

RESOLUTION OF THE  
RESOURCES AND DEVELOPMENT COMMITTEE  
24<sup>th</sup> Navajo Nation Council --- Third Year, 2021

AN ACTION

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

BE IT ENACTED:

**SECTION ONE. AUTHORITY**

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

**SECTION TWO. FINDINGS**

- A. The Continental Divide Electric Cooperative, Inc., P.O. Box 1087, Grants, New Mexico 87020, has submitted a right-of-way application, attached as **Exhibit J**, to construct, operate and maintain 14.4/24.9 kV electrical/fiber-optic distribution line and its appurtenances to serve the Becenti Reconciliation Project. The Terms and Conditions is attached hereto and incorporated herein as **Exhibit A**.
- B. The proposed right-of-way is described in map and description attached hereto and incorporated herein as **Exhibit B**.
- C. The Becenti Land Board Member through Memorandum dated February 2, 2021, attached as **Exhibit C**, has "determined that consents are not required because there are no land users or grazing permittees within the line in question therefore consents are not necessary for the Becenti Reconciliation Project - (Construction, Operation, Maintenance of 1.44/24.9 kV Electrical/Fiber Optic Distribution Line and Appurtenances)."

- D. A waiver of valuation of the right-of-way and waiver of compensation for a twenty-year right-of-way is requested. See, 25 CFR § 169.110 (a)(1), (2) and (3). **Exhibit A**, the terms and conditions document states that the compensation for a twenty-year right-of-way is \$126,817.06.
- E. The Resources and Development Committee, through resolution number RDCF-08-20 allowed for one-hundred (100%) waiver of right-of-way consideration for non-profit electric utility companies that provide service to Navajo residents on Navajo Trust land in the Eastern Navajo Agency.
- F. The requested right-of-way is located on Navajo trust land in the Eastern Navajo Agency and Continental Divide Electric Company is a non-profit electric company.
- G. A waiver of the bond, insurance, or alternative form of security on the part of Continental Divide Electric Cooperative, Inc. is requested.
- H. The environmental studies and archaeological clearances, including the Finding of No Significant Impact (FONSI) dated July 24, 2019, **Exhibit D**; the Heritage and Historic Preservation Department memorandum dated November 7, 2018, **Exhibit E**; the Navajo Natural Heritage Program memorandum dated October 17, 2019, **Exhibit F**; and the Biological Resources Compliance Form, NNDFW Review No. 18cdec03, **Exhibit G** are attached.
- I. The Cultural Resources Contingency Plan for the Existing CDEC Electric Powerline in Becenti Chapter on the Navajo Nation prepared by Continental Divide Electric Cooperative, Inc. October 2018, **Exhibit H**; and, the Resource Management Plan for Existing CDEC Electric Powerline in Becenti Chapter on Navajo Nation Band Land, **Exhibit I** are attached.
- J. The application for the Right-of-Way as submitted by the Continental Divide Electric Cooperative, Inc., has been reviewed Executive Official Review process, including review by the Department of Justice and "Approved" or found "Sufficient". See documents included in Executive Official Review Document No. 014711, **Exhibit K**.

**SECTION THREE. APPROVAL**

- A. The Resources and Development Committee of the Navajo Nation Council hereby approves the Grant of Right-of-Way to Continental Divide Electric Cooperative, Inc. for construction, operation and maintenance of a 14.4/24.9 kV electric distribution line, on, over and across Navajo Nation Trust Lands in Becenti Chapter vicinity, McKinley County, New Mexico. The location is more particularly described on the survey map attached hereto as **Exhibit B**.
- B. The Resources and Development Committee of the Navajo Nation Council hereby waives valuation and waives compensation of one-hundred percent (100%) of the assessed \$126,817.06 for the right-of-way project for 20-year term because it has been determined that accepting the agreed-upon compensation and waiving valuation is in its best interest of the Navajo Nation, pursuant to Title 25 CFR § 169.110.
- C. The Resources and Development Committee of the Navajo Nation Council hereby waives the requirement for a bond, insurance or alternative form of security on the part of the Grantee, based on the determination that the project benefits the Navajo Nation and such a waiver is in the best interest of the Navajo Nation, pursuant to Title 25 CFR § 169.103 (f) (2).
- D. The Resources and Development Committee of the Navajo Nation Council hereby approves the right-of-way subject to, but not limited to, the following terms and conditions incorporated herein and attached as **Exhibit A**.
- E. The Resources and Development Committee of the Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to affect the intent and purpose of this resolution.

**CERTIFICATION**

I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 24<sup>th</sup> Navajo Nation Council at a duly called meeting held by a teleconference for which a quorum was present and that same was passed by a vote of 5 in favor, and 0 opposed, on this 10<sup>th</sup> day of November 2021.



Rickie Nez, Chairperson  
Resources and Development Committee  
of the 24<sup>th</sup> Navajo Nation Council

Motion: Honorable Wilson C. Stewart, Jr.

Second: Honorable Thomas Walker, Jr.

Chairperson Rickie Nez not voting.





**EXHIBIT "D"**

**NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS  
CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC. (GRANTEE)  
Becenti Chapter Reconciliation Project**

1. The term of the right-of-way shall be for twenty (20) years, beginning on the date the right-of-way is granted by the Secretary of the Interior.
2. Consideration for the right-of-way is assessed at \$ 126,817.06 and shall be paid in full to the Controller of the Navajo Nation, in lawful money of the United States, and a copy of the receipt for such payment provided to the Navajo Nation Minerals Department, or its successor, within ten (10) days of approval of and consent to the grant of the right-of-way by the Navajo Nation..

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

On April 21, 2016, Bureau of Indian Affairs revised and implemented the updated Right-of-Way Regulations. As part of this update, a bond, insurance or alternative form of security is now required for all Right-of-Ways. The Bureau of Indian Affairs, pursuant to 25 CFR § 169.103 (f) (2), may waive the requirement "... for tribal land, deferring to the maximum extent possible, to the tribe's determination that a waiver of a bond, insurance or alternative form of security is in its best interest."

The Resources and Development Committee finds that the waiver of the requirement for a bond, insurance, or alternative form of security for all projects of the Continental Divide Cooperative, Incorporation requiring a Right-of-Way is in the best interest of the Navajo Nation.

The Resources and Development Committee hereby waives the requirement for a bond, insurance or alternative form of security for all projects of Continental Divide Cooperative, Incorporation requiring Right-of-Way, based on the determination that such a waiver is in the best interest of the Navajo Nation.

3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of construction, operation and maintenance of a 14.4/24.9 kV electrical distribution line. The Grantee may not develop, use or occupy the right-of-way for any other purpose, nor allow others to use or occupy the right-of-way for any other purpose, without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation. The Grantee may not develop, use or occupy the right-of-way for any unlawful purpose.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
  - a. Title 25, Code of Federal Regulations, Part 169; subject to the terms of this right-of-way.
  - b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly

identified cultural resources, including but not limited to archeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices;

- c. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., and the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq.; and
  - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq., Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
- 5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.
  - 6. The Grantee shall clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during any surface disturbance activities.
  - 7. The Grantee shall reclaim all surface lands disturbed related to the right-of-way, as outlined in a restoration and revegetation plan, which shall be approved by Navajo Nation Environmental Protection Agency (NNEPA) prior to any surface disturbance. The Grantee shall comply with all provisions of such restoration and revegetation plan and shall notify the Director of the NNEPA immediately upon completion of the surface disturbance activities so that a site inspection be can made.
  - 8. The Grantee shall at all times during the term of the right-of-way and at the Grantee's sole cost and expense, maintain the land subject to the right-of-way and all improvements located thereon and make all necessary and reasonable repairs.
  - 9. The Grantee shall obtain prior written permission to cross existing rights-of-way, if any, from the appropriate parties.
  - 10. The Grantee shall be responsible for and promptly pay all damages when they are sustained.
  - 11. The Grantee shall indemnify and hold harmless the Navajo Nation and the Secretary of the Interior and their respective authorized agents, employees, landusers and occupants, against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of right-of-way by the Grantee.
  - 12. The Grantee shall not assign, convey, transfer or sublet, in any manner whatsoever, the right-of-way or any interest therein, or in or to any of the improvements on the land subject to the right-of-way, without the prior written consent of the Navajo Nation and the Secretary of the Interior. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation.
  - 13. The Navajo Nation may terminate the right-of-way for violation of any of the terms and conditions stated herein. In addition, the right-of-way shall be terminable in whole or part by the Navajo Nation for any of the following causes:
    - a. Failure to comply with any terms and conditions of the grant or of applicable laws or regulations;

- b. A non-use of the right-of-way for the purpose for which it is granted for a consecutive two-year period; and
  - c. The use of the land subject to the right-of-way for any purpose inconsistent with the purpose for which the right-of-way is granted.
  - d. An abandonment of the right-of-way.
14. At the termination of this right-of-way, the Grantee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. Upon the written request of the Navajo Nation, the Grantee shall provide the Navajo Nation, at the Grantee's sole cost and expense, with an environmental audit assessment of the premises at least sixty (60) days prior to delivery of said premises.
15. Holding over by the Grantee after the termination of the right-of-way shall not constitute a renewal or extension thereof or give the Grantee any rights hereunder or in to the land subject to the right-of-way or to any improvements located thereon.
16. The Navajo Nation and the Secretary shall have the right, at any reasonable time during the term of the right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any improvements located thereon.
17. By acceptance of the grant of right-of-way, the Grantee consents to the full territorial legislative, executive and judicial jurisdiction of the Navajo Nation, including but not limited to the jurisdiction of the Navajo Nation, including but not limited to the jurisdiction of levy fines and to enter judgments for compensatory and punitive damages and injunctive relief, in connection with all activities conducted by the Grantee within the Navajo Nation or which have a proximate (legal) effect on persons or property within the Navajo Nation.
18. By acceptance of the grant of right-of-way, the Grantee covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision shall be construed to negate or impair federal responsibilities with respect to the land subject to the right-of-way or to the Navajo Nation.
19. Any action or proceeding brought by the Grantee against the Navajo Nation in connection with or arising out of the terms and conditions of the right-of-way shall be brought only in the Courts of the Navajo Nation, and no such action or proceeding shall be brought by the Grantee against the Navajo Nation in any court of any state.
20. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.
21. Except as prohibited by applicable federal law, the law of the Navajo Nation shall govern the construction, performance and enforcement of the terms and conditions contained herein.
22. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of

the Grantee, and the term "Grantee," whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.

23. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the right-of-way and all lands burdened by the right-of-way, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the right-of-way; and the right-of-way and all lands burdened by the right-of-way shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.
24. The Navajo Nation reserves the right to grant rights-of-way within the right-of-way referenced herein for utilities, provided that such rights-of-ways do not unreasonably interfere with the Grantee's use of the right-of-way.

X:\DOCSTORE3\NRU\Unit\Unit Shared Folder\NRU\DNR\Land\ROW\T&C\2017-11-13 FORM Standard NN ROW T&C for Trust Land

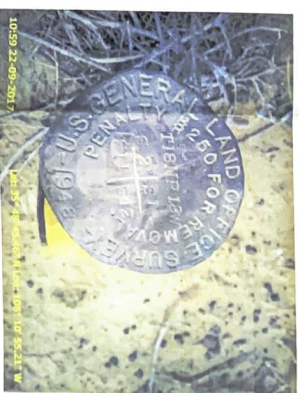






# BECENTI CHAPTER RIGHTS-OF-WAY ELECTRIC DISTRIBUTION PROJECT MONUMENT TIES

Station	Distance (ft)	Bearing
10	32.238.1	N 31°47'55"W
11	32.604.2	N 34°51'55"W
12	32.625.1	N 35°13'56"W
13	33.033.2	N 30°43'32"W
14	18.970.7	N 35°44'13"W
15	18.976.4	N 10°35'25"W
16	18.629.5	N 35°44'2"E
17	22.915.1	N 31°48'36"E
18	21.892.1	N 35°40'54"E
19	22.802.7	N 37°3'19"E
20	19.035.4	N 37°58'29"E
21	19.044.4	N 57°10'52"E
22	19.080.1	N 57°21'58"E
23	18.783.7	N 68°7'32"E
24	20.292.9	N 67°29'25"E
25	23.191.4	N 85°7'39"E
26	21.522.4	N 83°23'27"E
27	21.510.4	S 71°30'48"W
28	8.425.3	S 71°33'10"W
29	7.754.0	S 69°36'19"W
30	5.841.6	S 76°54'49"E
31	2.284.5	N 87°0'16"E
32	3.874.3	N 81°38'40"E
33	4.835.0	N 79°41'E
34	4.899.9	S 63°13'22"E
35	5.526.1	S 12°46'E
36	6.75.3	S 69°12'28"E
37	2.514.6	S 65°34'44"E
38	21.341.3	S 18°34'20"E
39	7.600.6	S 45°58'20"E
40	10.050.5	S 45°39'28"E
41	7.642.2	S 25°52'5"W
42	14.619.4	S 20°16'E
43	10.401.6	S 19°50'35"E
44	9.416.2	S 76°41'E
45	11.926.4	S 13°21'11"E
46	12.119.2	S 2°48'29"E
47	10.581.1	S 33°46'45"E
48	12.037.0	S 36°41'35"E
49	11.891.5	S 27°42'57"E
50	14.248.8	S 22°23'49"E
51	15.519.5	S 15°38'39"W
52	14.826.7	S 13°54'26"W
53	14.326.7	S 14°41'29"W
54	15.133.2	S 19°54'4"W
55	15.174.9	S 10°36'29"W
56	16.483.9	S 13°52'1"W
57	16.031.7	S 16°23'45"E
58	20.831.5	S 29°47'42"E
59	17.189.7	S 29°12'26"E
60	17.976.7	S 27°40'30"E
61	16.803.9	S 18°53'17"E
62	17.464.3	S 24°42'00"E
63	17.468.3	S 17°43'17"E
64	18.314.4	S 37°34'20"E
65	17.365.6	



BECENTI CHAPTER  
RIGHTS-OF-WAY  
ELECTRIC DISTRIBUTION PROJECT



Continental Divide Electric Coop, Inc  
Grants, NM

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A - 1

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Date: 8/1/2018

# BECENTI CHAPTER RIGHTS-OF-WAY ELECTRIC DISTRIBUTION PROJECT POWER LINE LOCATION BY LAND TYPE AND PLSS

	Length (ft)	Length (mi)	Area (acres)
= 1A - 260812	3,000.57	0.57	1.42
Section 12 T18N R13W	493.57	0.10	0.24
= 1A - 260813	491.27	0.10	0.24
Section 12 T18N R13W	2,686.04	0.52	1.29
= 1A - 260834	2,686.04	0.52	1.29
Section 18 T18N R12W	24.35	0.01	0.02
= 1A - 261007	24.35	0.01	0.02
Section 20 T19N R12W	2,098.31	0.42	1.03
= 1A - 261009	2,098.31	0.42	1.03
Section 20 T19N R12W	2,587.97	0.50	1.20
= 1A - 261036	2,587.97	0.50	1.20
Section 24 T18N R13W	5,273.50	1.03	2.49
= 1A - 261037	5,273.50	1.03	2.49
Section 24 T18N R13W	3,246.06	0.63	1.53
= 1A - 261083	3,246.06	0.63	1.53
Section 30 T18N R12W	2,455.34	0.47	1.18
= 1A - 261094	2,455.34	0.47	1.18
Section 30 T18N R12W	99.66	0.02	0.06
= 1A - 280248	99.66	0.02	0.06
Section 03 T18N R12W	339.75	0.07	0.17
= 1A - 694	339.75	0.07	0.17
Section 26 T19N R12W	1,807.21	0.35	0.85
= 1A - 715	1,807.21	0.35	0.85
Section 08 T19N R13W	673.59	0.13	0.32
= 1A - 726	673.59	0.13	0.32
Section 10 T18N R13W	1,922.64	0.37	0.89
= 1A - 728	1,922.64	0.37	0.89
Section 10 T18N R13W	44.56	0.01	0.03
= 1A - 856	44.56	0.01	0.03
Section 23 T19N R13W	1,813.41	0.35	0.84
= 1A - 883	1,813.41	0.35	0.84
Section 22 T18N R13W	19,181.08	3.75	9.10
= NAVAJO TRIBAL TRUST	2,560.08	0.51	1.24
Section 03 T18N R12W	3,998.92	0.79	1.90
Section 07 T18N R12W	194.07	0.04	0.10
Section 08 T19N R13W	2,579.83	0.49	1.20
Section 17 T19N R13W	8,546.81	1.65	4.01
Section 19 T18N R12W	397.41	0.08	0.19
Section 20 T18N R12W	298.91	0.06	0.15
Section 23 T19N R13W	323.24	0.07	0.16
Section 29 T19N R12W	292.81	0.06	0.15
Section 32 T19N R12W	11,750.78	2.31	5.38
= PLO 2198	1,633.64	0.33	0.80
Section 01 T18N R13W	5,656.06	1.09	2.83
Section 11 T18N R13W	17.40	0.01	0.02
Section 12 T18N R13W	1,292.19	0.26	0.63
Section 23 T18N R13W	2,421.38	0.48	1.15
Section 25 T18N R13W	730.12	0.14	0.35
Grand Total	59,496.09	11.61	28.24

