	Telephone Number
National Response Center (NRC)	1-800-424-8802
Cleanup Contractor(s)	
ENVIROTECH, INC	870-555-8000
Key Facility Personnel	
Designated Person Accountable for Discharge Prevention: Byron Smith, NECA Field Safety Officer	Office: 505-368-3017
	Emergency: 506-406-6963 (cell phone)
Lee B. Roy, NECA Environmental Officer	Office: 505-368-3025
	Emergency: 928-205-1180 (cell phone)
NECA Manager of Engineering Brett Grubbs	Office: 1-505-368-3026
	Emergency: 1-505-801-6995 (cell phone)
NECA Quality Control Manager Christine Padilla	Office: 505-368-3057
	Emergency: 505-686-3163 (cell phone)
State Oil Pollution Control Agencies Department of Emergency Management (ADEM), Department of Environmental Quality (ADEQ)	1-800-322-4012 1-800-322-4012
Other State, Federal, and Local Agencies EPA Region VI NNEPA- RCRA Office NN Environmental Protection Agency, Window Rock, AZ NNEPA-Water Quality Office ADOT – Regional BIA Safety Manager Tedd Reber	Office: 214-665-6701 Emergency: 1-866-372-7745 1-928-871-7994 1-928-871-7692 1-928-871-7700 Emergency 1-505-796-2918 & 505-863-8316
Local Fire Department	911
Local Police Department	911
Hospital Shiprock PHS Four Corner Regional Health Center HCR – 6100 Box 30 Teecnospos, AZ 86514	1-505-368-6001 1-928-656-5000
Arizona Department of Transportation 206 S. 17 th Avenue, MD 118A Phoenix, AZ 85007 ADOT Kayenta Shop – Frank Montoy and Kee Kescoli Mile post 394 HGwy 163 Kayenta, AZ	1-602-712-7355 1-928-697-3558 1-928-637-4848

7. NRC Notification Procedure (§112.7(a)(4) and (a)(5)):

Table G-9 NRC Notification Procedure	
In the event of a discharge of oil to navigable waters or adjoining shorelines, the following information identified in Attachment 4 will be provided to the National Response Center immediately following identification of a discharge to navigable waters or adjoining shorelines [See Discharge Notification Form in Attachment 4]: [§112.7(a)(4)]	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> The exact address or location and phone number of the facility; Date and time of the discharge; Type of material discharged; Estimate of the total quantity discharged; Estimate of the quantity discharged to navigable waters; Source of the discharge; 	<ul style="list-style-type: none"> Description of all affected media; Cause of the discharge; Any damages or injuries caused by the discharge; Actions being used to stop, remove, and mitigate the effects of the discharge; Whether an evacuation may be needed; and Names of individuals and/or organizations who have also been contacted.

8. SPCC Spill Reporting Requirements (Report within 60 days) (§112.4):

Submit information to the EPA Regional Administrator (RA) and the appropriate agency or agencies in charge of oil pollution control activities in the State in which the facility is located within 60 days from one of the following discharge events:

- A single discharge of more than 1,000 U.S. gallons of oil to navigable waters or adjoining shorelines or
- Two discharges to navigable waters or adjoining shorelines each more than 42 U.S. gallons of oil occurring within any twelve month period

You must submit the following information to the RA (Region VI)

- (1) Name of the facility;
- (2) Your name;
- (3) Location of the facility;
- (4) Maximum storage or handling capacity of the facility and normal daily throughput;
- (5) Corrective action and countermeasures you have taken, including a description of equipment repairs and replacements;
- (6) An adequate description of the facility, including maps, flow diagrams, and topographical maps, as necessary;
- (7) The cause of the reportable discharge, including a failure analysis of the system or subsystem in which the failure occurred; and
- (8) Additional preventive measures you have taken or contemplated to minimize the possibility of recurrence
- (9) Such other information as the Regional Administrator may reasonably require pertinent to the Plan or discharge

Note that notifying the NRC of oil discharges and reporting specified oil spill information to the EPA Regional Administrator are two different requirements. 40 CFR part 110, Discharge of Oil regulation, requires any person in charge of a facility or vessel that discharges a reportable harmful quantity of oil to immediately notify the NRC of the discharge. The rule identifies a harmful quantity as one that violates applicable water quality standards; or causes a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines (see subsection 7 above). In addition, a facility regulated by the SPCC rule must report specific discharge information to the EPA when the facility has certain types of reportable discharges as prescribed in the rule (see Item 8 above).

A. Onshore Facilities (excluding production) (§§112.8(b) through (d), 112.12(b) through (d)):

The owner or operator must meet the general rule requirements as well as requirements under this section. Note that not all provisions may be applicable to all owners/operators. For example, a facility may not maintain completely buried metallic storage tanks installed after January 10, 1974, and thus would not have to abide by requirements in §§112.8(c)(4) and 112.12(c)(4), listed below. In cases where a provision is not applicable, write "N/A".

Table G-10 General Rule Requirements for Onshore Facilities		N/A
Drainage from diked storage areas is restrained by valves to prevent a discharge into the drainage system or facility effluent treatment system, except where facility systems are designed to control such discharge. Diked areas may be emptied by pumps or ejectors that must be manually activated after inspecting the condition of the accumulation to ensure no oil will be discharged. [§§112.8(b)(1) and 112.12(b)(1)]	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Valves of manual, open-and-closed design are used for the drainage of diked areas. [§§112.8(b)(2) and 112.12(b)(2)]	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The containers at the facility are compatible with materials stored and conditions of storage such as pressure and temperature. [§§112.8(c)(1) and 112.12(c)(1)]	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Secondary containment for the bulk storage containers (including mobile/portable oil storage containers) holds the capacity of the largest container plus additional capacity to contain precipitation. Mobile or portable oil storage containers are positioned to prevent a discharge as described in §112.1(b). [§112.6(a)(3)(ii)]	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If uncontaminated rainwater from diked areas drains into a storm drain or open watercourse the following procedures will be implemented at the facility: [§§112.8(c)(3) and 112.12(c)(3)]		
<ul style="list-style-type: none"> Bypass valve is normally sealed closed 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Retained rainwater is inspected to ensure that its presence will not cause a discharge to navigable waters or adjoining shorelines 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Bypass valve is opened and resealed under responsible supervision 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Adequate records of drainage are kept [See Dike Drainage Log in Attachment 3.3] 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
For completely buried metallic tanks installed on or after January 10, 1974 at this facility [§§112.8(c)(4) and 112.12(c)(4)]:		
<ul style="list-style-type: none"> Tanks have corrosion protection with coatings or cathodic protection compatible with local soil conditions. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Regular leak testing is conducted. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
For partially buried or bunkered metallic tanks [§112.8(c)(5) and §112.12(c)(5)]:		
<ul style="list-style-type: none"> Tanks have corrosion protection with coatings or cathodic protection compatible with local soil conditions. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Each aboveground bulk container is tested or inspected for integrity on a regular schedule and whenever material repairs are made. Scope and frequency of the inspections and inspector qualifications are in accordance with industry standards. Container supports and foundations are regularly inspected. [See Inspection Log and Schedule and Bulk Storage Container Inspection Schedule in Attachments 3.1 and 3.2] [§112.8(c)(6) and §112.12(c)(6)(i)]	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Outsides of bulk storage containers are frequently inspected for signs of deterioration, discharges, or accumulation of oil inside diked areas. [See Inspection Log and Schedule in Attachment 3.1] [§§112.8(c)(6) and 112.12(c)(6)]	<input checked="" type="checkbox"/>	<input type="checkbox"/>
For bulk storage containers that are subject to 21 CFR part 110 which are shop-fabricated, constructed of austenitic stainless steel, elevated and have no external insulation, formal visual inspection is conducted on a regular schedule. Appropriate qualifications for personnel performing tests and inspections are documented. [See Inspection Log and Schedule and Bulk Storage Container Inspection Schedule in Attachments 3.1 and 3.2] [§112.12(c)(6)(ii)]	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Table G-10 General Rule Requirements for Onshore Facilities

		N/A
Each container is provided with a system or documented procedure to prevent overfills for the container. Describe:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Tank truck fuel delivery procedures:</p> <ol style="list-style-type: none"> 1) Gauge AST and check the level gauge to prevent tank overfill. 2) Set parking brake and use chock blocks to prevent movement; inspect fittings and fueling hose for damage. 3) Place drip pans under valve-hose fitting connections. 4) Monitor the liquid level in the receiving tank during transfer to prevent tank overfill. 5) If an oil spill occurs, the spill kit will be used to contain the spill. Main spill kit is located opposite the fuel dispensers at the fuel storage and transfer area <p>Dispenser and mobile refueled fueling procedures:</p> <ol style="list-style-type: none"> 1) Before filling motorized equipment, shutoff all engines and set parking brakes; do not leave filling operation unattended. 2) Do not top off tank after automatic shut-off. 3) If an oil spill occurs, the spill kit will be used to contain the spill. <p>Transfers into waste oil tote: Transfer all waste oil into the tote fill port using a funnel. If an oil spill occurs, the spill kit in the shop will be used to contain the spill.</p>		
Liquid level sensing devices are regularly tested to ensure proper operation [See Inspection Log and Schedule in Attachment 3.1] . [§112.6(a)(3)(iii)]	<input type="checkbox"/>	<input type="checkbox"/>
Visible discharges which result in a loss of oil from the container, including but not limited to seams, gaskets, piping, pumps, valves, rivets, and bolts are promptly corrected and oil in diked areas is promptly removed. [§§112.8(c)(10) and 112.12(c)(10)]	<input type="checkbox"/>	<input type="checkbox"/>
Aboveground valves, piping, and appurtenances such as flange joints, expansion joints, valve glands and bodies, catch pans, pipeline supports, locking of valves, and metal surfaces are inspected regularly. [See Inspection Log and Schedule in Attachment 3.1] [§§112.8(d)(4) and 112.12(d)(4)]	<input type="checkbox"/>	<input type="checkbox"/>
Integrity and leak testing are conducted on buried piping at the time of installation, modification, construction, relocation, or replacement. [See Inspection Log and Schedule in Attachment 3.1] [§§112.8(d)(4) and 112.12(d)(4)]	<input type="checkbox"/>	<input type="checkbox"/>

ATTACHMENT 1 – Five Year Review and Technical Amendment Logs**ATTACHMENT 1.1 – Five Year Review Log**

By signing below, I am certifying that I have completed a review and evaluation of the SPCC Plan for this facility, and will/will not amend this Plan as a result.

An owner or operator must review and evaluate the SPCC Plan at least once every five years from the signature date of the Plan. A review of the Plan must also be completed whenever there is a change in the facility which affects the potential for a discharge of oil. In addition, the owner or operator has to amend the Plan within six months of review to include more effective prevention and control technology if the technology has been field-proven at the time of the review and will significantly reduce the likelihood of a discharge to navigable waters or adjoining shorelines. The owner or operator must implement any Plan amendment resulting from the review as soon as possible, but no longer than six months after the amendment.

Table G-13 Review and Evaluation of SPCC Plan for Facility

Review Date	Plan Amendment		Name and signature of person authorized to review this Plan
	Will Amend	Will Not Amend	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	

ATTACHMENT 1.2 – Technical Amendment Log

Any technical amendments to this Plan will be re-certified in accordance with Section I of this Plan template.

