

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
Of the 23rd Navajo Nation Council---Second Year 2016

AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; AMENDING RDCF-09-16 BY REPLACING RESOLUTION RDCF-09-16 EXHIBIT "1" WITH A NEW EXHIBIT "1" THE TERMS AND CONDITIONS OF THE LEASE WHICH WILL PROVIDE A CORRECTED DESCRIPTION OF THE LOCATION OF THE SAND AND GRAVEL LEASE FOR THE BUREAU OF INDIAN AFFAIRS SAFETY OF DAMS FOR THE RED LAKE DAM MODIFICATION, RED LAKE CHAPTER VICINITY, NAVAJO NATION (MCKINLEY COUNTY, NEW MEXICO)

BE IT ENACTED

Section One. Findings

A. 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 non-mineral leases and surface easements on Navajo Nation land and unrestricted (fee land).

B. The Resources and Development Committee passed resolution No. RDCF-09-16, attached as Exhibit "2," approving a sand and gravel lease to the Bureau of Indian Affairs, Navajo Region, for 8.5 acres, more or less, to extract sand and gravel in the Red Lake Chapter vicinity. However, on closer examination, the lease approved with RDCF-09-16 did not contain a correct description of the land. The correct description is Sections 35, Township 20 North, Range 21 West, McKinley County, New Mexico. The Terms and Conditions with the corrected land description is attached as Exhibit "1."


C. It is in the best interest of the Navajo Nation to approve the corrected Lease Terms and Conditions as described in Exhibit "1."

Section Two. Approval

Resources and Development Committee of the Navajo Nation Council hereby approves amending RDCF-09-16 by replacing RDCF-09-16 Exhibit "1" with a new Exhibit "1."

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 Department of Transportation, (Navajo Nation) Tse Bonito, New Mexico, at which quorum was present and that same was passed by a vote of 5 in favor, 0 opposed, 1 abstained this 26th day of July, 2016.

A handwritten signature in blue ink, appearing to read 'Alton Joe Shepherd', is written over a circular stamp.

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

Motion: Honorable Jonathan Perry
Second: Honorable Walter Phelps



NAVAJO NATION SAND AND GRAVEL LEASE/PERMIT

THIS AGREEMENT for a Sand and Gravel Lease (Lease) is made and entered by and between the Navajo Nation and whose address is at Post Office Box 7460, Window Rock, AZ 86515, and Bureau of Indian Affairs Navajo Region herein called the Lessee and whose address is at Post Office Box 1060, Gallup, NM 87305.

Definitions:

Sand & Gravel means: Borrow (Earth,) Sand and Natural or Processed Gravel

Department means the Navajo Nation Minerals Department.

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

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

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

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

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

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

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

Ton means 2,000 pounds.

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

Lessee, Permittee & Operator means the lessee of the Sand and gravel lease/permit.

The Navajo Nation hereby grants Lessee a Lease right to extract sand and gravel from a borrow area consisting of Eight and one-half (8.5) acres in Section 35, Township 20

North, Range 21 West, McKinley County, NM. The area encompassed by the lease is 8.65 acres, more or less. The location and legal description are shown in Exhibit B. The Lessee shall use existing public roads and the Red Lake Dam Modification Project Temporary Construction Easement to access the lease areas.

1. The Lease shall be valid for a period of (3) years effective the date it is approved by the Secretary. This date shall be known as the Effective Date of the Lease.

2. Payments to the Navajo Nation by the Lessee:

(i) The Lessee shall pay an annual advance royalty in the amount of Two Thousand Five Hundred and Twenty Dollars (\$2,520.00) is due within (10) days of the Effective Date. The annual advance royalty payment shall be credited against production royalties only during the year for which the advance royalty has been paid.

(ii) A royalty at the rate of \$ 1.40 per ton for each ton of sand and gravel material removed and sold from the Lease premises. The royalty payment shall be made on a monthly basis within (10) days following the month for which the royalty is due.

