

**RESOLUTION OF THE  
RESOURCES AND DEVELOPMENT COMMITTEE  
23<sup>rd</sup> Navajo Nation Council --- Third Year, 2017**

**AN ACTION**

**RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF  
RIGHT-OF-WAY TO MCKINLEY COUNTY FOR COUNTY ROAD 19 FOR MCKINLEY  
COUNTY FOR UPGRADING, MAINTAINING, AND OPERATING THE EXISTING  
ROADWAY, CULVERTS, AND DITCHES LOCATED ON NAVAJO NATION TRUST  
LANDS IN CASAMERO LAKE CHAPTER, NAVAJO NATION (MCKINLEY COUNTY,  
NEW MEXICO)**

**BE IT ENACTED:**

**SECTION ONE. AUTHORITY**

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. 2 N.N.C. §501 (B) (2).

**SECTION TWO. FINDINGS**

- A. McKinley County P.O. Box 70, Gallup, New Mexico 87305, has submitted a right-of-way application for County Road 19, on, over and across Navajo Nation Trust Lands in Casamero Lake Chapter vicinity, McKinley County, New Mexico. The application request is attached hereto and incorporated herein as **Exhibit "A."**
- B. The proposed right-of-way is described in map attached hereto and incorporated herein as **Exhibit "B."**
- C. The General Land Development Department with the Navajo Division of Natural Resources identified four grazing permittees on the proposed project site. Consent to use the land was obtained and are attached along with the Right of Way Agent's memorandum dated March 20, 2017 are attached hereto as **Exhibit "C."**

- D. A waiver of consideration is requested. The right-of-way project would serve a public purpose because the project will benefit Navajo residents.
- E. A waiver of the bond, insurance, or alternative form of security on the part of McKinley County is requested.
- F. The environmental and archaeological studies, including the Cultural Resources Compliance Form, the Finding of No Significant Impact, and the Environmental Assessment Report have been completed and are attached as **Exhibit "E."**
- G. The application for the Right-of-Way as submitted by the McKinley County has been reviewed by the Navajo Land Department; Fish and Wildlife; Historic Preservation; Minerals; Navajo Nation Environmental Protection; Division of Natural Resources and the Department of Justice and "Approved" or found "Sufficient" by all. See **Exhibit "F."**


### **SECTION THREE. APPROVAL**

- A. The Resources and Development Committee of the Navajo Nation Council hereby approves the Grant of Right-of-Way to the McKinley County., on, over and across Navajo Nation Trust Lands in Casamero Lake Chapter vicinity, McKinley County, New Mexico. The location is more particularly described on the survey map attached hereto as **Exhibit "B."**
- B. The Resources and Development Committee of the Navajo Nation Council hereby waives consideration for the right-of-way project because the project will benefit Navajo residents.
- C. The Resources and Development Committee of the Navajo Nation Council hereby 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 "D"**.

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

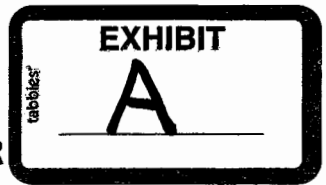
**CERTIFICATION**

I, hereby certify that the following resolution was duly considered by the Resources and Development Committee of the 23<sup>rd</sup> Navajo Nation Council at a duly called meeting at NDOT Administrative Complex, Tse Bonito, Navajo Nation (New Mexico), at which a quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, 1 abstained on this 4th day of October, 2017.



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

Motion: Honorable Leonard Pete  
Second: Honorable Jonathan Perry



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

**RIGHT-OF-WAY APPLICATION**

**NAVAJO TRIBAL TRUST LAND DESCRIPTION: Sec 31, W/2 of Sec. 29,1, T.15N, R.11W: Sec. 27,26,35, T16N, R.11W: SE/4 32,20, T.16N, R.10W, PMNM, MCKINLEY COUNTY, NEW MEXICO**

**COMES NOW THE APPLICANT MCKINLEY COUNTY, P.O. Box 70, GALLUP, NEW MEXICO 87305 on this 10 day of APRIL 2017, who hereby petition(s) the Bureau of Indian Affairs and respectfully files under the terms and provisions of the Act of February 5, 1948 (62 Stat. 17; 25 USC 323-328), and Departmental Regulations 25 CFR 169, an application of a 50 (terms of years) right-of-way for the following purposes and reasons:**

To construct, operate and maintain McKinley County Road #19, improvements will be replacing culverts, ditch reshaping, base course placed, prep for stabilizer (bionic Soil) and double pin chip seal.

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

**Sec. 31, W2 of Sec. 29, 1 of T.15N R11W; sec 27,26,35 of T16N. R11W, SE/4 of 31, 20 of T.16N, R10 W PMNM;1**

**Said right-of-way across Navajo Tribal Trust Land to be approximately 25,656.50 FT, in length, 120 FT in width, and 70.6788 in acres, as shown on attached map of definite location, attached hereto, and made a part hereof.**

**SAID APPLICANT UNDERSTANDS AND EXPRESSLY AGEES TO THE FOLLOWING STIPULATIONS:**

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

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

**THE APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:**

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

DATE 4/11/17

APPLICANT

Douglas W. Decker  
Douglas W. Decker  
McIntosh County Attorney

**REQUIRED SUPPORTING DOCUMENTS:**

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



February 17, 2017

Navajo Nation Land Department  
Attn: Howard Draper  
P.O. Box 9000  
Window Rock, Arizona 86515

Re: McKinley County Road 19 – Casamero Lake

Dear Mr. Draper:

McKinley County is hereby submitting the Right-of-Way package for McKinley County Road 19. This package contains the following:

- Check No. 164320 in the amount of \$500.00 for the filing fee;
- Navajo Nation Land Grazing Field Clearance with Land User Consent Forms in the affected area;
- Cultural Resource Compliance;
- FONSI; and
- Map with Legal Description

We appreciate your assistance in expediting this application as soon as possible. If you have any other questions, please do not hesitate to call Jeff Irving, Road Superintendent at (505) 722-2303.

Very truly yours,

Douglas W. Decker  
County Attorney

Enclosures



BOARD OF COMMISSIONERS/ MANAGER'S OFFICE

207 W. HILL AVE. GALLUP NM 87301 P.O. BOX 70 GALLUP NM 87305

T: 505.722.3868 EXT.1053 F: 505.863.6362

164320

VENDOR NO. 1840

DATE	INVOICE NO. - DESCRIPTION	DEPARTMENT	PO NUMBER	NET AMOUNT
02/14/2017	CASA-14-17 - 204-1601	11 AP		500.00
				500.00

STATE OF NEW MEXICO  
McKINLEY COUNTY  
P.O. BOX 70  
GALLUP, NM 87305  
(505) 722-3868

32/244  
1070

CLE BANK  
P, NM 87301

164320

WARRANT NO.

164320

CHECK AMOUNT

\*\*\*\*\*\$500.00

CHECK DATE

03/09/2017

Five Hundred and 00/100 Dollars

VOID 1 YEAR FROM DATE

PAY TO THE  
ORDER OF

NAVAJO LAND DEPARTMENT  
NAVAJO NATION  
PO BOX 9000  
WINDOW ROCK, AZ 86515

BOARD OF COUNTY COMMISSIONERS

ATTEST: COUNTY CLERK OR DEPUTY

164320 107002448:3110214072

# UNITED STATES DEPARTMENT OF THE INTERIOR

## BUREAU OF INDIAN AFFAIRS

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

1. **Applicant Name and Address:**

Mc Kinley County; PO Box 70; Gallup, NM 87305

2. **Tract(s) or parcel(s) affected by the right-of-way:**

see attached

3. **General Location (easement location):**

4. McKinley County Road 19, within within the Eastern Navajo : Casemero Lake, Borrego Pass and Littlewater communities and to connect NM Highway # 509

5. **Purpose: \_**

Construction, operation and maintenance McKinley Road 19

6. **Term (Renewal, if applicable):**

Perpetual

7. **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:**

McKinley County

### 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 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 the 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 STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

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

Applicant Point of Contact Information:

Name: Doug Decker

Address: PO Box 70

State: Gallup, NM Zip: 87301

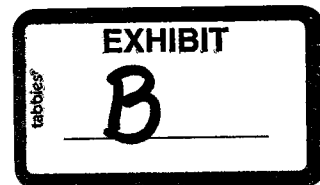
Phone: 505 863-1400

Email: Decker@co.mckinley.nm.us

Date: May 31, 2017

Applicant: Douglas W. Decker (Signature)

Douglas W. Decker (Print Name)



NAVAJO NATION TRUST LAND SUMMARY  
MCKINLEY COUNTY NEW MEXICO  
ALL WITHIN THE NEW MEXICO PRINCIPAL MERIDIAN

STATION RANGE	DESCRIPTION	R/W WIDTH	LENGTH	AREA (AG)	LENGTH (M)
0+000.00-49+12.32	Tribal Trust 07151 SEC. 31, T15N, R11W	120'	4912.32'	13.5325	0.9304
72+98.63-125+98.63	Tribal Trust 081618 W/2 SEC. 29, T15N, R11W	120'	5300.00"	14.6005	1.0038
0+00-34+79.16	Tribal Trust SEC. 27, T16N, R11W	120'	3479.16'	9.5844	0.6589
34+79.16-45+14.14	Tribal Trust SEC. 26, T16N, R11W	120'	1034.98	2.8512	0.1960
45+14.14-100+11.25	Tribal Trust SEC. 35, T16N, R11W	120'	5497.11'	15.1435	1.0411
152+59.18-176+07.65	Tribal Trust SEC. 1, T15N, R11W	120'	2348.47'	6.4696	0.4448
248+20.90-255+60.88	Tribal Trust SE1/4, SEC. 31, T16N, R10W	120'	739.98'	2.0385	0.1402
35 7+60.50-381+04.98	Tribal Trust SEC. 20, T16N, R10W	120'	2344.48'	6.4586	0.4440
Total			1034.98'	70.6788	4.8592

25,656.50'



HC 33 Box 10A  
Gallup NM 87301  
Phone 505/879-3918  
Email: lahenry08@yahoo.com

March 20, 2017

Ms. Elerina Yazzie  
Project Review Section NLD  
Division of Natural Resource  
Navajo Nation  
PO Box 2249  
Window Rock, AZ 86515

Dear Ms. Yazzie,

McKinley County, PO Box 70, Gallup, New Mexico 87305 is submitting Field Clearance package for right-of-way for road improvement; construction, operation, maintenance for County Road 19 Casamero Lake and Little Water communities. Sec.31, W/2 of Sec 29, sec 1; T 15N; R11W McKinley County NM. Sec 27,26, 35, T.16N; 11 W McKinley County, NM, SE/4 of Sec 31, 20,T16 N; 10W McKinley County, NM Mexico. Total footage 25,656.50'; mileage 4.8592; width 120'; 70.6788 acreage

The Landboard identified four permittees Mary Pablo, Edison Brown, Tim Larsen, Lambert Largo, III affected by the proposed project. I informed the grazing permittees on the proposed request and they waived for damages he did not have objections. I obtained the grazing permittee's consent along with concurrence of the District #20, Mr. Herbert Enrico. Land users will not be compensated for the proposed County 19 improvement..

I have attached field clearance completed, land user consent and proposed map attached to the right-of-way package.

Should you have any questions or addition information, please contact me at 505-879-3918

A handwritten signature in black ink, appearing to read "Lucinda Henry".

Lucinda Henry  
ROW Agent

Cc Jeff Irving, Road Supt. McKinley

NAVAJO NATION TRUST LAND SUMMARY  
 MCKINLEY COUNTY NEW MEXICO  
 ALL WITHIN THE NEW MEXICO PRINCIPAL MERDIAN

STATION RANGE	DESCRIPTION	R/W WIDTH	LENGTH	AREA (AG)	LENGTH (M)
	Tribal Trust 07151				
0+000.00-49+12.32	SEC. 31, T15N; R11W	120'	4912.32'	13.5325	0.9304
	Tribal Trust 081618				
72+98.63-125+98.63	W/2 Sec 29; T15N; R11W	120'	5300.00"	14.6005	1.0038
	Tribal Trust				
0+00-34+79.16	SEC. 27, T16N; R11W	120'	3479.16"	9.5844	0.6589
	Tribal Trust				
34+79.16-45+14.14	Sec 26; TN' R11W	120'	1034.98"	2.8512	0.1960
	Tribal Trust				
45+14.14-100+11.25	Sec 35; 16N;R11W	120'	5497.11	15.1435	1.0411
	Tribal Trust				
152+59.18-176+07.65	Sec 1; 15N; R11W	120'	2348.47"	6.4696	0.4448
	Tribal Trust				
248+20.90-255+60.88	SE1/4:Sec 31; T16N; R10W	120'	739.98"	2.0385	0.1402
	Tribal Trust				
35 7+60.50-381+04.98	Sec 20; T16N; R10W	120'	2344.48	6.4586	0.4440
Total			25,656.50	70.6788	4.8592

## FIELD CLEARANCE CHECKLIST

(This form covers only damages and compensation to individual land users. It does not cover consideration or other fees to the Navajo Nation. Use back if necessary to complete this form.)

1. Project Identification:

McKinley County; PO Box 70; Gallup, NM 87305

Type of Project: Road Improvement

Purpose Right of Way for construction; operation; maintenance for McKinley Road  
19

Location: Sec.31, W/2 of Sec 29,1; T 15N; R11W McKinley County NM. Sec 27,26, 35,  
T16N; 11 W McKinley County, NM, SE/4 of Sec 31, 20,T16 N; 10W McKinley County, NM

Identification number(s): McKinley County Road #19

2. Amount of land affected: width 120', 25,656.50 length; 70,6788 acres; 4.8592 mileage

3. Land status: Trust XX Fee \_\_\_\_\_ Other \_\_\_\_\_

4. List names of all individuals whose land use rights will be affected by project:

	Names	Census Number	Type of Land Use Right
1.	<u>Mary Pablo</u>	<u>                    </u>	<u>Grazing</u>
2.	<u>Edison Brown</u>	<u>                    </u>	<u>Grazing</u>
3.	<u>Tim Larsen</u>	<u>100,000</u>	<u>Grazing</u>
4.	<u>Lambert Largo III</u>	<u>                    </u>	<u>Grazing</u>

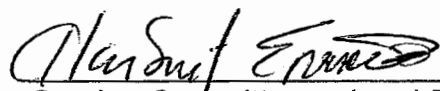
5. Are all land users with claims to the affected lands as shown in Branch of Land Operations records included in the list in Item 4 yes

6. Have Grazing Committee or Land Board Member (whichever is appropriate) for the affected area confirm land user list in Item 4 by signing acknowledgement below.

### ACKNOWLEDGEMENT

I acknowledge that due notice was given to the affected community of the proposed project, and according to my records and to the best of my knowledge, the list of individuals in Item 4 includes all land users who have land use rights in the affected lands.

3/20/2017  
Date

  
Grazing Committee or Land Board Member

#20  
District No.

CONSENT FORM -3  
(Waiver of compensation for damages)

Consent to use  
NAVAJO NATION L LANDS

TO WHOM IT MAY CONCERN:

I, Mary Pablo, hereby grant consent to the  
Navajo Nation and the Bureau of Indian Affairs to Permit McKinley County of  
Gallup, NM 87305 to use a portion of my land use area for the following purpose  
(s): right-of-way to construction; operation; and maintenance of the County Road 19 within  
Littlewater; Borrego Pass and Casemero Lake Communities New Mexico, McKinley County

as shown on the map showing the location of the proposed project on the back of this  
consent form.

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

REMARKS: \_\_\_\_\_

2/10/17 Mary Pablo 8462017560  
Date Land User Signature (or thumbprint) Census No. Permit No.

WITNESSES

[Signature]

2/16/2017 [Signature] #20  
Date Grazing Committee or Land Board Member District No

Acknowledgement of Field Agent

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

[Signature]  
Field Agent Signature

Consent to use  
NAVAJO NATION L LANDS

TO WHOM IT MAY CONCERN:

I, Edison Brown, hereby grant consent to the  
Navajo Nation and the Bureau of Indian Affairs to Permit McKinley County;  
of PO Box to use a portion of my land use area  
for the following purpose (s): right-of-way to construction; operation; and maintenance  
of the County Road 19 within Littlewater; Borrego Pass and Casemero Lake Communities  
New Mexico, McKinley County

as shown on the map showing the location of the proposed project on the back of this  
consent form.

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

REMARKS: \_\_\_\_\_

2/17/17  
Date

Edison Brown  
Land User Signature (or thumbprint)

          
Census No.

E46701740C  
Permit No.

WITNESSES

[Signature]

2/10/2017  
Date

[Signature]  
Grazing Committee or Land Board Member

# 20  
District No

Acknowledgement of Field Agent

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

[Signature]  
Field Agent Signature

Consent to use

CONSENT FORM -3  
(Waiver of compensation for damages)

Consent to use  
NAVAJO NATION L LANDS

TO WHOM IT MAY CONCERN:

I, Tim Larson, hereby grant consent to the  
Navajo Nation and the Bureau of Indian Affairs to Permit McKinley County;  
of PO Box Gallup, NM 87305 to use a portion of my land use area  
for the following purpose (s): right-of-way to construction; operation; and maintenance  
of the County Road 19 within Littlewater; Borrego Pass and Casemero Lake Communities  
New Mexico, McKinley County

as shown on the map showing the location of the proposed project on the back of this  
consent form.

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

REMARKS:

2/8/17  
Date

Tim Larson  
Land User Signature (or thumbprint)

1  
Census No.

E46201737D  
Permit No.

WITNESSES

[Signature]

2/10/2017  
Date

[Signature]  
Grazing Committee or Land Board Member

# 20  
District No

Acknowledgement of Field Agent

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

[Signature]  
Field Agent Signature



CONSENT FORM -3  
(Waiver of compensation for damages)

Consent to use  
NAVAJO NATION L LANDS

TO WHOM IT MAY CONCERN:

I, Limbert Largo, III, hereby grant consent to the  
Navajo Nation and the Bureau of Indian Affairs to Permit McKinley County; of PO Box  
Gallup, NM 87305 to use a portion of my land use area for the following purpose  
(s): right-of-way to construction; operation; and maintenance of the County Road 19 within  
Littlewater; Borrego Pass and Casemero Lake Communities

New Mexico, McKinley County

as shown on the map showing the location of the proposed project on the back of this  
consent form.

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

REMARKS:

2-3-17  
Date

[Signature]  
Land User Signature (or thumbprint)

151  
Census No.

E461606200  
Permit No.

WITNESSES

[Signature]

2/16/2017  
Date

[Signature]  
Grazing Committee or Land Board Member

# 20  
District No

Acknowledgement of Field Agent

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

[Signature]  
Field Agent Signature

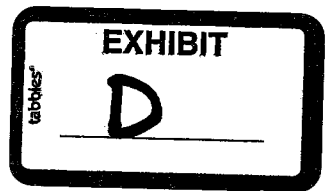


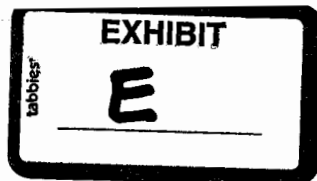
EXHIBIT ~~("E")~~ "D"

**NAVAJO NATION RIGHT-OF-WAY TERMS AND CONDITIONS**  
**McKINLEY COUNTY – COUNTY ROAD 19 CASAMERO LAKE (GRANTEE)**

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 \$ 1,017,778.60 . The Navajo Nation contributes this amount to the project because the project will benefit Navajo residents.
3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of upgrading, maintaining, and operating the existing roadway, culverts, and ditches. 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. 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 applicable 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. 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;
  - b. 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 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 can be made.
8. The Grantee shall at all times during the term of the right-of-way and at the Grantee's sole cost and expense, maintain the land subject to the right-of-way and all improvements located thereon and make all necessary and reasonable repairs.
9. The Grantee shall obtain prior written permission to cross existing rights-of-way, if any, from the appropriate parties.
10. The Grantee shall be responsible for and promptly pay all damages when they are sustained.
11. To the extent permitted by state law, the Grantee shall indemnify and hold harmless the Navajo Nation and its authorized agents, employees, land users and occupants, against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of right-of-way by the Grantee.
12. The Grantee shall not assign, convey or transfer, 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. 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; 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.
14. At the termination of this right-of-way, the Grantee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. Upon the written request of the Navajo Nation, the Grantee shall provide the Navajo Nation, at the Grantee's sole cost and expense, with an environmental audit assessment of the premises at least sixty (60) days prior to delivery of said premises.

