

RESOLUTION OF THE  
BUDGET AND FINANCE COMMITTEE  
OF THE NAVAJO NATION COUNCIL

23<sup>RD</sup> NAVAJO NATION COUNCIL - Fourth Year, 2018

AN ACTION

RELATING TO THE RESOURCES AND DEVELOPMENT AND BUDGET AND  
FINANCE COMMITTEES; APPROVING A BUDGET IN THE AMOUNT OF  
\$2,000,000 TO THE NAVAJO NATION ENVIRONMENTAL PROTECTION  
AGENCY, BUSINESS UNIT *NEW*, FOR THE FORMER PAINTED DESERT INN,  
LEAKING UNDERGROUND STORAGE TANK SITE

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Resources and Development Committee serves as the oversight committee for the Navajo Nation Environmental Protection Agency. 2 N.N.C. § 501 (C) (1).
- B. The Budget and Finance Committee is empowered to review and recommend to the Navajo Nation Council the budgeting, appropriation, investment, and management of all funds. 2 N.N.C. § 301(B) (2).

SECTION TWO. FINDINGS

- A. The Navajo Nation Environmental Protection Agency requests approval of its budget for Project "NAV049, Former Painted Desert Inn Leaking Underground Storage Tank Contamination Remediation." The budget documents and memo from the Controller are attached as **Exhibits 1 and 2**.
- B. The Navajo Nation received a payment of \$2,000,000 from the United States of America settlement of the Nation's claim against the Office of Navajo and Hopi Indian Relocation at the site of the former Painted Desert Inn, Trading Post and Service Station (the "Site") located within the area known as the "New Lands" that form the Navajo Nation's Nahata Dził Commission Governance. The settlement Agreement is attached as **Exhibit 3**.

- C. The settlement funds are currently in the NNEPA's Underground Storage Tank Program Special Revenue Fund. The settlement funds will be transferred to a new Business Unit to track spending since the settlement agreement stipulates, the funds "shall be used by NNEPA exclusively for the remediation and monitoring of NAV049. However, any remaining balance after the completion of the remediation and monitoring of NAV049 shall not be limited to use at the Site but shall be limited to use by the NNEPA Leaking Storage Tank Program." **Exhibit 3**, Article 3.1. The NNEPA's Underground Storage Tank Special Revenue Fund is governed by a fund management plan, which is attached as **Exhibit A** to **Exhibit 4**.

### SECTION THREE. APPROVAL

- A. The Navajo Nation hereby approves the budget for NAV049, Former Painted Desert Inn Leaking Underground Storage Tank Contamination Remediation, Business Unit, *NEW* in the amount of \$2,000,000 in accordance with **Exhibit 1**.
- B. The Navajo Nation Environmental Protection Agency shall ensure that all funds used from this newly created Business Unit for NAV049, Former Painted Desert Inn Leaking Underground Storage Tank Contamination Remediation shall be for contamination remediation of the Site.

### CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Budget and Finance Committee of the Navajo Nation Council at a duly called meeting held at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 4 in favor and 0 opposed, this 15<sup>th</sup> day of May 2018.



Seth Damon, Chairperson  
Budget and Finance Committee

Motion: Honorable Tuchoney Slim, Jr.  
Second: Honorable Tom T. Chee







**THE NAVAJO NATION**  
**PROJECT BUDGET AND JUSTIFICATION**

**Page 3 of 3**  
**PROJECT FORM 3**

**PART I.** Business Unit No.: New

Project Title: NAV049, Former Painted Desert Inn Leaking Underground Storage Tank Contamination Remediation

<b>PART II.</b>				
(A)	(B)	(C)	(D)	(E)
Fund Source Code	Object Code (LOD 4)	Object Code (LOD 6)	Object Code Description (LOD 7) & Justification	Budget TOTAL
	6500	6830	<p>6850 For professional and subcontrat work to conduct site clean up and remediation of contaminated soils and groundwater</p> <p>A large plume of gasoline contaminated ground water is moving towards the Rio Puerco. This plume is half a mile from the Rio Puerco and traveling seventy (70) feet below the ground; Navajo EPA has received \$2 million to address this.</p> <p>Replace the four damaged monitoring wells at the site</p> <p>Install new wells to achieve a complete conceptual model</p> <p>Design and install a high capacity extraction system and water treatment system that can extract enough gallons per minute of groundwater to create and maintain a cone of depression to stop advancement of the plume</p> <p>Reports shall be sent to NNEPA/LSTP office</p>	2,000,000
PAGE TOTAL:				\$2,000,000.00

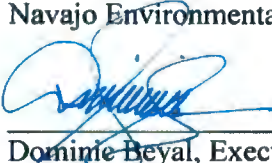


## THE NAVAJO NATION

RUSSELL BEGAYE **PRESIDENT**  
JONATHAN NEZ **VICE PRESIDENT**

### MEMORANDUM

TO : Dr. Donald Benn, Division Director  
Navajo Environmental Protection Agency

FROM :   
Dominic Beyal, Executive Director  
Office of Management & Budget

DATE : May 2, 2018

SUBJECT : Fiscal Year 2018 Funding for Painted Desert Site Remediation

The Office of the Controller has recommended a special revenue fund allocation of \$2,000,000 for FY 2018 for the above subject. The OOC memo indicates the funds are coming from the Leaking Storage Tank Fund.

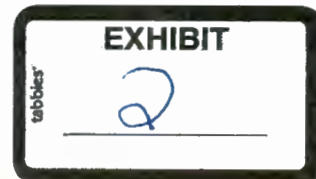
A project budget must be prepared and approved by the Nation for the \$2 million dollars in order for the funds to be available for expenditure purposes upon entry into the Nation Financial Management and Information System (FMIS). Project budget forms are available on the Navajo Nation OMB website: <http://www.omb.navajo-nsn.gov>. Refer to the Fiscal Year 2018 Budget Instructions Manual for applicable rates, codes, schedules and instruction to prepare the budget. The budget requires oversight committee approval, in this case, the Resources and Development Committee of the 23<sup>rd</sup> Navajo Nation Council.

Submit a copy of the legislation and budget for the \$2,000,000 to OMB after approval has been attained by the oversight committee.

If you have any questions, contact our office at (928) 871-6571.

xc: Diana Malone, Environmental Department Manager/NNEPA  
Lavern Begay, Principal Contract Analyst/NEPA  
MD/File





## THE NAVAJO NATION

RUSSELL BEGAYE  
JONATHAN NEZ

### Memorandum:

Date: May 1, 2018

To: Dominic Beyer, Executive Director  
Office of Management and Budget

From: *Robert Willie*  
Robert Willie, Accounting Manager  
Office of the Controller

Subject: Revised Fiscal Year 2018: Navajo Nation Special Revenue Funds, Fiduciary Funds and Proprietary Funds

The Office of Controller has revised the Navajo Nation Special Revenue Funds, Fiduciary Funds and Proprietary Funds schedule to reflect the budget request submittal from the Water Quality Fund and the new Painted Desert-Leaking Storage Tank account. The recommended amount are as follows , Water Quality Fund has been increased to \$31,834 and the new Painted Desert-Leaking Storage Tank is \$2,000,000

If there are any questions, you can call me at tribal extension 6125.

Cc: File

Received From: N/A

Page - 1 of 1

Payment ID 946125

Customer Number N/A

\*\*\*\*\* ANY CHECKS RETURNED ARE SUBJECT TO A \$35.00 SERVICE CHARGE \*\*\*\*\*

Check Number	Explanation / Remark	Account Number	Payment Amount
12-01-17	EPA-ONH&I RELOCATION-STG TANK	511001.6865	500,000.00
12-01-17	EPA-ONH&I RELOCATION-STG TANK	511001.6865	500,000.00
12-01-17	EPA-ONH&I RELOCATION-STG TANK	511001.6865	500,000.00
12-01-17	EPA-ONH&I RELOCATION-STG TANK	511001.6865	500,000.00

Total: 2,000,000.00

Thank You for Your Payment

\_\_\_\_\_  
Signature of Collecting Employee





**SETTLEMENT AGREEMENT**  
**BETWEEN THE NAVAJO NATION AND THE UNITED STATES**  
**REGARDING NAV049 (PAINTED DESERT INN**  
**LEAKING STORAGE TANK SITE)**

This Settlement Agreement (the "Agreement") is made, as of the Effective Date of this Agreement, between the United States of America ("United States") on behalf of the Office of Navajo and Hopi Indian Relocation ("ONHIR"), and the Navajo Nation, a federally recognized Indian Tribe, collectively referred to as the "Parties."

**RECITALS**

WHEREAS, ONHIR is the federal land administrator for certain lands in Apache County, Arizona, held in trust for the Navajo Nation by the United States pursuant to the provisions of (former) 25 U.S.C. § 640d-10, which lands are referred to as the "New Lands" and form the Navajo Nation's Nahata Dził Commission Governance;

WHEREAS, ONHIR has been the federal land administrator for the New Lands since they were acquired by the United States in 1985;

WHEREAS, located within the New Lands is the site of the former Painted Desert Inn, Trading Post and Service Station (the "Site"), referred to by the Navajo Nation Environmental Protection Agency ("NNEPA") as NAV049;

WHEREAS, the Site contains contamination believed to have been caused by leaking underground storage tanks that were removed in 1991;

WHEREAS, the Navajo Nation, through NNEPA, contends that it has legal claims against ONHIR in connection with the contamination at the Site;

WHEREAS, the Parties share a mutual interest in the expeditious remediation of the Site;

WHEREAS, the Parties desire to enter into this Agreement to have a full and final resolution of any and all claims that were, could now be, or hereafter could be

asserted by the Navajo Nation against the United States in connection with Covered Matters, as defined below, and to avoid the complication and expense of litigation of such claims between the Parties concerning the Site;

WHEREAS, the Parties agree that this Agreement is fair, reasonable, and in the public interest;

WHEREAS, the United States does not admit any liability arising from occurrences or transactions pertaining to Covered Matters; and

WHEREAS, the Parties enter into this Agreement as a final settlement of all claims in connection with Covered Matters;

THEREFORE, the Parties hereby agree as follows.

### **ARTICLE 1: DEFINITIONS**

For the purposes of this Agreement, these terms shall be defined as follows:

1.1 Agreement. “Agreement” shall mean this Settlement Agreement.

1.2 Covered Matters. “Covered Matters” shall mean any and all claims that were, that could have been, that could now be, or that could hereafter be asserted by the Navajo Nation against the United States, as of the Effective Date of this Agreement, that arise out of or in connection with contamination at the Site related to the underground storage tanks formerly located there.

1.3 Effective Date. The Effective Date of this Agreement shall be the date on which the last of the Parties signs the Agreement.

1.4 Funds. “Funds” shall mean the two million dollars (\$2,000,000) to be paid pursuant to Section 2.1.

1.4 New Lands. “New Lands” shall mean certain lands in Apache County, Arizona, held in trust for the Navajo Nation by the United States pursuant to the provisions of (former) 25 U.S.C. § 640d-10, and administered by ONHIR.

1.5 Navajo Nation EPA or NNEPA. “Navajo Nation EPA” or “NNEPA” shall mean the Navajo Nation Environmental Protection Agency.

1.6 Navajo Nation DOJ or NNDOJ. “Navajo Nation DOJ” or “NNDOJ” shall mean the Navajo Nation Department of Justice.

1.7 ONHIR. “ONHIR” shall mean the Office of Navajo and Hopi Indian Relocation and any successor departments or agencies of the United States.

1.8 Party and Parties. “Party” shall refer individually to the United States, its agency ONHIR, the Navajo Nation, or its agency NNEPA and “Parties” shall refer collectively to all four individual parties.

1.9 Site. “Site” in this Agreement shall mean the former Painted Desert Inn, Trading Post and Service Station, known as NAV049, the Painted Desert Inn Leaking Underground Storage Tank site, and shall include the geographic extent of the contamination.

1.10 United States. The “United States” shall mean the United States of America, including all of its departments, agencies, and instrumentalities.

## **ARTICLE 2: PAYMENT BY ONHIR**

2.1 Payment. As soon as reasonably practicable following the Effective Date of this Agreement and receipt of payment instructions, but within the 2018 federal fiscal year, ONHIR shall pay to NNEPA the sum of two million dollars (\$2,000,000). This payment by ONHIR is a full and final settlement of all of the Navajo Nation’s claims against the United States for Covered Matters. This payment to be made by ONHIR is subject to the availability of funds appropriated. No provision of this Agreement shall be interpreted as or constitute a commitment or requirement that the United States or ONHIR obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable provision of law.

## **ARTICLE 3: COMMITMENTS BY NNEPA**

3.1 Use of Funds. The Funds shall be used by NNEPA exclusively for the remediation and monitoring of NAV049. However, any remaining balance after completion of the remediation and monitoring of NAV049 shall not be limited to

use at the Site but shall be limited to use by the NNEPA Leaking Storage Tank Program.

3.2 Receipt of Funds. NNEPA shall provide ONHIR notification that the Funds have been received.

3.3 Insufficiency of Funds. NNEPA shall be responsible for remediation and monitoring costs of NAV049, if any, after exhaustion of the Funds.

3.4 Tracking Use of Funds. NNEPA shall track the use of the Funds pursuant to its Site-Specific Cost Accounting Policy and shall provide reports as required by that policy.

3.5 Performance of the Work. NNEPA shall retain a properly qualified independent contractor to perform the remediation. NNEPA shall supervise the remediation or ensure that the remediation is supervised by contractors possessing all required certifications and qualifications.

