

ADDENDUM 303.o-4

SPRING CREEK COAL COMPANY

RAILROAD SPUR AND POWER LINE EASEMENT

FROM

STATE OF MONTANA

Revised 1/98; Reference MR 96-12-14

ROW EASEMENT 579-5-DNRC TO SCM SCCC\_ROW\_UTIL\_RR\_1009.pdf



Navajo Transitional  
Energy Company

March 9, 2020

Department of Natural Resources and Conservation  
c/o Brian Holling  
P.O. Box 201601  
Helena, MT 59620-1601

RE: ROW Easement 579-5 – Notification of Ownership Change

Dear Brian,

Navajo Transitional Energy Company, LLC (NTEC), a Navajo Nation limited liability company is successor to Spring Creek Coal LLC, a Delaware limited liability company, effective October 24, 2019. NTEC is hereby providing you formal notice of the change in ownership related to the following agreement:

- Right-of-Way Easement 579-5 by and through Department of Natural Resources and Conservation (DNRC) and Spring Creek Coal LLC (fka Spring Creek Coal Company), dated May 7, 1979.

Paragraph TRANSFER of said agreement identifies that Grantee shall notify the Department of such an assignment. NTEC respectfully requests that the DNRC execute the statement below acknowledging the notification of ownership change of said agreement from Spring Creek Coal LLC to NTEC.

If you have any questions, please feel free to call me at 307-685-6293.

Sincerely,

Debbie L. Bruse  
Land Manager

By executing below, the DNRC acknowledges notification of ownership change of the Right-of-Way Easement 579-5 by and through DNRC and Spring Creek Coal LLC (fka Spring Creek Coal Company), dated May 7, 1979, from Spring Creek Coal LLC to Navajo Transitional Energy Company, LLC:

DNRC:

By (print): Brian Holling

Date: 3.9.2020

Its: BUREAU CHIEF - SWPB

Xc: SCC\_ROW\_UTIL\_RR\_1009

Spring Creek

**SUMMARY - RIGHT OF WAY EASEMENT**  
**579-5**

**TOWNSHIP 8 SOUTH, RANGE 40 EAST, M.P.M.**

Section 34: SENW - 0.79 ac.  
SWNE - 2.21 ac.  
NESW - 0.44 ac.  
NWSE - 0.01 ac.

**TOWNSHIP 9 SOUTH, RANGE 40 EAST, M.P.M.**

Section 3: NWNE - 0.73 ac.  
SWNE - 0.14 ac.  
NESE - 0.30 ac.  
W2SESE - 2.18 ac.  
E2SESE - 1.87 ac.  
Section 10: SESE - 0.55 ac.  
Section 11: NWNW - 0.85 ac.  
SWNW - 0.04 ac.  
Section 15: NWNE - 2.09 ac.

**Total Easement = 12.20 acres**

**Grantor:** State of Montana - Department of Natural Resources and Conservation

**Grantee:** Spring Creek Coal Company

**Dated:** May 7, 1979

**Grant:** For construction, operation and maintenance of a railroad spur and power line

**Term:** ...ceased to be used...or...fails to comply with the conditions...the same shall revert to the Department upon notice to that effect being given to the Grantee by the Department.

**Rental:** NONE

**Conditions:** 1-10

**Reservation:** The Department...at its discretion...after giving two (2) years advance notice...to construct or cause to be constructed such water resource facilities...dams, reservoirs, and canals...upon or near said lands, and to flood said lands as a result of said facilities.

## DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

RECEIVED MAY 11 1979

RIGHT-OF-WAY EASEMENT  
TO  
SPRING CREEK COAL COMPANY

The State of Montana, acting by and through the Department of Natural Resources and Conservation, hereinafter called the Department, in consideration of the sum of \$26,876

\_\_\_\_\_ receipt of which is hereby acknowledged, does hereby convey and release to Spring Creek Coal Company, hereinafter called Grantee, a right-of-way easement for the following described lands located at the Tongue River Reservoir, Big Horn County, Montana;

## DESCRIPTION

See Exhibit "A", attached hereto and made a part hereof.

## PURPOSE

For construction, operation, and maintenance of a railroad spur and power line.

The conveyance and release of this Right-of-Way Easement is subject to the following conditions:

## CONDITIONS

- (1) The Grantee shall comply with all applicable federal, state and local laws and regulations pertaining to the construction, maintenance and repair of the railroad.
- (2) Before any railroad embankment activity may begin, a site development plan must be submitted by the Grantee and approved by the Department which, at a minimum, shall address all conditions contained herein. Department personnel shall work with the Grantee in defining the nature and scope of information to be contained in the plan.

