

# ENVIRONMENTAL & LAND WITHDRAWAL

## Thoreau Baca Well Connection

### The Navajo Nation



**August 2020**



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## **Biological Resources Compliance Form (BRCF)**



**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.:** Thoreau Well Project

**DESCRIPTION:** SMA proposes the construction of a power line, waterline, access road, and well site totaling 11.4 acres of impact area. Vegetation would be cleared within the proposed ROWs, well site, and power pole locations.

Power line = 0.86 mile with 20-ft. wide ROW = 2.1 acres

Waterline = 0.49 mile with 40-ft wide ROW = 2.4 acres

Access road = 0.29 mile with 40-ft. wide ROW = 1.4 acres

Well site = 5.5 acres

**LOCATION:** Section 19, T14N, R13W, NMPM, Thoreau, McKinley County, New Mexico

**REPRESENTATIVE:** Randy Seeley, Ecosystem Management, Inc. for Souder, Miller, & Associates (SMA)

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

**B.R. REPORT TITLE / DATE / PREPARER:** BE for the Proposed Thoreau Well Project/APR 2018/EMI

**SIGNIFICANT BIOLOGICAL RESOURCES FOUND:** Area 3. The project is within a Raptor Sensitive Area (RSA).

**POTENTIAL IMPACTS**

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

**AVOIDANCE / MITIGATION MEASURES:** NA

**CONDITIONS OF COMPLIANCE\*:** [1] The proposed power line is located in a Raptor Sensitive Area (RSA). The power line must be constructed utilizing a raptor-safe, power pole design standard (REPR). All guy wires shall be marked with highly visual daytime markers to prevent collisions within the RSA; [2] Project onstruction and vegetation removal shall be scheduled outside the Migratory Bird breeding season of 01 MAR-15 AUG. If the breeding season cannot be avoided, surveys will precede construction activity and vegetation removal. The NNDFW recommends a survey buffer of 50 meters outside the edge of disturbance for non-endangered migratory birds. Removal or disturbance of nesting habitat (i.e. trees & shrubs) shall not be allowed within 50 meters of an active nest during incubation to fledging.

**FORM PREPARED BY / DATE:** Pamela A. Kyselka/24 MAY 2018; amended access rd. length on 11 DEC 2018

COPIES TO: (add categories as necessary)

☒ BMA ☐ \_\_\_\_\_

**2 NTC § 164 Recommendation:**

Signature

Date

☐ Approval

☒ Conditional Approval (with memo)

☐ Disapproval (with memo)

☐ Categorical Exclusion (with request letter)

☐ None (with memo)



12/12/18

Gloria M. Tom, Director, Navajo 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



# THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT  
JONATHAN NEZ VICE PRESIDENT

## MEMORANDUM

TO : David Mikesic, Zoologist  
Department of Fish and Wildlife  
**DIVISION OF NATURAL RESOURCES**

FROM : Gloria M. Tom / [Signature]  
Gloria M. Tom, Director  
Department of Fish and Wildlife  
**DIVISION OF NATURAL RESOURCES**

DATE : December 12, 2018

SUBJECT : **DELEGATION OF AUTHORITY**

I am on leave starting, Wednesday, December 12, 2018 to December 14, 2018. Therefore, I am delegating you to act in the capacity of the Director, Department of Fish and Wildlife, effective at 8:00 am, December 12, 2018 and ending at 5:00 pm, December 14, 2018.

