

SECTION 10

LAND USE

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SECTION 10

LAND USE

LIST OF EXHIBITS

EXHIBIT NUMBER	EXHIBIT TITLE
10.1-1	Prohibited, Limited, and Unsuitable Lands
10.1-2	Buildings, Roads, and Other Man-Made Structures
10.2-1	Previously Mined Areas

SECTION 10

LAND USE

LIST OF REVISIONS DURING PERMIT TERM

REV.		DATE
NUMBER	REVISION DESCRIPTION	APPROVED

SECTION 10 LAND USE

This section of the Navajo Transitional Energy Company's (NTEC), No Name Permit (NNP) application package addresses areas where surface coal mining is prohibited, limited, or unsuitable, and premine land uses.

10.1 Prohibited, Limited, and Unsuitable Lands

10.1.1 Lands Where Mining is Prohibited

NNP mining will not occur on lands within the boundaries of national parks, national wildlife refuges, national trails, national wilderness preserves, wild and scenic rivers, and/or national recreation areas designated by Congress, as those lands described in 30 CFR 761.11(a). Lands meeting these descriptions do not occur within or adjacent to the NNP.

NNP mining activities will not occur within 300 ft of any public buildings, schools, churches, community or institutional buildings, and/or public parks. The Tiis Tsoh Sikaad (Burnham) Chapter House, located south of the Brimhall Wash, is the nearest community building and is located approximately 1.4 mi from the southern permit boundary (Exhibit 10.1-1).

Surface Mining Control and Reclamation Act of 1977 (SMCRA) regulations (30 CFR 761.11) prohibit mining within 100 ft of a cemetery, unless the cemetery is relocated in accordance with all applicable laws and regulations. NTEC has identified burial sites within the permit area during the ethnographic and other surveys and studies completed to meet the requirements of 30 CFR 779.12(b) and other related applicable regulations. This information is found in Section 11 Cultural, Historic, and Archaeological Resources of this permit application package. Information related to cultural, historic, and archeological sites must be maintained in strict confidentiality in accordance with 30 CFR 773.6(d)(3)(iii) and other related applicable regulations. Detailed information on such resources is found within the confidential portions of Section 11. Pursuant to the Navajo Nation policy for the Protection of Jishchaa': Gravesites, Human Remains, and Funerary Items (the Navajo Nation Jishchaa' Policy) and other applicable laws and regulations, these burials may be relocated. Following all applicable laws and regulations and in consultation with affected parties, NTEC may relocate and reinter burials and associated funerary items. If relocation of the burial sites is not feasible under applicable law, NTEC will follow all applicable laws and regulations to protect these areas. Further discussions on the presence and treatment of cultural, historic, and archeological resources are presented in confidential portions of Section 11 Cultural, Historic, and Archaeological Resources.

10.1.2 Lands Where Mining is Limited

10.1.2.1 Federal Lands Within the National Forest System

NNP mining activities will not occur on any federal lands within the National Forest System.

10.1.2.2 Public Parks and National Register Listed Historic Places

There are no publically owned parks within or adjacent to the NNP permit area that would be adversely affected by NNP mining activities.

There are no National Register of Historic Places (NRHP) listed historic properties within or adjacent to the NNP permit area that would be adversely affected by NNP mining activities. Cultural resources that may be eligible for inclusion on the NRHP are discussed in Section 11 Cultural, Historic, and Archaeological Resources.

10.1.2.3 Public Roads

Approximately 7.0 mi of the Burnham Road, BIA 5082, cross through the NNP permit area (Exhibit 10.1-2). The Burnham Road is a Bureau of Indian Affairs (BIA) road that does not have a recorded right-of-way. This 7-mi segment of the Burnham Road is to be relocated in accordance with 30 CFR 761.11(d) and 761.14. Further discussion on the realignment of the Burnham Road is presented in Section 40 Environmental Protection.

There are numerous two-track unimproved roads that traverse portions of the NNP permit area. These roads are not public roads as defined in 30 CFR 761.5. Based on NTEC's investigations, these roads have not been designated as public roads by the Navajo Nation or any applicable jurisdictional authority, and are not maintained with the use of public funds similar to other public roads in the area. These roads are primarily utilized by Navajo Nation members with customary use rights in the area and public use is infrequent. These unimproved roads do not meet road construction standards for other public roads in the area.

