

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0359-19_____ SPONSOR: Rickie Nez

TITLE: An Action Relating to Resources and Development; approving a temporary construction easement to U.S. Bureau of Reclamation for staging areas on Reaches 6-8 Navajo Gallup Water Supply Project located on Tribal Trust Lands in Newcomb and Sheep Springs Chapters (San Juan County, New Mexico)

Date posted: November 25, 2019 at 5:35pm

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0359-19

DATE: November 10, 2019

TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A TEMPORARY CONSTRUCTION EASEMENT TO U.S. BUREAU OF RECLAMATION FOR STAGING AREAS ON REACHES 6 - 8 NAVAJO GALLUP WATER SUPPLY PROJECT LOCATED ON TRIBAL TRUST LANDS IN NEWCOMB AND SHEEP SPRINGS CHAPTERS (SAN JUAN COUNTY, NEW MEXICO)

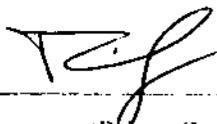
PURPOSE: Approving a temporary construction easement for staging areas on Reaches 6 - 8 Navajo Gallup Water Supply Project located on, over and across Navajo Nation Trust Lands in Newcomb and Sheep Springs Chapters (San Juan County, New Mexico).

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.

5-DAY BILL HOLD PERIOD: High
Website Posting Time/Date: _____
Posting End Date: 11-30-19
Eligible for Action: 12-01-19

1 PROPOSED STANDING COMMITTEE RESOLUTION
2 24th NAVAJO NATION COUNCIL -- First Year, 2019

3 INTRODUCED BY

4 
5 _____

6 (Prime Sponsor)

7
8 TRACKING NO. 0359-19

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10 AN ACTION

11 RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A
12 TEMPORARY CONSTRUCTION EASEMENT TO U.S. BUREAU OF
13 RECLAMATION FOR STAGING AREAS ON REACHES 6 – 8 NAVAJO GALLUP
14 WATER SUPPLY PROJECT LOCATED ON TRIBAL TRUST LANDS IN
15 NEWCOMB AND SHEEP SPRINGS CHAPTERS (SAN JUAN COUNTY, NEW
16 MEXICO)

17
18 BE IT ENACTED:

19
20 **Section One. Authority**

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

27
28 **Section Two. Findings**

29 A. The United States Bureau of Reclamation, 1235 La Plata Highway, Farmington,
30 New Mexico 87401 has submitted a temporary construction easement
applications for staging areas in Reaches 6 - 8 Navajo Gallup Water Supply

1 Project located on, over and across Navajo Nation Trust Lands in Newcomb and
2 Sheep Springs Chapters (San Juan County, New Mexico). The applications are
3 attached and incorporated as **Exhibit C**.

4 B. "The Omnibus Public Land Management Act of 2009, Title X, Part III (Public
5 Law 111-11) (Act) authorizes the Bureau of Reclamation to construct the
6 Navajo-Gallup Water Supply Project (NGWSP) that includes water treatment
7 plants, pipeline, several pumping stations and ancillary facilities. Once
8 completed, the NGWSP will deliver a reliable source of potable water, sourced
9 from the San Juan River, to Navajo communities in northwestern New Mexico,
10 the City of Gallup, NM, and the southwest portion of the Jicarilla Apache
11 Reservation for municipal and industrial use. The NGWSP will connect to
12 existing and future water distribution systems operated on the reservation by the
13 Navajo Tribal Utility Authority (NTUA), and in Gallup, by the City of Gallup.
14 The high quality, treated water provided by the NGWSP will bring immediate
15 benefits, including improved health and well-being to Tribal members."
16 Applications, **Exhibit C**.

17 C. The proposed temporary construction easement consists of Navajo Nation Trust
18 Lands in Newcomb and Sheep Springs Chapters (San Juan County, New
19 Mexico) and the location is more particularly described on the survey maps
20 attached and incorporated as **Exhibits B and C**.

