

**RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE**

Of the 23rd Navajo Nation Council---First Year 2015

AN ACT

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE RESOLUTION: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF RIGHT-OF-WAY TO JEMEZ MOUNTAIN ELECTRIC COOPERATIVE, INC. TO CONSTRUCT, OPERATE, AND MAINTAIN THE "ELLA BOYD" 14.4kV SINGLE PHASE ELECTRICAL DISTRIBUTION POWERLINE EXTENSION PROJECT TO SERVE THE ELLA BOYD RESIDENCE ON NAVAJO TRUST LAND

BE IT ENACTED:

SECTION 1. FINDINGS

- A. The Navajo Nation established the Resources and Development Committee (RDC) as a Navajo Nation Council standing committee and as such gave RDC oversight over Navajo Nation Chapters. 2 N.N.C. §§ 164 (A)(9), 500 (A), 501 (C)(1) (2012) *see also* CJA-03-13.
- B. The Navajo Nation established the Health, Education and Human Services Committee (HEHS) as a Navajo Nation Council standing committee and as such empowered HEHS to review and recommend resolutions regarding employment. 2 N.N.C. §§ 164 (A)(9), 400 (A), 401 (B)(6)(a) (2012) *see also* CJA-03-13.
- C. The Navajo Nation established the Budget and Finance Committee (B&F) as a Navajo Nation Council standing committee and as such empowered B&F to review and recommend to the Navajo Nation Council the management of all funds. 2 N.N.C. §§ 164 (A)(9), 300 (A), 301 (B)(2) (2012) *see also* CJA-03-13 and 12 N.N.C. § 820 (L) (2009).
- D. The Navajo Nation Council established the Naabik'iyáti' Committee as a Navajo Nation standing committee and as such proposed legislation that requires final action by the Navajo Nation Council shall be assigned to the Naabik'iyáti' Committee. 2 N.N.C. §§ 164 (A)(9), 700 (A) (2012) *see also* CO-45-12.

- E. At the recommendation of RDC, B&F may recommend supplemental appropriations to the Navajo Nation Council. 12 N.N.C. § 820 (L) (2009).
- F. "Diné Customary Law declares and teaches that [i]t is the right and freedom of the people that our children are provided with education to absorb wisdom, self-knowledge, and knowledge to empower them to make a living and participate in the growth of the Navajo Nation." 1 N.N.C. § 204 (F) (2009).
- G. One way for the Navajo Nation to honor Diné Customary Law is to assist high school and college/university students with temporary employment.
- H. The Summer Youth Employment programs offer high school and college/university students the opportunity to gain work experience during their summer breaks.
- I. The Summer Youth Employment programs offer high school and college/university student the opportunity to have the funds to pay for some of their school expenses.
- J. Allowing high school and college/university students the opportunity to gain work experience and earn money to help pay for some of their school expenses; the Summer Youth Employment program aligns with Diné Customary Law by providing Navajo Nation children with "education to absorb wisdom, self-knowledge, and knowledge to empower them to make a living and participate in the growth of the Navajo Nation." *Id.*
- K. The Supplemental Funding will be deposited with each of the 110 Navajo Nation Chapters, allocated at 50/50 Formula (12 N.N.C. § 820(O)); the Program Budget Summary. EXHIBIT A.
- L. The Navajo Nation hereby finds it is in the best interest of the Navajo People to approve this supplemental funding request.

SECTION 2. APPROVING SUPPLEMENTAL FUNDING FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE IN THE AMOUNT OF \$3,000,000 FOR 110 NAVAJO NATION CHAPTERS, BUSINESS UNIT NUMBERS 108014-108123

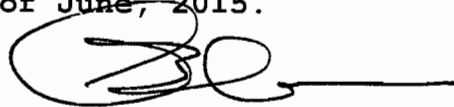
- A. The Navajo Nation, having received certification by the Office of the Controller that as of May 31, 2015 the

balance in the Unreserved, Undesignated Fund Balance is \$4,906,679. EXHIBIT B.

- B. This supplemental appropriation of \$3,000,000 shall be to the 110 Navajo Nation Chapters, Business Unit Numbers 108014-108123; and from that amount of funds that exceeds the minimum fund balance of the Unreserved, Undesignated Fund Balance as determined by the Office of the Controller, pursuant to 12 N.N.C. § 820(L) (2009).
- C. The Navajo Nation hereby approves supplemental funding from the Unreserved, Undesignated Fund Balance in the amount of \$3,000,000 for the 110 Navajo Nation Chapters, Business Unit Numbers 108014-108123, to fund the Summer Youth Employment program.
- D. The supplemental funding to the 110 Navajo Nation Chapters shall be allocated as follows: "fifty percent (50%) of the appropriation shall be divided equally among all chapters and the remaining fifty percent (50%) shall be divided proportionately among the chapters using a percentage equal to that figure which the number of registered voters in each chapter bears to the whole of registered Navajo Nation votes as determined by the most current voter registration figures available as of the date of the appropriation." *Id.*

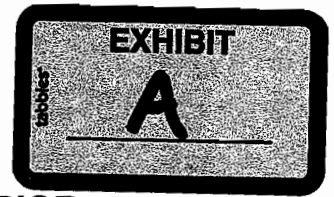
CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at Navajo Nation Council Chambers, Window Rock, Navajo Nation (Arizona), at which quorum was present and that same was passed by a vote of 3 in favor, 1 opposed this 29th day of June, 2015.



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

Motion: Honorable Leonard Tsosie
Second: Honorable Davis Filfred
Vote: 3-0 (Chairman Not Voting)



UNITED STATES DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

RIGHT-OF-WAY APPLICATION

COMES NOW THE APPLICANT JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC. of P.O. Box 128, ESPANOLA, NM 87532 this 11th day of April, 2014, 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. L 17-25 USC 323) and Departmental Regulations 25 CFR 169, an application of a 20 (twenty) years right-of-way for the following purposes and reasons:

Construction, operation and maintenance of an electrical distribution line, Ella Boyd, Project #412158.

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

Section 11, T. 22 N., R. 12 W; all NMPM, San Juan County, NM and

Said right-of-way across Tribal Trust Lands to be 4,924.47 feet in length, 20 feet in width, and 2.29 acres in size, as shown on attached map and plats of definite location, attached hereto, and made a part hereof.

SAID APPLICANT UNDERSTANDS AND EXPRESSLY AGREES TO THE FOLLOWING STIPULATIONS:

1. To construct and maintain the right-of-way in a workmanlike manner.
2. To pay all damages and compensation, in addition to the deposit made pursuant to 169.4, determined by the Secretary to be due the landowners and authorized users and occupants of the land due to the survey, granting, construction and maintenance of the right-of-way.
3. To indemnify the landowners and authorized users and occupants against any liability for loss of life, personal injury and property damage arising from the construction, maintenance, occupancy or use of the lands by the applicant, his employees, contractors and their employees, or subcontractors and their employees.
4. To restore the lands as nearly as may be possible to their original condition upon the completion of construction, to the extent compatible with the purpose for which the right-of-way was granted.
5. To clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way; and dispose of all vegetative and other material cut, uprooted or otherwise accumulated during construction and maintenance of the project.
6. To take soil and resources conservation protection measures, including weed control, on the land covered by the right-of-way.
7. To do everything reasonable within its power to prevent and suppress fires on or near the lands to be occupied under the right-of-way.
8. To build and repair such roads, fences and trails as may be destroyed or injured by construction work and to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the right-of-way.
9. That upon revocation or termination of the right-of-way, the applicant shall, so far as in reasonably possible, restore the land to its original condition. The determination of "reasonably possible" is subject to Secretary's approval.

10. To at all times keep the Secretary informed of its address, and in case of corporations, of the address of its principal place of business and the names and addresses of its principal officers.
11. That the applicant will not interfere with the use of the lands by or under the authority of the landowners for any purpose not inconsistent with the primary purpose for which the right-of-way is granted.
12. During the term of this Grant of Easement, if any previously unidentified cultural resources are discovered within the easement area, work should be halted immediately and the BIA and/or Tribal Contractor should be contacted immediately.

THE APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

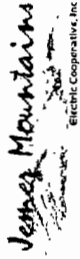
To conform and to abide by all applicable requirements with respect to the right-of-way herein applied for. The applicant agrees to conform to and abide by the rules, regulations, and requirements contained in the *Code of Federal Regulations*, Title 25 Indians, Part 169, as amended, and by reference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

DATE: April 11, 2014 APPLICANT _____

Vigil & Co.

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)-submitted with application of same date entitled "Franciscan Lake Power line project".



Proposed Ella Boyd Line

Township 22N, Range 12W
San Juan County, New Mexico

Work Order #: 412158

Existing and Proposed JMEC Facilities

- Existing 3 Phase Distribution Line
- Existing 1 Phase Distribution Line
- Existing Pole
- Proposed 1 Phase Distribution Line

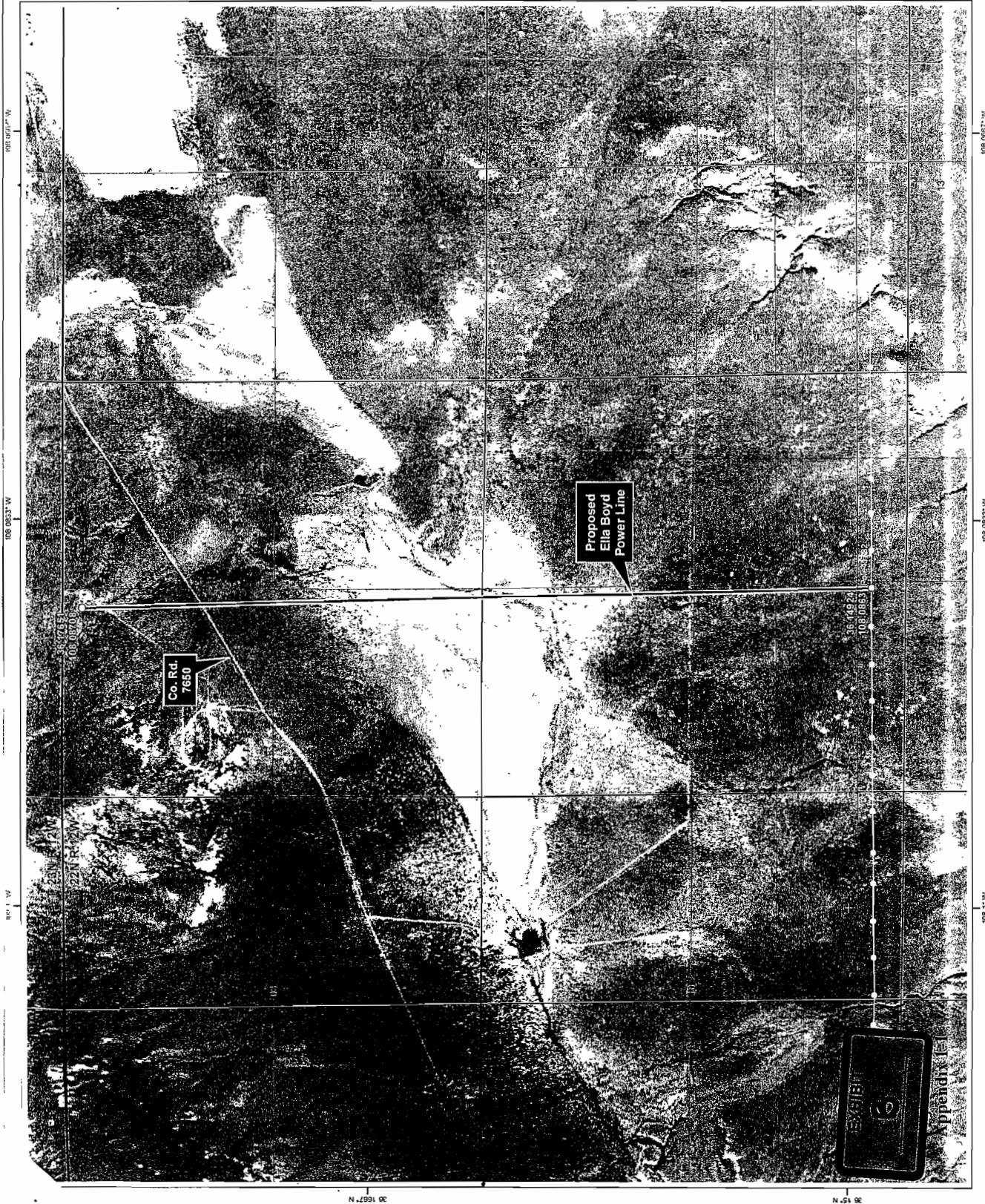
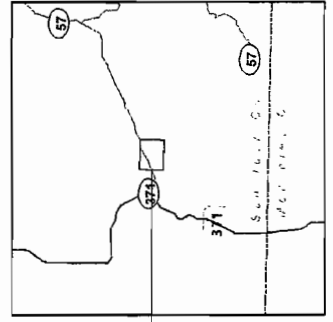
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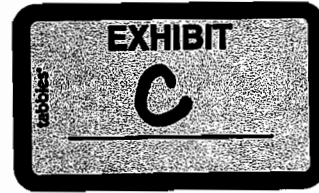


PERMITS WEST
PREPARED PROJECTS TO YOUR ORDER

Prepared by Permits West, Inc., October 22, 2013
for Jemez Mountains Electric Cooperative, Inc.



