

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
OF THE 23rd NAVAJO NATION COUNCIL -- Third Year, 2017

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE NAVAJO NATION POLICIES AND PROCEDURES FOR THE DISPOSITION OF SURPLUS SAND AND GRAVEL MATERIAL AND DELEGATING AUTHORITY FOR SUCH DISPOSITION TO THE NAVAJO NATION MINERALS DEPARTMENT

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

Section Two. Findings

- A. Often, on the Navajo Nation, surplus sand and gravel material remains on site after the completion of construction, mining or other similar projects.

- B. The Navajo Nation currently has no process to dispose of this remaining extracted surplus sand and gravel material.
- C. Being readily available, the surplus sand and gravel material has attracted trespassers who remove the material without authorization from the Navajo Nation.
- D. Removal of this surplus sand and gravel material does not require any additional disturbance to the land, and no additional environmental assessments, archaeological surveys and necessary consents other than those previously obtained.
- E. Outside entities have shown interest in legally acquiring such material, such acquisition being a potential source of revenue for the Navajo Nation and not requiring any mining activities.
- F. There is a need on the Navajo Nation for sand and gravel material to develop roads and other infrastructure.
- G. There is a need to delegate the authority to dispose of this surplus sand and gravel material on the Navajo Nation lands to the Director of the Navajo Nation Minerals Department in order to streamline the process, bring additional revenues to the Navajo Nation and develop roads and infrastructure.
- H. The Division of Natural Resources, Navajo Nation Minerals Department is proposing the Navajo Nation Policies and Procedures for the Disposition of Surplus Sand and Gravel Material, attached as **Exhibit "A."**
- I. It is in the best interest of the Navajo Nation to approve the recommended Navajo Nation Policies and Procedures for the Disposition of Surplus Sand and Gravel Material, attached hereto as **Exhibit "A."**
- J. It is in the best interest of the Navajo Nation to approve the delegation of the authority to implement the Navajo Nation Policies and Procedures for the Disposition of Surplus Sand and Gravel Material to the Navajo Nation Minerals Department.

Section Three. Approval

Resources and Development Committee of the Navajo Nation Council hereby approves the Navajo Nation Policies and Procedures for the Disposition of Surplus Sand and Gravel Material, attached hereto as **Exhibit "A."**

Section Four. Delegation

Resources and Development Committee of the Navajo Nation Council hereby approves the delegation of the authority to dispose of surplus sand and gravel material as found on the Navajo Nation lands to the Director of the Navajo Nation Minerals Department in a manner consistent with the approved Policies and Procedures for the Disposition of Surplus Sand and Gravel Material as adopted by this Resolution and found at **Exhibit "A"**.

CERTIFICATION

I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at NDOT, Tse Bonito, (Navajo Nation) New Mexico, at which quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, 1 abstained this 7th day of March, 2017.



**Benjamin Bennett, Vice-Chairperson
Resources and Development Committee
Of the 23rd Navajo Nation Council**

**Motion: Honorable Davis Filfred
Second: Honorable Leonard H. Pete**

LEGISLATIVE SUMMARY SHEET

Tracking No. 0080-17

DATE: February 15, 2017

SUBJECT: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT;
APPROVING THE NAVAJO NATION POLICIES AND PROCEDURES FOR THE
DISPOSITION OF SURPLUS SAND AND GRAVEL MATERIAL AND DELEGATING
AUTHORITY FOR SUCH DISPOSITION TO THE NAVAJO NATION MINERALS
DEPARTMENT


PURPOSE: The purpose of this legislation is to approve the policy and procedures for the disposition of surplus sand and gravel material on the Navajo Nation and to delegate enforcement of the policy to the Navajo Nation Minerals Department.

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 review the proposed resolution in detail.

