

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0233-21_

SPONSOR: Seth Damon

TITLE: An Action Relating to Resources and Development; Approving the Grant of Right-of-Way to Continental Divide Electric Cooperative, Inc., for the Becenti Chapter Reconciliation Project Located on Navajo Nation Trust Lands in Becenti Chapter Vicinity (McKinley County, New Mexico)

Date posted: November 4, 2021 at 10:44 PM

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LEGISLATIVE SUMMARY SHEET
Tracking No. 0233-21

DATE: October 7, 2021

TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE GRANT OF RIGHT-OF-WAY TO CONTINENTAL DIVIDE ELECTRIC COOPERATIVE, INC., FOR THE BECENTI CHAPTER RECONCILIATION PROJECT LOCATED ON NAVAJO NATION TRUST LANDS IN BECENTI CHAPTER VICINITY (MCKINLEY COUNTY, NEW MEXICO)

PURPOSE: The purpose of this legislation is to approve the Grant of Right-of-Way to Continental Divide Electric Cooperative, Inc. for construction, operation and maintenance of a 14.4/24.9 kV electric distribution line, on, over and across Navajo Nation Trust Lands in Becenti Chapter vicinity, McKinley County, New Mexico. The legislation would waive the consideration and the requirement for a bond, insurance or alternative form of security on the part of the Grantee.

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: Break none

Website Posting Time/Date:

Posting End Date: November 9, 2021

Eligible for Action: November 10, 2021

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

INTRODUCED BY


(Prime Sponsor)

TRACKING NO. 0233-21

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE
GRANT OF RIGHT-OF-WAY TO CONTINENTAL DIVIDE ELECTRIC
COOPERATIVE, INC., FOR THE BECENTI CHAPTER RECONCILIATION
PROJECT LOCATED ON NAVAJO NATION TRUST LANDS IN BECENTI
CHAPTER VICINITY (MCKINLEY COUNTY, NEW MEXICO)

BE IT ENACTED:

Section One. Authority

Pursuant to 2 N.N.C. Section §501 (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, rights-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 Continental Divide Electric Cooperative, Inc., P.O. Box 1087, Grants, New
Mexico 87020, has submitted a right-of-way application, attached as **Exhibit J**, to
construct, operate and maintain 14.4/24.9 kV electrical/fiber-optic distribution

1 line and its appurtenances to serve the Becenti Reconciliation Project. The Terms
2 and Conditions is attached hereto and incorporated herein as **Exhibit A**.

3 B. The proposed right-of-way is described in map and description attached hereto
4 and incorporated herein as **Exhibit B**.

5 C. The Becenti Land Board Member through Memorandum dated February 2, 2021,
6 attached as **Exhibit C**, has “determined that consents are not required because
7 there are no land users or grazing permittees within the line in question therefore
8 consents are not necessary for the Becenti Reconciliation Project – (Construction,
9 Operation, Maintenance of 1.44/24.9 kv Electrical/Fiber Optic Distribution Line
10 and Appurtenances).”

11 D. A waiver of valuation of the right-of-way and waiver of compensation for a
12 twenty-year right-of-way is requested. *See*, 25 CFR § 169.110 (a)(1), (2) and (3).
13 **Exhibit A**, the terms and conditions document states that the compensation for a
14 twenty-year right-of-way is \$126,817.06.

15 E. The Resources and Development Committee, through resolution number RDCF-
16 08-20 allowed for one-hundred (100%) waiver of right-of-way consideration for
17 non-profit electric utility companies that provide service to Navajo residents on
18 Navajo Trust land in the Eastern Navajo Agency.

19 F. The requested right-of-way is located on Navajo trust land in the Eastern Navajo
20 Agency and Continental Divide Electric Company is a non-profit electric
21 company.

22 G. A waiver of the bond, insurance, or alternative form of security on the part of
23 Continental Divide Electric Cooperative, Inc. is requested.

24 H. The environmental studies and archaeological clearances, including the Finding of
25 No Significant Impact (FONSI) dated July 24, 2019, **Exhibit D**; the Heritage and
26 Historic Preservation Department memorandum dated November 7, 2018,
27 **Exhibit E**; the Navajo Natural Heritage Program memorandum dated October 17,
28 2019, **Exhibit F**; and the Biological Resources Compliance Form, NNDFW
29 Review No. 18cdec03, **Exhibit G** are attached.

30 I. The Cultural Resources Contingency Plan for the Existing CDEC Electric
Powerline in Becenti Chapter on the Navajo Nation prepared by Continental

1 Divide Electric Cooperative, Inc. October 2018, **Exhibit H**; and, the Resource
2 Management Plan for Existing CDEC Electric Powerline in Becenti Chapter on
3 Navajo Nation Band Land, **Exhibit I** are attached.

- 4 J. The application for the Right-of-Way as submitted by the Continental Divide
5 Electric Cooperative, Inc., has been reviewed Executive Official Review process,
6 including review by the Department of Justice and “Approved” or found
7 “Sufficient”. See documents included in Executive Official Review Document
8 No. 014711, **Exhibit K**.

9
10 **Section Three. Approval**

- 11 A. The Resources and Development Committee of the Navajo Nation Council hereby
12 approves the Grant of Right-of-Way to Continental Divide Electric Cooperative,
13 Inc. for construction, operation and maintenance of a 14.4/24.9 kV electric
14 distribution line, on, over and across Navajo Nation Trust Lands in Becenti
15 Chapter vicinity, McKinley County, New Mexico. The location is more
16 particularly described on the survey map attached hereto as **Exhibit B**.
- 17 B. The Resources and Development Committee of the Navajo Nation Council hereby
18 waives valuation and waives compensation of one-hundred percent (100%) of the
19 assessed \$126,817.06 for the right-of-way project for 20-year term because it has
20 been determined that accepting the agreed-upon compensation and waiving
21 valuation is in its best interest of the Navajo Nation, pursuant to Title 25 CFR §
22 169.110.
- 23 C. The Resources and Development Committee of the Navajo Nation Council hereby
24 waives the requirement for a bond, insurance or alternative form of security on the
25 part of the Grantee, based on the determination that the project benefits the
26 Navajo Nation and such a waiver is in the best interest of the Navajo Nation,
27 pursuant to Title 25 CFR § 169.103 (f) (2).
- 28 D. The Resources and Development Committee of the Navajo Nation Council hereby
29 approves the right-of-way subject to, but not limited to, the following terms and
30 conditions incorporated herein and attached as **Exhibit A**.

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