Appendix 6



MEMORANDUM

TO : Howard P. Draper, Supervisor
Project Review Section, NLD

FROM : Esther Kee
Esther Kee, R/W Agent
Project Review Section, NLD

DATE : September 25, 2014

SUBJECT: JMEC Ella Boyd Power Line Extension Project

Jemez Mountain Electric Cooperative, Inc., Post Office Box 128, Espanola, New Mexico 87532, submitted an application for right of way to construct, operate and maintain a single phase distribution line across Navajo Trust Land to serve Ella Boyd residence near White Rock Chapter, New Mexico.

The power line will be 4,924.47 feet in length, 20 feet wide, 2.29 acres, in Section 11, Township 22 North, Range 12 West, NMPM, San Juan County, New Mexico.

The Navajo Nation is the only affected land user and provided the necessary consent from the District 15 Land Board member, Irwin Jim.

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

cc: Project file

Project Fact Sheet

Company: Jemez Mountains Electric Cooperative, Inc.
P.O. Box 128
Espanola, NM 87532

Project: **Ella Boyd 14.4 kV Single Phase Power Line**

Purpose: To serve Navajo families in the area

Surface: Navajo Tribal Trust /Allotted

Tribal Location: Section 11, T. 22 N., R. 12 W; all NMPM, San Juan County, NM

Line Length: 4,924.47 feet

Right-of-Way Width: 20 feet

Total acreage 2.29 acres

Contact: Permits West, Inc.
37 Verano Loop
Santa Fe, NM 87508
505/466-8120
Fax: 505/466-9682

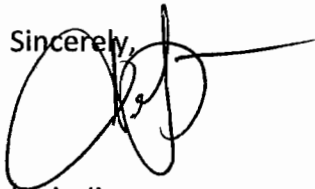
September 25, 2014

TO : Project Review Office,
Navajo Land Department

RE : Land Use Consent

Jemez Mountain Electric Cooperative power line extension to serve Ella Boyd on Navajo Trust land in Section 11, Township 22 North, Range 12 West, NMPM, White Rock Chapter, New Mexico. The proposed site is not permitted for grazing and no land users will be affected. If you should require additional information please call White Rock Chapter at 505/786-2443.

Sincerely,

A handwritten signature in black ink, appearing to be "Irwin Jim", written over the word "Sincerely,".

Irwin Jim

District 17, Land Board member

CULTURAL RESOURCES COMPLIANCE FORM

THE NAVAJO NATION
HISTORIC PRESERVATION DEPARTMENT
PO BOX 4950
WINDOW ROCK, ARIZONA 86515

ROUTE COPIES TO:

☒ DCD1

NNHPD NO. **HPD-13-655 - REVISED**
OTHER PROJECT NO.: **DCD1 12-031.2**

PROJECT TITLE: **2nd Revision: A Cultural Resource Inventory of the Ella Boyd Powerline, White Rock Chapter, San Juan County, New Mexico**

LEAD AGENCY: BIA/NR

SPONSOR: Sonya Binion, Jemez Mt. Electrical Cooperative, Inc., PO Box 10, Cuba, New Mexico 87013

PROJECT DESCRIPTION: The proposed undertaking will involve the construction of a **9,960.08-ft** (4,924.47-ft & 5,035.61-ft) by 20-ft wide single phase powerline to serve Ella Boyd. The area of effect is 4.63-acres on both Tribal Trust and Indian Allotment Land. Ground disturbance will be intensive and extensive with the use of heavy equipment.

LAND STATUS: Navajo Tribal Trust & Indian Allotment # 672 & 673

CHAPTER: White Rock

LOCATION: T.22N, R.12W - Sec. 2 & 11; Pretty Rock Quadrangle, San Juan County, New Mexico NMPM

PROJECT ARCHAEOLOGIST: Denise R. E. Copeland
NAVAJO ANTIQUITIES PERMIT NO: NTC

DATE INSPECTED: 10/10/2012

DATE OF REPORT: 08/28/2013

TOTAL ACREAGE INSPECTED: 22.87-acres total (11.56-ac = Allotment; 11.31-ac = Tribal Trust Land)

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

LIST OF CULTURAL RESOURCES FOUND:	(1) Isolated Occurrence (IO); (1) In-Use Area (IUA)
LIST OF ELIGIBLE PROPERTIES:	None
LIST OF NON-ELIGIBLE PROPERTIES:	(1) IO & (1) IUA
LIST OF ARCHAEOLOGICAL RESOURCES:	None

EFFECT/CONDITIONS OF COMPLIANCE: **No historic properties affected.**

In the event of a discovery ["discovery" means any previously unidentified or incorrectly identified cultural resources including but not limited to archaeological deposits, human remains, or locations reportedly associated with Native American religious/traditional beliefs or practices], all operations in the immediate vicinity of the discovery must cease, and the Navajo Nation Historic Preservation Department must be notified at (928) 871-7147.

FORM PREPARED BY: Tamara Billie

FINALIZED: January 10, 2014 - Revised

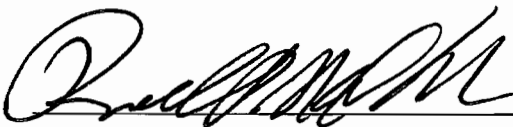
Notification to

Proceed Recommended:

Yes ☒ No ☐

Conditions:

Yes ☐ No ☒


The Navajo Nation
Historic Preservation Office

Date 1/27/14

Navajo Region Approval:

Yes ☒ No ☐


BIA - Navajo Regional Office

Date 1/27/14

Appendix 5-1

TLN 1.27.14



**PRESIDENT
BEN SHELLY
VICE PRESIDENT
REX LEE JIM**

NAVAJO FISH AND WILDLIFE P.O. BOX 1480 WINDOW ROCK, AZ 86515

29 January 2014

13PERM-01

Kitty Wood
Permits West, Inc.
37 Verano Loop
Santa Fe, New Mexico 87508

Dear Mrs. Wood,

The Navajo Nation Department of Fish and Wildlife (NNDFW) reviewed the Environmental Assessment for Jemez Mountain Electric Cooperative, Inc's proposed **Ella Boyd** power line project located approximately 38.78 miles south-southeast of Farmington, New Mexico. The purpose of this letter is to inform you that we are granting the proposed project a Conditional Approval. The project is approved with the following conditions:

[1] The proposed power line is located within a Raptor Sensitive Area (RSA). The power line shall be constructed with a raptor-safe power pole design per Raptor Electrocution Prevention Regulations (REPR). All guy wires shall be marked with highly visual daytime markers to prevent collisions within the RSA.

[2] Power line construction activity shall avoid the Migratory Bird breeding season of 01 MAR -15 AUG or surveys shall precede construction activity.

Please contact me at 928-871-7065 with any questions that you have concerning the review of this project.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Kyselka".

Pamela A. Kyselka, Wildlife Biologist
Navajo Natural Heritage Program
Department of Fish and Wildlife

CONCURRENCE

A handwritten signature in black ink, appearing to read "Gloria Tom".

Gloria Tom, Director
Department of Fish and Wildlife

01/29/14
Date

xc: CONS-100-14
BIA

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.: Ella Boyd Power Line Extension

DESCRIPTION: JMEC proposes to construct, operate, and maintain a 14.4kV single-phase power line 9,960.08 ft. in length within a 20-ft. wide right-of-way. Total disturbance for the proposed project would be 4.63 acres.

LOCATION: 38.78 miles S-SE of Farmington, Sections 2 & 11, T22N, R12W, San Juan County, New Mexico

REPRESENTATIVE: Kitty Wood, Permits West, Inc.

ACTION AGENCY: Jemez Mountains Electric Cooperative, Inc. (JMEC)

B.R. REPORT TITLE / DATE / PREPARER: Ella Boyd Power Line, Appx. 3 & 4/22 OCT 2013/Permits West, Inc.

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3. The project is within an RSA.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: [1] *Buteo regalis* (Ferruginous Hawk), G3, MBTA.

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

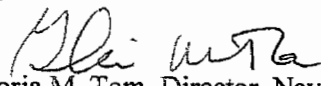
AVOIDANCE / MITIGATION MEASURES: NA

CONDITIONS OF COMPLIANCE*: [1] The proposed power line is located within a Raptor Sensitive Area (RSA). The power line shall be constructed with a raptor-safe power pole design per Raptor Electrocution Prevention Regulations (REPR). All guy wires shall be marked with highly visual daytime markers to prevent collisions within the RSA; [2] Power line construction activity shall avoid the Migratory Bird breeding season of 01 MAR -15 AUG or surveys shall precede construction activity

FORM PREPARED BY / DATE: Pamela A. Kyselka/29 JAN 2014

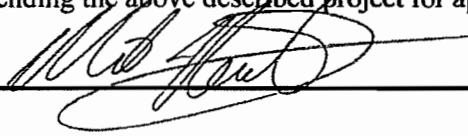
COPIES TO: (add categories as necessary)

☒ BIA ☐ _____

<u>2 NTC § 164 Recommendation:</u>	Signature	Date
☐ Approval	 Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife	<u>01/29/14</u>
☒ Conditional Approval (with memo)		
☐ Disapproval (with memo)		
☐ Categorical Exclusion (with request letter)		
☐ None (with memo)		

*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

2/6/14



EXHIBIT "D"

**NAVAJO NATION TERMS AND CONDITIONS
For Right-of-Way (ROW)**

Jemez Mountain Electric Cooperative, Inc (GRANTEE)
(Ella Boyd residence at White Rock Chapters, New Mexico)

1. The term of the right-of-way shall be for twenty (20) years, beginning on the date the right-of-way (ROW) is granted by the Secretary of Interior.
2. Consideration for the right-of-way is assessed at \$ 35,724.00. The Navajo Nation contributes this amount to the project because the project provide electricity to a Navajo resident. Commercial use of the right-of-way shall require the approval of the Navajo Nation.
3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of constructing, operating and maintaining 14.4 kV single phase electrical distribution power line. The Grantee may not develop, use or occupy the right-of-way for any other purpose without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation. The Grantee may not develop, use or occupy the right-of-way for any unlawful purpose.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
 - a. Title 25, Code of Federal Regulations, Part 169;
 - b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archaeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices;
 - c. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., and the Navajo Nation Business Preference Law, 5 N.N.C. §§ 201 et seq.; and
 - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq.. Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.

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

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

ENVIRONMENTAL ASSESSMENT **FOR**



JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.
P.O. BOX 128
ESPAÑOLA, NM 87532
(505) 753-2105

ELLA BOYD POWER LINE PROJECT

ON NAVAJO ALLOTTED LANDS AND TRIBAL TRUST
SECTIONS 2 AND 11, T. 22 N., R. 12 W.
SAN JUAN COUNTY, NM

OCTOBER 22, 2013

PREPARED BY:

PERMITS WEST.INC.

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1. Introduction

Jemez Mountains Electric Cooperative, Inc. (JMEC) proposes to construct a 9960.08-foot power line for the area resident, Ella Boyd (Proposed Action). The project is located in Sections 2 and 11, T. 22 N., R. 12 W., 38.78 miles south-southeast of the city of Farmington in San Juan County, NM. The layout of the power line and a topographic map of the location are attached as Appendix 1. The power line crosses Tribal Trust land for 4,924.47 ft and two Indian Allotments (IA 672 and IA 673) for 5,035.61 ft. This Environmental Assessment (EA) will address the Proposed Action with regards to potential impacts to the surrounding environment.

1.1 Purpose and Need

The purpose of the Proposed Action is to construct a single-phase power line to serve the area resident, Ella Boyd. Approval of the Proposed Action will allow Ms. Boyd to have power to her home.

1.2 Conformance with Applicable Land Use Plans and Other Environmental Assessments

This EA addresses the potential impacts imposed on surrounding resources by the Proposed Action. Impacts are presented on a site-specific basis as required by the National Environmental Policy Act (NEPA), as amended (NEPA 1969). The proposed project will not be in conflict with any local, county, or state plans. JMEC will file a right-of-way (ROW) application with the Bureau of Indian Affairs (BIA).

1.3 Federal, State, or Local Permits, Licenses, or Other Consultation Requirements

Compliance with Section 106, Responsibilities of the National Historic Preservation Act, are adhered to by following the Bureau of Land Management (BLM) – New Mexico State Historic Preservation Officer (SHPO) protocol agreement, which is authorized by the National Programmatic Agreement between the BLM, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers, and other applicable BLM handbooks (NHPA 1966).

The Navajo Nation Department of Fish & Wildlife (NNDFW) Natural Heritage Program has been consulted with respect to species of concern that are known to occur, or that have the potential to occur, within the area of the Proposed Action (Appendix 2). Species of concern listed by the NNDFW will be evaluated in Section 3 of this document and in the Wildlife and Plant Survey Reports attached as Appendices 3 and 4, respectively.

Capital Improvement Office performed a Class III Cultural Resources Inventory of the Proposed Action area. A determination was made that no historic properties will be affected by the project. A request for archeological clearance was also submitted to the Navajo Nation Historic Preservation Department (NNHPD). The Cultural Resources Compliance Form is attached as Appendix 5.

Additionally, JMEC is required to:

- Comply with all applicable federal, state, and local laws and regulations.
- Obtain the necessary permits for construction of the power line.

2. Alternatives Including the Proposed Action

2.1 Alternative A - No Action

The BLM NEPA Handbook (H-1790-1) states that in EAs for externally initiated proposed actions, the No Action Alternative generally means that the proposed activity will not take place (USDI BLM 2008). This alternative would deny approval to construct the power line and the current land and resource uses would continue to occur in the proposed project area. No mitigation measures would be required.

The No Action Alternative is presented for baseline analysis of resource impacts.