Table G-15 Description and Certification of Technical Amendments

[illegible]

ATTACHMENT 2 – Oil Spill Contingency Plan and Checklist;

An oil spill contingency plan and written commitment of resources is required for:

- Flowlines and intra-facility gathering lines at oil production facilities and
- Qualified oil-filled operational equipment which has no secondary containment. **NOT APPLICABLE**

The SPCC Guidance for Regional Inspectors, EPA 550-B-05-001 provides further details on the use of the oil spill contingency plan to meet specific regulatory requirements and options.

An oil spill contingency plan meeting the provisions of 40 CFR part 109, as described below, and a written commitment of manpower, equipment and materials required to expeditiously control and remove any quantity of oil discharged that may be harmful is attached to this Plan.	<input type="checkbox"/>
--	--------------------------

Complete the checklist below to verify that the necessary operations outlined in 40 CFR part 109 - Criteria for State, Local and Regional Oil Removal Contingency Plans - have been included.

Table G-15 Checklist of Development and Implementation Criteria for State, Local and Regional Oil Removal Contingency Plans (§109.5) ^a	
(a) Definition of the authorities, responsibilities and duties of all persons, organizations or agencies which are to be involved in planning or directing oil removal operations.	<input type="checkbox"/>
(b) Establishment of notification procedures for the purpose of early detection and timely notification of an oil discharge including:	
(1) The identification of critical water use areas to facilitate the reporting of and response to oil discharges.	<input type="checkbox"/>
(2) A current list of names, telephone numbers and addresses of the responsible persons (with alternates) and organizations to be notified when an oil discharge is discovered.	<input type="checkbox"/>
(3) Provisions for access to a reliable communications system for timely notification of an oil discharge, and the capability of interconnection with the communications systems established under related oil removal contingency plans, particularly State and National plans (e.g., NCP).	<input type="checkbox"/>
(4) An established, prearranged procedure for requesting assistance during a major disaster or when the situation exceeds the response capability of the State, local or regional authority.	<input type="checkbox"/>
(c) Provisions to assure that full resource capability is known and can be committed during an oil discharge situation including:	
(1) The identification and inventory of applicable equipment, materials and supplies which are available locally and regionally.	<input type="checkbox"/>
(2) An estimate of the equipment, materials and supplies which would be required to remove the maximum oil discharge to be anticipated.	<input type="checkbox"/>
(3) Development of agreements and arrangements in advance of an oil discharge for the acquisition of equipment, materials and supplies to be used in responding to such a discharge.	<input type="checkbox"/>
(d) Provisions for well-defined and specific actions to be taken after discovery and notification of an oil discharge including:	
(1) Specification of an oil discharge response operating team consisting of trained, prepared and available operating personnel.	<input type="checkbox"/>
(2) Predesignation of a properly qualified oil discharge response coordinator who is charged with the responsibility and delegated commensurate authority for directing and coordinating response operations and who knows how to request assistance from Federal authorities operating under existing national and regional contingency plans.	<input type="checkbox"/>
(3) A preplanned location for an oil discharge response operations center and a reliable communications system for directing the coordinated overall response operations.	<input type="checkbox"/>
(4) Provisions for varying degrees of response effort depending on the severity of the oil discharge.	<input type="checkbox"/>
(5) Specification of the order of priority in which the various water uses are to be protected where more than one water use may be adversely affected as a result of an oil discharge and where response operations may not be adequate to protect all uses.	<input type="checkbox"/>
(6) Specific and well defined procedures to facilitate recovery of damages and enforcement measures as provided for by State and local statutes and ordinances.	<input type="checkbox"/>

^a The contingency plan must be consistent with all applicable state and local plans, Area Contingency Plans, and the National Contingency Plan (NCP)

ATTACHMENT 3 – Inspections, Dike Drainage and Personnel Training Logs

ATTACHMENT 3.1 – Inspection Log and Schedule

Table G-16 Inspection Log and Schedule

This log is intended to document compliance with §§112.6(a)(3)(iii), 112.8(c)(6), 112.8(d)(4), 112.9(b)(2), 112.9(c)(3), 112.9(d)(1), 112.9(d)(4), 112.12.(g)(6), and 112.12(d)(4), as applicable.

Date of Inspection	Container / Piping / Equipment	Describe Scope (or cite Industry Standard)	Observations	Name/ Signature of Inspector	Records maintained separately ^a
	Aboveground pipes	Visual inspections			<input type="checkbox"/>
	Buried pipes	Monthly interstitial monitoring and leak testing at time of installation, modification, construction, relocation, or replacement			<input type="checkbox"/>

Table G-16 Inspection Log and Schedule

This log is intended to document compliance with §§112.6(a)(3)(iii), 112.8(c)(5), 112.8(d)(4), 112.9(b)(2), 112.9(c)(3), 112.9(d)(1), 112.9(d)(4), 112.12(c)(6), and 112.12(d)(4), as applicable.

Date of Inspection	Container / Piping / Equipment	Describe Scope (or cite Industry Standard)	Observations	Name/ Signature of Inspector	Records maintained separately ^a
	<u>ASTs</u> 2,500-gal. off-road diesel tank #1 2,500-gal. on-road diesel tank #2 1,200-gal. slop oil tank #4 500-gal. gasoline tank #3 250-gal. motor oil and waste oil totes 55-gal steel hydraulic, lubrication, and adjuvant oil drums Trailer-mounted Fuel nurse tank Pickup truck fuel nurse tank	Visual inspections (STI SP001, Standard for the Inspection of Aboveground Storage Tanks)			<input type="checkbox"/>
	Secondary containment earth berm	Weekly visual inspections and after heavy rainfall			<input type="checkbox"/>

Container liquid level gauges	Tests and inspections following manufacturer's procedures				<input type="checkbox"/>
					<input type="checkbox"/>

^a Indicate in the table above if records of facility inspections are maintained separately at this facility.

The scope of STI SP001 Standard for the Inspection of Aboveground Storage Tanks by the Steel Tank Institute (STI) includes the inspection and testing of aboveground shop-fabricated tanks, small field-erected tanks, portable containers, and associated secondary containment. The standard is copyrighted. However, the periodic tank inspection checklists in Appendix C of the standard are not copyrighted. These checklists are attached to this example template SPCC Plan. Utilization of the checklists alone does not constitute compliance with the standard. The standard is available from STI at the following web address: <https://www.steeltank.com/Publications/PublicationsIndex/tabid/108/Default.aspx>.

ATTACHMENT 3.2 – Bulk Storage Container Inspection Schedule – onshore facilities (excluding production):

To comply with integrity inspection requirement for bulk storage containers, inspect/test each shop-built aboveground bulk storage container on a regular schedule in accordance with a recognized container inspection standard based on the minimum requirements in the following table.

Table G-17 Bulk Storage Container Inspection Schedule	
Container Size and Design Specification	Inspection requirement
Portable containers (including drums, totes, and intermodal bulk containers (IBC)) 250-gal. motor oil and waste oil totes 55-gal. steel hydraulic and lubrication oil drums Trailer-mounted Fuel nurse tank Pickup truck fuel nurse tank	Visually inspect monthly for signs of deterioration, discharges or accumulation of oil inside containment pallets
55 to 1,100 gallons with sized secondary containment: 500-gal. gasoline tank #3	Visually inspect monthly for signs of deterioration, discharges or accumulation of oil inside bermed area plus any annual inspection elements per industry inspection standards
1,101 to 5,000 gallons with sized secondary containment and a means of leak detection 2,500-gal. off-road diesel tank #1 2,500-gal. on-road diesel tank #2	
1,101 to 5,000 gallons with sized secondary containment and no method of leak detection 1,200-gal. slop oil tank #4	Visually inspect monthly for signs of deterioration, discharges or accumulation of oil inside diked areas, plus any annual inspection elements and other specific integrity tests that may be required per industry inspection standards

^a Examples of leak detection include, but are not limited to, double-walled tanks and elevated containers where a leak can be visually identified.

The employee has elected to use STI's SP001, tank inspection and testing standard; this standard is an example of an industry inspection standard that can be used to conduct inspections and formal tank testing. Under this standard, inspection and integrity test requirements depend on the spill risk posed by the tank; tanks posing higher spill risks have more inspection and integrity test requirements. In this example farm facility, a 1,200-gallon slop oil AST rests on the ground within an earthen berm. As the tank bottom is in direct contact with the ground, it is not likely that a leak from the tank bottom would be seen. Note that a metal tank in direct contact with the ground soil is subject to corrosion. According to STI SP001, the earthen berm provides a method of spill control but not a method of continuous release detection due to the tank being in direct contact with the ground. This standard defines continuous release detection as a method that allows the facility operator to visually detect releases. Examples are double-wall or double-bottom ASTs with the space between the walls capable of being tested and monitored for releases. Other examples include ASTs that are raised above the ground with supports, grating or with release prevention barriers under the tank, such as liners, steel, and/or concrete. Consequently, the 1,200-gallon slop oil tank in this example facility poses a higher spill risk than a 1,200-gallon tank elevated on supports with a concrete pad underneath it in the berm. According to STI SP001, in addition to monthly and annual visual inspections in the standard, the example facility's 1,200-gallon tank also requires formal external inspections by a certified tank inspector and leak tests by the facility every 10 years.

ATTACHMENT 3.3 – Dike Drainage Log

Table G-18 Dike Drainage Log

Date	Bypass valve sealed closed	Rainwater inspected to be sure no oil (or sheen) is visible	Open bypass valve and reseal it following drainage	Drainage activity supervised	Observations	Signature of Inspector
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