(iii) If the material is not weighed, the Lessee shall measure the density of the material which shall be used to compute the tonnage.

3. Mining and Reclamation Plan: The Lessee shall abide by the mining and reclamation plan approved by the Navajo Nation and the U.S. Department of the Interior (DOI). The Lessee shall incorporate all recommendations and changes mandated by the Navajo Nation and the DOI in the mining and reclamation plan submitted by the Lessee. The Mining and Reclamation Plan is attached to this lease as Exhibit "C".

The majority of the revegetated species will be native to the area. The Lessee shall ensure no poisonous and noxious vegetation are allowed to grow in the leased area. The Lessee shall ensure that the final post-mining topographic plan do not allow water to collect in the leased area. No water shall be discharged off the leased area without written authorization from the Navajo Nation and all federal agencies having jurisdiction.

4. Bond: The Lessee shall furnish a performance and reclamation bond for One Hundred Sixty Five Thousand Dollars (\$ 165,000.00). The bond shall be placed before the start of pit operation. The Lessee shall maintain this bond at all times even if the Lease has expired or is terminated. The bond shall only be released with the written consent of the Navajo Nation. The bond may also be increased by the Navajo Nation. The bond shall not be released without the written approval of the Navajo Nation

5. Water Use Permit: Lessee shall not use water for the project unless the required Navajo Nation water use permit is issued by the Navajo Nation Department of Water Resources.

6. Records and Reports: The Lessee shall maintain accurate records of all sand and gravel material extracted, stockpiled, sold and removed from the Lease and the royalty due and paid to the Navajo Nation. A copy of the records shall be provided to the DOI and the Navajo Nation Minerals Department (P.O. Box 1910, Window Rock, AZ: 86515) on a monthly basis within fifteen (15) days following the sale month. Monthly production reports must be filed even if there was no sale of material.

7. Method of Payments: All required payments under Section 2 of this Lease shall be made to the Navajo Nation Mineral Department, in lawful money of the United States.

8. Disposition of Minerals and Surface: The Navajo Nation expressly reserves the right to use, lease or otherwise dispose of the minerals not covered by this Lease and the surface of the lands embraced within this Lease under existing laws and laws hereinafter enacted. Lesser further reserves the right to grant additional leases for the extraction and removal of sand and gravel or for any other purposes from the lands described herein. Such disposition and use shall be subject to the prior rights of the Lessee herein to use of so much of the said surface as is necessary in the extraction and removal of sand and gravel described in accordance with this Lease.

9. Diligence: The Lessee shall exercise diligence in the conduct of its mining operation and the land described herein shall not be held for speculative purposes, but in good faith for the extraction of sand and gravel and shall begin operation within one (1) year of the Effective Date or the date of unfettered access to the pit sites, whichever is later.

10. No work shall commence until the mandatory mine health and safety training has been provided to the workers pursuant to 30 CFR, Part 46. The lessee must develop its own course instruction. The Lessee shall maintain the required training plan pursuant to the provisions of 30 CFR, Part 46.

11. The Lessee may develop, use and occupy the area under the Lease for the purpose of removing sand and gravel material. The Lessee may not develop, use or occupy the area under the Lease for any other purpose without the prior written approval of the Navajo Nation and the Secretary. Such approval of the Navajo Nation may be granted upon conditions or withheld at the sole discretion of the Navajo Nation. The Lessee may not develop, use or occupy the area under the permit for any unlawful purpose. Any unlawful use of the land within the Lease shall render the Lease void at the option of the Navajo Nation and/or the Secretary.

12. Sand and gravel material shall be used only for the reconstruction of Red Lake Dam unless it is expressly authorized by the Resources and Development Committee of the Navajo Nation Council.

13. In all activities conducted by the Lessee within the Navajo Nation, the Lessee 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, Parts 162 and 169;
- b. Title 30, Code of Federal Regulations, Parts 46 and 56;
- c. The Navajo Nation Mine Safety Code 18 N.N.C. § 401;
- d. All applicable federal and 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 practice;
- e. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq.; and
- f. The Navajo Nation Water Code, 22 N.N.C. § et seq., Lessee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.

