

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0005-24_

SPONSOR: Danny Simpson

TITLE: An Action Relating to the Resource and Development Committee; Approving the Grant of Right-of-Way and Temporary Construction Easement to Lybrook Mutual Domestic Water Consumers Association to Construct, Operate and Maintain the Water System Improvement Project Located on Navajo Nation Trust Lands in Nageezi Chapter (Rio Arriba County, New Mexico); Waiving Consideration and the Valuation Requirement Pursuant to Title 25 Code of Federal Regulations Section 169.110 (a)

Date posted: January 10, 2024 at 4:43PM

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0005-24

DATE: January 10, 2024

TITLE OF RESOLUTION: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING THE GRANT OF RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT TO LYBROOK MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION TO CONSTRUCT, OPERATE AND MAINTAIN THE WATER SYSTEM IMPROVEMENT PROJECT LOCATED ON NAVAJO NATION TRUST LANDS IN NAGEEZI CHAPTER (RIO ARRIBA COUNTY, NEW MEXICO); WAIVING CONSIDERATION AND THE VALUATION REQUIREMENT PURSUANT TO TITLE 25 CODE OF FEDERAL REGULATIONS SECTION 169.110 (a)

PURPOSE: The purpose of this legislation is to grant approval for a right-of-way and temporary construction easement to Lybrook Mutual Domestic Water Consumers Association to construct, operate and maintain a water pipeline project in the Nageezi Chapter that will improve water quality in the community and to grant a waiver of consideration for this right-of-way and temporary construction easement, along with a waiver of the valuation requirement pursuant to 25 C.F.R. § 169.110 (a).

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each Council Delegate to review the proposed resolution in detail.

OLC No. 23-461-1

Website Posting Time/Date _____

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Eligible for Action: 01/16/24

PROPOSED STANDING COMMITTEE RESOLUTION
25th NAVAJO NATION COUNCIL—Second Year, 2024

INTRODUCED BY

Danny Lopez

Primary Sponsor

TRACKING NO. 0005-24

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE;
APPROVING THE GRANT OF RIGHT-OF-WAY AND TEMPORARY
CONSTRUCTION EASEMENT TO LYBROOK MUTUAL DOMESTIC WATER
CONSUMERS ASSOCIATION TO CONSTRUCT, OPERATE AND MAINTAIN
THE WATER SYSTEM IMPROVEMENT PROJECT LOCATED ON NAVAJO
NATION TRUST LANDS IN NAGEEZI CHAPTER (RIO ARRIBA COUNTY,
NEW MEXICO); WAIVING CONSIDERATION AND THE VALUATION
REQUIREMENT PURSUANT TO TITLE 25 CODE OF FEDERAL
REGULATIONS SECTION 169.110 (a)

BE IT RESOLVED:

SECTION ONE. AUTHORITY

A. 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 the Navajo Nation lands and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfers, renewals, and terminations. 2 N.N.C. § 501 (B) (2).

1 **SECTION TWO. FINDINGS**

2 A. The Lybrook Mutual Domestic Water Consumers Association (“Lybrook
3 MDWCA”) has submitted an application for a right-of-way and a temporary
4 construction easement to construct, operate and maintain the Lybrook MDWCA
5 Water System Improvement Project, which will loop two dead-end water lines to
6 improve water quality in the Nageezi Chapter, Rio Arriba, New Mexico. The
7 terms and conditions for the right-of-way and temporary construction easement
8 are attached and incorporated as **Exhibit A** and **Exhibit B**, respectively.

9 B. The right-of-way and temporary construction easement consist of Navajo Nation
10 Trust Lands located in Rio Arriba County, New Mexico, the location of which is
11 more particularly described in the Legal Descriptions and survey maps attached
12 and incorporated as **Exhibit C**.

13 C. Lybrook MDWCA requests a waiver of consideration for this right-of-way and
14 temporary construction easement. In accordance with the terms and conditions
15 contained in **Exhibit A**, the right-of-way has been assessed at \$16,122.87. In
16 accordance with the terms and conditions contained in **Exhibit B**, the temporary
17 construction easement has been assessed at \$12,960.00. Therefore, the total
18 consideration to be waived is \$ 29,082.87.

19 D. 25 C.F.R. § 169.110 (a) addresses how much monetary compensation must be
20 paid for a right-of-way over and across tribal land. It states:

21 (a) A right-of-way over or across tribal land may allow for any payment
22 amount negotiated by the tribe, and we will defer to the tribe and not
23 require valuation if the tribe submits a tribal authorization expressly
24 stating that it:

- 25 (1) Has agreed upon compensation satisfactory to the tribe;
26 (2) Waives valuation; and
27 (3) Has determined that accepting such agreed-upon compensation
28 and waiving valuation is in its best interest.

- 1 E. A Field Clearance Checklist stating that no grazing permittee has been identified
2 in relation to Lybrook MDWCA's Water System Improvement Project is attached
3 as **Exhibit D**.
- 4 F. Nageezi Chapter Resolution # NC-22-061 supporting the approval of the right-of-
5 way and temporary construction easement for the Lybrook MDWCA Water
6 System Improvement Project is attached as **Exhibit E**.
- 7 G. The environmental and archeological studies have been completed and are
8 attached hereto as **Exhibit F**.
- 9 H. The application for the right-of-way and temporary construction easement is
10 attached as **Exhibit G**.
- 11 I. Executive Official Review Document No. 020131, including a "Document
12 Review Request Form" from the Department of Justice deeming the document
13 "legally sufficient", and a memorandum from the Navajo Nation Environmental
14 Protection Agency dated February 15, 2023, is attached as **Exhibit H**.

15
16 **SECTION THREE. APPROVAL**

- 17 A. The Resources and Development Committee of the Navajo Nation Council hereby
18 grants approval of the right-of-way and temporary construction easement to
19 Lybrook MDWCA to construct, operate and maintain the Lybrook MDWCA
20 Water System Improvement Project. The location is more particularly described
21 in **Exhibit C**.
- 22 B. The Resources and Development Committee of the Navajo Nation Council hereby
23 approves the right-of-way subject to, but not limited to, the terms and conditions
24 incorporated herein as **Exhibit A**.
- 25 C. The Resources and Development Committee of the Navajo Nation Council hereby
26 approves the temporary construction easement subject to, but not limited to, the
27 terms and conditions incorporated herein as **Exhibit B**.
- 28 D. The Resources and Development Committee of the Navajo Nation Council hereby
29 waives consideration for the right-of-way and temporary construction easement
30 and waives valuation pursuant to 25 C.F.R. § 169.110 (a), finding that the Navajo

1 Nation has agreed upon compensation satisfactory to the tribe, the Navajo Nation
2 hereby waives valuation and has determined that accepting such agreed-upon
3 compensation and waiving valuation is in the best interests of the Navajo Nation.

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

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