

**Red Cedar Gathering Company**  
**Carbon (CO2) Sequestration Pipeline Project: 401 Water Quality Certification**

**Note: The Southern Ute Indian Tribe's Environmental Programs Division's (EPD) public comment period for this project will occur from 7/7 – 7/28. EPD is reviewing all project materials and will post a draft decision letter for the public comment period at a later date.**

**On May 31, 2022, Pre-Filing Meeting Request Received by Southern Ute Indian Tribe's Environmental Programs**

**From:** Cusick, Brendan <[bcusick@sugf.com](mailto:bcusick@sugf.com)>

**Sent:** Tuesday, May 31, 2022 11:13 AM

**To:** Seebach, Jeffrey <[jseebach@southernute-nsn.gov](mailto:jseebach@southernute-nsn.gov)>; Ott, Toney <[Ott.Toney@epa.gov](mailto:Ott.Toney@epa.gov)>

**Cc:** 'kara.A.Hellige@usace.army.mil' <[kara.A.Hellige@usace.army.mil](mailto:kara.A.Hellige@usace.army.mil)>; Kerriane Zdimal <[kerri@sme-env.com](mailto:kerri@sme-env.com)>; Young, Andy <[anyoung@sugf.com](mailto:anyoung@sugf.com)>; Mora, Edward <[emora@redcedargathering.com](mailto:emora@redcedargathering.com)>; Jefferson, Dan <[DJefferson@redcedargathering.com](mailto:DJefferson@redcedargathering.com)>

**Subject:** Red Cedar Gathering- CO2 Sequestration Pipeline 401 Water Quality Certification Pre-filing

Good morning Toney and Jeff,

This email is notification of a pre-filing for Red Cedar Gathering Companies proposed CO2 Sequestration pipeline project for 401 water quality certification. This proposed pipeline will sequester and transport produced carbon dioxide from Red Cedar's Arkansas Loop and Simpson Gas Treatment facilities to an existing CO2 gathering system in New Mexico. The proposed pipeline is approximately 23 miles in length and will cross the Animas River and adjacent wetlands on Southern Ute Tribal Trust and private lands, the Florida River on private lands as well as a series of named and unnamed ephemeral drainages all within the Southern Ute Indian Reservation, La Plata County, Colorado and private fee lands within San Juan County, New Mexico.

Red Cedar Gathering plans to construct this pipeline during low flow (fall to early winter) for the Animas and Florida River crossings, which will be completed by flume and open trench methods. Currently we are completing environmental surveys for the proposed project and once complete, proceed with submitting a 401 water quality certification request and Pre-construction Notification to the U.S. Army Corps of Engineers for the use of Nationwide Permit 12.

Please let me know if you have any questions on the proposed project at this time.

Regards,  
Brendan



**Brendan Cusick, CPESC, CISEC**

*Sr. Environmental, Health and Safety Specialist*

SOUTHERN UTE INDIAN TRIBE GROWTH FUND  
SAFETY & ENVIRONMENTAL COMPLIANCE MANAGEMENT GROUP  
65 MERCADO STREET SUITE 260  
DURANGO, CO 81301

OFFICE / MOBILE PHONE: 970.764.6488

[www.sugf.com](http://www.sugf.com)

## On June 28, 2023, 401 Certification Request Received by Southern Ute Indian Tribe's Environmental Programs

**From:** Blanchard, Amanda <[ablanchard@sugf.com](mailto:ablanchard@sugf.com)>

**Sent:** Wednesday, June 28, 2023 3:54 PM

**To:** [R8CWA401@epa.gov](mailto:R8CWA401@epa.gov); Water Quality Standards <[wqs@southernute-nsn.gov](mailto:wqs@southernute-nsn.gov)>; SPA-RD-CO <[SPA-RD-CO@usace.army.mil](mailto:SPA-RD-CO@usace.army.mil)>

**Cc:** [blair.aaronm@epa.gov](mailto:blair.aaronm@epa.gov); Zdimal-Quarles, Kerriane L CIV USARMY CESA (USA) <[Kerriane.L.Zdimal-Quarles@usace.army.mil](mailto:Kerriane.L.Zdimal-Quarles@usace.army.mil)>; Eskelson, Mandy <[meskelson@southernute-nsn.gov](mailto:meskelson@southernute-nsn.gov)>; Young, Andy <[anyoung@sugf.com](mailto:anyoung@sugf.com)>; Zabka, Matthew <[mzabka@sugf.com](mailto:mzabka@sugf.com)>; Jefferson, Dan <[DJefferson@redcedargathering.com](mailto:DJefferson@redcedargathering.com)>; Mora, Edward <[emora@redcedargathering.com](mailto:emora@redcedargathering.com)>

**Subject:** [URL Verdict: Neutral][Non-DoD Source] Pre Construction Notification for Red Cedar Gathering Company's Carbon Sequestration Pipeline Project

Good Afternoon,

Please see the attached Pre Construction Notification for a §404 Nationwide Permit 12 Verification request and §401 Water Quality Certification request for the project referenced above. The project would install one 8-inch Carbon Dioxide (CO<sub>2</sub>) pipeline, operated by Red Cedar Gathering to capture CO<sub>2</sub> from existing natural gas treating plants, compress and transport the gas to an existing sequestration system. The trench will cross via open cut the Animas and Florida Rivers, two wetland complexes, and six ephemeral drainages located on Fee and Southern Ute Tribal Trust lands within La Plata County, Colorado, and within an existing pipeline right of way corridor. Project details are contained in the attached PCN.

Please note some of the appendices of the PCN are large and exceed the 40Mb limit for the ACOE and therefore are not attached. Please send a link to upload these attachments.

Thank you,  
Amanda



**Amanda Blanchard**

*Environmental Manager*

*Southern Ute Indian Tribe Growth Fund*

**Phone:** 970-764-6494

**Cell:** 970-553-0217

**Email:** [ablanchard@sugf.com](mailto:ablanchard@sugf.com)

Safety & Environmental Compliance Management Group  
65 Mercado Street Suite 260  
Durango, CO 81301

**On June 30, 2023: U.S. Army Corps of Engineers Established Reasonable Period of Time (by August 28, 2023)**

**From:** Zdimal-Quarles, Kerriane L CIV USARMY CESPA (USA)

**Sent:** Friday, June 30, 2023 11:04 AM

**To:** Water Quality Standards <[wqs@southernute-nsn.gov](mailto:wqs@southernute-nsn.gov)>; [R8CWA401@epa.gov](mailto:R8CWA401@epa.gov)

**Cc:** [blair.aaronm@epa.gov](mailto:blair.aaronm@epa.gov); Eskelson, Mandy <[meskelson@southernute-nsn.gov](mailto:meskelson@southernute-nsn.gov)>; Young, Andy <[anyoung@sugf.com](mailto:anyoung@sugf.com)>; Zabka, Matthew <[mzabka@sugf.com](mailto:mzabka@sugf.com)>; Jefferson, Dan <[DJefferson@redcedargathering.com](mailto:DJefferson@redcedargathering.com)>; Mora, Edward <[emora@redcedargathering.com](mailto:emora@redcedargathering.com)>; Blanchard, Amanda <[ablanchard@sugf.com](mailto:ablanchard@sugf.com)>

**Subject:** Reasonable Period of Time for Red Cedar Gathering Company's Carbon Sequestration Pipeline Project (SPA-2023-330)

Good Morning,

In accordance with 40 CFR 121.6(b), we are writing to establish the reasonable period of time for the water quality certification under Section 401 of the Clean Water Act for the Black Bear Produced Waterline project. The project site is located within the Southern Ute Reservation, at approximately Latitude 37.054785°, Longitude -107.784996°, La Plata County, Colorado. The project would be constructed on tribal trust and fee lands. The proposed pipeline alignment crosses two perennial streams, six distinct ephemeral stream channels, and two wetland complexes.

On June 28, 2023, we received notice that a certification request was submitted by the project proponent to the Southern Ute Indian Tribe Environmental Programs Division and Region 8 U.S. Environmental Protection Agency. Table 1 of the referenced PCN identifies that Region 8 U.S. Environmental Protection Agency is the Certifying Authority for crossings 1a, 1b, 1c, 2, 3 and 5b, and that Southern Ute Indian Tribe Environmental Programs Division is the Certifying Authority for crossings 4, 5a, 6, 7, 8, 9a and 9b.

We have determined the reasonable period of time to grant, deny, or expressly waive certification for the project is 60 days. Water certification will be considered waived if you do not act on the certification request by **August 28, 2023**. Please refer to identification number SPA-2023-00330 in any correspondence concerning this project. If you have any questions, please contact me at the Southern Colorado Regulatory Branch, at 1970 East 3rd Avenue, Suite 109, Durango, Colorado 81301, by email, or telephone at 970-259-1764 ext. 1.

