TITLE: An Action Relating to the Resources and Development Committee: Delegating authority to the director of the Navajo Land Department to issue easements to the Navajo Tribal Utility Authority; Superseding certain provisions of RDCS-96-17 and RDCS-97-17

Date posted: February 24, 2020 at 5:16pm

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DATE: February 20, 2020

TITLE OF RESOLUTION: AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE; DELEGATING AUTHORITY TO THE DIRECTOR OF THE NAVAJO LAND DEPARTMENT TO ISSUE EASEMENTS TO THE NAVAJO TRIBAL UTILITY AUTHORITY; SUPERSEDING CERTAIN PROVISIONS OF RDCS-96-17 AND RDCS-97-17

PURPOSE: This resolution, if approved, will delegate RDC’s authority to approve NTUA utility easements to the Director of Navajo Land Department.

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

24th NAVAJO NATION COUNCIL – Second Year, 2020

INTRODUCED BY

[Signature]

(Prime Sponsor)

TRACKING NO. 0040-20

AN ACTION

RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE; DELEGATING AUTHORITY TO THE DIRECTOR OF THE NAVAJO LAND DEPARTMENT TO ISSUE EASEMENTS TO THE NAVAJO TRIBAL UTILITY AUTHORITY; SUPERSEDMING CERTAIN PROVISIONS OF RDCS-96-17 AND RDCS-97-17

BE IT ENACTED:

Section One. Authority

A. The Resources and Development Committee is a standing committee of the Navajo Nation Council empowered to exercise oversight authority on matters involving communication and utilities, economic and community development, rights-of-ways, public utilities, telecommunication and housing, 2 N.N.C. §500 (C)

B. The Resources and Development Committee is also empowered to exercise oversight authority over land and has the enumerated power to grant final approval for non-mineral leases and rights-of-way within the Navajo Nation. 2 N.N.C. §§ 500 (C) and 501 (B) (2) (a).

C. The Resources and Development Committee is further empowered to delegate its final approval authority for non-mineral leases and rights-of-way to appropriate Divisions for efficiency and streamlining of government processes provided the Committee first
approves rules and regulations governing such delegations and rescission of such
delegations. See 2. N.N.C. § 501 (B) (3).

Section Two. Findings

A. The Navajo Nation has inherent authority to govern itself and its lands. The United
States recognizes the Navajo Nation's sovereignty and self-governance through the
Treaty of 1868, various statutes, contracts, and judicial decisions; this authority of self-
governance includes the power to regulate the use, sale, exchange and development of
Navajo Nation lands.

B. In 2016, the United States Department of Interior updated its regulations concerning
the issuance of rights-of-ways over Indian land to include the following language: "you
do not need a right of way if you [a]re an independent legal entity wholly owned and
operated by the tribe that owns 100 percent of the trust or restricted interest in land."
25 C.F.R. § 169.4 (b) (3).

C. According to the 2010 Census, Navajo Nation has over 300,000 enrolled tribal
members with 47% living on the Navajo Nation which extends over 27,425 square
miles and expands into the states of Arizona, New Mexico and Utah.

D. The Navajo Nation lacks utility infrastructure: for example, even though Navajo Tribal
Utility Authority (NTUA) connects an average of 474 homes per year to the electrical
grid and has connected over 5,500 Navajo families since 2008, over 15,000 Navajo
families still lack access to electricity.

D. The current Bureau of Indian Affairs review and approval process of rights-of-ways is
time consuming, burdensome, and ever changing; this bureaucracy has resulted in loss
of project funding and delays of providing Navajo residents with much needed utility
services.

E. The Resource & Development Committee’s delegation of authority to the Director of
the Navajo Land Department to issue easements, also known as right of ways, to NTUA
will be an exercise of self-governance and tribal sovereignty, and result in time and
cost savings.
F. As set forth in its enabling legislation at 21 N.N.C. §§ 1 et seq., NTUA is an independent legal entity wholly owned by the Navajo Nation.

G. The Resource & Development Committee finds that it is in the best interest of the Navajo Nation for the Navajo Land Department to issue easements to the Nation's own Utility on lands owned 100% by the Nation and in so doing, streamline the process for issuing easements to the Navajo Tribal Utility Authority.

Section Three. Approval and Superseding Resolution

A. The Resources and Development Committee of the Navajo Nation Council hereby approves the delegation of authority to the Director of the Navajo Land Department, Division of Natural Resources, to approve easements on lands owned 100% by the Navajo Nation.

B. The Resource Development Committee hereby approves the Regulations attached hereto as Exhibit A.

C. The Resources and Development Committee hereby clarifies that this Resolution supersedes and replaces any and all sections of Resolutions RDCS-96-17 and RDCS-97-17 that concern the Navajo Tribal Utility Authority.