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

## ACKNOWLEDGEMENT:

[Signature]  
David Mikesic, Zoologist  
Department of Fish and Wildlife  
**DIVISION OF NATURAL RESOURCE**

xc: File

## **Cultural Resources Compliance Form (CRCF)**







## CULTURAL RESOURCES COMPLIANCE FORM

ROUTE COPIES TO:		NNHPD NO.: <b>HPD-18-798</b>	
<input checked="" type="checkbox"/> EMI		OTHER PROJECT NO.: <b>EMI 1206</b>	
PROJECT TITLE:			
Cultural Resource Inventory for Baca Thoreau Well Improvement Project in Thoreau Chapter, Eastern Agency, Navajo Nation, McKinley County, New Mexico			
LEAD AGENCY:		BIA/NR	
SPONSORS:		1. NN Department of Water Resources, Water Management Branch, P.O. Box 678, Ft. Defiance, AZ 86504 2. Souder, Miller & Associates, 5454 Venice Ave. NE, Suite D, Albuquerque, NM, 87113	
PROJECT DESCRIPTION:			
<p>Two phases of construction are planned for this undertaking. The first phase requires a well be drilled and tested for water quality. If the water is found to be of appropriate quality, phase two construction will be implemented. Proposed actions associated with Phase 1 include the transportation of heavy machinery to the proposed well site and drilling. Heavy machinery will utilize the existing gas line gate, access road, and two-track road. In order to protect the existing gas line and subsurface archaeological materials from the heavy machinery, a 12 ft. wide 6 in base course will be deposited at the gas line gate and along the access road and two track road (previously disturbed areas) where they intersect with the existing gas line and archaeological sites. Phase two requires construction of permanent access road, water line, and power line in order to utilize the new well.</p> <p>The project area consists of 0.86-mile (1.38 km) of power line with a 20-ft (6-m) right of way (ROW; 2.1 ac), 0.47-mile (0.79 km) of water line with a 40-ft (12-m) ROW (2.27 ac.), 0.29 mile (0.47 km) of access road with a 40-ft ROW (1.40 ac), and a 2.83-acre (1.14 ha) well site, or 8.6 ac of direct impacts. In reality, the water line and access road ROW overlap at several locations, slightly reducing the area of direct impact.</p> <p>A 50-foot cultural buffer was utilized for the preliminary well site and the survey area for the power line, water line, and road was 100 ft, resulting in a 30-ft cultural buffer on the road and water line and a 40-ft buffer on the power line. The total survey area is 25 ac. Vegetation would be cleared along the water line and road ROWs, well site, and along power line pole installation points. The power line ROW would require vehicle and machinery movement and trampling of vegetation and soil. The area of effect is 8.6-acres. Surface &amp; subsurface ground disturbance will be intensive &amp; extensive with the use of heavy equipment.</p>			
LAND STATUS:		Navajo Tribal Trust	
CHAPTER:		Thoreau	
LOCATION:		Project is located on the Continental Divide Quadrangle, McKinley County, New Mexico NMPM	
T.	<u>14</u>	N.,	R. <u>13</u> W- Sec. <u>19</u>
PROJECT ARCHAEOLOGIST:		Christine Kendrick & Matthew Johnson	
NAVAJO ANTIQUITIES PERMIT NO.:		B18289	
DATE INSPECTED:		04/24/18 – 05/08/18	
DATE OF REPORT:		08/14/18	
TOTAL ACREAGE INSPECTED:		25.0 - ac	
METHOD OF INVESTIGATION:		Class III pedestrian inventory with transects spaced <u>15</u> m apart.	
LIST OF CULTURAL RESOURCES FOUND:		<p>(5) SITES NM-Q-39-109, NM-Q-38-55, NM-Q-38-56, NM-Q-38-57, NM-Q-38-58</p> <p>(5) ISOLATED OCCURRENCES (IO)</p> <p>(2) IN-USE SITES (IUS)</p>	
<b>-DOCUMENT IS VOID IF ALTERED-</b>			



LIST OF ELIGIBLE PROPERTIES:	<u>(5) SITES</u> NM-Q-39-109, NM-Q-38-55, NM-Q-38-56, NM-Q-38-57, NM-Q-38-58
LIST OF NON-ELIGIBLE PROPERTIES:	<u>(5) IO</u> <u>(2) IUS</u>
LIST OF ARCHAEOLOGICAL RESOURCES:	<u>(3) SITES</u> NM-Q-39-109, NM-Q-38-57, NM-Q-38-58