Respectfully,  
kz

**Kerriane Zdimal**  
Regulatory Specialist  
US Army Corps of Engineers  
Albuquerque District - Southern Colorado Branch



**SOUTHERN UTE INDIAN TRIBE**  
GROWTH FUND  
**SAFETY & ENVIRONMENTAL COMPLIANCE**  
**MANAGEMENT GROUP**

June 28, 2023

US Army Corps of Engineers  
Durango Regulatory Field Office  
1970 E. 3<sup>rd</sup> Ave, #109  
Durango, CO 81301

***RE: Pre-construction Notification under Nationwide Permit 12 for the construction of Red Cedar Gathering Company's proposed CO2 Sequestration Pipeline project. The project would be constructed through nine aquatic resources within the Southern Ute Reservation Boundary, La Plata County Colorado.***

**Applicant:**

Red Cedar Gathering Company  
125 Mercado Street, Suite 201  
Durango, CO 81301

Dan Jefferson  
(970) 764-6972  
djefferson@redcedargathering.com

To whom it may concern,

This letter serves as a pre-construction notification (PCN) by Red Cedar Gathering Company (Red Cedar) for the proposed construction of the Carbon Dioxide Sequestration pipeline project for temporary impacts associated with pipeline installation across the Animas and Florida Rivers, two wetland complexes and six distinct ephemeral drainages. Red Cedar is requesting §404 Nationwide Permit 12 Verification from the Army Corps of Engineers and a §401 Water Quality Certification from the Southern Ute Indian Tribe (SUIT) Environmental Programs Division (EPD). The proposed pipeline alignment is located within the exterior boundaries of the Southern Ute Indian Reservation (SUIR) beginning at the Arkansas Loop/Simpson Gas Treating Facility in the southwest quarter of Section 36, T33N, R9W, N.M.P.M. La Plata County CO, and terminates at station at the existing Arkansas loop natural gas treatment facility located in the SW quarter of Section 17, T32N, R11W, NMPPM. The project would be constructed on tribal trust and fee lands. The Bureau of Indian Affairs (BIA) is the lead agency approving the Grant of Easement for a pipeline Right-of-Way (ROW), and therefore also the lead agency responsible for National Historic Preservation Act (NHPA) Section 106 compliance and Endangered Species Act Section 7 consultation with the U.S. Fish and Wildlife Service.

As mentioned, the proposed pipeline alignment crosses six distinct ephemeral stream channels and two wetland complexes that meet the 2023 revised definition of *Waters of the U.S.*, as well as two perennial *Waters of the U.S.* to include the Animas River within Section 30, Township 33 North, Range 9 West and the Florida River within Section 29, Township 33 North, Range 9 West.

Specific *Waters of the U.S.* to be impacted by the proposed action are defined in Table 1. A Vicinity Map showing the project location is found in Appendix A and plan view maps displaying the location of each of the *Waters of the U.S.* crossings are found in Appendix A of the Aquatic Resources Delineation Report



**SOUTHERN UTE INDIAN TRIBE**  
**GROWTH FUND**  
**SAFETY & ENVIRONMENTAL COMPLIANCE**  
**MANAGEMENT GROUP**

(Appendix C). Appendix A of this PCN also contains cross-sectional views and pipeline alignment through the perennial waters. In addition, a photo log of each *Waters of the U.S.* crossing can be found in Appendix B.

Table 1. Waters of the United States in the CO2 Sequestration Pipeline Project Area<sup>1</sup>

ID	Waters of the U.S.	Location (Latitude/Longitude) Station	Location (Section, Township, Range)	Surface Type & Certifying Authority	Construction Method
1a	Gaines Canyon (Ephemeral/Intermittent)	37.082613, -107.854074 Station 742+99.3	Section 20 T33N R9W	Fee EPA	Open Trench
1b	Gaines Canyon (Ephemeral/Intermittent)	37.082630, -107.854505 Station 741+72.4	Section 20 T33N R9W	Fee EPA	Open Trench
1c	Gaines Canyon (Ephemeral/Intermittent)	37.082660, -107.855205 Station 739+68.3	Section 20 T33N R9W	Fee EPA	Open Trench
2	Florida River (Perennial)	37.082421, -107.855780 Station 739+17.9	Section 20 T33N R9W	Fee EPA	Open Trench
3	Unnamed Drainage I (Ephemeral/Intermittent)	37.080493, -107.860463 Station 718+80.7	Section 30 T33N R9W	Fee EPA	Open Trench
4	Animas River (Perennial)	37.071287, -107.875265 Station 651+99.1	Section 30 T33N R9W	Tribal Trust SUIT EPD	Open Trench
5a	East Animas Wetlands (Perennial)	37.0713, -107.8747 Station 653+05.1	Section 30 T33N R9W	Tribal Trust SUIT EPD	Open Trench
5b	West Animas Wetlands (Perennial)	37.070740, -107.876880 Station 647+38.5	Section 25 T33N R10W	Fee EPA	Open Trench
6	Deer Canyon (Ephemeral/Intermittent)	37.056984, -107.90473 Station 536+73.2	Section 35 T33N R10W	Tribal Trust SUIT EPD	Open Trench
7	Cox Canyon (Ephemeral/Intermittent)	37.041204, -107.922654 Station 458+77.98	Section 3 T32N R10W	Tribal Trust SUIT EPD	Open Trench
8	Unnamed Drainage II (Ephemeral/Intermittent)	37.025527, -107.945297 Station 367+32.3	Section 9 T32N, R10W	Tribal Trust SUIT EPD	Open Trench

<sup>1</sup> Delineation of the noted *Waters of the U.S.* can be found in the Aquatic Resource Delineation report for this project attached as appendix C.



**SOUTHERN UTE INDIAN TRIBE**  
**GROWTH FUND**  
**SAFETY & ENVIRONMENTAL COMPLIANCE**  
**MANAGEMENT GROUP**

9a	Cottonwood Canyon (Ephemeral/Intermittent)	37.024220, -107.952896 Station 343+54.35	Section 17 T32N R10W	Tribal Trust SUIT EPD	Open Trench
9b	Cottonwood Canyon (Ephemeral/Intermittent)	37.024287, -107.955024 Station 333+29.5	Section 17 T32N R10W	Tribal Trust SUIT EPD	Open Trench

Additional surface water features were identified along the alignment that do not meet the criteria as a *Waters of the U.S.* The majority of these features are classified as “Certain Swales and Erosional Features,” otherwise known as (b)(8) exclusions, characterized by low volume, infrequent, and/or short duration flow. The swales are generally shallow features that convey water across dry land areas during and following storm events and have grass and other low-lying vegetation throughout the swale. Additionally, some swales are discrete topographical features, however there is an absence of a defined channel, bed and bank, or evidence of an Ordinary High Water Mark (OHWM). The erosional features are generally deeper than swales and do not have vegetation nor an OHWM. These erosional features are in the form of rills and gullies which predominantly occur along areas of previously disturbed terrain associated with existing pipeline ROWs and natural gas field roads in which this project parallels and overlaps. Other erosional features in the project area are due to areas lacking vegetation cover on soils that are prone to erosion. Additionally, each of these (b)(8) excluded features do not have a hydrologic connection to a jurisdictional water.

Other surface water features, such as ephemeral washes, don’t meet the “relatively permanent” standard of having flowing or standing water year-round or continuously during certain times of year. These features are mostly ephemeral and only flow a short duration in direct response to precipitation; they also lack a continuous surface connection to relatively permanent waters or (a)(1) waters. Additionally, to aid in determination of “relatively permanent,” the entire reach of each of these features were evaluated using the Strahler stream order tributary network to determine the most representative characteristics of the streams they connect to. Because the “relatively permanent” standard was not met for these features, they were then assessed under the “significant nexus standard”, such as alone, or in combination would not significantly affect the chemical, physical, or biological integrity of (a)(1) waters.

Functions identified in the 2023 final rule in paragraph (c)(6)(i) and factors in (c)(6)(ii) were assessed and considered to aid in determination if these features meet the Significant Nexus Standard. For example, these high stream-order features display weak functions such as contribution of flow, low transport of materials, and no habitat or food resources for aquatic species and therefore do not have a likelihood of a material influence on paragraph (a)(1) waters. Other functions assessed in (c)(6)(iii) such as retention and attenuation of floodwaters and runoff, and modulation of temperature, are absent functions in these high stream-order and arid ephemeral features. Therefore, all the (c)(6)(ii) functions assessed were determined to not significantly affect the biological integrity of a paragraph (a)(1) waters in the project area.

The factors of “significantly affect” in paragraph (c)(6)(i) were also evaluated. The 2023 Rule preamble specifies that the first two factors, distance from the paragraph (a)(1) water and hydrology will generally be given the greatest weight because the likelihood of a material influence is generally greater with decreasing distance from a paragraph (a)(1) water. Deer Canyon (#6) was determined to meet this factor and therefore considered to meet the significant nexus standard, however most of the remaining ephemeral features are several miles from, and without a continuous connection to, a paragraph (a)(1) water. The hydrologic factors reviewed resulted in a determination of low to no flow frequency, low to



# SOUTHERN UTE INDIAN TRIBE

## GROWTH FUND

### SAFETY & ENVIRONMENTAL COMPLIANCE MANAGEMENT GROUP

no flow duration, low flow magnitude, lack of hydrologic connection and lack of surface and subsurface hydrologic connection. The minor influence of the landscape position as well as climatological variables such as low rainfall also have a low likelihood of effects on paragraph (a)(1) waters. For these reasons, these ephemeral features do not meet the definition of *Waters of the U.S.*

#### **DRIVING DIRECTIONS**

Arkansas Loop/Simpson Facility:

From Oxford, CO, proceed south on La Plata County Road (CR) 311 for 3 miles and turn right (west) to stay on CR 311 for 8.6 miles up Herrera Hill and onto the Mesa Mountains to the Arkansas Loop/Simpson natural gas treating facility. The proposed pipeline will tie-in to the north side of the facility and continue west to the proposed interconnect facility adjacent to the Coyote Gulch natural gas treating facility.

