APPENDIX TO NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY'S APPLICATION FOR MATERIAL BORROW MINE AND HOT ASPHALTIC CONCRETE PAVEMENT CONSTRUCTION YARD

Located Near Kaibeto, Coconino County, Arizona (Navajo Nation)



Navajo Engineering and Construction Authority Post Office Box 969 Shiprock, New Mexico 87420

29 March 2019

29 March 2019

Attention: DOCUMENT REVIEWERS

The Navajo Engineering and Construction Authority (NECA), P.O. Box 969, Shiprock, New Mexico is submitting a lease application for a Borrow Pit to occupy 9.915 acres, more or less, on the Navajo Trust Lands within the Kaibeto Chapter vicinity, Navajo Nation, Coconino County, Arizona.

Attached for your reviews are the following:

Exhibit "A":	Material Borrow Pit Lease Application
Exhibit "B":	Legal Survey
Exhibit "C":	Location Map
Exhibit "D":	Resolution from Kai'Bii'To Chapter
Exhibit "E":	Resolution from NECA Board of Directors, # 1-3-19
Exhibit "F":	Letter from Grazing Officer
Exhibit "G":	Biological Resources Compliance Form
Exhibit "H":	Finding of No Significant Impact (FONSI)
Exhibit "I":	Cultural Resources Compliance Form
Exhibit "J":	Archaeological Resources / Archaeological Clearance
Exhibit "K":	Statement of Purpose
Exhibit "L":	United States Environmental Protection Agency Acknowledgement of Notice of Intent
Exhibit "M":	Storm Water Pollution Prevention Plan
Exhibit "N":	Spill Prevention, Contamination, and Countermeasure Plan
Exhibit "O":	Mining, Hot Asphaltic Concrete Pavement, and Reclamation Plan

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Table of Exhibits

- Exhibit "A" Material Borrow Pit Lease Application
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- Exhibit "C" Location Map
- Exhibit "D" Resolution From Kai'Bii'To Chapter
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- Exhibit "I" Cultural Resources Compliance Form
- Exhibit "J" Archaeological Resources / Archaeological Clearance
- Exhibit "K" Statement of Purpose
- Exhibit "L" United States Environmental Protection Agency Acknowledgement of Notice of Intent (NOI)
- Exhibit "M" Storm Water Pollution Prevention Plan
- Exhibit "N" Spill Prevention, Contamination, Countermeasures Plan
- Exhibit "O" Mining, Hot Asphaltic Concrete Pavement, and Reclamation Plan

EXHIBIT "A" - MATERIAL BORROW PIT LEASE APPLICATION

NAVAJO NATION SAND AND GRAVEL LEASE

THIS AGREEMENT for a Sand and Gravel Lease (Lease) is made and entered into this ______ day of ______ by and between the Navajo Nation, whose address is Post Office Box 1910, Window Rock, Arizona 86515 and <u>Navajo Engineering & Construction Authority</u>, herein called the Lessee, and whose address is at <u>Post Office Box 969 1 Uranium</u> Boulevard Shiprock, New Mexico 87420.

Definitions:

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

Department means the Navajo Nation Minerals Department.

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

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

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

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

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

Slope means average inclination of a surface, measured from 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.

Tons means 2,000 pounds.

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

The Navajo Nation hereby grants Lessee a Lease right to extract unclassified material borrow from <u>NE/4</u> of Section <u>25</u>, Township <u>36N</u>, Range <u>12E</u>, <u>G&SRBM</u>, <u>Coconino</u> County, State of <u>Arizona</u>. The Lease occupies an area of <u>9.915</u> acres, more or less, and the access road right-of-way consists of <u>0.000</u> acres, more or less. The location maps and legal

descriptions of the Lease and the access road are shown in attached Exhibit "<u>D</u>." The Lease shall be subject to the following terms and conditions.

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

has been expired or terminated and Lessee has fulfilled all its obligations, including payments to the Nation and reclamation, under the terms and conditions of this Lease.

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

- 12. In all activities conducted by the Lessee within the Navajo Nation, the Lessee shall abide by all laws and regulations of the Nation and of the United States, now enforced 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 Navajo Nation Code §401;
 - d. All applicable Federal and Nation antiquities laws and regulations, with the following additional condition: In the event of a discovery, all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archaeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practice.
 - e. The Navajo Preference in Employment Act, 15 N.N.C. §§ 601 <u>et seq</u>., the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 <u>et seq</u>., and
 - f. The Navajo Nation Water Code, 22 N.N.C. § <u>et seq</u>., Lessee shall apply for and submit all applicable permits and information to the Navajo Nation Water Resources Department, or its successor.
- 13. The Lessee shall ensure that the air quality of the Nation is not unduly degraded during operations by violating Federal and Nation's applicable laws and regulations.
- 14. The Lessee shall clear and keep clear the lands within the Lease area to the extent compatible with the purpose of the Lease, and shall dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during any surface disturbance activities.
- 15. The Lessee shall at all times during the term of the Lease and the Lessee's sole cost and expense, maintain the land subject to the Lease and all improvements located thereon and make all necessary reasonable repairs.
- 16. The Lessee shall obtain prior written permission to cross an existing permit or lease areas, if any, from the appropriate parties.
- 17. The Lessee shall be responsible for and promptly pay all damages when they are sustained, from actions the Lessee causes.

- 18. The Lessee shall indemnify and hold harmless the Nation and the Secretary and their respective authorized agents, employees, land users and occupants against any liability for loss of life, personal injury and property damages arising from the development, use or occupancy or use of area under the Lease by the Lessee.
- 19. The Lessee shall not assign, convey, transfer or sublet in any manner whatsoever, the lease or any interest therein, or in or to any of the improvements on the land subject to the lease, without the prior written consent of the Nation and the Secretary. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Nation may be granted, granted upon conditions or withheld at the sole discretion of the Nation.
- 20. The Nation may recommend termination of the Lease by DOI for violation of any of the terms and conditions stated herein.
- 21. At the termination of the Lease, the Lessee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. Upon the written request from the Nation, the Lessee shall provide the Navajo, at the Lessee's sole cost and expense, with an environmental audit assessment of the premises at least thirty (30) days after completion and notification to the Nation that all required reclamation has been performed.
- 22. Holding over by the Lessee after the termination of the Lease shall not constitute a renewal or extension thereof or give the Lessee any rights hereunder or in to the land subject to the Lease or to any improvements located thereon.
- 23. The Nation and Secretary shall have the right, at any reasonable time during the term of the permit, to enter upon the premises, or any part thereof, to inspect the same and any improvements located therein. The Nation and Secretary have further right to audit all payments due to the Nation.
- 24. By acceptance of the grant of Lease, the Lessee consents to the full territorial legislative, executive and judicial jurisdiction of the Nation, including but not limited to the jurisdiction to levy fines and to enter judgements for compensatory and punitive damages and injunctive relief, in connection with all activities conducted by the Lessee with the Navajo Nation or which have a proximate (legal) effect on persons or property with the Nation.
- 25. By acceptance of the grant of the Lease, the Lessee covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Nation on the basis that such jurisdiction is inconsistent with the status of the Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess full police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing contained in this provision

shall be construed to negate or impair federal responsibilities with respect to the land subject to the Lease or to the Nation.

- 26. Any action or proceeding brought by the Lessee against the Nation in connection with or arising out of the terms and conditions of the Lease shall be brought only in the Courts of the Nation, and no such action or proceeding shall be brought by the Lessee against the Nation in any court of any state.
- 27. Nothing contained herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Nation.
- 28. Except as prohibited by applicable federal law, the law of the Nation shall govern the performance and enforcement of the terms and conditions contained herein.
- 29. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of the Lessee, and the term "Lessee" whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees, and agents.
- 30. There is expressly reserved to the Nation full territorial legislative, executive and judicial jurisdiction over the area under the Lease and all lands burdened by the Lease, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the area under the Lease and all lands burdened by the lease shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.
- 31. The Lessee is required to maintain and submit a certificate issued by an insurance company authorized to do business in the United States, and on the Navajo Nation, certifying that the applicant has a public liability insurance policy in force for the mining and reclamation operations pursuant to this Lease. Such policy shall provide for personal injury and property damage protection in an amount adequate to compensate any person injured or property damaged as a result of the mining and reclamation operations, including the use of explosives. Minimum insurance coverage for bodily injury and property damage shall be \$ 500,000.00 for each occurrence and \$1,000,000.00 aggregate.
 - a. The policy shall be maintained in full force during the term of the Lease and the liability period necessary to complete all reclamation requirements under the Plan.
 - b. The policy shall include a rider requiring that the insurer notify the Department and DOI whenever substantive changes are made in the policy including any termination or failure to renew.
- 32. The Lessee shall maintain a minimum 200-feet buffer zone with the Kaibeto Creek.

- 33. All employees of the Lessee shall be thoroughly familiar with the Lessee's emergency response plan.
- 34. The Lessee shall obtain the permission of permittees of existing mineral, oil and gas lease holders, operators and rights-of-way permittees when crossing these leases and rights-of-way.
- 35. The Lessee shall not extract sand and gravel located in the vicinity of oil and gas wells, including abandoned wells unless written authorization is obtained from the Navajo Nation and those federal agencies having jurisdiction.

THE NAVAJO NATION

By_

Jonathan Nez, President The Navajo Nation

Date

Date

By

Cary Patterson, General Manager Navajo Eng. & Const. Auth. EXHIBIT "B" - LEGAL SURVEY



SURVEY PLAT AND LEGAL DESCRIPTION OF TEMPORARY LEASE NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY KAIBETO MATERIAL BORROW A PARCEL OF LAND PROTRACTED TO BE SITUATE IN PORTION OF THE NORTHEAST AND SOUTHEAST QUARTERS OF SECTION 25 TOWNSHIP 36 NORTH(T36N) RANGE 12 EAST(R12E) OF THE GILA AND SALT RIVER MERIDIAN (G&SRM) IN THE VICINITY OF KAIBÈTO, COCONINO COUNTY, ARIZONA AND IN THE NÀVAJO NATION MANAGEMENT DISTRICT 1 UNIT 2 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A FOUND UNITED STATES BUREAU OF LAND MANAGEMENT (USBLM) TOWNSHIP CORNER COMMON TO SECTION 36 OF T36N,R12E; SECTION 33 OF T36N,R12 1/2E; SECTION 1 OF T35N,R12E AND SECTION 4 OF T35N, R12 1/2E A BRASS DISK IN GOOD CONDITION DATED 2009; WHENCE A UNITED STATES BUREAU OF LAND MANAGEMENT (USBLM) TOWNSHIP CORNER COMMON TO SECTION 36 OF T36N,R11E; SECTION 31 OF T36N,R12E; SECTION 1 OF T35N, R11E AND SECTION 6 OF T35N, R12E A BRASS DISK IN GOOD CONDITION DATED 2009 BEARS S89'30'54"W A DISTANCE OF 31629.30 FEET AND THE BASIS OF BEARING; THENCE N6'53'07"W A DISTANCE OF 7969.82 FEET TO A SET 1/2 INCH IRON PIN AND THE POINT OF BEGINNING; THENCE S68'37'13"W A DISTANCE OF 7.80 FEET TO A SET 1/2 INCH IRON PIN; THENCE S68'36'24"W A DISTANCE OF 437.96 FEET TO A FOUND NDOT 5/8 INCH IRON PIN WITH ORANGE PLASTIC CAP; THENCE N26'16'37"W A DISTANCE OF 548.64 FEET TO A POINT; THENCE N26'16'37"W A DISTANCE OF 327.95 FEET TO A FOUND NDOT 5/8 INCH IRON PIN WITH ORANGE PLASTIC CAP; THENCE N89°34'34"E A DISTANCE OF 95.53 FEET TO A POINT; THENCE S67'28'38"E A DISTANCE OF 134.95 FEET TO A POINT; THENCE N81'47'48"E A DISTANCE OF 150.25 FEET TO A POINT; THENCE S84°52'31"E A DISTANCE OF 165.19 FEET TO A POINT; THENCE S76'43'08"E A DISTANCE OF 147.99 FEET TO A POINT; THENCE S18'54'47"E A DISTANCE OF 229.97 FEET TO A POINT; THENCE S54°24'17"E A DISTANCE OF 94.52 FEET TO A POINT; THENCE S69'28'05"E A DISTANCE OF 134.39 FEET TO A POINT; THENCE S33°41'42"E A DISTANCE OF 154.59 FEET TO A POINT; THENCE S67'48'54"W A DISTANCE OF 256.33 FEET TO THE POINT OF BEGINNING; BEING 9.915 ACRES MORE OR LESS AS CALCULATED USING COMPUTER SOFTWARE AND BEING SUBJECT TO ALL EXISTING EASEMENTS, RIGHTS-OF-WAY, CULTURAL

51013 LEMONT L YAZZIE, SR. Q

Lemont L. Yazzie, Sr., a duly qualified Registered Professional Land Surveyor under the laws of the State of Arizona do hereby certify that this plat shown hereon was prepared from a bona fide land survey conducted by me or under my direct supervision

Expires: June 30, 2019 Subscribed and sworn to before me this ____

RESOURCES AND OTHER LAND RIGHTS LOCATED THEREON.

Contraction Broken Block Broken 10 - Alter Broken Block

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Notary Public (signature) Fabion Toosie Notary Public (print name)

_____ , 2018.

- day of November



SURVEY PLAT AND LEGAL DESCRIPTION OF TEMPORARY LEASE NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY KAIBETO MATERIAL BORROW 9.915 ACRES +/-, NAVAJO INDIAN RESERVATION, DISTRICT 1, UNIT 2 PROTRACTED NE 1/4 AND SE 1/4 OF SECTION 25, T36N, R12E, G&SRM KAIBETO, COCONINO COUNTY, ARIZONA



NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY

EXHIBIT "C" - LOCATION MAP



EXHIBIT "D" - RESOLUTION FROM KAI'BII'TO CHAPTER

THE K'AI'BII'TÓ CHAPTER



KB4QTR-11-11/18

P.O. Box 1761 * Kaibeto, AZ 86053 Phone#: (928)673-5850/5851 Fax#: (928)673-5853

<u>Recommending and Requesting the Resources and Development Committee of the Navajo Nation</u> <u>Council to Approve a Temporary Business Site Lease for the Navajo Engineering and Construction</u> <u>Authority on Navajo Nation Trust Lands in the Vicinity of the Kaibeto Chapter, Coconino County,</u> <u>Arizona.</u>

WHEREAS:

- 1. The Kaibeto Chapter is a Local Governance Certified Chapter of the Navajo Nation, charged with the responsibility to promote and protect the interests and general welfare of its Community People pursuant to Title II, Section 4001(a) of the Navajo Tribal Code; and
- 2. The Navajo Engineering and Construction Authority, P.O. Box 969, Shiprock, New Mexico 87420, wishes to submit an application for a *Temporary Business Site* Lease to establish, operate, and maintain a material borrow pit and hot plant construction yard along Navajo Route 21 within the Kaibeto Chapter, Coconino County, Arizona. The application is attached hereto as Exhibit "A" and made a part hereof; and
- 3. The *proposed* temporary business site lease will consist of approximately <u>9.915</u> acres, more or less, of Navajo Nation Trust Land located within Kaibeto, Coconino County, Arizona. The location is shown on the location map attached hereto as Exhibit "B" and made a part of hereof; and
- 4. The disturbed area, including the previously mined area, will be reclaimed and reseeded with a native seed mix upon completion of the project; and

NOW THEREFORE BE IT RESOLVED THAT:

- 1. The Kaibeto Chapter hereby requests and recommends that the Resources and Development Committee of the Navajo Nation Council approve a Temporary Business Site Lease on Navajo Nation Trust Land for the Navajo Engineering and Construction Authority, to establish, operate, and maintain a Temporary Business Site Lease within the Kaibeto Chapter Area, Coconino County, Arizona. The location is shown on the location map attached hereto as Exhibit "B".
- 2. The Kaibeto Chapter hereby requests that the disturbed area, including the previously mined area, be reseeded with a native seed mix upon completion of the project.

CERTIFICATION

We the undersigned hereby certify that the foregoing resolution was duly considered at a duly called authorized Chapter Meeting held at Kaibeto Chapter, Coconino County, Arizona, at which a quorum was present and that same was passed by a vote of 30 in favor, $\cancel{0}$ opposed, and 2 abstained, this <u>11th</u> day of <u>November</u>, 2018.

MOTIONED BY:_	Jonita Tracey	SECONDED BY: Geneve Tsinnijnnie
	Franklin Fowler Ch	apter President

EXHIBIT "E" - RESOLUTION FROM NECA BOARD OF DIRECTORS, RESOLUTION # 1-3-19

RESOLUTION OF THE NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY BOARD OF DIRECTORS

Requesting the Resources and Development Committee of The Navajo Nation to Approve a Unclassified Borrow Material Mining Lease for Navajo Engineering and Construction Authority (NECA) for the Kaibeto Select Backfill Material Borrow Pit, in the Vicinity of the K'ai'bii'to Chapter, Coconino County, Arizona (Navajo Reservation); and to Waive the Requirement for a Performance and Reclamation Bond

WHEREAS:

1. The Navajo Engineering and Construction Authority (NECA) was created as a wholly-owned enterprise of the Navajo Nation pursuant to 5 N.N.C., 1971, for the purpose of engaging in the general engineering and construction business for and on behalf of the Navajo Nation, and to provide employment and training opportunities for members of the Navajo Nation, 5 N.N.C., 1972(a), as amended; and

2. The NECA Board of Directors has authority and responsibility for the management and operation of NECA, 5 N.N.C., 1972(b)(1), as amended; and

3. NECA has applied to The Navajo Nation and the Bureau of Indian Affairs for a Unclassified Borrow Material Mining Lease south-southeast of K'ai'b'i'to, Arizona; and

4. The proposed Unclassified Borrow Material Mining Lease is for 9.915acres, more or less, of Navajo Nation Trust Land as described in the metes and bound and contained in the Unclassified Borrow Material Mining Lease application; and

5. The K'ai'bii'to Chapter passed resolution number KB4QTR-11-11/18 supporting the Unclassified Borrow Material Mining Lease, attached as exhibit A; and

6. The Navajo Nation has required that the lessee provide a performance and reclamation bond to assure that reclamation requirements contained in the Unclassified Borrow Material Mining Lease are carried out; and

7. The requirement to provide a performance and reclamation bond results in the Navajo Nation furnishing a bond to itself, and results in additional cost to NECA and the Navajo Nation; and

8. NECA as a Tribal Enterprise will continue to conduct business within the boundaries of the Navajo Nation in accordance with all applicable laws and regulations, thereby assuring that reclamation of the Unclassified Borrow Material Mining Lease area will be carried out; and

9. NECA has an excellent record of managing and reclaiming sand and gravel mining leases and temporary land withdrawal on the Navajo Nation Trust Lands and with the Bureau of Indian Affairs; and

10. It is in the best interest of the Navajo Engineering and Construction Authority that the Unclassified Borrow Material Mining Lease be issued.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Engineering and Construction Authority Board of Directors requests that the Resources and Development Committee of the Navajo Nation approve a Unclassified Borrow Material Mining Lease at the Kaibeto Select Material Borrow Pit for NECA, within the Kaibeto Chapter management area in Coconino County, Arizona, subject to the terms and conditions of the Unclassified Borrow Material Mining Lease.

2. The Navajo Engineering and Construction Authority Board of Directors further requests that the Resources and Development Committee of the Navajo Nation Council waive the requirement for a Performance and Reclamation Bond.