3.6 Selection of the Contractor. NNEPA shall invite ONHIR, or any successor agency, to participate in the selection process for the contractor referred to in Section 3.5, to include the opportunity for ONHIR to be on the selection committee and to review any request for proposals. Nothing in this paragraph is intended to interfere or conflict with NNEPA's obligation to follow Navajo Nation procurement requirements.

3.7 Information Sharing and Consultation. NNEPA shall timely provide ONHIR, and any successor agency, with information about remediation activities at the Site, including but not limited to a copy of all reports generated and information gathered during the course of further studies and remediation of the Site. NNEPA shall consult with ONHIR, or any successor agency, in the course of the further studies and remediation activities at the Site. NNEPA shall further consider any comments submitted by ONHIR, or any successor agency, in the course of its decision-making.



## **ARTICLE 4: RELEASES AND EFFECT OF AGREEMENT**

4.1 Releases and Covenants Not to Sue. Effective when the payment required by Section 2.1 of this Agreement has been made by ONHIR, the Navajo Nation forever releases, discharges, covenants, and agrees not to assert (by way of the commencement of an action or in any other fashion) any and all claims, causes of action, suits or demands of any kind whatsoever, in law or in equity, that the Navajo Nation may have had, or hereafter has, against the United States relating to Covered Matters. The Parties agree that such release does not include any release for claims relating to the enforcement of the terms of this Agreement.

### 4.2 Protection Against Claims.

(a). The Parties acknowledge and agree that the payment and obligations provided for in this Agreement represent a full and final settlement of disputed claims for Covered Matters and that the settlement represents a fair, reasonable, and equitable resolution of Covered Matters.

(b). The Navajo Nation agrees that when the payment required under Section 2.1 has been made, the United States will have resolved any liability that it may have to the Navajo Nation for Covered Matters.

(c). The Parties agree that this Agreement is intended to grant protection from and to bar any known or unknown claims against the United States for Covered Matters to the fullest extent permitted by law.

(d). Any rights the United States may have to obtain contribution or otherwise recover costs or damages for Covered Matters from persons not party to this Agreement are preserved.

(e). Any rights the Navajo Nation may have to recover costs or damages for Covered Matters from persons not party to this Agreement are preserved.

4.3 No Admission. This Agreement was negotiated and executed by the Parties in good faith and at arm's length and is a fair and equitable resolution of



claims. This Agreement shall not constitute or be construed as an admission of liability by any Party, nor is it an admission or denial of any factual allegations or an admission of any violation of law, rule, regulation, or policy by any Party.

#### **ARTICLE 5: REPRESENTATIVE AUTHORITY**

5.1 The United States is executing this Agreement on behalf of the federal government, including all of its departments, agencies and instrumentalities.

5.2 ONHIR is executing this Agreement with respect to the use of its appropriated funds to make the payment required in Section 2.1.

5.3 The individuals signing this Agreement on behalf of each Party hereby certify that they are authorized to bind their respective Party to this Agreement.

#### **ARTICLE 6: MISCELLANEOUS**

6.1 Agreement is Binding and Final. This document including those documents incorporated by reference embodies the entire terms and conditions of this Agreement, and each Party acknowledges that it has not relied upon any warranties, representations, or promises except those set forth expressly in this Agreement. This Agreement may not be altered, amended, modified, or otherwise changed in any respect except by a writing executed by an authorized representative of each of the Parties.

6.2 Preservation of Defenses. Nothing in this Agreement shall be construed as a waiver of sovereign immunity or of any legal defense.

6.3 Navajo Nation Reservation of Rights. In the event ONHIR does not make the payment required by Section 2.1, the Navajo Nation reserves the right to pursue claims under Navajo and federal law against ONHIR for the contamination at the Site.

6.4 Binding on Successors and Assigns. This Agreement shall be binding upon and for the benefit of the Parties, as well as their successors, representatives, and assigns.

6.5 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument.

6.6 Governing Law. This Agreement shall be governed by and construed under the laws of the United States.

6.7 Headings. The section headings contained in this Agreement are solely for convenience of reference and shall not affect the meaning or interpretation of this Agreement or any term or provision hereof.

6.8 Notices to Parties. The Parties may change their respective points of contact by giving advance written notice to the other Party.

For the United States:

Chief, Environmental Defense Section  
United States Department of Justice  
Environment & Natural Resources Division  
P.O. Box 7611  
Washington, DC 20044-7611  
Re: DJ # 90-7-4-21173

For ONHIR:

Chris Bavasi  
Executive Director  
Office of Navajo and Hopi Indian Relocation  
P.O. Box KK  
Flagstaff, AZ 86002

For the Navajo Nation:

Veronica Blackhat  
Assistant Attorney General  
Natural Resources Unit  
Navajo Nation Department of Justice  
P.O. Box 2010  
Window Rock, AZ 86515

For NNEPA:

Diane J. Malone  
Department Manager  
NNEPA WRCD  
P.O. Box 3089  
Window Rock, AZ 86515

IN WITNESS WHEREOF, the Parties enter into this Agreement.

**THE NAVAJO NATION:**

By: \_\_\_\_\_

  
ETHEL BILLIE BRANCH  
Navajo Nation Attorney General

Dated: 11-22-2017

**NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY:**

By: \_\_\_\_\_

  
DONALD BENN  
Executive Director  
Navajo Nation Environmental Protection Agency

Dated: 11/6/17

**THE UNITED STATES OF AMERICA:**

JEFFREY H. WOOD  
Acting Assistant Attorney General

By: \_\_\_\_\_

  
DUSTIN J. MAGHAMFAR  
Senior Attorney  
United States Department of Justice  
Environment and Natural Resources Division

Dated: 11/27/2017

**OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION:**

By: \_\_\_\_\_

CHRISTOPHER J. BAVASI  
Executive Director  
Office of Navajo and Hopi Indian Relocation

Dated: \_\_\_\_\_

**THE UNITED STATES OF AMERICA:**

JEFFREY H. WOOD  
Acting Assistant Attorney General

By: \_\_\_\_\_  
DUSTIN J. MAGHAMFAR  
Senior Attorney  
United States Department of Justice  
Environment and Natural Resources Division

Dated: \_\_\_\_\_

**OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION:**

By: \_\_\_\_\_  
CHRISTOPHER J. BAVASI  
Executive Director  
Office of Navajo and Hopi Indian Relocation

Dated: 11/27/17



BFJY-111-03

**RESOLUTION OF THE  
BUDGET AND FINANCE COMMITTEE  
OF THE NAVAJO NATION COUNCIL**

**Approving the Navajo Nation Environmental Protection Agency's Underground Storage Tank Program Special Revenue Fund Management Plan, a Budget for \$1,045,000.00, Account Number 8-86057, to Take Necessary Corrective/Clean Up Actions at Abandoned Leaking Underground Storage Tank Sites and a Budget for \$282,000.00, Account Number 8-86058, to Administer and Implement the Underground Storage Tank Program Pursuant to the Navajo Nation Underground Storage Tank Act**

**WHEREAS:**

1. Pursuant to 2 N.N.C. § 372 (D), the Budget and Finance Committee of the Navajo Nation Council serves to protect the interest of the Navajo Nation through prudent management of financial reserves and the efficient uses of available fiscal and financial resources of the Navajo Nation; and

2. Pursuant to 2 N.N.C. § 1921 et seq., the Navajo Nation Council established the Navajo Nation Environmental Protection Agency (hereafter referred to as "Navajo EPA"), as an independent regulatory agency that is responsible for protecting public health and the Navajo Nation environment by enforcing tribal environmental codes and regulations; and

3. By Resolution CO-82-98, the Navajo Nation Council adopted the Navajo Nation Underground Storage Tank Act (hereafter referred to as "the Act") which authorizes the Executive Director of Navajo EPA to expend assessed fees and penalties for use by the Navajo EPA's Underground Storage Tank (hereafter referred to as "UST") Program according to an approved Special Revenue Fund Management Plan and budgets; and

4. The Navajo EPA's UST Program has prepared a Special Revenue Fund Management Plan, attached hereto as Exhibit "A", a budget attached hereto as Exhibit "B" for \$1,045,000.00, Account 8-86057, to clean up abandoned leaking underground storage tanks and to take corrective actions, and a budget attached hereto as Exhibit "C" for \$282,000.00, Account 8-86058 to administer and implement the Act; and

5. By Resolution RCJN-71-03, attached hereto as Exhibit "D", the Resources Committee of the Navajo Nation Council recommended that the Budget and Finance Committee of the Navajo Nation Council approve the Navajo EPA's UST Program Special Revenue Fund Management Plan, attached hereto as Exhibit "A", a

budget, attached hereto as Exhibit "B", for \$1,045,000.00, Account 8-86097 to clean up abandoned leaking UST sites and to take corrective actions, and a budget, attached hereto as Exhibit "C", for \$282,000.00, Account 8-86058, to administer and implement the Act; and

6. It is in the best interest of the Navajo Nation to authorize the Navajo Nation EPA's UST Program to implement the Special Revenue Fund Management Plan to expend assessed fees and penalties to protect groundwater resources from the releases of regulated substances from the underground storage tanks, and to ensure compliance with the Act.

NOW THEREFORE BE IT RESOLVED THAT:

The Budget and Finance Committee of the Navajo Nation Council hereby approves the Navajo Nation Environmental Protection Agency's Underground Storage Tank Program Special Revenue Fund Management Plan, attached hereto as Exhibit "A", a budget, attached hereto as Exhibit "B" for \$1,045,000.00, Account 8-86057, to clean up abandoned leaking UST sites and to take corrective actions, and a budget attached hereto as Exhibit "C" for \$282,000, Account 8-86058 to administer and implement the Navajo Nation Underground Storage Tank Act, which includes taking necessary corrective/clean up actions.

#### CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Budget and Finance Committee of the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 5 in favor, 0 opposed and 0 abstained, this 15<sup>th</sup> day of July, 2003.

  
Bennie Shelly  
Vice Chairperson

Motion : Harold Wauneka  
Second: Richard T. Begaye

**FUND MANAGEMENT PLAN  
UNDERGROUND STORAGE TANK SPECIAL REVENUE FUND ACCOUNT  
NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY**

**I. ESTABLISHMENT**

There is hereby established the Underground Storage Tank Special Revenue Fund Management Plan ("UST Fund Management Plan") for Account Number 8-86057 and Account Number 8-86058 for use by the Underground Storage Tank Program ("UST Program") within the Waste Regulatory Compliance Department of the Navajo Nation Environmental Protection Agency (NNEPA), pursuant to §106(C), §701, §702(k)(2) and §703 of the Navajo Nation Underground Storage Tank Act ("the Act").

Pursuant to §106(C) monies derived from fees and penalties shall be available solely for the administration and implementation of the Act and the regulation promulgated pursuant to the Act.

The Resources Committee of the Navajo Nation Council shall provide legislative oversight for this UST Fund Management Plan.

**II. PURPOSE AND OBJECTIVES**

The Act provides NNEPA with regulatory authority to specify requirements for the installation, management, upgrade, and removal of underground storage tanks. The Act authorizes the Navajo Nation to assess and collect fees from the tank owner, tank operator and distributor who re-fills the underground storage tanks. The revenue that is generated will be used by the NNEPA's UST Program to administer, implement and enforce the Act (Account 8-86058) and to remove leaking/abandoned underground storage tanks, to clean up petroleum-contaminated soil and contaminated surface and ground water resources that occurred as a result of a release of a regulated substance, and the Act also authorizes the UST Program to take any other appropriate corrective actions (Account 8-86057).

The UST Fund Management Plan describes how the fees are collected, manage and utilize by the UST Program to ensure the protection of surface and ground water resources from releases of petroleum or hazardous substances from operating and/or abandoned leaking underground storage tanks, and to clean up petroleum-contaminated soil, to clean up contaminated surface and ground water resources, and to take any other necessary corrective actions.

**III. ADMINISTRATION**

**A. FUNDING SOURCE**

The Act authorizes the establishment of the following two accounts:

- (1) **ACCOUNT 8-86057**: LUST Trust Fund (See §703).
  - a. **Source of funds**: The funding source for this account is:
    - i. 80% UST Tariff: (See §702(A) and Sec §702(k) (1)).
    - ii. One-half of all business site lease revenues: (See §703).
- (2) **ACCOUNT 8-86058**: UST Account, the Special Fund Account, and the UST Program Special Revenue Fund Account. (Sec §701, §106(C), and §702(k) (2)).
  - a. **Source of funds**: The funding sources for this account are:
    - i. Annual Tank Fees: (See §701)

**BFJY-111-03**



# The Navajo Nation



This is to certify that the documents scanned on this CD-ROM are accurate and complete reproduction of the records as delivered in the regular course of business.

July 26, 2005

Date

Julie

Name

Navajo Nation  
Records Management  
Window Rock, Arizona 86515



\$282,000, Account 8-86058, to administer the Underground Storage Tank Program and to implement the Act; and

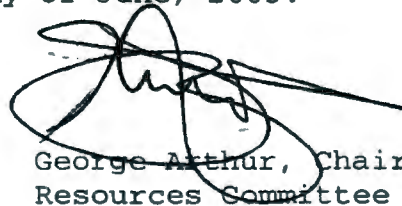
5. It is in the best interest of the Navajo Nation to authorize the Navajo EPA UST Program to implement the Special Revenue Fund Management Plan and to expend assessed fees and penalties to protect groundwater resources from the releases of regulated substances from underground storage tanks and ensure compliance with the Navajo Nation Underground Storage Tank Act.