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Continental Divide Electric Coop, Inc  
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**BECENTI CHAPTER  
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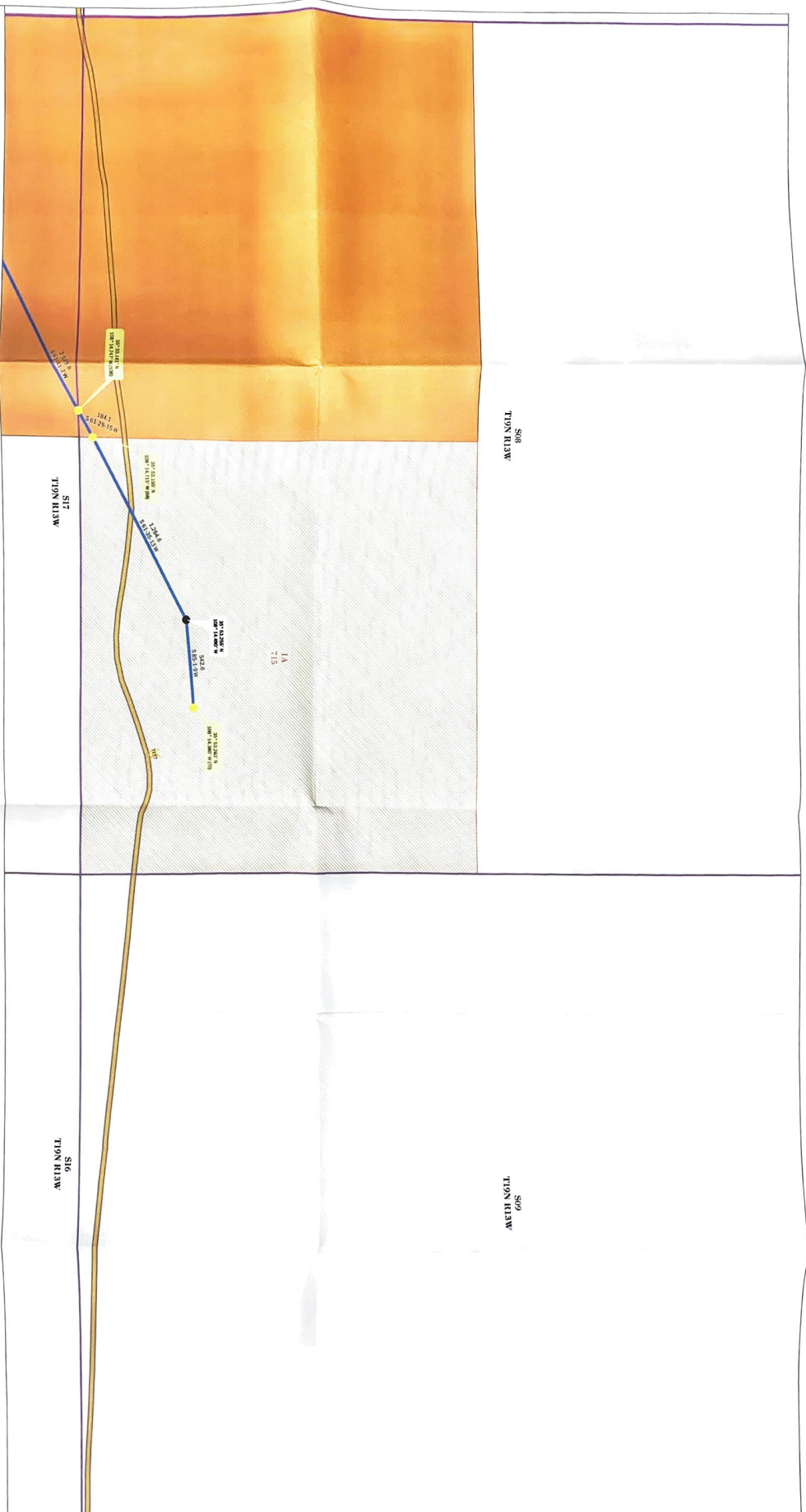


**Continental Divide Electric Coop, Inc  
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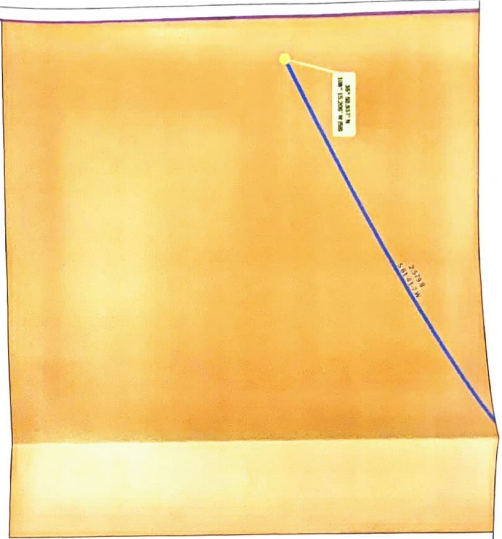
- ROW Request
- PASS Sections
- LA
- Navajo Tribal Trust
- P.O. 2138

Sheet No.  
**1**

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S16  
T19N R13W

S16  
T19N R13W

**BECENTI CHAPTER  
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**Continental Divide Electric Coop, Inc  
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- ROW Request
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- Navajo Tribal Trust
- PLD 2198

W  
E  
N  
S  
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2

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**BECENTI CHAPTER  
RIGHTS-OF-WAY  
ELECTRIC DISTRIBUTION PROJECT**



**Continental Divide Electric Coop, Inc  
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- ROW Request
- ▨ PLSS Sections
- ▨ 1A
- ▨ Navajo Tribal Trust
- ▨ PUO 2198

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**3**

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S21  
T10N R13W

S22  
T10N R13W

S23  
T10N R13W

1A  
R29

30' L.A.M. 1/8  
30' L.A.M. 1/8  
30' L.A.M. 1/8  
44.8  
517.3-2198  
517.3-2198  
228.9

-  ROW Request
-  PLSS Sections
-  IA
-  Navajo Tribal Trust
-  PLO 2198

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100  
RIVER BLVD

100  
RIVER BLVD

100  
RIVER BLVD



**RECENT CHAPTER**  
**RIGHTS-OF-WAY**  
**ELECTRIC DISTRIBUTION PROJECT**








**Continental Divide Electric Coop, Inc**  
**Grants, NM**

- R/W Right-of-Way
- P.U.S. Sections
- R/W
- Right-of-Way
- P.U.S. Section

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-  ROW Request
-  PLSS Sections
-  IA
-  Navajo Tribal Trust
-  PLO 2198

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A vertical scale bar with tick marks at intervals of 130 units, labeled 0, 130, 260, 390, 520, 650, 780, 910, and 1,040. The unit "Feet" is written vertically at the bottom right of the scale.

S27  
T19N R12W

**S34**  
**T19N R12W**

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S27  
T10N R12W

30.7  
55.2  
120' x 400' in Fee  
120' x 400' in Fee  
120' x 400' in Fee

1A  
504

S26  
T10N R12W

S24  
T10N R12W

S25  
T10N R12W

**BECENTI CHAPTER  
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**Continental Divide Electric Coop, Inc  
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— ROW Request  
□ PLSS Sections  
□ 1A  
□ Navajo Tribal Trust  
□ PLD 2198

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S22  
T10N R12W

S33  
T10N R12W

S34  
T10N R12W

S25  
T18N R12W

S04  
T18N R12W

S03  
T18N R12W

1A  
200/240

**BECENTI CHAPTER  
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- ROW Request
- PLSS Sections
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**BECENTI CHAPTER  
RIGHTS-OF-WAY  
ELECTRIC DISTRIBUTION PROJECT**

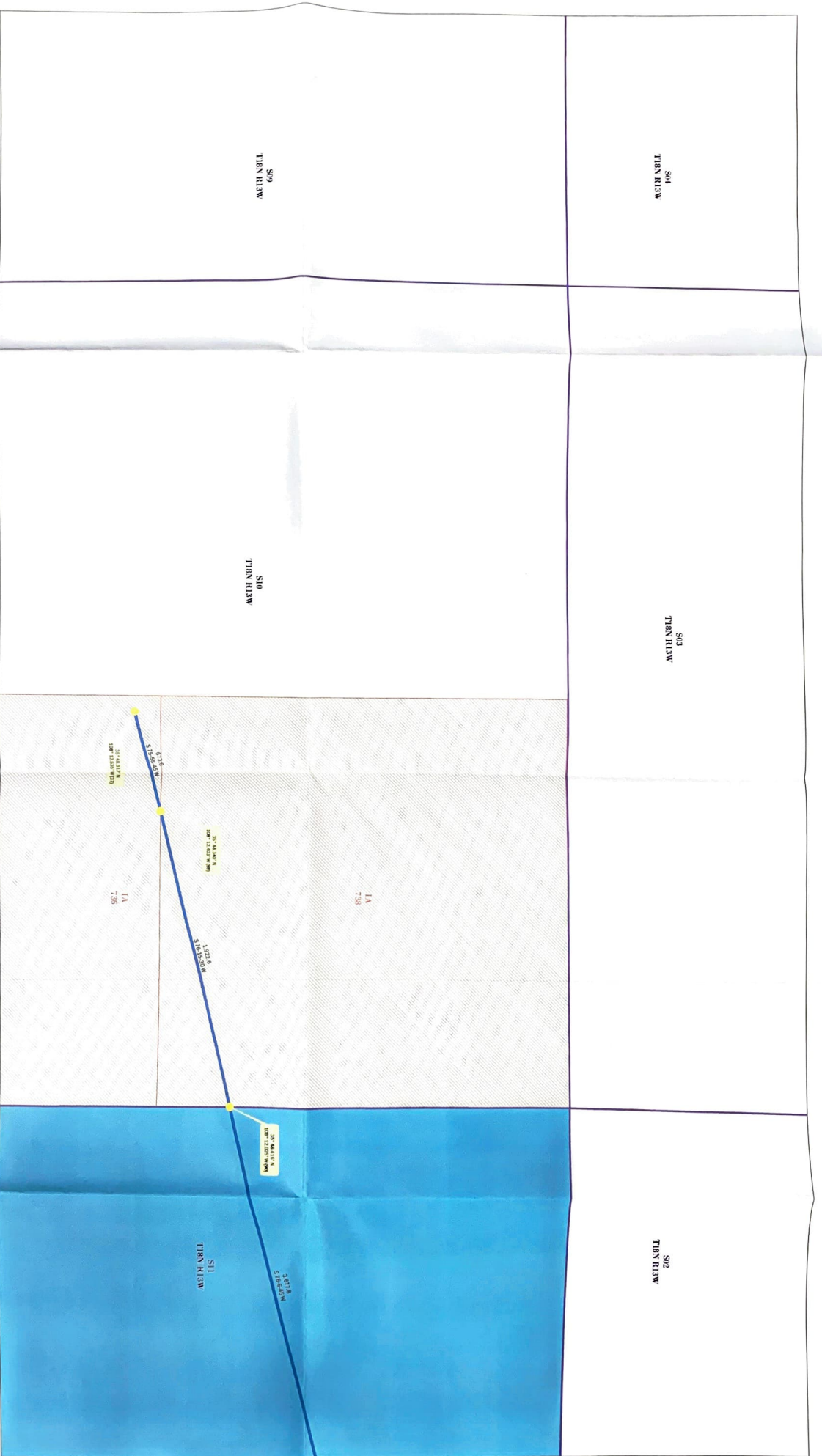


**Continental Divide Electric Coop, Inc  
Grants, NM**

- ROW Request
- PSS Sections
- 1A
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RIGHTS-OF-WAY  
ELECTRIC DISTRIBUTION PROJECT**

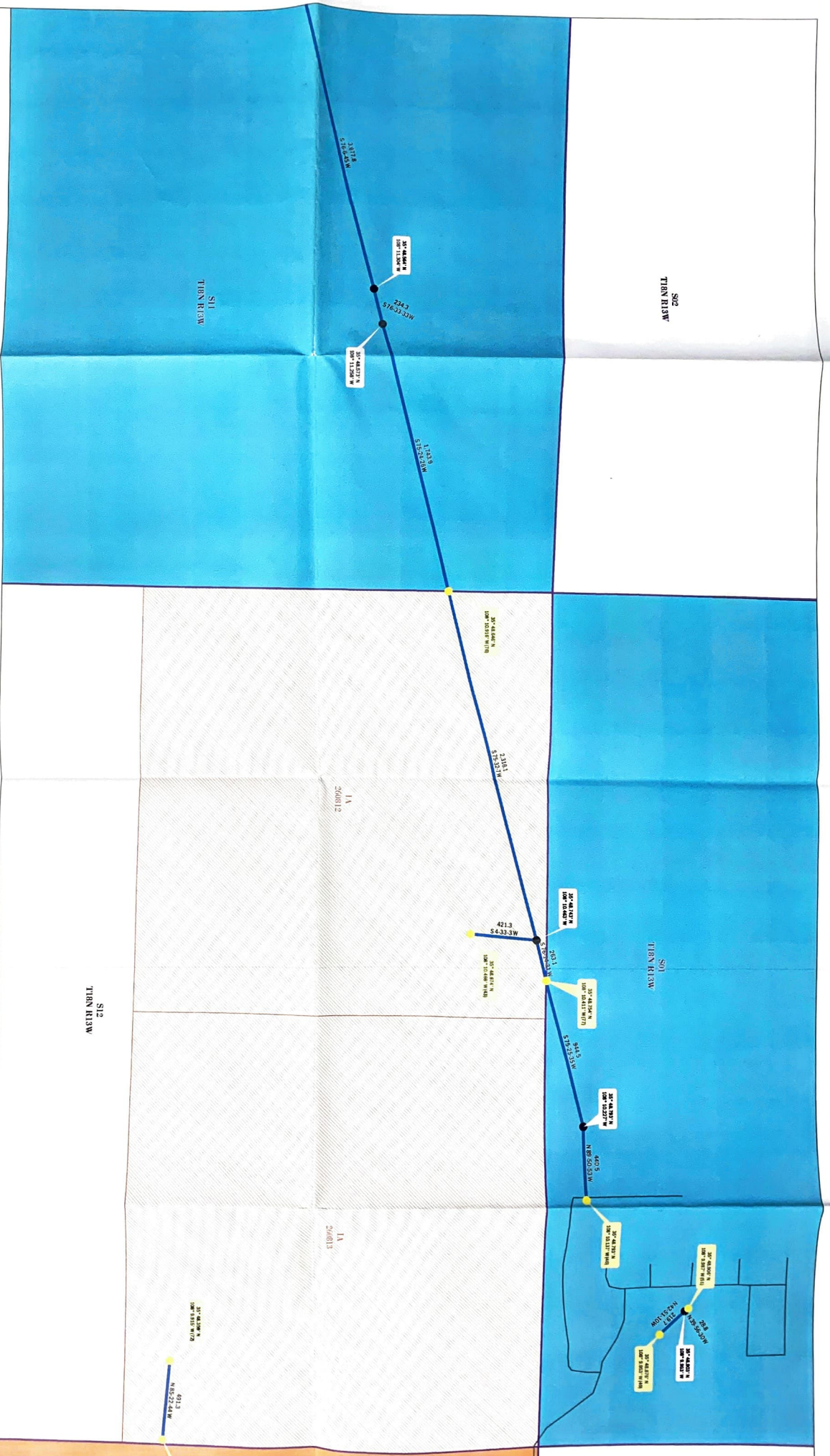


**Continental Divide Electric Coop, Inc  
Grants, NM**

- ROW Request
- PLSS Sections
- 1A
- Navajo Tribal Trust
- PLO 2198

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Checked by:  
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S05  
T18N R12W

S07  
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S08  
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**BECENTI CHAPTER  
RIGHTS-OF-WAY  
ELECTRIC DISTRIBUTION PROJECT**



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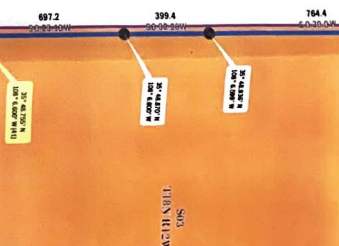
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**BECENTI CHAPTER  
RIGHTS-OF-WAY  
ELECTRIC DISTRIBUTION PROJECT**