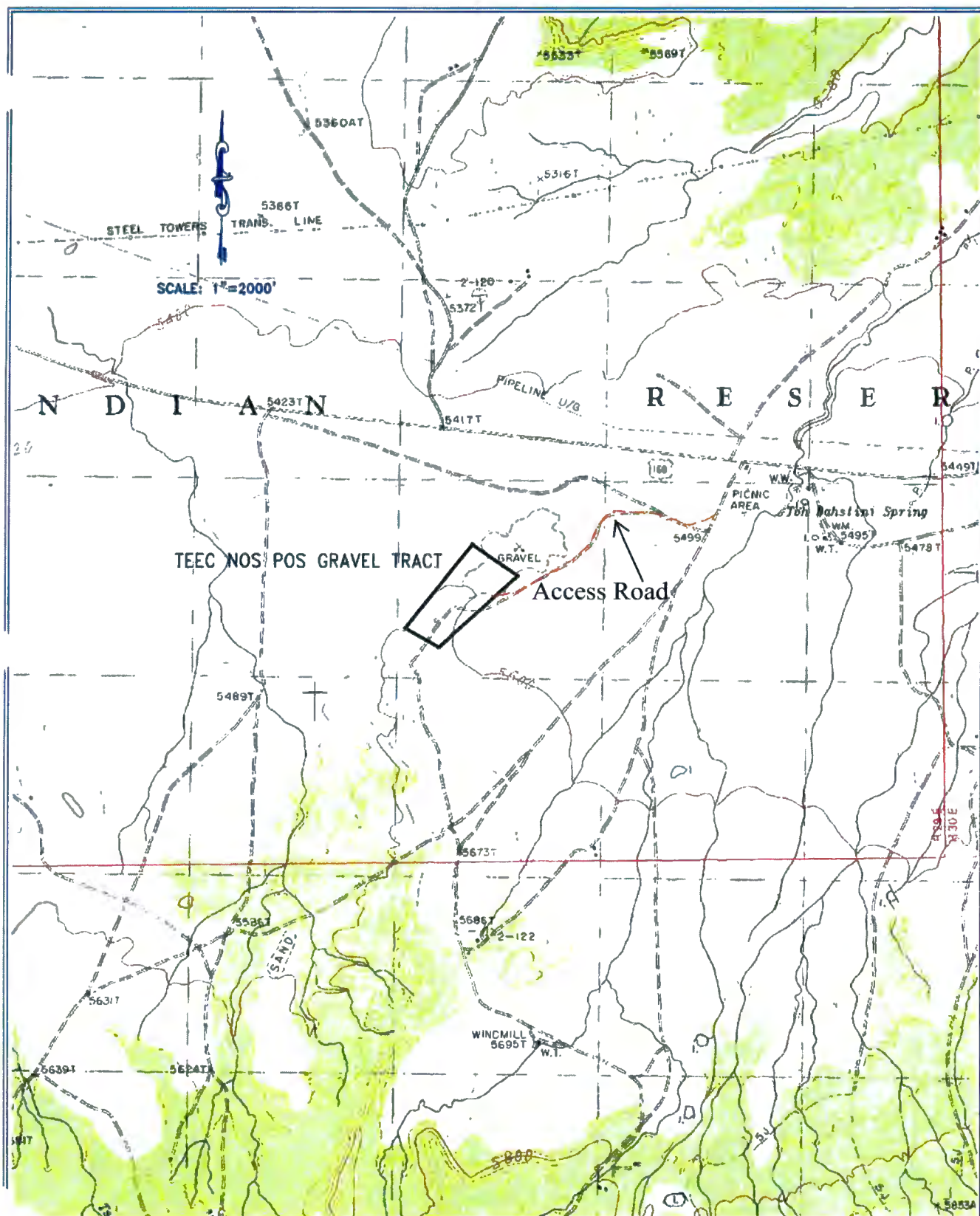
ATTACHMENT 3.4 – Oil-handling Personnel Training and Briefing Log

Table G-19 Oil-Handling Personnel Training and Briefing Log

Date	Description / Scope	Attendees

In the event of a discharge of oil to navigable waters or adjoining shorelines, the following information will be provided to the National Response Center [also see the notification information provided in Section 7 of the Plan]:

Table G-20 Information provided to the National Response Center in the Event of a Discharge			
Discharge/Discovery Date		Time	
Facility Name			
Facility Location (Address/Lat-Long/Section Township Range)			
Name of reporting individual		Telephone #	
Type of material discharged		Estimated total quantity discharged	Gallons/Barrels
Source of the discharge		Media affected	<input type="checkbox"/> Soil
			<input type="checkbox"/> Water (specify)
			<input type="checkbox"/> Other (specify)
Actions taken			
Damage or injuries	<input type="checkbox"/> No <input type="checkbox"/> Yes (specify)	Evacuation needed?	<input type="checkbox"/> No <input type="checkbox"/> Yes (specify)
Organizations and individuals contacted	<input type="checkbox"/> National Response Center 800-424-8802 Time		
	<input type="checkbox"/> Cleanup contractor (Specify) Time		
	<input type="checkbox"/> Facility personnel (Specify) Time		
	<input type="checkbox"/> State Agency (Specify) Time		
	<input type="checkbox"/> Other (Specify) Time		



Sheet: 1 of 1	Drawn by: WC	Checked by: AB	Quadrangle Name:	NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY
Name: TEEC NOS POS QUAD overlay	Date: 08/18/16	Date: 08/18/16	Cow Butte	P.O. BOX 969 SHIPROCK, NEW MEXICO 87420 (505)368-5151

C. Drainage Pathway and Distance to Navigable Waters

The Portable Hot Asphalt Mix Plant will not be located in drainages or other watercourses. **Appendix F** details the proximity of the temporary plant site to river, streams (perennial and/or intermittent), ditches, flood control channels, storm drains and other waterways. The hydrological systems will be diagramed or described.

D. Deviations from the Rule Requirements [112.7(a) (2)]

There are no deviations from the SPCC rules in this plan. In all areas, the site is either in compliance or items are listed in Section 4 for implementation with a schedule to complete the items to bring the site into compliance.

E. Contingency Planning [112.7(d), 112.1(b)]

Contingency Planning is necessary whenever it is determined that secondary containment system for any part of the facility is not practicable and that a possibility of a discharge as described in 112.1 (b) exists.

All oil-bearing containers at NECA are stored within secondary containment; therefore, there is no need for an oil spill contingency plan.

40 CFR Part 109 criteria for State, Local and Regional Oil Removal Contingency Plans are only necessary if the facility makes an impracticability determination for secondary containment in accordance with Section 112.7(d).

4. SPILL HISTORY [112.7(A)]

There have been no reportable spill incidents at the Portable Hot Asphalt Mix Plant

Any future spill incidents will be recorded on a *Spill Incident Summary Form*, included in **Appendix A**. Completed forms will be maintained in **Appendix B** of this SPCC Plan for a period of three years. The occurrence of two reportable spills at the site of 42 gallons or one reportable spill of 1,000 gallons may require the preparation of an *Emergency Response Plan* in the future.

5. POTENTIAL SPILL PREDICTIONS, VOLUMES, RATES, AND CONTROL [112.7(B)]

Source	Tank Contents	Type of Failure	Volume (gals)	Rate (gals/hr)	Direction of Flow	Containment (gallons)
Aboveground Storage Tanks (AST) Areas 1, 2 3						
#70-140	Diesel #2	Rupture; leakage	12,000	12,000	Contained	13,200
#17-115	Diesel #2	Rupture; leakage	600	600	Contained	660
#17-254	Diesel #2	Rupture; leakage	200	200	Contained	224
#70-118	Tack Oil	Rupture; leakage	5,450	5,450	Contained	5,995
#70-130	Oil Heater	Rupture; leakage	420	420	Contained	462
Transient Oil Storage						
55-gallon drum	Hydraulic Fluid	Rupture; leakage	55	55	Contained	13,200
55-gallon drum	Multi-grade Oil	Rupture; leakage	55	55	Contained	13,200
55-gallon drum	Used Oil	Rupture; leakage	55	55	Contained	13,200

valves that were designed and approved for petroleum products. The CAT 725 KW diesel electric generator (#70-115) has a 600 gallon single walled fuel tank. A CAT 61 KW generator mounted on a float trailer (#17-254) also contains a 191-gallon diesel fuel AST. The tanks meet manufacturers' specifications for the storage of diesel fuel. The diesel fuel tanks and the generators are located in a lined earthen bermed secondary containment. The liner is 12 mil reinforced cell poly or similar geotextiles material that is compatible with oil and fuel.

The asphalt (hot oil) is stored in a 25,000 gallon insulated steel tank (#70-130) equipped with a heater and pumps (#70-130). This unit is exempt from the SPCC Rule, as of December 2008, and therefore is not included as a managed tank in this plan. The CEI 1200 oil heater is run by a 420-gallon diesel fuel tank mounted in the gooseneck of the trailer. The SS-1 tack Oil Tanker (#70-118) is a single walled AST with a capacity of 5,450 gallons. The AST is trailer mounted and designed for fuel and oil transport. Piping and flexible hoses connect the hot oil tank to the mixer. Both tanks are located in a lined earthen bermed secondary containment. The liner is 12 mil reinforced cell polyethylene or similar geotextiles material that is compatible with oil and fuel.

New motor oil and hydraulic fluid is stored in 55 gallon steel drums within the secondary containment for the Hot Asphalt Plant. Photographs of the facility ASTs are included in **Appendix F**.

B. Facility Storage

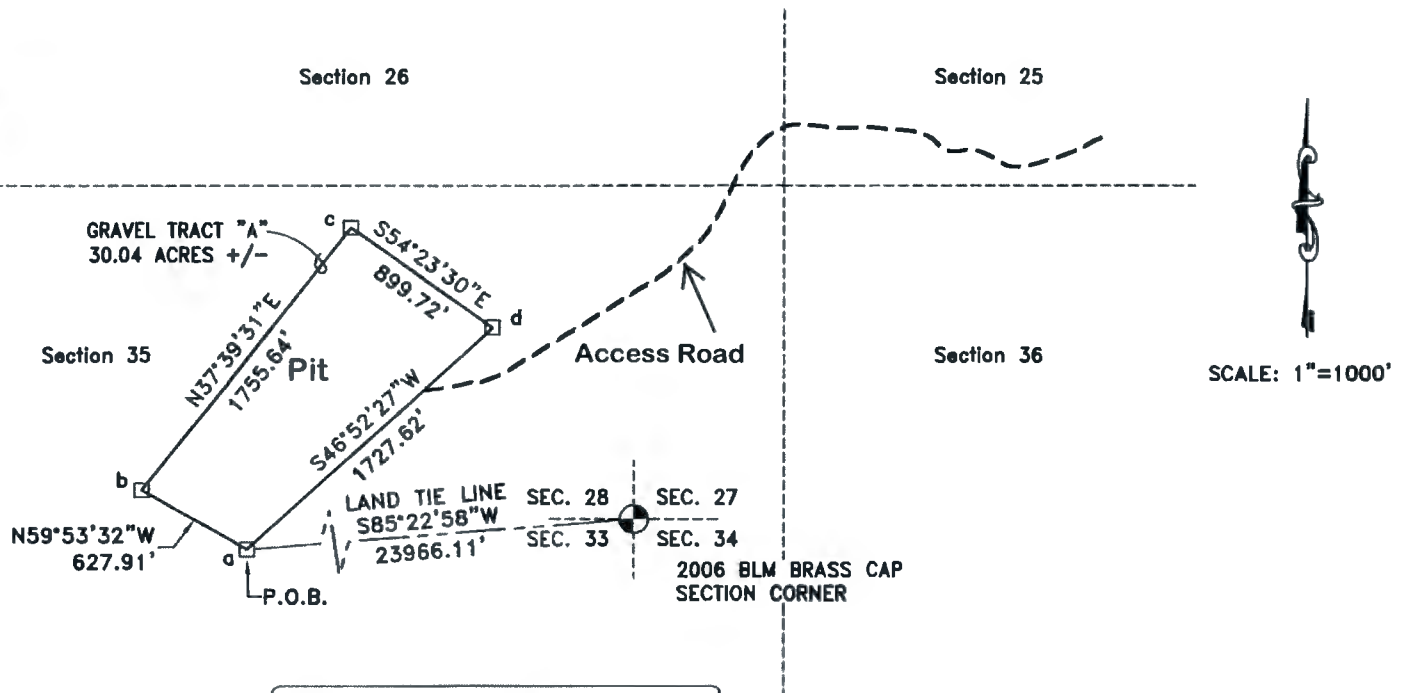
Tank ID	Description	Total Storage Capacity (gallons)	Contents
#70-140	Fuel Tank	12,000	Diesel #2
#17-115	Fuel Tank	600	Diesel #2
#17-254	Fuel Tank	200	Diesel #2
#70-118	Trailer	5,450	Tack Oil
#70-130	Fuel Tank	420	Diesel #2
#70-130	Hot Oil Tank	25,000	Hot Oil
Transient Oil Storage			
Hydraulic Fluid	1 drums	55	Hydraulic Fluid
Multi-grade Oil	1 drums	55	Multi-grade Oil
Waste Oil	4 drums	220 (maximum)	Waste Oil

Total Capacity: 44,000 gallons of petroleum products under this plan.

