TITLE: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APROVING THE GRANT OF RIGHT-OF-WAY TO MCKINLEY COUNTY ROADS DEPARTMENT FOR UPGRADING, MAINTAINING, AND OPERATING THE EXISTING ROADWAY, CULVERTS AND DITCHES ON “MANUELITO CANYON DRIVE, “NAVAJO ROUTE 7043/COUNTY ROUTE 4 LOCATED ON NAVAJO NATION TRUST LANDS IN MANUELITO CHAPTER, NAVAJO NATION (MCKINLEY COUNTY, NEW MEXICO

Date posted: May 30, 2019 at 7:56pm

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LEGISLATIVE SUMMARY SHEET
Tracking No. 0140-19

DATE: May 30, 2019

TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING THE GRANT OF RIGHT-OF-WAY TO MCKINLEY COUNTRY ROADS DEPARTMENT FOR UPGRADING, MAINTAINING, AND OPERATING THE EXISTING ROADWAY, CULVERTS AND DITCHES ON "MANUELITO CANYON DRIVE," NAVAJO ROUTE 7043/COUNTY ROUTE 4 LOCATED ON NAVAJO NATION TRUST LANDS IN MANUELITO CHAPTER, NAVAJO NATION (MCKINLEY COUNTY, NEW MEXICO)

PURPOSE: Approving the Grant of Right-of-Way to McKinley County Roads Department, to upgrade, maintain, and operate the existing roadway, culverts and ditches on Manuelito Canyon Drive, Navajo Route 7043/County Route 4 located on, over and across Navajo Nation Trust Lands in Manuelito Chapter, Navajo Nation (McKinley County, New Mexico).

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]

Primary Sponsor

TRACKING NO. 0140-19

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING
THE GRANT OF RIGHT-OF-WAY TO MCKINLEY COUNTRY ROADS
DEPARTMENT FOR UPGRADING, MAINTAINING, AND OPERATING THE
EXISTING ROADWAY, CULVERTS AND DITCHES ON “MANUELITO CANYON
DRIVE,” NAVAJO ROUTE 7043/COUNTY ROUTE 4 LOCATED ON NAVAJO
NATION TRUST LANDS IN MANUELITO CHAPTER, NAVAJO NATION
(MCKINLEY COUNTY, NEW MEXICO)

BE IT ENACTED:

Section One. Authorities

Pursuant to 2 N.N.C. § 500 (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, right-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 McKinley County Roads Department has submitted a right-of-way application
to upgrade, maintain, and operate the existing roadway, culverts and ditches on
Manuelito Canyon Drive, Navajo Route 7043/County Route 4 located on, over and across Navajo Nation Trust Lands in Manuelito Chapter, Navajo Nation (McKinley County, New Mexico), attached as Exhibit B.

B. The proposed right-of-way is described in Exhibit B.

C. Seven land users have been identified and their consent forms and Manuelito Navajo Chapter Resolution No. MANU09-16-18075, “Supporting and approving the rights of way consents for Navajo Tribal Trust Land permits located within Manuelito Chapter Boundary for Manuelito Canyon Road 5A Project are attached as Exhibit C.

D. 25 CFR § 169.110 addresses how much monetary compensation must be paid for a right-of-way over or across tribal land. It states: (a) A right-of-way over or across tribal land may allow for any payment amount negotiated by the tribe, and we will defer to the tribe and not require a valuation if the tribe submits a tribal authorization expressly stating that it:
   (1) Has agreed upon compensation satisfactory to the tribe;
   (2) Waives valuation; and
   (3) Has determined that accepting such agreed-upon compensation and waiving valuation is in its best interest.
   (b) The tribe may request, in writing, that we determine fair market value, in which case we will use a valuation in accordance with § 169.114. After providing the tribe with the fair market value, we will defer to a tribe’s decision to allow for any compensation negotiated by the tribe.
   (c) If the conditions in paragraph (a) or (b) of this section are not met, we will require that the grantee pay fair market value based on a valuation in accordance with § 169.114.

E. 25 CFR § 169.103 address bond, insurance or alternative forms of security. It states: (a) You must include payment of bonds, insurance, or alternative forms of security with your application for a right-of-way in amounts that cover:
   (1) The highest annual rental specified in the grant, unless compensation is a one-time payment;
(2) The estimated damages resulting from the construction of any permanent improvements;
(3) The estimated damages and remediation costs from any potential release of contaminants, explosives, hazardous material or waste;
(4) The operation and maintenance charges for any land located within an irrigation project;
(5) The restoration of the premises to their condition at the start of the right-of-way or reclamation to some other specified condition if agreed to by the landowners.
***
(f) We may waive the requirement for a bond, insurance, or alternative form of security:
***
(2) For tribal land, deferring, to the maximum extent possible, to the tribe’s determination that a waiver of a bond, insurance or alternative form of security is in its best interest.

F. The environmental and archaeological studies have been completed and are attached hereto as Exhibit D.

G. The Proposed Road Maintenance/Improvements for N7043/CR 4 “Manuelito Canyon Drive” Prepared for the Bureau of Indian Affairs, Navajo Regional Transportation and the Navajo Division of Transportation report is attached as Exhibit E.

H. The application for the Right-of-Way has been reviewed by the Fish and Wildlife; Historic Preservation; Minerals; Navajo Nation Environmental Protection; Division of Natural Resources and the Department of Justice and “Approved” or found “Sufficient.” See documents included in Executive Official Review Document Number 011327, 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 McKinley County Roads Department to
upgrade, maintain, and operate the existing roadway, culverts and ditches on Manuelito Canyon Drive, Navajo Route 7043/County Route 4 located on, over and across Navajo Nation Trust Lands in Manuelito Chapter, Navajo Nation (McKinley County, New Mexico), the location is more particularly described on the survey map attached as Exhibit B.

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

C. 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 Title 25 CFR § 169.110.

D. The Resources and Development Committee of the Navajo Nation Council hereby waives the requirement for a bond, insurance or alternative form of security on the part of the Grantee, based on the determination that the Manuelito Canyon Drive, Navajo Route 7043/County Route 4 project benefits the Navajo Nation and such a waiver is in the best interest of the Navajo Nation, pursuant to Title 25 CFR § 169.103 (f) (2).

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