Coyote Gulch Facility:

From Durango, CO, travel south on U.S. Highway 550 for approximately 24 miles to San Juan (New Mexico) County Road 2900. Turn right and travel westerly for approximately 7 miles, crossing onto the Southern Ute Indian Reservation. Continue on Bureau of Indian Affairs (BIA) Road 114 for approx. 4 miles, turning sharply right into BIA Road 111 and continuing approximately 1.5 mile to the Coyote Gulch facility. The civil survey begins (0+00) on the east side of the Coyote Gulch facility at a proposed pipeline interconnect facility.

#### **NATURE OF PROPOSED ACTIVITY**

Red Cedar proposes to construct the CO<sub>2</sub> Pipeline project, which consists of installing an 8-inch diameter steel pipeline for carbon dioxide transportation to an existing sequestration system, within an approved right-of-way (ROW) issued by the U.S. Department of the Interior, Bureau of Indian Affairs, Southern Ute Agency. Red Cedar will install the pipeline using standard open-cut (trenching) construction techniques through aquatic resources. Construction activities will take place during daylight hours and is scheduled to take approximately 10 months to complete.

#### **PROPOSED PROJECT PURPOSE**

The purpose of the proposed project is to capture carbon dioxide from the Arkansas Loop and Simpson Gas Treating plants, compress and transport the gas to the existing Coyote Gulch Gas Treatment Facility. The pipeline will reduce the carbon dioxide emissions to the atmosphere that is currently occurring and capture for sequestration and future use. This will improve air quality and reduce air quality emissions within the area.

#### **ALTERNATIVES**

During review of the proposed pipeline alignment, different construction methodologies were analyzed to determine the least environmental damaging practical alternative, as well as utilizing the best available construction technologies. Where feasible the pipeline alignment has been selected to parallel and adjoin existing roads and pipeline rights of way, which further reduce impacts by minimizing habitat fragmentation. No other suitable alternatives were developed that would significantly reduce the environmental impacts of the proposed project as outlined in this request. All drainages were analyzed to ensure that the crossings occur as perpendicular as practicable. Additionally, for threatened and endangered species habitat, such as the New Mexico Meadow Jumping Mouse, boring was identified as the best alternative to reduce potential impacts. However, results from both the Florida and Animas River geo-technical surveys conducted determined that the depth to competent bed rock made horizontal direction boring infeasible. This is because of the thickness of unconsolidated substrate



# SOUTHERN UTE INDIAN TRIBE

## GROWTH FUND

### SAFETY & ENVIRONMENTAL COMPLIANCE MANAGEMENT GROUP

(alluvium) and adjacent steep sided topography. Therefore, boring or horizontal directional drilling technologies were not feasible as an installation method to reduce impacts to surface waters and endangered species and their habitat along the Florida and Animas Rivers. However, boring of other areas such as the Animas Citizens Ditch, roads, and known archaeological sites is preventing impacts to these resources.

#### CONSTRUCTION/TIMING

The majority of the pipeline installation will be achieved by open trenching. Construction is anticipated to occur upon approval of all permits and the grant of a ROW from the BIA. The perennial rivers (Animas and Florida) will be crossed during low flows and during the least impactful season to the New Mexico Meadow Jumping Mouse.

Construction would involve the following proposed schedule:

- Installation of erosion and sediment control best management practices (BMPs) prior to disturbing the bed or banks of stream channels. These BMPs may include sediment control logs (SCL), silt fence, or rip rap rock. Sediment control is necessary to reduce contributing sediment load to the impacted drainages because of potential discharge from construction activities.
- Ephemeral Drainage crossings
  - Excavation and separation of bank and low flood plain materials if present.
  - Excavation and storing of bed material outside of the OHWM
  - Installation of pipeline
  - Replacement of bed material
  - Reconstruction, contouring and replacement of bank and flood plain to match preconstruction conditions.
  - Installation of post construction BMPs
- Animas and Florida River crossings see Figures in Appendix A
  - Installation of heavy-duty wetland matting or other similar measures to prevent excessive compaction and soil disturbance by heavy equipment in identified wetlands.
  - Removal and segregation of riparian/wetland vegetation (within 4-foot trench only) for use in rehabilitation of impacted areas.
  - Installation of a flume as designed for appropriate flows to convey flows during construction across Animas and Florida Rivers. See attached drawings in Appendix A.
  - Excavation of trench, and placement of pipeline within drainage.
  - Reconstruct river bottom to match existing elevations.
  - Removal of flume and any supporting structures (jersey barriers, silt fence, etc.).
  - Replacement of riparian/wetland vegetation for vegetative establishment.
  - Installation of post-construction BMPs to reduce potential sediment discharges until revegetation has established.
  - Following installation of the pipeline, the trench will be backfilled and the pipeline ROW will be re-graded to match pre-construction conditions.
- Wetland crossings
  - Installation of heavy-duty matting along working side of the ROW within identified wetlands.
  - Excavation of topsoil (approximately 14 inches) and stored on weed free straw mulch within the ROW.
  - Excavation of substrate/spoil material to adequate depth of trench way. Excavated materials will stored on weed free straw mulch within the ROW.





**SOUTHERN UTE INDIAN TRIBE**  
**GROWTH FUND**  
**SAFETY & ENVIRONMENTAL COMPLIANCE**  
**MANAGEMENT GROUP**

- Installation of pipeline.
- Backfilling trench way and replacing topsoil in wetland areas.
- Trenching for open-cut installation of the pipelines: Topsoil removed will be stored separately from subsoils and within the approved project ROW or temporary use area (TUA). Subsoils will be stored separately within the approved ROW or TUA.
- Reclamation of the pipeline ROW will include seeding and mulching except within wetland and riparian areas due to viable seed propagules. In addition, erosion and sediment control BMPs installed prior to construction will remain in place until the reclaimed areas attain sufficient vegetative ground cover (70 percent as compared to native adjacent ground).

**IMPACTS/DISCHARGES**

The impacts associated with this project would be temporary, minimal in nature and limited to those areas necessary to excavate, trench and install the pipeline. No impacts of this project will be permanent, as all dredged material will become fill above the pipeline once it has been constructed. Pre-existing contours of the wash will be re-established to the extent possible, and surrounding land reclaimed. Specific impacts to *Waters of the U.S.* from the proposed project are outlined in Table 2.

Table 2. Impacts to *Waters of the United States* within the CO2 Pipeline Project Area.

ID and Name	Permanent Impacts (Square Feet)*	Permanent Fill (Cubic Yards)	Temporary Impacts# (Square Feet; Acres)	Linear Feet (within OHWM)	Temporary Fill (Cubic Yards)
<i>1 - Gaines Canyon</i>					
1a - Gaines Canyon	0	0	48; 0.001	12	0
1b - Gaines Canyon	0	0	48; 0.001	12	0
1c - Gaines Canyon	0	0	48; 0.001	12	0
<b>Gaines Canyon Total</b>	<b>0</b>	<b>0</b>	<b>144; 0.003</b>	<b>36</b>	<b>0</b>
<i>2 - Florida River</i>	0	0	2,200; 0.051	44	39
<i>3 - Unnamed Drainage 1</i>	0	0	64; 0.002	16	0
<i>4 - Animas River</i>					
Right-of-Way	0	0	5,320; 0.122	133	118
Temporary Use Area	0	0	2,660; 0.061	133	0
<b>Animas River Total</b>	<b>0</b>	<b>0</b>	<b>7,980; 0.183<sup>^</sup></b>	<b>266</b>	<b>118</b>
<i>5 - Animas River Wetland Complex</i>					



**SOUTHERN UTE INDIAN TRIBE**  
**GROWTH FUND**  
**SAFETY & ENVIRONMENTAL COMPLIANCE**  
**MANAGEMENT GROUP**

Open Water	0	0	131; 0.003	NA	0*
Palustrine Emergent Wetland	0	0	3,354; 0.077	NA	0*
Palustrine Scrub-Shrub	0	0	3,093; 0.071	NA	0*
Freshwater Forested/Shrub Wetland	0	0	4,792; 0.11	NA	0*
<b>Animas River Wetlands Total</b>	<b>0</b>	<b>0</b>	<b>11,369; 0.261</b>	<b>NA</b>	<b>0*</b>
<i>6 - Deer Canyon</i>	<i>0</i>	<i>0</i>	<i>220; 0.005</i>	<i>55</i>	<i>0</i>
<i>7 - Cox Canyon</i>	<i>0</i>	<i>0</i>	<i>300; 0.007</i>	<i>75</i>	<i>0</i>
<i>8 - Unnamed Drainage II</i>	<i>0</i>	<i>0</i>	<i>48; 0.001</i>	<i>12</i>	<i>0</i>
<i>9 - Cottonwood Canyon</i>					
9a - Cottonwood Canyon	0	0	340; 0.008	85	0
9b - Cottonwood Canyon	0	0	60; 0.002	15	0
<b>Cottonwood Canyon Total</b>	<b>0</b>	<b>0</b>	<b>400; 0.009</b>	<b>100</b>	<b>0</b>
<b>Total</b>	<b>0</b>	<b>0</b>	<b>22,725; 0.522</b>	<b>604</b>	<b>157</b>

# All pipeline trench excavation will utilize a large track-hoe with a 4-foot-wide bucket that can fully reach across most drainages in the project area. Therefore, no temporary fill within the defined OHWM will occur in all ephemeral/intermittent drainages.

