

**RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
24th Navajo Nation Council --- Second Year, 2020**

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING TRIBAL AUTHORIZATION AUTHORIZING ACCESS WITHOUT BUREAU OF INDIAN AFFAIRS APPROVAL FOR INDEPENDENT LEGAL ENTITIES WHOLLY OWNED AND OPERATED BY THE NAVAJO NATION; APPROVING THE DELEGATION OF AUTHORITY TO THE DEPARTMENT MANAGER OF THE NAVAJO LAND DEPARTMENT TO GRANT TRIBAL ACCESS FOR RIGHTS-OF-WAY ON THE NAVAJO NATION FOR INDEPENDENT LEGAL ENTITIES WHOLLY OWNED BY THE NAVAJO NATION; APPROVING THE DEPARTMENTAL ADMINISTRATIVE RULES AND REGULATIONS AND THE TERMS AND CONDITIONS FOR THE DELEGATION OF AUTHORITY; AND, RESCINDING RCD-104-10, RDCS-97-17, AND OTHER PRIOR INCONSISTENT RESOURCES AND DEVELOPMENT RESOLUTIONS

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. Pursuant to 2 N.N.C. § 500, the Resources and Development Committee was established as a standing committee of the Navajo Nation Council.
- B. Pursuant to 2 N.N.C. § 501 (B)(2)(a), the Resources and Development Committee grants final approval for all rights-of-way.
- C. Pursuant to 2 N.N.C. § 501 (B)(3), the Resources and Development Committee is authorized to delegate its powers to appropriate divisions of the Navajo Nation for efficiency and streamlining of government processes provided the Committee first grants final approval of rules and regulations governing such delegations and rescission of such delegations.

SECTION TWO. FINDINGS

- A. The Code of Federal Regulations, Title 25, Part 169. Rights-of-way over Indian Land Subpart A. Purpose, Definitions, General Provisions, 25 CFR § 169.4 (b)(3)(iii) states "You do not need a right-of-way if you are... (iii) An independent legal entity wholly owned and operated by the tribe that owns 100 percent of the trust or restricted interests in the land." 25 CFR § 169.4 (b)(3)(iii) further states: "but the following conditions apply... The tribal governing body must pass a

tribal authorization authorizing access without BIA approval and including a legal description, and you must submit both documents to BIA for our records."

- B. Independent legal entities wholly owned by the Navajo Nation include but are not limited to: Navajo Tribal Utility Authority (NTUA), Navajo Engineering Construction Authority (NECA), Navajo Nation Oil and Gas Company (NNOGC), Navajo Nation Gaming Enterprise (NNGE), Navajo Agricultural Product Industry (NAPI), Navajo Housing Authority (NHA), Navajo Nation Hospitality Enterprise (NNHE), Dine Power Authority (DPA), and Navajo Nation government divisions and departments such as the Navajo Division of Transportation and Department of Water Resources.
- C. The Resources and Development Committee desires uniform rules and regulations for issuing rights-of-way for all independent legal wholly owned by the Navajo Nation.
- D. Currently, there are Resources and Development Committee (RDC) and Resources Committee (predecessor to the RDC) resolutions pertaining to rights-of-way and the Navajo Tribal Utility Authority (NTUA), an independent legal entity wholly owned by the Navajo Nation. These resolutions include RCD-104-10 (Delegation to Director of Navajo Land Department to approve rights-of-way for NTUA for electric, water, sewer, natural gas, and other such NTUA activities; approving rules and regulations for the delegation; and approving the terms and conditions for the rights-of-way to allow waivers of compensation for commercial rights-of-way. RCD-104-10 is attached as **Exhibit C**. RDCS-19-17 is attached as **Exhibit D**.
- E. The Resources and Development Committee through this resolution will rescind RCD-104-10 and RDCS-97-17 both of which pertain only to NTUA. Rescinding RCD-104-10 and RDCS-97-17 will make the rights-of-way process uniform for to all the above mentioned independent legal entities wholly owned by the Navajo Nation.

**SECTION THREE. TRIBAL AUTHORIZATION PURSUANT TO 25 CFR § 169.4
(b) (3) (iii)**

The Resources and Development Committee of the Navajo Nation Council, established as a standing committee of the Navajo Nation Council with the authority to grant final approval for all rights-of-way, hereby "pass[es] [this] tribal authorization authorizing access without BIA approval" for independent legal entities wholly

owned and operated by the Navajo Nation pursuant to the requirement stated in 25 CFR § 169.4 (b)(3)(iii).

SECTION FOUR. DELEGATION OF AUTHORITY, APPROVAL OF RULES AND REGULATIONS, AND APPROVAL OF TERMS AND CONDITIONS

- A. The Resources and Development Committee of the Navajo Nation Council hereby approves the delegation of authority to the Department Manager of the Navajo Land Department, Division of Natural Resources, to grant tribal access for rights-of-way on the Navajo Nation for legal entities wholly owned by the Navajo Nation on Navajo Nation trust and fee lands.
- B. The Resources and Development Committee of the Navajo Nation Council hereby approves the Departmental Administrative Rules and Regulations for the Delegation of Authority to the Department Manager of the Navajo Land Department as described in **Exhibit A**.
- C. The Resources and Development Committee of the Navajo Nation Council hereby approves the Terms and Conditions attached as **Exhibit B**.

