

LEGISLATIVE SUMMARY SHEET

Tracking No. 0327-18

DATE: September 28, 2018

TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION;
AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING AN
AMENDMENT TO THE NAVAJO NATION POLICIES AND PROCEDURES FOR THE
DISPOSITION OF SURPLUS SAND AND GRAVEL MATERIAL

PURPOSE: Approving the amendments to the Navajo Nation Policies and Procedures for the
Disposition of Surplus Sand and Gravel Material

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: 7:30am, 10/3/18

Posting End Date: 10-08-18

Eligible for Action: 10-09-18

Resources & Development Committee

PROPOSED STANDING COMMITTEE RESOLUTION

23rd NAVAJO NATION COUNCIL -- Fourth Year, 2018

INTRODUCED BY



(Prime Sponsor)

TRACKING NO. 0327-18

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING AN
AMENDMENT TO THE NAVAJO NATION POLICIES AND PROCEDURES
FOR THE DISPOSITION OF SURPLUS SAND AND GRAVEL MATERIAL

BE IT ENACTED:

Section One. Authority

- A. The Resources and Development Committee of the Navajo Nation Council oversees regulation of activities on Navajo Nation lands for disposition or acquisition of resources, surface disturbance, or alteration of the natural state of the resource. 2 N.N.C. § 500 (C) (2).
- B. The Resources and Development Committee of the Navajo Nation Council is empowered to promulgate rules and regulations governing the use, sale, exchange and development of Navajo Nation lands and/or resources. 2 N.N.C. § 501 (B) (1).
- C. The Resources and Development Committee of the Navajo Nation Council is empowered to grant final approval for non-mineral leases, permits, licenses, rights-of-way and surface easements on Navajo trust and fee lands. 2 N.N.C. § 501 (B) (2) (a).

1 D. The Resources and Development Committee of the Navajo Nation Council is
2 empowered to grant final approval for Overall Resources Management Plan. 2
3 N.N.C. § 501 (B) (2) (b).

4 E. The Resources and Development Committee of the Navajo Nation Council is
5 empowered to delegate its final approval authority to the Division of Natural
6 Resources for efficiency and streamlining of governmental processes provided the
7 Committee first grants final approval of rules and regulations governing such
8 delegations. 2 N.N.C. § 501 (B) (3).

9
10 **Section Two. Findings**

11 A. The Resources and Development Committee previously approved the Navajo
12 Nation Policies and Procedures for the Disposition of Surplus Sand and Gravel
13 Material (or the “Policies and Procedures”) and delegated the authority for the
14 disposition of such materials to the Navajo Nation Minerals Department (the
15 “Minerals Department”). *See* RDCMA-25-17.

16 B. In implementing its delegated authority to dispose of surplus sand and gravel in
17 accordance with the Policies and Procedures, the Minerals Department has
18 experienced certain circumstances that require an amendment to the Policies and
19 Procedures in order to bring in additional revenues to the Navajo Nation and to
20 assist with the efforts to develop roads and infrastructure on the Navajo Nation.

21 C. Section 5 of the Policies and Procedures authorizes amendments by the Resources
22 and Development Committee of the Navajo Nation Council.

23 D. The amendments to the Policies and Procedures are attached hereto as **Exhibit A**.

24 E. The amendments will allow the Director of the Minerals Department to use
25 discretion in setting the retail price for surplus sand and gravel and will also give
26 the Director the authority to waive the cost of surplus sand and gravel for non-retail,
27 community purposes, which will support Navajo individuals and Navajo
28 communities who would like to use surplus sand and gravel, but are unable to
29 afford the retail prices contained in the Policies and Procedures Appendix A.

1 F. It is in the best interest of the Navajo Nation to approve the amendments of the
2 Navajo Nation Policies and Procedures for the Disposition of Surplus Sand and
3 Gravel Material.
4

5 **Section Three. Approval**

6 Resources and Development Committee of the Navajo Nation Council hereby
7 approves the amendments to the Navajo Nation Policies and Procedures for the
8 Disposition of Surplus Sand and Gravel Material, attached hereto as **Exhibit A**.
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EXHIBIT A



Policies and Procedures for the Disposition of Surplus Sand and Gravel Material

1) Scope

These Policies and Procedures shall apply to the disposition of all surplus sand and gravel material that have been extracted from Navajo Nation lands. *In situ* materials are not within the scope of these Policies and Procedures.

2) Notice

Minerals Department will provide written notification to the operator, contractor, or other land user, so long as they are conducting legal activities on Navajo Nation lands, that they have no legal right to the surplus sand and gravel material that remains at the expiration of their lease, permit, or other use of the land.

3) Inventory of Material

- a. After mining operations, construction projects, or other activities that result in extracted surplus or discarded sand and gravel material, the Navajo Nation Minerals Department ("Minerals Department") will complete a full inventory of the surplus material.
- b. Minerals Department will regularly inspect the surplus material, to the extent possible.

