

AGREEMENT FOR TEMPORARY USE AND OCCUPANCY

This Agreement for Temporary Use and Occupancy ("Interim Agreement") is entered into effective October 17, 2005 between the Navajo Nation ("Nation") and the El Paso Natural Gas Company ("Company") (collectively, the "Parties") pursuant to the resolution of the Resources Committee of the Navajo Nation Council no. RCJA-01-06 (Jan. 4, 2006) (the "Resolution").

The Parties incorporate into this Interim Agreement by reference as if fully set out herein the terms and conditions of sections 1-4, inclusive, of the Resolution and agree to be fully bound by those terms and conditions. The Parties agree that this Interim Agreement is not intended and should not be construed to resolve the unresolved dispute concerning the applicability of certain terms and conditions that may or may not pertain to the amendment dated September 28, 1995 to the "TERMS AND CONDITIONS FOR THE RENEWAL OF EL PASO NATURAL GAS COMPANY RIGHTS-OF-WAY" (Jan. 29, 1985). The Parties agree in principle that the value of agreed-upon collaborative business projects may be credited to offset cash compensation in a final right-of-way agreement, and that any final ROW agreement shall vindicate the principle that the Nation and Company are reciprocal stakeholders in one another.

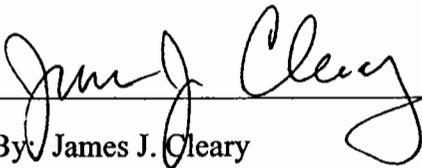
The Attorney General of the Nation and the General Counsel of the Company shall exercise personal oversight over the process leading up to any final ROW agreement. Not later than January 25, 2006, the Attorney General and the General Counsel shall co-chair a meeting where the following matters will be decided: (a) a schedule for the conduct and completion of negotiations toward a final ROW agreement; (b) any appropriate expansion of the existing negotiating teams to capture needed skill sets; (c) any alternative dispute resolution ("ADR") mechanisms to be employed should the negotiations reach an impasse and the timing for invoking ADR; (d) the terms of any confidentiality that should govern the negotiations and any ADR process; (e) such other matters as the Attorney General and the General Counsel deem productive to the process.

IN WITNESS WHEREOF, the Parties have executed this Interim Agreement this 13th day of January, 2006.

THE NAVAJO NATION

EL PASO NATURAL GAS COMPANY

  
By: Joe Shirley, Jr.  
President

  
By: James J. Cleary  
President

RCJA-01-06

RESOLUTION OF THE RESOURCES COMMITTEE  
OF THE NAVAJO NATION COUNCIL

20<sup>th</sup> NAVAJO NATION COUNCIL - Fourth Year, 2006

AN ACTION

RELATING TO NATURAL RESOURCES; CONSENTING TO AND  
CONDITIONALLY APPROVING AN INTERIM EXTENSION OF CERTAIN  
RIGHTS-OF-WAY LOCATED ON NAVAJO NATION TRUST LAND CURRENTLY  
OCCUPIED BY EL PASO NATURAL GAS COMPANY

BE IT ENACTED:

1. The Resources Committee hereby approves a temporary right to use and occupy certain Navajo Nation lands to El Paso Natural Gas Company ("El Paso") for the purpose of the continued operation and maintenance of El Paso's pipeline system for a period commencing October 17, 2005 and ending on the earlier of (a) December 31, 2006 or (b) the date of the execution by authorized officials of El Paso and the Navajo Nation of a final right-of-way agreement for such Navajo Nation lands (such earlier date being the "Termination Date"). Such "Navajo Nation lands" are those lands presently used and occupied by El Paso and subject to the "TERMS AND CONDITIONS FOR THE RENEWAL OF EL PASO NATURAL GAS COMPANY PIPELINE RIGHTS-OF-WAY" (Jan. 29, 1985) (the "Agreement"), as amended by Amendments Nos. 1 (Jan. 12, 1989), 2 (Aug. 7, 1989), 3 (Dec. 11, 1990), 4 (Sept. 7, 1993), and 5 [sic] (Sept. 28, 1995), and listed in El Paso's application currently on file with the Navajo Regional Office of the Bureau of Indian Affairs of the United States Department of the Interior, such Agreement, amendments thereto, and application attached hereto as Exhibits "A" through "G", respectively. Such Agreement and amendments thereto are collectively referred to herein as the "Existing Agreements".

