

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0124-20__

SPONSOR: Rickie Nez

TITLE: An Action Relating to Resources and Development Committee; Approving Tribal Authorization authorizing access without Bureau of Indian Affairs approval for independent legal entities wholly owned and operated by the Navajo Nation; Approving the Delegation of Authority to the Department Manager of the Navajo Land Department to grant Tribal access for rights-of-way on the Navajo Nation for independent legal entities wholly owned by the Navajo Nation; Approving the Departmental Administrative Rules and Regulations and the Terms and Conditions for the Delegation of Authority; and, Rescinding RCD-104-10, RDCS-97-17 and other prior inconsistent Resources and Development Resolution

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LEGISLATIVE SUMMARY SHEET
Tracking No. 0124-20

DATE: May 18, 2020

TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING TRIBAL AUTHORIZATION AUTHORIZING ACCESS WITHOUT BUREAU OF INDIAN AFFAIRS APPROVAL FOR INDEPENDENT LEGAL ENTITIES WHOLLY OWNED AND OPERATED BY THE NAVAJO NATION; APPROVING THE DELEGATION OF AUTHORITY TO THE DEPARTMENT MANAGER OF THE NAVAJO LAND DEPARTMENT TO GRANT TRIBAL ACCESS FOR RIGHTS-OF-WAY ON THE NAVAJO NATION FOR INDEPENDENT LEGAL ENTITIES WHOLLY OWNED BY THE NAVAJO NATION; APPROVING THE DEPARTMENTAL ADMINISTRATIVE RULES AND REGULATIONS AND THE TERMS AND CONDITIONS FOR THE DELEGATION OF AUTHORITY; AND, RESCINDING RCD-104-10, RDCS-97-17 AND OTHER PRIOR INCONSISTENT RESOURCES AND DEVELOPMENT RESOLUTIONS

PURPOSE: Approving the “tribal authorization authorizing access without BIA approval” for independent legal entities wholly owned and operated by the Navajo Nation pursuant to the requirement stated in 25 CFR § 169.4 (b)(3)(iii); approving the delegation of authority to the Department Manager of the Navajo Land Department, Division of Natural Resources, to grant tribal access for rights-of-way on the Navajo Nation for legal entities wholly owned by the Navajo Nation on Navajo Nation trust and fee lands; approving the Departmental Administrative Rules and Regulations for the Delegation of Authority to the Department Manager of the Navajo Land Department; approving the Terms and Conditions; rescinding Resolutions RCD-104-10, and RDCS-97-17; directing the Navajo Land Department Manager, Navajo Nation Division of Natural Resources to provide this authorizing tribal authorization resolution and a legal description to the Bureau of Indian Affairs as is provided in 25 CFR § 169.4 (b)(3)(iii).

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.

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PROPOSED STANDING COMMITTEE RESOLUTION
24th NAVAJO NATION COUNCIL -- Second Year, 2020

INTRODUCED BY



(Prime Sponsor)

TRACKING NO. 0124-20

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE;
APPROVING TRIBAL AUTHORIZATION AUTHORIZING ACCESS WITHOUT
BUREAU OF INDIAN AFFAIRS APPROVAL FOR INDEPENDENT LEGAL
ENTITIES WHOLLY OWNED AND OPERATED BY THE NAVAJO NATION;
APPROVING THE DELEGATION OF AUTHORITY TO THE DEPARTMENT
MANAGER OF THE NAVAJO LAND DEPARTMENT TO GRANT TRIBAL
ACCESS FOR RIGHTS-OF-WAY ON THE NAVAJO NATION FOR
INDEPENDENT LEGAL ENTITIES WHOLLY OWNED BY THE NAVAJO
NATION; APPROVING THE DEPARTMENTAL ADMINISTRATIVE RULES
AND REGULATIONS AND THE TERMS AND CONDITIONS FOR THE
DELEGATION OF AUTHORITY; AND, RESCINDING RCD-104-10, RDCS-97-17
AND OTHER PRIOR INCONSISTENT RESOURCES AND DEVELOPMENT
RESOLUTIONS

BE IT ENACTED.

Section One. Authority

A. Pursuant to 2 N.N.C. § 500, the Resources and Development Committee was established as a standing committee of the Navajo Nation Council.

1 B. Pursuant to 2 N.N.C. § 501 (B) (2) (a), the Resources and Development Committee
2 grants final approval for all rights-of-way.

3 C. Pursuant to 2 N.N.C. § 501 (B) (3), the Resources and Development Committee is
4 authorized to delegate its powers to appropriate divisions of the Navajo Nation for
5 efficiency and streamlining of government processes provided the Committee first
6 grants final approval of rules and regulations governing such delegations and
7 rescission of such delegations.