NTEC has identified, through discussions with the grazing permittees, roads that are used to access claim use areas (CUAs). Where feasible, these two-track roads will be retained to allow access to CUAs. Further discussion on the protection of public and other roads is presented in Section 40 Environmental Protection.

10.1.2.4 Occupied Dwellings

SMCRA regulations (30 CFR 761.11) prohibit mining within 300 ft of occupied dwellings unless certain regulatory conditions are met. SMCRA regulations (30 CFR 761.5) also define an occupied dwelling as any building that is currently being used on a regular or temporary basis for human habitation. While the lands within NNP are used primarily for grazing purposes, permittees may have occupied dwellings within their respective CUAs or within approved homesite leases granted by the Navajo Nation Land Department. There are no homesite leases within Area 4 South, and two homesite leases are located within Area 5. Mining operations, including ground-clearing activities such as blasting and excavation, would require

either removing or relocating the dwellings or limiting access to existing dwellings. These existing dwellings are located on homesites, which are leased from the Navajo Nation. Locations of the dwellings and homesite leases within the permit area are presented on Exhibit 10.1-2. Until the occupied dwellings are removed or relocated, NNP mining activities will not be pursued within 300 ft of any occupied dwellings.

The Navajo Nation Land Department manages and maintains the homesite information. NTEC is presenting this information to the best of its knowledge and cannot warranty the accuracy of the information. As NTEC is made aware of changes to the homesite lease information, this section and associated exhibits will be updated accordingly.

NTEC will comply in a timely fashion with the applicable requirements of Navajo Nation laws respecting activities impacting homesites, grazing, and CUAs.

10.1.3 Valid Existing Rights Documentation

NTEC is not pursuing a demonstration of valid existing rights at this time. NTEC is applying for a new surface coal mining permit, and is therefore subject to prohibitions and limitations as discussed in 30 CFR 761.11. NTEC may pursue an exemption, as provided in 30 CFR 761.12, in the future, if lands fall under the protection of 761.11 or 30 USC 1272(e), and after the NTEC permit application package has been approved.

10.1.4 Existing Operation Exemption Documentation

NTEC is not applying for an existing operation exemption; therefore this section is not applicable.

10.1.5 Lands Unsuitable for Mining

NNP will be permitted under the Indian Lands Program. This section is not applicable.

10.1.6 Prohibited, Limited, and Unsuitable Lands Information Collection and Analysis

Prohibited, limited, and unsuitable lands were analyzed from various sources including, but not limited to, public domain geographical information system (GIS) files, interviews with local residents and government officials, and employees with knowledge of the area.

10.2 Premining Land Use

The primary land use in the permit area and adjacent areas prior to coal mining activities is characterized as very low intensity livestock grazing, with few scattered dwellings and primitive roads crossing the area. The existing land use exhibits much of the character of traditional Navajo society, which is based on rangeland resources and livestock, principally sheep, goats, cattle, and horses. Limited rainfall within the

area produces primarily rangeland plants which is useful to the Navajo people primarily for livestock grazing. Further information on land productivity is provided in Section 15 Vegetation.

NNP and the NTEC mine lease are wholly within the boundaries of the Navajo Nation. Individuals and families are granted permits by the BIA to use this land for grazing. Claims to land use are based on traditional (claim) use rights and grazing permits. Grazing permits issued by the BIA Agency Superintendent, based on recommendations of the Navajo Nation's District Grazing Committee, entitle the permittee to a range area (allotment) of sufficient size to graze a specified number of animals. Original grazing permits established by the BIA were limited to 10 head of horses or 350 sheep units (minimum 10 to maximum 350) annually per allotment. The actual grazing capacity within each CUA was based on allotment acreage. These CUAs are presented on Exhibit 6.1-2. The BIA is the legal holder of this information; NTEC is presenting the boundaries to the best of its knowledge. As NTEC is made aware of changes to the CUA boundaries, this exhibit will be updated.

Premining land use features are presented on Exhibit 10.1-2 and Exhibit 10.2-1.