NOW, THEREFORE, BE IT RESOLVED THAT:

The Resources Committee of the Navajo Nation Council hereby approves and recommends that the Budget and Finance Committee of the Navajo Nation Council approve the Navajo Nation Environmental Protection Agency's Underground Storage Tank Program Special Revenue Fund Management Plan, attached hereto as Exhibit "A"; and attached hereto as Exhibit "B", a budget for \$1,045,000, Account 8-86057, to remove leaking underground storage tanks and to take corrective actions; and a budget, attached hereto as Exhibit "C", for \$282,000, Account 8-86058, to administer and implement the Navajo Nation Underground Storage Tank Act, which includes taking necessary corrective/clean up actions.

#### CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Resources Committee of the Navajo Nation Council at a duly called meeting at Nenahnezad, Navajo Nation (New Mexico), at which a quorum was present and that same was passed by a vote of 5 in favor, 0 opposed and 0 abstained, this 12<sup>th</sup> day of June, 2003.



George Arthur, Chairperson  
Resources Committee

Motion: Amos F. Johnson  
Second: Nelson S. Begaye

\$282,000, Account 8-86058, to administer the Underground Storage Tank Program and to implement the Act; and

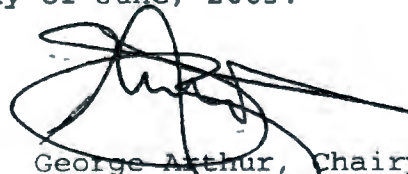
5. It is in the best interest of the Navajo Nation to authorize the Navajo EPA UST Program to implement the Special Revenue Fund Management Plan and to expend assessed fees and penalties to protect groundwater resources from the releases of regulated substances from underground storage tanks and ensure compliance with the Navajo Nation Underground Storage Tank Act.

NOW, THEREFORE, BE IT RESOLVED THAT:

The Resources Committee of the Navajo Nation Council hereby approves and recommends that the Budget and Finance Committee of the Navajo Nation Council approve the Navajo Nation Environmental Protection Agency's Underground Storage Tank Program Special Revenue Fund Management Plan, attached hereto as Exhibit "A"; and attached hereto as Exhibit "B", a budget for \$1,045,000, Account 8-86057, to remove leaking underground storage tanks and to take corrective actions; and a budget, attached hereto as Exhibit "C", for \$282,000, Account 8-86058, to administer and implement the Navajo Nation Underground Storage Tank Act, which includes taking necessary corrective/clean up actions.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Resources Committee of the Navajo Nation Council at a duly called meeting at Nenahnezad, Navajo Nation (New Mexico), at which a quorum was present and that same was passed by a vote of 5 in favor, 0 opposed and 0 abstained, this 12<sup>th</sup> day of June, 2003.



George Arthur, Chairperson  
Resources Committee

Motion: Amos F. Johnson  
Second: Nelson S. Begaye

## EXHIBIT "D"

RCJN-71-03

### RESOLUTION OF THE RESOURCES COMMITTEE OF THE NAVAJO NATION COUNCIL

Approving and Recommending that the Budget and Finance Committee of the Navajo Nation Council Approve the Navajo Nation Environmental Protection Agency's Underground Storage Tank Program Special Revenue Fund Management Plan, a Budget for \$1,045,000, Account Number 8-86057, to Take Necessary Corrective/Clean Up Action at Abandoned Leaking Underground Storage Tanks and a Budget for \$282,000, Account Number 8-86058, to Administer and Implement the Underground Storage Tank Program, Pursuant to the Navajo Nation Underground Storage Tank Act

#### WHEREAS:

1. Pursuant to 2 N.N.C. § 1926, the Resources Committee of the Navajo Nation Council serves as the legislative oversight committee for the Navajo Nation Environmental Protection Agency; and

2. Pursuant to 2 N.N.C. § 1921, the Navajo Nation Environmental Protection Agency (hereafter referred to as "Navajo EPA") has been established as an independent regulatory agency that is responsible for protecting public health and the Navajo Nation environment by enforcing tribal environmental codes and regulations; and

3. By Resolution CO-82-98, the Navajo Nation Council adopted the Navajo Nation Underground Storage Tank Act (hereafter referred to as "the Act") which authorizes the Director of Navajo EPA to expend assessed fees and penalties for use by the Navajo EPA Underground Storage Tank (hereafter referred to as "UST") Program according to an approved Special Revenue Funds Management Plan and budgets; and

4. The Navajo EPA's UST Program has prepared a Special Revenue Fund Management Plan, attached hereto as Exhibit "A"; a budget, attached hereto as Exhibit "B", for \$1,045,000, Account 8-86057, to clean-up abandoned leaking underground storage tank sites and to take corrective actions; and a budget, attached hereto as Exhibit "C", for

## FRS PRINTS

\*I-Z0304 -MULTIPLE MESSAGES HAVE BEEN DISPLAYED - PRESS PF3 TO REVIEW MESSAGES  
019 SL Account Summary

UNDERGRD STORAGE TNK

Fiscal Year: 03

Screen: Acct: 886058

Date : 07-14-03 11:35:35

Department:

Map Code: 86058

Resp Person: ARLENE LUTHER

Flags:

Del Frz Rvw Drp Sup ABR

0 0 0 0 0 1

Obj	Description	Budget	Actual	Encumb	Avail
0229	FEES-OTHER	282,000-	0.00	0.00	282,000.00-
0235	ANNUAL TANK FEES	0	13,150.00-	0.00	13,150.00
0236	TARIFF FEES	0	70,075.40-	0.00	70,075.40
0238	REGISTRATION FEE	0	1,025.00-	0.00	1,025.00
0302	INT INC-MRKT SEC	0	3,476.99-	0.00	3,476.99
	REVENUE TOTAL	282,000-	87,727.39-	0.00	194,272.61-
1000	PERSON-REGULAR	142,958	0.00	0.00	142,958.00
1300	EMPL. SHARE-FICA	34,167	0.00	0.00	34,167.00
2000	TRAVEL EXPENSES	15,700	0.00	0.00	15,700.00
2100	ASSIGNED VEHICLE	11,688	0.00	0.00	11,688.00
3000	OPERATIONAL SUPP	8,000	0.00	0.00	8,000.00
4000	LEASE/COMM/UTILI	11,698	0.00	0.00	11,698.00
6000	CONTRACTUAL SERV	22,789	0.00	0.00	22,789.00
8000	Capital Expendit	35,000	0.00	0.00	35,000.00
	EXPENSE TOTAL	282,000	0.00	0.00	282,000.00
	ACCOUNT TOTAL	0	87,727.39-	0.00	87,727.39

## FRS PRINTS

\*I-Z0304 -MULTIPLE MESSAGES HAVE BEEN DISPLAYED - PRESS PF3 TO REVIEW MESSAGES  
019 SL Account Summary

LKG UNDERGRD STORAGE

Fiscal Year: 03

Screen: Acct: 886057

Date : 07-14-03 11:34:34

Department:

Map Code: 86057

Resp Person: ARLENE LUTHER

Flags: Del Frz Rvw Drp Sup ABR

0 0 0 0 0 0

Obj	Description	Budget	Actual	Encumb	Avail
0236	TARIFF FEES	0	280,301.82-	0.00	280,301.82
0302	INT INC-MRKT SEC	0	12,932.95-	0.00	12,932.95
0875	OTR PERMIT FEES	1,045,000-	0.00	0.00	1,045,000.00-
	REVENUE TOTAL	1,045,000-	293,234.77-	0.00	751,765.23-
6000	CONTRACTUAL SERV	1,045,000	0.00	0.00	1,045,000.00
	EXPENSE TOTAL	1,045,000	0.00	0.00	1,045,000.00
	ACCOUNT TOTAL	0	293,234.77-	0.00	293,234.77



**THE NAVAJO NATION  
PERFORMANCE CRITERIA  
FISCAL YEAR 2001**

Form 2

Page 1 of 1

Program Underground Storage Tank Program		Program No.: 150420																					
<b>IV.</b>																							
<b>I. 1. Performance Measure:</b> Routine reporting of program statistics and services provided. <b>Goal Statement:</b> To report, on a quarterly basis, the following program statistics and services provided:		<table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th style="width: 25%;">FY 2001 1st Quarter Results</th> <th style="width: 25%;">FY 2001 2nd Quarter Results</th> <th style="width: 25%;">FY 2001 3rd Quarter Results</th> <th style="width: 25%;">FY 2001 4th Quarter Results</th> </tr> </thead> <tbody> <tr> <td>6</td> <td>36</td> <td>42</td> <td>53</td> </tr> <tr> <td>2</td> <td>14</td> <td>6</td> <td>4</td> </tr> <tr> <td>3</td> <td>14</td> <td>11</td> <td>17</td> </tr> <tr> <td>6</td> <td>36</td> <td>42</td> <td>63</td> </tr> </tbody> </table>		FY 2001 1st Quarter Results	FY 2001 2nd Quarter Results	FY 2001 3rd Quarter Results	FY 2001 4th Quarter Results	6	36	42	53	2	14	6	4	3	14	11	17	6	36	42	63
FY 2001 1st Quarter Results	FY 2001 2nd Quarter Results	FY 2001 3rd Quarter Results	FY 2001 4th Quarter Results																				
6	36	42	53																				
2	14	6	4																				
3	14	11	17																				
6	36	42	63																				
a. Number of responses to tips and complaints. b. Number of responses to releases from USTs and Leaking USTs. c. Number of inspections to determine compliance with federal and tribal laws. d. Number of responses to request for technical assistance and presentations.																							
<b>II. 2. Performance Measure:</b> To investigate ten tips and compliants per quarter that pertain to UST and Leaking USTs. <b>Goal Statement:</b> Provide comprehensive response actions on citizen complaints, tips, and program inspection		<table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tbody> <tr> <td>6</td> <td>36</td> <td>42</td> <td>53</td> </tr> </tbody> </table>		6	36	42	53																
6	36	42	53																				
<b>3. Performance Measure:</b> To provide technical assistance and oversight at 36 Leaking UST sites at ten sites per quarter. <b>Goal Statement:</b> Ensure compliance with the Navajo UST Act and related federal laws and regulations.		<table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tbody> <tr> <td>3</td> <td>14</td> <td>11</td> <td>17</td> </tr> </tbody> </table>		3	14	11	17																
3	14	11	17																				
<b>4. Performance Measure:</b> To provide technical requirements for the cleanup of Leaking UST sites at ten sites per quarter. <b>Goal Statement:</b> Ensure compliance, remediation, and protection of human health and the environment.		<table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tbody> <tr> <td>6</td> <td>36</td> <td>42</td> <td>53</td> </tr> </tbody> </table>		6	36	42	53																
6	36	42	53																				
<b>III. 5. Projects:</b> a. Provide regulatory oversight at the Tuba City leaking UST site. b. Monitor the removal of leaking USTs and petroleum contaminated soil. c. Monitor the drilling of groundwater monitoring wells and related sampling activities. d. Presentations on USTs.		<table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tbody> <tr> <td>6</td> <td>2</td> <td>6</td> <td>5</td> </tr> <tr> <td>3</td> <td>14</td> <td>6</td> <td>3</td> </tr> <tr> <td>9</td> <td>14</td> <td>6</td> <td>1</td> </tr> <tr> <td>1</td> <td>2</td> <td>4</td> <td>10</td> </tr> </tbody> </table>		6	2	6	5	3	14	6	3	9	14	6	1	1	2	4	10				
6	2	6	5																				
3	14	6	3																				
9	14	6	1																				
1	2	4	10																				

THE NAVAJO NATION  
Performance Criteria  
Fiscal Year 2002

Page \_\_\_\_ of \_\_\_\_

# FORM 2

PROGRAM: Underground Storage Tank

PROGRAM NO.: 150420

## IV.

### I. Performance Measure:

Routine reporting of program statistics and services provided.

Goal Statement:

To report, on a quarterly basis, the following program statistics and services provided:

- Number of responses to tips and complaints.
- Number of responses to releases from USTs.
- Number of inspections to determine compliance with UST laws.
- Number of responses to requests for technical assistance and presentations.

FY 2002 1st Qtr Results	FY 2002 2nd Qtr Results	FY 2002 3rd Qtr Results	FY 2002 4th Qtr Results
5	5	0	0
5	0	3	8
23	4	5	58
29	20	5	15

### II. Performance Measure:

To investigate ten tips and complaints per quarter that pertain to potential UST violations and releases.

Goal Statement:

Provide comprehensive response actions to citizen complaints and tips.

5	2	0	0
---	---	---	---

### 3. Performance Measure:

To inspect 180 UST sites at 45 per quarter and determine compliance status.

Goal Statement:

Ensure compliance with the Navajo UST Act and federal laws and regulations.

21	4	5	58
----	---	---	----

### 4. Performance Measure:

Provide regulatory oversight at UST removals to ensure compliance.

Goal Statement:

Ensure the protection of groundwater from the releases at UST sites.

4	4	10	8
---	---	----	---

### III. 5. Projects:

a. Monitor the installation of new tanks to ensure compliance.

b.

c.

d.