15. Holding over by the Grantee after the termination of the right-of-way shall not constitute a renewal or extension thereof or give the Grantee any rights hereunder or in or to the land subject to the right-of-way or to any improvements located thereon.
16. The Navajo Nation 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. 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.
18. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.
19. The law of the Navajo Nation shall govern the construction, performance and enforcement of the terms and conditions contained herein.
20. 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.
21. The Navajo Nation reserves the right to grant rights-of-way within the road 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.
22. 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.



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

## CULTURAL RESOURCES COMPLIANCE FORM

### ROUTE COPIES TO:

☒ PaleoWest

NNHPD NO.: **HPD-16-661**

OTHER PROJECT NO.: **PaleoWest No. 15-123**

**PROJECT TITLE:** A Class III Cultural Resource Inventory of 17.6 Miles Along County Road 19, Navajo Nation and McKinley County, New Mexico.

**LEAD AGENCY:** BIA/NR

**SPONSOR:** DePauli Engineering & Surveying LLC 304 South 4<sup>th</sup> Street, Gallup, New Mexico 87301

**PROJECT DESCRIPTION:** The proposed undertaking with plan to conduct road improvements to 17.6 miles of road survey along McKinley County Road 19. The APE is 200 feet (61 m) wide, or 100 feet (30.5) on either side of the road centerline with a right-of-way is 150 feet (46 m) wide or 75 feet (23 m) on either side of the road centerline. Ground disturbing activities will be intensive and extensive with the use of heavy equipment.

<b>LAND STATUS:</b>	Tribal Trust, State of New Mexico, Indian Allotment, and Private.									
<b>CHAPTER:</b>	Casamero									
<b>LOCATION</b>	<i>T</i>	<u>16</u>	<i>N</i>	<i>R</i>	<u>10</u>	<i>W</i>	<i>Sec.</i>	<u>21,22,29,31</u>	Thoreau NE	Quad, Bernalillo County New Mexico NMPM
	<i>T</i>	<u>16</u>	<i>N</i>	<i>R</i>	<u>11</u>	<i>W</i>	<i>Sec.</i>	<u>26,27,33,34,35</u>	Casamero Lake	Quad Bernalillo County New Mexico NMPM
	<i>T</i>	<u>15</u>	<i>N</i>	<i>R</i>	<u>11</u>	<i>W</i>	<i>Sec.</i>	<u>2,4,8,17,20,29,31,32</u>	Borrego Pass	Quad Bernalillo County New Mexico NMPM

**PROJECT ARCHAEOLOGIST:** Kye Miller, M.A. RPA & Jason Chuipka, M.A. RPA

**NAVAJO ANTIQUITIES PERMIT NO.:** B15389

**DATE INSPECTED:** 9/14/2015 – 9/24/2015

**DATE OF REPORT:** 7/27/2016

**TOTAL ACREAGE INSPECTED:** 428.22 – ac

**METHOD OF INVESTIGATION:** Class III pedestrian inventory with transects spaced 15 m apart.

### LIST OF CULTURAL RESOURCES FOUND:

(8) Sites (NM-Q-40-19, NM-R-32-16, NM-Q-25-50, NM-Q-25-51, NM-R-32-10/TCP-2, NM-R-32-13, NM-R-32-12, NM-Q-40-29)

(53) Isolated Occurrences

(2) Traditional Cultural Properties (TCP-1 & TCP-2)

(2) In-Use Sites (IUS)

### LIST OF ELIGIBLE PROPERTIES:

(5) Sites (NM-R-32-16, NM-Q-25-51, NM-R-32-10,

	NM-R-32-13, NM-R-32-12)
	(2) Traditional Cultural Properties (TCPs)
	(1) In-Use Site (IUS)/ Borrego Pass Trading Post
LIST OF UNEVALUATED RESOURCES:	(1) Site (NM-Q-40-19)
	(2) Sites (NM-Q-40-29; NM-Q-25-50)
LIST OF NON-ELIGIBLE PROPERTIES:	(53) Isolated Occurrences
	(1) IUS
LIST OF ARCHAEOLOGICAL RESOURCES:	(6) Sites (NM-Q-40-19, NM-R-32-16, NM-Q-25-50, NM-Q-25-51, NM-R-32-13, NM-R-32-12)

**EFFECT/CONDITIONS OF COMPLIANCE:** No Adverse Effect with the following conditions:

**Sites NM-R-32-13, NM-Q-25-50, NM-Q-25-51:**

1. Prior to any construction, the site boundaries will be flagged and/or temporarily fenced under the direction of a qualified archaeologist & shown to the construction foreman.
2. All ground disturbance within the 50 ft. of the site boundaries will be monitored by a qualified archaeologist.
3. No construction, equipment or vehicular traffic will be allowed within the site boundaries.
4. A brief letter/report documenting the result of the monitoring will be submitted to NNHPD within 30 days of monitoring activities.
5. All future maintenance activities shall avoid the site by a minimum of 50 ft. from the site boundaries.

**Sites NM-R-32-16, NM-R-32-12, NM-R-40-19:**

1. Prior to any construction, the site boundaries will be flagged and/or temporarily fenced under the direction of a qualified archaeologist & shown to the construction foreman.
  2. Sites will be avoided by rerouting the current ROW & monitoring all construction within 50-ft of site boundary.
- OR
3. A nature & extent testing plan & if necessary a data recovery plan will be implemented in consultation with NNHPD. These land must be consistent with Navajo Nation Policies & Procedures and approved by NNHPD.

**Site NM-Q-40-29:**

No further work is warranted for this project.

**In-Use Borrego Pass Trading Post:**

All ground disturbance will be limited to the current paved surface.

**TCPs (TCP-1 & TCP-2/NM-R-32-10):**

1. TCP boundaries will be flagged by a qualified archaeologist prior to ground disturbing activities.
2. TCP -1 is located on both sides of CR 19 ROW, it is recommended that construction be limited to the existing disturbance.
3. TCP-2 is located outside of the APE & will not be impacted.


*Prior to any disturbance of any borrow area, material source area, staging area, outside of the area documented, the lead agency shall ensure that the area evaluated for cultural resources might be affected by this undertaking. The evaluation shall take place in consultation with the Navajo Nation Historic Preservation Department.*

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

FORM PREPARED BY: **Tamara Billie**  
FINALIZED: November 7, 2016


Notification to Proceed  
Recommended  
Conditions:

☒ Yes ☐ No  
☒ Yes ☐ No

  
The Navajo Nation  
Historic Preservation Office

11/7/16  
Date

 Navajo Region Approval

 ☒ Yes ☐ No

  
BIA - Navajo Regional Office

11/22/16  
Date



United States Department of the Interior  
Navajo Region  
P.O. Box 1060  
Gallup, NM 87305

FEB 02 2017

MC: 460 Branch of Environmental Quality Act Review & Compliance

Julie Gonzalez  
DePauli Engineering and Surveying LLC  
307 South 4<sup>th</sup> Street  
Gallup, NM 87301

Dear Ms. Gonzalez:

The Environmental Assessment, **EA-17-16408**, Road and Drainage Improvements Along County Road 19, received December 30, 2016, has been reviewed in the Branch of Environmental Quality Act Review and Compliance, Navajo Regional Office.

McKinley County proposes the acquisition of right-of-way (ROW) per 25 CFR 169, continued roadway operation and maintenance, and future roadway and drainage improvements along County Road (CR) 19 (Navajo Route 9505), located approximately 8 miles north of Prewitt in McKinley County, New Mexico. The road is located within predominantly Navajo Nation lands, but also includes State of New Mexico, Bureau of Land Management (BLM) and private land ownership. The project area corresponds to the CR 19 road corridor from T15N, R11W, and Section 31 to the intersection of CR 19 and New Mexico Highway 509 in T16N, R10W, and Section 12. The UTM coordinates for the endpoints of the project area are UTM Zone 12, 767957.11 Easting, 3930130.40 Northing and UTM Zone 13, 242997.0 Easting, 3947248.9 Northing NAD 83). The project would be scheduled to commence in Fall 2017.

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

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

Sincerely,

Regional Director, Navajo

Enclosure



**FINDING OF NO SIGNIFICANT IMPACT  
ENVIRONMENTAL ASSESSMENT, EA-17-16408  
PROPOSED ROADWAY IMPROVEMENTS ALONG NAVAJO ROUTE 9505/CR 19**

**DePauli Engineering and Surveying LLC**

**Location: Casamero Lake, Thoreau, Borrego Pass, NM Quadrangles,  
USGS 7.5-Minute Series Maps  
Sections 1, 2, 4, 5, 8, 17, 20, 29, 31, 32, T15N, R11W, NMPM  
Section 1, 12-15, 21, 22, T16N, R10W, NMPM  
Section 26, 27, 33-36, T16N, R11W, NMPM**

**Casamero Lake and Borrego Pass, McKinley County, New Mexico**

McKinley County proposes the acquisition of right-of-way (ROW) per 25 CFR 169, continued roadway operation and maintenance, and future roadway and drainage improvements along County Road (CR) 19 (Navajo Route 9505), located approximately 8 miles north of Prewitt in McKinley County, New Mexico. The road is located within predominantly Navajo Nation lands, but also includes State of New Mexico, Bureau of Land Management (BLM) and private land ownership. The project area corresponds to the CR 19 road corridor from T15N, R11W, and Section 31 to the intersection of CR 19 and New Mexico Highway 509 in T16N, R10W, and Section 12. The UTM coordinates for the endpoints of the project area are UTM Zone 12, 767957.11 Easting, 3930130.40 Northing and UTM Zone 13, 242997.0 Easting, 3947248.9 Northing NAD 83). The project would be scheduled to commence in Fall 2017.

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

1. **Beneficial and adverse environmental impacts:** The EA demonstrates that there will be no significant adverse or beneficial impacts on the quality of the human environment, including, topography, soils, geology, mineral and paleontological resources, water resources, vegetation, ecosystems and biological communities, agriculture, socioeconomic resources, resource use, wilderness, visual, climate change, Indian trust assets and hazardous materials.
2. **Public health and safety:** CR 19 is an unpaved road servicing the Casamero Lake and Borrego Pass communities. Some of the numerous drainages crossing the road may be unsafe and/or impassable during storm events.
3. **Unique characteristics of the geographic area:** The project area is not unique within its geographical setting and is similar to other areas in the region. There are no prime farmlands, wild and scenic rivers, wilderness areas, refuges, park lands, unique ecological areas, or other unique or rare characteristics of the land and aquatic environs that will be significantly affected.
4. **Degree to which the effects on the quality of the human environment are likely to be highly controversial:** There are no known scientific controversies over the effects of the proposed project on the human environment.
5. **Degree to which the effects are highly uncertain or involve unique or unknown risks:** There are no known effects on the human environment that are highly uncertain or involve unique or unknown risks. The proposed activity will be in adherence to common road construction standards.

6. **Degree to which this action will establish a precedent for future actions with significant effects:** This project will not set a precedent for similar projects that may be implemented by the BIA or other agencies.
7. **Relationship to other actions with cumulatively significant impacts:** There are no known incremental effects of the action that become significant when added to other past, present, or reasonably foreseeable future actions that have affected, or will affect, the project area.
8. **Degree to which the action may affect districts, sites, objects, or structures listed on, or eligible for, the National Register of Historic Places, or may cause loss of significant cultural resources:** The Navajo Nation Historic Preservation Department (NNHPD) issued Cultural Resources Compliance Form, NNHPD No. HPD-16-661, dated November 22, 2016. All of the cited conditions will be met.

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

9. **Degree to which the action may affect threatened, endangered, or sensitive species or their habitat:** The Navajo Nation Department of Fish and Wildlife (NNDFW) issued Biological Resources Compliance Form, NNDFW Review No. 15dbbs&a101, citing avoidance/mitigation measures pursuant to the Migratory Bird Treaty Act (U.S. Code Title 16, Chapter 7, 703-712), Migratory Birds not listed under the NESL, or ESA are prohibited from take by federal law. McKinley County will follow the guidelines in the Biological Evaluation listed under Section 2.7.
10. **Whether the action violates Federal or local laws or requirements imposed for the protection of the environment:** The proposed project will not violate any Federal or tribal environmental laws or requirements.
11. **Indian Trust Assets:** Under the Proposed Action, ROW agreements would be sought and prepared from negotiations between the Navajo Nation and McKinley County per CFR 169.
12. **Climate Change:** There would be a direct effect to greenhouse gas emissions from equipment operations. However, the increase in emissions would be negligible and temporary.

## CONCLUSION

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

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

  
\_\_\_\_\_  
Regional NEPA Coordinator

1/27/2017  
\_\_\_\_\_  
Date

**Environmental Assessment**  
**Roadway and Drainage Improvements Along**  
**County Road 19**  
**McKinley County, New Mexico**

**Prepared for**                      **McKinley County, New Mexico and**  
**DePauli Engineering & Surveying, LLC**

**December 28, 2016**



***Daniel B. Stephens & Associates, Inc.***

6020 Academy NE, Suite 100 • Albuquerque, New Mexico 87109



## Table of Contents

Section	Page
1. Proposal and Need for the Proposal .....	1
2. Alternatives .....	2
2.1 No Action .....	2
2.2 Proposed Action .....	2
3. Environmental Impacts .....	4
3.1 Land Resources .....	4
3.1.1 Topography .....	4
3.1.2 Soils .....	4
3.1.3 Geology, Mineral, and Paleontological Resources .....	5
3.2 Water Resources .....	6
3.3 Air .....	6
3.4 Living Resources .....	7
3.4.1 Wildlife .....	7
3.4.2 Vegetation .....	9
3.4.3 Ecosystems and Biological Communities .....	11
3.4.4 Agriculture .....	12
3.5 Cultural Resources .....	12
3.5.1 Historic and Archeological Resources .....	12
3.5.2 Cultural, Sacred, and Traditional Cultural Properties .....	13
3.6 Socioeconomic Conditions .....	14
3.6.1 Employment and Income .....	14
3.6.2 Demographic Trends .....	15
3.6.3 Lifestyle and Cultural Values .....	15
3.6.4 Community Infrastructure .....	16
3.6.5 Environmental Justice .....	16
3.7 Resource Use Patterns .....	17
3.7.1 Hunting, Fishing, Gathering .....	17
3.7.2 Timber Harvesting .....	18
3.7.3 Agriculture .....	18
3.7.4 Mineral Extraction .....	18
3.7.5 Recreation .....	18
3.7.6 Transportation Networks .....	18
3.7.7 Land Use Plans .....	19
3.8 Other Values .....	19
3.8.1 Wilderness .....	19
3.8.2 Noise and Light .....	20
3.8.3 Visual .....	20
3.8.4 Public Health and Safety .....	20
3.8.5 Climate Change .....	21
3.8.6 Indian Trust Assets .....	21
3.8.7 Hazardous Materials .....	22



## Table of Contents (Continued)

Section	Page
4. Mitigation Measures.....	23
4.1 Wildlife.....	23
4.2 Cultural Resources.....	23
4.3 Indian Trust Assets.....	24
5. Consultation and Public Involvement.....	25
6. List of Contributors.....	26
References.....	27

## List of Figures

### Figure

- 1 Project Location
- 2 Topography Along CR 19
- 3 Land Ownership

## List of Tables

Table	Page
1 Demographic Summary for McKinley County and New Mexico .....	15



---

*Daniel B. Stephens & Associates, Inc.*

## **List of Appendices**

### **Appendix**

- A Photographs
- B Consultations
- C Public Outreach



## **1. Proposal and Need for the Proposal**

McKinley County (the County) proposes the acquisition of right-of-way (ROW) per 25 CFR 169, continued roadway operation and maintenance, and future roadway and drainage improvements along County Road (CR) 19 (Navajo Route 9505), located approximately 8 miles north of Prewitt in McKinley County, New Mexico (Figures 1 through 2d). The road is located within predominantly Navajo Nation lands, but also includes State of New Mexico, Bureau of Land Management (BLM) and private land ownership (Figure 3). The project area corresponds to the CR 19 road corridor from T15N, R11W, Section 31 to the intersection of CR 19 and New Mexico Highway 509 (NM 509) in T16N, R10W, Section 12. The Universal Transverse Mercator (UTM) coordinates for the endpoints of the project area are UTM Zone 12, 767957.11 Easting, 3930130.40 Northing and UTM Zone 13, 242997.0 Easting, 3947248.9 Northing (North American Datum [NAD] 83). The proposed ROW acquisition, maintenance, and improvements for CR 19 are hereafter referred to as the Proposed Action. The project would be scheduled to commence in fall 2017. Appendix A provides photographs of the project area.

The Proposed Action is needed because CR 19 is in deteriorating condition, and the road serves the communities of Casamero Lake and Borego Pass and numerous rural residences in the region. The purpose of the proposed project is to enhance safety on CR 19 by expanding the roadway to add shoulders, improving drainage crossings, and implementing other road improvement measures. Drainage improvements will allow for safer vehicle passage over drainage crossings and will reduce the need for repeated roadway maintenance.

The County is seeking federal funding support from the Bureau of Indian Affairs (BIA) and the Federal Highway Administration (FHWA) for the project implementation; therefore, this environmental assessment (EA) is being prepared under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C 4321-4347) to help federal government officials “make decisions that are based on the understanding of environmental consequences, and take actions that protect, restore, and enhance the environment” (40 CFR 1500.1(c)). This EA has been prepared using the BIA NEPA guidebook (BIA, 2012).



## **2. Alternatives**

This EA considers two action alternatives: the No Action alternative and the Proposed Action.

### **2.1 No Action**

The No Action alternative, which proposes that no roadway and drainage improvements would be made along CR 19, does not meet the planning needs for the County. Nonetheless, it was considered and evaluated to provide a comparative baseline against which to analyze the effects of the Proposed Action, as required under the Council on Environmental Quality (CEQ) regulations (40 CFR Part 1502.14). Unless otherwise discussed in another section, the No Action alternative would have a less than significant effect on community, natural, or cultural resources because no action would occur.

### **2.2 Proposed Action**

The Proposed Action includes (1) the acquisition of ROW per 25 CFR 169, (2) continued roadway maintenance, and (3) future construction of roadway and drainage improvements along an approximately 21.0-mile segment of the unpaved CR 19. Implementation of the proposed action is scheduled to take place from October 2017 to February 2018. As part of construction for the Proposed Action, the following best management practices (BMPs) would be implemented:

- Erosion control measures would be developed as part of a stormwater pollution prevention plan (SWPPP) developed as part of the National Pollutant Discharge Elimination System (NPDES) process for the Proposed Action. Measures would include administrative and erosion control measures such as housekeeping, soil stabilization practices (installation of silt fencing, hay bales, and/or gradient terraces and other measures), and stormwater management measures to mitigate soil erosion.
- No construction activities would occur between 10 p.m. and 6 a.m. on weekdays and between 10 p.m. and 8 a.m. on weekends or holidays.





---

*Daniel B. Stephens & Associates, Inc.*

- Existing utilities would be protected and coordination with utility companies would be completed prior to construction commencement.
- Traffic control and construction activities would be communicated as necessary to area residents.
- Disturbed areas would be revegetated after construction as necessary.
- Construction equipment would be staged within the road ROW and existing access points would be used by construction equipment to the extent possible.
- All necessary permits for the Proposed Action would be obtained prior to commencing construction (i.e., U.S. Environmental Protection Agency [EPA] stormwater permits, U.S. Army Corps of Engineers [USACE], Section 404 Clean Water Act [CWA]).
- ROW acquisitions would be coordinated with the BIA and the Navajo Nation per the 2016 Rights-of-Way on Indian Land Rule (25 CFR 169).

No other reasonable alternatives were identified.



### **3. Environmental Impacts**

#### **3.1 Land Resources**

##### **3.1.1 Topography**

Figures 2a through 2d show the topography of the project corridor. The topography of the region south of Borrego Pass is primarily within inter-mountain basins semi-desert shrub steppe, with patches of inter-mountain basins mixed salt desert scrub and Colorado Plateau mixed bedrock canyon and tableland. North American warm desert bedrock cliff and outcrop are present along edges of surrounding hills of the project corridor (USGS, 2004). The topography east of Borrego Pass is on dry mountains and foothills of the Colorado Plateau Region. Pinyon-juniper woodlands are the predominant low elevation woodlands of this region on warm, dry sites on mountain slopes, mesas, plateaus, and ridges (USGS, 2004). The area at Borrego Pass is classified as Colorado Plateau mixed bedrock canyon and tableland (USGS, 1983).

