

NAVAJO NATION CASE STUDY
TEXAS-NEW MEXICO PIPELINE

I. INTRODUCTION

The Navajo Nation recognizes that the Congress mandated the Departments of Interior and Energy to study all types of “Indian energy rights-of-way” in section 1813 of the Energy Policy Act of 2005 (“2005 EAct”). This case study examines one type of such rights-of-way, a FERC-regulated crude oil transmission pipeline.

The Navajo Nation selected this particular case study because it exemplifies how federal adherence to the consent principle in the Indian tribal right-of-way context can have and has had the effects both of promoting tribal self-sufficiency and also of demonstrably increasing energy production for the benefit of the American public and the Nation’s business partners.

The Navajo Nation and its wholly-owned corporation, the Navajo Nation Oil and Gas Company, have agreed with third parties to keep certain information confidential, and we consider that and other information to be sensitive proprietary business information. Therefore, this case study is not accompanied by copies of all relevant source documents, but the Nation has made available its files to the researchers working on behalf of the Departments of Energy and Interior on the 2005 EAct section 1813 study to permit verification of the information in this case study.

II. CHRONOLOGY

A. THE INITIAL GRANT; DECLINING PRODUCTION

The old Texas-New Mexico (“TNM”) pipeline is a 16-inch crude oil transmission pipeline that took crude oil produced from the Greater Aneth field located in and near the Utah portion of the Navajo Reservation to Jal, New Mexico, and ultimately into nearby Texas. Permission to begin construction was granted by the BIA in 1957 and the BIA granted the easement in 1959 for an initial

20-year term. See App. 1. The compensation appears to have been \$20,712.86, based on a one dollar per rod figure. See App. 2; “Stipulation” (date obscured) at ¶ 17, App. 10. The Aneth field was one of the most prolific in the continental United States for many years. In recent years, however, production from Aneth has declined, and much of the TNM pipeline (that part south of the station at Bisti, New Mexico) no longer transports crude. For practical purposes, the TNM line now terminates at a tank battery at Bisti, New Mexico, within the so-called “checkerboard” area of Navajo Indian country in the northwest part of the State. From Bisti, the crude is transported by pipelines owned by an affiliate of Giant Refining Company to two of Giant’s refineries, one in Bloomfield and the other fifteen miles east of Gallup at Ciniza, New Mexico.

This chronology does not discuss in great detail the long-ago history of this pipeline. Rather, it focuses on events occurring after 1980. This later time period shows how tribal self-determination, a limited term of years for easements, the consent principle governing the grant of rights-of-way over tribal land, and a cooperative federal trusteeship together have enhanced Navajo Nation self-sufficiency, helped industry entities who depend on Navajo crude oil to prosper, created wealth for the Nation’s business partners, and increased energy production and enhanced national energy security.

B. THE EXPIRATION OF THE EASEMENTS

The TNM line passes through Navajo tribal trust land, individual allotted trust land, State lands, private lands, and lands administered by the Bureau of Land Management. The initial term expired in March 1977. TNM allowed the pipeline right-of-way to expire, and the pipeline operated in trespass from 1977 through 1982. See App. 14. In January 1984, the Navajo Nation and TNM agreed to a new twenty-year right-of-way effective January 1, 1982, terminating December 31, 2001.

App. 15. That agreement consolidated all rights-of-way for the line, both in trespass and not, and included lands needed for pump stations and microwave towers. App. 14.¹ Consideration was based on a base payment of \$84,500 per year adjusted for inflation, a figure itself based on a throughput of 22,140 barrels of oil per day. App. 15. TNM agreed to abide by Navajo law. App. 22 at ¶ 21. However, TNM almost immediately objected to the requirement that any challenge Navajo taxes be brought in a Navajo forum, and TNM's federal lawsuit objecting to that requirement was ultimately resolved in favor of the Navajo Nation, after years of costly litigation. See Texaco, Inc. v. Zah, 5 F.3d 1374 (10th Cir. 1993); appeal after remand, Texaco, Inc. v. Hale, 81 F.3d 934 (10th Cir. 1996).

Production from the Greater Aneth Field, the largest source of crude oil for the pipeline, declined significantly. See attached graphs provided by RNRC. Thus, the throughput of the trunk line decreased from the assumed 22,140 bpd in 1982 to 10,988 in 2004.² The declining oil field and the TNM line no longer fit within the key objectives of the major oil companies operating in the Aneth area. Thus, on July 3, 2001, TNM entered into a purchase and sale agreement with the Giant Pipeline Company, an affiliate of the owner of the two refineries that use the crude oil produced at Aneth. At that time, the term of the Navajo right-of-way for the TNM line had only about five months remaining.

The gathering lines that feed the TNM line have a similar history. The pipeline owner around 1980 was the Four Corners Pipe Line Company. It operated in trespass from May 23, 1977 until it reached an agreement for a new twenty-year right-of-way with the Navajo Nation as of February 2,

¹ The Agreement covers 65 miles of 16-inch crude oil pipeline, 29 miles of gathering lines, eight cathodic protection units, three microwave towers, and two pump stations. App. 13.

² Email from Wilson Groen, President and CEO of NOG (May 11, 2006); email from James Piccone, President of RNRC (may 11, 2006).

1981. See App. 25, 27. It also agreed to pay the Nation on a throughput basis and to abide by Navajo law. App. 27, 35. That gatherer (ARCO-Midcon LLC in 2000) sold its interests in the gathering system to Giant, by agreement dated December 1, 2000. At that time, the right-of-way had slightly more than a year before it expired.

III. A DIFFERENT APPROACH; THE RESULTS

Although the oil properties and related pipeline facilities were of diminishing value to ARCO and Texaco, they were essential to the survival and profitability of Giant. Giant sought to extend the rights-of-way in its own name, and the Navajo Nation proposed a different approach.

The Secretary of the Interior had approved a federal charter of incorporation for the Navajo Nation Oil and Gas Company (“NOG”) in December 1997. See App. 38. The Navajo Nation Council ratified the establishment of NOG as a wholly owned Navajo Nation company six weeks thereafter, by vote of 62 in favor and 0 opposed. Id. After negotiations among Giant, NOG and the Navajo Nation, the Navajo Nation agreed to grant to NOG a twenty-year right-of-way for both the former ARCO gathering lines and the TNM trunk line for significant annual consideration that must remain confidential. NOG agreed to purchase the pipeline properties from Giant and to provide transportation services for Giant (the sole shipper on the line) for negotiated, FERC-approved tariffs. The purchase and sale was effective May 2002. To ensure unbroken service, NOG and Giant also agreed to an interim operating agreement under which Giant would continue to operate the line for a service fee while training NOG personnel to take over all operational and accounting functions. Both NOG and Giant recognized that the former owners had not maintained the pipelines in an optimal fashion, and NOG “smart-pigged” the entire line to locate areas in the line where corrosion or other defects threatened loss of product and environmental damage.

NOG remains the owner and operator of the pipelines. We understand that Giant is more than satisfied with the arrangement, and invite the Departments to confirm that understanding with Giant.

Just as importantly, the tariffs collected by NOG, the security of pipeline ownership, and NOG's relationship with the refiner have allowed NOG to expand its upstream (exploration and production) operations. Chevron Texaco ("CVX") announced that it was selling its Aneth-area assets, and the Navajo Nation notified CVX of the Navajo Nation's preference right to purchase those properties under Navajo law. See 18 N.N.C. § 605. CVX agreed to negotiate directly with NOG and NOG's partner, Resolute Natural Resources Company ("RNRC"). That negotiation resulted in a purchase of the CVX properties that closed in November 2004, effective September 1, 2004. NOG and RNRC followed that acquisition with the acquisition of all the Exxon Mobil ("EOM") properties in a purchase and sale that closed April 14, 2006, effective as of January 1, 2005.

Operations on the former CVX properties have been successful for NOG and its partner. Indeed, as the attached chart shows, RNRC and NOG have actually reversed the decline curve for those properties, and have increased production by about 10%, or 300 barrels per day.³ This benefits the Navajo Nation (which receives royalties on most of the oil produced in the greater Aneth area), the refiner, the consumer, and the energy security of the United States. NOG and RNRC expect to replicate those results with the EOM properties, and have an aggressive plan to invest money in that field to increase production significantly there. NOG will also invest some of its profits in two previously unexplored, but promising, areas on the reservation, the Canal Creek and Echo House

³ Email from James Piccone, President of RNRC (May 11, 2006).

Mesa properties. The Department of the Interior approved Operating Agreements between NOG and the Navajo Nation for those two tracts in February 2004, the first new lease areas approved on the Navajo Reservation in over 15 years.

