

# NAVAJO PROJECT

Indenture of Lease  
Navajo Units 1, 2 and 3



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INDENTURE OF LEASE  
NAVAJO UNITS 1, 2 and 3

BETWEEN

THE NAVAJO TRIBE OF INDIANS

AND

ARIZONA PUBLIC SERVICE COMPANY

DEPARTMENT OF WATER AND POWER OF  
CITY OF LOS ANGELES

NEVADA POWER COMPANY

SALT RIVER PROJECT AGRICULTURAL  
IMPROVEMENT AND POWER DISTRICT

TUCSON GAS AND ELECTRIC COMPANY

INDENTURE OF LEASE

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1 under the Charter of the City of Los Angeles, a municipal  
2 corporation of the State of California;

3 "Nevada" - Nevada Power Company, a Nevada corporation;

4 "Salt River Project" - Salt River Project Agricul-  
5 tural Improvement and Power District, an agricultural improve-  
6 ment district organized under the laws of the State of Arizona;

7 "Tucson" - Tucson Gas & Electric Company, an Arizona  
8 corporation;

9 "Lease" - this Indenture of Lease - Navajo Units 1,  
10 2 and 3;

11 "Peabody" - Peabody Coal Company of Delaware, a  
12 Delaware corporation;

13 "Coal Lease" - Either or both of the following  
14 leases:

15 1. Mining Lease Contract No. 14-20-0603-8580  
16 between Sentry Royalty Company as "lessee" and the Tribe  
17 as "lessor" dated February 1, 1964, amended by amendatory  
18 agreement dated April 1, 1964, the lessee's interest  
19 having been assigned to Peabody.

20 2. Mining Lease Contract No. 14-20-0603-9910  
21 between Sentry Royalty Company as "lessee" and the Tribe  
22 as "lessor" dated June 6, 1966, the lessee's interest  
23 having been assigned to Peabody.

1 "Peabody Leased Lands" - the lands leased to Peabody  
2 under the terms of the Coal Lease;

3 "Fuel Agreement" - the Navajo Station Coal Supply  
4 Agreement between Peabody and Lessees relating to a fuel  
5 supply for the Navajo Generating Station.

6 "Dedicated Area" - an area within the Peabody Leased  
7 Lands in which coal fuel in the amount of 5,943,000 x 10<sup>9</sup> M/btu  
8 has been reserved and dedicated to Lessees by Peabody under the  
9 terms of the Fuel Agreement.

10 "Fuel Transporter" - Peabody, or an entity owned or  
11 controlled by Peabody and/or the Lessees.

12 "Navajo Generation Station" - Proposed steam electric  
13 generating station to be constructed by the Lessees on the  
14 Navajo Reservation near Page, Arizona, on lands leased by  
15 Lessees under the Lease, consisting of Units 1, 2 and 3, each  
16 750 MW (nameplate rating), the switchyard facilities, and all  
17 facilities and structures used or related thereto, all as  
18 described in Exhibit 1 hereof.

19 "Plant Site" - the plant site for the Navajo Gener-  
20 ation Station and the switchyard facilities therefor, the area  
21 and location of which are shown and described on Exhibit 2  
22 hereof.

23 "Rail Loading Site" - the site for the conveyor

1 termination and rail loading facilities, related facilities  
2 and equipment and coal storage consisting of not more than 10  
3 acres, the approximate location being shown on Exhibit 3  
4 hereof;

5 "Pumping Plant Site" - the site for facilities to  
6 divert and pump water from Lake Powell, including water intake  
7 works, pumping station, water lines and related facilities,  
8 the area and location of which are shown and described on  
9 Exhibit 2 hereof;

10 "Ash Disposal Area" - the area for the disposal of  
11 ash resulting from the operation of the Navajo Generation  
12 Station which area is shown and described on Exhibit 4  
13 hereof;

14 "Reservation Lands" - the lands of the Tribe located  
15 within the Navajo Reservation;

16 "Leased Lands" - the Plant Site, the Rail Loading  
17 Site and Ash Disposal Area;

18 "§323 Grant" - Grants of rights-of-way and easements  
19 under the Act of February 5, 1948 (62 Stat. 17, 18, 25 U.S.C.  
20 §323-328), the Act of March 3, 1879 (20 Stat. 394, 5 U.S.C.  
21 §485), as amended, and the Acts of July 9, 1832, and July 27,  
22 1868 (4 Stat. 564, 15 Stat. 228, 25 U.S.C. §2), and such  
23 present regulations promulgated thereunder as are applicable,

1 including 25 CFR §1.2 and Part 161, to Lessees and the Fuel  
2 Transporter pursuant to which they will construct, reconstruct,  
3 use, operate, maintain, relocate and remove the Navajo Genera-  
4 tion Station and all facilities and equipment located on  
5 Leased Lands;

6 "Secretary" - the Secretary of the Interior or his  
7 authorized representative or such person or agency as he may  
8 expressly designate to perform the functions provided in the  
9 Lease to be performed by him or such Federal agency as may  
10 succeed to the duties of the Secretary of the Interior under  
11 the Lease;

12 "Area Director" - Area Director of the Navajo Area  
13 Office of the Bureau of Indian Affairs at Window Rock, Arizona,  
14 or other official in charge of the Indian Agency having juris-  
15 diction over the Reservation Lands;

16 (Other terms of specialized meaning for purposes of  
17 this Lease are defined when they first are used herein); and

18 WHEREAS, it is contemplated that three generating  
19 units will be constructed near Page, Arizona on the Navajo  
20 Reservation, together with transmission facilities intercon-  
21 necting the electric systems of Lessees and furnishing a means  
22 of transmitting power and energy for the United States Central  
23 Arizona Project pumping power requirements (the above genera-

1 ting units and transmission facilities being for convenience  
2 referred to as the "Navajo Project"); and

3 WHEREAS, it is intended that under this Lease, the  
4 Tribe shall lease to the Lessees undivided interests as tenants  
5 in common in the Plant Site, Rail Loading Site, Ash Disposal  
6 Area, Auxiliary and Related Rights with their respective  
7 undivided interests in the said real property being as follows:

8	Arizona	14.0%
9	Los Angeles	21.2%
10	Nevada	11.3%
11	Salt River Project	46.0%
12	Tucson	7.5%

13 WHEREAS, pursuant to other agreements related to the  
14 Navajo Project, Salt River shall own 21.7 percent of the Navajo  
15 Generation Station for its own use and benefit and shall own  
16 24.3 percent of the Navajo Generation Station for the use and  
17 benefit of the United States of America; and

18 WHEREAS, pursuant to Resolution CMY 45-69, dated  
19 May 27, 1969, copy attached as Exhibit 5 hereof, the Tribal  
20 Council authorized its Advisory Committee to approve this  
21 Lease including the grant of auxiliary and related rights upon  
22 the terms and conditions set forth in the Resolution and such  
23 other terms as the Advisory Committee deemed to be in the best

1 interests of the Tribe; and

2           WHEREAS, the Lessees have applied for the grant from  
3 the Secretary of the §323 Grant and the Tribe has consented  
4 pursuant to Resolution CMY 45-69 subject to the approval of the  
5 terms and conditions of the §323 Grant by the Advisory Commit-  
6 tee, and the rights-of-way and easements granted to the Lessees  
7 by the Secretary under the §323 Grant are intended to be and  
8 shall be additional and supplementary to, separate and independ-  
9 ent from, and not conditioned upon the leasehold rights leased  
10 to the Lessees under this Lease, and

11           WHEREAS, the Advisory Committee by Resolution ACS 136  
12 dated September 4, 1969, copy attached as Exhibit 6 hereof,  
13 has approved this Lease and the §323 Grant.

14           NOW, THEREFORE, IT IS HEREBY AGREED:

15           1. Leased Lands and Option to Acquire Four Corners  
16 Project Leased\_Lands. The Tribe, subject to the terms and con-  
17 ditions of this Lease, for and in consideration of the payment  
18 by the Lessees of the rentals specified in Section 7 hereof,  
19 the performance by the Lessees of the covenants recited, does  
20 hereby for the term set out, lease unto the Lessees the Plant  
21 Site, Rail Loading Site and Ash Disposal Area, as tenants in  
22 common. Arizona shall have an undivided 14.0% interest, Los  
23 Angeles shall have an undivided 21.2% interest, Nevada shall

1 have an undivided 11.3% interest, Salt River Project shall have  
2 an undivided 46.0% interest, and Tucson shall have an undivided  
3 7.5% interest respectively, in the leasehold rights leased to  
4 Lessees under this Lease.

5           If additional area is required for ash disposal sub-  
6 ject to procuring the approval of the Tribe and the Secretary  
7 at that time the additional area shall be leased hereunder and  
8 Exhibit 4 shall be amended to show the additional area. Payment  
9 to the Tribe for such additional Ash Disposal Area shall be at  
10 the rate of \$90.00 per acre per year in addition to the lease  
11 rental payments provided in Section 7 hereof.

12           The precise size and location of the Rail Loading  
13 Site shall be determined by Lessee's engineering studies and  
14 shall be subject to final approval of the Advisory Committee.  
15 Upon such approval Exhibit 3 hereof shall be revised to show  
16 the location and size of the Rail Loading Site.

17           Upon final survey of the Plant Site and Ash Disposal  
18 Area, plats showing the Plant Site and Ash Disposal Area shall  
19 be substituted for Exhibits 2 and 4 hereof.

20           The Tribe for and in consideration of the covenants  
21 recited and the obligations of Lessees pursuant to Section 7  
22 hereof, hereby grants to the Lessees as tenants in common having  
23 the undivided interests as set forth in this Section 1 the right

1 and option to acquire a lease from the Tribe for the Four Cor-  
2 ners Project leased lands and related rights for up to 2500 MW  
3 of new generation in addition to Four Corners Units 1 - 5 on the  
4 following terms and conditions:

5 (i) Such right and option shall be exercised  
6 by written notice from Lessees to the Tribe given no  
7 later than ten (10) years from the effective date of  
8 this Lease. If such right and option is not exercised  
9 within said ten (10) year period, such right and option  
10 shall terminate and Resolution CMY 46-69 shall be void.

11 (ii) The Four Corners Project leased lands shall  
12 be within the area depicted on Exhibit 7 hereof.

13 (iii) The provisions of Resolution CMY 46-69 of  
14 the Tribal Council dated May 28, 1969, copy attached  
15 as Exhibit 8 hereof, shall to the extent applicable  
16 establish the rights and obligations of the parties  
17 with respect to the leased lands and related rights,  
18 and the consideration set forth in said Resolution and  
19 in this Lease shall constitute the full and complete  
20 consideration to be paid to the Tribe for the lease  
21 and for all arrangements and consents required from  
22 the Tribe to effectuate the lease and to effectuate  
23 the fuel supply and security therefor including

1           dedications of fuel.

2           (iv) The charges set forth in Section 8 hereof  
3 shall be applicable to the rights-of-way and ease-  
4 ments for transmission and communications facilities,  
5 permits for microwave stations, switching stations  
6 and substations required in connection with the new  
7 generation, provided that such charges shall be  
8 adjusted in the manner provided in Section 7(c) as of  
9 the date the option is exercised.

10          (v) Each of the Lessees may transfer and assign  
11 any part or all of its interest in the right and  
12 option to acquire the Four Corners Project leased  
13 lands and related rights to any entity owning an  
14 interest in said new generation without the further  
15 consent of the Tribe and without payment of further  
16 consideration to the Tribe, provided that one or more  
17 Lessees shall be a party to the lease for new genera-  
18 tion.

19          2. Lease of Related Rights. The Tribe hereby leases  
20 to Lessees the following described auxiliary and related rights  
21 hereinafter set out (herein sometimes referred to as "Related  
22 Rights") as tenants in common in the same respective undivided  
23 interests as set forth above in Section 1.

1           (a) The right to occupy and use Reservation Lands  
2           in order to construct, reconstruct, install, operate and  
3           maintain (i) electric power and communication lines and  
4           facilities and access roads between the Pumping Plant  
5           Site and Plant Site as shown on Exhibit 2 hereof; (ii)  
6           pipelines, conduits and other structures and facilities  
7           which will conduct water from the Pumping Plant Site to  
8           the Plant Site as shown on Exhibit 2 hereof; (iii) pipe-  
9           lines, conduits and other structures and facilities to  
10          conduct water from the Plant Site to Lake Powell; and  
11          (iv) temporary electric power and communication lines,  
12          pipelines, conduits, other structures and facilities,  
13          and access roads required during construction, provided  
14          that such facilities shall be removed and the property  
15          restored to substantially its original condition upon  
16          completion of construction.

17          (b) The right to construct, reconstruct, install,  
18          operate and maintain roads, underground pipelines, and  
19          other facilities for transporting of ashes, between the  
20          Plant Site and the Ash Disposal Area. In addition to the  
21          Related Rights leased under this Section 2(b), the lease  
22          of the Ash Disposal Area to the Lessees shall include the  
23          right for the following uses, among others: The right to

1 dispose of and dump thereon ashes from the Navajo Genera-  
2 tion Station; and the right to construct, reconstruct, in-  
3 stall, operate, maintain, replace and remove roads, under-  
4 ground pipelines, sluice works, dikes, dams, canals, and  
5 other works and facilities for the storage and disposal  
6 of ashes. Lessees shall install such dikes, dams, settling  
7 basins, or other facilities to retain the ashes in the  
8 Ash Disposal Area.

9 (c) All access roads outside the Leased Lands will  
10 be subject to being used by members of the Tribe or its  
11 permittees in a normal manner not preventing the Lessees  
12 from making normal use of the roads; provided, however,  
13 that the Lessees are not obligated hereby to maintain  
14 such roads, except for maintenance made necessary by the  
15 use by the Lessees of such roads.

16 (d) The right to construct, reconstruct, install,  
17 improve, operate, maintain, relocate and remove for pur-  
18 poses of replacement conveyors, rail loading and unloading  
19 facilities at the Plant Site, at the Rail Loading Site, and  
20 between the Rail Loading Site and the Peabody Leased Lands.  
21 Such right may be transferred and assigned without further  
22 consent of the Tribe to the Fuel Transporter.

23 (e) In the event an access road shall be incorporated

1 into the improved road system for the State of Arizona  
2 after approval of the Advisory Committee or incorporated  
3 into the reservation road system of the Bureau of Indian  
4 Affairs, so as to become open for public use, the Lessees  
5 will surrender their right-of-way and easement for such  
6 road.

7 For heavy haulage during periods of construction,  
8 reconstruction, maintenance, relocation and removal of  
9 the Navajo Plant, in cases where use of the access roads  
10 is not practicable, the Lessees shall have the right to  
11 reasonable access across the Reservation Lands to the  
12 Leased Lands, provided that the property shall be restored  
13 to substantially its original condition upon completion of  
14 periods of heavy haulage.

15 3. Consent to Grant of Rights-of-way by Secretary.

16 (a) The Lessees shall have the right to obtain  
17 by grant from the Secretary, and by resolution of the  
18 Advisory Committee dated September 4, 1969, the Tribe gives  
19 its consent to, the grant by the Secretary, of rights-of-  
20 way and easements pursuant to 25 U.S.C. 323 (such rights-  
21 of-way and easements being herein called "rights-of-way")  
22 for the Leased Lands and for some or all of the Related  
23 Rights described in Section 2 hereof.

1           Subject to procuring the prior approval by the Tribe,  
2 other similar rights of way or additions to or changes in  
3 rights-of-way theretofore procured, which may hereafter be  
4 found necessary for construction, reconstruction, use,  
5 operation, maintenance, relocation and removal of the  
6 Navajo Generation Station may be procured from the Sec-  
7 retary, including, but not limited to, rights-of-way for  
8 access roads to the boundary of the Reservation Lands or  
9 main roads and highways.

10           (b) The Lessees shall have the right to obtain by  
11 grant from the Secretary, and the Tribe by resolution of  
12 the Advisory Committee dated September 4, 1969, giving its  
13 consent to the grant by the Secretary, of the §323 Grant,  
14 provided that the terms and conditions of the §323 Grant,  
15 except for the next following paragraph of this Section 3  
16 (b), shall be consistent with the terms and conditions of  
17 the Lease. Under no conditions shall the leasehold rights  
18 leased under the Lease merge with the §323 Grant.

19           The §323 Grant shall be additional and supplemen-  
20 tary to, separate and independent from, and not condi-  
21 tioned upon the leasehold rights leased to the Lessees  
22 under the Lease; and a termination of the Lease for any  
23 reason shall not terminate the §323 Grant, and a termina-

1 tion of the §323 Grant for any reason shall not terminate  
2 the Lease.

3 4. Lease of Additional Rights to Lessees, Pertaining  
4 to Peabody.

5 (a) The Tribe consents that the Lessees, when  
6 under emergency conditions as described in the Fuel  
7 Agreement, may go upon the Peabody Leased Lands and  
8 conduct mining operations thereon and remove coal or fuel  
9 therefrom, subject to the terms, provisions and limita-  
10 tions of the Fuel Agreement. The Tribe further consents  
11 that Lessees under emergency conditions as described in  
12 the Fuel Agreement may enter the right-of-way described  
13 in Section 5(b) hereof if transferred and assigned to the  
14 Fuel Transporter and conduct fuel transportation opera-  
15 tions thereon.

16 (b) The Lessees shall have the right to permit  
17 Peabody and the Fuel Transporter to use a portion of the  
18 Plant Site for the installation and operation of any or  
19 all of the following facilities:

20 (i) Coal transportation terminus, unloading and  
21 crushing facilities;

22 (ii) Facilities for handling and delivery of  
23 crushed coal, including space for a coal delivery

1 pile or piles and for a coal blending pile or piles;

2 (iii) Coal weighing, sampling and analysis  
3 facilities;

4 (iv) Service road, fencing, and auxiliary  
5 facilities required in connection with the facilities  
6 specifically noted above.

7 5. Transmission, Communication and Coal Delivery  
8 Facilities.

9 (a) The proposed transmission and communication  
10 facilities planned in connection with the Navajo Project  
11 include the following:

12 (i) Extra high-voltage transmission systems,  
13 extending from the Navajo Generation Station in a  
14 general Southerly direction across the Reservation  
15 Lands to a substation located near Cameron, Arizona,  
16 (hereinafter referred to as "Moenkopi Substation").

17 (ii) Extra high-voltage transmission systems,  
18 extending from Moenkopi Substation in a general  
19 Westerly direction across Reservation Lands to the  
20 boundary of the Reservation, which will interconnect  
21 with the systems of Los Angeles, Nevada and United  
22 States, Bureau of Reclamation.

23 (iii) Extra high-voltage transmission systems

1 extending from Moenkopi Substation in a generally  
2 Southerly direction across Reservation Lands to the  
3 boundary of the Reservation, which will interconnect  
4 with the systems of Arizona, Salt River Project,  
5 Tucson, and the United States, Bureau of Reclamation.

6 (iv) Extra high-voltage transmission systems  
7 extending from the Navajo Generation Station across  
8 Reservation Lands to Glen Canyon switchyard of the  
9 United States, Bureau of Reclamation.

10 (v) Extra high-voltage transmission systems  
11 extending in a general Westerly direction from the  
12 Navajo Generation Station across Reservation Lands to  
13 the boundary of the Reservation which will inter-  
14 connect with the systems of Los Angeles, Nevada,  
15 and the United States, Bureau of Reclamation.

16 (vi) Extra high-voltage transmission systems  
17 from Units 1 - 5 of the generating station near  
18 Shiprock, New Mexico, extending in a generally South-  
19 westerly direction across Reservation Lands to the  
20 boundary of the Reservation which will interconnect  
21 with the systems of Arizona, Tucson and Salt River  
22 Project.

23 (vii) Transmission lines from the vicinity of

1 Page, Arizona, across Reservation Lands to the Navajo  
2 Generation Station.

3 (viii) Microwave communication stations and  
4 other communication stations for the operation and  
5 control of the transmission circuits, the generating  
6 plant, and fuel transportation system.

7 (ix) Electric railroad catenary and communica-  
8 tion lines from the Plant Site across Reservation  
9 Lands to the Rail Loading Site.

10 (b) The proposed coal delivery facilities planned in  
11 connection with the Navajo Generation Station are a con-  
12 veyor and communication lines from the Peabody Leased  
13 Lands to the Rail Loading Site and a railroad from the  
14 Rail Loading Site to the Plant Site.

15 (c) The Tribe by resolution of the Advisory Commit-  
16 tee dated September 4, 1969, agrees to the grant by the  
17 Secretary of rights-of-way and easements to the Lessees  
18 for the facilities described in Sections 5(a) and 5(b)  
19 hereof, subject to approval of surveys submitted for  
20 approval by the Advisory Committee as to exact route or  
21 location and payment of right-of-way charges and damages as  
22 provided in Sections 8 and 9 hereof, provided, however,  
23 that the facilities described in Section 5(a)(viii) hereof

1 shall be on lands for which the Tribe shall give permits  
2 to Lessees. The Tribe further agrees and consents that  
3 the rights-of-way and easements for the facilities des-  
4 cribed in Section 5(b) hereof may be acquired by the  
5 Fuel Transporter directly from the Secretary or by  
6 assignment from the Lessees.

7 (d) The Lessees shall indemnify the landowners and  
8 authorized users and occupants against any liability for  
9 loss of life, personal injury and property damage arising  
10 from the construction, maintenance, occupancy or use of  
11 the lands by the Lessees, his employees, contractors and  
12 their employees, or subcontractors and their employees.

13 The Lessees shall not interfere with the use of the  
14 lands by or under the authority of the landowners for any  
15 purpose not inconsistent with the primary purpose for  
16 which the right-of-way is granted.

17 6. Term.

18 (a) The term of the Lease shall extend from the  
19 effective date thereof for a period of fifty (50) years, with  
20 the right and option in the Lessees to extend it for a period  
21 of up to an additional 25-year term by notice to the Tribe  
22 given not less than one year prior to the end of the initial  
23 50-year term, which notice shall specify the term of the exten-

1 sion; provided, however, that the lease rentals for the  
2 second twenty-five years of the initial 50-year term and for  
3 the period after the initial 50 years of the term of the Lease  
4 shall be subject to adjustment on the basis provided in Section  
5 7 hereof.

6           7. Lease Rentals and Additional Option Considera-  
7 tions.

