

AGREEMENT FOR  
GRANT OF EASEMENTS FOR RIGHTS-OF WAY  
OF NAVAJO TRIBAL FEE LAND

KNOW ALL MEN AND WOMEN BY THESE PRESENTS:

That the Navajo Tribe as the owner of the hereinafter described lands, acting by and through the Chairman of the Navajo Tribal Council, hereinafter referred to as "Grantor", pursuant to an agreement dated \_\_\_\_\_ entered into between Grantor and Grantee hereto and pursuant to the terms thereof, does hereby grant to El Paso Natural Gas Company herein referred to as "Grantee", an easement for a right-of-way for the following purposes(s), namely: construction, operation and maintenance of one (1) \_\_\_\_\_ natural gas pipeline over, across, in and upon the following described lands.

Said easement, as shown on the map \_\_\_\_\_ marked Exhibit "A" attached hereto, is limited to and more particularly described as follows:

This easement is subject to all the provisions of the above-mentioned agreement between Grantor and Grantee.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1985.

NAVAJO TRIBE

By \_\_\_\_\_  
Chairman, Navajo Tribal Council

STATE OF ARIZONA

COUNTY OF APACHE

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission expires: \_\_\_\_\_

GRANTEE

By \_\_\_\_\_

Title \_\_\_\_\_

STATE OF TEXAS

COUNTY OF EL PASO

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

AMENDMENT NO. 1

To the January 29, 1985 Agreement between the Navajo Nation and  
El Paso Natural Gas Company

This Amendment No. 1 is made and entered into as of the 12th day of January, 1989 by and between the Navajo Nation (Nation) and El Paso Natural Gas Company (El Paso) for the acquisition of up to fifteen (15) miles of additional gathering line rights-of-way on Tribal trust and Tribal fee lands.

WITNESSETH

WHEREAS:

1. The Nation and El Paso entered into an agreement for the renewal of El Paso's pipeline rights-of-way on and across the Nation on January 29, 1985, which was approved by the Department of the Interior on October 18, 1985; and

2. Section 8 of said agreement provides for the issuance of up to fifteen (15) miles of gathering line rights-of-way on Tribal trust and Tribal fee land; and

3. El Paso has utilized these fifteen (15) miles and has approached the Nation for its consent to acquire additional gathering line rights-of-way of up to fifteen (15) miles on Tribal trust and Tribal fee lands. Such rights-of-way will be acquired by El Paso in three (3) installments, each having a total length of five (5) miles; and

4. The payment for each five (5) mile installment will be paid in advance by El Paso; and

5. The parties agree that such an agreement will be beneficial to both parties as it provides a fair return to the Nation and will eliminate the time and effort needed to assess and negotiate the Tribal consideration for individual gathering line rights-of-way applications.

NOW, THEREFORE THE PARTIES HERETO AGREE:

1. The Nation consents to the issuance of up to fifteen (15) miles of gathering line rights-of-way to El Paso; and

2. El Paso will be given the option to acquire the rights-of-way in three (3) installments of five (5) miles each; and

3. The Tribal consideration for the first five (5) mile installment will be \$88,400, which is to be paid in advance at the time of execution of this agreement by the Nation; and

4. If El Paso exercises its option to acquire the second and the third five mile installments of gathering line rights-of-way then the Tribal consideration will be paid in advance and shall be based on the following formula:

$$\frac{\$65/\text{rod} \times 1600 \text{ rods} \times \text{CPI for the month option is exercised}}{\text{Avg. CPI for the year 1988}}$$

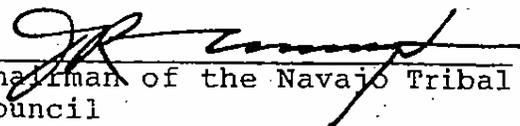
$$\times \frac{\text{years remaining for the rights-of-way}}{20 \text{ years}}$$

5. In addition to the Tribal consideration, El Paso will pay Tribal processing and permitting fees and land users fees, as may be applicable, with each right-of-way application.

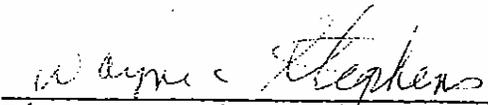
6. All other terms and conditions of the rights-of-way, including the expiration date, will be in accordance with the January 29, 1985 agreement which is attached hereto as Exhibit "A".

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed by their duly authorized officers as of the date hereinabove set forth.

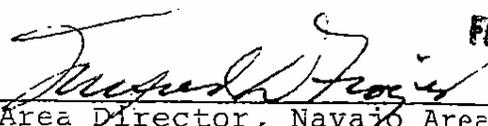
THE NAVAJO NATION

By:   
Chairman of the Navajo Tribal Council

EL PASO NATURAL GAS COMPANY

By:   
Director, Rights-of-Way

THE BUREAU OF INDIAN AFFAIRS

By:   
Area Director, Navajo Area

FEB 14 1988

TERMS AND CONDITIONS FOR THE RENEWAL OF  
EL PASO NATURAL GAS COMPANY  
PIPELINE RIGHTS-OF-WAY

This agreement is made and entered into between the Navajo Nation, a recognized tribe of Indians, and the El Paso Natural Gas Company ("El Paso") and states the terms and conditions for the renewal of the rights-of-way for existing natural gas pipelines and associated facilities operated by El Paso on the lands of the Navajo Nation.

WHEREAS, El Paso has constructed and operates an extensive system of natural gas gathering and transmission pipelines and associated facilities (hereinafter "pipelines") on the lands of the Navajo Nation.

WHEREAS, by prior agreement of the parties, most of the various rights-of-way easements for these pipelines have all been scheduled to expire on March 9, 1986.

WHEREAS, El Paso has demonstrated, during its lengthy history of doing business with the Navajo Nation, a sensitivity to the needs and concerns of the Navajo people and a willingness to conduct its operations in a manner which is in accord with the policies and procedures of the Navajo Nation.

WHEREAS, both parties have resolved to reach an agreement which will allow for El Paso's continued operation of its natural gas pipeline system pursuant to terms and conditions which are mutually beneficial.

WHEREAS, it will ease the administrative burdens of both parties if all existing El Paso rights-of-way on Navajo land are consolidated into a single right-of-way easement grant with a term of twenty (20) years.

ACCORDINGLY, IT IS COVENANTED AGREED, AND UNDERSTOOD THAT:

1. Subject to the terms and conditions of this agreement, the Navajo Nation hereby consents to the renewal of all existing El Paso pipeline

rights-of-way for a term of twenty (20) years. This term shall commence on the date the United States, through the Bureau of Indian Affairs, grants the associated right-of-way easement(s) on behalf of the Navajo Nation, or on March 9, 1986, whichever date shall first occur.

2. The rights-of-way which the parties intend to renew and to consolidate pursuant to this agreement are all of the easements presently granted by the BIA or for which applications are pending and the easements described in paragraph 10 below. Legal descriptions of those rights-of-way accompany the original grants of easements and will be amended, as appropriate, in the formal application to be submitted by El Paso to the Bureau of Indian Affairs. The parties acknowledge that although every effort has been made to describe the rights-of-way as accurately as possible, there may be discrepancies in the legal descriptions of such rights-of-way. In the event that it is ascertained that a pipeline right-of-way has not been accurately described, El Paso will amend such description in a timely and appropriate manner. This agreement shall constitute the consent of the Navajo Nation for the use of all Navajo lands as they are currently used by El Paso for rights-of-way (any error in any legal description notwithstanding), and does not constitute consent for any other type of use.

3. In consideration for the consent for the use of Navajo lands expressed in this agreement, El Paso agrees to make the following payments to Navajo Nation:

- A. The sum of two million dollars (\$2,000,000.00) on the date that this agreement is signed by the Chairman of the Tribal Council of the Navajo Nation and El Paso's duly authorized representative.

B. Twenty (20) annual payments each in the amount of one million three hundred fifty thousand dollars (\$1,350,000.00), with the first such payment to be due on the date the term of this right-of-way shall commence, as described in paragraph 1, and each succeeding payment to be made on that anniversary date in the following years.

4. The annual payments, as described in paragraph 3.B., shall be subject to escalation at three (3)-year intervals, with the first escalation to occur in connection with the fourth (4th) annual payment, and every three (3) years thereafter. This escalation shall be computed on the basis of the annual average increase in the preceding (3) years in the Consumer Price Index (CPI) as published by the United States Bureau of Labor Statistics, for all urban consumers, United States city average, all items (1967=100). This escalation shall be based on changes in the annual average CPI as available on January 1, 1985.

In the event that necessary economic data for the computation of any escalation is not available at the time the annual payment is due, El Paso shall pay to the Navajo Nation the base rate (\$1,350,000.00), and any escalation that has previously occurred, on the payment due date. Any increment due as the result of the subsequent escalation shall be paid to the Navajo Nation within thirty (30) days of the date of publication of the necessary economic data.

5. El Paso hereby guarantees that all of the payments described in paragraph 3 of this agreement will be made to the Navajo Nation. Such payments are not conditioned upon the continued operation of the natural gas

pipelines which are the subject of this agreement, but shall be made to the Navajo Nation even in the event that El Paso ceases to own, operate, or possess any or all of such pipelines. Any successor, assignee, or transferee of El Paso's interests shall be obligated to make any and all payments that have not been made by El Paso.

6. El Paso will be required to pay an interest charge, at the average prime lending rate charged by major U.S. banks plus 3%, on all payments required by this agreement and not received in full by the Navajo Nation within ten (10) days of the payment due date. Such interest shall also accrue on any escalation increment which is not paid within thirty (30) days of publication of the economic data necessary to complete this escalation.

7. With the limited exception of any delay in the payment of an escalation increment due to the lack of necessary economic data, any failure on the part of El Paso to make the payments required herein within sixty (60) days of notice by the Navajo Nation that a payment was not made when due shall constitute default on the part of El Paso. Such default shall terminate the rights of El Paso to continue to use Navajo land for the purposes expressed in this agreement, but shall not alter El Paso's liability for all payments required in this agreement.

8. In consideration for the payments to be made by El Paso pursuant to this agreement, the Navajo Nation further consents to the issuance of up to fifteen (15) miles of rights-of-way on tribal trust or tribal fee lands for natural gas gathering pipelines, not to exceed nine (9) inches in outer diameter, without the requirement of payment of additional consideration to the Navajo Nation. Such additional rights-of-way may be granted during the twenty (20)-year term of this agreement, with the term of each such additional right-of-way to conclude on the same date as do all others subject to this

agreement. Such easements shall be subject to the terms and conditions of this agreement. As used herein "gathering pipelines" shall mean only those lines necessary for transporting gas from a well head to a natural gas processing plant, and no other lines. Any physical expansion of El Paso's existing facilities on Navajo lands shall require the express consent of the Navajo Nation and shall be subject to the terms and conditions negotiated by the parties at that time.

9. The Navajo Nation agrees to take reasonable efforts to insure that applications for the additional gathering lines which are the subject of paragraph 8 will be reviewed and processed as expeditiously as possible by the Navajo Nation. Applicable regulations, requirements and fees will not be waived, but every attempt will be made to approve proper applications without undue delay.

10. The Navajo Nation further consents to the issuance of the following rights-of-way on the fee lands of the Navajo Nation:

R/W 79416 Water Well No. 10 Access Road (Angel Peak GS)  
R/W 82580 Amoco Production-Gallegos Canyon No. 217E (GL Kutz GS)  
R/W 802113 Gulf Oil-Fullerton No. 6E (Chaco GS)  
R/W 801708 Amoco Production-P.O. Pipkin No. 4E (Chaco GS)  
R/W 802088 Amoco Production-P.O. Pipkin No. 2E (Chaco GS)  
R/W 81568 Amoco Production-Gallegos Canyon Unit No. 139E (Chaco GS)  
R/W 83179 Amoco Production-P.O. Pipkin No. 6E (APGS)  
R/W 84039 Beta Development-Holloway Federal No. 5E (Chaco GS)

It is acknowledged that consideration for such rights-of-way is included in the payments described in paragraph 3 and it is agreed that appropriate right-of-way easements in the form attached hereto as Exhibit "A" will be issued by the Navajo Nation for such lands for an identical twenty (20)-year term.

11. It is agreed and understood that the terms and conditions of this agreement are applicable only to the lands held in trust by the United

States for the Navajo Nation and the fee lands of the Navajo Nation and shall not apply to any lands which have been allotted to individual members of the Navajo Nation.

12. The following provisions shall be included in any and all grants of rights-of-way or easements issued or approved pursuant to this agreement.

- A. These rights-of-way shall be subject to the condition that the exercise hereof will not preclude the leasing and administration by the United States and the Navajo Nation of land of the Navajo Nation covered hereby for the development of oil, gas and other minerals therefrom, and El Paso agrees and consents to the reasonable use of such portion of the rights-of-way not actually occupied by its pipelines, compressor stations, or related facilities for such drilling, mining, development and production of oil, gas or other minerals; provided, however, such use shall not interfere with the use, maintenance and operation of any facilities maintained, operated or installed by El Paso pursuant to this agreement and the permits issued pursuant to it.
- B. El Paso 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 the Interior or his duly authorized representative or the Chairman of the Navajo Tribal Council to correct or repair such deterioration and minimize such hazard.
- C. If the archaeological survey or any find during the construction itself indicates the need for the assistance of a quali-

fied archaeological supervisor, any construction authorized by this grant of right-of-way shall be carried out in coordination with a qualified archaeological supervisor, acceptable to the Navajo Nation, pursuant to Navajo Nation and federal laws, with the cost of such supervisor paid by El Paso.

D. In the event that El Paso engages in any construction, repair, or maintenance pursuant to the authorization of this grant of right-of-way, it will be obligated to do the following:

- (1) To pay promptly all damages and compensation due to landowners, users, occupants, or lessees in the event that such construction involves the use or disturbance of additional land or surface interest not presently used.
- (2) To reconstruct or repair such roads, fences, and trails as may be destroyed or damaged by construction work and to build and maintain necessary and suitable crossings for all roads and trails that intersect the facilities so constructed.
- (3) To restore the lands to their original condition, as nearly and as promptly as may be reasonable practicable upon the completion of construction, repair or maintenance, to the extent compatible with the purposes for which the right of way was granted.