0	0	2	2

**THE NAVAJO NATION  
PROGRAM PERFORMANCE CRITERIA  
FISCAL YEAR 2003**

**Form 2**  
Page 2 of 8

Program:	Underground Storage Tank	Program No.:	150420
<b>I. 1. Performance Measure:</b>			
Routine reporting of program statistics and services provided.			
<b>Goal Statement:</b>			
To report, on a quarterly basis, the following program statistics and services provided:			
a.	Comprehensive inspection statistics by Agency and type.	FY 2003 1st Qtr Results	FY 2003 2nd Qtr Results
b.	Facility compliance percentages for industrial, tribal/federal government and entities.	40%	72%
c.	Educational outreach forums by location and type.	0	2
d.	Number of partnerships established with States, EPA, intertribally and intergovernmentally.	3	1
<b>II. 2. Performance Measure:</b>			
Conduct compliance inspections and pursue appropriate administrative and civil tribal/federal enforcement			
<b>Goal Statement:</b>			
Ensure compliance with Navajo Nation UST Act and applicable federal UST regulations.			
3.	Performance Measure:	6	17
Establish plan and timelines to enhance environmental awareness and implementation of plan.			
<b>Goal Statement:</b>			
Develop and implement NN Environmental Strategic Plan.			
4.	Performance Measure:	100%	100%
Provide UST owner and operator training for the regulated community and public.			
<b>Goal Statement:</b>			
Enhance awareness of underground storage tank management and recordkeeping requirements.			
5.	Performance Measure:	0	1
<b>Goal Statement:</b>			
Enhance awareness of underground storage tank management and recordkeeping requirements.			
<b>III. 6. Projects:</b>			
a.	Update UST database.	4	17
b.	Establish policy and guidance for the management of petroleum-contaminated soil.	on-going	on-going
c.			



**THE NAVAJO NATION  
PROGRAM PERFORMANCE CRITERIA  
FISCAL YEAR 2003**

**Form 2**  
Page 2 of 8

Program: <u>Leaking Underground Storage Tank Program</u>		Program No.: <u>150421</u>			
--	--	----------------------------	--	--	--

**I. 1. Performance Measure:**  
Routine reporting of program statistics and services provided.

**Goal Statement:**  
To report, on a quarterly basis, the following program statistics and services provided:

- a. Comprehensive inspection statistics by Agency and type.
- b. Facility compliance percentages for industrial, tribal/federal government and entities.
- c. Educational outreach forums by location and type.
- d. Number of partnerships established with States, EPA, intertribal and intergovernmental entities.

FY 2003 1st Qtr Results	FY 2003 2nd Qtr Results	FY 2003 3rd Qtr Results	FY 2003 4th Qtr Results
2	6	7	
20%	20%	26%	
0	2	3	
3	3	1	

**II. 2. Performance Measure:**  
Conduct monitoring and oversight activities of drilling, sampling and implementation of remedial actions.

**Goal Statement:**  
Ensure implementation of corrective actions at the Tuba City Leaking UST site.

80%	80%	80
-----	-----	----

**3. Performance Measure:**  
Review and assess data and conduct field assessments to determine protocol for response actions.

**Goal Statement:**  
Assess potential multiple releases to groundwater at the Shiprock sites.

50%	50%	50%
-----	-----	-----

**4. Performance Measure:**  
Draft cleanup guidance/protocol for petroleum-contaminated soil and incorporate cultural values.

**Goal Statement:**  
Establish cleanup protocol for petroleum-contaminated soil.

on-going	on-going	on-going
----------	----------	----------

**5. Performance Measure:**  
Processing of joint closure request provided by U.S. EPA

**Goal Statement:**  
Determine protocol for closure of remedial activities at former leaking UST sites.

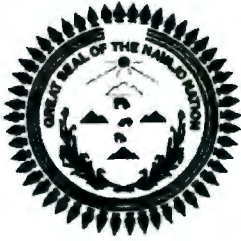
on-going	on-going	on-going
----------	----------	----------

**III. 6. Projects:**

- a. Enhance technical skills for assessing and monitoring corrective action activities.
- b. Identify/quantify potential releases at abandoned/questionable UST sites.
- c.

1	2	1
4	5	7



The  
Navajo Nation  
Environmental Protection Agency  
P.O. Box 339 Window Rock, AZ 86515


JOE SHIRLEY JR.  
PRESIDENT

(928) 871-7692

FRANK DAYISH JR.  
VICE PRESIDENT

# MEMORANDUM

TO : Budget & Finance Committee Members  
THE NAVAJO NATION COUNCIL

FROM : Arlene Luther, Acting Executive Director  
Navajo Nation Environmental Protection Agency 

DATE : July 11, 2003

SUBJECT : Comments by Mr. Mike Martinez, Program and Project Specialist, Office of Management and Budget, dated February 21, 2003 for SAS #16435 and SAS #16346 Approving the Navajo Nation Environmental Protection Agency's Underground Storage Tank Program Special Revenue Fund Management Plan, a Budget for \$1,045,000.00 for Account #8-86057 to Take Necessary Corrective/Clean Up Action at Abandoned Leaking Underground Storage Tank Sites and a Budget for \$282,000.00 for Account #8-86058 to Administer and Implement the Underground Storage Tank Program Pursuant to the Navajo Nation Underground Storage Tank Act

The Navajo Nation Environmental Protection Agency's Underground Storage Tank ("UST") Program is a continuing program that is funded by the U.S. Environmental Protection Agency. The program developed the Navajo Nation Underground Storage Tank Act ("the Act"), trained tribal staff to inspect underground storage tanks sites to determine environmental compliance with the Act and federal regulations, to implement enforcement actions, to inventory abandoned business sites and locate abandoned leaking USTs, and to take necessary corrective actions to ensure the clean up and protection of ground water resources and petroleum-contaminated soil. Attached are Form 2 for Fiscal Year 2001, 2002 and 2003 (up to the third quarter).

As requested, per the attached budget the personnel cost have been changed to reflect the current annual salaries. There was no need for a line item for Salary Adjustment (See Forms 4 and 7).

To verify that the assessed fees can support the Special Revenue Fund Management Plan, attached are the current balances for Account #8-86057 and Account #8-86058.

If you have any questions, I can be contacted at 7993 or 7994.

Attachments



**FORM 7**  
Page 8 of 8

Page 8 of 8

[illegible]

≡ NAVAJO NATION - FISCAL YEAR 2003  
BUDGET IMPACT STATEMENT

Program: NNEPA/Underground Storage Tank

**FORM 6**

Program No: \_\_\_\_\_

1. Provide a brief explanation of FY2000-02 Performance and FY2003 Allocation levels; and how this assessment was used to set the budget amount in the budget package.

In October 1998, the Navajo Nation Council passed the Navajo Nation Underground Storage Tank (UST) Act to ensure the protection of surface and groundwater resources from the releases of petroleum from USTs. The Act authorized the collection of fees and penalties to establish a program to administer the Act and to take corrective actions at leaking UST sites. The Navajo Nation EPA has identified 132 working UST sites, 73 abandoned UST sites, 42 questionable sites that may have abandoned USTs, and 43 leaking UST sites. The abandoned and questionable sites are former business sites that have reverted back to the Navajo Nation. The staff for the UST Fund Management Plan will assess 30 abandoned and questionable sites and will select 20 sites that pose a risk to human health and the environment. A contractor will develop a corrective action plan for these sites and implement appropriate actions with oversight provided by staff.

2. Provide a brief explanation of the effects, consequences, or impacts of the funding level as proposed in the budget package.

Leaking UST sites pose a human health, safety and environmental risk to the Navajo communities. The sites will be assessed and appropriate corrective actions will be implemented by a qualified contractor.

**THE NAVAJO NATION - FISCAL YEAR 2003  
BUDGET COMPARATIVE SUMMARY**

**FORM 5**  
PAGE 6 OF 8

<b>PART I</b>		DIVISION/OFFICE: Navajo Nation EPA/Waste Regulatory Compliance		BRANCH: Executive		
PROGRAM NAME/NUMBER: NNEPA/Underground Storage Tank		FUND TYPE: Special Revenue				
<b>PART II.</b>						
(A) Rank	(B) Program Number/ Object Code	(C) Program Name / Object Code Description	(D) FY 2002 (*) Original Budget	(E) FY 2003 Budget Base	(F) Difference Columns E - D	(G) % Change Columns F + D
	/0000	NNEPA UST/Credit/Receipts/Revenues	0	(282,000)	(282,000)	0.00%
	/1000	NNEPA UST/Personnel Salaries/Taxes/Benefits	0	168,183	168,183	0.00%
	/2000	NNEPA UST/Travel Cost	0	27,388	27,388	0.00%
	/3000	NNEPA UST/Supplies/Materials	0	13,000	13,000	0.00%
	/4000	NNEPA UST/Rent/Lease/Utility/Communication	0	13,002	13,002	0.00%
	/5000	NNEPA UST/Repairs/Maintenance Services	0	0	0	0.00%
	/6000	NNEPA UST/Contractual Services	0	25,427	25,427	0.00%
	/7000	NNEPA UST/Public Assistance	0	0	0	0.00%
	/8000	NNEPA UST/Capital Expenditures	0	35,000	35,000	0.00%
<b>TOTALS:</b>			0	282,000	282,000	0.00%
<b>PART III:</b>						
Total Number of Budgeted Personnel Positions:			0	3		
Total Vehicle Count (Navajo Nation Fleet):			0	1		

**THE NAVAJO NATION - FISCAL YEAR 2003**  
**BUDGET JUSTIFICATION DETAIL BY OBJECT CODE**

**FORM 4**  
**PAGE 5 OF 8**

PART I.		NNEPA/Underground Storage Tank		ACCOUNT NUMBER: 8-86068					
PROGRAM NAME/NUMBER:		Navajo Nation EPA/Waste Regulatory Compliance Department		BRANCH: Executive					
DIVISION/OFFICE:									
PART II.									
(A)	(B)	(C)	(D) FUNDING DISTRIBUTION BY AGENCY			(E)			
Object Code	Description	Funding Type Code	Central/ Window Rock (01)	Chinle (02)	Eastern (03)	Ft. Defiance (04)	Shiprock (05)	Western (06)	Total
3000	<b>SUPPLIES &amp; MATERIALS</b> Office supplies, postage & shipping, printing, dues & subscriptions, operating supplies & photocopy.	01.100	195,571						195,571
4000	<b>RENTAL, LEASES, UTILITIES, COMMUNICATION &amp; SOFTWARE</b> Communication, conference room rental, & software expenses.	01.100	13,002						13,002
6000	<b>CONTRACTUAL SERVICES</b>								
6610	Seminar and Registration Fees	01.100	10,000						10,000
6700	Advertising Expenses	01.100	6,789						6,789
6780	Newspaper advertising to solicit bids from qualified contractors to implement corrective actions at leaking UST sites.								
	Other Services	01.100	8,638						8,638
	Medical monitoring. Services provided by Navajo Nation Archaeology.								
8000	<b>CAPITAL EXPENDITURES</b>								
8210	Equipment	01.100	15,000						15,000
8212	Plotter, vapor monitor and calibration kits, baller, metal detector auger, scanner, video camera, projector, GPS unit, compass.								
	Computer	01.100	20,000						20,000
	Laptops, printers, computers, monitors, towers for 3 staff								
<b>PAGE TOTALS:</b>			282,000	0	0	0	0	0	282,000



**THE NAVAJO NATION - FISCAL YEAR 2003  
BUDGET JUSTIFICATION DETAIL BY OBJECT CODE**

**FORM 4**  
PAGE 4 OF 8

PART I.		PROGRAM NAME/NUMBER:		NNEPA/Underground Storage Tank		ACCOUNT NUMBER:		8-96068																																																							
PART II.		DIVISION/OFFICE:		Navajo Nation EPA/Waste Regulatory Compliance Department		BRANCH:		Executive																																																							
(A)	(B)	(C)	(D)				(E)																																																								
Object Code	Description	Funding Type Code	FUNDING DISTRIBUTION BY AGENCY				Total																																																								
			Central/ Window Rock (01)	Chinle (02)	Eastern (03)	Fl. Defiance (04)			Shiprock (06)	Western (06)																																																					
<b>1000</b>	<b>PERSONNEL &amp; FRINGE BENEFITS</b>																																																														
	<table border="1"> <thead> <tr> <th>Position Title</th> <th>Class code</th> <th>Position Grade</th> <th>Number</th> <th>Sten</th> <th>Social Sec #</th> </tr> </thead> <tbody> <tr> <td>Envir Prog. Supervisor</td> <td>3031</td> <td>999999</td> <td>U670A</td> <td>Vacant</td> <td></td> </tr> <tr> <td colspan="6">Manage, supervise and provide technical support.</td> </tr> <tr> <td>Principal Geologist</td> <td>3339</td> <td>999999</td> <td>U690A</td> <td>Vacant</td> <td></td> </tr> <tr> <td colspan="6">Technical assessment and regulatory oversight of corrective actions.</td> </tr> <tr> <td>Sr. Enviro. Specialist</td> <td>3032</td> <td>999999</td> <td>U680A</td> <td>Vacant</td> <td></td> </tr> <tr> <td colspan="6">Assist with technical assessments and oversight of corrective actions.</td> </tr> <tr> <td>Payroll Taxes and Fringe Benefits</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td colspan="6">\$135,741 x 23.90% = \$32,442</td> </tr> </tbody> </table>	Position Title	Class code	Position Grade	Number	Sten	Social Sec #	Envir Prog. Supervisor	3031	999999	U670A	Vacant		Manage, supervise and provide technical support.						Principal Geologist	3339	999999	U690A	Vacant		Technical assessment and regulatory oversight of corrective actions.						Sr. Enviro. Specialist	3032	999999	U680A	Vacant		Assist with technical assessments and oversight of corrective actions.						Payroll Taxes and Fringe Benefits						\$135,741 x 23.90% = \$32,442						01.100	43,701					0	
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1001		01.100	43,701					0																																																							
1002		01.100	51,938					0																																																							
1003		01.100	40,102					0																																																							
1300		01.100	32,442					0																																																							
<b>2000</b>	<b>TRAVEL COST</b>																																																														
	Personal travel expenses, vehicle rental and air fares. Area A: \$128/d x 4d x 20 trips = \$10,240 Area B: \$205/d x 4d x 3 trips = \$2,460 Air fares and vehicle rental = \$3,000	01.100	15,700					0																																																							
2100	Navajo Nation Assigned Vehicle Rental: \$374/mo x 12 mos = \$4,488 Mileage: .20/mi x 3000 mi x 12 mos = \$7,200	01.100	11,688					0																																																							
<b>PAGE TOTALS:</b>			195,571	0	0	0	0	0	195,571																																																						