The tank shown in **bold italics** is exempt from the SPCC Rule, but is shown for reference purposes only.

PROPOSED GRAVEL TRACT-TEEC NOS POS, ARIZONA
Teec Nos Pos, Apache County, Arizona

A Portion of Township 41 North, Range 29 East, G.&S.R.B.M.



LAND TIE LINE

All bearings on this map for Tract "A" are forward geodetic bearings obtained from a survey using Global Positioning System originating from the north east corner of Section 33, T. 41 N., R. 30 E. G.&S.R.B.M.
The Legal Description Land Tie to the True Point of Beginning of Tract "A" from the above point is S 85° 22' 58" W, a distance of 23966.11 feet.



ENGINEER'S CERTIFICATION

I, Danny Lee, do hereby certify that I am employed by Navajo Engineering and Construction Authority (NECA); that I am an Arizona Professional Engineer; that this map was prepared by me or under my direct supervision, and is based on an actual field survey performed during July of 2016, and that this map and survey are true and correct to the best of my knowledge and belief.

GRAVEL TRACT

A tract of land located west of the Navajo Nation community of Teec Nos Pos, situated in the north east 1/4 of Section 35, Township 41 North, Range 29 East G.&S.R.B.M., on the Navajo Nation, County of Apache, State of Arizona, being more particularly described by metes and bounds as follows, to wit:
Beginning at point "a", at the south corner of the tract herein described, whence the north east corner of said Section 33 (a 2006 BLM brass cap found in place) bears S85°22'58"W a distance of 23966.11 feet;
Thence, from the Point of Beginning, Point "a", N59°53'32"W, a distance of 627.91 feet to point "b";
Thence, N37°39'31"E a distance of 1755.64 feet to point "c";
Thence, S54°23'30"E a distance of 899.72 feet to point "d";
Thence, S46°52'27"W a distance of 1727.62 feet to the point and place of beginning, point "a".
Containing 30.04 acres, more or less.

LEGEND



BRASS CAP



QUARTER CORNER



TRACT BOUNDARY
(SET 1/2" REBAR)



LAND TIE LINE

Sheet: 1 of 1	Drawn by: WC	Checked by: AB	Surveyed by: SL
Name: TeecNosPos Gravel ROW	Date: 08/17/16	Date: 08/19/16	Date: 08/02/16

NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY
P.O.BOX 969 SHIPROCK, NEW MEXICO 87420 (505)365-5151



Stormwater Pollution Prevention Plan

for:

TEEC NOS POS GRAVEL PIT

-

TEEC NOS POS, ARIZONA, 86514

-

SWPPP Contact(s):

NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY

CHRISTINE PADILLA

P.O. BOX 969

SHIPROCK, NEW MEXICO, 87420

PHONE: 505-368-5151

FAX: 505-368-3078

SWPPP Preparation Date:

03/ 08 / 2017

EXHIBIT

K

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SECTION 1: FACILITY DESCRIPTION AND CONTACT INFORMATION.

1 Facility Information.

Name of Facility: Teec Nos Pos Gravel Pit

Street: ½ mile west of SR 5043 from US 160

City: Teec Nos Nos

State: AZ

ZIP Code: 86514

County or Similar Subdivision: Apache

NPDES ID: N/A

Primary Industrial Activity SIC code: **1442**

Sector and Subsector: **J1**

Latitude/Longitude

Latitude:

36.9223° N (decimal degrees)

Longitude:

109.1980 ° W (decimal degrees)

Method for determining latitude/longitude (check one):

☐ USGS topographic map

☒ Other (please specify): Google Earth

Horizontal Reference Datum (check one):

☒ NAD 27

☐ NAD 83

☐ WGS 84

Is the facility located in Indian country?

☒ Yes

☐ No

If yes, name of Reservation, or if not part of a Reservation, indicate "not applicable.": Navajo

Are you considered a "federal operator" of the facility?

Federal Operator – an entity that meets the definition of "operator" in this permit and is either any department, agency or instrumentality of the executive, legislative and judicial branches of the Federal government of the United States, or another entity, such as a private contractor, operating for any such department, agency, or instrumentality.

☐ Yes

☒ No

Estimated area of industrial activity at site exposed to stormwater: 30.04 (acres)

Discharge Information

Does this facility discharge stormwater into a municipal separate storm sewer system

(MS4)?

☐ Yes

☒ No

Name(s) of surface water(s) that receive stormwater from your facility: Toh Dahstini Wash, Dry Farms Wash and Tso Tsosie Wash

Does this facility discharge industrial stormwater directly into any segment of an "impaired water" (see definition in 2015 MSGP, Appendix A)? ☐ Yes ☒ No

Does this facility discharge industrial stormwater into a receiving water designated as a Tier 2, Tier 2.5 or Tier 3 water (see definitions in 2015 MSGP, Appendix A)? ☐ Yes ☒ No

Are any of your stormwater discharges subject to effluent limitation guidelines (ELGs) (2015 MSGP Table 1-1)? ☐ Yes ☒ No

1.2 Contact Information/Responsible Parties.

Facility Operator(s):

Name: Christine Padilla, Brett Grubbs

Address: P.O. Box 969

City, State, Zip Code: Shiprock, New Mexico 87420

Telephone Number: 505-368-5151

Email address: Christine@navajo.net : Brett@navajo.net

Fax number: 5053683078

Facility Owner(s):

Name: Navajo Engineering and Construction Authority

Address: P.O. Box 969, #1 Uranium Blvd.

City, State, Zip Code: Shiprock, New Mexico 87420

Telephone Number: 505-368-5151

Email address: www.navajo.net

SWPPP Contact(s):

SWPPP Contact Name (Primary): Lee B. Roy

Telephone number: 5053683025 / 9282051180

Email address: Lee@navajo.net

Fax number: 5053683075

SWPPP Contact Name (Backup): Christine Padilla

Telephone number: 5053683057

Email address: Christine@navajo.net

Fax number: 5053683078

1.3 Stormwater Pollution Prevention Team.

Staff Names	Individual Responsibilities
Aaron Barton Project Coordinator	An overview of what is in the SWPPP.
Christine Padilla Superintendent / Crushing Manager	Responsible for the storage and handling of chemicals and materials that could become contaminants in stormwater discharges and conduct inspections. Also on ordering items for Crusher facilities.
Brett Grubbs Manager of Engineering	Responsible for the design.
Lee B. Roy NECA Environmental Field Officer, SPCC	<p>Spill response procedures, good housekeeping, maintenance requirements, and material management practices;</p> <p>The location of all controls on the site required by this permit, and how they are to be maintained</p> <p>Routine facility inspections and Quarterly visual assessment of stormwater discharges.</p> <p>For the industrial activities identified in a list the potential pollutants or pollutant constituents (e.g., motor oil, fuel, battery acid, and cleaning solvents).</p> <p>Industrial materials, residue or trash that may have or could come into contact with stormwater</p> <p>Leaks or spills from industrial equipment, drums, tanks and other containers.</p> <p>Offsite tracking of industrial or waste materials, or sediment where vehicles enter or exit site.</p> <p>Control measures needing replacement, maintenance or repair.</p> <p>Conduct inspections.</p>
James Redhorse NECA CPESC Environmental Compliance Manager	<p>The proper procedures to follow with respect to the permit's pollution prevention requirements, NPDES and MSGP.</p> <p>Also inspect at least quarterly(i.e. once each calendar quarter), or in some instances more frequently (e.g. monthly)</p>

1.4 Site Description.

Temporary erosion controls will be installed and maintained in accordance with the stormwater pollution prevention plan for the site. A stormwater permit will be obtained from the USEPA for the site. Stripping and stockpiling of the topsoil will be performed as needed before crushing operations begin, when the need for gravel is determined. It is expected that aggregate crushing, processing, and stockpiling will begin when NECA receives an order for materials, most likely when there are sizeable road projects in the area.

During mining and aggregate production activities, dust control will be provided by spray bars on processing equipment and water trucks for excavation operations, stockpile and traffic areas within the lease area. When hauling occurs, the access roads on which the trucks travel will be watered as need to control dust. Water for dust control will come from the San Juan River, a source that will be permitted by the Navajo Nation Department of Water Resources.

During mining and aggregate production activities, dust control will be provided by spray bars on processing equipment and water trucks for excavation operations, stockpile and traffic areas within the lease area. When hauling occurs, the access roads on which the trucks travel will be watered as need to control dust. Water for dust control will come from the San Juan River, a source that will be permitted by the Navajo Nation Department of Water Resources.

1.5 General Location Map.

See Attachment A.

1.6 Site Map.

See Attachment B.

SECTION 2: POTENTIAL POLLUTANT SOURCES.

2.1 *Potential Pollutants Associated with Industrial Activity.*

Industrial Activity	Associated Pollutants
Sand and Gravel	<p>Sediment and air quality from stack emissions:</p> <p>Rainwater that falls in and around mining operations can become contaminated with sediments, oil, grease and other materials. Runoff from gravel piles may also be caustic. If not properly managed, this contaminated water can harm the environment, pollute creeks and lakes, and even contaminate drinking water.</p> <p>Keep used oil separate from other wastes. • Have separate storage containers for antifreeze, solvents or other fluids that could accidentally be mixed with used oil. • Use large drum funnels or fill tubes when filling used oil drums. Store funnels on a drip pan to collect dripping oil. • Clean spills on a floor with a rag or mop that can be wrung-out and reused. A biodegradable soap and water solution may be used to clean up oil sheens.</p> <p>Label or mark storage containers with the words "Used Oil" and keep them in good condition. • Inspect storage areas regularly. Fix leaks immediately or move the oil to another container. • If containers are exposed to rain, keep them closed except when adding or removing used oil</p>

2.2 *Spills and Leaks.*

Areas of Site Where Potential Spills/Leaks Could Occur	
Location	Discharge Points
Description of Past Spills/Leaks	

Date	Description	Discharge Points

2.3 *Unauthorized Non-stormwater Discharges Documentation.*

None at this time

2.4 *Salt Storage.*

None at Site

2.5 *Sampling Data Summary.*

Until production starts.

SECTION 3: STORMWATER CONTROL MEASURES.

3.1 *Non-numeric Technology-based Effluent Limits (BPT/BAT/BCT)*

None at this time

3.1.1 *Minimize Exposure.*

Implementing the use of silt fence and wattles as needed to conditions.

3.1.2 *Good Housekeeping.*

Good housekeeping entails keeping the site clean and reducing water and air-borne pollutants. Best management practices include effective control of solid waste, sanitary waste, petroleum, hazardous waste and material storage.

Material delivery, handling and storage can generate significant pollution. The site superintendent needs to ensure best management practices are followed to minimize or eliminate the discharge of material pollutants to the storm drain system or watercourse.