Direct, minor long-term effects to topography along the road would occur as a result of the Proposed Action from regrading and minor realignments of the existing road. The road would be regraded to the topography consistent with existing topographic contours, while the minor realignment of the road would not modify existing land contours. Therefore, direct effects to topography would be negligible over the majority of the roadway from the current road configuration; there would be no indirect effect. The Proposed Action would therefore have no significant impact on topography.

##### **3.1.2 Soils**

The soil type south of Borrego Pass is the Sparank-San Mateo-Zia complex, a silty clay loam found on 0 to 3 percent slopes (NRCS, 2016). This soil is found at an elevation range of 6,300 to 6,900 feet above mean sea level (feet msl) on floodplains on valley floors and valley sides. The parent material is composed of stream alluvium derived from calcareous sandstone (NRCS, 2016).



The soil type immediately east of Borrego Pass is the Simitarq-Celavar, a sandy loam found on 2 to 8 percent slopes (NRCS, 2016). This soil is found at elevations ranging from 7,200 to 8,100 feet msl on dip slopes on cuestras and mesas (NRCS, 2016). The parent material is composed of eolian deposits over slope alluvium derived from sandstone and shale (NRCS, 2016).

The dominant soil type along the easternmost portion of the road corridor is the Marianolake-Skyvillage complex, found on 1 to 8 percent slopes (NRCS, 2016). This soil is found at elevations ranging from 6,400 to 7,000 feet msl. The parent material of Marianolake soils consists of fan and slope alluvium derived from sandstone and shale. The parent material of Skyvillage soils consists of eolian material and slope alluvium derived from sandstone. The two rock types of the corresponding geologic unit are sandstone and arkose.

Direct, minor short-term effects to soils would result from ground-disturbing construction activities conducted as part of the Proposed Action. No indirect or cumulative effects would result from the Proposed Action. Effects from the Proposed Action would be minimized with implementation of a SWPPP as necessary, BMPs, and revegetation as applicable. The Proposed Action would therefore have no significant impact on soils.

### ***3.1.3 Geology, Mineral, and Paleontological Resources***

The geologic unit south of Borrego Pass is the Crevasse Canyon Formation to the north, Gallup Sandstone and Mancos Shale within the central portion of the segment, and Morrison Formation within the southern portion (USGS, 2015). The geologic unit east of Borrego Pass is Point Lookout Sandstone (USGS, 2015). The nearest mineral extraction occurs at the El Segundo coal mine, located approximately 0.5 mile north of CR 19 at the easternmost terminus of the area of the Proposed Action at the intersection of CR 19 and NM 509. There are no sensitive or designated areas for paleontological resources in the area.

Because the Proposed Action is for improvements of an existing road, there would be no direct or indirect effect on geology, mineral, or paleontological resources. The Proposed Action would therefore have no significant impact on geology, mineral, and paleontological resources.



### **3.2 Water Resources**

There are no perennial lakes, rivers, or streams located within or near the project corridor. Drainages that cross CR 19 appear to be ephemeral, holding water only after precipitation events. No wetland obligate vegetation or other wetland features are within the project corridor (DBS&A, 2016). Drainage crossings typically contain culverts and none of the drainages contain perennial water. No evidence of an ordinary high water mark (OHWM), including developed channel banks or other floodplain delineation is found at any of the drainage crossings.

The aquifer that underlies the region of the project corridor is the Colorado Plateau aquifer. Depth to groundwater in the region ranges from 100 to 800 feet (USGS, 2016b). Because of the high number of washes and other drainage crossings within the project corridor, it is anticipated that groundwater depth is highly variable.

No groundwater would be affected by the Proposed Action in terms of quality, quantity, use, or water rights. Direct, minor short-term effects to surface water resources would result from ground-disturbing construction activities at drainage crossings. The direct effects would be minimized with implementation of a SWPPP as necessary and with implementation of BMPs that include measures to keep debris out of the drainages to the extent possible, stabilize soils disturbed along the banks of the washes, and other erosion control measures. Under the Proposed Action, the natural flow pattern would be returned to pre-project conditions following project completion; therefore, there would be no indirect or cumulative effects as a result of the Proposed Action. The Proposed Action would therefore have no significant impact on water resources.

### **3.3 Air**

The Clean Air Act (CAA) of 1970 mandated that EPA establish a list of pollutants for the purpose of establishing the national primary and secondary ambient air quality standards. The criteria pollutants are the six pollutants for which the National Ambient Air Quality Standards (NAAQS) have been promulgated: carbon monoxide (CO), lead (Pb), ozone (O<sub>3</sub>), particulate



matter with an aerodynamic diameter less than or equal to 10 microns (PM<sub>10</sub>), nitrogen dioxide (NO<sub>2</sub>), and sulfur dioxide (SO<sub>2</sub>). The fundamental method by which EPA tracks compliance with NAAQS is through the designation of areas as either in attainment, nonattainment, maintenance, or unclassifiable. Areas are given the status of nonattainment due to violations of one or more of the established NAAQS, and must then comply with standards that are more stringent until the NAAQS are achieved in that area.

The proposed project is within McKinley County, in an area that is currently designated by EPA as an attainment area for all air pollutants identified in the NAAQS (U.S. EPA, 2016). The nearest sensitive receptors within the affected area would be in residential development, within the community of Casamero Lake, and within the community of Borrego Pass, where Borrego Pass School is located. Distance from the project corridor to the nearest housing units ranges from approximately 100 feet (in Borrego Pass) to 200 feet or more (Casamero Lake and rural residential units dispersed along the roadway).

Direct, minor short-term effects to air quality would result from construction activities as part of the Proposed Action. Traffic would not increase significantly under the Proposed Action; therefore, there would be no indirect effect on air quality. No cumulative effects would result from the Proposed Action. Dust control measures would be implemented as part of BMPs to minimize potential fugitive dust. The Proposed Action would therefore have no significant impact on air quality.

### **3.4 Living Resources**

#### **3.4.1 Wildlife**

##### **3.4.1.1 Overall**

Wildlife of the region includes species adapted to harsh cold desert climates, including coyote (*Canis latrans*), badger (*Taxidea taxus*), and smaller mammals including cottontail rabbit (*Sylvilagus audubonii*), gopher (*Geomys* spp.), desert wood rat (*Neotoma lepida*), and kangaroo rat (*Dipodomys* spp.). No aquatic species are found within or near the project area. Bird species common to the region include the piñon jay (*Gymnorhinus cyanocephalus*), American



crow (*Corvus brachyrhynchos*), common raven (*Corvus corax*), and numerous other birds, including seasonal, migratory birds. Reptiles and amphibians of the region include bull snake (*Pituophis melanoleucus sayi*), corn snake (*Elaphe guttata*), prairie rattlesnake (*Crotalus viridis viridis*), Great Plains skink (*Eumeces obsoletus*), and lesser earless lizard (*Holbrookia maculata*).

Direct, minor short-term effects to wildlife would result from construction activities of the Proposed Action. Effects to non-listed species would include temporary noise increase and ground disturbance during construction. No nests or nesting cavities were observed within the Action Area during a biological survey conducted for a biological evaluation (BE) of the Proposed Action (DBS&A, 2016). However, depending on construction scheduling, there is a potential for nesting birds to be affected by project construction activities. If road construction were to be conducted during the breeding season, a pre-construction nesting bird survey would be completed to locate any active nest that would need to be avoided. If occupied nests were found, they would be avoided until the young have fledged in order to comply with the requirements of the Migratory Bird Treaty Act. The Navajo Nation Heritage Program guidance for avoidance (Mikesic and Roth, 2008) would be implemented if active nests were discovered in proximity to the project site. No indirect or cumulative effects would result from the Proposed Action. With mitigation measures in place, there would be no significant impact to wildlife from the Proposed Action.

#### *3.4.1.2 Threatened and Endangered Species*

A BE was conducted for the Proposed Action (DBS&A, 2016) as part of an effort to determine the effects or impacts of the Proposed Action on the following special-status species:

- Species listed under the Endangered Species Act as threatened or endangered
- Additional species federally listed as proposed or candidate
- Species listed as Navajo endangered by the Navajo Nation Department of Fish and Wildlife (NNDFW)
- BLM sensitive species
- State-listed species



A total of 7 federally listed threatened/endangered species recorded or possible in the general area of the proposed project were evaluated for their potential to occur within the proposed Action Area (DBS&A, 2016). An additional 29 State of New Mexico, BLM, or NNDFW special-status species were similarly evaluated for their potential to occur in the Action Area (DBS&A, 2016).

None of the 7 federally listed threatened/endangered species were determined to have any potential to occur within the project corridor; therefore, there would be no direct or indirect effect on any of those species as a result of the Proposed Action. The Proposed Action would have no significant impact on threatened or endangered species or their habitat.

Of the 29 additional special-status species evaluated, 20 are unlikely to occur at any time in the project area. For those species, the Proposed Action would be expected to have no impact. The other 9 species have the potential to occur in the project area. Most of them would pass through the Action Area only as transients (DBS&A, 2016). For these transients, impacts would likely only be temporary and noise-related. Two species, the pinyon jay and gray vireo (*Vireo vicinior*), were identified as having the potential to nest in pinyon trees in the ROW. For both the pinyon jay and gray vireo, as well as for the other 7 species identified as having the potential to occur within the project area or Action Area as defined in the biological evaluation (DBS&A, 2016), the Proposed Action may have a direct adverse effect on individuals, but was determined to not likely result in a trend toward federal listing or loss of viability (DBS&A, 2016). The Proposed Action would therefore have no significant impact on special-status species.

### **3.4.2 Vegetation**

The project area is primarily within inter-mountain basins semi-desert shrub steppe and mixed salt desert scrub. Colorado Plateau pinyon-juniper is also present east of Borrego Pass (USGS, 2004).

The inter-mountain basins semi-desert shrub steppe is typically dominated by grasses with an open shrub layer. Vegetation is somewhat sparse to moderately dense (10 to 70 percent cover) (USGS, 2004). Characteristic graminoids include Indian ricegrass (*Achnatherum hymenoides*),



blue grama (*Bouteloua gracilis*), saltgrass (*Distichlis spicata*) and alkali sacaton (*Sporobolus airoides*). Characteristic shrub species include fourwing saltbush (*Atriplex canescens*), big sagebrush (*Artemisia tridentata*), Mormon tea (*Ephedra viridis*), rubber rabbitbrush (*Ericameria nauseosa*), broom snakeweed (*Gutierrezia sarothrae*), and winterfat (*Krascheninnikovia lanata*). The general aspect of occurrences may be either open shrubland with patchy grasses or patchy open herbaceous layer. Microphytic crust is very important in some stands (USGS, 2004).

The inter-mountain basins mixed salt desert scrub is characterized by a typically open to moderately dense shrubland that includes many saltbush shrubs (*Atriplex* spp.), such as fourwing saltbush and shadscale (*Atriplex confertifolia*). The shrubs are adapted to these dry, “saline” conditions, often having spines, going dormant during extended dry periods, and having small leaves. Other shrubs present may include big sagebrush, yellow rabbitbrush, rubber rabbitbrush, and winterfat. Grasses and herbs are also found, but because of the dry conditions are rarely abundant.

The region of the Proposed Action east of Borrego Pass is within the Colorado Plateau pinyon-juniper woodland ecosystem (USGS, 2004). The woodlands occur on dry mountains and foothills of the Colorado Plateau Region. Two-needle pinyon (*Pinus edulis*) and Utah juniper (*Juniperus osteosperma*) are the most common trees of this woodland.

The project area has been highly disturbed due to the existence of CR 19 and required maintenance activities along each side of the unpaved, graded road—up to approximately 20 feet on either side. The areas of disturbance contain sparse herbaceous cover to monocultures of species such as tumbleweed (*Salsola tragus*) within the grassland valleys and upland areas. Pinyon and juniper woodland are common within the eastern part of the project corridor. No federal or Navajo Nation endangered plants are within the project corridor (DBS&A, 2016). No noxious weeds were observed during the biological survey (DBS&A, 2016).

Direct, minor effects to vegetation would result from the ground-disturbing construction activities of the Proposed Action. No indirect or cumulative effects would occur as a result of the Proposed Action; BMPs would be implemented to revegetate disturbed areas as necessary.





Heavy equipment usage and access would largely be confined to the existing roadway surface. The Proposed Action would therefore have no significant impact on vegetation.

### **3.4.3 *Ecosystems and Biological Communities***

The inter-mountain basins semi-desert shrub steppe is typically found at lower elevations on alluvial fans and flats. The climate where this system occurs is generally hot in summer and cold in winter, with low annual precipitation; much of the moisture falls as snow (USGS, 2004). Sites are generally alluvial fans and flats with moderate to deep soils. Some sites can be flat, poorly drained, and intermittently flooded with a shallow or perched water table (USGS, 2004).

The mixed salt desert scrub of the inter-mountain basins is an extensive ecological system that includes open-canopied shrublands of typically saline desert basins, alluvial slopes, and plains across the intermountain western U.S. In the interior west, salt desert shrublands are found in some of the driest of habitats, in basins, on rocky slopes, and plains. The soils usually have a high percentage of salts or calcium, often because of the rocks from which the soil is derived, or because of the high rate of evaporation of water from the surface of the soil.

The Colorado Plateau pinyon-juniper woodland of the eastern segment of the Proposed Action Area occurs on dry mountains and foothills of the Colorado Plateau Region from the Western Slope of Colorado to the Wasatch Range, south to the Mogollon Rim. Pinyon-juniper woodlands are the predominant low elevation woodlands of this region, found on warm, dry sites on mountain slopes, mesas, plateaus, and ridges. Severe weather events occurring during the growing season, such as frosts and drought, are thought to limit the distribution of these pinyon-juniper woodlands to relatively narrow altitudinal zones (USGS, 2004).

Because the Proposed Action consists of improvements to an existing road, it would have no direct or indirect effect on existing ecosystems and biological communities. The Proposed Action would therefore have no significant impact on ecosystems and biological communities.



#### **3.4.4 Agriculture**

The Proposed Action Area and its immediate vicinity are used for livestock grazing. No prime or unique farmland is located within or near the Proposed Action Area (NRCS, 2016).

The Proposed Action consists of improvements to an existing road with some areas proposed for ROW acquisition. There would be no direct or indirect effects on agricultural use in the area with the exception of livestock grazing. A loss of forage for livestock would occur with the acquisition of additional ROW, but is estimated to be minimal. The Proposed Action would therefore have no significant impact on agriculture.

### **3.5 Cultural Resources**

Cultural resources are defined as historic properties as defined by the National Historic Preservation Act (NHPA), cultural items as defined by the Native American Graves and Repatriation Act (NAGPRA), archeological resources as defined by the Archaeological Resources Protection Act (ARPA), sacred sites as defined in EO 13007 to which access is afforded under the American Indian Religious Freedom Act (AIRFA), and collections and associated records as defined in 36 CFR 79.

A cultural resources inventory was completed on November 7, 2016 (NNHPD, 2016) to evaluate the potential effects of the Proposed Action on cultural resources through the Section 106 process of NHPA (16 USC 470) as described in 36 CFR 800. Cultural resources may include, but are not limited to, districts, archaeological sites, isolated occurrences (IOs), historic buildings, historic objects, and acéquias over 50 years old. In consultation with the Navajo Nation Historic Preservation Department (NNHPD), an assessment was made for each resource as to its eligibility status.

#### **3.5.1 Historic and Archeological Resources**

The surveyed area for the Proposed Action included a linear segment of CR 19 17.6 miles (28.3 kilometers [km]) long and 200 feet (61.0 meters) wide. A total area of approximately



428.22 acres was inspected during the survey conducted for the cultural resources study (NNHPD, 2016). The cultural resources inventory of the CR 19 project corridor resulted in the discovery and documentation of the following cultural resources:

- 8 sites
- 2 traditional cultural properties (TCPs)
- 53 IOs
- 2 in-use sites (IUSs)

The inventory contained a total of 8 eligible properties: 5 sites, 2 TCPs and 1 IUS (Borrego Pass Trading Post). Of the 5 sites, 1 was an unevaluated resource. A total of 56 sites, 53 IOs, 1 IUS, and 2 sites were found to be non-eligible properties (Appendix B).

The Proposed Action would not affect any of the historic properties documented, as mitigation measures outlined in the NNHPD compliance letter would be in place. See Section 4 for mitigation measures to be taken. The Proposed Action would therefore have no significant impact on cultural resources.

### **3.5.2 Cultural, Sacred, and Traditional Cultural Properties**

The Proposed Action Area crosses through predominantly Navajo Nation lands; therefore, the Navajo Nation Cultural Resources Protection Act must also be adhered to. In addition to the historic and archaeological resources evaluation, sacred places and other areas of modern cultural importance to the Navajo people were evaluated for the Proposed Action while maintaining confidentiality. A total of 2 TCPs were inventoried.

The Proposed Action would not affect the TCPs documented, as mitigation measures outlined in the NNHPD compliance letter would be in place. The Proposed Action would therefore have no significant impact on cultural, sacred, and traditional cultural properties.



### **3.6 Socioeconomic Conditions**

Much of CR 19 lies within the boundaries of Navajo Nation lands but also includes other state and federal lands (Figure 3). The road serves the communities of Casamero Lake and Borrego Pass, New Mexico. Casamero Lake is a community of approximately 1,200 residents, and is one of the smallest chapters on the Navajo Nation. The Borrego Pass School, an elementary and secondary school, is located in Borrego Pass.

Due to the rural nature of the project corridor, demographic data for McKinley County were used for this evaluation. The current population of the County has grown by 3.6 percent since 2010—from 71,491 to 74,098—a higher growth rate than the population of the state as a whole, which has grown by 1.3 percent (USCB, 2016). The rate of poverty among all age groups in the County has remained well above the corresponding rate in New Mexico and the U.S. from at least 1997 through 2013 (USCB, 2016).

#### **3.6.1 Employment and Income**

At 13.9 percent, McKinley County's unemployment rate is only slightly higher than that of the state as a whole (9.6 percent); however, in 2013 the percentage of families in McKinley County with income below the poverty level (31.5 percent) was almost twice that of the state (16.1 percent). Table 1 summarizes demographic data including income and minority population data for McKinley County and the state of New Mexico.

The road corridor and surrounding area consist primarily of range land with scattered rural residential development. The communities of Casamero Lake and Borrego Pass are served by the CR 19 corridor.

The Proposed Action would have a positive, short-term direct effect on employment and income as a result of construction jobs created by the project. The increase in construction jobs would be negligible in the overall employment numbers for McKinley County; therefore, any indirect or cumulative effects would be negligible. The Proposed Action would therefore have no significant impact on employment and income.



**Table 1. Demographic Summary for McKinley County and New Mexico**

Demographic	New Mexico	McKinley County
Population (2015 estimate)	2,080,109	76,708
Native American	10.5%	77.5%
African American	2.6%	1.1%
Asian	1.7%	0.9%
Hawaiian/Pacific Islander	0.2%	0.1%
White Only	82.5%	17.8%
Hispanic/Latino: Any race	48.0%	13.8%
Two or more races	2.5%	2.6%
<i>Economic Data</i>		
Per capita income	\$23,948	\$12,800
Median family income	\$44,968	\$29,812
Civilian labor force unemployment rate	9.6%	13.9%
Percent of population below poverty	20.4%	35.8%
Percent of families below poverty	16.1%	31.5%

Source: USCB, 2016

### **3.6.2 Demographic Trends**

The median age of the population of McKinley County (30.5) is slightly lower than that of the state of New Mexico (36.7) (USCB, 2016). McKinley County has a much higher percentage of Native Americans (74.4 percent) than the state (9.2 percent) and a lower percentage of whites and Hispanics or Latinos (USCB, 2016).

No direct or indirect effects would result from the Proposed Action, as there would be no increase in traffic capacity or change in the ethnic makeup of the local population. The Proposed Action would therefore have no significant impact on demographic trends.

### **3.6.3 Lifestyle and Cultural Values**

The project corridor is located within predominantly Navajo Nation lands; therefore, cultural and rural values are prevalent and the importance of maintaining traditional lifestyles is highly valued.



The Proposed Action would seek ROW acquisition on Navajo Nation lands along the existing CR 19 as necessary. Any acquisition would be conducted per the BIA final rule on ROW in Indian land (25 CFR 169). The Proposed Action construction would be centered on the existing road to the extent possible, and would not change existing lifestyles or rural cultural values; therefore, there would be no direct or indirect effects. The Proposed Action would therefore have no significant impact on lifestyle and cultural values.