SECTION FIVE. RESCINDING RCD-104-10, RDCS-97-17 AND PRIOR INCONSISTENT RESOLUTIONS

- A. The Resources and Development Committee of the Navajo Nation Council hereby rescinds Resolutions RCD-104-10, and RDCS-97-17, attached as **Exhibit C** and **Exhibit D**.
- B. The Resources and Development Committee of the Navajo Nation Council hereby rescinds any other prior inconsistent Resources and Development Committee resolution(s) establishing rules and regulations and terms and conditions for independent legal entities wholly owned by the Navajo Nation to insure uniformity with regard to the rights-of-way process for independent legal entities wholly owned by the Navajo Nation.

SECTION SIX. DIRECTIVE TO NAVAJO LAND DEPARTMENT MANAGER, NAVAJO NATION DIVISION OF NATURAL RESOURCES

The Resources and Development Committee of the Navajo Nation Council hereby directs the Navajo Land Department Manager, Navajo Nation Division of Natural Resources to provide this authorizing tribal authorization resolution and a legal description to the Bureau of Indian Affairs as is provided in 25 CFR § 169.4 (b)(3)(iii).

CERTIFICATION

I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 24th Navajo Nation Council at a duly called meeting held by a teleconference for which a quorum was present and that same was passed by a vote of 4 in favor, and 0 opposed, on this 3rd day of June 2020.



Mark A. Freeland
Pro Tempore Chairperson
Resources and Development Committee
of the 24th Navajo Nation Council

Motion: Honorable Herman M. Daniels
Second: Honorable Kee Allen Begay, Jr.

Pro Tempore Chairperson Mark A. Freeland not voting.

**RESOURCES AND DEVELOPMENT COMMITTEE
24th NAVAJO NATION COUNCIL**

SECOND YEAR 2020

COMMITTEE REPORT

Mr. Speaker,

The **RESOURCES AND DEVELOPMENT COMMITTEE** to whom has been assigned:

Legislation # 0124-20: An Action Relating to Resources and Development Committee; Approving Tribal Authorization Authorizing Access Without Bureau of Indian Affairs Approval for Independent Legal Entities Wholly Owned and Operated by the Navajo Nation; Approving the Delegation of Authority to the Department Manager of the Navajo Land Department to Grant Tribal Access for Rights-of-Way on the Navajo Nation for Independent Legal Entities Wholly Owned by the Navajo Nation; Approving the Departmental Administrative Rules and Regulations and the Terms and Conditions for the Delegation of Authority; and, Rescinding RCD-104-10 and RDCS-97-17 and Other Prior In Consistent Resources and Development Resolutions. *Sponsor: Honorable Rickie Nez*

Has had it under consideration and reports a **DO PASS** with no amendment

And thereafter the matter was approved.

Respectfully submitted,



Mark A. Freeland, Pro Tem Chairperson
Resources and Development Committee
of the 24th Navajo Nation Council

Date: June 3, 2020 - Regular Meeting (Teleconference)
Meeting Location: (RDC members called in via teleconference from their location within the boundary of the Navajo Nation.)

Main Motion:

Motion: Herman M. Daniels **S:** Kee Allen Begay, Jr. **Vote:** 4-0-1 (Pro Tem CNV)

In Favor: Wilson C. Stewart, Jr., Kee Allen Begay, Jr., Rickie Nez, and Herman M. Daniels

Oppose: None

Excuse: Thomas Walker, Jr.

Not Voting: Presiding Pro Tem Chairperson Mark A. Freeland

**RESOURCES AND DEVELOPMENT COMMITTEE
24th Navajo Nation Council**

**ROLL CALL
VOTE TALLY SHEET:**

Legislation # 0124-20: An Action Relating to Resources and Development Committee; Approving Tribal Authorization Authorizing Access Without Bureau of Indian Affairs Approval for Independent Legal Entities Wholly Owned and Operated by the Navajo Nation; Approving the Delegation of Authority to the Department Manager of the Navajo Land Department to Grant Tribal Access for Rights-of-Way on the Navajo Nation for Independent Legal Entities Wholly Owned by the Navajo Nation; Approving the Departmental Administrative Rules and Regulations and the Terms and Conditions for the Delegation of Authority; and, Rescinding RCD-104-10 and RDCS-97-17 and Other Prior In Consistent Resources and Development Resolutions.
Sponsor: Honorable Rickie Nez

Date: June 3, 2020 - Regular Meeting (Teleconference)
Meeting Location: (RDC members called in via teleconference from their location within the boundary of the Navajo Nation.)

Main Motion:

Motion: Herman M. Daniels S: Kee Allen Begay, Jr. Vote: 4-0-1 (Pro Tem CNV)

In Favor: Wilson C. Stewart, Jr., Kee Allen Begay, Jr., Rickie Nez, and Herman M. Daniels

Oppose: None

Excuse: Thomas Walker, Jr.

Not Voting: Presiding Pro Tem Chairperson Mark A. Freeland



Honorable Mark A. Freeland, Presiding Pro Tem Chairperson
Resources and Development Committee



Shammie Begay, Legislative Advisor
Office of Legislative Services