8           (a) Each Lessee agrees individually to pay to the  
9 Treasurer of the Tribe under the Lease, subject to the provi-  
10 sions of Section 7(d) hereof, its respective pro rata portion  
11 (in the ratio of its respective interest in the Leased Land  
12 under Section 1 hereof) of an aggregate rental for the initial  
13 25 years of \$4,000,000.00, plus an additional amount equal to  
14 the product of \$90.00 multiplied by the acres of land contained  
15 within the Rail Loading Site as finally determined multiplied  
16 by 25, payable in annual installments of \$160,000.00 each, plus  
17 an additional amount equal to the product of \$90.00 multiplied  
18 by said acres of land within the Rail Loading Site, the install-  
19 ments (other than for the period ending December 31, 1969) to  
20 be payable in advance on or before January 1 of each year, with  
21 the first and last payments to be prorated. The installment  
22 for the initial period from the date the Lease becomes effective  
23 through December 31, 1969, shall be paid when this Lease becomes

1 effective.

2           (b) As further consideration for the right and  
3 option granted by the Tribe for the Lessees to acquire a lease  
4 for the Four Corners Project leased lands and related rights  
5 pursuant to Section 1 hereof, the Lessees agree that if such  
6 option has not been exercised within five (5) years from the  
7 effective date of this Lease, then commencing with the 6th year  
8 of this Lease and until such option is exercised or the tenth  
9 year of this Lease has expired, whichever occurs first, Lessees  
10 shall pay to the Tribe the additional amount of \$140,000.00  
11 annually. Such payment shall be made at the time and on the  
12 basis set forth in Section 7(a) hereof and shall be subject to  
13 the provisions of Section 7(d) hereof.

14           (c) The aggregate rental for the second 25-year  
15 period of the term of this Lease and the aggregate rental for  
16 any renewal period following the first 50 years shall be adjust-  
17 ed upward but not downward in direct proportion to the average  
18 decreases in the Consumer Price Index in monthly series of the  
19 Consumer Price Index of the Bureau of Labor Statistics for the  
20 36 months following the effective date of this Lease, and the  
21 36 months preceding every 26th year this Lease is in effect.  
22 Such adjustments shall be made in yearly rental installments  
23 due beginning with the 26th year following the effective date

1 of this Lease, and at 25-year intervals thereafter. In com-  
2 puting the average decreases in the Consumer Price Index, the  
3 base period shall be the 36 months following the effective date  
4 of this Lease.

5 In the event that publication of the Consumer Price  
6 Index is discontinued, the Tribe and the Lessees agree that a  
7 mutually satisfactory substitute index of a similar character  
8 shall be adopted, or if no agreement can be reached the matter  
9 shall be determined as provided in Section 25 hereof.

10 (d) Each Lessee shall be individually responsible  
11 and liable to the Tribe for the payment of a part of the total  
12 rental under this Lease in percentages as follows:

13	Arizona	14.0%
14	Los Angeles	21.2%
15	Nevada	11.3%
16	Salt River Project	46.0%
17	Tucson	7.5%

18 No Lessee shall be responsible or liable to the Tribe for the  
19 payment of any portion of the rental of any other Lessee.

20 (e) Except as provided in Section 7(f) hereof, the  
21 lease rentals and payments for rights-of-way for this Lease  
22 are to be in lieu of all taxes, assessments, levies, imposts,  
23 exactions or charges of any kind made or imposed by the Tribe,

1 and the Tribe covenants that it will not tax or assess, in any  
2 manner whatever, directly or indirectly, any rights, property  
3 or activity associated with the generation of electricity at  
4 Navajo Generation Station, and its transmission to the electric  
5 systems of Lessees, including, but not limited to the Leased  
6 Lands, the Rights-of-Way, the § 323 Grant, this Lease, the  
7 Related Rights, the leasehold interests of the Lessees in the  
8 Lease, or the property of the Lessees located on the Leased  
9 Lands or located on Reservation Lands pursuant to the Related  
10 Rights, or the transmission or communications facilities re-  
11 ferred to in Section 5 hereof, or Lessee's activities under  
12 the Lease, or their ownership, construction, operation or  
13 removal of the Navajo Generation Station by Lessees, pursuant  
14 to the Lease, or the power generated thereon or the transmission,  
15 sale, or disposal of such power, their income, or otherwise, or  
16 the sale or delivery of fuel to the Lessees by the suppliers  
17 of their fuel or the Fuel Transporter, or the severance or  
18 extraction of fuel by such suppliers (other than royalties pro-  
19 vided in their leases from the Tribe), or the Coal Lease as it  
20 relates to the Dedicated Area, the leasehold interests of the  
21 suppliers of fuel in the Coal Lease as it relates to the Dedi-  
22 cated Area, the property of the suppliers of fuel located on  
23 Leased Lands and on Peabody Leased Lands to the extent used to

1 supply fuel to Lessees, or the railroad right-of-way referred to  
2 in Section 5(b) hereof, or any improvements or property located  
3 thereon, or any railroad and related facilities and equipment  
4 used in the transportation of fuel, or the transportation of  
5 fuel, or the diversion or use of water, provided, however, that  
6 after thirty-five (35) years from the commencement of commercial  
7 operation of Unit 3 of the Navajo Generation Station, the fore-  
8 going covenants shall lapse as to taxation of the property of  
9 Lessees located on the Leased Lands, or located on Reservation  
10 Lands pursuant to the Related Rights, or located pursuant to the  
11 rights-of-way and easements referred to in Sections 5(a) and  
12 5(b) hereof; provided that during the remainder of the term of  
13 the Lease, no property taxes shall be levied by the Tribe on  
14 such property at a rate or in an amount, in relation to value,  
15 in excess of one-half (1/2) of the equivalent rate, in relation  
16 to value, of the aggregate property taxes levied or imposed by  
17 the State of Arizona or any political subdivision thereof, as  
18 the case may be, applicable to such property at that time.

19 (f)

20 (i) Notwithstanding the provisions of Section  
21 7(e) hereof, if at any time during the term of this  
22 Lease no property taxes should at any time during the  
23 term of this Lease be levied or imposed by the State

1 of Arizona and its political subdivisions, or it is  
2 determined by "final decision" that the State of  
3 Arizona and its political subdivisions do not have  
4 the legal power and right to tax property located on  
5 Reservation Lands, and such termination of property  
6 taxation or "final decision" has the effect of re-  
7 ducing property taxes paid by Arizona, Los Angeles,  
8 Nevada, Tucson, the fuel supplier or Fuel Transporter  
9 to the State of Arizona and its political subdivi-  
10 sions, then for the purposes of this Lease, Arizona,  
11 Los Angeles, Nevada, Tucson, the fuel supplier or  
12 Fuel Transporter shall be subject to property taxes  
13 made or imposed by the Tribe to the extent of the  
14 amount of taxes which would have otherwise been paid  
15 to the State of Arizona and its political subdivi-  
16 sions but for such termination of property taxation  
17 or "final decision".

18 (ii) Notwithstanding the provisions of Section  
19 7(e) hereof, if at any time during the term of this  
20 Lease no property taxes should be levied or imposed  
21 by the State of Arizona and its political subdivi-  
22 sions, or it is determined by "final decision" that  
23 the State of Arizona and its political subdivisions

1 do not have the legal power and right to tax property  
2 located on Reservation Lands, and such termination of  
3 property taxation or "final decision" has the effect  
4 of reducing the voluntary contributions paid by Salt  
5 River Project to the State of Arizona and its polit-  
6 ical subdivisions pursuant to A.R.S. §45-2201, et seq,  
7 then for purposes of this Lease, Salt River Project  
8 shall be subject to contributions in lieu of taxes  
9 made or imposed by the Tribe to the extent of the  
10 amount of contributions in lieu of taxes which would  
11 have otherwise been paid to the State of Arizona but  
12 for such termination of property taxation or "final  
13 decision".

14 (iii) The parties agree that the basic purpose  
15 and intent of this Section 7(f) is that the Lessees, the  
16 fuel supplier and Fuel Transporter in their opera-  
17 tions to supply fuel to Lessees shall not be subject  
18 to double taxation and/or contributions in lieu of  
19 taxation in whatever form. The property of Lessees,  
20 the fuel supplier and the Fuel Transporter in their  
21 operations to supply fuel to Lessees located on Reser-  
22 vation Lands shall be subject to taxes and/or contri-  
23 butions in lieu of taxes in the case of Salt River

1 Project only to the extent and in an amount pro tanto  
2 with any reductions actually resulting from a termina-  
3 tion of property taxation or "final decision" which  
4 causes an actual reduction year by year in the taxes  
5 paid to the State of Arizona and its political sub-  
6 divisions by Lessees.

7 (iv) For purposes of this Section 7(f), the  
8 term "final decision" shall mean a decision of a  
9 court having jurisdiction over the parties to the  
10 decision from which no appeal can be taken as a  
11 matter of law, or if an appeal can be taken the time  
12 for such appeal has expired as a matter of law.

13 8. Right-of-Way and Permit Charges and Terms.

14 (a) For the rights-of-way and permits for the trans-  
15 mission and communication facilities referred to in  
16 Section 5(a) hereof, the Lessees agree to pay a standard  
17 twenty-five (25) year charge of \$250 per mile for a  
18 right-of-way 135 feet wide, \$430 per mile for a right-  
19 of-way 165 feet wide, \$755 per mile for a right-of-way  
20 200 feet wide, and \$1,250 per mile for a right-of-way  
21 330 feet wide, (all subject to adjustment for variance  
22 in width in accord with Section 8(b) hereof). For micro-  
23 wave stations, substations and switching stations and

1 similar structures, Lessees shall pay a standard twenty-  
2 five year charge of \$100 per acre for such right-of-way  
3 and permits. Initial charges shall be payable on the  
4 granting of such right-of-way and permits.

5 (b) The charge for variances in width of trans-  
6 mission and communication facilities right-of-way shall  
7 be determined by application of the following formula:

8 
$$\text{\$ Charge Per Mile} = \$7.55 \times 10^3 \times \text{LV} \times \text{W}$$

9 Where: LV is the line voltage of the facility  
10 expressed in kilovolts, and

11 W is the actual width of right-of-way to  
12 be obtained.

13 (c) For the rights-of-way and easements for the  
14 coal delivery facilities referred to in Section 5(b)  
15 hereof, the Lessees agree to pay or cause to be paid,  
16 and the Tribe hereby approves, a standard twenty-five  
17 year charge of \$100 per acre.

18 (d) All of the said rights-of-way and permits shall  
19 be for a term of fifty (50) years, with payment of the  
20 charges above stated to be made as of the time of the  
21 initial grant of such right-of-way and permit and as of  
22 the commencement of the second twenty-five years of the  
23 fifty-year term.

1           (e) The grantee(s) of such right-of-way shall  
2 have the right to procure an extension after the initial  
3 fifty-year term, for up to an additional twenty-five year  
4 term, in which event it will make like payment for such  
5 twenty-five year extension or part thereof.

6           9. Damages to Permittees; Protection of Livestock.

7           (a) The Lessees shall pay to the Tribe damages for  
8 impairment of individual Indian land use rights, the  
9 removal of buildings, hogans or structures of individual  
10 Indians caused by construction on the rights-of-way, with-  
11 drawal of areas for leases, or damages to crops and live-  
12 stock arising as a consequence of the construction and  
13 operation of the Navajo Generation Station, the railroad  
14 and transmission and communication facilities.

15           (b) The Lessees shall install such fencing, dikes,  
16 settling basins and other facilities required to prevent  
17 damage or injury to livestock caused by access to hazard-  
18 ous areas within the Ash Disposal Area.

19           10. Control of Stack Emissions.

20           (a) The Lessees shall install and diligently operate  
21 in the Navajo Generation Station equipment offering the  
22 most effective commercially proven electrostatic concept  
23 or other equally effective and acceptable equipment avail-

1       able under the technology known at the time of design hav-  
2       ing a design efficiency for removal of particulate matter  
3       of 99.5% to minimize smoke, flyash, and dust in stack  
4       emissions as herein provided. Stack designs and the  
5       design of such equipment and of other plant features that  
6       may affect air pollution, and plans and facilities for  
7       control and disposal of waste materials, or residue from  
8       burned fuel, shall be such as will enable compliance with  
9       the obligations herein set out, and shall be subject to  
10      approval by the Secretary in advance of construction, in-  
11      stallation, removal, or modification thereof. The Lessees  
12      shall operate the air pollution control equipment installed  
13      so as to remove not less than 97 percent of the particulate  
14      matter in the stack emissions in each month and not less  
15      than 96 percent in any 24-hour period, unless the Lessees  
16      shall be prevented from so operating such air pollution  
17      control equipment as provided in Section 24 hereof. From  
18      time to time, but at least every ten (10) years, repres-  
19      entatives of the Lessees and the Department of the Inter-  
20      ior agencies as determined by the Secretary, will meet to  
21      review technological advances in air pollution control  
22      equipment and mutually weigh and decide upon the feasibil-  
23      ity of installing additional equipment or modifying exist-

1 ing equipment, taking into account costs as well as the  
2 benefits of improved air pollution control. In the event  
3 agreement cannot be reached on the aforesaid designs,  
4 plans, equipment or features, or the modification for  
5 supplementation thereof, or the feasibility of installing  
6 additional equipment or modifying existing equipment, the  
7 matter shall be subject to arbitration as provided in  
8 Section 36 hereof.

9 (b) In the operation of the Navajo Generation Sta-  
10 tion the Lessees will make such tests and measurements  
11 and keep such records as will enable them to make reports  
12 to the Secretary and the Tribe relating to the operation  
13 and efficiency of the air pollution control equipment at  
14 such intervals as may be mutually agreed upon, but not  
15 less than once annually. The tests and measurements will  
16 be made in conformance with the latest American Society  
17 of Mechanical Engineers (ASME) test procedures for deter-  
18 mining dust concentration in a gas stream or in confor-  
19 mance with some other accepted procedures agreed upon by  
20 the Secretary and the Lessees.

21 (c) The Lessees during normal working hours will  
22 permit access to, and inspection and copying of, all  
23 records relating to air pollution, by representatives

1 of the Secretary and will permit such representatives  
2 to enter upon and inspect such facilities, together with  
3 all appurtenances thereto.

4 (d) The Lessees shall comply with all air pollu-  
5 tion laws and regulations under federal or state laws  
6 now or hereafter in force.

7 11. Exercise of Rights under The Lease. All of  
8 the rights leased to Lessees under this Lease, subject  
9 to the respective terms and conditions of the Lease,  
10 shall extend and be available to the Lessees, respectively,  
11 and to their respective officers, employees, agents,  
12 licensees, representatives, contractors, successors and  
13 assigns.

14 12. Removal of Improvements; Restoration.

15 (a) During the term of this Lease and during any  
16 renewal period Lessees shall have the right to relocate  
17 and remove for purposes of replacement or maintenance any  
18 and all improvements of whatever nature constructed or  
19 placed by Lessees on the Leased Lands, on lands leased  
20 pursuant to Related Rights, and on rights-of-way and  
21 permits granted to Lessees.

22 (b) At termination or expiration of this Lease, or  
23 within six (6) months from the date thereof, Lessees shall,

1 upon request of the Tribe, remove any improvements of  
2 whatever nature constructed or placed upon Reservation  
3 Lands pursuant to this Lease or the §323 Grant. Lessees  
4 shall, upon request of the Tribe, restore as closely as  
5 possible to original condition the surface of any Reserva-  
6 tion Lands modified or improved by Lessees by the construc-  
7 tion of access roads, dams, rail transportation facil-  
8 ities, surface pipelines, or other facilities constructed  
9 pursuant to this Lease or the §323 Grant. The Tribe  
10 shall submit any requests provided in this Section in  
11 writing to Lessees at least 12 months prior to the  
12 expiration date of this Lease or renewal thereof, or at  
13 least six (6) months prior to any termination of this  
14 Lease. Upon termination or expiration of this Lease,  
15 Lessees shall have an additional time period of twelve  
16 (12) months within which removal operations and all land  
17 surface restorations shall be completed. Any property  
18 of Lessees remaining upon Reservation Lands at the last  
19 day of the twelve (12) month removal period shall, if  
20 accepted by the Tribe, become the property of the Tribe.  
21 In the event the Tribe refuses to accept any property  
22 left on Reservation Lands on the last day of the removal  
23 period, the Tribe shall notify Lessees in writing of such

1 refusal, Lessees shall pay to the Tribe upon receipt of  
2 itemized statements the Tribe's actual cost of removing  
3 and disposing of such property.

4 (c) Upon request of the Tribe, Lessees shall leave  
5 upon Reservation lands any permanent buildings or per-  
6 manent structures constructed or installed by Lessees  
7 and listed on Exhibit 9 hereof. Any permanent buildings  
8 or permanent structures remaining on Reservation Lands  
9 pursuant to the Tribe's request shall become the property  
10 of the Tribe upon the last day of the twelve (12) month  
11 removal period.

12 (d) Lessees may utilize any access roads leased to  
13 Lessees or for which Lessees hold rights-of-way pursuant  
14 to the §323 Grant for removal of any of Lessees' property  
15 to be removed under this Section, and for restoration of  
16 the land surface of any Reservation Lands to be restored  
17 pursuant to this Section. Lessees shall have the right  
18 to reasonable access across Reservation Lands for heavy  
19 haulage during the removal period in those cases where  
20 use of these access roads is physically impracticable, or  
21 where such access is required for restoration of the land  
22 surface.

23 (e) Lessees shall, before the last day of the twelve

1 (12) month removal period take all precautions necessary  
2 to prevent unsafe conditions from existing in or about any  
3 of Lessees improvements or permanent structures or other  
4 property remaining on Reservation Lands. Such precautions  
5 shall include, as minimum precautions, fencing of the Ash  
6 Disposal Area, and of any exposed, unenclosed structures.  
7 Lessees agree to build such dikes and ditches to maintain  
8 the ash within the Ash Disposal Area and Lessees shall  
9 cover to a thickness of six (6) inches of earth any areas  
10 containing ash and seed such earth cover in order to pre-  
11 vent wind or water erosion.

12 (f) Until termination or expiration of this Lease  
13 and expiration of the removal period the permanent build-  
14 ings and structures listed on Exhibit 9 hereof (hereinafter  
15 referred to as "nonremovable buildings"), (i) shall remain  
16 the property of Lessees; (ii) the Lessees may make replace-  
17 ments thereof, in whole or in part, and either in separate  
18 structures or in combination with other such nonremovable  
19 buildings in one structure; (iii) the Lessees may make re-  
20 locations within the Leased Lands of any of said nonremov-  
21 able buildings, as they may deem advisable from time to  
22 time; and (iv) may remove the components thereof so  
23 replaced.

1 (g) All facilities, structures, improvements, equip-  
2 ment and property (other than nonremovable buildings) of  
3 whatever kind and nature constructed, placed or affixed by  
4 the Lessees on the Leased Lands pursuant to rights acquired  
5 hereby, or constructed, placed or affixed elsewhere on  
6 Reservation Lands pursuant to the Related Rights acquired  
7 under the Lease (or on the §323 Grant, or other rights-  
8 of-way and easements referred to in the Lease), expressly  
9 including but not being limited to the Navajo Genera-  
10 tion Station, all facilities and structures used there-  
11 with and related thereto, all rail transportation  
12 facilities, and the related switchyards therefor (here-  
13 inafter called "removable property"), as against Lessor  
14 and all other parties and persons whomsoever (including  
15 without limitation any party acquiring any interest in  
16 the Leased Lands or any interest in or lien, claim or  
17 encumbrance against any of such facilities, structures,  
18 improvements, equipment and property of whatever kind and  
19 nature), shall be deemed to be and remain personal prop-  
20 erty of Lessees, not affixed to the realty, and removable  
21 by Lessees at any time prior to or within twelve (12)  
22 months after expiration or earlier termination for any  
23 reason of the Lease. The Lessees may remove, at or prior

1 to twelve (12) months following the expiration or earlier  
2 termination of this Lease, all removable property whether  
3 or not the Tribe requests removal pursuant to Section  
4 12(b) hereof.

5 13. Mortgage and Transfer of Leasehold Interest.

6 The Lessees, and each of them, shall have the right  
7 at any time and from time to time to mortgage all their  
8 respective rights leased to them hereunder, including  
9 but not limited to interests in the Leased Lands and  
10 in all property of Lessees located on the Leased Lands  
11 and elsewhere on the Reservation Lands pursuant to the  
12 Related Rights, and on any rights-of-way and easements  
13 referred to in the Lease, and to transfer, convey or  
14 assign the Lease to a trustee or trustees under deeds of  
15 trust, mortgages or indentures, regardless of whether or  
16 not said deeds of trust, mortgages or indentures have  
17 been, are or will be for the purpose of borrowing capital  
18 for the development and improvement of the Leased Lands,  
19 and to any successors or assigns thereof, or any receiver,  
20 referee or trustee in bankruptcy or receivership or  
21 reorganization of any of the Lessees or any successor by  
22 action of law or otherwise, or any purchaser, transferee  
23 or assignee of any thereof, without need for consent by

1 the Tribe or the Secretary; and any mortgagee or trustee  
2 of any of the Lessees, and any successor or assignee  
3 thereof, or any receiver, referee or trustee in bank-  
4 ruptcy or receivership or reorganization of any of the  
5 Lessees or any successor by action of law or otherwise  
6 or any purchaser, transferee or assignee or any thereof,  
7 may without need for consent of the Tribe or the Secre-  
8 tary, succeed to and acquire all the rights of any of  
9 the Lessees hereunder, and in any of said property of  
10 Lessees located on the Leased Lands and elsewhere on  
11 Reservation Lands pursuant to the Related Rights, or on  
12 such rights-of-way and easements, and may take over  
13 possession of said property, rights and interests of  
14 any Lessee or Lessees, subject to all such Lessee's or  
15 Lessees' obligations under the Lease. Pursuant to 25  
16 CFR §131.12, the Secretary hereby approves all such  
17 encumbrances upon all interests of each Lessee under the  
18 Lease, and hereby for the purposes of said regulation  
19 consents to each indenture, mortgage and deed of trust and  
20 other such instrument of each Lessee.

21 In addition, each Lessee shall have the right to  
22 transfer or assign its rights and interests in the  
23 Lease without need for consent of the Tribe or Secretary

1 at any time (i) to any corporation or other entity  
2 acquiring all or substantially all of the property of  
3 such Lessee or (ii) to any corporation or entity into  
4 which or with which such Lessee may be merged or con-  
5 solidated, or (iii) to any other Lessee or Lessees  
6 hereunder, or (iv) in the case of a transfer by Salt  
7 River Project, to the Salt River Valley Water Users'  
8 Association, an Arizona corporation; provided that any  
9 such successor shall become subject to all such Lessee's  
10 obligations hereunder, and provided that such successor  
11 shall notify the Tribe and the Secretary of such trans-  
12 fer, assignment or merger and shall furnish to the  
13 Tribe and the Secretary evidence of such transfer, assign-  
14 ment or merger.

15 14. No Encumbrances. Nothing in the Lease shall  
16 authorize the Lessees in any way to encumber the title  
17 of the Tribe to the real property subject hereto.