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

**Sites NM-Q-38-57, NM-Q-38-55, NM-Q-38-56, NM-Q-39-109:**

1. Site boundaries will be flagged by a qualified archaeologist prior to all construction activities.
2. Sites will be avoided by spanning the powerline extension; a) all power poles will be placed outside of the flagged site boundary by 50-ft; b) all electrical wires will be hand-carried across the sites; c) all construction traffic should not occur inside of site boundary d) all construction should be confined to the existing roads and right-of-way.
3. Once construction is completed, site will continue to be avoided by routine maintenance activities by using established drive-arounds.

**Site NM-Q-38-58:**

1. Site is bisected by the proposed water line and access road in several places. Reroutes were established along areas of extant disturbance to minimize the potential for adverse effects.
2. During Phase 1, vehicles will be limited to the pre-existing gas line and two track road.
3. There will be no ground disturbance activities or vehicular traffic within the site boundary.
4. During Phase 2, a construction monitoring plan will be developed in consultation with NNHHPD.
5. All ground disturbing work will be monitored by a qualified archaeologist during ground disturbing activities at all points where the proposed project is within 50 ft of, or crosses the boundary of site NM-Q-38-58.

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

FORM PREPARED BY: **Tamara Billie**

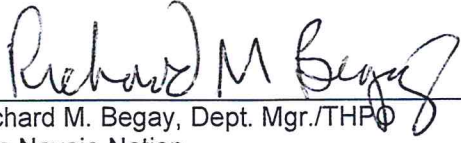
FINALIZED: October 2, 2018

Notification to Proceed  
Recommended

☒ Yes ☐ No

Conditions:

☒ Yes ☐ No

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

10/2/18  
Date

Navajo Region Approval

☒ Yes ☐ No

  
BIA - Navajo Regional Office

10/16/18  
Date

**-DOCUMENT IS VOID IF ALTERED-**

## **Finding of No Significant Impact (FONSI) BIA**





United States Department of the Interior  
Bureau of Indian Affairs  
Navajo Region  
P. O. Box 1060  
Gallup, New Mexico 87305

MC: 460 Branch of Environmental Quality Act Compliance & Review

Mr. Raymond Benally, Department Manager III  
Navajo Nation Water Resources Department  
P.O. Box 678  
Fort Defiance, AZ 86504

APR 12 2019

Dear Mr. Benally:

The Environmental Assessment (EA), **EA-19-36108**, received January 26, 2019, *Proposed Baca/Thoreau Well Project* on the Navajo Nation in McKinley County, New Mexico, was reviewed in the Branch of Environmental Quality Act Compliance and Review, Navajo Regional Office.

The Navajo Nation Water Resources Department (NNWRD) proposes to construct a water well with including a waterline extension, access driveway, and three phase powerline on Navajo Nation trust lands in the vicinity of Baca/Thoreau Chapter, McKinley County, New Mexico. The proposed project right-of-way consists of a well site 5.5 acres, 0.49 miles of waterline extension with a 40-foot right-of-way, 0.29 miles of access driveway with a 40-foot right-of-way, and a 0.86 miles of Powerline extension with a 20-foot right-of-way totaling 11.4 acres (496,584 square feet) request on Navajo Nation Trust Lands.

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

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

Sincerely,

Bartholomew Stevens  
Regional Director, Navajo

## **Finding of No Significant Impact**

### *Proposed Baca/Thoreau Well Project*

#### *Navajo Nation and Navajo Reservation; McKinley County; New Mexico*

Based on the attached final Environmental Assessment (EA) for the *Proposed Baca/Thoreau Well Project* on the *Navajo Nation* in *McKinley County, New Mexico*, the bureau has determined that by implementation of the agency proposed action and associated activities and environmental mitigation measures as specified in the EA, the *Proposed Baca/Thoreau Well Project* will have no significant impact on the quality of the human environment. In accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended, an Environmental Impact Statement will not be required.