- (3) All slopes of temporary fill embankments may not exceed a slope of 2:1. Such slopes shall be sufficiently compacted and protected so that the rate of sedimentation from the fill area will not be greater than that which occurred naturally prior to disturbance. At a minimum, any portions of the fill which extend below 3,429 feet elevation (reservoir spillway elevation plus 5 feet) shall be protected with suitable riprap material approved by the Department.
- (4) Final embankments on the reservoir side of the fill may not have a slope steeper than 4:1. All other slopes may not have a slope steeper than 2:1. In either instance, slope gradients shall be such that the rate of sedimentation from the fill area will not be greater than that which occurred naturally prior to disturbance. At a minimum, any portions of the fill which extend below 3,429 feet elevation (reservoir spillway elevation plus 5 feet) shall be protected with suitable material approved by the Department.
- (5) All activities involved in the construction and development of the entire route shall be in conformance with the reclamation procedures and standards set forth in the Montana Strip Mining and Reclamation Act (Title 82, Chapter 4, M.C.A.), and rules and regulations promulgated thereunder, including, but not limited to, the following:
- a. Salvage and storage of suitable topsoil materials;
  - b. Regrading and topsoil placement;
  - c. Planting and revegetation procedures;
  - d. Toxic material placement;
  - e. Surface water drainage and control;
  - f. Waste material disposal;
  - g. Dust control;
  - h. Sediment control measures;
  - i. Time limits for completing various reclamation procedures.

- (6) No portion of the fill may be placed nor grading or earth-moving equipment allowed to operate within areas inundated by standing or running water. Such activity shall be deferred until water levels are below the toe-of-fill elevation.
- (7) The fill shall be graded so that there is no concentration of runoff on either slope which could result in erosion of the fill slope.
- (8) Culverts under the proposed fill shall be designed so that there is no increase in erosion at or downstream of the outlet as a result of increased flow velocity.
- (9) At such time as the land which is hereby conveyed and released ceases to be used for the purposes described in this easement, the Grantee shall:
  - (a) Reclaim all area which are disturbed pursuant to this easement in a manner which is compatible with the reclamation and drainage plans accepted by the Montana Department of State Lands or successor agencies under state law.
  - (b) Remove all culverts and reopen the affected drainages to approximately the original width (floodplain and channel).
- (10) All of the above conditions relating to construction, operation and maintenance of the railroad spur, power line, or any other structures, shall apply to the entire route connected with the easement request, rather than solely upon lands of the Department.

#### RESERVATION

The Department hereby expressly reserves to itself and its successors the right, at its discretion, pursuant to its authority, and without incurring any liability thereby, after giving two (2) years advance notice to the Grantee, to construct or cause to be constructed such water resource facilities, including but not limited to, dams, reservoirs, and canals, as the Department considers necessary upon or near said lands, and to flood said lands as a result of said facilities. In such case Grantee shall, without cost to the Department and prior to the date specified in the notice, at the direction of the Department, remove, relocate, or adjust the railroad spur, power line, or any other structures it has constructed or caused to be constructed upon the lands described herein.

#### EXISTING FLOOD EASEMENTS

This easement is subject to the right of the Department to flood said lands under existing flood easements it has on said lands.

### EXISTING FLOOD EASEMENTS

This easement is subject to the right of the Department to flood said lands under existing flood easements it has on said lands.

### TRANSFER

The Grantee has the unrestricted right to assign this easement in whole or in part to a subsidiary or affiliate company(s), subject to the conditions, reservation, and purposes specified herein. Grantee shall notify the Department of such an assignment.

### REVERTER

Whenever the easement conveyed and released herein ceases to be used for the purposes herein described, or Grantee or its assignee(s) fails to comply with the conditions contained herein, the same shall revert to the Department upon notice to that effect being given to the Grantee by the Department.

DATED this 7 day of May, 1979.

Richard T. Munger  
ACTING DIRECTOR, DEPARTMENT OF NATURAL  
RESOURCES AND CONSERVATION

Approved by the Board of Natural Resources and Conservation this

4th day of May, 1979.

Cecil Weeding  
CHAIRMAN, BOARD OF NATURAL RESOURCES  
AND CONSERVATION

STATE OF MONTANA )  
                              :  
County of Lewis and Clark) ss.

On this 7 day of May, 1979, there personally appeared before me, the undersigned Notary Public for the State of Montana, Richard T. Munger and Cecil Weeding, known to me to be, respectively, the <sup>Acting</sup> Director of the Department of Natural Resources and Conservation, and the Chairman of the Board of Natural Resources and Conservation of the State of Montana, and they, and each of them, acknowledged to me that they executed the above and foregoing RIGHT-OF-WAY EASEMENT TO SPRING CREEK COAL COMPANY for and on behalf of the Department of Natural Resources and Conservation and the Board of Natural Resources and Conservation, each having been first duly authorized.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this Certificate first above written.