#### **3.6.4 Community Infrastructure**

Utilities found within the roadway corridor include power lines. The CR 19 infrastructure consists of the unpaved gravel road and culverts at drainage crossings. A railroad crossing is located at the eastern end of the road segment near NM 509. The railroad serves the El Segundo Mine, located approximately 0.5 mile north of the eastern terminus of CR 19.

ROW acquisition would not affect any existing utility easements, and coordination with utility companies would be conducted as necessary. Direct, long-term beneficial effects would result from the Proposed Action, as reconstruction of the roadway would stabilize and improve infrastructure of the road. There would no indirect or cumulative effect. As part of BMPs, existing utilities and the infrastructure of the railroad crossing would be protected, and coordination with utility companies would be completed prior to construction commencement. The Proposed Action would therefore have no significant impact on community infrastructure.

#### **3.6.5 Environmental Justice**

Environmental justice is concerned with disproportionate impacts on low-income and minority populations. Income and minority population data for McKinley County and the state of New Mexico are summarized in Table 1.

Analyses of environmental justice effects include effects on population groups, loss of community cohesion, changes in accessibility to services, and the displacement of people. The Proposed Action would not disproportionately affect members of the community, affect community cohesion, displace people, or in other ways disproportionately and adversely affect



minority or low-income populations. Overall, the Proposed Action would be consistent with Title VI of the Civil Rights Act and the federal environmental justice policy, and would have no adverse direct or indirect effect on environmental justice. In addition, part of 25 CFR 169 is to provide "Indian landowners with notice of actions affecting their land" and defer to individual Indian Landowner "decisions subject to an analysis of whether the decision is in their best interest." The Proposed Action would therefore have no significant impact on environmental justice.

### **3.7 Resource Use Patterns**

The area of CR 19 is within predominantly Navajo Nation lands, and as such has maintained a resource use pattern that is traditional to the Navajo people. Other land ownership includes State of New Mexico, BLM, and private (Figure 3). Very little development has occurred on these lands and the resource use pattern has not changed overall. By maintaining and improving the existing road, the Proposed Action would not change resource use patterns for any lands in the region. There would be no direct or indirect effect from the Proposed Action. The Proposed Action would therefore have no significant impact on resource use.

#### **3.7.1 Hunting, Fishing, Gathering**

CR 19 is within a rural setting containing natural resources conducive to hunting. No surface waters to support fishing are located within the project area. Pinyon and juniper trees common to the region are used for the gathering of nuts and cones and for fire wood. Other shrubs may be gathered for medicinal or other purposes.

No direct effect would occur from ROW acquisition, as no change to access for hunting, fishing or gathering would occur. A direct, minor adverse effect would result if trees used for gathering are removed. Select pinyon or juniper trees may be removed as part of construction activities. Any tree removal would be kept to the minimum required to implement the project design, and every effort would be made to avoid unnecessary removals. Other trees would be left in place and could be used for harvesting. The Proposed Action would therefore have no significant impact on hunting, fishing, or gathering.



### **3.7.2 Timber Harvesting**

No commercial timber harvesting is conducted in the project corridor.

There would be no direct or indirect effect from the Proposed Action. The Proposed Action would have no significant impact on timber harvesting.

### **3.7.3 Agriculture**

There is no prime farmland within the project corridor (NRCS, 2016), and no land is used for agricultural purposes.

There would be no direct or indirect effect from the Proposed Action. The Proposed Action would therefore have no significant impact on agriculture.

### **3.7.4 Mineral Extraction**

No mineral extraction is conducted along the project corridor.

There would be no direct or indirect effect from the Proposed Action. The Proposed Action would therefore have no significant impact on mineral extraction.

### **3.7.5 Recreation**

No developed recreation lands are located within the project corridor.

There would be no direct or indirect effect from the Proposed Action. The Proposed Action would therefore have no significant impact on recreation.

### **3.7.6 Transportation Networks**

CR 19 connects to the communities of Borrego Pass and Casamero Lake and to NM 509 at the eastern terminus.





The proposed ROW acquisition would enable the County to fully integrate CR 19 into the transportation network managed by the County. This would enable the County to apply for federal funding for improvements for this and future projects. ROW acquisition would therefore have a long-term beneficial effect for the transportation networks. By improving CR 19, the Proposed Action would have a direct, beneficial long-term effect on transportation. Improvements would be made to an existing road, and there would be no indirect or cumulative effect. The Proposed Action would therefore have no significant impact on transportation networks.

### **3.7.7 Land Use Plans**

CR 19 is currently under the jurisdiction of the Navajo Nation, and community land use is coordinated through the local Navajo Nation chapters. The nearest chapter to the project area is the Casamero Lake Chapter. Other land ownership includes the State of New Mexico, BLM, and private.

ROW acquisition is part of the Proposed Action. While this would change the designation of the roadway corridor to include a McKinley County easement, it would be consistent with current land use practices regarding roadways; therefore, the ROW would have no direct or indirect effect on land use plans. No direct or indirect effect would result from the Proposed Action road improvements, as the project is for acquisition of ROW and reconstruction of an existing road and no changes to existing land use would be necessary. The Proposed Action would therefore have no significant impact on land use.

## **3.8 Other Values**

No other values are applicable to the region or CR 19.

### **3.8.1 Wilderness**

There is no designated wilderness within the Proposed Action Area.



No direct or indirect effect to wilderness from the Proposed Action would occur. The Proposed Action would therefore have no significant impact on wilderness.

### **3.8.2 Noise and Light**

The area surrounding the CR 19 road corridor is rural, with homes dispersed throughout. The region has a quiet atmosphere with low lighting.

No direct or indirect effect on lighting would occur as a result of the Proposed Action. There is no new lighting proposed as part of the Proposed Action. There would be a direct, minor, and temporary noise increase during construction and maintenance activities, resulting in a direct adverse effect to residences within approximately 500 feet of the roadway. As part of BMPs, no construction activities would occur between 10 p.m. and 6 a.m. on weekdays and between 10 p.m. and 8 a.m. on weekends or holidays. The Proposed Action would therefore have no significant impact on noise and light.

### **3.8.3 Visual**

Visual resources of the region are valued as rural, with canyons and mesas that create scenic backdrops from the roadway. CR 19 is also parallel to a portion of the Continental Divide and as such provides scenic vistas along segments of the roadway.

No development would occur with the implementation of the Proposed Action, as the majority of the roadway would retain its original alignment, with only a few locations proposed for minor realignment. The Proposed Action would therefore have no significant impact on visual resources.

### **3.8.4 Public Health and Safety**

CR 19 is an unpaved road servicing the area. Some of the numerous drainages crossing the road may be unsafe and/or impassable during storm events.



#### **3.8.4.1 No Action**

There would be a direct long-term adverse effect on health and safety under the No Action alternative, as the road would continue to experience deteriorating conditions, especially at the drainage crossings. The road would become increasingly unsafe. Many residents of the area would be unable to use the road, potentially becoming stranded, and emergency and other vehicles would not be able to reach residents in need of help. The No Action alternative would therefore have a significant, negative impact on public health and safety.

#### **3.8.4.2 Proposed Action**

The Proposed Action would have a beneficial, direct long-term effect on public health and safety. Public health and safety would be enhanced with the Proposed Action because of the improved road conditions. Improved road surfaces and drainage improvements would allow for safer passage of area commuters, emergency vehicles, school buses, and other vehicles, especially at drainage crossings. There would be no indirect or cumulative effects. The road is currently an existing road that is passable for area residents; therefore, the Proposed Action would not have a significant impact on public health and safety.

#### **3.8.5 Climate Change**

CR 19 is a 2-lane existing unpaved roadway that undergoes periodic maintenance. Emissions along the road come from vehicle traffic and from maintenance equipment (e.g., road graders).

There would be a direct effect to greenhouse gas (GHG) emissions from equipment operations emitting carbon dioxide (CO<sub>2</sub>) during construction; however, the increase in emissions would be negligible and temporary. There would be no indirect or cumulative effects. The Proposed Action would not increase traffic capacity or create an increase or decrease in existing GHG emissions following completion of roadway improvements; therefore, there would be no significant impact to climate change from the Proposed Action.

#### **3.8.6 Indian Trust Assets**

CR 19 is located predominantly within Navajo Nation lands.



An ROW easement is proposed as part of the Proposed Action. The proposed ROW acquisition would follow the existing road and would serve the purpose of roadway maintenance and improvements to be authorized by the County and for the application of federal funding for roadway projects. ROW agreements would be sought and developed from negotiations between Navajo Nation and McKinley County per 25 CFR 169. Coordination with the State of New Mexico, BLM, and private landowners would also be conducted for any changes to the ROW within those lands. Therefore, no significant impact to Indian trust assets or other lands would occur as a result of the ROW acquisition under the Proposed Action. No direct or indirect effects would result from the Proposed Action, as no construction activities are proposed outside of the ROW. Indian trust assets would be protected from loss, damage, waste, and depletion, as would rights of access and resource use on traditional tribal lands. The Proposed Action would therefore have no significant impact to Indian trust assets.

### **3.8.7 Hazardous Materials**

The area surrounding CR 19 is rural residential; as such, there are no hazardous materials areas of concern.

No direct or indirect effects would result from the Proposed Action, as no hazardous materials would be generated or used. The Proposed Action would therefore have no significant impact to hazardous materials.



## **4. Mitigation Measures**

### **4.1 Wildlife**

Depending on the timing of road improvement activities, nest surveys would be conducted under the Proposed Action prior to construction commencement to comply with the Migratory Bird Treaty Act.

### **4.2 Cultural Resources**

No historic properties would be affected with the following conditions as outlined in the NNHPD compliance letter (Appendix B). Conditions for all or some of the sites identified in the NNHPD compliance issued on July 27, 2016 are as follows:

1. Prior to any construction, the site boundaries will be flagged and/or temporarily fenced under the direction of a qualified archaeologist and shown to the construction supervisor.
2. All ground disturbance within 50 feet of the site boundaries will be monitored by a qualified archaeologist.
3. No construction, equipment, or vehicular traffic will be allowed within the site boundaries.
4. A brief letter/report documenting the result of the monitoring will be submitted to NNHPD within 30 days of monitoring activities.
5. All future maintenance activities shall avoid the site by a minimum of 50 feet from the site boundaries.
6. A monitoring report will be submitted to NNHPD within 30 days of the monitoring activities.
7. Sites will be avoided by rerouting the current ROW and monitoring all construction within 50 feet of the site boundary.



8. If a site cannot be avoided, a nature and extent testing plan and, if necessary, a data recovery plan will be implemented in consultation with the NNHPD. The plans must be consistent with Navajo Nation policies and procedures and approved by NNHPD.

As the lead agency, the County will ensure that any borrow area, materials source area, or staging area outside of the area assessed in this EA be surveyed and evaluated for cultural resources prior to any disturbance. The evaluation of potential impacts from the Proposed Action would take place in consultation with the NNHPD.

In addition, one of the documented TCPs is located on both sides of the CR 19 ROW; therefore, construction will be limited to the existing area of disturbance. The other TCP is located outside of the area of potential effect (APE), and therefore will not be impacted. All ground disturbance will be limited to the current paved surface at the IUS Borrego Pass Trading Post. One site was determined to have no further work warranted. See Appendix B for clarification of specific site requirements.

### **4.3 Indian Trust Assets**

Under the Proposed Action, ROW agreements would be sought and prepared from negotiations between the Navajo Nation and McKinley County per 25 CFR 169 (BIA, 2016).



## **5. Consultation and Public Involvement**

Compliance with Section 106 of the National Historic Preservation Act was completed in 2016 (NNHPD, 2016). A BE was prepared and submitted, and compliance with Section 7 of the Endangered Species Act was achieved as part of the document preparation (DBS&A, 2016). Consultation was conducted with the NNHPD and the NNDFW during the cultural and natural resources evaluations. The NNHPD issued a Cultural Resources Compliance Form for the project and the NNDFW issued a letter of conditional approval (Appendix B).

As part of the community outreach by McKinley County, a first meeting discussing the project was hosted by the Littlewater Chapter in Crownpoint on August 17, 2015. Facilitated by Lance Begay, the Navajo Division of Transportation (DOT) planner, the meeting included a discussion of permissions for crossing of electrical power lines and water and gas lines. The CR 19 project was again discussed at a meeting on April 26, 2016 hosted by the Littlewater and Casamero Lake Chapters, with representatives of the chapters, the McKinley County Road Department, and Navajo DOT. At that meeting, the discussion involved the project funding and timeline. A third meeting was held at the office of Navajo DOT on September 15, 2016 with representatives of Navajo DOT, the McKinley County Road Department, Navajo Head Start, and the Littlewater, Casmero Lake, and Baca Prewitt Navajo Nation Chapters. Meeting summary notes and sign-in sheets are included in Appendix C.



## **6. List of Contributors**

The following contributors participated in development of the EA:

- Julie Kutz, Biologist and NEPA Specialist
- Jean-Luc Cartron, Senior Biologist and Project Manager
- Paula Schuh, Program Manager





## References

- Bureau of Indian Affairs (BIA). 2012. *Indian Affairs National Environmental Policy Act (NEPA) guidebook, 59 IAM 3-H*. Division of Environmental and Cultural Resources Management. August 2012.
- BIA. 2016. Rights-of way on Indian land; Final rule 25 CFR Part 169. Available at <https://www.bia.gov/WhoWeAre/AS-IA/ORM/RightsOfWay/index.htm>.
- Daniel B. Stephens & Associates, Inc. (DBS&A). 2016. *Biological evaluation, Roadway and drainage improvements along County Road 19, McKinley County, New Mexico*. Prepared for McKinley County, New Mexico and DePauli Engineering & Surveying, LLC. January 27, 2016.
- Griffith, G.E., J.M. Omernik, M.M. McGraw, G.Z. Jacobi, C.M. Canavan, T.S. Schrader, D. Mercer, R. Hill, and B.C. Moran. 2006. *Ecoregions of New Mexico* (color poster with map, descriptive text, summary tables, and photographs). U.S. Geological Survey. Scale 1:1,400,000.
- Mikesic, D. and D. Roth. 2008. Navajo Nation Endangered Species List. Species accounts, Version 3.08. Navajo Nation Department of Fish and Wildlife Navajo Natural Heritage Program. [http://nnhp.nndfw.org/sp\\_account.htm](http://nnhp.nndfw.org/sp_account.htm). Accessed December 2016.
- Natural Resources Conservation Service (NRCS). 2016. Web soil survey of McKinley County, New Mexico. <http://websoilsurvey.nrcs.usda.gov/app/>. Accessed December 2016.
- Navajo Nation Historic Preservation Department (NNHPD). 2016. Cultural resources compliance form completed for project titled "A Class III cultural resources inventory of 17.6 miles along County Road 19 Navajo Nation and McKinley County, New Mexico." NNHPD No. HPD-16-661. Approved November 2016.



U.S. Census Bureau (USCB). 2016. Census Bureau Quickfacts. Accessed December 2016. <<http://www.census.gov/quickfacts/table/INC110214/35,35031>>.

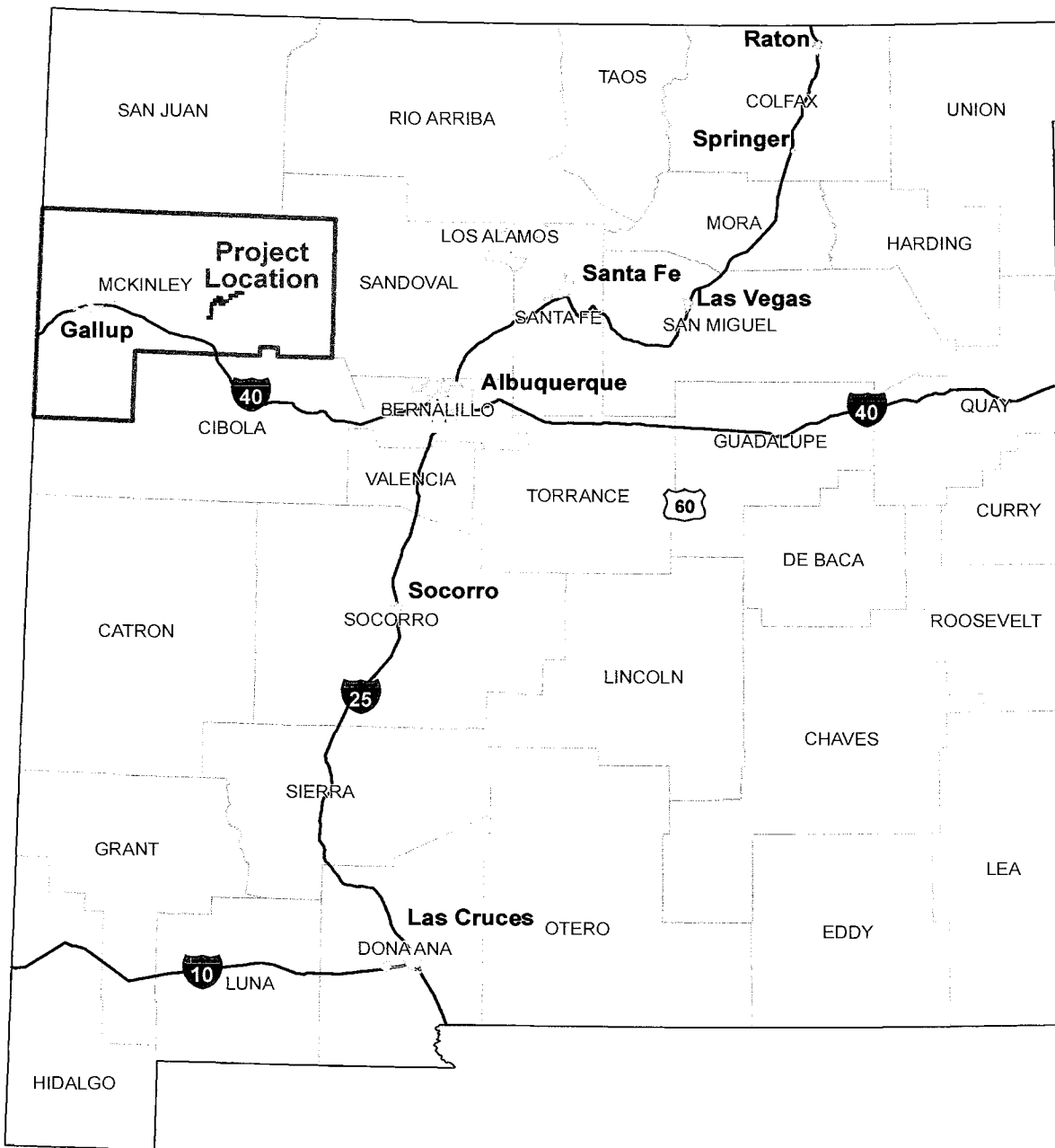
U.S. Environmental Protection Agency (U.S. EPA). 2016. The Green Book nonattainment areas for criteria pollutants as of October 1, 2015. <<http://www.epa.gov/airquality/greenbook/>>. Accessed January 2016.

U.S. Geological Survey (USGS). 1980. Twin Lakes, New Mexico 7.5-minute series topographic quadrangle map.

USGS. 2004. *National Gap Analysis Program, Provisional digital land cover map for the southwestern United States*. Version 1.0. RS/GIS Laboratory, College of Natural Resources, Utah State University.

USGS. 2016a. Mineral resources on-line spatial data. New Mexico geologic map data. Available at <<http://mrdata.usgs.gov/geology/state/state.php?state=NM>>. Accessed January 2016.

USGS. 2016b. Groundwater Watch. Active groundwater level network. Accessed December 14, 2016. <<http://groundwaterwatch.usgs.gov/>>.