3. The Navajo Engineering and Construction Authority Board of Directors further authorizes the General Manager of NECA, the President of the NECA Board of Directors, and the NECA General Counsel to do any and all things necessary and proper to accomplish the purposes and intent of this resolution.

4. The Navajo Engineering and Construction Authority Board of Directors further directs the General Manager of NECA to do any and all things necessary to comply with the terms and conditions of the Unclassified Borrow Material Mining Lease, including the reclamation requirements.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Board of Directors of the Navajo Engineering and Construction Authority, at a duly called meeting at Chandler, Arizona at which a quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, and 0 abstention this 19th day of January 2019.

Stanley Yazzie, President Board of Directors Navajo Engineering and Construction Authority

MOTION: Ernest Hubbell

EXHIBIT "F" – LETTER FROM GRAZING OFFICER

March 10, 2019

To: Navajo Nation Land Department Window Rock, Arizona

From:

Priscilla Mann, District Grazing Committee Member Kaibeto Chapter

RE: NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY'S REQUEST TO USE 9.915 ACRES OF THE NAVAJO NATION TRUST LANDS FOR ROUTES N21, N6330, AND N6331 ROAD CONSTRUCTION IN THE VICINTY OF THE KAIBETO CHAPTER

The Navajo Engineering and Construction Authority (NECA), Post Office Box 969, Shiprock, New Mexico (NM), 87420, is preparing to submit an application for a temporary Borrow Permit for <u>9.915 acres</u> of Navajo Trust Lands for the construction of Navajo Routes N6330, N6331, and N21 in the vicinity of Kaibeto Chapter. The area is located in Section 25, T-36-N, R-12-E, Gila and Salt River Meridian, Kaibeto Chapter, Navajo Nation, Coconino County, Arizona.

Site visit to the area determined that the perimeter of the 9.915 acre parcel of land remained fenced the past five years. The previous company abandoned the Borrow site before completing reclamation. The Grazing Permit for the area has not had a tally count the past four years and no vegetation available for animals to feed on. Therefore, I recommend the NECA use the said acreage to extract borrow without surface damage compensation, but the Kaibeto Chapter strongly request the NECA reclaim and reseed the area after project completion.

If you have any questions, regarding the land use consent, I can be contacted at (928) 209-4511. Thank you.

EXHIBIT "G" – BIOLOGICAL RESOURCES COMPLIANCE FORM

KAIBETO BORROW PIT MINING LEASE AND ASPHALT HOT MIX PLANT SITE BIOLOGICAL EVALUATION



PLS: SE/4 Section 25 Township 36 North Range 12 East, G&SRM Lat & Long: 36° 29' 25.5" N 111° 02' 55.1" W, WGS 84 UTM: 495,699 m E 4,038,137 m N, Zone 12 Elevation: 6,500 amsl

NAVAJO ENGINEERING & CONSTRUCTION AUTHORITY No. 1 Uranium Blvd P.O. Box 969 Shiprock, New Mexico 87420

> Prepared by DENALI ENVIRONMENTAL SERVICES P.O. Box 1127 Fort Defiance, Arizona 86504 <u>denali1946@msn.com</u>

> > RECEIVED JAN 2 8 2019 NECA AP DEPT

January, 2019

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Appendix A Navajo Department of Fish & Wildlife Data Response Letter

KAIBETO BORROW PIT MINING LEASE & ASPHALT HOT MIX PLANT SITE BIOLOGICAL EVALUATION

Introduction

Navajo Engineering and Construction Authority (NECA) of Shiprock, New Mexico propose to apply for a borrow pit mine lease and asphalt hot mix plant site, approximately 6.5 miles south of Kaibeto, Arizona. The proposed borrow pit and asphalt hot mix plant (AHMP) site would commensurate the highway construction of Navajo Route N21, scheduled in the summer of 2019. In regard to the Navajo Department of Fish and Wildlife Biological Resource Conservation Plan, the proposed borrow and gravel pit would be located in a designated Area 3 (Low Sensitivity) location, in Kaibeto Chapter.

1.0 Description of the Proposed Action

NECA plans to reopen an existing borrow pit, previously used for the N21 road construction project. The proposed 9.915 total acre tract calls for new excavation and leveling of the borrow pit, asphalt hot mix plant, and staging area. The term of the mining lease would be for two years. The proposed 3.5 miles of road way project will require grading and subgrade treatment, placement of aggregate base course and hot asphaltic concrete pavement, installation of culverts and drainage structures, fencing and cattle guards.

The proposed borrow pit area would be used for source material, stockpile, hot mix plant, heavy equipment staging, and road way supply storage area. Approximately 75,464 tons of borrow material will be used for subgrade treatment for proposed project area. The proposed mining operation will continue mining the existing mining area at 5.364 acres. An additional 4.551 acres of new excavation is proposed on the east side, adjacent to the existing pit. Heavy equipment, specifically a dozer, front end loaders, and eighteen wheel trucks would be stored onsite, within the mining lease area. No blasting would be required.

The AHMP batch operations would include an asphalt hot mix plant and conveyor system, a dozer, Cat 988 front end loader, and eighteen wheel trucks. The proposed mining operations and AHMP operations would not require an access road to the borrow pit. The proposed borrow pit is located adjacent to Navajo Route N21. No other infrastructure would be required.

All disturbed surface in the proposed project area would be re-vegetated consistent with the American Association State Highway & Transportation Officials (AASHTO) Standards at Section 625 (mulching and seed mix) for Federal Projects (FP-03), and Supplemental Specifications form the basis of the plan. Mining and stockpiling borrow material source and gravel will begin when the mine lease is approved by the BIA Navajo Regional Office.

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

1.1 Location

NECA proposes to construct the Kaibeto Borrow Pit Mining Lease and the Asphalt Hot Mix Plant Site. Pictured on the cover page, the photo depicts the existing Kaibeto Pit adjacent to Navajo Route N21. The proposed Navajo Route N21 support projects are located on USGS topographic map entitled *Big Whisker Well, Arizona* 7.5 Minute Quadrangle map at Figure 1. The waypoint descriptions of the project locations are shown at Table 1 below.

Table 1.	United States Geological Survey Maps Waypoint Descriptions of Kaibeto Borrow Pit Mining
Lease, &	Asphalt Hot Mix Plant Site, Kaibeto, Arizona.

Project Description	Public Land Survey G&SR PM	Latitude and Longitude WGS 84/NAD 83	UTM, Zone 12
Northwest Corner	S25 T36N R12E	36° 29' 29.4" N 111° 03' 03.6" W	495,486 m E 4,038,253 m N
Northeast Corner	S25 T36N R12E	36° 29' 30.9" N 111° 02' 56.7" W	495,661 m E 4,038,306 m N
South Central Corner POB	S25 T36N R12E & S36 T36N R12E	36° 29' 25.5" N 111° 02' 55.1" W	495,699 m E 4,038,137 m N
Southwest Corner	S36 T36N R12E	36° 29' 23.6" N 111° 03' 00.1" W	495,574 m E 4,038,087 m N
Southeast Corner	S25 T36N R12E	36° 29' 26.6" N 111° 02' 52.2" W	495,773 m E 4,038,189 m N

The proposed lease is located adjacent to the existing Navajo Route N21, south of Kaibeto Chapter, Western Navajo Agency, Coconino County, Arizona. Elevation is 6,500 feet amsl.

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

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

2.1 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)

ESA requires all federal departments and agencies to conserve threatened and endangered species and the habitats on which they depend, and to consult with the U. S. Fish and Wildlife Service (USFWS), on all actions authorized, funded or carried out by the agency to ensure that the action will not likely jeopardize the continued existence of any threatened and endangered species or adversely modify critical habitat. Under contract, authorized by Public Law 93-638 the Indian Self



Determination and Education Assistance Act of 1993, NDF&W carries out the ESA consultation function for the Navajo Regional Office, Bureau of Indian Affairs. NDF&W would review the biological evaluation document for the proposed project and would approve the report via a Biological Resource Compliance Form.

2.2 Navajo Species of Concern List (NESL)

The Resource Committee of the Navajo Nation Council, Resolution RCS-41-08 (NDF&W RCP, 2008) mandates the consideration of the Navajo Endangered Species List (NESL) special management species, not federally listed as threatened or endangered. The NESL species listed are specially managed in order to prevent or reduce the need to list the species as threatened or endangered in the future. The NDF&W will actively seek information on those species to determine if they warrant inclusion in a different group or removal from the list (NDF&W-NNHP, 2008).

2.3 Migratory Bird Treaty Act, as amended (16 U.S.C. 703 et seq.)/ EO 13186

Migratory birds and their habitats are protected under the Migratory Bird Treaty Act (MBTA) (16 USC §703-712) and EO 13186. All federal agencies are required to consider management impacts to protect migratory non-game birds. Executive Order 13186 calls for increased efforts to more fully implement the MBTA.

3.0 METHOD OF SURVEY

3.1 Offsite Survey Methods

The NDF&W- NHP was consulted via a data request letter. The Natural Heritage Program responded January 4, 2019 with a listing of one potential threatened Endangered Species Act (ESA) species at Table 2, and two potential Navajo Endangered Species List (NESL) special management species, listed at Table 3. The Migratory Bird Treaty Act (MBTA) listing on the Colorado Plateau was accessed using the USFWS website, activated January 4, 2019 at Table 4.

3.2 Onsite Survey Methods

Onsite pedestrian surveys of the proposed gravel pit were conducted November 19, 2018, and January 17, 2019. The entire project area was covered during the field survey. All plant and wildlife species and signs of wildlife observed in the project area were recorded and digital photos of the project area were taken. Binoculars were used to survey for raptors and potential nesting sites on nearby mesas. Onsite habitat was evaluated for all ESA, NESL, and MBTA species. All conservation status species that have the potential to occur in the proposed project and action areas were evaluated at Tables 2, 3, and 4.

3.3 Action Area

The proposed project action area pit would encompass 9.92 acres as shown in Figure 1. The action area would also include the borrow pit zone of influence, which would consist of the surrounding terrain within a 1/8-mile (0.12 mile) radius of the pit boundaries.

4.0 FINDING AND DETERMINATION OF SPECIES EFFECTS

4.1 Existing Land Uses

Undisturbed vicinity properties at the proposed mine site are open rangeland of the Grassland Savannah Plant Community, comprised of sparse Pinyon-Juniper, shrubs, perennial grasses and annuals. See cover photograph. Navajo Route N21 highway, rural home sites, a water main pipeline, the borrow pit, and rangeland are the predominant land use in the area. The water main traverses the southern half of the existing pit. Occupied houses are located across the roadway N21. Previous operators of the borrow pit have left the site generally un-reclaimed. Top soil replacement and plant germination is not evident at the proposed pit. It is evident, the entire mine area was abandoned with token regrading, and little reclamation.

4.2 Physical Description

Located in rolling hill landscape, the White Mesa Plateau dominates the horizon east of the proposed project area. The plateau is the prominent land form in the area. The proposed burrow pit and AHMP would be located on the west flank of the plateau at an elevation of 6,500 feet above mean sea level (amsl).

4.2.1 Topography

The general land form is characterized by rolling hills, and distance mesas with exposed rock outcrops. General topographic gradient of the project area moderately slopes to the north. The surface topography and geology/soils along the proposed project area is not expected to present any specific problems to the project.

4.2.2 Soils

Located in a Grassland Savannah Plant Community, soils are atypical. Natural soils have been completely disturbed from previous mining operations. The existing pit and access road area are comprised of Pinavetes-Pinavetes moderately deep association, at 1 to 15 % slopes. Soil texture ranges from sand to loamy sand. The soils in the project vicinity were formed from eolian sands derived from sandstone and shale (NRCS, 2019).

4.3 Vegetation and Wildlife - Biotic Resources

The proposed borrow and gravel pit lease is located in the Great Basin Native Grassland Savannah Ecosystem of northeast Arizona, an average elevation of 6,500 amsl. Perennial grasses of the grassland biome are represented by the following species: Ring muhly *Mulenburgia torreyi*, Blue grama *Bouteloua gracilis*, Galleta *Hilaria jamesii*, Indian ricegrass *Oryzopsis hymenoides*, Bottlebrush squirrel tail *Sitanion hystrix*, *Needle and thread Stipa comata*, Red-three awn *Aristida longiseta*, and Sand dropseed *Sporobolus cryptandrus*. Alkali sacaton *Sporabolus airoides* can be found in the swales and in the low areas along arroyos and washes (Turner, R.M. & Brown, 1994).

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

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

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

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

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

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

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

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

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

SPECIES/ STATUS	HABITAT ASSOCIATIONS	PRESENCE	
Welsh's Milkweed <i>Asciepias welshii</i> ESA T NESL G3	The specie Inhabits active sand dunes derived from Navajo sandstone in sagebrush, Juniper, & Ponderosa Pine communities, 5,000 to 6,230 elevations. Navajo Nation distribution includes Coconino County, north of Tuba City, south of Monument Valley in Navajo and Apache Counties.	NP - The milkweed is not present on the proposed project area. No milkweed species were observed on the proposed project area. Previous mining activity and existing land uses, i.e., livestock grazing, and highway access, has rendered the area unsuitable for this species habitation. No mitigation measures are recommend- ed for the milkweed.	
K – Known, documented observation within project area.			
S – Suitable habitat and species suspected to occur within the project area.			
NS – Habitat suitable but species is not suspected to occur within the project area.			
NP – Habitat not present and species unlikely to occur within the project area.			

4.5 NAVAJO ENDANGERED SPECIES LIST (NESL) SPECIES OF CONCERN

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

4.5.1 Golden Eagle *Aquila crysaetos* NESL G3, MBTA Species Habitat Associations

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

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

Direct impacts to the Golden Eagle would include the temporary loss of foraging habitat. Given the distance of unknown hunting territories of these raptors and suitable nesting habitat from the proposed location, it is possible that these raptors species may forage in proximity or fly through the proposed project and action areas. Existing & future land uses (livestock grazing, roadway use, housing, & mining) of the property would render the area partially unsuitable for the raptor species.

SPECIES & LISTING	HABITAT ASSOCIATIONS	PRESENCE	
FAUNA			
Golden Eagle <i>Aquila crysaetos</i> NESL G3	The Golden Eagle nests on steep cliffs, normally adjacent to foraging habitat of desert grasslands or desertscrub, that provide primary prey of prairie dogs, cotton tail and jack rabbits (NNHP, 2008). Nests are reused and tend to become a huge mass of sticks and debris. Golden Eagle foraging habitat is present within the propose project area, and action area. Small mammals, such as prairie dogs, jackrabbits, cottontail rabbits, field mice, gophers, etc., are of marginal abundance in the project area.	S - Direct impacts to the Golden Eagle would include the temporary loss of foraging habitat. Given the distance of unknown hunting territories of these raptors and suitable nesting habitat from the proposed location, it is possible that these raptors species may forage in proximity or fly through the proposed project and action areas. Existing & future land uses (livestock grazing, roadway use, housing, & mining) of the property would render the area partially unsuitable for the raptor species.	
Ferruginous Hawk <i>Buteo regalis</i> <i>NESL G3</i>	Nests are located in badlands, flat or rolling desert grasslands, and desertscrub. Most nests on Eastern Navajo Agency are on pinnacles, small buttes, or short cliffs; fewer are placed in tops of juniper trees or on the ground. Foraging habitat for the hawk include populations of prey animals: cottontails, jack rabbits, and prairie dogs. The hawk is a year around resident of the Navajo Nation; most breed in northwestern New Mexico, also in Arizona	NP - Habitat suitable but species is not suspected to occur within the project area. No prairie dog colonies or short grassland occur within the project or action area. The proposed action alternative would have no effect on the listed NESL hawk species or their habitat.	
K - Known, documented of	observation within project area.		
S – Suitable habitat and species suspected to occur within the project area.			
NS – Habitat suitable but species is not suspected to occur within the project area.			
NP – Habitat not present and species unlikely to occur within the project area.			

Table 4. Habitat descriptions and presence of NESL listed (G2 to G4) Navajo Nation species potential to occur on the project area.

Mitigation

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

4.5.2 Ferruginous Hawk Buteo regalis NESL G3

Species Habitat Associations

The Ferruginous Hawk (NESL G3 / MBTA, not listed under the ESA) nests are located in badlands, flat or rolling desert grasslands, and desertscrub. Most nests on Eastern Navajo Agency are on pinnacles, small buttes, or short cliffs; fewer are placed in tops of juniper trees or on the ground. Foraging habitat for the hawk include populations of prey animals: cottontails, jack rabbits, and

prairie dogs. The hawk is a year around resident of the Navajo Nation; most breed in northwestern New Mexico, also in Arizona (NDF&W-NHP, 2008).

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

Direct impacts to the Ferruginous hawk as a result of the proposed project would include foraging habitat loss; trees, shrubs and grass would temporary be destroyed. Indirect impacts may include a short-term change in vegetation species composition and density due to construction surface disturbance, which could affect the prey base for the raptor species. Due to the current activity (nearby existing home site activity, livestock grazing, and vehicle travel) and absence of a prey base, impacts are expected to be low. Raptors would normally avoid the project area during construction and operation due to disturbance and activity from human and vehicle presence.

Mitigation

Construction activities shall be confined to the proposed project area to avoid further disruption of foraging habitat. Should the proposed project require electrical power during construction or operations, the electrical line would be designed according to the Avian Power Line Interaction Committee's *Suggested Practices for Avian Protection on Power Lines*, a guideline for powerline construction. No other direct mitigation is recommended for these species.

4.6 MIGRATORY BIRD TREADY ACT LISTING

Migratory birds and their habitats are protected under the Migratory Bird Treaty Act (MBTA) (16 USC §703-712) and EO 13186. All federal agencies are required to consider management impacts to protect migratory non-game birds. Executive Order 13186 calls for increased efforts to more fully implement the MBTA. The U.S. Fish and Wildlife Service (USFWS) list of Birds of Conservation Concern (BCC) was reviewed, specifically as they pertain to the Colorado Plateau physiographic area. The area indicates there are 27 avian species occurring on the southern Rocky Mountains and Colorado Plateau. See Table 4.

Most priority bird species occur on the USFWS, Division of Migratory Bird Management "Birds of Conservation Concern 2008" (BCC 2008 list). The Service designates the Southern Rockies / Colorado Plateau region as Bird Conservation Region (BCR) 16, which the Navajo Indian Reservation and Eastern Navajo Agency are included.

Although migratory birds could potentially occur in the area, none were observed during the environmental site visit. The proposed action alternative would result in a short-term and small scale loss of vegetation due to construction. This construction project would disturb a faction of the project area, which was previously totally disturbed during previous mining. The proposed project activities are expected to be confined to the project areas. Temporary loss of native vegetation is anticipated at the project area. Eolian deposits of native seed from the undisturbed vegetation would also help to propagate native plant species.
Table 4. U.S. Fish and Wildlife Service, Division of Migratory Bird Management "Bird of Conservation Concern 2008" for the Southern Rockies/ Colorado Plateau (US F&WS, 2008).