THE NAVAJO NATION - FISCAL YEAR 2003  
SUMMARY OF PROGRAM FUNDING

FORM 3  
PAGE 3 OF 8

PART I.		PROGRAM NAME: NNEPA/Underground Storage Tank		PROGRAM NUMBER:				
PART II.		DIVISION/OFFICE: Navajo Nation EPA/Waste Regulatory Compliance Department		BRANCH: Executive				
(A)	(B)	(C)	(D)				(E)	
Object Code	Description	Funding Code	FUNDING DISTRIBUTION BY AGENCY				Total	
			Central/ Window Rock (01)	Chinle (02)	Eastern (03)	Ft. Defiance (04)		Shiprock (05)
0000	Credit/Receipts/Revenues		(282,000)					0 (282,000)
1000	Personnel Salaries/Taxes/Benefits	01.100	168,183					0 168,183
2000	Travel Costs	01.100	27,388					0 27,388
3000	Supplies/Materials	01.100	13,000					0 13,000
4000	Rent/Lease/Utility/Communication	01.100	13,002					0 13,002
5000	Repairs/Maintenance Services		0					0 0
6000	Contractual Services	01.100	25,427					0 25,427
7000	Public Assistance		0					0 0
8000	Capital Expenditures	01.100	35,000					0 35,000
PAGE TOTALS:			282,000	0	0	0	0	0 282,000

**Form 2**  
**Page 2 of 8**

**Program No.:**

**THE NAVAJO NATION**  
**Summary of Program Information**  
**Fiscal Year 2003**

**FORM 1****PART I. PROGRAM INFORMATION:**

Program Title: NNEPA/Underground Storage Tank Preparer: Arlene Luther  
 Program Number: \_\_\_\_\_ Telephone No.: (928) 871-7993  
 Division/Branch: NNEPA/Executive Director's Name: Derrith Watchman Moore

**PART II. BUDGET FORMS CHECKLIST:**

Form	Title	NN Funds Only	Ext. Funds Only	NN and Ext Funds
2	Program Performance Criteria	<u>X</u>	_____	_____
3	Summary of Program Funding	<u>X</u>	_____	_____
4	Budget Justification Detail by Object Code	<u>X</u>	_____	_____
5	Budget Comparative Summary	<u>X</u>	_____	_____
5(A)	Comparative Summary of External Funds	_____	_____	_____
6	Budget Impact Statement	<u>X</u>	_____	_____
7	Summary of Personnel Changes	<u>X</u>	_____	_____

**PART III. PLAN OF OPERATION / CHARTER AUTHORITY:** (Reference appropriate authorizing Navajo Nation Resolution)  
GSCMY-46-01

**PART IV. LEGISLATED PROGRAM PURPOSE:** (from official Plan of Operation)

A. To establish on behalf of the Navajo Nation Environmental Protection policies which shall govern activities, which may have an impact on the environment on the Navajo Nation; B. To protect the public health and the environment of the Navajo Nation through legislative proposal, monitoring and data collection, rule making as may be authorized by the Navajo Nation Council, including but not limited to solid waste, hazardous waste management, air quality and water quality programs, enforcement actions, public education, obtaining funding, and other appropriate means; C. To represent the Navajo Nation with respect to environmental issues and concerns in interactions with the federal, state, and local Navajo Nation entities and agencies. D. To exercise inherent Navajo sovereign authority over the Navajo Nation Country and through attaining primacy for regulation of all activities which may have an impact on the environment within the Navajo Indian Country; E. To provide a central repository of information, studies, plans, and statements relating to environmental protection within and near the Navajo Nation government.

**PART V. FUNDING SOURCE(S):** (for time period of Oct. 1, 2002 through Sept. 30, 2003)

(a) Source(s):	(b) Funding Source's Fiscal Year:	(c) Amount: (Oct. 1, 2002 - Sept. 30, 2003)	(d) % of Total	(e) # of Positions Funded
Special Revenue	Oct-Sept	282,000	100%	3
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
<b>Totals:</b>		<u>282,000</u>	<u>100%</u>	<u>3</u>

**PART VII. ACKNOWLEDGEMENT:** I hereby acknowledge, to the best of my knowledge, that the information contained in this proposal is complete and accurate.

Arlene Luther 7/9/02  
 Department/Program Director's Signature/Date

Derrith Watchman Moore 7/1/02  
 Division Director's Signature/Date



## **Proposed Assessment Strategy For Twenty (20) UST Sites**

**Human Health** - Technical staff will interview each family and inform them about the potential presence of USTs within the vicinity of their residence. The head of household will be provided with instructions to minimize potential risk and exposure (i.e., do not drive or park vehicle over tanks, do not dig within the vicinity of the tanks, do not attempt to remove the tanks themselves, avoid open flames at or near the fill pipe and vents, etc.). Staff will determine the source of drinking water use by the family and identify any existing water wells within the vicinity.

**Depth to Groundwater** - Technical staff will identify existing groundwater wells within a three (3) mile radius of the site. Staff will review well construction data to determine groundwater levels. Staff will conduct a field investigation to identify potential surface water and their uses within a one (1) mile radius of the site.

**Age of Tank** - Technical staff will interview appropriate personnel and obtain copies of previous business site leases that may be available with the Navajo Regional Real Property Management Office and the local Navajo Regional Business Development Office. Interviews will also be conducted with the local Chapter officials and residents. Sites that may have existing prior to 1980 will be assess for potential lead-fuel.

**Other Potential Exposure** - Technical staff will conduct an electromagnetic survey at each site. When possible, the tanks will be gauged with a stick to determine the presence of fluid in the USTs. Technical staff will purchase a Photoionizing Detector to determine the relative concentration of organic and inorganic vapors or gases that may be present in the USTs. Assuming that the USTs are buried to a depth of 3-5 feet below the surface, the family, Apache County Roads, and/or BIA Roads who maintain the existing road will be informed about the presence of the USTs.

**Assistance to Achieve Compliance** - Owners of certain sites and/or the Regional Business Development Office have undertaken corrective actions to achieve compliance with existing UST laws and regulations. Financial resources have been exhausted in certain instances; therefore, the NNEPA will assist with the removal and disposal of petroleum-contaminated soil, the removal of USTs that are abandoned in-place or are not up to current standards, and to assist with the drilling of ground water monitoring wells to delineate the vertical and horizontal extent of the plume of contamination.

**TWENTY (20)**  
**ABANDONED UNDERGROUND STORAGE TANK SITES**  
**SELECTED FOR**  
**PROPOSED CORRECTIVE ACTIONS**

According to §407(2)(a)(b)(c)(d) and §407(3) of the Act the Director is authorized to undertake corrective actions utilizing available funds under §703 to protect human health and the environment.

The Underground Storage Tank Program has identified 65 abandoned underground storage tanks. Of these 65 USTs, twenty (20) sites have been selected based on existing site assessment reports and analytical reports. The sites are as follows:

1. Crystal Trading Post (New Mexico), undetermined number of USTs containing fuel, strong odor, adjacent to springs and populated area.
2. Tohajillee (New Mexico), two USTs at the former Canoncito Trading Post, USTs are beneath a road in a populated area.
3. Steamboat Trading Post (Arizona), an undetermined number of USTs in a residential area.
4. Former BIA Shiprock Irrigation Office (New Mexico), an undetermined number of USTs located beneath a road to several residents, site used by Navajo Nation Water Development.
5. Pinespring Trading Post (Arizona), two abandoned USTs adjacent to road.
6. White Eagle Gas Station (New Mexico), an undetermined number of abandoned USTs. Site complicated by shallow ground water table and other leaked USTs owned by BIA, Chief Conoco, Thriftway, and Bond and Bond.
7. Vecenti Store (Arizona), four abandoned USTs in a populated area.
8. Hunters Point Trading Post (Arizona), undetermined number of USTs adjacent to dirt road and a populated area.
9. Sunrise Trading Post (Arizona), undetermined number of USTs, adjacent to wash and populated area.
10. Cross Canyon Trading Post (Arizona) adjacent to a wash and populated area.
11. Upper Greasewood Trading Post (Arizona) undetermined number of USTs adjacent to a creek.
12. Kennedy Trading Post (Arizona) undetermined number of USTs, adjacent water well and populated area.
13. Nazlini Trading Post (Arizona), two USTs adjacent to dirt road.
14. Smoke Signal Trading Post (Arizona), undetermined number of USTs.
15. J.V. Nakai (New Mexico), undetermined number of USTs.
16. Rock Ridge (Arizona), one UST, assist owner with removal.
17. Reids Gas Station (Arizona), two USTs.
18. Chinle Valley Store ( Arizona) removal of petroleum-contaminated soil.
19. Cottonwood (Arizona) removal of petroleum-contaminated soil.
20. Davis Chevrolet (Arizona) drill additional ground water monitoring wells to delineate plume of contamination (potential movement towards Hopi jurisdiction).



**THE NAVAJO NATION - FISCAL YEAR 2003  
BUDGET IMPACT STATEMENT**

Program: NNEPA/Leaking Underground Storage Tank

**FORM 6**

Program No: \_\_\_\_\_

1. Provide a brief explanation of FY2000-02 Performance and FY2003 Allocation levels; and how this assessment was used to set the budget amount in the budget package.

In October 1998, the Navajo Nation Council passed the Navajo Nation Underground Storage Tank Act to ensure the protection of surface and groundwater resources from the releases of petroleum from underground storage tanks (USTs). The Act authorized the collection of fees and penalties to establish a program to administer the Act and to take corrective actions at leaking UST sites. The Navajo Nation EPA has identified 132 working UST sites, 73 abandoned UST sites, 42 questionable sites that may have abandoned USTs, and 42 leaking UST sites. The abandoned and questionable sites are former business sites and have reverted back to the Navajo Nation. The staff for the UST Fund Management Plan will assess 30 abandoned and questionable sites and will select 20 sites that pose a risk to human health and the environment. A contractor will develop a corrective action plan for these sites and implement appropriate corrective actions with oversight provided by staff.

2. Provide a brief explanation of the effects, consequences, or impacts of the funding level as proposed in the budget package,

Leaking UST sites pose a human health, safety and environmental risk to the Navajo communities. The sites will be assessed and appropriate corrective actions will be implemented by a qualified contractor.

**THE NAVAJO NATION - FISCAL YEAR 2003  
BUDGET COMPARATIVE SUMMARY**

**FORM 5**  
PAGE 5 OF 6

<b>PART I.</b>		<b>DIVISION/OFFICE:</b>		<b>Navajo Nation EPA/Waste Regulatory Compliance</b>		<b>BRANCH:</b>		<b>Executive</b>	
<b>PROGRAM NAME/NUMBER:</b>		<b>NNEPA/Leaking Underground Storage Tank</b>		<b>FUND TYPE:</b>		<b>Special Revenue</b>			
<b>PART II.</b>									
(A) Rank	(B) Program Number/ Object Code	(C) Program Name / Object Code Description	(D) FY 2002 (*) Original Budget	(E) FY 2003 Budget Base	(F) Difference Columns E - D	(G) % Change Columns F + D			
	/0000	Credit/Receipts/Revenues	0	(1,045,000)	(1,045,000)	0.00%			
	/1000	NNEPA Leaking UST/Personnel Salaries/Taxes/Benefits	0	0	0	0.00%			
	/2000	NNEPA Leaking UST/Travel Cost	0	0	0	0.00%			
	/3000	NNEPA Leaking UST/Supplies/Materials	0	0	0	0.00%			
	/4000	NNEPA Leaking UST/Rental/Lease/Utilities/Communications	0	0	0	0.00%			
	/5000	NNEPA Leaking UST/Repairs/Maintenance Services	0	0	0	0.00%			
	/6000	NNEPA Leaking UST/Contractual Services	0	1,045,000	1,045,000	0.00%			
	/7000	NNEPA Leaking UST/Public Assistance	0	0	0	0.00%			
	/8000	NNEPA Leaking UST/Capital Expenditures							
<b>TOTALS:</b>			0	0	0	0.00%			
<b>PART III:</b>									
Total Number of Budgeted Personnel Positions:			0	0					
Total Vehicle Count (Navajo Nation Fleet):			0	0					