2. The Navajo Nation conditions its approval of this temporary right to use and occupy such Navajo Nation lands on El Paso's agreement to the following:

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- a. Subject to subparagraph (e), below, El Paso shall remit to the Navajo Nation within fourteen days of approval of this resolution the sum of \$3,537,500 for its use and occupancy of such Navajo Nation lands for the period commencing October 18, 2005 and ending January 17, 2006, and an additional \$3,537,500 for its use and occupancy of such Navajo Nation lands for the period commencing January 18, 2006 and ending April 17, 2006.
- b. Subject to subparagraph (e), below, El Paso shall remit to the Navajo Nation on or before April 15, 2006 the sum of \$3,537,500 for its use and occupancy of such Navajo Nation lands for the period commencing April 18, 2006 and ending July 17, 2006.
- c. Subject to subparagraph (e), below, El Paso shall remit to the Navajo Nation on or before July 15, 2006 the sum of \$3,537,500 for its use and occupancy of such Navajo Nation lands for the period commencing July 18, 2006 and ending October 17, 2006.
- d. Subject to subparagraph (e), below, El Paso shall remit to the Navajo Nation on or before October 15, 2006 the sum of \$2,830,000 for its use and occupancy of such Navajo Nation lands for the period commencing October 18, 2006 through December 31, 2006.
- e. If the Parties do not reach a final right-of-way agreement on or before December 31, 2006, the amounts paid by El Paso under subparagraphs (a) through (d), above, shall remain the sole and absolute property of the Navajo Nation and not subject to any adjustment or refund for any reason, including without limitation the lack of federal approval. If the Parties reach a final right-of-way agreement on or before December 31, 2006:

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- i. El Paso shall be relieved of its obligation to make any payments described in the above subparagraphs (a) through (d), above, for any period of time after the effective date of such subsequent final right-of-way agreement (the Parties anticipating that such subsequent agreement shall provide compensation terms for the period after such effective date), and shall have no obligation to make any of the payments identified in subparagraphs (a) through (d) that occur after the Termination Date.
  - ii. If any payments made by El Paso pursuant to subparagraphs (a) through (d), above, exceed, on an annualized basis, the annual amount established in any final right-of-way agreement between El Paso and the Navajo Nation, then El Paso shall be refunded such excess amount as a condition precedent to any final agreement.
  - iii. If any payments received by the Navajo Nation pursuant to subparagraphs (a) through (d), above, are less than, on any annualized basis, the annual amount established in any final right-of-way agreement between El Paso and the Navajo Nation, then the Navajo Nation shall be paid the difference as a condition precedent to any final agreement.
- f. During the period of temporary use and occupancy provided for in this resolution, El Paso and the Navajo Nation shall be subject to and shall agree to comply with all terms and conditions of the Existing Agreements not inconsistent with the express terms of this resolution and without prejudice to the respective legal positions of either Party.
- g. El Paso shall indemnify and hold harmless the Navajo Nation and its authorized officials, employees, agents, land users and occupants from and against any claims, losses or liabilities of

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any kind for loss of life, personal injury and damage to property arising from or related to El Paso's use or occupancy of such Navajo Nation lands.

- h. Nothing herein shall be construed as a waiver or relinquishment of any property or contract right of the Navajo Nation or of any of its rights as a sovereign or quasi-sovereign entity or as affecting or constituting any change in the jurisdictional status of such Navajo Nation lands. Nothing herein shall be construed as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

El Paso's agreement to the above terms and conditions shall be made within fourteen (14) days of this resolution in an agreement acceptable to the Attorney General and signed by an authorized representative of El Paso and the President of the Navajo Nation.

3. While acknowledging that this resolution is a public document and that both Parties may treat it as such, the Parties expressly agree that neither the fact nor content of this resolution shall in any way affect, waive, vitiate, compromise or alter any argument or position that either Party has made or may make, nor be used by either Party to support or refute any argument or position in, any judicial, administrative or governmental proceeding, provided that, upon El Paso's written agreement to the terms and conditions of this resolution as provided above, El Paso shall be permitted to submit this resolution and to explain its terms to the Federal Energy Regulatory Commission ("FERC"), its staff, and any parties/intervenors of record in El Paso's pending rate case under Section 4 of the Natural Gas Act, Docket Number RP05-422-000, and to defend this resolution and El Paso's agreement to its terms in any proceedings related to El Paso's FERC rate case that might arise in the United States Court of Appeals; and provided further that either Party may inform the United States Department of the Interior of the passage of this resolution and/or seek federal approval of the grant of rights to use and occupy such Navajo Nation lands under applicable federal law.

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4. Neither El Paso nor the Navajo Nation makes any admission about the amount of consideration that should be paid by El Paso to the Navajo Nation in connection with any final right-of-way agreement. Both Parties acknowledge that what constitutes fair consideration for such rights-of-way remains a matter in substantial controversy between them.

5. The President of the Navajo Nation is authorized to execute on behalf of the Navajo Nation any confidentiality agreements, joint statements or press releases, term sheets, and an agreement with El Paso granting temporary use and occupancy on terms and conditions that substantially reflect the provisions 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 4th day of January, 2006.



LaVern Wagner, Vice Chairperson  
Resources Committee

Motion: Norman John, II  
Second: Harry J. Goldtooth