TITLE: An Action Relating To Resources And Development; Approving The Grant Of Right-Of-Way To Navajo Nation Of Transportation For The Birdsprings Road Project N71 (3) 2 & 4 Located On Navajo Nation Trust Lands In Tsidi To’ii Chapter (Navajo County And Coconino Country, Arizona)

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DATE: July 4, 2019

TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF RIGHT-OF-WAY TO NAVAJO DIVISION OF TRANSPORTATION FOR THE BIRDSPRINGS ROAD PROJECT N71 (3) 2 & 4 LOCATED ON NAVAJO NATION TRUST LANDS IN TSIDI TO’II CHAPTER (NAVAJO COUNTY AND COCONINO COUNTY, ARIZONA)

PURPOSE: If approved, this legislation would grant of right-of-way to the Bureau of Indian Affairs, Navajo Region, Division of Transportation, for the Birdsprings Road Project N71 (3) 2 & 4 on, over and across Navajo Nation Trust Lands in Tsidi To’ii Chapter vicinity (Navajo County and Coconino County, Arizona). The legislation would also approve waivers of valuation and compensation, 25 CFR § 169.110; waiver of the bond, insurance, or alternative form of security, 25 CFR § 169.103; waiver of due diligence, 25 CFR § 169.105 (c) (requires completion of construction of any permanent improvements within the schedule specified in the right-of-way grant); and waiver of 25 CFR § 169.125 (c)(2) allowing the grantee rights to any of the products or resources of the land, including but not limited to, timber, forage, mineral, and animal resources.

The legislation would also approve the right-of-way permitting construction of utilities within the right-of-way provided the utility company first obtain the consent from the Navajo Nation in writing if the utility is to enter and cross Navajo Nation land.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.
PROPOSED STANDING COMMITTEE RESOLUTION

24th NAVAJO NATION COUNCIL – First Year, 2019

INTRODUCED BY

[Signature]

(Prime Sponsor)

TRACKING NO. 0199-19

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF RIGHT-OF-WAY TO NAVAJO DIVISION OF TRANSPORTATION FOR THE BIRDSPRINGS ROAD PROJECT N71 (3) 2 & 4 LOCATED ON NAVAJO NATION TRUST LANDS IN TSIDI TO’II CHAPTER (NAVAJO COUNTY AND COCONINO COUNTY, ARIZONA)

BE IT ENACTED:

SECTION ONE. AUTHORITY

Pursuant to 2 N.N.C. Section §501 (B)(2), The Resources and Development Committee of the Navajo Nation Council has the authority to grant final approval for all land withdrawals, non-mineral leases, permits, licenses, rights-of-way, surface easements and bonding requirements on Navajo Nation lands and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfers, renewals, and terminations.

SECTION TWO. FINDINGS

A. The Bureau of Indian Affairs, Navajo Region, Division of Transportation, P.O. Box 1060, Gallup, New Mexico 87301, has submitted a right-of-way application for the Birdsprings Road Project N71 (3) 2 & 4 on, over and across Navajo Nation Trust
Lands in Tsidi To’ii Chapter vicinity (Navajo County and Coconino County, Arizona).

B. The application request is attached hereto and incorporated herein as Exhibit D.

C. The proposed right-of-way is described in maps and surveyor’s description attached hereto and incorporated herein as Exhibit B.

D. The Bureau of Indian Affairs, Navajo Region, Division of Transportation, requests waiver of valuation and compensation, 25 CFR § 169.110; waiver of the bond, insurance, or alternative form of security, 25 CFR § 169.103; waiver of due diligence, 25 CFR § 169.105 (c) (requires completion of construction of any permanent improvements within the schedule specified in the right-of-way grant); and waiver of 25 CFR § 169.125 (c)(2) allowing the grantee rights to any of the products or resources of the land, including but not limited to, timber, forage, mineral, and animal resources. See U.S. Department of the Interior, Bureau of Indian Affairs letter dated March 20, 2018 attached as Exhibit C.

E. The Bureau of Indian Affairs, Navajo Region, Division of Transportation, requests that the right-of-way include construction of utilities within the right-of-way. The utility company must first obtain the consent from the Navajo Nation in writing if the utility is to enter and cross Navajo Nation land. See U.S. Department of the Interior, Bureau of Indian Affairs letter dated March 20, 2018 attached as Exhibit C.

F. The Finding of No Significant Impact (FONSI) and other environmental and archaeological studies are attached hereto as Exhibit E.

G. The application for the right-of-way as submitted by Bureau of Indian Affairs, Navajo Region, Division of Transportation has been reviewed by through the Executive Official Review Document No. 011916 and “Approved” or found “Sufficient.” See Exhibit F.

SECTION THREE. APPROVAL

A. The Resources and Development Committee of the Navajo Nation Council hereby approves the Grant of Right-of-Way to the Bureau of Indian Affairs, Navajo Region, Division of Transportation for the Birdsprings Road Project N71 (3) 2 & 4 on, over and across Navajo Nation Trust Lands in Tsidi To’ii Chapter vicinity (Navajo County
and Coconino County, Arizona). The location is more particularly described on the 
survey map attached hereto as Exhibit B.

B. The Resources and Development Committee of the Navajo Nation Council hereby 
waives valuation and waives compensation for the right-of-way; it has determined 
that accepting the agreed-upon compensation and waiving valuation is in its best 
interest of the Navajo Nation pursuant to 25 CFR § 169.110.

C. The Resources and Development Committee of the Navajo Nation Council hereby 
waives the requirement for bond, insurance or alternative form of security on the part 
of the Grantee based on the determination that the project benefits the Navajo Nation 
and such waiver is in the best interest of the Navajo Nation pursuant to 25 CFR § 
169.103.

D. The Resources and Development Committee of the Navajo Nation Council hereby 
waives the due diligence provisions stated in 25 CFR § 169.105 (c) because a waiver is 
in the best interest of the Indian landowners. 25 CFR § 169.105 (c).

E. The Resources and Development Committee of the Navajo Nation Council hereby 
waives 25 CFR § 169.125 (c)(2) thereby allowing the grantee rights to any of the 
products or resources of the land, including but not limited to, timber, forage, mineral, 
and animal resources. 25 CFR § 169.125 (c)(2).

F. The Resources and Development Committee of the Navajo Nation Council hereby 
approves the Bureau of Indian Affairs, Navajo Region, Division of Transportation, 
request that the right-of-way include construction of utilities within the right-of-way. 
The utility company must first obtain the consent from the Navajo Nation in writing if 
the utility is to enter and cross Navajo Nation land.

G. The Resources and Development Committee of the Navajo Nation Council hereby 
approves the right-of-way subject to, but not limited to, the following terms and 
conditions incorporated herein and attached as Exhibit A.

H. The Resources and Development Committee of the Navajo Nation Council hereby 
authorizes the President of the Navajo Nation to execute any and all documents 
necessary to affect the intent and purpose of this resolution.