**Daniel B. Stephens & Associates, Inc.**  
12/4/2015 JN NM15.0131

**MCKINLEY COUNTY, CR 19  
Project Location**

Figure 1

S:\PROJECTS\NM15.0131\MCKINLEY\_CR\_19-BE\_EA\GIS\MXD\FIGURES\FIG01\_PROJ\_LOC\_MAP.MXD

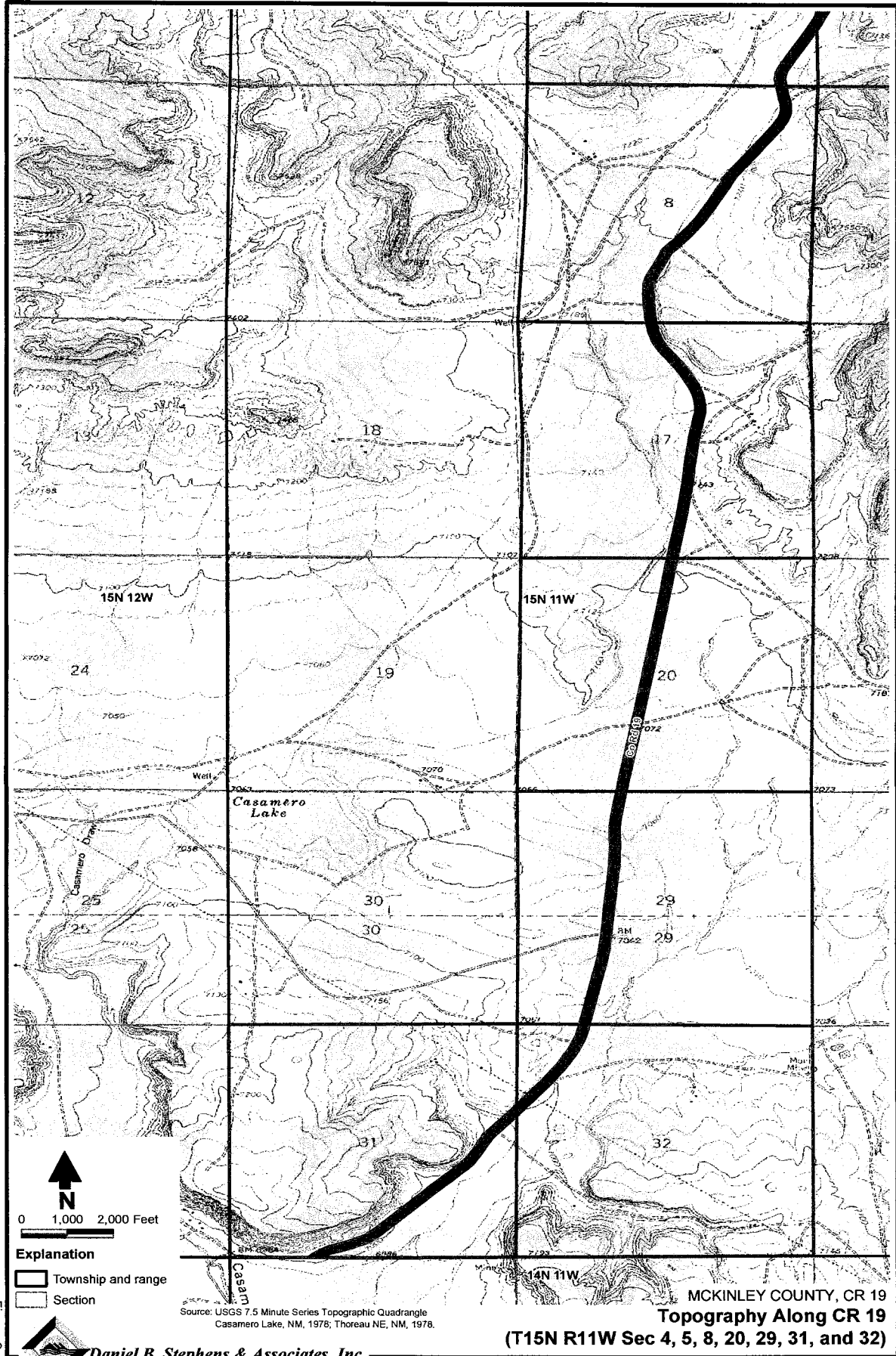


Figure 2a

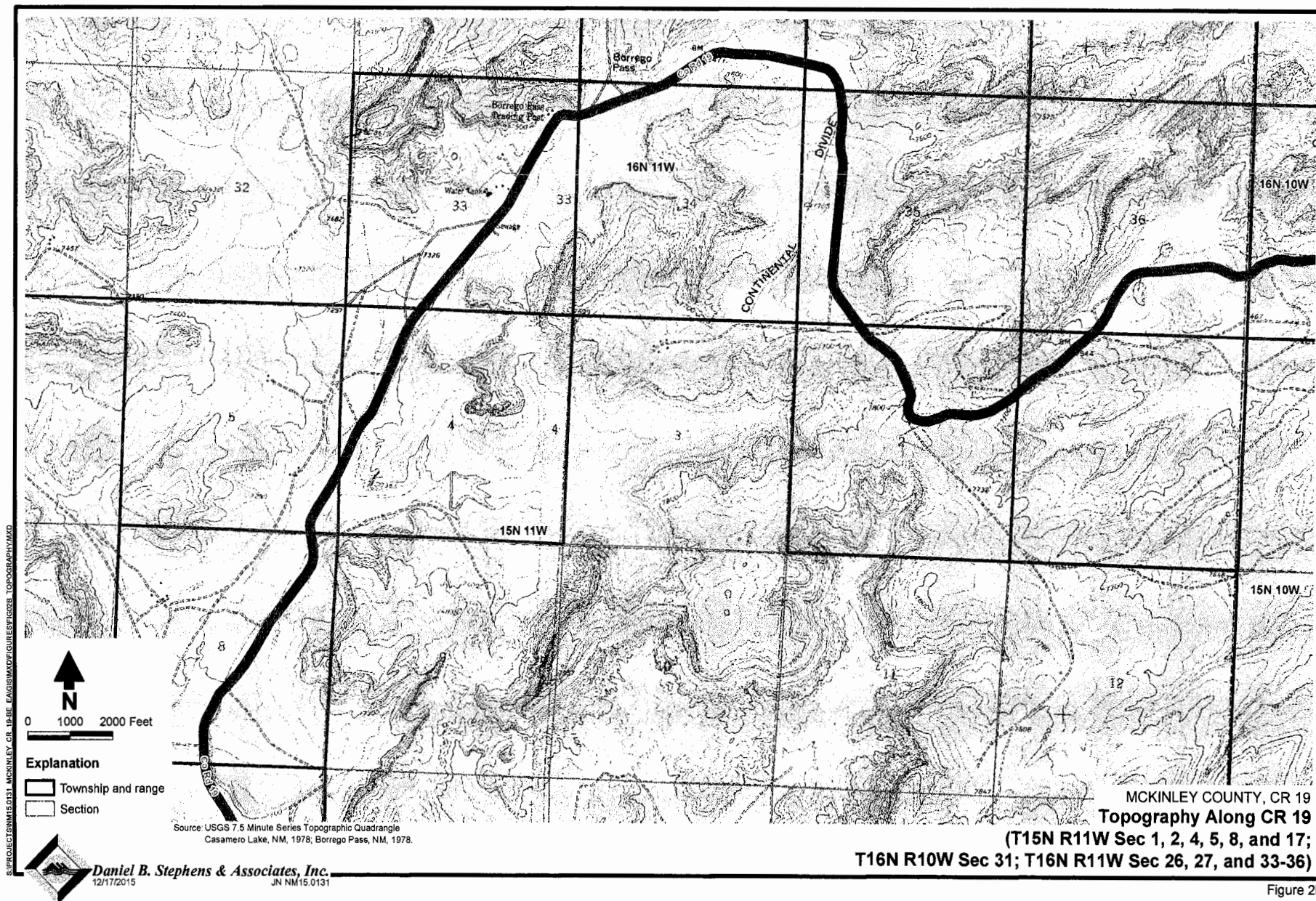
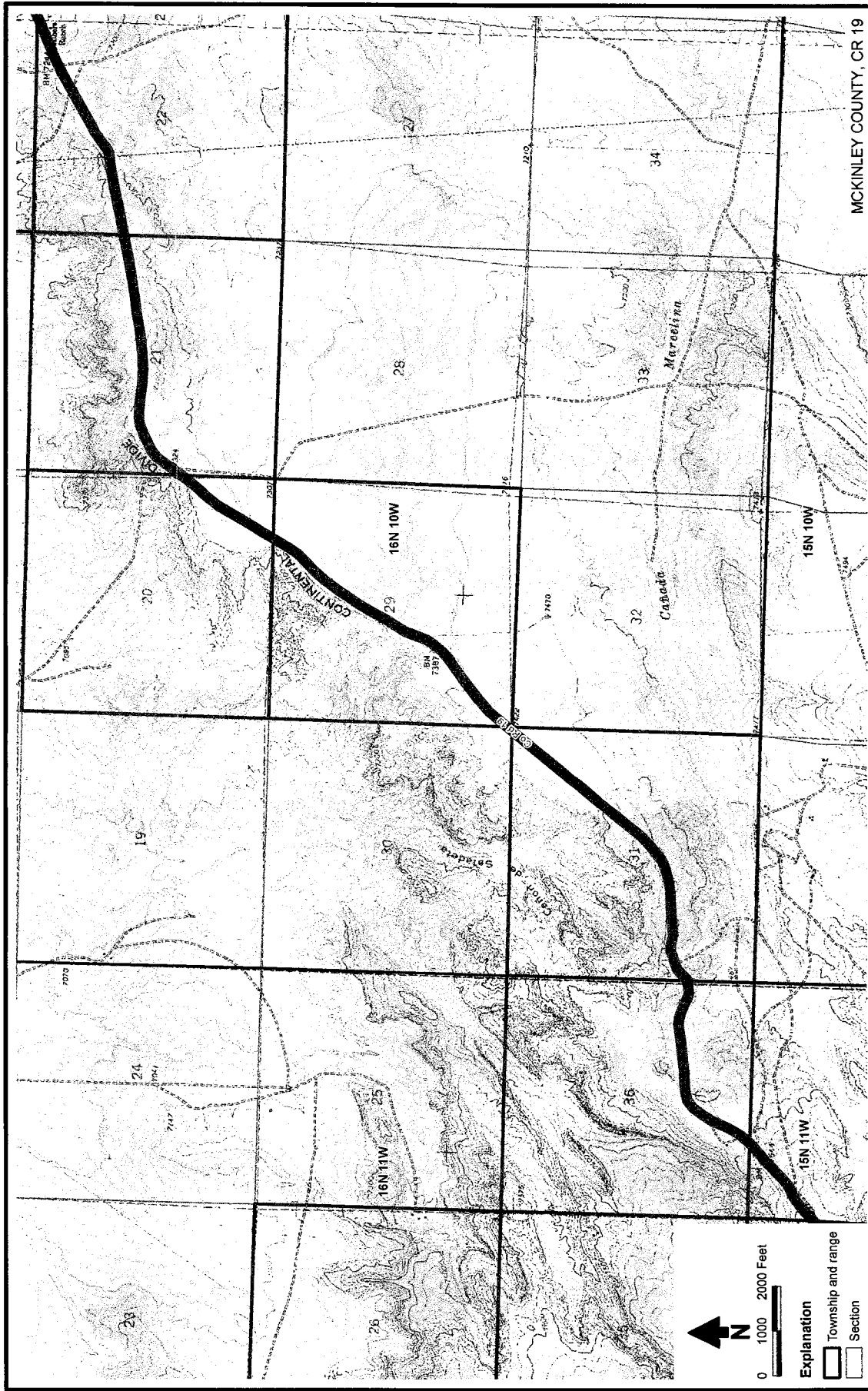


Figure 2b



Topography Along CR 19  
(T15N R11W Sec 1; T16N R11W Sec 36; T16N R10W Sec 21, 22, 29, 31)

Figure 2c

Daniel B. Stephens & Associates, Inc.  
12/17/2015

Source: USGS 7.5 Minute Series Topographic Quadrangle  
Borrego Pass, NM, 1978.

JUN 15 0131

12/17/2015

12/17/2015

12/17/2015

12/17/2015

12/17/2015

12/17/2015

12/17/2015

12/17/2015

12/17/2015

12/17/2015

12/17/2015

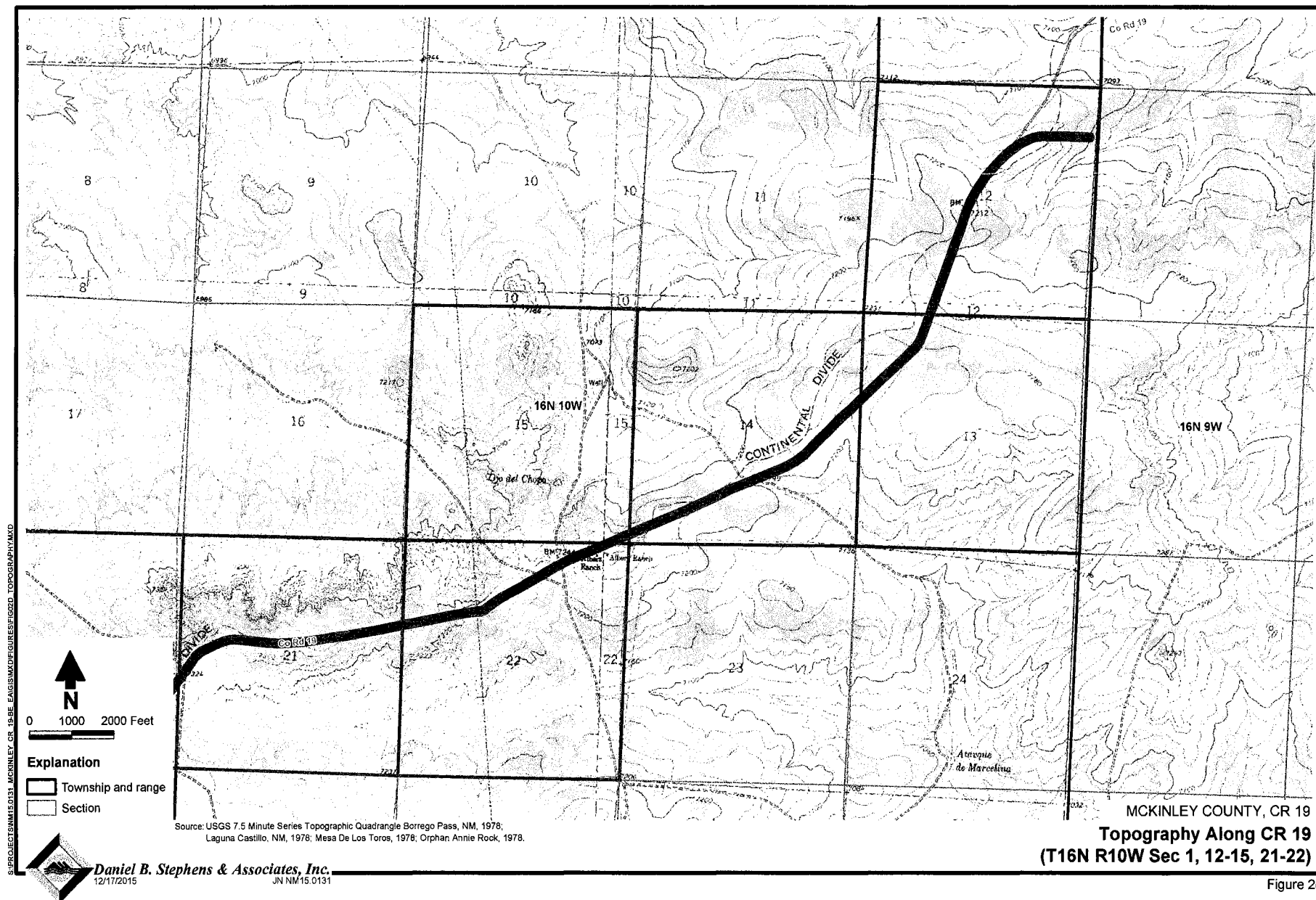
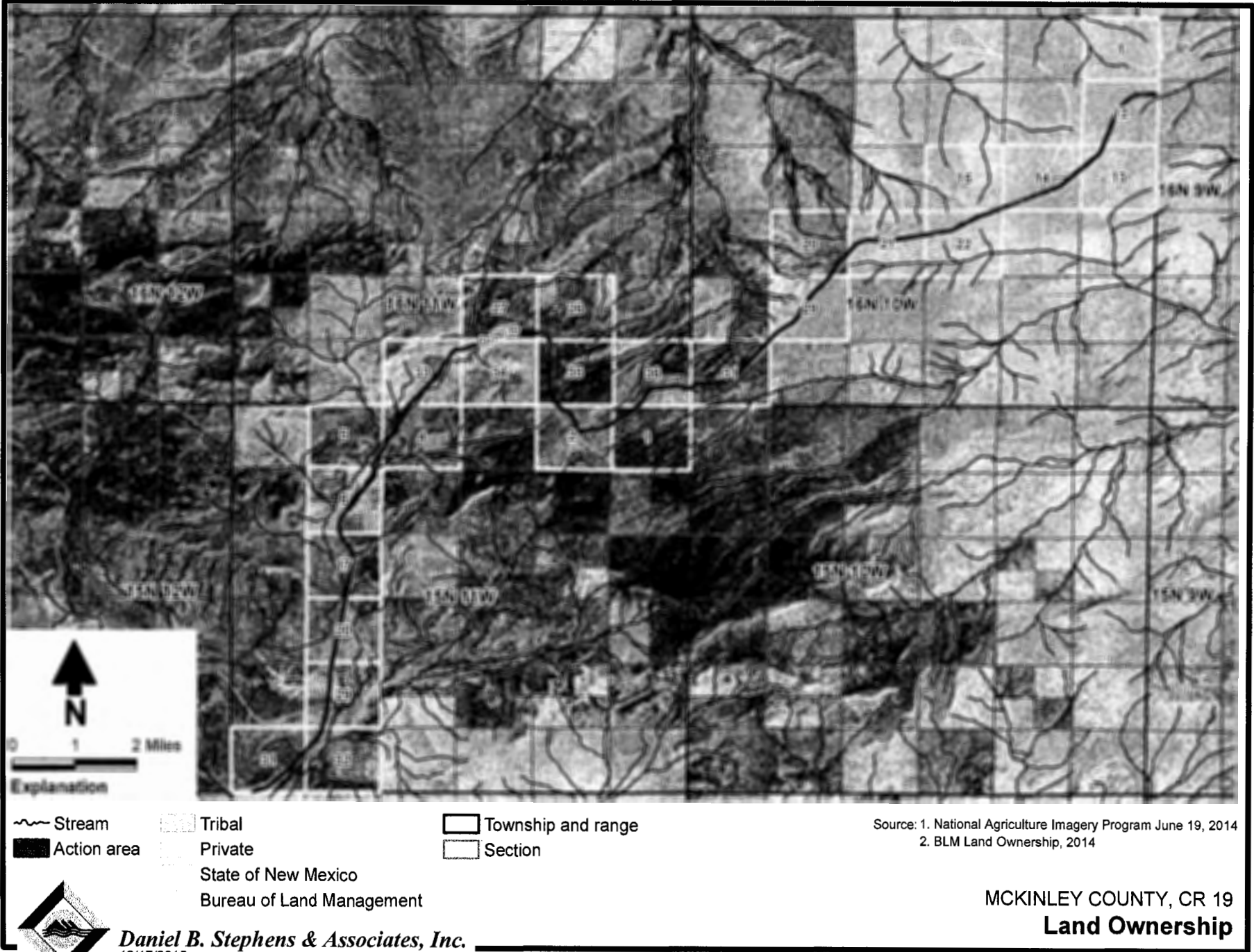