E. In the construction of any pipeline or other improvements across or on Navajo Nation lands and the maintenance and operation of improvements on Navajo Nation lands, El Paso agrees to abide by the laws of the Navajo Nation regarding manpower utilization and preference in obtaining materials,

equipment, goods, services and transportation. Preference will be given to 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 of comparable experience and seniority for comparable work.

- F. El Paso shall hold the Navajo Nation harmless and indemnify it against any and all claims against the Navajo Nation or losses incurred by the Navajo Nation for any damage to property or the injury to or death of any person directly or indirectly caused by the negligent or reckless conduct of El Paso in the construction, operation or maintenance of its pipeline or by any breach by El Paso of any provision of this grant of right-of-way.
- G. El Paso agrees to refrain from making any use of the Navajo lands subject to these grants of right-of-way except as may be reasonable and proper to fulfill the purposes for which the rights-of-way are granted, i.e. the operation and maintenance of a natural gas pipeline system. The Navajo Nation may use such lands for such other purposes as may be consistent or compatible with El Paso's authorized use of these lands and will refrain from making or authorizing any use that may be inconsistent or incompatible therewith.
- H. El Paso agrees to transport gas owned by the Navajo Nation or its entities as requested by the Navajo Nation or its entities. Such gas will be delivered to points within the Navajo Nation as requested. Such transportation service shall be conditioned

upon the availability of capacity in El Paso's system sufficient for such transportation without affecting El Paso's existing customers and legal obligations. El Paso shall not be required to expand or extend its system to provide additional capacity, but shall fulfill its obligation to transport this gas in a reasonable manner. These transportation services shall be provided at reasonable rates and consistent with applicable federal law and regulations.

1. El Paso agrees that there is reserved to the United States, its successors and assigns, and the Navajo Nation any prior existing right to use any of the land herein described.

13. Nothing contained in this agreement shall operate to delay or prevent a termination of Federal trust responsibilities with respect to any lands of the Navajo Nation subject to this right-of-way during the term of this agreement. Termination of such responsibilities, however, shall not affect the rights, duties, and obligations of El Paso and the Navajo Nation under this agreement.

14. El Paso agrees to abide by all valid laws and regulations of the Navajo Nation and the United States.

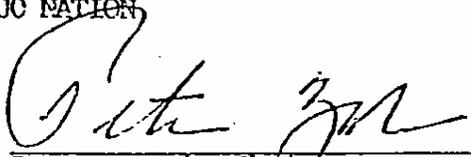
15. This agreement represents the entire agreement of the parties, and shall not be modified except by a writing signed by the duly authorized representatives of both parties.

16. This agreement and any rights-of-way, permits or authorizations granted or approved hereunder shall be binding upon, and shall inure to the benefit of the assigns or successors in interest of the parties. No assignment, except to a company a majority of whose stock is owned or controlled by El Paso or Burlington Northern Inc., shall be made by El Paso without the

express written consent of the Navajo Nation. Such consent shall not be unreasonably withheld and no additional consideration will be required for such consent.

This agreement is hereby adopted and executed by the parties on this 29<sup>th</sup> day of January, 1985.

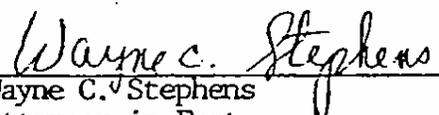
NAVAJO NATION

By: 

Peterson Zah, Chairman  
Navajo Tribal Council

JW

EL PASO NATURAL GAS COMPANY

By: 

Wayne C. Stephens  
Attorney in Fact

EV

**El Paso**  
Natural Gas Company

P. O. BOX 1492  
EL PASO, TEXAS 79978  
PHONE: 915-541-2600

March 27, 1991

Navajo Nation  
P. O. Box 146  
Window Rock, Arizona 86515

Attention: Akhtar Zaman

Re: EPNG's 1985 Right of Way Agreement  
with the Navajo Nation

Gentlemen:

On January 29, 1985 the Navajo Nation and El Paso Natural Gas Company ("El Paso") entered into an agreement entitled Terms and Conditions for the Renewal of El Paso Natural Gas Company's Pipeline Rights-of-Way (the "Right-of-Way Agreement") whereby El Paso renewed its rights-of-way across the Navajo Nation for a term of twenty (20) years. At that time El Paso was a subsidiary of Burlington Northern Inc. However, in late 1988 Burlington Northern Inc. spun off its resource subsidiaries, including El Paso, into a separate stand-alone company named Burlington Resources Inc. ("BRI"). Burlington Northern Inc. now is comprised only of entities that were part of the railroad business.

Paragraph 16 of the Right-of-Way Agreement states that "No assignment, except to a company whose stock is owned or controlled by El Paso or Burlington Northern Inc, shall be made by El Paso without the express written consent of the Navajo Nation."

In 1985 El Paso and Meridian Oil Holdings Inc. (hereinafter the term "Meridian" means Meridian Oil Holdings Inc. and its subsidiaries) were affiliates and were both subsidiaries of Burlington Northern Inc. (Meridian, as you know, is the exploration subsidiary of BRI and El Paso is the natural gas transmission subsidiary of BRI.) El Paso and Meridian are still affiliates, but since the spin off they have been subsidiaries of BRI instead of Burlington Northern Inc.

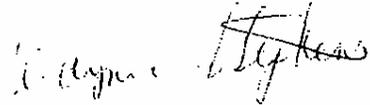
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Minerals Department  
Navajo Nation

Navajo Nation  
March 27, 1991  
Page 2

In the near future, El Paso is proposing to assign portions of its gathering system in the San Juan Basin to its affiliate Meridian. A minor portion of the lines to be conveyed to Meridian are on Navajo lands.

In view of the above, El Paso believes that the intent of paragraph 16 of the Right-of-Way Agreement would support a sale from El Paso to its affiliate Meridian without the requirement that written consent of the Navajo Nation be obtained. I would appreciate your checking this out with your attorneys. Hopefully they will concur that assignments between El Paso and its affiliate Meridian can proceed without obtaining Tribal consent since the intent of paragraph 16 was to allow assignments to affiliates.

Sincerely,



Wayne C. Stephens  
Director of Right of Way  
and Attorney-in-Fact

cc:  
T. L. Wright  
Office of General Counsel

Navajo Area Office  
P. O. Box M  
Window Rock, Arizona 86515-0714

ARPM/Rights-of-Way

OCT 22 1985

Mr. Wayne Stephens  
El Paso Natural Gas Company  
P. O. Box 1492  
El Paso, Texas 79978

Dear Mr. Stephens:

This is to inform you that on October 18, 1985, the Area Director approved the renewals of Grants of Easement for Right-of-Way for your natural gas pipelines and appurtenant facilities (375 projects), which are located on Navajo Tribal Trust lands in Arizona, New Mexico and Utah. The term is for twenty years, commencing October 18, 1985. Existing easements are superseded and replaced by the renewal documents.

As provided under 25 CFR 169.19, projects which have had any change in the size, type, locations, etc., are being treated as original applications and are not a part of the renewal package. Also, projects which have been constructed without an approved right-of-way easement have been separated from the renewal package. We approved seven amending easements on October 18, 1985. The remainder will be approved as soon as all requirements have been satisfactorily met. The easements will be covered by El Paso's January 29, 1985, Agreement with the Navajo Tribe and will expire on October 17, 2005. The pending projects are Rs/W 850294 (66304, 821231 and 811022), 850324 (17 projects) and 84125.

The first annual payment of \$1,350,000 is now due and payable. Please make your check payable by Cashier's Check to The Navajo Tribe of Indians and deliver to the Area Director at the above address.

The approved easements will be distributed upon your submission of the above payment and of satisfactory revised maps and centerline descriptions, which were discussed at our October 8, 1985, meeting with Messrs. Nichols and Clark. The easements covered by the approval actions are:

R/W 850294 (60140 et al., 61528, 66304, 802067, 80355, 80947,  
81508, 81515, 81388 and 81555)

R/W 850328 (73632 supplements)

R/W 850329 (50086 et al.)

R/W 850330 (73632, 53197 et al.)



R/W 850331 (55849, 801038)  
R/W 850332 (50165 et al.)  
R/W 850333 (50248, 64324)  
R/W 850334 (51173 et al.)

If you have any questions on the above, please contact Ms. Genni Denetson, Section Chief, Surface Leasing Section at telephone 602/871-5151, extension 5340. Enclosed for your information are xerox copies of the approved easements.

Sincerely,

/s/ DALE V. UNDERWOOD

Acting Area Real Property  
Management Officer

**Enclosures**

cc: Chairman, Navajo Tribal Council  
Aktar Zaman, Tribal Minerals Department

P. O. Box H  
Window Rock, Arizona 86515-0714

ARPM/Right-of-Way

SEP - 8 1989

Mr. Wayne C. Stephens  
El Paso Natural Gas Company  
P. O. Box 1492  
El Paso, Texas 79978

Dear Mr. Stephens:

Enclosed for your information and use is a copy of an approved Amendment No. 2 to the January 29, 1985 Agreement between El Paso Natural Gas Company and the Navajo Nation, option to acquiring up to twelve (12) miles of loop line right-of-way on Navajo Nation lands.

Sincerely,

L. R. TICPECONNIC

ACTING Area Director

Enclosures

cc: Mr. Leonard Lord, EPNG, P. O. Box 4990, Farmington, New Mexico 87499  
Director, ONLD, ATTN: Project Review Section, w/encls.  
The Navajo Tribe, Minerals Department, w/encls.



AMENDMENT NO. 2

To The January 29, 1985 Agreement between the Navajo Nation  
and El Paso Natural Gas Company

This Amendment No. 2 is made and entered as of the 7th day of August, 1989 by and between the Navajo Nation (Nation) and El Paso Natural Gas Company (El Paso) for the option to acquire up to twelve (12) miles of loop line rights-of-way on Navajo Nation lands.

WITNESSETH

WHEREAS:

1. The Nation and El Paso entered into an agreement for the renewal of El Paso's pipeline rights-of-way on and across the Nation which was approved by the Department of the Interior on October 18, 1985; and

2. Amendment No. 1 to the above agreement, entered between the Nation and El Paso on January 12, 1989 and approved by the Department of the Interior on February 16, 1989, provided El Paso the right to acquire up to fifteen (15) miles of additional gathering line rights-of-way; and

3. El Paso has expressed an interest in acquiring loop line rights-of-way approximately sixty (60) feet wide and twelve (12) miles in length. The location of the proposed right-of-way is shown in Exhibit "A"; and

4. The parties agree that such an agreement will be beneficial to both parties as it provides a fair return to the Nation and will enable El Paso to increase the capacity of their system by about 100,000 MCF per day; and

NOW, THEREFORE THE PARTIES HERETO AGREE:

1. The Nation consents to the issuance of loop line rights-of-way up to twelve (12) miles in length and sixty (60) feet wide; and

2. El Paso is given the option to acquire the rights-of-way within three (3) years from the date of approval of this amendment by the Navajo Nation; and

3. The Nation's consideration for these rights-of-way will be \$671,270. El Paso will make a non-refundable payment of \$134,254 (which represents 20% of the total consideration) on the

date this amendment is approved by the Nation. The balance of \$537,016 will be paid to the Nation when El Paso exercises its option to acquire the rights-of-way. This amount shall be adjusted in accordance with the following formula:

$$\$537,016 \times \frac{\text{CPI index of the month when the option is exercised}}{\text{CPI index for May, 1989}}$$

4. In addition to the Nation's consideration, El Paso will pay the Nation's processing and permitting fees and land users' fees, as may be applicable; and

5. El Paso shall submit a complete right-of-way application when the option is exercised, in accordance with the requirements of the Navajo Nation and the Bureau of Indian Affairs; and

6. All other terms and conditions of the rights-of-way, including the expiration date, shall be governed by the January 29, 1985 agreement which is attached hereto as Exhibit "B".

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed by their duly authorized officers as of the date herein set forth.

