

RESOLUTION OF THE  
RESOURCES AND DEVELOPMENT COMMITTEE  
23<sup>rd</sup> Navajo Nation Council --- Fourth Year, 2018

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

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 grant final approval for Overall Resources Management Plan. 2 N.N.C. § 501 (B) (2) (b).
- E. 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**

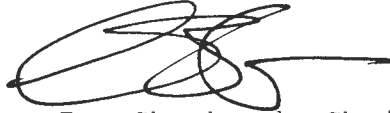
- A. The Resources and Development Committee previously approved the Navajo Nation Policies and Procedures for the Disposition of Surplus Sand and Gravel Material (or the "Policies and Procedures") and delegated the authority for the disposition of such materials to the Navajo Nation Minerals Department (the "Minerals Department"). See RDCMA-25-17.
- B. In implementing its delegated authority to dispose of surplus sand and gravel in accordance with the Policies and Procedures, the Minerals Department has experienced certain circumstances that require an amendment to the Policies and Procedures in order to bring in additional revenues to the Navajo Nation and to assist with the efforts to develop roads and infrastructure on the Navajo Nation.
- C. Section 5 of the Policies and Procedures authorizes amendments by the Resources and Development Committee of the Navajo Nation Council.
- D. The amendments to the Policies and Procedures are attached hereto as **Exhibit A**.
- E. The amendments will allow the Director of the Minerals Department to use discretion in setting the retail price for surplus sand and gravel and will also give the Director the authority to waive the cost of surplus sand and gravel for non-retail, community purposes, which will support Navajo individuals and Navajo communities who would like to use surplus sand and gravel, but are unable to afford the retail prices contained in the Policies and Procedures Appendix A.
- F. It is in the best interest of the Navajo Nation to approve the amendments of the Navajo Nation Policies and Procedures for the Disposition of Surplus Sand and Gravel Material.

**SECTION THREE. APPROVAL**

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

**CERTIFICATION**

I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 23<sup>rd</sup> Navajo Nation Council at a duly called meeting at the NTUA Skyroom, Fort Defiance, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 2 in favor, and 1 opposed, on this 22<sup>nd</sup> day of October 2018.

A handwritten signature in black ink, appearing to read 'Alton Joe Shepherd', with a long horizontal line extending to the right.

Alton Joe Shepherd, Chairperson  
Resources and Development Committee  
of the 23<sup>rd</sup> Navajo Nation Council

Motion: Honorable Davis Filfred  
Second: Honorable Leonard Pete

Chairperson Alton Joe Shepherd not voting.

## 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.

**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