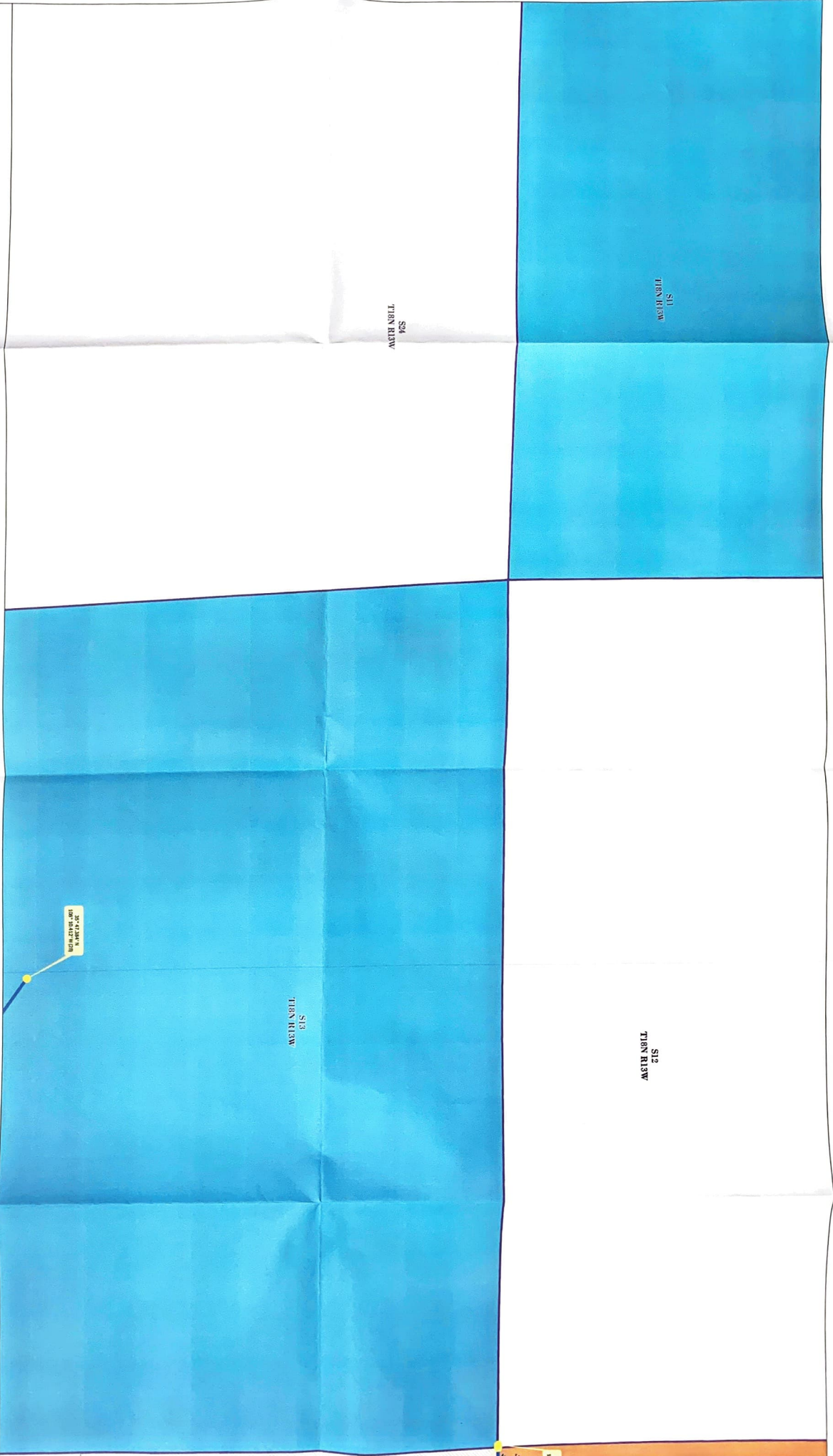


**Continental Divide Electric Coop, Inc  
Grants, NM**

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**BECENT CHAPTER  
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S16  
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S15  
T1EN R13W

S14  
T1EN R13W

S21  
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S22  
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**BECENTI CHAPTER  
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**BECENTI CHAPTER  
RIGHTS-OF-WAY  
ELECTRIC DISTRIBUTION PROJECT**

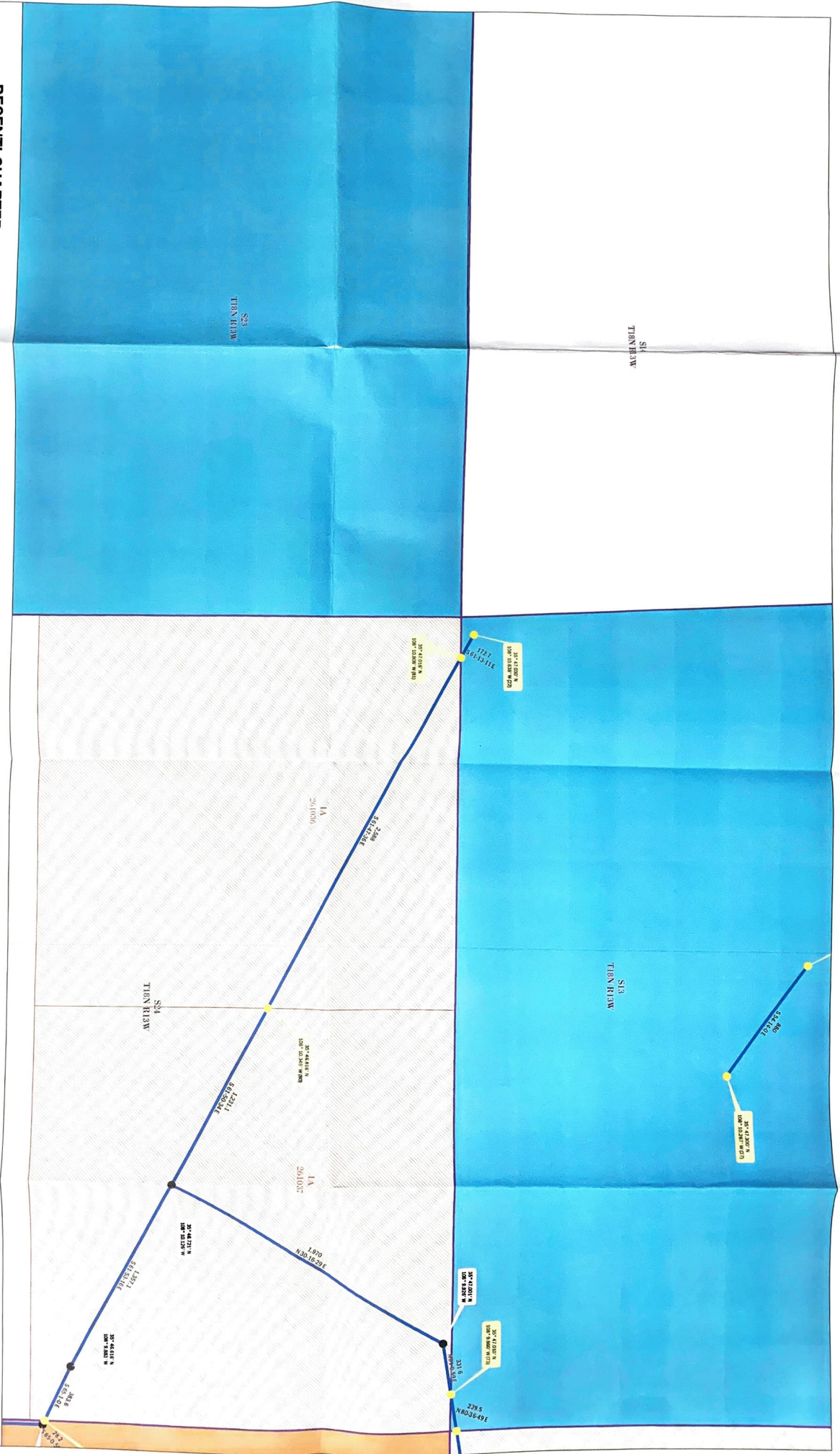


**Continental Divide Electric Coop, Inc  
Grants, NM**






- ROW Request
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Date: 8/1/18

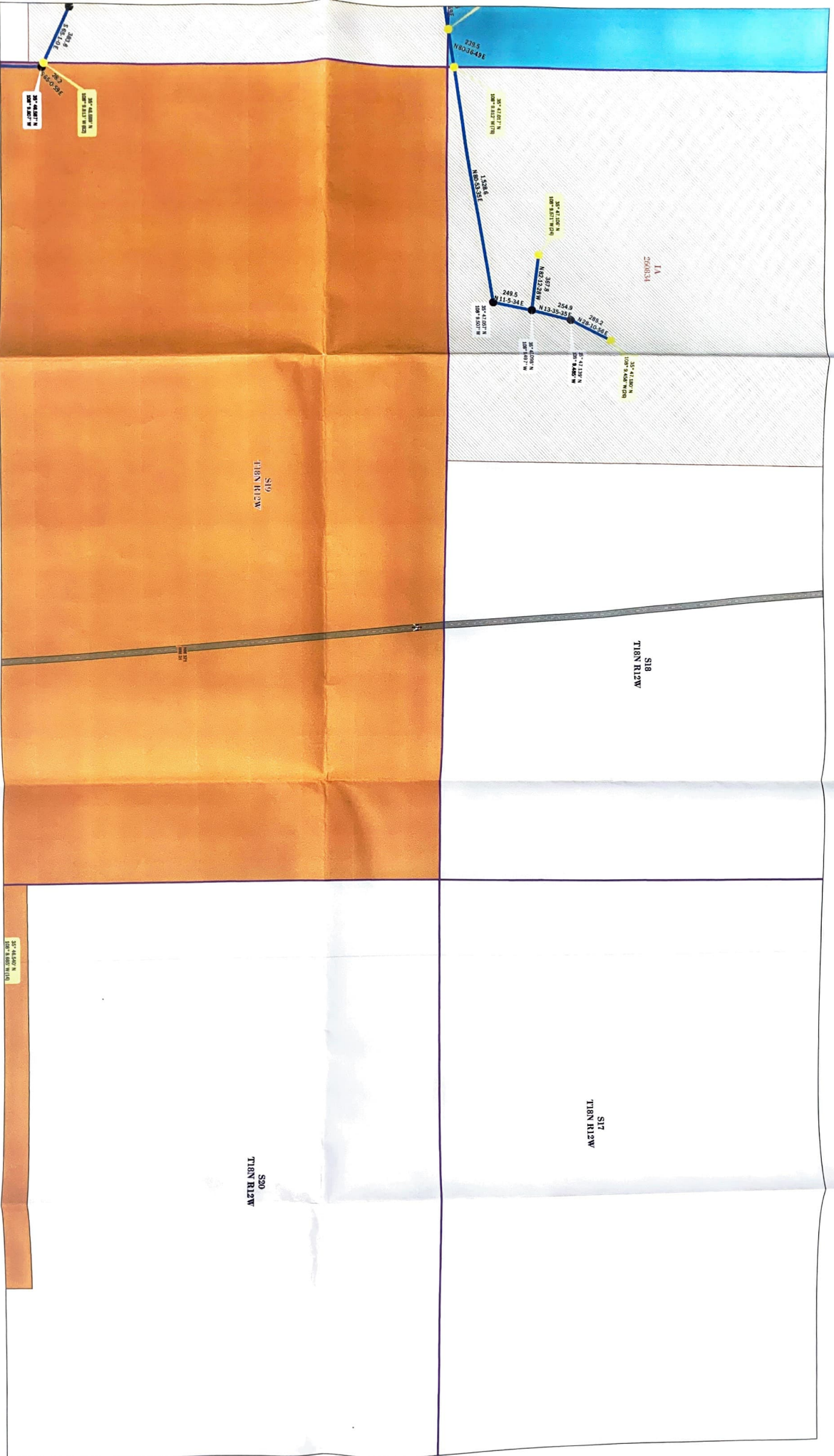




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-  Navajo Tribal Trust
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S27  
T18N R13W

S26  
T18N R13W

BECENTI CHAPTER  
RIGHTS-OF-WAY  
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**BECENTI CHAPTER  
RIGHTS-OF-WAY  
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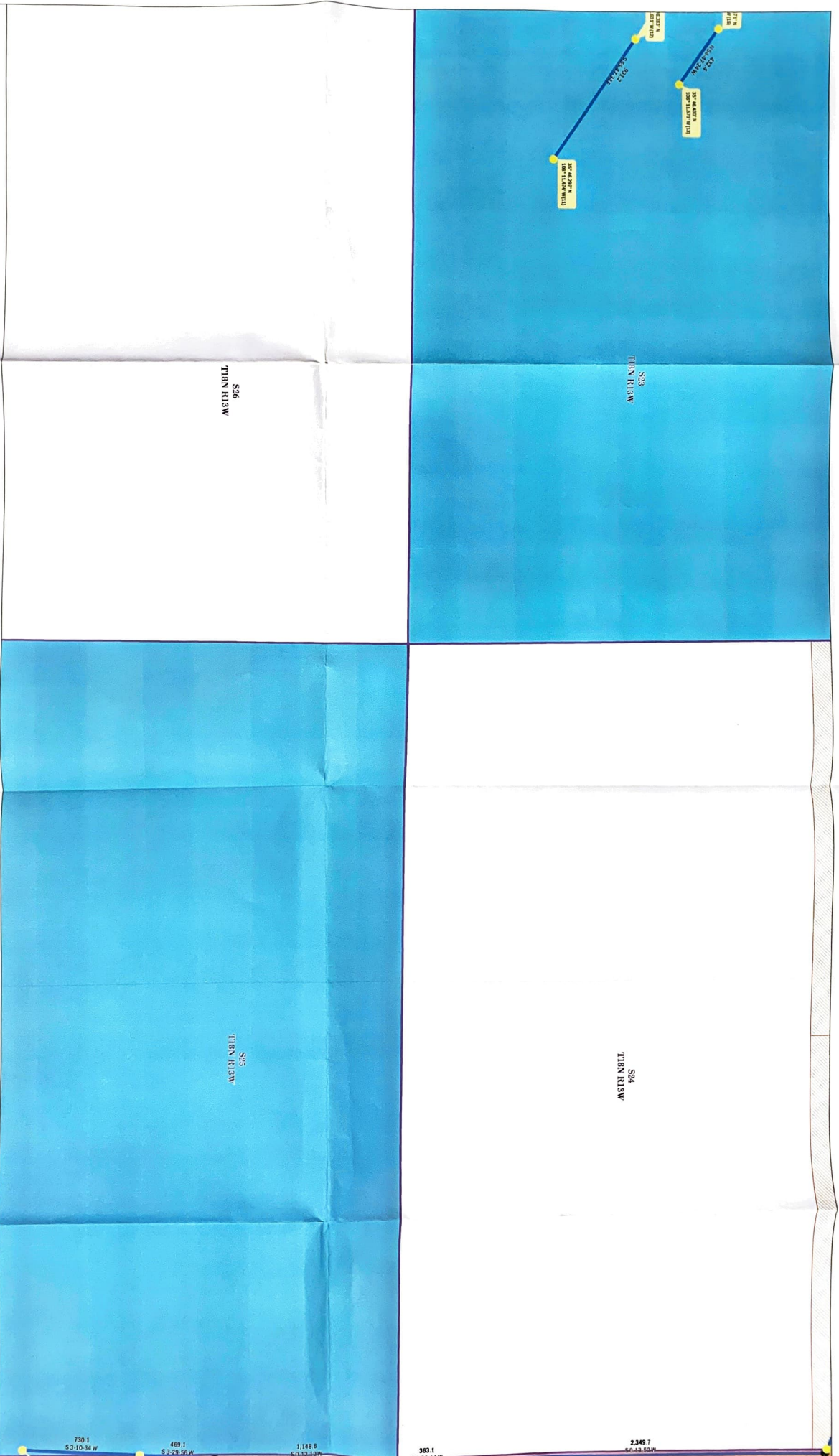