THE NAVAJO NATION

By: Leonard Haskie AUG - 7 1989  
Leonard Haskie, Interim Chairman  
Navajo Tribal Council

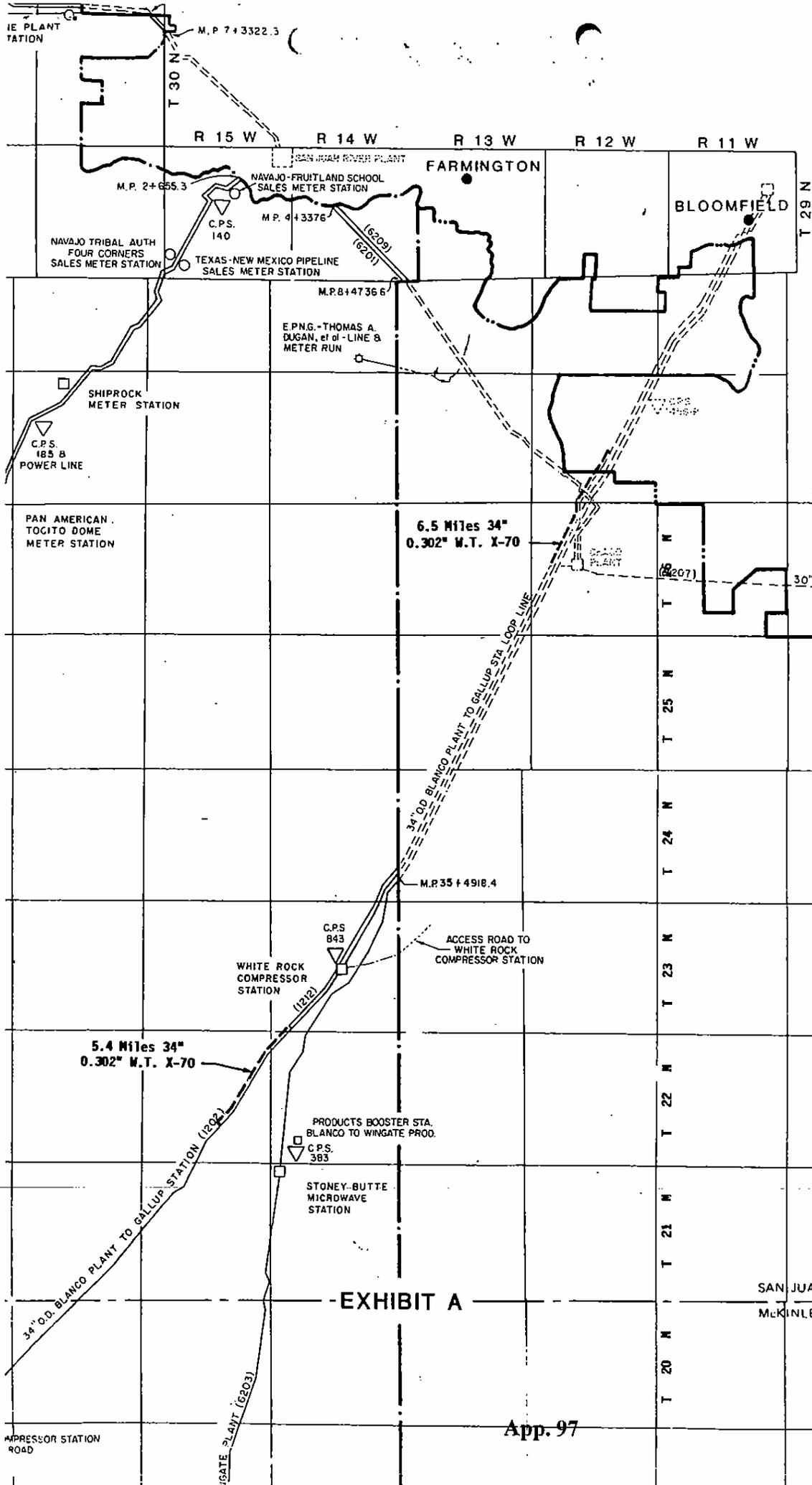
EL PASO NATURAL GAS COMPANY

By: Wayne C. Stephens  
Director, Rights-of-Way  
Attorney-in-Fact ws

THE BUREAU OF INDIAN AFFAIRS

By: [Signature] SEP - 1 1989  
ACTING Area Director, Navajo Area

"APPROVED, Pursuant to Secretarial redelegation order 209 DM 8 and 230 DM 3."



**EXHIBIT A**

SAN JUA  
McKINLE

COMPRESSOR STATION  
ROAD

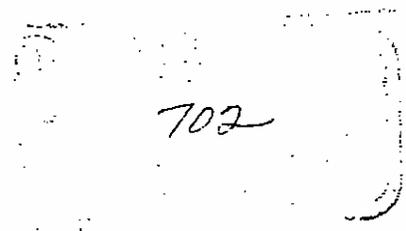
NAT. O.

U.S. DEPARTMENT OF THE INTERIOR • BUREAU OF INDIAN AFFAIRS

SEP 10 1991

MARSHALL PLUMMER  
VICE PRESIDENT

SEP 10 1991



Mr. Walter R. Mills, Area Director  
Navajo Area Office  
Bureau of Indian Affairs  
P.O. Box M  
Window Rock, Arizona 86515

NAVJO AREA OFFICE  
BUREAU OF INDIAN AFFAIRS  
U.S. DEPARTMENT OF THE INTERIOR

Subject: Approval of El Paso Natural Gas Company's Natural Gas Pipeline Rights-of-way

Dear Mr. Mills:

Amendment No. 3 to the January 29, 1985 rights-of-way agreement between the Navajo Nation and El Paso Natural Gas Company (El Paso) provides the company the option to acquire from the Navajo Nation 88 miles, more or less, of natural gas pipeline. El Paso has exercised its option and has submitted a completed application, along with the land users' consents, to acquire 79 miles, more or less, of rights-of-way on Navajo Tribal Trust lands and fee lands. Approximately 1.3 miles, more or less, of the rights-of-way located on fee lands and the remaining rights-of-way are located on trust lands, the locations of which are shown on the enclosed maps. The rights-of-way are to be used by El Paso for the construction, operation and maintenance of looplines for their natural gas pipeline system. El Paso has paid the required consideration to the Nation. Copies of the payments are enclosed.

The Navajo Nation hereby consents to the rights-of-way subject to the following terms and conditions:

1. El Paso shall abide by all terms and conditions stipulated in Amendment No. 3, dated December 11, 1990 and approved by the Department of the Interior on January 07, 1991 (Exhibit "A").
2. El Paso shall abide by the terms set forth in the tree cutting permit issued by the Navajo Forestry Department on August 09, 1991.

3. If Navajo water is used for the construction, operation or maintenance of the pipeline, a water use permit shall be obtained from the Navajo Water Rights Office. Results of the pressure integrity tests shall be filed with the Navajo Water Rights Office and the Navajo Environmental Protection Administration.
4. The pipeline must be installed so that it will not interfere with the construction or development of acreage designated for agricultural purposes, including projects related to the Navajo Indian Irrigation Project (NIIP). Any changes in design or location of the pipeline determined to be necessary during the construction and/or development of NIIP shall be carried out by El Paso at its sole expense.
5. Where crops are planted prior to accomplishment of the pipeline work on NIIP land, surface damages at the rate of \$250.00 per disturbed acre shall be paid to Navajo Agricultural Products Industry (NAPI). The topsoil shall be restored in the field to its original condition after the work is completed.
6. Gas pipeline lying parallel to NIIP water lines shall have a clear distance of at least 20 feet between the closest point and when crossing NIIP water pipeline at 90° or skew, there shall be a clear distance of at least 3 feet, whether going over or under the pipeline. When crossing under open canals, there shall be a minimum clearance of 10.00 feet between the outside invert concrete lining and outside of the pipeline at the closet point of crossing. 480 volts/3-phase electric underground cables are to be crossed only under existing installations with a minimum clearance of 2.00 feet. Markers shall be posted at the entrance and exit of each crossing.
7. El Paso shall notify in writing the Navajo Environmental Protection Administration five (5) working days prior to the commencement of the project and five (5) working days prior to the completion of the project so that field inspections can be made.
8. The pipeline shall be buried to a minimum depth of 48 inches on NIIP land and 36 inches on other areas.
9. El Paso shall submit a blasting plan to the Navajo Nation Environmental Protection Administration for approval if blasting is required.

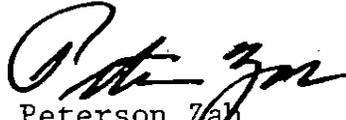
Ltr. to Mr. Walter R. Mills RE: Approval of El Paso Natural  
Gas Company's Natural Gas Pipeline Rights-of-way SEP 10 1991  
Page Three

10. El Paso shall not be permitted to place large rocks and boulders extracted during construction in washes upstream and outside of the authorized rights-of-way of the pipeline.
11. El Paso shall provide the Navajo Environmental Protection Administration with a schedule for seeding the rehabilitated rights-of-way. If seeding cannot be done within one week, the rehabilitated area shall be mulched and a biodegradable netting shall be placed over the rehabilitated area.
12. El Paso shall abide by the conditions set forth in the August 27, 1991 memorandum from the Natural Heritage Section, Fish and Wildlife Department, to the Project Review Section, Division of Natural Resources.

Please do not hesitate to contact our Project Review office at telephone number 871-6447, if you should have any questions.

Sincerely,

THE NAVAJO NATION

  
Peterson Zah  
President

Enclosures

Exhibit "A"

RESOLUTION OF THE RESOURCES COMMITTEE  
OF THE NAVAJO NATION COUNCIL

Approving Amendment No. 3 to the January 29, 1985 Agreement between the Navajo Nation (Nation) and El Paso Natural Gas Company (El Paso)

**WHEREAS:**

1. 2 NTC section: 695(2) (1989 Amendments) authorizes the Resources Committee of the Navajo Nation Council to give final approval to rights-of-way agreements; and

2. The Nation and El Paso entered into an agreement on January 29, 1985 for the renewal of El Paso's pipeline rights-of-way on the Nation. Said agreement was approved by the Department of the Interior (DOI) on October 18, 1985; and

3. Amendment No. 1 to the Agreement, which was approved by DOI on February 16, 1989, provided El Paso the right to acquire up to fifteen (15) miles of gathering line rights-of-way; and

4. Amendment No. 2 to the Agreement was approved by DOI on September 01, 1989. This amendment provided El Paso the option to acquire approximately twelve (12) miles of loopline rights-of-way. El Paso has exercised this option and has paid \$707,585.70 in consideration to the Nation; and

5. El Paso has requested another option for the purpose of acquiring additional loopline rights-of-way approximately sixty (60) feet wide and approximately eighty-eight (88) miles in length. The location of the proposed rights-of-way is shown in Exhibit "A"; and

6. El Paso and the Nation concur that such an agreement will be beneficial to both parties, as it provides a fair return to the Nation, pipeline taps necessary for the Navajo Tribal Utility Authority (NTUA) to provide gas service to Navajo customers, and the ability to El Paso to increase the capacity of their system by approximately 500,000 MCF per day.

**NOW THEREFORE BE IT RESOLVED THAT:**

1. The Resources Committee of the Navajo Nation Council grants El Paso the option to acquire the loopline rights-of-way shown in Exhibit "A". The rights-of-way shall be approximately sixty (60) feet wide and approximately eighty-eight (88) miles in length and shall be granted subject to the following conditions:

- a) El Paso shall have the right to exercise its option to acquire the rights-of-way within three (3) years from the date of approval of this amendment by the Resources Committee of the Navajo Nation Council; and

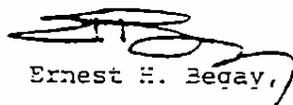
The consideration for these rights-of-way shall be \$1,000,000.00. El Paso shall make a non-refundable payment of \$1,000,000.00 (which represents 1% of the consideration) on the date of approval of the amendment by the Resources Committee of the Navajo Nation Council. The balance, after adjusting for the increase in the Consumer Price Index, shall be paid on the date El Paso formally applies for a grant of rights-of-way; and

- c) The existing language in Section 12H of the January 29, 1985 Agreement (which governs the transportation of Navajo-owned gas) shall be deleted and shall be replaced by the stipulations attached herewith as Exhibit "B"; and
- d) In addition to the Nation's consideration, El Paso shall pay the Nation's processing and permitting fees and land users' compensation, as may be applicable; and
- e) El Paso shall submit a complete rights-of-way package when the option is exercised, in accordance with the requirements of the Nation and the Bureau of Indian Affairs, and should construct the loopline within its existing rights-of-way wherever feasible; and
- f) All other terms and conditions of the rights-of-way, including the expiration date, shall be governed by the January 29, 1985 Agreement which is attached herewith as Exhibit "C".

2. The Interim President of the Navajo Nation or his successor is authorized to execute Amendment No. 3 (attached herewith as Exhibit "C") on behalf of the Nation and to approve all rights-of-way applications submitted pursuant to and consistent with this resolution.

#### C E R T I F I C A T I O N

I hereby certify that the foregoing resolution was duly considered by the Resources Committee of the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 3 in favor and 2 opposed, this 28th day of November, 1990.

  
Ernest H. Begay, Chairman

Motioned: Samuel Yazzie  
Seconded: Benjamin House

To the January 19, 1985 Agreement between the Navajo Nation  
and El Paso Natural Gas Company

This Amendment No. 3 is made and entered as of the 11th day of December, 1989 by and between the Navajo Nation (Nation) and El Paso Natural Gas Company (El Paso) for the option to acquire approximately 39 miles of loopline rights-of-way on Navajo Nation lands.

WITNESSETH

WHEREAS:

1. The Nation and El Paso entered into an agreement for the renewal of El Paso's pipeline rights-of-way on and across the Nation which was approved by the Department of the Interior on October 18, 1985; and

2. Amendment No. 1 to the above agreement, entered between the Nation and El Paso on January 12, 1989 and approved by the Department of the Interior on February 16, 1989, provided El Paso the right to acquire up to fifteen (15) miles of additional gathering line rights-of-way; and

3. Amendment No. 2 to the agreement provided El Paso the option to acquire approximately twelve (12) miles of loopline rights-of-way. El Paso has exercised this option for which they have made a total payment to the Nation of \$707,385.70, which payment is exclusive of the required processing and permitting fees and compensation to land users; and

4. El Paso has expressed an interest in acquiring additional loopline rights-of-way approximately eighty-eight (88) miles in length and sixty (60) feet wide. The location of the proposed rights-of-way is shown in Exhibit "A"; and

5. The parties agree that such an agreement will be beneficial to both parties as it provides a fair return to the Nation, pipeline taps necessary for the Navajo Tribal Utility Authority (NTUA) to provide gas service to Navajo customers, and the ability to El Paso to increase the capacity of their system by approximately 500,000 MCF per day.

NOW, THEREFORE THE PARTIES HERETO AGREE:

The Nation consents to the issuance of loopline rights-of-way approximately eighty-eight (88) miles in length and sixty (60) feet in width as shown in Exhibit "A", subject to the following terms and conditions:

... shall be subject to the approval of the Navajo Nation Council; and

2. The Nation's consideration for these rights-of-way will be \$5,232,797.68. El Paso will make a non-refundable payment of \$1,308,199.42 (which represents 15% of the total consideration) on the date this amendment is approved by the Nation. The balance of \$3,924,598.26 will be paid to the Nation when El Paso exercises its option to apply for and acquire the rights-of-way. This amount shall be adjusted in accordance with the following formula:

$$3,924,598.26 \times \frac{\text{CPI index for month in which the option is exercised}}{\text{CPI index for August, 1990}}$$

3. In addition to the Nation's consideration, El Paso will pay the Nation's processing and permitting fees and land users' compensation as may be applicable; and

4. El Paso shall submit a complete right-of-way application when the option is exercised, in accordance with the requirements of the Navajo Nation and the Bureau of Indian Affairs, and should construct the loopline within its existing rights-of-way wherever feasible; and

5. The language under Section 12H of the January 29, 1985 agreement is replaced by the following language:

(1) El Paso agrees to transport natural gas owned or controlled by the Navajo Nation or its affiliated entity, the Navajo Tribal Utility Authority (NTUA), for the account of either and to accept and deliver such gas at points on El Paso's Integrated Interstate System as requested by the Navajo Nation or NTUA.