Premining surface and ground water uses within the area of NNP are discussed in Section 18 Water Resources.

There is a historical record of coal mine development in the vicinity of and including the NNP area. NTEC currently operates the Navajo Mine, which is adjacent to the northern permit boundary of the NNP. Coal was also mined south of the NNP permit within the CONSOL lease area at the Burnham Mine from 1980 to 1984. Several other smaller mines have been operated in the area over the past 60 years, although none remain active. Cultural resource studies indicate the presence of historic coal mining activities by the general public in the area for more than 200 years. Locations of previously mined areas within the NNP permit area are identified on Exhibit 10.2-1.

10.2.1 Premining Land Capability and Productivity

The premining land capability and productivity within NNP are discussed in the previous sections and in Section 15 Vegetation.

10.2.2 Land Use Policies and Plans

NTEC is submitting this permit application package for a mining permit from the Office of Surface Mining Reclamation and Enforcement (OSMRE) under laws and regulations established by SMCRA, the National Environmental Policy Act (NEPA), and the Navajo Nation.

The proposed action is in accordance with the Bureau of Land Management's (BLM) minerals objective and guidance in the 2003 Farmington Resource Area Resource Management Plan (RMP) (BLM 2003) and the Albuquerque District Proposed Resource Management Plan Amendment/Final Environmental Impact Statement, Oil and Gas Leasing and Development (BLM 1991). The objective of the BLM minerals program is, to provide for the public use of leasable, locatable, and saleable minerals consistent with the laws that govern these activities.