18 15. Water Rights.

19 (a) In consideration of the execution of this  
20 Lease and the benefits to the Tribe which shall accrue  
21 hereunder, the benefits to the Tribe from the construc-  
22 tion and operation of Navajo Units #1, #2 and #3 and  
23 the benefits to the Tribe from Peabody's mining opera-

1 tions to provide coal fuel for said units, the Tribe  
2 agrees that during the term of this Lease or the opera-  
3 ting life of the Navajo Generation Station, whichever is  
4 the shorter, of the 50,000 acre-feet of water allocated  
5 to the State of Arizona pursuant to Article III(a)(1) of  
6 the Upper Colorado River Basin Compact (63 Stat. 31),  
7 34,100 acre-feet of water per year shall at all times be  
8 available for consumptive use by Lessees in the operation  
9 of the Navajo Generation Station and all other purposes  
10 related to such operation including coal transportation  
11 and ash disposal. The Tribe agrees the use of water on  
12 Reservation Lands within the Upper Basin of Arizona (as  
13 said Upper Basin is defined in the Upper Colorado River  
14 Basin Compact) shall not reduce or diminish the avail-  
15 ability of said 34,100 acre-feet to the Lessees. This  
16 agreement shall not be construed in any manner as a waiver  
17 by the Tribe of any present or prospective water rights of  
18 the Tribe, other than as set forth above.

19 16. Operation of Navajo Generation Station. The  
20 Tribe covenants that, other than as expressly set out  
21 in this Lease, it will not directly or indirectly regulate  
22 or attempt to regulate the Lessees in the construction,  
23 maintenance or operation of the Navajo Generation Station

1 and the transmission systems of the Lessees, or the con-  
2 struction, maintenance or operation of the fuel transporta-  
3 tion system of the Lessees or the Fuel Transporter. This  
4 covenant shall not be deemed a waiver of whatever rights  
5 the Tribe may have to regulate retail distribution of  
6 electricity on the Reservation Lands. Nothing herein  
7 shall convey to the Lessees, or any of them, any rights  
8 to engage in retail distribution of electricity on Reser-  
9 vation Lands.

10 17. No Unlawful Use. The Lessees shall not use or  
11 cause to be used any part of the Leased Lands for any  
12 unlawful conduct or purpose under the laws governing this  
13 Lease pursuant to Section 37 hereof.

14 18. Employment of Navajos. Lessees agree to give  
15 preference in employment to qualified local Navajos, it  
16 being understood that "local Navajos" means members of the  
17 Navajo Tribe living on land within the jurisdiction of  
18 the Navajo Tribe. All unskilled labor shall be employed  
19 from "local Navajos," if available, providing that appli-  
20 cants for employment as unskilled laborers meet the gen-  
21 eral employment qualifications established by Lessees.  
22 Qualified semi-skilled and skilled labor shall be  
23 recruited and employed from among "local Navajos." In

1 the event sufficient qualified unskilled, semi-skilled and  
2 skilled local Navajo labor is not available, or the quality  
3 of work of available skilled or semi-skilled workmen is  
4 not acceptable to Lessees, Lessees may then employ, in  
5 order of preference, first qualified non-local Navajos,  
6 and second, non-Navajos.

7 19. Insurance. The Lessees will maintain bodily  
8 injury liability insurance and property damage liability  
9 insurance covering their operations on Reservation Lands,  
10 such coverage to be in an amount of not less than a  
11 combined single limit of One Million Dollars (\$1,000,000)  
12 each occurrence; provided, however, that the said coverage  
13 may exclude the first Two Hundred Thousand Dollars  
14 (\$200,000) on any one claim.

15 20. Payment of Taxes and Liens. The Lessees agree  
16 that they will pay, prior to delinquency, all lawful  
17 taxes, charges, assessments and governmental impositions  
18 and all other lawful assessments, charges and impositions,  
19 general and special, ordinary and extraordinary, of every  
20 kind and nature whatsoever, including taxes levied by  
21 the Tribe pursuant to Section 7 hereof (hereinafter called  
22 "taxes and impositions") levied or assessed upon their  
23 interest in the Leased Lands or upon any improvements,

1 structures, equipment, facilities or property of any kind  
2 of the Lessees located on the Leased Lands, or on the  
3 Reservation Lands outside of the Leased Lands pursuant to  
4 the Related Rights leased. If any of such taxes and imposi-  
5 tions are assessed in installments, the Lessees are obli-  
6 gated only to pay the installments assessed during their  
7 tenancy and the removal period, prior to the time the  
8 installments become delinquent. The Lessees will not  
9 suffer any liens to remain in effect unsatisfied against  
10 the leasehold property, other than the lien of a mortgage  
11 or mortgages, deed or deeds of trust or indenture or  
12 indentures or pledges or similar encumbrances placed  
13 thereon by Lessees, and other than liens for taxes and  
14 impositions not yet delinquent, or liens for workmen's  
15 compensation awards or for labor and material, not yet  
16 delinquent, and undetermined charges or liens incidental  
17 to construction; provided, however, that the Lessees  
18 are not required to pay or discharge any taxes and  
19 impositions or fees or to remove any lien, charge or  
20 encumbrance upon said leasehold property as long as the  
21 Lessees, in good faith and at their own cost and expense,  
22 shall be contesting the same or the lawfulness or valid-  
23 ity thereof by appropriate legal proceeding which shall

1 operate during the pendency thereof to prevent the  
2 collection or enforcement of the taxes and impositions,  
3 fees, liens or encumbrances so contested.

4 21. Destruction of Units. In the event that during  
5 the term of the Lease the Navajo Generation Station  
6 should be so completely or substantially destroyed by  
7 reason of any cause or event, referred to in Section 24  
8 hereof that under the circumstances then present, rebuild-  
9 ing the Navajo Generation Station is determined by the  
10 Lessees to be impractical or uneconomical, the Lessees  
11 shall be entitled to terminate this Lease on notice to  
12 the Tribe, with payment of rentals continuing for twelve  
13 (12) months thereafter.

14 22. Quiet Enjoyment.

15 Excepting only for and to the extent of the prior  
16 rights, if any, of holders of existing leases and ease-  
17 ments heretofore granted affecting the Leased Lands (and  
18 to the knowledge of the Tribe there are no leases or ease-  
19 ments or other encumbrances affecting the Leased Lands), the  
20 Tribe agrees that Lessees shall have quiet enjoyment and  
21 peaceful and exclusive possession of the Leased Lands. The  
22 Tribe agrees that Lessees shall have quiet enjoyment and  
23 peaceful possession of the lands subject to the Related

1 Rights for the purposes for which the lands are being  
2 used during the term of this Lease.

3 23. Avoidance of Subsidence. Except pursuant to  
4 rights existing on the date hereof, if any, the Tribe  
5 shall not conduct or permit mining operations involving  
6 removal of coal, ores, or other solid material under the  
7 Plant Site or within an outward angle of 45° of their  
8 surface down to 5,000 feet below the surface, and the  
9 Tribe will not conduct or permit seismic explosions or  
10 explosions for subsurface fracturing within 1,000 feet  
11 of the boundaries of the Plant Site, or permit the drill-  
12 ing for oil or gas in and under the lands within the  
13 exterior boundaries of Plant Site.

14 24. Force Majeure Clause. Neither the Tribe nor  
15 the Lessees, nor any thereof, shall be deemed to be in  
16 default in respect to any obligation hereunder, if pre-  
17 vented from fulfilling such obligation by reason of  
18 uncontrollable forces, the term "uncontrollable forces"  
19 being deemed, for the purposes of the Lease, to mean  
20 any cause beyond the control of the party affected,  
21 including but not limited to inadequacy of water, failure  
22 of facilities, flood, earthquake, storm, lightning, fire,  
23 epidemic, war, riot, civil disturbance, labor disturbance,

1 sabotage, and restraint by court or public authority,  
2 which by exercise of due diligence and foresight, such  
3 party could not reasonably have been expected to avoid.  
4 Any party rendered unable to fulfill any obligation by  
5 reason of "uncontrollable forces" shall exercise due  
6 diligence to remove such inability with all reasonable  
7 dispatch.

8 25. Defaults and Determination of Disputes.

9 (a) For the purpose of this Lease any Lessee hereto  
10 shall be deemed in default if the Lessee shall fail to pay  
11 rental payments or other sum certain monies owed the Tribe  
12 within 30 days after receipt of written notification that  
13 such payment is past due. The failure of any Lessee to  
14 make such payment if not cured by any other Lessee shall  
15 entitle the Tribe to rescind this Lease as to all Lessees  
16 upon written notice to all Lessees. Notice of failure to  
17 make any payment to the Tribe shall be given to all Lessees  
18 and any Lessee shall have the right within thirty days of  
19 such notice to make such payment for and on behalf of the  
20 Lessee failing to pay the same.

21 (b) All disagreements or disputes between Lessees,  
22 or any of them, and the Tribe, except as provided in  
23 Section 25(a) hereof, arising under or in connection with

1 the Lease or concerning the validity or binding effect  
2 of the Lease, including any disputes arising as to the  
3 provisions of the Lease or the rights, duties and  
4 obligations of the parties under this Lease or as to any  
5 questions of fact affecting the application of the pro-  
6 visions of this Lease, which assertedly comprises or  
7 involves any default or event which could ripen into a  
8 default by the passage of time or otherwise under the  
9 Lease are to be referred to the Secretary for determina-  
10 tion, if not theretofore resolved by agreement between  
11 the parties. Any action taken by the Secretary upon  
12 such referral will be deemed to have been taken by him  
13 in his official capacity.

14 In the event of any such dispute or matter between  
15 the Tribe and Lessees, or any of them arising under or  
16 in connection with the Lease, either the Tribe, or any  
17 Lessee may, by written notice to the other, call for a  
18 meeting of representatives of the parties to consider,  
19 and if possible, resolve such dispute. Such notice shall  
20 indicate what the issues and facts involved in the dis-  
21 pute are with sufficient clarity and detail to apprise the  
22 other party of the matters involved.

23 (c) In the event the parties fail to promptly

1 resolve a dispute arising under Section 25(b) hereof  
2 either party may at any time submit the dispute to the  
3 Secretary for decision. Such submission shall be in  
4 writing, setting forth the issues and facts involved with  
5 sufficient clarity and detail to apprise the Secretary and  
6 the other party or parties of the nature of the dispute,  
7 and a copy thereof shall be delivered to the other party,  
8 concurrently with the delivery to the Secretary. It is  
9 understood that the Secretary will give notice to the  
10 other party of the matter submitted for his decision and  
11 will afford the parties the opportunity to submit written  
12 or oral support for their respective views. The pro-  
13 cedures followed by and the actions of the Secretary in  
14 reaching his decision shall be subject to the applicable  
15 provisions, if any, of the Administrative Procedures Act  
16 (5 U.S.C. 1001-1011), or any successor statutory pro-  
17 visions thereto, including those provisions related to  
18 judicial review.

19 After the Secretary has reached his decision on  
20 a matter submitted to him for decision as herein pro-  
21 vided, written notice of the decision shall be sent to  
22 the parties.

23 (d) If the Secretary determines that a material

1 default exists under the Lease, he shall determine  
2 whether (i) it is of a nature which should and can be  
3 cured by some feasible act or omission to be taken by  
4 the defaulting party to prevent recurrence, or (ii) in the  
5 case of any Lessee's default whether the cure should be  
6 by payment of money damages to compensate the Tribe for  
7 the damages caused by the default, or (iii) in the case  
8 of any Lessee's default whether the cure of the default  
9 should be in part by some feasible act or omission to  
10 prevent further default from occurring, and in part by  
11 payment of money damages to the Tribe. If he determines  
12 that a Lessee default should be cured in whole or in  
13 part by the payment of money damages, he shall determine  
14 the amount of such money damages. If he determines that  
15 the default by a Lessee or the Tribe should be cured in  
16 whole or in part by some feasible act or omission, he  
17 shall specify the action to be taken or omitted, and give  
18 written notice thereof to all parties. The defaulting  
19 party in the case of a Lessee shall pay or tender pay-  
20 ment, or in case of a Lessee or the Tribe shall commence  
21 such act or omission within thirty (30) days after its  
22 receipt of notice of the final determination by the  
23 Secretary.

1           (e) Except as provided in Section 25(a) hereof  
2           it is the intent of the Tribe and the Lessees that the  
3           Lease shall remain in effect in accordance with its terms  
4           and that no default shall constitute a ground of termina-  
5           tion of the rights of any party until the existence of  
6           a default has first been determined as herein provided  
7           and the party in default has been given an opportunity to  
8           cure the default as herein provided and has failed to  
9           commence to cure the default in the time provided herein.

10           (f) Except as provided in Section 25(a) hereof  
11           no termination of the rights under the Lease of any  
12           such party thereto shall be effected unless the party  
13           in default has not within thirty (30) days after notice  
14           of the final decision of the Secretary commenced to  
15           cure the default as specified in the decision, or  
16           following commencement thereof has not continued in  
17           good faith to fully cure the default within a reason-  
18           able time for effecting such cure.

19           (g) In the event that a default by one or more of  
20           the Lessees shall be determined to exist, the cure for  
21           such default has not commenced or continued as provided  
22           in Section 25(f), the Tribe may declare the rights of  
23

1 such defaulting Lessee or Lessees under the Lease ter-  
2 minated, by giving not less than sixty (60) days' written  
3 notice to any Lessee or Lessees, not in such default, of  
4 the Tribe's intent to declare the rights of the party in  
5 default cancelled. Such notice shall contain the date  
6 on which the Tribe intends to terminate the rights under  
7 the Lease of the party in default. No termination of the  
8 rights and interests under the Lease of the party in  
9 default shall be effected if any of the other Lessees, not  
10 in default shall cure the default. On failure of any  
11 Lessees not in default to cure the default in the manner  
12 specified herein, the Tribe may exercise any of the  
13 following remedies:

14 (i) Terminate the interest of the defaulting  
15 Lessee after the date of termination specified in  
16 such notice.

17 (ii) Collect by suit or otherwise all monies  
18 as they become due hereunder, or enforce by suit  
19 or otherwise, Lessees compliance with any provisions  
20 of this Lease.

21 (h) Notwithstanding any other provision of this  
22 Section 25, in the event of the termination of the inter-  
23 est of all Lessees, such termination shall not include

1 termination of the right to removal of removable property  
2 located on the Leased Lands, or elsewhere upon Reservation  
3 Lands pursuant to Related Rights. All such removal rights  
4 of the Lessees shall nevertheless continue for the full  
5 period or periods provided for in Section 12 hereof.

6 (i) On failure of the Tribe to cure a default in  
7 the manner specified herein, the Lessee shall have the  
8 right to terminate this Lease and/or Lessees shall have  
9 the right to exercise such other remedies as may be pro-  
10 vided by law.

11 (j) No termination shall be effected hereunder as  
12 to any party if the failure of such party to commence or  
13 cure the default was due to force majeure (as defined in  
14 Section 24 hereof).

15 (k) In the event of termination of federal respon-  
16 sibilities to the Tribe, and if the Secretary is no longer  
17 authorized by law to perform the duties and functions  
18 provided herein, and if the Secretary's power, duties  
19 and functions are lawfully transferred to some other  
20 official or agency of the federal government, then such  
21 official or agency shall perform the functions herein  
22 provided to be performed by the Secretary, and if not,  
23 the parties agree that a board of arbitration will be

1 created to make the decisions and perform the functions  
2 herein provided to be done by the Secretary, such board  
3 to be created and to act in accordance with the proced-  
4 ures hereinafter provided.

5 Except as provided in Section 25(a) hereof either  
6 party may call for submission of a dispute to arbitra-  
7 tion in the manner herein set forth. The party calling  
8 for arbitration shall give notice to the other party  
9 affected and in such notice shall (i) set forth the issues  
10 to be arbitrated, and (ii) appoint a person to serve as  
11 one arbitrator, who shall be skilled in the matter or  
12 matters to be arbitrated. Within ten (10) days from such  
13 notice, such other party shall give notice appointing a  
14 person, who shall be skilled in the matter or matters to  
15 be arbitrated, to serve as a second arbitrator and setting  
16 forth additional related issues, if any, to be arbitrated.

17 The two persons so appointed shall then agree upon  
18 and secure a third arbitrator, who shall be skilled in  
19 the matter or matters to be arbitrated. If the third  
20 arbitrator should not be secured within ten (10) days  
21 from the appointment of the second arbitrator, or if  
22 the second arbitrator should not be appointed within ten  
23 (10) days from the appointment of the first, then the

1 party calling for the arbitration, with notice to the  
2 other party, may call upon the American Arbitration  
3 Association to appoint the third arbitrator, or the second  
4 and third arbitrators, as the case may be, any and all of  
5 whom shall be skilled in the matter or matters to be  
6 arbitrated. The arbitration hearing shall be conducted  
7 in accordance with the rules of arbitration of the American  
8 Arbitration Association.

9 The arbitrators so appointed shall hear the evidence  
10 submitted by the respective parties and may call for  
11 additional information. A determination of the majority  
12 of the arbitrators shall be conclusive with respect to  
13 the issues submitted and shall be binding upon both  
14 parties. All parties to the arbitration agree to abide  
15 by and to carry out the terms of such determination.

16 Each party shall bear the fee and personal expenses  
17 of the arbitrator appointed by it, or for it, the fees  
18 and expenses of its counsel and the expenses of its own  
19 witnesses. All other costs and expenses of the arbitra-  
20 tion shall be borne in equal parts by the parties con-  
21 cerned, unless the decision of the arbitrators shall  
22 specify a different apportionment of any or all of such  
23 costs and expenses.

1           26. Consent of Tribe to Sale of Output of Units.

2           Each Lessee shall have the right to assign, sell  
3 or otherwise dispose of its right to the output of the  
4 Navajo Generation Station to any other Lessee, person,  
5 company, corporation or governmental agency without need  
6 for consent of the Tribe or the Secretary.

7           27. Independent Covenants. The covenants of the  
8 Lease are to be deemed to be independent covenants, not  
9 dependent covenants, and the obligation of any party to  
10 perform all the covenants to be performed by it is not  
11 conditioned on the performance by the other party of all  
12 the covenants to be performed by it.

13           In the event that any provision of the Lease, or  
14 the application of such provision to any party or circum-  
15 stance, shall be held invalid by any court having jurisdic-  
16 tion in the premises, the remainder of the Lease and the  
17 application of such provision to the party or circumstances  
18 other than those as to which it is held invalid shall not  
19 be affected thereby.

20           28. Control of Water Pollution.

21           (a) The Lessees propose to divert water from Lake  
22 Powell under Contract for Water Service between United  
23 States Department of Interior, Bureau of Reclamation and

1 Salt River Project (Contract No. 14-06-400-5033). The  
2 Lessees shall cause to be installed and diligently oper-  
3 ated as part of the facilities of the Navajo Generation  
4 Station, waste water, waste material, and sewage control  
5 and disposal facilities, the design for which has been  
6 first approved by the Secretary. Plans for waste water,  
7 waste material, sewage disposal and ash disposal shall be  
8 subject to written approval by the Secretary in advance of  
9 construction, installation or major modification of facil-  
10 ities, and no such facilities shall be constructed or in-  
11 stalled in the first instance, or thereafter modified or  
12 removed, without the prior written approval of the Secre-  
13 tary. In the event agreement cannot be reached on such  
14 plans or facilities, the matter shall be submitted to arbi-  
15 tration in accordance with the provisions of Section 36  
16 hereof.

17 (b) The Lessees shall have the right to return water  
18 from the Navajo Generation Station to Lake Powell at loca-  
19 tions and under measurement procedures approved by the  
20 Secretary, so long as the temperature of such water shall  
21 not average more than 90°F for any 24-hour period.

22 (c) The Lessees shall comply with all water pollu-  
23 tion control laws and regulations under federal, state  
24 or county jurisdiction, now or hereafter in force.

1           29. Notices. Any notice, demand or request pro-  
2           vided for in the Lease, or given or made in connection  
3           with it shall be deemed properly given if delivered in  
4           person in writing or sent by registered or certified mail,  
5           postage prepaid, or by telegram, to the persons specified  
6           below:

7           To or upon the Tribe:

8                     Chairman of the Navajo Tribal Council, and  
9                     Director of Resources Division  
10                    The Navajo Tribe  
11                    Window Rock, Navajo Nation (Arizona)

12           To or upon the Lessees:

13                    Arizona Public Service Company  
14                    c/o Secretary  
15                    Post Office Box 21666  
16                    Phoenix, Arizona 85036

17                    Department of Water and Power of  
18                    the City of Los Angeles  
19                    c/o General Manager and Chief Engineer  
20                    Post Office Box 111, Terminal Annex  
21                    Los Angeles, California 90054

22                    Nevada Power Company  
23                    c/o Secretary  
24                    Post Office Box 230  
25                    Las Vegas, Nevada 89101

26                    Salt River Project Agricultural  
27                    Improvement and Power District  
28                    c/o Secretary  
29                    P. O. Box 1980  
30                    Phoenix, Arizona 85001

31                    Tucson Gas & Electric Company  
32                    c/o Secretary  
33                    Post Office Box 711  
34                    Tucson, Arizona 85702

1 Any party may at any time by written notice to the  
2 others change the designation or address of the person  
3 so specified as the one to receive notices hereunder.

4 30. Lease Unaffected by Termination of Federal  
5 Responsibility. Nothing contained in the Lease shall  
6 operate to delay or prevent a termination of federal  
7 trust responsibilities with respect to the Leased Lands  
8 and the lands affected by the Related Rights during the  
9 term of the Lease; however, such termination shall not  
10 affect the rights, duties and obligations of the Lessees  
11 and the Tribe under the Lease (except to the extent  
12 expressly set out in Section 25 hereof).

13 31. Waiver of Right to Partition.

14 The Lessees, and each of them, accept their lease-  
15 hold interests under the Lease as tenants in common.  
16 as described in Section 1 hereof, and agree that their  
17 leasehold interests in the Leased Lands, and in the  
18 Reservation Lands affected by the Related Rights, shall  
19 be held in such tenancy in common for the duration of  
20 the term of the Lease, including any extension thereof.  
21 For the term of this Lease, (i) each Lessee hereby waives  
22 the right to have partition of the Navajo Generation  
23 Station and of the leasehold rights leased to Lessees

1 under the Lease, including any interest in the Reserva-  
2 tion Lands affected by the Related Rights (whether by  
3 partition in kind or by sale and division of the proceeds  
4 thereof), and (ii) agrees that it will not resort to  
5 any action at law or in equity to partition (in either  
6 such manner) the Navajo Generation Station or the lease-  
7 hold interests in the Leased Lands of Lessees or any  
8 interest in the Reservation Lands affected by the Related  
9 Rights, and waives the benefits of all laws that may  
10 now or hereafter authorize such partition.