Such transportation service shall, at the option of the Navajo Nation or NTUA, be firm service, conditioned only upon the availability or capacity of El Paso's system sufficient to provide the transportation service without detriment to El Paso's other pre-existing customers, dependent upon firm transportation as reasonably determined by any regulatory agency having jurisdiction.

Such service shall be provided under just and reasonable rates and such further fair and reasonable conditions as are consistent with Federal law and required by regulations of any regulatory agency having jurisdiction.

El Paso shall not be required to expand or extend its system facilities to provide additional capacity, but

transport shall be allowed to include exchange, jackhaul, re-shipment or other methods of transportation.

- (iii) Should the Nation or NTUA require gas service at new locations along El Paso's pipeline system crossing Tribal lands, El Paso will install a tap and meter at such locations in accordance with Federal Energy Regulatory Commission (FERC) regulations governing the installation of such taps and meters. For those taps and meters meeting the necessary minimum annual requirements of 5,000 Mcf, El Paso will make the installation at its sole cost and expense. For those taps and meters which do not meet the minimum 5,000 Mcf annual requirement, El Paso and the Nation or NTUA shall share the costs equally.

5. All other terms and conditions of the rights-of-way, including the expiration date, shall be governed by the January 29, 1985 agreement which is attached hereto as Exhibit "B".

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed by their duly authorized officers as of the date herein set forth.

THE NAVAJO NATION

By: *Leonard Haskie*  
Leonard Haskie, Interim President

EL PASO NATURAL GAS COMPANY

By: *Wayne Stephens*  
Wayne Stephens, Attorney In-Fact

BUREAU OF INDIAN AFFAIRS

ACTING *[Signature]* Area Director, Navajo Area *1/7/91*

TERMS AND CONDITIONS FOR THE RENEWAL OF  
EL PASO NATURAL GAS COMPANY  
PIPELINE RIGHTS-OF-WAY

This agreement is made and entered into between the Navajo Nation, a recognized tribe of Indians, and the El Paso Natural Gas Company ("El Paso") and states the terms and conditions for the renewal of the rights-of-way for existing natural gas pipelines and associated facilities operated by El Paso on the lands of the Navajo Nation.

WHEREAS, El Paso has constructed and operates an extensive system of natural gas gathering and transmission pipelines and associated facilities (hereinafter "pipelines") on the lands of the Navajo Nation.

WHEREAS, by prior agreement of the parties, most of the various rights-of-way easements for these pipelines have all been scheduled to expire on March 9, 1986.

WHEREAS, El Paso has demonstrated, during its lengthy history of doing business with the Navajo Nation, a sensitivity to the needs and concerns of the Navajo people and a willingness to conduct its operations in a manner which is in accord with the policies and procedures of the Navajo Nation.

WHEREAS, both parties have resolved to reach an agreement which will allow for El Paso's continued operation of its natural gas pipeline system pursuant to terms and conditions which are mutually beneficial.

WHEREAS, it will ease the administrative burdens of both parties if all existing El Paso rights-of-way on Navajo land are consolidated into a single right-of-way easement grant with a term of twenty (20) years.

ACCORDINGLY, IT IS CONVENANTED AGREED, AND UNDERSTOOD THAT:

1. Subject to the terms and conditions of this agreement, the Navajo Nation hereby consents to the renewal of all existing El Paso pipeline

rights-of-way for a term of twenty (20) years. This term shall commence on the date the United States, through the Bureau of Indian Affairs, grants the associated right-of-way easement(s) on behalf of the Navajo Nation, or on March 9, 1986, whichever date shall first occur.

2. The rights-of-way which the parties intend to renew and to consolidate pursuant to this agreement are all of the easements presently granted by the BIA or for which applications are pending and the easements described in paragraph 10 below. Legal descriptions of those rights-of-way accompany the original grants of easements and will be amended, as appropriate, in the formal application to be submitted by El Paso to the Bureau of Indian Affairs. The parties acknowledge that although every effort has been made to describe the rights-of-way as accurately as possible, there may be discrepancies in the legal descriptions of such rights-of-way. In the event that it is ascertained that a pipeline right-of-way has not been accurately described, El Paso will amend such description in a timely and appropriate manner. This agreement shall constitute the consent of the Navajo Nation for the use of all Navajo lands as they are currently used by El Paso for rights-of-way (any error in any legal description notwithstanding), and does not constitute consent for any other type of use.

3. In consideration for the consent for the use of Navajo lands expressed in this agreement, El Paso agrees to make the following payments to Navajo Nation:

- A. The sum of two million dollars (\$2,000,000.00) on the date that this agreement is signed by the Chairman of the Tribal Council of the Navajo Nation and El Paso's duly authorized representative.

B. Twenty (20) annual payments each in the amount of one million three hundred fifty thousand dollars (\$1,350,000.00), with the first such payment to be due on the date the term of this right-of-way shall commence, as described in paragraph 1, and each succeeding payment to be made on that anniversary date in the following years.

4. The annual payments, as described in paragraph 3.B., shall be subject to escalation at three (3)-year intervals, with the first escalation to occur in connection with the fourth (4th) annual payment, and every three (3) years thereafter. This escalation shall be computed on the basis of the annual average increase in the preceding (3) years in the Consumer Price Index (CPI) as published by the United States Bureau of Labor Statistics, for all urban consumers, United States city average, all items (1967=100). This escalation shall be based on changes in the annual average CPI as available on January 1, 1985.

In the event that necessary economic data for the computation of any escalation is not available at the time the annual payment is due, El Paso shall pay to the Navajo Nation the base rate (\$1,350,000.00), and any escalation that has previously occurred, on the payment due date. Any increment due as the result of the subsequent escalation shall be paid to the Navajo Nation within thirty (30) days of the date of publication of the necessary economic data.

5. El Paso hereby guarantees that all of the payments described in paragraph 3 of this agreement will be made to the Navajo Nation. Such payments are not conditioned upon the continued operation of the natural gas

pipelines which are the subject of this agreement, but shall be made to the Navajo Nation even in the event that El Paso ceases to own, operate, or possess any or all of such pipelines. Any successor, assignee, or transferee of El Paso's interests shall be obligated to make any and all payments that have not been made by El Paso.

6. El Paso will be required to pay an interest charge, at the average prime lending rate charged by major U.S. banks plus 3%, on all payments required by this agreement and not received in full by the Navajo Nation within ten (10) days of the payment due date. Such interest shall also accrue on any escalation increment which is not paid within thirty (30) days of publication of the economic data necessary to complete this escalation.

7. With the limited exception of any delay in the payment of an escalation increment due to the lack of necessary economic data, any failure on the part of El Paso to make the payments required herein within sixty (60) days of notice by the Navajo Nation that a payment was not made when due shall constitute default on the part of El Paso. Such default shall terminate the rights of El Paso to continue to use Navajo land for the purposes expressed in this agreement, but shall not alter El Paso's liability for all payments required in this agreement.

8. In consideration for the payments to be made by El Paso pursuant to this agreement, the Navajo Nation further consents to the issuance of up to fifteen (15) miles of rights-of-way on tribal trust or tribal fee lands for natural gas gathering pipelines, not to exceed nine (9) inches in outer diameter, without the requirement of payment of additional consideration to the Navajo Nation. Such additional rights-of-way may be granted during the twenty (20)-year term of this agreement, with the term of each such additional right-of-way to conclude on the same date as do all others subject to this

agreement. Such easements shall be subject to the terms and conditions of this agreement. As used herein "gathering pipelines" shall mean only those lines necessary for transporting gas from a well head to a natural gas processing plant, and no other lines. Any physical expansion of El Paso's existing facilities on Navajo lands shall require the express consent of the Navajo Nation and shall be subject to the terms and conditions negotiated by the parties at that time.

9. The Navajo Nation agrees to take reasonable efforts to insure that applications for the additional gathering lines which are the subject of paragraph 8 will be reviewed and processed as expeditiously as possible by the Navajo Nation. Applicable regulations, requirements and fees will not be waived, but every attempt will be made to approve proper applications without undue delay.

10. The Navajo Nation further consents to the issuance of the following rights-of-way on the fee lands of the Navajo Nation:

R/W 79416 Water Well No. 10 Access Road (Angel Peak GS)  
R/W 82580 Amoco Production-Gallegos Canyon No. 217E (GL Kutz GS)  
R/W 802113 Gulf Oil-Fullerton No. 6E (Chaco GS)  
R/W 801708 Amoco Production-P.O. Pipkin No. 4E (Chaco GS)  
R/W 802088 Amoco Production-P.O. Pipkin No. 2E (Chaco GS)  
R/W 81568 Amoco Production-Gallegos Canyon Unit No. 139E (Chaco GS)  
R/W 83179 Amoco Production-P.O. Pipkin No. 6E (APGS)  
R/W 84039 Beta Development-Holloway Federal No. 5E (Chaco GS)

It is acknowledged that consideration for such rights-of-way is included in the payments described in paragraph 3 and it is agreed that appropriate right-of-way easements in the form attached hereto as Exhibit "A" will be issued by the Navajo Nation for such lands for an identical twenty (20)- year term.

11. It is agreed and understood that the terms and conditions of this agreement are applicable only to the lands held in trust by the United

States for the Navajo Nation and the fee lands of the Navajo Nation and shall not apply to any lands which have been allotted to individual members of the Navajo Nation.

12. The following provisions shall be included in any and all grants of rights-of-way or easements issued or approved pursuant to this agreement.

- A. These rights-of-way shall be subject to the condition that the exercise hereof will not preclude the leasing and administration by the United States and the Navajo Nation of land of the Navajo Nation covered hereby for the development of oil, gas and other minerals therefrom, and El Paso agrees and consents to the reasonable use of such portion of the rights-of-way not actually occupied by its pipelines, compressor stations, or related facilities for such drilling, mining, development and production of oil, gas or other minerals; provided, however, such use shall not interfere with the use, maintenance and operation of any facilities maintained, operated or installed by El Paso pursuant to this agreement and the permits issued pursuant to it.
- B. El Paso 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 the Interior or his duly authorized representative or the Chairman of the Navajo Tribal Council to correct or repair such deterioration and minimize such hazard.
- C. If the archaeological survey or any find during the construction itself indicates the need for the assistance of a quali-

fied archaeological supervisor, any construction authorized by this grant of right-of-way shall be carried out in coordination with a qualified archaeological supervisor, acceptable to the Navajo Nation, pursuant to Navajo Nation and federal laws, with the cost of such supervisor paid by El Paso.

D. In the event that El Paso engages in any construction, repair, or maintenance pursuant to the authorization of this grant of right-of-way, it will be obligated to do the following:

- (1) To pay promptly all damages and compensation due to landowners, users, occupants, or lessees in the event that such construction involves the use or disturbance of additional land or surface interest not presently used.
- (2) To reconstruct or repair such roads, fences, and trails as may be destroyed or damaged by construction work and to build and maintain necessary and suitable crossings for all roads and trails that intersect the facilities so constructed.
- (3) To restore the lands to their original condition, as nearly and as promptly as may be reasonable practicable upon the completion of construction, repair or maintenance, to the extent compatible with the purposes for which the right of way was granted.

E. In the construction of any pipeline or other improvements across or on Navajo Nation lands and the maintenance and operation of improvements on Navajo Nation lands, El Paso agrees to abide by the laws of the Navajo Nation regarding manpower utilization and preference in obtaining materials,

equipment, goods, services and transportation. Preference will be given to 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 of comparable experience and seniority for comparable work.

- F. El Paso shall hold the Navajo Nation harmless and indemnify it against any and all claims against the Navajo Nation or losses incurred by the Navajo Nation for any damage to property or the injury to or death of any person directly or indirectly caused by the negligent or reckless conduct of El Paso in the construction, operation or maintenance of its pipeline or by any breach by El Paso of any provision of this grant of right-of-way.
- G. El Paso agrees to refrain from making any use of the Navajo lands subject to these grants of right-of-way except as may be reasonable and proper to fulfill the purposes for which the rights-of-way are granted, i.e. the operation and maintenance of a natural gas pipeline system. The Navajo Nation may use such lands for such other purposes as may be consistent or compatible with El Paso's authorized use of these lands and will refrain from making or authorizing any use that may be inconsistent or incompatible therewith.
- H. El Paso agrees to transport gas owned by the Navajo Nation or its entities as requested by the Navajo Nation or its entities. Such gas will be delivered to points within the Navajo Nation as requested. Such transportation service shall be conditioned

upon the availability of capacity in El Paso's system sufficient for such transportation without affecting El Paso's existing customers and legal obligations. El Paso shall not be required to expand or extend its system to provide additional capacity, but shall fulfill its obligation to transport this gas in a reasonable manner. These transportation services shall be provided at reasonable rates and consistent with applicable federal law and regulations.

1. El Paso agrees that there is reserved to the United States, its successors and assigns, and the Navajo Nation any prior existing right to use any of the land herein described.

13. Nothing contained in this agreement shall operate to delay or prevent a termination of Federal trust responsibilities with respect to any lands of the Navajo Nation subject to this right-of-way during the term of this agreement. Termination of such responsibilities, however, shall not affect the rights, duties, and obligations of El Paso and the Navajo Nation under this agreement.

14. El Paso agrees to abide by all valid laws and regulations of the Navajo Nation and the United States.

15. This agreement represents the entire agreement of the parties, and shall not be modified except by a writing signed by the duly authorized representatives of both parties.

16. This agreement and any rights-of-way, permits or authorizations granted or approved hereunder shall be binding upon, and shall inure to the benefit of the assigns or successors in interest of the parties. No assignment, except to a company a majority of whose stock is owned or controlled by El Paso or Burlington Northern Inc., shall be made by El Paso without the

express written consent of the Navajo Nation. Such consent shall not be unreasonably withheld and no additional consideration will be required for such consent.