2.2 Alternative B - Proposed Action

JMEC proposes to construct a single-phase, overhead, raptor-safe power line from the Ella Boyd residence to an existing power pole to accommodate the power needs of this resident. The proposed structures will include 28 wooden poles, varying from 40-45 feet in height, buried approximately five feet below grade with guy anchors at each end, bearing change, and connection. All pole structures will include one wooden pole. The 9,960.08-foot long line crosses Tribal Trust land for 4,924.47 ft, and two Indian Allotments (IA 672 and IA 673) for 5,035.61 ft. The Proposed Action is located 38.78 miles south-southeast of the city of Farmington in San Juan County, NM. It is located in Sections 2 and 11 in T. 22 N., R. 12 W., as indicated on the topographic map and center line survey map shown in Appendix 1.

All access along the power line route will be from existing roads, and cross-country within the ROW only. The total length of the proposed ROW is 9,960.08 feet and the width is 20 feet, for a total disturbed area of 4.63 acres (including guy anchors). Soil and vegetation will be minimally disturbed at the location of poles and guys. Table 2.1 summarizes the project land use specifications. The estimated duration from start of construction is approximately one month.

Table 2.1: Land Use Specifications Summary

<i>Land Ownership</i>	<i>Location</i>	<i>Power Line Length (feet)</i>	<i>Power Line Length (miles)</i>	<i>Total Area including guys (acres)</i>
Navajo Tribal Trust	Section 11	4,924.47	0.93	2.29
Navajo Indian Allotment #672	NW ¼ Sec. 2	2,404.30	0.46	1.13
Navajo Indian Allotment #673	SW ¼ Sec. 2	2,631.31	0.50	1.21
TOTAL	n/a	9,960.08	1.89	4.63

Most of the route crosses open, slightly hilly terrain. The power line route crosses a broad valley with an intermittent wash at the bottom. Construction will entail driving a truck-mounted auger cross-country to the location of each structure and digging a hole. Then a truck-mounted crane will raise the pole, and the hole will be backfilled and tamped. The electric wires will be strung on the poles with the assistance of a reel truck and a winch truck. No temporary roadways or use areas will be required and no blading or blasting will be performed as part of the project.

Construction will only be performed when the soil is dry enough to adequately support construction equipment and vehicles. When the soil is too wet (ruts more than six inches deep), construction will be postponed until conditions improve. Maintenance will be conducted as necessary.

2.3 Reclamation

Disturbed areas will be restored as closely as possible to their original condition upon completion of construction. Reclamation measures will include ripping compacted and disturbed areas at least 12 inches deep with the contour, harrowing, applying a native seed mix as prescribed by the BIA or Navajo Nation, and mulching. Noxious weeds would be controlled in accordance with Navajo Nation Environmental Protection Agency (EPA) requirements.

2.4 Alternatives Considered But Not Analyzed In Detail

One alternative that was considered is the use of an alternative energy source. The use of on-site diesel or gas engines to provide power to the current private residence is an alternative to providing electricity via a power line. However, electricity is quieter, less expensive, and requires less maintenance. In addition, any on-site engines would require regular re-fueling, which would increase operating expenses due to fuel costs and man hours for fueling and maintaining the engines.

Photovoltaic (PV) cells are costly and inconvenient for intensive or widespread use. PV cell electricity typically costs 800% more than that from a power line. A typical battery can

store a maximum of 72 hours of electricity, and many would be needed to power the electrical needs of this home. The need for multiple batteries would be costly and potentially unreliable during long stretches of inclement weather.

Wind generators are also expensive and can be impractical due to the necessity to place the windmills on high points in the direct stream of wind. This project area may not have a suitable location to support wind-generated energy.

These alternative energy sources are impractical for powering this private residence and the proposed power line best meets the energy needs required at this time.

Another alternative considered was to bury the entire length of the line rather than use an overhead span from the existing power pole to the residence. Burying the entire 9,960.08 feet of line by trenching would disturb far more land and increase the amount of erosion and subsequent possibility of noxious weeds becoming established than burying only power poles to support an overhead line.

No other significant issues were identified for the present location of the Proposed Action during the following activities:

- on-site inspections;
- Cultural Resources Inventory;
- Threatened, Endangered, and Special Status Species Survey; and the
- review of NNDFW species of concern known to occur or with the potential to occur in the 7.5-minute Pretty Rock, NM Quadrangle.

Therefore, no further alternatives other than the No Action Alternative were considered.

3. Description of Affected Environment

This section describes the environment that would be affected by implementation of the alternatives described in Section 2. Aspects of the affected environment described in this section focus on the relevant major resources or issues. Only aspects of the affected environment that are potentially impacted are described.

3.1 Air Resources

The proposed project is located in San Juan County, NM on Navajo Nation Tribal Trust land and Indian Allotments. The US Environmental Protection Agency (USEPA), Region IX, and the Navajo Nation Environmental Protection Agency Air Quality Control program are

responsible for administering air quality regulations on Navajo Allotted Trust Lands in New Mexico. The Navajo Nation Air Quality Control Program (NNAQCP) is responsible for the implementation and enforcement of the Navajo Air Pollution Prevention and Control Act (NAPPCA) (Navajo Nation Council 2004). In addition, the project area lies within the USEPA's designated Four Corners Interstate Air Quality Control Region (USEPA 1971).

Air resources include air quality and climate. The USEPA has the primary responsibility for regulating air quality, including seven nationally regulated ambient air pollutants. Air quality is determined by atmospheric pollutants and chemistry, dispersion meteorology, and terrain; and also includes applications of noise, smoke management, and visibility. Greenhouse gas (GHG) emissions, such as carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), water vapor, and several trace gases, can affect air quality (USEPA April 2013).

Climate is the composite of generally prevailing weather conditions of a particular region throughout the year, averaged over a series of years. GHGs also affect climate. Through complex interactions on a global scale, GHG emissions may cause a net warming effect of the atmosphere, primarily by decreasing the amount of heat energy radiated by the earth back into space. Although GHG levels have varied for millennia (along with corresponding variations in climatic conditions), industrialization and burning of fossil carbon sources have caused GHG concentrations to increase measurably, and may contribute to overall climatic changes, typically referred to as global warming (USEPA). GHGs are not regulated by the USEPA, however climate is important to consider because it has the potential to influence renewable and non-renewable resource management

Air Quality

The primary sources of air pollution are dust from blowing wind on disturbed or exposed soil, and exhaust emissions from motorized equipment.

Air quality in the area near the proposed project is generally good and is not located in an area designated by the USEPA as a "non-attainment area" for any listed pollutants regulated under the Clean Air Act (USEPA July 2013).

The USEPA's Inventory of US Greenhouse Gas Emissions and Sinks found that total U.S. GHG emissions were over 6.7 billion metric tons and that total U.S. GHG emissions have increased by 8.4% from 1990 to 2011. Emissions decreased from 2010 to 2011 by 1.6% (108.0 million metric tons CO₂ Eq.). The decrease was due to a decrease in carbon intensity of fuels consumed to generate electricity (due to a substitution of coal use by natural gas and an increase in hydropower use), and relatively mild winter conditions. (USEPA April 2013)

Since 1990, U.S. emissions have increased at an average annual rate of 0.4 percent (USEPA April 2013). It is likely, then, that levels of these GHGs will continue to increase. But, it is hoped that the rate of increase will continue to slow as greater awareness of the potential

environmental and economic costs associated with increased levels of GHGs result in behavioral and industrial adaptations.

Other factors that currently affect air quality in the area include dust from livestock and dust from vehicular traffic on disturbed or unpaved surfaces.

Climate

The average global temperature has risen about 1.4°F (0.8°C) from 1880 to 2012. The continued increase in GHG levels in Earth's atmosphere assures a long-term rise in global temperatures. On the current course of GHG increases, scientists expect each successive decade to be warmer than the previous one. (Hansen 2013)

In 2007, the Intergovernmental Panel on Climate Change (IPCC) predicted a warming of about 0.2°C per decade for the next two decades, and then a further warming of about 0.1°C per decade (IPCC 2007). The National Academy of Sciences (NAS) believes that the need for urgent action to address climate change is now indisputable and it has called on the G8+5 nations to seize all opportunities to coordinate their simultaneous work on the climate and economic agendas (NAS 2009).

A report on climate change by the U.S. Government Accountability Office (USGAO) found that, "federal land and water resources are vulnerable to a wide range of effects from climate change, some of which are already occurring. These effects include, among others: 1) physical effects such as droughts, floods, glacial melting, and sea level rise; 2) biological effects, such as increases in insect and disease infestations, shifts in species distribution, and changes in the timing of natural events; and 3) economic and social effects, such as adverse impacts on tourism, infrastructure, fishing, and other resource uses" (USGAO 2007). It is not, however, possible to predict with any certainty regional or site-specific effects on climate relative to the Proposed Action and subsequent actions.

3.1.1 No Action Alternative

3.1.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to air resources would occur.

3.1.2 Proposed Action

3.1.2.1 Direct and Indirect Effects

Air Quality

1. There will be a short-term (approximately one month) increase in dust during construction of the Proposed Action. This impact would subside as disturbed areas are reclaimed.
2. There will be a minor, short-term increase (approximately one month) in local combustive emissions from operating vehicles and earth moving equipment.
3. There will be a minor long-term impact to air quality from motorized vehicles performing periodic maintenance of the power line.
4. There will be minor and sporadic, long-term fugitive dust creation during maintenance of the power line.

Climate

No quantifiable impacts to the climate are anticipated as a result of the Proposed Action.

3.1.2.2 Mitigation

1. JMEC will apply water for dust control, if necessary.
2. Surface disturbance and vehicular traffic will be limited to the approved locations to reduce combustive emissions and dust.
3. JMEC will comply with the NAPPCA, USEPA's Clean Air Act, and all applicable state and local regulations.

3.2 Cultural Resources

Capital Improvement Office performed a Class III archaeological survey in the project area. A determination of "no historic properties affected" was made. The Cultural Resources Compliance Form is attached as Appendix 5.

3.2.1 No Action Alternative

3.2.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to cultural resources would occur.

3.2.2 Proposed Action

3.2.2.1 Direct and Indirect Effects

The potential exists to impact undiscovered or improperly inventoried cultural resources that may be discovered during construction of the Proposed Action.

3.2.2.2 Mitigation

Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered during the Proposed Action by JMEC, or any person working on their behalf, will be immediately reported to the NNHPD at (928) 871-7148, and to any other necessary agencies. JMEC will suspend all operations in the immediate area of such discovery until approval to proceed is issued by the NNHPD. An evaluation of the discovery will be made by the NNHPD archaeologist to determine appropriate action to prevent the loss of significant cultural or scientific values.

3.3 Environmental Justice

Executive Order 12898 requires federal agencies to assess projects to ensure there are no disproportionately high or adverse environmental, health, or safety effects on minority and low-income populations (1994). Minorities comprise a high percentage of the population residing in San Juan County (USDI BLM 2003).

3.3.1 No Action Alternative

3.3.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to environmental justice would occur.

3.3.2 Proposed Action

3.3.2.1 Direct and Indirect Effects

The purpose of the Proposed Action is to provide power to the private residence of Ella Boyd on Navajo allotted lands. Private residences located on Navajo allotted lands are likely considered minority and could potentially represent low-income populations. A positive direct effect will be access to electricity for this resident. Aside from the Ella Boyd residence, there are no other residences within the project area and very few residences near the

project area. The Proposed Action is not located on public lands and the area is not used for wood gathering or hunting. If there are any grazing permits in the area, the permittees will be contacted. Negative direct effects to minority or low-income populations include a slight increase in activity and noise disturbance.

3.3.2.2 Mitigation

Regarding an increase in noise disturbance, see Section 3.8 Noise, below.

3.4 Floodplains

The permit activity is in an area that has not been delineated on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map for the 100-year floodplain (USDHS FEMA 2010). The landscape in the project area is a gently rolling plain with a large playa near the center of the proposed power line. This playa is part of a floodplain, but is currently dry. Impacts on floodplains typically occur when the topography within a floodplain is substantially modified either by placement or removal of materials within the floodplain.

3.4.1 No Action Alternative

3.4.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to floodplains would occur.

3.4.2 Proposed Action

3.4.2.1 Direct and Indirect Effects

Because this is a power line, the permit activity will not substantially modify topography in the Proposed Action area. Therefore, no impacts to floodplains are anticipated.

3.5 General Topography/Surface Geology

The Proposed Action area is located 38.78 miles south-southeast of the city of Farmington in San Juan County, NM. The landscape in the project area is a gently rolling plain with a large playa near the center of the proposed power line. The elevation of the project area is approximately 6085 to 6175 feet. It is lowest in the area of the playa and higher at the two ends. Drainage in the project area varies, but ultimately all surface flows drain through unnamed ephemeral drainages to Chaco Wash, which empties into the San Juan River, south

of the proposed power line. There are no significant outcroppings or geologic formations in the immediate area of the power line.

Disturbances in the project area include gravel, dirt, and two-track roads, the existing residence at the north end, the existing power line at the south end, and grazing by cattle and horses.

Table 2.1: Land Use Specifications Summary, above, outlines the project's affected area.

3.5.1 No Action Alternative

3.5.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to general topography and surface geology would occur.

3.5.2 Proposed Action

3.5.2.1 Direct and Indirect Effects

1. A direct effect to the natural topography will result from accessing and installing new power line poles and guy anchors.
2. The indirect effect of disturbance and loss to soil and seed banks will result from installing the power line poles.