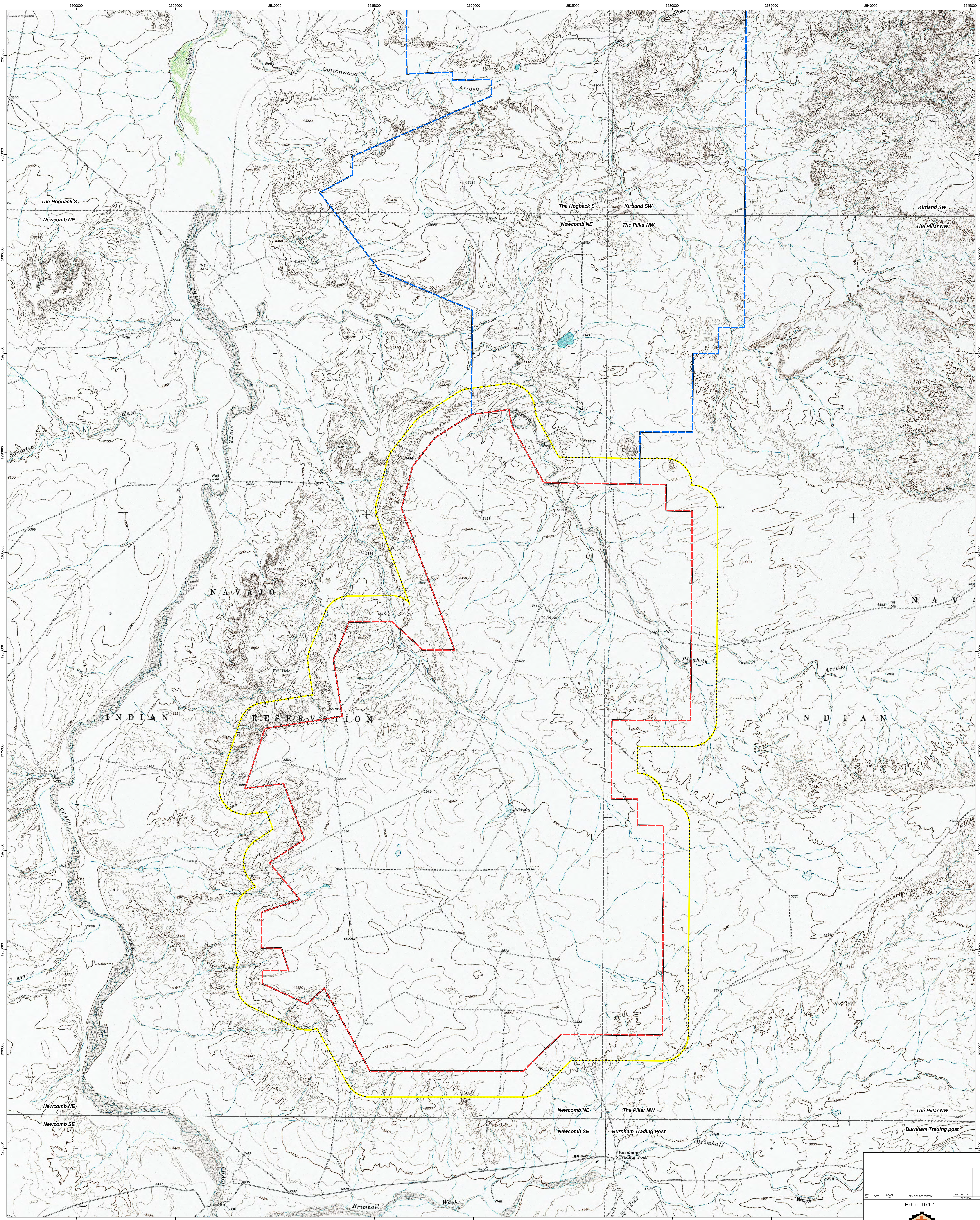
10.2.3 Utilities

There are no known oil or gas wells in the mine permit area. There are several historic water wells, which have been used for livestock watering. Groundwater monitoring well locations and completion information are described in Section 18 Water Resources. There are no existing right-of-ways identified in Section 6 Land Ownership.

Two powerlines supply residential electricity to dwellings within the NNP permit area. One powerline enters the permit area along the eastern permit boundary of Area 4 South and continues in a northwest direction to a dwelling in the eastern half of this resource area. The other powerline enters the permit area at the southwestern corner of Area 5 and continues in a northerly direction to supply a dwelling in the western half of the resource area. The location of each of these powerlines and dwellings are presented on Exhibit 10.1-2.

References

- Bureau of Land Management (BLM). 1991. Albuquerque District Proposed Resource Management Plan Amendment/Final Environmental Impact Statement: Oil and Gas Leasing and Development. Albuquerque Field Office. Albuquerque, New Mexico.
- Bureau of Land Management (BLM). 2003. Farmington Resource Management Plan. Farmington Field Office. Farmington, New Mexico.



Note:
 -USGS Quadrangle Digital Raster Graphics (DRG's) obtained from
 New Mexico Resource Geographic Information System Program
 (rgis.unm.edu).
 Coordinate System:
 NAD 1927 StatePlane New Mexico West FIPS 3003 Feet
 Datum: North American 1927
 Units US Feet

Coordinate System:
NAD 1927 StatePlane New Mexico West FIPS 3003 Feet
Datum: North American 1927
Units: US Feet

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Legend

- No Name Permit boundary
- NTCC Lease boundary
- USGS 7.5 Min. Topographic Quad Boundaries
- 200-ft Permit Buffer

The Diller ARM, USGS 7.5 Min.