**Continental Divide Electric Coop, Inc  
Grants, NM**

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- Navajo Tribal Trust
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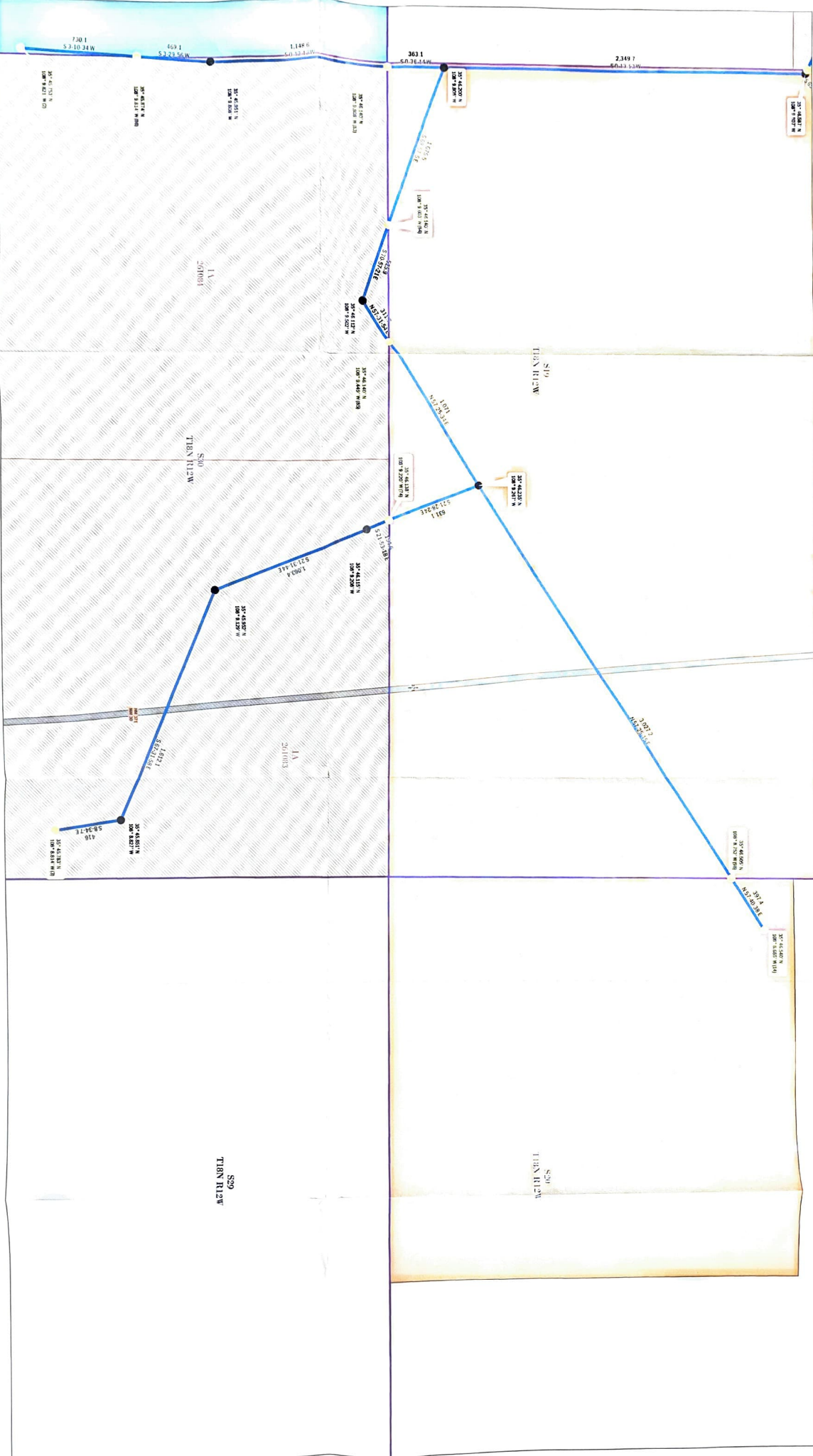
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Date: 8/1/18



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- Navajo Tribal Trust
- PLO 2198

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Date: 8/1/18





# CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.

200 E. High St. • P.O. Box 1087 • Grants, New Mexico 87020 • (505) 285 6656 • Fax (505) 287 2344



## Memorandum

Becenti Chapter District Land Board determined that consents are not required because there are no land users or grazing permittees within the line in question therefore consents are not necessary for the Becenti Reconciliation Project -(Construction, Operation, Maintenance of 1.44/24.9 kv Electrical/Fiber Optic Distribution Line and Appurtenances).

Grazing Committee or Land Board Member

Mikelle Lantana

2/4/2021

Date

20

District No.

Charmayne Hosteen – Office Assistant

2/4/2021

Date

Jonathan Perry – Becenti Chapter President

2-4-2021

Date



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Cooperatives

TOGETHER SAVE CUM





United States Department of the Interior  
BUREAU OF INDIAN AFFAIRS  
Navajo Regional Office  
P.O. Box 1060  
Gallup, New Mexico 87301



MC-465 BRANCH OF ENVIRONMENTAL QUALITY COMPLIANCE & REVIEW

JUL 24 2019

Steven Morales, GIS Analyst  
P.O. Box 1087  
Grants, New Mexico 87020

Dear Sir:

The Resource Management Plan (RMP), EA-19-042319-1, Continental Divide Electric Cooperative (CDEC) for RMP for the Existing CDEC Electric Powerline in Becenti Chapter, Navajo Nation in McKinley County, New Mexico was received April 23, 2019. The RMP for existing CDEC Electric Powerline in Becenti Chapter was reviewed by the Branch of Environmental Quality Act Compliance and Review, Navajo Region Office.

CDEC developed the RMP for an existing powerline to protect people, equipment, and the environment by ensuring safe and reliable operation of the existing utility system in the vicinity of Becenti Chapter in McKinley County, New Mexico. The proposed action requires a right-of-way on 22.66 acres of Navajo Trust land and Navajo Allotted lands by the BIA.

In accordance with Section 102 (2) (c) of the National Environmental Policy Act (NEPA) of the 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 Environmental Impact Statement (FONSI) is supported by the Environmental Assessment (EA) and the supporting appendices and documents.

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

Sincerely,

Bartholomew Stevens  
Regional Director, Navajo

Enclosure

**Finding of No Significant Impact**

The Resource Management Plan (RMP), EA-19-042319-1, CDEC for Resource Management Plan for Existing CDEC Electric Powerline in Becenti Chapter. Navajo Nation and Navajo Reservation; McKinley County, New Mexico

Based on the CDEC's RMP, EA-19-042319-1 for an existing powerline to protect people, equipment, and the environment by ensuring safe and reliable operation of the existing utility system in the vicinity of Becenti Chapter in McKinley County, New Mexico. The Region has determined that implementation of the proposed action and associated activities and environmental mitigation measures as specified in the CDEC's RMP for an existing powerline will have no significant impact on the quality of the human environment. In accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended, an Environmental Impact Statement will not be required.

This determination is supported by the following findings:

1. Agency and Tribal Interdisciplinary Team involvement was conducted and environmental issues related to development of The Resource Management Plan (RMP), EA-19-042319-1, CDEC's RMP for an existing CDEC Electric Powerline in Becenti Chapter, Navajo Nation in McKinley County, New Mexico were identified. Alternative course of action and mitigation measures were developed in response to environmental concerns and issues. No tribal community outreach/comment period was held. The "As Built" powerline has serve the Becenti Chapter since 1973.
2. The RMP discloses the environmental consequences of the "proposed action" and "no action" alternatives.
3. Protective measures will be levied to protect air (Clean Air Act, as amended, 42 USC 7401 et seq.), noise, and water quality (Clean Water Act, as amended, 33 U.S.C. 1251 et seq.), as outlined in the mitigation measures. The proposed project does not impede on the air quality which is monitored by the Navajo Nation EPA. The proposed project is outside any water tributaries, floodplains, and wetlands. There are no springs, natural water sources or perennial water sources present within the immediate vicinity.
4. The proposed action will not jeopardize threatened or endangered species (Endangered Species Act, as amended; 16 U.S.C. 1531 et seq.) The Navajo Nation Fish and Wildlife Department issued a Biological Resource Compliance Determination, NNDFW Review No. 18cdec03 on October 26, 2018 approving the proposed action will conditions for compliance as follows: [1] NNFW highly recommends that CDEC retrofits existing facilities for raptor safety as upgrades on the powerlines [2] CDEC will ensure that

surveys precede maintenance activity during Burrowing Owl and Mountain Plover breeding season of 01 Mar-15 Aug where suitable habitat exists along Powerline ROWs.

5. There are no adverse effects on historic properties for the purpose of 36 CFR 800.9(b) by preserving archeological value through conduct of appropriate research in accordance with applicable standards and guidelines (National Historic Preservation Act, as amended; 16 U.S.C. 470). Should undiscovered archeological remains be encountered during project ground-disturbing activities, work will stop and in accordance with the stipulations 36 CFR 800.11 will be followed.

The Navajo Nation Heritage/Historic Preservation Department (NNHHPD) issued a compliance letter dated November 16, 2018 stating "No Historic Properties Affected" with the following stipulations; CDEC will conduct 100% Class I and Class III cultural resource inventories of any ground disturbing activities resulting from maintenance or emergency repairs of the existing powerline or facilities.

In the event of a discovery of previously unidentified or incorrectly identified cultural resource(s), all operations in the immediate vicinity of the discovery must cease, and the NNHHPD must be notified (928)871-7880.

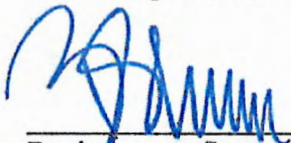
6. Impacts to public health and safety are mitigated through implementation of safety measures. The construction of the proposed project will not negatively impact the health or safety of the public.
7. The proposed action will not cause a significant effect to energy resources (Energy Policy Act of 2005), water resources, wetlands (E.O. 11990), or flood plains (E.O. 11988). The CDEC's RMP for an existing CDEC Electric Powerline in Becenti Chapter, Navajo Nation in McKinley County, New Mexico will not result in discharge of pollutants into waters of the U.S. or in surface water quality issues (Clean Water Act, as amended; 33 U.S.C. 1251 et seq.) **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. Corps of Engineers and the Navajo Nation EPA. Based on the EA, this project will not cross any major drainages or washes or span any waters of the U.S. CDEC shall contact Ms.**



Leanna Martinez, 401 Coordinator/Senior Environmental Protection Specialist with the Navajo Nation Environmental Agency-Water Quality/NPDES Department, before construction begins to ensure that permits are not needed for this project because the proposed project will cross several intermittent washes.

8. The cumulative effects of the environment are mitigated to avoid or minimize effects of implementation of the proposed project.
9. The proposed action would improve the economic and social conditions of the affected Indian community. The existing "As Built" powerline will continue to enhance communication and quality of life for the Becenti community residents by providing access to powerline and telecommunication infrastructure.
10. The proposed action does address Indian Trust Asset which is to minimize negative impacts (direct, indirect and cumulative) to the Navajo Nations forest resources, an approved Tribal forest product harvesting permit, Bureau of Indian Affairs forest product harvesting permit and/or contract will be issued to the Permittee and/or Contractor prior to any forest product harvesting activities on Tribal Trust Land; this includes harvest of non-native tree species (e.g., tamarisk, Russian olive). Best management practices will be identified within the Standard Provisions and Special Provisions developed by the Navajo Forestry Department and Bureau of Indian Affairs and attached to the permit and/or contract.
11. The proposed action will not have significant impacts on natural and unique geographic features such as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild and scenic rivers; national natural landmarks; sole or prime drinking water aquifers; prime and unique farmlands, wetlands, floodplains; national monuments; migratory birds; and other ecologically significant areas.
12. The proposed action will not produce highly controversial effects on the quality of the human environment, and will not have unresolved conflicts concerning alternate uses of available resources.
13. The proposed action will not have highly uncertain effects on the human environment or involve unique or unknown risks.
14. The proposed action will not establish a precedent for future actions with significant effects or represent a decision in principle about a consideration.
15. The proposed action is not related to other actions with individually insignificant but cumulatively significant environmental effects.

16. There will be no disproportionately high and adverse human health or environmental effects on minority or low-income communities (Environmental Justice E.O. 12898; Title VI of the Civil Rights Act of 1964).
17. The proposed action will not affect American Indian Religious Freedom (42 USC 1996). The action will not limit access to, and ceremonial use of, Indian sacred sites on federal lands, by Indian religious practitioners, and/or adversely affect the physical integrity of such sites (Native American Graves Protection and Repatriation Act, 25 USC 32).
18. The action will not contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area, or may promote the introduction, growth, or expansion of the range of such species.
19. The proposed action will not contribute to the disposal of solid or hazardous waste (Resource Conservation and Recovery Act of 1976; 43 USC 6901, et seq.).
20. The proposed action will not threaten a violation of federal, local, or tribal law or requirements imposed for the protection of the environment.



Bartholomew Stevens  
Regional Director, Navajo  
Bureau of Indian Affairs  
U.S. Department of the Interior



Date



# THE NAVAJO NATION

## HERITAGE & HISTORIC PRESERVATION DEPARTMENT



Russell Begaye  
PRESIDENT

Jonathan Nez  
VICE-PRESIDENT

November 7, 2018

Steven Morales – GIS Analyst/ROW  
Continental Divide Electric Cooperative, Inc.  
PO Box 1087  
Grants, New Mexico 87020

**RE: CULTURAL RESOURCES CONTINGENCY PLAN FOR THE EXISTING CONTINENTAL DIVIDE ELECTRIC COOPERATIVE ELECTRIC (CDEC) POWERLINE IN BECENTI CHAPTER, NAVAJO NATION**

Dear Mr. Morales:

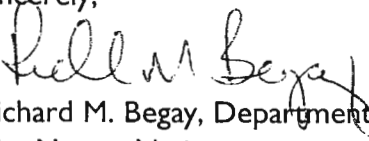
The Navajo Nation Heritage & Historic Preservation Department (NNHHPD) has reviewed the Cultural Resources Contingency Plan (plan) for the Existing CDEC Powerline in Becenti Chapter. The plan allows CDEC to obtain right-of-way for their existing power lines and it will protect and manage the cultural resources in accordance with Federal and Navajo Nation Laws. The power lines, transmission lines and substations have been in place since 1973.

Pursuant to the Cultural Resources Contingency Plan, NNHHPD approves the terms and conditions outlined in the plan and no further work is necessary in obtaining a right-of-way within the existing powerline corridor. ROW on the measures: PLO 2198 Land - 11,750.78-ft/12.31 miles/5.58 Acres; Indian Allotted Land - 28,564.23-ft/15.55 miles/13.56 Acres; Tribal Trust Land - 19,181.08-ft/13.75 miles/ 9.10 Acres, all within a 20-foot width right-of-way.

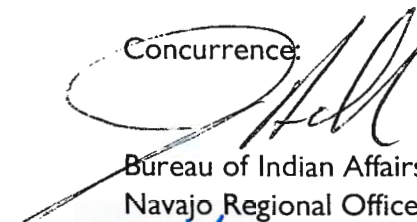
With the understanding that these are existing lines and the operator CDEC intends to obtain official right-of-way for existing facilities, there is no need for construction or maintenance or surface disturbance associated with the project at this time. However, if there will be any surface disturbance within the ROW for maintenance or emergency repairs for areas not previously inventoried within the APE, a cultural resource file search - Class I and a Class III 100% cultural resources pedestrian survey will be initiated in consultation with the NNHPD.

If you have any questions, or need more clarification, please do not hesitate to call Tamara Billie at 928/871-7198, or by email at [tbillie@navajo-nsn.gov](mailto:tbillie@navajo-nsn.gov).

Sincerely,

  
Richard M. Begay, Department Manager/THPO  
The Navajo Nation  
Heritage & Historic Preservation Department

Concurrence:

  
Bureau of Indian Affairs  
Navajo Regional Office



# NNHP

Navajo Natural Heritage Program

PO BOX 1480  
Window Rock, AZ 86515

P 928.871.6472  
F 928.871.7603

[www.nndfw.org](http://www.nndfw.org)

18cont101

17-October-2018

Steven Morales - GIS Analyst / ROW  
Continental Divide Electric Cooperative, Inc.  
200 E. High St.  
PO Box 1087  
Grants, NM 87020

## SUBJECT: CDEC Becenti Chapter Power Lines

Steven Morales,

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

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

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

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

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



ESA candidate, NESL group 4 status, and species listed on the Sensitive Species List. Please be aware of these species during surveys and inform the NNDFW of observations. Reported observations of these species and documenting them in project planning and management is important for conservation and may contribute to ensuring they will not be up listed in the future.

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

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

### Species

AQCH = Aquila chrysaetos / Golden Eagle NESL G3

BURE = Buteo regalis / Ferruginous Hawk NESL G3

**\*\*All or parts of this project currently are within areas protected by the Raptor Electrocutation Prevention Regulations; consult with NNDFW zoologist or EA Reviewer for more information and recommendations.**

## 2. Potential Species

### Species

ANAM = Antilocapra americana / Pronghorn NESL G3

AQCH = Aquila chrysaetos / Golden Eagle NESL G3

ATCU = Athene cunicularia / Burrowing Owl NESL G4

BURE = Buteo regalis / Ferruginous Hawk NESL G3

CHMO = Charadrius montanus / Mountain Plover NESL G4

MUNI = Mustela nigripes / Black-footed Ferret NESL G2 FE

VUMA = Vulpes macrotis / Kit Fox NESL G4

## 3. Quadrangles (7.5 Minute)

### Quadrangles

Antelope Lookout Mesa (35108-G2) / NM

Becenti Lake (35108-G1) / NM

Milk Lake (35108-H2) / NM

Red Lake Well (35108-H3) / NM

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

SITE	EO1MI	EO3MI	QUAD	MSO	POTS	RCP
Power Line	BURE	BURE	Antelope Lookout Mesa (35108-G2) / NM	None	ANAM, AQCH, ATCU, BURE, CHMO, MUNI, VUMA	Area 3

SITE	EO1MI	EO3MI	QUAD	MSO	POTS	RCP
Power Line	None	AQCH, BURE	Beceñti Lake (35108-G1) / NM	None	ANAM, AQCH, ATCU, BURE, CHMO, VUMA	Area 3
Power Line	None	None	Milk Lake (35108-H2) / NM	None	AQCH, ATCU, BURE, CHMO, VUMA	Area 3
Power Line	None	None	Red Lake Well (35108-H3) / NM	None	AQCH, ATCU, BURE, CHMO, VUMA	Area 3

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

**A. Biological Resource Land Use Clearance Policies and Procedures (RCP)** - The purpose of the RCP is to assist the Navajo Nation government and chapters ensure compliance with federal and Navajo laws which protect, wildlife resources, including plants, and their habitat resulting in an expedited land use clearance process. After years of research and study, the NNDFW has identified and mapped wildlife habitat and sensitive areas that cover the entire Navajo Nation.