IV. CONCLUSION

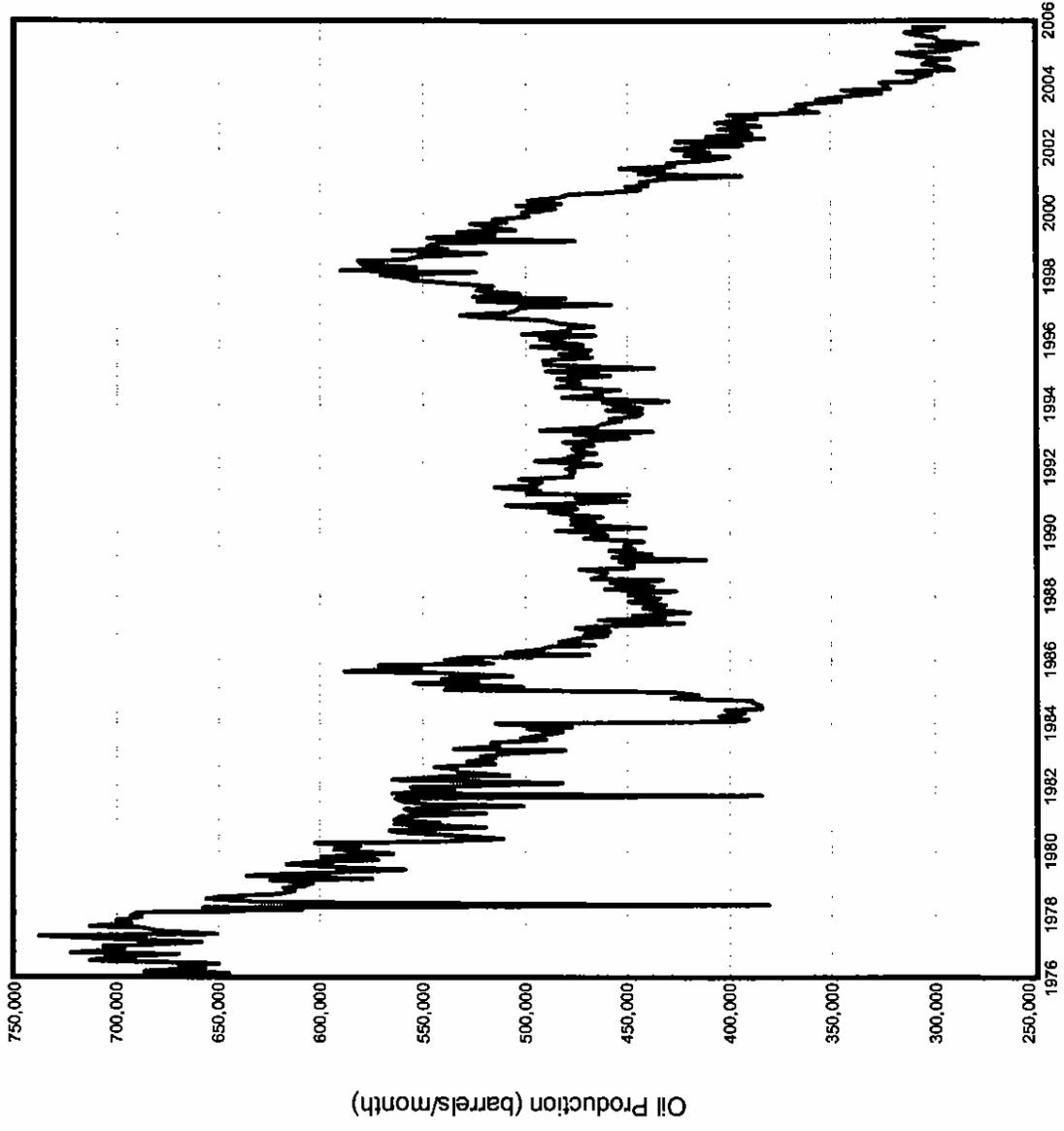
The above-described developments are mutually supporting and synergistic. The consent requirement for rights-of-way over tribal land triggered new opportunities for the Navajo Nation and its wholly owned company. It was instrumental in the later acquisitions of neglected oil properties, and in the dramatic increase in production from those properties. The refiner is secure. RNRC and its investors are prospering. The Navajo Nation is receiving royalties on more barrels of oil. The consumer and national energy security both benefit. And the Navajo Nation owns a company whose net worth continues to grow, and which employs over 100 people, almost all of whom are Navajo citizens. The Department of the Interior's prudent trusteeship in chartering NOG,⁴ requiring Navajo Nation consent to grants or renewals of rights-of-way, and approving the various transactions involving Navajo trust land has helped immeasurably.

The Navajo Nation urges that the Departments of Energy and Interior inform the Congress that the tribal consent requirement is essential not only to honor solemn treaty promises but also to enable Indian nations to enter the energy business world. This fundamental attribute of tribal sovereignty is permitting Indian tribes to restore neglected properties and explore undeveloped areas, employ tribal members in significant numbers, and produce greater amounts of energy resources to the benefit of the public, the tribes' partners, the energy industry in general, and the United States' energy security.

⁴ Indeed, the BIA funded initial feasibility studies preceding the establishment of NOG through a competitive grant program.

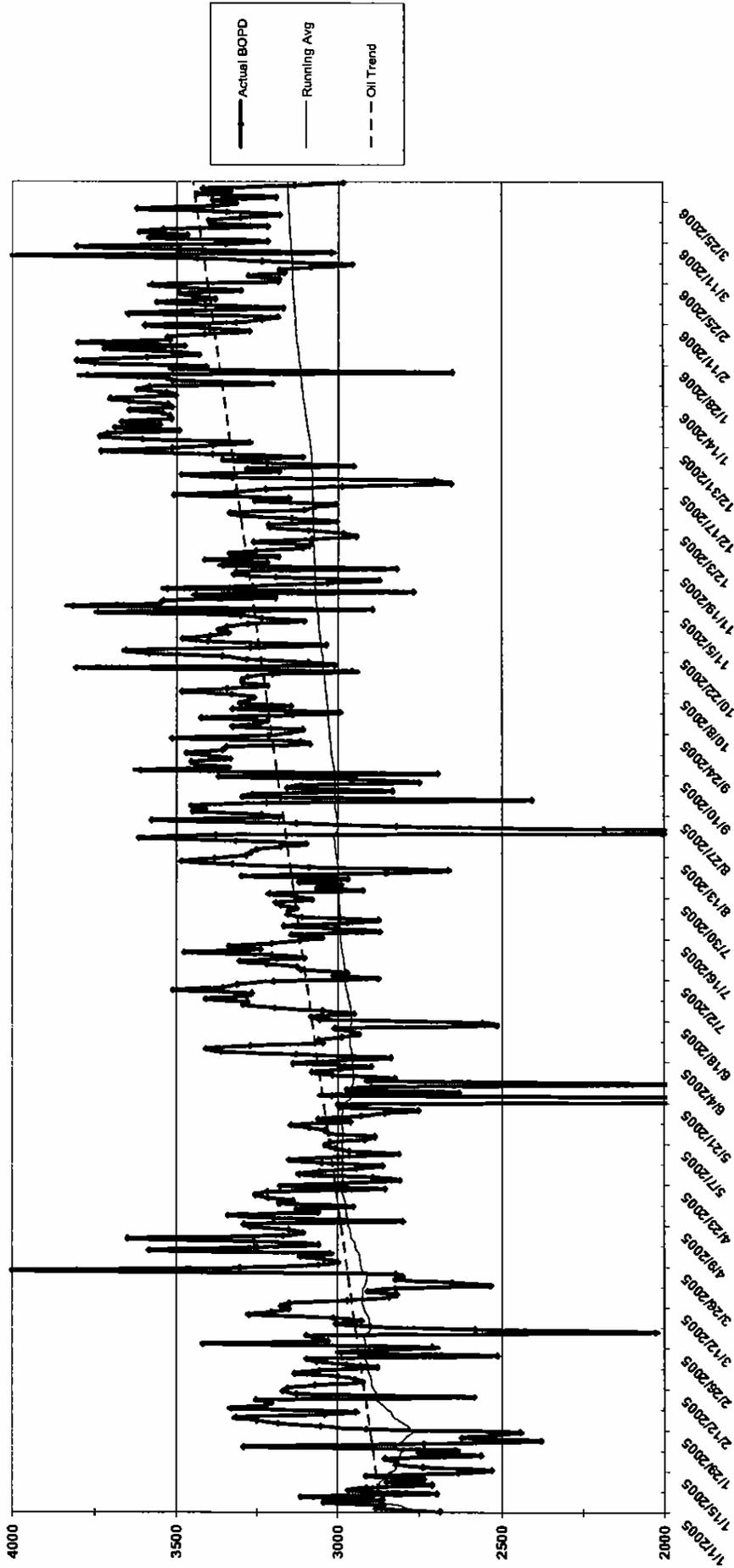
Greater Aneth Field

Oil Production History 1976 through 2006

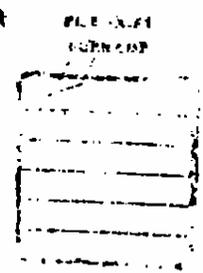


Aneth Unit Daily Oil Production

January 1, 2005 through March 31, 2006



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS



Chairman,
Navajo Tribal Council
and
General Superintendent
Navajo Agency
Window Rock, Arizona

Dear Sirs:

There is submitted herewith for consideration and approval papers for 16" pipeline
Pipeline, highway, etc.
right of way applied for by: Texas-New Mexico Pipe Line Company
P. O. Box 2332, Houston 1, Texas

covering lands under the NAVAJO AGENCY, WINDOW ROCK, ARIZONA, more particularly shown in the application and
maps attached hereto. Tribal and allotted lands.

