LEGISLATION NO: _0212-20__                    SPONSOR: Rickie Nez

TITLE: An Action Relating To Resources And Development; Approving A Right-
Of-Way And Temporary Construction Easement To U.S. Bureau Of Reclamation
To Construct, Operate And Maintain Reach 7 - Pumping Plant 4, Sheep Springs
Turnout And Temporary Staging Area For Navajo Gallup Water Supply Project
Located On Tribal Trust Lands In Sheep Springs Chapter (San Juan County, New
Mexico)

Date posted: August 26, 2020 at 5:40 PM

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tampering with public records are punishable by Navajo Nation law pursuant to 17
N.N.C. §374 et. seq.
DATE: August 25, 2020

TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT TO U.S. BUREAU OF RECLAMATION TO CONSTRUCT, OPERATE AND MAINTAIN REACH 7—PUMPING PLANT 4, SHEEP SPRINGS TURNOUT AND TEMPORARY STAGING AREA FOR NAVAJO GALLUP WATER SUPPLY PROJECT LOCATED ON TRIBAL TRUST LANDS IN SHEEP SPRINGS CHAPTER (SAN JUAN COUNTY, NEW MEXICO)

PURPOSE: The purpose of this legislation is to grant approval of a Right-of-Way and Temporary Construction Easement to U.S. Bureau of Reclamation to construct, operate and maintain Reach 7—Pumping Plant #4 of the Navajo Gallup Water Supply Project located on, over and across Navajo Nation Trust Lands in Sheep Springs Chapter, 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 — Second Year, 2020

INTRODUCED BY

[Signature]

(Prime Sponsor)

TRACKING NO. 0212-20

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT TO U.S. BUREAU OF RECLAMATION TO CONSTRUCT, OPERATE AND MAINTAIN REACH 7— PUMPING PLANT 4, SHEEP SPRINGS TURNOUT AND TEMPORARY STAGING AREA FOR NAVAJO GALLUP WATER SUPPLY PROJECT LOCATED ON TRIBAL TRUST LANDS IN SHEEP SPRINGS CHAPTER (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,
B. New Mexico 87401 has submitted a right-of-way application and a temporary construction easement application to construct, operate and maintain Reach 7 Navajo Gallup Water Supply Project located on, over and across Navajo Nation Trust Lands in Sheep Springs Chapter, San Juan County, New Mexico. The applications are attached and incorporated as Exhibit D.

C. "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 D.

D. The proposed permanent right-of-way and temporary construction easement consists of Navajo Nation Trust Lands located in San Juan County, New Mexico and the location is more particularly described on the Legal Descriptions and survey maps attached and incorporated as Exhibit B.

E. The Bureau of Reclamation in a letter written to the Program Manager of the Navajo Nation's General Land Development Department dated February 6, 2020 states "It should be noted that your office has previously obtained the field clearances for these parcels with the work that was completed on Reach 4C through 8 ROW application package that was approved as Resolution [No. RDCAP-009-19] and granted on April 24, 2019, and further, the BIA granted the Reach 4C through 8 ROW that is recorded as TAAMS No. 791 4200187192, on October 2, 2019. The parcels herein requested will overlap the Reach 4C through 8 ROW at the south end of Reach 7 and the north end of Reach 8." See
Application, Exhibit D. The Navajo Nation Department of Justice memorandum dated April 24, 2020 and the Consent Forms are attached as Exhibit C.

F. The Bureau of Reclamation “understands that the Navajo Nation is waiving all customary fees and consideration for the ROW in accordance with the authorizing legislation in the Omnibus Public Land Management Act of 2009, Title X, Part III, Section 10602(c)(2) (Public Law 111-11).” Application, Exhibit D.

G. The Biological Resources Compliance Form NNDFW Review No. EOR010650 is attached as Exhibit E.

H. The Navajo-Gallup Water Supply Project Class III Inventory and Ethnographic Summary for the San Juan Lateral, Volume I: Reaches 3-8, Hogback Diversion, and Shiprock Connection, Navajo Nation, McKinley and San Juan Counties, New Mexico is attached as Exhibit F.

I. The Tooh Haltsooi Council of Naataanii Chapter Resolution TC-2017-0191 supporting the Navajo-Gallup Water Supply Project is attached as Exhibit G.

J. Navajo Nation President’s Executive Order No. 07-2017 stating support for the Navajo-Gallup Water Supply Project and a memorandum dated September 9, 2016 supporting a waiver of the bond requirement under 25 C.F.R. § 1.2 of the 25 C.F.R. § 169.103 are attached as Exhibit H.

K. RDCAP-009-19 approving a right-of-way and temporary easement for Reaches 4C-8 of the Navajo Gallup Water Supply Project, the Executive Official Review No. 010650 regarding the Reaches 4C-8, the TAAMS No. 791 4200187192 for Project No. Reach 4C-8 and TAAMS No. 791 4200191683 for Project No. Reach 4C-8 are attached as Exhibit I.

L. The Executive Official Review Document No. 014167 entitled “BOR ROW Reach 7 Pumping Plant No. 4” is attached as Exhibit J.

Section Three. Approval

A. The Resources and Development Committee of the Navajo Nation Council hereby grants approval of a Right-of-Way and Temporary Construction Easement to U.S. Bureau of Reclamation to construct, operate and maintain Reach 7—Pumping Plant
#4 of the Navajo Gallup Water Supply Project located on, over and across Navajo Nation Trust Lands in Sheep Springs Chapter, San Juan County, New Mexico. The location is more particularly described on the map attached hereto as Exhibit B.

B. The Resources and Development Committee of the Navajo Nation Council hereby approves the Right-of-Way subject to, but not limited to, the terms and conditions incorporated herein as Exhibit A-1.

C. 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-2.

D. The Resources and Development Committee of the Navajo Nation Council hereby waives valuation and waives compensation for the Right-of-Way and 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 § 169.110.

E. 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 Reach 7—Pumping Plant #4 of the 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 (f) (2).

F. The Resources and Development Committee of the Navajo Nation Council hereby grants the Right-of-Way and Temporary Construction Easement as long as the Grantee Bureau of Reclamation or its successors or assigns use the right-of-way and temporary construction easement for the construction, operation and maintenance of the Navajo Gallup Water Supply Project.

G. 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.