SPECIES	SPECIES HABITAT ASSOCIATION EFFECTS		EFFECT RATING	
Gunnison Sage Grouse Centrocercus minimus	Inhabits shrub-steppe dominated by sagebrush that provide canopy cover, shelter, & forage.	No conflict anticipated. Specie not present.	Zero	
American Bittern Botaurus lentiginosus	Wading bird inhabits wetlands, usually dense marsh reeds, rushes and sedges.	Zero		
Bald Eagle Haliaeetus leucocephalus	Nests in old growth ponderosa pine and Douglas fir forest. Forages on fish and waterfowl. Inhabits the coast, rivers, large lakes; also mountains, open country.	Zero		
Ferruginous hawk Buteo regalis	Inhabits open grasslands or desert scrub ecosystems. Nest often occurs on rock spires and butte formations. In woodland edge habitat, nests on flat-topped junipers.	or desert often occurs formations. t, nests on		
Golden Eagle Aqulia crysaetos	Open grasslands or desert scrub, In mountainous canyon terrain. Nest on cliffs and trees	Little conflict anticipated	Low	
Peregrine Falcon Falco peregrinus	Inhabits rugged terrain with rocky cliffs and canyons 30 to 1,000 ft. high, adjacent to rivers lakes, or streams.	Little conflict anticipated	Low	
Prairie Falcon Falco mexicanus	Nests and forages in grassland, and open Juniper Savannah.	Little conflict anticipated	Low	
Snowy Plover Charadrius alexandrinus nivosus/tenuirostris	Shore bird inhabits barren sandy beaches and flats.	Suitable habitat not present, no conflict anticipated.	Zero	
Mountain Plover Charadrius montanus	Inhabits grassland plains; usually found on grassy or bare dirt fields.	Little conflict anticipated	Low	
Long-billed Curlew Numenius americanus	Nests in wet & dry upland fields. In migration, a shore bird of wetlands and agriculture fields.	Tields. In vetlands Suitable habitat not present. Specie not present.		
Yellow-billed Cuckoo Coccyzus americanus	No suitable riparian habitat present. Inhabits open woods, orchards, and streamside willow and alder groves.	No conflict anticipated. Specie not present.	Zero	

Flammulated Owl Otus flammcolus	Inhabits pine-oak woodland, ponderosa pine forest.	Suitable habitat not present.	Zero
Burrowing Owl Athene cunicularia	Inhabits grassland shrub-steppe dominated by mixed grasses. Casual vagrant to prairie dog colonies, occupying abandoned holes.	Not present, Low conflict anticipated.	Low
Lewis's Woodpecker Melanerpes lewis	Inhabits woodland forests of pine-oak. Nests in oak cavities and pine snags. Forages and stores acorns and insects.	No suitable habitat.	Zero
SW Willow Flycatcher Empidonax traillii	Inhabits brushy habitats in wet areas; also in pastures, mountain meadows.	No suitable habitat.	Zero
Gray Vireo Vireo vicinior	Found in juniper savannah and open JP woodland, with scrub component. Inhabits mountains and chaparral- juniper scrubland.	No suitable habitat. No conflict anticipated.	Zero
Pinyon Jay Gymnprjomus cyanocephalus	Juniper Savannah, woodland, pine-oak ecosystems associated with high open habitats w/ openings, scattered trees or shrub components.	A multi ecosystem inhabitant, little conflict anticipated.	Low
Juniper Titmouse Baeolophus ridgwayi	Inhabits juniper-pinyon woodland.	No suitable habitat. Specie not present.	Zero
Veery Catharus fuscescens	Inhabits dense moist woodlands and streamside thickets. Casual in the Southwest.	No suitable habitat.	Zero
Bendire's Thrasher Toxostoma bendirei	Brushy desert shrub, especially areas of tall vegetation, cholla cactus, creosote bush and yucca.	Little conflict antici- pated	Low
Grace's Warbler Dendroica graciae	Inhabits coniferous or mixed forests of southwest mountains, especially yellow pines. Usually forages high in the trees.	No suitable habitat present. Specie not present.	Zero
Brewer's Sparrow Spizella breweri	Inhabits mountain meadows and sagebrush flats.	No conflict anticipated	Zero
Grasshopper Sparrow Ammodramus savannarum	Inhabits moderately open grassland habitats, with patchy bare ground, and avoid areas with extensive shrub cover. Feeds and nests on ground.	Little conflict anticipated.	Low
Chestnut-collared Long- Spur Calcarius ornatus	Inhabits upland grassland, generally found in dense grass; gregarious in fall and winter	Little conflict anticipated.	Low

Black Rosy-Finch Leucosticte atrata	Inhabits high mountains, rocky summits, alpine cirques and snowfields; winters in open country at lower elevations, spreading onto the plains.	No suitable habitat on the project area.	Zero
Brown-capped Rosy Finch Leucosticte australis	Inhabits high mountains, rocky summits, alpine cirques and snowfields; winters in open country at lower elevations, spreading onto the plains	No suitable habitat on the project area.	Zero
Cassin's Finch Carpodacus cassinii	Woodland Ecosystem. Species inhabits evergreen woodlands.	No suitable habitat in project area.	Zero

Once the construction equipment is removed, wildlife and migratory bird species would be expected to return to the area. To avoid any potential effects to migratory bird species or migratory bird habitat, construction of the project would take place outside the nesting season. No long-term loss of vegetation or wildlife habitat is expected.

Mitigation of Migratory Birds

NECA will minimize the possibility of unintentional take of migratory birds. Should the proposed project involve vegetative disturbance (brush and tree removal), no construction activities from May 15 to July 31 will be permitted without a migratory bird nest survey. If any active nests are located within the proposed project area, project activities will not be permitted until written approval by the NNHP biologist. The operator will monitor any active nests located from a nest survey. Following construction activities, the construction staging areas would require reclamation. Avoidance to the breeding season will minimize potential impacts to migratory birds.

4.7 Wetlands Habitat

The US Fish and Wildlife Service Tuba City, AZ National Wetlands Inventory Map was reviewed. The proposed project and action area would not traverse any wetland areas as defined by the USACE Wetlands Delineation Manual of 1987 (USACE, 1987). The atypical existing gravel pit and access roads do not exhibit the required wetland criteria of hydric soils, hydrophilic vegetation and wetland hydrology according to the USACE, 1987 manual. No wetland mitigation measures are recommended for the site.

5.0 CONCLUSIONS

The preferred alternative and project description is logical and desirable. Project engineering feasibility has been considered. Temporary loss of native vegetation is anticipated. Once pit locations are regraded, top soiled & seeded, natural vegetation and wildlife species are expected to return to the area. There is no federally designated critical habitat in vicinity of the pit. No wetland or riparian habitat occurrences. The proposed land use and leasing action would have no effect on threatened, endangered or any sensitive species.

Mitigation Measures

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

The project would remain less-than significant by the following mitigation: 1) Adherence to the AASHTO reclamation standard will minimize potential impacts to disturbed ground cover, including any potential nesting and foraging habitat (American Association State Highway & Transportation Officials (AASHTO) Standards at Section 625, mulching and dryland seed mix, for Federal Projects (FP-03), and Supplemental Specifications). 2) Navajo Engineering and Construction Authority would craft a Clean Water Act § 401 Water Quality Certification and § 402 National Pollution Discharge Elimination System (NPDES) & Stormwater Pollution Prevention Plan (SWPPP) for this approval action. NECA will follow the construction alternative during the CWA consultation with the U.S. Environmental Protection Agency.

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

6.0 LIST OF EA DOCUMENT PREPARERS AND COOPERATING ENTITY/AGENCY

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

PUBLIC CONTACT	TITLE	ORGANIZATION	PRESENT AT ONSITE ?
Leonard Robbins	Environmental Specialist	Denali Environmental Services	Yes
Ammerson Barber	Estimator/Project Coordinator	Navajo Engineering & Construction Authority	Yes
Pam Kyselka	T&E Wildlife Biologist	NDF&W-NHP	No
Dexter D. Prall	GIS Supervisor	NDF&W-NHP	No

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

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Brown, D.E., 1994. *Biotic Communities of Southwestern United States and Northwestern Mexico*. University of Utah Press, Salt Lake City, Utah.

- Navajo Department of Fish and Wildlife (NDF&W RCP), 2008. Biological Resource Land Use Clearance Policies and Procedures (RCP) RCS-44-08, September 10, 2008. Navajo Nation Council Resource Conservation Plan, Biological Resource Land Clearance Policy & Procedure, Navajo Department of Fish and Wildlife, Window Rock, Arizona.
- Navajo Department of Fish and Wildlife, Natural Heritage Program (NDF&W-NHP), 2008. Navajo Nation Endangered Species List, Species Account, Navajo Department of Fish and Wildlife, Natural Heritage Program, Window Rock, Arizona.
- Navajo Nation Department of Fish and Wildlife, Natural Heritage Program, 2019. ESA species list and Navajo Endangered Species List consultation letter from Dexter D. Prall, GIS Supervisor, data request - species listing for the *Kaibito Borrow Pit Project*, NNDF&W, Window Rock, Arizona.
- NECA SWPPP, 2019. Kaibeto Borrow Pit Mining Lease and AHMP Site Stormwater Pollution Prevention Plan, CWA Notice of Intent to file with the U.S. Environmental Protection Agency, Washington DC, Navajo Engineering and Construction Authority, Shiprock, New Mexico.
- U.S. Army Corps of Engineering, 1987. Wetlands Delineation Manual of 1987, U.S. Army Corps of Engineers, Washington D. C.
- U.S. Department of Agriculture, Natural Resource Conservation Service (NRCS), 2019. Navajo Mountain Area, Parts of Apache, Coconino and Navajo Counties, (AZ 711), Soil Survey Website activated January, 2019.
- U.S. Department of the Interior, Fish and Wildlife Service (USF&WS), 1984. *Tuba City, Arizona National Wetlands Inventory Map*, U.S. Department of the Interior, Fish and Wildlife Service, Washington D.C.
- U.S. Department of the Interior, Fish and Wildlife Service (USF&WS), 2008. *Birds of Conservation Concern* USFWS, Division of Migratory Bird Management "Birds of Conservation Concern 2008", (BCC 2008 list). Division of Migratory Bird Management, U.S. Department of the Interior, Fish and Wildlife Services, Arlington, Virginia, activated September 20, 2013.

Pictures



APPENDIX A

Threatened & Endangered Species Data Response Letter

Navajo Department of Fish & Wildlife Division of Natural Resources, Navajo Nation



PO BOX 1480 Window Rock, AZ 86515

P 928.871.6472 F 928.871.7603 www.nndfw.ord

19dan1101

04-January-2019

Leonard Robbins Denali Environmental Services PO Box 1127 Fort Defiance, AZ 86504

SUBJECT: Kaibeto Borrow Pit Mine Lease

Leonard Robbins,

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

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

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

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

Species of concern include protected, candidate, and other rare or otherwise sensitive species, including certain native species and species of economic or cultural significance. For legally protected species, the following tribal and federal statuses are indicated: NESL, federal Endangered Species Act (ESA), Migratory Bird Treaty Act (MBTA), and Eagle Protection Act (EPA). No legal protection is afforded species with only ESA candidate, NESL group 4 status, and species listed on the Sensitive Species List. Please be aware of

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these species during surveys and inform the NNDFW of observations. Reported observations of these species and documenting them in project planning and management is important for conservation and may contribute to ensuring they will not be up listed in the future.

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

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

Species

None

2. Potential Species

Species

AQCH = Aquila chrysaetos / Golden Eagle NESL G3 ASWE = Asclepias welshii / Welsh's Milkweed NESL G3 FT BURE = Buteo regalis / Ferruginous Hawk NESL G3

3.	Quad	Irangle	es (7	.5 N	linut	te)
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Quadrangles

Big Whisker Well (36111-D1) / AZ

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

SITE	EO1MI	EO3MI	QUAD	MSO	POTS	RCP
South Center POB	None	None	Big Whisker Well (36111-D1) / AZ	None	AQCH, ASWE, BURE	Area 3

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

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

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

1. Highly Sensitive Area - recommended no development with few exceptions.

2. Moderately Sensitive Area - moderate restrictions on development to avoid sensitive species/habitats.

3. Less Sensitive Area – fewest restrictions on development.

4. Community Development Area – areas in and around towns with few or no restrictions on development.

5. Biological Preserve - no development unless compatible with the purpose of this area.

6. Recreation Area - no development unless compatible with the purpose of this area.

None - outside the boundaries of the Navajo Nation

This is not intended to be a full description of the RCP please refer to the our website for additional information at <u>www.nndfw.org/clup.htm</u>.

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

<u>Golden and Bald Eagles</u>- If Golden or Bald Eagle are known to occur within 1 mile of the project, decision makers need to ensure that they are not in violation of the *Golden and Bald Eagle Nest Protection Regulations* found at www.nndfw.org/nnhp/docs_reps/gben.pdf.

<u>Ferruginous Hawks</u> – Refer to Navajo Nation Department of Fish and Wildlife's Ferruginous Hawk Management Guidelines for Nest Protection (<u>www.nndfw.org/nnhp/docs_reps.htm</u>) for relevant information on avoiding impacts to Ferruginous Hawks within 1 mile of project location.

<u>Mexican Spotted Owl</u> - Please refer to the Navajo Nation Mexican Spotted Owl Management Plan (<u>www.nndfw.org/nnhp/docs_reps.htm</u>) for relevant information on proper project planning near/within spotted owl protected activity centers and habitat.

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

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

E. Power line Projects – These projects need to ensure that they do not violate the regulations set forth in the Navajo Nation Raptor Electrocution Prevention Regulations found at www.nndfw.org/nnhp/docs_reps/repr.pdf.

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

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

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

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

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

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

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.: Kaibeto Borrow Pit Mining Lease & Asphalt Hot Mix Plant Site

DESCRIPTION: NECA proposes to lease 9.915 acres within an existing unreclaimed ± 14.7 -acre borrow pit.

Excavation and leveling will occur for extracting borrow material, a hot mix plant, and staging area. The use of

explosives will not be necessary for operation of the borrow pit.

LOCATION: T36N, R12E, Sections 25 & 36, South of Kaibeto, Coconino County, Arizona

REPRESENTATIVE: Leonard Robbins, Denali Environmental Services for Navajo Engineering and Construction Authority (NECA)

ACTION AGENCY: Bureau of Indian Affairs and Navajo Nation

B.R. REPORT TITLE / DATE / PREPARER: BE-Kaibeto Borrow Pit Mining Lease & Asphalt Hot Mix Plant

Site/JAN 2019/Leonard Robbins

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: The NNDFW highly recommends that NECA maintains the existing boundary fence during the reclamation to deter livestock grazing until the site is fully reclaimed with native vegetation. CONDITIONS OF COMPLIANCE*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/23 JAN 2019

COPIES TO: (add categories as necessary)

	0	
2 NTC § 164 Recommendation: ☐Approval ☐Conditional Approval (with memo) ☐Disapproval (with memo) ☐Categorical Exclusion (with request ☐None (with memo)	Gloria-M. Tom, Director, Na letter)	Date 6/24/19 vajo Nation Department of Fish and Wildlife

*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



EXHIBIT "H" - FINDING OF NO SIGNIFICANT IMPACT (FONSI)

EXHIBIT "I" – CULTURAL RESOURCES COMPLIANCE FORM

EXHIBIT "J" - ARCHAEOLOGICAL RESOURCES / ARCHAEOLOGICAL CLEARANCE

ARCHAEOLOGICAL INVENTORY REPO	RT DOCUMENTATION PAGE (HPD APR/93)
1. HPD REPORT NO.: 2. (FOR HPD ONL	Y) 3.RECIPIENT'S ACCESSION NO.:
4. TITLE OF REPORT: Cultural Resources Inventory of Proposed Kaibeto Material Borrow	5. FIELDWORK DATES: January 28, 2019
Pit, Kaibeto Chapter, Coconino County, Arizona	6. REPORT DATE: March 4, 2019
Author: Lynn A. Neal	March 20, 2019 (revised)
7. CONSULTANT NAME AND ADDRESS:	8. PERMIT NO. B19004
LA Neal Consulting, LLC 3038 Shonto Trail Flagstaff, Arizona 86005 Ineal@npgcable.com, 928.606.2258	9. CONSULTANT REPORT NO.: 1013-18
10. SPONSOR NAME AND ADDRESS:	11. SPONSOR PROJECT NO.: 1399
Navajo Engineering & Construction Authority PO Box 969 1 Uranium Boulevard	12. AREA OF EFFECT: 9.915 acres
	TOTAL AREA SURVEYED: ~TT acres
13. LOCATION (MAPS ATTACHED)	e. Land Status: Navajo Tribal Trust
a. Chapter: Kaibeto (K'ai'bii'to')	f. UTM coordinates: NAD 83 Datum, Zone 12 495514 E, 4038298 N (SW Corner)
b. Agency: Western Navajo	495714 E, 4038377 N (SE Corner) 495606 E, 4038516 N (NE Corner)
c. County: Coconino	495397 E, 4038539 N (NW Corner)
d. State: Arizona	g. Legal: T36N, R12E, Sec. 25 (S½ NE¼, NE¼ SE¼)
	h: 7.5' Map(s): Big Whisker Well, AZ (2011)
	i. Project Lead Agency: Bureau of Indian Affairs Navajo Region

14. **REPORT:**

a. <u>Description of Undertaking</u>: Navajo Engineering & Construction Authority (NECA) is applying for a mining business site lease to operate a borrow material pit located 7.5 miles south-southeast of Kaibeto. The location has been previously mined in support of Navajo Route 21 (N21) construction. The reopened pit would provide material for planned construction efforts involving N21, N6330, and N6331. Access to the parcel is by way of an existing graded dirt road off N21. The legally surveyed area of potential effects (APE) totals 9.915 acres (5.364 acres mapped as the existing gravel pit, 4.551 mapped as expanded pit area). With buffer around the mapped and marked APE, a cultural resources inventory was conducted covering 11 acres. Upon completion, the site, including the previous mined area, will be reclaimed and reseeded.

b. <u>Existing Data Review</u>: An archival review was performed at the Navajo Nation Heritage and Historic Preservation Department (NNHHPD) office in Window Rock on October 31, 2018. The search identified five previous cultural resources projects conducted within about 300 m of the proposed borrow pit (see table below). Projects HPD-98-495/98-495.1 plot within and at the southern extent of the current project area and presumably were conducted to clear the area for use as a borrow pit. The closest known archaeological site (**AZ-K-40-49**) plots about 180 m southeast of the project area on a 6,500-foot-high mesa finger; no specific information about the site was found in the NNHHPD records at the time of the review nor during follow up with NNHHPD personnel.

HPD Report No.	Reference / Affiliation	Project Title / Description
NTM-77-78.4	Peter W. Bungart & David O. Ortiz / NNAD	Archaeological and Ethnographic Assessment of Sites along Navajo Route N21, Tonalea to Kaibeto (3 sites recorded along N21 south of the project area)
HPD-98-495	Not available	Not available but plots in vicinity of existing borrow pit
HPD-98-495.1	Not available	Not available but plots directly northeast and northwest of HPD-98-495 implying pit expansion
HPD-00-671	Mary Errickson / CASA	Cultural Resources Inventory NAIHS Project NA 99-M79 White Mesa Community Water System, Tonalea and Kaibeto Chapters, Coconino County, Arizona
HPD-00-671.1	Nancy S. Hammack / CASA	Cultural Resources Inventory NAIHS Project NA 99-M79 White Mesa Community Water System, Tonalea and Kaibeto Chapters, Coconino County, Arizona (Area 11)

NNAD = Navajo Nation Archaeology Department, CASA = Complete Archaeological Service Associates

In addition, a traditional cultural properties (TCP) records search was conducted at the NNHHPD Traditional Culture Program office on October 31, 2018. There are no known TCPs within the project area or buffer zone (see signed *TCP Records Search Verification Form*, attached).

c. <u>Area Environmental and Cultural Setting</u>: The 9.915-acre proposed borrow pit / APE is located just east of N21 and south of N6260 within the Kaibeto Chapter and Western Navajo Agency of the Navajo Nation, Coconino County, Arizona. The legal survey reports the project site as protracted within T36N, R12E, Section 25 (NE¼ and SE¼), and it is depicted on the Big Whisker Well, AZ (1981), USGS 7.5-minute quadrangle (*Figure 1*). *Figure 2* illustrates the project aerially showing previous pit disturbance and access off N21 into the proposed pit's southwest corner.