3.5.2.2 Mitigation

1. Surface disturbance and vehicular traffic will be limited to approved locations to reduce the area of disturbance.
2. Disturbed areas will be reclaimed pursuant to Section 2.3. Reseeding will help prevent soil loss and seed bank disturbance/loss. Successful reclamation will take two to three years.
3. Use of BMPs listed in Section 2.2.

3.6 Invasive, Non-native Species

There are seventeen species listed on the BIA Navajo Noxious Weed List (USDI OSM 1999). None of these species are present in the project area.

3.6.1 No Action Alternative

3.6.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to invasive, non-native species would occur.

3.6.2 Proposed Action

3.6.2.1 Direct and Indirect Effects

Noxious weeds may become established in disturbed areas within the Proposed Action area.

3.6.2.2 Mitigation

1. Any disturbed areas will be seeded with an approved seed mix.
2. JMEC will make every effort to ensure that noxious weeds do not spread over disturbed areas. If noxious weeds become established within the Proposed Action area, JMEC will contact the Navajo Nation EPA Pesticides Program for a list of approved herbicides and applicators.

3.7 Land Use

The Proposed Action is located on Navajo Tribal Trust land and Navajo allotted lands. Current land uses include residential living and possibly livestock grazing. There are no farmlands in the Proposed Action area, nor is it used for the extraction of mineral resources.

3.7.1 No Action Alternative

3.7.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to current land uses would occur.

3.7.2 Proposed Action

3.7.2.1 Direct and Indirect Effects

-
1. The Proposed Action will affect 4.63 acres of Navajo Tribal Trust and Navajo allotted lands.
 2. Short-term impacts will come from minimal land clearing for power line pole, wire, and guy placement.

3.7.2.2 Mitigation

1. Reclamation of the Proposed Action as stated in Section 2.3 will replace, and may even enhance, vegetative cover along the overhead span right-of-way. Successful reclamation is expected to take two to three years.
2. If grazing permits are identified in the project area, the permittees will be contacted to gain written permission for JMEC's proposed use of the land as part of this project.

3.8 Noise

Noise is not currently regulated or managed by the Navajo Nation. The Proposed Action is in a rural location and is not in any BLM-designated Noise Sensitive Area. Aside from the Ella Boyd residence, the next nearest residence is approximately 0.4 miles to the west of the proposed power line. Low level noises are emitted from traffic on roadways. The most likely receptors of noise generated from the Proposed Action will be those traveling to the area for work activities.

3.8.1 No Action Alternative

3.8.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect noise impacts would occur.

3.8.2 Proposed Action

3.8.2.1 Direct and Indirect Effects

1. Noise will be generated as part of construction activities associated with the Proposed Action. Noise will occur for a period of approximately one month.
2. Occasional maintenance and/or monitoring vehicles will travel to and within the project area during normal operations.

3.8.2.2 Mitigation

1. Construction will be conducted during daylight hours and will be limited to approved locations.
2. Vehicular traffic will be restricted to approved areas and will not exceed what is necessary for the construction and maintenance of the Proposed Action.
3. Noise associated with construction activities will cease after approximately one month. Once construction is complete and operation begins, noise will return to background level.

3.9 Public Health and Safety

The only resident in the project area is Ella Boyd. The next nearest resident is approximately 0.4 miles west of the proposed power line. JMEC employees are the most likely persons to be in the vicinity of the Proposed Action.

3.9.1 No Action Alternative

3.9.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to public health and safety would occur.

3.9.2 Proposed Action

3.9.2.1 Direct and Indirect Effects

Risks to the public associated with the construction of a power line include wildfire, increased traffic on public roads, fire and explosion, spills of vehicular fluids or water, and potential air emissions exposure.

3.9.2.2 Mitigation

-
1. Only approved areas will be used during construction to minimize hazards to workers and the general public.
 2. All applicable laws, regulations, and policies will be followed during construction and maintenance activities, or while responding to any emergency.
 3. BMPs and appropriate Occupational Safety and Health Administration standards and guidelines will be implemented to minimize negative effects to public health and safety.

3.10 Soils

The project area is entirely within the Blancot-Notal association, gently sloping soil unit. This association consists of fan and stream alluvium derived from sandstone and shale with soil textures of loam and sandy clay loam to silty clay loam and clay (SoilWeb Earth, 2013). The underlying bedrock is the Kirtland Fruitland Formation (NMBGMR, 2003).

3.10.1 No Action Alternative

3.10.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to soils would occur.

3.10.2 Proposed Action

3.10.2.1 Direct and Indirect Effects

1. Soils will be structurally reduced and mixed, exposed to the elements of wind and water erosion, and compacted.
2. Due to wind and water, the soils will be subject to an undetermined amount of erosion until vegetation is established.

3.10.2.2 Mitigation

1. Successful reclamation of the Proposed Action outlined in Section 2.3 will reduce long-term negative impacts to soils. Re-seeding will reduce sediment loading by stabilizing the soil. Successful reclamation is expected to take two to three years.
2. Use of BMPs as outlined in Section 2.2 will reduce impacts to soils.

3.11 Threatened, Endangered, and Special Status Species

On February 6, 2013, a wildlife biologist conducted a pedestrian wildlife survey of the project area to inspect for the potential presence of threatened, endangered, or special status species.

No federally or Navajo listed threatened, endangered, or special status species were observed during the wildlife survey.

Although not observed during the survey, the project area provides suitable habitat for the golden eagle (*Aquila chrysaetos*), the kit fox (*Vulpes macrotis*), and the pronghorn (*Antilocapra Americana*). Ferruginous hawks (*Buteo regalis*) may also occasionally pass through the project area. These are all Navajo Nation Endangered Species, and the golden eagle and ferruginous hawk are also protected by the Migratory Bird Treaty Act (MBTA). Since all of these species may only occasionally forage in or occur in the project area, they should not be adversely impacted by the proposed project. The full Threatened, Endangered, and Special Status Wildlife Species Report is attached as Appendix 3.

Three special status bird species that are protected under the MBTA were observed during the wildlife survey. These include the horned lark (*Eremophila alpestris*), common raven (*Corvus corax*), and Say's phoebe (*Sayornis saya*). Because there will be minimal ground disturbance in association with the proposed power line construction, and given the sparsely vegetated nature of the project area, no take of nesting birds is anticipated from the project.

No threatened, endangered, or special status plant species of concern to the Navajo Natural Heritage Program or the United States Fish and Wildlife Service occur in the Proposed Action area. The full Plant Survey Report is attached as Appendix 4.

3.11.1 No Action Alternative

3.11.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to threatened, endangered, or special status species would occur.

3.11.2 Proposed Action

3.11.2.1 Direct and Indirect Effects

No direct or indirect effects to threatened, endangered, or special status species is anticipated.

3.12 Vegetation, Forestry

The landscape in the project area is a gently rolling plain with a large playa near the center of the proposed power line. The plant community is predominantly desert grassland dominated by alkali sacaton (*Sporobolus airoides*), with frequent four-wing saltbush (*Atriplex canescens*) near the north end. The large playa extends for approximately 0.4 mile along the proposed line and occurs on both the Navajo Tribal Trust and allotted lands. The playa is mostly barren with widely scattered hummocks of alkali sacaton and Valley saltbush (*Atriplex gardneri* var. *cuneata*). There are no forestry resources in the project area. A complete inventory of plant species can be found in Appendix 4.

3.12.1 No Action Alternative

3.12.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to vegetation or forestry would occur.

3.12.2 Proposed Action

3.12.2.1 Direct and Indirect Effects

The Proposed Action will affect 4.63 acres of Navajo Tribal Trust and allotted land.

3.12.2.2 Mitigation

Reclamation, as outlined in Section 2.3, will mitigate impacts to vegetation from the construction of the Proposed Action. Reseeding will replace vegetation removed or damaged during construction. Successful reclamation is expected to take two to three years.

3.13 Visual Resources

Visual resources are not currently inventoried or managed by the Navajo Nation. However, the BLM has developed a Visual Resource Management (VRM) classification system designed to maintain or enhance visual qualities and describe different degrees of modification to the landscape. There are four VRM classes (Classes I through IV), which identify suggested degrees of allowed human modification to a landscape. Class I allows the least modification and Class IV allows the most (USDI BLM 2003).

The Proposed Action is in an area that the BLM designates as VRM Class II. Projects

constructed in Class II areas must retain the existing character of the landscape. The level of change to the characteristic landscape should be low. Management activities may be seen, but should not attract the attention of the casual observer. Any changes must repeat the basic elements of form, line, color, and texture found in the predominant natural features of the characteristic landscape. (USDI BLM 2003).

3.13.1 No Action Alternative

3.13.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to visual resources would occur.

3.13.2 Proposed Action

3.13.2.1 Direct and Indirect Effects

1. Short-term impacts to visual resources could come from dust, truck traffic, and placement of heavy equipment during construction.
2. The power line will interrupt the line of sight and introduce vertical elements to the landscape.

3.13.2.2 Mitigation

Short-term impacts to visual resources from construction will cease after approximately one month.

3.14 Wastes, Hazardous and Solid

As a result of the construction of the Proposed Action, solid waste materials will be generated. These materials may include typical field waste such as charts and plats, excess conductor wire, bent anchors, anchor line spools, broken insulators, damaged bolts and fittings, broken poles and cross arms, scrap lumber, laths, stakes, flagging, nylon rope, lunch trash, and cardboard. Generation of hazardous waste is not expected. If hazardous waste were inadvertently generated, the proper authorities would be consulted regarding the disposal of such waste.

3.14.1 No Action Alternative

3.14.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts from wastes, hazardous or solid, would occur.

3.14.2 Proposed Action

3.14.2.1 Direct and Indirect Effects

Trash and unwanted materials will be generated by construction.

3.14.2.2 Mitigation

All trash will be placed in a portable trash cage and hauled to an approved landfill. There will be no burial or burning of trash. Human waste will be disposed of in chemical toilets and hauled to an approved dump station off of the reservation.

3.15 Water Resources

The project is located in a depression known as the San Juan Basin. The San Juan Basin recharges near the Zuni Uplift in the Chuska Mountains and flows toward the Chaco and San Juan Rivers to discharge (Robson and Banta, 1995). The project area receives approximately 8.78 inches of annual precipitation (WRCC 2012).

Drainage in the project area varies, but ultimately all flows drain through unnamed ephemeral drainages to Chaco Wash, which empties into the San Juan River, south of the proposed power line.

The groundwater zones present beneath the project area include the Mesa Verde Aquifer, Dakota-Glen Canyon Aquifer System, and Coconino-De Chelly Aquifer. The Mesa Verde Aquifer is the shallowest and the Coconino-De Chelly Aquifer is the deepest of the aquifers underlying the project area. The Mesa Verde Aquifer is high in chloride concentrations. The Dakota-Glen Canyon Aquifer System is highly mineralized and has a substantial amount of dissolved halite, most likely from an unplugged or poorly plugged oil test hole (Robson and Banta 1995). The Coconino-De Chelly Aquifer contains a lot of dissolved minerals, more concentrated in some regions than in others. It also contains dissolved halite, much like that of Dakota-Glen Canyon, but less concentrated. (Allen 2011).

The plant survey report indicated no wetlands or riparian areas in the Proposed Action area (Appendix 4).

3.15.1 No Action Alternative

3.15.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to water resources would occur.

3.15.2 Proposed Action

3.15.2.1 Direct and Indirect Effects

1. A direct effect is the increased sediment loading to the adjacent surface drainages through runoff of disturbed soils.
2. Natural drainage patterns may be slightly disrupted by construction of the Proposed Action.
3. Although no hazardous substances as defined by the Comprehensive Environmental Response, Compensation, and Liability Act will be used, and no Resources Conservation and Recovery Act-defined hazardous wastes will be generated during construction or operation, construction equipment could experience a spill of on-board fluids and/or materials that could potentially get into the surface or groundwater system.

3.15.2.2 Mitigation

1. BMPs in Section 2.2 will be implemented to prevent erosion and off-site migration of soils and other materials, and to reduce impacts to watershed and hydrology.
2. Any spilled contaminants will be cleaned up as soon as possible to prevent run-off of contaminants into surface hydrology or infiltration into groundwater.
3. The Proposed Action will be reclaimed as outlined in Section 2.3. Re-seeding will reduce sediment loading by stabilizing the soil. Successful reclamation is expected to take two to three years.

3.16 Wildlife

Wildlife occurring in the area is typical of arid grasslands and shrublands of the Great Basin Desert. This includes passerines such as horned larks (*Eremophila alpestris*) and black-throated sparrows (*Ampisiza bilineata*), as well as jackrabbits (*Lepus spp.*), kangaroo rats

(*Dipodomys spp.*) and whiptail lizards (*Aspidoscelis spp.*). A complete inventory of observed species is included in Appendix 3.

3.16.1 No Action Alternative

3.16.1.1 Direct and Indirect Effects

Under the No Action Alternative, the project would not be approved or constructed and no direct or indirect impacts to wildlife would occur.

3.16.2 Proposed Action

3.16.2.1 Direct and Indirect Effects

The wildlife that uses the site may die or be displaced during construction. Removal of or damage to vegetation during construction of the Proposed Action may reduce wildlife forage and cover in the area.

3.16.2.2 Mitigation

1. Reclamation of the Proposed Action as outlined in Section 2.3 will reduce the long-term impacts to wildlife that use the area. Reseeding disturbed areas will replace vegetation removed during construction. In some instances, there may be a benefit from successful reclamation due to an increase in vegetative cover and wildlife forage. Successful reclamation is expected to take two to three years.
2. Vehicles will be restricted to existing roads and the proposed power line route to reduce impacts to ground dwelling wildlife at the project site.