11 32. Rights of Lessees in Event of Peabody Default.

12 (a) The Lessees represent and the Tribe consents  
13 that the Fuel Agreement provides (or if the Fuel Agreement  
14 has not been executed as of the date hereof, that it will  
15 provide) among other things, in summary approximately  
16 as follows:

17 (i) That Peabody will dedicate to and reserve  
18 for delivery to Lessees pursuant to the Fuel Agree-  
19 ment in order to furnish a sufficient fuel supply  
20 for the Navajo Generation Station for the contract  
21 term of the Fuel Agreement, coal having certain  
22 specified heat energy contents contained in the  
23

1 Dedicated Area and that the Dedicated Area may be  
2 changed from time to time upon agreement of Lessees  
3 and Peabody;

4 (ii) That upon any extension of the Fuel Agree-  
5 ment term, if Lessees exercise their option as buyers  
6 under the Fuel Agreement to purchase additional coal  
7 not then dedicated and reserved to Lessees, the  
8 Dedicated Area will be revised to dedicate and  
9 reserve for delivery additional coal available to  
10 Peabody within certain areas of the Peabody Leased  
11 Lands or any additions thereto;

12 (iii) That Peabody will execute and acknowledge  
13 and deliver to each of the Lessees as buyers under  
14 the Fuel Agreement, and there will be recorded with  
15 the County Recorder of Navajo County, Arizona, with  
16 the Director of Resources Division, (if there be no  
17 such office, the term shall be deemed to mean the  
18 employee of the Tribe having superintendence over  
19 the records of the Tribe relating to land), and  
20 with the Area Director an instrument executed by  
21 Peabody and accepted by Lessees as buyers under the  
22 Fuel Agreement, together with copies of plats of the  
23 Dedicated Area, which instrument shall provide that

1 should buyers terminate or rescind the Fuel Agreement  
2 because Peabody is in default under the Fuel Agree-  
3 ment, or if the Tribe should terminate or rescind  
4 the Coal Lease as it relates to the Dedicated Area,  
5 a Conditional Coal Mining Lease or Leases to be  
6 entered into by Lessees and the Tribe shall become  
7 effective in accordance with its or their terms.

8 (iv) That Peabody shall be deemed in default  
9 under the Fuel Agreement, and the said instrument  
10 shall provide that Peabody shall be deemed in default  
11 under the Fuel Agreement at such times as the exist-  
12 tence of a default under the Fuel Agreement has been  
13 determined either (1) by agreement between Peabody  
14 and Lessees that it is in default, or (2) by final  
15 decision of a court having jurisdiction over the  
16 matter, and such default has not been cured in accord-  
17 ance with the provisions of the Fuel Agreement. Said  
18 instrument shall provide that Peabody shall surrender  
19 and release to the Tribe all of Peabody's right, title  
20 and interest in and to the Coal Lease insofar as they  
21 relate to the Dedicated Area upon termination of the  
22 Fuel Agreement by Lessees as buyers because of Pea-  
23 body's default.

1 (v) That the instrument by its term shall  
2 become void insofar as it benefits the Lessees as  
3 buyers under the Fuel Agreement and insofar as it  
4 effects a dedication of fuel for the Navajo Genera-  
5 tion Station, if and when the § 323 Grant and the  
6 Lease shall terminate, or Lessees shall become in  
7 default under the Fuel Agreement, or the obligations  
8 of Peabody to deliver fuel under the Fuel Agreement  
9 have been fulfilled, or there is a permanent shut-  
10 down of Navajo Generation Station, or the Fuel Agree-  
11 ment is terminated by consent of all parties thereto.

12 (b) By Resolution dated \_\_\_\_\_ the  
13 Advisory Committee approves and consents to the grant of  
14 a Conditional Coal Mining Lease or Leases to the Lessees  
15 covering the Dedicated Area, on the same terms and condi-  
16 tions as the Coal Lease, such Conditional Coal Mining  
17 Lease or Leases to become effective upon termination of  
18 the Coal Lease or Fuel Agreement due to Peabody's default.  
19 The Tribe agrees to accept the surrender and release of  
20 the Coal Lease from Peabody as it relates to the Dedicated  
21 Area when tendered to the Tribe pursuant to the provisions  
22 of the Fuel Agreement.

23 (c) Within thirty days from the effective date

1 of this Lease, the Lessees shall pay the sum of \$100,000  
2 as and for a transfer fee with regard to the arrangements  
3 set forth in this Section 32 and any other transfers,  
4 assignments or other arrangements relating to fuel supply  
5 including transportation. The Tribe hereby determines  
6 that such payment shall satisfy the provisions of Title 18,  
7 Navajo Tribal Code, Section 223 regarding payment of a  
8 transfer fee with respect to any such arrangement.

9 33. Successors in Interest. Every obligation here-  
10 under shall extend to and be binding upon and every benefit  
11 hereof shall inure to the successors and assigns of the  
12 respective parties, and shall be construed as covenants  
13 running with the land.

14 34. Effective Date.

15 (a) This Lease shall become effective when the last  
16 of the following shall occur:

17 (i) It has been duly executed on behalf of  
18 the parties hereto and has been approved by the  
19 Secretary;

20 (ii) The §323 Grant has become effective.

21 (b) In the event that this Lease shall not become  
22 effective within one year after the date when all of the  
23 parties have executed it, the obligations shall be

1 terminated.

2 (c) As soon as possible after this Lease shall  
3 become effective, the parties agree to execute a memoran-  
4 dum agreement in recordable form specifying the effective  
5 date of this Lease.

6 35. Several Rights Leased. As between the Lessees  
7 and the Tribe, each Lessee hereunder shall have the several  
8 and individual right to exercise all rights of whatever  
9 kind leased to Lessees under the Lease, including all  
10 rights in and to the Leased Lands, and the Related Rights  
11 in and to other Reservation Lands, and including the rights  
12 to construct, reconstruct, use, operate, maintain, relocate  
13 and remove the Navajo Generation Station.

14 36. Arbitration. Whenever a controversy subject to  
15 arbitration arising out of the provisions of Section 10  
16 or Section 28 is to be submitted to arbitration, the Lessee  
17 shall name one arbitrator and the Secretary and the Tribe  
18 shall each name one arbitrator and the three arbitrators  
19 thus chosen shall select a fourth arbitrator, but in the  
20 event of the failure of the three arbitrators to select  
21 the fourth arbitrator within thirty (30) days after their  
22 first meeting, or of any party to name an arbitrator, either  
23 the Tribe, the Secretary or the Lessees may make applica-

1 tion to the Chief Judge of the United States District  
2 Court for the District of Arizona for the appointment of  
3 the remaining arbitrator or arbitrators. The decision of  
4 the arbitrators shall be a valid arbitration award and  
5 binding upon all the signatories hereto. In all matters  
6 pertaining to arbitration, including selection of the  
7 fourth arbitrator, the arbitrators named by the Secretary  
8 and the Tribe shall each have one-half vote and the other  
9 arbitrators shall each have one vote.

10 37. Governing Law. The parties agree that the Lease  
11 is made under and shall be governed by the laws applicable  
12 to the site of the Navajo Generation Station.

13 38. Indemnity of Tribe. The Lessees agree to indemni-  
14 fy the Tribe and hold it harmless from and against any and  
15 all damages, claims, liabilities or expenses which the Tribe  
16 may incur, or to which the Tribe may be put or subjected,  
17 resulting from the exercise by Lessees of the leasehold  
18 rights leased to them under the Lease, or from the exer-  
19 cise by Lessees of rights granted under the §323 Grant.

20 39. Application of Regulations of Department of the  
21 Interior.

22 (a) The lease is made and entered into subject to  
23 existing applicable regulations (not waived by the

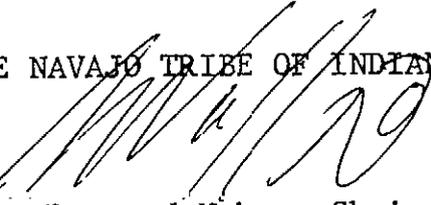
1 Secretary) of the Department of the Interior, Bureau of  
2 Indian Affairs, contained in Title 25, Code of Federal  
3 Regulations. Any amendments to or changes in such regula-  
4 tions after the effective date of the Lease shall not  
5 affect the rights and obligations of the parties as set  
6 forth in this Lease.

7 (b) The Tribe hereby gives its consent to the waiver  
8 by the Secretary and to the making of exceptions by the  
9 Secretary to the application of any of the existing regula-  
10 tions of the Department of the Interior with regard to  
11 any provisions of the Lease and the Coal Lease insofar as  
12 they relate to the Dedicated Area which are inconsistent  
13 with any of such regulations.

14 40. Execution in Counterparts. The Lease may be  
15 executed in any number of counterparts, and each executed  
16 counterpart shall have the same force and effect as an  
17 original instrument and as if all of the parties to the  
18 aggregate counterparts had signed the same instrument.  
19 Any signature page of the Lease may be detached from any  
20 counterpart thereof without impairing the legal effect  
21 of any signatures thereon, and may be attached to other  
22 counterparts of the Lease identical in form hereto but hav-  
23 ing attached to it one or more additional signature pages.

1 IN WITNESS WHEREOF, the parties hereto have caused  
2 this Lease to be signed in their behalf by their duly  
3 authorized officers as of the date first above set out.

4 THE NAVAJO TRIBE OF INDIANS

5  
6 By   
7 Raymond Nakai, Chairman  
Navajo Tribal Council

8 ARIZONA PUBLIC SERVICE COMPANY

9 By   
10 President

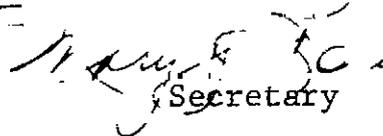
11 ATTEST:

12   
13 Secretary

14 DEPARTMENT OF WATER AND POWER  
OF THE CITY OF LOS ANGELES  
By the Board of Water and Power  
Commissioners

15 By   
16 PRESIDENT

17 ATTEST:

18   
19 Secretary

20 NEVADA POWER COMPANY

21 ATTEST:

22   
23 Secretary

24 By   
25 President

26 SALT RIVER PROJECT AGRICULTURAL  
IMPROVEMENT AND POWER DISTRICT

27 ATTEST AND COUNTERSIGNED:

28   
29 Secretary

30 By   
31 President

NOV 20 1969

Deputy City Attorney

NOV 20 1969

RES. 416

RECEIVED BY CITY ATTORNEY

TUCSON GAS AND ELECTRIC COMPANY

ATTEST:

*M. J. Schwan*  
Asst. Secretary

By *W. M. Lovell*  
Vice President

STATE OF ARIZONA )  
County of *Navajo* ) ss

The foregoing instrument was acknowledged before me this *29* day of *Sept*, 1969, by RAYMOND NAKAI, Chairman of the Navajo Tribal Council of The Navajo Tribe of Indians, on behalf of The Navajo Tribe of Indians.

*W. T. Madsen*  
Notary Public

My Commission expires:  
My Commission Expires Feb 1, 1972

STATE OF *Arizona* )  
County of *Maricopa* ) ss

The foregoing instrument was acknowledged before me this *29<sup>th</sup>* day of *September*, 1969, by *W. P. Reilly*, *President* of ARIZONA PUBLIC SERVICE COMPANY, a corporation, on behalf of said corporation.

*Joanne Claridge*  
Notary Public

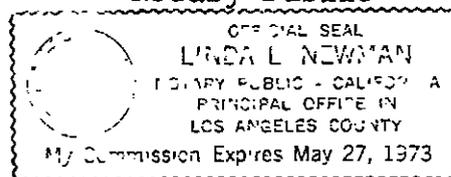
My Commission expires:  
My Commission Expires July 11, 1972

1 STATE OF *California* )  
2 County of *Los Angeles* ) ss

3 The foregoing instrument was acknowledged before me  
4 this 20<sup>th</sup> day of *November*, 1969, by FRANK R PALMER PRESIDENT  
5 Board of Water & Power Commissioners  
of DEPARTMENT OF WATER AND POWER OF THE CITY  
6 OF LOS ANGELES, a department organized and existing under the  
7 Charter of the City of Los Angeles, a municipal corporation of  
8 the State of California, on behalf of said corporation.

9  
10  
11 My Commission expires:  
12 \_\_\_\_\_

*Linda L. Newman*  
Notary Public

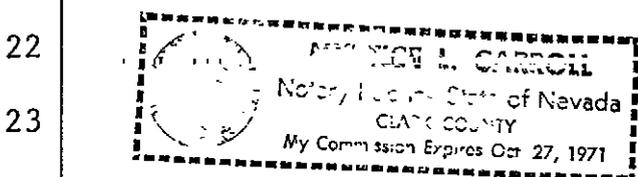


13 STATE OF *Nevada*  
14 County of *Clark* ) ss

15 The foregoing instrument was acknowledged before me  
16 this 12<sup>th</sup> day of *November*, 1969, by *Harry Allen*,  
17 *President* of NEVADA POWER COMPANY, a Nevada corporation,  
18 on behalf of said corporation.

19  
20  
21 My Commission expires:

*Myrtle K. Carroll*  
Notary Public



1 STATE OF *Arizona* )  
2 County of *Maricopa* ) ss

3 The foregoing instrument was acknowledged before me  
4 this *29th* day of *September*, 1969, by *V. J. Corbell*  
5 *President* of SALT RIVER PROJECT AGRICULTURAL IMPROVE-  
6 MENT AND POWER DISTRICT, an Arizona agricultural improvement  
7 district, on behalf of said District.

8 *Joanne Claridge*  
9 Notary Public

10 My Commission expires:  
11 My Commission Expires July 11, 1972

12 STATE OF *Arizona* )  
13 County of *Maricopa* ) ss

14 The foregoing instrument was acknowledged before me  
15 this *29th* day of *September*, 1969, by *N. M. Lovell*,  
16 *Vice-President* of TUCSON GAS AND ELECTRIC COMPANY, an  
17 Arizona corporation, on behalf of said corporation.

18 *Joanne Claridge*  
19 Notary Public

20 My Commission expires:  
21 My Commission Expires July 11, 1972

22 *APPROVED*  
*Walter H. Nielsen*  
23 SECRETARY OF THE INTERIOR

EXHIBIT 1

Description of Navajo Generating Station

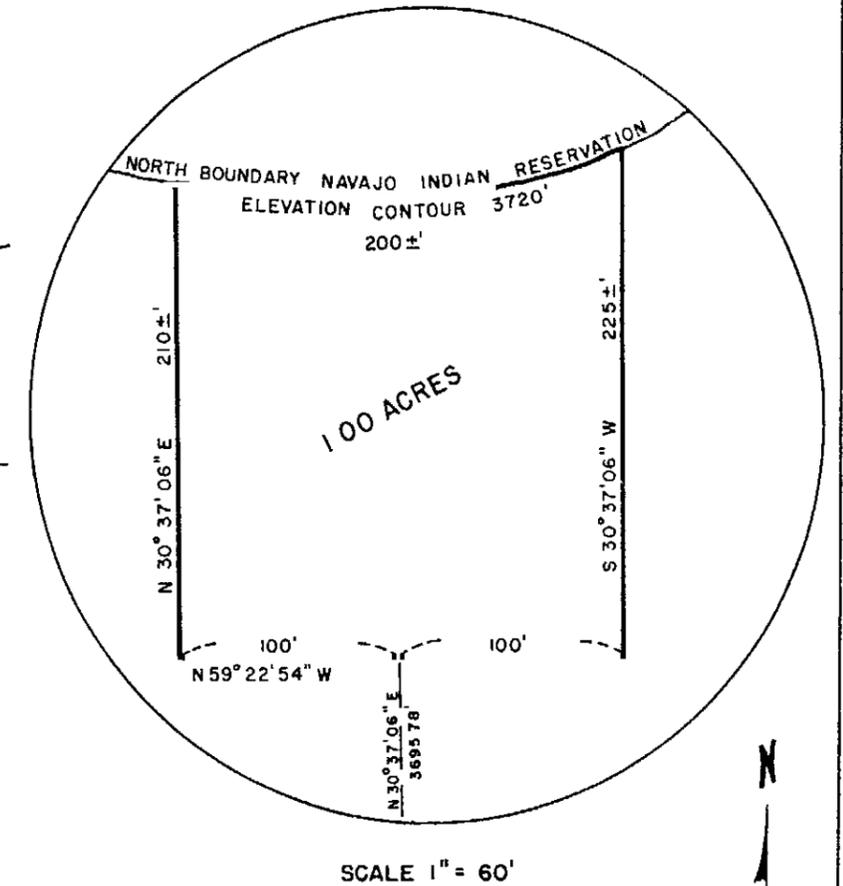
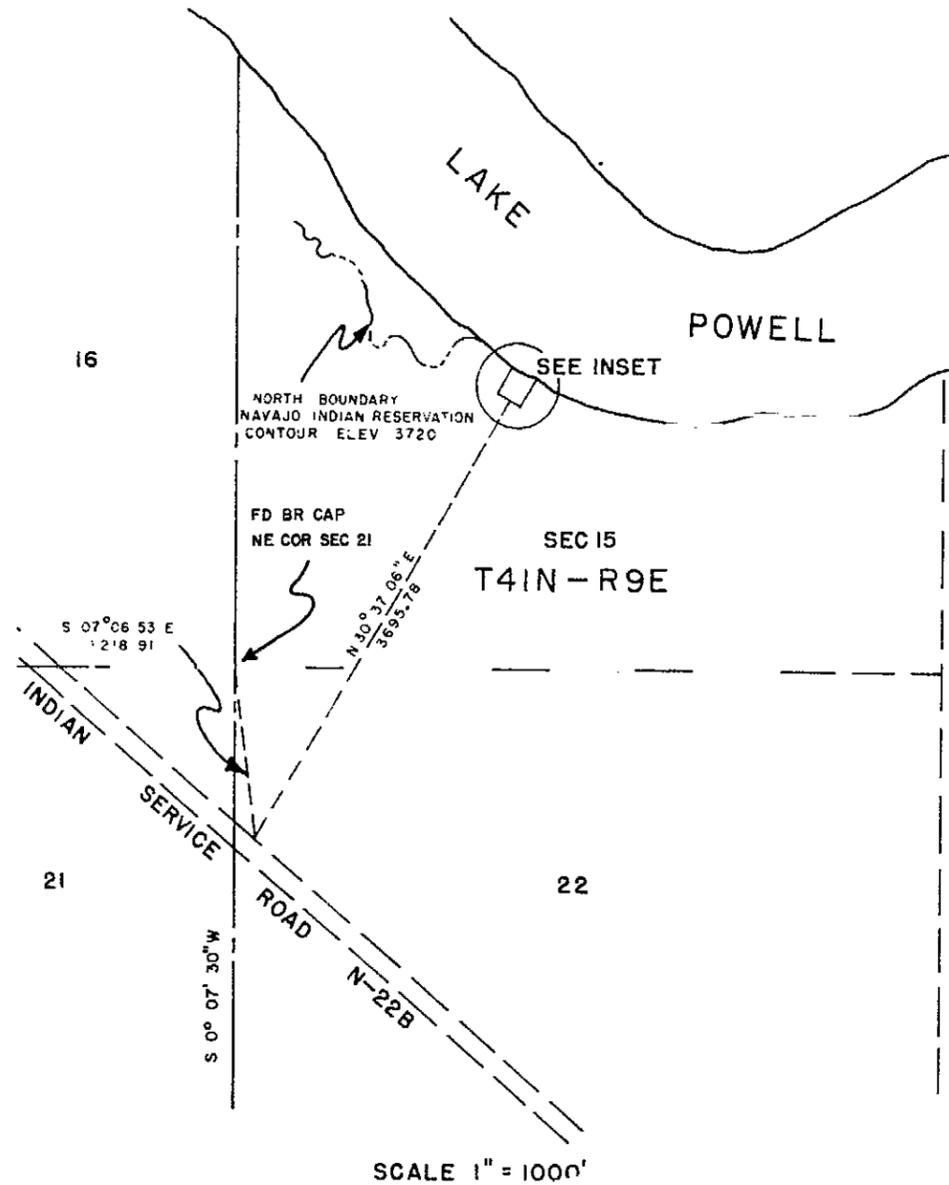
The plant will consist of three 750,000 KW tandem-compound, four flow, single reheat, turbine-generator units with initial steam conditions of 3500 psig and 1000 F and reheat to 1000 F and taking steam from three pulverized coal-fired super-critical steam generator units plus auxiliary equipment associated with these units. An administration building, machine shop and warehouse will be located adjacent to the power plant proper. A pumping station located at the river and off the site proper will furnish water to the plant. The switchyard facilities on the site will consist of a four to six bay, breaker and one half switching arrangement with 500 KV and 345 KV switching facilities to provide for switching transmission lines, three generators and standby auxiliary power transformation equipment; series and shunt compensation equipment for the transmission lines, control and communication facilities, and any necessary housing therefor.