THE NAVAJO NATION - FISCAL YEAR 2003  
BUDGET JUSTIFICATION DETAIL BY OBJECT CODE

**FORM 4**  
PAGE 4 OF 6

PART I		PROGRAM NAME/NUMBER:		ACCOUNT NUMBER:					
		NNEPA/Leaking Underground Storage Tank		8-86057					
PART II		DIVISION/OFFICE:		BRANCH:					
		Navajo Nation EPA/Waste Regulatory Compliance Department		Executive					
(A)	(B)	(C)	(D)				(E)		
Object Code	Description	Funding Type Code	Central/Window Rock (01)	Chinle (02)	Eastern (03)	Fl. Defiance (04)	Shiprock (05)	Western (06)	Total
<b>9000</b>	<b>CONTRACTUAL SERVICES</b>								0
6100	Consultant Fees Fees to provide for Phases 1-2. UST removals, dispensers, lines, collection and analysis of soil and water samples, clean fill material for back fill, transport, disposal/recycling of metal/concrete debris, closure reports. Drill and complete groundwater monitoring wells. Dispose of petroleum-contaminated soil at permitted landfill facility. Groundwater monitoring activities, design appropriate remediation of petroleum-contaminated soil and groundwater. Prepare monthly and quarterly status reports and/or closure reports.	01.100	900,000						900,000
6150	Consultant Expenses (Other than fees) Environmental assessments and clearances. Geomagnetic surveys. Related expenses.	01.100	145,000						145,000
<b>PAGE TOTALS:</b>			1,045,000	0	0	0	0	0	1,045,000

THE NAVAJO NATION - FISCAL YEAR 2003  
SUMMARY OF PROGRAM FUNDING

FORM 3  
PAGE 3 OF 6

PART I.		PROGRAM NAME: <u>NINEPA/Leaking Underground Storage Tank</u>		PROGRAM NUMBER: _____					
PART II.		DIVISION/OFFICE: <u>Navajo Nation EPA/Waste Regulatory Compliance Department</u>		BRANCH: <u>Executive</u>					
(A)	(B)	(C)	(D)				(E)		
Object Code	Description	Funding Code	Central/Window Rock (01)	Chinle (02)	Eastern (03)	Ft. Defiance (04)	Shilprock (05)	Western (06)	Total
0000	Credit/Receipts/Revenues		(1,045,000)						0 (1,045,000)
1000	Personnel Salaries/Taxes/Benefits								0
2000	Travel Costs								0
3000	Supplies/Materials								0
4000	Rent/Lease/Utility/Communication								0
5000	Repairs/Maintenance Services								0
6000	Contractual Services	01,100	1,045,000						1,045,000
7000	Public Assistance								0
8000	Capital Expenditures								0
PAGE TOTALS:			0	0	0	0	0	0	0



**THE NAVAJO NATION  
PROGRAM PERFORMANCE CRITERIA  
FISCAL YEAR 2003**

**Form 2**  
Page 2 of 6

Program: <u>NNEPA/Leaking Underground Storage Tank</u>		Program No.: _____			
I.	<b>1. Performance Measure:</b> Routine reporting of program statistics and services provided.  <b>Goal Statement:</b> To report, on a quarterly basis, the following program statistics and services provided:				
	a. Develop scope of work for corrective actions at leaking UST sites.				
	b. Complete consultation with NN Business Regulatory.				
	c. Review credentials of potential qualified contractors.				
	d. Review analytical and related closure reports and documents submitted by contractor.				
II.	<b>2. Performance Measure:</b> Monitor and provide oversight of contractors implementation of corrective action activities.				
	<b>Goal Statement:</b> Ensure compliance with contract specifications at leaking UST sites selected for corrective actions.				
	<b>3. Performance Measure:</b> Ensure compliance with NN Business Regulatory policies and requirements.				
	<b>Goal Statement:</b> Maintain accurate cost accounting and expenditures of contractors purchases/charges.				
	<b>4. Performance Measure:</b> Coordinate close out requirements with Administrative and Finance.				
	<b>Goal Statement:</b> Ensure compliance with close out requirements and related reporting requirements.				
	<b>5. Performance Measure:</b>				
	<b>Goal Statement:</b>				
III.	<b>6. Projects:</b> a. Determine long-range corrective actions at critical sites. b. Develop draft cost recovery protocols and guidance from UST owner/operators. c.				



**THE NAVAJO NATION**  
**Summary of Program Information**  
**Fiscal Year 2003**

**FORM 1****PART I. PROGRAM INFORMATION:**

Program Title: NNEPA/Leaking Underground Storage Tank Prepare: Ariene Luther  
 Program Number: \_\_\_\_\_ Telephone No.: (928) 871-7993  
 Division/Branch: NAPA/Executive Director's Name: Derrith Watchman Moore

**PART II. BUDGET FORMS CHECKLIST:**

Form	Title	NAN Funds Only	Ext. Funds Only	NAN and Ext Funds
2	Program Performance Criteria	<u>X</u>	_____	_____
3	Summary of Program Funding	<u>X</u>	_____	_____
4	Budget Justification Detail by Object Code	<u>X</u>	_____	_____
5	Budget Comparative Summary	<u>X</u>	_____	_____
5(A)	Comparative Summary of External Funds	_____	_____	_____
6	Budget Impact Statement	<u>X</u>	_____	_____
7	Summary of Personnel Changes	_____	_____	_____

**PART III. PLAN OF OPERATION / CHARTER AUTHORITY:** (Reference appropriate authorizing Navajo Nation Resolution)  
 GSCMY-46-01

**PART IV. LEGISLATED PROGRAM PURPOSE:** (from official Plan of Operation)

A. To establish on behalf of the Navajo Nation Environmental Protection policies which shall govern activities, which may have an impact on the environment on the Navajo Nation; B. To protect the public health and the environment of the Navajo Nation through legislative proposal, monitoring and data collection, rule making as may be authorized by the Navajo Nation Council, including but not limited to solid waste, hazardous waste management, air quality and water quality programs, enforcement actions, public education, obtaining funding, and other appropriate means; C. To represent the Navajo Nation with respect to environmental issues and concerns in interactions with the federal, state, and local Navajo Nation entities and agencies. D. To exercise inherent Navajo sovereign authority over the Navajo Nation Country and through attaining primacy for regulation of all activities which may have an impact on the environment within the Navajo Indian Country; E. To provide a central repository of information, studies, plans, and statements relating to environmental protection within and near the Navajo Nation government.

**PART V. FUNDING SOURCE(S):** (for time period of Oct. 1, 2002 through Sept. 30, 2003)

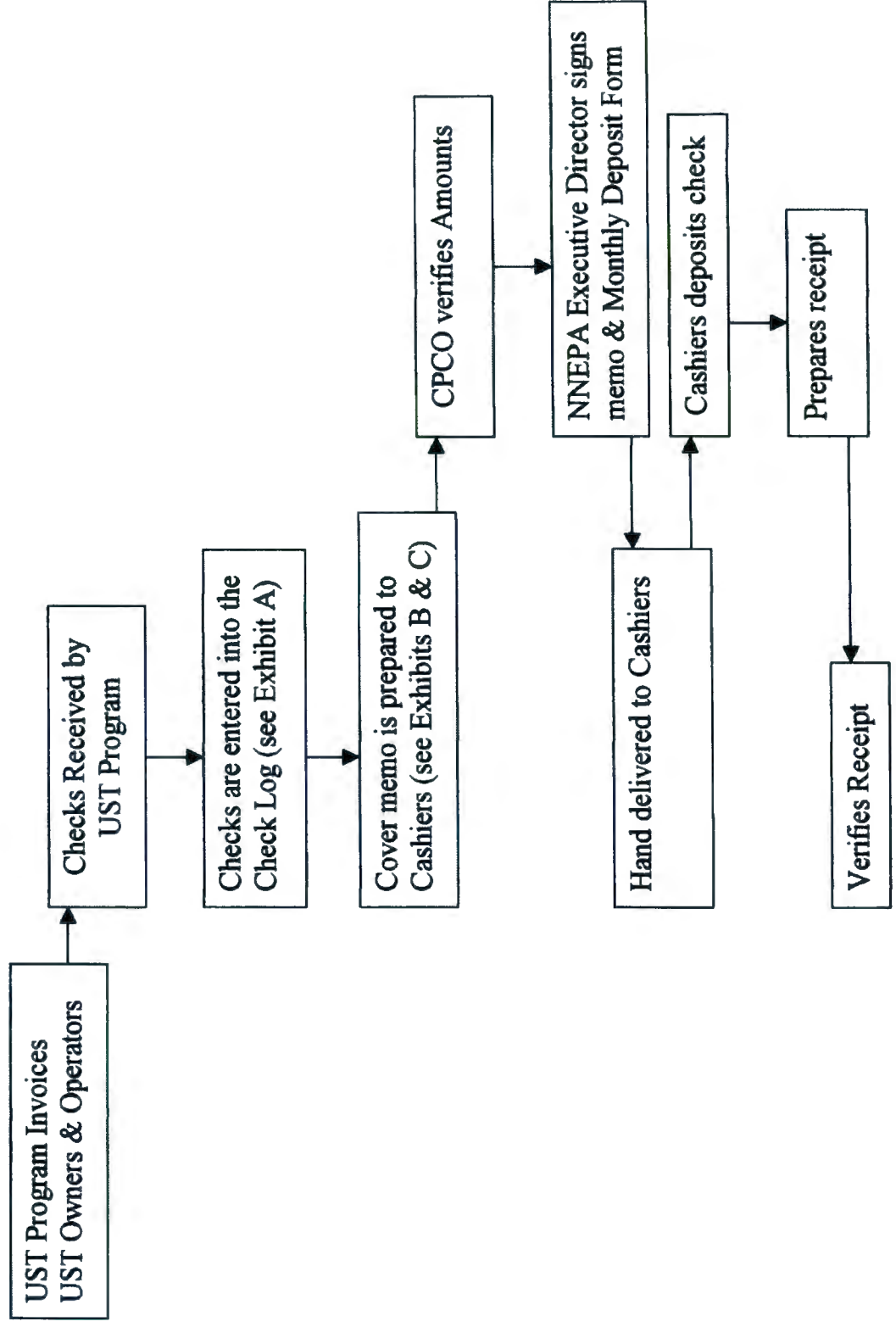
(a) Source(s):	(b) Funding Source's Fiscal Year:	(c) Amount: (Oct. 1, 2002 - Sept. 30, 2003)	(d) % of Total	(e) # of Positions Funded
<u>Special Revenue</u>	<u>Oct-Sept</u>	<u>1,045,000.00</u>	<u>100</u>	<u>0</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
<b>Totals:</b>		<u>1,045,000.00</u>	<u>100%</u>	<u>0</u>

**PART VII. ACKNOWLEDGEMENT:** I hereby acknowledge, to the best of my knowledge, that the information contained in this proposal is complete and accurate.

Ariene Luther 7/9/02  
 Department/Program Director's Signature/Date

[Signature] 7/1/02  
 Division Director's Signature/Date

**Navajo Nation Environmental Protection Agency  
Underground Storage Tank Program  
Process for the Collection of Revenues & Fees**



#03

20%

80%

**TOTAL** \_\_\_\_\_  
**\$** \_\_\_\_\_

Date \_\_\_\_\_



# NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY

## OFFICE OF THE EXECUTIVE DIRECTOR

P.O. Box 339, Window Rock, Navajo Nation, (AZ) 86515

Tel. (928) 871-7692 • Fax. (928) 871-7996



Joe Shirley, Jr.  
PRESIDENT

Frank Dayish, Jr.  
VICE-PRESIDENT

### **MEMORANDUM:**

TO : Cashier  
Division of Finance

FROM :  
Marie Ann Claude, Office Specialist  
NEPA/Waste Regulatory Compliance Department

DATE : January 29, 2003

SUBJECT : Submittal of Periodic Payments to Miscellaneous Account # 0-86057/  
8-86057 & # 0-86058/ 8-86058 by Underground Storage Tank Program

By means of this memorandum, the Underground Storage Tank (UST) Program of the Navajo Nation Environmental Protection Agency (NNEPA) is submitting payments to Trust Fund Account #8-86057/#-0236 at 80% and Special Revenue Fund Account #86058/#0-86058-0236 at 20% in accordance with the UST Act of October 29, 1998. This memorandum records payments submitted on a periodic basis as follows:

**Time period of collection:** 01/29/03 through 01/29/03

	<b><u>20%</u></b> (Special Revenue Funds) Acct# 8-86058 / 0-86058	<b><u>80%</u></b> (Trust Funds) Acct# 8-86057 / 86057
0235-Annual Tank Fees	\$ _____	\$ _____
0236-Tariff fees	\$ _____	\$ _____
0237-Monitoring fees	\$ _____	\$ _____
238-Registration fees	\$ _____	\$ _____
0239-Penalty fees	\$ _____	\$ _____
<b>TOTAL Deposit:</b>	<b>\$ _____</b>	<b>\$ _____</b>

Payments received during this time period are attached. There may be several periodic submittals per month. (Please see attached for detail information about individual payments received).

CONCURRED BY: \_\_\_\_\_  
Arlene Luther, Acting Executive Director-NNEPA



Month \_\_\_\_\_ Year \_\_\_\_\_

[illegible]

**UNDERGROUND STORAGE TANK TARIFF – MONTHLY SUMMARY REPORT**  
 Navajo Nation Environmental Protection Agency, Underground Storage Tank Program - UST FORM 991

**Part I. Information**

Distributor Name	Reporting Month/Year _____	TIN/SSN _____
Mailing Address of Distributor	Physical Address of Distributor	Navajo Nation Distributor Identification # _____
		Filing Status: <input type="checkbox"/> Distributor <input type="checkbox"/> UST owner / operator <input type="checkbox"/> Other (explain)

**Part II. Totals for current month (from Worksheet #1)**

Total number of <u>all</u> gas stations and/or facilities _____ to which deliveries were made during month. (Column A)	
1. Total gallons of petroleum products delivered for which tariff applies: (Total of column D from all worksheets)	_____ gallons/mo
2. Breakdown of gallon volume delivered by <i>Product Type</i> subject to tariff (column D of worksheets):	
Gasoline (Product code 10)	_____ gallons
Diesel (Product Code 20)	_____ gallons
Kerosene (Product Code 40)	_____ gallons
New oil (Product Code 120)	_____ gallons
CERCLA Hazardous Substances (Product Code 80)	_____ gallons
Other (heating oil exempt until further notice)	_____ gallons
<p align="center"><b>Total gallons/mo. X \$0.01/gallon = TOTAL TARIFF DUE</b>          (Total of Column E from all worksheets)</p>	
	\$ _____

**Part III. Payment of tariff**

Make cashiers check or money order payable to: <b>Navajo Nation EPA – Underground Storage Tank Program</b> Account Number: <b>011000.2599</b>
Mail this "Summary Report" with payment to: <b>Navajo Nation Environmental Protection Agency</b> <b>Underground Storage Tank Program</b> <b>P.O. Box 339</b> <b>Window Rock, AZ 86515</b>
Make copies of this form to use throughout FY 1999. Separate monthly billings will not be mailed. Payments are due within 15 days of receipt of this form or within 15 days after the end of each month. Your returned check will serve as a receipt.