^ Includes a 0.15-acre TUA along north side of right-of-way through the Animas River.

\* Excavated materials will not be stockpiled in defined wetland areas, therefore no temporary fill within wetlands will occur.

**AVOIDANCE, MINIMIZATION AND MITIGATION**

The stream channels to be temporarily impacted by this project provide diverse and variable aquatic and riparian habitats. The following steps will be taken to minimize short and long term impacts to water quality riparian habitats:

1. Construction on private (fee) land west of the Animas River valley is scheduled to begin in July 2023. Due to occupied endangered species habitat along the Animas River, construction through



**SOUTHERN UTE INDIAN TRIBE**  
**GROWTH FUND**  
**SAFETY & ENVIRONMENTAL COMPLIANCE**  
**MANAGEMENT GROUP**

this area will be restricted to early-August through late-September, or as dictated by the U.S. Fish and Wildlife Service.

2. No construction within the ephemeral/intermittent drainages defined in the project area will occur if actively flowing.
3. Flume structures will be installed to reduce sediment load to perennial streams.
4. Established willows and other riparian shrub species impacted by construction will be preserved to the extent practicable and used for reclamation. In addition, impacted channel banks will be supplemented with adjacent shrub cuttings within the ROW.
5. Installation of erosion and sediment control BMPs to prevent construction excavated materials from contributing sediment to the streams.
6. Storage of all soils, including salvaged topsoil and excavated subsoils, in vegetated upland locations. No soils will be stored within any stream channel. Use of perimeter BMPs to prevent sediment discharge.
7. Crossing of ephemeral drainages only during dry (no flow) conditions and at perpendicular angles.
8. Reclamation of the project area, including re-contouring the pipeline ROW to match pre-construction conditions, establishment of a proper seed bed, and seeding and mulching.
9. Red Cedar will bore the Animas Citizens Ditch as well as other areas such as certain roads, archaeological sites, etc. which avoids impacts to these resources.

By following these steps the impacts to water quality will be reduced and temporary in nature.

The project area will be monitored during the course of stormwater and environmental inspections during construction and until the pipeline ROW achieves a 70 percent vegetative cover.

The proposed project will be completed in accordance with the Nationwide Permit 12 General Conditions and applicable Regional Conditions to Nationwide Permits in the State of Colorado. As mentioned, all equipment will be placed on mats when working in wetlands, in addition to other soil-disturbing minimization measures per General Condition 11 and 12 of the Clean Water Act Section 404 and 401 Water Quality Certification for 2021 Nationwide Permits. All equipment will have spill kits present in the event of a fluid leak.

**TRIBAL ENVIRONMENTAL PROGRAM CONSULTATION & CLEAN WATER ACT  
401 WATER QUALITY CERTIFICATION**

Per General Condition 25, this PCN is also serving as a 401 Water Quality Certification, which is being requested from the Southern Ute Indian Tribe Environmental Programs Department (EPD) and EPA. A pre-filing submittal for the project was submitted on May 31, 2022 and a conference call on the project design occurred on June 29, 2022.

Specific issues defined during pre-filing are addressed under **Avoidance, Minimization, and Mitigation.**



**SOUTHERN UTE INDIAN TRIBE**  
**GROWTH FUND**  
**SAFETY & ENVIRONMENTAL COMPLIANCE**  
**MANAGEMENT GROUP**

**TRIBALLY IDENTIFIED AQUATIC RESOURCES**

According to the 2022 Southern Ute Indian Tribe's (SUIT) Water Quality Standards, the project area contains Tribal Waters in the form of perennial (Animas and Florida Rivers), as well as ephemeral stream channels (washes).

The ephemeral streams and perennial waters in the project area have several different Designated Use Codes, as listed below. The project, through avoidance, minimization and mitigation measures is designed to meet the tribal water quality standards. Additional details of designated uses and the associated criteria for implementation can be found in the SUIT Water Quality Standards document.

Florida River: High Quality Warm Water Aquatic Live (Class 1) (WARM1), Primary Contact Recreation (Class 1) (REC1), Potable Water Supply (PWS), Agricultural Water Supply (AGR)

Animas River Segment: High Quality Cool Water Aquatic Life (Class 1) (COOL1), REC1, PWS, AGR

All Ephemeral Washes: WARM1, Secondary Contact Recreation (Class 2) (REC2), AGR, PWS

**US EPA REGION 8 WATER QUALITY CERTIFICATION**

Due to the multiple jurisdictional nature of Tribal and Federal waters (*Waters of the U.S.* on privately owned fee lands within the boundaries of the SUIR, and Tribal waters on Tribal Trust lands), water quality 401 certification is requested by the EPA as well as Tribal EPD.

**CULTURAL RESOURCES AND HISTORICAL AREAS**

A cultural resource survey of the project area was completed in accordance with Section 106 of the National Historic Preservation Act, which resulted in a "*No Historic Properties Adversely Affected*" determination. The completed 106 consultation letter from the BIA, Southwest Region is included in Appendix D.

**THREATENED AND ENDANGERED SPECIES**

Pursuant to the National Environmental Policy Act for the federal action of obtaining a pipeline ROW from the Bureau of Indian Affairs, a Biological Assessment (BA) was completed for the proposed action. A letter of concurrence for the BA from the SUIT Department of Natural Resources, Division of Wildlife Resource Management, was issued on December 22, 2022. The SUIT BA Concurrence is included in Appendix E.

Additionally, due to the BA determination of a *may affect, likely to adversely affect* to the endangered New Mexico Meadow Jumping Mouse (NMMJM), Endangered Species Act, Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS) was initiated by the Bureau of Indian Affairs on February 21, 2023. The USFWS ultimately issued a Biological Opinion (BO) which is included as Appendix F.

Should you have any questions on this request, please contact me at 970-764-6494.

Sincerely,

Amanda Blanchard  
Environmental Manager  
Southern Ute Indian Tribe Growth Fund  
Safety & Environmental Compliance Management Group



**SOUTHERN UTE INDIAN TRIBE**  
**GROWTH FUND**  
**SAFETY & ENVIRONMENTAL COMPLIANCE**  
**MANAGEMENT GROUP**

**Cc:** **Mandy Eskelson**, Southern Ute Indian Tribe Water Quality Program  
**Dan Jefferson**, Red Cedar Gathering Company  
**Edward Mora**, Red Cedar Gathering Company  
**Andy Young**, Southern Ute Growth Fund, SECMG  
**Matthew Zabka**, Southern Ute Growth Fund, SECMG