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EXHIBIT 2  
PUMPING PLANT SITE

A PARCEL OF LAND LOCATED IN SECTION 15 (UNSURVEYED). TOWNSHIP 41 NORTH, RANGE 9 EAST, GILA AND SALT RIVER BASE AND MERIDIAN AND DESCRIBED AS FOLLOWS (USING AS A BASE THE EAST LINE OF SECTION 21, TOWNSHIP 41 NORTH, RANGE 9 EAST, WITH A TRUE BEARING OF SOUTH 0° 07' 30" WEST)

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 21, TOWNSHIP 41 NORTH, RANGE 9 EAST, THENCE SOUTH 7° 06' 53" EAST, 1,218.91 FEET. THENCE NORTH 30° 37' 08" EAST, 3,695.78 FEET TO THE TRUE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED, THENCE NORTH 59° 22' 54" WEST, 100.00 FEET, THENCE NORTH 30° 37' 06" EAST, 210 FEET MORE OR LESS TO THE NORTH BOUNDARY OF THE NAVAJO INDIAN RESERVATION, SAID BOUNDARY BEING IDENTICAL WITH THE BANK OF LAKE POWELL AT ELEVATION 3,720 FEET MEAN SEA LEVEL (U. S. COAST AND GEODETIC SURVEY DATUM), THENCE SOUTHEASTERLY ALONG SAID NORTH BOUNDARY, 200 FEET MORE OR LESS, THENCE SOUTH 30° 37' 06" WEST, 225 FEET MORE OR LESS, THENCE NORTH 59° 22' 54" WEST, 100.00 FEET TO THE TRUE POINT OF BEGINNING SAID DESCRIBED PARCEL CONTAINS 1.00 ACRES



NAVAJO GENERATION STATION

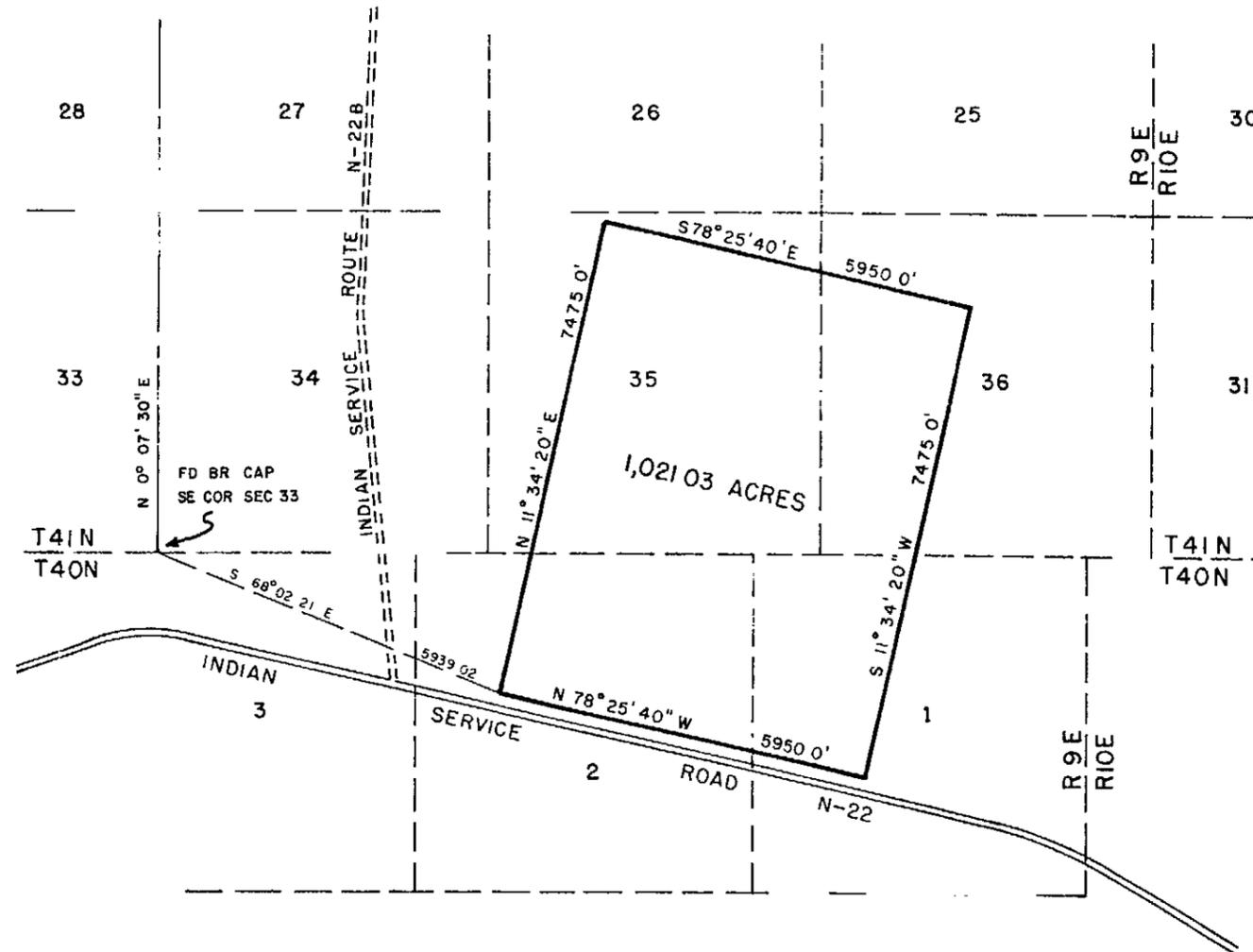
PUMPING PLANT SITE  
EXHIBIT NO 2

SCALE 1" = AS NOTED		DATE NOV 19, 1969	
DWN J R SWAN	APP'D	DRAWING NO	REV
CKD E J GARDNER	APP'D		
EXD	APP'D	SHT OF	

EXHIBIT 2  
PLANT SITE

A PARCEL OF LAND LOCATED IN SECTIONS 1 AND 2 (UNSURVEYED), TOWNSHIP 40 NORTH, RANGE 9 EAST, AND SECTIONS 35 AND 36 (UNSURVEYED), TOWNSHIP 41 NORTH, RANGE 9 EAST, GILA AND SALT RIVER BASE AND MERIDIAN AND DESCRIBED AS FOLLOWS (USING AS A BASE THE EAST LINE OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 9 EAST, WITH A TRUE BEARING OF NORTH 0° 07' 30" EAST)

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 33, TOWNSHIP 41 NORTH RANGE 9 EAST, THENCE SOUTH 68° 02' 21" EAST, 5,939 02 FEET TO THE TRUE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED, THENCE NORTH 11° 34' 20" EAST, 7,475 00 FEET, THENCE SOUTH 78° 25' 40" EAST, 5,950 00 FEET, THENCE SOUTH 11° 34' 20" WEST, 7,475 00 FEET, THENCE NORTH 78° 25' 40" WEST, 5,950 00 FEET TO THE TRUE POINT OF BEGINNING SAID DESCRIBED PARCEL CONTAINS 1.021 03 ACRES.



NAVAJO GENERATION STATION

PLANT SITE  
EXHIBIT NO 2

SCALE 1" = 2000'		DATE NOV 19, 1969	
OWN J R SWAN	APPD	DRAWING NO	REV
CKD E J GARDNER	APPD		
EXD	APPD	SHT	OF

EXHIBIT 2a  
DESCRIPTION OF THE PUMPING STATION.

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2           The area required for the pumping station itself  
3 has been shown as 1 acre. However, the converging of the  
4 rights-of-way for the access road and the pipeline and utili-  
5 ties may result in a slightly larger area in the immediate  
6 vicinity of the pumping station. Also some small area will  
7 be needed for the discharge structure.

8           The right-of-way for the water lines, the electrical  
9 power and control lines and the construction road is shown as  
10 being 100 feet wide. This appears to be adequate provided that  
11 the construction road can be built and will not be too diffi-  
12 cult to traverse because of grades. An on-site survey should  
13 be made of the proposed routing of the pipeline and the road  
14 to determine if the 100-foot right-of-way will be adequate.

15           The water lines will be buried.

16           The water lines from the pump station to the power  
17 plant cannot be tapped for Indian use. The return line from  
18 the plant to the lake may be tapped for Indian use, provided  
19 that water so taken will be credited to the plant as being  
20 returned to the lake and provided that the temperature and  
21 increased concentrations of solids from the cooling tower  
22 blown down is not harmful for the purposes used.

23

EXHIBIT 3  
RAIL LOADING SITE

A PARCEL OF LAND LOCATED IN SECTIONS 4 AND 5 (UNSURVEYED),  
TOWNSHIP 36 NORTH, RANGE 17 EAST, AND SECTION 33 (UNSURVEYED),  
TOWNSHIP 37 NORTH, RANGE 17 EAST, GILA AND SALT RIVER BASE  
AND MERIDIAN AND DESCRIBED AS FOLLOWS

BEGINNING AT A U. S. COAST AND GEODETIC SURVEY TRIANGULATION  
STATION BEING A BRASS DISK SET IN A CONCRETE MONUMENT AND  
STAMPED "GOLD MINE 1951", THENCE NORTH 53° 38' 40" WEST (TRUE  
BEARING), 8,277.31 FEET TO THE TRUE POINT OF BEGINNING OF THE  
PARCEL OF LAND HEREIN DESCRIBED, THENCE SOUTH 62° 11' WEST,  
2,087.10 FEET, THENCE NORTH 27° 49' WEST, 2,087.10 FEET, THENCE  
NORTH 62° 11' EAST, 2,087.10 FEET, THENCE SOUTH 27° 49' EAST,  
2,087.10 FEET TO THE TRUE POINT OF BEGINNING. SAID DESCRIBED  
PARCEL CONTAINS 100.00 ACRES.

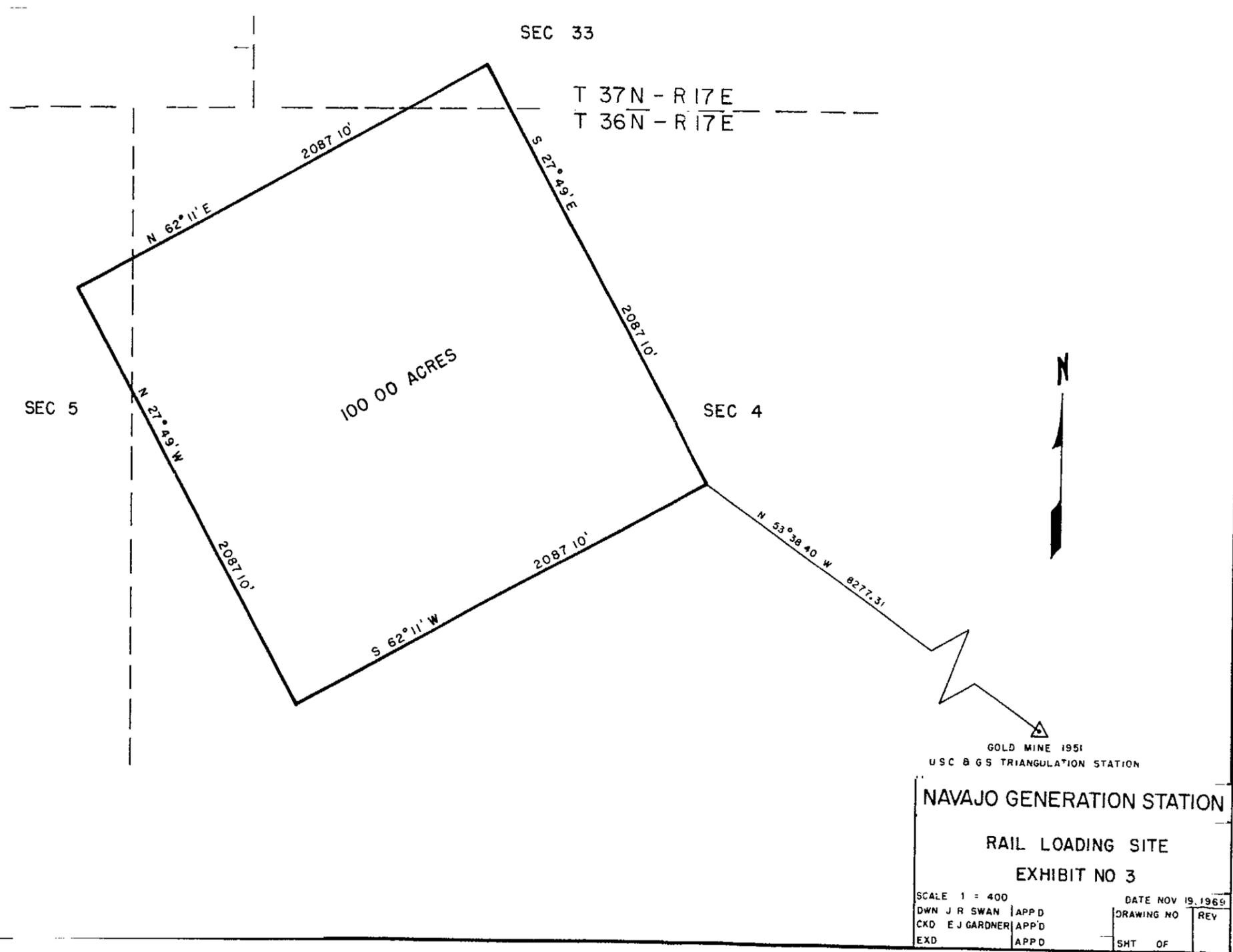
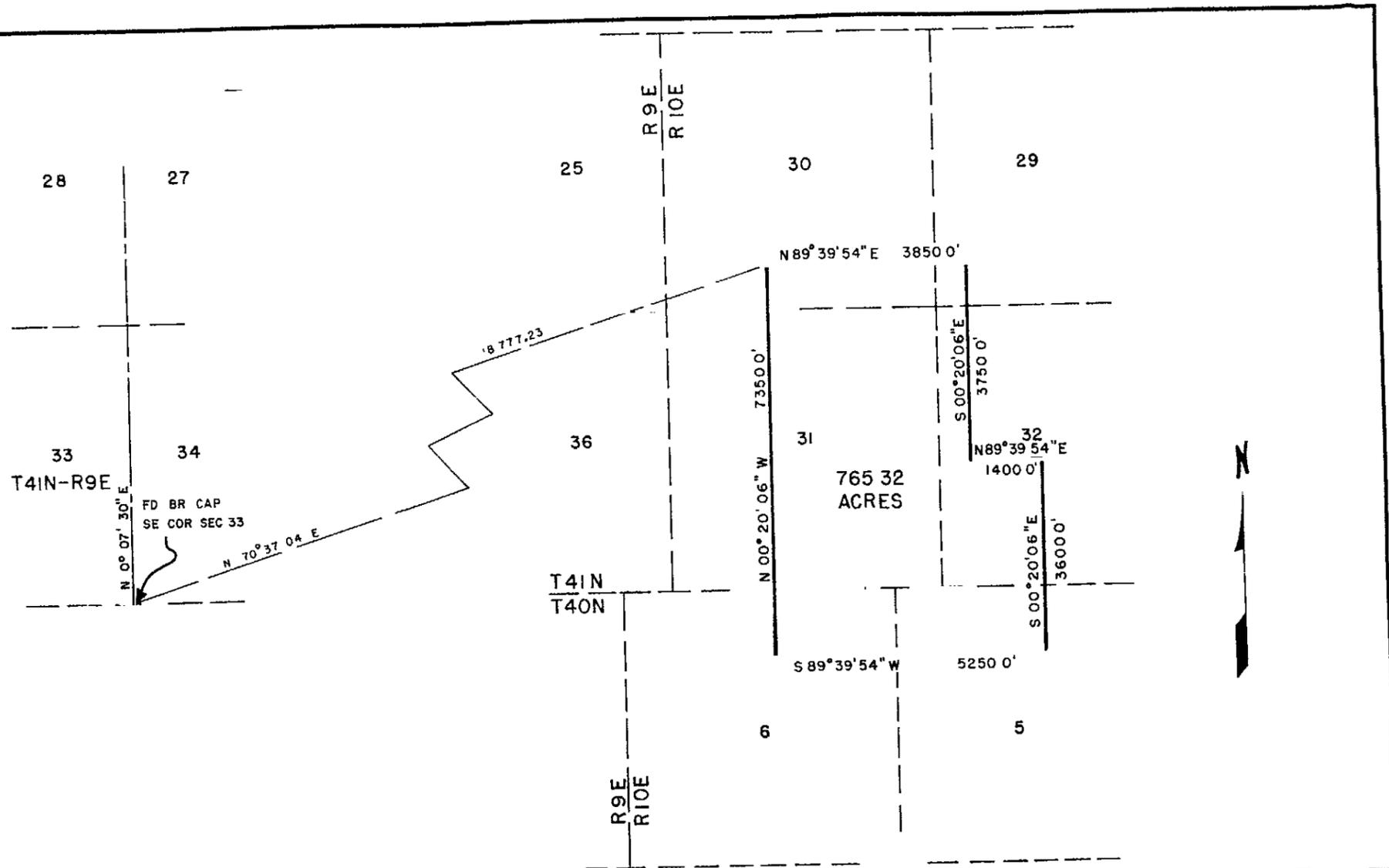


EXHIBIT 4  
ASH DISPOSAL AREA

A PARCEL OF LAND LOCATED IN SECTIONS 5 AND 6 (UNSURVEYED),  
TOWNSHIP 40 NORTH, RANGE 10 EAST, AND SECTIONS 29, 30, 31,  
AND 32 (UNSURVEYED), TOWNSHIP 41 NORTH, RANGE 10 EAST, GILA  
AND SALT RIVER BASE AND MERIDIAN AND DESCRIBED AS FOLLOWS  
(USING AS A BASE THE EAST LINE OF SECTION 33, TOWNSHIP 41  
NORTH, RANGE 9 EAST, WITH A TRUE BEARING OF NORTH 0° 07' 30"  
EAST)

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 33, TOWNSHIP  
41 NORTH RANGE 9 EAST. THENCE NORTH 70° 37' 04" EAST, 18,777.23  
FEET TO THE TRUE POINT OF BEGINNING OF THE PARCEL OF LAND  
HEREIN DESCRIBED. THENCE NORTH 89° 39' 54" EAST, 3,850.00  
FEET, THENCE SOUTH 0° 20' 06" EAST, 3,750.00 FEET, THENCE  
NORTH 89° 39' 54" EAST, 1,400.00 FEET, THENCE SOUTH 0° 20' 06"  
EAST, 3,600.00 FEET, THENCE SOUTH 89° 39' 54" WEST, 5,250.00  
FEET, THENCE NORTH 0° 20' 06" WEST, 7,350.00 FEET TO THE TRUE  
POINT OF BEGINNING. SAID DESCRIBED PARCEL CONTAINS 765.32  
ACRES



NAVAJO GENERATION STATION			
ASH DISPOSAL AREA			
EXHIBIT NO 4			
SCALE 1 = 2000	DATE NOV 19, 1969		
DWN J R SWAN	APP'D	DRAWING NO	REV
CKD E J GARDNER	APP'D		
EXD	APP'D	SHT	OF

EXHIBIT #4a  
DESCRIPTION OF ASH DISPOSAL OPERATION

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The ash will be hauled from the plant to the disposal area in trucks or scrapers. There will be no waste water or other waste products put into the ash disposal area. The ash will contain only enough moisture to facilitate handling and compaction.

It is not proposed that any water will drain from the ash disposal area onto reservation land. A small check dam will be constructed at the toe of the ash disposal area to catch any run-off water which will then either evaporate or be absorbed into the ground.

EXHIBIT #5RESOLUTION OF THE  
NAVAJO TRIBAL COUNCIL

Authorizing Lease with Arizona Public Service Company, Tucson Gas and Electric Company, Salt River Project Agricultural Improvement and Power District, San Diego Gas and Electric Company, the Department of Water and Power of the City of Los Angeles, Nevada Power Company, or any of them, and possibly other entities; and other matters

## WHEREAS:

1. It is proposed that a steam electric generating station having a generating capacity of up to 2500 MW, (name-plate rating), (hereinafter referred to as the "Navajo Generating Station") be constructed on the Navajo Indian Reservation near Page, Arizona, such steam electric generating station to be owned by some or all of the following: Arizona Public Service Company, Tucson Gas and Electric Company, Salt River Project Agricultural Improvement and Power District, San Diego Gas & Electric Company, the Department of Water and Power of the City of Los Angeles, Nevada Power Company, and possibly other entities (hereinafter referred to as the "Participants") and with the United States to have an entitlement for part of the capacity of said Navajo Generating Station, and

2. Arizona Public Service Company has proposed to enter into an agreement with the Navajo Tribe of Indians (hereinafter referred to as the "Tribe") whereby Arizona Public Service Company would make available to the Tribe certain entitlement in the Navajo Generating Station upon certain terms and conditions, and

3. On February 1, 1964, a certain mining lease, being Contract No. 14-20-0603-8580, was entered into by the Tribe, as "lessor", and Sentry Royalty Company, a Nevada corporation (hereinafter referred to as "Sentry"), as "lessee", which mining lease is now of record in the official records of the office of the County Recorder of Navajo County, Arizona, in Docket Book 259 at pages 413-443, and

4. On June 6, 1966, a certain mining lease, being Contract No. 12-20-0603-9910, was entered into by the Tribe as "lessor" and Sentry as "lessee", which mining lease is now of record in the official records of the Office of County Recorder of Navajo County, Arizona, in Docket Book 259 at pages 349-384, and

5. Said mining lease dated February 1, 1964, was amended by an amendatory agreement dated April 1, 1964, whereby Article XXIX of the lease of February 1, 1964, referring to a deposit required by Sentry for estimated damages was deleted and an amended Article XXIX was substituted in lieu thereof, which amended article provided that Sentry would maintain a damage deposit, with a minimum balance of \$5,000.00, with the General Superintendent of the Navajo Agency, and

6. The aforesaid mining leases, as amended, have been assigned from Sentry to Peabody Coal Company, an Illinois corporation, which in turn sold and assigned said mining leases to Peabody Coal Company, a Delaware corporation (hereinafter referred to as Peabody-Delaware). These assignments have been approved by the Tribe, by resolution of the Advisory Committee of the Navajo Tribal Council, Number ACJA-5-68, enacted January 8, 1968, and

7. The agreement providing for sale of coal from Peabody-Delaware to the Participants may provide for an arrangement between Peabody-Delaware and the Participants whereby the Participants will be entitled to succeed to the rights and assume the obligations of Peabody-Delaware under said mining leases, and

8. It is in the best interest of the Tribe that it approve the leasing to the Participants of a plant site, and ash disposal area for the Navajo Generating Station and that it consent to the grant by the Secretary pursuant to Title 25, USC, Section 323, or other appropriate authority, of rights of way to the Participants, or their designees, for the construction, use, operation, maintenance, relocation and removal of the Navajo Generating Station and all facilities related thereto, including but not limited to transmission lines, communication facilities and fuel transportation facilities. The payments for said rights-of-way and for rights-of-way to be granted in connection with the new generating units to be constructed near the existing Four Corners Power Plant will, within 15 years of the effective date of the plant site lease for the Navajo Generating Station, amount to a total of approximately \$500,000.00.

NOW THEREFORE BE IT RESOLVED THAT.

1. The Navajo Tribal Council hereby authorizes the Advisory Committee of the Navajo Tribal Council to approve a lease to Arizona Public Service Company, Tucson Gas and Electric Company, Salt River Project Agricultural Improvement and Power District, San Diego Gas and Electric Company, the Department of Water and Power of the City of Los Angeles, Nevada Power Company or any of them, and such other entities as may be approved by the Participants, upon the following terms and conditions.

(a) The term of the lease shall be for a period of fifty (50) years with an option to extend the term for a period of up to an additional twenty-five (25) years;

(b) The property to be leased shall consist of approximately 1021 acres for the proposed plant site and approximately 765 acres for an ash disposal area, the exact location of both areas to be approved by the Advisory Committee.

(c) The rental for such lease shall be as follows: \$160,000.00 per year, payable annually.

(d) The total sum of \$100,000 00 shall be paid by the Participants to the Tribe as and for both of the following:

(1) Any transfer fee which may be owing to the Tribe because of any proposed arrangement referred to in Resolved Paragraphs 6 and 7 of this resolution insofar as any such arrangement relates to fuel supply for up to 2500 MW of generation; and

(2) Any transfer fee which may be owing to the Tribe because of any proposed arrangement entitling the buyers of coal from the Amended Coal Lease of Utah Construction and Mining Company to succeed to said company's rights and obligations thereunder insofar as any such arrangement relates to fuel supply for up to 4600 MW of generation of which 2100 MW is in operation or under construction and 2500 MW may be constructed in the future.