**I DECLARE THAT THE INFORMATION CONTAINED IN THIS DOCUMENT AND ANY ATTACHMENTS THERETO IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF PURSUANT TO NAVAJO LAWS AND REGULATIONS.**

Authorized Signature \_\_\_\_\_

Date Signed \_\_\_\_\_

Telephone Number \_\_\_\_\_

**OFFICE USE ONLY:** Date Payment Received \_\_\_\_\_ Date of deposit \_\_\_\_\_ Other \_\_\_\_\_



# THE NAVAJO NATION

Environmental Protection Agency  
Post Office Box 339, Window Rock, Arizona 86515

Attachment #2



(928) 871-7993

Joe Shirley, Jr., President

Frank Dayish, Jr., Vice President

DATE

INSIDE ADDRESS

Dear SIR:

The Navajo Nation UST ACT of 1998 authorizes the following fees to be paid by the owner and/or operator of USTs on the Navajo Nation:

1. Annual Tank Fee, § 701, at \$125 per tank per year.
2. Underground Storage Tank Tariff, § 702 A, at one (1) cent per gallon of regulated substance (Fill out separate UST Tariff monthly form).
3. Tank Removal Monitoring and Installation Fees, § 704, at \$150 per day per owner.
4. Fee to Monitoring Clean up activities, § 704 at \$150 per day per owner.
5. Tank Registration Fees, § 705, at \$50 per tank (one time fee).

Please send the outstanding Registration and Annual Tank fees on the following:

	Navajo UST#	Location	# Of Tanks	Registration Fees	Annual Fees	Tank Removal Monitoring and Install fees	Monitoring Clean up Fees
1							
2							
3							
4							
Total							

Please update and complete the new Navajo UST Tank Information and Tank Compliance Forms and submit the fees to:

Navajo EPA  
Underground/Leaking UST Program  
P.O. Box 339  
Window Rock, Arizona 86515

If you have any questions, please call me at 520-871-7997. Thank you for your cooperation.

Sincerely,

Henry Haven, Jr., Geologist

xc: Arlene Luther, Director, Waste Regulatory Compliance Department

The Navajo Nation Environmental Protection Agency requests that you complete and submit this notarized form to our office, so that you will be able to continue providing petroleum products to consumers after January 1, 1999. Please provide the distributors with a copy of the notarized form and keep one for your records.

**Part B:** Be advised that underground storage tanks which are taken out-of-service must be properly closed in accordance with federal regulations, 40 CFR 280, and the Navajo Nation Underground Storage Tank Act. Indicate the status of those USTs in Part E of this form and on the "*Aboveground and Underground Storage Tank Information Form*".

**Part C:** Your signature below indicates that you understand the following statement: According to the Navajo Nation Underground Storage Tank Act, effective January 1, 1999, "it shall be unlawful for any person to place a regulated substance into an underground storage tank where the owner or operator is not in compliance with all the requirements of this chapter or regulations promulgated hereunder."

Signature \_\_\_\_\_

Date \_\_\_\_\_

**Part D:** Please provide information about your petroleum distributor.

Name of Distributor \_\_\_\_\_

Address \_\_\_\_\_

Phone # \_\_\_\_\_

**Part E:** Please make comments so that the Underground Storage Tank Program can better understand your situation. (Comments can include elaboration about the information provided on the "*Aboveground and Underground Storage Tank Information Form*" with regards to recent upgrade activities, UST installations, UST removals, UST remedial actions, abandonments, etc. Or, describe your plans, problems, and potential dates for bringing both your out-of-service and operating USTs into compliance.)



NNEPA Site Code: \_\_\_\_\_

## Underground Storage Tank Compliance Form

Return to: Navajo Nation Environmental Protection Agency  
Underground Storage Tank Program  
PO Box 339  
Window Rock, AZ 86515

Phone # (928) 871-7993  
Fax #: (928) 871-7599

**Part A:** In order to verify compliance with both the U.S. Environmental Protection Agency's December 22, 1998 compliance deadline and the Navajo Nation Underground Storage Tank (UST) Act which was signed into law on October 29, 1998, please complete and sign the following form and send the original notarized copy to the Navajo Nation Environmental Protection Agency at the above address.

Name of Facility: \_\_\_\_\_ Owner/Operator: \_\_\_\_\_

Address \_\_\_\_\_

1. Does the facility have spill and overfill protection for the currently operating USTs?

Yes \_\_\_\_\_ No \_\_\_\_\_

2. Does the facility have corrosion protection for the currently operating USTs?

Yes \_\_\_\_\_ No \_\_\_\_\_

3. Does the facility meet leak detection requirements for the currently operating UST?

Yes \_\_\_\_\_ No \_\_\_\_\_

4. Can the facility provide proof of financial responsibility for the currently operating USTs if required?

Yes \_\_\_\_\_ No \_\_\_\_\_

5. We will submit the attached "Aboveground and Underground Storage Tank Information Form" to the Navajo Nation Environmental Protection Agency by January 29, 1999 for all USTs (operating, out-of-service, abandoned, new).

Yes \_\_\_\_\_ No \_\_\_\_\_ Date submitted \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

(Section 201.B of the Navajo Nation Underground Storage Tank Act states that "it shall be unlawful for any person to falsify documents or otherwise provide false information to the Director".)

NOTARY PUBLIC SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_  
(please see Page 2 for further information)

**FOR UST- ONLY**

Please describe your plans to comply with federal regulations, etc. in the near future prior to 1998 UST deadline or ending of lease. (Failure to describe compliance measures implies non-compliance): \_\_\_\_\_

Has an environmental site assessment been done for leasing purposes? Yes \_\_\_\_\_ No \_\_\_\_\_  
 If so, please attach copy of findings. If not, please indicate plans to do so. \_\_\_\_\_

Has the Navajo Historic Preservation Department completed a survey of the site?

Yes \_\_\_\_\_ No \_\_\_\_\_

If so, please attach copy of findings.

**FOR AST- ONLY**

Please describe your plans to comply with federal regulations, etc. in the near future or ending of lease.  
 (Failure to describe compliance measures implies non-compliance): \_\_\_\_\_

Has the Navajo Nation Fire Department completed their inspection and given clearance? Yes \_\_\_\_\_ No \_\_\_\_\_

Has the Navajo Department of Risk Management completed their assessment? Yes \_\_\_\_\_ No \_\_\_\_\_

Has the Navajo Historic Preservation Department completed a survey? Yes \_\_\_\_\_ No \_\_\_\_\_

Has an Environmental Site Assessment (ESA) been done for leasing purposes? Yes \_\_\_\_\_ No \_\_\_\_\_

\* If you have answered yes to any or all of the above questions, please attach copy of findings.

**Please return this signed UST/AST "Site Information Form (SIF)" to NNEPA**

I have read the attached information form and understand my responsibility for reporting information and meeting compliance deadlines for underground and or aboveground storage tanks.

I, \_\_\_\_\_ Lessee or Sublessee of \_\_\_\_\_  
 NAME NAME OF BUSINESS

submit, date, and sign this form on \_\_\_\_\_

DATE

SIGNATURE

**FOR OFFICE USE ONLY**

Assigned Navajo AST#: \_\_\_\_\_  
 Date Data Entered: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Data Entry Initials: \_\_\_\_\_  
 Tank registration fees paid: ☐  
 Date paid: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Comments: \_\_\_\_\_

**FOR OFFICE USE ONLY**

**Complete the following information about each AST. If you have more than four ASTs, please make copies of this page and re-number accordingly.**

**FOR AST ONLY**

	AST#1	AST#2	AST#3	AST#4
1) How many ASTs are on site? _____				
2) Product in tank(s). (i.e. gasoline, diesel, motor oil, propane) _____				
3) Size of tank(s) (gal) _____				
4) Type of AST tank(s) (UL#, vaulted, other brand) _____				
5) Date of installation _____				
6) Currently in operation? yes/no _____				
7) If not in operation, last date(s) of use _____				
8) Permanently out of use? yes/no _____				
9) What type of foundation for ASTs? (if any) _____				
10) Corrosion protection? yes/no _____				
11) Spill and overflow protection? yes/no _____				
12) Leak detection? yes/no _____				
13) Is the tank(s) bermed? yes/no _____				
What type of liner? (if any) _____				
14) Secondary containment. yes/no _____				
If so, please describe. _____				
15) Distance of tank(s) from building or property (ft) _____				
16) Distance between tank(s) _____				
17) What pavement surface covers pipeline. _____				
(cement, asphalt, dirt, other) _____				
18) Piping materials and size (type) _____				
19) Length (ft) of piping for each tank(s). _____				
20) Integrity testing? (what type) _____				
21) Date of integrity testing. _____				
22) Date of last compliance check by NNEPA and/or USEPA. _____				

If tank(s) have already been removed, describe the tank(s) which were removed, age and size of the tank(s) and date(s) of removal. \_\_\_\_\_

Name of contractor, who coordinated the removal. \_\_\_\_\_

Was piping removed? Yes/No \_\_\_\_\_

**GENERAL INFORMATION**

Please list other information about the ASTs and USTs, if any: \_\_\_\_\_

Nearest drinking water well, livestock well and injection well, etc \_\_\_\_\_

Provide UTM coordinates for the well. (if possible) \_\_\_\_\_

Depth to groundwater (ft) \_\_\_\_\_

Name of nearest waterway. (if applicable) \_\_\_\_\_

Proximity of tank(s) to nearest waterway \_\_\_\_\_

Proximity of tank(s) to nearest residence \_\_\_\_\_

Is there a soil landfarm on site? yes/no \_\_\_\_\_

A soil stockpile? yes/no \_\_\_\_\_

If so, where are they located \_\_\_\_\_

What is your protocol for reporting spills? \_\_\_\_\_

**CHECK WHICH OF THE FOLLOWING YOU KEEP ON FILE:**

Inventory Records* _____	Emergency Response Plan* _____
Leak detection Records _____ (Tank Integrity Testing Records)	Corrective Action Plan* _____
Factory Tank Specifications* _____ (Tank Installation Records)*	Corrosion Protection Records* _____
General Location Site Map* _____	Site Assessment Reports* _____
Detailed Site Map* _____	Tank Notification (UST only)* _____
Health & Safety Plan _____	Self-certification Form (UST only)* _____
	SPCC Plan (AST only)* _____

\* The most recent copies of the above items need to be submitted to our office. Navajo Nation Environmental Protection Agency needs to be notified of all spills.

Do you have proof of financial responsibility for your tank(s)?                      yes \_\_\_\_\_ no \_\_\_\_\_  
If so, what method are you using? (ie. insurance, bonds, letter of credit, self insurance, risk retention group, guarantee, or other).