14. The Lessee shall ensure that the air quality of the Navajo Nation is not unduly degraded during operations by violating federal and Navajo Nation's applicable laws and regulations.

15. The Lessee shall clear and keep clear the lands within the Lease area to the extent compatible with the purpose of the Lease, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during any surface disturbance activities.

16. The Lessee shall at all times during the term of the Lease and at the Lessee's sole cost and expense, maintain the land subject to the Lease and all improvements located thereon and make all necessary reasonable repairs.

17. The Lessee shall obtain prior written permission to cross an existing permit or lease areas, if any, from the appropriate parties.

18. The Lessee shall be responsible for and promptly pay all damages when they are sustained, from actions the Lessee causes.

19. The Lessee shall indemnify and hold harmless the Navajo Nation and the Secretary and their respective authorized agents, employees, land users and occupants against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of area under the Lease by the Lessee.

20. The Lessee shall not assign, convey, transfer or sublet in any manner whatsoever, the lease or any interest therein, or in or to any of the improvements on the land subject to the lease, without the prior written consent of the Navajo Nation and the Secretary. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld at the sole discretion of the Navajo Nation.

21. The Navajo Nation may recommend termination of the Lease by DOI for violation of any of the terms and conditions stated herein.

22. At the termination of the Lease, the Lessee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. Upon the written request from the Navajo Nation, the Lessee shall provide the Navajo, at the Lessee's sole cost and expense, with an environmental audit assessment of the premises at least thirty (30) days after completion and notification to the Navajo Nation that all required reclamation has been performed.

23. Holding over by the Lessee after the termination of the Lease shall not constitute a renewal or extension thereof or give the Lessee any rights hereunder or in to the land subject to the Lease or to any improvements located thereon.

24. The Navajo Nation and the Secretary shall have the right, at any reasonable time during the term of the permit, to enter upon the premises, or any part thereof, to inspect the same and any improvements located therein. The Navajo Nation and Secretary have further right to audit all payments due to the Navajo Nation.

25. By acceptance of the grant of Lease, the Lessee consents to the full territorial legislative, executive and judicial 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 Lessee within the Navajo Nation or which have a proximate (legal) effect on persons or property within the Navajo Nation.

26. By acceptance of the grant of the Lease, the Lessee covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian Navajo Nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision shall be construed to negate or impair federal responsibilities with respect to the land subject to the Lease or to the Navajo Nation.

27. Any action or proceeding brought by the Lessee against the Navajo Nation in connection with or arising out of the terms and conditions of the Lease shall be brought

only in the Courts of the Navajo Nation, and no such action or proceeding shall be brought by the Lessee against the Navajo Nation in any court of any state.

28. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

29. Except as prohibited by applicable federal law, the law of the Navajo Nation shall govern the performance and enforcement of the terms and conditions contained herein.

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

31. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the area under the Lease and all lands burdened by the Lease, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the area under the Lease and all lands burdened by the Lease shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.

32. The Lessee is required to maintain and submit a certificate issued by an insurance company authorized to do business in the United States, including the Navajo Nation, certifying that the applicant has a public liability insurance policy enforce for the mining and reclamation operations pursuant to this Lease. Such policy shall provide for personal injury and property damage protection in an amount adequate to compensate any person injured or property damaged as a result of the mining and reclamation operations, including the use of explosives. Minimum insurance coverage for bodily injury and property damage shall be \$500,000 for each occurrence and \$1,000,000 aggregate.

(a) The policy shall be maintained in full force during the term of the Lease and the liability period necessary to complete all reclamation requirements under the Plan.

(b) The policy shall include a rider requiring that the insurer notify the Department and DOI whenever substantive changes are made in the policy including any termination or failure to renew.

