

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



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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LEGISLATIVE SUMMARY SHEET

Tracking No. 0212-20

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.

S-DAY BILL HOLD PERIOD: Johnson
Website Posting Time/Date: 5:53pm 08-20-20
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Eligible for Action: 09-01-20

1 PROPOSED STANDING COMMITTEE RESOLUTION
2 24th NAVAJO NATION COUNCIL – Second Year, 2020

3 INTRODUCED BY

4 _____
5 
6 (Prime Sponsor)

7
8 TRACKING NO. 0212-20

9
10 AN ACTION

11 RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A RIGHT-OF-
12 WAY AND TEMPORARY CONSTRUCTION EASEMENT TO U.S. BUREAU OF
13 RECLAMATION TO CONSTRUCT, OPERATE AND MAINTAIN REACH 7—
14 PUMPING PLANT 4, SHEEP SPRINGS TURNOUT AND TEMPORARY STAGING
15 AREA FOR NAVAJO GALLUP WATER SUPPLY PROJECT LOCATED ON
16 TRIBAL TRUST LANDS IN SHEEP SPRINGS CHAPTER (SAN JUAN COUNTY,
17 NEW MEXICO)

18
19 BE IT ENACTED:

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21 **Section One. Authority**

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

28
29 **Section Two. Findings**

30 A. The United States Bureau of Reclamation, 1235 La Plata Highway, Farmington,

- 1 B. New Mexico 87401 has submitted a right-of-way application and a temporary
2 construction easement application to construct, operate and maintain Reach 7
3 Navajo Gallup Water Supply Project located on, over and across Navajo Nation
4 Trust Lands in Sheep Springs Chapter, San Juan County, New Mexico. The
5 applications are attached and incorporated as **Exhibit D**.
- 6 C. "The Omnibus Public Land Management Act of 2009, Title X, Part III (Public
7 Law 111-11) (Act) authorizes the Bureau of Reclamation to construct the Navajo-
8 Gallup Water Supply Project (NGWSP) that includes water treatment plants,
9 pipeline, several pumping stations and ancillary facilities. Once completed, the
10 NGWSP will deliver a reliable source of potable water, sourced from the San Juan
11 River, to Navajo communities in northwestern New Mexico, the City of Gallup,
12 NM, and the southwest portion of the Jicarilla Apache Reservation for municipal
13 and industrial use. The NGWSP will connect to existing and future water
14 distribution systems operated on the reservation by the Navajo Tribal Utility
15 Authority (NTUA), and in Gallup, by the City of Gallup. The high quality,
16 treated water provided by the NGWSP will bring immediate benefits, including
17 improved health and well-being to tribal members." Applications, **Exhibit D**.
- 18 D. The proposed permanent right-of-way and temporary construction easement
19 consists of Navajo Nation Trust Lands located in San Juan County, New Mexico
20 and the location is more particularly described on the Legal Descriptions and
21 survey maps attached and incorporated as **Exhibit B**.
- 22 E. The Bureau of Reclamation in a letter written to the Program Manager of the
23 Navajo Nation's General Land Development Department dated February 6, 2020
24 states "It should be noted that your office has previously obtained the field
25 clearances for these parcels with the work that was completed on Reach 4C
26 through 8 ROW application package that was approved as Resolution [No.
27 RDCAP-009-19] and granted on April 24, 2019, and further, the BIA granted the
28 Reach 4C through 8 ROW that is recorded as TAAMS No. 791 4200187192, on
29 October 2, 2019. The parcels herein requested will overlap the Reach 4C through
30 8 ROW at the south end of Reach 7 and the north end of Reach 8." See

1 Application, **Exhibit D**. The Navajo Nation Department of Justice memorandum
2 dated April 24, 2020 and the Consent Forms are attached as **Exhibit C**.

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

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

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

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

15 J. Navajo Nation President’s Executive Order No. 07-2017 stating support for the
16 Navajo-Gallup Water Supply Project and a memorandum dated September 9,
17 2016 supporting a waiver of the bond requirement under 25 C.F.R. § 1.2 of the 25
18 C.F.R. § 169.103 are attached as **Exhibit H**.

19 K. RDCAP-009-19 approving a right-of-way and temporary easement for Reaches
20 4C-8 of the Navajo Gallup Water Supply Project, the Executive Official Review
21 No. 010650 regarding the Reaches 4C-8, the TAAMS No. 791 4200187192 for
22 Project No. Reach 4C-8 and TAAMS No. 791 4200191683 for Project No. Reach
23 4C-8 are attached as **Exhibit I**.

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

26
27 **Section Three. Approval**

28 A. The Resources and Development Committee of the Navajo Nation Council hereby
29 grants approval of a Right-of-Way and Temporary Construction Easement to U.S.
30 Bureau of Reclamation to construct, operate and maintain Reach 7—Pumping Plant

1 #4 of the Navajo Gallup Water Supply Project located on, over and across Navajo
2 Nation Trust Lands in Sheep Springs Chapter, San Juan County, New Mexico. The
3 location is more particularly described on the map attached hereto as **Exhibit B**.

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

7 C. The Resources and Development Committee of the Navajo Nation Council hereby
8 approves the Temporary Construction Easement subject to, but not limited to, the
9 terms and conditions incorporated herein as **Exhibit A-2**.

10 D. The Resources and Development Committee of the Navajo Nation Council hereby
11 waives valuation and waives compensation for the Right-of-Way and Temporary
12 Construction Easement because it has determined that accepting the agreed-upon
13 compensation and waiving valuation is in its best interest of the Navajo Nation,
14 pursuant to Title 25 CFR § 169.110.

15 E. The Resources and Development Committee of the Navajo Nation Council hereby
16 waives the requirement for a bond, insurance or alternative form of security on the
17 part of the Grantee, based on the determination that the Reach 7—Pumping Plant #4
18 of the Navajo Gallup Water Supply Project benefits the Navajo Nation and such a
19 waiver is in the best interest of the Navajo Nation, pursuant to Title 25 CFR §
20 169.103 (f) (2).

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

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