The proposed borrow pit site is located within the White Mesa subprovince of the Colorado Plateau physiographic province (Trapp and Reynolds 1995). The Colorado Plateau is characterized by high elevations, large areas of exposed bedrock, extensive horizontal beds of sedimentary deposits, and areas of volcanic activity. The surficial geology of the project area is characterized by Late to Middle Jurassic rocks of the San Rafael Group consisting of cross-bedded, ledge-forming sandstone and slope-forming siltstone (Richard et al. 2000). More specifically, the borrow pit location is on an alluvial terrace with relatively abundant alluvial gravel/rock and sediment present. The existing pit area is comprised of soil profile Pinavetes-Pinavetes, moderately deep association with 1–15% slopes (NRCS 2008, 2019). Soil texture ranges from sand to loamy sand originating as eolian sands derived from parent sandstone and shale. Elevation in the project area is 6,440 feet at the northwest corner and 6,500 feet at the south edge with overall slope to the north-northwest.

The location has been previously mined and as such has sparse vegetation. The biotic community for the project area is Great Basin Desertscrub with Great Basin Conifer Woodland just to the north and west (Brown 1994). The most common vegetation species observed in and around the project area include several grasses (galleta, blue grama, Indian ricegrass), four-wing saltbush, broom snakeweed, sagebrush, winterfat, rabbitbrush, soapweed yucca, pinyon, and juniper.

d. <u>Field Methods</u>: Inventory of the Kaibeto Borrow Pit was conducted by Lynn A. Neal in January 2019. The project limits were identified in the field using map files obtained from NECA. *Photos 1* and 2 show the project lease area including the existing unreclaimed pit. Much of the area is fenced and was otherwise demarcated by hay bales/wattles and staking/flagging; the fenced area and a buffer around it was covered, resulting in survey of about 11 acres. Any identified cultural resource sites or isolated occurrences (IOs) were plotted on the Big Whisker Well, AZ USGS 7.5–minute quadrangle, and UTM coordinates were obtained using a Garmin GPS device. Project boundary, site, and IO location data were collected using the NAD 83 datum and used to produce property and resource location maps.

15. CULTURAL RESOURCE FINDINGS:

a. <u>Location/Identification of Each Resource</u>: Inventory of the Kaibeto Borrow Material Pit survey area resulted in identification and documentation of one isolated occurrence of unknown prehistoric/ protohistoric temporal affiliation. IO 1 consists of a buff sandstone ground stone fragment with the worked/ground area measuring 7×6.5 cm, and the broken fragment is as much as 4.5 cm thick (*Photos 3a–b*). The UTM coordinates for its location are 495615 E, 4038480 N. A lot of workable lithic material was noted in the vicinity of this IO, both for flaked and ground stone, but this was the only piece showing any signs of modification.

16. MANAGEMENT SUMMARY (RECOMMENDATIONS):

In January 2019 LA Neal Consulting conducted an inventory for the proposed Kaibeto Borrow Material Pit. The inventory resulted in identification of one IO of cultural material. Documentation of the IO has exhausted its information potential, and as such, it is not considered eligible to the National Register of Historic Places and does not require further management consideration.

17. CERTIFICATION:

General & Direct Charge Name: Lynn A. Neal

References:

SIGNATURE:

Brown, David E. (editor)

1994 Biotic Communities: Southwestern United States and Northwestern Mexico. University of Utah Press, Salt Lake City.

Natural Resources Conservation Service (NRCS)

- 2008 Soil Survey of Navajo Mountain Area, Arizona, Parts of Apache, Coconino and Navajo Counties. USDA NRCS, Arizona. Website https://www.nrcs.usda.gov/Internet/FSE_MANUSCRIPTS/ arizona/AZ711/0/Navajo%20Mountain.pdf. Accessed February 2019.
- 2019 Soil Map Navajo Mountain Area, Arizona, Parts of Apache, Coconino and Navajo Counties (AZ711). Website https://websoilsurvey.nrcs.usda.gov. Accessed February 2019.

Richard, S. M., Reynolds, S. J., Spencer, J. E., and Pearthree, P. A., 2000 *Geologic Map of Arizona*. Arizona Geological Survey Map 35, 1:1,000,000 scale. Tucson.

Trapp, Richard A., and Stephen J. Reynolds

1995 Map Showing Names and Outlines of Physiographic Areas in Arizona Used by the Arizona Geologic Survey with Comprehensive Base Map. Arizona Geological Survey Open File Report OFR 95-2a, 1:1,000,000 scale. Tucson.

DATE: <u>March 4, 2019</u>

March 20, 2019 (revised)



Figure 1. Proposed Kaibeto Material Borrow Pit survey area and results (Big Whisker Well, AZ, 7.5-minute USGS quadrangle, T36N, R12E, Section 25).

Kaibeto Borrow Pit

Figure 2. Proposed and existing borrow pit areas as legally surveyed.





Photo 1. Project lease area showing existing borrow pit, view to north from southwest corner and access point.



Photo 2. Project lease area showing existing borrow pit and pit edges, view to southeast from northwest corner.



Photo 3a. IO 1, sandstone suspected ground stone fragment, worked side.



Photo 3b. IO 1, sandstone suspected ground stone fragment, worked side and broken edge.



TRADITIONAL CULTURAL PROPERTY (TCP) RECORD SEARCH VERIFICATION FORM

DATE	OCTOBER 31,2018		
COMPANY	LA Neal Consulting, LLC (LAN)		
PROJECT NAME Kaibito Borrow Pit for N21, N6330, & N6331 Inventory			
PROJECT NUMBER	LAN #_ 1013-18		
PERMIT NUMBER	B19004		
PROJECT LOCATION	On east side of N21 and just south of N6260 about 6.5 miles south-southeast of Kaibito, Coconino County, AZ, T36N, R12E, Section 25 (mostly NE ¹ / ₄)		
USGS QUAD MAP:	Big Whisker Well, AZ (2011)		
A literature search o	f TCP Records at NNHPD on the above date indicates the following:		
There are <u>no</u> T proposed.	CP(s) present within the project area and/or buffer zone. The project may proceed as		
TCP(s) <u>are</u> present within the project area and/or buffer zone. Project may have the potential adversely affect TCP(s). Please document TCP(s) as a summary (with only general location information) in the body reports submitted for review to HPD/CRCS. Give full detail on the TCP Documentation Forms in a separate, and clearly labele confidential appondix.			
Project may proceed with the following stipulations:			
Furth	er consultation is required. Consult with the following:		
There	e are no mitigative measures. Project may not proceed.		
Researcher's Name:	Lynn A Neal, Senior Archaeologist		
NNHPD/TCP Program I	Reviewer:Thy C-ST		

**Return this form along with report to the NNHPD/Compliance Section.

Note: In addition to the TCP Record search, the consultant must demonstrate that a good-faith effort to consult with 1.) Surface user(s): grazing-permit holder(s) (individuals whose consents for right-of-way have been sought by developer); any other residents in or within view of the proposed project area. 2. Chapter(s) within which the proposed project is located: chapter officers and/or delegate(s) of the Navajo Nation Council; at the request of any of these individuals, the developer's consulting anthropologist will also make a presentation at a meeting of general chapter membership. 3. Other knowledgeable people recommended by the present surface user(s), chapter officials, and chapter members.

EXHIBIT "K" – STATEMENT OF PURPOSE

TATEMENT OF PURPOSENavajo Engineering and Construction Authority (NECA) is applying for a mining lease to operate a select borrow material mining pit 6.5 miles south-south east of Kaibeto. The term of the mining lease will be for a period of two-years. The proposed borrow pit is located east of Navajo Route 21 and in Section 25 of Township 36 North, Range 12 East. The location has been previously mined. Access to the parcel will be on an existing Route 21 turnout. This property has sparse vegetation. Upon completion, the site, including the previous mined

areas, will be reclaimed and reseeded with a native seed mix.

Kaibeto borrow pit is on an alluvial terrace with sparse vegetation, approximately 9.915-acres, more or less, in size and lies within Kaibeto Chapter management area in Coconino County, Arizona.

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

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

Temporary erosion controls will be installed and maintained in accordance with the storm water pollution prevention plan for the site. A storm water permit will be obtained from the USEPA for the site. Stripping and stockpiling of the topsoil will be performed as needed before mining operations begin, when the need for material is determined. It is expected that material borrow processing, and stockpiling will commence upon receipt of lease.

We expect that mining, processing, and stockpiling will be continuous until project requirement is met. The hauling of the borrow material will be constant. In general, we expect that hours of operation will be sunup to sundown, Monday through Friday, with the normal shift being 10-hours per day.

From visual observations at the location and the depth of the sand and gravel layers from the previously mined area, we expect to mine 75,464-tons borrow material from the site. We expect to follow the existing shelf as we move across the site.

During mining and aggregate production activities, dust control will be provided by spray bars on processing equipment and water trucks for excavation operations, stockpile and traffic areas within the lease area. When hauling occurs, the traffic areas on which the trucks travel will be watered as need to control dust. Water for dust control will come from the well #1T-0570, a source that has been permitted by the Navajo Nation Department of Water Resources, WUP No. 19.0288. NECA will ensure the operator will comply with air quality requirements of the Navajo Nation during all operations of the Kaibeto borrow pit.

Turning east from N21, access to the material borrow pit will be on an existing turnout. Traffic signs will be posted on N21 warning of truck traffic when hauling is taking place. The existing

gravel and dirt roads will be graded and maintained when the borrow pit is operating. Truckers will be instructed to be considerate of local traffic.

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

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

Upon completion of mining and removal of aggregates from the area, NECA will reclaim and reseed the site with native vegetation. Reclamation will be in accordance with NECA's reclamation plan for the Kaibeto gravel pit, which will be reviewed and approved by the Navajo Nation EPA. Prior to topsoil replacement and seeding, the disturbed areas will be graded to minimize erosion, with no slopes steeper than 3-to-1. Drainage from the terrace flows naturally towards Kaibeto Creek and the Colorado River and that natural drainage will be maintained. The existing access road provides access only to the mine and the existing water utility line, therefore it will be reclaimed.

EXHIBIT "L" - UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ACKNOWLEDGEMENT OF NOTICE OF INTENT (NOI)

EXHIBIT "M" - STORM WATER POLLUTION PREVENTION PLAN

EXHIBIT "N" - SPILL PREVENTION, CONTAMINATION, COUNTERMEASURES PLAN

Tier I Qualified Facility SPCC Plan

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

Facility Description

Facility Name	Kaibeto Yard				
Facility Address	Navajo Route 21, Kaibeto, AZ				
City	Kaibeto	State Tel	AZ	ZIP	86053
County	Coconino	Number	(505) 210-7070 (Fr	ank Sr	nith)
Owner or Operator Name	Navajo Engineering and Construction Authority				
Operator Address	One Uranium Blvd., PO Box 969				
City	Shiprock	State	NM	ZIP	87420
County	San Juan	Tel. Number	(505) 210-7070		

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

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

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

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

- 1. To report any oil discharge to navigable waters or adjoining shorelines to the appropriate authorities. Notification information is included in this Plan.
- 2. To review and amend this Plan whenever there is a material change at the facility that affects the potential for an oil discharge, and at least once every five years. Reviews and amendments are recorded in an attached log [See Five Year Review Log and Technical Amendment Log in Attachments 1.1 and 1.2.]
- 3. Optional use of a contingency plan. A contingency plan:
 - a. May be used in lieu of secondary containment for qualified oil-filled operational equipment, in accordance with the requirements under §112.7(k), and;
 - b. Must be prepared for flowlines and/or intra-facility gathering lines which do not have secondary containment at an oil production facility, and;
 - c. Must include an established and documented inspection or monitoring program; must follow the provisions of 40 CFR part 109; and must include a written commitment of manpower, equipment and materials to expeditiously remove any quantity of oil discharged that may be harmful. If applicable, a copy of the contingency plan and any additional documentation will be attached to this Plan as Attachment 2.

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

Signature Frank Smith Name Signature Name Daniel Goutrieau

Construction Manager	
12/27/2018	
	Construction Manager

Title: NECA Safety Manager 12/28/18 Date:

II. Record of Plan Review and Amendments

1997 - H (s. 1997)

Five Year Review (§112.5(b)):

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

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

III. Plan Requirements

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

Table G-2 Oil Sto	Table G-2 Oil Storage Containers and Capacities				
This table includes a complete list of all oil storage containers (aboveground containers ^a and completely buried tanks ^b) with capacity of 55 U.S. gallons or more, unless otherwise exempt from the rule. For mobile/portable containers, an estimated number of containers, types of oil, and anticipated capacities are provided.					
Oil Storage Container (indicate whether aboveground (A) or completely buried (B))	Type of Oil	Shell Capacity (ga	llons)		
A – Steel tank mounted on skids	Diesel, off road	>5,000			
B – Steel tank mounted on skids	Gasoline	1,800			
Total Aboveground Storage Capacity °		<u>6,800</u> ga	llons		
Total C	Facility Total Oil Storage Capacity	ga 	llons		

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

^c Counts toward qualified facility applicability threshold.

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

Table G-3 Secondary Containment and Oil Spill Control

Appropriate secondary containment and/or diversionary structures or equipment^a is provided for all oil handling containers, equipment, and transfer areas to prevent a discharge to navigable waters or adjoining shorelines. The entire secondary containment system, including walls and floor, is capable of containing oil and is constructed so that any discharge from a primary containment system, such as a tank or pipe, will not escape the containment system before cleanup occurs.

^a Use one of the following methods of secondary containment or its equivalent: (1) Dikes, berms, or retaining walls sufficiently impervious to contain oil; (2) Curbing; (3) Culverting, gutters, or other drainage systems; (4) Weirs, booms, or other barriers; (5) Spill diversion ponds; (6) Retention ponds; or (7) Sorbent materials.
Table G-4 below identifies the tanks and containers at the facility with the potential for an oil discharge; the mode of failure; the flow direction and potential quantity of the discharge; and the secondary containment method and containment capacity that is provided.

Area Type of failure (discharge scenario) Potential discharge volume (gallons) Direction of flow for uncontained discharge volume (gallons) Secondary containment methoda Secondary containment methoda Bulk Storage Containers and Mobile/Portable Containers ^b Image: Secondary containers Image: Secondary containers Image: Secondary containers Generational Containers and Mobile/Portable Containers ^b Image: Secondary containers Image: Secondary containers Image: Secondary Containers and Mobile/Portable Containers ^b Image: Secondary containers Image: Secondary containers Image: Secondary Containers and Mobile/Portable Containers ^b Image: Secondary containers Image: Secondary containers Image: Secondary Containers and Mobile/Portable Containers ^b Image: Secondary Containers Image: Secondary Containers Image: Secondary Containers and Mobile/Portable Containers ^b Image: Secondary Containers Image: Secondary Containers Image: Secondary Containers and Mobile/Portable Containers ^b Image: Secondary Containers Image: Secondary Containers Image: Secondary Containers and Mobile/Portable Containers ^b Image: Secondary Containers Image: Secondary Containers Image: Secondary Containers and Mobile/Portable Containers ^b Image: Secondary Containers Image: Secondary Containers Image: Secondary Containers and M
Bulk Storage Containers and Mobile/Portable Containers ^b
Image: Sector of the sector
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Oil-filled Operational Equipment (e.g., hydraulic equipment, transformers)°
Oil-filled Operational Equipment (e.g., hydraulic equipment, transformers) ^c
Oil-filled Operational Equipment (e.g., hydraulic equipment, transformers) ^c
Oil-filled Operational Equipment (e.g., hydraulic equipment, transformers) ^c
Oil-filled Operational Equipment (e.g., hydraulic equipment, transformers)°
Aboveground nining between diesel and
Aboveground piping between dieser and Fitting leak or failure 1 1 10,000
Product Transfer Areas (location where oil is loaded to or from a container, pipe or other piece of equipment.)
Refueling areas for the service truck: Receiving tank overfill, fitting leak 1-15 Spill kit Absorbs up to 25
Diesel dispenser in the construction yard of failure, fuel transfer flose failure
Relueing areas at the company vehicle receiving tank overini, nung loak 1-15 Spill kit Absorbs up to 25
Office Among an Oil Filled Equipment (a.g. flow through process vessels at an oil production facility)
Other Oil-Handling Areas or Oil-Filled Equipment (e.g. now-through process vessels at an oil production racinty)
None

^a Use one of the following methods of secondary containment or its equivalent: (1) Dikes, berms, or retaining walls sufficiently impervious to contain oil; (2) Curbing; (3) Culverting, gutters, or other drainage systems; (4) Weirs, booms, or other barriers; (5) Spill diversion ponds; (6) Retention ponds; or (7) Sorbent materials.

^b For storage tanks and bulk storage containers, the secondary containment capacity must be at least the capacity of the largest container plus additional capacity to contain rainfall or other precipitation. ^c For oil-filled operational equipment: Document in the table above if alternative measures to secondary containment (as described in §112.7(k)) are implemented at the facility.

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

Table G-5 Inspections, Testing, Recordkeeping and Personnel Training				
An inspection and/or testing program is implemented for all above ground bulk storage containers and piping at this facility. [§§112.8(c)(6) and (d)(4), 112.9(c)(3), 112.12(c)(6) and (d)(4)]				
The following is a description of the inspection and/or testing program (e.g. reference to industry standard utilized, scope, frequency, method of inspection or test, and person conducting the inspection) for all aboveground bulk storage containers and piping at this facility:				
 An assigned knowledgeable employee does periodic visual inspections of the aboveground oil storage containers, including all aboveground container piping using Attachment 3.1 to document inspections; records of inspections consist of the monthly inspection checklist and the annual inspection checklist in the Steel Tank Institute (STI) SP001 inspection standard. Visual inspections of oil storage containers follow the inspection schedule in Attachment 3.2 of this plan. 				
2) The liquid level gauges on the off-road diesel, on-road diesel, and gasoline ASTs are also adjusted, tested, and inspected monthly following the gauge manufacturer's procedures by the assigned worker; Attachment 3.1 documents these inspections.				
 An assigned knowledgeable employee also visually inspects the dispensers at the Fuel Transfer Area for indications of deterioration and discharges, including the transfer hoses and fittings, at least monthly. 				
 4) The assigned knowledgeable employee will inspect the earthen berm containments on a weekly basis for signs of deterioration, discharges (leaking tanks or piping), or accumulation of oil. In addition the assigned knowledgeable employee inspect the berm containments after any heavy rainfall. These inspections are documented in Attachment 3.1. As the berm containments do not have drains, the collected rain is pumped from the berm containments by using a portable pump but only after the inspection shows that there is no oil or oil sheen present. If oil or oil sheen is detected on rainwater in the berm, then oily rainwater is pumped into the 250-gal waste oil tote for disposal by the waste oil hauler contractor or the contractor is requested to remove the oily rainwater in the berm contents for disposal. Each drainage activity is recorded in Attachment 3.3. Record keeping for disposal of waste oil or oil-contaminated water accumulated in the berm area is in Attachment 3.3 of this plan. 5) If employee encounters a spill during an inspection of the oil storage or transfer equipment, the employee will 				
immediately take the necessary actions outlined in Table G-7.				
Inspections, tests, and records are conducted in accordance with written procedures developed for the facility. Records of inspections and tests kept under usual and customary business practices will suffice for purposes of this paragraph. [§112.7(e)]				
A record of the inspections and tests are kept at the facility or with the SPCC Plan for a period of three years. [§112.7(e)] [See Inspection Log and Schedule in Attachment 3.1].				
Inspections and tests are signed by the appropriate supervisor or inspector. [§112.7(e)]	\boxtimes			
Personnel, training, and discharge prevention procedures [§112.7(f)]				
Oil-handling personnel are trained in the operation and maintenance of equipment to prevent discharges; discharge procedure protocols; applicable pollution control laws, rules, and regulations; general facility operations; and, the contents of the facility SPCC Plan. [§112.7(f)]				
A person who reports to facility management is designated and accountable for discharge prevention. [§112.7(f)]	\boxtimes			
Name/Title:Byron Smith, NECA Field Safety Officer				
Discharge prevention briefings are conducted for oil-handling personnel annually to assure adequate understanding of the SPCC Plan for that facility. Such briefings highlight and describe past reportable discharges or failures, malfunctioning components, and any recently developed precautionary measures. [§112.7(f)] [See Oil-handling Personnel Training and Briefing Log in Attachment 3.4]				

4. Security (excluding oil production facilities) §112.7(g):

Table G-6 Implementation and Description of Security Me	asures
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Security measures are implemented at this facility to prevent unauthorized access to oil handling, processing, and storage area.