5-DAY BILL/HOLD PERIOD: None
Website Posting Time/Date: 5:31 pm 2/22/17
Posting End Date: 2/27/2017
Eligible for Action: 2/28/2017

PROPOSED STANDING COMMITTEE RESOLUTION
23rd NAVAJO NATION COUNCIL -- Third Year, 2017

INTRODUCED BY

ALTON JOE SHEPHERD
(Prime Sponsor) 

TRACKING NO. 0080-17

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE
NAVAJO NATION POLICIES AND PROCEDURES FOR THE DISPOSITION
OF SURPLUS SAND AND GRAVEL MATERIAL AND DELEGATING
AUTHORITY FOR SUCH DISPOSITION TO THE NAVAJO NATION
MINERALS DEPARTMENT

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 delegate its final approval authority to the Division of Natural Resources
3 for efficiency and streamlining of governmental processes provided the Committee first
4 grants final approval of rules and regulations governing such delegations. 2 N.N.C. §
5 501 (B) (3).
6

7 **Section Two. Findings**

8 A. Often, on the Navajo Nation, surplus sand and gravel material remains on site
9 after the completion of construction, mining or other similar projects.

10 B. The Navajo Nation currently has no process to dispose of this remaining extracted
11 surplus sand and gravel material.

12 C. Being readily available, the surplus sand and gravel material has attracted
13 trespassers who remove the material without authorization from the Navajo
14 Nation.

15 D. Removal of this surplus sand and gravel material does not require any additional
16 disturbance to the land, and no additional environmental assessments,
17 archaeological surveys and necessary consents other than those previously
18 obtained.

19 E. Outside entities have shown interest in legally acquiring such material, such
20 acquisition being a potential source of revenue for the Navajo Nation and not
21 requiring any mining activities.

22 F. There is a need on the Navajo Nation for sand and gravel material to develop
23 roads and other infrastructure.

24 G. There is a need to delegate the authority to dispose of this surplus sand and gravel
25 material on the Navajo Nation lands to the Director of the Navajo Nation Minerals
26 Department in order to streamline the process, bring additional revenues to the
27 Navajo Nation and develop roads and infrastructure.

28 H. The Division of Natural Resources, Navajo Nation Minerals Department is
29 proposing the Navajo Nation Policies and Procedures for the Disposition of
30 Surplus Sand and Gravel Material, attached as Exhibit "A."

1 I. It is in the best interest of the Navajo Nation to approve the recommended Navajo
2 Nation Policies and Procedures for the Disposition of Surplus Sand and Gravel
3 Material, attached hereto as Exhibit "A."

4 J. It is in the best interest of the Navajo Nation to approve the delegation of the
5 authority to implement the Navajo Nation Policies and Procedures for the
6 Disposition of Surplus Sand and Gravel Material to the Navajo Nation Minerals
7 Department.

8 **Section Three. Approval**

9 Resources and Development Committee of the Navajo Nation Council hereby
10 approves the Navajo Nation Policies and Procedures for the Disposition of
11 Surplus Sand and Gravel Material, attached hereto as Exhibit "A."

12 **Section Four. Delegation**

13 Resources and Development Committee of the Navajo Nation Council hereby
14 approves the delegation of the authority to dispose of surplus sand and gravel
15 material as found on the Navajo Nation lands to the Director of the Navajo Nation
16 Minerals Department in a manner consistent with the approved Policies and
17 Procedures for the Disposition of Surplus Sand and Gravel Material as adopted
18 by this Resolution and found at 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 calculate the fair market sale value of the surplus sand and gravel material, and enter into negotiations with the buyer to determine the price of the material.
- c. Discussions between the buyer and Minerals Department shall include price, advanced earnest money, method of weighing the material, and timing of removal.
- d. 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

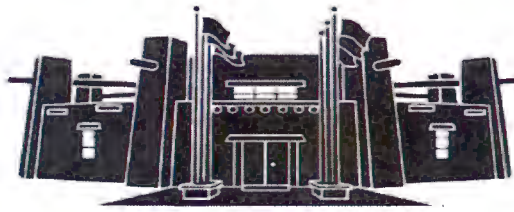
Exhibit "A"

Department will be responsible for the collection and deposit of the proceeds from the sale of the extracted sand and gravel material.