Permission to construct was granted: (Date) March 26, 1957

Amount deposited by the Applicant: \$ 57,726.96

IN SUPPORT of this application there are enclosed the following papers:

1. Application, dated December 9, 1958 with stipulation.
2. Line tracings and print copies of map of definite location
3. Field Inspection Report as to completion and damages
4. Consents of Landowners
5. Schedule of Damages and certified to by Branch of Realty
6. Affidavits of Completion

REMARKS: (See attached memorandum)

APR 10 1959

Respectfully submitted this _____ day of _____, 19 59
with recommendation that it be approved.

CONSENT GRANTED AS TO TRIBAL LANDS by Memorandum of
Feb. 9, 1959, by Chairman of Navajo Tribal Council.

Chairman, Navajo Tribal Council

Date: see attached Memorandum above.

Respectfully

APPROVED:
Effective March 26, 1957 for a
period not to exceed 20 years.
Pursuant to the provisions of the Act of
Feb. 5, 1948 (62 Stat. 17)
and Department Regulations, 25 C.F.R. part 151,
subject to any prior, valid, existing right
or adverse claim, and applicant's stipulations
of December 9, 1958.

M. E. Jones
Agency Realty Officer
Window Rock, Arizona

K. W. King
ACTING General Superintendent, Navajo Agency

Date: 4/3/59

MEMORANDUM

APR 19 1958

SUBJECT: 16" oil and gas pipeline - 60 feet in width - Anoth, Utah, to Jal, New Mexico - across Tribal and Allotted lands in Utah and New Mexico, Applicant - Texas-New Mexico Pipe Line Co.

Following preliminary discussion in early 1957 regarding procedure to follow in acquiring pipeline right-of-way over Indian lands the Applicant filed its application to survey and construct said above line. Permission to survey and construct said line over tribal lands was granted March 26, 1957, by letter signed jointly by the Navajo Tribal Chairman and General Superintendent. Thereafter, from time to time, consents to survey and construct the 16" line over allotted lands were granted to the company upon its filing appropriate applications together with consents of owners of the allotments involved.

The Applicant has on deposit in excess of \$50,000.00 representing double estimated damages more than sufficient to pay the usual \$1.00 per lineal rod damage assessment for the right-of-way.

Proofs of Construction filed by the company show construction of the line over tribal lands was completed in January, 1958, and over allotted lands in January, February and March, 1958. Field inspections were made by personnel of Shiprock and Crownpoint Subagencies in August and October, 1958, and their reports show no excessive or unusual damages was done to the lands that could not be fully compensated for by the \$1.00 per rod damage assessment.

Acceptable formal application dated December 9, 1958, has been filed by the Applicant and is submitted as a part of this record. There is also attached to the formal application Stipulation Agreement required by the Navajo Tribe. The stipulation agreement has been duly executed by the company officers. The company has also filed its maps of definite location required by the regulations showing location of the 16 inch pipeline over, both, tribal and allotted lands.

The attached Schedule of Damages show damage compensation due the Navajo Tribe in the total amount of \$20,712.85 and \$5,699.90 due the owners of allotted lands. No amounts on the schedule due the Tribe as damages for pump station sites are shown as these will be handled separately as the company completes its applications, maps and other required papers.

Tribal Consent to survey and construct as stated before was given March 26, 1957. By Memorandum of February 9, 1959, the Chairman of the Navajo Tribal Council gave consent to the final grant of the right-of-way to the Texas-New Mexico Pipe Line Company, to which reference is made in Transmittal covering.

The consents of available owners of the allotted lands involved are attached. Section 161.3, 25 CFR, provides, under certain conditions, the Superintendent may grant rights-of-way across restricted lands of individual Indians without the consent of the individual owners where there is no substantial injury to the land or the owner cannot be adequately compensated for by monetary damages. Due to complicated ownership, unsettled estates, absences, and for other reasons, the company was not able to obtain consents of all living owners, however, as reported by Subagency personnel no substantial injury was done to the lands of the individual owners by virtue of the construction of the pipeline.

With respect to Allotment No. 064494, S/2 Section 21-26N-12W, San Juan Co., New Mexico, the allottee, Nakiah Yazza, collected direct damages in the total amount of \$300.50. Through an error and believing this tract to be an unrestricted homestead entry the company made the direct payment to Nakiah Yazza, the allottee. The company has furnished photostats of receipt executed by Mr. Yazza for payment of the above amount and an executed easement deed. At best the execution of the easement deed by the allottee can be construed as only the consent of the landowner to the granting of the right-of-way, for which full payment has been made. Sheet No. 1 of Map No. II - 4 show the pipeline as crossing the allotment of Nakiah Yazza, Allotment No. 064494, described as S/2 Section 21-26N-12W.

It is, therefore, recommended the right-of-way grant for the 16 inch pipeline be approved pursuant to the provisions of the Act of February 5, 1948 (62 Stat. 17) and Departmental Regulations, Part 161, 25 CFR, for a period not to exceed 20 years from March 26, 1957, including a right-of-way across the allotment of Nakiah Yazza, Allotment No. 064494, described S/2 Section 21-26N-12W, San Juan Co., New Mexico, and as being fully compensated for as shown by the attached Supplemental Schedule of Damages and photostats of receipt and easement deed hereinbefore referred to furnished by the Texas-New Mexico Pipe Line Company.

juh

EX 100
T.N.M. 459

S T I P U L A T I O N

WHEREAS, the TEXAS-NEW MEXICO PIPE LINE COMPANY has applied under applicable statutes and Federal regulations for a right of way for an oil pipeline over the Navajo Indian Reservation, and

WHEREAS, applicable regulations require that the applicant agree to certain of the conditions hereinafter contained governing the use of the desired right of way, and the Navajo Tribe requires certain other conditions hereinafter contained as a condition of its consent to the granting of said right of way.

NOW THEREFORE, the applicant, Texas-New Mexico Pipe Line Company, hereby stipulates, covenants and agrees as follows:

1. (a) The applicant shall transport as a common carrier without discrimination oil produced from Navajo Tribal and allotted lands, which is tendered it for transportation in accordance with the terms and conditions of its tariffs as published and filed with the Interstate Commerce Commission.

(b) The applicant shall transport, at such non-discriminatory rates and under the terms and conditions of its tariffs as published and filed with the Interstate Commerce Commission, all royalty oil of the Navajo Tribe or of

individual members thereof, which shall be delivered to any of the Company's receiving facilities.

(c) Applicant agrees and consents to bury such part of its pipeline as traverses the Navajo Indian Reservation and lands allotted to individual Navajo Indians in such manner that it will in no way interfere with the enjoyment of surface rights by the United States or the Navajo Tribe, their permittees or lessees; and that applicant will not knowingly use the pipelines for the transportation of oil which was not produced in conformity with Federal laws, including laws prohibiting waste.

2. The granting of this right of way shall be subject to the express condition that the exercise thereof will not interfere in any way with the leasing and administration by the United States and/or the Navajo Tribe of the Indian lands affected thereby or with the development of oil, gas and other minerals therefrom; and the applicant agrees and consents to the use of such portion of the right of way not actually occupied by the pipeline for and in connection with the drilling or mining operations, with the development and production of oil, gas or other minerals and the operations of wells thereon.

3. The applicant, by accepting a pipeline right of way, agrees that the books and records of the applicant shall be open to inspection by the Secretary or his duly authorized

representative at all reasonable times, in order to obtain information pertaining in any way to oil or gas produced from restricted lands or other lands under the jurisdiction of the Secretary.

4. The applicant agrees that it will properly dispose of any and all brush and will refill all holes, trenches, or other excavations incident to the construction and maintenance of the line which traverses Reservation range, in such a way as to minimize fire hazards and injury to livestock, and where feasible will reseed any areas of grass destroyed as a result of construction, operation or maintenance of said pipeline. Where roads incident to the right of way cross fences, ditches, or other improvements now maintained on the Reservation range, the applicant also agrees to install proper and necessary gates, bridges, underpasses, overpasses and cattle guards, in order to permit the orderly use of the Reservation range as directed by the Navajo Field Service.