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

- 1) All residences and dwellings will be about 200 yards away with a full view of the fuel storage and transfer area. If there was a spill, yard employees would be close by to smell the fuel.
- 2) Tank fill pipes are capped and locked when not in use; these tanks do not have drain valves.
- 3) Fuel dispensers and their pump control switches are locked when not in use.
- 4) The drums and totes are located in the shop, which is locked when not in use.
- 5) Mobile fuel truck and the pick-up truck with tank are parked in a lined area, which is locked when they are not in use.

5. Emergency Procedures and Notifications (§112.7(a)(3)(iv) and 112.7(a)(5)):

Table G-7 Description of Emergency Procedures and Notifications

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

- 1) Shutdown pumping in event of a spill during fuel transfer operation.
- 2) Eliminate potential sources of ignition such as open flames or sparks.
- 3) If possible, safe, and trained to do so, identify and secure source of the discharge and contain the discharge with sorbents, sandbags, or other material from the spill kits.
 - a. The main spill kit is in the area opposite the fuel dispensers at the fuel storage and transfer area.
 - b. A spill kit is in the field office
 - c. Storage shed has a spill kit.
 - d. A spill kit is in the Oiler/Service truck

4) Contact regulatory authorities and other response personnel and organizations (see subsection 6).

6. Contact List (§112.7(a)(3)(vi)):

Table G-8 Contact List			
Contact Organization / Person	Telephone Number		
National Response Center (NRC)	1-800-424-8802		
Cleanup Contractor(s)			
ENVIROTECH, INC.	(505) 632-0615		
Key Facility Personnel			
Designated Person Accountable for Discharge Prevention; Frank Smith (subject to change)	Office: (505) 210-7070		
	Emergency: (970) 759-3961		
Malcolm Tsosie	Office: (505) 210-7029		
Field Safety Officer	Emergency: (505) 406-2970 (cell phone)		
Lee B. Roy	Office: (505) 210-7040		
NECA Environmental Field Officer	Emergency: (928) 205-1180 (cell phone)		
State Oil Pollution Control Agencies	(602) 390-7894 Emergencies		
Arizona Department of Environmental Quality (ADEQ)	(602) 771-2330 Spill Reporting (8am-5pm)		
Federal and Tribal Agencies	Office: (928) 871-7994		
Mr. Todd Reber, Regional Safety Officer	Emergency: (505) 863-8316 Office		
	(505) 796-2918 Cell Phone		
Tuba City Fire Department Tuba City, AZ	(928) 283-3007		
Local Police Department			
Tuba City Police Department Tuba City, AZ	(928) 283-3111		
Hospital			
Inscription House Health Clinic	(928) 672-3000		
Navajo EMS Inscription House, AZ	(928) 672-3017		
Other Contact References (e.g., downstream water			
Intakes or neighboring facilities)	(928) 673-5852		
Kaibeto Chapter House			
Navaio Department of Transportation	(505) 371-8300		
Tse Bonito, NM			
	((928) 774-1491		
Arizona Department of Transportation			

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

Table G-9 NRC Notification Procedure			
In the event of a discharge of oil to navigable waters or adj in Attachment 4 will be provided to the National Response discharge to navigable waters or adjoining shorelines [See [§112.7(a)(4)]	joining shorelines, the following information identified Center immediately following identification of a Discharge Notification Form in Attachment 4]:		
 The exact address or location and phone number of the facility; Date and time of the discharge; Type of material discharged; Estimate of the total quantity discharged; Estimate of the quantity discharged to navigable waters; Source of the discharge; 	 Description of all affected media; Cause of the discharge; Any damages or injuries caused by the discharge; Actions being used to stop, remove, and mitigate t effects of the discharge; Whether an evacuation may be needed; and Names of individuals and/or organizations who har also been contacted. 	the	

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

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

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

You must submit the following information to the EPA RA:

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

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

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

Table G-10 General Rule Requirements for Onshore Facilities		N/A	
Drainage from diked storage areas is restrained by valves to prevent a discharge into the drainage system or facility effluent treatment system, except where facility systems are designed to control such discharge. Diked areas may be emptied by pumps or ejectors that must be manually activated after			
inspecting the condition of the accumulation to ensure no oil will be discharged. [§§112.8(b)(1) and 112.12(b)(1)]			
Valves of manual, open-and-closed design are used for the drainage of diked areas. [§§112.8(b)(2) and 112.12(b)(2)]		X	
The containers at the facility are compatible with materials stored and conditions of storage such as pressure and temperature. [§§112.8(c)(1) and 112.12(c)(1)]	X		
Secondary containment for the bulk storage containers (including mobile/portable oil storage containers) holds the capacity of the largest container plus additional capacity to contain precipitation. Mobile or portable oil storage containers are positioned to prevent a discharge as described in §112.1(b). [§112.6(a)(3)(ii)]	K		
If uncontaminated rainwater from diked areas drains into a storm drain or open watercourse the following procedures will be implemented at the facility: [§§112.8(c)(3) and 112.12(c)(3)]		elini 'a V	
Bypass valve is normally sealed closed		X	
 Retained rainwater is inspected to ensure that its presence will not cause a discharge to navigable waters or adjoining shorelines 	Ň		
 Bypass valve is opened and resealed under responsible supervision 		X	
 Adequate records of drainage are kept [See Dike Drainage Log in Attachment 3.3] 	x		
Each aboveground bulk container is tested or inspected for integrity on a regular schedule and whenever material repairs are made. Scope and frequency of the inspections and inspector qualifications are in accordance with industry standards. Container supports and foundations are regularly inspected. [See Inspection Log and Schedule and Bulk Storage Container Inspection Schedule in Attachments 3.1 and 3.2] [§112.8(c)(6) and §112.12(c)(6)(i)]	X		
Outsides of bulk storage containers are frequently inspected for signs of deterioration, discharges, or accumulation of oil inside diked areas. [See Inspection Log and Schedule in Attachment 3.1] [§§112.8(c)(6) and 112.12(c)(6)]	K		
For bulk containers that are subject to 21 CFR part 110 which are shop-fabricated, constructed of austenitic stainless steel, elevated and have no external insulation, formal visual inspection is conducted on a regular schedule. Appropriate qualification for personnel preforming tests and inspections are documented [See Inspection Log and Schedule and Bulk Storage Container Schedule in Attachments 3.1 and 3.2] [§ 112.12 ©(6)(ii)]		X	

ver	1-E-000	-3-18-10
Table G-10 General Rule Requirements for Onshore Facilities		N/A
Each container is provided with a system or documented procedure to prevent overfills for the container. Describe:		
 Tank truck fuel delivery procedures: 1) Gauge AST and check the level gauge to prevent tank overfill. 2) Set parking brake and use chock blocks to prevent movement; inspect fittings and fueling hose for damage. 3) Place drip pans under valve-hose fitting connections. 4) Monitor the liquid level in the receiving tank during transfer to prevent tank overfill. 5) If an oil spill occurs, the spill kit will be used to contain the spill. Main spill kit is located opposite the fuel dispensers at the fuel storage and transfer area. 		54.0
 Dispenser and mobile refueler fueling procedures: 1) Before filling motorized equipment, shutoff all engines and set parking brakes; do not leave filling operation unattended. 2) Do not top off tank after automatic shut-off. 3) If an oil spill occurs, the spill kit will be used to contain the spill. Transfers into waste oil tote: Transfer all waste oil into the tote fill port using a funnel. If an oil spill occurs, the spill kit in the shop will be used to contain the spill. 		
Liquid level sensing devices are regularly tested to ensure proper operation [See Inspection Log Schedule in Attachment 3.1] [§§112.6(a)(3)(iii)]		
Visible discharges which result in a loss of oil from the container, including but not limited to seams, gaskets, piping, pumps, valves, rivets, and bolts are promptly corrected and oil in diked areas is promptly removed. [§§112.8(c)(10) and 112.12(c)(10)]		
Aboveground valves, piping, and appurtenances such as flange joints, expansion joints, valve glands and bodies, catch pans, pipeline supports, locking of valves, and metal surfaces are inspected regularly. [See Inspection Log and Schedule in Attachment 3.1] [§§112.8(d)(4) and 112.12(d)(4)]		
Integrity and leak testing are conducted on buried piping at the time of installation, modification, construction, relocation, or replacement. [See Inspection Log and Schedule in Attachment 3.1] [§§112.8(d)(4) and 112.12(d)(4)]		

ATTACHMENT 1.1 – Five Year Review Log

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

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

Table G-13 Review and Evaluation of SPCC Plan for Facility				
Review Date	eview Date Plan Amendment		Name and signature of person authorized to review this	
	Will Amend	Will Not Amend	Plan	

ATTACHMENT 1.2 – Technical Amendment Log

Any technical amendments to this Plan will be re-certified in accordance with Section 1 of this Plan template.

Table G-15 Description and Certification of Technical Amendments			
Review	Description of Technical Amendment	Name and signature of person certifying this	
Date		technical amendment	

 \Box

ATTACHMENT 2 – Oil Spill Contingency Plan and Checklist;

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

- Flowlines and intra-facility gathering lines at oil production facilities and
- Qualified oil-filled operational equipment which has no secondary containment.

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

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

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

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

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

ATTACHMENT 3 – Inspections, Dike Drainage and Personnel Training Logs

ATTACHMENT 3.1 - Inspection Log and Schedule

Table G-16 Inspection Log and Schedule This log is intended to document compliance with §§112.6(a)(3)(iii), 112.8(c)(6), 112.8(d)(4), 112.9(b)(2), 112.9(c)(3), 112.9(d)(1), 112.9(d)(4), 112.12 (c)(6), and 112.12(d)(4), as applicable.					
Date of Inspection	Container / Piping / Equipment	Describe Scope (or cite Industry Standard)	Observations	Name/ Signature of Inspector	Records maintained separately ^a
	Aboveground pipes	Visual Inspection			
	ASTs	Visual inspections (STI SP001, Standard for the Inspection of Aboveground Storage Tanks)			
	Secondary containment earth berm	Weekly visual inspections and after heavy rainfall			
	Dispensers	Inspections (manufacturer and installer instuctions)			

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

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

Table G-17 Bulk Storage Container Inspection Schedule			
Container Size and Design Specification	Inspection requirement		
Portable containers (including drums, totes, and intermodal bulk containers (IBC)):	Visually inspect monthly for signs of deterioration, discharges or accumulation of oil inside containment pallets		
55 to 1,100 gallons with sized secondary containment:	Visually inspect monthly for signs of deterioration, discharges or accumulation of oil inside diked areas plus any annual inspection elements per industry inspection standards		
1,101 to 5,000 gallons with sized secondary containment and a means of leak detection ^a :			
1,101 to 5,000 gallons with sized secondary containment and no method of leak detectiona:	Visually inspect monthly for signs of deterioration, discharges or accumulation of oil inside diked areas, plus any annual inspection elements and other specific integrity tests that may be required per industry inspection standards		

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

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

ATTACHMENT 3.3 - Dike Drainage Log

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				Table G-18	Dike Drainage Log	
Date	Bypass valve sealed closed	Rainwater inspected to be sure no oil (or sheen) is visible	Open bypass valve and reseal it following drainage	Drainage activity supervised	Observations	Signature of Inspector

ATTACHMENT 3.3 - Dike Drainage Log

2

				Table G-18	Dike Drainage Log	
Date	Bypass valve sealed closed	Rainwater inspected to be sure no oil (or sheen) is visible	Open bypass valve and reseal it following drainage	Drainage activity supervised	Observations	Signature of Inspector

ATTACHMENT 3.4 – Oil-handling Personnel Training and Briefing Log

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	Table G-19 Oil-Handling Person	nel Training and Briefing Log
Date	Description / Scope	Attendees
-		

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

Table G-20 Information pro	ovided to the National Re	esponse Center in the Eve	ent of a Discharge
Discharge/Discovery Date		Time	
Facility Name			
,			
Facility Location (Address/Lat-			
Long/Section Township Range)			
Name of reporting individual		Telephone #	
Type of material discharged		Estimated total quantity discharged	Gallons/Barrels
Source of the discharge		Media affected	🗌 Soil
			Water (specify)
			Other (specify)
Actions taken		9	
Damage or injuries	🗌 No 🗍 Yes (specify)	Evacuation needed?	No Yes (specify)
Organizations and individuals	National Response (Contor 800 424 8802 Time	
contacted			
		Specity) Time	
	Facility personnel (S	pecify) Time	
		E. A. 1971	
	State Agency (Speci	ry) Lime	
	Other (Specify) Time		





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EXHIBIT "O" - MINING, HOT ASPHALTIC CONCRETE PAVEMENT, AND RECLAMATION PLAN

Kaibeto Material Borrow Pit Plan of Operations: Mining, Hot Asphaltic Concrete Pavement Production Plant and Reclamation

Navajo Engineering and Construction Authority

March 2019

Mining, Hot Asphaltic Concrete Pavement Production Plant, and Reclamation Plan of Operations

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1.0 - SCOPE AND LOCATION

1.1 Proponent

The Navajo Engineering and Construction Authority (NECA) was awarded Navajo Nation Department of Transportation (NNDOT) Contract to upgrade and pave approximately 3.2-miles of Navajo Route N21, N6330, and N6331 within the immediate Kaibeto Chapter area. A temporary construction yard and an open water storage tank will be established within the immediate Kaibeto Chapter area. Also, the NECA proposes to use 9.915-acres of the Navajo Trust Lands approximately 6.5-miles south of the Kaibeto Chapter to establish a dual purpose construction site: a borrow mine and a temporary Hot Plant site. Planning activities include surveying and staking, pre-engineering, Right-of-Way and archaeological clearances, environmental assessments, and other pre-construction activities for Hot Asphaltic Concrete Pavement (HACP) hot batch plant. This plan outlines the anticipated mining operations and processing hot asphaltic concrete pavement product involved at the proposed temporary land withdrawal. The contact person for NECA is:

Manager of Engineering – Mr. Brett Grubbs 1 Uranium Boulevard Shiprock, New Mexico 87420 505-210-7070

1.2 Location

The borrow mining and temporary hot plant site are is located in Section 25, Township 36 North, Range 12 East, Gila & Salt River Meridian, approximately 6.5-miles south of the Kaibeto Chapter, Navajo Nation, Coconino County, Arizona. The proposed area is shown in Figure 1 and legally described in Figure 2.

The construction yard office for roads N21, N6330, and N6331 is located in Section 26, T-37-N R-12-E, Gila and Salt River Meridian, within the immediate Kaibeto Chapter area, Navajo Nation, Coconino County, Arizona.



Figure 1 – General Location of NECA Kaibeto Material Borrow Pit in relation to Kaibeto, Arizona.



Figure 2 - Metes and Bound Kaibeto Material Borrow Pit

1.3 Schedule

Construction activity in the processing area will be on-going during the construction period. The construction area is schedule to be used for a period of 2 years.

Pre-mining activities is expected to begin immediately upon receipt of the mining lease. These activities include surveying and staking, importing excavating equipment, office trailers, cordoning off mining areas, and other activities as necessary to mining.

The borrow mine, located approximately 6.5-miles south of Kaibeto Chapter, will be used to extract 50,309-cubic-yards of borrow material. The mining start date is dependent upon the Navajo Nation approving and issuing of a mining lease. Preliminary construction schedule (Figure 3) submitted to the NNDOT has material borrow placement to start in mid-July and completed by August 2019. Once it is determined that the road subgrades are at a satisfactory elevation, in accordance with project specifications, the borrow mining will cease and a temporary Hot Plant Site Construction Yard will be established to serve as a HACP processing area, an aggregate stock pile area, heavy equipment vehicle turnaround, a construction office, and a place to house security personnel.

Once mining activities are finished, around September 2019, NECA expects to set up the hot plant for the construction of hot asphaltic concrete pavement (HACP) material. This activity will include setting up the batch plant equipment, aggregate material, oil tanks, and other equipment.

HACP placing is scheduled to occur in late 30 January 2020 through 20 February 2020, as shown in items 58 through 63 of Figure 3.

When HACP has been produced and placed, the hot plant equipment will be remobilized to NECA equipment yard in Shiprock or another location. Final reclamation will begin as described in section 3.0 – Reclamation Plan.



Figure 3 - Preliminary Construction Schedule



Figure 4 - Preliminary Construction Schedule

2.0 – OPERATIONS

For the ease of establishing this new project, NECA will be focusing on the following major areas: Training, Site Preparation, Mining, and Hot Asphaltic Concrete Pavement Production Plant.

2.1 Training

2.1.1 NECA Safety Training

NECA Safety Department conducts in-house training for NECA employees. The required topics of training and certification are shown in Figure 5.





2.1.2 NECA SWPPP Training

NECA also conducts in-house training regarding storm water pollution prevention plan (SWPPP), per National Pollutant Discharge Elimination System (NPDES) requirements, for the qualification of employees that will be assigned SWPP maintenance and management responsibilities.

- Construction General Permit (Federal)
- Air Quality Permit (Federal / Navajo Nation)
- Multi-Section General Permit (Federal)
- Low Threat General Permit (Federal / Navajo Nation)

2.1.3 MSHA Training

NECA personnel that will be assigned duties related to or will be accessing the material borrow site will be Mining Safety and Health Administration (MSHA) trained and certified prior to entry active operations. To date, the following NECA personnel have received MSHA training and certified:

- Patrick Martinez
- Quinn Montoya •
- Ammerson T. Barber
- Herman Patterson
- Frank W. Smith
- Lee B. Roy, Sr.
- Averall Lansing
- Donavan Sam •

Harrison Begay ٠ Marvin Tsosie

• Calvert Van Owen

- Jimmy Tsosie
- Christine C. Padilla
- Ernest Light
- Malcolm Tsosie
- Jonas A. Begay ٠

- ٠ Henry Joe
- Verdell Begay ٠
- Harold Keesie
- Kee B. Yoe, Jr.
- Lafey A. Leonard
- Daniel L. Gourneau
- Byron R. Smith ٠
- Lemuel D. Benallie

NECA employees and subcontractor employees who are not MSHA trained and certified will be instructed to remain in their vehicle at all times.

All required training will be completed, prior to active operations and remain current for all assigned mining personnel during the life of the mine.

2.2 Site Preparation

2.2.1 Fencing

The material borrow tract site was previously fenced off to prevent encroachment onto known archaeological sites (Appendix 4.5) and for reclamation activities. The existing fence will remain to prevent stray access by people and livestock.