Fuels, oils and other petroleum products (e.g., forming oils and compounds; fertilizers; pesticides) or any other hazardous or toxic compounds should be stored under cover and not allowed to come in contact with stormwater on the site. On-site storage should meet all local, state and federal secondary containment rules and regulations. Additionally, local ordinances may require fencing and security measures for storage of these products. Do not store hazardous chemicals, drums, or bagged materials directly on the ground. Place these items on a pallet and under cover in secondary containment. Do not store incompatible materials, such as chlorine and ammonia in the same temporary containment facility. • Solid waste management procedures and practices are designed to minimize or eliminate the discharge of pollutants to the drainage system or to watercourses as a result of the creation, stockpiling or removal of construction site wastes. • Construction projects should be designed and implemented to minimize the amount of wasted materials. • Materials should be purchased with minimal packaging. • Solid waste management procedures and practices must be implemented on all construction projects that generate solid wastes. Solid wastes that are commonly found on construction and demolition sites include but are not limited to: • Construction wastes (e.g., lumber, wood sheeting products, steel and metal scraps, sawdust, pipe and electrical cuttings, non-hazardous equipment parts, polystyrene (Styrofoam), wall board, miscellaneous types of insulation, roofing materials, empty containers and other materials used to transport and package construction materials). • Landscaping vegetation waste and landscape plant

containers. • Packaging materials. • Litter, including food containers, beverage cans, coffee cups, paper bags, plastic wrappers and smoking materials, including litter generated by the public.

3.1.3 Maintenance.

Fuel and petroleum products may be stored on site. Waste oil will not be stored on site. Fuel and petroleum products storage will be contained within an area surrounded by an earthen berm. The enclosed area and berm will be covered with an impermeable liner to prevent contamination of the soil with the petroleum products. The enclosed area will be sufficient in size to contain at least twice the contents of the largest tank or container in containment. A standard spill kit containing absorbent materials, empty containers, and a shovel will be maintained at the site. Spills of petroleum products will be handled according to NECA's standard policies regarding cleanup and disposal of contaminated soils, which require that contaminated soils be removed and transported to a licensed disposal facility, Envirotech of Farmington. Spill kit will be available on site.

3.1.4 Spill Prevention and Response.

See Attached Copy of SPCC Plan

3.1.5 Erosion and Sediment Controls.

Temporary erosion controls will be installed and maintained in accordance with the stormwater pollution prevention plan for the site. BMP wattles will be used as site conditions permits.

3.1.6 Management of Runoff.

Slit fence and wattles usage at the time of clearing and grubbing and continued use for the life of the pit usage.

3.1.8 Dust Generation and Vehicle Tracking of Industrial Materials.

During mining and aggregate production activities, dust control will be provided by spray bars on processing equipment and water trucks for excavation operations, stockpile and traffic areas within the lease area. When hauling occurs, the access roads on which the trucks travel will be watered as need to control dust. Water for dust control will come from the San Juan River, a source that will be permitted by the Navajo Nation Department of Water Resources. Vehicle tracking for equipment hauling located at 36.926726 N, 109.185497 W, cattle guard at intersection of SR 5043 and US 160.

3.2 Sector-Specific Non-Numeric Effluent Limits.

Slit fence and wattles usage at the time of clearing and grubbing and continued use for the life of the pit usage.

3.3 **Numeric Effluent Limitations Based on Effluent Limitations Guidelines.**

Regulated Activity	40 CFR Part/Subpart	Effluent Limit
Mine dewatering discharges at crushed stone, construction sand and gravel, or industrial sand mining facilities	Part 436, Subparts B, C, or D	See Part 8.J.9

3.4 **Water Quality-based Effluent Limitations and Water Quality Standards.**

Use of silt fence and wattles and other BMPs as needed

SECTION 4: SCHEDULES AND PROCEDURES.

4.1 **Good Housekeeping.**

.Construction and landscaping material waste should be recycled and reused as much as possible. • Landscaping vegetation should be shredded and used as mulch when possible. • Materials from demolished structures should be recovered for reuse or recycling when possible. Note: Any separating of recoverable materials for reuse or recycling must occur on the property of origin. Solid waste cannot be removed to another location for sorting or separating without a permit from the Navajo Nation Department of Natural Resources and NNEPA Solid Waste Management Program. • Salvage or recycle useful vegetation debris, packaging or surplus building materials when practical. For example, trees and shrubs from land clearing can be converted into wood chips, and then used as mulch on graded areas. Recycle wood pallets, cardboard boxes and construction scraps. • Provide dumpsters of sufficient size and number to contain the solid waste generated by the project. Dumpsters should be covered at all times and be properly serviced. • Provide trash receptacles in the permittee's yard, field trailer areas and at locations where workers congregate for lunch and break periods. • Locate solid waste storage areas at least 50 feet from drainage facilities and watercourses and should not be located in areas prone to flooding or ponding of water. • Collect construction debris and litter from work areas within the construction limits of the project site on a daily basis and place in watertight dumpsters, regardless of whether the litter was generated by the permittee, the public or others. • Empty dumpsters weekly from the site. Dispose of the contents in accordance with Navajo Nation solid waste regulations. While demolition and construction debris typically do not emit a lot of odors, food waste from workers can cause an odor problem and attract public complaints. • Properly dispose of the waste at a permitted solid waste transfer station or a permitted sanitary or demolition landfill. • Do not place collected litter and debris in or next to drain inlets, stormwater drainage systems or watercourses. • Prohibit littering on the project site and perform periodic litter removal from the area to reduce public nuisance concerns from airborne and waterborne litter. • To prevent clogging of the storm drainage system, litter and debris removal from drainage grates, trash racks, and ditch lines should be a priority. • Remove construction debris and waste from the site as necessary to maintain a safe environment and to avoid public nuisance issues related to airborne and waterborne trash or vectors.

4.2 **Maintenance.**

As needed in the field

4.3 Spill Prevention and Response Procedures.

See Attachment H

4.4 Erosion and Sediment Control.

Not to be used.

4.5 Employee Training.

Name	Date Training Completed

4.6 Inspections and Assessments.

Date Grading Activity Initiated	Description of Activity	Description of Stabilization Measure and Location	Date Grading Activity Ceased (Indicate Temporary or Permanent)	Date When Stabilization Measures Initiated

4.6.1 Routine Facility Inspections.

The NECA is responsible for the establishment of individual aggregate gradations and proportions for mix designs (within the limits established by the contract documents), which are then submitted to the Department for approval prior to use. The NECA is responsible for performance of all process control activities for all aggregate and aggregate combinations during production, handling, stockpiling, blending, mixing and placing operations.

The NECA performs or causes to be performed all inspections and tests necessary to provide and maintain an adequate process control system. An adequate process control system is one that provides that all aggregates or aggregate combinations submitted for acceptance will conform to contract requirements whether manufactured or processed by the Contractor, or procured from sub-contractors or vendors.

Class I and Class II Aggregates are composed of crushed limestone or dolomite. Additional testing is performed on concrete produced with Class I and Class II Aggregates to determine if acceptable levels of concrete freeze/thaw resistance are provided. The freeze/thaw testing is intended to reduce the risk of the occurrence of premature "D-Cracking". Class I and Class II Aggregates are intended for use in "on-grade" concrete slabs such as Portland cement

concrete pavement. Prequalification to produce Class I and Class II Aggregate is granted to a quarry on a bed by bed basis for each distinct bed in the quarry face. "Official Quality" sampling and testing is also required. The acceptance of Class I and Class II Aggregate is contingent upon production being from approved beds and in compliance with "Official Quality" requirements.

Design, construct and maintain a detention basins to capture sediment. • Use interceptor dikes, swales or berms to direct stormwater away from areas prone to erosion or to convey runoff to the detention basin. • Inspect and maintain the erosion prevention and sediment control structures to ensure their effectiveness. • Revegetate disturbed areas as soon as possible. • Prevent spills of oil, grease and gasoline in vehicle and equipment maintenance activities. • Maintain appropriate spill containment equipment and train employees how to use it. • Use mulches, geotextiles and other measures to prevent erosion.

For routine facility inspections to be performed at your site, your SWPPP must include a description of the following:

1. Person(s) or positions of person(s) responsible for inspection.

SWPPP Contact Name (Primary): Lee B. Roy
Telephone number: 5053683025 / 9282051180
Email address: Lee@navajo.net
Fax number: 5053683075
SWPPP Contact Name (Backup): Christine Padilla
Telephone number: 5053683057
Email address: Christine@navajo.net
Fax number: 5053683078

4.6.2 Quarterly Visual Assessment of Stormwater Discharges.

For quarterly visual assessments to be performed at your site, your SWPPP must include a description of the following:

1. Person(s) or positions of person(s) responsible for assessments.

SWPPP Contact Name (Primary): Lee B. Roy
Telephone number: 5053683025 / 9282051180
Email address: Lee@navajo.net
Fax number: 5053683075
SWPPP Contact Name (Backup): Christine Padilla
Telephone number: 5053683057
Email address: Christine@navajo.net
Fax number: 5053683078

4.6.3 Exception to Routine Facility Inspections and Quarterly Visual Assessments for Inactive and Unstaffed Sites.

☒ This site is inactive and unstaffed, and has no industrial materials or activities exposed to stormwater, in accordance with the substantive requirements in 40 CFR 122.26(g)(4)(iii) as signed and certified in Section 7 below.

Monitoring.

Check the following monitoring activities applicable to your facility:

- ☐ Quarterly benchmark monitoring
- ☐ Effluent limitations guidelines monitoring
- ☒ State- or tribal-specific monitoring
- ☐ Impaired waters monitoring
- ☐ Other monitoring required by EPA

For each type of monitoring checked above, your SWPPP must include the following information:

Select type of monitoring activity from drop-down list below (if subject to more than one type of monitoring activity, you will need to copy and paste the items below for each monitoring activity):

State- or tribal-specific monitoring

Inactive and unstaffed sites exception (if applicable)

☒ This site is inactive and unstaffed, and has no industrial materials or activities exposed to stormwater, in accordance with the substantive requirements in 40 CFR 122.26(g)(4)(iii) as signed and certified in Section 7 below.

Substantially identical discharge point (outfall) exception

- Location of each of the substantially identical discharge points: Teec Nos Pos Gravel Pit
- List the general industrial activities conducted in the drainage area of each discharge point: grading and ground disturbance.
- List the control measures implemented in the drainage area of each discharge point: wattles or silt fence
- List the exposed materials located in the drainage area of each discharge point that are likely to be significant contributors of pollutants to stormwater discharges: by-products of gravel production.
- An estimate of the runoff coefficient of the drainage areas (low=under 40%; medium=40 to 65%; high =above 65%): low less than 40%.
- Why the discharge points are expected to discharge substantially identical effluents: ground disturbance from gravel production.

SECTION 5: DOCUMENTATION TO SUPPORT ELIGIBILITY CONSIDERATIONS UNDER OTHER FEDERAL LAWS.

5.1 Endangered Species.

See Attachment D

5.2 Historic Properties.

See Attachment E

SECTION 6: CORRECTIVE ACTIONS.

See Attachment F

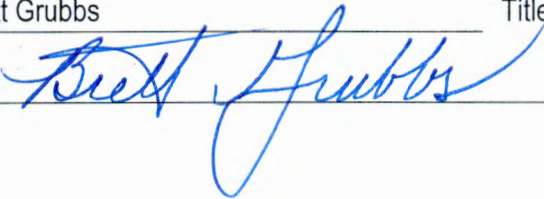
SECTION 7: SWPPP CERTIFICATION.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

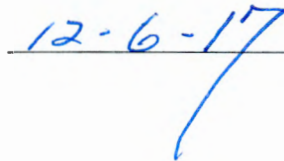
Name: Brett Grubbs

Title: Manager of Engineering

Signature:



Date:



SECTION 8: SWPPP MODIFICATIONS.