3.17 Cumulative Effects

3.17.1 No Action Alternative

Under the No Action Alternative, this project would not be approved or constructed.

3.17.2 Proposed Action

The Proposed Action will affect 4.63 acres on Navajo Tribal trust and allotted lands. Reasonably foreseeable future development may include additional power lines installed in the vicinity of the Proposed Action for other residences currently without power. These would expand the local electric utility grid and would add to the cumulative disturbance in the area.

4. Consultation/Coordination

This section identifies the interdisciplinary team that participated in the development of this document.

Table 4.1: Interdisciplinary Project Team

Member	Title	Organization	Onsite Inspection	Date of Inspection
Liz Berdugo	Consultant/Author	Permits West, Inc.	no	n/a
Mike Deutsch	Project Coordinator	Permits West, Inc.	yes	7/10/12
Charles Black	Wildlife Biologist	Permits West, Inc.	yes	2/6/13
Marian Rohman	Field Botanist	Permits West, Inc.	yes	5/6/13
Denise R.E. Copeland	Principal Archaeologist	Capital Improvement Office	yes	10/10/12

5. Contact Information

Permits West, Inc.
37 Verano Loop
Santa Fe, NM 87508
505-466-8120
Fax: 505-466-9682

Sonya Binion
Jemez Mountains Electric Cooperative, Inc.
#71 Hwy 126
Cuba, NM 87013
575-289-3241
Fax: 575-289-0103

6. References

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Species of concern with potential to occur on the 7.5-minute **Pretty Rock, NM** quadrangle(s) containing the project boundaries include the following. Potential is based primarily on quadrangle-wide coarse habitat characteristics and species range information. Your project biologist should determine habitat suitability at the project site(s).

	SCIENTIFIC NAME	COMMON NAME	NESL STATUS	FEDERAL STATUS AND/OR *MBTA
1.	<i>Antilocapra americana</i>	Pronghorn	G3	
2.	<i>Aquila chrysaetos</i>	Golden Eagle	G3	MBTA
3.	<i>Asclepias sanjuansensis</i>	San Juan Milkweed	G4	
4.	<i>Buteo regalis</i>	Ferruginous Hawk	G3	MBTA
5.	<i>Charadrius montanus</i>	Mountain Plover	G4	ESA Proposed Threatened; MBTA.
6.	<i>Empidonax traillii extimus</i>	Southwestern Willow Flycatcher	G2	ESA Endangered; MBTA.
7.	<i>Mustela nigripes</i>	Black-footed Ferret	G2	ESA Endangered
8.	<i>Vulpes macrotis</i>	Kit Fox	G4	

*MBTA = Migratory Bird Treaty Act

AREA 3: LOW SENSITIVITY WILDLIFE RESOURCES

Potential for the black-footed ferret should be evaluated if prairie-dog towns of sufficient size (per NFWD guidelines) occur in the project area.

Potential for Puccinellia parishii should be evaluated if wetland conditions exists that contain white alkaline crusts.

Biological surveys need to be conducted during the appropriate season to ensure they are complete and accurate please refer to NN Species Accounts.⁴ Further questions pertaining to surveys should be referred to Species Account. Surveyors on the Navajo Nation must be permitted by the Director, NFWD. Contact Jeff Cole at (928) 871-6595 for permitting procedures. Questions pertaining to surveys should be directed to the NFWD Zoologist (Chad Smith) for animals at 871-7070 and Botanist (Andrea Hazelton) for plants at (928)523-3221. Questions regarding biological evaluations should be directed to Pamela Kyselka (Acting Environmental Reviewer) at 871-7065.

The powerline(s) should be designed according to the Avian Power Line Interaction Committee's "Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006" (Edison Electric Institute, APLIC, and the California Energy Commission. Washington, D.C. and Sacramento, CA).

Potential impacts to wetlands should also be evaluated. The U.S. Fish & Wildlife Service's National Wetlands Inventory (NWI) maps should be examined to determine whether areas classified as wetlands are located close enough to the project site(s) to be impacted. In cases where the maps are inconclusive (e.g.,

⁴ Available free of charge on our website at <http://nnhp.navajofishandwildlife.org/>



NAVAJO NATION
Department of Fish & Wildlife
Navajo Natural Heritage Program
P.O. Box 1480
Window Rock, AZ 86515



Phone: 928.871.6472 • Fax: 928.871.7603 • <http://nnhp.nndfw.org>

Ben Shelly, President

Rex Lee Jim, Vice-President

30 January 2013

File#13PERM-01

Brian Wood
Permits West, Inc.
37 Verano Loop
Santa Fe, NM 87508

NAVAJO ENDANGERED SPECIES LIST (NESL) INFORMATION FOR:

PROJECT: JEMEZ MOUNTAINS ELECTRIC COOPERATIVE, INC.
ELLA BOYD POWER LINE PROJECT
LEGAL DESCRIPTION SECTIONS 2, 11, T22N, R12W
SAN JUAN COUNTY, NM
UTM COORDINATES:
NORTH END: 762077E, 4007268N
SOUTH END: 762204E, 4004234N

Mr. Wood

The following information on species of concern¹ is provided in response to your 23 January 2013 request concerning the subject project, which consists of the 2-mile long overhead power line to Ella Boyd. The project site is located in legal description Sections 2 & 11, T22N, R12W, UTM Coordinates North End: 762077E, 4007268N; South End: 762204E, 4004234N, San Juan County, NM.

Species of concern known to occur on or near the project site(s) include:

1. *Mustela nigripes*

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

¹"Species of concern" include protected, candidate, and other rare or otherwise sensitive species, including certain native species and species of economic or cultural significance. For each species, the following tribal and federal statuses are indicated: Navajo Endangered Species List (NESL), federal Endangered Species Act (ESA), Migratory Bird Treaty Act (MBTA), and Eagle Protection Act (EPA). No legal protection is afforded species with **only** ESA candidate or NESL group 4 status; please be aware of these species during surveys and inform the NFWD of observations. Documentation that these species are more numerous or widespread than currently known, and addressing these species in project planning and management is important for conservation and may contribute to ensuring they will not be uplisted in the future. Species without ESA or NESL legal protection (e.g., NESL group 4 species) are only included in responses on a regular basis and may not be included in this response. Please refer to the NESL for a list of group 4 species; contact me if you need a copy.

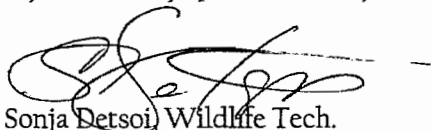
due to their small scale), field surveys must be completed. For field surveys, wetlands identification and delineation methodology contained in the 'Corps of Engineers Wetlands Delineation Manual' (Technical Report Y-87-1) should be used. When wetlands are present, potential impacts must be addressed in an environmental assessment and the Army Corps of Engineers, Phoenix office, must be contacted. NWI maps are available for examination at the NFWD's Natural Heritage Program (NHP) office, or may be purchased through the U.S. Geological Survey (order forms are available through the NHP). The NHP has complete coverage of the Navajo Nation, excluding Utah, at 1:100,000 scale; and coverage at 1:24,000 scale in the southwestern portion of the Navajo Nation.

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

For a list of sensitive species on the Navajo Nation in addition to the species listed on the Navajo Endangered Species List (NESL) please refer to our website at www.nndfw.org.

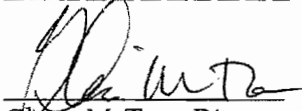
An invoice for this information is attached.

If you have any questions I may be reached at (928) 871-6472.



Sonja Detsoi Wildlife Tech.
Natural Heritage Program
Department of Fish and Wildlife

CONCURRENCE



Gloria M. Tom, Director
Department of Fish & Wildlife
Division of Natural Resources

xc: file/chrono

State Supervisor, USFWS, NM Ecological Services State Office

**THREATENED, ENDANGERED, AND SPECIAL STATUS
WILDLIFE SPECIES REPORT
FOR JEMEZ MOUNTAINS ELECTRICAL COOPERATIVE INC.'S
PROPOSED ELLA BOYD POWER LINE
SAN JUAN COUNTY, NEW MEXICO**

1.0 Introduction

A threatened, endangered, and special status wildlife species survey was conducted at the proposed Ella Boyd Power Line project. The project area is located in southern San Juan County, New Mexico. The project site is located approximately five miles east of Highway 371. The project area is located in Section 2 and 11, T. 22 N., R. 12 W. The project is located on Navajo Nation Tribal Trust and allotted lands.

2.0 Methods

Prior to the survey, a data request to the Navajo Natural Heritage Program was made for Navajo Nation endangered species known to occur or with the potential to occur on the 7.5-minute Pretty Rock Quadrangle. The reply was issued on January 30, 2013.

On February 6, 2013, Wildlife Biologist Charles Black conducted a pedestrian survey of the project area to inspect for the potential presence of threatened, endangered, or special status species. Weather during the survey was clear and calm with daytime highs near 50 F. The area surveyed consisted of the power line route and a 25-foot buffer on either side of the power line route. Habitat and existing conditions were evaluated. A half-mile radius around the project area was surveyed for raptor nests. An additional one-mile line-of-site survey was conducted from the project area for raptor nests. The surveyor used 10 X 40 binoculars.

3.0 Description of Existing Habitat

The proposed power line is 9960.08 feet in length and runs due south from the Ella Boyd residence to an existing power pole.

Topography in the project is slightly hilly. Elevation along the route ranges from approximately 6085 feet to 6175 feet in elevation. The power line route crosses a broad valley with an intermittent wash at the bottom

Vegetation throughout the project area is dominated by arid grassland with scattered small shrubs. In general, the project area is moderately disturbed from historic overgrazing. There is no native riparian vegetation along the dry wash. There are no perennial streams or wetlands in the project area.

Wildlife occurring in the area is typical of arid grasslands and shrublands of the Great Basin desert. This includes passerines such as horned larks (*Eremophila alpestris*) and black-throated

5.0 Results

No federally or Navajo listed threatened, endangered, or special status species were observed during the 2/6/13 wildlife survey.

Pronghorn

The project area is suitable habitat for pronghorn antelope, although they are generally considered to be very uncommon in the area (Mikesic, D. G., Personal Communication, March 2008). Pronghorns may occasionally pass through the project area. Given the relatively small scale of the proposed disturbance, this species should not be adversely impacted by the proposed project.

Golden eagle

The project area is suitable foraging habitat for golden eagles. No suitable eagle nest structures are present in the vicinity of the project area. Eagles may occasionally pass through the project area. Given the relatively small scale of the proposed disturbance, this species should not be adversely impacted by the proposed project.

Ferruginous hawk

Ferruginous hawks are known to nest in “hoodoo” formations in northwest New Mexico. No suitable nest structures for this raptor are located within a one-mile radius of the project area. Hawks may occasionally pass through the project area. Given the relatively small scale of the proposed disturbance, this species should not be adversely impacted by the proposed project.

Black-footed ferret

This species has been extirpated from New Mexico for at least 50 years. The database request response for this project states that black-footed ferrets are known to occur within three miles of the project site. This, no doubt refers to an erroneous record, and probably represents a long-tailed weasel (*Mustela frenata*) sighting; a closely related and similar appearing species. Long-tailed weasels are widespread and occur regularly in San Juan County.

Kit fox

Kit foxes may occasionally occur in the project area, although no tracks, scat, or burrows were observed in the project area. Given the relatively small scale of the proposed disturbance, this species should not be adversely impacted by the proposed project.

Migratory Birds

Migratory birds are protected under the MBTA. Birds protected under the MBTA include all common songbirds, waterfowl, shorebirds, hawks, owls, eagles, ravens, crows, native doves and pigeons, swifts, martins, swallows and others, including their body parts (feathers, plumes etc.), nests, and eggs. The MBTA protects migratory birds from a “take”. Take is defined as “to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or any attempt to carry out these activities”. A “take” does not include habitat destruction or alteration, as long as there is not a direct taking of birds, nests, eggs, or parts thereof.

JEMEZ MTS. ELECTRIC COOPERATIVE, INC.
PROPOSED ELLA BOYD POWER LINE PROJECT
W/2 Section 2, W/2 Section 11, T. 22 N., R. 12 W.
San Juan County, New Mexico
PLANT SURVEY REPORT

Prepared for Permits West, Inc., Santa Fe, New Mexico
By Marian J. Rohman May 6, 2013

This report discusses the potential for disturbance to San Juan milkweed (*Asclepias sanjuanensis*), the plant species of concern identified by the Navajo Natural Heritage Program (NNHP) as having the potential to occur on the Pretty Rock, NM, 7.5-minute quadrangle, which contains the boundaries of the project area (Detsoi, 2013). Wetland conditions also need to be evaluated for the potential for Parish's alkali grass (*Puccinellia parishii*) (Detsoi, 2013). Both San Juan milkweed and Parish's alkali grass are listed on the Navajo Endangered Species List in Group 4, indicating that the NNHP does not currently have sufficient information to support the species being listed as endangered, but has reason to consider them (NNHP, 2008). In addition, the potential for disturbance to species listed by the United States Fish and Wildlife Service (USFWS) for San Juan County, New Mexico will be discussed.