This agreement is hereby adopted and executed by the parties on this 29<sup>th</sup> day of January, 1985.

NAVAJO NATION

By: *Peter Zah*  
Peterson Zah, Chairman  
Navajo Tribal Council

JM

EL PASO NATURAL GAS COMPANY

✓  
By: *Wayne C. Stephens*  
Wayne C. Stephens  
Attorney in Fact

NAVAJO AREA LAND CLEARING EXCAVATION AND RECLAMATION  
STIPULATIONS FOR RIGHTS-OF-WAY OVER INDIAN LAND

1. Written Notification of Major Activity Status

Grantee will furnish written notification to the Agency Superintendent as follows:

- a. A minimum of five (5) working days prior to commencement of construction, seeding and major soil-disturbing maintenance on the right-of-way.
- b. A maximum of ten (10) working days following completion of construction, seeding and major maintenance.

2. Confinement of Activities to Right-of-Way

All vehicular traffic will be confined to existing roadway and/or within the right-of-way as granted, except as provided in Section 4 below or as specified by the Superintendent.

3. Line and Road Locations

Where possible, the utility will be constructed adjacent to the area cleared for an access road and/or other right-of-way.

Other routes will be used, if necessary, to minimize visual impact as authorized by the Superintendent.

4. Roads Only Where Necessary

In areas where the right-of-way does not have permanent access, roads will not be constructed within the right-of-way when terrain will allow vehicles to maneuver without such roads.

5. Clearing and Grading

Clearing, grading and other soil and vegetation disturbance will be limited to the minimum required for construction.

Clearing of brush or shrub type vegetation beneath aerial lines will be limited to severing the tops of that vegetation. Established vegetation will be removed only where necessary for the construction of roads, buildings, poles, towers or other surface structures. In no event will herbicides be used without the written permission of the Superintendent.

6. Tree and Brush Disposal Requirements (See Exhibit "E")

Unless otherwise specified by the Superintendent, the following tree and brush disposal requirements shall be in effect:

- a. All cleared woody material four (4) inches diameter or less inside the bark at the small end will be considered as brush or slash and disposed of by piling and burning at a safe distance from surrounding vegetation or by chipping in portable chippers unless other disposal methods are specified.
- b. All straight cleared woody material between four (4) and seven (7) inches diameter inside the bark at the small end will be trimmed of smaller branches, cut into straight seven (7) foot pieces and piled on or adjacent to the right-of-way for utilization by the Navajo people.
- c. All straight cleared woody material seven (7) inches or more in diameter inside the bark at the small end will be trimmed of all limbs and branches, sawed into 16 feet 6 inches straight saw log lengths and piled into log decks at locations accessible by logging trucks and loaders.
- d. All other woody material will be disposed of in accordance with Section 6a above.

Grantee shall obtain a burning permit from the Navajo Area Branch of Forestry before burning any debris, trees or brush in forested areas.

7. Trenches and Excavations

Trenches and other excavations shall be left open for the minimum period of time compatible with construction requirements. Materials removed during construction must be backfilled or disposed of in such a manner as to prevent concentration of water runoff which would cause accelerated erosion and prevent rows or piles of rubble or large rock that would hinder movement of livestock or big game animals or detract from scenic attributes.

8. Depth and Coloration of Underground Utilities

Underground utilities will be covered to a depth of three (3) feet or as specified by engineering standards and requirements, whichever is greatest. Where such depths are not feasible, the utility shall be placed on or elevated above the surface as specified by engineering standards and requirements. When placed on or above the surface, the utility will be painted to blend with the natural surroundings using the indicated cover type:

Forests and Woodlands: Green  
Fed. Std. No. 595 34127

Sagebrush: Grey  
Fed. Std. No. 595 36357

C.I.E. Measurement x. 3264 y. 3411 Y. 3659

Badlands: Brown  
Fed. Std. No. 595 30318  
C.I.E. Measurement x. 3557 y. 3368

App. 117

"D"

When such painted surfaces occur near roads and/or may be a safety hazard, a reflective or bright color shall be used.

#### Source of Cushioning Material

Pad dirt or cushioning material will be taken only from borrow pits authorized by the Area Director if not available within the utility right-of-way.

#### Road, Fence and Livestock Barriers

When the utility is to be placed under or over a BIA or State road right-of-way, the method of crossing shall be approved by the Superintendent or appropriate State Highway Department in advance of construction.

Existing fences crossed by the right-of-way will be braced and tied off before cutting so as to prevent slacking of the wire. The opening will be closed temporarily as necessary during construction to prevent the escape of livestock and upon completion of construction the fence will be repaired to its original condition. If construction destroys a natural barrier used for livestock control, the gap shall be fenced to the satisfaction of the Superintendent and land user.

#### Maintenance and Reclamation of Roadways

Roads constructed and used for utility construction, maintenance and operation will be maintained twice each year with grading and cleaning of drainage structures. All roads constructed exclusively for construction purposes will be closed to vehicular traffic and rehabilitated after construction is completed as directed by the Superintendent unless otherwise specified by that official.

#### Water Bars

Grantee will place water bars on disturbed areas as required by the Superintendent. The following is a general guide for water bar spacing:

| <u>% Slope</u> | <u>Spacing Interval</u> |
|----------------|-------------------------|
| Less than 2½%  | 200 ft.                 |
| 2½%            | 150 ft.                 |
| 6% to 9%       | 100 ft.                 |
| 10% to 15%     | 50 ft.                  |
| More than 15%  | 30 ft.                  |

#### Revegetation

Within one (1) year from the completion of construction the Grantee shall seed disturbed areas designated by the Superintendent with plant species specified by that official. In addition, the Superintendent may require the following revegetation operations at Grantee's expense:

- a. Exclude domestic livestock from reseeded areas with fencing.
- b. Apply fertilizers as needed for vegetation establishment.
- c. Reseed and refertilize as needed for vegetation establishment.

#### Maintenance of Improvements

All existing improvement affected by construction and maintenance of right-of-way facilities shall be maintained in servicable condition at all times.

#### General Right-of-Way Maintenance

Grantee shall maintain right-of-way to the satisfaction of the Superintendent for the duration of the right-of-way. Such maintenance shall include, but not be limited to soil stabilization, removal of litter and maintenance of a clear and healthy environment.

#### Restoration Upon Right-of-Way Relinquishment

Upon relinquishment of this right-of-way, the Superintendent may require the removal of all aerial, surface and subsurface facilities from the right-of-way and reclamation operations including, but not limited to contouring cross-ripping and revegetation.

#### Raptor Protection

Aerial powerlines shall include all applicable design features described in the publication "Suggested Practices for Raptor Protection on Powerlines" available from:

Raptor Research Foundation, Inc.  
Department of Zoology - 167 WIBD  
Brigham Young University  
Provo, Utah 84601

The use of design features not included in this publication must be acceptable to the Superintendent.

The Superintendent reserves the right to require modification of or additions to all powerline structures placed on the right-of-way if the Navajo Tribal Fish and Wildlife Service determines such modifications or additions are necessary to insure the safety of raptor or birds of prey. Grantee shall assume full financial responsibility for the cost of such modifications or additions.

## TREE AND BRUSH DISPOSAL REQUIREMENTS

Unless otherwise specified by the Superintendent, the following tree and brush disposal requirements shall be in effect:

- a. All brushes and woody materials shall be severed from the stump prior to piling and no woody materials shall be pushed with root wad intact.
- b. All cleared woody material four (4) inches diameter or less inside the bark at the small end will be considered as brush or slash and disposed of by piling and burning at a safe distance from surrounding vegetation or by chipping in portable chippers unless other disposal methods are specified.
- c. All straight cleared woody material four (4) inches and larger diameter inside the bark at the small end will be trimmed of smaller branches, cut into straight four (4) foot pieces or larger piled on or adjacent to the right-of-way for utilization by the Navajo people.
- d. All ponderosa pine sawlog material six (6) inches or more in diameter inside the bark at the small end will be trimmed of all limbs and branches, sawed into 16 feet 6 inches straight saw log lengths and removed from the project area.
- e. All other woody material will be disposed of in accordance with Section 6b above.
- f. Grantee shall obtain a burning permit from the Navajo Area Branch of Forestry before burning any debris, trees or brush in forested areas.

THE  
NAVAJO  
NATION

PO BOX 138 • WINDOW ROCK, ARIZONA • 86501 • 505 755-1111

PETERSON CAH  
PRESIDENT

SEP 10 1991

MARSHALL ELLIOTT  
DE PRERICE

Mr. Wayne Stephens, Director  
El Paso Natural Gas Company  
P.O. Box 1492  
El Paso, Texas 79978

Subject: Grant of Easement on Navajo Nation Fee Lands

Dear Mr. Stephens:

This is in reference to El Paso Natural Gas Company's (El Paso) letter of April 05, 1991 by which El Paso exercised its option to acquire natural gas pipeline rights-of-way pursuant to Amendment No. 2 to the January 29, 1985 Right-of-Way Agreement between the Navajo Nation and El Paso. Approximately 1.29 miles of the rights-of-way are on Navajo Nation fee lands.

The Navajo Nation hereby grants El Paso Natural Gas Company a right-of-way easement for the construction, operation, and maintenance of a natural gas pipeline system on Navajo Nation Fee Lands, the locations of which are shown on the enclosed maps marked Exhibit "B-1" & "B-2". The grant shall be governed by the following terms and conditions:

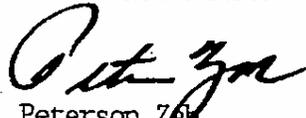
1. El Paso shall abide by all of the terms stipulated in Amendment No. 1, dated December 11, 1990 and approved by the Department of the Interior on January 7, 1991 (Exhibit "A").
2. El Paso shall abide by the terms set forth in the tree cutting permit issued by the Navajo Forestry Department on August 09, 1991.
3. If Navajo water is used for the construction, operation or maintenance of the pipeline, a water use permit shall be obtained from the Navajo Water Rights Office. Results of pressure integrity tests of the pipeline shall be filed with the Navajo Water Rights Office and the Navajo Nation Environmental Protection Administration.
4. The pipeline shall be buried to a depth of at least 36 inches.
5. El Paso shall provide five (5) working days' written notice to the Navajo Environmental Protection Administration (NEPA) prior to the commencement and five (5) working days' notice prior to the completion of the project so that field inspections can be made.

SEP 10 1991

6. El Paso shall submit a blasting plan to the Navajo Nation EPA for approval, if blasting is conducted.
7. El Paso shall not be permitted to place large rocks and boulders excavated during construction in washes upstream and outside of the authorized rights-of-way of the pipeline.
8. El Paso shall provide the Navajo Nation EPA with a schedule for seeding the rehabilitated rights-of-way. If seeding cannot be done within one week, the rehabilitated area shall be mulched and a biodegradable netting shall be placed over the rehabilitated area.
9. El Paso shall abide by the conditions set forth in the August 27, 1991 memorandum from the Natural Heritage Section, Fish and Wildlife Department, to the Project Review Section, Division of Natural Resources.

Sincerely,

THE NAVAJO NATION

  
Peterson Zeh  
President

Enclosures



THE  
NAVAJO  
NATION

NAVAJO NATION MINERALS DEPARTMENT  
P. O. Box 1910  
Window Rock, Arizona 86515  
(520) 871-6587, FAX: (520) 871-7095

ALBERT A. HALE  
PRESIDENT

THOMAS E. ATCITY  
VICE PRESIDENT

SEP 28 1995

*Handwritten initials and numbers:*  
210  
542  
*[Signature]*

Mr. Wilson Barber, Area Director  
Navajo Area Office  
Bureau of Indian Affairs  
P.O. Box 1060  
Gallup, New Mexico 87305-1060

Subject: **Amendment No. 4 to the January 29, 1985 Right-of-Way Agreement  
between the Navajo Nation and El Paso Natural Gas Company**

Dear Mr. Barber:

The Resources Committee of the Navajo Nation Council by Resolution RCS-214-95 dated September 14, 1995 approved Amendment No. 4 to the January 29, 1985 Right-of-Way Agreement between the Navajo Nation and El Paso Natural Gas Company. Amendment No. 4 governs the Navajo Nation's terms and conditions for three natural gas pipeline rights-of-way.

Enclosed are five (5) copies of Amendment No. 4 and supporting documents for your consideration and approval. If there are any questions, please contact Mr. Akhtar Zaman, Director, Minerals Department at (520) 871-6587.

