

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0140-19_____

SPONSOR: Seth Damon

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 ANDF 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 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)


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.

5-DAY BILL HOLD PERIOD: None
Website Posting Time/Date: _____
Posting End Date: 5/4/19
Eligible for Action: 5/5/19

PROPOSED STANDING COMMITTEE RESOLUTION
24th NAVAJO NATION COUNCIL—First Year, 2019

INTRODUCED BY


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

1 Manuelito Canyon Drive, Navajo Route 7043/County Route 4 located on, over and
2 across Navajo Nation Trust Lands in Manuelito Chapter, Navajo Nation (McKinley
3 County, New Mexico), attached as **Exhibit B**.

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

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

10 D. 25 CFR § 169.110 addresses how much monetary compensation must be paid for a
11 right-of-way over or across tribal land. It states: *(a) A right-of-way over or across*
12 *tribal land may allow for any payment amount negotiated by the tribe, and we will*
13 *defer to the tribe and not require a valuation if the tribe submits a tribal*
14 *authorization expressly stating that it:*

15 *(1) Has agreed upon compensation satisfactory to the tribe;*

16 *(2) Waives valuation; and*

17 *(3) Has determined that accepting such agreed-upon compensation and waiving*
18 *valuation is in its best interest.*

19 *(b) The tribe may request, in writing, that we determine fair market value, in which*
20 *case we will use a valuation in accordance with § 169.114. After providing the tribe*
21 *with the fair market value, we will defer to a tribe's decision to allow for any*
22 *compensation negotiated by the tribe.*

23 *(c) If the conditions in paragraph (a) or (b) of this section are not met, we will*
24 *require that the grantee pay fair market value based on a valuation in accordance*
25 *with § 169.114.*

26 E. 25 CFR § 169.103 address bond, insurance or alternative forms of security. It
27 states: *(a) You must include payment of bonds, insurance, or alternative forms of*
28 *security with your application for a right-of-way in amounts that cover:*

29 *(1) The highest annual rental specified in the grant, unless compensation is a one-*
30 *time payment;*

1 (2) *The estimated damages resulting from the construction of any permanent*
2 *improvements;*

3 (3) *The estimated damages and remediation costs from any potential release of*
4 *contaminants, explosives, hazardous material or waste;*

5 (4) *The operation and maintenance charges for any land located within an*
6 *irrigation project;*

7 (5) *The restoration of the premises to their condition at the start of the right-of-way*
8 *or reclamation to some other specified condition if agreed to by the landowners.*

9 * * * *

10 (f) *We may waive the requirement for a bond, insurance, or alternative form of*
11 *security:*

12 * * * *

13 (2) *For tribal land, deferring, to the maximum extent possible, to the tribe's*
14 *determination that a waiver of a bond, insurance or alternative form of security is*
15 *in its best interest.*

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

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

22 H. The application for the Right-of-Way has been reviewed by the Fish and Wildlife;
23 Historic Preservation; Minerals; Navajo Nation Environmental Protection; Division
24 of Natural Resources and the Department of Justice and "Approved" or found
25 "Sufficient." See documents included in Executive Official Review Document
26 Number 011327, **Exhibit F**.

27
28 **Section Three. Approval**

29 A. The Resources and Development Committee of the Navajo Nation Council hereby
30 approves the grant of right-of-way to McKinley County Roads Department to

1 upgrade, maintain, and operate the existing roadway, culverts and ditches on
2 Manuelito Canyon Drive, Navajo Route 7043/County Route 4 located on, over and
3 across Navajo Nation Trust Lands in Manuelito Chapter, Navajo Nation (McKinley
4 County, New Mexico), the location is more particularly described on the survey
5 map attached as **Exhibit B**.

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

9 C. The Resources and Development Committee of the Navajo Nation Council hereby
10 waives valuation and waives compensation for the right-of-way; it has determined
11 that accepting the agreed-upon compensation and waiving valuation is in its best
12 interest of the Navajo Nation, pursuant to Title 25 CFR § 169.110.

13 D. The Resources and Development Committee of the Navajo Nation Council hereby
14 waives the requirement for a bond, insurance or alternative form of security on the
15 part of the Grantee, based on the determination that the Manuelito Canyon Drive,
16 Navajo Route 7043/County Route 4 project benefits the Navajo Nation and such a
17 waiver is in the best interest of the Navajo Nation, pursuant to Title 25 CFR §
18 169.103 (f) (2).

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

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