2.2.2 Site Security

NECA will employ four personnel for security and will man the site during periods of site inactivity. The mining site will be manned 24 hours per day per 7-days a week.

2.2.3 Surveying

NECA surveyors will survey the borrow site original elevation before any disturbing mining activities occur. This data will be compared to the final survey data after all borrow material requirement has been met. NECA will submit the final survey data to the Navajo Nation Department of Transportation (NNDOT) determining the volume of borrow material extracted (Section 2.10).

2.2.4 Overburden

The project mining operation will produce some amount of overburden or waste sands that will not have been used. The overburden will be stored on site and used as berms, in accordance with 30 CFR 56.9300 and 57.9300.

Upon completion of the construction activities, the stockpiled overburden will be spread over the site for reclamation wherever possible in accordance with the Reclamation Plan. The stockpile of the overburden material will be sprayed periodically with sufficient water in accordance with emissions standards to minimize the amount of particles becoming airborne.

2.2.5 Solid Waste

NECA anticipates that there will be minimal solid waste produced from the mining activities and hotasphaltic concrete pavement production activity. The waste produced will be general office waste and, this generated waste will be disposed at the main construction yard in Kaibeto. This overall waste will be delivered by Navajo Sanitation to an approved landfill.

2.2.6 Power Source

Electrical Power to support the office building, screening equipment, and related mining infrastructure will be provided by diesel generator. It is anticipated the diesel power generator will have up to a 750-kilowatt capacity. Fuel for this type of generator is number 2 diesel fuel and will be refueled from a NECA service truck on a daily basis. The tank will have proper containment as described in Appendix 4.2.

2.2.7 Fuel Storage

Diesel fuel, lubricant oils, hydraulic oil, coolant, and grease will not be stored on site but will be stored at the Kaibeto construction yard. Fuel storage is further described in Appendix 4.2 – SPCC Plan.

2.2.8 Production Water

There is one water production (pumping) well currently north of the proposed borrow site. A Navajo Nation Department of Water Resources Water Permit – WUP No. 19.0288 (Figure 4) – has been obtained for the road construction project. Reported sustained pumping water rates for this well is approximately 75 gallons per minute (gpm). It is anticipated that the demand for the mining can be satisfied by this existing well. The project will use water daily for the following usages: Control fugitive dust on access road and throughout the working area.

Water trucks will transport water onsite for use as the primary means of dust control on access roads and within the proposed project boundaries.

The maximum "worst case scenario" estimated water usage for dust control is 32,000 gallons per day, 5 days a week, for approximately 40 weeks. The estimated total gross water use required for the duration of the project is 6,400,000 gallons.

CoderCoe.DWR Bertment of Water Resources Fertilial, Construction and Operations Branch For Defrates, Arisona 86504 Ph. No. (929) 729-1432 / Fax No. (929) 729-1422 / Fax No. (920) 72019 / Fax No. (920) 72010 / Fax
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Figure 6 - Water Use Permit #19.0288, Page 1

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Figure 7 - Water Use Permit # 19.0288
2.2.9 Storm Water Pollution Prevention Plan

A Storm Water Pollution Prevention Plan (SWPPP) is required for the mining activities. A SWPPP for the site has been submitted to the NNDOT for review and approval (Appendix 4.1). When approved, this SWPPP will be implemented, monitored and revised as necessary through the life of the project construction activities.

Best Management Practices will be employed to treat, prevent, or reduce water pollution at water egress locations, track-walking those steep slopes, and/or reducing slopes to slow the water-flow velocity. This will be attained through the use of temporary BMPs such as straw wattles or other methods approved by the Navajo Nation Department of Transportation.

2.2.10 Emergency Plan for Spills

A Spill Prevention, Control, and Countermeasure Plan (SPCC) assembled for the overall project includes the mining activities. In the event of a spill or other accidental discharge, the on-site Emergency Coordinator will direct an immediate cleanup and notify the proper authorities. A copy of the SPCC plan and emergency phone numbers will remain on site, placed in a readily accessible area and will be included as an appendix to this plan of operation. This information is found in Figure 6.

6. Contact List (§112.7(a)(3)(vi)):

Table G-8 Contact List					
Contact Organization / Person	Telephone Number				
National Response Center (NRC)	1-800-424-8802				
Cleanup Contractor(s)					
ENVIROTECH, INC.	(505) 632-0615				
Key Facility Personnel					
Designated Person Accountable for Discharge Prevention: Frank Smith (subject to change)	Office: (505) 210-7070				
	Emergency: (970) 759-3961				
Malcolm Tsosie	Office: (505) 210-7029				
Field Safety Officer	Emergency: (505) 406-2970 (cell phone)				
Lee B. Roy	Office: (505) 210-7040				
NECA Environmental Field Officer	Emergency: (928) 205-1180 (cell phone)				
State Oil Pollution Control Agencies	(602) 390-7894 Emergencies				
Arizona Department of Environmental Quality (ADEQ)	(602) 771-2330 Spill Reporting (8am-5pm)				
Federal and Tribal Agencies	Office: (928) 871-7994				
Mr. Todd Reber, Regional Safety Officer	Emergency: (505) 863-8316 Office				
	(505) 796-2918 Cell Phone				
Level Fire Department					
Local Fire Department					
Tuba City Fire Department Tuba City, AZ	(928) 283-3007				
Local Police Department					
Tuba City Police Department Tuba City, AZ	(928) 283-3111				
Hospital					
Inscription House Health Clinic	(928) 672-3000				
Navajo EMS Inscription House, AZ	(928) 672-3017				
Other Contact References (e.g., downstream water intakes or neighboring facilities)					
Kaibeto Chapter House	(928) 673-5852				
Navajo Department of Transportation Tse Bonito, NM	(505) 371-8300				
Arizona Department of Transportation Flagstaff, AZ	((928) 774-1491				

Facility Name: NECA Kaibeto Yard

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Tier I Qualified Facility SPCC Plan

2.3 Mining

2.3.1 Equipment

The proposed mining methods will include equipment that will be parked in the processing area of the project. Mined sand and gravel will be loaded onto a haul trucks by a front-end loader. This material will then be stockpiled to be used for roadway or over-excavation backfill material. NECA will maintain all construction equipment in accordance with all federal, and Navajo Tribal Health and Safety requirements. The following list is intended to illustrate typical equipment for mining operations:

Water Truck Power Spray, 4,000-Gal. Loader (2) Oiler Truck Dozer D8 Scraper Rubber Tire Backhoe Scale

2.3.2 Mining Activities

Mining activity is proposed to be continuous until the required borrow material quantity has satisfied the N6330, N6331, and N21 construction specification that will be determined by NNDOT. During the mining period, minimally, approximately 50,309-cubic-yards of raw materials will be extracted.

The mining will be conducted in two phases.

2.3.2.1 Phase 1

The first phase will consist of mining material borrow from an area perpendicular to the area that was mined for the previous construction of N21 moving in a northeasterly direction.

The first cut will begin at an elevation of 6,495-feet above mean sea level (AMSL) at the base of the slope where the previous mining activities terminated. This excavation will proceed northeastward towards the northeastern tract boundary line.

2.3.2.2 Phase 2

Beginning the second phase, we will excavate in a northwesterly direction and terminate around the midway point, or the fifth turn point of the tract boundary.

2.3.3 Buffering

In both phases, excavation activities will maintain a buffer distance of 30 feet from the tract boundary thereby allowing for a slope to be constructed that is neat in appearance and with a slope no greater than 3 to 1. The depth of the excavation will be limited to approximately 30-feet with 60-feet-long tapers left in place, to terminate.

2.3.4 Stockpiling

Activities will vary with the progress of the work and consist primarily of quarrying and stockpiling. It is anticipated that crushing will not be performed and the existing material is the size desired for the finished product. Stockpiling activity is planned to utilize the lower flat terrain along the southeastern section of the project site. NECA predicts that large-sized material greater than 2 inches in diameter is not in the proposed mining area, therefore screening or crushing will not be required.

2.3.5 Haul Path

Figure 9 illustrates these phases and the path the haul trucks will be instructed while transiting through the lease area to pick up a load of material.



Figure 9 – Mining Phases and Haul Path

2.3.6 Overburden

The project mining operation will produce some amount of overburden or waste sands that will not have been used. The overburden will be stored on site and used as dirt berms as a stormwater BMP. The stockpile of the overburden material will be sprayed periodically with sufficient water in accordance with emissions standards to minimize the amount of particles becoming airborne. This stockpiled overburden will be spread over the site for reclamation wherever possible in accordance with the Reclamation Plan.

2.3.7 Fugitive Dust

The stockpiled overburden materials will not be segregated into piles. Due to the site's remote location it is not anticipated that the fugitive dust from this site will adversely affect adjacent property or people. However, the stockpiles and any other fugitive dust sources – haul road, working area and drop points will be water sprayed as much as necessary to minimize dust in accordance with the emissions standards. The entire project site as well as the areas near the overburden stockpiles will be monitored for air quality as required by the Arizona Department of Environmental Quality Air Quality Division.

2.3.8 Slope Treatment

Pit slopes will be constructed at an inclination no steeper than 3:1 (about an 18 degree angle of repose) with maximum height of about 30 feet. Slopes constructed at this inclination are generally considered stable and the potential for land sliding is not considered significant.

2.3.9 Quantification

The final quantity of extracted material will be determined by the difference of elevation of the preand post-mining activity. NECA's surveyor has surveyed the existing topography. On the completion of the mining activities, NECA surveyor will survey the final disturbed borrow pit to determine the final volume (cubic yards) of borrow material extracted. Then NECA will convert the cubic yards to tons for royalty payment to the Navajo Nation. NECA will include the formula for conversion from cubic yards to tons.

 $#####+-cubic-yards \propto b$ pounds per cubic yard = weight of material (U.S. pounds) Material_weight (U.S. pounds) divided by 2,000-U.S. Pounds per Ton = Material_weight (U.S. Tons)

2.4 Hot Asphaltic Concrete Pavement Production Plant

2.4.1 Description

NECA will continue using the site as a hot asphaltic concrete pavement (HACP) production plant site, "hot plant" site. The withdrawn land will be used to stockpile aggregate and a construction yard. Approximately 12,558-ton will be used in the paving of the NNDOT N6330, N6331, and N21 roads.

Stockpiling of the material will commence upon completion of mining activities and the mined area has been leveled for satisfactory use. Since the site has been fenced already, all existing barricading measures will remain in place.

NECA has selected this site for its close proximity to the project and this will allow for an efficient paving operation. The location of the hot plant on the project will eliminate long haul distances that would be required if the plant was located elsewhere. Aggregates will be delivered using the same ingress and the HACP material will leave the hot plant site from the same location.

2.4.2 Equipment

DESCRIPTION	MAX CAPACITY	MAKE	MODEL	EQPMT #	SERIAL #
Generator	725KW, 1186hp	Caterpillar	SR4B	17-115	AFN01497
Generator	35KW, 78hp	Multiquip	DCA-60SSI	17-102	3644431
Hot Oil Tank	25,000-GAL	Terex	CTH-2500P	70-130	CTH-2500P0-102
Asphalt Heater	1.227 million btu/hr	CEI	CEI-1200	See Note 1	See Note 1
Control House	N/A	Terex	12'x18'	70-131	PCH-000710-000
Rotary Drum Mixer w/ Burner	300-Tons/hr	Terex	E275P	70-132	00E-275P00-110
Baghouse	52,000 ACFM	Terex	RA318SP	70-133	RA3-18PS0A-252
Dust Surge System	300-Tons/hr	Terex	PTD-300	See Note 2	See Note 2
Lime Silo	6 Tons/hr	Terex	MFS-500PHB	70-134	MFS-500PSE-143
4-Bin Feeder	300-Tons/hr	Terex	PAB-420	70-135	PAB-420TR0-109
Recycle System	300-Tons/hr	Terex	PRB-120S	70-136	PRB-120S00-103
Portable Mixing System	300-Tons/hr	Terex	PMS-303530	70-137	PMS-303530-121
Conveyor	300-Tons/hr	Terex	TPC-SE2447-243	70-138	TPC-SE2447-243
Surge Bin	300-Tons/hr	Terex	SE-195	70-139	0SE-195000-247
Hydraulic Pump Package Assembly	N/A	Terex	01031-1420730	See Note 3	See Note 3
Fuel Tank	12,000-GAL	Terex	FT-12P	70-140	0FT-12P000-101

NECA will have the following equipment on site to prepare the HACP material:

Notes:

1. Part of Unit 70-130, CTH-2500

2. Part of Unit 70-133, RA318SP 3. Part of Unit 70-139, SE-195

Figure 10 - NECA Hot Batch Plant Equipment List

2.4.3 Activities

Upon satisfactory regrading of the mined area, NECA will establish the temporary batch plant, equipment staging and storage area, and source material stockpile.

2.4.3.1 Establish Temporary Batch Plant

NECA will establish a temporary HACP batch plant by mobilizing the equipment listed in Figure 10.

2.4.3.2 Equipment Staging and Storage Area

The HACP batch plant will be set up as shown in Figure 12.

2.4.3.3 Source Material Stockpile

Approximately 12,558-tons of HACP Material Aggregate (MA) will be imported and stored as indicated in Figure 12. There will be varying percentages of sand, crusher fines, intermediate, and coarse aggregates so each pile amount will be different.

Along with the MA, Lime, PG-58-28, and Asphalt Prime Coat will be used.

2.4.3.3.1 Lime

Lime will be stored in a silo, therefore, will not be exposed to the environment.

2.4.3.3.2 PG-58-28

Paving asphalt Performance Grade (PG) 58-28 is a asphalt recommended for road construction. This asphalt will be pumped directly into the oil storage tank on receipt.

The following material will be used for the production of the HACP Hot Mix:

DESCRIPTION	QUANTITY	UM
Mix Aggregate	12,558.00	TON
Lime	241.00	TON
PG 58-28	722.01	TON

Figure 11 - HACP Material List and Quantity



Figure 12 - HACP Batch Plant Layout and Traffic Pattern

3.0 - RECLAMATION PLAN

3.1 Shaping, Contours - Drainage

Because the site and existing graded work areas is at the top of a hill, significant grading of the mining area will be required.

3.2 Runoff

Runoff will be minimized through the installation of BMPs such as track walking and wood chip wattles at those areas of water outlet.

3.3 Cleanup

NECA will return the lease area by removing waste by-products of the HACP production and hauling it to the Envirotech for processing. Other solid waste will be disposed of at appropriate waste facility.

3.4 Final Reclamation

Reclamation will include leveling or re-contouring of these areas to return them to as near their preproject condition as feasible. Slopes will be less than or equal to 3:1. It is concluded that post-project drainage patterns and volumes will remain the same and cause no threat to adjacent property from increased runoff, sedimentation, stream bed stability or stream flow. Reclamation will be in accordance with the Reclamation Plan and will begin once the required borrow material quantity has been mined and processed.

Based on the Preliminary Construction Schedule, HACP placement is scheduled for completion in February 2020. Upon completion of HACP placement reclamation will begin along the eastern boundary of the withdrawn tract. Slopes will be graded to 3-to-1, ripped, track-walked and prepared for reseeding, which will be performed by Horizon Environmental Services, Incorporated.

Spill Prevention Control and Countermeasures Plan 2015 Update

FOR

Navajo Engineering Construction Authority Portable Hot Asphalt Mix Plant



Date of Plan: December 16, 2015 (Amended July 9, 2018) P.E. Certification: New Mexico # 21173

Designated person accountable for spill prevention:

Christine Padillia Asphalt Plant Supervisor

Nicholas Robert Porell, P.E.

iiná bá

4801 N. Butler Ave. Farmington, NM 87401 www.iinábá.com Phone: (505) 327-1072 Fax: (505) 327-1517

Project No. NECAUTH-00018

Spill Prevention Control and Countermeasures Plan 2015 Update for Navajo Engineering Construction Authority Portable Hot Asphalt Mix Plant

Original Date of Plan: March 5, 2003 (Amended July 9, 2018)

Designated person responsible for spill prevention:

Christine Padilla Asphalt Plant Manager

PROFESSIONAL ENGINEER CERTIFICATION

The undersigned Registered Professional Engineer is familiar with the requirements of Part 112 of Title 40 of the Code of Federal Regulations (40 CFR Part 112) and has visited and examined the facility, or has supervised examination of the facility by appropriately qualified personnel. The undersigned Registered Professional Engineer attests that this Spill Prevention, Control, and Countermeasure Plan (SPCC) has been prepared in accordance with good engineering practice, including consideration of applicable industry standards and the requirements of 40 CFR Part 112; that procedures for required inspections and testing have been established; and that this Plan is adequate for the facility. [40 CFR 112.3(d)]

This certification in no way relieves the owner or operator of the facility of his/her duty to prepare and fully implement this SPCC Plan in accordance with the requirements of 40 CFR Part 112. This Plan is valid only to the extent that the facility owner or operator maintains, tests, and inspects equipment, containment, and other devices as prescribed in this Plan.

Engineer: Nicholas Robert Porell, P.E.

Signature_____

Registration Number 21173

State <u>New Mexico</u>

Date: December 16, 2015

Spill Prevention Control and Countermeasures Plan 2015 Update for Navajo Engineering Construction Authority Portable Hot Asphalt Mix Plant

Original Date of Plan: March 5, 2003

Designated person responsible for spill prevention:

Mr. Joe Jimmie Asphalt Plant Manager

PROFESSIONAL ENGINEER CERTIFICATION

The undersigned Registered Professional Engineer is familiar with the requirements of Part 112 of Title 40 of the Code of Federal Regulations (40 CFR Part 112) and has visited and examined the facility, or has supervised examination of the facility by appropriately qualified personnel. The undersigned Registered Professional Engineer attests that this Spill Prevention, Control, and Countermeasure Plan (SPCC) has been prepared in accordance with good engineering practice, including consideration of applicable industry standards and the requirements of 40 CFR Part 112; that procedures for required inspections and testing have been established; and that this Plan is adequate for the facility. [40 CFR 112.3(d)]

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Engineer: Nicholas Robert Porell, P.E.

Signature,

Registration Number 21173

State <u>New Mexico</u>



Date: December 16, 2015

SPILL PREVENTION CONTROL AND COUNTERMEASURES COMPLIANCE INSPECTION PLAN REVIEW PAGE

In accordance with 40 CFR 112.5(a) and 40 CFR 112.5(b), a review and evaluation of this SPCC Plan is conducted at least once every five years, or whenever substantial changes are made to either the physical facility or its operations. As a result of this review and evaluation, the Navajo Engineering Construction Authority (NECA) will amend the SPCC Plan within six months of the review to include more effective prevention and control technology if: 1) such technology will significantly reduce the likelihood of a spill event from the facility, and 2) if such technology has been field proven at the time of the review. Any amendments to the SPCC Plan shall be certified by a Professional Engineer within six months after a change in the facility design, construction, operation, or maintenance occurs which materially affects the facility's potential for the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines.

Scheduled five-year reviews and Plan amendments are recorded below. This log must be completed even if no amendment is made to the Plan. Unless a technical or administrative change prompts an earlier review, the next scheduled review of this Plan must occur by December 15, 2020.

Changes to the SPCC of a non-technical nature, such as contact information or a change in site personnel, may be made by a person other than the Professional Engineer.

The SPCC Rule applies to owners or operators of facilities that drill, produce, gather, store, use, process, refine, transfer, distribute or consume oil and oil products.