Sincerely,

THE NAVAJO NATION

*Handwritten signature of Albert Hale*

Albert Hale  
President

Enclosures

RECEIVED  
SEP 29 1995  
NAVAJO AREA OFFICE  
Branch of Real Estate Services

RESOLUTION  
OF THE RESOURCES COMMITTEE  
OF THE NAVAJO NATION COUNCIL

Approving Amendment No. 4 to the January 29, 1985 Agreement  
Between the Navajo Nation and El Paso Natural Gas Company

WHEREAS:

1. 2 N.T.C. § 695 (b) (2), as amended by CN-72-92, authorizes the Resources Committee of the Navajo Nation Council to give final approval to rights-of-way agreements; and
2. The Navajo Nation (Nation) and El Paso Natural Gas Company (El Paso) entered into an agreement on January 29, 1985 (Agreement) for the renewal of El Paso's Pipeline rights-of-way on the Nation. The said agreement was approved by the Department of the Interior (DOI) on October 18, 1985; and
3. Amendment No. 1 to the Agreement, which was approved by DOI on February 16, 1989, provided El Paso the right to acquire up to fifteen (15) miles of additional gathering line rights-of-way; and
4. Amendment No. 2 to the Agreement, approved by DOI on September 01, 1989, allowed El Paso to acquire approximately 12 miles of loop line rights-of-way; and
5. Amendment No. 3 to the Agreement, approved by DOI on January 07, 1991, allowed El Paso an option to acquire additional loop line rights-of-way up to 88 miles. The option was exercised and DOI approved El Paso's complete right-of-way on October 09, 1991; and
6. The Nation and El Paso has entered into an agreement (Amendment No. 4), attached hereto as Exhibit "A", which would allow El Paso to acquire an additional 39.899 miles (12,767.574 rods), more or less, of rights-of-way on the Nation. The rights-of-way would be used by El Paso for the construction, operation and maintenance of the following projects:

|  |   |                    |
|--|---|--------------------|
| (i) San Juan Triangle  | : | 9,198.32 rods      |
| (ii) Blanco-Chaco Crossover Line   | : | 3,550.115 rods     |
| (iii) Line to connect Transwestern Pipeline<br>Company's Line near Window Rock, AZ | : | <u>19.139 rods</u> |
| TOTAL  | : | 12,767.574 rods    |

The locations of the rights-of-way are attached as Exhibits "B", "B1" and "B2"; and

7. El Paso has paid processing and filing fees and compensation to affected land users; and

8. Environmental and archaeological clearances have been obtained; and

9. El Paso has obtained the endorsement of the project from the affected chapters (Exhibit "C"); and

10. El Paso and the Nation concur that Amendment No. 4 to the Agreement will benefit parties as it provides a fair return to the Nation, pipeline taps for the Navajo Tribal Utility Authority to provide gas service to Navajo customers and enables El Paso to increase the capacity of its San Juan system in order to remain competitive with other natural gas transporters.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Resources Committee of the Navajo Nation Council approves Amendment No. 4 to the Agreement (Exhibit "A").

2. The consideration for the right-of-way shall be \$4,404,813.74. If the length exceeds the stipulated length, then additional payment shall be due to the Nation as stipulated in Section 2 of Exhibit "A".

3. The language in Section 12.H of the Agreement shall be deleted and shall be replaced by stipulations in Section 7 of Exhibit "A".

4. El Paso shall use existing public roads to access the right-of-way. Application shall be submitted for additional access roads rights-of-way (other than public roads) if required by El Paso.

5. Any judicial proceedings regarding El Paso's Agreement and subsequent amendments shall be governed by the courts and the Navajo Nation.

6. All other terms and conditions including the expiration date shall be governed by the Agreement which is attached as Exhibit "D".

7. The Resources Committee authorizes the President of the Navajo Nation to execute Amendment No. 4 (Exhibit "A") to the Agreement and all other documents which are essential to fulfill the intent of this resolution.

#### CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Resources Committee of 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 5 in favor, 0 opposed and 0 abstained, this 14th day of September, 1995.



George Arthur, Vice Chairperson  
Resources Committee

Motion: Sylvester Chee  
Second: Willis Peterson

Amendment No. 4 to the January 29, 1985 Right-of-Way Agreement between the  
Navajo Nation and El Paso Natural Gas Company

This Amendment No. 4 is made and entered as of the 28 day of September, 1995 by and between the Navajo Nation (Nation) and El Paso Natural Gas Company (El Paso) for acquiring natural gas pipeline rights-of-way on the Nation land. The rights-of-way are to be used by El Paso's for the construction, maintenance and operation of natural gas pipelines for the San Juan Triangle Expansion (9,198.32 rods), Blanco-Chaco Crossover line (3,550.115 rods) and the connection of El Paso's pipeline to Transwestern Pipeline Company's pipeline near Window Rock, AZ (19.139). The total proposed length of the rights-of-way for the three projects is 12,767.574 rods, more or less.

**WITNESSETH**

**WHEREAS:**

1. The Nation and El Paso entered into an agreement (Agreement) for the renewal of El Paso's natural gas pipeline rights-of-way on the Nation which was approved by the Department of the Interior (DOI) on October 18, 1985; and
2. Amendment No. 1 to the agreement, which was approved by DOI on February 16, 1989, provided El Paso the right to acquire fifteen (15) miles of additional gathering line rights-of-way; and
3. Amendment No. 2 to the agreement, approved by DOI on September 01, 1989, allowed El Paso to acquire approximately 12 miles of loop line rights-of-way; and
4. Amendment No. 3 to the agreement, approved by DOI on January 07, 1991, allowed El Paso an option to acquire additional loopline rights-of-way upto 88 miles. The option was exercised and DOI approved El Paso's complete right-of-way package on October 09, 1991.
5. El Paso has submitted applications to acquire an additional 39.899 miles (12,767.574 rods) more or less for the following projects:

|       |   |   |                    |
|-------|---|---|--------------------|
| (i)   | San Juan Triangle   | : | 9,198.32 rods      |
| (ii)  | Blanco-Chaco Crossover Line                                   | : | 3,550.115 rods     |
| (iii) | Line to connect Transwestern<br>Pipeline near Window Rock, AZ | : | <u>19.139 rods</u> |
|       | TOTAL   | : | 12,767.574 rods    |

The locations of the rights-of-way are attached as Exhibits "B", "B1", and "B2".

6. The parties agree that this agreement will benefit all parties as it provides a fair return to the Nation, necessary pipeline taps for the Navajo Tribal Utility Authority (NTUA) for providing gas services to Navajo customers, and will increase the capacity of El Paso's San Juan system so that they can remain competitive with other natural gas transporters.

**NOW, THEREFORE THE PARTIES HERETO AGREE:**

The Nation consents to the issuance of 39.899 miles (12,767.574 rods) more or less of rights-of-way (Exhibits "B", "B1" and "B2") to El Paso for their San Triangle project, Chaco-Blanco crossover project and a right-of-way needed to connect El Paso's system with Transwestern Pipeline system near Window Rock, AZ. The rights-of-way are subject to the following terms and conditions:

1. El Paso has paid the Nation a sum of \$4,404,813.74 as consideration for the rights-of-way. If the Nation does not consent to the approval of this easement to El Paso. Then this amount, less the accrued interest, shall be returned to El Paso.

2. Should the final length exceed the length of the rights-of-way stipulated in this Amendment No. 4, El Paso shall make an additional payment to the Nation based upon the following formula:

$$\frac{\$4,404,813.74 \times \text{Actual length in rods}}{12,767.574 \text{ rods}} \times \frac{\text{CPI prior to the month when payment is made}}{\text{CPI for June, 1995}}$$

3. The maximum width of the rights-of-way shall not exceed 80 feet during the initial construction phase and the permanent width shall be limited to 50 feet. Wherever possible, the pipelines shall be located within existing El Paso's rights-of-way. At the crossings of the main washes the maximum width of rights-of-way during the initial construction phase will be permissible to 110 ft.

4. The diameter of the pipelines shall not exceed 34 inch O.D. for San Juan Triangle Expansion, 36 inch O.D. for Blanco-Chaco Crossover and 16 inch O.D. for El Paso to Transwestern Pipeline connection.

5. Access to the right-of-way shall be limited to existing public roads. El Paso shall apply for rights-of-way if additional access road(s) is required.

6. In addition to the Nation's consideration, El Paso shall pay applications processing fees and land users compensation as applicable.

7. The language under Section 12.H of the January 29, 1985 agreement is replaced by the following language:

- (i) El Paso agrees to transport natural gas owned or controlled by the Navajo Nation or its affiliated entities including the Navajo Tribal Utility Authority (NTUA) for the account of either and to accept and deliver such gas at points on El Paso's Integrated Interstate System as requested by the Navajo Nation and NTUA.

Such transportation service shall, at the option of the Navajo Nation or NTUA, be firm service, conditioned only upon the availability or capacity of El Paso's system sufficient to provide the transportation service without detriment to El Paso's other pre-existing customers, dependent upon firm transportation as reasonably determined by any regulatory agency having jurisdiction.

Such service shall be provided under just and reasonable rates and such further fair and reasonable conditions as are consistent with Federal law and required by regulations of any regulatory agency having jurisdiction. El Paso shall not be required to expand or extend its system facilities to provide additional capacity, but shall, in good faith, fulfill its obligation under this agreement, to the extent of capacity in any of its facilities.

Transport shall be deemed to include exchange, backhaul, displacement or other methods of transportation.

- (ii) Should the Nation or NTUA require gas service at new locations along El Paso's pipeline system crossing Tribal lands, El Paso will install a tap and meter at such locations in accordance with Federal Energy Regulatory Commission (FERC) regulations governing the installation of such taps and meters.

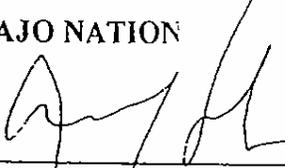
8. Any judicial proceedings regarding the Agreement and subsequent amendments shall be governed by the courts of the Navajo Nation.

9. All other terms and conditions of the rights-of-way, including the expiration date, shall be governed by the January 29, 1985 agreement which is attached hereto as Exhibit "B".

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed by their duly authorized officers as of the date herein set forth.

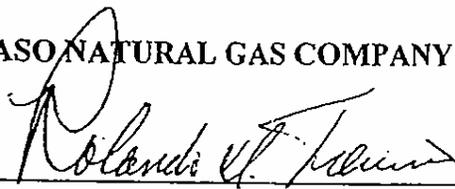
THE NAVAJO NATION

By:

  
Albert Hale, President

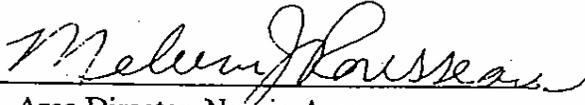
EL PASO NATURAL GAS COMPANY

By:

  
Rolando I. Trevino, Attorney In-Fact

BUREAU OF INDIAN AFFAIRS

By:

  
Area Director, Navajo Area

Acting

1. The Grantee shall abide by all laws and regulations of the Navajo Nation and of the United States, now in force and effect or as may be hereafter in force and effect, including but not limited to the following:
  - a. Title 25, Code of Federal Regulations, Part 169;
  - b. All applicable Federal and Tribal antiquities laws and regulations, with the following additional condition: In the event of a discovery all operations in the immediate vicinity of the discovery must cease and the Navajo Nation Historic Preservation Department must be notified immediately. As used herein, "discovery" means any previously unidentified or incorrectly identified cultural resources, including but not limited to archeological deposits, human remains, or location reportedly associated with Native American religious/traditional beliefs or practices; and
  - c. The Navajo Preference in Employment Act, 15 N.T.C. §§ 601 et seq., and the Navajo Nation Business Preference Law, 5 N.T.C. §§ 201 et seq.;
  - d. The Navajo Nation Water Code, 22 N.T.C. § 1101 et seq. Grantee shall apply for and submit all applicable permits and information to the Navajo Nation Department of Water Resources Management.
2. The Grantee shall ensure that the air quality of the Navajo Nation is not jeopardized due to violation of applicable laws and regulations by its operation pursuant to the right-of-way; and the Grantee shall comply with the air pollution control practices for minimizing emissions as specified in 40 C.F.R. Part 60, Subpart I, Standards of Performance for Hot Mix Asphalt Facilities; and the Grantee shall submit all applicable permits and information to the Navajo Nation Air Quality Control Program, Navajo Nation Environmental Protection Administration (NNEPA).
3. The Grantee shall clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way, and shall

dispose of all vegetation and other materials cut, uprooted, or otherwise accumulated during construction and maintenance of the project.

4. The Grantee shall reclaim all surface disturbed lands related to the project, as outlined in a restoration and revegetation plan, which shall be prepared with the assistance of the Navajo Nation Department of Agriculture, and shall be submitted to, and must be approved by, the NNEPA, prior to any surface disturbance. The Grantee shall comply with all provisions of such restoration and revegetation plan and shall notify the Director of the NNEPA immediately upon completion of construction of the project so that a site inspection can be made.
5. The Grantee shall at all times during the term of the right-of-way and at the Grantee's sole cost and expense, maintain the land and all improvements thereon and make all necessary and reasonable repairs.
6. The Grantee shall obtain permission to cross existing rights-of-way, if any, from the appropriate parties before constructing the proposed project.
7. The Grantee shall be responsible for and promptly pay all damages when they are sustained.
8. The Grantee shall indemnify and hold harmless the Navajo Nation and its authorized agents, employees, landusers and occupants, against any liability for loss of life, personal injury and property damages arising from the construction, maintenance, occupancy or use of lands by the Grantee.
9. The Grantee shall not assign, convey or transfer, in any manner whatsoever, the right-of-way or any interest therein, or in or to any of the improvements on the land, without the prior written consent of the Navajo Nation and the Secretary. Any such attempted assignment, conveyance or transfer without such prior written consent shall be void and of no effect. The consent of the Navajo Nation may be granted, granted upon conditions or withheld in the sole discretion of the Navajo Nation.
10. The Navajo Nation may terminate the right-of-way for violation of any of the terms and conditions stated herein. In addition, the right-of-way shall

be terminable in whole or in part by the Navajo Nation for any of the following causes:

- a. Failure to comply with any terms or conditions of the grant or of applicable laws or regulations;
  - b. A non-use of the right-of-way for the purpose for which it is granted for a consecutive two year period;
  - c. An abandonment of the right-of-way;
  - d. The use of lands for any purpose inconsistent with the purpose for which the right-of-way is granted.
11. At the termination of this right-of-way, the Grantee shall peaceably and without legal process deliver up the possession of the premises, in good condition, usual wear and tear excepted. Upon the written request of the Navajo Nation, the Grantee shall provide the Navajo Nation, at the Grantees sole cost and expense, with an environmental audit assessment of the premises at least sixty (60) days prior to delivery of said premises.
  12. Holding over by the Grantee after the termination of the right-of-way shall not constitute a renewal or extension thereof or give the Grantee any rights hereunder or in or to the land or to any improvements located thereon.
  13. The Navajo Nation and the Secretary shall have the right, at any reasonable time during the term of the right-of-way, to enter upon the premises, or any part thereof, to inspect the same and any buildings and other improvements erected or placed thereon.
  14. By acceptance of the grant of right-of-way, the Grantee consents to the jurisdiction of the Navajo Nation, including but not limited to, jurisdiction to levy fines and to enter judgments for compensatory and punitive damages and injunctive relief, in connection with all activities conducted by the Grantee on the Navajo Nation or which have a proximate (legal) effect on persons or property within the Navajo Nation.
  15. Any action or proceeding brought by the Grantee against the Navajo Nation in connection with or arising out of the terms and conditions of the right-of-way shall be brought only in the Courts of

the Navajo Nation, and no such action or proceeding shall be brought by the Grantee against the Navajo Nation in any court of any state.