Robert V. Johnson  
Notary Public for the State of Montana.  
Residing at Helena, Montana.  
My Commission expires: Oct 31, 1979.



## EXHIBIT "A"

## DESCRIPTION

A parcel of land in the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 34, T8S, R40E of the Montana Meridian, Big Horn County, State of Montana, more particularly described as follows:

**PARCEL 1** Beginning at the SE corner of the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 34; thence S 87° 30' 32" W along the south line of the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 34, a distance of 143.90 feet; thence N 7° 49' W a distance of 34.21 feet; thence N 52° 44' W a distance of 78.63 feet; thence N 28° 40' 40" E a distance of 164.85 feet; thence S 71° 41' E a distance of 129.86 feet to a point on the east line of the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 34; thence S 2° 44' 59" E along the east line of the SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 34, a distance of 179.28 feet to the point of beginning, containing 0.79 acres, more or less.

(Also...)

**PARCEL 2** A parcel of land in the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 34, T8S, R40E of the Montana Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at the SW corner of the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 34; thence N 2° 44' 59" W along the west line of the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 34, a distance of 179.28 feet; thence S 71° 41' E a distance of 10.79 feet; thence N 11° 34' E a distance of 449.10 feet; thence S 88° 34' E a distance of 262.95 feet; thence S 28° 40' 40" W a distance of 693.16 feet to a point on the south line of the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 34; thence S 87° 30' 32" W along the south line of the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 34; a distance of 21.95 feet to the point of beginning, containing 2.21 acres, more or less.

(Also)

**PARCEL 3** A parcel of land in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 34, T8S, R40E of the Montana Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at the NE corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 34; thence S 2° 44' 59" E along the east line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 34, a distance of 36.02 feet; thence S 28° 40' 40" W a distance of 183.51 feet to point of spiral curve to left; thence along said spiral curve through a 0° 10' 06" spiral angle, a distance of 52.12 feet; thence N 7° 49' W a distance of 238.69 feet to a point on the north line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 34; thence N 87° 30' 32" E along the north line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 34, a distance of 143.90 feet to the point of beginning, containing 0.44 acres, more or less.

(Also)

**PARCEL 4** A parcel of land in the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 34, T8S, R40E of the Montana Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at the NW corner of the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 34; thence N 87° 30' 32" E along the north line of the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 34, a distance of 21.95 feet; thence S 23° 40' 40" W a distance of 42.09 feet to a point on the west line of the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 34; thence S 87° 30' 32" E along the west line of the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 34, a distance of 36.02 feet to the point of beginning, containing 0.01 acres, more or less.

# DESCRIPTION

## PARCEL 5

A parcel of land in the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, T9S, R40E of the Montana Meridian, Big Horn County, State of Montana, more particularly described as follows:

N 86° 57' 38" E a distance of 331.95 feet from the SW corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, along the south line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, to the point of beginning; thence N 49° 02' W a distance of 226.72 feet; thence N 14° 48' 25" W a distance of 110.72 feet; thence S 65° 06' E a distance of 259.98 feet; thence S 14° 48' 25" E a distance of 147.19 feet to a point on the south line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3; thence S 86° 57' 38" W along the south line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, a distance of 74.05 feet to the point of beginning, containing 0.73 acres, more or less.

(Also)

## PARCEL 6

A parcel of land in the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, T9S, R40E of the Montana Meridian, Big Horn County, State of Montana, more particularly described as follows:

N 86° 57' 38" E a distance of 331.95 feet from the NW corner of the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, along the north line of the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3 to the point of beginning; thence N 86° 57' 38" E, along the north line of the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, a distance of 74.05 feet; thence S 14° 48' 25" E a distance of 222.14 feet; thence N 27° 45' W a distance of 202.55 feet; thence N 49° 02' W a distance of 48.20 feet to the point of beginning, containing 0.14 acres, more or less.

## PARCEL 7

(Also)

A parcel of land in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, T9S, R40E of the Montana Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at the SW corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3; thence N 2° 15' 34" W along the west line of the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, a distance of 165.91 feet; thence S 46° 17' 46" E a distance of 228.74 feet to a point on the south line of the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3; thence S 37° 12' 42" W along the south line of the NE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, a distance of 159.01 feet to the point of beginning, containing 0.30 acres, more or less.