This determination is supported by the following findings:

Agency and Tribal Interdisciplinary Team involvement was conducted and environmental issues related to development of *Proposed Baca/Thoreau Well Project* were identified. Alternative course of action and mitigation measures were developed in response to environmental concerns and issues. Tribal community outreach/comment period was held. The Baca/Thoreau community supports the project by passing Resolution BPC/18/02/30 and TCH-074-18-035 at local government meeting.

1. The EA discloses the environmental consequences of the “proposed action” and “no action” alternatives.
2. Protective measures will be levied to protect air (Clean Air Act, as amended, 42 USC 7401 et seq.), noise, and water quality (Clean Water Act, as amended, 33 U.S.C. 1251 et seq.), as outlined in the mitigation measures. The project will minimize impacts by restricting construction to daytime and minimal.
3. The proposed action will not jeopardize threatened or endangered species (Endangered Species Act, as amended; 16 U.S.C. 1531 et seq.) A Biological Resources Compliance Form, NNDFW Review No. 18em101, was issued by the Navajo Nation Department of Fish and Wildlife on December 12, 2018, approving the proposed action with avoidance/mitigation measures. The project is located within a Raptor Sensitive Area (RSA). Avoidance/Mitigation measures require that powerline must be constructed with raptor-safe, power pole design (REPR). All guide wires shall be marked with highly visual daytime markers to prevent collisions within the Raptor Sensitive Area. Project construction and vegetation removal shall be scheduled outside Migratory Bird breeding season of 01 March -15 August. Removal or disturbance of nesting habitat (i.e. trees & shrubs) shall not be allowed within 50 meters of an active nest during incubation to fledging.
4. There are no adverse effects on historic properties for the purpose of 36 CFR 800.9(b) by preserving archeological value through conduct of appropriate research in accordance with applicable standards and guidelines (National Historic Preservation Act, as

amended; 16 U.S.C. 470). Should undiscovered archeological remains be encountered during project ground-disturbing activities, work will stop in the area of discovery and the stipulations 36 CFR 800.11 will be followed:

A cultural resources inventory of the project area has been completed by Matthew Johnson and Christine Kendrick on August 14, 2018. The Navajo Nation Historic Preservation Department (NNHPD) issued NNHPD No. HPD-18-798 stating "No historic properties affected and No Conditions of Compliance with the following conditions:

Sites NM-Q-38-57, NM-Q-38-55, NM-Q-38-56, NM-Q-39-109

1. Site boundaries will be flagged by a qualified archaeologist prior to all construction activities.
2. Sites will be avoided by spanning the powerline extension; a) all power poles will be placed outside of the flagged site boundary by 50-ft, b) all electrical wires will be hand carried across sites, c) all construction traffic should not occur inside site boundary, d) all construction should be confined to the existing roads and right-of-way.
3. Once construction is completed, site will be continued to be avoided by routine maintenance activities by using established drive-arounds.

Site NM-Q-38-58

1. Site is bisected by the proposed waterline and access road in several places. Reroutes were established along areas of extant disturbance to minimize the potential for adverse effects.
2. During Phase 1, vehicles will be limited to the pre-existing gas line and two track road.
3. There will be no ground disturbance activities or vehicular traffic within the site boundary.
4. During Phase 2, a construction monitoring plan will be developed in consultation with NNHPD.
5. All ground disturbing work will be monitored by a qualified archaeologist during ground disturbing activities at all points where the proposed project within 50ft of, or crosses the site boundary of the site NM-Q-38-58.

In the event of a discovery of a previously unidentified or incorrectly identified cultural resource(s), all operations in the immediate vicinity of the discovery must cease, and the NNHPD must be notified at (928)871-7198.