16. Nothing contained herein shall be construed to affect or be deemed a waiver of the sovereign immunity from suit of the Navajo Nation.
17. Except as may be prohibited by applicable Federal law, the law of the Navajo Nation shall govern the construction, performance and enforcement of the terms and conditions contained herein.
18. The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of the Grantee, and the term "Grantee," whenever used herein, shall be deemed to include all such successors, heirs, assigns, executors, administrators, employees and agents.

TERMS AND CONDITIONS FOR THE RENEWAL OF  
EL PASO NATURAL GAS COMPANY  
PIPELINE RIGHTS-OF-WAY

This agreement is made and entered into between the Navajo Nation, a recognized tribe of Indians, and the El Paso Natural Gas Company ("El Paso") and states the terms and conditions for the renewal of the rights-of-way for existing natural gas pipelines and associated facilities operated by El Paso on the lands of the Navajo Nation.

WHEREAS, El Paso has constructed and operates an extensive system of natural gas gathering and transmission pipelines and associated facilities (hereinafter "pipelines") on the lands of the Navajo Nation.

WHEREAS, by prior agreement of the parties, most of the various rights-of-way easements for these pipelines have all been scheduled to expire on March 9, 1986.

WHEREAS, El Paso has demonstrated, during its lengthy history of doing business with the Navajo Nation, a sensitivity to the needs and concerns of the Navajo people and a willingness to conduct its operations in a manner which is in accord with the policies and procedures of the Navajo Nation.

WHEREAS, both parties have resolved to reach an agreement which will allow for El Paso's continued operation of its natural gas pipeline system pursuant to terms and conditions which are mutually beneficial.

WHEREAS, it will ease the administrative burdens of both parties if all existing El Paso rights-of-way on Navajo land are consolidated into a single right-of-way easement grant with a term of twenty (20) years.

ACCORDINGLY, IT IS CONVENANTED AGREED, AND UNDERSTOOD THAT:

1. Subject to the terms and conditions of this agreement, the Navajo Nation hereby consents to the renewal of all existing El Paso pipeline

rights-of-way for a term of twenty (20) years. This term shall commence on the date the United States, through the Bureau of Indian Affairs, grants the associated right-of-way easement(s) on behalf of the Navajo Nation, or on March 9, 1986, whichever date shall first occur.

2. The rights-of-way which the parties intend to renew and to consolidate pursuant to this agreement are all of the easements presently granted by the BIA or for which applications are pending and the easements described in paragraph 10 below. Legal descriptions of those rights-of-way accompany the original grants of easements and will be amended, as appropriate, in the formal application to be submitted by El Paso to the Bureau of Indian Affairs. The parties acknowledge that although every effort has been made to describe the rights-of-way as accurately as possible, there may be discrepancies in the legal descriptions of such rights-of-way. In the event that it is ascertained that a pipeline right-of-way has not been accurately described, El Paso will amend such description in a timely and appropriate manner. This agreement shall constitute the consent of the Navajo Nation for the use of all Navajo lands as they are currently used by El Paso for rights-of-way (any error in any legal description notwithstanding), and does not constitute consent for any other type of use.

3. In consideration for the consent for the use of Navajo lands expressed in this agreement, El Paso agrees to make the following payments to Navajo Nation:

- A. The sum of two million dollars (\$2,000,000.00) on the date that this agreement is signed by the Chairman of the Tribal Council of the Navajo Nation and El Paso's duly authorized representative.

B. Twenty (20) annual payments each in the amount of one million three hundred fifty thousand dollars (\$1,350,000.00), with the first such payment to be due on the date the term of this right-of-way shall commence, as described in paragraph 1, and each succeeding payment to be made on that anniversary date in the following years.

4. The annual payments, as described in paragraph 3.B., shall be subject to escalation at three (3)-year intervals, with the first escalation to occur in connection with the fourth (4th) annual payment, and every three (3) years thereafter. This escalation shall be computed on the basis of the annual average increase in the preceding (3) years in the Consumer Price Index (CPI) as published by the United States Bureau of Labor Statistics, for all urban consumers, United States city average, all items (1967=100). This escalation shall be based on changes in the annual average CPI as available on January 1, 1985.

In the event that necessary economic data for the computation of any escalation is not available at the time the annual payment is due, El Paso shall pay to the Navajo Nation the base rate (\$1,350,000.00), and any escalation that has previously occurred, on the payment due date. Any increment due as the result of the subsequent escalation shall be paid to the Navajo Nation within thirty (30) days of the date of publication of the necessary economic data.

5. El Paso hereby guarantees that all of the payments described in paragraph 3 of this agreement will be made to the Navajo Nation. Such payments are not conditioned upon the continued operation of the natural gas

pipelines which are the subject of this agreement, but shall be made to the Navajo Nation even in the event that El Paso ceases to own, operate, or possess any or all of such pipelines. Any successor, assignee, or transferee of El Paso's interests shall be obligated to make any and all payments that have not been made by El Paso.

6. El Paso will be required to pay an interest charge, at the average prime lending rate charged by major U.S. banks plus 3%, on all payments required by this agreement and not received in full by the Navajo Nation within ten (10) days of the payment due date. Such interest shall also accrue on any escalation increment which is not paid within thirty (30) days of publication of the economic data necessary to complete this escalation.

7. With the limited exception of any delay in the payment of an escalation increment due to the lack of necessary economic data, any failure on the part of El Paso to make the payments required herein within sixty (60) days of notice by the Navajo Nation that a payment was not made when due shall constitute default on the part of El Paso. Such default shall terminate the rights of El Paso to continue to use Navajo land for the purposes expressed in this agreement, but shall not alter El Paso's liability for all payments required in this agreement.

8. In consideration for the payments to be made by El Paso pursuant to this agreement, the Navajo Nation further consents to the issuance of up to fifteen (15) miles of rights-of-way on tribal trust or tribal fee lands for natural gas gathering pipelines, not to exceed nine (9) inches in outer diameter, without the requirement of payment of additional consideration to the Navajo Nation. Such additional rights-of-way may be granted during the twenty (20)- year term of this agreement, with the term of each such additional right-of-way to conclude on the same date as do all others subject to this

agreement. Such easements shall be subject to the terms and conditions of this agreement. As used herein "gathering pipelines" shall mean only those lines necessary for transporting gas from a well head to a natural gas processing plant, and no other lines. Any physical expansion of El Paso's existing facilities on Navajo lands shall require the express consent of the Navajo Nation and shall be subject to the terms and conditions negotiated by the parties at that time.

9. The Navajo Nation agrees to take reasonable efforts to insure that applications for the additional gathering lines which are the subject of paragraph 8 will be reviewed and processed as expeditiously as possible by the Navajo Nation. Applicable regulations, requirements and fees will not be waived, but every attempt will be made to approve proper applications without undue delay.

10. The Navajo Nation further consents to the issuance of the following rights-of-way on the fee lands of the Navajo Nation:

- R/W 79416 Water Well No. 10 Access Road (Angel Peak GS)
- R/W 82580 Amoco Production-Gallegos Canyon No. 217E (GL Kutz GS)
- R/W 802113 Gulf Oil-Fullerton No. 6E (Chaco GS)
- R/W 801708 Amoco Production-P.O. Pipkin No. 4E (Chaco GS)
- R/W 802088 Amoco Production-P.O. Pipkin No. 2E (Chaco GS)
- R/W 81568 Amoco Production-Gallegos Canyon Unit No. 139E (Chaco GS)
- R/W 83179 Amoco Production-P.O. Pipkin No. 6E (APGS)
- R/W 84039 Beta Development-Holloway Federal No. 5E (Chaco GS)

It is acknowledged that consideration for such rights-of-way is included in the payments described in paragraph 3 and it is agreed that appropriate right-of-way easements in the form attached hereto as Exhibit "A" will be issued by the Navajo Nation for such lands for an identical twenty (20)- year term.

11. It is agreed and understood that the terms and conditions of this agreement are applicable only to the lands held in trust by the United

States for the Navajo Nation and the fee lands of the Navajo Nation and shall not apply to any lands which have been allotted to individual members of the Navajo Nation.

12. The following provisions shall be included in any and all grants of rights-of-way or easements issued or approved pursuant to this agreement.

- A. These rights-of-way shall be subject to the condition that the exercise hereof will not preclude the leasing and administration by the United States and the Navajo Nation of land of the Navajo Nation covered hereby for the development of oil, gas and other minerals therefrom, and El Paso agrees and consents to the reasonable use of such portion of the rights-of-way not actually occupied by its pipelines, compressor stations, or related facilities for such drilling, mining, development and production of oil, gas or other minerals; provided, however, such use shall not interfere with the use, maintenance and operation of any facilities maintained, operated or installed by El Paso pursuant to this agreement and the permits issued pursuant to it.
- B. El Paso 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 the Interior or his duly authorized representative or the Chairman of the Navajo Tribal Council to correct or repair such deterioration and minimize such hazard.
- C. If the archaeological survey or any find during the construction itself indicates the need for the assistance of a quali-

fied archaeological supervisor, any construction authorized by this grant of right-of-way shall be carried out in coordination with a qualified archaeological supervisor, acceptable to the Navajo Nation, pursuant to Navajo Nation and federal laws, with the cost of such supervisor paid by El Paso.

- D. In the event that El Paso engages in any construction, repair, or maintenance pursuant to the authorization of this grant of right-of-way, it will be obligated to do the following:
- (1) To pay promptly all damages and compensation due to landowners, users, occupants, or lessees in the event that such construction involves the use or disturbance of additional land or surface interest not presently used.
  - (2) To reconstruct or repair such roads, fences, and trails as may be destroyed or damaged by construction work and to build and maintain necessary and suitable crossings for all roads and trails that intersect the facilities so constructed.
  - (3) To restore the lands to their original condition, as nearly and as promptly as may be reasonable practicable upon the completion of construction, repair or maintenance, to the extent compatible with the purposes for which the right of way was granted.
- E. In the construction of any pipeline or other improvements across or on Navajo Nation lands and the maintenance and operation of improvements on Navajo Nation lands, El Paso agrees to abide by the laws of the Navajo Nation regarding manpower utilization and preference in obtaining materials,

equipment, goods, services and transportation. Preference will be given to 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 of comparable experience and seniority for comparable work.

- F. El Paso shall hold the Navajo Nation harmless and indemnify it against any and all claims against the Navajo Nation or losses incurred by the Navajo Nation for any damage to property or the injury to or death of any person directly or indirectly caused by the negligent or reckless conduct of El Paso in the construction, operation or maintenance of its pipeline or by any breach by El Paso of any provision of this grant of right-of-way.
- G. El Paso agrees to refrain from making any use of the Navajo lands subject to these grants of right-of-way except as may be reasonable and proper to fulfill the purposes for which the rights-of-way are granted, i.e. the operation and maintenance of a natural gas pipeline system. The Navajo Nation may use such lands for such other purposes as may be consistent or compatible with El Paso's authorized use of these lands and will refrain from making or authorizing any use that may be inconsistent or incompatible therewith.
- H. El Paso agrees to transport gas owned by the Navajo Nation or its entities as requested by the Navajo Nation or its entities. Such gas will be delivered to points within the Navajo Nation as requested. Such transportation service shall be conditioned

upon the availability of capacity in El Paso's system sufficient for such transportation without affecting El Paso's existing customers and legal obligations. El Paso shall not be required to expand or extend its system to provide additional capacity, but shall fulfill its obligation to transport this gas in a reasonable manner. These transportation services shall be provided at reasonable rates and consistent with applicable federal law and regulations.

I. El Paso agrees that there is reserved to the United States, its successors and assigns, and the Navajo Nation any prior existing right to use any of the land herein described.

13. Nothing contained in this agreement shall operate to delay or prevent a termination of Federal trust responsibilities with respect to any lands of the Navajo Nation subject to this right-of-way during the term of this agreement. Termination of such responsibilities, however, shall not affect the rights, duties, and obligations of El Paso and the Navajo Nation under this agreement.

14. El Paso agrees to abide by all valid laws and regulations of the Navajo Nation and the United States.

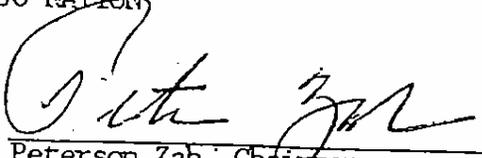
15. This agreement represents the entire agreement of the parties, and shall not be modified except by a writing signed by the duly authorized representatives of both parties.

16. This agreement and any rights-of-way, permits or authorizations granted or approved hereunder shall be binding upon, and shall inure to the benefit of the assigns or successors in interest of the parties. No assignment, except to a company a majority of whose stock is owned or controlled by El Paso or Burlington Northern Inc., shall be made by El Paso without the

express written consent of the Navajo Nation. Such consent shall not be unreasonably withheld and no additional consideration will be required for such consent.

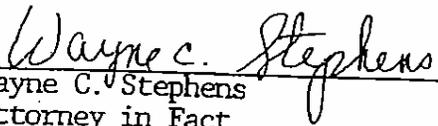
This agreement is hereby adopted and executed by the parties on this 29<sup>th</sup> day of January, 1985.

NAVAJO NATION

By: 

Peterson Zah, Chairman  
Navajo Tribal Council

EL PASO NATURAL GAS COMPANY

By: 

Wayne C. Stephens  
Attorney in Fact

SUPPORTING EL PASO PIPELINE COMPANY'S PROPOSED PLAN TO CONSTRUCT,  
MAINTAIN, OPERATE 16" NATURAL GAS PIPELINES WITHIN THE COMMUNITY.