The following is a brief summary of six (6) wildlife areas:

1. **Highly Sensitive Area** – recommended no development with few exceptions.
2. **Moderately Sensitive Area** – moderate restrictions on development to avoid sensitive species/habitats.
3. **Less Sensitive Area** – fewest restrictions on development.
4. **Community Development Area** – areas in and around towns with few or no restrictions on development.
5. **Biological Preserve** – no development unless compatible with the purpose of this area.
6. **Recreation Area** – no development unless compatible with the purpose of this area.

**None** - outside the boundaries of the Navajo Nation

This is not intended to be a full description of the RCP please refer to the our website for additional information at [www.nndfw.org/clup.htm](http://www.nndfw.org/clup.htm).

**B. Raptors** – If raptors are known to occur within 1 mile of project location: Contact the NNHP zoologist at 871-7070 regarding your evaluation of potential impacts and mitigation.

**Golden and Bald Eagles** - If Golden or Bald Eagle are known to occur within 1 mile of the project, decision makers need to ensure that they are not in violation of the *Golden and Bald Eagle Nest Protection Regulations* found at [www.nndfw.org/nnhp/docs\\_reps/gben.pdf](http://www.nndfw.org/nnhp/docs_reps/gben.pdf).

**Ferruginous Hawks** – Refer to *Navajo Nation Department of Fish and Wildlife's Ferruginous Hawk Management Guidelines for Nest Protection* ([www.nndfw.org/nnhp/docs\\_reps.htm](http://www.nndfw.org/nnhp/docs_reps.htm)) for relevant information on avoiding impacts to Ferruginous Hawks within 1 mile of project location.

**Mexican Spotted Owl** - Please refer to the *Navajo Nation Mexican Spotted Owl Management Plan* ([www.nndfw.org/nnhp/docs\\_reps.htm](http://www.nndfw.org/nnhp/docs_reps.htm)) for relevant information on proper project planning near/within spotted owl protected activity centers and habitat.

**C. Surveys** – Biological surveys need to be conducted during the appropriate season to ensure they are complete and accurate please refer to NN Species Accounts [www.nndfw.org/nnhp/sp\\_account.htm](http://www.nndfw.org/nnhp/sp_account.htm). Surveyors on the Navajo Nation must be permitted by the Director, NNDFW. Contact Jeff Cole at (928) 871-6450 for permitting procedures. Questions pertaining to surveys should be directed to the NNDFW the NNHP Zoologist for animals, and the NNHP Botanist for plants. Questions regarding biological evaluation should be directed to Jeff Cole at 871-6450.

**D. Oil/Gas Lease Sales** – Any settling or evaporation pits that could hold contaminants should be lined and covered. Covering pits, with a net or other material, will deter waterfowl and other migratory bird use. Lining pits will protect ground water quality.

**E. Power line Projects** – These projects need to ensure that they do not violate the regulations set forth in the *Navajo Nation Raptor Electrocution Prevention Regulations* found at [www.nndfw.org/nnhp/docs\\_reps/repr.pdf](http://www.nndfw.org/nnhp/docs_reps/repr.pdf).

**F. Guy Wires** – Does the project design include guy wires for structural support? If so, and if bird species may occur in relatively high concentrations in the project area, then guy wires should be equipped with highly visual markers to reduce the potential mortality due to bird-guy wire collisions. Examples of visual markers include aviation balls and bird flight diverters. Birds can be expected to occur in relatively high concentrations along migration routes (e.g., rivers, ridges or other distinctive linear topographic features) or where important habitat for breeding, feeding, roosting, etc. occurs. The U.S. Fish and Wildlife Service recommends marking guy wires with at least one marker per 100 meters of wire.

**G. San Juan River** – On 21 March 1994 (Federal Register, Vol. 59, No. 54), the U.S. Fish and Wildlife Service designated portions of the San Juan River (SJR) as critical habitat for *Ptychocheilus lucius* (Colorado pikeminnow) and *Xyrauchen texanus* (Razorback sucker). Colorado pikeminnow critical habitat includes the SJR and its 100-year floodplain from the State Route 371 Bridge in T29N, R13W, sec. 17 (New Mexico Meridian) to Neskahai Canyon in the San Juan arm of Lake Powell in T41S, R11E, sec. 26 (Salt Lake Meridian) up to the full pool elevation. Razorback sucker critical habitat includes the SJR and its 100-year floodplain from the Hogback Diversion in T29N, R16W, sec. 9 (New Mexico Meridian) to the full pool elevation at the mouth of Neskahai Canyon on the San Juan arm of Lake Powell in T41S, R11E, sec. 26 (Salt Lake Meridian). All actions carried out, funded or authorized by a federal agency which may alter the constituent elements of critical habitat must undergo section 7 consultation under the Endangered Species Act of 1973, as amended. Constituent elements are those physical and biological attributes essential to a species conservation and include, but are not limited to, water, physical habitat, and biological environment as required for each particular life stage of a species.

**H. Little Colorado River** - On 21 March 1994 (Federal Register, Vol. 59, No. 54) the U.S. Fish and Wildlife Service designated Critical Habitat along portions of the Colorado and Little Colorado Rivers (LCR) for *Gila cypha* (humpback chub). Within or adjacent to the Navajo Nation this critical habitat includes the LCR and its 100-year floodplain from river mile 8 in T32N R6E, sec. 12 (Salt and Gila River Meridian) to its confluence with the Colorado River in T32N R5E sec. 1 (S&GRM) and the Colorado River and 100-year floodplain from Nautuloid Canyon (River Mile 34) T36N R5E sec. 35 (S&GRM) to its confluence with the LCR. All actions carried out, funded or authorized by a federal agency which may alter the constituent elements of Critical Habitat must undergo section 7 consultation under the Endangered Species Act of 1973, as amended. Constituent elements are those physical and biological attributes essential to a species conservation and include, but are not limited to, water, physical habitat, and biological environment as required for each particular life stage of a species.



**I. Wetlands** – In Arizona and New Mexico, potential impacts to wetlands should also be evaluated. The U.S. Fish & Wildlife Service's National Wetlands Inventory (NWI) maps should be examined to determine whether areas classified as wetlands are located close enough to the project site(s) to be impacted. In cases where the maps are inconclusive (e.g., due to their small scale), field surveys must be completed. For field surveys, wetlands identification and delineation methodology contained in the "Corps of Engineers Wetlands Delineation Manual" (Technical Report Y-87-1) should be used. When wetlands are present, potential impacts must be addressed in an environmental assessment and the Army Corps of Engineers, Phoenix office, must be contacted. NWI maps are available for examination at the Navajo Natural Heritage Program (NNHP) office, or may be purchased through the U.S. Geological Survey (order forms are available through the NNHP). The NNHP has complete coverage of the Navajo Nation, excluding Utah, at 1:100,000 scale; and coverage at 1:24,000 scale in the southwestern portion of the Navajo Nation. In Utah, the U.S. Fish & Wildlife Service's National Wetlands Inventory maps are not yet available for the Utah portion of the Navajo Nation, therefore, field surveys should be completed to determine whether wetlands are located close enough to the project site(s) to be impacted. For field surveys, wetlands identification and delineation methodology contained in the "Corps of Engineers Wetlands Delineation Manual" (Technical Report Y-87-1) should be used. When wetlands are present, potential impacts must be addressed in an environmental assessment and the Army Corps of Engineers, Phoenix office, must be contacted. For more information contact the Navajo Environmental Protection Agency's Water Quality Program.

**J. Life Length of Data Request** – The information in this report was identified by the NNHP and NNDFW's biologists and computerized database, and is based on data available at the time of this response. If project planning takes more than two (02) years from the date of this response, verification of the information provided herein is necessary. It should not be regarded as the final statement on the occurrence of any species, nor should it substitute for on-site surveys. Also, because the NNDFW information is continually updated, any given information response is only wholly appropriate for its respective request.

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

## 6. Personnel Contacts

### Wildlife Manager

Sam Diswood  
928.871.7062  
[sdiswood@nndfw.org](mailto:sdiswood@nndfw.org)

### Zoologist

Chad Smith  
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[csmith@nndfw.org](mailto:csmith@nndfw.org)

### Botanist

Nora Talkington  
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### Biological Reviewer

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### GIS Supervisor

Dexter D Prall  
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### Wildlife Tech

Sonja Detsoi  
928.871.6472  
[sdetsoi@nndfw.org](mailto:sdetsoi@nndfw.org)

## 7. Resources

### Navajo Endangered Species List:

[www.nndfw.org/nnhp/endorsed.htm](http://www.nndfw.org/nnhp/endorsed.htm)

### Species Accounts:

[www.nndfw.org/nnhp/sp\\_account.htm](http://www.nndfw.org/nnhp/sp_account.htm)

### Biological Investigation Permit Application

[www.nndfw.org/nnhp/study\\_permit.htm](http://www.nndfw.org/nnhp/study_permit.htm)

### Navajo Nation Sensitive Species List

[www.nndfw.org/nnhp/trackinglist.htm](http://www.nndfw.org/nnhp/trackinglist.htm)

### Various Species Management and/or Document and Reports

[www.nndfw.org/nnhp/docs\\_reps.htm](http://www.nndfw.org/nnhp/docs_reps.htm)

### Consultant List

[www.nndfw.org/bi\\_consult\\_list\\_2014.pdf](http://www.nndfw.org/bi_consult_list_2014.pdf)

*Dexter D Prall*

Digitally signed by Dexter D Prall  
DN: cn=Dexter D Prall, o=Navajo Nation  
Department of Fish and Wildlife, ou=Navajo  
Natural Heritage Program,  
email=prall@nndfw.org, c=US  
Date: 2018.10.17 14:57:43 -07'00'

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



**BIOLOGICAL RESOURCES COMPLIANCE FORM  
NAVAJO NATION DEPARTMENT OF FISH AND WILDLIFE  
P.O. BOX 1480, WINDOW ROCK, ARIZONA 86515-1480**

It is the Department's opinion the project described below, with applicable conditions, is in compliance with Tribal and Federal laws protecting biological resources including the Navajo Endangered Species and Environmental Policy Codes, U.S. Endangered Species, Migratory Bird Treaty, Eagle Protection and National Environmental Policy Acts. This form does not preclude or replace consultation with the U.S. Fish and Wildlife Service if a Federally-listed species is affected.

**PROJECT NAME & NO.:** Becenti Chapter "AS-BUILT" Right-of-Way

**DESCRIPTION:** CDEC proposes to obtain "As-Built" right-of-way for the continued operation & maintenance of the following power lines within Becenti Chapter:

**PLO 2198 Land:** 11,750.78 feet (2.31 miles) in length and 20 ft. in width or 5.58 acres

**Indian Allotment:** 28,564.23 feet (5.55 miles) in length and 20 ft. in width or 13.56 acres

**Tribal Trust:** 19, 181.08 feet (3.75 miles) in length and 20 ft. in width or 9.10 acres

**LOCATION:** Becenti Chapter, McKinley County, New Mexico

**REPRESENTATIVE:** Steve Morales, Continental Divide Electric Cooperative, Inc. (CDEC)

**ACTION AGENCY:** Bureau of Indian Affairs and Navajo Nation

**B.R. REPORT TITLE / DATE / PREPARER:** Request for review & compliance/17 OCT 2018/Steve Morales

**SIGNIFICANT BIOLOGICAL RESOURCES FOUND:** Area 3. ROWs are located in Cumulative Raptor Sensitive Areas (CRSA) for BURE. Potential habitat is present for ATCU and CMHO.

**POTENTIAL IMPACTS**

**NESL SPECIES POTENTIALLY IMPACTED:** [1] *Buteo regalis* (Ferruginous Hawk) G3, MBTA; [2] *Athene cunicularia* (Burrowing Owl) G4, MBTA; [3] *Charadrius montanus* (Mountain Plover), G4, MBTA.

**FEDERALLY-LISTED SPECIES AFFECTED:** NA

**OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES:** NA

**AVOIDANCE / MITIGATION MEASURES:** [1] The NNDFW highly recommends that CDEC retrofits existing facilities for raptor safety as upgrades occur on the power lines; [2] CDEC will ensure that surveys precede maintenance activity during the Burrowing Owl and Mountain Plover breeding season of 01 MAR-15 AUG where suitable habitat exists along the power line ROWs.

**CONDITIONS OF COMPLIANCE\*:** NA

**FORM PREPARED BY / DATE:** Pamela A. Kyselka/25 OCT 2018



COPIES TO: (add categories as necessary)

☐ \_\_\_\_\_ ☐ \_\_\_\_\_

**2 NTC § 164 Recommendation:**

Signature

Date

☒ Approval

☐ Conditional Approval (with memo)

☐ Disapproval (with memo)

☐ Categorical Exclusion (with request letter)

☐ None (with memo)

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



10/26/18

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

Representative's signature

Date

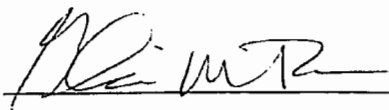


# THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT  
JONATHAN NEZ VICE PRESIDENT

## MEMORANDUM

TO : David Mikesic, Zoologist  
Department of Fish and Wildlife

FROM :   
Gloria M. Tom, Director  
Department of Fish and Wildlife

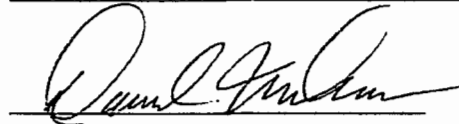
DATE : October 23, 2018

SUBJECT : **DELEGATION OF AUTHORITY**

I will be on travel beginning Tuesday, October 23, 2018 to Friday, October 26, 2018. I am hereby delegating you to act in the capacity of the Director, Department of Fish and Wildlife, effective 8:00 a.m. on Tuesday, October 23, 2018. This delegation shall end at 5:00 p.m. on Friday, October 26, 2018.

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

## ACKNOWLEDGEMENT



David Mikesic, Zoologist  
Department of Fish and Wildlife



# CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.



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

## **Cultural Resources Contingency Plan for the Existing CDEC Electric Powerline in Becenti Chapter on The Navajo Nation**

*Prepared by: Continental Divide Electric Cooperative, Inc. October 2018*



A Touchstone Energy Cooperative





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# 1. INTRODUCTION

## A. BACKGROUND AND PURPOSE

Continental Divide Electric Cooperative, Inc. (CDEC) has served the Becenti Chapter Area since January 9<sup>th</sup>, 1973. These existing CDEC facilities have been constructed, maintained, and operated for more than 45 years at the request of the community members and the Navajo Nation Tribe. Many lines were built on a gentleman's hand shake and the proper paper work was never formally submitted. CDEC has strived to comply with Federal, State, County, Local and Navajo Nation laws, policies and regulations.

This Cultural Resources Contingency Plan (CRCP) is to allow CDEC to obtain right-of-way for their existing power lines and it will protect and manage the cultural resources within and along CDEC's right-of-way for activities in the Becenti Chapter area. The purpose of this CRCP is to address **Existing Facilities** not new construction. There are 196-member accounts that make up the Becenti Chapter community, which include Becenti Chapter House, Senior Center, NHA Housing, Community Water Wells and Individual Homes. The Existing Facilities are located on The Navajo Nation Becenti Chapter Tribal Trust Land, PLO 2198 Land and Indian Allotments in the Eastern Navajo Agency, McKinley County, in the State of New Mexico. Becenti Chapter is roughly 34 miles North of Thoreau, NM. The Area of Potential Effect or the "As-Built" right-of-way consists of **PLO 2198 Land 11,750.78 feet (2.31 Miles) with 5.58 Acres, Indian Allotment Land 28,564.23 feet (5.55 Miles) with 13.56 Acres, Tribal Trust Land 19,181.08 feet (3.75 Miles) with 9.10 Acres with a 20-foot width right-of-way.** The CRCP will allow the continued operation of the power lines and cultural resource clearance for existing right-of-way (Refer to Maps Section).

As expected that the electrical service for the community will continue to provide a positive economic impact. Less frequent trips to Crownpoint, NM will be required. For example, refrigerators will allow greater quantities of food to be purchased and kept fresh; washing machines will eliminate the need for trips to laundromats. Not only will this reduce the amount of money spent on fuel for automobiles, but also wear on vehicles from traveling over the unimproved roads in the area. Electricity will allow families to enjoy entertainment and educational opportunities provided by television and radio in the comfort of their own homes. The quality of life will be significantly be improved.

## **2. PERTINENT LAWS, REGULATIONS, AND GUIDELINES**

### **A. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) 42 U.S.C. § 4321 ET SEQ. (1969)**

The National Environmental Policy Act was signed into law on January 1, 1970. NEPA requires federal agencies to assess the environmental effects of their proposed actions prior to making decisions. The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality. [42 U.S.C. 4321]

### **B. NATIONAL HISTORIC PRESERVATION ACT of 1969, AS AMENDED**

Legislation intended to preserve historical and archaeological sites in the United States of America. The act created the National Register of Historic Places, the list of National Historic Landmarks, and the State Historic Preservation Offices and Tribal Historic Preservation Offices.