5. Impacts to public health and safety are mitigated through implementation of safety measures. The contractor will implement the Occupational Safety and Health Administration laws and guidelines to minimize impacts to public and safety. Direct and indirect effects to public health and safety would be minor and short termed.
6. The proposed action will not cause a significant effect to energy resources (Energy Policy Act of 2005), water resources, wetlands (E.O. 11990), or flood plains (E.O. 11988). The *Proposed Newcomb Community Water Distribution Project* will not result in discharge of pollutants into waters of the U.S. or in surface water quality issues (Clean Water Act, as amended; 33 U.S.C. 1251 et seq **Clean Water Act (CWA) Compliance: When a**

**project spans, crosses or results in work in a river bed, stream bed or wetland, permits from the U.S. Army Corps of Engineers (ACOE) and/or the Navajo Nation Environmental Protection Agency, Water Quality Program may be required, including: Section 401, Water Quality Certification; Section 402(p), Storm Water Pollution Prevention Plan, if the project activity will disturb surfaces of ½ acre or more; and Section 404, Permit for Discharge of Dredge or Fill Material into Waters of the US. The applicant shall submit and obtain approval for all required applications prior to construction. The applicant shall adhere to all mitigation measures and strategies developed with the U.S. Army Corps of Engineers and the Navajo Nation Environmental Protection Agency:** Based on the EA, this project will not cross any major drainages or washes or span any waters of the U.S. Navajo Nation Water Resources shall contact Ms. Leanna Martinez, 401 Coordinator/Senior Environmental Protection Specialist with the Navajo Nation Environmental Protection Agency - Water Quality/NPDES Department, before construction begins to ensure that permits are not needed for this project.

7. The cumulative effects of the environment are mitigated to avoid or minimize effects of implementation of the proposed project.
8. The proposed action would improve the economic and social conditions of the affected Indian community. The proposed project will provide access to a reliable and safe water source for existing residential homes and residential homes without water services and for future residential development within the community.
9. The proposed action will not have significant impacts on natural and unique geographic features such as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild and scenic rivers; national natural landmarks; sole or prime drinking water aquifers; prime and unique farmlands, wetlands, floodplains; national monuments; migratory birds; and other ecologically significant areas.
10. The proposed action will not produce highly controversial effects on the quality of the human environment, and will not have unresolved conflicts concerning alternate uses of available resources.
11. The proposed action will not have highly uncertain effects on the human environment or involve unique or unknown risks.
12. The proposed action will not establish a precedent for future actions with significant effects or represent a decision in principle about a consideration.
13. The proposed action is not related to other actions with individually insignificant but cumulatively significant environmental effects.



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



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



Date

## **Navajo Tribal Trust Land Withdrawl**



# THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



July 1, 2019

Jason John, Director  
Navajo Department of Water Resources  
P.O. Box 678  
Fort Defiance, Arizona 86504

Dear Mr. John,

The General Land Development Department is in receipt of the application for the Thoreau Well Project and right-of-way. This letter is in response to your request to expedite construction of the proposed water well.

The Navajo Land Department hereby **approves** the land withdrawal for 4.77 more or less acres located at the Southwest Quarter (SW ¼) of Section Nineteen (19), Township Fourteen (14) North, Range Thirteen (13) West, N.M.P.M., McKinley County, New Mexico.

You are authorized to proceed with operation, maintenance and construction. All required environmental clearances are submitted. This land withdrawal will be voided when the application for the proposed right-of-way for the water distribution is approved by the Navajo Nation Resources and Development Committee (RDC) and by the Bureau of Indian Affairs (BIA). Any transfers cannot take place until RDC and BIA grant final approval.

Thank you for your cooperation and understanding, if you have any questions please contact Elerina Yazzie, Department Manager, General Land Development Department at (928) 871-6447 or [e\\_yazzie@navajo-nsn.gov](mailto:e_yazzie@navajo-nsn.gov), thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Mike Halona", is written over a horizontal line.

W. Mike Halona, Director  
Navajo Land Department  
Division of Natural Resources