TITLE: An Action Relating to Resources and Development; approving a temporary construction easement to U.S. Bureau of Reclamation for staging areas on Reaches 6-8 Navajo Gallup Water Supply Project located on Tribal Trust Lands in Newcomb and Sheep Springs Chapters (San Juan County, New Mexico)

Date posted: November 25, 2019 at 5:35pm

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LEGISLATIVE SUMMARY SHEET
Tracking No. 0359-19

DATE: November 10, 2019

TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A TEMPORARY CONSTRUCTION EASEMENT TO U.S. BUREAU OF RECLAMATION FOR STAGING AREAS ON REACHES 6 - 8 NAVAJO GALLUP WATER SUPPLY PROJECT LOCATED ON TRIBAL TRUST LANDS IN NEWCOMB AND SHEEP SPRINGS CHAPTERS (SAN JUAN COUNTY, NEW MEXICO)

PURPOSE: Approving a temporary construction easement for staging areas on Reaches 6 - 8 Navajo Gallup Water Supply Project located on, over and across Navajo Nation Trust Lands in Newcomb and Sheep Springs Chapters (San Juan 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

(Prime Sponsor)

TRACKING NO. 0359-19

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT: APPROVING A TEMPORARY CONSTRUCTION EASEMENT TO U.S. BUREAU OF RECLAMATION FOR STAGING AREAS ON REACHES 6 – 8 NAVAJO GALLUP WATER SUPPLY PROJECT 1, LOCATED ON TRIBAL TRUST LANDS IN NEWCOMB AND SHEEP SPRINGS CHAPTERS (SAN JUAN COUNTY, NEW MEXICO)

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 give final approval of all land withdrawals, non-mineral leases, permits, licenses, rights-of-way, surface easements and bonding requirements on Navajo Nation land and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfers, renewals, and terminations.

Section Two. Findings

A. The United States Bureau of Reclamation, 1235 La Plata Highway, Farmington, New Mexico 87401 has submitted a temporary construction easement applications for staging areas in Reaches 6 - 8 Navajo Gallup Water Supply
Project located on, over and across Navajo Nation Trust Lands in Newcomb and Sheep Springs Chapters (San Juan County, New Mexico). The applications are attached and incorporated as Exhibit C.

B. “The Omnibus Public Land Management Act of 2009, Title X, Part III (Public Law 111-11) (Act) authorizes the Bureau of Reclamation to construct the Navajo-Gallup Water Supply Project (NGWSP) that includes water treatment plants, pipeline, several pumping stations and ancillary facilities. Once completed, the NGWSP will deliver a reliable source of potable water, sourced from the San Juan River, to Navajo communities in northwestern New Mexico, the City of Gallup, NM, and the southwest portion of the Jicarilla Apache Reservation for municipal and industrial use. The NGWSP will connect to existing and future water distribution systems operated on the reservation by the Navajo Tribal Utility Authority (NTUA), and in Gallup, by the City of Gallup. The high quality, treated water provided by the NGWSP will bring immediate benefits, including improved health and well-being to Tribal members.” Applications, Exhibit C.

C. The proposed temporary construction easement consists of Navajo Nation Trust Lands in Newcomb and Sheep Springs Chapters (San Juan County, New Mexico) and the location is more particularly described on the survey maps attached and incorporated as Exhibits B and C.

D. In the Sheep Springs Chapter area, it has been determined that there are twenty-five (25) land users of which twelve (12) Consent Forms have been obtained, three (3) land users have not been located and ten (10) land users are deceased and those grazing permits have not been probated. The Navajo Nation Department of Justice memorandum dated October 2, 2019 explaining that the “Navajo Land Department (NLD) is required by 16 N.N.C. §§ 1401 et seq., to estimate the surface damages, if any, and Bureau of Reclamation (BOR) is required to deposit with the Navajo Nation, double the estimated damages determined by NLD to ensure appropriate compensation, if any, to the legal heirs of the above-named deceased and to the three land users that were unable to be located for their consent.” The Department of Justice memorandum dated
October 2, 2019, the Land Support Agent memorandum dated September 18, 2019, and the Consent Forms are attached as Exhibit D.

E. In the Newcomb Chapter area, it has been determined that there are twenty-six (26) land users of which thirteen (13) Consent Forms have been obtained, three (3) land users have not been located and ten (10) land users are deceased and those grazing permits have not been probated. The Navajo Nation Department of Justice memorandum dated October 2, 2019 explaining that the “Navajo Land Department (NLD) is required by 16 N.N.C. §§ 1401 et seq., to estimate the surface damages, if any, and Bureau of Reclamation (BOR) is required to deposit with the Navajo Nation, double the estimated damages determined by Navajo Land Department NLD to ensure appropriate compensation, if any, to the legal heirs of the above-named deceased and to the three land users that were unable to be located for their consent.” The Department of Justice memorandum dated October 2, 2019, the Land Support Agent memorandum dated September 20, 2018, and the Consent Forms are attached as Exhibit E.


G. The Bureau of Reclamation requests a waiver of bond, insurance, or alternative form of security. See, 25 CFR § 169.103.

H. The Biological Resources Compliance Form NNDFW Review No. 18em106 is attached as Exhibit F.

I. The applications for the Temporary Construction Easement as submitted by the United States Bureau of Reclamation have been reviewed by the Navajo Nation Environmental Protection Agency, Department of Water Resources, Fish and Wildlife Department, Historic Preservation Department, Minerals Department, Division of Natural Resources and the Department of Justice and “Approved” or found “Sufficient.” See Exhibit G.

Section Three. Approval
A. The Resources and Development Committee of the Navajo Nation Council hereby grants approval of a Temporary Construction Easement to U.S. Bureau of Reclamation for staging areas for Reaches 6 - 8 Navajo Gallup Water Supply Project located on, over and across Navajo Nation Trust Lands in Newcomb and Sheep Springs Chapters, San Juan County, New Mexico. The location is more particularly described on the maps attached hereto as Exhibit B.

B. The Resources and Development Committee of the Navajo Nation Council hereby approves the Temporary Construction Easement subject to, but not limited to, the terms and conditions incorporated herein as Exhibit A.

C. The Resources and Development Committee of the Navajo Nation Council hereby waives valuation and waives compensation for the Temporary Construction Easement because 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.

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 Reaches 6 - 8 Navajo Gallup Water Supply 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.

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 necessary to affect the intent and purpose of this resolution.