SWPPP ATTACHMENTS

Attach the following documentation to the SWPPP:

Attachment A – General Location Map

Attachment B – Site Map

Attachment C –2015 MSGP

Attachment D –Endangered Species.

Attachment E – Historic Properties.

Attachment F – Grading and Stabilization Activities Log

Attachment G – Stormwater Training Log

Attachment H – SPCC



2015 NPDES Multi-Sector General Permit For Stormwater Discharges Associated With Industrial Activity (MSGP) Forms

United States Environmental Protection Agency
1200 Pennsylvania Ave., NW Washington, DC 20460

Note: This is a "smart form" as you fill out the form, additional questions will appear that you will need to answer.

Permit Information

1. What action would you like to take? *

Submission of this Notice of Intent (NOI) constitutes notice that the operator identified in the Facility Operator Information section of this form requests authorization to discharge pursuant to the NPDES Stormwater Multi-Sector General Permit (MSGP) permit number identified in the Permit Information section of this form. Submission of this NOI also constitutes notice that the operator identified in the Facility Operator Information section of this form meets the eligibility conditions of Part 1.1 of the MSGP for the facility identified in the Facility Information section of this form. To obtain authorization, you must submit a complete and accurate NOI form. Discharges are not authorized if your NOI is incomplete or inaccurate or if you were never eligible for permit coverage.

Operator Name (Organization Name)

Operator Name as Noted by the NOI Preparer

2. Select the state/territory where your facility is located *

3. Is your facility located on Indian Country lands? *

☒ Yes ☐ No

3a. Select the Indian Country lands *

4. Are you requesting coverage as a "federal operator" as defined in Appendix A? *

☐ Yes ☒ No

5. Are you a new discharger or a new source as defined in Appendix A? *

☒ Yes ☐ No

6. Do you directly discharge to any of the waters of the U.S. that are designated by the state or tribal authority under its antidegradation policy as a Tier 3 water (Outstanding National Resource Water) (See Appendix L)? Your project will be considered to discharge to a Tier 3 water if the first water of the US to which you discharge is identified by a state, tribe, or EPA as a Tier 3 water. For discharges that enter a storm sewer system prior to discharge, the first water of the US to which you discharge is the waterbody that receives the stormwater discharge from the storm sewer system. *

☐ Yes ☒ No

7. Does your facility directly discharge to a Federal CERCLA site listed in Appendix P? For the purposes of this permit, a permittee discharges to a Federal CERCLA site if the discharge flows directly into the site through its own conveyance, or through a conveyance owned by others, such as a municipal separate storm sewer system. *

☐ Yes ☒ No

8. Has the Stormwater Pollution Prevention Plan (SWPPP) been prepared in advance of filing this NOI as required? *

☒ Yes ☐ No

9. By indicating "Yes", I confirm that I understand that the MSGP only authorizes the allowable stormwater discharges in Part 1.1.2 and the allowable non-stormwater discharges listed in Part 1.1.3. Any discharges not expressly authorized in this permit cannot become authorized or shielded from liability under CWA section 402(k) by disclosure to EPA, state, or local authorities after issuance of this permit via any means, including the Notice of Intent (NOI) to be covered by the permit, the Stormwater Pollution Prevention Plan (SWPPP), during an inspection, etc. If any discharges requiring NPDES permit coverage other than the allowable stormwater and non-stormwater discharges listed in Parts 1.1.2 and 1.1.3 will be discharged, they must be covered under another NPDES permit. *

☒ Yes ☐ No

10. Permit Number
AZR051000

A: Facility Operator Information

1. Operator Name (Organization Name) *

2. Street *
P.O. BOX 969

3. Supplemental Address

4. City *
SHIPROCK

5. State/Province *
NM

6. ZIP Code *
87420

7. Facility County or Similar Govt. Subdivision *
San Juan

8. Phone (10-digits No dashes) *
5053685151

9. Extension

10. E-Mail *
Christine@navajo.net

Operator point of contact information

11. First Name *
CHRISTINE

12. Middle Initial

13. Last Name *
PADILLA

14. Professional Title *
QUALITY CONTROL MANAGER

B: Facility Information

1. Facility Name *
TEEC NOS POS GRAVEL PIT

2. Street/Location *
1/2 MILE WEST OF SR 5043 FROM US 160

3. Supplemental Address

4. City *
TEEC NOS POS

5. State *
AZ

6. ZIP Code *
86514

7. Facility County or Similar Govt. Subdivision *
Apache

Latitude/Longitude for the facility:

8. Latitude (Decimal Degrees) *
+ 36.9223

9. Longitude (Decimal Degrees) *
- 109.1980

10. Latitude/Longitude Data Source *
Other

11. Horizontal Reference Datum
NAD27

12. What is the ownership type of the facility? *
Tribal Government

13. Estimated area of industrial activity at your facility exposed to stormwater (to the nearest quarter acre) *
30.04

Identify the applicable sector and subsector of your primary industrial activity (See Appendix D) that best describes the products produced or services rendered for which your facility is primarily engaged, as defined in the MSGP, and the 4-digit Standard Industrial Classification (SIC) code or 2-letter Activity Code:

15. Sector *

16. Primary SIC Code *

SECTOR J: MINERAL MINING AND DRESSING

1442: Construction Sand And Gravel

17. Subsector

J1: Construction Sand and Gravel

☐ Check to add an additional Sector and Subsector.

22. Is your facility presently inactive and unstaffed? *

☒ Yes ☐ No

23. Is your facility expected to be inactive and unstaffed for the entire permit term? *

☐ Yes ☒ No

You must submit a Change NOI form when your facility is active and staffed again.

C: Discharge Information

3. Identify if the following Effluent Limitation Guideline(s) apply to any of your discharges

40 CFR Part/Subpart: Part 436, Subpart B	Eligible Discharges: Mine dewatering discharges at crushed stone mining facilities (SIC 1422 - 1429)	Affected MSGP Sector: J	New Source Date: N/A	Does your facility have any discharges subject to this effluent limitation guideline? *
				<input type="radio"/> Yes <input checked="" type="radio"/> No
40 CFR Part/Subpart: Part 436, Subpart C	Eligible Discharges: Mine dewatering discharges at construction sand and gravel mining facilities (SIC 1442)	Affected MSGP Sector: J	New Source Date: N/A	Does your facility have any discharges subject to this effluent limitation guideline? *
				<input type="radio"/> Yes <input checked="" type="radio"/> No
40 CFR Part/Subpart: Part 436, Subpart D	Eligible Discharges: Mine dewatering discharges at industrial sand mining facilities (SIC 1446)	Affected MSGP Sector: J	New Source Date: N/A	Does your facility have any discharges subject to this effluent limitation guideline? *
				<input type="radio"/> Yes <input checked="" type="radio"/> No

Outfalls

4. List all of the stormwater outfalls from your facility. Each outfall must be identified by a unique 3-digit ID (e.g., 001, 002) or a 4-digit ID. Also provide the latitude and longitude in decimal degrees for each outfall.

A. Outfall ID * B. Latitude (Decimal Degrees) * C. Longitude (Decimal Degrees) *

001 + 36.9243 - 109.1910

(This button will prepopulate the receiving water information associated with your outfall on your form. You may edit the information that is returned if you believe it is incorrect)

If for any reason the Lookup Receiving Water Information button does not prepopulate your form with receiving waters information, you must manually enter the information on your form.

Outfall Section

1. Provide the name of the first water of the U.S. that receives stormwater directly from the outfall and/or MS4 that the outfall discharges to.
(You may edit the name of the water of the U.S. that was returned if incorrect) *

TOH DAHSTINI WASH

2. Is the receiving water listed as impaired on the 303(d) list and in need of a TMDL? *

☐ Yes ☒ No

3. Has a TMDL been completed for this receiving waterbody? *

☐ Yes ☒ No

Provide the following information about your outfall latitude longitude.

5. Latitude/Longitude Data Source *

Other

6. Horizontal Reference Datum

NAD27

7. Does your facility discharge into a Municipal Separate Storm Sewer System (MS4)? *

☐ Yes ☒ No

8. Do you discharge to any of the waters of the U.S. that are designated by the state or tribal authority under its antidegradation policy as a Tier 2 (or Tier 2.5) water (water quality exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water) (See Appendix J)? *

☐ Yes ☒ No

D. Stormwater Pollution Prevention Plan (SWPPP) Information

SWPPP Contact Information

1. First Name *

LEE

2. Middle Initial

B

3. Last Name *

ROY

4. Professional Title *

ENVIRONMENTAL FIELD OFFICER

5. Phone (10-digits, No dashes) *

5053683025

6. Extension

7. E-Mail *

Lee@navajo.net

8. Your current SWPPP or certain information from your SWPPP must be made available through one of the following two options. Select one of the options and provide the required information. *

Note: You are not required to post any confidential business information (CBI) or restricted information (as defined in Appendix A) (such information may be redacted), but you must clearly identify those portions of the SWPPP that are being withheld from public access.

☐ Option 1: Maintain a Current Copy of your SWPPP on an Internet page (Universal Resource Locator or URL).

☒ Option 2: Provide the following information from your SWPPP.

A. Describe your onsite industrial activities exposed to stormwater (e.g., material storage; equipment fueling, maintenance, and cleaning; cutting steel beams), and potential spill and leak areas. *

STOCKPILES OF MATERIAL, 1" ROCK, 1/2" ROCK, CRUSHER FINES, SAND, ABC AND WASH SAND, DIESEL AND GAS STORAGE TANKS, LIME STORAGE TANKS.

B. List the pollutant(s) or pollutant constituent(s) associated with each industrial activity exposed to stormwater that could be discharged in stormwater and/or in any authorized non-stormwater discharges listed in Part 1.1.3. *

DIESEL, GASOLINE, PETROLEUM PRODUCTS, LIME, USED CONSTRUCTION WATER.

C. Describe the control measures you will employ to comply with the non-numeric technology-based effluent limits required in Part 2.1.2 and Part 8, and any other measures taken to comply with the requirements in Part 2.2 Water Quality-Based Effluent Limitations (see Part 5.2.4). *

NONE

D. Provide a schedule for good housekeeping and maintenance (see Part 5.2.5.1) and a schedule for all inspections required in Part 4 (see Part 5.2.5.2). *

1. WATTLES AND BERMS WILL BE MONITOR, MAINTAINED AN ACCORDANCE TO MULTISECTOR GENERAL PERMIT.
2. WASTE MANAGEMENT DUMPSTER ON SITE.
3. DIESEL GAS LIME, ASPHALTIC BINDERS WILL BE LINED BERMS IN ACCORDANCE WITH THE SPCC PLAN
4. CONTAMINATED MATERIALS WILL BE DISPOSED OF IN ACCORDANCE TO THE SPCC PLAN

E. Endangered Species Protection

1. Using the instructions in Appendix E of the MSCP, under which endangered species criterion listed in Part 1.1.4.5 are you eligible for coverage under this permit? *

Criterion A – No listed species or critical habitat are in the action area

2. Provide a brief summary of the basis for the criterion selected in Appendix E (e.g., communication with U.S. Fish and Wildlife Service or National Marine Fisheries Service to determine no species in action area; implementation of controls approved by EPA and the Services). *

NAVAJO NATION DEPARTMENT OF FISH AND WILDLIFE, NAVAJO NATION NATURAL HERITAGE PROGRAM (NNDFW-NNHP), ENVIRONMENTAL ASSESSMENT EA-17-17672 (FONSI)

2. Using the instructions in Appendix F of the MSGP, under which historic properties preservation criterion listed in Part 1.1.4.7 are you eligible for coverage under this permit? *

☐ Criterion B - Subsurface stormwater controls will not affect historic properties

Certification Information

Certifier E-Mail *

☒ Confirm Certifier: Cary@navajo.net *



TEEC NOS POS CHAPTER

P. O. Box 106, Teec Nos Pos, Arizona, Navajo Nation 86514
Highway 160 BIA School Road #5114 Chapter Government Building
Telephone #928-656-3662 Fax#928-656-3661



RESOLUTION FOR TEECNOSPOS CHAPTER TNPCH 02-05-17 R22

APPROVING NAVAJO NATION COUNCIL RESOURCES DEVELOPMENT COMMITTEE APPROVAL OF SAND GRAVEL LEASE FOR NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY ON NAVAJO NATION TRUST LANDS IN THE VICINITY OF THE TEECNOSPOS CHAPTER, APACHE COUNTY, ARIZONA.