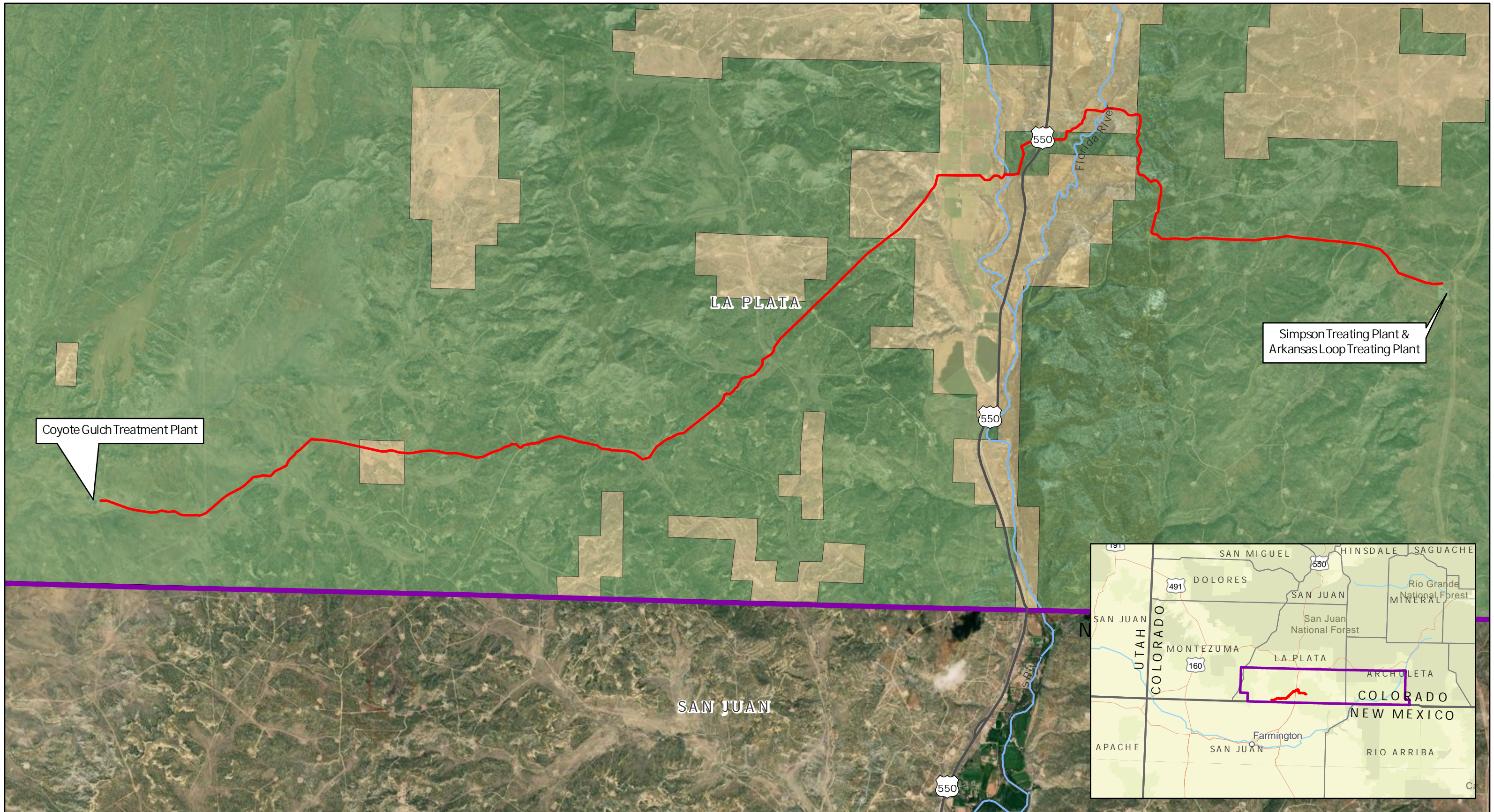
**Appendix:**

- A. Project Maps and Drawings
- B. Photographic Log
- C. Aquatic Resource Delineation Report
- D. Cultural Resource Concurrence and Section 106 Consultation
- E. Biological Assessment and Concurrence
- F. Biological Opinion



**SOUTHERN UTE INDIAN TRIBE**  
**GROWTH FUND**  
**SAFETY & ENVIRONMENTAL COMPLIANCE**  
**MANAGEMENT GROUP**

**APPENDIX A**  
Project Maps and Drawings

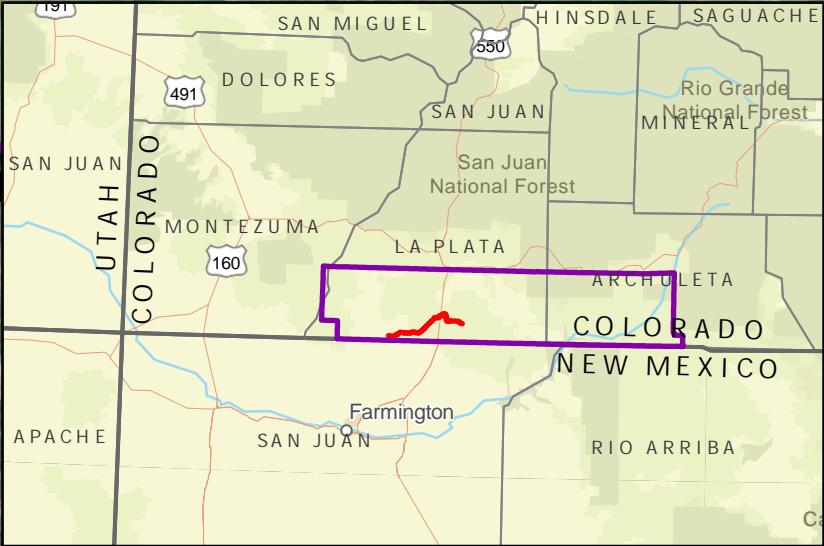


Coyote Gulch Treatment Plant

Simpson Treating Plant & Arkansas Loop Treating Plant

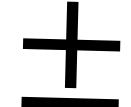
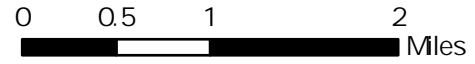
LA PLATA

SAN JUAN



- Legend
- Red Cedar Arkansas Loop to Coyote CO2 Sequestration Pipeline
  - Reservation Boundary
  - Tribal Trust
  - Fee

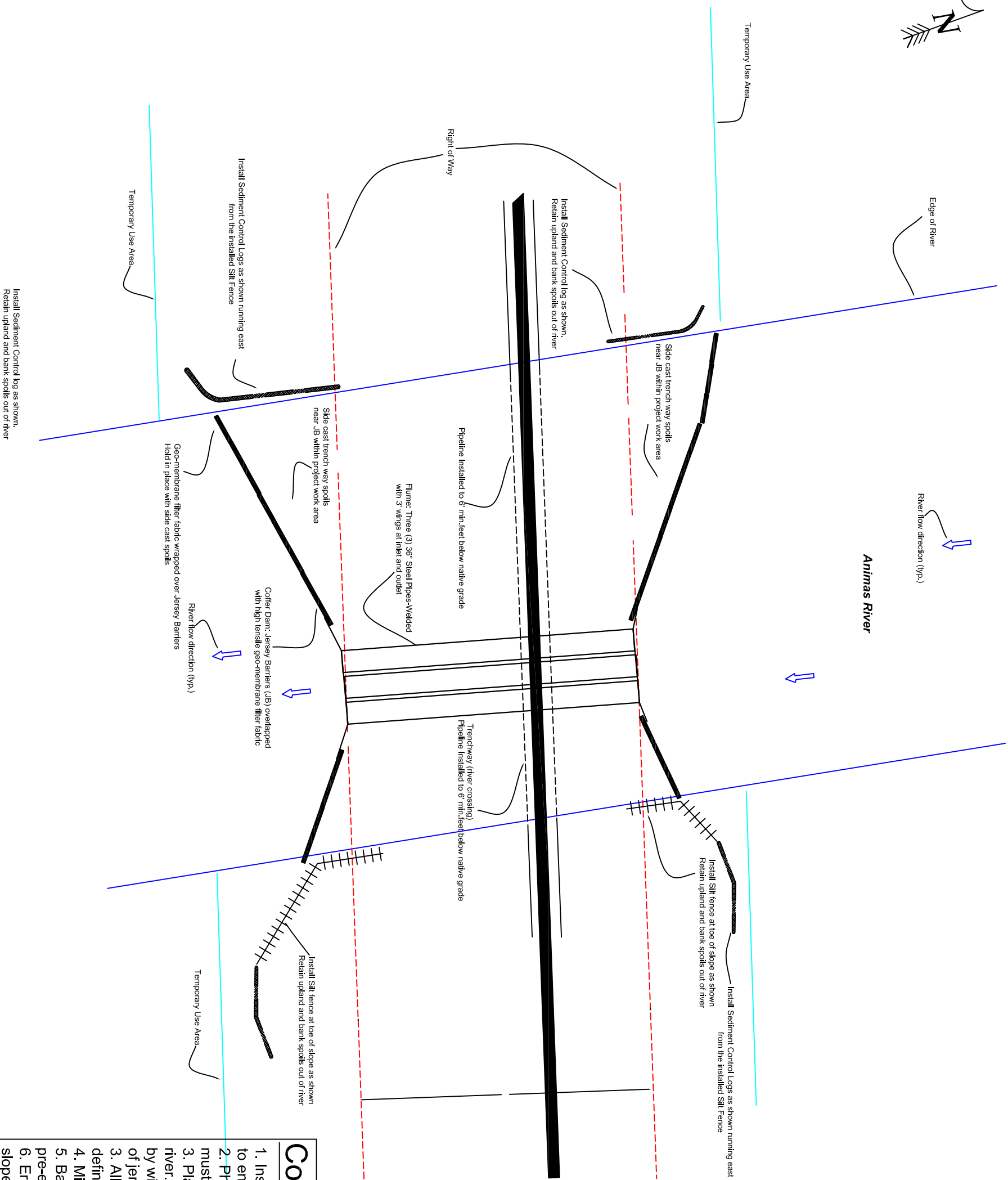
Figure 1. Overview Map  
Proposed CO2 Sequestration Pipeline Project



Date: 12/14/2022

Folder: \\gfs\shares\GIS\Projects\SECMG\RCG\CO2-Pipeline\RCG CO2 Pipeline BA\

# Animas River CO2 Pipeline



## Construction Notes

1. Install silt fence and sediment control logs prior to entering river.
2. Phasing of flume and coffer dam installation must be followed per the attached document.
3. Place the flume within the deepest flow of the river. Number of jersey barriers to be determined by width of river. Sand Bags maybe used in lieu of jersey barriers.
3. All spoil material must be stored within the defined project area.
4. Minimize discharge of sediment down stream.
5. Banks and bed of river must be reclaimed to pre-existing conditions or better.
6. Erosion control blanket shall be installed on all slopes that exceed 3:1.