THE NAVAJO NATION

Date

By _____
President
The Navajo Nation

Date

By _____



RDCF-09-16

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
Of the 23rd Navajo Nation Council---Second Year 2016

AN ACTION
RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE ISSUANCE OF
A SAND AND GRAVEL LEASE TO BUREAU OF INDIAN AFFAIRS, NAVAJO
REGION, FOR 8.5 ACRES, MORE OR LESS, TO EXTRACT SAND AND GRAVEL
IN THE RED LAKE CHAPTER VICINITY FOR THE RED LAKE DAM
MODIFICATION, RED LAKE CHAPTER VICINITY, NAVAJO NATION (MCKINLEY
COUNTY, NEW MEXICO)

Section One. Findings

A. 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 non-mineral leases and surface easements on Navajo Nation land and unrestricted (fee land).

B. The Bureau of Indian Affairs, Navajo Region, Safety of Dams., P.O. Box 1060, Gallup, New Mexico 87305, has requested a sand and gravel lease to use 8.5 acres, more or less, of Navajo Nation Trust Lands for sand and gravel lease area

C. The proposed gravel lease site is within Sections 35, Township 21 North, Range 21 West, McKinley County, New Mexico. The location of the site is more particularly described on the map marked Exhibit "2."

D. The Project Review Section with the Navajo Land Department has obtained the consent from the affected land users (i.e. grazing permittees). The consent document is attached hereto as Exhibit "3."

E. All environmental and archaeological studies and clearances are attached hereto and incorporated herein by this reference.

Section Two. Approval

A. Resources and Development Committee of the Navajo Nation Council hereby approves a Sand and Gravel Lease for the Bureau of Indian Affairs, Navajo Region for 8.5 acres, more or less, in the

Red Lake Chapter vicinity, Navajo Nation (McKinley County, New Mexico). The location is more particularly described on the survey map attached hereto as Exhibit "2".

B. The Resources and Development Committee of the Navajo Nation Council hereby approves the Bureau of Indian Affairs, Navajo Region Sand and Gravel Lease subject to, but not limited to the terms and conditions in the Lease attached hereto as Exhibit "1" and made a part hereof.

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

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, 0 opposed, 1 abstained this 19th day of February, 2016.



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

Motion: Honorable Leonard Pete
Second: Honorable Davis Filfred



EXHIBIT "A"

NAVAJO NATION SAND AND GRAVEL LEASE/PERMIT

THIS AGREEMENT for a Sand and Gravel Lease (Lease) is made and entered by and between the Navajo Nation whose address is at P. O. Box 7460, Window Rock, AZ 86515, and Bureau of Indian Affairs Navajo Region herein called the Lessee and whose address is at P.O. Box 1060, Gallup, NM 87305.

Definitions:

Sand & Gravel means: Borrow (Earth,) Sand and Natural or Processed Gravel

Department means the Navajo Nation Minerals Department.

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

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

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

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

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

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

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

Ton means 2,000 pounds.

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

Lessee, Permittee & Operator means the lessee of the Sand and gravel lease/permit.

The Navajo Nation hereby grants Lessee a Lease right to extract sand and gravel from a borrow area consisting of Eight and one-half (8.5) acres in Sections 35, Township 21 North, Range 21 West, County, McKinley, NM. The area encompassed by the lease is 8.5 acres, more or less. The location and legal description are shown in Exhibit "B".

The Lessee shall use existing public roads and the Red Lake Dam Modification Project Temporary Construction Easement to access the lease areas.

1. The Lease shall be valid for a period of (3) years effective the date it is approved by the Secretary. This date shall be known as the Effective Date of the Lease.

2. Payments to the Navajo Nation by the Lessee:

(i) The Lessee shall pay an annual advance royalty in the amount of Two thousand and five hundred, twenty dollars (\$2,520) is due within ten (10) days of the Effective Date. The annual advance royalty payment shall be credited against production royalties only during the year for which the advance royalty has been paid.