5. The applicant agrees that the grant shall include and be subject to the following provisions: There is reserved to the United States, its successors and assigns, and to the Navajo Tribe, individual allottees or their heirs the prior right to use any of the land herein described to construct, operate, and maintain dams, dikes, reservoirs, canals, wasteways, laterals, ditches, telephone

and telegraph lines, electric transmission lines, roadways, and appurtenant irrigation structures, without any payment made by the United States, the Navajo Tribe or their successors for such right, with the agreement on the part of the applicant that if the construction of any or all of such dams, dikes, reservoirs, canals, wasteways, laterals, ditches, telephone and telegraph lines, electric transmission lines, roadways, or appurtenant irrigation structures across, over, or upon said lands should be made more expensive by reason of the existence of improvements or workings of the applicant thereon, such additional expense is to be estimated by the Secretary of the Interior, or his authorized representative, whose estimate is to be final and binding upon the parties hereto, and that within ninety days after demand is made upon the applicant for payment of any such sums, the applicant will make payment thereof to the United States, the Navajo Tribe, or their successors, constructing such dams, dikes, reservoirs, canals, wasteways, laterals, ditches, telephone and telegraph lines, electric transmission lines, roadways, or appurtenant irrigation structures across, over, or upon said lands, or, at its option, applicant will commence the alteration or relocation of its improvements and facilities so that such improvements and facilities would not cause additional expenditure to the United States, the Navajo Tribe or its successors. None of the foregoing provisions shall relieve an independent contractor constructing such project or projects

of liability for injuries and/or damages sustained by applicant attributable to the negligence of said contractor, his agents, servants or employees.

6. The use by the grantee of the premises shall be subject to the exercise by the Department of the Interior, and by the Navajo Tribe, of the activities necessary for the protection and maintenance of the premises, and of adjacent lands administered by either, and of wild life found on or frequenting said premises and other lands of the Department; the rights of the Navajo Tribe and individual Navajo Indians to be protected.

7. All pipelines shall be buried a sufficient depth under the surface as not to interfere with the cultivation of the land above, and at the risk of the grantee. Should it be desired at any time to lay additional lines of pipe in the same trench, or to replace the original line by larger or smaller pipe, or to use the right of way, by conversion of existing pipeline or otherwise, for the transportation of substances other than crude oil or associated liquid hydrocarbons, permission therefor must be first obtained from the Secretary of the Interior, or his authorized representative, and the Chairman of the Navajo Tribal Council, and payment made of any damages sustained by the Indian owners, in the same manner as for the original line. Any right of way granted hereunder is subject to the right of the full use and enjoyment of the premises by the Tribe,

allottee, or occupant, except as otherwise provided by law or the regulations.

8. Applicant waives all claims for damages of whatever nature to any of the pipes or lines arising from the cultivation or ordinary and customary use of the surface of the land.

9. Where a pipe or pipe line is laid under a traveled road or highway, its construction shall be in compliance with the applicable State laws and requirements of the Superintendent of the Navajo Agency; during the work at least one-half the width of the road must be kept open to travel; and, upon completion, the highway shall be restored to its original condition, any excavation to be refilled whenever, by settling or other causes, the necessity therefor may arise.

10. Whenever any such pipe crosses a ravine, canyon, or waterway, it may be laid either below the bed thereof or upon such a superstructure as will not interfere with the use of the surface.

11. The applicant agrees that where soil deterioration or erosion hazard is created or caused by its activities on Indian land it will take such action as shall be recommended or required by the Superintendent of the Navajo Agency, or his authorized representatives, within the scope of usual soil conservation practices, to correct or repair such deterioration and minimize such hazard.

12. Any roads constructed by the applicant hereunder will be located within the limits of the right of way granted unless, for reasons of terrain or existing roads, such location would not be practicable or necessary. Any other location will be by permission first sought and obtained from the Superintendent of the Navajo Agency.

13. "Slush pits" or "drip pits," should any be constructed, will be located on the right of way granted, and adequately protected to prevent damage to range, livestock or other property. Applicant hereinafter stipulates as to any damage caused.

14. If it should be discovered that the planned course of the pipeline passes over any area occupied by a Hopi Indian shrine, the applicant will change the course of the pipeline to such location as shall be permitted by the grantor, to avoid passage over such area and interference with or desecration of such shrine.

15. In the construction, operation, and maintenance of the pipeline project across the Navajo Indian Reservation, preference will be given to Navajo Indians in the employment of all labor, skilled and unskilled, which they are qualified to perform. Wages paid to Navajos shall not be less than those paid to white persons for comparable or identical work.

16. The applicant will offer every reasonable opportunity to employed Navajos, who show ability, for training

in additional skills which are needed in the construction, operation and maintenance of the project.

17. The applicant consents to assessment of damages equal in amount to \$1.00 per lineal rod, or \$320.00 per lineal mile, for the length of the proposed pipeline over Tribal and allotted lands lying within or without the Reservation boundaries and to pay, in addition, such ascertainable actual damages as may be caused by the construction of the pipeline over agricultural or forested lands, and also agrees to pay, as provided by regulations, for any damage caused by the operation of the pipeline which shall occur subsequent to completion of the construction of the project.

18. The pipeline project shall be constructed under archeological control of supervisors acceptable to and under the general supervision of the National Park Service at the cost of applicant. If it should be discovered that the planned course of the pipeline threatens to damage or destroy archeological sites and materials, applicant will shift the course of the pipeline or road to avoid such area or shall bear the cost of salvaging of archeological values where it is not deemed feasible or practicable to reroute its pipeline or road; provided that necessary changes of location may be made in the field as archeological findings require without first seeking permission of the grantor. Maps constituting amendments to the original maps submitted will be furnished to the grantor.

19. Upon written application from the Chairman of the Navajo Tribal Council, the applicant will file tariffs with the Interstate Commerce Commission identical with its then existing tariffs except as to the amount of the charge, but with the designation as a destination point for oil shipped through its pipelines of any specific point on the then existing pipeline of applicant designated by the Chairman of the Navajo Tribal Council in Arizona or New Mexico, provided the designation of such a destination and the charge for movements of oil to that destination are economically justified.

20. (a) Where said pipeline crosses the 3300-foot corridor referred to in subsection 12(c) (i) of Contract No. 14-20-603-2505 between the Navajo Tribe and the Utah Construction Company, applicant will either bury the pipeline to a sufficient depth or, at a place to be designated by the Utah Construction Company, construct and maintain, at applicant's expense, a ramp, so that loaded vehicles, including Utah's heavy mining equipment may pass unhindered over said pipe. Wherever said pipeline is relocated pursuant to subsection (b) of this section, applicant will either bury the relocated pipe or promptly construct and maintain, at its own expense, a suitable ramp in a new place designated by Utah. Utah shall not be responsible for damage to said pipe caused by such vehicles and equipment so crossing said pipeline.

(b) That applicant will make adequate provisions in the construction of the pipeline so that, in the event it is determined by the Utah Construction Company that mining operations should be conducted within the area of the designated pipeline crossing, or that a power or industrial plant or other building should be built in such area, the line can be expeditiously relocated so as not to interfere with Utah's operations; and applicant shall make such relocation, including any necessary bridging, at its own expense, within 90 days from receipt of notice in writing from Utah requesting such relocation. If applicant fails to make such relocation within such 90-day period, Utah may relocate the line without liability and at the expense of applicant.

(c) Applicant will at all times keep, maintain and repair, at its own expense, the portion of the pipeline crossing the leased premises described in Contract No. 14-20-603-2505 in good working order and repair, and in such condition as not to injure, endanger or interfere with Utah or any person or property on or about the premises.

(d) That applicant will promptly pay any lawful taxes, charges or assessments placed upon or levied against the pipeline or improvements or appurtenances in connection therewith; provided, that applicant may contest the validity or amount of any such tax, charge or assessment and shall not be considered in violation of this stipulation until a

reasonable time after final determination of such contest by a competent tribunal.

(e) That applicant will be responsible for any damage to or loss of property or injury to or death of any person directly or indirectly caused by the enjoyment of pipeline rights, and shall hold Utah harmless and indemnify it against any and all claims therefor; and shall further hold the Utah Construction Company harmless from and indemnify it against damage to or loss of property belonging to applicant or injury to or death of any person on or about the pipeline crossing on behalf of or at the invitation of applicant.

(f) That applicant shall specify in writing the address to which all notices and requests to be given or made by the Utah Construction Company may be mailed.

EXECUTED this 9th day of December, 1900.

TEXAS-NEW MEXICO PIPE LINE COMPANY

By

[Signature]
President

Title

ATTEST

[Signature]
Secretary

Title

FORM APPROVED
[Signature]
IRAN A. WARREN

2-11-01 To :
F-100 - 8/30/02

AGREEMENT AND STIPULATIONS FOR GRANT OF
RIGHTS-OF-WAY

WHEREAS, Texas-New Mexico Pipe Line Company, a Delaware corporation, P. O. Box 42130, Houston, Texas 77242, is engaged in the business of transporting crude oil through a 16-inch crude oil pipeline about sixty-five (65) miles in length in conjunction with about twenty-nine (29) miles of gathering lines, three (3) microwave towers, eight (8) cathodic units and two (2) pump stations within the Navajo Indian Reservation.