WHEREAS:

1. Pursuant to the "Local Government Act", 26 N.N.C chapter 1, sub-chapter 1, Section 3 (a) the Teec Nos Pos Chapter is continued as a certified local chapter of the Navajo Nation Government by the Navajo Nation Resolution Number CAP 34-98 with the responsibility and authority to promote, protect, and preserve the culture and tradition including enjoying a safe environment for its community people and property; and
2. The Teec Nos Pos Chapter acknowledges and directs that the disturbed area, including the previously mined area, be reclaimed and reseeded with a native seed mix upon completion of the project as proposed by NECA; and
3. The Teec Nos Pos Chapter and the community is willing to collaborate and developed a strategy for opportunities supporting the community to strengthen improvements for the benefit of the community, as well; and
4. The Teec Nos Pos Chapter and the community strongly supports the efforts for any further plans for improvements of the community as roads, homes, and the welfare and the safety of our community.

NOW THEREFORE BE IT RESOLED:

1. The Teec Nos Pos Chapter hereby respectfully approves the Navajo Nation Council Resources and Development Committee the approval of sand gravel lease for Navajo Engineering and Construction Authority on Navajo Nation Trust Lands in the vicinity of the Teec Nos Pos Chapter, Apache County, Arizona.
2. It is resolved that the proposed mine lease will consist of approximately 30.04 acres, more or less, of Navajo Nation Trust Land located within Teec Nos Pos, Apache County, Arizona. The location is shown on the location map attached hereto as Exhibit "B" and made a part of hereof.

CERTIFICATION

Teec Nos Pos Chapter hereby certify that the foregoing resolution was considered by the Teec Nos Pos Chapter (Navajo Nation) at a duly called meeting at which a quorum was present and was motioned by: Herbert Peterson seconded by: Alice Yellowhorse and that same was passed by a vote of 18 in favor, 0 opposed and 5 abstained, this 5th day of February, 2017


Alfred L. Jim, President


Daron Yellowhorse, Secretary/Treasurer


Kenny Victor, Vice President


Davis Filfred, Council Delegate

CHAPTER OFFICERS

Alfred L. Jim Kenny Victor Daron Yellowhorse Dale Redhouse
President Vice President Secretary/Treasurer Grazing Officer

ADMINISTRATION:

Davis Filfred Steven Benally Matilda Begay
Council Delegate Chapter Coordinator Accountant Maintenance Specialist

RESOLUTION OF THE
NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY
BOARD OF DIRECTORS



Requesting the Resources and Development Committee of The Navajo Nation Council to Approve a Sand and Gravel Mining Lease and Access Road Right-of-Way for Navajo Engineering and Construction Authority (NECA) for the Teec Nos Pos Sand and Gravel Mine, in the Vicinity of the Teec Nos Pos Chapter, Apache County, Arizona; and to Waive the Requirement for a Performance and Reclamation Bond

WHEREAS:

1. The Navajo Engineering and Construction Authority (NECA) was created as a wholly-owned enterprise of the Navajo Nation pursuant to 5 N.N.C., 1971, for the purpose of engaging in the general engineering and construction business for and on behalf of the Navajo Nation, and to provide employment and training opportunities for members of the Navajo Nation, 5 N.N.C., 1972(a), as amended; and
2. The NECA Board of Directors has authority and responsibility for the management and operation of NECA, 5 N.N.C., 1972(b)(1), as amended; and
3. NECA has applied to The Navajo Nation and the Bureau of Indian Affairs for a Sand and Gravel Mining Lease and Access Road Right-of-Way southwest of Teec Nos Pos, Arizona; and
4. The proposed Sand and Gravel Mining Lease and Access Road Right-of-Way is for 30.04-acres, more or less, of Navajo Nation Trust Land as described in the maps and other supporting documentation contained in the Sand and Gravel Mining Lease and Access Road Right-of-Way application; and
5. The Teec Nos Pos Chapter passed resolution number TNPCH 02-05-2017 R22, attached hereto and incorporated herein as Exhibit "A", supporting the Sand and Gravel Mining Lease and Access Road Right-of-Way; and
6. The Navajo Nation has required that the permittee provide a performance and reclamation bond to assure that reclamation requirements contained in the sand and gravel mining lease and access road right-of-way are carried out; and
7. The requirement to provide a performance and reclamation bond results in the Navajo Nation furnishing a bond to itself, and results in additional cost to NECA and the Navajo Nation; and
8. NECA as a Tribal Enterprise will continue to conduct business within the boundaries of the Navajo Nation in accordance with all laws and regulations, thereby assuring that reclamation of the mining lease and access road right-of-way area will be carried out; and

9. NECA has excellent record of past experience with managing and reclaiming sand gravel mining leases and access road right-of-way with the Navajo Nation and the Bureau of Indian Affairs; and
10. It is in the best interest of the Navajo Engineering and Construction Authority (NECA) that the Sand & Gravel Mining Lease and Access Road Right-of-Way be issued.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Engineering and Construction Authority Board of Directors requests that the Resources and Development Committee of the Navajo Nation approve a Sand and Gravel Mining Lease and Access Road Right-of-Way for NECA for the Teec Nos Pos Gravel Pit, in the vicinity of the Teec Nos Pos Chapter, Apache County, Arizona, subject to the terms and conditions of the Sand and Gravel Mining Lease and Access Road Right-of-Way.
2. The Navajo Engineering and Construction Authority Board of Directors further requests that the Resources and Development Committee of the Navajo Nation Council waive the requirement for a Performance and Reclamation Bond.
3. The Navajo Engineering and Construction Authority Board of Directors further authorizes the General Manager of NECA, the President of the NECA Board of Directors, and the NECA General Counsel to do any and all things necessary and proper to accomplish the purposes and intent of this resolution.
4. The Navajo Engineering and Construction Authority Board of Directors further directs the General Manager of NECA to do any and all things necessary to comply with the terms and conditions of the Sand Gravel Mining Lease and Access Road Right-of-Way, including the reclamation requirements.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Board of Directors of the Navajo Engineering and Construction Authority, at a duly called meeting at Shiprock, NM at which a quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, and 1 abstention this 17th day of March 2017.



Richard Bowman, President
Board of Directors
Navajo Engineering and Construction Authority

MOTION: Ernest Hubbell

SECOND: Wallace McGilbert

VOTE: 4 IN FAVOR, 0 OPPOSED, 1 ABSTENTION



STATEMENT OF PURPOSE

Teec Nos Pos Gravel Pit

Navajo Engineering and Construction Authority

Navajo Engineering and Construction Authority (NECA) is applying for a mining lease to operate a sand and gravel pit west of Teec Nos Pos. The term of the mining lease will be for a period of five-years.

The proposed gravel pit is located southwest of United States Highway 160 mile marker 459.55 and Navajo Route 5043 and in section 35 of Township 41 North, Range 29 East. The location is southwest of an existing mine. Access to the parcel will be on an existing graded road (N5043). This property has sparse vegetation. Upon completion, the site, including the previous mined areas, will be reclaimed and reseeded with a native seed mix.

Teec Nos Pos gravel pit is on an alluvial terrace with sparse vegetation, approximately 19.478-acres in size and lies within Teec Nos Pos Chapter management area in Apache County, Arizona.

Because of the sparse vegetation on the site, the impacts to grazing will be minimal. NECA's reclamation and reseeded of the land upon completion will result in equal or better vegetation than what presently exists.

Access to areas being actively mined will be limited by fencing to prevent unauthorized access by people and livestock to areas where mining, aggregate processing and stockpiling are taking place.

Temporary erosion controls will be installed and maintained in accordance with the stormwater pollution prevention plan for the site. A stormwater permit will be obtained from the USEPA for the site. Stripping and stockpiling of the topsoil will be performed as needed before crushing operations begin, when the need for gravel is determined. It is expected that aggregate crushing, processing, and stockpiling will begin when NECA receives an order for materials, most likely when there are sizeable road projects in the area. We expect that aggregate crushing, processing, and stockpiling operations will be intermittent over the 5-year term of the mining lease, as sales of aggregates and projects in the area may require. We also expect that hauling of aggregates from the location will be intermittent, governed by sales. In general, we expect that hours of operation will be sunup to sundown, Monday through Friday, with the normal shift being 10-hours per day.

From visual observations at the location and the depth of the sand and gravel layers from the previously mined area, we estimate that there could be as much as 200,000-tons of recoverable sand and gravel on the site. We expect the depth to vary as we move across the site. We doubt that the sand and gravel on site will be mined out over the 5-year term of the mining lease; however, this is subject to the demand for sand and gravel products in the area.

During mining and aggregate production activities, dust control will be provided by spray bars on processing equipment and water trucks for excavation operations, stockpile and traffic areas within the lease area. When hauling occurs, the access roads on which the trucks travel will be watered as need to control dust. Water for dust control will come from the San Juan River, a source that will be permitted by the Navajo Nation Department of Water Resources. NECA will

ensure the operator will comply with air quality requirements of the Navajo Nation during all operations of the Teec Nos Pos gravel pit.

Turning south from US 160 at mile marker 459.55, access to the gravel pit will be on an existing graded gravel road, Navajo Route 5043. From US 160, one-fifth-mile, a single-track dirt road will be used to access the parcel. Traffic signs will be posted on the existing gravel road and on US 160 warning of truck traffic when hauling is taking place. The existing gravel and dirt roads will be graded and maintained when the gravel pit is operating. Truckers will be instructed to be considerate of local traffic.

Solid waste will be placed in dumpsters to be disposed of at licensed landfill by a qualified waste hauler. No hazardous materials will be used on the site.

At times, fuel and petroleum products may be stored on site. Waste oil will not be stored on site. Fuel and petroleum products storage will be contained within an area surrounded by an earthen berm. The enclosed area and berm will be covered with an impermeable liner to prevent contamination of the soil with the petroleum products. The enclosed area will be sufficient in size to contain at least twice the contents of the largest tank or container in containment. A standard spill kit containing absorbent materials, empty containers, and a shovel will be maintained at the site. Spills of petroleum products will be handled according to NECA's standard policies regarding cleanup and disposal of contaminated soils, which require that contaminated soils be removed and transported to a licensed disposal facility, Envirotech of Farmington.