(ii) A royalty at the rates of \$1.40 per ton for each ton of sand and gravel material removed and sold from the Lease premises. The royalty payment shall be made on a monthly basis within ten (10) days following the month for which the royalty is due.

(iii) If the material is not weighed, the Lessee shall measure the density of the material which shall be used to compute the tonnage.

3. Mining and Reclamation Plan: The Lessee shall abide by the mining and reclamation plan approved by the Navajo Nation and the U.S. Department of the Interior (DOI). The Lessee shall incorporate all recommendations and changes mandated by the Navajo Nation and the DOI in the mining and reclamation plan submitted by the Lessee. The Mining and Reclamation Plan is attached to this lease as Exhibit "C".

The majority of the revegetated species will be native to the area. The Lessee shall ensure that no poisonous and noxious vegetation are allowed to grow in the leased area. The Lessee shall ensure that the final post-mining topographic plan do not allow water to collect in the leased area. No water shall be discharged off the leased area without written authorization from the Navajo Nation and all federal agencies having jurisdiction.

4. Bond: The Lessee shall furnish a performance and reclamation bond for one hundred sixty-five thousand (\$165,000). The bond shall be in place before the start of pit operation. The Lessee shall maintain this bond at all times even if the Lease has expired or is terminated. The bond shall only be released with the written consent of the Navajo Nation. The bond may also be increased by the Navajo Nation. The bond shall not be released without the written approval of the Navajo Nation.

5. Water Use Permit: Lessee shall not use water for the Project unless the required Navajo Nation water use permit is issued by the Navajo Nation Department of Water Resources.

6. Records and Reports: The Lessee shall maintain accurate records of all sand and gravel material extracted, stockpiled, sold and removed from the Lease and the royalty due

and paid to the Navajo Nation. A copy of the records shall be provided to the DOI and the Navajo Nation Minerals Department (P.O. Box 1910, Window Rock, AZ: 86515) on a monthly basis within fifteen (15) days following the sale month. Monthly production reports must be filed even if there was no sale of material.

7. Method of Payments: All required payments under Section 2 of this Lease shall be made to the Navajo Nation Minerals Department, in lawful money of the United States.

8. Disposition of Minerals and Surface: The Navajo Nation expressly reserves the right to use, lease or otherwise dispose of the minerals not covered by this Lease and the surface of the lands embraced within this Lease under existing laws and laws hereinafter enacted. Lesser further reserves the right to grant additional leases for the extraction and removal of sand and gravel or for any other purposes from the lands described herein. Such disposition and use shall be subject to the prior rights of the Lessee herein to use of so much of the said surface as is necessary in the extraction and removal of sand and gravel described in accordance with this Lease.

9. Diligence: The Lessee shall exercise diligence in the conduct of its mining operation and the land described herein shall not be held for speculative purposes, but in good faith for the extraction of sand and gravel and shall begin operation within one (1) year of the Effective Date or the date of unfettered access to the pit sites, whichever is later.

10. No work shall commence until the mandatory mine health and safety training has been provided to the workers pursuant to 30 CFR, Part 46. The lessee must develop its own course instruction. The Lessee shall maintain the required training plan pursuant to the provisions of 30 CFR, Part 46.

11. The Lessee may develop, use and occupy the area under the Lease for the purpose of removing sand and gravel material. The Lessee may not develop, use or occupy the area under the Lease for any other purpose without the prior written approval of the Navajo Nation and the Secretary. Such approval of the Navajo Nation may be granted upon conditions or withheld at the sole discretion of the Navajo Nation. The Lessee may not develop, use or occupy the area under the permit for any unlawful purpose. Any unlawful use of the land within the Lease shall render the Lease void at the option of the Navajo Nation and/or the Secretary.

12. Sand and gravel material shall be used only for the reconstruction of Red Lake Dam.

13. In all activities conducted by the Lessee within the Navajo Nation, the Lessee 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, Parts 162 and 169;

b. Title 30, Code of Federal Regulations, Parts 46 and 56;

c. The Navajo Nation Mine Safety Code 18 N.N.C. § 401;

d. All applicable federal and 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 practice;

e. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 et seq., the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 et seq.; and

f. The Navajo Nation Water Code, 22 N.N.C. § et seq., Lessee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.