With whom: \_\_\_\_\_

**Complete the following information about each UST. If you have more than four USTs, please make copies of this page and number accordingly. Attach copy of NNEPA "Self Certification" form for detailed information. List all tank(s) even if they are not in use.**

**FOR USTs ONLY**

	UST#1	UST#2	UST#3	UST #4
1) How many USTs are on site? _____				
2) Product in tank(s) (i.e. gasoline, diesel, waste oil, heating oil) _____				
3) Size of tank(s) (gal) _____				
4) Material(s) of tank construction _____				
5) Corrosion Protection? yes/no _____ If yes, describe _____				
6) Spill and overfill protection? yes/no _____				
7) Leak detection? (1993 deadline) yes/no _____ If yes, describe method of detection _____ Date of last tank and line tightness tests. _____				
8) What type of pavement surface covers tank(s)? _____				
9) Date(s) of installation. _____				
10) Name of contractor who did installation. _____				
11) Currently in operation? yes/no _____ If not in operation, last date of use. _____				
12) If tanks aren't in operation, permanently out of use? yes/no _____				
13) When will you remove the tanks? (dates) _____				
14) What pavement surface covers pipeline(s). _____ (asphalt, cement, dirt, other)				
15) Piping materials. (type) _____ Describe method of leak detection for piping. _____				
16) Length (ft) of piping for each tank(s). _____				
17) Date of last compliance check by NNEPA and/or USEPA _____				

If tank(s) were removed and are not listed above, please describe as follows:

Number, Size, Dates of removal, and Age of tank(s) at time of removal \_\_\_\_\_

Name of contractor, who coordinated the removal. (if known) \_\_\_\_\_



**NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY**

Underground/Aboveground Storage Tank Programs

PO Box 339 Window Rock, AZ 86515

UST Ph# (928) 871-7993

FAX # (928) 871-7599

**Aboveground and Underground Storage Tank Information Form**

Facility Name: \_\_\_\_\_

Contact person: \_\_\_\_\_ Title: \_\_\_\_\_

Type of Facilities (mark all that apply):

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Gas Station    | <input type="checkbox"/> Pipeline                | <input type="checkbox"/> Public Transportation  |
| <input type="checkbox"/> Railroad       | <input type="checkbox"/> Trucking/Transportation | <input type="checkbox"/> Indian Health Services |
| <input type="checkbox"/> Industrial     | <input type="checkbox"/> Agriculture             | <input type="checkbox"/> NN Gov't _____         |
| <input type="checkbox"/> Construction   | <input type="checkbox"/> Airline                 | <input type="checkbox"/> BIA _____              |
| <input type="checkbox"/> Public Schools | <input type="checkbox"/> Oil & Gas               |   |
| <input type="checkbox"/> Utility        | <input type="checkbox"/> Mining                  | <input type="checkbox"/> Other (Describe) _____ |

Types of tanks on site (number of tanks): UST \_\_\_\_\_ AST \_\_\_\_\_

Lease No. \_\_\_\_\_

Dates of Lease: Beginning: \_\_\_\_\_ Ending: \_\_\_\_\_

Current Tank Status:

Old facility (tanks installed before 1988) \_\_\_\_\_ New Facility (tanks were installed after 1988) \_\_\_\_\_

Active \_\_\_\_\_ Inactive \_\_\_\_\_ Upgraded \_\_\_\_\_ Abandoned \_\_\_\_\_ Other \_\_\_\_\_

Explanation: \_\_\_\_\_

**LOCATION OF TANKS**

Physical location of facility: \_\_\_\_\_

UTM Coordinates (If known) \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Phone Number: (\_\_\_\_) \_\_\_\_\_ Fax Number: (\_\_\_\_) \_\_\_\_\_

Agency: \_\_\_\_\_ Chapter: \_\_\_\_\_

Navajo AST Number (If known) \_\_\_\_\_ Navajo UST Number (If known) \_\_\_\_\_

**OWNER OF TANK(S)****OTHER RESPONSIBLE PARTIES**

Name of Leaseholder \_\_\_\_\_

Operator Name/Title (If different from leaseholder) \_\_\_\_\_

Mailing Address \_\_\_\_\_

(\_\_\_\_) \_\_\_\_\_  
Area Code \_\_\_\_\_ Phone Number \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Subleasee or responsible party (If different from above) \_\_\_\_\_

(\_\_\_\_) \_\_\_\_\_  
Area Code \_\_\_\_\_ Phone Number \_\_\_\_\_(\_\_\_\_) \_\_\_\_\_  
Area Code \_\_\_\_\_ Phone Number \_\_\_\_\_

Director from taking corrective action at a facility where there is no solvent owner or operator or where immediate action is necessary to respond to an imminent and substantial endangerment of human health or the environment.

- (2) **ACCOUNT 8-86058:** Funds in this account will be expended in accordance with §106(C), §701, and §702(k) (2) of the Act. Under these sections of the Act, the Director is authorized to expend funds to administer and implement the Act. The expenditures will include, but will not be limited to the following:

- 1000 Personnel and Fringe Benefits  
Technical staff.
- 2000 Travel Expenses  
Personal travel expenses, vehicle rental and mileage.
- 3000 Supplies Expenses  
Expendable office supplies.
- 4000 Lease Communications Utilities  
Equipment rental, communication expenses, data processing and software support.
- 5000 Repairs and Maintenance  
Calibrations of monitoring instruments.
- 6000 Contractual Services and Special Transactions  
Registration fees, advertising, medical monitoring, and other services.  
Consultant fees and expenses for archaeological clearances and monitoring.  
Consultant fees and expenses for geo and electromagnetic surveys and reports.
- 8000 Capital Expenditures  
Equipment, furniture, computers, real property and vehicles.

#### **D. PERIODIC REVIEW**

The Executive Director, Environmental Department Manager, and Principal Contract Analyst will review expenditures on a quarterly basis. The Executive Director, Environmental Department Manager or designee will report to the Resources Committee and the Navajo Nation Council annually.

Quarterly meetings will also be held with the Navajo Nation Tax Commission to confirm and compare information pertaining to the suppliers, distributors, and businesses that own, operate or supply fuel to businesses that have underground storage tanks.

The Navajo Nation Business Preference and Navajo Nation financial requirements shall apply to all purchases and procurement of supplies, goods, consultant and contractual services.

On a biannual base, an audit will be requested of all financial transactions utilizing the services of either the Navajo Nation Auditor General and/or a private auditing firm.

#### **IV. AMENDMENTS**

Sections I through IV may be amended from time to time by the Budget and Finance Committee pursuant to recommendations from the Resources Committee of the Navajo Nation.

the Leaking Underground Storage Tank Revolving Trust Fund to pursue the recovery of cost.

**2. Recovery**

In determining the equities for seeking the recovery of costs under Section 407(A) (1) of the Act, the Director may consider the amount of financial responsibility required to be maintained under the Act and the regulations promulgated hereunder.

**3. Effect on Liability**

**a. No Transfers of Liability**

No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from the owner or operator of any underground storage tank or from any person who may be liable for a release or threat of release under Section 407(E) (3) of the Act, to any other person the liability imposed under Section 407(E) (3) of the Act. Nothing in Section 407(E)(3) shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under Section 407 of the Act.

**b. No Bar to Cause of Action**

Nothing in Section 407(E) (3) of the Act, including the provisions of Section 407(E) (3) (a) of the Act, shall bar a cause of action that an owner or operator or any other person subject to liability under this Section 407 of the Act, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

**F. Emergency Procurement Powers**

Notwithstanding any other provision of law, the Director may authorize the use of such emergency procurement powers as he or she deems necessary.

**G. Facilities without Financial Responsibility, Facilities Owned by the Federal Government and Navajo Nation, Facilities not Subject to Tariffs and Facilities not in Compliance with the Tariff Requirements**

At any facility where the owner or operator has failed to maintain evidence of financial responsibility in amounts at least equal to the amounts established by this chapter or regulations promulgated hereunder for whatever reason, facilities owned by the federal government, the Navajo Nation or its entities (excluding tribal enterprises), any facility not subject to tariffs under this chapter or any facility that has failed to pay any tariffs owed under this chapter when due, the Director shall expend no monies from the Leaking Underground Storage Tank Revolving Trust Fund to clean up releases at such facility pursuant to the provisions of Section 407(A) of the Act. At such facilities the Director shall use the authorities provided in the Act to order corrective action to clean up such releases. Notwithstanding the provisions of Section 407(G) of the Act, the Director may use monies from the fund to take the corrective actions authorized by Section 407(D) of the Act to protect human health at such facilities and shall seek full recovery of the costs of all such actions pursuant to the provisions of Section 407(E) (1) of the Act and without consideration of the factors in Section 407(E) (2) of the Act. Nothing in Section 407(G) of the Act shall prevent the

3. Undertake the removal of an abandoned underground storage tank when, in the judgment of the Director, said removal is necessary to protect human health, safety or the environment and sufficient funds exist in the Navajo Leaking Underground Storage Tank Revolving Trust Fund account established under Section 703 of the Act.

**B. Priority for Corrective Actions**

The Director shall give priority in undertaking corrective actions and in issuing orders requiring owners or operators to undertake such actions, to releases of regulated substances from underground storage tanks which pose the greatest threat to human health and the environment (See attached Proposed Assessment Strategy and Criteria for Assessing Abandoned USTs marked as Attachment #6).

**C. Corrective Action Orders**

The Administrator is authorized to issue orders to the owner or operator of an underground storage tank to carry out Section 407(A) (1) of the Act or to carry out the Act or regulations promulgated hereunder. Such orders shall be issued and enforced in the same manner and subject to the same requirements as orders under Section 502 of the Act.

**D. Allowable Corrective Actions**

The corrective actions undertaken by the Director under Section 407(A) (1) of the Act may include temporary or permanent relocation of residents (or temporary closure of business where necessary to protect the public health) and the establishment of alternative household or public water supplies. In connection with the performance of any corrective action under Section 407(A) (1) of the Act, the Director may undertake an exposure assessment. The costs of any such assessment may be treated as corrective action for purposes of Section 407(E) of the Act related to cost recovery.

Pursuant to Section 102(H) of the Act, "exposure assessment" means an assessment to determine the extent of exposure of, or potential for exposure of, individuals to petroleum or a regulated substance from a release from an underground storage tank based on such factors as the nature and extent of contamination and the existence of or potential for pathways of human exposure (including ground or surface water contamination, air emissions, and food chain contamination), the size of the community within the likely pathways of exposure, and the comparison of expected human exposure levels to the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for such contaminants. Such assessment shall not delay corrective action to abate immediate hazards or reduce exposure.

**E. Recovery of Costs**

**1. In General**

Whenever costs have been incurred by the Director for undertaking corrective action or enforcement action with respect to the release of a regulated substance from an underground storage tank, the owner or operator of such tank shall be liable to the Director. The liability under Section 407(E)(1) of the Act shall be construed to be the standard of strict, joint and several liability and the Director may use funds from



The UST Program Office Specialist hand-delivers the general ledger form to the NNEPA Principal Contract Analyst for review and will sign the general ledger to confirm the total amount that will be deposited. The general ledger form is hand-delivered to the NNEPA Executive Director for signature. The UST Program Office Specialist copies all the checks and the general ledger form, and hand-delivers the general ledger form and the checks to Accounts Receivable. A deposit slip for the amount is issued to the UST Program Office Specialist (See attached flow chart marked as Attachment #5).

**E. EXPENDITURE OF FUNDS**

Expenditures of the funds from Account 8-86057 and Account 8-86058 will be made in accordance with the requirements of the Act.

- (1) **ACCOUNT 8-86057:** Funds expended under this account will be expended in accordance with the requirements of Section 407 of the Act. Section 407 of the Act provides for the following requirements for the expenditures of the funds:

**A. Corrective Actions**

The Director is authorized to:

1. Require the owner or operator of an underground storage tank to undertake corrective action with respect to any release of a regulated substance when the Director determines that such corrective action will be done properly and promptly by the owner or operator of the underground storage tank from which the release occurs; or
2. Undertake corrective actions, utilizing available funds from the Navajo Leaking Underground Storage Tank Revolving Trust Fund established under Section 703 of the Act, with respect to any release of a regulated substance into the environment from an underground storage tank only if such action is necessary, in the judgment of the Director, to protect human health and the environment and one or more of the following situations exists:
  - a. No person can be found, within 90 days or such shorter period as may be necessary to protect human health and the environment, who is—
    - i. An owner or operator of the tank concerned,
    - ii. Subject to such corrective action regulations, and
    - iii. Capable of carrying out such corrective action properly.
  - b. A situation exists which requires prompt action by the Director to protect human health and the environment.
  - c. Corrective action costs at a facility exceed the amount of coverage required by the Director and considering the class or category of underground storage tank from which the release occurred, expenditures from Leaking Underground Storage Tank Revolving Trust Fund are necessary to assure an effective corrective action.
  - d. The owner or operator of the tank has failed or refused to comply with an order of the Director under this chapter to comply with the corrective action regulations.

- ii. 20% UST Tariff: (Sec §702(A) and Sec §702(k)(2))
- iii. UST Tank Removal and Installation Fees: (Sec §704)
- iv. Fees to Monitoring Clean up Activities: (Sec §704)
- v. UST Tank Registration Fees: (Sec §705)

**B. RATE-SETTING MECHANISM**

The Act established the following rates for each fee:

**RATE-SETTING MECHANISM**

Fee	Rate	Funds Placed in Account Number
Annual Tank Fee	\$125.00 per tank per year	8-86058
UST Tariff	1¢ per gallon of regulated substance	8-86057 (80%) and 8-86058 (20%)
UST Removal and Installation	\$150.00 per day per tank	8-86058
Monitoring Cleanup	\$150.00 per day per owner	8-86058
Registration Fee	\$50.00 per tank (one-time)	8-86058
Business Site Lease Revenue	½ of total revenue collected by the Navajo Nation	8-86057

**C. COLLECTIONS**

The owner or operator of an underground storage tank shall submit a registration form for each underground storage tank (See attached form marked as Attachment #1). Based on this information, the UST Program shall invoice the owner or operator an annual tank fee at a cost of \$125.00 per tank per year, pursuant to Section 701. The UST Program shall also invoice the owner pursuant to Section 705, a registration fee of \$50.00 for each underground storage tank (See attached form marked as Attachment #2).

The UST Program shall invoice the owner of an underground storage tank a tank removal and installation field-monitoring fee of \$150.00 per day for each removal or installation. In addition, if remediation is required, the owner shall also pay an additional \$150.00 field-monitoring fee for each site per day, pursuant to Section 704 (See attached form marked as Attachment #2).

A tariff at the rate of one cent (1¢) per gallon of regulated substance placed in a tank in any calendar year shall be paid monthly by the supplier, or owner or operator, pursuant to Section 702. A monthly summary report and an annual reconciliation report verifying payments of all tariffs shall be provided to the Executive Director of NNEPA (See attached form marked as Attachment #3).

**D. INCOME ACCOUNTS**

Checks that are made payable to the Navajo Nation UST Program and are received by U.S. Postal Service and may be certified with a Return Receipt Requested. The UST Program Office Specialist enters the name, address, amount of the check, and the financial institution into a general ledger. The amounts are split eighty per cent (80%) and twenty per cent (20%) between the two accounts (Account 8-86057 and Account 8-86058) (See attached form marked as Attachment #4).