

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0065-25\_

SPONSOR: Amber Kanazbah Crotty

**TITLE: An Action Relating to Resources and Development Committee; Approving a Right-of-Way to New Mexico Department of Transportation for the Purposes of Construction, Operation, Maintenance for NMDOT US 64 MP 8.1 to 13.8 Located on Navajo Nation Trust Lands in Beclabito Chapter, Navajo Nation (San Juan County, New Mexico)**

*Date posted:* April 22, 2025 at 9:07PM

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## LEGISLATIVE SUMMARY SHEET

Tracking No. 0065-25

DATE: April 22, 2025

**TITLE OF RESOLUTION: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING A RIGHT-OF-WAY TO NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR THE PURPOSES OF CONSTRUCTION, OPERATION, MAINTENANCE FOR NMDOT US 64 MP 8.1 TO 13.8 LOCATED ON NAVAJO NATION TRUST LANDS IN BECLABITO CHAPTER, NAVAJO NATION (SAN JUAN COUNTY, NEW MEXICO)**

**PURPOSE:** The purpose of this resolution is to approve a grant of a right-of-way to New Mexico Department of Transportation for construction, operation, maintenance for NM DOT US 64 Milepost 8.1 to 13.8 located on Navajo Nation Trust Lands in Beclabito Chapter, Navajo Nation (San Juan County, New Mexico). The New Mexico Department of Transportation requests a waiver of valuation and consideration for the right-of-way upon a determination that accepting the agreed-upon compensation and waiving valuation is in its best interest of the Navajo Nation, pursuant to Title 25 CFR § 169.110.

**FINAL AUTHORITY:** Resources and Development Committee

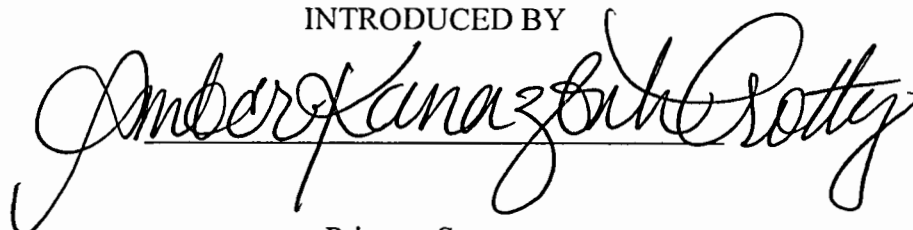
**VOTE REQUIRED:** Majority Vote

**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:                       
Website Posting Time/Date:                       
Posting End Date: 04-27-25  
Eligible for Action: 04-28-25

1 PROPOSED STANDING COMMITTEE RESOLUTION  
2 25<sup>th</sup> NAVAJO NATION COUNCIL—Third Year, 2025

3 INTRODUCED BY

4 

5 Primary Sponsor

6 TRACKING NO. 0065-25

7 AN ACTION

8 RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE;  
9 APPROVING A RIGHT-OF-WAY TO NEW MEXICO DEPARTMENT OF  
10 TRANSPORTATION FOR THE PURPOSES OF CONSTRUCTION,  
11 OPERATION, MAINTENANCE FOR NMDOT US 64 MP 8.1 TO 13.8 LOCATED  
12 ON NAVAJO NATION TRUST LANDS IN BECLABITO CHAPTER, NAVAJO  
13 NATION (SAN JUAN COUNTY, NEW MEXICO)

14 BE IT ENACTED:

15 **Section One. Authorities**

16 Pursuant to 2 N.N.C. § 500 (B) (2), the Resources and Development Committee of  
17 the Navajo Nation Council has the authority to grant final approval for all land  
18 withdrawals, non-mineral leases, permits, licenses, right-of-way, surface easements  
19 and bonding requirements on Navajo Nation lands and unrestricted (fee) land. This  
20 authority shall include subleases, modifications, assignments, leasehold  
21 encumbrances, transfers, renewals, and terminations.

22 **Section Two. Findings**

1 A. The New Mexico Department of Transportation has submitted a request for approval  
2 of a right-of-way for construction, operation, maintenance for NMDOT US 64  
3 Milepost 8.1 to 13.8.