Figure 2d







## **Appendix A**

## **Photographs**



1. CR 19 east of Borrego Pass, view to the east at the east end of project

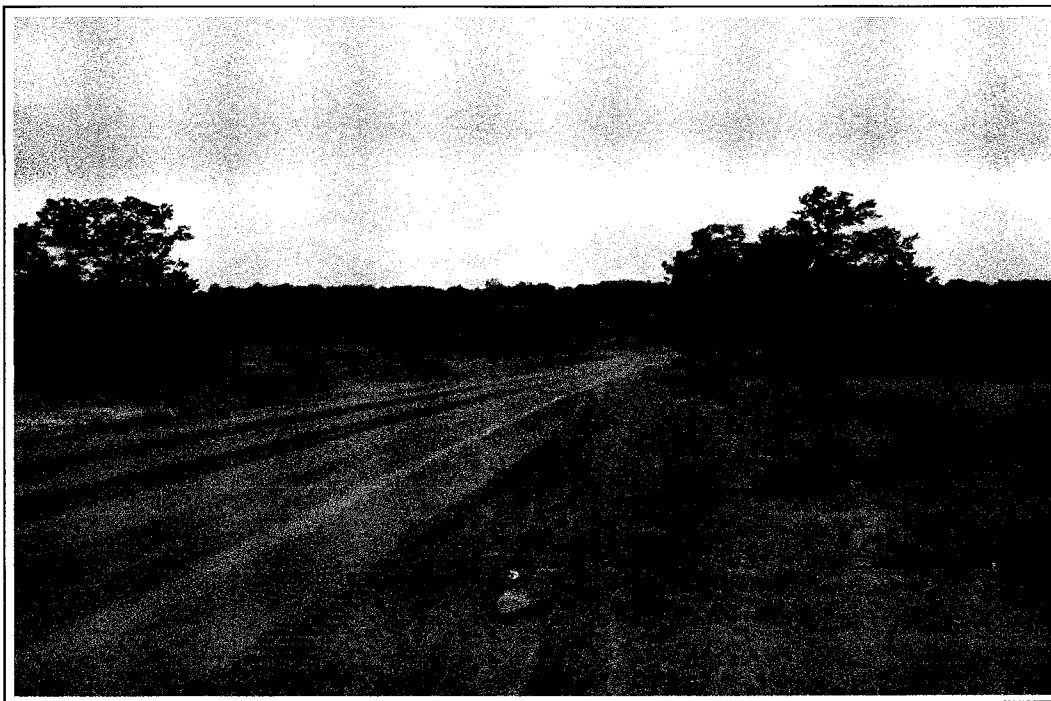


2. CR 19 east of Borrego Pass, view to the west at the east end of project





3. View of CR 19 to the east showing typical pinyon-juniper woodland

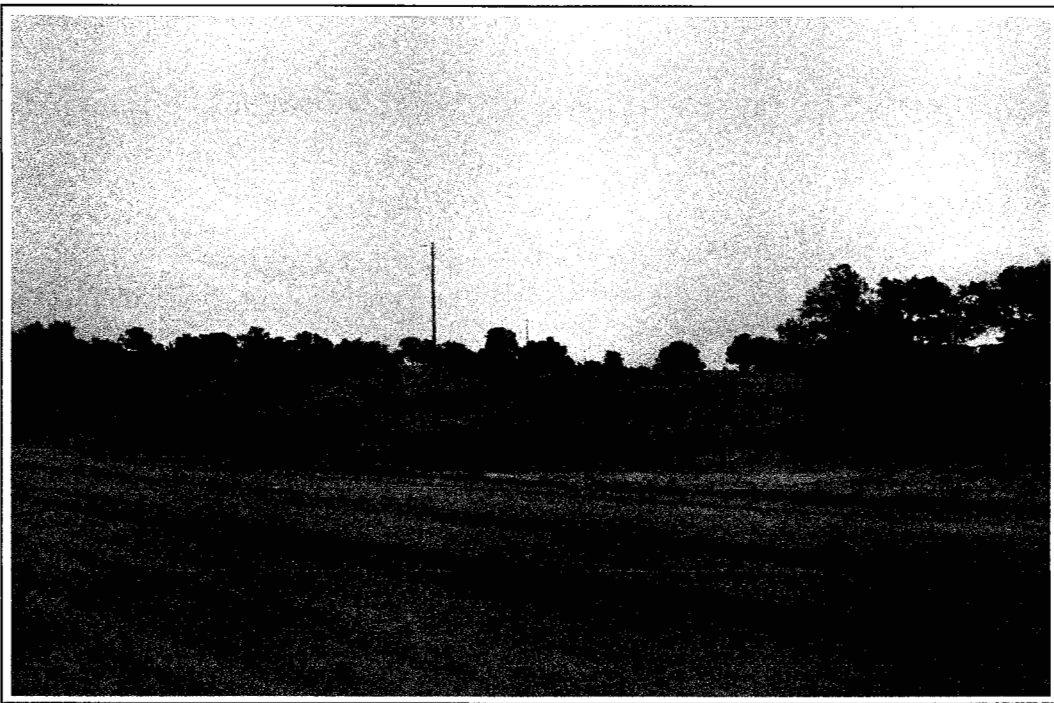


4. View of CR19 to the west showing typical pinyon-juniper woodland





5. Typical view of pinyon-juniper woodland near CR 19 east of Borrego Pass near the beginning of project, west end

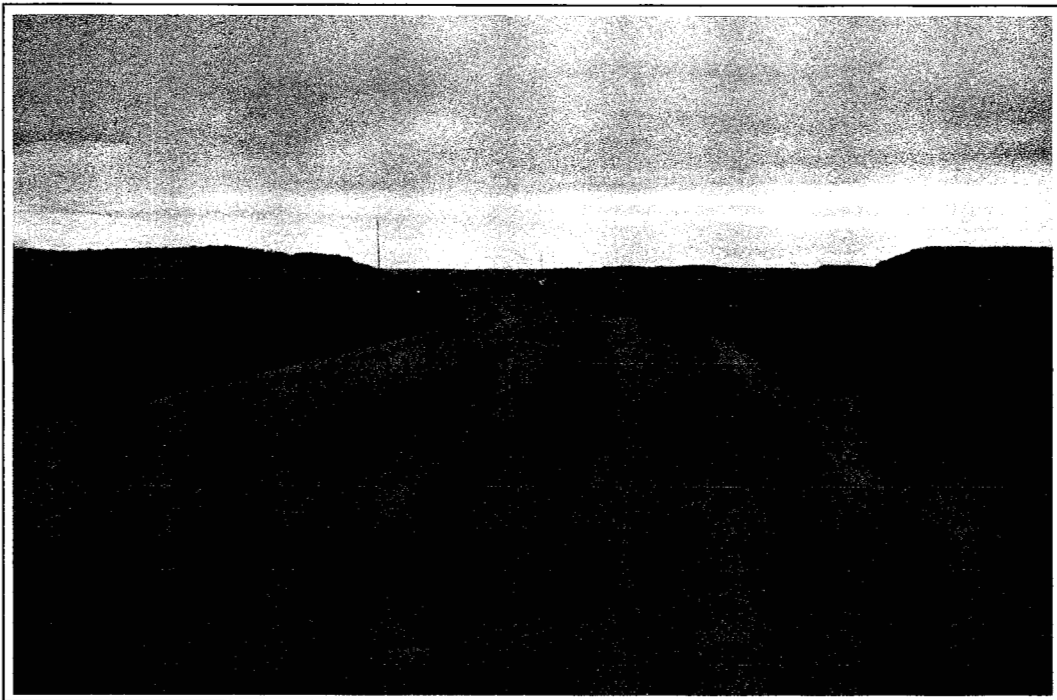


6. View to the west of CR 19 east of Borrego Pass at the beginning of project segment





7. View to the north from CR 19, near Borrego Pass



8. View to the south from CR 19, near Borrego Pass





9. View to the south of CR 19 south of Borrego Pass, showing monoculture of tumbleweeds lining either side of roadway

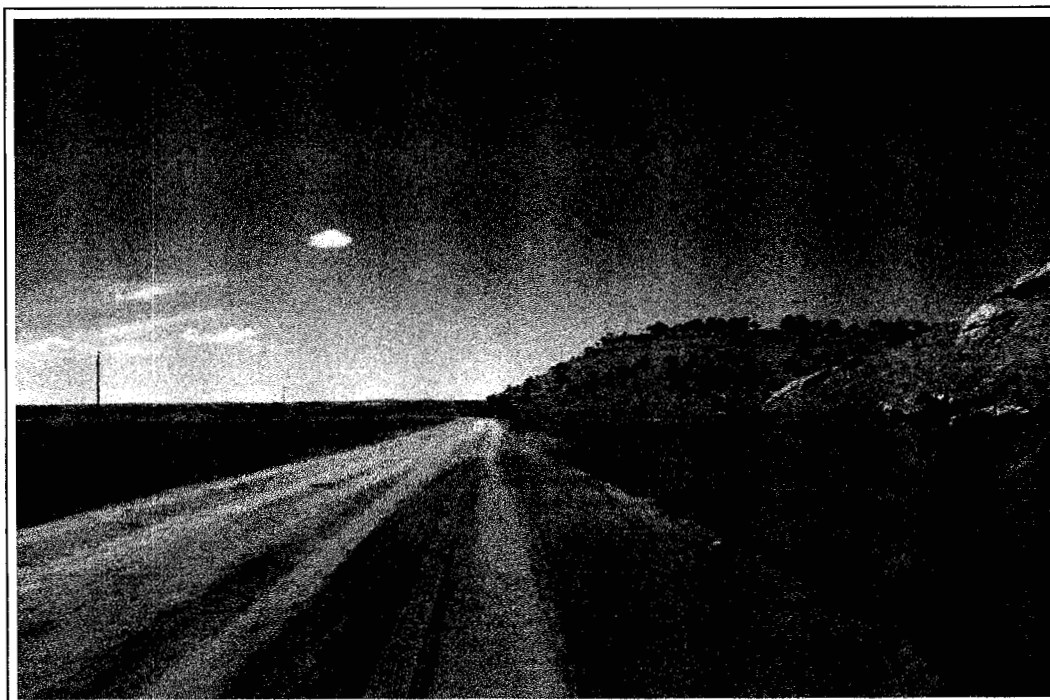


10. View to the south of CR 19 near Community of Casamero Lake





11. View to the north of CR 19 near the Community of Casamero Lake

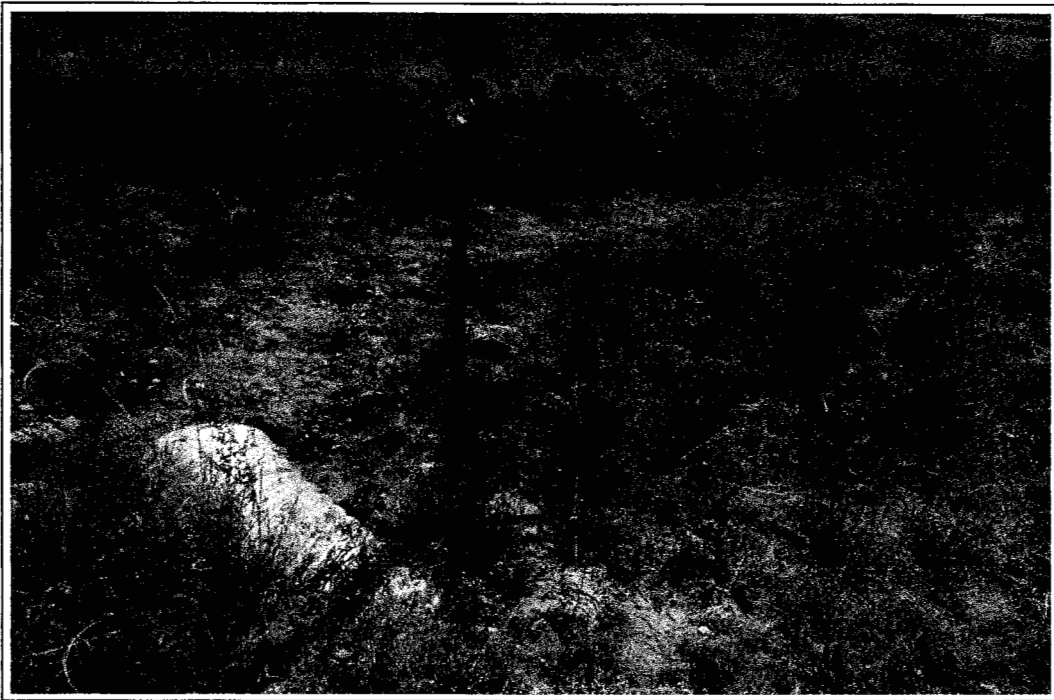


12. View to the south of CR 19 south of the Community of Casamero Lake





13. View of CR 19 near the south end of project



14. View of a typical drainage crossing along CR 19 project corridor







15. View along the CR 19 project corridor



16. View of a typical drainage crossing along the CR 19 project corridor





17. View of CR 19 at Borrego Pass

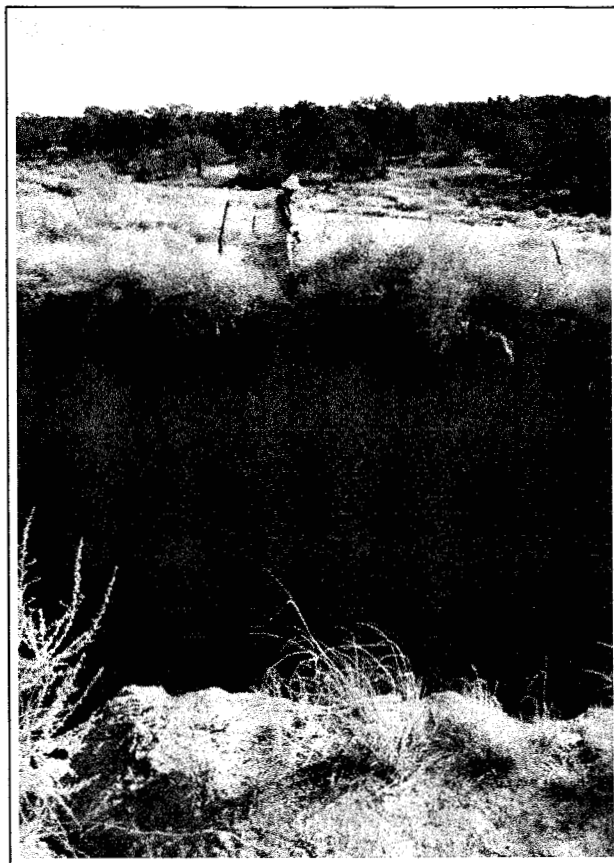


18. Sandstone ledges near roadway edge east of Borrego Pass





19. Heavily eroded culvert crossing east of Borrego Pass



20. View of crossing east of Borrego Pass showing depth of downcut; shows a rodent burrow below the surface exposed by erosion





21. View to the west of CR 19 along the Continental Divide

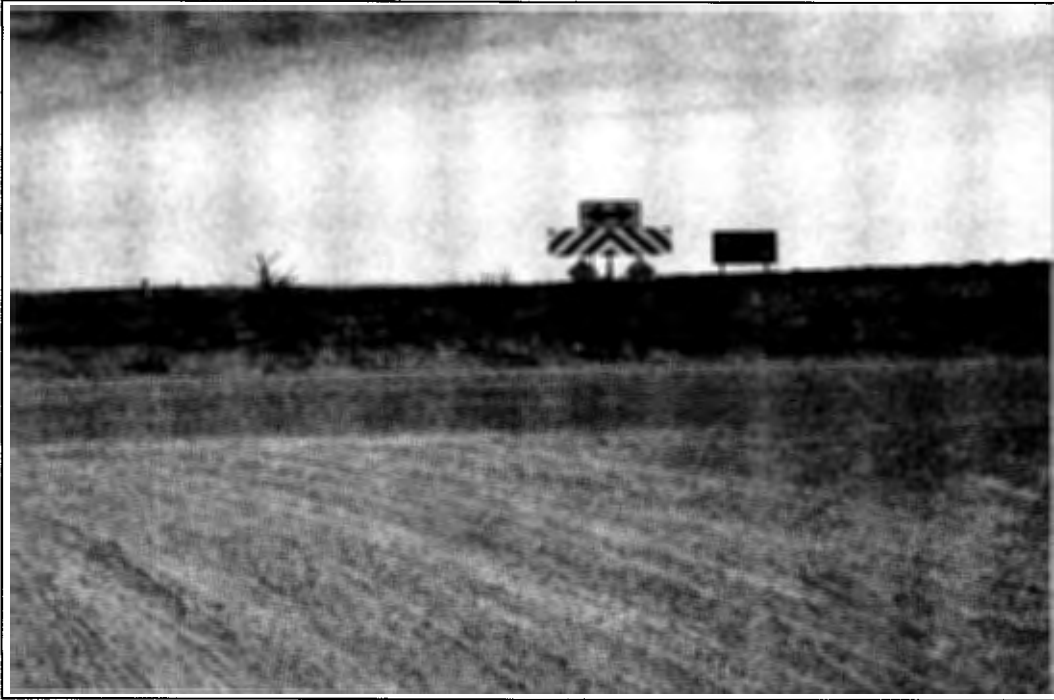


22. View to the west at CR 19 and NM 509

MCKINLEY COUNTY, CR 19  
**Photographs**



*Daniel B. Stephens & Associates, Inc.*



23. View to the east at CR 19 and NM 509



## **Appendix B**

### **Consultations**



**THE NAVAJO NATION  
HISTORIC PRESERVATION DEPARTMENT**

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

**CULTURAL RESOURCES COMPLIANCE FORM**

<b>ROUTE COPIES TO:</b> <input checked="" type="checkbox"/> PaleoWest	<b>NNHPD NO.: <u>HPD-16-661</u></b> <b>OTHER PROJECT NO.: PaleoWest No. 15-123</b>
--	---

**PROJECT TITLE:** A Class III Cultural Resource Inventory of 17.6 Miles Along County Road 19, Navajo Nation and McKinley County, New Mexico.

**LEAD AGENCY:** BIA/NR

**SPONSOR:** DePauli Engineering & Surveying LLC 304 South 4<sup>th</sup> Street, Gallup, New Mexico 87301

**PROJECT DESCRIPTION:** The proposed undertaking with plan to conduct road improvements to 17.6 miles of road survey along McKinley County Road 19. The APE is 200 feet (61 m) wide, or 100 feet (30.5) on either side of the road centerline with a right-of-way is 150 feet (46 m) wide or 75 feet (23 m) on either side of the road centerline. Ground disturbing activities will be intensive and extensive with the use of heavy equipment.

<b>LAND STATUS:</b>	Tribal Trust, State of New Mexico, Indian Allotment, and Private.													
<b>CHAPTER:</b>	Casamero													
<b>LOCATION</b>	<i>T</i>	<u>16</u>	<i>N</i>	<i>R</i>	<u>10</u>	<i>W</i>	<i>Sec.</i>	<u>21,22,29,31</u>	Thoreau NE	Quad	Bernalillo	County	New Mexico	NMPM
	<i>T</i>	<u>16</u>	<i>N</i>	<i>R</i>	<u>11</u>	<i>W</i>	<i>Sec.</i>	<u>26,27,33,34,35</u>	Casamero Lake	Quad	Bernalillo	County	New Mexico	NMPM
	<i>T</i>	<u>15</u>	<i>N</i>	<i>R</i>	<u>11</u>	<i>W</i>	<i>Sec.</i>	<u>2,4,8,17,20,29,31,32</u>	Borrogo Pass	Quad	Bernalillo	County	New Mexico	NMPM
<b>PROJECT ARCHAEOLOGIST:</b>	Kye Miller, M.A. RPA & Jason Chuipka. M.A. RPA													
<b>NAVAJO ANTIQUITIES PERMIT NO.:</b>	B15389													
<b>DATE INSPECTED:</b>	9/14/2015 – 9/24/2015													
<b>DATE OF REPORT:</b>	7/27/2016													
<b>TOTAL ACREAGE INSPECTED:</b>	428.22 – ac													
<b>METHOD OF INVESTIGATION:</b>	Class III pedestrian inventory with transects spaced <u>15</u> m apart.													
<b>LIST OF CULTURAL RESOURCES FOUND:</b>	(8) Sites (NM-Q-40-19, NM-R-32-16, NM-Q-25-50, NM-Q-25-51, NM-R-32-10/TCP-2, NM-R-32-13, NM-R-32-12, NM-Q-40-29)  (53) Isolated Occurrences  (2) Traditional Cultural Properties (TCP-1 & TCP-2)  (2) In-Use Sites (IUS)													
<b>LIST OF ELIGIBLE PROPERTIES:</b>	(5) Sites (NM-R-32-16, NM-Q-25-51, NM-R-32-10,													

	NM-R-32-13, NM-R-32-12)  (2) Traditional Cultural Properties (TCPs)  (1) In-Use Site (IUS)/ Borrego Pass Trading Post
LIST OF UNEVALUATED RESOURCES:	(1) Site (NM-Q-40-19)
LIST OF NON-ELIGIBLE PROPERTIES:	(2) Sites (NM-Q-40-29; NM-Q-25-50)  (53) Isolated Occurrences  (1) IUS
LIST OF ARCHAEOLOGICAL RESOURCES:	(6) Sites (NM-Q-40-19, NM-R-32-16, NM-Q-25-50, NM-Q-25-51, NM-R-32-13, NM-R-32-12)

**EFFECT/CONDITIONS OF COMPLIANCE:** No Adverse Effect with the following conditions:

**Sites NM-R-32-13, NM-Q-25-50, NM-Q-25-51:**

1. Prior to any construction, the site boundaries will be flagged and/or temporarily fenced under the direction of a qualified archaeologist & shown to the construction foreman.
2. All ground disturbance within the 50 ft. of the site boundaries will be monitored by a qualified archaeologist.
3. No construction, equipment or vehicular traffic will be allowed within the site boundaries.
4. A brief letter/report documenting the result of the monitoring will be submitted to NNHPD within 30 days of monitoring activities.
5. All future maintenance activities shall avoid the site by a minimum of 50 ft. from the site boundaries.

