

RESOLUTION OF THE  
RESOURCES AND DEVELOPMENT COMMITTEE  
24<sup>th</sup> Navajo Nation Council --- Third Year, 2021

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; AMENDING RDCAP-007-19 TO  
WAIVE 100% OF THE COMPENSATION FOR THE GRANT OF RIGHT-OF-WAY TO  
JEMEZ MOUNTAIN ELECTRIC COOPERATIVE, INC. FOR THE BEYALE CAMP  
14.4 KV SINGLE PHASE POWERLINE PROJECT LOCATED ON NAVAJO NATION  
TRUST LANDS IN NAGEEZI CHAPTER (SAN JUAN 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. Resources and Development Committee Resolution RDCAP-007-19 approved a grant of right-of-way to the Jemez Mountain Electric Cooperative, Inc., for the Beyale Camp 14.4 kV Electric Powerline Project on, over and across Navajo Nation Trust Lands in Nageezi Chapter vicinity, San Juan County, New Mexico. RDCAP-007-19 is attached as **Exhibit A** (without attachments).
- B. Resources and Development Committee Resolution RDCD-97-18 limited the amount of a waiver of consideration to no more than 50% for utility companies. Pursuant to RDCD-97-19, RDCAP-007-19 waived \$12,381.82 which is half of the assessed consideration of \$24,763.64.
- C. The Jemez Mountain Electric Cooperative, Inc., requests an amendment of Resolution RDCAP-007-19 authorizing a 100% waiver of the assessed consideration of \$24,763.64.

**SECTION THREE. APPROVAL**

- A. The Resources and Development Committee of the Navajo Nation Council hereby amends Resolution RDCAP-007-19 SECTION THREE as follows:

"B. The Resources and Development Committee of the Navajo Nation Council hereby waives valuation and waives compensation of ~~\$12,381.82, 100%~~ (one hundred percent) of the assessed \$24,763.64 for the right-of-way for this non-commercial project because it has determined that accepting the agreed-upon compensation and waiving valuation is in the best interest of the Navajo Nation pursuant to Title 25 CFR § 169.110.

- B. 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.

**CERTIFICATION**

I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 24<sup>th</sup> 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 3<sup>rd</sup> day of February 2021.



Rickie Nez, Chairperson  
Resources and Development Committee  
of the 24<sup>th</sup> Navajo Nation Council

Motion: Honorable Wilson C. Stewart, Jr.  
Second: Honorable Kee Allen Begay, Jr.

Chairperson Rickie Nez not voting.

RESOLUTION OF THE  
RESOURCES AND DEVELOPMENT COMMITTEE  
24<sup>th</sup> Navajo Nation Council --- First Year, 2019

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING THE  
GRANT OF RIGHT-OF-WAY TO JEMEZ MOUNTAIN ELECTRIC COOPERATIVE,  
INC. TO CONSTRUCT, OPERATE AND MAINTAIN THE BEYALE CAMP 14.4 KV  
SINGLE PHASE POWERLINE PROJECT LOCATED ON NAVAJO NATION TRUST  
LANDS IN NAGEEZI CHAPTER, NAVAJO NATION (SAN JUAN COUNTY, NEW  
MEXICO)

BE IT ENACTED:

SECTION ONE. AUTHORITY

Pursuant to 2 N.N.C. § 500 (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, right-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 Jemez Mountain Electric Cooperative, Inc., P.O. Box 128, Espanola, New Mexico 87532, has submitted a right-of-way application, to construct, operate and maintain the Beyale Camp 14.4 kV electric powerline on, over and across Navajo Nation Trust Lands in Nageezi Chapter (San Juan County, New Mexico), attached as **Exhibit C**.
- B. The proposed right-of-way is described in **Exhibit B**.
- C. The Land Board Member of the Nageezi Chapter, District 19, has issued a memorandum dated April 17, 2017, **Exhibit D**, stating that "there is no grazing permit issued for Navajo Trust Land located in [the proposed project area]."
- D. 25 CFR § 169.110 addresses how much monetary compensation must be paid for a right-of-way over or across tribal land. It states: (a) A right-of-way over or across tribal land may allow for any payment amount negotiated by the tribe, and we

will defer to the tribe and not require a valuation if the tribe submits a tribal authorization expressly stating that it:

- (1) Has agreed upon compensation satisfactory to the tribe;
- (2) Waives valuation; and
- (3) Has determined that accepting such agreed-upon compensation and waiving valuation is in its best interest.
- (b) The tribe may request, in writing, that we determine fair market value, in which case we will use a valuation in accordance with § 169.114. After providing the tribe with the fair market value, we will defer to a tribe's decision to allow for any compensation negotiated by the tribe.
- (c) If the conditions in paragraph (a) and (b) of this section are not met, we will require that the grantee pay fair market value based on a valuation in accordance with § 169.114.

E. 25 CFR § 169.103 address bond, insurance or alternative forms of security. It states: (a) You must include payment of bonds, insurance, or alternative forms of security with your application for a right-of-way in amounts that cover:

- (1) The highest annual rental specified in the grant, unless compensation is a one-time payment;
- (2) The estimated damages resulting from the construction of any permanent improvements;
- (3) The estimated damages and remediation costs from any potential release of contaminants, explosives, hazardous material or waste;
- (4) The operation and maintenance charges for any land located within an irrigation project;
- (5) The restoration of the premises to their condition at the start of the right-of-way or reclamation to some other specified condition if agreed to by the landowners.