4 B. The Terms and Conditions is attached as **Exhibit A**.

5 C. The proposed right-of-way map is attached as **Exhibit B**.

6 D. The application is attached as **Exhibit C**.

7 E. The clearances including individual land users, Grazing Committee recommendation,  
8 Biological Resources Compliance Form, Environmental Assessment and other  
9 assessments are attached as **Exhibit D**.

10 F. Beclabito Chapter Resolution No. BECL-21-01-25, Beclabito Chapter Resolution  
11 No. BECL-17-30 and Gadii'ahi/To'koi Chapter Resolution No. GAD/TOK FY 2024-  
12 036 are attached as **Exhibit E**.

13 G. The Navajo Minerals Department has assessed consideration for the Temporary  
14 Construction Easement for 20 year at \$124,117.80. The March 12, 2025  
15 memorandum from the Navajo Minerals Department is attached as **Exhibit F**.

16 H. The New Mexico Department of Transportation is requesting a waiver of bond,  
17 insurance or other security, waiver of valuation and grant of easement for the  
18 lifetime of the US highway 64 as stated in **Exhibit C**.

19 I. 25 CFR § 169.110 addresses how much monetary compensation must be paid for a  
20 right-of-way over or across tribal land. It states:

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

24 *(1) Has agreed upon compensation satisfactory to the tribe;*

25 *(2) Waives valuation; and*

26 *(3) Has determined that accepting such agreed-upon compensation and waiving*  
27 *valuation is in its best interest.*

28 *(b) The tribe may request, in writing, that we determine fair market value, in which*  
29 *case we will use a valuation in accordance with § 169.114. After providing the tribe*  
30

1 with the fair market value, we will defer to a tribe's decision to allow for any  
2 compensation negotiated by the tribe.

3 (c) If the conditions in paragraph (a) or (b) of this section are not met, we will require  
4 that the grantee pay fair market value based on a valuation in accordance with §  
5 169.114.

6 J. 25 CFR § 169.103 address bond, insurance or alternative forms of security. It states:

7 (a) You must include payment of bonds, insurance, or alternative forms of security  
8 with your application for a right-of-way in amounts that cover:

9 (1) The highest annual rental specified in the grant, unless compensation is a one-  
10 time payment;

11 (2) The estimated damages resulting from the construction of any permanent  
12 improvements;

13 (3) The estimated damages and remediation costs from any potential release of  
14 contaminants, explosives, hazardous material or waste;

15 (4) The operation and maintenance charges for any land located within an irrigation  
16 project;

17 (5) The restoration of the premises to their condition at the start of the right-of-way  
18 or reclamation to some other specified condition if agreed to by the landowners.

19 \* \* \* \*

20 (f) We may waive the requirement for a bond, insurance, or alternative form of  
21 security:

22 \* \* \* \*

23 (2) For tribal land, deferring, to the maximum extent possible, to the tribe's  
24 determination that a waiver of a bond, insurance or alternative form of security is in  
25 its best interest.

26 K. 25 CFR § 169.110 addresses how long the duration of a grant of right-of-way may  
27 be. It states:

28 (a) All rights-of-way granted under this part are limited to the time periods stated  
in the grant.

29 (b) For tribal land, we will defer to the tribe's determination that the right-of-way  
30 term is reasonable.

L. Executive Official Review Document Number 024277 is attached as **Exhibit G**.

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**Section Three. Approval**

- A. The Resources and Development Committee of the Navajo Nation Council hereby approves a right-of-way to New Mexico Department of Transportation subject to, but not limited to, the terms and conditions attached as **Exhibit A**, for construction, operation, maintenance for NMDOT US 64 Milepost 8.1 to 13.8 located on Navajo Nation Trust Lands in Beclabito Chapter, Navajo Nation (San Juan County, New Mexico), as described in maps attached as **Exhibit B**.
- B. The Resources and Development Committee of the Navajo Nation Council hereby sets the consideration for this 20 year right-of-way at \_\_\_\_\_.
- C. The Resources and Development Committee of the Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute any and all documents to affect the intent and purpose of this resolution.