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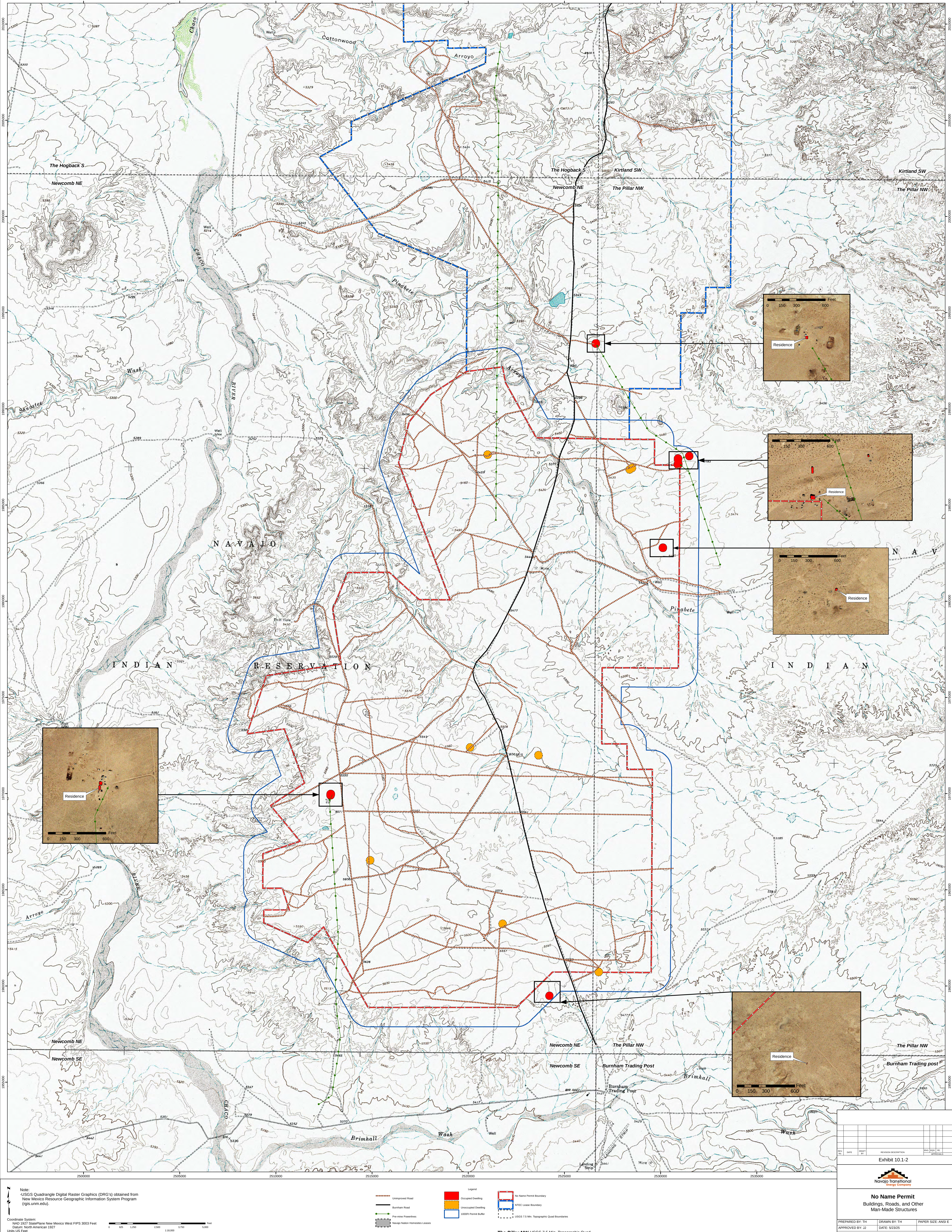
Exhibit 10.1-1



No Name Permit

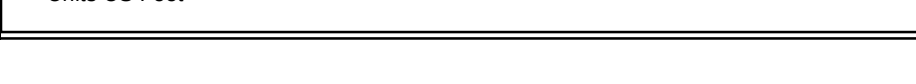
Prohibited, Limited, and Unsuitable Lands

PREPARED BY: TH	DRAWN BY: TH	PAPER SIZE: ANSI E
APPROVED BY: JJ	DATE: 5/23/25	



Note:
-USGS Quadrange Digital Raster Graphics (DRG's) obtained from
New Mexico Resource Geographic Information System Program
(rgis.unm.edu).

Coordinate System:
NAD 1983 StatePlane New Mexico West FIPS 3003 Feet
Datum: North American 1983
Units: US Feet



- Legend
- Unimproved Road
 - Burnham Road
 - Pre-mine Powerlines
 - Navajo Nation Homelands Leads
 - Occupied Dwelling
 - Unoccupied Dwelling
 - 1000ft Permit Buffer
 - No Name Permit Boundary
 - NTEC Lender Boundary
 - USGS 7.5 Min. Topographic Quad Boundaries

Exhibit 10.1-2

Navajo Transitional Energy Company

No Name Permit
Buildings, Roads, and Other
Man-Made Structures

PREPARED BY: TH
APPROVED BY: JJ

DRAWN BY: TH
DATE: 5/23/25

PAPER SIZE: ANSI E