#### **1. SECTION 106 CONSULTATION**

Section 106 of the National Historic Preservation Act (NHPA), requires Federal agencies take into account the effect of their undertakings on historic properties and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment.

Due to the fact that the Area of Potential Effect (APE) is within existing infrastructure and ground disturbance is not anticipated at this time, NNHPD concurs that a cultural resources file search (Class I) and a Class III (inventory ground survey) does not need to be included in the scope of appropriate identification efforts at this time. However, if there will be any surface disturbance within the ROW for maintenance or emergency repairs, the APE will be identified and a cultural resources file search and a Class III Cultural Resources Inventory Survey will be initiated. NNHPD will be consulted throughout the whole process.

### **C. NAVAJO NATION CULTURAL RESOURCES PROTECTION ACT (19 N.N.C § 1001 ET.SEQ) AND THE NAVAJO NATION POLICY TO PROTECT TRADITIONAL CULTURAL PROPERTIES (2010)**

It is the policy under the Navajo Nation Cultural Resources Protection Act (CRPA), in cooperation with the states, federal government, other Indian Tribes, and private organizations and individuals to use appropriate measures to foster conditions under



which our modern society and our cultural resources can coexist in productive harmony and fulfill the social, economic and other requirements of present and future generations; provide leadership in the preservation of cultural resources of the Navajo Nation; Administer Navajo Nation-owned, administered or controlled cultural resources in a spirit of stewardship and for the inspiration of present and future generations; Contribute to the preservation of non-Navajo Nation-owned cultural resources and give maximum encouragement to organizations and individuals undertaking preservation by private means; Encourage the public and private preservation and utilization of usable elements of the Navajo Nation's stock of historic buildings and structures.

The Navajo Nation Policy to protect Traditional Cultural Properties outlines procedures for identifying sacred places, for determining how concerned Navajo people think particular development projects will affect those places, and for learning about the protection measures that concerned Navajo people think should be used.

#### **D. CULTURAL RESOURCE CONTINGENCY PLAN**

Routine Maintenance activities are limited to existing powerlines with a 20-ft wide right-of-way and travel on existing road ways. When ground disturbing activities (i.e. new power pole installation, new roads) are anticipated, or if future subsurface disturbance is needed for maintenance or repairs, CDEC will collaborate with NNHPD to determine the next steps to mitigate the effects of the undertaking on historic properties to identify historic properties in the area of potential effect in accordance with Federal and Navajo Nation Laws and policies.

If archaeological resources are found during the Class III Inventory surveys, the resources will be documented as an archaeological site, traditional cultural property or an isolated find based on NNHPD recommendations. The site boundary, datum, features, and artifact concentrations will be recorded with the aid of a global positioning system (GPS) unit. A site sketch map will be drawn for each location. Sites will be marked on project area maps which will be supplied to NNHPD.

The archaeologist will make National Register of Historic Places (NRHP) eligibility determinations for all recorded resources. NRHP recommendations will follow procedures set forth under the NNHPD Section 106 Guidelines. All cultural resources will be evaluated for significance using NRHP criteria found in 36 CFR 60.4. the NNHPD will be consulted throughout the process for mitigation or avoidance measures.

### **3. LAND USE**

#### **A. TOPOGRAPHIC AREA**

At an elevation that averages around 6,600 feet amsl, the area is characterized as a Sagebrush Ecosystem. Refer to Pictures 1 and 2 in the Picture Section. Rangeland, grazing

and family home sites are the dominant land uses in the project area. The land is used for family gatherings, recreation and traditional ceremonies. Local families have traditionally occupied the area for generations and have constructed roads, housing, hogans and livestock corrals. There are paved and dirt roads that lead to the homes. The community infrastructure has water pipelines, wells and electric service lines. The electric lines are used to pump water to tanks that the community uses. Since the Existing Electric Lines are already in place existing roads would be used.

## **4. FACILITIES**

Continental Divide Electric Cooperative, Inc. facilities include the following:

- Wood Poles
- Overhead Transformers sizes vary (NO PCB'S)
- Overhead Conductor Single Phase 14.4/24.9 kilovolt
- Secondary Overhead Conductor
- Electric Meter
- Street Lights
- Guy wires
- Anchors
- Insulators / Epoxilators
- Cross arms
- Overhead Protection Equipment
  - Fuses
  - Switches
  - Bird Protection Perches

CDEC continues to practice the United States Department of Agriculture Rural Utilities Service Bulletin 1730-01 which contains guidelines and standard practices of the operation and maintenance of the system. See online Bulletin: [http://www.rd.usda.gov/files/UEP Bulletin 1730-1.pdf](http://www.rd.usda.gov/files/UEP_Bulletin_1730-1.pdf)

## **5. ACTIVITIES**

### **A. NORMAL MAINTENANCE**

In the Becenti Chapter area CDEC has a special metering system, every month the meter sends a signal back to the substation that it is feeding from to get the customers reading. This system helps reduce CDEC traffic in the area. At least once a year a meter technician will conduct a site visit to ensure that all the meter equipment is working properly.

CDEC also provides customers with street lights. Occasionally the light bulbs go out and the crew is sent to change or upgrade the fixture. Traffic is minimal due to the majority

of the Street Lights that are located near customer driveways. CDEC is in compliance with New Mexico Night Sky Protection Act.

Occasionally Line Patrol is needed to evaluate mechanical issues. The Power Line Pole Inspectors usually rotate from area to area every 4 to 5 years. Common practices usually include binoculars and high-powered scopes to visually see equipment. Manual Crews hand climb poles in areas that are too sensitive for heavy equipment.

## **B. EMERGENCY ACTIVITIES**

Periodically there will be cases when CDEC will have Emergency Activities. In the instance one does occur, Crews will be dispatched to the area and an assessment of the situation will transpire. CDEC Crews will follow safety and protection protocol. Starting from Protection Devices in the area, Line Patrol will occur and the Crew will determine where the outage may have occurred. In some cases, a Pole may have broken, Protection Device tripped, Transformer hit by lightning, Unforeseeable Acts of Nature. Extreme weather events such as heavy rain, lightning, high winds, ice or heat can adversely impact the integrity of the overhead system, resulting in occasional interruptions of electric service. Since electricity is a critical element in our daily lives, prompt restoration is a customer expectation and CDEC's goal. In most cases, power interruption is usually a couple of hours at the most.

## **6. RESOURCE-PROTECTION PROCEDURES**

The Proposed Action should not have significant adverse impacts on Cultural Resources. No significant adverse impacts to the human environment have been identified in this Resource Management Plan. No permanent loss of native vegetation is anticipated. Native seed from wind-blown vegetation would also help propagate ground-level plant species. No long-term loss of vegetation or wildlife habitat is expected. Environmental consequences to the human environment (land, air, water, fauna, and flora) and cultural resources would not be significantly impacted. All maintenance shall be accomplished in a thorough and workmanlike manner. All applicable sections of the latest revision of the National Electrical Safety Code and National Electrical Code shall be followed in every case, except where local and tribal regulations are more stringent. Aerial drop wires of the parallel type shall be installed in accordance with REA Standards for Station Installations, PC-5A. Activities will not require or generate hazardous or toxic materials. Should unforeseen circumstances result in the generation of such materials, they shall be disposed of in compliance with all local, state, federal and tribal regulations.



## 7. CONCLUSIONS REGARDING SIGNIFICANCE

No major excavation or modification of the topography will be required. No irreversible or long-term impacts to the topography will result from BIA's approval of the requested rights-of-way.

Areas disturbed by activities may be reclaimed to existing conditions when and if the power line is no longer required. The proposed project will not have an effect on the soils.

No contamination or containment of surface water will result from the project. Surface drainages will not be diverted or blocked. The quality and quantity of surface waters will not be affected by the proposed action.

Fauna in the area will not be disturbed or displaced for extended periods of time. Disturbance will be of short duration, generally hours to half a day. Native habitat of flora and fauna will not be adversely affected.

No significant surface disturbance will occur and the Right-Of-Way will not be fenced. There will be no impact to the present use of the area for grazing.

Subscribers continuing to receive electrical services from CDEC will realize direct and indirect positive economic benefits and impacts.

No adverse impacts to the health or safety of the community will be impacted.

Neither archeological nor cultural resources will be impacted or affected by the proposed undertaking since all Power Lines are existing. In the event that an emergency situation shall occur such as a pole change out, all local, state, federal, and tribal regulations will be followed. If CDEC encounters findings, CDEC will immediately halt and the proper agencies will be notified. All this shall be done in a safe and workmanlike manner.

No threatened or endangered species, species of concern or their critical habitats will not be adversely affected by the project.

Construction work will be short term and noise from activities will not have an adverse effect on the environment and community.

Construction work will not have an effect on the air quality of the community.

## 8. REFERENCES

United States Department of Agriculture Rural Utilities Service Bulletin 1730-01. Online at [http://www.rd.usda.gov/files/UEP\\_Bulletin\\_1730-1.pdf](http://www.rd.usda.gov/files/UEP_Bulletin_1730-1.pdf)

U.S. Environmental Protection Agency. Online at <https://www.epa.gov/nepa/what-national-environmental-policy-act>.

National Historic Preservation Act of 1966. Online at <https://www.nps.gov/history/local-law/nhpa1966.htm>

The Navajo Nation Cultural Resources Protection Act CMY-19-88 Navajo Nation Code, Title 19 Chapter 11- Sections 1001-1061 § 1002. Policy

The Night Sky Protection Act. See The Legislature of the State of New Mexico 44<sup>th</sup> Legislature, 1<sup>st</sup> Session, LAWS 1999, and Chapter 197 House Bill 39, as amended.

United States Department of Agriculture, Rural Utilities Services, RUS Bulletin 1728F-803 (D-803) December 1998, Specifications and Drawings for 24.9/14.4 kv Line Construction

## 9. PICTURES

Picture #1



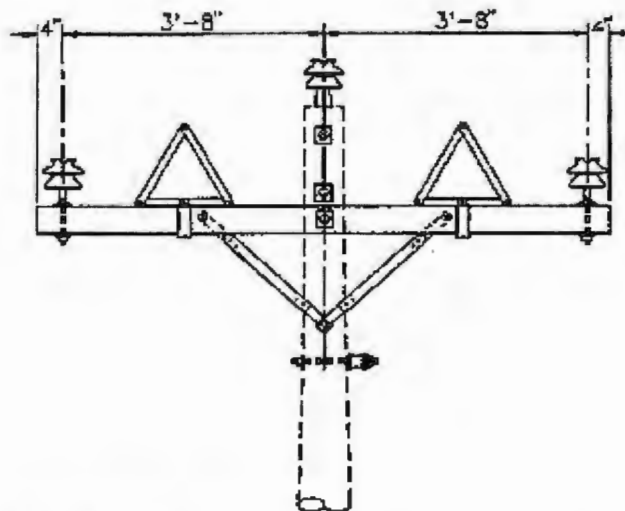
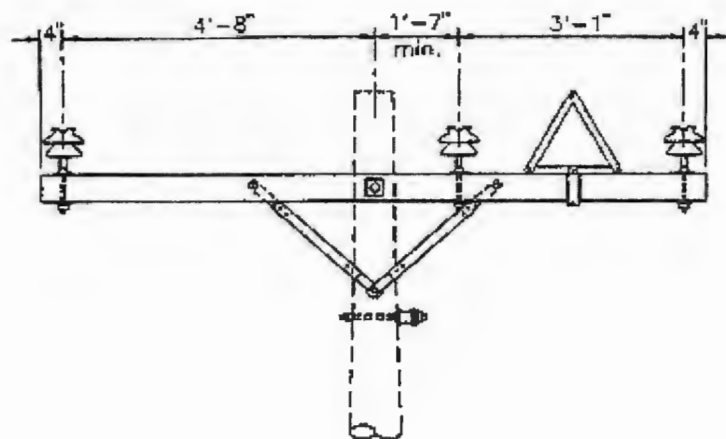
Picture #2



Picture #3







NOTE:

7. See "C1", "C2", "C3", and "VC2" drawings for additional construction details and materials.

DESIGN PARAMETERS:

RAPTOR PROTECTION  
PERCH GUARDS-GUIDE

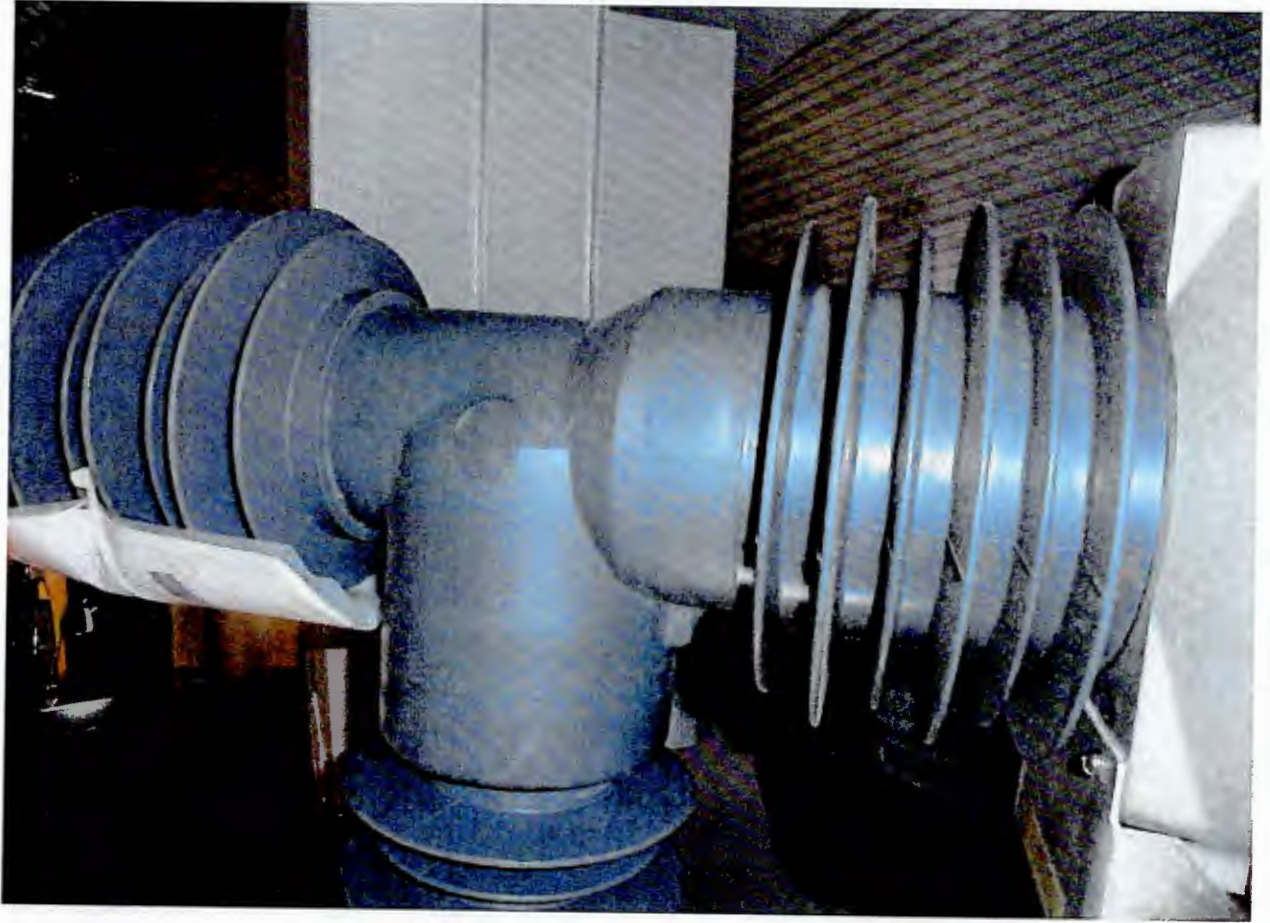
DEC 1998

RUS

3-PHASE PRIMARY  
24.9/14.4 kV

VP3.3G

Picture #4



Picture #5



## 10. DISCLAIMER

### Distribution Liability:

The data herein, include but not limited to geographic data, tabular data, analytical data, electronic data structures or files, are provided "as is" without warranty of any kind, either expressed or implied, or statutory, including, but not limited to, the implied warranties or merchantability and fitness for a particular purpose. The entire risk as to the quality and performance of the data is assumed by the user. No guarantee of accuracy is granted, nor is any responsibility for reliance thereon assumed. In no event shall Continental Divide Electric Co-Op (CDEC) be liable for direct, indirect, incidental, consequential or specific damages of any kind, including, but not limited to, loss of anticipated profits or benefits arising out of use of or reliance on the data or as a result of changes to the data caused by system transfers or other transformations or conversions, nor is there responsibility assumed to maintain the data in any manner or form.

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# CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.