San Juan milkweed is a prostrate to ascending herbaceous perennial, four to eight cm tall. The leaves are two to four cm long, oblong to lanceolate with white tomentulose leaf margins. The inflorescence is a terminal umbel with 4-15 brownish-purple flowers (Heil and Herring, 1999b). It is found mostly in sandy or sandy loam soils in piñon-juniper woodlands and Great Basin grassland communities occurring from 5000 – 6200 feet in elevation. On Navajo lands, it flowers from late April through early May (Roth, 2001a). Personal observations have placed this species as high as 6420 feet. It is usually found in very open vegetation, usually on or near sand dunes and in association with sandhill muhly (*Muhlenbergia pungens*) and sand wild-buckwheat (*Eriogonum leptocladon*) (personal observation).

Parish's alkali grass is a short-lived winter or spring annual whose annual growth habit is easily distinguished from its perennial relatives. It grows in alkaline springs, seeps, and seasonally wet areas, from elevations of 5000 to 7200 feet. The species requires continuously damp soils during its late winter to spring growing period (McDonald, 1999c). On Navajo lands, it flowers from late April to early June (Roth, 2001d). Personal observations have placed this species as low as 4510 feet.

County, New Mexico, where the project occurs (NMESFO, 2013). An eighth species, Zuni fleabane (*Erigeron rhizomatus*), is listed by the USFWS as a Species of Concern, but is not listed as being found in San Juan County. However, the New Mexico Rare Plant Technical Council (NMRPTC), does list this species as occurring in San Juan County (NMRPTC, 1999). Details of status, habitat, and the potential to occur in the project area for all of these species are listed in the following table.

SPECIES/STATUS*	HABITAT	POTENTIAL TO OCCUR IN PROJECT AREA**
<i>Aliciella formosa</i> Beautiful gilia USFWS Species of Concern NESL Group 4	Salt desert scrub communities in soils of the Nacimient Formation. Elev. 5,000-6,400 ft. Blooms April and May (Heil and Herring, 1999a; Roth, 2008).	No appropriate habitat: there are no salt desert scrub communities and no Nacimient Formation in the project area. (NP)
<i>Asclepias sanjuanensis</i> San Juan milkweed NESL Group 4	Sandy loam soils in open piñon-juniper woodlands and Great Basin grassland communities. Usually found in very open vegetation on or near sand dunes, often in association with sandhill muhly and sand wild-buckwheat. Elev. 5000-6420 ft. Blooms from late April to early May (Heil and Herring, 1999b; Roth, 2001a; personal observation).	No appropriate habitat: there are no piñon-juniper woodlands or Great Basin grassland communities and no sand dunes in the project area. (NP)
<i>Astragalus humillimus</i> Mancos milkvetch USFWS Endangered NESL Group 2	Cracks or eroded depressions on sandstone rimrock ledges and mesa tops in Point Lookout sandstone. Elev. 5,000-6,000 ft. Blooms late April to early May (McDonald, 1999a; Roth, 2001b).	No appropriate habitat: there are no sandstone rimrock ledges or mesa tops and no Point Lookout sandstone in the project area. (NP)
<i>Erigeron bistiensis</i> Bisti fleabane USFWS Species of Concern	Ridge tops and slopes of white to tan-colored sand derived from the Ojo Alamo Sandstone Formation and Nacimient Formation in desert shrub-grassland. Blooms May to June (NatureServe, 2009). The type location is at 6340 feet in elevation (Tonne, 1998).	No appropriate habitat: there is no Ojo Alamo Sandstone or Nacimient Formation in the project area. The project area is below the known elevation of the species. (NP)

Status*

USFWS – United States Fish and Wildlife Service (NMESFO, 2013)

- Endangered - Any species that is in danger of extinction throughout all or a significant portion of its range.
- Threatened - Any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.
- Species of Concern - Taxa for which further biological research and field study are needed to resolve their conservation status OR are considered sensitive, rare, or declining on lists maintained by Natural Heritage Programs, state wildlife agencies, other federal agencies, or professional/academic scientific societies.

NESL – Navajo Endangered Species List (NNHP, 2008)

- Group 2 – Endangered: A species or subspecies whose prospects of survival or recruitment are in jeopardy.
- Group 4 – a species or subspecies where there is not currently sufficient information to support its being listed as endangered, but there is reason to consider it

Potential to Occur in Project Area**

K – Known, documented observation within project area

S – Habitat suitable and species suspected to occur within the project area

NS – Habitat suitable but species is not suspected to occur within the project area

NP – Habitat not present and species unlikely to occur within the project area

Noxious weeds: The Bureau of Indian Affairs lists three species of noxious weeds as potential invaders and fourteen species as new invaders on the Navajo Reservation (OSM, 1999). None of these species are present in the project area.

DISCUSSION

No plant species of concern to the Navajo Natural Heritage Program or the United States Fish and Wildlife Service will be impacted by the proposed project.

Signature of Author: _____
Marian J. Rohman

May 6, 2013

- McDonald, Charlie. 1999c. Taxon report for *Puccinellia parishii* (Parish's alkali grass). in New Mexico Rare Plant Technical Council. 1999. New Mexico Rare Plants. Albuquerque, NM: New Mexico Rare Plants Home Page. <http://nmrareplants.unm.edu> (Latest update: 30 March 2012).
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PLANTS OF THE PROPOSED ELLA BOYD POWERLINE PROJECT

Scientific and common names according to Allred, 2007

Identifications based on Ivey, 2003 and Weber and Wittman, 2012.

Shrubs and Subshrubs

<i>Atriplex canescens</i>	Four-wing saltbush
<i>Atriplex gardneri</i> var. <i>cuneata</i>	Valley saltbush
<i>Gutierrezia sarothrae</i>	Broom snakeweed
<i>Lycium pallidum</i>	Pale wolfberry

Cacti

<i>Opuntia polyacantha</i>	Starvation prickly-pear
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Grasses

<i>Aristida purpurea</i> var. <i>purpurea</i>	Purple threeawn
<i>Bouteloua gracilis</i>	Blue grama
<i>Pleuraphis jamesii</i>	Galleta
<i>Sporobolus airoides</i>	Alkali sacaton

Forbs

<i>Atriplex</i> sp.	Orache
<i>Chamaesyce</i> sp.	Spurge
<i>Cryptantha crassisepala</i> var. <i>crassisepala</i>	Thick-sepal cat's-eye
<i>Descurainia pinnata</i>	Western tansy-mustard
<i>Ipomopsis</i> sp.	Skyrocket
<i>Malcolmia africana</i>	African adder's-mouth
<i>Phacelia</i> sp.	Scorpion-weed
<i>Plantago patagonica</i>	Wooly plantain
<i>Rumex hymenosepalus</i>	Canaigre
<i>Salsola tragus</i>	Russian-thistle
<i>Sphaeralcea</i> sp.	Globemallow



Proposed Ella Boyd Line

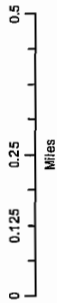
Township 22N, Range 12W
San Juan County, New Mexico

Work Order #: 412158

Existing and Proposed JMEC Facilities

- Existing 3 Phase Distribution Line
- Existing 1 Phase Distribution Line
- Existing Pole
- Proposed 1 Phase Distribution Line

1:14,000

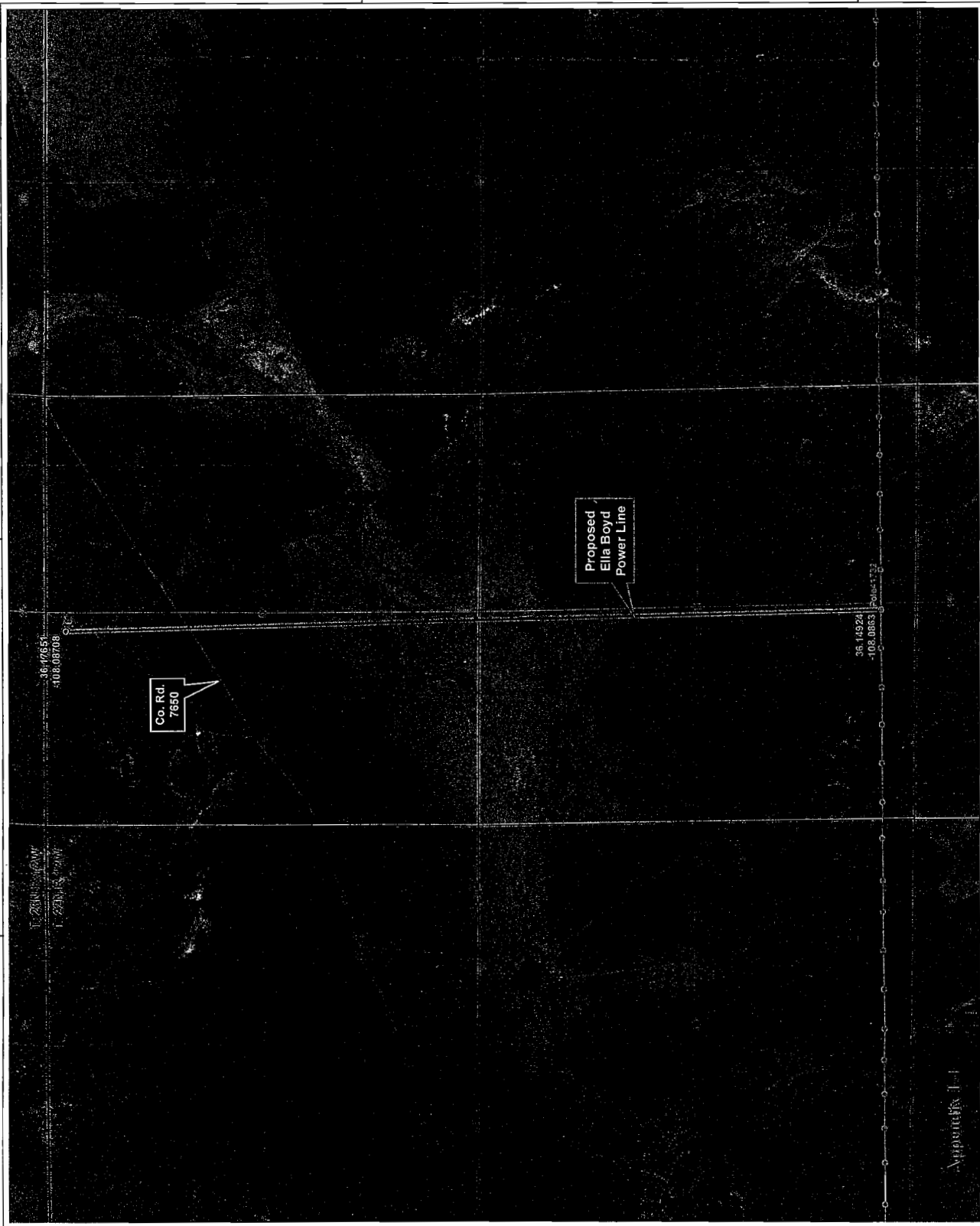
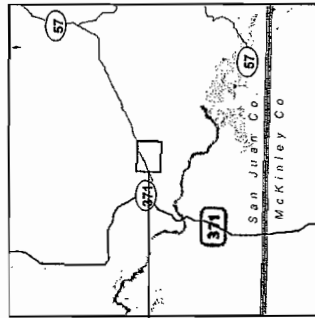


NAD 1983 New Mexico State Plane West
FIPS 3003 Feet



PERMITS WEST, INC.
PROVIDING PERMITS TO LAND STATES

Prepared by Permits West, Inc., October 22, 2013
for Jemez Mountains Electric Cooperative, Inc.





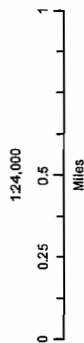
Proposed Ella Boyd Line

Pretty Rock Quad
Sec. 2 & 11, Township 22N, Range 12W
San Juan County, New Mexico

Work Order #: 412158

Existing and Proposed JMEC Facilities

- Existing 3 Phase Distribution Line
- Existing 1 Phase Distribution Line
- Existing Pole
- Proposed 1 Phase Distribution Line

