

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0056-24\_

SPONSOR: Casey Allen Johnson

**TITLE: An Action Relating to the Resources and Development Committee;  
Approving Amendments to RDCJN-17-20 "Tribal Authorization Access"**

***Date posted:*** March 14, 2024 at 6:36PM

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## LEGISLATIVE SUMMARY SHEET

Tracking No. 0056-24

DATE: March 14, 2024

**TITLE OF RESOLUTION:** AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING AMENDMENTS TO RDCJN-17-20 “TRIBAL AUTHORIZATION ACCESS”

**PURPOSE:** The purpose of this legislation is to approve amendments to RDCJN-17-20. The amendments include the following: (1) allowing the Department Manager of the Navajo Land Department to waive consideration for “public purpose” tribal authorization accesses; (2) providing a definition of “commercial” tribal authorization access; (3) clarifying that the Resources and Development Committee approves any tribal authorization access containing both a “public purpose” and non-public purpose; and (4) clarifying that tribal authorization access only applies to legally owned entities of the Navajo Nation, not to any subsidiary of a legal entity wholly owned by the Navajo Nation.

**Final Authority:** Resources and Development Committee

**Vote Required:** Simple Majority

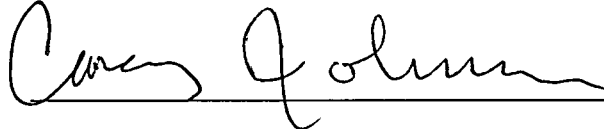
**This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each Council Delegate to review the proposed resolution in detail.**

OLC No. 23-567-1

5-DAY BILL HOLD PERIOD Ag D  
Website Posting Time/Date \_\_\_\_\_  
Posting End Date: 03-19-24  
Eligible for Action: 03-20-24

1 PROPOSED STANDING COMMITTEE RESOLUTION  
2 25<sup>th</sup> NAVAJO NATION COUNCIL— Second Year, 2024

3 INTRODUCED BY

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5

6 Primary Sponsor

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8 TRACKING NO. 0056-24  
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11 AN ACTION

12 RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE;  
13 APPROVING AMENDMENTS TO RDCJN-17-20 “TRIBAL AUTHORIZATION  
14 ACCESS”  
15

16 **BE IT RESOLVED:**

17 **SECTION ONE. AUTHORITY**

- 18 A. The Resources and Development Committee of the Navajo Nation Council has final  
19 approval for all land withdrawals, non-mineral leases, permits, licenses, rights-of-way,  
20 surface easements and bonding requirements on Navajo Nation lands and unrestricted  
21 (fee) lands. This authority shall include subleases, modifications, assignments, leasehold  
22 encumbrances, transfers, renewals and terminations. 2 N.N.C. § 501 (B)(2)(a).  
23 B. The Resources and Development Committee can delegate its final approval authority  
24 for the transactions listed in 2 N.N.C. § 501(B)(2)(a) to appropriate divisions,  
25 governance-certified Chapters, Townships or appropriate entities for efficiency and  
26 streamlining of government processes provided that the Committee first grants final  
27 approval of rules and regulations governing such delegations and rescission of such  
28 delegations. 2 N.N.C. § 501 (B)(3).  
29

30 **SECTION TWO. FINDINGS**

- 1 A. The Code of Federal Regulations, Title 25, Part 169. Rights-of-way over Indian Land  
2 Subpart A. Purpose, Definitions, General Provisions, 25 CFR § 169.4 (b)(3)(iii) states  
3 “You do not need a right-of-way if you are... (iii) An independent legal entity wholly  
4 owned and operated by the tribe that owns 100 percent of the trust or restricted interests  
5 in the land.” 25 CFR § 169.4 (b)(3)(iii) further states: “but the following conditions  
6 apply . . . The tribal governing body must pass a tribal authorization authorizing access  
7 without BIA approval and including a legal description, and you must submit both  
8 documents to BIA for our records.”
- 9 B. Pursuant to RDCJN-17-20, the Resources and Development Committee approved the  
10 Tribal Authorization Access without BIA approval for its independent legal entities  
11 wholly owned and operated by the Navajo Nation in accordance with the requirements  
12 of 25 C.F.R. § 169.4 (b)(3)(iii) and delegated certain authorities to the Department  
13 Manager of the Navajo Land Department. RDCJN-17-20 is herein attached as **Exhibit**  
14 **1**.
- 15 C. With the approval of RDCJN-17-20, the Resources and Development Committee also  
16 approved the Departmental Administrative Rules and Regulations for the Delegation  
17 of Authority to the Department Manager of the Navajo Land Department to Grant  
18 Tribal Authorization Access for Proposed Overhead and Underground Electric, Water,  
19 Sewer, Natural Gas Distribution Lines, Transmission Lines, Substation Tracts, Fiber  
20 Optic Cable and Roads, for Navajo Residents on Fee and Trust Lands Including the  
21 Eastern Navajo Agency” (herein referred to as the “Departmental Administrative Rules  
22 and Regulations”).
- 23 D. The purpose of the delegation to the Department Manager of the Navajo Land  
24 Department was to shorten the amount of time it takes to grant tribal authorization  
25 accesses, thereby, provide for expeditious development of much needed infrastructure  
26 on the Navajo Nation.
- 27 E. In certain instances, the tribal authorization access applicant is seeking a waiver of  
28 consideration, thus delaying the issuance of the tribal authorization access, which in  
29 turn, delays the development of much needed infrastructure for the Navajo people.  
30

1 F. The Resources and Development Committee hereby amends RDCJN-17-20,  
2 specifically, to amend the Departmental Administrative Rules and Regulations, to  
3 clarify that the ability to waive tribal authorization access consideration shall be  
4 delegated to the Department Manager of the Navajo Land Department for certain tribal  
5 authorization accesses, as discussed below.

6 G. This delegation to the Department Manager of the Navajo Land Department to waive  
7 tribal authorization access consideration will only apply to any tribal authorization  
8 access issued pursuant to RDCJN-17-20 for a “public purpose”, which is defined to  
9 mean any residence, governmental building, including chapter houses, healthcare  
10 facility, school, including higher education entities, daycare, Head Start building,  
11 senior center, library, or public safety building.”

12 H. Other major amendments to the Departmental Administrative Rules and Regulations  
13 include the following:

14 1. Clarifying that the Resources and Development Committee retains the authority  
15 to approve tribal authorization accesses for commercial purposes.  
16 “Commercial” means a tribal authorization access for which its use/purpose,  
17 either in whole or in part, is commercial/for profit in nature, regardless of  
18 whether or not the tribal authorization access applicant is commercial/for profit  
19 in nature, but does not include any uses/purposes defined under “public  
20 purpose”.

21 2. If a tribal authorization access application includes both a “public purpose” and  
22 non-public purpose component (*e.g.* a commercial component), the tribal  
23 authorization access must be approved by the Resources and Development  
24 Committee.

25 3. Clarifying that tribal authorization access only applies to legally owned entities  
26 of the Navajo Nation, not to any subsidiary of a legal entity wholly owned by  
27 the Navajo Nation.

28 I. The Resources and Development Committee finds it is in the best interest of the Navajo  
29 Nation to approve the amendments to the Departmental Administrative Rules and  
30 Regulations herein attached as **Exhibit 2**.

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**SECTION THREE. APPROVAL**

A. The Resources and Development Committee hereby approves the amendments to the Departmental Administrative Rules and Regulations herein attached as **Exhibit 2**.