WHEREAS:

1. The Chi'Hootso Chapter is a certified local government of the Navajo Nation pursuant to 2 NTC 4001; vest with the authority to review and coordinate the functions of its local government; and
2. The Chi'Hootso Chapter was officially certified and was given the authority and the responsibility to address and act as on the needs and concerns of its community; and
3. The El Paso Company's representative has met with the Chi'Hootso Chapter officials and discussed the proposed plan to construct, maintain and operate 16" Natural Gas Pipelines on the Right-A-Way 50 feet in width together with temporary working space to be used only during the construction within the Community; and
4. The Chi'Hootso Chapter have many concerns, i.e., many of these college students need funds to continue their education; companies make their own roads and do not inform the permittee about the proposed plan; not fixing fences; leaving trash at work area; workers driving at a high speed on the existing winding roads and pipeline safety (emergency pipeline evacuation if there should be explosive); environmental and not respecting culture issues.

NOW THEREFORE IT BE RESOLVED THAT:

1. The Chi'Hootso Chapter hereby approves support the El Paso Pipeline Company's plans to construct, maintain, operate 16" Natural Gas Pipeline on a Right-A-Way 50 feet in width together with temporary working space to be used only during construction within the community.
2. The Chi'Hootso Chapter requests that the El Paso Pipeline Company hire qualified Navajo Welders/laborers; to inform the permittee and community about propose plans; fix fences with good tension's string; do not leave trash at the work area; respect the locate travelers while using the dirt road; and obey and respect all of the Navajo nation laws; and install cattle guards at all fence crossing; emphasis more on environmental and culture issues and educate the community on an emergency pipeline evacuation on a yearly basis.
3. The Chi'Hootso Chapter further requests that the El Paso Pipeline Company to make a donation to Navajo Scholarship funds for students attending colleges and funds should be given directly to the chapter.

The resolution of the  
Burnham Chapter

Supporting El Paso Pipeline Company's proposed plan to construct, maintain, operate 34" to 36" Natural Gas pipelines on a right of way 50 feet in width together with temporary working space to be used during construction within the community.

**WHEREAS:**

1. The Burnham is a certified local government of the Navajo Nation pursuant to 2 NTC 4001; vest with the authority to review and coordinate the functions of its local government; and
2. The Burnham Chapter was officially certified and was given the authority and the responsibility to address and act as on the needs and concerns of its community; and
3. The El Paso Company's representative has met with the Burnham Chapter official and discussed the proposed plan to construct, maintain and operate 34" to 36" Natural Gas pipeline on the right of way 50 feet in width together with temporary working space to be used only during the construction within the Community; and
4. The Burnham Chapter have many concerns, i.e., many of these college students need funds to continue their education; companies make their own roads and do not inform the permittee about the propose plan; not fixing fences; leaving trash at work area; workers driving at a high speed on the existing winding roads and pipeline safety ( emergency pipeline evacuation if there should be explosive); environmental and not respecting culture issues.

**NOW THEREFORE IT BE RESOLVED THAT:**

1. The Burnham Chapter hereby supports the El Paso Pipeline Company's plans to construct, maintain, operate 34" to 36" Natural Gas pipeline on a right of way 50 ' (feet) in width together with temporary working space to be used only during construction within the community.
2. The Burnham Chapter requests that the El Paso Pipeline Company hire qualified Navajo welders/laborers; to inform the permittee and community about proposed plan; fix fences with good tensions string; do not leave trash at the work area; respect the local travelers while using the dirt road; and obey and respect all of the Navajo Nation laws; and install cattle guards at all fence crossing; re-establish public watering point; emphasis more on environmental and culture issues and educate the community on a emergency pipeline evacuation on a yearly basis.
3. The Burnham Chapter further requests that the El Paso Pipeline Company to make a donation to Navajo Scholarship funds for students attending colleges and funds should be given directly to the chapter.

The resolution of the  
Huerfano Chapter

Supporting El Paso Pipeline Company's proposed plan to construct, maintain, operate 34" to 36" Natural Gas pipelines on a right of way 50 feet in width together with temporary working space to be used during construction within the community.

**WHEREAS:**

1. The Huerfano is a certified local government of the Navajo Nation pursuant to 2 NTC 4001; vest with the authority to review and coordinate the functions of its local government; and
2. The Huerfano Chapter was officially certified and was given the authority and the responsibility to address and act as on the needs and concerns of its community; and
3. The El Paso Company's representative has met with the Huerfano Chapter official and discussed the proposed plan to construct, maintain and operate 34" to 36" Natural Gas pipeline on the right of way 50 feet in width together with temporary working space to be used only during the construction within the Community; and
4. The Huerfano Chapter have many concerns, i.e., many of these college students need funds to continue their education; no natural line to the individual homes; companies make their own roads and do not inform the permittee about the propose plan; not fixing fences; leaving trash at work area; workers driving at a high speed on the existing winding roads and pipeline safety ( emergency pipeline evacuation if there should be explosive); environmental and not respecting culture issues.

**NOW THEREFORE IT BE RESOLVED THAT:**

1. The Huerfano Chapter hereby supports the El Paso Pipeline Company's plans to construct, maintain, operate 34" to 36" Natural Gas pipeline on a right of way 50 ' (feet) in width together with temporary working space to be used only during construction within the community.
2. The Huerfano Chapter requests that the El Paso Pipeline Company hire qualified Navajo welders/laborers; to inform the permittee and community about proposed plan; fix fences with good tensions string; do not leave trash at the work area; respect the local travelers while using the dirt road; and obey and respect all of the Navajo Nation laws; and install cattle guards at all fence crossing; help the community extend the natural gas to individual homes; emphasis more on environmental and culture issues and educate the community on a emergency pipeline evacuation on a yearly basis.
3. The Huerfano Chapter further requests that the El Paso Pipeline Company to make a donation to Navajo Scholarship funds for students attending colleges and funds should be given directly to the chapter.

*Community Development*

The resolution of the  
White Rock Chapter

Supporting El Paso Pipeline Company's proposed plan to construct, maintain, operate 34" to 36" Natural Gas pipelines on a right of way 50 feet in width together with temporary working space to be used during construction within the community.

**WHEREAS:**

1. The White Rock is a certified local government of the Navajo Nation pursuant to 2 NTC 4001; vest with the authority to review and coordinate the functions of its local government; and
2. The White Rock Chapter was officially certified and was given the authority and the responsibility to address and act as on the needs and concerns of its community; and
3. The El Paso Company's representative has met with the White Rock Chapter official and discussed the proposed plan to construct, maintain and operate 34" to 36" Natural Gas pipeline on the right of way 50 feet in width together with temporary working space to be used only during the construction within the Community; and
4. The White Rock Chapter have many concerns, i.e., many of these college students need funds to continue their education; no natural line to the individual homes; companies make their own roads and do not inform the permittee about the propose plan; not fixing fences; leaving trash at work area; workers driving at a high speed on the existing winding roads and pipeline safety ( emergency pipeline evacuation if there should be explosive); environmental and not respecting culture issues.

**NOW THEREFORE IT BE RESOLVED THAT:**

1. The White Rock Chapter hereby supports the El Paso Pipeline Company's plans to construct, maintain, operate 34" to 36" Natural Gas pipeline on a right of way 50 ' (feet) in width together with temporary working space to be used only during construction within the community.
2. The White Rock Chapter requests that the El Paso Pipeline Company hire qualified Navajo welders/laborers; to inform the permittee and community about proposed plan; fix fences with good tensions string; do not leave trash at the work area; respect the local travelers while using the dirt road; and obey and respect all of the Navajo Nation laws; and install cattle guards at all fence crossing; help the community extend the natural gas to individual homes; emphasis more on environmental and culture issues and educate the community on a emergency pipeline evacuation on a yearly basis.
3. The White Rock Chapter further requests that the El Paso Pipeline Company to make a donation to Navajo Scholarship funds for students attending colleges and funds should be given directly to the chapter.

TRIBAL XXX  
INDIVIDUALLY OWNED \_\_\_\_\_  
GOVERNMENT OWNED \_\_\_\_\_  
RIGHT-OF-WAY 930623  
REFERENCE NO. E-NM-95-19

GRANT OF EASEMENT FOR RIGHT-OF-WAY

KNOW ALL MEN BY THESE PRESENTS:

That the United States of America for and on behalf of the Indian Owners of the lands described in Exhibit "A" hereof, acting by and through the Area Director, Bureau of Indian Affairs, Department of the Interior, Gallup, New Mexico, hereinafter referred to as "Grantor", under authority contained in the "Secretarial Redelelegation Order 209 DM 8, Secretary's Order Nos. 3150 and 3177, and 10 BIAM Bulletin 13, as amended", and pursuant to the provisions of the Act of February 5, 1948 (62 Stat. 17, 25 U.S.C. 323-328), and Part 169, Title 25, Code of Federal Regulations, in consideration of \$1,224,789.60\* and other good and valuable consideration, the receipt of which is acknowledged, does hereby grant to EL PASO NATURAL GAS COMPANY, a Delaware Corporation, P.O. Box 1492, El Paso, Texas 79978, hereinafter referred to as "Grantee", an easement for right-of-way for the following purpose(s), namely: Construction, operation, maintenance and other related facilities of 36" Natural Gas Pipeline known as "Loop Line from Blanco Plant to Chaco Plant" (Blanco-Chaco Crossover Line) over across, in and upon the following described lands located in the County of San Juan, State of New Mexico.

The said easement as shown on the Map Consisting of four (4) sheets, marked Exhibit "B", attached hereto, is limited to and more particularly described as a strip of land (50) feet in width across Navajo Tribal Trust lands, including portions of Navajo Indian Irrigation Project, located in Sections 30 & 31, Township 28 North, Range 11 West; Section 6, Township 27 North, Range 11 West; Sections 1, 12, 13, 14, 23, 26, 27 & 34, Township 27 North, Range 12 West and Sections 3, 4, 9, 16 & 21, Township 26 North, Range 12 West, NMPM, San Juan County, New Mexico, being 58,617.8 feet, 3,552.594 rods or 11.102 miles in length and containing 67.284 acres, more or less.

Said easement is more particularly described in the right-of-way description marked Exhibit "A" attached hereto which by this reference is made a part hereof.

Said easement for maximum width of the right-of-way shall not exceed 80 feet wide during the initial construction phase and the permanent width shall be limited to 50 feet.

This easement across Navajo Tribal Trust lands is subject to the terms and conditions contained in the Resource Committee's Resolution Number RCS-214-95, Navajo Nation Council, dated September 14, 1995 including the Memorandum of Agreement dated January 29, 1985 and Amendment No. 4 therefore between the Navajo Nation and El Paso Natural Gas Company.

Said easement is subject to "Navajo Area Land Clearing, Excavation and Reclamation Stipulations for Rights-of-Way Over Indian Lands".

\* Consideration for the right-of-way is in accordance with the terms and conditions set forth in the Memorandum of Agreement dated January 29, 1985, and Amendment No. 4 thereto.

Said easement is subject to:

- 1) Crossings of existing right-of-way easements for canals, drainages, roads, pipelines, powerlines and cable which are identified in the attached Exhibit "C".
- 2) Said easement is subject to prior written approval on any assignment(s) of the right-of-way by the Navajo Nation and Secretary of the Interior.
- 3) Navajo Indian Irrigation Project stipulations as follows:

The pipeline will be so installed that it will not interfere with the construction and/or development of the area for agricultural purposes and/or operation of same in connection with the Navajo Indian Irrigation Project. Any changes or relocations found to be necessary during said construction and/or development will be accomplished by Mid-America Pipeline Company's expense.

In addition, the pipeline will be buried to a depth of 48 inches and any permanent metering and production equipment installed at the actual site will conform to "no well and/or production equipment within irrigable fields of the Navajo Indian Irrigation Project will exceed two feet above natural surface elevation and be adequately barricaded for safety". Further, if crops are planted prior to accomplishment of the pipeline work, surface damages must be negotiated with Navajo Agricultural Products Industry.

- 4) Compliance with "Tree and Brush Disposal Requirements" by Bureau of Indian Affairs, Area Forestry stipulations attached as Exhibit "D".
- 6) Navajo Historic Preservation stipulations as follows:

A qualified archaeologist shall be present and monitor all activities during the construction.

Should any previously unrecorded and/or previously undetected cultural material be discovered during construction or maintenance operations all work must cease in the immediate area of the exposed resources. The NHPD Archaeologist should be notified to arrange an on-site inspection to determine the significance and disposition of the archaeological remains.

All maintenance of this pipeline system shall be restricted to the original construction trench. Grantee shall obtain archaeological clearance(s) for any new construction activity within the right-of-way corridor.

This easement is subject to any existing right or adverse claim and is for a term of years ending October 17, 2005, so long as said easement shall be actually used for the purpose above specified; PROVIDED, that this right-of-way shall be terminable in whole or in part by the Grantor for any of the following causes upon 30 days written notice and failure of the Grantee within said notice period to correct the basis for termination (25 CFR 169.20):

- A. Failure to comply with any term or condition of the grant of applicable regulations.
- B. A nonuse of the right-of-way for a consecutive two-year period for the purpose for which it was granted.
- C. An abandonment of the right-of-way.
- D. Failure of the Grantee, upon the completion of construction, to file with the Grantor an affidavit of completion pursuant to 25 CFR 169.16.

E. Failure to comply with the terms and conditions contained in the Memorandum of Understanding, dated January 29, 1985 and, Amendment No. 4 thereto, between the Navajo Nation (Tribe) and El Paso Natural Gas Company.

F. Failure to comply with the terms and conditions contained in the Resource Committee's Resolution Number RCS-214-95, Navajo Nation Council, dated September 14, 1995.

The conditions of this easement shall extend to and be binding upon and shall inure to the benefit of the heirs, representatives, successors, and assigns of the Grantee.

IN WITNESS WHEREOF, Grantor has executed this grant of easement this

13<sup>th</sup> day of October, 1995.

UNITED STATES OF AMERICA

By

Melvin J. Rossman

Acting

Area Director

(Title)

U.S. Department of The Interior  
Bureau of Indian Affairs  
Navajo Area Office  
P.O. Box 1060  
Gallup, New Mexico 87305-1060