4) Disposition Procedure

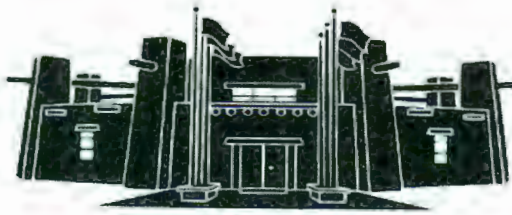
- a. When a buyer of surplus sand and gravel approaches Minerals Department, the buyer and Minerals Department staff will conduct a joint field inspection of the site. The preliminary volume and weight will be assessed, and the quality of the material will be determined at that time.
- b. Minerals Department will determine the price of the material based on the Sand and Gravel Retail Pricing Guidelines found in Appendix A. The Director of Minerals Department (the "Director") has discretion when negotiating the sale price of surplus material and is not strictly bound by the Sand and Gravel Retail Pricing Guidelines.
- c. Upon his discretion, the Director may waive the cost of surplus material for non-retail, community purposes, including but not limited to, use by an individual Navajo or Navajo Nation Chapter for construction or maintenance of access roads or the construction of homes or other community infrastructure. A Purchase Agreement will be required for this type of transaction consistent with these Policies and Procedures.

EXHIBIT A

- e.d. Discussions between the buyer and Minerals Department shall include price, advanced earnest money, method of weighing the material, and timing of removal of material.
- d.e. Once the buyer and Minerals Department agree to the sale price, the buyer will make the initial required payments and will enter into a Purchase Agreement for the Disposition of Extracted Surplus Sand and Gravel Material. The Minerals Department will be responsible for the collection and deposit of the proceeds from the sale of the extracted sand and gravel material.
- e.f. After removal of the surplus sand and gravel material, a final joint inspection of the site will be conducted to ensure there are no outstanding issues, and that the buyer has complied with all terms and conditions of the Purchase Agreement.

5) Review and Amendments

The scope and administration of these Policies and Procedures may be amended or rescinded by the Resources and Development Committee of the Navajo Nation Council.



MEMORANDUM

TO: Honorable Ben Bennett
Crystal, Fort Defiance, Red Lake, Sawmill Chapters

FROM: Mariana Kahn
Mariana Kahn, Attorney
Office of Legislative Counsel

DATE: September 28, 2018

SUBJECT: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION
RELATING TO RESOURCES AND DEVELOPMENT; APPROVING AN
AMENDMENT TO THE NAVAJO NATION POLICIES AND PROCEDURES
FOR THE DISPOSITION OF SURPLUS SAND AND GRAVEL MATERIAL

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge. Please ensure that this particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0327-18__

SPONSOR: Benjamin Bennett

TITLE: An Action Relating To Resources And Development; Approving An Amendment To The Navajo Nation Policies And Procedures For The Disposition Of Surplus Sand And Gravel Material

Date posted: October 03, 2018 at 7:30 PM

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

**Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586**

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

**THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY**

LEGISLATION NO.: 0327-18

SPONSOR: Honorable Benjamin Bennett

TITLE: An Action Relating To Resources And Development; Approving An Amendment To The Navajo Nation Policies And Procedures For The Disposition Of Surplus Sand And Gravel Material

Posted: October 03, 2018 at 7:30 PM

5 DAY Comment Period Ended: October 8, 2018

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inconclusive Comments	<i>None</i>



**Policy Analyst
Office of Legislative Services**

10.07.18 @ 8:45 am

Date/Time

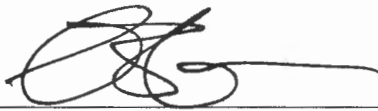
RESOURCES AND DEVELOPMENT COMMITTEE
Special Meeting

October 22, 2018

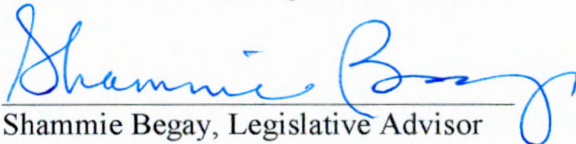
ROLL CALL
VOTE TALLY SHEET:

Legislation # 0327-18: An Action Relating to Resources and Development Committee; Approving an Amendment to the Navajo Nation Policies and Procedures for the Disposition of Surplus Sand and Gravel Material. *Sponsor: Honorable Benjamin Bennett*

Main Motion: Davis Filfred Second: Leonard Pete Vote: 2-1-1 (CNV)
YEAS: Davis Filfred and Benjamin Bennett
NAYS: Leonard Pete
EXCUSED: Walter Phelps and Jonathan Perry



Alton Joe Shepherd, Chairperson
Resources and Development Committee



Shammie Begay, Legislative Advisor
Resources and Development Committee