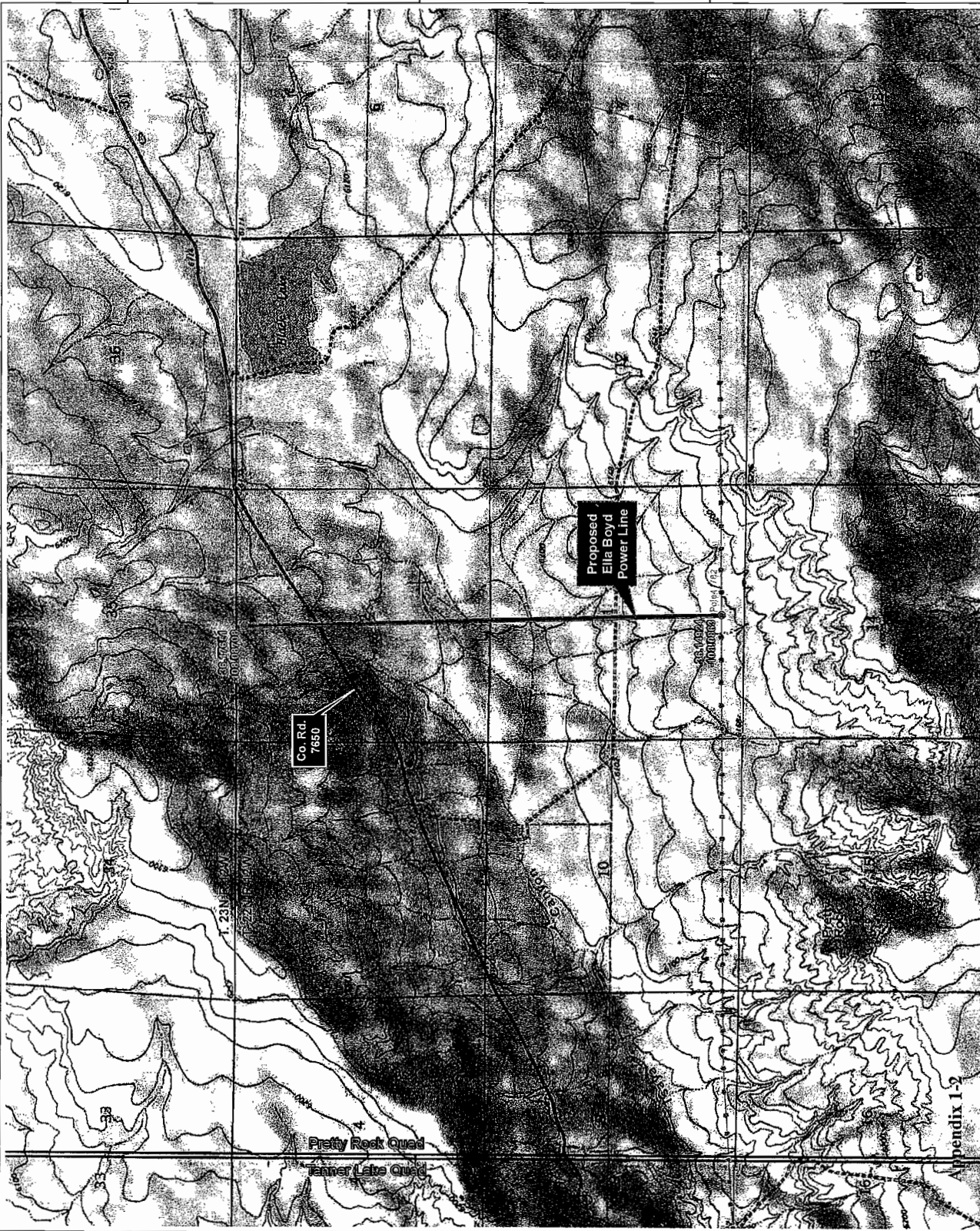
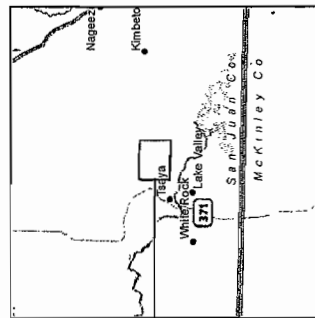


NAD 1983 New Mexico State Plane West
FIPS 3003 Feet



PERMITS WEST, INC.
ENGINEERING PERMITS AND LAND SURVEY

Prepared by Permits West, Inc., October 22, 2013
for Jemez Mountains Electric Cooperative, Inc.



108.057° W 108.057° W 108.057° W 108.057° W

Appendix 1-2



THE NAVAJO NATION

Navajo Land Department

P.O. Box # 2249 · Window Rock, Arizona 86515 · (928) 871-6401 · FAX: (928) 871-7039

February 2, 2015

Jemez Mountain Electric Cooperative, Inc.
P.O. Box 10
Cuba, New Mexico 87013

ATTENTION: Elmer Morales

Dear Mr. Morales:

The Navajo Nation technical reviewing departments have reviewed your Application (Doc#002925) for Right-of-Way (ROW) to construct, operate and maintain the *Ella Boyd Powerline* on Navajo Nation Trust Lands in the White Rock Chapter vicinity (San Juan County), New Mexico. The Navajo Nation technical reviewing departments have made conditional recommendations for approval. Otherwise your application is ready to be submitted to the Legislative Services by a Council Delegate-Sponsor for Navajo Nation approval.

The Navajo Nation technical reviewing departments have also recommended \$35,724.00 ROW consideration payment be contributed by the Navajo Nation. See the attached proposed resolution and copies regarding Doc#002925 for further information and reference. Any changes or amendments to Doc#002925 is at the discretion of the appointed Standing Committee of the Navajo Nation Council when Doc#002925 is considered.

Our office will place the original Doc#002925 package on "hold/pending" status until you direct our office on what action to take (i.e. give to Council Delegate-Sponsor, cancel, hold, etc.). If our office does not receive any response within three (3) months from the date of this letter, our office will assume that Jemez is no longer interested in Doc#002925 and cancel Doc#002925. If Jemez desires to continue processing to the Legislative Services, then please inform our office ASAP in order for our office to make the necessary corrections. If you have any questions, please call our office at (928) 871-6447, 6695 or 6401. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Howard Phillip Draper".

Howard Phillip Draper, Program & Project Specialist
Navajo Land Department, DNR

ATTACHMENTS

Xc project file
Hon. Johnathan Perry

FEB 11 2015
DISCLOSURE

Document No. 002925Date Issued: 10/21/2014**EXECUTIVE OFFICIAL REVIEW**Title of Document: JemezMtn.Elec_EllaBoydpowerline ext. Contact Name: DRAPER, HOWARDProgram/Division: DIVISION OF NATURAL RESOURCESEmail: howarddraper@frontiernet.net Phone Number: 928 871-6447

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

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

Sufficient Insufficient

1. Division: _____ Date: _____ ☐ ☐
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 *See Ltr of 1/29/14* _____ Date: *04 Nov 14* ☒ ☐
2. F&W _____ Date: *12-24-14* ☒ ☐
3. HPD _____ Date: *11-4-14* ☒ ☐
4. Minerals _____ Date: *1-12-15* ☒ ☐
5. NNEPA _____ Date: *12-3-2014* ☒ ☐
6. DNR _____ Date: *11/3/15* ☒ ☐
7. DOJ *(ic)* _____ Date: *1/24/15* ☒ ☐
8. OPVP _____ Date: *1/30/15* ☒ ☐

☐ **OTHER:**

1. _____ Date: _____ ☐ ☐
2. _____ Date: _____ ☐ ☐
3. _____ Date: _____ ☐ ☐
4. _____ Date: _____ ☐ ☐
5. _____ Date: _____ ☐ ☐

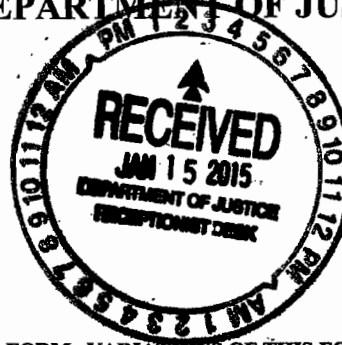
DIVISION OF
NATURAL RESOURCES
JAN 13 2015



☐ RESUBMITTAL

NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



DOJ
01-15-15 254pm
DATE / TIME
☐ 7 Day Deadline
DOC #: 002925
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:	10/29/2014	DIVISION:	Natural Resources (DNR)
CONTACT NAME:	Howard P. Draper or Vera Shurley	DEPARTMENT:	Navajo Land Dept (NLD)
PHONE NUMBER:	X-6447, 6401, 6490	E-MAIL:	howarddraper@frontiernet.net or vera shurley@frontiernet.net
TITLE OF DOCUMENT: Approving Grant of Right-Of-Way to Jemez Mountain Electric to construct, operate and maintain the Gleason Bridge power line extension in Huerfano and White Rock Chapters on NN Trust Lands in Huerfano and White Rock Chapters, SJC, NM			
DOJ SECRETARY TO COMPLETE			
DATE/TIME IN UNIT:	1/15/15	REVIEWING ATTORNEY/ADVOCATE:	Termin Chee
DATE TIME OUT OF UNIT:	1-27-15		
DOJ ATTORNEY/ADVOCATE COMMENTS			
Document is legally sufficient.			
REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
Termin Chee	1-23-15	Becker	1/26/15 8 AM
DOJ Secretary Called: Esther Kee for Document Pick Up on 1/26/15 at 8:46 AM by AG			
PICKED UP BY: (Print)		DATE / TIME:	

NNDOJ/DRRF-July 2013

COMPLETED



ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF EXECUTIVE DIRECTOR/ADMINISTRATION

OFFICE OF ENVIRONMENTAL REVIEW

PO BOX 339 WINDOW ROCK ARIZONA 86515 Office: 928/871-7188 Fax: 928/871-7996

Website: www.navajonationepa.org

M E M O R A N D U M

TO: Howard Draper, Program & Project Specialist
Project Review Office
Navajo Land Department
Division of Natural Resources

FROM:

A handwritten signature in black ink, likely belonging to Rita Whitehorse-Larsen.

Rita Whitehorse-Larsen, Senior Environmental Specialist
Office of Executive Director/Administration
Office of Environmental Review
NNEPA

DATE: December 3, 2014

SUBJECT: 164 EOR 002925 Jemez Mountains Ella Boyd Powerline Extension

The Jemez Mountain Electric Cooperative, Inc., PO Box 10, Cuba, New Mexico, 87013, submitted a right-of-way (ROW) application to construct, operate and maintain the Ella Boyd powerline extension within White Rock Chapter, San Juan County, New Mexico. The proposed ROW is 4,924.47 feet long, 20 feet wide, consisting of 2.29 acres, more or less, in Section 11, T22N, R12W, NMPM, San Juan County, New Mexico.

The Navajo Nation Environmental Protection Agency (NNEPA) reviewed¹ and recommends *conditional approval* for the proposed action.

1. *Navajo Nation Clean Water Act:*

- a. **Section 401-** A Section 401 certification is required if any drainage with discernable ordinary high water mark will be crossed/disturbed as recommended by Patrick Antonio, Principal Hydrologist, NNEPA Water Quality Program on previous proposed projects.

¹ Permits West, Inc. Environmental Assessment for Jemez Mountains Electric Cooperative Inc., Ella Boyd Power Line Project. October 2013.

- b. **Section 402** – Land surface disturbance in excess of 1.0 acre will require compliance with the federal General Construction Permit requirements for storm water discharges. The project will disturb 2.698 acres of surface land including guy easements. Jemez Mountains Electric Cooperative, Inc. is subject to apply for NPDES with both USEPA Region 06 and Region 09. Google stormwater construction for Region 06. As for Region 09, you will find information at <http://www.epa.gov/region9/water/npdes/permits.html>. You can also contact NNEPA Water Quality staff at 928/871-7690 for more information.
 - c. **Section 404** – Boring under the drainage will require a Section 404 as recommended by Patrick Antonio, Principal Hydrologist, NNEPA Water Quality Program. Contact the US Army Corps of Engineers.
- 2. ***Navajo Nation Safe Drinking Water Act:***
 - a. Ensure there are no existing drinking waterlines and/or domestic waste waterlines located within the premises of the proposed site to avoid significant impacts to White Rock and surrounding communities' safe drinking water resources before trenching and/or digging.
- 3. ***Navajo Nation Air Pollution Prevention and Control Act:***
 - a. Apply water to control dust to lessen air impacts to community members and public located in or near the proposed action.
- 4. ***Navajo Nation Pesticide Act:***
 - a. Jemez Mountains Electric Cooperative, Inc. is required to monitor and prevent invasive and noxious weeds either by manual or chemical control.
 - b. Before applying any chemicals, contact the NNEPA Pesticide Program at 928/871-7815/7810/7892 to ensure the product is in compliance and appropriately applied by a certified and licensed applicator.
 - c. Pesticide staff will also may need to be onsite to monitor during pesticide/herbicide application.
- 5. ***Navajo Nation Solid Waste Act:***
 - a. Solid waste generated from the construction and operation activities will be collected and transported by contractor to a designated trash bins to minimize significant impacts to human and wildlife resources.
 - b. If a sub-contractor will be hired to transport waste, ensure the contractors are certified and licensed with the Navajo Nation Business Regulatory Office.
 - c. The contractor must submit a copy of the landfill receipt/ticket to guarantee the construction waste has been properly disposed.
 - d. Do not allow public to take construction and operation waste. Cumulatively NNEPA receives complaints and reports on illegal trash dumpings on rural areas and in the waters of the US and Navajo Nation.
 - e. All illegal waste currently on the proposed site is the responsibility of the land user.
- 6. ***Navajo Nation Comprehensive Environmental Response, Compensation and Liability Act (NNCERCLA)***
 - a. No Hazardous waste will be generated, stored and transported for the proposed action.
- 7. ***Navajo Nation Storage Tank Act:***

- a.* Amended and approved by the Navajo Nation Council, CJA-09-12, February 2012, the aboveground tanks are included to be regulated.
 - b.* No underground or aboveground greater than 100 gallons is expected to be at the proposed site.
- 8. ***Others:***
 - a.* Avoid unnecessary ground disturbance and removal of vegetation within and adjacent to the ROW corridors.

If there are any questions you may contact Rita Whitehorse-Larsen at 928/871-7188. Thank you.

Cc: Sonya Binion, Jemez Mountains Electric Cooperative, Inc., PO Box 10, Cuba, New Mexico, 87013
NNEPA Water Quality; PWSSP; Air Quality, OPP; Pesticides; Radon; RCRP; Storage Tank
Program; Superfund; Administration chrono file
Contact Person: Susan Binion, Jemez Mountains Electric Cooperative Inc., 575-280- 3241

**PROPOSED RESOLUTION OF
THE RESOURCES and DEVELOPMENT COMMITTEE OF THE
NAVAJO NATION COUNCIL**

Approving the Grant of Right-of-Way to Jemez Mountain Electric Cooperative, Inc to Construct, Operate and Maintain the Ella Boyd power line extension Project to service Ella Boyd residence in White Rock Chapter on Navajo Nation Trust Lands in White Rock Chapter vicinity, San Juan County, New Mexico.