(Also)

## PARCEL 8

A parcel of land in the W $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3, T9S, R40E of the Montana Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at the NW corner of the W $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3; thence N 87° 12' 42" E a distance of 159.01 feet along the north line of the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3; thence S 46° 17' 46" E a distance of 451.54 feet; thence S 87° 15' 19" W a distance of 344.94 feet; thence N 46° 17' 46" W a distance of 184.06 feet to a point on the west line of the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3; thence N 2° 15' 34" W along the west line of the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 3 a distance of 193.74 feet to the point of beginning, containing 2.18 acres, more or less.

## PARCEL 9

A parcel of land in the E $\frac{1}{2}$ SE $\frac{1}{2}$ SE $\frac{1}{2}$  of Section 3, T2S, R40E of the Montana Meridian, Big Horn County, State of Montana, more particularly described as follows:

N 2° 11' 39" W a distance of 328.15 feet from the SE corner of Section 3, along the east line of Section 3; thence S 87° 20' 39" W a distance of 274.24 feet to the point of beginning; thence S 87° 20' 39" W a distance of 245.10 feet to a point on a 3° 14' 14" circular curve to the left; thence along said curve, radius of 1770.08 feet, a distance of 72.28 feet, through a 1° 23' 24" central angle, to a point of spiral curve to the left; thence along said spiral curve a distance of 148.25 feet to a point on the west line of the E $\frac{1}{2}$ SE $\frac{1}{2}$ SE $\frac{1}{2}$  of Section 3; thence N 2° 18' 38" W, along the west line of the E $\frac{1}{2}$ SE $\frac{1}{2}$ SE $\frac{1}{2}$  of Section 3, a distance of 289.11 feet; thence S 46° 17' 46" E a distance of 115.46 feet to point of spiral curve to the right; thence along said spiral curve, through a 3° 45' spiral angle, a distance of 253.93 feet to point of a 2° 54' 31" circular curve to the right; thence along said circular curve, radius of 1970.08 feet, a distance of 229.99 feet, through a 6° 41' 22" central angle, to the point of beginning containing 1.87 acres more or less.

## DESCRIPTION

**PARCEL 10** A parcel of land in the NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 11, T9S, R40E of the Montana Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at the SW corner of the NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 11; thence N 1° 39' 05" W, along the west line of the NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 11, a distance of 1034.07 feet to a point on a 2° 54' 31" circular curve to the right; thence along said circular curve, radius of 1970.08 feet, a distance of 564.75 feet, through a 16° 25' 35" central angle, to a point of spiral curve to the right; thence along said spiral curve, through a 3° 45' spiral angle, a distance of 254.55 feet to point of tangent; thence S 4° 02' 45" W a distance of 221.65 feet; thence S 87° 34' 42" W a distance of 19.77 feet to the point of beginning, containing 0.85 acres more or less.

(Also)

**PARCEL 11** A parcel of land in the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 11, T9S, R40E of the Montana Meridian, Big Horn County, State of Montana, more particularly described as follows:

Beginning at the NW corner of the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 11; thence N 87° 34' 42" E, along the north line of the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 11, a distance of 19.77 feet; thence S 4° 02' 45" W a distance of 199.10 feet to a point on the west line of the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 11; thence N 1° 39' 05" W, along the west line of the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 11, a distance of 197.85 feet to the point of beginning, containing 0.04 acres more or less.

DESCRIPTION

**PARCEL 12** A parcel of land in the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 10, T9S, R40E of the Montana Meridian, Big Horn County, State of Montana, more particularly described as follows:

N 87° 41' 26" E a distance of 652.30 feet from the NW corner of the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 10, along the north line of the SE $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 10, to the point of beginning; thence N 87° 41' 26" E a distance of 178.06 feet to a point on a 2° 26' 10" circular curve to the right; thence along said 2° 26' 10" circular curve, radius of 2352.01 feet, a distance of 242.47 feet, through a 5° 54' 24" central angle to the point of a spiral curve to the right; thence along said spiral curve a distance of 70.22 feet; thence N 2° 05' 40" W a distance of 256.25 feet to the point of beginning, containing 0.55 acres more or less.

DESCRIPTION

**PARCEL 13** A parcel of land in the NW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub> of Section 15, T9S, R40E of the Montana Meridian, Big Horn County, State of Montana, more particularly described as follows:

S 87° 38' 31" W a distance of 501.49 feet from the SW corner of the NW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub> of Section 15, along the south line of the NW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub> of Section 15, to the point of beginning; thence S 87° 38' 31" W a distance of 89.83 feet; thence N 16° 32' 46" E a distance of 1055.65 feet; thence N 87° 36' 53" E a distance of 92.09 feet; thence S 16° 39' 43" W a distance of 1056.43 feet to the point of beginning, containing 2.09 acres more or less.