Upon completion of mining and removal of aggregates from the area, NECA will reclaim and reseed the site with native vegetation. Reclamation will be in accordance with NECA's reclamation plan for the Teec Nos Pos gravel pit, which will be reviewed and approved by the Navajo Nation EPA. Prior to topsoil replacement and seeding, the disturbed areas will be graded to minimize erosion, with no slopes steeper than 3-to-1. Drainage from the terrace flows naturally towards Toh Dastini Wash and the San Juan River and that natural drainage will be maintained. Since existing access road provides access to area residents, it will remain after reclamation.

Document No. 009559Date Issued: 01/18/2018**EXECUTIVE OFFICIAL REVIEW**Title of Document: NECA, Sand and Gravel Lease Teec Nos Pos Contact Name: YAZZIE, ELERINA BProgram/Division: DIVISION OF NATURAL RESOURCESEmail: e_yazzie@navajo-nsn.gov Phone Number: 928-871-6447

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

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

			Sufficient	Insufficient
1. Division:	_____	Date: _____	<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	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
8. OPVP	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☒ **OTHER: Sand and Gravel Lease**

1. NLD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. HHPD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. F&W	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5. DWR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
6. DNR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
7. NNEPA	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
8. DOT - (ic)	_____	Date: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. OPVP	_____	Date: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Vir Delu Date: 9/27/18
Date: 8-10-2018



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



DOJ	
09-24-18 @ 9:32am	
DATE / TIME	
<input type="checkbox"/> 7 Day Deadline	
DOC #:	009559 #2
SAS #:	
UNIT:	NRW

☒ RESUBMITTAL
(AUGUST 2018)

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

CLIENT TO COMPLETE			
DATE OF REQUEST:	9/24/2018	DIVISION:	Division Natural Resources
CONTACT NAME:	Michelle Hoskie or Stevie Hudson	DEPARTMENT:	General Land Development Department
PHONE NUMBER:	871-6447 or 871-6423	E-MAIL:	michellehoskie@frontier.com
TITLE OF DOCUMENT: NECA - SAND AND GRAVEL LEASE TEECNOSPOS PIT, EOR NO. 009559			
DOJ SECRETARY TO COMPLETE			
DATE/TIME IN UNIT:	9/24/18 10:30 am	REVIEWING ATTORNEY/ADVOCATE:	Irvin. Chee 10/03/18
DATE TIME OUT OF UNIT:	9/28/18 9:30 am		
DOJ ATTORNEY / ADVOCATE COMMENTS			
- Document is now legally sufficient after making some change to the lease acreage and getting consents.			
REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
Irvin. Chee	9/25/18	V. Blauha	9/27/18 4:45pm
DOJ Secretary Called:	Michelle	for Document Pick Up on	9/28/18 at 9:27am By: m
PICKED UP BY: (Print)	DATE / TIME:		

NNDOJ/DRRF-July 2013

Note: Please see Memo regarding waiver of reclamation bond. Thank you.



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



☐ RESUBMITTAL

DOJ
8/7/18 4:00 pm
DATE / TIME
<input type="checkbox"/> 7 Day Deadline
DOC #: 009559
SAS #:
UNIT: <i>nm</i>

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

CLIENT TO COMPLETE

DATE OF REQUEST:	8/7/2018	DIVISION:	Division Natural Resources
CONTACT NAME:	Michelle Hoskie or Stevie Hudson	DEPARTMENT:	General Land Development Department
PHONE NUMBER:	871-6447 or 871-6423	E-MAIL:	michellehoskie@frontier.com

TITLE OF DOCUMENT: SAND AND GRAVEL LEASE FOR NECA TEECNOSPOS GRAVEL PIT, EOR NO. 009559

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT:	8/7/18 454 pm mm	REVIEWING ATTORNEY/ADVOCATE:	Irvin
--------------------	---------------------	------------------------------	-------

DATE TIME OUT OF UNIT:

DOJ ATTORNEY / ADVOCATE COMMENTS


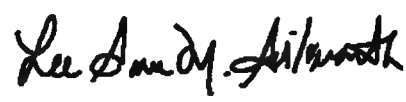

• G/LD ofc. Called & wanted this packet; Doc#: 009559, Returned to their ofc. so Howard Draper will do field clearance for Belinda Chee.

REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
<i>Irvin</i>	<i>9/17/18</i>		

DOJ Secretary Called: _____ for Document Pick Up on _____ at _____ By: _____

PICKED UP BY: (Print) _____ DATE / TIME: _____

Tier 1 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Eugenia Quintana EPA (Navajo Land Title Data System - Windowrock AZ)	Air and Toxics - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. Please provide a copy of the Environmental Assessment. The Sand & Gravel Mining Lease at #11 indicates that an environmental assessment report shall be submitted in writing to the Area Director and the Navajo Nation Environmental Protection Agency for approval prior to construction of required improvements or any access roads. No EA report was located. Thank you.	1. No Reply	04-Apr-2018	
Lee Anna Martinez EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. Please consult with our office should your project cross any waterways, ephemeral or perennial. You may contact our office at (928) 871-7690. Thank you.	1. No Reply	02-Feb-2018	
Najamh Tariq (Navajo Land Title Data System - Windowrock AZ)	Approver	Department of Water Resources	Approved	no comments	No Reply	25-Jan-2018	
Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. #16dan1107a	1. No Reply	29-Jan-2018	

Pam Maples Storage Navajo Nation Approved no No 25-Jan-2018
EPA Tanks Environmental comments Reply
(Navajo Land Program - Protection
Title Data Reviewer Agency
System -
Windowrock
AZ)

Patricia Maples

Patrick Water Navajo Nation Approved 1. There is a 1. No 25-Jan-2018
Antonio EPA Quality - Environmental 1. No
(Navajo Land Supervisor Protection Reply
Title Data Agency
System -
Windowrock
AZ)

1. There is a copy of an electronic Notice of Intent (NOI) form for coverage under the federal Multi-Sector General Permit for industrial storm water discharges as well as a copy of an October 2017 storm water pollution prevention plan. Discharge can occur 30 days after USEPA notifies you that it has received a complete NOI. Must comply with bench-mark and effluent limit monitoring.

Patrick Antonio

Robert Allan Deputy DNR Administration Approved 1. Need to 1. No Reply 08-Feb-2018
DNR Director (Navajo Land DNR
Title Data
System -
Windowrock
AZ)

Robert O. Allan

Tamara Billie HPD NNHP Reviewer Historic Preservation Department Approved 1. HPD-17- 1. No Reply 29-Jan-2018
140
(Navajo Land
Title Data
System -
Windowrock
AZ)

Tamara Billie

Yolanda Public Navajo Nation Approved no No 26-Jan-2018
Barney EPA Water Environmental comments Reply
(Navajo Land System Protection
Title Data Supervision Agency
System - Program
Windowrock
AZ)

Yolanda Barney

Tier 2 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Biddah N. Becker (FBFA)	FBFA Users	FBFA Action Team	Approved	1. NECA had originally applied for a 30.04 acre sand and gravel lease. Upon review of the area, it was determined that this 30.04 acres overlapped with Apache County's applied for sand and gravel lease. Mr. Ammerson Barber, Project Coordinator, NECA, has graciously reduced NECA's application from the 30.04 acres to 22.51 acres. Mr. Barber has verbally informed me of the reduction. He has provided by email the legal description of the 22.51 acres and two contour maps of the 22.51 acres. I emailed those three documents to both the General Land Development Department and the Minerals Department on August 3, 2018. Based on my conversation with Mr. Barber, I cast this vote indicating the packet is sufficient. This vote is subject to (1) GLDD uploading the	1. No Reply	03-Aug-2018	B.N. Becker

attached documents into the NLTDS, (2) the Minerals Department revising the draft sand and gravel lease to reflect the 22.51 acres, and (3) Mr. Barber submitting a revised letter of application. Mr. Barber anticipated submitting that revised letter by the close of business on August 6, 2018. Thank you.

Richard Begay NNHP (Navajo Land Title Data System - Windowrock AZ)	Navajo Nation Historic Preservation Officer	Historic Preservation Department	Approved	no comments	No Reply	06-Apr-2018
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Roll M. Begay

Ronnie Ben EPA (Navajo Land Title Data System - Windowrock AZ)	Underground Injection Control - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. Conditional Approval contingent on compliance with all NNEPA and USEPA environmental laws.	1. No Reply	09-Apr-2018
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Sam Diswood (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	no comments	No Reply	06-Apr-2018
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Samuel F. Diswood

Steven Prince MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	1. This vote is contingent upon permanent inclusion of the uploaded Standard S&G Lease with the application document package. slp	1. No Reply	16-Apr-2018
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Steven L Prince

W. Mike	Manager III NLD	Approved	<i>no</i>	No	04-Apr-2018
Halona	Navajo Land Administration		<i>comments</i>	<i>Reply</i>	
(Navajo Land Department					
Title Data					
System -					
Windowrock					
AZ)					





NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

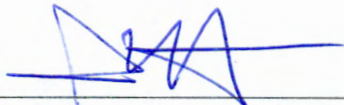
ETHEL B. BRANCH
ATTORNEY GENERAL

CHERIE ESPINOSA
ACTING DEPUTY ATTORNEY GENERAL

MEMORANDUM

TO: SAS Reviewers

FROM:


Irvin Chee, Tribal Court Advocate
Natural Resources Unit, NNDOJ

DATE: September 27, 2018

SUBJECT: **EOR No. 009559 #2: NECA – Sand & Gravel Lease for Teec Nos Pos Pit**

The Navajo Nation Department of Justice (NNDOJ) has reviewed the above referenced document and has the following concern.

The Navajo Engineering and Construction Authority (NECA) in their letter dated January 9, 2018 is requesting a waiver of the reclamation bond. NNDOJ does not recommend approval of the waiver of the reclamation bond. As it is prohibited by federal law. We also spoke with the Navajo Nation Minerals Department and they are also in agreement that the reclamation bond not be waived.

If you have any questions regarding this memorandum, please feel free to contact NNDOJ. Thank you.

RESOURCES AND DEVELOPMENT COMMITTEE
Special Meeting

ROLL CALL
VOTE TALLY SHEET:

Legislation # 0407-18: An Action Relating to Resources and Development; Approving a sand and gravel lease to Navajo Engineering and Construction Authority to extract sand and gravel from 16.636 acres, more or less, of Navajo Nation Trust Lands, and an access road of 2.842 acres, more or less, of Navajo Nation Trust Lands located within the Teec Nos Pos Chapter vicinity, Navajo Nation (Apache County, Arizona).
Sponsor: Honorable Davis Filfred; Co-Sponsor: Honorable Benjamin Bennett

MAIN MOTION:

M: Walter Phelps S: Leonard Pete VOTE: 4-0-1 (CNV)
YEAS: Davis Filfred, Leonard Pete, Walter Phelps and Benjamin Bennett
NAYS: NONE
EXCUSED: Jonathan Perry

AMENDMENT # 1:

MOTION: Benjamin Bennett S: Leonard Pete Vote: 2-1-1 (CNV)
YEAS: Davis Filfred and Leonard Pete
NAYS: Walter Phelps
EXCUSED: Jonathan Perry

DATE: December 17, 2018
Meeting Location: TANCR, Twin Arrows, Arizona



Honorable Alton Joe Shepherd, Presiding Chairman
Resources and Development Committee



Shammie Begay, Legislative Advisor
Office of Legislative Services