Animas River crossing diagram

DRAWING NO.: 1 SCALE: NTS  
 DRAWN BY: BTC DATE: 3/2/2023

FILE NAME: RCG\_CO2P\_Aggreg8141161g\_023-2023.dwg  
 LAYOUT NAME: NA  
 PROJ ENG: NA



SUIT GF SECMG  
 65 MERCADO STREET  
 SUITE 205  
 DURANGO, CO 81301  
 (970) 375-1668

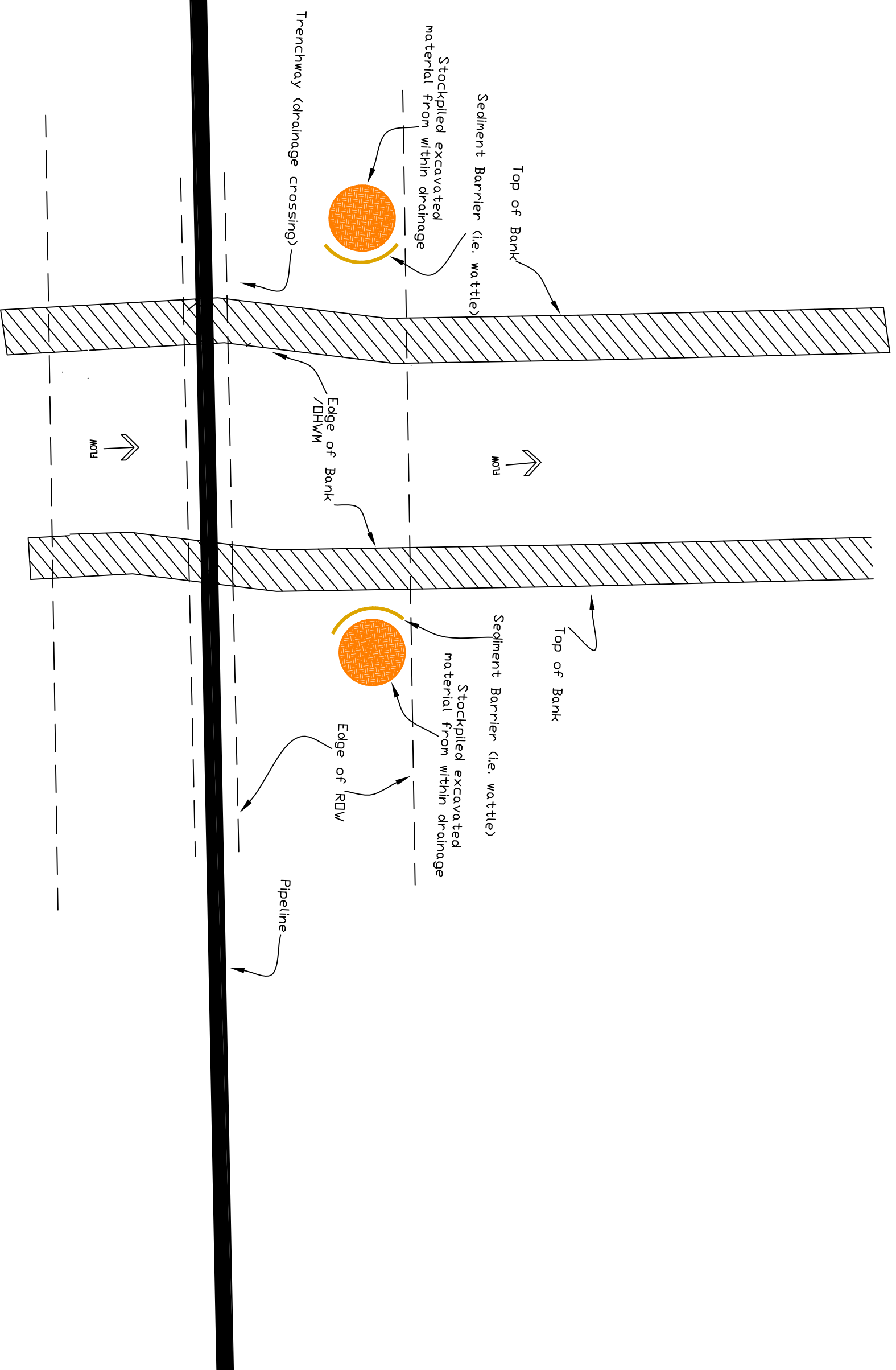
REV: 08/15/2012 BTC

SHEET 1  
 OF 1  
 TOTAL SHEETS





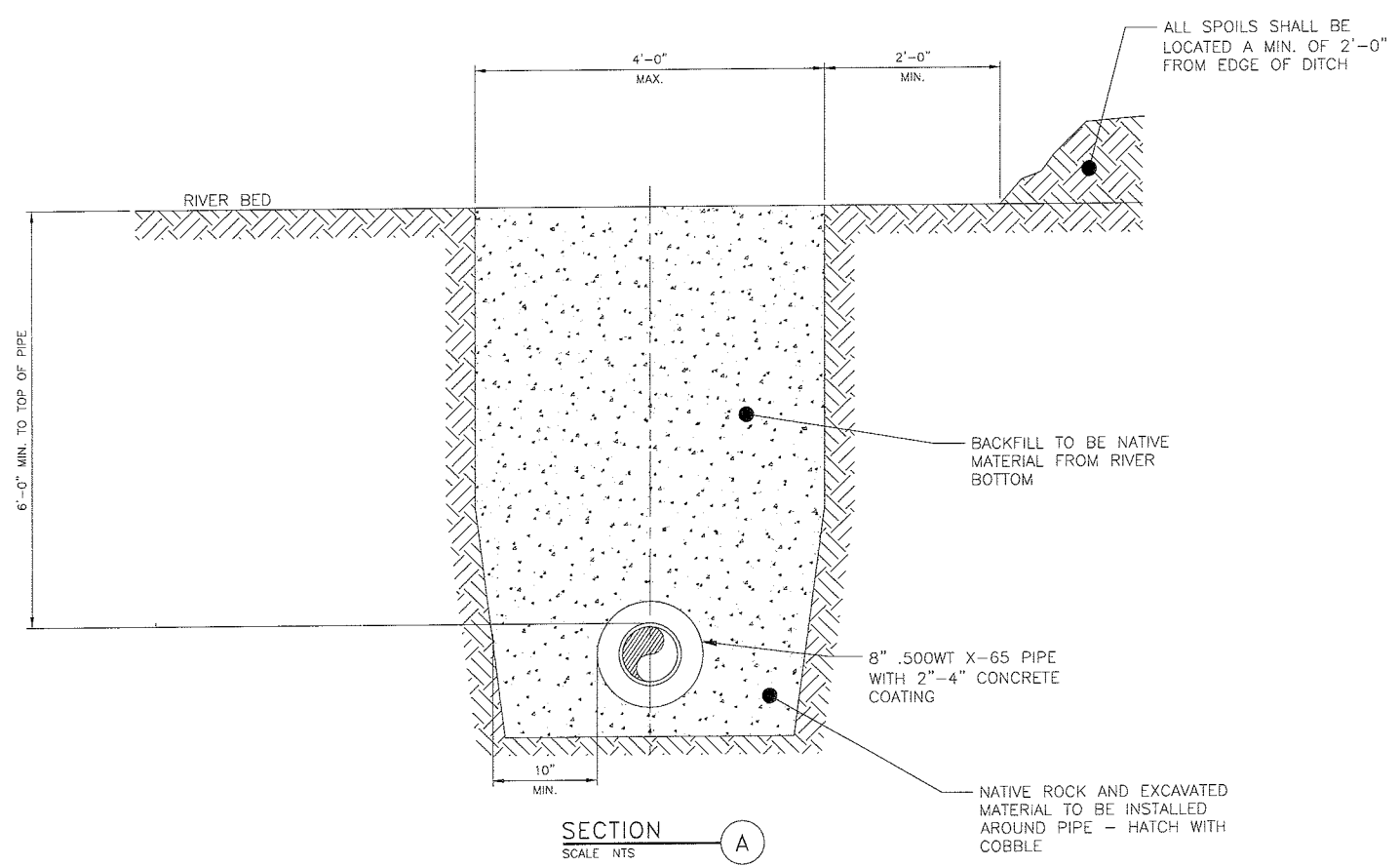
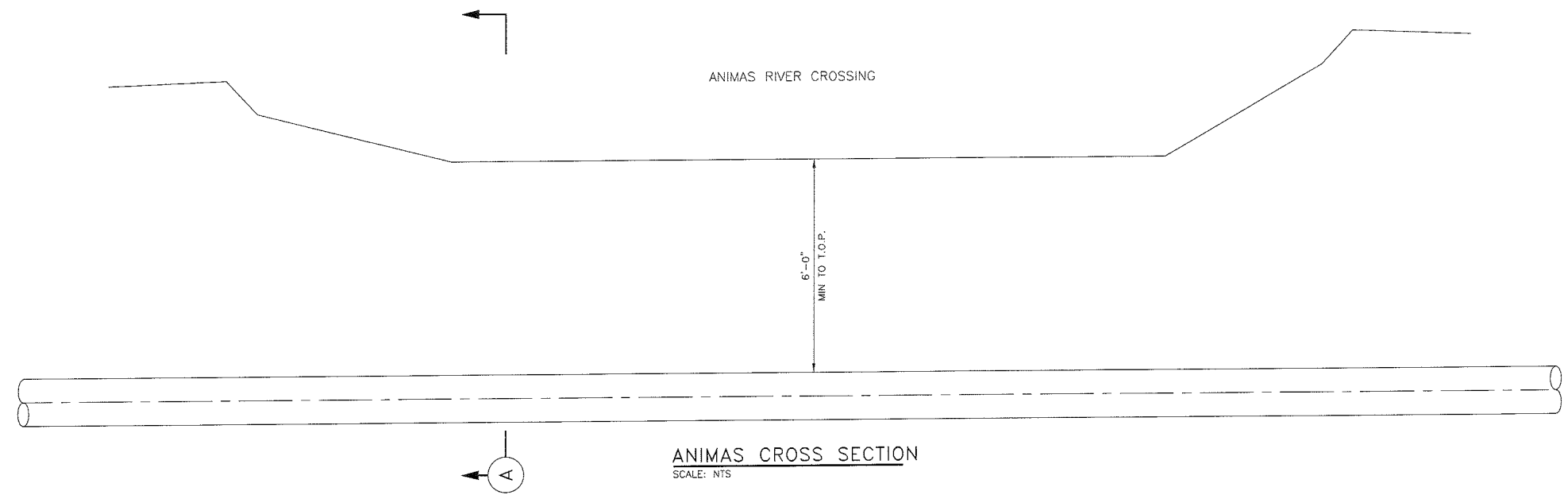
# Ephemeral drainage crossing detail



## NOTES

1. Remove topsoil from banks and stockpile in upgradient area.
2. Excavate trenchway across drainage. Retain spoils out of drainage.
3. Install pipeline
4. Bed and backfill trenchway.
5. No excavation should occur during inclement conditions or if the drainage has water present.