WHEREAS, certain of the rights-of-way granted to Texas-New Mexico Pipe Line Company by the Navajo Tribe of Indians expired on March 26, 1977.

WHEREAS, Texas-New Mexico Pipe Line Company has applied under applicable statutes and Federal regulations for the renewal of the rights-of-way for about sixty-five (65) miles of crude oil pipeline, about twenty-nine (29) miles of gathering lines, three (3) microwave towers, one (1) cathodic unit and two (2) pump stations on and over the Navajo Indian Reservation.

WHEREAS, Texas-New Mexico Pipe Line Company in addition has also applied for a right-of-way grant for a six-inch (6") gathering line, 561.2 ft. in length and six (6) cathodic units. These facilities are in operation without the consent of the Navajo Tribe of Indians or the Secretary of Interior or his authorized representative. Texas-New Mexico Pipe Line Company also has a cathodic unit in operation, the right-of-way of which will expire on November 2, 1992.

WHEREAS, Texas-New Mexico Pipe Line Company proposes to the Navajo Tribe of Indians to consolidate all its existing pipelines and facilities in operation as of January 1, 1982 within the Navajo Indian Reservation, to one consolidated right-of-way. The pipelines and facilities in operation as of January 1, 1982 are as follows:

- a) About sixty-five (65) miles of 16-inch crude oil pipeline.
- b) About twenty-nine (29) miles of gathering lines.
- c) Eight (8) cathodic protection units.
- d) Three (3) microwave towers.
- e) A six-inch (6") gathering line 561.2 ft. in length.
- f) Two (2) pump stations.

A legal description of the above pipelines and facilities is provided as Exhibit "A" as stated in Sec. 2 of this Stipulation.

App. 14

RECEIVED

NOV 29 1983

00063

A. A. BARNETT CO.
REAL PROPERTY MGMT.

WHEREAS, applicable Federal regulations require that Texas-New Mexico Pipe Line Company agree to certain conditions as hereinafter set forth governing the use of the said right-of-way and the Navajo Tribe of Indians require certain other conditions as hereinafter contained as a condition to its consent to the granting of the said right-of-way.

NOW THEREFORE, Texas-New Mexico Pipe Line Company (the "Applicant") and the Navajo Tribe of Indians (the "Navajo Nation") hereby stipulate, covenant and agree as follows:

1. The Navajo Nation agrees and consents to the consolidation of the existing expired right-of-way, and the facilities in operation as of January 1, 1982, to one consolidated right-of-way grant.
2. The Navajo Nation agrees and consents to the granting of a consolidated right-of-way covering facilities as set forth in legal descriptions in Exhibit "A" which Exhibit is attached hereto and incorporated herein.
3. The said right-of-way renewal and grant shall be granted for a term of twenty (20) years effective January 1, 1982, and terminating on December 31, 2001 after the approval by the Secretary of Interior or his authorized representative (the "Approval Date").
4. In consideration for the granting of the said consolidated right-of-way renewal and grant, the Applicant agrees and consents to the following payments to the Navajo Nation.

a) Annual Payments

The Applicant shall pay to the Navajo Nation annual payments during the term of this consolidated right-of-way grant, commencing with calendar year 1982. The amount of such payment for 1982 shall be the guaranteed sum of Eighty-Four Thousand Five Hundred Dollars (\$84,500.00) (the "Base Payment") based on a throughput of 22,140 barrels of hydrocarbons per day (the "Base Throughput") for the said year of 1982, which payment shall be due and payable on the Approval Date. The Base Payment shall be adjusted and supplemented at the end of the calendar year (1982) if the actual average throughput of hydrocarbons per day is greater than the Base Throughput. The supplemental payment shall be determined by multiplying the Base Payment (\$84,500) by the percent (%) of increase in actual throughput in excess of the Base Throughput. In no event shall the payment for the calendar year 1982 be less than \$84,500.00. The annual payment for subsequent years shall be the Base Payment adjusted annually as provided in Sec. 4(e).

b) Compensation for the EXDILEG

The Applicant shall pay to the Navajo Nation a lump sum payment of Three Hundred Twenty Thousand Dollars (\$320,000) as compensation for the period of time the original rights-of-way expired on March 26, 1977 to December 31, 1981. In addition, the Applicant shall pay to the Navajo Nation interest at the rate of twelve and one quarter percent (12.25%) per annum on the said amount from January 1, 1982, to the date the payment is actually made to the Navajo Nation. Payment shall be due on Approval Date. With this lump sum payment, the Navajo Nation agrees to release Applicant from any claims or liability for trespass, additional compensation for right-of-way, or similar claims, arising out of the Applicant's continued use of Navajo land after expiration of the original right-of-way grants.

c) Compensation for Installations Constructed Without a Right-of-Way Grant

The Applicant shall pay to the Navajo Nation a lump sum payment of Nine Thousand Dollars (\$9,000) as compensation for installations erected without a right-of-way grant. This lump sum payment is compensation for the period of time beginning on the date of installation of the facilities to the date of expiration of the consolidated right-of-way grant approved by Secretary of Interior or his authorized representative. The Applicant shall pay interest at the rate of twelve and one quarter percent (12.25%) per annum on said amount from January 1, 1982, to the date payment is actually made to the Navajo Nation. Payment shall be due on Approval Date. With this lump sum payment, the Navajo Nation agrees to release Applicant from any claims or liability for trespass, additional compensation for right-of-way, or similar claims, arising out of the Applicant's use of Navajo lands without right-of-way grants.

d) Guaranteed Annual Minimum Payment

Regardless of the throughput, the minimum payment for the calendar year 1982 shall not be less than Eighty-Four Thousand Five Hundred Dollars (\$84,500). For subsequent years there shall be a guaranteed minimum annual payment which shall not be less than Sixty-Five Thousand Dollars (\$65,000), of 1982 dollars, which shall mean that the \$65,000 payment shall be escalated each year as provided in Sec. 4(e)(i), but not in Sec. (4)(e)(ii).

e) Adjustment in the Annual Payments

For calendar years subsequent to 1982, the annual payment will be the Base Payment, adjusted as follows:

(i) Effective January 1, 1983 for the calendar year 1983, and on January 1st of each year thereafter during the term of this agreement, the annual payment stated in Sec.

4(a), and the guaranteed minimum annual payment stated in Sec. 4(d) shall be escalated based upon the percentage of increase during the preceding calendar year in the Annual Average Consumer Price Index (CPI) as published by the Bureau of Labor Statistics, for all Urban Consumers U. S. City Average, all items (1967=100). Provided, however, that any adjustment due to an increase in the CPI shall never exceed ten percent (10%) for any calendar year. The Annual Average CPI for calendar year 1981 will be used as the base. If the said index has not been published prior to the date any payment is due, such payment shall be calculated and paid by Applicant as though the increase in the CPI were zero. Any adjustment subsequently payable by reason of an increase in the said index shall be paid within thirty (30) days following the publication of the said index.

(ii) The annual payment under Sec. 4(a) will also be adjusted based upon any change in the actual throughput from the Base Throughput of 22,140 barrels of hydrocarbons per day.

Exhibit "B" is an example showing the method to be adopted for adjustment in the annual payment and the minimum annual payment.

f) Frequency of Payments

The guaranteed minimum annual payment as stipulated in Sec. 4(d) and escalated as provided under Sec. 4(e)(i) shall be paid in advance on a calendar year basis not later than January 31st of each year for which the payment is due. The annual payment stipulated under Sec. 4(a) and adjusted under Sec. 4(e) shall have credited to it the guaranteed minimum annual payment made to the Navajo Nation. If any supplemental payment is due to the Navajo Nation after crediting the minimum payment to the annual payment, then the balance shall be paid not later than January 31st of the year immediately following the calendar year for which the supplemental payment is due.

The Applicant shall provide information at the end of each quarter of the calendar year regarding the volume of hydrocarbons transported through its pipeline during that quarter. The Applicant shall maintain measuring devices in accurate and good order. Representatives of the Navajo Nation shall have the right to inspect any of the Applicant's operating facilities within the Navajo Indian country with or without Applicant's personnel, including but not limited to pumps, gathering system, volume and pressure measuring devices, etc., in order to verify the Applicant's compliance with the stipulations in this agreement.

g) In addition, the Applicant agrees to pay for actual damages caused by the maintenance and/or operation of Applicant's pipeline on Navajo Nation land. Damages obtained under this

Section 4(g) shall be governed by the laws of the Navajo Nation.