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

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

F. The Resources and Development Committee, through resolution number RDCD-97-18, limited the amount of a waiver of

compensation to no more than 50% that will be allowed for utility companies requesting a waiver of compensation.

- G. The environmental and archaeological studies have been completed and are attached hereto as **Exhibit E**.
- H. The application for the Right-of-Way has been reviewed by the Fish and Wildlife; Historic Preservation; Minerals; Navajo Nation Environmental Protection; Division of Natural Resources and the Department of Justice and "Approved" or found "Sufficient". See documents included in Executive Official Review Document Number 009706, **Exhibit F**.

### SECTION THREE. APPROVAL

- A. The Resources and Development Committee of the Navajo Nation Council hereby approves the grant of right-of-way to Jemez Mountain Electric Cooperative, Inc., to construct, operate and maintain the Beyale Camp 14.4 kV electric powerline on, over and across Navajo Nation Trust Lands in Nageezi Chapter (San Juan County, New Mexico), the location is more particularly described on the survey map attached as **Exhibit B**.
- B. The Resources and Development Committee of the Navajo Nation Council hereby waives valuation and waives compensation of \$12,381.82 of the assessed \$24,763.64 for the right-of-way project because it has determined 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.
- C. The Resources and Development Committee of the Navajo Nation Council hereby waives the requirement for a bond, insurance or alternative form of security on the part of the Grantee, based on the determination that the project benefits the Navajo Nation and such a waiver is in the best interest of the Navajo Nation, pursuant to Title 25 CFR § 169.103 (f) (2).
- D. The Resources and Development Committee of the Navajo Nation Council hereby approves the grant of right-of-way subject to, but not limited to, the terms and conditions attached as **Exhibit A**.

- 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 to affect the intent and purpose of this resolution.

**CERTIFICATION**

I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 24<sup>th</sup> Navajo Nation Council at a duly called meeting at the Twin Arrows Navajo Casino, Leupp, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 4 in favor, and 0 opposed, on this 24<sup>th</sup> day of April 2019.



Rickie Nez, Chairperson  
Resources and Development Committee  
of the 24<sup>th</sup> Navajo Nation Council

Motion: Honorable Mark Freeland  
Second: Honorable Thomas Walker, Jr.

Chairperson Rickie Nez not voting.

**RESOURCES AND DEVELOPMENT COMMITTEE**  
**24<sup>th</sup> Navajo Nation Council**

**THIRD YEAR 2021**

**ROLL CALL**  
**VOTE TALLY SHEET # 2:**

**Legislation # 0242-20:** An Action Relating to Resources and Development; Amending RDCAP-007-19 to Waive 100% of the Compensation for the Grant of Right-of-Way to Jemez Mountain Electric Cooperative, Inc., for the Beyale Camp 14.4 kV Single Phase Powerline Project Located on the NN Trust Lands in Nageezi Chapter (San Juan County, New Mexico). *Sponsor: Honorable Mark A. Freeland*

Date: February 3, 2021 - Regular Meeting (Teleconference)  
Meeting Location: (RDC members called in via teleconference from their location within the boundary of the Navajo Nation.)

**Main Motion: (Established on October 14, 2020 RDC Regular meeting)**

**Motion:** Wilson C. Stewart, Jr. S: Kee Allen Begay, Jr. Vote: 4-0-1 (CNV)

**(Vote established on February 3, 2021 – Regular Meeting)**

**In Favor:** Mark A. Freeland, Kee Allen Begay, Jr., Herman M. Daniels, and Thomas Walker, Jr.

**Oppose:** NONE

**Excuse:** Wilson C. Stewart, Jr.

**Not Voting:** Presiding Chairperson Rickie Nez

**February 3, 2021 – RDC Regular Meeting (Teleconferencing)**

**Motion to Recall:** Herman M. Daniels S: Wilson C. Stewart, Jr. Vote: 5-0-1 (CNV)

**In Favor:** Mark A. Freeland, Wilson C. Stewart, Jr., Kee Allen Begay, Jr., Herman M. Daniels, and Thomas Walker, Jr.

**Oppose:** NONE

**Excuse:** NONE

**Not Voting:** Presiding Chairperson Rickie Nez

**AMENDMENT # 1:**

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

**In Favor:** Mark A. Freeland, Kee Allen Begay, Jr., Herman M. Daniels, and Thomas Walker, Jr.

**Oppose:** NONE

**Excuse:** Wilson C. Stewart, Jr.

**Not Voting:** Presiding Chairperson Rickie Nez

**Tabling Motion: (Established October 14, 2020)**

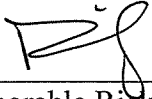
**Motion:** Wilson C. Stewart, Jr. S: Thomas Walker, Jr. Vote: 3-2-1 (CNV)

**In Favor:** Wilson C. Stewart, Jr., Herman M. Daniels, and Thomas Walker, Jr.

**Oppose:** Mark A. Freeland and Kee Allen Begay, Jr.

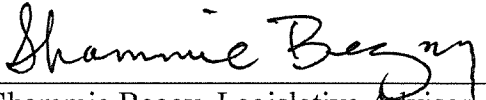
**Excuse:** NONE

**Not Voting:** Presiding Chairperson Rickie Nez



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Honorable Rickie Nez, Presiding Chairperson  
Resources and Development Committee



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Shammie Begay, Legislative Advisor  
Office of Legislative Services