- e. 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.
- f. It is the preference of the Minerals Department that the extracted sand and gravel material not be transported off the Navajo Nation.


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 Alton Joe Shepherd
Navajo Nation Council

FROM: 
Edward A. McCool, Principal Attorney
Office of Legislative Counsel

DATE: February 15, 2017

SUBJECT: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT;
APPROVING THE NAVAJO NATION POLICIES AND PROCEDURES FOR THE
DISPOSITION OF SURPLUS SAND AND GRAVEL MATERIAL AND DELEGATING
AUTHORITY FOR SUCH DISPOSITION TO THE NAVAJO NATION MINERALS
DEPARTMENT

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. §§ 700, 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: _0080-17_____

SPONSOR: Alton Joe Shepherd

TITLE: An Action Relating to Resources and Development; Approving the Navajo Nation Policies and Procedures for the Disposition of Surplus Sand and Gravel Material and Delegating Authority for Such Disposition to the Navajo Nation Minerals

Date posted: February 22, 2017 at 5:31pm

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) 871-7590

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 Nav, ajo 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.: 0080- 17

SPONSOR: Honorable Alton Joe Shepherd

TITLE: An Action Relating to Resources and Development; Approving the Navajo Nation Policies and Procedures for the Disposition of Surplus Sand and Gravel Material and Delegating Authority for Such Disposition to the Navajo Nation Minerals

Posted: February 22, 2017 at 5:31 PM

5 DAY Comment Period Ended: February 27, 2017

Digital Comments received:

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



**Policy Analyst
Office of Legislative Services**



Date/Time

**RESOURCES AND DEVELOPMENT COMMITTEE
23rd NAVAJO NATION COUNCIL**

THIRD YEAR 2017

COMMITTEE REPORT

Mr. Speaker,

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

Legislation # 0080-17: An Action Relating to Resources and Development; Approving the Navajo Nation Policies and Procedures for the Disposition of Surplus Sand and Gravel Material and Delegating Authority for Such Disposition to the Navajo Nation Minerals *Sponsor: Honorable Alton Joe Shepherd*

Has had it under consideration and report the same with a **DO PASS** with the following amendment:

Extract Exhibit A to the Legislation and replaced with the new revised Exhibit A, including the Appendix as the new Exhibit A.

Delete Paragraph F. ~~"It is the preference of the Minerals Department that the extracted sand and gravel material not be transported off the Navajo Nation"~~ from the new Exhibit A.

(Motion: Davis Filfred

Second: Leonard Pete

V: 4-0-1)

And thereafter approved the Legislation.

Respectfully submitted,



Honorable Benjamin Bennett, Vice-Chairperson
Resources and Development Committee
the 23rd Navajo Nation Council

Date: March 7, 2017
Main Motion: Honorable Davis Filfred
Second: Honorable Leonard Pete
Vote: 4-0-1 (CNV)

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

1) Scope

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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.
- c. Discussions between the buyer and Minerals Department shall include price, advanced earnest money, method of weighing the material, and timing of removal.
- d. 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.

Exhibit "A"

- e. 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.

Appendix A

Sand and Gravel Retail Pricing Guidelines

1. AB (Aggregate Base)- A hard packed sub-base compaction material that contains a mix of crushed stone, topsoil and dust.

Priced \$12.00 to \$22.00 per ton for non-delivered material.

2. Pea Gravel- A rounded gravel that is hard durable opaque material free of sand and clay 3/8".

Priced \$25.00 to \$35.00 per ton for non-delivered material depending on size.

3. Clean Select Gravel- Crushed stone free from organic matter, silt and mud.

Priced \$25.00 to \$35.00 per ton for non-delivered material depending on size.

4. Rip Rap- Large rock to line streambeds or bridge abutments used where erosion can happen.

Priced \$40.00 to \$50.00 per ton non-delivered depending on size.

5. Roadway Fill- Mainly sand, silt and clay used to fill up the road or used along the side of roads.

Priced \$5.00 to \$15.00 per ton non-delivered depending on quality.