(e) Said lease shall contain a grant to lessees of rights which are auxiliary and related to the use and occupancy of said premises by lessees, which rights may include but not be limited to, rights similar to those set forth in Exhibit A, attached hereto.

(f) Such other terms as the Advisory Committee deems to be in the best interest of the Navajo Tribe.

2. The Navajo Tribal Council hereby authorizes the Advisory Committee of the Navajo Tribal Council to approve a Wholesale Power Supply Agreement with Arizona Public Service

Company in the following principal respects together with any amendments thereto deemed by the said Advisory Committee to be in the best interest of the Navajo Tribe.

(a) The Navajo Tribe shall be entitled to receive, under the terms of the Wholesale Power Supply Agreement in relation to the Navajo Generating Station, 5,000 kilowatts per unit plus one-eighth (1/8) per unit of Arizona Public Service Company's entitlement in the Navajo Generating Station;

(b) This entitlement shall be subject to terms and conditions substantially similar to those contained in the Wholesale Power Supply Agreement between Arizona Public Service Company and the Tribe, dated December 1, 1960, as it has been amended and supplemented.

(c) Resolved Paragraph 2(d) of Resolution CD-108-68 required that Salt River Project Agricultural Improvement and Power District shall enter into an agreement with the Tribe to provide electrical power to the Navajo Tribal Utility Authority to be used on or near the Navajo Reservation. The execution of the Wholesale Power Supply Agreement between the Tribe and Arizona Public Service Company provided for herein shall discharge any and all obligations of Salt River Project Agricultural Improvement and Power District arising from said Resolved Paragraph 2(d) of Resolution CD-108-68.

3. The Navajo Tribal Council hereby consents to the grant by the Secretary of the Interior pursuant to Title 25, USC, Section 323, or other appropriate authority, of rights-of-way to Arizona Public Service Company, Tucson Gas and Electric Company, Salt River Project Agricultural Improvement and Power District, San Diego Gas and Electric Company, the Department of Water and Power of the City of Los Angeles, Nevada Power Company, or any of them, and/or such other as said grantees may approve, for the construction, use, operation, maintenance, relocation and removal of the Navajo Generating Station and all facilities related thereto, including, but not limited to ash disposal area, transmission lines, communication facilities and fuel transportation facilities with said rights-of-way being cumulative, additional and supplementary to and separate and independent from and not conditioned upon the leasehold rights leased to said companies under the lease authorized hereby, the terms and conditions of said grant of rights-of-way and easements to be first approved by the Advisory Committee of the Navajo Tribal Council.

4. The Navajo Tribal Council hereby confirms that the aforesaid mining leases, being Contract No. 14-20-0603-S580,

dated February 1, 1964, as amended by amendatory agreement dated April 1, 1964, and Contract No. 14-20-0603-9910, dated June 6, 1966, were validly issued.

5. The series of assignments referred to in recital paragraph 6 above are approved and confirmed and the Navajo Tribal Council hereby determines that the provisions of Title 18, Section 223, of the Navajo Tribal Code have been fully satisfied.

6. The Navajo Tribal Council hereby authorizes the Advisory Committee of the Navajo Tribal Council to approve and consent to any arrangement between Peabody-Delaware and the Participants for any generating units up to 2500 MW of generation to be constructed in the future, which generating units are to be fueled from the mining leases referred to in recital paragraphs 3 and 4 above, which would dedicate a fuel reserve to the Participants and would permit the Participants to succeed to Peabody-Delaware's rights and obligations under said mining leases with respect to the area dedicated to the Participants in the event of a default by Peabody-Delaware of such nature as would terminate said mining leases or the agreement for the supply of fuel to the Participants. Such arrangement between Peabody-Delaware and the Participants may consist of the grant by the Tribe and the Secretary of a new conditional coal mining lease or leases to the Participants on the same terms as said coal mining leases, covering a dedicated area, such conditional coal mining leases to be effective at such time as said coal mining leases or the agreement for supply of fuel may terminate due to Peabody-Delaware's default. And any such arrangement may include an equitable servitude and covenant running with the lessees' interest in the land in connection with any such arrangement. The Navajo Tribal Council further determines that the provisions of Title 18, Navajo Tribal Code, Section 223, regarding payment of a transfer fee have been satisfied with respect to any arrangement assuring a fuel reserve from said coal mining leases for the Participants.

7. The Navajo Tribal Council hereby delegates to the Advisory Committee of the Navajo Tribal Council full authority to act on behalf of the Navajo Tribe of Indians in all matters implementing, affecting or regarding the mining lease referred to in recital paragraphs 3 and 4 above (being Contract No. 14-20-0603-8580 and Contract No. 12-20-0603-9910), the lease authorized by this resolution and the rights-of-way or easements mentioned in Resolved Paragraph 3 above to be granted by the Secretary, and any matters relating to any arrangement between Peabody-Delaware and the Participants referred to in Resolved Paragraph 6 above, said authority to include, but not be limited to, authority to authorize officers of the Tribe to execute instruments, authority to approve

amendments or other modifications when agreed upon by all parties, authority to give any consent on behalf of the Tribe and authority to do any act on behalf of the Tribe which the Advisory Committee may deem to be necessary or desirable to give full force and effect to this resolution.

-CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Tribal 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 46 in favor and 0 opposed, this 27th day of May, 1969.

*Nelson Cannon*

Vice Chairman  
Navajo Tribal Council

## NAVAJO GENERATING STATION

A. The right to occupy and use Reservation Lands in order to construct, reconstruct, install, operate, maintain, relocate and remove (1) electric power and communication lines and facilities and access roads to the Pumping Plant Site from other facilities of the Lessees; (2) pipelines, conduits and other structures and facilities which will conduct water from Pumping Plant Site or from other sources to the Plant Site; and (3) pipelines, conduits and other structures and facilities to conduct water from the Plant Site to Lake Powell.

B. The right to construct, reconstruct, install, operate, maintain, relocate and remove waterlines across the Reservation Lands (In addition to those from the Pumping Plant Site) for the purpose of transporting water for construction, reconstruction, operation and maintenance of the Navajo Generating Station and the right of access thereto.

C. The right to construct, reconstruct, install, operate, maintain, relocate and remove power lines and communication lines from the Plant Site to the Pumping Plant Site.

D. The right to construct, reconstruct, improve, maintain and relocate an access road to the Plant Site.

E. The right to construct, reconstruct, install, improve, operate, maintain, relocate and remove power and communication lines extending from the Plant Site to the Peabody Leased Lands.

F. The right to dispose of waste water on the Reservation Lands by permitting waste water from the Navajo Generating Station to flow from the Ash Disposal Area; the right to construct, reconstruct, install, operate, maintain, relocate and remove roads, pipelines, sluice works and other facilities for transporting of ashes, refuse products and waste water, from the Plant Site to the Ash Disposal Area. The right to dispose of and dump thereon ashes, refuse products and waste water from the Navajo Generating Station; the right to construct, reconstruct, install, operate, maintain, replace and remove roads, pipelines, sluice works, dikes, dams, canals, and other works and facilities for the storage and disposal of ashes, refuse products and waste water. Lessees will install such dikes, dams, settling basins, or other facilities as are reasonably necessary to retain said ashes in the Ash Disposal Area. Appropriate and standard tests for determining the presence of contaminants in the waste water will be conducted by Lessees under the Lease and reasonable steps will be taken by them to reduce such contaminants to an acceptable minimum. In addition,

the Lessees shall have the right, pursuant to agreement with Peabody, to have the ash and refuse products returned to the Peabody Leased Lands for disposal.

G. All access roads outside the Leased Lands will be subject to being used by members of the Tribe or its permittees in a normal manner not preventing the Lessees from making normal use of the roads; provided, however, that the Lessees are not obligated hereby to maintain such roads, except for maintenance made necessary by the use by the Lessees of such roads.

H. The right to construct, reconstruct, install, improve, operate, maintain, relocate and remove conveyors, rail loading and unloading facilities, railroad line or slurry pipeline and slurry preparation plants, to the Plant Site together with the right to store coal on the Peabody Leased Lands. Such right may be transferred and assigned without further consent of the Tribe to Peabody or to any third party obligated to transport fuel from the Peabody Leased Lands to the Plant Site.

In the event an access road shall be incorporated into the improved road system for the State of Arizona or the reservation road system of the Bureau of Indian Affairs, so as to become open for public use, the Lessees will surrender their right-of-way and easement for such road.

For heavy haulage during periods of construction, reconstruction, use, operation, maintenance, relocation and removal of the Navajo Plant, in cases where use of the access roads hereinabove described is not practicable, the Lessees shall have the right to reasonable access across the Reservation Lands to the Leased Lands.

EXHIBIT 6.

Proposed Resolution  
of the Advisory Committee  
of the Navajo Tribal Council

Approving the Terms and Conditions of the Lease for the  
Navajo Generation Station, and Consenting on Behalf of  
the Navajo Tribe to the Terms and Conditions of the  
§ 323 Grant

WHEREAS:

1. On May 27, 1969, the Navajo Tribal Council, by Resolution CMY 45-69, delegated to the Advisory Committee of the Navajo Tribal Council the authority to prescribe and approve the terms and conditions of the Navajo Generation Station Lease, and

2. By the same resolution the Navajo Tribal Council authorized the Advisory Committee to consent to the terms and conditions of the grant of rights of way and easements by the Secretary of the Interior to the leased lands (§ 323 Grant), and

3. The proposed Lease complies in all ways with the terms prescribed by the Tribal Council in Resolution CMY 45-69.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Advisory Committee of the Navajo Tribal Council has reviewed and approves the terms and conditions of the proposed lease for the Navajo Generation Station as presented to the Advisory Committee on this date.

2. The Advisory Committee of the Navajo Tribal Council consents to the grant by the Secretary of the Interior of the

§ 323 Grant and to the terms and conditions of the grant, a true copy of which is attached and by this reference made a part of this resolution.

3. In accepting this lease and consenting to the terms and conditions of the § 323 Grant, the Advisory Committee accepts and relies upon the Lessees' assurances that Lessees shall maintain and preserve a "buffer zone" around the Ash Disposal Area and the Plant Site, and that Lessees shall compensate any Navajos living in this "buffer zone" for damages to their land use potential and living environment arising from Lessees' operations. The Navajo Tribe, in recognition of this "buffer zone", shall not grant homesite leases or any other occupancy permits for any area within the "buffer zone" for the duration of the lease.

4. The Advisory Committee consents to the grant by the Secretary of the § 323 Grant rights-of-way and easements for the facilities described in Sections 5(a) and 5(b) of the lease, subject to the terms and conditions of Section 5(c) thereof.

5. The Chairman of the Navajo Tribal Council is hereby authorized to execute the above-mentioned lease on behalf of the Navajo Tribe, and to execute any other papers or documents required to be executed by the Navajo Tribe in connection with the aforementioned lease.

#### CERTIFICATION

I hereby certify that the foregoing resolution was duly considered

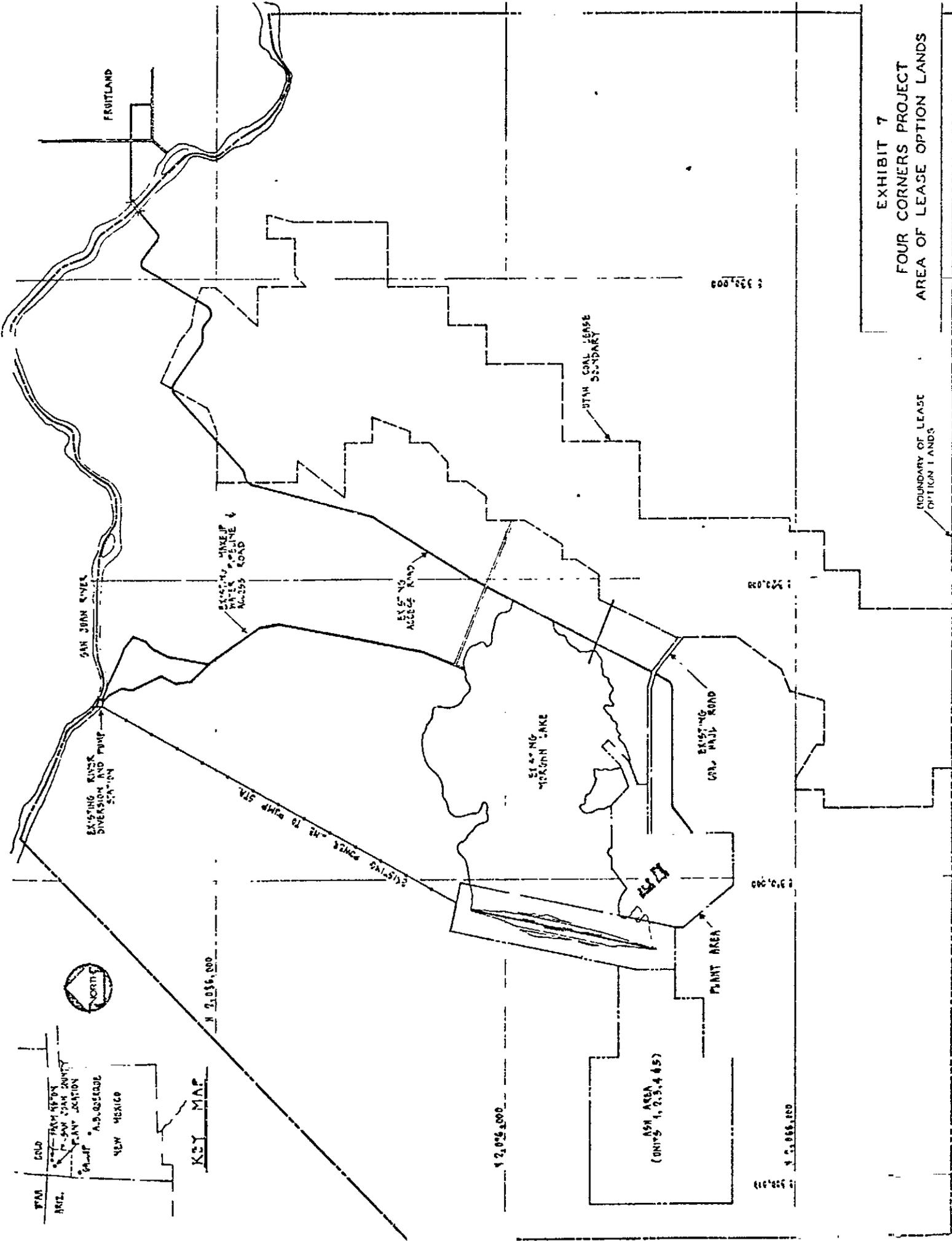
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by the Advisory Committee of the Navajo Tribal Council at a duly called meeting at Window Rock, Navajo Nation (Arizona) at which a quorum was present and that same was passed by a vote of 16 in favor and 0 opposed, this 4th day of September, 1969.

Presiding Chairman

9/4/69

EXHIBIT 7  
 FOUR CORNERS PROJECT  
 AREA OF LEASE OPTION LANDS



BOUNDARY OF LEASE OPTION LANDS

FROM STATE OF ARIZ. TO SAN JUAN COUNTY  
 PUMP STATION  
 NEW MEXICO



KEY MAP

2,056,000

2,056,000

ASH AREA (CONT'G 1, 2, 3, 4 & 5)

PLANT AREA

EXISTING PAUL ROAD

EXISTING MORGAN LAKE

EYE NO. ACCESS ROAD

EXISTING MINERAL RIGHTS EASEMENT & ACCESS ROAD

SAN JUAN RIVER

EXISTING RIVER DIVERSION AND PUMP STATION

UTAH COAL LEASE BOUNDARY

FRUITLAND

2,032,000

2,028,000

2,024,000

2,020,000

2,016,000

2,012,000

2,008,000

2,004,000

2,000,000

1,996,000

1,992,000

1,988,000

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1,704,000

RESOLUTION OF THE  
NAVAJO TRIBAL COUNCIL

Authorizing Lease With Arizona Public Service Company, Tucson Gas and Electric Company, Salt River Project Agricultural Improvement and Power District, San Diego Gas and Electric Company, the Department of Water and Power of the City of Los Angeles and Nevada Power Company, or Any of Them, and Possibly Other Entities, and Other Matters

WHEREAS:

1. The Navajo Tribe of Indians (the "Tribe") heretofore executed as Lessor a coal mining lease to Utah Construction and Mining Company ("Utah"), as Lessee, dated July 26, 1957, and recorded in Book 480, page 74, in the Office of the County Clerk of San Juan County, New Mexico, and amended by Amendment Number One, dated October 18, 1957, and recorded in Book 480, page 74-V, in the Office of the County Clerk of San Juan County, New Mexico, and amended by Amendment Number Two, dated October 24, 1961, and recorded in Book 633, page 276, in the Office of the County Clerk of San Juan County, New Mexico, and by Amendment Number Three, dated March 29, 1965, and recorded in Book 633, page 277, in the Office of the County Clerk of San Juan County, New Mexico, all pertaining to lands on the Navajo Indian Reservation and collectively referred to sometimes hereinafter as the "Amended Coal Lease", and

2. By Indenture of Lease, dated as of December 1, 1960, between the Tribe and Arizona Public Service Company ("Arizona"), Arizona leased a site on the Reservation for the construction of its initial Four Corners thermal electric generating plant, which now consists of generating Units Nos. 1, 2, and 3 owned by Arizona using as fuel coal supplied by Utah from the land held under the Amended Coal Lease, and

3. Pursuant to the requirements and terms of the Amended Coal Lease, Utah submitted to the Secretary of the Interior (the "Secretary") a plan of development and operation, dated July 22, 1960, which was revised and supplemented November 4, 1960, and again supplemented December 1, 1960 (such plan as revised, amended and supplemented collectively being sometimes hereinafter referred to as the "Development Plan"), which plan incorporated by reference the original Four Corners Fuel Agreement between Utah as Seller and Arizona as Buyer, dated August 18, 1960, the plant site lease between the Tribe and

Arizona, and the Wholesale Power Agreement pursuant to which Arizona agreed to sell power and energy to the Tribe at wholesale bus-bar rates, and

4. The Amended Coal Lease was heretofore approved by the Advisory Committee of the Navajo Tribal Council (the "Advisory Committee") acting under the pursuant to a duly adopted resolution of the Navajo Tribal Council (the "Council"), being Resolution No. CM-3-51, and the Development Plan under the Amended Coal Lease was previously approved by Resolution ACJN-78-60 of the Advisory Committee and by Resolution CJY-46-60 of the Council, and

5. The Amended Coal Lease was duly executed by officials of the Tribe and the Amended Coal Lease and the Development Plan were approved by the Secretary of the Interior or his duly authorized subordinates, and

6. In 1966, in further implementation of the Development Plan, Southern California Edison Company, Arizona Public Service Company, Public Service Company of New Mexico, Salt River Project Agricultural Improvement and Power District, Tucson Gas and Electric Company, and El Paso Electric Company (sometimes hereinafter collectively referred to as the "Units 4 and 5 Participants") and the Tribe executed the Supplemental and Additional Indenture of Lease, dated as of May 27, 1966, providing for the construction of generating Units Nos. 4 and 5 of the Four Corners Power Plant and the same companies and Utah executed Four Corners Fuel Agreement No. 2, dated as of September 1, 1966, providing for the furnishing of fuel for such generating units. Copies of said Four Corners Fuel Agreement No. 2 have been delivered to and reviewed by officials of the Tribe, and

7. Utah and Arizona executed the Fifth Supplement to the Original Four Corners Fuel Agreement, extending the initial term of the Original Fuel Agreement to be coextensive with the initial term of the Four Corners Fuel Agreement No. 2 and further modifying said Original Four Corners Fuel Agreement to permit the execution of Four Corners Fuel Agreement No. 2 by providing, among other things, that the coal reserves for both fuel agreements shall be contained in the same area of the Amended Coal Lease. Copies of said Fifth Supplement to the Original Four Corners Fuel Agreement have been delivered to and reviewed by officials of the Tribe, and

8. Section 13 of Four Corners Fuel Agreement No. 2 and Section 13 of the Fifth Supplement to the Original Four Corners Fuel Agreement provide fuel reserves for the buyers under both of the said fuel agreements and provide that the dedications and reservations of fuel reserves contained in each of said Sections 13 shall be imposed as an equitable servitude and covenant running with the lessee's interest in the

land affecting that portion of the Amended Coal Lease within the "dedicated area" and the "supplement designated area," as defined in said Sections 13, and

9. The provisions of Sections 13 of Four Corners Fuel Agreement No. 2 and of Section 13 of the Fifth Supplement to the Original Four Corners Fuel Agreement further required that Utah execute in favor of the buyers under both fuel agreements a conditional partial assignment (the "Assignment"); covering Utah's interest in the said dedicated area and supplement designated area to implement the dedication of fuel reserves set forth in both of said Section 13. A copy of such Assignment has been delivered to and reviewed by officials of the Tribe, and

10. The Advisory Committee and the Council consented to the general provisions of the Four Corners Fuel Agreement No. 2 relating to the Assignment and the dedications as provided in the Supplemental and Additional Indenture of Lease between the Tribe and the Units 4 and 5 Participants, which supplemental indenture was also approved by the Secretary on July 6, 1966, and

11. It is now proposed that additional generating units, having a total generating capacity of up to 2500 MW (nameplate rating), (the "New Generating Units"; be constructed near the existing Four Corners Power Plant, these to be owned by some or all of the following: Salt River Project Agricultural Improvement and Power District, the Department of Water and Power of the City of Los Angeles, Tucson Gas and Electric Company, Arizona Public Service Company, Nevada Power Company, and San Diego Gas and Electric Company and possibly other entities (the "New Units Participants"), and

12. It is further proposed that Arizona and the Tribe will enter into a supplement to the Wholesale Power Agreement making additional amounts of power and energy available to the Navajo Tribal Utility Authority, and

13. It is proposed that the fuel for the New Generating Units will be sold to the New Units Participants by Utah and that this sale is a further implementation of the Development Plan under the Amended Coal Lease. Utah also contemplates that in the future other additional generating units may be constructed in the vicinity of the existing Four Corners Power Plant, which future generating units would also be fueled by Utah with coal mined from the Amended Coal Lease. In this connection the Development Plan as originally presented contained an estimate by Utah that approximately two-thirds (2/3) of the coal reserves in the lease would be used for electric power generation purposes and Utah further stated that if this proportion ever changed, Utah would inform the Tribe and the Secretary of the Interior and request the Secretary's approval of a revision in the Development Plan. Utah now feels that it is both necessary and desirable to remove from the Development Plan this limitation on the use of coal for power generation purposes, and

14. The agreement providing for the sale of fuel by Utah for the New Generating Units may contain an arrangement for the dedication of fuel reserves for such generating units, which reserves would continue to be subject to the Amended Coal Lease and to be mined by Utah but access to which would be available to the owners of such generating units upon default by Utah, and

15. It is further contemplated that the arrangements for fuel reserves established for generating Units 1, 2, 3, 4, and 5 of the Four Corners Power Plant may, by further amendments to the Original Four Corners Fuel Agreement and to Four Corners Fuel Agreement No. 2, be changed from the arrangement referred to in recital paragraphs 8 and 9 above to some other arrangement mutually agreeable to Utah, Arizona, and the Units 4 and 5 Participants, and

16. It is in the best interest of the Tribe that it grant a lease for a plant site, ash disposal area, pumping plant site and dam site for the New Generating Units to the New Units Participants, and that the Tribe consent to the grant by the Secretary of rights of way or easements under Section 323 of Title 25, USC, for such plant site, ash disposal area, pumping plant site and dam site and other rights of way for the construction, use, operation, maintenance, relocation and removal of the New Generating Units and all facilities related thereto, including, but not limited to, transmission lines and communication facilities. Repayments for said rights of way and for rights of way to be granted in connection with the Navajo Generating Station to be constructed near Page, Arizona, will, within 15 years of the effective date of the plant site lease for the Navajo Generating Station, amount to a total of approximately \$500,000.00.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Tribal Council hereby confirms that the Amended Coal Lease was validly issued and the Development Plan was validly approved.