**Sites NM-R-32-16, NM-R-32-12, NM-R-40-19:**

1. Prior to any construction, the site boundaries will be flagged and/or temporarily fenced under the direction of a qualified archaeologist & shown to the construction foreman.
  2. Sites will be avoided by rerouting the current ROW & monitoring all construction within 50-ft of site boundary.
- OR
3. A nature & extent testing plan & if necessary a data recovery plan will be implemented in consultation with NNHPD. These land must be consistent with Navajo Nation Policies & Procedures and approved by NNHPD.

**Site NM-Q-40-29:**

No further work is warranted for this project.

**In-Use Borrego Pass Trading Post:**

All ground disturbance will be limited to the current paved surface.



1. TCP boundaries will be flagged by a qualified archaeologist prior to ground disturbing activities.
2. TCP -1 is located on both sides of CR 19 ROW, it is recommended that construction be limited to the existing disturbance.
3. TCP-2 is located outside of the APE & will not be impacted.

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

**Notification to Proceed  
Recommended  
Conditions:**

☒ Yes    ☐ No

☒ Yes    ☐ No

The Navajo Nation  
Historic Preservation Office

Date \_\_\_\_\_

### Navajo Region Approval

☒ Yes    ☐ No

**BIA – Navajo Regional Office**

Date \_\_\_\_\_

**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.: County Road 19 Roadway and Drainage Improvements

DESCRIPTION: CR 19 is approximately 20.4 miles in length with a 120-ft. wide ROW. The action area would extend 100 feet from the center line, totaling approximately 490 acres.

LOCATION: Casamero & Little Water Chapters, McKinley County, New Mexico

REPRESENTATIVE: Daniel B. Stevens & Associates, Inc. for McKinley County and DePaul Engineering & Surveying, LCC

ACTION AGENCY: McKinley County

B.R. REPORT TITLE / DATE / PREPARER: BE-Roadway & Drainage Improvements Along CR 19/27 JAN 2016/Daniel B. Stevens & Associates, Inc.

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: Pursuant to the Migratory Bird Treaty Act (U.S. Code Title 16, Chapter 7, 703-712), Migratory Birds not listed under the NESL or ESA are prohibited from take by federal law. McKinley County will follow the guidelines in the BE Section 2.7.

CONDITIONS OF COMPLIANCE\*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/26 FEB 2016

COPIES TO: (add categories as necessary)

☐ \_\_\_\_\_ ☐ \_\_\_\_\_

<p><u>2 NTC § 164 Recommendation:</u></p> <p><input checked="" type="checkbox"/> Approval</p> <p><input type="checkbox"/> Conditional Approval (with memo)</p> <p><input type="checkbox"/> Disapproval (with memo)</p> <p><input type="checkbox"/> Categorical Exclusion (with request letter)</p> <p><input type="checkbox"/> None (with memo)</p>	<p>Signature: <i>Gloria M. Tom</i></p> <p>Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife</p>	<p>Date: 2/29/16</p>
---	--	----------------------

\*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 3/22/2016

## **Appendix C**

### **Public Outreach**

## LITTLEWATER CHAPTER

Post Office Box 1898  
Crownpoint, New Mexico 87313  
PHONE: (505) 786-2120  
FAX: (505) 786-2125



WEBSITE: [www.littlewaterchapter.nndes.org](http://www.littlewaterchapter.nndes.org)

### CHAPTER ADMINISTRATION

**Genevieve Castillo**  
Chapter Manager  
**AnnJanette Bebo**  
Administrative Assistant  
Email: [littlewater@navajochapters.org](mailto:littlewater@navajochapters.org)

George Jim  
President

Paul D. Pablo  
Vice President

June Barbone  
Secretary/Treasurer

Leonard Tsosie  
Council Delegate

Herbert Enrico, Sr.  
Land Board Member

### COUNTY ROAD 19 MEETING

August 17, 2015

Location: Crownpoint NTUA Conference Room

Time: 10:00 a.m.

Facilitator: Lance Begay, Planner (NDOT - Eastern Agency)

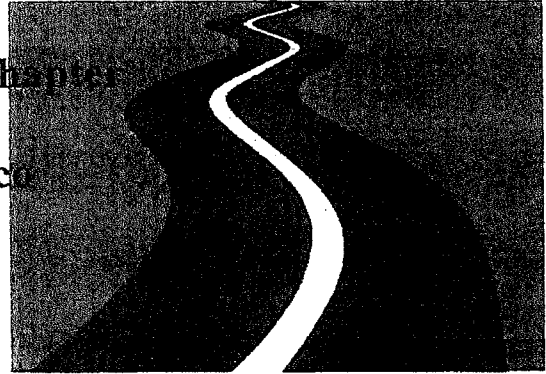
- I. Meeting Called to Order: Lance Begay, NDOT Planner
- II. Invocation: Fernie Yazzie, Casamero Lake Chapter President
- III. Welcome / Introductions:
- IV. Updates on County Road 19
  - Casamero Lake Chapter
  - Littlewater Chapter
  - Whitehorse Lake Chapter
  - Torreon Chapter
- V. Permission for Crossing:
  - Electrical Power Line - CDEC
  - Water Line - NTUA
  - Gas Lines
- VI. Navajo Route 485 (Casamero Loop)
- VII. Navajo Route 481 / 7119 (Littlewater Chapter Access Road)
- VIII. Adjournment
- IX. Next Meeting:

**CASAMERO LAKE CHAPTER  
COLLABORATION MEETING ON CTY. RD. 19  
April 26, 2016  
SIGN-IN SHEET**

	name:	email:	telephone no:
1	Jeff Irving	jirving@co.mckinley.nm.us	505-974-2445
2	Lance Beagye	lbeagye@navajodot.org	(505) 786-2024
3	Lucinda Henry	lahenry02@yahoo.com	505-8793918
4	George Tim	gsjwbush42@yahoo.com	505-786-2120
5	Matthew Holtsoi	PastorHoltsoi@mail.com	505-786-2120
6	Janet Mariano	janetmariano@gmail.com	505-5233312
7	Genevieve Castib	littletw@navajochapters.org	505-786-2120
8	Shann Wellitu	casamerolady@navajochapters.org	505-786-2457
9	Leonard Tsoxi	leonardtsoxi@navajo-nsn.gov	928 871 6580
10	Paul D. Pabbe	pdpabbe02@yahoo.com	505-786-2120
11	June Barbone		505-786-2120
12	MELISSA M. SOWERS	mmartinez@co.mckinley.nm.us	505-722-2303
13	Fernie Yazzie	Fernie.Yazzie@yahoo.com	505-363-1781
14			
15			
16			
17			
18			
19			
20			

100

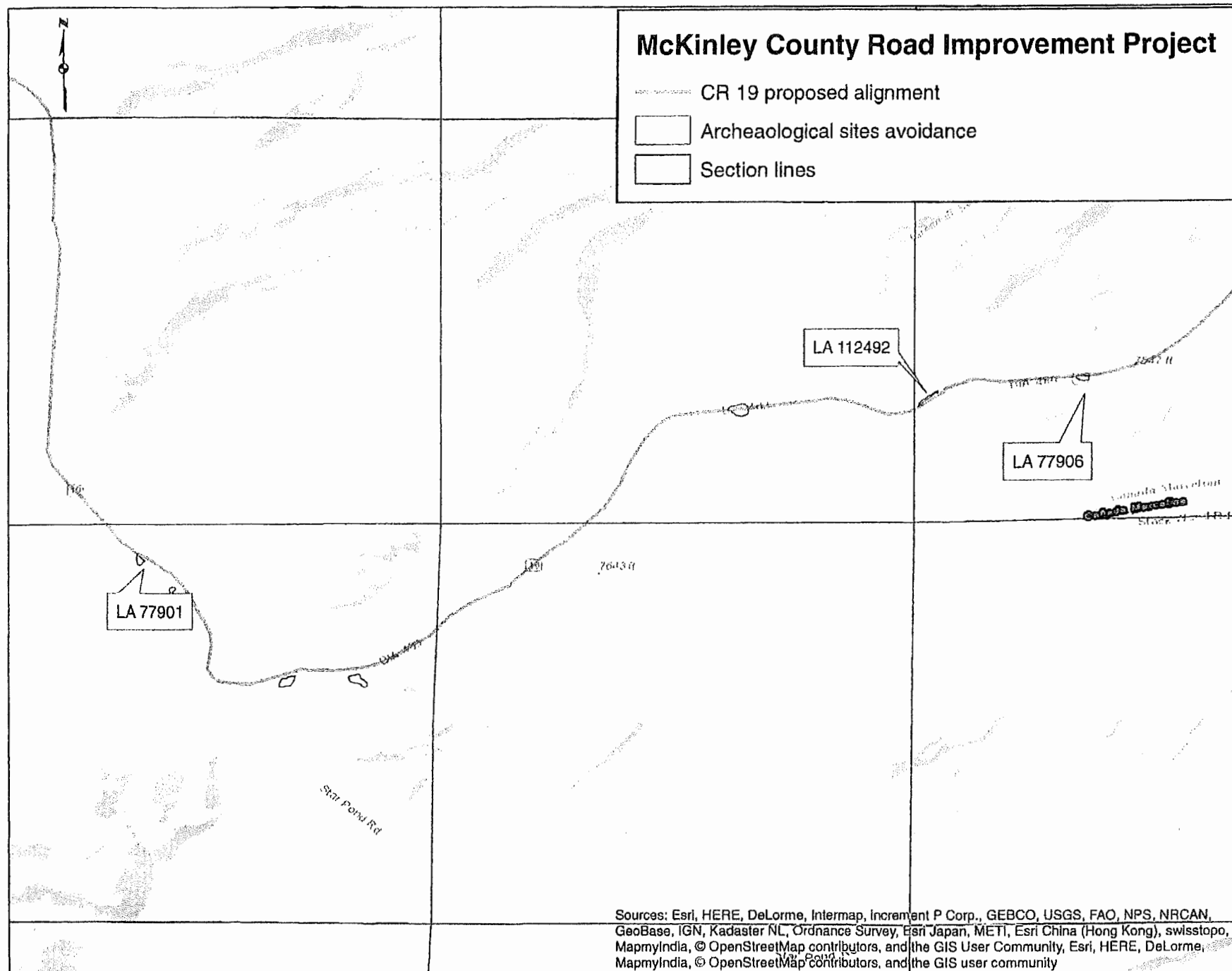
**Littlewater Chapter & Casamero Lake Chapter  
County Road 19 Meeting  
1980 Warehouse Lane, Gallup New Mexico  
April 26, 2016 at 10:00 am**



**A G E N D A**

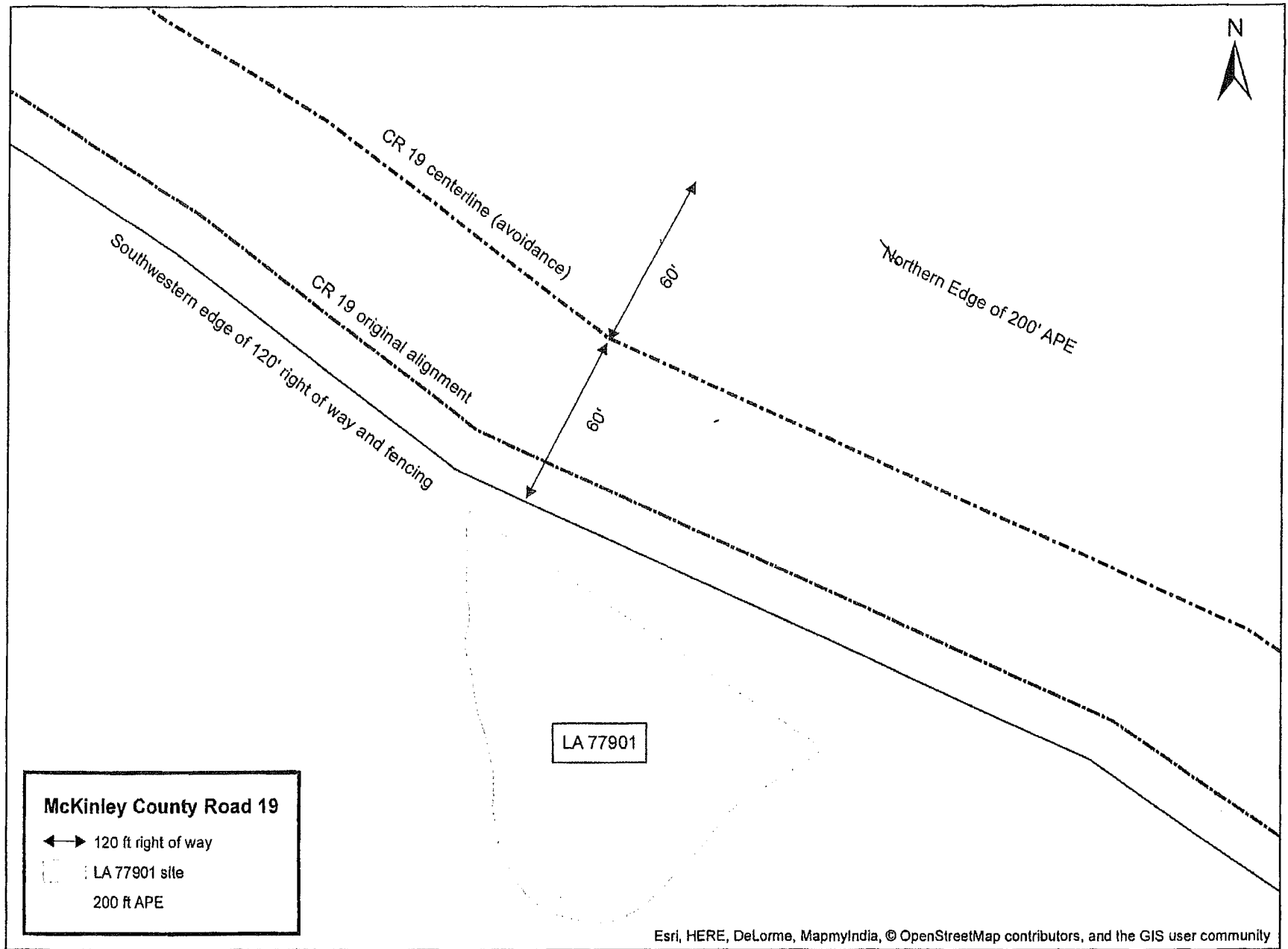
- I. Meeting Called to Order:** Fernie Yazzie, Casamero Lake Chapter President
- II. Invocation:** Limbert Largo III, Casamero Lake Chapter Vice President
- III. County Road 19:**
- Jeff Irving, McKinley County Road Department
  - Archaeologist Consultant
  - Lance Begay, NDOT Planner
  - BIA Realty Office
  - CDEC
  - Casamero Lake Chapter
  - Littlewater Chapter
  - Others
- IV. Funding**
- V. Navajo Route 485 (Casamero Lake Loop)** - ODOT - waiting on new logs to not throw work off. working on flow.
- VI. Navajo Route 481 / 7119 (Littlewater Chapter Access Road)** - need drainage analysis. It has culverts (waiting on correct size). Little water crossing - T.B.
- VII. Discussion / Recommendations / TIME LINE**
- VIII. ADJOURNMENT**
- IX. NEXT MEETING:** May 16<sup>th</sup> 10:00 am NDOT

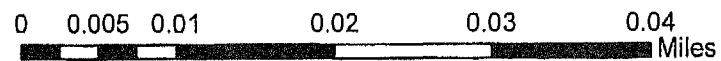
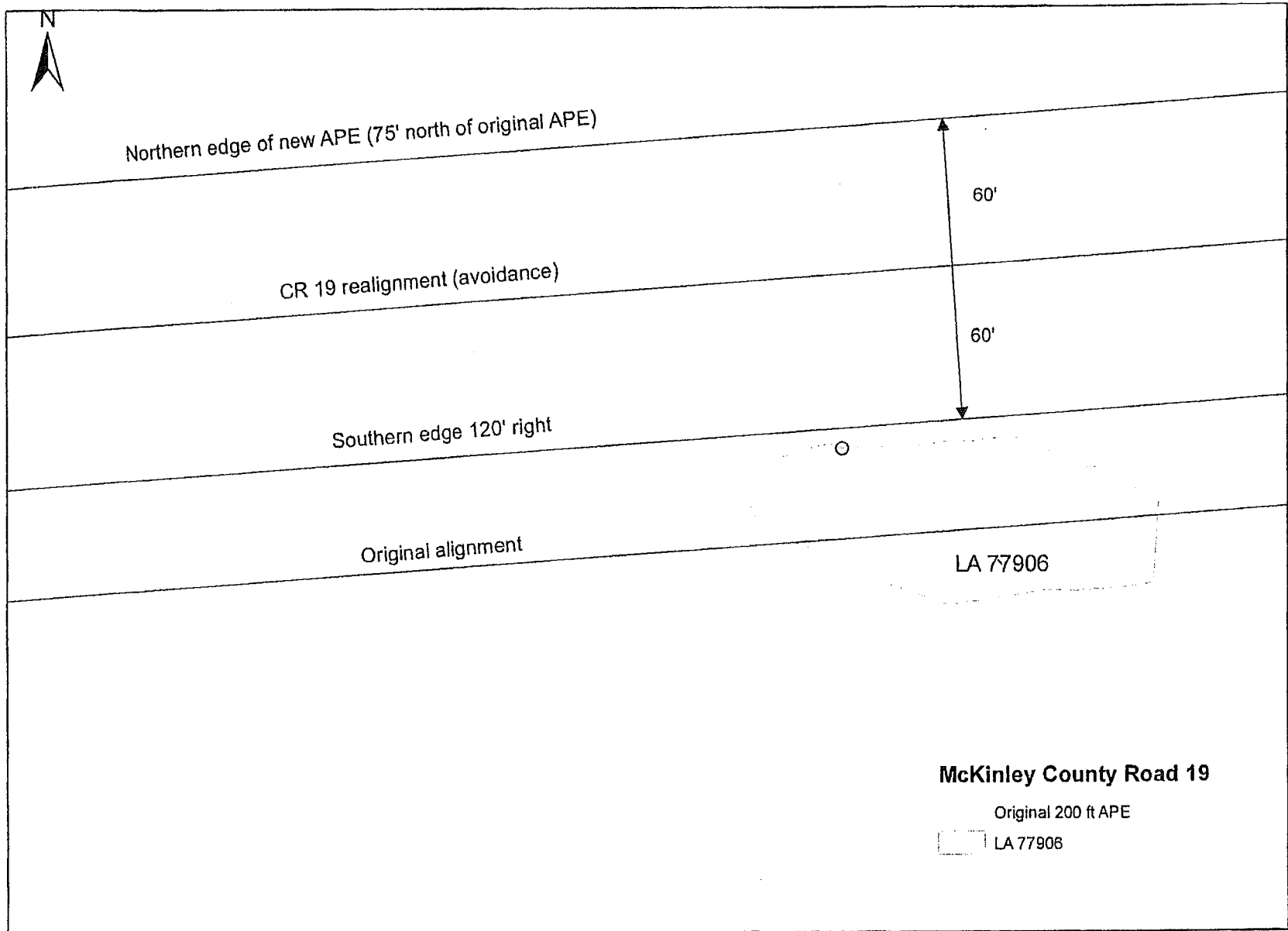
Thank you for your participation.