NOTES:  
 1. PIPE WILL BE WELDED, X-RAYED, COATED, DIAPERED AND HYDRO-TESTED PRIOR TO PULLING INTO THE PIPE DITCH.  
 2. PULL HEADS WILL BE WELDED ON EACH END OF THE PIPE STRING PRIOR TO INSTALLING IN THE PIPE DITCH.



**CO2 PIPELINE  
DETAILS**

**ANIMAS RIVER  
CROSSING**

**LA PLATA COUNTY  
COUNTY  
COLORADO**

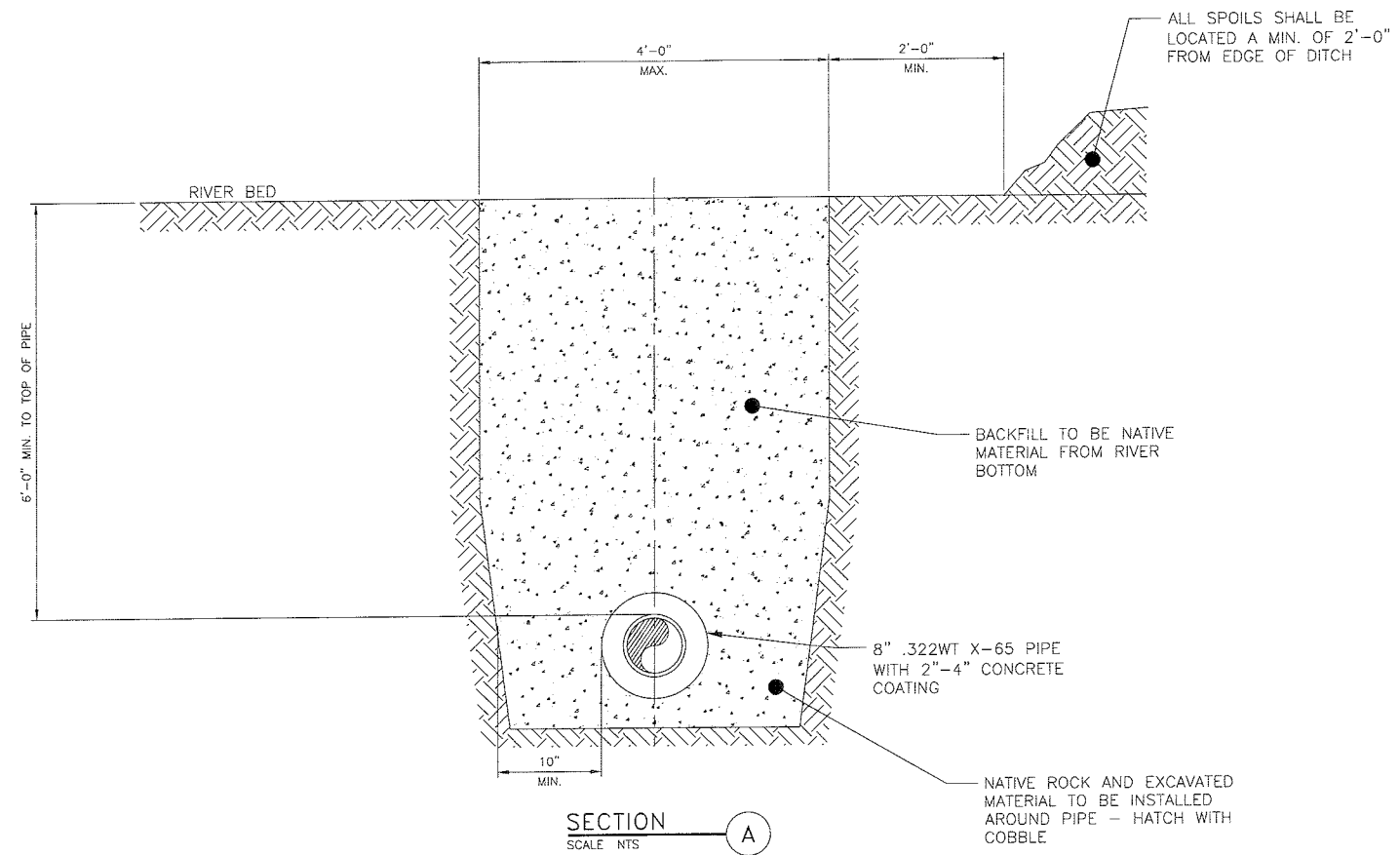
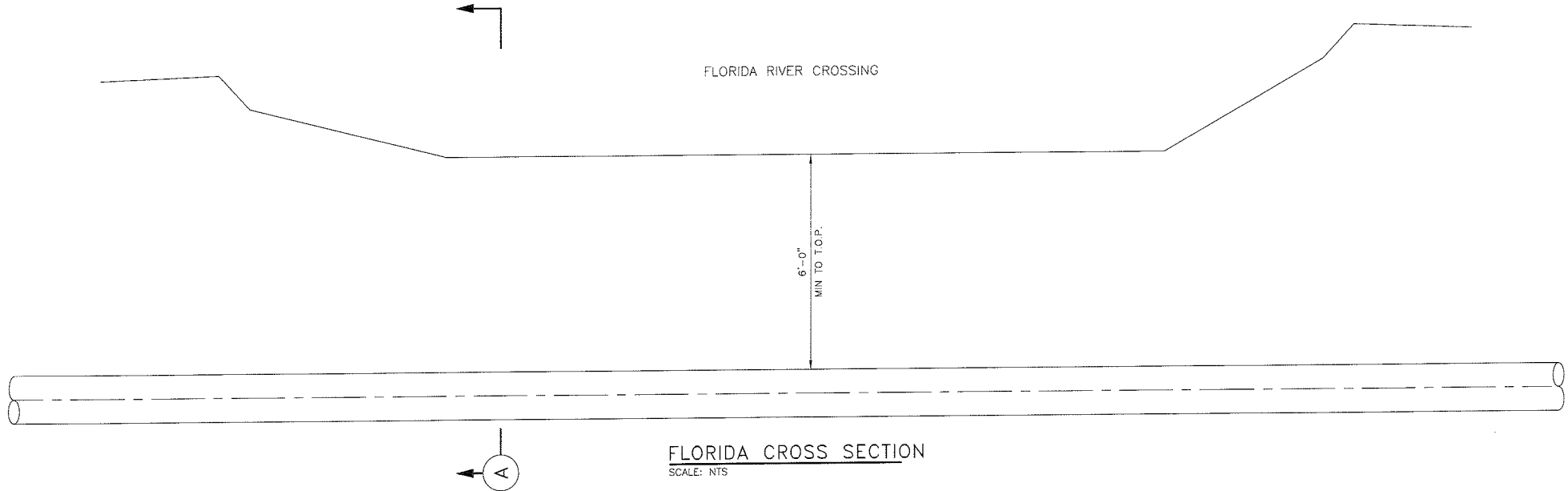
△		
△		
△		
△		
△		
△		
△		
△	12/02/22	ISSUED FOR CONSTRUCTION
△	09/09/22	ISSUED FOR REVIEW
REV	DATE	DESCRIPTION

PROJECT AFE:	121032
CAD DWG FILE:	C-104.DWG
DRAWN BY:	MDB
DESIGNED BY:	
APPROVED BY:	MA
DRAWING SCALE:	AS NOTED
CURRENT REVISION:	0

SHEET TITLE:  
**TYPICAL RIVER  
CROSSING DITCH  
DETAIL**



NOTES:  
 1. PIPE WILL BE WELDED, X-RAYED, COATED, DIAPHERED AND HYDRO-TESTED PRIOR TO PULLING INTO THE PIPE DITCH.  
 2. PULL HEADS WILL BE WELDED ON EACH END OF THE PIPE STRING PRIOR TO INSTALLING IN THE PIPE DITCH.



