

Special Award Conditions

Award Number: NT10BIX5570055

Amendment Number: 7

1) Mitigated FONSI SAC

This BTOP Grant Special Award Condition establishes requirements applicable to implementation of the Navajo Tribal Utility Authority, Quality Broadband for the Navajo People Middle/Last Mile Project. The funding of the Grant is dependent on compliance with the provisions of this Special Award Condition.

Post-award environmental reviews of the Project included consultation with regulatory agencies related to the protection of biological, and historic and cultural resources. These consultations identified specific protocols or environmental protection measures that either are required, or requested, to be included in the implementation of the Project to minimize potential impacts to biological resources, and effects on historic and cultural resources. Those protocols and measures are listed below.

For each protocol or measure listed, the Navajo Tribal Utility Authority shall include in its periodic report to the Federal Project Officer (FPO) administering the grant the following information:

- a. For the reporting period, specifically where and when has this protocol been used, or measure implemented, and
- b. Was full compliance with the protocol or measure achieved

The FPO may, if they determine necessary, require additional information directed at assuring compliance. If at any time the Navajo Tribal Utility Authority has questions or requires clarifications regarding any of these protocols or measures, they shall notify the FPO, who will coordinate with the appropriate regulatory authority to provide the necessary information.

Biological Resource Protection Protocols and Measures

Project-specific consultations were conducted with the Navajo Nation Department of Fish and Wildlife. Requirements applicable to implementation of the Project identified during these consultations were:

1. NTUA will conduct construction activities outside bird breeding and nesting season for the golden eagle and the ferruginous hawk (February 1 to July 15) and the mountain plover (April to July). If schedules require construction during these periods, NTUA will conduct additional preconstruction biological surveys for migratory birds in the Project area. These surveys will be conducted in coordination with the Navajo Fish and Wildlife Department. Navajo Nation Department of Fish and Wildlife, August 9, 2010.
2. Pole replacement within Raptor Sensitive Areas along the project corridor must be constructed using raptor-safe power pole design features. Navajo Nation Department of Fish and Wildlife, May 20, 2010.
3. All Project personnel and equipment must remain in the existing power line right-of-way (ROW). Navajo Nation Department of Fish and Wildlife, May 20, 2010.

4. Fiber optic cables must be hand-carried across waterways, and impacts to waterways must be avoided. If these conditions are met, NTUA will not be required to comply with the provisions of Clean Water Act Sections 401 or 404 or Executive Order 11990 (Wetlands). If impacts to waterways are deemed unavoidable, additional consultation with the Navajo Nation Environmental Protection Agency (EPA) Water Quality Program will be required. Navajo Nation EPA Water Quality Program, May 25, 2010.

5. Fiber optic cables must be attached to existing infrastructure in the vicinity of floodplains. If this condition is met, NTUA will not be required to comply with the provisions of Executive Order 11988 (Floodplains). Navajo Nation EPA Water Quality Program, May 25, 2010.

6. NTUA must comply with National Pollutant Discharge Elimination System (NPDES) requirements for any Project-related ground disturbance greater than one acre. Navajo Nation EPA Water Quality Program, May 25, 2010.

7. Removal of riparian vegetation and disturbance to river banks at the Project river crossings should be avoided. Navajo Nation Department of Fish and Wildlife, May 20, 2010.

Historic and Cultural Resource Protection Protocols and Measures

NTUA consulted with the Navajo Nation Historic Preservation Department to identify potential Project effects on historic and cultural resources. Due to the vast Project area covered, consultation recommendations were made based on specific areas along the Project route. These recommendations were:

1. NTUA must ensure that 12 archaeological resource areas are protected by flagging site boundaries, restricting construction within the existing roads and corridors, conducting no blading within the site boundaries, hand carrying cable across the sites, monitoring by a qualified archaeologist during construction activities, and using existing access roads during ongoing network maintenance. Navajo Nation Historic Preservation Department, August 25, 2010.

2. In the event of an unexpected historic or cultural resource discovery, NTUA must cease all operation in the vicinity of the discovery and immediately notify the Navajo Nation Historic Preservation Department. Navajo Nation Historic Preservation Department, August 25, 2010.

3. NTUA must implement specific protective measures with regard to three traditional cultural places (i.e., sweathouses), one burial site, and one cemetery in the Project area. The three sweathouses must be flagged and avoided. None of the existing structures at the burial site should be disturbed. NTUA must notify the Indian Wells CLUP Committee before any construction occurs within the graveyard, including pole replacement. All cable must be hand-carried across the cemetery. Navajo Nation Historic Preservation Department, August 3, 2010.

Mitigation Measures identified in the Environmental Assessment as being required to avoid potential significant environmental impacts:

None