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

## Resource Management Plan for Existing CDEC Electric Powerline in Becenti Chapter on Navajo Nation Band Land

Prepared by: Continental Divide Electric Cooperative, Inc. December 2018



A Touchstone Energy Cooperative



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# 1. INTRODUCTION

## 1.A BACKGROUND AND PURPOSE

Continental Divide Electric Cooperative, Inc. (CDEC) has served the Becenti Chapter Area since January 9<sup>th</sup>, 1973. These existing CDEC facilities have been constructed, maintained, and operated for more than 45 years at the request of the community members and the Navajo Nation Tribe. Many lines were built on a gentleman's hand shake and the proper paper work was never formally submitted. CDEC has strived to be in compliance with both Federal and The Navajo Nation laws and regulations.

The purpose of this RMP was requested by the BIA Navajo Regional office to outline the Resource-Protection Procedures that will be followed by CDEC's activities that may occur in the Becenti Chapter area. This plan is designed to protect people, equipment, property, and the environment by ensuring safe and reliable operation of the utility systems. This RMP is meant to address Existing Facilities not new construction. There are 196-member accounts that make up the Becenti Chapter community, which include Becenti Chapter House, Senior Center, NHA Housing, Community Water Wells and Individual Homes. The Existing Facilities are located on The Navajo Nation Becenti Chapter Tribal Trust Land, PLO 2198 Land and Indian Allotments in the Eastern Navajo Agency, McKinley County in the State of New Mexico. Becenti Chapter is roughly 34 miles North of Thoreau, NM. The Area of Potential Effect or the "As-Built" right-of-way would consist of **PLO 2198 Land 11,750.78 feet (2.31 Miles) with 5.58 Acres, Indian Allotment Land 28,564.23 feet (5.55 Miles) with 13.56 Acres, Tribal Trust Land 19,181.08 feet (3.75 Miles) with 9.10 Acres with a 20-foot width right-of-way.** Refer to Maps Section. Approval of the requested "As-Built" right-of-way will allow Continental Divide Electric Cooperative, Inc. the right of ingress and egress to construct, operate, maintain, repair, replace and remove, poles, wires, cables, conductors, markers and other necessary fixtures and appurtenances as may be required to provide electrical service to the community of Becenti Chapter.

It is expected that the electrical service for the community will continue to provide a positive economic impact. Less frequent trips to Crownpoint, NM will be required. For example refrigerators will allow greater quantities of food to be purchased and kept fresh; washing machines will eliminate the need for trips to laundromats. Not only will this reduce the amount of money spent on fuel for automobiles, but also wear on vehicles from traveling over the unimproved roads in the area. Electricity will allow families to enjoy entertainment and educational opportunities provided by television and radio in the comfort of their own homes. The quality of life will be significantly be improved.

## 2. PERTINENT LAWS, REGULATIONS, AND GUIDELINES

### 2.A NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) 42 U.S.C. § 4321 ET SEQ. (1969)

The National Environmental Policy Act was signed into law on January 1, 1970. NEPA requires federal agencies to assess the environmental effects of their proposed actions prior to making decisions. The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality. [42 U.S.C. 4321]

### 2.B NATIONAL HISTORIC PRESERVATION ACT

The Congress finds and declares that — (1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage; (2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people; (3) historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency; (4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans; (5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation; (6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and (7) although the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

### 2.C ENDANGERED SPECIES ACT

(b) PURPOSES.—The purposes of this Act are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program



for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (a) of this section.

## 2.D BALD AND GOLDEN EAGLE PROTECTION ACT

The bald eagle will continue to be protected by the Bald and Golden Eagle Protection Act even though it has been delisted under the Endangered Species Act. This law, originally passed in 1940, provides for the protection of the bald eagle and the golden eagle (as amended in 1962) by prohibiting the take, possession, sale, purchase, barter, offer to sell, purchase or barter, transport, export or import, of any bald or golden eagle, alive or dead, including any part, nest, or egg, unless allowed by permit (16 U.S.C. 668(a); 50 CFR 22). "Take" includes pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb (16 U.S.C. 668c; 50 CFR 22.3). The 1972 amendments increased civil penalties for violating provisions of the Act to a maximum fine of \$5,000 or one year imprisonment with \$10,000 or not more than two years in prison for a second conviction. Felony convictions carry a maximum fine of \$250,000 or two years of imprisonment. The fine doubles for an organization. Rewards are provided for information leading to arrest and conviction for violation of the Act.

## 2.E Migratory Bird Treaty Act

The Migratory Bird Treaty Act is a Federal law that carries out the United States' commitment to four international conventions with Canada, Japan, Mexico and Russia. Those conventions protect birds that migrate across international borders.

The take of all migratory birds, including bald eagles, is governed by the Migratory Birds Treaty Act's regulations. The Migratory Bird Treaty Act (MBTA) prohibits the taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests **except as authorized under a valid permit** (50 CFR 21.11). Additionally, the MBTA authorizes and directs the Secretary of the Interior to determine if, and by what means, the take of migratory birds should be allowed and to adopt suitable regulations permitting and governing take (for example, hunting seasons for ducks and geese).

Penalties under the MBTA include a maximum of two years imprisonment and \$250,000 fine for a felony conviction and six months imprisonment or \$5,000 fine for a misdemeanor conviction. Fines double if the violator is an organization rather than an individual.

The MBTA and its implementing regulations provide authority for the conservation of bald eagles and protect against take if the Endangered Species Act protections are removed.

## 2.F Navajo Endangered Species Regulations

Under 17 Navajo Nation Code(NNC) 507 (Endangered Species), the Navajo Resources Committee developed the Navajo Endangered Species List (NESL), which includes indigenous species determined to be endangered within the Navajo Nation (Resolution RCS-41-08).

## 2.G Navajo Nation Raptor Electrocution Prevention Regulations

The purpose of these regulations is to help protect threatened and endangered raptors on the Navajo Nation by establishing guidelines for all entities constructing power lines on the Navajo Nation to comply with raptor-safe power pole designs (as identified in the Avian Power Line Interaction Committee [APLIC] 1) within areas designated by the DFW as sensitive for raptors. These poles designs have proven to be effective at reducing electrocution of raptors, and will be implemented in areas most used by Navajo Nation's sensitive raptors. These areas were derived from known locations of nests for Golden Eagles (*Aquila chrysaetos*), Bald Eagles (*Haliaeetus leucocephalis*) and Ferruginous Hawks (*Buteo regalis*) on the Navajo Nation. Also included, are areas known to have concentrations of wintering raptors.

## 2.H Navajo Nation Biological Resource Land Use Clearance Policies and Procedures

The Resources Committee of the Navajo Nation Council is the legislative oversight of the Division of Natural Resources that includes the Navajo Nation Department of Fish & Wildlife (NNDFW). It has the responsibility and authority to adopt policies, procedures and regulations that protect the biological resources of the Navajo Nation. The Resources Committee, by Resolution No. RCMA-34-03, dated March 13, 2003, approved the Biological Resource Land Clearance Policies and Procedures formerly referred to as the BRLC. The purpose of the RCP is to assist the Navajo Nation government and chapters ensure compliance with federal and Navajo laws which protect, wildlife resources, including plants, and their habitat resulting in an expedited land use clearance process.

The NNDFW is established, "to conserve, protect, enhance and restore the Navajo Nation's fish, wildlife, plants and their habitat, through aggressive management programs for the spiritual, cultural and material benefit of present and future generations of the Navajo Nation". After years of research and study, the NNDFW has identified and mapped wildlife habitat and sensitive areas that cover the entire Navajo Nation.

The RCP Policies and Procedures will help direct development to areas where impacts to wildlife and/or their habitat will be less significant. Development includes but is not limited to human activities that result in permanent structures, temporary, long term, or repetitive disturbance to wildlife or habitat as defined by Navajo Nation Code 17 NNC § 500 et. Seq. This should increase certainty in planning and implementation of projects, while ensuring the perpetuation of wildlife resources for present and future generations. The entire Navajo Nation has been divided into six types of wildlife areas. These areas provide the framework for planning specific development projects, but site-specific planning to address wildlife resources will still be necessary, in most cases. This RCP Policies and Procedures explains what restrictions apply in each area and describes the process for the planning and approval of projects with respect to wildlife resources.

## 2.1 Navajo Nation Golden and Bald Eagle Nest Protection Regulations

The purpose of these regulations is to promote the conservation of breeding Eagles on the Navajo Nation by protecting their nests from human activities that may cause temporary or permanent disturbance. To help accomplish this, it is necessary to: 1. limit human-caused disturbances to nesting Eagles during the breeding season; 2. minimize impacts to known Breeding Areas, especially in terms of placement of permanent structures within designated buffers around Eagle nests; 3. avoid or minimize impacts to foraging habitats around Breeding Areas; giving specific consideration to prey diversity and densities; 4. minimize impacts over broad areas of the Eagles' range on the Navajo Nation; and 5. mitigate for unavoidable losses of nesting sites or habitat quality.

## 3. LAND USE

### 3.A TOPOGRAPHIC AREA

At an elevation of 6,600 feet amsl, the area is characterized as a Sagebrush Ecosystem. Refer to Pictures 1 and 2 in the Picture Section. Rangeland, grazing and family home sites are the dominant land uses in the project area. The land is used for family gatherings, recreation and traditional ceremonies. Local families have traditionally occupied the area for generations and have constructed roads, housing, hogans and livestock corrals. There are paved and dirt roads that lead to the homes. The community infrastructure has water pipelines, wells and electric service lines. The electric lines are used to pump water to tanks that the community uses. Since the Existing Electric Lines are already in place existing roads would be used.

## 4. FACILITIES

Continental Divide Electric Cooperative, Inc. facilities include the following:

- Wood Poles
- Overhead Transformers sizes vary (NO PCB'S)

- Overhead Conductor Single Phase 14.4/24.9 kilovolt
- Secondary Overhead Conductor
- Electric Meter
- Street Lights
- Guy wires
- Anchors
- Insulators / Epoxilators
- Cross arms
- Overhead Protection Equipment
  - Fuses
  - Switches
  - Bird Protection Perches

CDEC continues to practice the United States Department of Agriculture Rural Utilities Service Bulletin 1730-01 which contains guidelines and standard practices of the operation and maintenance of the system. See online Bulletin: [http://www.rd.usda.gov/files/UEP\\_Bulletin\\_1730-1.pdf](http://www.rd.usda.gov/files/UEP_Bulletin_1730-1.pdf)

## 5. ACTIVITIES

### 5.A Normal Maintenance

In the Becenti Chapter area CDEC has a special metering system, every month the meter sends a signal back to the substation that it is feeding from to get the customers reading. This system helps reduce CDEC traffic in the area. At least once a year a meter technician will conduct a site visit to ensure that all the meter equipment is working properly.

CDEC also provides customers with street lights. Occasionally the light bulbs go out and the crew is sent to change or upgrade the fixture. Traffic is minimal due to the majority of the Street Lights that are located near customer driveways. CDEC is in compliance with New Mexico Night Sky Protection Act.

Occasionally Line Patrol is needed to evaluate mechanical issues. The Power Line Pole Inspectors usually rotate from area to area every 4 to 5 years. Common practices usually include binoculars and high powered scopes to visually see equipment. Manual Crews hand climb poles in areas that are too sensitive for heavy equipment.

### 5.B Emergency Activities

Periodically there will be cases when CDEC will have Emergency Activities. In the instance one does occur, Crews will be dispatched to the area and an assessment of the situation will transpire. CDEC Crews will follow safety and protection protocol. Starting from Protection Devices in the area, Line



Patrol will occur and the Crew will determine where the outage may have occurred. In some cases a Pole may have broken, Protection Device tripped, Transformer hit by lightning, Unforeseeable Acts of Nature. Extreme weather events such as heavy rain, lightning, high winds, ice or heat can adversely impact the integrity of the overhead system, resulting in occasional interruptions of electric service. Since electricity is a critical element in our daily lives, prompt restoration is a customer expectation and CDEC's goal. In most cases, power interruption is usually a couple of hours at the most.

## 6. BIOLOGICAL RESOURCES COMPLIANCE FORM / CONCLUSIONS

It was determined that CDEC is in compliance with Tribal and Federal Laws protecting Biological Resources including the Navajo Endangered Species and Environmental Policy Codes, U.S. Endangered Species, Migratory Bird Treaty, Eagle Protection and National Environmental Policy Acts. Under the conditions of compliance light to heavy maintenance activity shall avoid the Burrowing Owl & Mountain Plover breeding season of 01- March to 15- August where suitable habitat is found within (1/4 mile). The Proposed ROW is within a Raptor Sensitive Area. CDEC will retrofit existing facilities for raptor safety as upgrades occur on the distribution lines per the Raptor Electrocutation Prevention Regulations stated above. Please refer to picture # 4 for Rural Utilities Service approved Perch Guards which are used on CDEC Electrical Power Lines. Also refer to picture's # 5-6 where special rubber bushing's cover shock areas.

## 7. RESOURCE-PROTECTION PROCEDURES

The Proposed Action should not have significant adverse impacts on the Biological Resource and the Environment. No significant adverse impacts to the human environment have been identified in this Resource Management Plan. No permanent loss of native vegetation is anticipated. Native seed from wind-blown vegetation would also help propagate ground-level plant species. No long-term loss of vegetation or wildlife habitat is expected. Environmental consequences to the human environment (land, air, water, fauna, and flora) and cultural resources would not be significantly impacted. All maintenance shall be accomplished in a thorough and workmanlike manner. All applicable sections of the latest revision of the National Electrical Safety Code and National Electrical Code shall be followed in every case, except where local and tribal regulations are more stringent. Aerial drop wires of the parallel type shall be installed in accordance with REA Standards for Station Installations, PC-5A. Activities will not require or generate hazardous or toxic materials. Should unforeseen circumstances result in the generation of such materials, they shall be disposed of on the compliance with all local, state, federal and tribal regulations.

## 8. CONCLUSIONS REGARDING SIGNIFICANCE

No major excavation or modification of the topography will be required. No irreversible or long term impacts to the topography will result from BIA's approval of the requested rights-of-way.

Areas disturbed by activities may be reclaimed to existing conditions when and if the power line is no longer required. The proposed project will not have an effect on the soils.

No contamination or containment of surface water will result from the project. Surface drainages will not be diverted or blocked. The quality and quantity of surface waters will not be affected by the proposed action.

Fauna in the area will not be disturbed or displaced for extended periods of time. Disturbance will be of short duration, generally hours to half a day. Native habitat of flora and fauna will not be adversely affected.

No significant surface disturbance will occur and the Right-Of-Way will not be fenced. There will be no impact to the present use of the area for grazing.

Subscribers continuing to receive electrical services from CDEC will realize direct and indirect positive economic benefits and impacts.

No adverse impacts to the health or safety of the community will be impacted.

Neither archeological nor cultural resources will be impacted or affected by the proposed undertaking since all Power Lines are existing. In the event that an emergency situation shall occur such as a pole change out, all local, state, federal, and tribal regulations will be followed. If CDEC encounters findings, CDEC will immediately halt and the proper agencies will be notified. All this shall be done in a safe and workmanlike manner.

No threatened or endangered species, species of concern or their critical habitats will not be adversely affected by the project.

Construction work will be short term and noise from activities will not have an adverse effect on the environment and community.

Construction work will not have an effect on the air quality of the community.

## 9. REFERENCES

United States Department of Agriculture Rural Utilities Service Bulletin 1730-01. Online at [http://www.rd.usda.gov/files/UEP\\_Bulletin\\_1730-1.pdf](http://www.rd.usda.gov/files/UEP_Bulletin_1730-1.pdf)

U.S. Environmental Protection Agency. Online at <https://www.epa.gov/nepa/what-national-environmental-policy-act>.

National Historic Preservation Act of 1966. Online at <https://www.nps.gov/history/local-law/nhpa1966.htm>

Endangered Species Act. Online at <https://www.fws.gov/endangered/esa-library/pdf/ESAall.pdf>

Bald and Golden Eagle Protection Act. Online at <https://www.fws.gov/midwest/eagle/protect/laws.html>

Migratory Bird Treaty Act. Online at <https://www.fws.gov/midwest/eagle/protect/laws.html>

Navajo Endangered Species Regulations. Online at [http://www.nndfw.org/nnhp/species\\_acct.pdf](http://www.nndfw.org/nnhp/species_acct.pdf)

Navajo Nation Raptor Electrocution Prevention Regulations. Online at [http://www.nndfw.org/nnhp/docs\\_reps/repr.pdf](http://www.nndfw.org/nnhp/docs_reps/repr.pdf)

Navajo Nation Biological Resource Land Use Clearance Policies and Procedures (RCP). Online at <http://nndfw.org/clup.htm>

Navajo Nation Golden and Bald Eagle Nest Protection Regulations. Online at [http://www.nndfw.org/nnhp/docs\\_reps/gben\\_sm.pdf](http://www.nndfw.org/nnhp/docs_reps/gben_sm.pdf)

The Night Sky Protection Act. See The Legislature of the State of New Mexico 44<sup>th</sup> Legislature, 1<sup>st</sup> Session, LAWS 1999, and Chapter 197 House Bill 39, as amended.