8
9 **Section Two. Findings**

10 A. The Code of Federal Regulations, Title 25, Part 169. Rights-of-way over Indian Land
11 Subpart A. Purpose, Definitions, General Provisions, 25 CFR § 169.4 (b)(3)(iii) states
12 “You do not need a right-of-way if you are... (iii) An independent legal entity wholly
13 owned and operated by the tribe that owns 100 percent of the trust or restricted
14 interests in the land.” 25 CFR § 169.4 (b)(3)(iii) further states: “but the following
15 conditions apply . . . The tribal governing body must pass a tribal authorization
16 authorizing access without BIA approval and including a legal description, and you
17 must submit both documents to BIA for our records.”

18 B. Independent legal entities wholly owned by the Navajo Nation include but are not
19 limited to: Navajo Tribal Utility Authority (NTUA), Navajo Engineering
20 Construction Authority (NECA), Navajo Nation Oil and Gas Company (NNOGC),
21 Navajo Nation Gaming Enterprise (NNGE), Navajo Agricultural Product Industry
22 (NAPI), Navajo Housing Authority (NHA), Navajo Nation Hospitality Enterprise
23 (NNHE), Dine Power Authority (DPA), and Navajo Nation government divisions and
24 departments such as the Navajo Division of Transportation and Department of Water
25 Resources.

26 C. The Resources and Development Committee desires uniform rules and regulations for
27 issuing rights-of-way for all independent legal entities wholly owned by the Navajo
28 Nation.

29 D. Currently, there are Resources and Development Committee (RDC) and Resources
30 Committee (predecessor to the RDC) resolutions pertaining to rights-of-way and the

1 Navajo Tribal Utility Authority (NTUA), an independent legal entity wholly owned
2 by the Navajo Nation. These resolutions include RCD-104-10 (Delegation to
3 Director of Navajo Land Department to approve rights-of-way for NTUA for
4 electric, water, sewer, natural gas, and other such NTUA activities; approving rules
5 and regulations for the delegation; and approving the terms and conditions for these
6 rights-of-way). Resources and Development Committee Resolution RDCS-97-17
7 amended RCD-104-10's Exhibit B which was the NTUA terms and conditions for
8 the rights-of-way to allow waivers of compensation for commercial rights-of-way.
9 RCD-104-10 is attached as **Exhibit C**. RDCS-97-17 is attached as **Exhibit D**.

10 E. The Resources and Development Committee through this resolution will rescind
11 RCD-104-10 and RDCS-97-17 both of which pertain only to NTUA. Rescinding
12 RCD-104-10 and RDCS-97-17 will make the rights-of-way process uniform for to
13 all the above mentioned independent legal entities wholly owned by the Navajo
14 Nation.

15
16 **Section Three. Tribal Authorization pursuant to 25 CFR § 169.4 (b)(3)(iii)**

17 The Resources and Development Committee of the Navajo Nation Council,
18 established as a standing committee of the Navajo Nation Council with the
19 authority to grant final approval for all rights-of-way, hereby "pass[es] [this] tribal
20 authorization authorizing access without BIA approval" for independent legal
21 entities wholly owned and operated by the Navajo Nation pursuant to the
22 requirement stated in 25 CFR § 169.4 (b)(3)(iii).

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24 **Section Four. Delegation of Authority, Approval of Rules and Regulations, and**
25 **Approval of Terms and Conditions**

26 A. The Resources and Development Committee of the Navajo Nation Council
27 hereby approves the delegation of authority to the Department Manager of the
28 Navajo Land Department, Division of Natural Resources, to grant tribal access
29 for rights-of-way on the Navajo Nation for legal entities wholly owned by the
30 Navajo Nation on Navajo Nation trust and fee lands.

1 B. The Resources and Development Committee of the Navajo Nation Council
2 hereby approves the Departmental Administrative Rules and Regulations for the
3 Delegation of Authority to the Department Manager of the Navajo Land
4 Department as described in **Exhibit A**.

5 C. The Resources and Development Committee of the Navajo Nation Council
6 hereby approves the Terms and Conditions attached as **Exhibit B**.

7
8 **Section Five. Rescinding RCD-104-10, RDCS-97-17 and Prior Inconsistent**
9 **Resolutions**

10 A. The Resources and Development Committee of the Navajo Nation Council hereby
11 rescinds Resolutions RCD-104-10, and RDCS-97-17, attached as **Exhibit C** and
12 **Exhibit D**.

13 B. The Resources and Development Committee of the Navajo Nation Council hereby
14 rescinds any other prior inconsistent Resources and Development Committee
15 resolution(s) establishing rules and regulations and terms and conditions for independent
16 legal entities wholly owned by the Navajo Nation to insure uniformity with regard
17 to the rights-of-way process for independent legal entities wholly owned by the
18 Navajo Nation.

19
20 **Section Six. Directive to Navajo Land Department Manager, Navajo Nation**
21 **Division of Natural Resources**

22 The Resources and Development Committee of the Navajo Nation Council hereby
23 directs the Navajo Land Department Manager, Navajo Nation Division of Natural
24 Resources to provide this authorizing tribal authorization resolution and a legal
25 description to the Bureau of Indian Affairs as is provided in 25 CFR § 169.4
26 (b)(3)(iii).