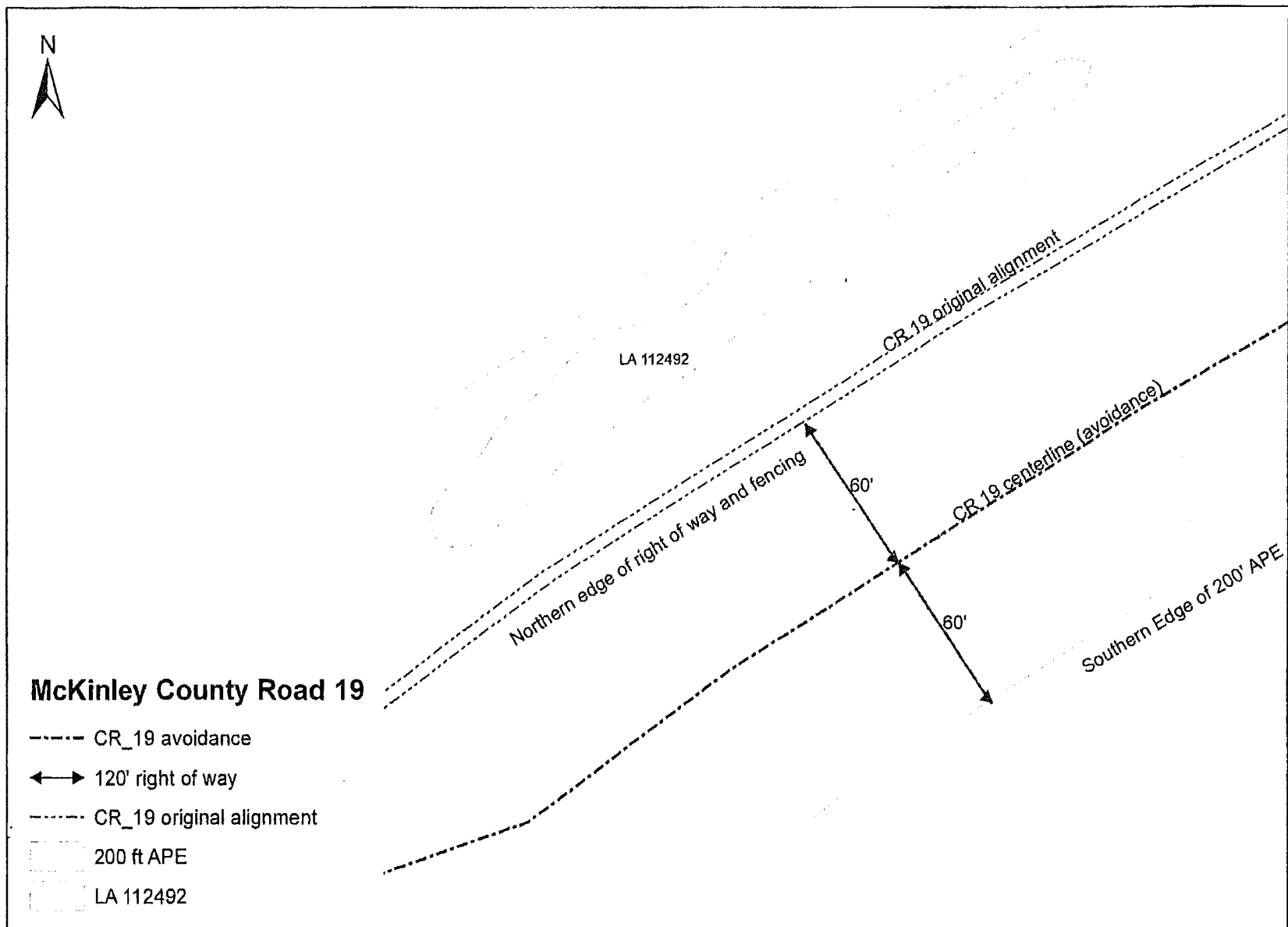


0 0.15 0.3 0.6 0.9 1.2 Miles









0 0.0045 0.009 0.018 0.027 0.036 Miles





Navajo Division of Transportation  
 Eastern Navajo Agency  
 P.O. Box 4620  
 Window Rock AZ, 86515  
 www.navajodot.org

# County Road 19 Collaborative Projects Meeting

Date: September 15, 2016

Time: 10:00AM

Location: NDOT Complex - Conference Room 306  
 Tse Bonito, NM

	Print Name (Legibly)	Worksite or Department	Phone Number or Email
16.	Genevieve Castillo	Littlewater	505-786-2120
17.	George S. Jim	Littlewater	505-786-2120
18.	June Barbone	Littlewater Chapter	505-786-2120
19.	Alexander Jon Perry	Littlewater Chap	
20.	Jonathan Tso	Navajo Headstart	505-215-5239
21.	Paul D. Pahl	Littlewater	786-2120
22.	Lucinda Henry	Littlewater	505-879-3918
23.	Sharon W. White	Chuska	505-786-2457
24.	Taft Blackhorse	NDOT Proj Mgmt	505-371-8341
25.	Jovonna John	NDOT-Proj. Mgmt	505-371-8341
26.	Limburt Lamy Jr	Chuska Lake	505-786-2457
27.	FERRIE YAZZIE	CASAMEND LAKE	505-786-2457
28.	MELISSA M. SOWERS	McK. Cnty	505-722-2303
29.	Jeff Irving	McKinley Cnty Rds	505-979-2445
30.	Julius Tully	Navajo DOT	505-371-8338



Navajo Division of Transportation  
 Eastern Navajo Agency  
 P.O. Box 4620  
 Window Rock AZ, 86515  
 www.navajodot.org

# County Road 19 Collaborative Projects Meeting

Date: September 15, 2016  
 Time: 10:00AM  
 Location: NDOT Complex - Conference Room 306  
 Tse Bonlto, NM

	Print Name (Legibly)	Worksite or Department	Phone Number or Email
1.	Hostie Largo	Baca	805-982-9917
2.	SHARON FRANCISCO	Buen Prewitt Chapter	972 9917 sfrancisco@navajochapters.org
3.	Tina Becenti	Baca/Prewitt Chapter	(505) 977-9917
4.	Janet Mariano	Cusumana Lake	505-598-3312
5.	LEONARD TSOI	NK	928 871 6380
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			

Document No. 008113Date Issued: 06/05/2017

**EXHIBIT**  
**F**

tabbies

  
**EXECUTIVE OFFICIAL REVIEW**Title of Document: McKinley County Rd 19 - Casamero Lake Contact Name: YAZZIE, ELERINA BProgram/Division: DIVISION OF NATURAL RESOURCESEmail: michellehoskie@frontier.com 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: \_\_\_\_\_ ☐ ☐

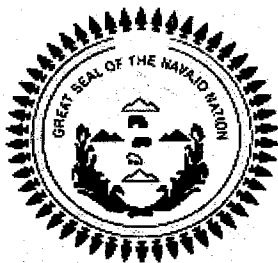
☒ **ROW (where there has been no delegation of authority to the Navajo Land Department to grant the Nation's consent to a ROW)**

1. NLD \_\_\_\_\_ Date: 02 Aug 17 ☒ ☐  
2. F&W \_\_\_\_\_ Date: 8/2/17 ☒ ☐  
3. HPD \_\_\_\_\_ Date: 8/2/17 ☒ ☐  
4. Minerals \_\_\_\_\_ Date: 8-2-17 ☒ ☐  
5. NNEPA \_\_\_\_\_ Date: 8-02-2017 ☒ ☐  
6. DNR \_\_\_\_\_ Date: 08/02/2017 ☒ ☐  
7. DOJ (ic) \_\_\_\_\_ Date: 8/18/17 ☒ ☐  
8. OPVP \_\_\_\_\_ Date: 8-28-17 ☒ ☐

☐ **OTHER:**

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

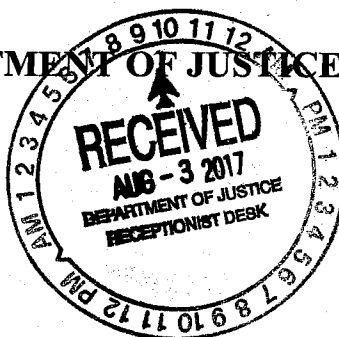




☐ RESUBMITTAL

# NAVAJO NATION DEPARTMENT OF JUSTICE

## DOCUMENT REVIEW REQUEST FORM



DOJ
08/03/17 9:20am
DATE / TIME
<input type="checkbox"/> 7 Day Deadline
DOC #: 008113
SAS #:
UNIT: Nru

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

### CLIENT TO COMPLETE

DATE OF REQUEST: Aug. 3, 2017 ENTITY/DIVISION: DNR  
CONTACT NAME: Michelle and Stevie DEPARTMENT: GLDD  
PHONE NUMBER: x4447 E-MAIL: stevieHUDSON@frontier.com

TITLE OF DOCUMENT: McKinley County Road 19 - Casamero Lake

### DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 8.3.17 REVIEWING ATTORNEY/ADVOCATE: Imin Chee  
10am 8.14.17

DATE/TIME OUT OF UNIT: 8.18.17 @ 11:50am

### DOJ ATTORNEY / ADVOCATE COMMENTS

- Document is legally sufficient.

REVIEWED BY: (PRINT)	DATE / TIME	SURNAMED BY: (PRINT)	DATE / TIME
<u>Imin Chee</u>	<u>8/18/17</u>	<u>V Blackhart</u>	<u>8/18/17 11:10 AM</u>

DOJ Secretary Called: Stevie for Document Pick Up on 8.18.17 at 11am By: Z

PICKED UP BY: (PRINT) DATE / TIME:

COMPLETED

# McKinley County Road 19 - Casamero Lake

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

**Document Name:** 003\_C005\_00008113.zip  
**Revision:**  
**Version:** 1  
**Document Desc:**  
**Document Author:** Stevie Hudson GLDD (Navajo Land Title Data System - Windowrock AZ)  
**Document Status:** Pending  
**Document Type:** 164 Review Process  
**Effective Date:** 06-Jun-2017  
**Expires:** Never  
**Uploaded from:**  
 Navajo Land Title Data System (NLTDS) Phase 1: Plan for Quality Management System  
 Step 1017: 003\_C005\_00008113  
 Task 1: Upload and Manage Documents  
**Size:** 332300 KB  
**Date Uploaded:** 06-Jun-2017  
**Maintained by:** Project Management Team

### No Document Distribution Locations

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date
Eugenia Quintana EPA (Navajo Land Title Data System - Windowrock AZ)	Air and Toxics - Reviewer	Navajo Nation Environmental Protection Agency	Approved	<i>no comments</i>	<i>No Reply</i>	07-Jun-2017
Lee Anna Martinez EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Reviewer	Navajo Nation Environmental Protection Agency	Approved	1. CONDITIONAL: This road project will need a CWA Section 401 Permit and US Army Corps of Engineers also needs to be contacted. The applicant states that ephemeral drainages are impacted those are still covered within our Clean Water Act and must be applied for and the project will be covered under our Section 401 Certification. Please contact our office at (928) 871-7690 or email lamartinez@navajo-nsn.gov. Thank you.	1.	13-Jun-2017
Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. 15dbs&a101	1.	06-Jun-2017
Pam Maples EPA (Navajo Land Title Data System - Windowrock AZ)	Storage Tanks Program - Reviewer	Navajo Nation Environmental Protection Agency	Approved	<i>no comments</i>	<i>No Reply</i>	07-Jun-2017
Patrick Antonio EPA (Navajo Land Title Data System - Windowrock AZ)	Water Quality - Supervisor	Navajo Nation Environmental Protection Agency	Approved	1. The corresponding EA indicates plan to obtain necessary permits (Construction General Permit coverage) before commencing construction and to implement a storm water pollution prevention plan.	1.	06-Jun-2017
Robert Allan DNR (Navajo Land Title Data System - Windowrock AZ)	Deputy Director DNR	DNR Administration	Approved	1. CONDITIONAL APPROVAL. 1) NEED to complete the Terms and Conditions Form of this project County Road 19, 2) Terms and Conditions Forms need to be corrected at (a) Paragraph 15: " . . . . give Grantee any rights hereunder or in or to . . . "; (b) Paragraph 21 " . . . do not unreasonably interfere with . . . "	1.	23-Jun-2017
Tamara Billie NNHP (Navajo Land Title Data System - Windowrock AZ)	HPD Reviewer	Historic Preservation Department	Approved	1. HPD-16-661. Please adhere to stipulations for documented cultural resources.	1.	07-Jun-2017
Yolanda Barney EPA (Navajo Land Title Data System - Windowrock AZ)	Public Water System Supervision Program	Navajo Nation Environmental Protection Agency	Approved	<i>no comments</i>	<i>No Reply</i>	06-Jun-2017

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date
Bidtah N. Becker (FBFA)	FBFA Users	FBFA Action Team	<i>Pending</i>	<i>no comments</i>	<i>No Reply</i>	
Richard Begay NNHP (Navajo Land Title Data System - Windowrock AZ)	Navajo Nation Historic Preservation Officer	Historic Preservation Department	<i>Pending</i>	<i>no comments</i>	<i>No Reply</i>	
Ronnie Ben EPA (Navajo Land Title Data System - Windowrock AZ)	Underground Injection Control - Reviewer	Navajo Nation Environmental Protection Agency	<i>Pending</i>	<i>no comments</i>	<i>No Reply</i>	
Sam Diswood (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	<i>Pending</i>	<i>no comments</i>	<i>No Reply</i>	
Steven Prince MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	<i>Pending</i>	<i>no comments</i>	<i>No Reply</i>	
W. Mike Halona (Navajo Land Title Data System - Windowrock AZ)	Manager III Navajo Land Department	NLD Administration	<i>Pending</i>	<i>no comments</i>	<i>No Reply</i>	

# LITTLEWATER CHAPTER

Post Office Box 1898  
Crownpoint, New Mexico 87313  
PHONE: (505) 786-2120  
FAX: (505) 786-2125

WEBSITE: [www.littlewaterchapter.ndes.org](http://www.littlewaterchapter.ndes.org)



CHAPTER ADMINISTRATION  
**Genevieve Castillo**  
Chapter Manager  
**AnnJanette Bebo**  
Administrative Assistant  
Email: [littlewater@navajochapters.org](mailto:littlewater@navajochapters.org)

Thomas Barbone  
President

Paul D. Pablo  
Vice President

June Barbone  
Secretary/Treasurer

Leonard Tsosie  
Council Delegate

Herbert Enrico, Sr.  
Land Board Member

## RESOLUTION OF THE LITTLEWATER CHAPTER OF EASTERN NAVAJO AGENCY

LITT-05-17-2821

### REQUESTING THE RESOURCES AND DEVELOPMENT COMMITTEE OF THE NAVAJO NATION COUNCIL CONSIDER GRANTING OF RIGHT-OF-WAY FOR MCKINLEY COUNTY ROAD 19 TO MCKINLEY COUNTY LOCATED WITHIN THE COMMUNITY OF LITTLEWATER.

#### WHERE AS:

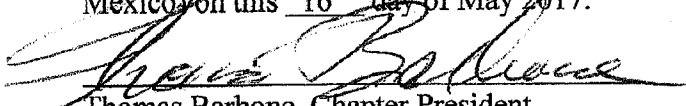
1. Pursuant to 26 N.N.C., Section 3 (A) the Littlewater Chapter is a duly recognized certified Chapter under the Navajo Nation Government, as listed at 11 N.N.C., part 1, section 10, and
2. Pursuant to 26 N.N.C., Section 1 (B) Littlewater Chapter is vested with authority to review all matters affecting the community and to make appropriate correction when necessary and make recommendation to the Navajo Nation and other local agencies for appropriate actions, and
3. The Littlewater Chapter is responsible to support and meet the Littlewater Chapter community's health, safety, and basic needs to include road improvement; and
4. Littlewater Chapter, the Community and the Departments within the Navajo Nation have worked very hard for many years to meet the basic needs for Littlewater Chapter community. For most projects, obtaining Rights-of-way is the most difficult and time-consuming process; and
5. Presently, most Rights-of-way across Navajo Tribal Trust and Navajo Tribal Fee lands for road improvements are only approved for a term of twenty (20) years; and
6. The policy of the Bureau of Indian Affairs for projects in the checkerboard area with both Tribal Trust and Indian Allotment lands is that the term of the Tribal Land Right-of-Way, as established by the Resources and Development Committee of the Navajo Nation Council, shall dictate the term of the Indian Allotment Rights-of-Way as well; and
7. Pursuant to 2 N.N.C. § 501 B.2, the Resources and Development Committee of the Navajo Nation Council is authorized to give final approval on behalf of the Nation Nation for Rights-of-Way.

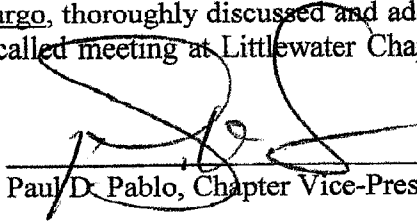
#### NOW THEREFORE BE IT RESOLVED THAT:

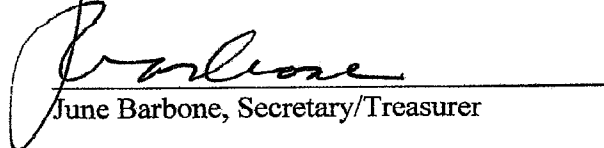
1. The Littlewater Chapter respectfully requesting the Resources and Development Committee of the Navajo Nation Council consider granting of Rights-of-Way for McKinley County Road 19 to McKinley County.

#### CERTIFICATION

WE HEREBY CERTIFY THAT THE FOREGOING RESOLUTION was duly considered by and moved for adoption by Mary Pablo, seconded by Dixie Largo, thoroughly discussed and adopted by a vote of 18 in favor, 0 opposed and 1 abstained at a duly called meeting at Littlewater Chapter, Navajo Nation (New Mexico) on this 16<sup>th</sup> day of May 2017.

  
Thomas Barbone, Chapter President

  
Paul D. Pablo, Chapter Vice-President

  
June Barbone, Secretary/Treasurer

# CASAMERO LAKE CHAPTER - ENA

P.O. BOX 549  
1037A County Road 19  
PREWITT, NEW MEXICO 87045  
PHONE NUMBER: (505) 786-2457  
FAX NUMBER: (505) 786-2455  
EMAIL: [casamerolake@navajochapters.org](mailto:casamerolake@navajochapters.org)



Council Delegate - Leonard Tsosie  
President - Fernie Yazzie  
Vice President - Limbert Largo, III  
Secretary / Treasurer - Janet Mariano  
Land Board - Bobby Delgarito  
Chapter Manager - Sharon Wellito

## RESOLUTION OF CASAMERO LAKE CHAPTER C/L 06/2017/03

### **REQUESTING THE RESOURCES DEVELOPMENT COMMITTEE OF THE NAVAJO NATION COUNCIL TO CONSIDER GRANTING OF RIGHT-OF-WAY FOR MCKINLEY COUNTY ROAD 19 TO MCKINLEY COUNTY LOCATED WITHIN THE COMMUNITY OF CASAMERO LAKE.**

#### **WHERE AS:**

1. Pursuant to 26 N.N.C., Section 3 (A) the Casamero Lake Chapter is duly recognized certified Chapter under the Navajo Nation Government, as listed at 11 N.N.C., part 1, section 10, and
2. Pursuant to 26 N.N.C., Section 1 (B) Casamero Lake Chapter is vested with authority to review all matters affecting the community and to make appropriate corrections when necessary and make recommendation to the Navajo Nation and other local agencies for appropriate actions, and
3. The Casamero Lake Chapter is responsible to support and meet the Casamero Lake Chapter community's health, safety, and basic needs to include road improvement; and
4. Casamero Lake Chapter, the Community and the Department within the Navajo Nation have worked very hard for many years to meet the basic needs for Casamero Lake Chapter community, for most projects, obtaining Right-Of-Way is the most difficult and time-consuming process; and
5. Presently, most Right-Of-Way across Navajo Tribal Trust and Navajo Tribal Fee lands for road improvements are only approved for a term of twenty (20) years; and
6. The policy of the Bureau of Indian Affairs for projects in the checkerboard area with both Tribal Trust and Indian Allotment lands is that the term of the Tribal Land Right-Of-Way, as established by the Resources and Development Committee of the Navajo Nation Council, shall dictate the term of the Indian Allotment Right-Of-Way as well; and
7. Pursuant to 2 N.N.C 501 B.2, the Resources and Development Committee of the Navajo Nation Council is authorized to give final approval on behalf of the Navajo Nation for Right-Of-Way.

#### **NOW THEREFORE BE IT RESOLVED THAT:**

1. The Casamero Lake Chapter respectfully requesting the Resources and Development Committee of the Navajo Nation Council to consider granting the Right-Of-Way for County Road 19 within the McKinley County Line for the community of Casamero Lake

## CERTIFICATION

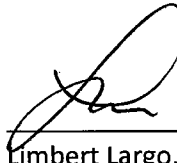
We, the undersigned certified foregoing resolution was presented to the Casamero Lake chapter at a duly call meeting at the Casamero Lake Chapter Navajo Nation and which a quorum was present and that same was passed by a vote 21-in favor 0-opposed 5-abstained motion, this 4<sup>th</sup> of June 2017

Motion Elnora Yazzie

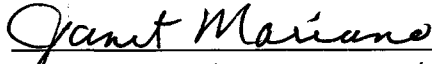


Fernie Yazzie, Chapter President

Second Monty Thompson



Limbert Largo, Chapter Vice President



Janet Mariano, Chapter Secretary/Treasure