United States Department of Agriculture, Rural Utilities Services, RUS Bulletin 1728F-803 (D-803) December 1998, Specifications and Drawings for 24.9/14.4 kv Line Construction



## 10. PICTURES

Picture #1



Picture #2

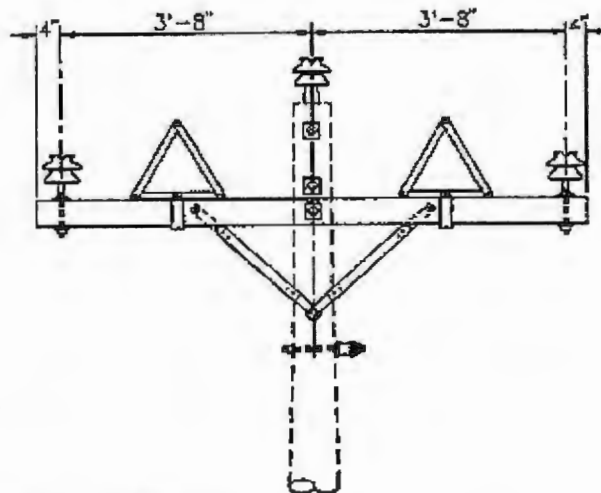
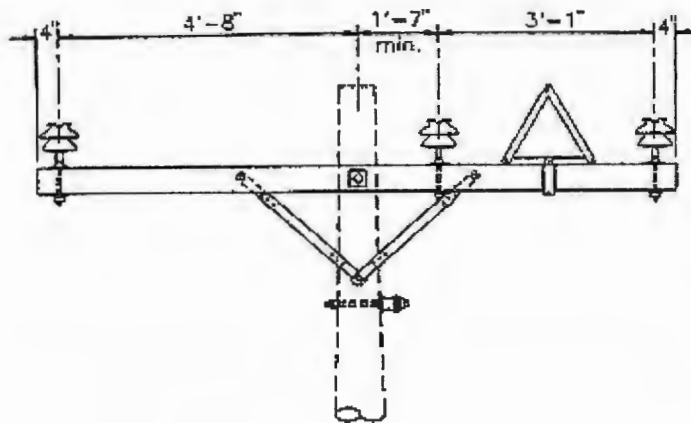




Picture #3



Picture #4



**NOTE:**

1. See "C1", "C2", "C3", and "VC2" drawings for additional construction details and materials.

DESIGN PARAMETERS:

RAPTOR PROTECTION  
PERCH GUARDS-GUIDE

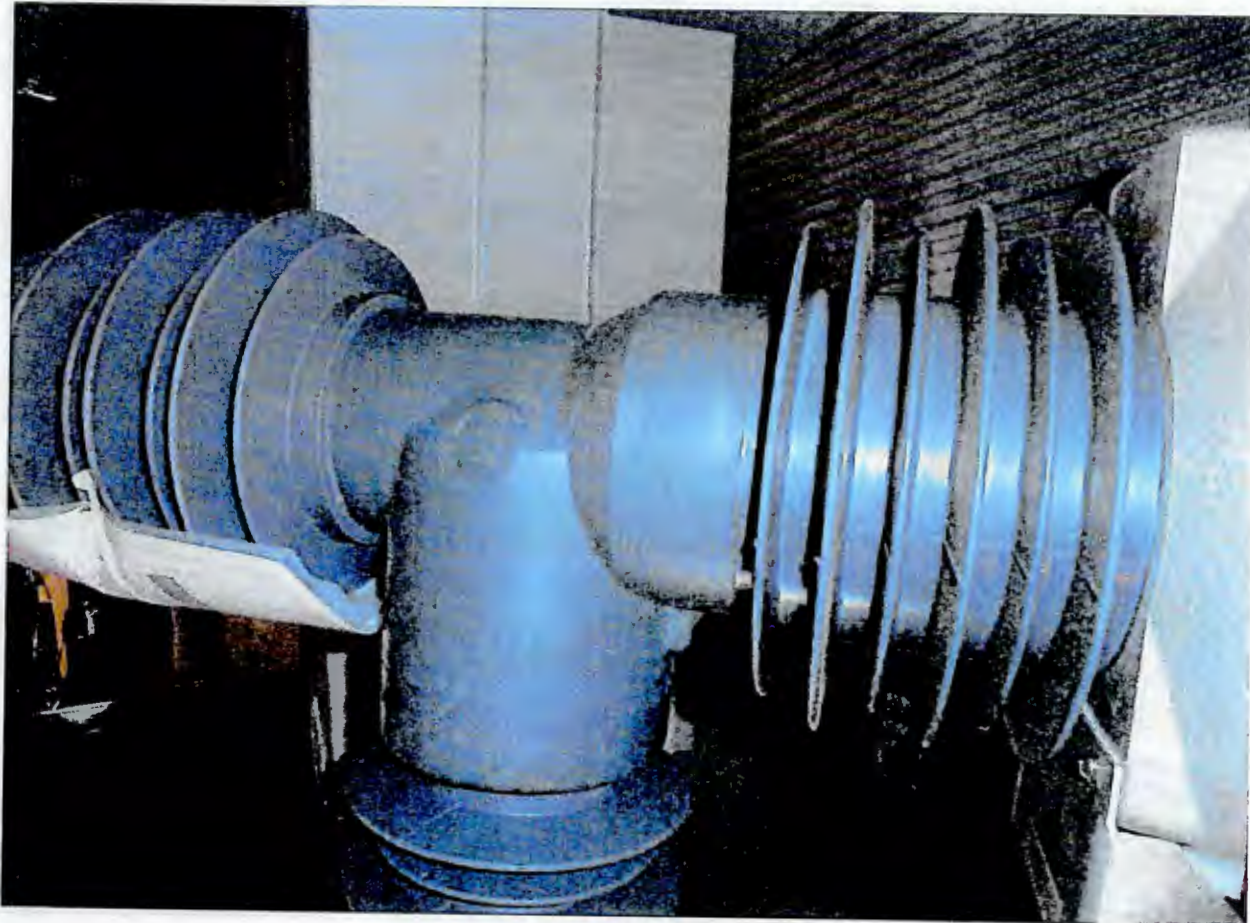
DEC 1998

RUS

3-PHASE PRIMARY  
24.9/14.4 KV

VP3.3G

Picture #5





Picture #6



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UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS

RIGHT-OF-WAY APPLICATION MUST IDENTIFY [§169.102(a)]:

1. Application Name and Address: Continental Divide Electric Cooperative, Inc., PO Box 1087, 200 East High Street, Grants, New Mexico 87020
2. Allotment Number(s) affected by the right-of-way: Navajo Tribal Trust
3. General location (easement location): Sections 3, 7, 19, 20, T18N, R12W, and Sections 8, 17, 23, T19N, R13W, and Sections 29, 32, T19N, R12W, NMPM, McKinley County, New Mexico
4. Purpose: Construction Operation and Maintenance of 14.4/24.9 kv Electrical/Fiber-Optic Distribution Line & its Appurtenances to serve the Becenti Reconciliation Project; Will you please include the following language in the Presidents Letter and Resolution; The Resources and Development committee of the Navajo Nation Council hereby waives the requirement for Bond, Insurance, or alternative form of security per 25 CFR § 169.103 (f) (1) and waive the consideration for right-of-way per 25 CFR § 169.110, because the proposed right-of-way will service a public purpose and will benefit Navajo residents. Attached is Resolution RDCF-08-20 waiving 100% consideration because CDEC is a non-profit Cooperative providing electrical service to the residents on Navajo Trust Land.
5. Term (Renewal, if applicable): 50 Years
6. Identify ownership of permanent improvements associated with the right-of-way and the responsibility for constructing, operating, maintaining, and managing permanent improvements under §169.105: Continental Divide Electric Cooperative Inc.

REQUIRED SUPPORTING DOCUMENTS [§169.102(b)]:

1. Accurate legal description of the right-of-way, its boundaries, and parcels associated with the right-of-way;
2. A map of definite location of the right-of-way; [169.102(b)(2)]; survey plat signed by professional surveyor or engineering showing the location, size, and extent of the ROW and other related parcels, with respect to each affected parcel of individually owned land, tribal land, or BIA land and with reference to the public surveys under 25 U.S.C. § 176, 43 U.S.C. § 2 and § 1764, and showing existing facilities adjacent to the proposed project.
3. Bond(s), insurance, and/or other security meeting the requirements of §169.103:
4. Record that notice of the right-of-way was provided to all Indian landowners;
5. Record of consent that the right-of-way meets the requirements of §169.107, or a statement documenting a request for a right-of-way without consent under §169.107(b);
6. If applicable, a valuation meeting and requirements of §§ 169.110, 112, 114;

7. With each application, if the applicant is a corporation, limited liability company, partnership, joint venture, or other legal entity, except a tribal entity, information such as organizational documents, certificates, filing records, and resolutions, demonstrating that:
  - a. The representative has authority to execute the application;
  - b. The right-of-way will be enforceable against the applicant; and
  - c. The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located.
8. Current environmental and archaeological reports, surveys, and site assessments, as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements;
9. If required, a statement from the appropriate tribal authority that the proposed right-of-way is in conformance with applicable tribal law.

THE APPLICANT FURTHER STRIPULATES AND EXPRESSLY AGREES AS FOLLOW:

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

Applicant Point of Contact Information:

Name: Continental Divide Electric Cooperative, Inc.

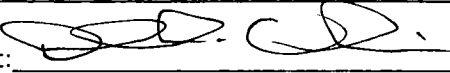
Address: 200 East High Street, PO Box 1087, Grants

State: Grants Zip: 87020

Phone: (505) 285-6656

Email: dolivar@cdec.coop or smorales@cdec.coop

Date: 3/18/20

Applicant:  (Signature)

Debbie Olivar or Steve Morales (Print Name)





# CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC.

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

April 14, 2020

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

Re: Submitting ROW Package for the Becenti Chapter Reconciliation Project, **Existing Power line ROW**

Dear Ms. Yazzie,

Continental Divide Electric Cooperative, Inc. is requesting right-of-way for the **existing electrical distribution 14.4/24.9 kv line for the Becenti Chapter Reconciliation Project**. The powerline right-of-way packet consists of the following documents being submitted for review by the Division of Natural Resources, Project Review Office.

1. \$500.00 Filing Fee, Check #140916
2. Right-of-way Application
3. Cultural Resources Contingency Plan for Existing CDEC Powerline
4. Resource Management Plan for Existing CDEC Powerline
5. NNHPD approval of Cultural Resource Contingency Plan, Navajo Fish & Wildlife
6. Biological Resources Compliance Form
7. FONSI
8. Set of **3** Maps

This project traverses over and across Navajo Tribal Trust Land. The distance on Navajo Tribal Trust Land is 19,181.08' feet in length, 20' feet in width, and 9.10 acres.

Continental Divide Electric Cooperative Inc. requests that the Navajo Nation waive damages since only Navajos are being served from this Electrical Line.

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

Sincerely,

Debbie Olivar  
Engineering/ROW

Enclosure



Document No. 014711Date Issued: 07/20/2020**EXECUTIVE OFFICIAL REVIEW**Title of Document: CDEC, ROW at Becenti Contact Name: YAZZIE, ELERINA BProgram/Division: DIVISION OF NATURAL RESOURCESEmail: elerina\_yazzie@navajo-nsn.gov Phone Number: 928-871-6447☐ **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: \_\_\_\_\_ ☐ ☐  
2. Office of the Attorney General: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

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

1. NLD \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
2. F&W \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
3. HPD \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
4. Minerals \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
5. NNEPA \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
6. DNR \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
7. DOJ \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

☐ **Rights of Way**

1. NLD \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
2. F&W \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
3. HPD \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
4. Minerals \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
5. NNEPA \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
6. Office of the Attorney General: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
7. OPVP \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

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

1. Minerals \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
2. OPVP \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
3. NLD \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

☐ **Assignment of Mineral Lease**

1. Minerals \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
2. DNR \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
3. DOJ \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐




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

1. NLD \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
2. F&W \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
3. HPD \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
4. Minerals \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
5. NNEPA \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
6. DNR \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
7. DOJ (fic) \_\_\_\_\_ Date: 8/25/20 ☒ ☐  
8. OPVP \_\_\_\_\_ Date: 8-28-20 ☒ ☐  
*V. Blackhat*

☐ **OTHER:**

1. \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
2. \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
3. \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
4. \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐  
5. \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

### Tier 1 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Najamh Tariq (Navajo Land Title Data System - Windowrock AZ)	Approver	Department of Water Resources	Approved	no comments	No Reply	03-Aug-2020	
Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. The BRCF is for a fencing project. Stipulations still apply to road improvement activity.	1. No Reply	28-Jul-2020	
Rebecca Gilchrist MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	1. This vote is contingent upon the uploaded Terms and Conditions, dated 08.10.2020, permanently being included in the application approval package. - rkg	1. No Reply	10-Aug-2020	
Tamara Billie NNHP (Navajo Land Title Data System - Windowrock AZ)	HPD Reviewer	Historic Preservation Department	Approved	1. HPD-98-287	1. No Reply	07-Aug-2020	

### Tier 2 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Leanna Begay (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	no comments	No Reply	10-Aug-2020	



Richard Begay NNHP (Navajo Land Title Data System Officer)	Navajo Nation Historic Preservation Department	Historic Preservation Department	Approved	no comments	No Reply	13-Aug-2020
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Roll M Begay

Windowrock AZ)

Robert Allan DNR (Navajo Land Title Data System Officer)	Deputy Director DNR	DNR Administration	Approved	no comments	No Reply	19-Aug-2020
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Robert O. Allan

Windowrock AZ)

Steven Prince MIN (Navajo Land Title Data System Officer)	Technical Reviewer	Navajo Nation Minerals Management	Approved	no comments	No Reply	11-Aug-2020
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Steven L Prince

Windowrock AZ)

W. Mike Halona (NLTDs - Admin)	NLD Department Manager III	NLD	Approved	no comments	No Reply	10-Aug-2020
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W. Mike Halona



# NAVAJO NATION DEPARTMENT OF JUSTICE

## DOCUMENT REVIEW REQUEST FORM



☐ RESUBMITTAL

DOJ	
08/21/2020	3:42pm
DATE / TIME	
<input type="checkbox"/> 7 Day Deadline	
DOC #: 014711	
SAS #:	
UNIT: HSGU NNA	

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

### CLIENT TO COMPLETE

DATE OF REQUEST:	8/21/2020	DIVISION:	NATURAL RESOURCES
CONTACT NAME:	Michelle Hoskie	DEPARTMENT:	GENERAL LAND DEVELOPMENT DEPARTMENT
PHONE NUMBER:	x 6447 or x 6423	E-MAIL:	michellehoskie@navajo-nsn.gov
TITLE OF DOCUMENT: EOR#14711 CDEC ROW @ Becenti			

### DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT:	8/24/20 9:36 AM	REVIEWING ATTORNEY/ADVOCATE:	Ivin Chee 9/03/20
DATE TIME OUT OF UNIT: 8/25/20 9:37 AM			

### DOJ ATTORNEY / ADVOCATE COMMENTS

- Document is legally sufficient.

REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
Travis Affar	8.24.20	VBlackhat	8/25/20 8:10am

DOJ Secretary Called: Michelle Jamane for Document Pick Up on 8/25/20 at 9:37am By: CJ

PICKED UP BY: (Print) \_\_\_\_\_ DATE / TIME: \_\_\_\_\_

NNDOJ/DRRF-July 2013

-GLDD-

**RESOURCES AND DEVELOPMENT COMMITTEE  
24TH NAVAJO NATION COUNCIL**

**THIRD YEAR 2021**

**ROLL CALL  
VOTE TALLY SHEET**

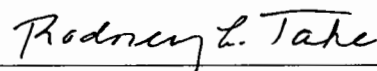
**LEGISLATION #0233-21:** AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF RIGHT-OF-WAY TO CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC., FOR THE BECENTI CHAPTER RECONCILIATION PROJECT LOCATED ON NAVAJO NATION TRUST LANDS IN BECENTI CHAPTER VICINITY (MCKINLEY COUNTY, NEW MEXICO).     *Sponsor: Honorable Seth Damon*

Date: November 10, 2021 – Regular Meeting (Teleconference)  
Location: Resources and Development Committee members called in via teleconference from their location within the boundary of the Navajo Nation.

**Main Motion:**

**M:** Wilson C. Stewart, Jr.                      **S:** Thomas Walker, Jr.                      **V:** 5-0-1 (CNV)  
**In Favor:** Thomas Walker, Jr.; Kee Allen Begay, Jr.; Herman M. Daniels; Mark A. Freeland; Wilson C. Stewart, Jr.  
**Opposition:** None  
**Excuse:** None  
**Not Voting:** Rickie Nez, *Chairperson*

  
\_\_\_\_\_  
Honorable Rickie Nez, *Chairperson*  
Resources and Development Committee

  
\_\_\_\_\_  
Rodney L. Tate, *Legislative Advisor*  
Office of Legislative Services