**CO2 PIPELINE  
DETAILS**

**FLORIDA RIVER  
CROSSING**

**LA PLATA COUNTY  
COUNTY  
COLORADO**

△		
△		
△		
△		
△		
△		
△		
△	12/02/22	ISSUED FOR CONSTRUCTION
△	9/8/2022	ISSUED FOR REVIEW
REV	DATE	DESCRIPTION

PROJECT AFE:	121032
CAD DWG FILE:	C-107.DWG
DRAWN BY:	MDB
DESIGNED BY:	
APPROVED BY:	MA
DRAWING SCALE:	AS NOTED
CURRENT REVISION:	0

SHEET TITLE:  
**TYPICAL RIVER  
CROSSING DITCH  
DETAIL**

**C-107**





**SOUTHERN UTE INDIAN TRIBE**  
**GROWTH FUND**  
**SAFETY & ENVIRONMENTAL COMPLIANCE**  
**MANAGEMENT GROUP**

**APPENDIX B**  
Photographic Log



# SOUTHERN UTE INDIAN TRIBE

GROWTH FUND  
SAFETY & ENVIRONMENTAL COMPLIANCE  
MANAGEMENT GROUP



Photo 1: Looking north/upstream at Gaines Canyon near Station 742+99



Photo 2: Looking north/upstream at Gaines Canyon near Station 741+72.





**SOUTHERN UTE INDIAN TRIBE**  
**GROWTH FUND**  
**SAFETY & ENVIRONMENTAL COMPLIANCE**  
**MANAGEMENT GROUP**



Photo 3: Looking south into ROW at Florida River near station 738+19.



Photo 4: Looking south into ROW near station 718+44.



# SOUTHERN UTE INDIAN TRIBE

GROWTH FUND  
SAFETY & ENVIRONMENTAL COMPLIANCE  
MANAGEMENT GROUP



Photo 5: Looking east into ROW at Animas River crossing near Station 652+65.



Photo 6: Wetlands adjacent (west) of the Animas River Wetlands near Station 647.



**SOUTHERN UTE INDIAN TRIBE**  
GROWTH FUND  
SAFETY & ENVIRONMENTAL COMPLIANCE  
MANAGEMENT GROUP



Photo 7: Deer Canyon near Station 536+73



Photo 8: Looking south into ROW at Cox Canyon near Station 458+77



**SOUTHERN UTE INDIAN TRIBE**  
GROWTH FUND  
SAFETY & ENVIRONMENTAL COMPLIANCE  
MANAGEMENT GROUP



Photo 9: Looking west into ROW at Cottonwood wash near Station 338+93



Photo 10: Looking south into ROW at Cottonwood wash near Station 333+29.



**SOUTHERN UTE INDIAN TRIBE**  
**GROWTH FUND**  
**SAFETY & ENVIRONMENTAL COMPLIANCE**  
**MANAGEMENT GROUP**

**APPENDIX C**

Aquatic Resource Delineation Report (Attached separately)



**SOUTHERN UTE INDIAN TRIBE**  
**GROWTH FUND**  
**SAFETY & ENVIRONMENTAL COMPLIANCE**  
**MANAGEMENT GROUP**

**APPENDIX D**

Cultural Resource Concurrence and Section 106 Consultation



**Bureau of Indian Affairs  
Southwest Regional Office  
Division of Environmental, Safety, and  
Cultural Resources Management**

**National Historic Preservation Act of 1966 (54 U.S.C. § 300101 et seq.)**

**To:** Supt. Priscilla Bancroft, Ms. Cassandra Atencio

**NOTIFICATION OF COMPLETION OF SECTION 106 CONSULTATION**

**Project Name/Number:** Red Cedar Gathering Company -- Arkansass Loop to Coyote CO2 Pipeline ROW  
Red Cedar Gathering Company/AKA Power, LLC -- Coyote to NM Stateline CO2 Receipt  
Facility & Pipeline ROW  
DESCRM Project No. SU23-015

**Legal Description:** USGS Quads: Pinkerton Mesa, Long Mountain, Bondad Hill

**Assessment of Effect:** No Historic Properties Adversely Affected

**Documentation:**

- 1) Mattingly, Patricia. Patricia Mattingly to Cassandra Atenco. November 30, 2022. On file at BIA SW Regional Office.
- 2) Rizzo, Crystal. Crystal Rizzo to Bureau of Indian Affairs. November 2, 2022. On file at BIA SW Regional Office.

**Stipulations:**

- 1) All land-altering activities shall be confined to the area surveyed for cultural resources, and the project sponsor shall control the action of its agents at the job site to ensure that no archaeological sites are disturbed or damaged. Site disturbance or damage to sites on tribal land is a violation of the Archaeological Resources Protection Act (16 U.S.C. § 470ee) which prohibits the excavation, removal, damage, alteration or defacement, or attempt to excavate, remove, damage, alter or deface any archaeological resources [cultural resources] located on Indian Lands. Both criminal and civil penalties may be assessed (16 U.S.C. §§ 470ee and 470ff) for violations.
- 2) Site Information-- Avoid Sites 5LP11817, 5LP2581.9, 5LP11858.1, 5LP2518, 5LP4955, 5LP5780, 5LP8979, 5LP10475; Avoidance measures noted in November 2, 2022 correspondence and Archeological Monitor required for Site 5LP8979
- 3) In the event of the inadvertent discovery of human remains, activities in the area of the inadvertent discovery must cease; a reasonable effort must be made to protect the human remains and associated funerary objects. Protocols under the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) for the inadvertent discovery of remains on Tribal lands must be followed (43 CFR 10.4(e)).
- 4) In the event of the inadvertent discovery of cultural resources, the project sponsor shall follow the protocols outlined in the Post-Review Discoveries, Discoveries on Tribal Lands (36 CFR 800.13(d)) section of the National Historic Preservation Act, Section 106 regulations.

**BIA Regional Director:**

**Date:**

**LELA**  
**KASKALLA**  
Digitally signed by  
LELA KASKALLA  
Date: 2023.04.18  
16:33:23 -06'00'

4/18/23



# SOUTHERN UTE INDIAN TRIBE

November 3, 2022

Bureau of Indian Affairs  
Southwest Regional Office  
Attn: Regional Archaeologist  
1001 Indian School Rd. NW  
Albuquerque, NM 87104-2303

SUBJECT: Archy Report ERO #21-244

The Southern Ute Indian Tribe has reviewed and approved this report, finding it to be accurate and complete. We concur with ERO Archaeological Company's recommendations for the proposed project and have requested that the following report be forwarded to the BIA SWRO Archaeologist:

**ERO #21-244: A Cultural Resource Inventory for the Southern Ute Indian Tribe Environmental Programs Division's Proposed Red Cedar Gathering Company CO2 Pipeline Project**

*This letter serves as acceptance of the reports definition of the AREA of Potential Effect (APE) for the project and acceptance of the survey area of the project, including the buffer zones of at least 50 feet or any non-Indian fee lands outside of the APE.*

*In addition, this letter serves to fulfill the regulatory requirement for the BIA to consult with the Southern Ute Indian Tribe as part of the NHPA Section 106 completion process for each undertaking on its tribal lands.*

*In closing, the Department of Natural Resources/Lands Division has engaged and discussed the report with the Cultural Preservation Department. Additional concerns have been identified with THPO, as stated in the additional memo.*

*Any and all concerns about traditional religious or cultural properties affected by the proposed activity within the APE should be vetted during the consultation period with THPO.*

Sincerely,

Andrew Frost  
SUIT Natural Resources Director; and

Crystal Rizzo  
Culture Preservation Director





**SOUTHERN UTE INDIAN TRIBE**  
**GROWTH FUND**  
**SAFETY & ENVIRONMENTAL COMPLIANCE**  
**MANAGEMENT GROUP**

**APPENDIX E**  
Biological Assessment Concurrence

---

**Department of Natural Resources  
Division of Wildlife Resource Management  
Interoffice Memorandum**

---

**To:** Matthew Zabka, Southern Ute Growth Fund, SECMG  
**From:** Aran Johnson, Wildlife Division Head  
**Subject:** Biological Assessment Concurrence  
**Date:** December 22, 2022  
**CC:** Adrian Abeyta, SUIT Energy Department  
Shannon Nez, BIA SUIT Agency / Realty  
SUIT Wildlife Division Files

---

The following biological assessment (BA) prepared by the Southern Ute Growth Fund Safety and Environmental Compliance Management Group has been received and reviewed by the Southern Ute Division of Wildlife Resource Management (DWRM):

***Red Cedar Gathering Company –  
Carbon Dioxide Sequestration Pipeline***

In reviewing this biological assessment, I have found it to be complete and accurate, and concur with the determinations of "*no effect*" for six endangered species, *may affect, not likely to adversely affect* for one threatened (Yellow-billed cuckoo) and one candidate species (Monarch butterfly), and *may affect, likely to adversely affect* for one endangered species (New Mexico meadow jumping mouse) identified for the Reservation.

Under federal ESA requirements, the USDOJ Bureau of Indian Affairs must initiate ESA Section 7 consultation with the U.S. Fish and Wildlife Service on the *may affect* determinations prior to permitting of the project.

If you have any questions or need additional information, please feel free to contact me directly at 970-563-0130.

**Aran Johnson**  Digitally signed by Aran Johnson  
Date: 2022.12.22 16:23:29 -07'00'

---

Aran Johnson, Division Head  
Division of Wildlife Resource Management  
Southern Ute Indian Tribe



**SOUTHERN UTE INDIAN TRIBE**  
**GROWTH FUND**  
**SAFETY & ENVIRONMENTAL COMPLIANCE**  
**MANAGEMENT GROUP**

**APPENDIX F**  
Biological Opinion (Attached separately)