21 D. In the Sheepsprings Chapter area, it has been determined that there are twenty-
22 five (25) land users of which twelve (12) Consent Forms have been obtained,
23 three (3) land users have not been located and ten (10) land users are deceased
24 and those grazing permits have not been probated. The Navajo Nation
25 Department of Justice memorandum dated October 2, 2019 explaining that the
26 "Navajo Land Department (NLD) is required by 16 N.N.C. §§ 1401 *et seq.*, to
27 estimate the surface damages, if any, and Bureau of Reclamation (BOR) is
28 required to deposit with the Navajo Nation, double the estimated damages
29 determined by NLD to ensure appropriate compensation, if any, to the legal
30 heirs of the above-named deceased and to the three land users that were unable
to be located for their consent." The Department of Justice memorandum dated

1 October 2, 2019, the Land Support Agent memorandum dated September 18,
2 2019, and the Consent Forms are attached as **Exhibit D**.

3 E. In the Newcomb Chapter area, it has been determined that there are twenty-six
4 (26) land users of which thirteen (13) Consent Forms have been obtained, three
5 (3) land users have not been located and ten (10) land users are deceased and
6 those grazing permits have not been probated. The Navajo Nation Department
7 of Justice memorandum dated October 2, 2019 explaining that the "Navajo
8 Land Department (NLD) is required by 16 N.N.C. §§ 1401 *et seq.*, to estimate
9 the surface damages, if any, and Bureau of Reclamation (BOR) is required to
10 deposit with the Navajo Nation, double the estimated damages determined by
11 Navajo Land Department NLD to ensure appropriate compensation, if any, to
12 the legal heirs of the above-named deceased and to the three land users that
13 were unable to be located for their consent." The Department of Justice
14 memorandum dated October 2, 2019, the Land Support Agent memorandum
15 dated September 20, 2018, and the Consent Forms are attached as **Exhibit E**.

16 F. The Bureau of Reclamation requests a waiver of valuation and waiver of
17 compensation for the temporary construction easement. *See*, 25 CFR § 169.
18 The Omnibus Public Land Management Act of 2009, Title X, Part III (Public
19 Law 111-11) provides for a waiver of customary fees.

20 G. The Bureau of Reclamation requests a waiver of bond, insurance, or alternative
21 form of security. *See*, 25 CFR § 169.103.

22 H. The Biological Resources Compliance Form NNDFW Review No. 18em106 is
23 attached as **Exhibit F**.

24 I. The applications for the Temporary Construction Easement as submitted by the
25 United States Bureau of Reclamation have been reviewed by the Navajo Nation
26 Environmental Protection Agency, Department of Water Resources, Fish and
27 Wildlife Department, Historic Preservation Department, Minerals Department,
28 Division of Natural Resources and the Department of Justice and "Approved" or
29 found "Sufficient." *See* **Exhibit G**.

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Section Three. Approval

- 1 A. The Resources and Development Committee of the Navajo Nation Council hereby
2 grants approval of a Temporary Construction Easement to U.S. Bureau of
3 Reclamation for staging areas for Reaches 6 - 8 Navajo Gallup Water Supply
4 Project located on, over and across Navajo Nation Trust Lands in Newcomb and
5 Sheep Springs Chapters, San Juan County, New Mexico. The location is more
6 particularly described on the maps attached hereto as **Exhibit B**.
- 7 B. 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**.
- 10 C. The Resources and Development Committee of the Navajo Nation Council hereby
11 waives valuation and waives compensation for the Temporary Construction
12 Easement because it has determined that accepting the agreed-upon compensation
13 and waiving valuation is in its best interest of the Navajo Nation, pursuant to Title
14 25 CFR § 169.
- 15 D. 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 Reaches 6 - 8 Navajo
18 Gallup Water Supply Project benefits the Navajo Nation and such a waiver is in the
19 best interest of the Navajo Nation, pursuant to Title 25 CFR § 169.103.
- 20 E. The Resources and Development Committee of the Navajo Nation Council hereby
21 authorizes the President of the Navajo Nation to execute any and all documents
22 necessary to affect the intent and purpose of this resolution.
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