

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: 0199-19

SPONSOR: Thomas Walker Jr.

**TITLE: An Action Relating To Resources And Development; Approving The Grant Of Right-Of-Way To Navajo Nation Of Transportation For The Birdsprings Road Project N71 (3) 2 & 4 Located On Navajo Nation Trust Lands In Tsiidi To'ii Chapter (Navajo County And Coconino Country, Arizona)**

***Date posted: July 11, 2019 at 5:16 PM***

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## LEGISLATIVE SUMMARY SHEET

Tracking No. 0199-19

**DATE:** July 4, 2019

**TITLE OF RESOLUTION:** PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF RIGHT-OF-WAY TO NAVAJO DIVISION OF TRANSPORTATION FOR THE BIRDSPRINGS ROAD PROJECT N71 (3) 2 & 4 LOCATED ON NAVAJO NATION TRUST LANDS IN TSIDI TO'II CHAPTER (NAVAJO COUNTY AND COCONINO COUNTY, ARIZONA)

**PURPOSE:** If approved, this legislation would grant of right-of-way to the Bureau of Indian Affairs, Navajo Region, Division of Transportation, for the Birdsprings Road Project N71 (3) 2 & 4 on, over and across Navajo Nation Trust Lands in Tsidi To'ii Chapter vicinity (Navajo County and Coconino County, Arizona). The legislation would also approve waivers of valuation and compensation, 25 CFR § 169.110; waiver of the bond, insurance, or alternative form of security, 25 CFR § 169.103; waiver of due diligence, 25 CFR § 169.105 (c) (requires completion of construction of any permanent improvements within the schedule specified in the right-of-way grant); and waiver of 25 CFR § 169.125 (c)(2) allowing the grantee rights to any of the products or resources of the land, including but not limited to, timber, forage, mineral, and animal resources.

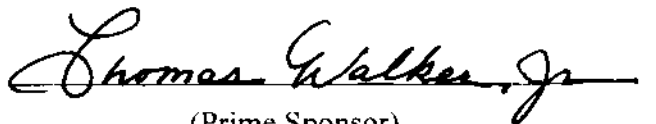
The legislation would also approve the right-of-way permitting construction of utilities within the right-of-way provided the utility company first obtain the consent from the Navajo Nation in writing if the utility is to enter and cross Navajo Nation land.

**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: 2300  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 7/16/19  
Eligible for Action: 7/17/19

1 PROPOSED STANDING COMMITTEE RESOLUTION  
2 24<sup>th</sup> NAVAJO NATION COUNCIL – First Year, 2019

3 INTRODUCED BY

4   
5

6 (Prime Sponsor)

7  
8 TRACKING NO. 0199-19

9  
10 AN ACTION

11 RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT  
12 OF RIGHT-OF-WAY TO NAVAJO DIVISION OF TRANSPORTATION FOR THE  
13 BIRDSPRINGS ROAD PROJECT N71 (3) 2 & 4 LOCATED ON NAVAJO NATION  
14 TRUST LANDS IN TSIDI TO'II CHAPTER (NAVAJO COUNTY AND COCONINO  
15 COUNTY, ARIZONA)

16  
17 BE IT ENACTED:

18  
19 SECTION ONE. AUTHORITY

20 Pursuant to 2 N.N.C. Section §501 (B)(2), The Resources and Development  
21 Committee of the Navajo Nation Council has the authority to grant final approval for  
22 all land withdrawals, non-mineral leases, permits, licenses, rights-of-way, surface  
23 easements and bonding requirements on Navajo Nation lands and unrestricted (fee)  
24 land. This authority shall include subleases, modifications, assignments, leasehold  
25 encumbrances, transfers, renewals, and terminations.

26  
27 SECTION TWO. FINDINGS

28 A. The Bureau of Indian Affairs, Navajo Region, Division of Transportation, P.O. Box  
29 1060, Gallup, New Mexico 87301, has submitted a right-of-way application for the  
30 Birdsprings Road Project N71 (3) 2 & 4 on, over and across Navajo Nation Trust

1 Lands in Tsidi To'ii Chapter vicinity (Navajo County and Coconino County,  
2 Arizona).

3 B. The application request is attached hereto and incorporated herein as **Exhibit D**.

4 C. The proposed right-of-way is described in maps and surveyor's description attached  
5 hereto and incorporated herein as **Exhibit B**.