- h) Payments provided for herein may be made payable to the Navajo Nation, care of Financial Services Department at Window Rock, Arizona, unless otherwise required by applicable law or regulations.
 - j) Applicant's obligations hereunder, (including specifically obligations under Paragraph 4(d) relating to minimum annual payments) shall continue during the term of this agreement regardless of Applicant's use or nonuse of the right-of-way.
5. (a) The Applicant shall operate as a common carrier and transport without discrimination as to volume or rates that oil produced from Navajo Nation lands, royalty oil owned by the Navajo Nation, or oil purchased by the Navajo Nation, or individual members thereof as tendered to Applicant's receiving facilities in accordance with the terms and conditions of Applicant's tariffs as published and filed with the appropriate federal regulatory agencies, and in accordance with Applicant's operating policy. In the event the oil pipeline industry is removed from the regulatory control of the federal government, Applicant agrees to transport such oil without discrimination as to volume or rates subject to remaining applicable federal laws and regulations and laws of the Navajo Nation, if any, and subject to Applicant's operating policy.
- (b) Applicant shall not knowingly use the subject pipeline for the transportation of oil not produced in conformity with federal laws, and laws of the Navajo Nation, including laws prohibiting waste.
6. The granting of this right-of-way shall be subject to the express condition that the exercise thereof will not interfere in any way with the leasing and administration by the United States and the Navajo Nation of the Navajo Nation lands covered thereby or with the development of oil, gas and other minerals therefrom, and the Applicant agrees and consents to the use of such portion of the right-of-way not actually occupied by the Applicant's pipelines, pump stations or related facilities in connection with the drilling, mining, development and production of oil, gas or other minerals and the operation of wells thereon.
7. Applicant, by accepting the right-of-way, agrees that the books and records of the Applicant pertaining to said right-of-way shall be open to inspection by the Secretary of Interior or his authorized representative and the Navajo Nation at all reasonable times, for the purpose of obtaining information pertaining to oil or gas produced from the land under the jurisdiction of the Secretary of Interior and/or the Navajo Nation.

8. Applicant agrees that it will dispose of any and all cut brush and will refill all holes, trenches or other excavations incident to the constructing of new pipeline or other maintenance of the existing pipeline which crosses Navajo Nation lands in such a way as to minimize fire hazards and injury to livestock, and where feasible will reseed any pre-existing areas of grass destroyed as a result of operation, construction or maintenance of said pipeline. Where roads incident to the utilization of the right-of-way, if any, cross fences, ditches or other improvements now maintained on Navajo Nation lands, the Applicant agrees to install, as necessary, proper gates, bridges, underpasses and cattle guards, in order to permit the orderly use of the Navajo Nation lands as directed by the Office of the Navajo Land Development of the Navajo Nation.
9. Applicant agrees there is reserved to the United States, its successors and assigns, the Navajo Nation, and individual Navajo allottees or their heirs, any prior existing right to use any of the land herein described to construct, operate, and maintain dams, reservoirs, canals, wasteways, laterals, ditches, telephone and telegraph lines, electric transmission lines, roadways, appurtenant irrigation structures, or other improvements without any payment made by the United States, the Navajo Nation, or their successors for such right, with the agreement of the Applicant that if the construction of any or all of such facilities or structures across, over, or upon said land should be made more expensive by reason of the existence of surface improvements or facilities of the Applicant thereon, such additional expense is to be estimated by the Secretary of Interior, or his authorized representative whose estimate is to be final and binding upon the parties hereto, and within ninety (90) days after the written demand of the Secretary of Interior is made upon the Applicant for the payment of such sums, the Applicant will make payment thereof to the United States, the Navajo Nation, or their successors, as directed by the Secretary of Interior, or, at its option, the Applicant may alter or relocate its surface improvements and facilities so that such improvements and facilities will not cause additional expenditure to the United States, the Navajo Nation, or its successors, (provided that such alternation will not extend beyond the boundaries of the rights-of-way shown in Exhibit "A" without the prior written approval of the Navajo Nation and the Secretary of Interior, in which case the Navajo Nation will grant and consent to an alternative right-of-way for the relocated portion without additional consideration from Applicant).

10. The use by the Applicant of the subject right-of-way shall be subject to the exercise of the Department of Interior and the Navajo Nation of the activities necessary for the protection and maintenance of the premises, the adjacent lands administered by either, and the wildlife found on or frequenting said premises.

11. Applicant agrees and consents to bury such part of any pipeline as traverses Navajo Nation lands in such manner that it will in no way interfere with the enjoyment of surface rights by the United States or the Navajo Nation, its lessees and permittees. All such pipeline shall be buried at a sufficient depth under the surface so as not to interfere with the cultivation of the land. If such pipeline or related structure interferes with any authorized use of lands adjacent to the right-of-way by a lessee or permittee of the Navajo Nation, Applicant agrees to relocate the pipeline, or provide alternatives agreeable to the lessee or permittee, at Applicant's expenses, so that the authorized operation of such parties shall not be affected in a significant manner. In the event the pipeline is required to be relocated, the Navajo Nation will grant and consent to an alternative right-of-way for the relocated portion without additional consideration from applicant.

Matthews

Peter Mac

12. Where any pipeline is laid under a travelled road or highway, its construction shall be in compliance with applicable Navajo Nation and Federal laws and regulations. During the construction, at least one-half the width of the road must be kept open to travel and, upon completion, the highway shall be restored to its original condition. Any excavation related to such construction across a travelled road or rights-of-way is to be refilled whenever, by settling or other causes, the necessity therefor may arise. Whenever any such pipeline crosses a ravine, canyon, or waterways, it may be laid either below the bed thereof or upon such a superstructure as will not interfere with the use of the surface.

13. Applicant agrees that where soil deterioration or erosion is caused by its activities on the right-of-way, it will take such action as shall be required by the Secretary of Interior or his duly authorized representative or the Chairman of the Navajo Tribal Council, within the scope of usual and reasonable soil conservation practices, to correct or repair such deterioration and minimize such hazard.

14. Any roads hereafter constructed by the Applicant will be located within the limits of the right-of-way granted unless, for reasons of terrain such location would not be

practicable or reasonable. A right-of-way must be obtained from the Secretary of Interior or his authorized representative and the Chairman of the Navajo Tribal Council for any other location.

15. "Slush pits" or "drip pits", should any be constructed, will be located on the right-of-way granted, and adequately protected to prevent damage to range, livestock or other property.
16. Any construction under this stipulation shall be under the control of qualified archeological supervisors acceptable to and under the general supervision of the Navajo Nation pursuant to Navajo Nation and Federal laws, with the cost of such supervisors paid by the Applicant.
17. Upon written request from the Chairman of the Navajo Tribal Council, the Applicant will file tariffs with the appropriate federal regulatory agencies identical in all respect with its existing tariffs, except as to amount of charge, for shipments of oil from point designated on the Navajo Reservation along the existing pipeline of Applicant, provided, however, the designation of such a destination and charge for the movement of oil to that destination are economically reasonable and justified.
18. Any future physical expansion of the Applicant's existing facilities on Navajo Nation lands shall require a renegotiation of the right-of-way grant. "Expansion" as used herein shall not include routine maintenance, replacement of defective, obsolete, or worn facilities or equipment, or installations of peripheral facilities where deemed necessary to efficient operation of the pipelines. "Expansion" as used herein shall include increase in the physical diameter of the mainline or the addition of any new pump stations, or similar actions designed to increase capacity of the line.
19. The Applicant agrees to abide by all laws of the Navajo Nation and the United States and any conflicts arising out of this stipulation including damages obtained under Section 4(g) shall be governed by the laws of the Navajo Nation.
20. In the construction of any pipeline or other improvements across or on Navajo Nation lands and the maintenance and operation of such improvements on Navajo Nation lands, the Applicant agrees to abide by the laws of the Navajo Nation

regarding the manpower utilization and preference in obtaining materials, equipments, goods and services and transportation. Preference will be given to the Navajos to the extent required by applicable Navajo Nation and Federal guidelines and regulations in the employment of all labor, skilled and unskilled. Wages paid to Navajos shall not be less than those paid to non-Navajos for comparable and identical work. This paragraph shall not apply to emergency repair operations undertaken by Applicant, except regarding equality of wages paid to Navajos.