Review Date	Signature/Title
<u>March 7, 2000</u>	Ron Everson, Manager of Engineering
June 24, 2003	Ron Everson, Manager of Engineering
<u>Nov. 21, 2008</u>	Ron Everson, Manager of Engineering
<u>Dec. 9, 2015</u>	Brett Grubbs, Manager of Engineering

MANAGEMENT APPROVAL

Navajo Engineering Construction Authority is committed to the prevention of discharges of oil, chemicals or wastewater to navigable waters and the environment. This plan was prepared to minimize the likelihood of a spill at the facility and to expedite control and cleanup activities should a spill occur. Navajo Engineering Construction Authority maintains the highest standards for spill prevention, control, and countermeasures through regular review, updating, and implementation of this Spill Prevention Control and Countermeasures Plan for the facility located at 4425 CR 120.

Authorized Facility Representative:	Mr. Brett Grubbs
	At the 11
Signature: _	They Mubby
Title:	Manager of Engineering

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ATTACHMENTS

Figure 1: Typical Site Plan for Portable Asphalt Hot Mix Plant

Appendix A	Blank Forms
Appendix B	Completed Forms
Appendix C	Certification of the Applicability of Substantial Harm Criteria
Appendix D	Containment Volume Calculations
Appendix E	Emergency Spill & Waste Disposal Procedures
Appendix F	Project Site-Specific Information

1. FACILITY OWNER AND OPERATOR

A. Facility Owner, Address, and Telephone

Mr. Brett Grubbs, Manager of Engineering Navajo Engineering Construction Authority No. 1 Uranium Blvd. Shiprock, New Mexico 87402 (505) 210-7070

B. Facility Operator, Address, and Telephone

Mr. Brett Grubbs, Manager of Engineering Navajo Engineering Construction Authority No. 1 Uranium Blvd. Shiprock, New Mexico 87402 (505) 210-7070

C. Location of SPCC Plan (40 CFR 112.3(e))

In accordance with 40 CFR 112.3(e), a complete copy of this SPCC Plan is to be maintained in the Control House (Unit #70-131) at the Portable Hot Asphalt Mix Plant facility. An additional copy is to be kept at the main NECA office at the address shown above. The asphalt plant operates from 7:00 AM to 5:30 PM during the summer, and from 8:00 AM to 4:30 PM in the winter, 5 days per week (closed on Saturdays and Sundays).

2. FACILITY CONTACT (S)

<u>Name</u>	<u>Title</u>	Telephone
Ms. Christine Padillia	Asphalt Plant Manager	Office (505) 210-7070
		Cell
Mr. Frank Smith	Construction Manager	Office (505) 210-7035
		Cell (970) 759-3961
Mr. Daniel Gourneau	Safety Officer	Office (505) 210-7017
		Cell (505) 406-7665

3. FACILITY DESCRIPTION

A. Facility Operations

Navajo Engineering Construction Authority (NECA) owns and operates a portable TEREX Hot Asphalt Mix facility located at temporary project sites for a period of 3 to 6 months. The project site-specific details are provided in **Appendix F**. **Figure 1** illustrates the typical layout of the portable plant. Bulk oil products consist of diesel fuel, SST tack oil, asphalt (*a.k.a.* hot oil) and drummed oil.

The diesel tank (#70-140) is a double-walled steel, horizontal aboveground storage tank (AST) with a capacity of approximately 12,000 gallons. The AST is mounted on a trailer designed for fuel and oil road transport. Fuel is supplied to the dryer through flexible hose with locking

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

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

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

Tank ID	Description	Total Storage Capacity (gallons)	Contents
#70-140	Fuel Tank	12,000	Diesel #2
#17-115	Fuel Tank	600	Diesel #2
Not Applicable	Fuel Tank	200	Diesel #2
#70-118	Trailer	5,450	Tack Oil
#70-130	Fuel Tank	420	Diesel #2
#70-130	Hot Oil Tank	25,000	Hot Oil
	Transient Oil St	orage	al the second day was the
Hydraulic Fluid	1 drums	55	Hydraulic Fluid
Multi-grade Oil	1 drums	55	Multi-grade Oil
Waste Oil	4 drums	220 (maximum)	Waste Oil

B. Facility Storage

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

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

C. Drainage Pathway and Distance to Navigable Waters

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

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

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

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

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

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

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

4. SPILL HISTORY [112.7(A)]

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

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

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

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

Loading/Unloading Operations								
Truck/Trailer	Diesel	Rupture; leakage	3,750	3,750	Contained	13,200		
Truck/Trailer	Asphalt	Rupture; leakage	3,750	3,750	Contained	27,500		
Truck/Trailer	SST Tack Oil	Rupture; leakage	3,750	3,750	Contained	5,995		
	Other Equipment/Storage							
Aboveground Piping	Diesel	Rupture; leakage	250	250	See Appendix F	Spill Prevention Measures		
Aboveground Piping	Asphalt	Rupture; leakage	250	250	See Appendix F	Spill Prevention Measures		
Aboveground Piping	SST Tack Oil	Rupture; leakage	250	250	See Appendix F	Spill Prevention Measures		

Note: Spill rate assumes worst-case catastrophic failure.

A Facility Response Plan is *not* **required** since NECA is not expected to cause "Substantial Harm" to the environment by discharging oil into, or on the navigable waters or adjoining shorelines (40CFR 112.20). A *Certificate of the Applicability of Substantial Harm Criteria* is included in **Appendix C**. However, the occurrence of two reportable spills at the site of 42 gallons or one reportable spill of 1,000 gallons may require the preparation of an *Emergency Response Plan* in the future.

6. PREVENTION MEASURES: GENERAL SPCC PROVISIONS

The following measures are implemented to prevent oil discharges during the handling, use, or transfer of oil products at the facility. Oil-handling employees shall receive training in the proper implementation of these measures.

A. Containment and Diversionary Structures [112.7(c)]

Methods of secondary containment at the NECA facility include a combination of structures, and land-based spill response to prevent oil from reaching navigable waters.

- **Secondary Containment Areas** Both AST storage areas are contained within bermed secondary containment lined with 12-mil reinforced cell polyethylene, or similar geotextile material that is compatible with oil and fuel.
- Loading/Unloading Area Secondary Containment All loading/unloading activities occur within the hot asphalt storage area. An earthen drive-over berm provides access into the area.
- Sorbent Materials A spill kit is kept near the Control House.

B. Inspections, Tests, and Records [112.7(e)]

1. Weekly Inspections

Formal facility inspections are conducted weekly and records of these inspections are documented and signed by the inspector or plant manager. During the weekly inspections, all tanks, containment structures, valves, piping, and other equipment are inspected. The form used for these inspections can be found in **Appendix A**. Inspection, training, and tank integrity testing records are retained for at least three years in **Appendix B** of this plan.

2. Integrity Testing

Formal inspections are conducted weekly to examine the exterior of the tanks and containment areas. These inspections are documented using the *Weekly Facility Visual Inspection Form*, which can be found in **Appendix A**. In accordance with API 653, the ASTs are drained, cleaned, inspected, repaired, and if necessary painted every ten years, or more often when necessary, based on visual inspection or tank containment space monitoring results.

Completed inspection forms and tank cleaning records are retained for at least three years in **Appendix B** of this plan.

C. Personnel, Training, and Discharge Prevention Procedures [112.7(f)]

1. Personnel instructions

Spill prevention training, including a complete review of NECA Facility's SPCC Plan, is conducted for all new employees involved in oil transfer, such as fueling, loading, and unloading procedures. Spill prevention and cleanup procedures are discussed at staff and safety meetings. Temporary employees are required to be aware of spill control and cleanup procedures. SPCC training topics and the *SPCC Plan Training/ Review Record Form* are included in **Appendix A**.

Spill prevention and spill response training is provided for all delivery drivers, whether employees of NECA, or others. Employee training records are retained for at least three years in **Appendix B** of this plan.

2. Designated person accountable for spill prevention

Mr. Joe Jimmie is the designated person accountable for spill prevention at NECA daytime telephone (505) 368-5151, evening telephone (505) 602-3194.

3. Spill prevention briefings

Spill prevention briefings are held quarterly for employees involved in oil handling, to review the SPCC Plan, including spill prevention and response procedures. Employee attendance at the review briefings is recorded on the *SPCC Plan Training/Review Record* form contained in **Appendix A**. SPCC Plan review attendance records are retained for at least three years in **Appendix B** of this plan.

4. Spill Control Equipment

Spill control equipment on-site includes absorbent material, empty drums, loader, and shovels. Emergency spill procedures are detailed in **Appendix E**.

D. Site Security [112.7(g)]

1. Fencing

Fencing and a secured gate enclose the entire site. Gates are locked when the facility is unattended.

2. Flow valves locked

All tank valves are closed when liquid transfer is not occurring; and when the plant is unattended. Flow valves on the tanks are within the secondary containment and are visually apparent when open.

3. Starter controls locked

All pumps are powered with the generator. The generator starter controls are locked when the facility is unattended.

4. Pipeline loading/unloading connections securely capped

Pipeline connections are securely capped when they are not in use and blank flanged when they are in standby service for extended time. All out of service pipelines are evacuated of their contents.

5. Lighting adequate to detect spills

Yard lights are positioned to illuminate the loading/unloading areas. All lighting is designed to adequately light the storage areas to aid in the detection of spills, in identifying problems and to deter vandalism. Lighting is sufficient to address emergency situation at night.

E. Facility Truck Loading/Unloading Operations [112.7(h)]

1. Loading/unloading procedures meet DOT regulations

All NECA drivers comply with Department of Transportation (DOT) regulations in 49 CFR part 177 and facility standard operating procedures. The oil products delivered to the site is covered by DOT regulated carriers.

2. Secondary containment for vehicles adequate

All truck loading/unloading operations are located within the lined secondary containment. No oil is stored in the on-site transport vehicle.

Truck Unloading Area: The unloading of liquid oil products will be completed from transports located within the lined secondary containment with access provided by earthen ramps and drive over berms. The secondary containment will hold 110% of the single largest vessel in the containment, as determined in **Appendix D**.

Truck Loading Area: There are no truck loading or fueling operations at this facility.

3. Complete disconnection warning

Warning signs are posted in the loading/unloading area and at the ASTs, to prevent vehicular departure before disconnecting the transfer lines. A trained NECA employee is present to observe all loading, unloading, and fueling operations.

4. Vehicles examined for lowermost drainage outlets before leaving

Drains on the trucks are checked before departure to ensure the drain is closed. Transport trucks that deliver oil products use a power take off (PTO) system to transfer oil products at the unloading area. The PTO system must be turned off, which also closes the transfer valve, in order to move the transport vehicle.

F. Brittle Fracture Evaluation Requirements [112.7(i)]

Brittle fracture evaluation is required for field constructed above ground containers undergoing repair, alteration, reconstruction, or change in service that might affect the risk of a discharge, failure, or other catastrophe due to brittle fracture. A brittle fracture evaluation is also required when a discharge or failure has already occurred, due to brittle fracture or other catastrophe. There are no field-constructed tanks at this site, and there has been no brittle fracture failure to date, of the existing tanks, and no known field repairs.

G. State Rules [112.7(j)]

States, Native American Tribes, and the USEPA have authority to regulate containers storing or using oil. In the case of State or Tribal jurisdiction, the USEPA rules defer to the State or Tribal regulations. The Navajo Nation does not have SPCC Rules and neither the States of New Mexico or Arizona have jurisdiction; therefore, the EPA Rules apply in this case. The Navajo Nation falls under the USEPA Region 9 jurisdiction (States of CA, NV, and AZ).

H. Drainage Control [112.8(b)]

1. Drainage from diked storage areas inspected to prevent discharge: Stormwater is contained in the lined secondary containment. The containment has no outlet and accumulation is typically removed by evaporation. Any significant accumulation is removed by manual pumping. Any sheen is removed by absorbent pads or booms before pumping. The rainwater can then be pumped.

2. Valves used on secondary containment must be sealed:

There are no valves in the secondary containment area; all liquids are removed via pump.

3. Plant drainage systems from undiked areas:

No oil is stored within undiked areas. All piping is also contained within the secondary containment area.

4. Final discharge of facility drainage:

All ASTs at the NECA facility are located within secondary containment. A release from any of the ASTs would be retained within the containment.

5. Facility drainage systems and equipment:

There are no storm water treatment units at this facility. Spills are cleaned up immediately and are not allowed to reach navigable streams.

I. Bulk Storage Tanks/Secondary Containment [112.8(c)]

1. Construction Materials used for containers [112.8(c)(1)]

The Portable Hot Asphalt Plant is engineered and built for the storage, heating, and processing of asphaltic oil and is maintained to meet manufacture's specification. The SS-1 Tack Oil Tank (#70-118) and oil heater diesel fuel tank (#70-130) conform to DOT requirements and specifications for the construction of single-walled steel tanks for road transport and storage of flammable and/or combustible liquids. Each AST is coated on the exterior with primer and/or

paint. Prior to being placed into service at the temporary site, each AST and associated valving is checked for structural and hydraulic integrity. All tanks and drums are labeled as to their contents and have an appropriate National Fire Protection Association/Department of Transportation (NFPA/DOT) placard or similar type placard.

2. Secondary Containment: bulk storage containers [112.8(c)(2)]

All active ASTs are located within the lined secondary containment, which has sufficient capacity as determined in **Appendix D**. The containment structure is impervious to spilled oil for a minimum of 24 hours, the length of time anticipated to mobilize a vacuum truck or other emergency spill equipment.

3. Drainage of diked areas [112.8(c)(3)]

There are no outlets from the containment. Precipitation is trapped within the containment and is removed by evaporation. Any significant accumulation is removed by manual pumping. Any sheen is removed by absorbent pads or booms before pumping. The rainwater can then be pumped.

4. Corrosion protection: Completely buried tanks [112.8(c)(4)]

There are no storage tanks at the site that can be defined as underground storage tanks (USTs).

5. Corrosion protection: Partially buried or bunkered tanks [112.8(c)(5)]

There are no partially buried oil tanks at the site.

6. Inspections [112.8(c)(6)]

Visual inspections are conducted weekly to examine the exterior of the tanks for signs of deterioration, discharges, or accumulation of oil inside bermed areas. The scope of inspections and procedures is covered in the training provided to employees involved in handling oil at the facility. The routine inspections focus specifically on detecting any change in conditions or signs of product leakage from the tank, piping system, and appurtenances. These inspections are documented using the *Weekly Facility Visual Inspection Form*, which can be found in **Appendix A**.

Integrity testing is performed in accordance with API 653. The ASTs are drained, cleaned, inspected, repaired, and if necessary painted every ten years, or more often when necessary, based on visual inspection or tank containment space monitoring results.

Completed inspection forms and tank cleaning records are retained for at least three years in **Appendix B** of this plan.

7. Internal heating coils: Leakage [112.8(c)(7)]

The Hot Oil Tank is equipped with internal heating coils. The pressure of the heating system is monitored and controlled as part of the asphalt concrete preparation process. The heating coils operate as a closed loop system and condensate water is monitored for contamination. The entire heating coil system is contained within the asphalt tank.

8. Discharge Prevention: Good engineering practice [112.8(c)(8)]

All the ASTs at the NECA Hot Asphalt Mix Plant are equipped with visual site gages, which operate on a float system. All tanks are gauged by stick to determine product volume, and remaining storage volume is calculated prior to filling with additional product. This filling procedure allows tanks to be filled to a safe height, which is designated to be 90% of the tank volume. If more than one person is involved in product transfer operations, all personnel involved must be in verbal contact prior to beginning transfer operations

9. Effluent treatment facilities [112.8(c)(9)]

There is no petroleum hydrocarbon effluent or process water discharged from this facility.

10. Visible oil leaks [112.8(c)(10)]

Visible oil leaks are reported to the plant superintendent or the safety officer immediately upon discovery. The leaking tank will be drained and repaired, or the piping isolated and repaired and the operations personnel will clean up any spilled oil immediately. Oil spill cleanup kits and supplies are located near the Unit #70-1131. Refer to **Appendix E** for spill and disposal procedures.

11. Mobile containers positioned to prevent discharge [112.8(c)(11)]

Mobile containers, such as 55-gallon drums, are located within the hot asphalt secondary containment. Drums are stored on wooden pallets within secondary containment, allowing any leaks to be visually detected.

J. Facility Transfer Operations [112.8(d)]

1. Buried Piping [112.8(d)(1)]

There is no buried oil-bearing piping at the NECA Hot Asphalt Plant.

2. Terminal Connections [112.8(d)(2)]

Terminal connections are capped when not in use. No permanent oil-bearing pipes occur within the hot asphalt plant. Transfers are made with flexible hoses that are evacuated when not in service.

3. Pipe Supports [112.8(d)(3)]

All hoses are flexible and rest on the ground within the containment.

4. Inspection of aboveground valve and piping [112.8(d)(4)]

Operations personnel observe valves and hoses throughout the day. Valves and hoses are also examined during the weekly inspection discussed in Section I.6 of this plan. Inspection records are retained for at least three years in **Appendix B** of this plan.

5. Vehicular traffic [112.8(d)(5)]

The current piping system is not exposed to vehicular traffic. All flexible hoses are contained within the AST secondary containment.

K. Emergency Contacts for Spill Response [112.7(a)(3)(vi)]

The following emergency telephone numbers should be posted by the telephone in the Control Van.

Name	<u>Title</u>	Telephone
Ms. Christine Padillia	Asphalt Plant Manager	Office (505) 210-7070 Cell
Mr. Frank Smith	Construction Manager	Office (505) 210-7035 Cell (970) 759-3961
Mr. Daniel Gourneau	Safety Officer	Office (505) 210-3030 Cell (505) 406-7017
iiná bá	24-hour hot line	(505) 325-5667

Any release of oil into the environment that violates applicable water quality standards, causes a film or "sheen" upon or discoloration of the water surface or adjoining shorelines, causes a sludge or emulsion to be deposited beneath the water surface or upon adjoining shorelines, or a hazardous substance in reportable quantity released into all environmental media (land, air, surface water, and ground water) must be reported.

Shiprock Fire Department	911
	Non-emergency: (505) 368-5719
Shiprock Police Department	911
	Non-emergency: (505) 368-1350
New Mexico State Highway Patrol (HazMat Unit)	911 or 505-334-6622

Dialing 911 will reach the San Juan County Police Dispatch, who will contact the Fire Department, or HazMat Unit with the New Mexico State Police, if necessary.

The Facility Emergency Coordinator should be consulted before contacting the following parties:

National Spill Response Center: Navajo Nation Dept. of Emergency Management: EPA Region 9 Spill Line

(800) 424-8802 (800) 635-7415 (800) 300-2193

4. IMPLEMENTATION SCHEDULE

The following schedule shall be followed as a minimum timetable for full implementation of this SPCC Plan. The schedule is based on the effective date of this Plan review:

Activity	Timetable
None at this time	

5. CLOSURE AND LIMITATIONS

This SPCC Plan has been prepared for the exclusive use of Navajo Engineering Construction Authority and only applies to the Portable Hot Asphalt Mix Plant. This plan addresses oil product storage in aboveground storage tanks (ASTs) at the facility. **iiná bá**'s responsibility in this contract is limited to the review, development, and specifications of an acceptable SPCC Plan. The actual implementation of this Plan, including construction, inspection, training and compliance verification is the responsibility of the NECA Management, and is accepted by signing of this SPCC Plan and accompanying attachments.

This SPCC Plan shall be reviewed every five years in order to include more effective spill prevention and control technology. Any changes or modifications to this SPCC Plan will require the review and approval of a registered professional engineer before the changes are implemented.

The information in this SPCC is based on inspections by **iiná bá** personnel, data provided to **iiná bá** by Navajo Engineering Construction Authority and guidelines for SPCC Plan preparations outlined in 40 CFR Part 112. All work was performed in accordance with the referenced contract between **iiná bá** and Navajo Engineering Construction Authority, and generally accepted professional practices in environmental engineering.