6 D. The Bureau of Indian Affairs, Navajo Region, Division of Transportation, requests  
7 waiver of valuation and compensation, 25 CFR § 169.110; waiver of the bond,  
8 insurance, or alternative form of security, 25 CFR § 169.103; waiver of due diligence,  
9 25 CFR § 169.105 (c) (requires completion of construction of any permanent  
10 improvements within the schedule specified in the right-of-way grant); and waiver of  
11 25 CFR § 169.125 (c)(2) allowing the grantee rights to any of the products or  
12 resources of the land, including but not limited to, timber, forage, mineral, and animal  
13 resources. See U.S. Department of the Interior, Bureau of Indian Affairs letter dated  
14 March 20, 2018 attached as **Exhibit C**.

15 E. The Bureau of Indian Affairs, Navajo Region, Division of Transportation, requests  
16 that the right-of-way include construction of utilities within the right-of-way. The  
17 utility company must first obtain the consent from the Navajo Nation in writing if the  
18 utility is to enter and cross Navajo Nation land. See U.S. Department of the Interior,  
19 Bureau of Indian Affairs letter dated March 20, 2018 attached as **Exhibit C**.

20 F. The Finding of No Significant Impact (FONSI) and other environmental and  
21 archaeological studies are attached hereto as **Exhibit E**.

22 G. The application for the right-of-way as submitted by Bureau of Indian Affairs, Navajo  
23 Region, Division of Transportation has been reviewed by through the Executive  
24 Official Review Document No. 011916 and "Approved" or found "Sufficient." See  
25 **Exhibit F**.

26  
27 SECTION THREE. APPROVAL

28 A. The Resources and Development Committee of the Navajo Nation Council hereby  
29 approves the Grant of Right-of-Way to the Bureau of Indian Affairs, Navajo Region,  
30 Division of Transportation for the Birdsprings Road Project N71 (3) 2 & 4 on, over  
and across Navajo Nation Trust Lands in Tsidi To'ii Chapter vicinity (Navajo County

1 and Coconino County, Arizona). The location is more particularly described on the  
2 survey map attached hereto as **Exhibit B**.

3 B. The Resources and Development Committee of the Navajo Nation Council hereby  
4 waives valuation and waives compensation for the right-of-way; it has determined  
5 that accepting the agreed-upon compensation and waiving valuation is in its best  
6 interest of the Navajo Nation pursuant to 25 CFR § 169.110.

7 C. The Resources and Development Committee of the Navajo Nation Council hereby  
8 waives the requirement for bond, insurance or alternative form of security on the part  
9 of the Grantee based on the determination that the project benefits the Navajo Nation  
10 and such waiver is in the best interest of the Navajo Nation pursuant to 25 CFR §  
11 169.103.

12 D. The Resources and Development Committee of the Navajo Nation Council hereby  
13 waives the due diligence provisions stated in 25 CFR § 169.105 (c) because a waiver is  
14 in the best interest of the Indian landowners. 25 CFR § 169.105 (c).

15 E. The Resources and Development Committee of the Navajo Nation Council hereby  
16 waives 25 CFR § 169.125 (c)(2) thereby allowing the grantee rights to any of the  
17 products or resources of the land, including but not limited to, timber, forage, mineral,  
18 and animal resources. 25 CFR § 169.125 (c)(2).

19 F. The Resources and Development Committee of the Navajo Nation Council hereby  
20 approves the Bureau of Indian Affairs, Navajo Region, Division of Transportation,  
21 request that the right-of-way include construction of utilities within the right-of-way.  
22 The utility company must first obtain the consent from the Navajo Nation in writing if  
23 the utility is to enter and cross Navajo Nation land.

24 G. The Resources and Development Committee of the Navajo Nation Council hereby  
25 approves the right-of-way subject to, but not limited to, the following terms and  
26 conditions incorporated herein and attached as **Exhibit A**.

27 H. The Resources and Development Committee of the Navajo Nation Council hereby  
28 authorizes the President of the Navajo Nation to execute any and all documents  
29 necessary to affect the intent and purpose of this resolution.  
30