2. The Navajo Tribal Council recognizes that more than two-thirds (2/3) of the coal reserves in the Amended Coal Lease may be used for power generation purposes and concurs in the modification of the Development Plan to remove such limitation on use of coal.

3. The Navajo Tribal Council hereby approves and consents to the Assignment of a portion of the Amended Coal Lease described in Recital Paragraph 9 above and the imposition of equitable servitude and covenant running with the lessees' interest in the land described in Recital Paragraph 8 above and confirms and determines that the provisions of Title 18, Navajo Tribal Code, Section 223, as to this matter, have been satisfied.

4. The Navajo Tribal Council hereby authorizes the Advisory Committee of the Navajo Tribal Council to approve a lease to Arizona Public Service Company, Tucson Gas and Electric Company, Salt River Project Agricultural Improvement and Power District, San Diego Gas and Electric Company, the Department of Water and Power of the City of Los Angeles and Nevada Power Company, or any of them, and any other entities which may be approved by the New Units Participants, upon the following terms and conditions:

(a) The term of the lease shall be for a period of fifty (50) years with an option to extend the term for a period of up to an additional twenty-five (25) years;

(b) The property to be leased shall consist of approximately 400 acres for the proposed plant site, approximately 826 acres for an ash disposal area, approximately 3 acres for a pumping plant site and approximately 325 acres for a dam site, the exact location of said plant site, ash disposal area, pumping plant site and dam site to be subject to the approval of the Advisory Committee.

(c) The rental for such lease shall be as follows:

\$140,000.00 per year, payable annually.

(d) Said lease shall contain a grant to lessees of rights which are auxiliary and related to the use and occupancy of said premises by lessees, which rights may include, but not be limited to, rights similar to those set forth in Exhibit A, attached hereto.

(e) Such other terms as the Advisory Committee deems to be in the best interest of the Tribe.

5. The Navajo Tribal Council hereby consents to the grant by the Secretary of the Interior pursuant to 25 USC 323 of rights of way or easements to Arizona Public Service Company, Tucson Gas and Electric Company, Salt River Project Agricultural Improvement and Power District, San Diego Gas and Electric Company, the Department of Water and Power of the City of Los Angeles and Nevada Power Company, or any of them, and any other entity which may be a lessee under the lease authorized hereunder as tenants in common for the construction, use, operation, maintenance, relocation and removal of the New Generating Units and all facilities related thereto with said rights being cumulative, additional and supplementary to and separate and independent from and not conditioned upon the leasehold rights to be leased to said companies under the

lease authorized hereby, the terms and conditions of said grant to be first approved by the Advisory Committee.

6. The Navajo Tribal Council hereby authorizes the Advisory Committee of the Navajo Tribal Council to approve a supplement to the Wholesale Power Supply Agreement with Arizona in the following principal respects, together with any amendments thereto deemed by the said Advisory Committee to be in the best interest of the Navajo Tribe:

(a) The Navajo Tribe shall be entitled to receive under the terms of the Supplement to the Wholesale Power Supply Agreement in relation to the New Generating Units, 5,000 kilowatts per unit plus one-eighth ( $1/8$ ) per unit of Arizona Public Service Company's entitlement in each of the New Generating Units.

(b) This entitlement shall be subject to terms and conditions substantially similar to those contained in the Wholesale Power Supply Agreement between Arizona and the Tribe, dated December 1, 1960, as it has been amended and supplemented. . .

7. The Navajo Tribal Council hereby authorizes the Advisory Committee of the Navajo Tribal Council to approve and consent to any arrangement between Utah and the owners of any generating units heretofore constructed, presently under construction, or to be constructed in the future, which generating units are to be fueled from the Amended Coal Lease, or to any arrangement between Utah and other purchasers of coal from the Amended Coal Lease, which would dedicate a fuel reserve in the Amended Coal Lease to the owners of any of such generating units or to such other purchasers and would permit such owners or such other purchasers to succeed to Utah's rights and obligations under the Amended Coal Lease with respect to the area dedicated to such owner or other purchaser in the event of a default by Utah of such nature as would terminate either the Amended Coal Lease or the agreement for the supply of fuel to such owner or other purchaser. Such arrangement between Utah and such owner or other purchaser may consist of the grant by the Tribe and the Secretary of a new conditional coal mining lease to such owner or other purchaser on the same terms as the Amended Coal Lease, covering a dedicated area, such conditional coal mining lease to be effective at such time as the Amended Coal Lease or the agreement for supply of fuel may terminate due to Utah's default. Any such arrangement may include an equitable servitude and covenant running with the lessees' interest in the land. The Navajo Tribal Council further determines that the provisions of Title 18, Navajo Tribal Code, Section 223, regarding payment of a transfer fee have been satisfied with respect to any such arrangement guaranteeing a fuel reserve from the Amended Coal Lease for up

to 4600 MW of power generation, of which 2100 MW is in operation or under construction and 2500 MW may be constructed in the future.

8. The Navajo Tribal Council hereby delegates to the Advisory Committee of the Navajo Tribal Council full authority to act on behalf of the Navajo Tribe of Indians in all matters implementing, affecting or regarding the Amended Coal Lease and the Development Plan, all matters relating to the lease to the New Units Participants authorized by this resolution and the rights of way or easements mentioned herein to be granted by the Secretary, and all matters relating to arrangements for fuel reserves from the Amended Coal Lease for any generating units heretofore constructed, presently in the process of construction, or to be constructed in the future, including, but not limited to, any arrangements of the nature set forth in Resolved Paragraph 7 above, said authority delegated to the Advisory Committee to include, but not be limited to, authority to authorize officers of the Tribe to execute instruments, authority to approve amendments or other modifications of instruments, authority to give any consent on behalf of the Tribe and authority to do any act on behalf of the Tribe which the Advisory Committee may deem to be necessary or incidental to give full force and effect to this resolution.

#### CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Tribal 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 46 in favor and 0 opposed, this 28th day of May, 1969.

*Nelson Damon*  
Vice Chairman  
Navajo Tribal Council

## FOUR CORNERS

A. The right to occupy and use Reservation Lands in order to construct, reconstruct, install, operate, maintain, relocate and remove (1) diversion works including dams, wells, pipelines, facilities and structures for diverting water, on the stream bed of the San Juan River within the Reservation Lands, in addition to diversion works in the New Pumping Plant Site, in order to maintain diversion of water to the pumps installed on the New Pumping Plant Site, in event of change in the location of the stream bed of the San Juan River; (2) electric power and communication lines and facilities and access roads to the said new diversion works from other facilities of the lessees; and (3) pipelines, conduits and other structures and facilities which will conduct water from the San Juan River or from other sources to the Cooling Pond.

B. The right to construct, reconstruct, install, operate, maintain, relocate and remove waterlines across the Reservation Lands (in addition to those from the New Pumping Plant Site) for the purpose of transporting water for operation of the New Four Corners Generating Station, and the right of access thereto.

C. The right to construct, reconstruct, install, operate, maintain, relocate and remove a power line and a communication line from the New Plant Site to the New Pumping Plant Site.

D. The right to construct, reconstruct, install, improve, operate, maintain, relocate and remove a water pipeline and access road from the Cooling Pond to the New Pumping Plant Site.

E. The right to construct, reconstruct, improve, maintain and relocate an access road extending from the San Juan River bridge to the New Plant Site.

F. The right to construct, reconstruct, install, improve, operate, maintain, relocate and remove an access road, water pipelines and power and communication lines extending from the New Four Corners Generating Station area to the Utah Mining leased lands.

G. The right to store water in the Cooling Pond behind the dam located on the New Dam Site; to flood and utilize Reservation Lands to the extent that will be required to store the water in the Cooling Pond which can be contained behind the dam, to use and draw down the water from, and to fill, refill and empty the Cooling Pond, to fluctuate the level of the Cooling Pond, to take water from the Cooling Pond into

the New Four Corners Generating Station and to discharge the water back into the Cooling Pond at a higher temperature; to use the Cooling Pond in anyway required for operation of the New Four Corners Generating Station; to clean the Cooling Pond surface; to take any action that lessees may deem necessary for limiting or preventing undue seepage and for controlling, curtailing and removing debris, and weed, vegetable, marine, insect and animal growths; to have access to all of the Cooling Pond area for all of such previously described purposes; and to construct and maintain dikes and embankments to prevent flooding of roads. Insofar as the Dam and Cooling Pond will affect Reservation Lands subject to existing rights-of-way or mineral leases, to the extent the Tribe has the right to do so, the Tribe hereby leases to the lessees the right to construct and maintain said Dam and Cooling Pond and confers upon the lessees whatever rights the Tribe may have with respect to construction and maintenance of a dam and cooling pond affecting Reservation Lands which are subject to such rights-of-way or mineral leases.

H. The right to dispose of waste water on the Reservation Lands by permitting waste water from the New Four Corners Generating Station to flow from the New Ash Disposal Area into and along the Chaco Wash; the right to construct, reconstruct, install, operate, maintain, relocate and remove pipelines, sluice works and other facilities for transporting of ashes, refuse products and waste water, and roads, from the New Four Corners Generating Station to the New Ash Disposal Area; the right to dispose of and dump thereon ashes, refuse products and waste water from the New Four Corners Generating Station; the right to construct, reconstruct, install, operate, maintain, replace and remove roads, pipelines, sluice works, dikes, dams, canals, and other works and facilities for the storage and disposal of ashes, refuse products and waste water.

In addition, the lessees shall have the right, pursuant to agreement with Utah Mining, to have the ash and refuse products returned to the Utah Mining leased lands for disposal.

I. All access roads outside the leased lands will be subject to being used by members of the Tribe or its permittees in a normal manner not preventing the lessees from making normal use of the roads, provided, however, that the lessees are not obligated hereby to maintain such roads, except for maintenance made necessary by the use by the lessees of such roads.

In the event an access road shall be incorporated into the improved road system for the State of New Mexico or the Reservation Road System of the Bureau of Indian Affairs,

so as to become open for public use, the lessees will surrender their right-of-way and easement for such road.

For heavy haulage during periods of construction, reconstruction, use, operation, maintenance, relocation and removal of the New Four Corners Generating Station, in cases where use of the access roads hereinabove described is not practicable, the lessees shall have the right to reasonable access across the Reservation Lands to the leased lands.

EXHIBIT 9

List of Permanent Structures\*

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Administration Building

Warehouse

Machine Shop Building

Visitors' Building

Water Treatment Building

Automotive Maintenance Building

Electric Shop

Welding Shop

Coal Crusher Building

Roads

Fences

\*One or more of the structures could be combined in single building.

SALT RIVER PROJECT

RESOLUTION

WHEREAS, the Board of Directors of the Salt River Project Agricultural Improvement and Power District (herein called "Salt River Project") has determined that it is in Salt River Project's best interest to enter into various contracts relating to the construction, operation and maintenance of the proposed Navajo Project consisting of three 750 MW (nameplate rating) coal-fired steam electric generating units (herein called "Navajo Generating Station"), located on the Navajo Indian Reservation near Page, Arizona, and the related 500 KV transmission system (herein called "Navajo transmission system"), with ownership interests in the Navajo Generating Station to be as follows:

Arizona Public Service Co. (Arizona)	14.0%
City of Los Angeles, Department of Water and Power (Los Angeles)	21.2%
Nevada Power Company (Nevada)	11.3%
Salt River Project Agricultural Improvement and Power District (Salt River Project)	46.0%
Tucson Gas and Electric Company (Tucson)	7.5%

all of said entities referred to herein as the "Co-Owners," and

WHEREAS, Salt River Project shall own 21.7% of the Navajo Generating Station for its own use and benefit and shall own and hold the remaining 24.3% of its ownership interest in the Navajo Generating Station for the use and benefit of the United States, Department of Interior, Bureau of Reclamation for the United States' use to provide power and energy for Central Arizona Project pumping (the "United States" and the above listed companies being herein collectively called "Participants"), and

WHEREAS, the following described Agreements have been reviewed on this day with this Board and this Board has determined that it is in the best interest of Salt River Project to enter into said Agreements to effectuate the construction, operation and maintenance of the Navajo Project;

NOW, THEREFORE, BE IT HEREBY RESOLVED, That the Board of Directors of Salt River Project has and does hereby approve the Navajo Project Participation Agreement among the Participants, and has and does hereby empower and direct that the President or Vice President, and the

Secretary or Assistant Secretary, make, execute and deliver said Participation Agreement for, and on behalf of, the Salt River Project with such minor changes or omissions therein as management may make in the premises, and

BE IT HEREBY FURTHER RESOLVED that the Board of Directors of Salt River Project has and does hereby approve the Indenture of Lease for Navajo Units 1, 2 and 3, and has and does hereby empower and direct that the President or Vice President, and the Secretary or Assistant Secretary, make, execute, acknowledge and deliver said Indenture of Lease for Navajo Units 1, 2 and 3 for and on behalf of the Salt River Project with such minor changes or omissions therein as management may make in the premises, and

BE IT HEREBY FURTHER RESOLVED that the Board of Directors of Salt River Project has and does hereby approve that certain Federal Rights of Way, granted in conformity with the Act of February 15, 1901, between the Secretary of Interior and the Co-Owners as Grantees, and does hereby authorize, empower and direct that the President or Vice President, and the Secretary or Assistant Secretary, make, execute, acknowledge and deliver said Federal Rights of Way for, and on behalf of, Salt River Project with such minor changes or omissions therein as management may make in the premises, and this Board of Directors also authorizes, empowers and directs its officers and management to make and file an Application for Grant of Rights of Way under the Act of February 15, 1901, 31 Stat. 790, 43 U.S.C., §959, underlying any or all Project land rights, and to take and perform all necessary acts in making and filing such Application, and

BE IT HEREBY FURTHER RESOLVED that the Board of Directors of Salt River Project has and does hereby approve that certain Federal Rights of Way and Easements, granted in conformity of February 5, 1948, by and between the Secretary of Interior and Salt River Project and the other Co-Owners as Grantees and does hereby authorize, empower and direct that the President or Vice President, and the Secretary or Assistant Secretary, make, execute, acknowledge and deliver said Federal Rights of Way and Easements for, and on behalf of, the Salt River Project with such minor changes and omissions therein as management may make in the premises, and does hereby authorize, empower and direct its officers and management to make and file an Application for the Grant of Rights of Way and Easements under the Act of February 5, 1948, 62 Stat. 17, 25 U.S.C. §323, underlying any or all Project land rights, and to take and perform all necessary acts in making and filing such Application, and

BE IT HEREBY FURTHER RESOLVED that the Board of Directors of Salt River Project has and does hereby approve the Memorandum of Agreement

SALT RIVER PROJECT

providing for execution of Navajo Station Coal Supply Agreement among it, the other Co-Owners and Peabody Coal Company together with the Letter Agreement relating thereto which sets forth additional understandings and agreements concerning the Navajo Station Coal Supply Agreement, and has and does hereby authorize, empower and direct that the President or Vice President, and the Secretary or Assistant Secretary, make, execute, acknowledge and deliver said Memorandum of Agreement and said Letter of Understanding for and on behalf of the Salt River Project with such minor changes and omissions therein as management may make in the premises, and

BE IT HEREBY FURTHER RESOLVED that the Board of Directors of Salt River Project has and does hereby approve that certain Power Coordination Contract between the Co-Owners and the United States and has and does hereby authorize, empower and direct that the President or Vice President, and the Secretary or Assistant Secretary, make, execute and deliver said Power Coordination Contract for and on behalf of the Salt River Project with such minor changes and omissions therein as management may make in the premises, and

BE IT HEREBY FURTHER RESOLVED that the Board of Directors of Salt River Project has and does hereby approve the Principles of Interconnected Operation for the Navajo Project between the Co-Owners, the United States and the Southern California Edison Company (whether or not said Southern California Edison Company is party thereto), and does hereby authorize, empower and direct that the President or Vice President, and the Secretary or Assistant Secretary make, execute and deliver said Principles of Interconnected Operation for and on behalf of the Salt River Project with such minor changes and omissions therein as management may make in the premises, and

BE IT HEREBY FURTHER RESOLVED that the Board of Directors of Salt River Project has and does hereby approve that certain Contract for Interim Use of United States Entitlement in the Navajo Project (herein called "Layoff Contract") between it and the United States and does hereby authorize, empower and direct that the President or Vice President, and the Secretary or Assistant Secretary, make, execute and deliver said Layoff Contract for and on behalf of the Salt River Project with such minor changes and omissions therein as management may make in the premises, and

BE IT HEREBY FURTHER RESOLVED that the Board of Directors of Salt River Project has and does hereby approve that certain Memorandum Transmission Agreement between it, the other Participants, and the Southern California Edison Company, and has and does hereby authorize, empower and direct that the President or Vice President, and the Secretary or Assistant Secretary, make, execute and deliver said

SALT RIVER PROJECT

Memorandum Transmission Agreement for and on behalf of the Salt River Project with such minor changes and omissions therein as management may make in the premises, and

BE IT HEREBY FURTHER RESOLVED that the Board of Directors of Salt River Project has and does hereby approve that certain Agreement for Delivery of the United States Power and Energy for the McCullough Substation to the Mead Substation between it, the United States and the other Eldorado System Co-Owners (whether or not such entities become parties thereto), and has and does hereby authorize, empower and direct that the President or Vice President, and the Secretary or Assistant Secretary, make, execute and deliver said Agreement for and on behalf of the Salt River Project with such minor changes and omissions therein as management may make in the premises, and

BE IT HEREBY FURTHER RESOLVED that the Board of Directors of Salt River Project has and does hereby approve that certain Spinning Reserve Pooling Agreement between it, and the other Participants, excepting the City of Los Angeles, Department of Water and Power (whether or not all such other Participants become parties thereto), and has and does hereby authorize, empower and direct that the President or Vice President, and the Secretary or Assistant Secretary, make, execute and deliver said Spinning Reserve Fueling Agreement for and on behalf of the Salt River Project with such minor changes and omissions therein as management may make in the premises.

CERTIFICATE

I, F. E. Smith, the duly appointed, qualified and acting Secretary of the Salt River Project Agricultural Improvement and Power District, HEREBY CERTIFY that the foregoing is a true and complete copy of a resolution adopted by the Board of Directors of said District at a special meeting thereof duly held on the 25th day of August 1969, at which meeting a quorum was present and voted.

WITNESS my hand and seal of Salt River Project Agricultural Improvement and Power District this 19th day of November 1969.



F. E. Smith, Secretary

CERTIFICATE

I, Samuel P. Cowley, certify that I am the Secretary of the Nevada Power Company, a corporation named herein; that Harry Allen who signed the above contract on behalf of said corporation was then its President; that said contract was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.



Samuel P. Cowley, Secretary

TUCSON GAS & ELECTRIC COMPANY

Certified Copy of Resolutions  
Adopted by the Board of Directors

RESOLVED, that the proper officers of the Company be, and they hereby are authorized to enter into a Participation Agreement between the United States of America, Arizona Public Service Company, Department of Water and Power of the City of Los Angeles, Nevada Power Company, Salt River Project Agricultural Improvement and Power District and Tucson Gas & Electric Company for the ownership of the Navajo Project wherein Tucson Gas & Electric Company shall own an undivided 7-1/2% interest in the Navajo Generating Station and varying percentage interests in the transmission system. The Agreement shall be substantially in the form of the draft filed with the Secretary of the Company marked "Filed September 23, 1969 with the Secretary of Tucson Gas & Electric Company", and be it

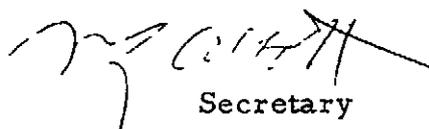
FURTHER RESOLVED, that the proper officers of the Company be, and they hereby are further authorized to execute and enter into on behalf of the Company the necessary Project Agreements contemplated by said Participation Agreement, and such other documents reasonably required to implement said Participation Agreement and Project Agreements.

\* \* \* \* \*

I, P. L. ABBOTT, Secretary of TUCSON GAS & ELECTRIC COMPANY (hereinafter called the "Company"), DO HEREBY CERTIFY that the above and foregoing is a true and complete copy of resolutions duly adopted by the Board of Directors at the Regular Monthly Meeting held on the 23rd day of September, 1969, at which meeting a quorum was present and acted thereon; and

I DO FURTHER CERTIFY that said resolution is in full force and effect on the date hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Company this 29th day of September, 1969.

  
Secretary

CERTIFICATE

I, GERALD J. GRIFFIN, certify that I am an Assistant Secretary of ARIZONA PUBLIC SERVICE COMPANY, the corporation named herein; that M. C. TITUS, who signed the above contract on behalf of said Corporation was then its Executive Vice President; that said contract was duly signed for and in behalf of said Corporation by authority of its governing body and is within the scope of its corporate powers.