21. The Applicant shall abide by the laws of the Navajo Nation and the guidelines of the Environmental Protection Commission of the Navajo Nation in the conduct of all activities of the Applicant within the Navajo Nation.
22. The Applicant will be responsible for any damage to or loss of property or injury to or death of any person directly or indirectly caused by the operation of its pipeline, and shall hold the Navajo Nation harmless and indemnify it against any and all claims therefor, and shall further hold the Navajo Nation harmless from and indemnify it against damage to or loss of property belonging to the Applicant or injury to or death of any person on or about the pipeline on behalf or at the invitation of the Applicant.
23. Nothing contained in this agreement shall operate to delay or prevent a termination of Federal Trust Responsibilities with respect to the Navajo Nation lands subject to this right-of-way during the term of this agreement. The termination, of such responsibilities, however, shall not affect the rights, duties and obligations of the Applicant and the Navajo Nation under this agreement.
24. In the event the right-of-way is terminated by action of the Navajo Nation or the Secretary for abandonment, nonuse, or similar actions, the obligations of the parties hereunder, including obligations under Article 4, shall cease as of the date of such termination.
25. Every obligation hereunder shall extend to and be binding upon and every benefit hereof shall inure to the benefit of the successors and assigns of the respective parties and to the extent certain provisions contained herein are applicable, shall be construed as covenants running with the land.

- 26. The term of this agreement may only be extended by written agreement and upon such terms as may be provided therein.
- 27. Except as provided for hereinbelow, no interest whatsoever in the right-of-way granted hereby may be assigned, sub-leased or otherwise transferred except by the express written approval of the Navajo Nation and upon the terms and conditions stated herein. Such approval by the Navajo Nation shall not be required in the event of corporate name change or corporate merger.

THE NAVAJO NATION

Date _____

By *Peter MacDonald*
Peter MacDonald, Chairman
Navajo Tribal Council

TEXAS-NEW MEXICO PIPE LINE COMPANY

Date 12-20-83

By *C. T. Matthews*
C. T. Matthews, Vice President

State of Arizona

County of Maricopa

The foregoing instrument was acknowledged before me this 20 day of December 1983

by *Peter MacDonald*
C. T. Matthews

My Commission Expires Sept. 30, 1984

CORPORATE ACKNOWLEDGMENTS

STATE OF TEXAS

COUNTY OF HARRIS

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared C. T. MATTHEWS, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same on the 30th day of December, 1982 as the act and deed of Texas-New Mexico Pipe Line Company for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN under my hand and seal of office this the 14th day of January, A.D., 1983.

My commission expires: 7/30/84
(Seal)

Donald A. Hickman
Notary Public in and for
Harris County, Texas

A G R E E M E N T

ORIGINAL

THIS Agreement is made and entered into as of the 2nd day of February 1981, by and between the Navajo Nation and Four Corners Pipe Line Company (the "Applicant"), 5900 Cherry Avenue, Long Beach, California 90805, and

WHEREAS, the Applicant has applied under applicable statutes and federal regulations for a consolidated right-of-way for the existing oil pipeline over the Navajo Indian Reservation, and

WHEREAS, applicable regulations require that the Applicant agree to certain of the conditions hereinafter contained governing the use of the desired right-of-way, and the Navajo Nation requires certain other conditions hereinafter contained as a condition of its consent to the granting of said right-of-way.

NOW THEREFORE, the Applicant and the Navajo Tribe of Indians (the "Navajo Nation") hereby stipulate, covenant and agree as follows:

1. The Navajo Nation consents to the grant of a consolidated right-of-way to the Applicant for existing, both expired and unexpired, trunk lines, gathering lines, pump stations, microwave stations and related facilities as described in the applications filed with the BIA on February 5, 1980 (as amended), attached hereto as Exhibit "A".

The Applicant agrees to terminate all interest in any previously existing rights-of-way still in effect at the date of approval of this new consolidated right-of-way.

2. The Navajo Nation consents to grant to the Applicant permission to survey, construct, and operate nine new pump station sites, and agrees to the expansion of one existing pump station as described in the application filed with the BIA on February 5, 1980 (as amended).
3. The Navajo Nation consents to grant to the Applicant right-of-way for the above nine new pump station sites and expansion of one existing pump station to be determined from survey.
4. The consolidated right-of-way of the Applicant will be granted for a term of 20 years from the date of approval by the Department of the Interior and issuance of the grant.
5. In consideration for the grant of the consolidated right-of-way, the Applicant consents to the following payment schedule to the Navajo Nation:
 - A. Annual Payment to the Navajo Nation:

As compensation for the grant of the right-of-way, the Applicant shall pay to the Navajo Nation an amount equal to 3.0 cents per barrel on the hydrocarbons transported through its mainline.
 - B. Adjustments to Annual Payment:

The annual payment in Section A above shall be adjusted annually based upon the change in the annual average consumer price index, except that such adjustment shall not exceed 10% per year. The first escalation will be effective January 1, 1982; subsequent escalations will be effective January 1 of each successive year. If the average annual change in the consumer price index is not available by January 1 of each year, the differential based on the above index shall be included in the second quarter payment of each year.

C. **Guaranteed Annual Minimum Payment:**

Regardless of throughput, payment by the Applicant under Sections A and B above shall not be less than an amount equal to \$250,000.00 for the Calendar Year 1981. In subsequent years, this minimum payment shall be adjusted as provided in Section B.

D. **Compensation for Expired Right-of-Way:**

The Applicant shall pay to the Navajo Nation a lump sum payment of \$900,000.00 as compensation for the period of time since the original mainline right-of-way expired on May 23, 1977, to December 31, 1980. The Applicant shall pay to the Navajo Nation, in addition to the lump sum payment of \$900,000.00, an amount equal to 3.0 cents per barrel on the hydrocarbons transported through the Applicant's mainline from January 1, 1981 to the date of issue of the right-of-way.

This lump sum payment is based upon the principles set forth in Sections A and B above. With this lump sum payment, the Navajo Nation agrees to release the Applicant from any claims or liability arising out of the Applicant's continuing use of Navajo lands after expiration of the original rights-of-way. Throughput payments under this section shall be due the quarter following the date of issuance of the right-of-way.

E. Frequency of Payments:

The payments, as stipulated in Section A above, shall be made quarterly on a calendar year basis within 25 days after the expiration of a given quarter. The Applicant shall provide information regarding the volume of hydrocarbons transported through the mainline during the quarter and the resulting payment due to the Navajo Nation. The Applicant shall maintain measuring devices in accurate and in good order. Representatives of the Navajo Nation shall have the right to inspect any of the Applicant's operating facilities within Navajo Indian Country with Applicant's personnel including, without limitation, pipeline, pumps, gathering system, volume and pressure measuring devices, etc., in order to verify the Applicant's compliance with the stipulations in this agreement.

F. In addition, Applicant agrees to pay actual damages as may be caused the the construction of the pipeline over Navajo lands, and also agrees to pay for any damage caused by the operation of the pipeline which shall

occur subsequent to any construction of the project.

6. A. The Applicant shall transport as a common carrier without discrimination oil produced from Navajo Tribal and allotted lands, which is tendered it for transportation in accordance with the terms and conditions of its tariffs as published and filed with appropriate federal regulatory agencies.
- B. The Applicant shall transport, at such non-discriminatory rates and under the terms and conditions of its tariffs as published and filed with appropriate federal regulatory agencies all royalty and purchased oil of the Navajo Nation or of individual members thereof, which shall be delivered to any of the Applicant's receiving facilities.
- C. Applicant will not knowingly use the mainline for the transportation of oil which was not produced in conformity with federal laws, including laws prohibiting waste.
- D. In the event that the oil pipeline industry is deregulated from the jurisdiction of the federal government, the Applicant agrees to transport any and all oil produced from Navajo lands, royalty oil, oil purchased by Navajo Nation or of individual members thereof without any discrimination as to volume transported or the tariff charged for such transportation, subject to applicable federal regulation.

7. The granting of this right-of-way shall be subject to the express condition that the exercise thereof will not interfere in any way with the leasing and administration by the United States and/or the Navajo Nation of the Indian lands affected thereby or with the development of oil, gas and other mineral therefrom; and the Applicant agrees and consents to the use of such portion of the right-of-way not actually occupied by the pipeline for and in connection with drilling or mining operations, with the development and production of oil, gas or other minerals and the operation of wells thereon.
8. The Applicant, by accepting a pipeline right-of-way, agrees that the books and records of the Applicant shall be open to inspection by the Secretary of Interior or his duly authorized representative and the Navajo Nation at all reasonable times, in order to obtain information pertaining in any way to oil or gas produced from restricted lands or other lands under the jurisdiction of the Secretary of Interior and/or the Navajo Nation.
9. The Applicant agrees that it will properly dispose of any and all brush and will refill all holes, trenches, or other excavations incident to the construction and maintenance of the pipeline which traverses Navajo lands, in such a way as to minimize fire hazards and injury to livestock and where feasible will reseed any areas of grass destroyed

as a result of construction, operation or maintenance of said pipeline. Where roads incident to the right-of-way cross fences, ditches, or other improvements now maintained on the Navajo lands, the Applicant also agrees to install proper and necessary gates, bridges, underpasses, overpasses and cattle guards, in order to permit the orderly use of Navajo lands as directed by the Department of Land Administration of the Navajo Nation.