Reviewed by,

iiná bá, Inc.

Nicholas Robert Porell, PE, Environmental Engineer Water & Wastewater & Solid Waste & Roads & Stormwater & Subdivisions & Surveying & GIS



FIGURE 1—FACILITY DIAGRAM Spill Prevention Control and Countermeasures Plan 2015 Update NECA Portable Hot Asphalt Mix Plant Shiprock, New Mexico

PURCHASE ORDER No. 42398







PREPARED FOR: NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY No. 1 URANIUM BOULEVARD SHIPROCK, NEW MEXICO 87420

> PREPARED BY: *IINÁ BÁ*, INC. 4801 N. BUTLER AVENUE, SUITE 1101 FARMINGTON, NM 87401 www.iinábá.com PHONE: (505) 327-1072 FAX: (505) 327-1517 DECEMBER 16, 2015

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APPENDIX A — BLANK FORMS Spill Prevention Control and Countermeasures Plan 2015 Update NECA Portable Hot Asphalt Mix Plant Shiprock, New Mexico









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date Portable Hot Asphalt Mix Plant AST & FIRE SAFETY WEEKLY FACILITY VISUAL INSPECTION FORM

Facility Name: <u>NECA Portable Hot Asphalt Plant</u>

Inspected by:

Date:

I) AST Section						
Description	Diesel Fuel	Hot Asphalt	SS-1 Tack Oil	Generator Supply	Generator Supply	Generator Supply
TYPE	Tanker	Insulated Oil	Tanker	Fuel Tank	Fuel Tank	Fuel Tank
SIZE	12,000 gal	25,000 gal	5,450 gal	600 gal	200 gal	420 gal
PRODUCT	Diesel #2	Hot Oil	SST Tack Oil	Diesel #2	Diesel #2	Used Oil
STORAGE LOCATION	Containment	Containment	Containment	Containment	Contained	Contained
STORED WITH COMPATIBLE						
PUMPS	G-Good	NR-Needs Repair				
Corrosion (Yes or No)						
Hose						
Leakage (Yes or No)						
Nozzles						
Pump Body						
PIPING & DELIVERY SYSTEM						
Corrosion (Yes or No)						
Fittings			() () () () () () () () () ()			
Hoses						
Piping	1		·			
Valves/Fire Valve						
Remote Fill Station						
POSTED SIGNS						
SECONDARY CONTAINMENT	G-Good	NR-Needs Repair				
Earthen with Liner						
Dike						
Spill Pallet						
No Weeds (Yes or No)						
Pipe Ballards or Fencing						
Piping Containment						
II) Fire Safety Section	Y-Yes N-N	0				
Evidence of Smoking						
Fuel Leaks						
Ignition Sources						
Procedures Observed						
Training Requirements Followed						
Fire Extinguisher Start by using G-Good or NR- Needs Repair.						
Fencing/Locks						
Emergency Cutoff-Loading Stations						
Deadman Control-Loading Stations						
Bonding Cable-Loading Stations						
Fuel System Bonded and Grounded						
Grounding Rods/Static Protection						

TANK INVENTORY RECORD

TANK IDENTIFICATION & TYPE OF FUEL:

TANK CAPACITY: ______ MONTH/YEAR:

FACILITY NAME: <u>NECA Hot Asphalt Mix Plant</u> LOCATION: _____

DATE OF WATER CHECK:

LEVEL OF WATER (INCHES): _____

DATE	START STICK INVENTORY (GALLONS)	GALLONS DELIVERED	GALLONS PUMPED	BOOK INVENTORY (GALLONS)	END STICE	(INVENTORY (GALLONS)	DAILY OVER (+) OR SHORT (-) ("END"- "BOOK")	INITIAL
1								
2								
3								
4								
5				1				
6								
7								
8								
9								
10								
11								
12						_		
13								
14								
15			2					
16								
17								
18								
19								
20		_						
21		-						
22								1
23								
24								
25								
26						-		
27								
28								
29			_		_			
30								
31								

TOTAL GALLONS OVER OR SHORT

LEAK CHECK: TOTAL GAL OVER OR SHORT (Gallons) / 10% TANK VOLUME(Gallons) = _____

IS LEAK CHECK \geq 1 ?

YES OR NO (CIRCLE ONE)

IF ANSWER IS "YES", REPORT TO MANAGEMENT AND THE SOURCE OF ERROR OR PRODUCT LOSS IDENTIFIED. (REFER TO SPCC 4.1.D)

KEEP THIS RECORD ON FILE FOR AT LEAST 3 YEARS.

SPCC DRAINAGE SYSTEM INSPECTION FORM NECA Hot Asphalt Mix Plant (FOLLOWING STORM EVENT)

Inspection Procedure for Stormwater Drainage of Secondary Containment and detention dams:

- 1. Make a visual inspection of entire water surface.
- 2. If water does not contain a sheen of oil, pump, bail or drain water from cantainment area. A small quantity of water (i.e. <3 inches) may be allowed to evaporate.
- 3. If there is a sheen on water notify the NECA Superintendent.
- 4. Use proper equipment and supplies to absorb any oil that maybe present.
- 5. Contact the NECA Safety Officer to arrange proper disposal of any spent absorbent materials.
- 6. Record the information requested below.

Date of Inspection	Sheen present (Yes or No)	lf necessary Oil Removal	Inspector's Signature

Note: Copy this page and attach extra pages as needed to maintain SPCC plan.

SPILL INCIDENT SUMMARY FORM NECA Portable Hot Mix Asphalt Plant Project Site:

(FOLLOWING SPILL EVENT)

Complete this form for any reportable spill(s) which occur from this facility immediately after they occur. Additional reports or documentation may be required.

Date	Volume	Cause:	
*			
Correction action	on taken:		
Plans for preve	enting recurrence:		
oturo		· · · · · · · · · · · · · · · · · · ·	
ature		Title	

SPCC PLAN TRAINING / REVIEW FORM NECA Hot Asphalt Mix Plant Project Site: _____

As specified in Part 6.G of the oil spill prevention procedures and practices noted in the SPCC Plan, all personnel are familiar with the procedures and policies in the Plan for the referenced facility. Topics to be covered are listed in Appendix A. A copy of this completed Training form is to be maintained with the SPCC Plan in Appendix B for at least three years.

Instructor:			
Title:			
Meeting date:			
In attendance: Name	Signature:	Title:	
· · · · · · · · · · · · · · · · · · ·			
······			
	Comments		
		(d	

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APPENDIX B — COMPLETED FORMS Spill Prevention Control and Countermeasures Plan 2015 Update NECA Portable Hot Asphalt Mix Plant Shiprock, New Mexico







PREPARED FOR: NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY No. 1 URANIUM BOULEVARD SHIPROCK, NEW MEXICO 87420

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APPENDIX C — CERTIFICATION OF SUBSTANTIAL HARM CRITERIA Spill Prevention Control and Countermeasures Plan 2015 Update NECA Portable Hot Asphalt Mix Plant Shiprock, New Mexico









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CERTIFICATION OF THE APPLICABILITY OF THE SUBSTANTIAL HARM CRITERIA

FACILITY NAME: FACILITY ADDRESSES: NECA Hot Asphalt Mix Plant PO Box 969, Shiprock, New Mexico, Navajo Nation

1. Does the facility transfer oil over water to or from vessels and does the facility have a total oil storage capacity greater than or equal to 42,000 gallons?



2. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and does the facility lack secondary containment that is sufficiently large to contain the capacity of the largest aboveground oil storage tank plus sufficient freeboard to allow for precipitation within any aboveground oil storage tank area?



3. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and is the facility located at a distance such that a discharge from the facility could cause injury to fish and wildlife and sensitive environments?



- 4. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and is the facility located at a distance such that a discharge from the facility would shut down a public drinking water intake?
 - If a comparable formula is used documentation of the reliability and analytical soundness of the comparable formula must be attached to this form.
 - For the purposes of 40 CFR part 112, public drinking water intakes are analogous to public water systems as described at 40 CFR 143.2(c).



5. Does the facility have a total oil storage capacity greater than or equal to 1 million gallons and has the facility experienced a reportable oil spill in an amount greater than or equal to 10,000 gallons within the last 5 years?

Yes X No

Reference: 40 CFR 112 Appendix C Certification

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document, and that based on my inquiry of those individuals responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete.

Signature

MANAGER of ENGINEERING Title 12-22-15

TR.UBBS Printed Name

Date



APPENDIX D — CONTAINMENT VOLUME CALCULATIONS Spill Prevention Control and Countermeasures Plan 2015 Update NECA Portable Hot Asphalt Mix Plant Shiprock, New Mexico

PURCHASE ORDER NO. 42398







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SECONDARY CONTAINMENT CALCULATIONS:

The minimum dimensions for secondary containment for the lined earthen containments at each Facility tank are calculated as follows (assumes industry standard of 110% of the single, largest tank and a minimum berm height of 1.25 feet or 3.0 feet*):

#70-140 (12,000 gallon #2 diesel fuel):

13,200 gallons = 1,765 cubic feet

L x W x 1.25 feet = 1,765 cubic feet

L = 55 feet

W = 54 feet

#17-115 (600 gallon #2 diesel fuel):

660 gallons = 83 cubic feet

L x W x 1.25 feet = 83 cubic feet

L = 9 feet

W = 8 feet

#Not Applicable (200 gallon #2 diesel fuel):

220 gallons = 28 cubic feet L x W x 3.0* feet = 30 cubic feet L = 5 feet W = 2 feet

#70-118 (5,450 gallon tack oil trailer):
5,995 gallons = 802 cubic feet
L x W x 1.25 feet = 802 cubic feet
L = 54 feet
W = 12 feet

#70-130 (420 gallon #2 diesel fuel):
462 gallons = 62 cubic feet
L x W x 1.25 feet = 62 cubic feet
L = 8 feet
W = 7 feet



APPENDIX E — EMERGENCY SPILL AND WASTE DISPOSAL PROCEDURES SPILL PREVENTION CONTROL AND COUNTERMEASURES PLAN 2015 UPDATE NECA PORTABLE HOT ASPHALT MIX PLANT SHIPROCK, NEW MEXICO









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NECA SPCC Plan 2015 Update Portable Hot Asphalt Mix Plant

SPCC Plan Training Topics:

Topics to be covered regarding oil spill prevention, control and countermeasures practiced by NECA and its contractors at the referenced facility shall include the following:.

Common sense regarding the storage of oil and other products is followed.

No tanks or compartments are filled without prior checking of reserves.

- All fuel and oil drops are to be made using a sealed delivery system (e.g. locking ring quick disconnect hoses & piping).
- All deliveries are not to exceed 90% of the maximum tank storage capacity (e.g. 1,000 gallon AST shall only store 900 gallons at any time).
- No pump operations are performed unless attended continuously. Pump valves or controllers are locked off when not in use. (*This applies mainly to the service trucks, fuel/oil vendors and recycler*).
- A fuel/oil delivery will be terminated immediately if overfill alarm(s) is set off (e.g. whistle indicator stopped).
- Warning signs are posted to check for line disconnection before vehicle departures. (This applies at all oil storage areas).

Inspections are completed following the schedule outlined in the Plan.

- Inventory reconciliation for all ASTs is performed monthly, and a loss of ≥10% is used to indicate a possible spill.
- All drainage, structures and storage systems comply with the design recommendations provided in the Plan.
- Facility personnel are responsible to inspect and maintain diked and containment areas following storm events.
- Facility personnel will be follow NECA procedures for proper disposal of "clean" stormwater and oil contaminated water.
- Any damaged drainage, structure or storage system is repaired in a timely manner and appropriate countermeasures and contingencies are developed by the NECA Superintendent until the damage is corrected.
- Should a spill or release occur, the countermeasures outlined in Appendix E will be followed.
- NECA Safety Office is contacted immediately when an oil spill or release is noticed and the Plant Superintendent acts as the INCIDENT COMMANDER until relieved by a more qualified emergency responder. If the superintendent is not available, the designated on-site employee acts in place.

EMERGENCY SPILL PROCEDURES AND COUNTERMEASURES

Emergency Spill Procedures

The following procedures outline the minimum actions to be taken to respond to a release/spill of oil at the NECA Hot Asphalt Mix Plant covered by this SPCC Plan.

1. Contain release:

Check cause and stop source of release where possible, without undue risk of personnel injury. Contain release using spill equipment such as booms, absorbents, earthen berms, or vac trucks, without undue risk of personnel injury.

2. Fire Prevention:

Turn off all sources of ignition including electric breakers, generators and automotive/truck engines.

IF FIRE OR EXPLOSION APPEARS IMMINENT, CLEAR ALL PERSONNEL FROM AFFECTED AREA (S). USE FIRE EXTINGUISHER <u>ONLY</u> TO AID WITH EVACUATION OF PERSONNEL.

3. Isolate Affected Area:

Warn area personnel of release and any dangers associated with the release. Initiate evacuation if necessary. Using caution tape, orange cones and/or other means, to isolate affected area(s), allowing access only to necessary and authorized response personnel.

4. Request Assistance:

Immediately contact the NECA Safety Department to request assistance. The emergency responders will contact Local Fire Departments, Navajo Nation Police, and Emergency Spill Contractors for assistance, as appropriate.

5. Regulatory Notice:

Call Environmental Department and National Response Center to report the incident, once immediate life and health threats are stabilized. Be prepared to provide the following information:

- Name of caller and call back phone number.
- Name of Carrier, Shipper/Manufacturer or Responsible Party.
- Estimated volume and type of liquid spilled.
- Location and time of Incident.
- Container type, truck number, vessel name, or other identification information.
- Any Assistance needed

6. Reporting:

Complete and file the Spill Incident Summary Form for any spill of oil products which are 25 gallons or greater in any one occurrence.(see Appendix A of the SPCC Plan). File copies with the appropriate agencies.

NECA SPCC Plan2015 Update Hot Asphalt Mix Plant December 2015 (Amended July 9, 2018) Appendix F

PROJECT SPECIFIC INFORMATION SHEET

The following information is to be incorporated with the Spill Prevention, Control and Countermeasures (SPCC) Plan for the portable hot asphalt plant operated by the Navajo Engineering and Construction Authority (NECA). This attachment is to be updated when the plant is dismantled and relocated. When the facility is moved, it must be located and installed using the specifications outlined in this SPCC Plan. The portable facility shall not be operated unless the SPCC Plan has been fully implemented. The SPCC Plan shall only apply while the facility is in a fixed (non-transportation) operating mode.

PROJECT:

PLANT LOCATION [Part 1.B]:

DRAINAGE PATHWAY AND DISTANCE TO NAVIGABLE WATERS: [Part 3.C]:

PLANT DRAINAGE SYSTEMS FROM UNDIKED AREAS [Part 6.A.(iii)]:

FINAL DISCHARGE OF DRAINAGE [Part 6.A.(iv)];

Emergency Contacts

The following emergency phone numbers are posted by the phone in the plant office and near all other phones at the plant. The person designated as responsible for spill prevention is the Asphalt Superintendent:

0	Plant Superintendent Christina Padillia	(505)-210-7070
0	Fire Department	<u>(520)-679-3511</u>
Q	Navajo Nation Police:	<u>(520)-679-5600</u>
0	Arizona State Police:	<u>(520)-524-3998</u>
0	Navajo Nation Dept. Emergency Management	(800) 635-7415
0	National Response Center:	(800) 424-8802

Waste Disposal Procedures

The following procedures outline the disposal procedures for wastes generated during normal operation of the Portable Hot Asphalt Mix Plant.

Contaminated Stormwater:

Petroleum contaminated rain and/or storm water will be handled by pumping the water into a vacuum truck or 55-gallon DOT approved drums. Drums to be labeled as "non-hazardous contaminated water". The water will be transported offsite for disposal by Envirotech Inc. of Farmington, New Mexico. Waste manifests will be prepared by Envirotech and signed by the Plant Superintendent and copies of all executed waste manifests will be maintained with the SPCC Plan in **Appendix B**. Envirotech will transport the wastewater to an evaporation facility.

Used Oil:

Oil recovered from secondary containments will be stored in 55-gallon DOT approved drums for offsite recycling and disposal. Drums to be labeled as "Used Oil." Used oil will be transported to NECA's Shiprock facility for recycling with other oils generated by equipment maintenance.

Contaminated Soil and Absorbent:

If the volume of used oil filters, contaminated soils, and absorbents is less than one cubic yard per 40 cubic yards, it will be accepted as regular garbage by the solid waste disposal company for disposal at a permitted landfill offsite.

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Navajo Nation Dept. Emergency Management

(800) 635-7415



APPENDIX F — PROJECT SITE-SPECIFIC INFORMATION Spill Prevention Control and Countermeasures Plan 2015 Update NECA Portable Hot Asphalt Mix Plant Shiprock, New Mexico









PREPARED FOR: NAVAJO ENGINEERING AND CONSTRUCTION AUTHORITY No. 1 URANIUM BOULEVARD SHIPROCK, NEW MEXICO 87420

> PREPARED BY: *HNÁ BÁ*, INC. 4801 N. BUTLER AVENUE, SUITE 1101 FARMINGTON, NM 87401 www.iinábá.com PHONE: (505) 327-1072 FAX: (505) 327-1517 DECEMBER 16, 2015

Hydrology Air Quality ESA Soil Investigations SPCC Water Rights LUST

PROJECT SPECIFIC INFORMATION SHEET

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FINAL DISCHARGE OF DRAINAGE [Part 6.A.(iv)]:

Emergency Contacts

The following emergency phone numbers are posted by the phone in the plant office and near all other phones at the plant. The person designated as responsible for spill prevention is the Asphalt Superintendent:

0	Plant Superintendent Joe Jimmy	(505)-368-5151
[]	Fire Department	<u>(520)-679-3511</u>
0	Navajo Nation Police:	(520)-679-5600
0	Arizona State Police:	<u>(520)-524-3998</u>
0	Navajo Nation Dept. Emergency Management	(800) 635-7415
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- Fire Department _____
- Navajo Nation Police:
- I Arizona State Police:
- Navajo Nation Dept. Emergency Management

(800) 635-7415





PHOTOGRAPHIC DOCUMENTATION OF FACILITY ABOVEGROUND STORAGE TANKS NECA Portable Hot Asphalt Mix Plant, Shiprock, New Mexico



Photographed By:	John R. Isham, CPG (<i>iiná bá,</i> Inc.) and NECCA
Photograph Period:	Thursday, November 11, 2010 and Thursday, December 10, 2015
Contract/PO No.:	42398
Facility Owner:	Navajo Engineering and Construction Authority



Photograph 1: View of 200-gallon diesel fuel tank for No. 2 diesel fuel use.



Photograph 2: View of Unit 70.118 5,450-gallon tack oil trailer.



Photograph 3: View of Unit 70-130 Terex CEI 1200 hot oil tank.



Photograph 4: View of Unit asphalt heater, part of unit #70-130.



Photograph 5: View of Unit 70-140 Terex FT-12P 12,000-gallon, double-walled diesel fuel tank.



Photograph 6: View of Unit 70-102 Multiquip 35 KW generator.



Photograph 7: View 600-gallon diesel fuel tank for Unit 17.920 725 KW generator.



Photograph 8: View of Unit 17-115 CAT 725 KW diesel generator. Diesel tank is housed inside generator to the right of the doorway.



Photograph 9: Closer view of diesel fuel AST for CAT 725 KW generator.



Photograph 10: View of Unit 70-140 Terex FT-12P 12,000-gallon double-walled fuel tank.