*Gerald J. Griffin*  
Assistant Secretary

RESOLUTION OF THE  
NAVAJO TRIBAL COUNCIL

Authorizing Lease with Arizona Public Service Company, Tucson Gas and Electric Company, Salt River Project Agricultural Improvement and Power District, San Diego Gas and Electric Company, the Department of Water and Power of the City of Los Angeles, Nevada Power Company, or any of them, and possibly other entities; and other matters

WHEREAS:

1. It is proposed that a steam electric generating station having a generating capacity of up to 2500 MW, (name-plate rating), (hereinafter referred to as the "Navajo Generating Station") be constructed on the Navajo Indian Reservation near Page, Arizona, such steam electric generating station to be owned by some or all of the following: Arizona Public Service Company, Tucson Gas and Electric Company, Salt River Project Agricultural Improvement and Power District, San Diego Gas & Electric Company, the Department of Water and Power of the City of Los Angeles, Nevada Power Company, and possibly other entities (hereinafter referred to as the "Participants") and with the United States to have an entitlement for part of the capacity of said Navajo Generating Station, and

2. Arizona Public Service Company has proposed to enter into an agreement with the Navajo Tribe of Indians (hereinafter referred to as the "Tribe") whereby Arizona Public Service Company would make available to the Tribe certain entitlement in the Navajo Generating Station upon certain terms and conditions, and

3. On February 1, 1964, a certain mining lease, being Contract No. 14-20-0603-8580, was entered into by the Tribe, as "lessor", and Sentry Royalty Company, a Nevada corporation (hereinafter referred to as "Sentry"), as "lessee", which mining lease is now of record in the official records of the office of the County Recorder of Navajo County, Arizona, in Docket Book 259 at pages 413-443, and

4. On June 6, 1966, a certain mining lease, being Contract No. 12-20-0603-9910, was entered into by the Tribe as "lessor" and Sentry as "lessee", which mining lease is now of record in the official records of the Office of County Recorder of Navajo County, Arizona, in Docket Book 259 at pages 349-384,

5. Said mining lease dated February 1, 1964, was amended by an amendatory agreement dated April 1, 1964, whereby Article XXIX of the lease of February 1, 1964, referring to a deposit required by Sentry for estimated damages was deleted and an amended Article XXIX was substituted in lieu thereof, which amended article provided that Sentry would maintain a damage deposit, with a minimum balance of \$5,000.00, with the General Superintendent of the Navajo Agency, and

6. The aforesaid mining leases, as amended, have been assigned from Sentry to Peabody Coal Company, an Illinois corporation, which in turn sold and assigned said mining leases to Peabody Coal Company, a Delaware corporation (hereinafter referred to as Peabody-Delaware). These assignments have been approved by the Tribe, by resolution of the Advisory Committee of the Navajo Tribal Council, Number ACJA-5-68, enacted January 8, 1968, and

7. The agreement providing for sale of coal from Peabody-Delaware to the Participants may provide for an arrangement between Peabody-Delaware and the Participants whereby the Participants will be entitled to succeed to the rights and assume the obligations of Peabody-Delaware under said mining leases, and

8. It is in the best interest of the Tribe that it approve the leasing to the Participants of a plant site, and ash disposal area for the Navajo Generating Station and that it consent to the grant by the Secretary pursuant to Title 25, USC, Section 323, or other appropriate authority, of rights of way to the Participants, or their designees, for the construction, use, operation, maintenance, relocation and removal of the Navajo Generating Station and all facilities related thereto, including but not limited to, transmission lines, communication facilities and fuel transportation facilities. The payments for said rights-of-way and for rights-of-way to be granted in connection with the new generating units to be constructed near the existing Four Corners Power Plant will, within 15 years of the effective date of the plant site lease for the Navajo Generating Station, amount to a total of approximately \$500,000.00.

NOW THEREFORE BE IT RESOLVED THAT

1. The Navajo Tribal Council hereby authorizes the Advisory Committee of the Navajo Tribal Council to approve a lease to Arizona Public Service Company, Tucson Gas and Electric Company, Salt River Project Agricultural Improvement and Power District, San Diego Gas and Electric Company, the Department of Water and Power of the City of Los Angeles, Nevada Power Company or any of them, and such other entities as may be approved by the Participants, upon the following terms and conditions

(a) The term of the lease shall be for a period of fifty (50) years with an option to extend the term for a period of up to an additional twenty-five (25) years;

(b) The property to be leased shall consist of approximately 1021 acres for the proposed plant site and approximately 765 acres for an ash disposal area, the exact location of both areas to be approved by the Advisory Committee.

(c) The rental for such lease shall be as follows: \$160,000.00 per year, payable annually.

(d) The total sum of \$100,000 00 shall be paid by the Participants to the Tribe as and for both of the following:

(1) Any transfer fee which may be owing to the Tribe because of any proposed arrangement referred to in Resolved Paragraphs 6 and 7 of this resolution insofar as any such arrangement relates to fuel supply for up to 2500 MW of generation; and

(2) Any transfer fee which may be owing to the Tribe because of any proposed arrangement entitling the buyers of coal from the Amended Coal Lease of Utah Construction and Mining Company to succeed to said company's rights and obligations thereunder insofar as any such arrangement relates to fuel supply for up to 4600 MW of generation of which 2100 MW is in operation or under construction and 2500 MW may be constructed in the future.

(e) Said lease shall contain a grant to lessees of rights which are auxiliary and related to the use and occupancy of said premises by lessees, which rights may include but not be limited to, rights similar to those set forth in Exhibit A, attached hereto.

(f) Such other terms as the Advisory Committee deems to be in the best interest of the Navajo Tribe.

2. The Navajo Tribal Council hereby authorizes the Advisory Committee of the Navajo Tribal Council to approve a Wholesale Power Supply Agreement with Arizona Public Service

Company in the following principal respects together with any amendments thereto deemed by the said Advisory Committee to be in the best interest of the Navajo Tribe.

(a) The Navajo Tribe shall be entitled to receive, under the terms of the Wholesale Power Supply Agreement in relation to the Navajo Generating Station, 5,000 kilowatts per unit plus one-eighth (1/8) per unit of Arizona Public Service Company's entitlement in the Navajo Generating Station;

(b) This entitlement shall be subject to terms and conditions substantially similar to those contained in the Wholesale Power Supply Agreement between Arizona Public Service Company and the Tribe, dated December 1, 1960, as it has been amended and supplemented.

(c) Resolved Paragraph 2(d) of Resolution CD-108-68 required that Salt River Project Agricultural Improvement and Power District shall enter into an agreement with the Tribe to provide electrical power to the Navajo Tribal Utility Authority to be used on or near the Navajo Reservation. The execution of the Wholesale Power Supply Agreement between the Tribe and Arizona Public Service Company provided for herein shall discharge any and all obligations of Salt River Project Agricultural Improvement and Power District arising from said Resolved Paragraph 2(d) of Resolution CD-108-68.

3. The Navajo Tribal Council hereby consents to the grant by the Secretary of the Interior pursuant to Title 25, USC, Section 323 or other appropriate authority, of rights-of-way to Arizona Public Service Company, Tucson Gas and Electric Company, Salt River Project Agricultural Improvement and Power District, San Diego Gas and Electric Company, the Department of Water and Power of the City of Los Angeles, Nevada Power Company, or any of them, and/or such other as said grantees may approve, for the construction, use, operation, maintenance, relocation and removal of the Navajo Generating Station and all facilities related thereto, including, but not limited to ash disposal area, transmission lines, communication facilities and fuel transportation facilities with said rights-of-way being cumulative, additional and supplementary to and separate and independent from and not conditioned upon the leasehold rights leased to said companies under the lease authorized hereby. The terms and conditions of said grant of rights-of-way and easements to be first approved by the Advisory Committee of the Navajo Tribal Council.

4. The Navajo Tribal Council hereby confirms that the aforesaid mining leases, being Contract No 14-20-0603-8580,

dated February 1, 1964, as amended by amendatory agreement dated April 1, 1964, and Contract No. 14-20-0603-9910, dated June 6, 1966, were validly issued.

5. The series of assignments referred to in recital paragraph 6 above are approved and confirmed and the Navajo Tribal Council hereby determines that the provisions of Title 18, Section 223, of the Navajo Tribal Code have been fully satisfied.

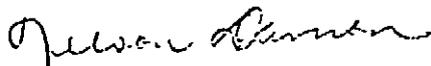
6. The Navajo Tribal Council hereby authorizes the Advisory Committee of the Navajo Tribal Council to approve and consent to any arrangement between Peabody-Delaware and the Participants for any generating units up to 2500 MW of generation to be constructed in the future, which generating units are to be fueled from the mining leases referred to in recital paragraphs 3 and 4 above, which would dedicate a fuel reserve to the Participants and would permit the Participants to succeed to Peabody-Delaware's rights and obligations under said mining leases with respect to the area dedicated to the Participants in the event of a default by Peabody-Delaware of such nature as would terminate said mining leases or the agreement for the supply of fuel to the Participants. Such arrangement between Peabody-Delaware and the Participants may consist of the grant by the Tribe and the Secretary of a new conditional coal mining lease or leases to the Participants on the same terms as said coal mining leases covering a dedicated area, such conditional coal mining leases to be effective at such time as said coal mining leases or the agreement for supply of fuel may terminate due to Peabody-Delaware's default. And any such arrangement may include an equitable servitude and covenant running with the lessees' interest in the land in connection with any such arrangement. The Navajo Tribal Council further determines that the provisions of Title 18, Navajo Tribal Code, Section 223, regarding payment of a transfer fee have been satisfied with respect to any arrangement assuring a fuel reserve from said coal mining leases for the Participants.

7. The Navajo Tribal Council hereby delegates to the Advisory Committee of the Navajo Tribal Council full authority to act on behalf of the Navajo Tribe of Indians in all matters implementing, affecting or regarding the mining lease referred to in recital paragraphs 3 and 4 above (being Contract No. 14-20-0603-8580 and Contract No. 12-20-0603-9910), the lease authorized by this resolution and the rights-of-way or easements mentioned in Resolved Paragraph 3 above to be granted by the Secretary and any matters relating to any arrangement between Peabody-Delaware and the Participants referred to in Resolved Paragraph 6 above, said authority to include, but not be limited to, authority to authorize officers of the Tribe to execute instruments, authority to approve

amendments or other modifications when agreed upon by all parties, authority to give any consent on behalf of the Tribe and authority to do any act on behalf of the Tribe which the Advisory Committee may deem to be necessary or desirable to give full force and effect to this resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Tribal 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 46 in favor and 0 opposed, this 27th day of May, 1969.



Vice Chairman  
Navajo Tribal Council

NAVAJO GENERATING STATION

A. The right to occupy and use Reservation Lands in order to construct, reconstruct, install, operate, maintain, relocate and remove (1) electric power and communication lines and facilities and access roads to the Pumping Plant Site from other facilities of the Lessees; (2) pipelines, conduits and other structures and facilities which will conduct water from Pumping Plant Site or from other sources to the Plant Site; and (3) pipelines, conduits and other structures and facilities to conduct water from the Plant Site to Lake Powell

B. The right to construct, reconstruct, install, operate, maintain, relocate and remove waterlines across the Reservation Lands (In addition to those from the Pumping Plant Site) for the purpose of transporting water for construction, reconstruction, operation and maintenance of the Navajo Generating Station and the right of access thereto.

C. The right to construct, reconstruct, install, operate, maintain, relocate and remove power lines and communication lines from the Plant Site to the Pumping Plant Site.

D. The right to construct, reconstruct, improve, maintain and relocate an access road to the Plant Site.

E. The right to construct, reconstruct, install, improve, operate, maintain, relocate and remove power and communication lines extending from the Plant Site to the Peabody Leased Lands.

F. The right to dispose of waste water on the Reservation Lands by permitting waste water from the Navajo Generating Station to flow from the Ash Disposal Area; the right to construct, reconstruct, install, operate, maintain, relocate and remove roads, pipelines, sluice works and other facilities for transporting of ashes, refuse products and waste water, from the Plant Site to the Ash Disposal Area. The right to dispose of and dump thereon ashes, refuse products and waste water from the Navajo Generating Station; the right to construct, reconstruct, install, operate, maintain, replace and remove roads, pipelines, sluice works, dikes, dams, canals, and other works and facilities for the storage and disposal of ashes, refuse products and waste water. Lessees will install such dikes, dams, settling basins, or other facilities as are reasonably necessary to retain said ashes in the Ash Disposal Area. Appropriate and standard tests for determining the presence of contaminants in the waste water will be conducted by Lessees under the Lease and reasonable steps will be taken by them to reduce such contaminants to an acceptable minimum. In addition,

the Lessees shall have the right, pursuant to agreement with Peabody, to have the ash and refuse products returned to the Peabody Leased Lands for disposal

G. All access roads outside the Leased Lands will be subject to being used by members of the Tribe or its permittees in a normal manner not preventing the Lessees from making normal use of the roads; provided, however, that the Lessees are not obligated hereby to maintain such roads, except for maintenance made necessary by the use by the Lessees of such roads.

H. The right to construct, reconstruct, install, improve, operate, maintain, relocate and remove conveyors, rail loading and unloading facilities, railroad line or slurry pipeline and slurry preparation plants, to the Plant Site together with the right to store coal on the Peabody Leased Lands. Such right may be transferred and assigned without further consent of the Tribe to Peabody or to any third party obligated to transport fuel from the Peabody Leased Lands to the Plant Site.

In the event an access road shall be incorporated into the improved road system for the State of Arizona or the reservation road system of the Bureau of Indian Affairs, so as to become open for public use, the Lessees will surrender their right-of-way and easement for such road.

For heavy haulage during periods of construction, reconstruction, use, operation, maintenance, relocation and removal of the Navajo Plant, in cases where use of the access roads hereinabove described is not practicable, the Lessees shall have the right to reasonable access across the Reservation Lands to the Leased Lands.

RESOLUTION OF THE ADVISORY COMMITTEE  
OF THE NAVAJO TRIBAL COUNCIL

Approving the Terms and Conditions of the Lease for the Navajo Generation Station, and Consenting on Behalf of the Navajo Tribe to the Terms and Conditions of the § 323 Grant

WHEREAS:

1. On May 27, 1969, the Navajo Tribal Council, by Resolution CMY-45-69, delegated to the Advisory Committee of the Navajo Tribal Council the authority to prescribe and approve the terms and conditions of the Navajo Generation Station Lease, and

2. By the same resolution the Navajo Tribal Council authorized the Advisory Committee to consent to the terms and conditions of the grant of rights of way and easements by the Secretary of the Interior to the leased lands (§ 323 grant), and

3. The proposed Lease complies in all ways with the terms prescribed by the Tribal Council in Resolution CMY-45-69.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Advisory Committee of the Navajo Tribal Council has reviewed and approves the terms and conditions of the proposed lease for the Navajo Generation Station as presented to the Advisory Committee on this date.

2. The Advisory Committee of the Navajo Tribal Council consents to the grant by the Secretary of the Interior of the § 323 grant and to the terms and conditions of the grant, a true copy of which is attached and by this reference made a part of this resolution.

3. In accepting this lease and consenting to the terms and conditions of the § 323 grant, the Advisory Committee accepts and relies upon the Lessees' assurances that Lessees shall maintain and preserve a "buffer zone" around the Ash Disposal Area and the Plant Site, and that Lessees shall compensate any Navajos living in this "buffer zone" for damages to their land use potential and living environment arising from Lessees' operations. The Navajo Tribe, in recognition of this "buffer zone", shall not grant homesite leases or any other occupancy permits for any area within the "buffer zone" for the duration of the lease.

4. The Advisory Committee consents to the grant by the Secretary of the § 323 grant rights-of-way and easements for the facilities described in §§ 5(a) and 5(b) of the lease, subject to the terms and conditions of § 5(c) thereof.

5. The Chairman of the Navajo Tribal Council is hereby authorized to execute the above-mentioned lease on behalf of the Navajo Tribe, and to execute any other papers or documents required to be executed by the Navajo Tribe in connection with the aforementioned lease.

#### CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Advisory Committee of the Navajo Tribal 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 16 in favor and 0 opposed, this 4th day of September, 1969.

  
Vice Chairman  
Navajo Tribal Council

**Ordinance No. 139,629**

**AN ORDINANCE APPROVING AGREEMENTS RELATING TO PARTICIPATION BY THE DEPARTMENT OF WATER AND POWER IN THE NAVAJO PROJECT**

**THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS**

Section 1 That the Board of Water and Power Commissioners of The City of Los Angeles be and it is hereby authorized in its discretion to execute and enter into the following agreements substantially in the form of those which are on file with the City Clerk and identified below, relating to the transmission and use of electrical power and energy associated with the Navajo Project:

AGREEMENT TITLE	DWP NUMBER
Interim Arrangement for Interconnected Operations	10310
Contract with Department of Water and Power of The City of Los Angeles for Interim Sale of United States' Lignite	10311
Memorandum Transmission Agreement	10342
Victorville-Lugo Interconnection Agreement	10343
Letter Agreement	10350

Sec 2 The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles

I hereby certify that the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles of November 10, 1969 and was passed at its meeting of November 17, 1969

REX E LAYTON City Clerk,  
By M. B. Wilson, Deputy

Approved November 18, 1969  
File No 147173 Sup #1

(E54726) Nov 19 1t

SAM YORTY, Mayor

**CERTIFICATION**

STATE OF CALIFORNIA, }  
COUNTY OF LOS ANGELES, } ss

I, REX E LAYTON, City Clerk of the City of Los Angeles and ex-officio Clerk of the City Council of the City of Los Angeles, do hereby certify and attest the foregoing to be a full, true and correct copy of the original Ordinance No. 139,629 of the City of Los Angeles.

on file in my office, and that I have carefully compared the same with the original

In Witness Whereof, I have hereunto set my hand and affixed the Seal of the City of Los Angeles, this 19th day of November, 1969

*Rex E Layton*  
City Clerk of the City of Los Angeles

By *[Signature]*  
Deputy

Ordinance No. 139,630

AN ORDINANCE APPROVING AGREEMENTS RELATING TO PARTICIPATION BY THE DEPARTMENT OF WATER AND POWER IN THE NAVAJO PROJECT

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS

Section 1. That the Board of Water and Power Commissioners of The City of Los Angeles be and it is hereby authorized in its discretion, to execute and enter into the following agreements, substantially in the form of those which are on file with the City Clerk and identified below, relating to the construction, ownership, operation and maintenance of facilities for generation of electrical power and energy and related facilities, including fuel supply

AGREEMENT TITLE	DWP NUMBER
Navajo Project Participation Agreement	10324
Memorandum of Agreement Providing for Execution of Navajo Station Coal Supply Agreement	10325
Letter Agreement	10326
Application for Federal Rights-of-Way and Easements	10327
Grant of Federal Rights-of-Way and Easements	10318
United States, Department of the Interior, Power Coordination Contract	10319
Indenture of Lease	10344

Sec. 2 - The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles, of November 10, 1969 and was passed at its meeting of November 17, 1969.

REX E. LAYTON, City Clerk.  
By M. E. Wilson, Deputy.

Approved November 18, 1969  
File No. 14217a

SAM YORTY, Mayor.

(E54727) Nov 19 11

CERTIFICATION

STATE OF CALIFORNIA, }  
COUNTY OF LOS ANGELES, } ss

I, REX E. LAYTON, City Clerk of the City of Los Angeles and ex-officio Clerk of the City Council of the City of Los Angeles, do hereby certify and attest the foregoing to be a full, true and correct copy of the original Ordinance No. 139,630 of the City of Los Angeles,

on file in my office, and that I have carefully compared the same with the original

In Witness Whereof, I have hereunto set my hand and affixed  
the Seal of the City of Los Angeles, this 19th day  
of November, 1969

*Rex E. Layton*  
City Clerk of the City of Los Angeles

By *F. V. Kennedy*  
Deputy

RESOLUTION NO. **416**

BE IT RESOLVED by the Board of Water and Power Commissioners of The City of Los Angeles that the President and the Secretary of this Board be and they are hereby authorized to execute, on behalf of this Board, certain agreements relating to the construction, ownership, operation and maintenance of facilities for the generation of electrical power and energy and related facilities, including fuel supply, copies of which agreements are on file with the Secretary of this Board and which are identified as follows, that is:

Agreement Title	<u>DWP Number</u>
Navajo Project Participation Agreement	10334
Memorandum of Agreement Providing for Execution of Navajo Station Coal Supply Agreement	10335
Letter Agreement	10336
Application for Federal Rights-of-Way and Easements	10337
Application and Grant of Rights-of-Way and Easements (25 U.S.C. §323)	10338
United States, Department of the Interior, Power Coordination Contract	10339
Interim Arrangement for Interconnected Operations	10340
Contract with Department of Water and Power of The City of Los Angeles for Interim Sale of United States' Entitlement of Navajo Project	10341
Memorandum Transmission Agreement	10342
Victorville-Lugo Interconnection Agreement	10343

Agreement Title (Continued)	<u>DWP Number</u>
Indenture of Lease	10344
Letter Agreement	10350

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of a resolution adopted by the Board of Water and Power Commissioners of The City of Los Angeles at its meeting held NOV 20 1969



Secretary

RESOLUTION OF THE ADVISORY COMMITTEE  
OF THE NAVAJO TRIBAL COUNCIL

Approving the Additions to Terms and Conditions  
of the Lease for the Navajo Generation Station

WHEREAS:

1. On May 27, 1969, the Navajo Tribal Council, by Resolution CMY-45-69, delegated to the Advisory Committee of the Navajo Tribal Council the authority to prescribe and approve the terms and conditions of the Navajo Generation Station Lease, and

2. By the same resolution the Navajo Tribal Council authorized the Advisory Committee to consent to the terms and conditions of the grant of rights-of-way and easements by the Secretary of the Interior to the leased lands (§ 323 grant),

3. Pursuant to Section (1) of the Indenture Lease, dated September 24, 1969, referred to in Resolution No. ACS-213-69, the final surveys of the Plant Site, Ash Disposal Area, the Rail Loading Site and the Pumping Plant Site, and the adjacent roads and rights-of-way shall be subject to the approval of the Advisory Committee as to precise location.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Advisory Committee of the Navajo Tribal Council has reviewed and approved the surveys to be attached as Exhibits 2 through 4 of the Indenture of Lease and has consented to the substitution of said Exhibits in place of the presently attached Exhibits 2 through 4.

2. Except for the above revisions to Exhibits, all of the terms and conditions of the Indenture of Lease shall remain the same.

3. The Advisory Committee has further reviewed and approved the surveys to be attached to the Application for a § 323 Grant as Exhibits A and B.

4. The Chairman of the Navajo Tribal Council is hereby authorized to recommend the approval of the above-mentioned lease by the Secretary of Interior and to execute any papers or documents required to be executed by the Navajo Tribe in connection with the aforementioned lease.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Advisory Committee of the Navajo Tribal 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 11 in favor and 0 opposed, this 24th day of November, 1969.

/s/ Nelson Damon

Vice Chairman  
Navajo Tribal Council