10. The Applicant agrees that: There is reserved to the United States, its successors and assigns, and to the Navajo Nation, individual allottees or their heirs the prior right to use any of the land herein described to construct, operate, and maintain dams, dikes, reservoirs, canals, wasteways, laterals, ditches, telephone and telegraph lines, electric transmission lines, roadways, and appurtenant irrigation structures, without any payment made by the United States, the Navajo Nation or their successors for such right, with the agreement on the part of the Applicant that if the construction of any or all of such dams, dikes, reservoirs, canals, wasteways, laterals, ditches, telephone and telegraph lines, electric transmission lines, roadways, or appurtenant irrigation structures across, over, or upon said lands should be made more expensive by reason of the existence of improvements of workings of the Applicant thereon, such additional expense is to be estimated by the Secretary of

the Interior, or his authorized representative, whose estimate is to be final and binding upon the parties hereto, and that within ninety days after demand is made upon the Applicant for payment of any such sums, the Applicant will make payment thereof to the United States, the Navajo Nation, or their successors, constructing such dams, dikes, reservoirs, canals, wasteways, laterals, ditches, telephone and telegraph lines, electric transmission lines, roadways, or appurtenant irrigation structures across, over or upon said lands, or at its option. Applicant will commence the alteration or relocation of its improvements and facilities so that such improvements and facilities would not cause additional expenditure to the United States, the Navajo Nation or its successors.

11. The use by the grantee of the premises shall be subject to the exercise by the Department of the Interior, and by the Navajo Nation, of the activities necessary for the protection and maintenance of the premises, and of adjacent lands administered by either, and of wild life found on or frequenting said premises and other lands of the Department of Interior.
12. Applicant agrees and consents to bury such part of its pipeline as traverses Navajo lands in such manner that it will in no way interfere with the enjoyment of surface rights by the United States or the Navajo Nation, its lessees and permittees. All pipelines shall be buried a sufficient depth

under the surface as not to interfere with the cultivation of the land. If said pipeline or related structure interferes with any lessee or permittee of the Navajo Nation, Applicant agrees to expeditiously bury, relocate or provide alternatives agreeable to the affected parties at Applicant's expense, so that the operations of such parties shall not be affected in a significant manner.

13. Where a pipe or pipe line is laid under a traveled road or highway, its construction shall be in compliance with applicable Tribal and federal laws and regulations. During the work, at least one-half the width of the road must be kept open to travel; and, upon completion, the highway shall be restored to its original condition. Any excavation is to be refilled whenever, by settling or other causes, the necessity therefore may arise.
14. Whenever any such pipe crosses a ravine, canyon, or waterway, it may be laid either below the bed thereof or upon such a superstructure as will not interfere with the use of the surface.
15. The Applicant agrees that where soil deterioration or erosion hazard is created or caused by its activities on Indian land it will take such action as shall be recommended or required by the Secretary of Interior or his duly authorized representative or the Chairman of the Navajo Tribal Council within the scope of usual soil conservation practices, to correct or repair such deterioration and minimize such hazard.

16. Any roads constructed by the Applicant hereunder will be located within the limits of the right-of-way granted unless, for reasons of terrain or existing roads, such location would not be practicable or necessary. Permission must be obtained from the Secretary of Interior or his duly authorized representative and the Chairman of the Navajo Tribal Council for any other location.
17. "Slush pits" or "drip pits," should any be constructed, will be located on the right-of-way granted, and adequately protected to prevent damage to range, livestock or other property.
18. If it should be discovered that the planned course of the pipeline passes over any area occupied by a Hopi Indian shrine, the Applicant will change the course of the pipeline to such location as shall be permitted by the grantor, to avoid passage over such area and interference with or desecration of such shrine.
19. Any construction under this agreement shall be under archaeological control of supervisors acceptable to and under the general supervision of the Navajo Nation at the cost of the Applicant.
20. Upon written request from the Chairman of the Navajo Tribal Council, the Applicant will file tariffs with the appropriate federal regulatory agencies identical in all respects with its existing tariffs, except as to amount of charge, for shipments from points designated on the Navajo Reservation

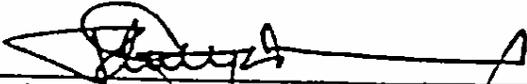
along the then existing pipelines of Applicant; provided, however, such designations are economically and operationally feasible.

21. Any future physical expansion of the 16 inch or 12 inch mainlines crossing Navajo Nation lands shall require a renegotiation to amend the right-of-way agreement. Expansion is defined as a physical change in the size of the mainline, or the addition of new pump stations not covered by the rights granted in Section 2 and 3 above.
22. The Applicant agrees to abide by all laws and regulations of the Navajo Nation and all applicable federal laws. Any conflicts arising out of this agreement shall be governed by the laws of the Navajo Nation.
23. The Applicant shall promptly pay any lawful Navajo Tribal and other taxes, charges, or assessments placed upon or levied against the Applicant, its pipeline, or improvements of appurtenances in connection therewith.
24. In any construction, operation, and maintenance of the pipeline project across the Navajo lands, the Applicant agrees to abide by the manpower utilization guidelines of the Office of Navajo Labor Relations, a copy of which is attached herewith as Exhibit "B". Preference will be given to Navajos according to regulations in the employment of all labor, skilled and unskilled. Wages paid to Navajos shall not be less than those paid to non-Navajos for comparable or identical work.

25. The Applicant shall abide by the guidelines of the Environmental Protection Commission of the Navajo Nation in construction, repair, maintenance, or any such activities related to this operation. Such guidelines are attached with this document as Exhibit "C".
26. In order to provide increased educational opportunities for Navajos the Applicant shall establish and maintain a scholarship fund for Navajo students in an amount sufficient to cover the expenses of college or post-graduate education, including tuition and room and board, provided that the amount contributed shall not exceed \$40,000 per year.
27. That Applicant will be responsible for any damage to or loss of property or injury to or death of any person directly or indirectly caused by the enjoyment of pipeline rights, and shall hold the Navajo Nation harmless and indemnify it against any and all claims therefore; and shall further hold the Navajo Nation harmless from and indemnify it against damage to or loss of property belonging to the Applicant or injury to or death of any person on or about the pipeline crossing on behalf of or at the invitation of applicant.
28. Nothing contained in this Agreement shall operate to encourage or accelerate a termination of Federal Trust Responsibilities with respect to the Tribal lands subject to the easements and right-of-way during the term of such consent and this Agreement; however, any such termination shall not affect the rights, duties and obligations of Four Corners and the Navajo Nation under this Agreement.

- 29. Every obligation hereunder shall extend to and be binding upon and every benefit hereof shall inure to the benefit of the parties and their respective successors and assigns, and to the extent certain provisions contained herein are applicable, shall be construed as covenants running with the land.
- 30. This consent to grant of easement for right-of-way and agreement shall be effective when executed by the Secretary of the Interior for the United States Government.

NAVAJO NATION

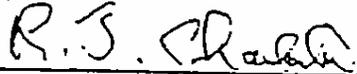
By 

 Peter MacDonald
 Chairman, Navajo Tribal Council

JAN 29 1981

 Date

FOUR CORNERS PIPE LINE COMPANY

By 

 R. J. Chamberlin
 President

JAN 29 1981

 Date

Approval:



 Area Director

RESOLUTION OF THE
NAVAJO NATION COUNCIL

Ratifying Federal Charter for the
Navajo Nation Oil and Gas Company

WHEREAS:

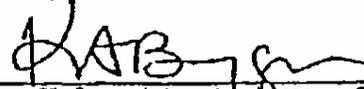
1. The Navajo Nation Council is the governing body of the Navajo Nation, pursuant to 2 N.N.C. §102 (A); and
2. By Resolution CJA-4-97 (January 21, 1997), the Navajo Nation Council petitioned the Secretary of the Interior to issue a Federal Charter of Incorporation for the Navajo Nation Oil and Gas Company under 25 U.S.C. §477; and
3. The Secretary of the Interior has issued a Federal Charter of Incorporation for the Navajo Nation Oil and Gas Company on December 23, 1997, attached hereto as Exhibit "A"; and
4. Such Federal Charter of Incorporation is, in form and substance, the same as that which the Navajo Nation Council requested as Exhibit "A" to said Resolution CJA-4-97; and
5. The Navajo Nation Council has reviewed the issued Federal Charter of Incorporation attached hereto as Exhibit "A" and finds that it is acceptable to the Navajo Nation.

NOW THEREFORE BE IT RESOLVED THAT:

The Navajo Nation Council hereby ratifies the Federal Charter of Incorporation for the Navajo Nation Oil and Gas Company issued pursuant to 25 U.S.C. §477 and attached hereto as Exhibit "A".

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 62 in favor, 0 opposed and 0 abstained, this 5th day of February 1998.



 Kelsey A. Bedaye, Speaker
 Navajo Nation Council

 Date Signed

Motion: Albert Tom
Second: Charlie Billy

RECEIVED

MAY 1 1998