WHEREAS:

1. Pursuant to 2 N.N.C. Section 501 (B)(2), the Resources and Development Committee of the Navajo Nation Council has authority to give final approval of all land withdrawals, non-mineral leases, permits, licenses, rights-of-way, surface easements and bonding requirements on Navajo Nation land and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfers, renewals, and terminations; and
2. The Jemez Mountain Electric Cooperative, Inc., P.O. Box 10, Cuba, New Mexico 87013, has submitted a Right-of-Way (ROW) application to construct, operate and maintain the Ella Boyd power line extension Project to service Ella Boyd residence on, over and across Navajo Nation Trust Lands in White Rock Chapter vicinity, San Juan County, New Mexico attached hereto and incorporated herein as Exhibit "A"; and
3. The proposed ROW is 4,924.47 feet long, 20 feet wide, consisting of 2.29 acres, more or less, located in Section 11, Township 22 North, Range 12 West, NMPM, San Juan County, New Mexico attached hereto and incorporated herein as Exhibit "B"; and
4. The Project Review Section with the Navajo Land Department has obtained the consent from District 15 Land Board member, Mr. Irwin Jim attached hereto as Exhibit "C"; and
5. The environmental and archaeological studies have been completed and are attached hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Resources & Development Committee of the Navajo Nation Council hereby approves the Grant of Right-of-Way to Jemez Mountain Electric Cooperative, Inc to construct, operate and maintain the Ella Boyd power line extension Project to service the Ella Boyd residence in the White Rock Chapter vicinity, San Juan County, New Mexico. The location is more particularly described on the survey map attached hereto as Exhibit "B."
2. The Resources & Development Committee of the Navajo Nation Council hereby approves the ROW subject to, but not limited to, the following terms and conditions attached hereto and incorporated herein as Exhibit "D."
3. The Resource & 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 foregoing resolution was duly considered by the Resource & Development Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of ____ in favor, ____ opposed, and ____ abstained, this ____ day of _____, 2015.

Presiding Chairperson
Resource & Development Committee

MOTION BY:
SECONDED BY:

EXHIBIT "D"

**NAVAJO NATION TERMS AND CONDITIONS
For Right-of-Way (ROW)**

Jemez Mountain Electric Cooperative, Inc (GRANTEE)
(Ella Boyd residence at White Rock Chapters, New Mexico)

1. The term of the right-of-way shall be for twenty (20) years, beginning on the date the right-of-way (ROW) is granted by the Secretary of Interior.
2. Consideration for the right-of-way is assessed at \$ 35,724.00. The Navajo Nation contributes this amount to the project because the project provide electricity to a Navajo resident. Commercial use of the right-of-way shall require the approval of the Navajo Nation.
3. The Grantee may develop, use and occupy the right-of-way for the purpose(s) of constructing, operating and maintaining 14.4 kV single phase electrical distribution power line. The Grantee may not develop, use or occupy the right-of-way for any other purpose without the prior written approval of the Navajo Nation and the Secretary of the Interior. The approval of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation. The Grantee may not develop, use or occupy the right-of-way for any unlawful purpose.
4. In all activities conducted by the Grantee within the Navajo Nation, the Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as hereafter may come into force and effect, including but not limited to the following:
 - a. Title 25, Code of Federal Regulations, Part 169;
 - b. All applicable federal and Navajo Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archaeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices;
 - c. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., and the Navajo Nation Business Preference Law, 5 N.N.C. §§ 201 et seq.; and
 - d. The Navajo Nation Water Code, 22 N.N.C. § 1101 et seq.. Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
5. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operations pursuant to the right-of-way.

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

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



MEMORANDUM

TO : Howard P. Draper, Supervisor
Project Review Section, NLD

FROM : Esther Kee
Esther Kee, R/W Agent
Project Review Section, NLD

DATE : September 25, 2014

SUBJECT: JMEC Ella Boyd Power Line Extension Project

Jemez Mountain Electric Cooperative, Inc., Post Office Box 128, Espanola, New Mexico 87532, submitted an application for right of way to construct, operate and maintain a single phase distribution line across Navajo Trust Land to serve Ella Boyd residence near White Rock Chapter, New Mexico.

The power line will be 4,924.47 feet in length, 20 feet wide, 2.29 acres, in Section 11, Township 22 North, Range 12 West, NMPM, San Juan County, New Mexico.

The Navajo Nation is the only affected land user and provided the necessary consent from the District 15 Land Board member, Irwin Jim.

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

cc: Project file

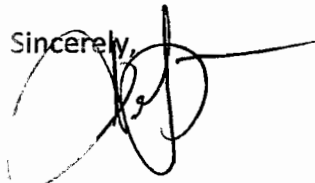
September 25, 2014

TO : Project Review Office,
Navajo Land Department

RE : Land Use Consent

Jemez Mountain Electric Cooperative power line extension to serve Ella Boyd on Navajo Trust land in Section 11, Township 22 North, Range 12 West, NMPM, White Rock Chapter, New Mexico. The proposed site is not permitted for grazing and no land users will be affected. If you should require additional information please call White Rock Chapter at 505/786-2443.

Sincerely,

A handwritten signature in black ink, appearing to be "Irwin Jim", written over the word "Sincerely,".

Irwin Jim

District 17, Land Board member

EXECUTIVE OFFICIAL REVIEWTitle of Document: JemezMtn.Elec_EllaBoydpowerline ext. Contact Name: DRAPER, HOWARDProgram/Division: DIVISION OF NATURAL RESOURCESEmail: howarddraper@frontiernet.net Phone Number: 928 871-6447

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

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

Sufficient Insufficient

1. Division: _____ Date: _____ ☐ ☐
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 *See Ltr of 1/29/14* _____ Date: *04 Nov 14* ☒ ☐
2. F&W _____ Date: *12-24-14* ☒ ☐
3. HPD _____ Date: *11-4-14* ☒ ☐
4. Minerals _____ Date: *1-12-15* ☒ ☐
5. NNEPA _____ Date: *12-30-14* ☒ ☐
6. DNR _____ Date: *11/3/15* ☒ ☐
7. DOJ *(ic)* _____ Date: *1/24/15* ☒ ☐
8. OPVP _____ Date: *1/30/15* ☒ ☐

☐ **OTHER:**

1. _____ Date: _____ ☐ ☐
2. _____ Date: _____ ☐ ☐
3. _____ Date: _____ ☐ ☐
4. _____ Date: _____ ☐ ☐
5. _____ Date: _____ ☐ ☐

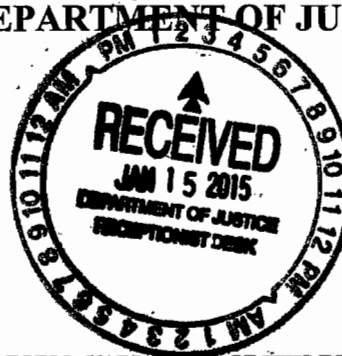
DIVISION OF
NATURAL RESOURCES
JAN 13 2015



☐ RESUBMITTAL

NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



DOJ
01-15-15 254pm
DATE / TIME
☐ 7 Day Deadline
DOC #: 002925
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:	10/29/2014	DIVISION:	Natural Resources (DNR)
CONTACT NAME:	Howard P. Draper or Vera Shurley	DEPARTMENT:	Navajo Land Dept (NLD)
PHONE NUMBER:	X-6447, 6401, 6490	E-MAIL:	howarddraper@frontiernet.net or vera shurley@frontiernet.net
TITLE OF DOCUMENT: Approving Grant of Right-Of-Way to Jemez Mountain Electric to construct, operate and maintain the Gleason Bridge power line extension in Huerfano and White Rock Chapters on NN Trust Lands in Huerfano and White Rock Chapters, SJC, NM			
DOJ SECRETARY TO COMPLETE			
DATE/TIME IN UNIT:	1/15/14 4:15	REVIEWING ATTORNEY/ADVOCATE:	Irvin Chee 1-27-15
DATE TIME OUT OF UNIT:			
DOJ ATTORNEY / ADVOCATE COMMENTS			
- Document is legally sufficient.			
REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
Irvin Chee	1-23-15	Becker	1/26/15 8 AM
DOJ Secretary Called: Esther Kee for Document Pick Up on 1/20/15 at 8:46 AM by AG			
PICKED UP BY: (Print)	DATE / TIME:		

NNDOJ/DRRF-July 2013

COMPLETED



ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF EXECUTIVE DIRECTOR/ADMINISTRATION

OFFICE OF ENVIRONMENTAL REVIEW

PO BOX 339 WINDOW ROCK ARIZONA 86515 Office: 928/871-7188 Fax: 928/871-7996

Website: www.navajonationnepa.org

M E M O R A N D U M

TO: Howard Draper, Program & Project Specialist
Project Review Office
Navajo Land Department
Division of Natural Resources

FROM:

A handwritten signature in black ink, appearing to read "Rita Whitehorse-Larsen".

Rita Whitehorse-Larsen, Senior Environmental Specialist
Office of Executive Director/Administration
Office of Environmental Review
NNEPA

DATE: December 3, 2014

SUBJECT: 164 EOR 002925 Jemez Mountains Ella Boyd Powerline Extension

The Jemez Mountain Electric Cooperative, Inc., PO Box 10, Cuba, New Mexico, 87013, submitted a right-of-way (ROW) application to construct, operate and maintain the Ella Boyd powerline extension within White Rock Chapter, San Juan County, New Mexico. The proposed ROW is 4,924.47 feet long, 20 feet wide, consisting of 2.29 acres, more or less, in Section 11, T22N, R12W, NMPM, San Juan County, New Mexico.

The Navajo Nation Environmental Protection Agency (NNEPA) reviewed¹ and recommends **conditional approval** for the proposed action.

1. *Navajo Nation Clean Water Act:*

- a. **Section 401-** A Section 401 certification is required if any drainage with discernable ordinary high water mark will be crossed/disturbed as recommended by Patrick Antonio, Principal Hydrologist, NNEPA Water Quality Program on previous proposed projects.

¹ Permits West, Inc. Environmental Assessment for Jemez Mountains Electric Cooperative Inc., Ella Boyd Power Line Project. October 2013.

- b. **Section 402** – Land surface disturbance in excess of 1.0 acre will require compliance with the federal General Construction Permit requirements for storm water discharges. The project will disturb 2.698 acres of surface land including guy easements. Jemez Mountains Electric Cooperative, Inc. is subject to apply for NPDES with both USEPA Region 06 and Region 09. Google stormwater construction for Region 06. As for Region 09, you will find information at <http://www.epa.gov/region9/water/npdes/permits.html>. You can also contact NNEPA Water Quality staff at 928/871-7690 for more information.
 - c. **Section 404** – Boring under the drainage will require a Section 404 as recommended by Patrick Antonio, Principal Hydrologist, NNEPA Water Quality Program. Contact the US Army Corps of Engineers.
- 2. ***Navajo Nation Safe Drinking Water Act:***
 - a. Ensure there are no existing drinking waterlines and/or domestic waste waterlines located within the premises of the proposed site to avoid significant impacts to White Rock and surrounding communities' safe drinking water resources before trenching and/or digging.
- 3. ***Navajo Nation Air Pollution Prevention and Control Act:***
 - a. Apply water to control dust to lessen air impacts to community members and public located in or near the proposed action.
- 4. ***Navajo Nation Pesticide Act:***
 - a. Jemez Mountains Electric Cooperative, Inc. is required to monitor and prevent invasive and noxious weeds either by manual or chemical control.
 - b. Before applying any chemicals, contact the NNEPA Pesticide Program at 928/871-7815/7810/7892 to ensure the product is in compliance and appropriately applied by a certified and licensed applicator.
 - c. Pesticide staff will also may need to be onsite to monitor during pesticide/herbicide application.
- 5. ***Navajo Nation Solid Waste Act:***
 - a. Solid waste generated from the construction and operation activities will be collected and transported by contractor to a designated trash bins to minimize significant impacts to human and wildlife resources.
 - b. If a sub-contractor will be hired to transport waste, ensure the contractors are certified and licensed with the Navajo Nation Business Regulatory Office.
 - c. The contractor must submit a copy of the landfill receipt/ticket to guarantee the construction waste has been properly disposed.
 - d. Do not allow public to take construction and operation waste. Cumulatively NNEPA receives complaints and reports on illegal trash dumpings on rural areas and in the waters of the US and Navajo Nation.
 - e. All illegal waste currently on the proposed site is the responsibility of the land user.
- 6. ***Navajo Nation Comprehensive Environmental Response, Compensation and Liability Act (NNCERCLA)***
 - a. No Hazardous waste will be generated, stored and transported for the proposed action.
- 7. ***Navajo Nation Storage Tank Act:***

- a.* Amended and approved by the Navajo Nation Council, CJA-09-12, February 2012, the aboveground tanks are included to be regulated.
 - b.* No underground or aboveground greater than 100 gallons is expected to be at the proposed site.
- 8. Others:*
 - a.* Avoid unnecessary ground disturbance and removal of vegetation within and adjacent to the ROW corridors.

If there are any questions you may contact Rita Whitehorse-Larsen at 928/871-7188. Thank you.

Cc: Sonya Binion, Jemez Mountains Electric Cooperative, Inc., PO Box 10, Cuba, New Mexico, 87013
NNEPA Water Quality; PWSSP; Air Quality, OPP; Pesticides; Radon; RCRP; Storage Tank
Program; Superfund; Administration chrono file
Contact Person: Susan Binion, Jemez Mountains Electric Cooperative Inc., 575-280- 3241