14. The Lessee shall ensure that the air quality of the Navajo Nation is not unduly degraded during operations by violating federal and Navajo Nation's applicable laws and regulations.

15. The Lessee shall clear and keep clear the lands within the Lease area to the extent compatible with the purpose of the Lease, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during any surface disturbance activities.

16. The Lessee shall at all times during the term of the Lease and at the Lessee's sole cost and expense, maintain the land subject to the Lease and all improvements located thereon and make all necessary reasonable repairs.

17. The Lessee shall obtain prior written permission to cross an existing permit or lease areas, if any, from the appropriate parties.

18. The Lessee shall be responsible for and promptly pay all damages when they are sustained, from actions the Lessee causes.

19. The Lessee shall indemnify and hold harmless the Navajo Nation and the Secretary and their respective authorized agents, employees, land users and occupants against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of area under the Lease by the Lessee.

20. The Lessee shall not assign, convey, transfer or sublet in any manner whatsoever, the lease or any interest therein, or in or to any of the improvements on the land subject to the lease, without the prior written consent of the Navajo Nation and the Secretary. Any such

attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld at the sole discretion of the Navajo Nation. However, the Lessee may retain a contractor for the project and require the contractor to fully comply with the terms and conditions of the lease.

21. The Navajo Nation may recommend termination of the Lease by DOI for violation of any of the terms and conditions stated herein.

22. At the termination of the Lease, the Lessee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. Upon the written request from the Navajo Nation, the Lessee shall provide the Navajo, at the Lessee's sole cost and expense, with an environmental audit assessment of the premises at least thirty (30) days after completion and notification to the Navajo Nation that all required reclamation has been performed.

23. Holding over by the Lessee after the termination of the Lease shall not constitute a renewal or extension thereof or give the Lessee any rights hereunder or in to the land subject to the Lease or to any improvements located thereon.

24. The Navajo Nation and the Secretary shall have the right, at any reasonable time during the term of the permit, to enter upon the premises, or any part thereof, to inspect the same and any improvements located therein. The Navajo Nation and Secretary have further right to audit all payments due to the Navajo Nation.

25. By acceptance of the grant of Lease, the Lessee assures that the Contractor shall consent to the full territorial legislative, executive and judicial 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 Lessee within the Navajo Nation or which have a proximate (legal) effect on persons or property within the Navajo Nation.

26. By acceptance of the grant of the Lease, the Lessee covenants and agrees that the Contractor will not 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 Navajo Nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision shall be construed to negate or impair federal responsibilities with respect to the land subject to the Lease or to the Navajo Nation.

27. Any action or proceeding brought by the Lessee against the Navajo Nation in connection with or arising out of the terms and conditions of the Lease shall be brought only

in the Courts of the Navajo Nation, and no such action or proceeding shall be brought by the Lessee against the Navajo Nation in any court of any state.

28. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

29. Except as prohibited by applicable federal law, the law of the Navajo Nation shall govern the performance and enforcement of the terms and conditions contained herein.

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

31. There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the area under the Lease and all lands burdened by the Lease, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the area under the Lease and all lands burdened by the Lease shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.

32. The Lessee is an integral part of the United States government which self-insures, and thus is backed by the full faith and credit of the United States. The Lessee recognizes its liability for any damages whether personal, property or to the natural resources of the Navajo Nation and will pay any damages that may be determined.

33. Signs shall be permanently posted to keep people off the submerged area in order to prevent accidental drowning.

34. The Lessee shall have an emergency evacuation plan in place and all workers must be thoroughly familiar with the plan. The Emergency Evacuation Plan is attached to this lease as Exhibit 'D'.

THE NAVAJO NATION

Date

By _____
President
The Navajo Nation

Date

By _____