

## LEGISLATIVE SUMMARY SHEET

Tracking No. 0321-19

**DATE:** October 3, 2019

**TITLE OF RESOLUTION:** PROPOSED STANDING COMMITTEE RESOLUTION;  
AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE;  
APPROVING A LEASE BETWEEN THE NAVAJO NATION AND ST. BONAVENTURE  
SCHOOL AND MISSION FOR CONSTRUCTING, MAINTAINING, AND OPERATING  
A WATER WELL ON NAVAJO FEE LAND WITHIN THE BACA/PREWITT CHAPTER  
OF THE NAVAJO NATION

**PURPOSE:** The purpose of the resolution is to approve the Lease between the Navajo  
Nation and St. Bonaventure School and Mission for constructing, maintaining, and operating  
a water well within the Baca/Prewitt Chapter of the Navajo Nation

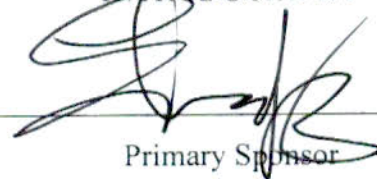
This written summary does not address recommended amendments as may be provided by the standing  
committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed  
resolution in detail.

5-DAY BILL HOLD PERIOD: 2300  
Website Posting Time/Date: 10/23/19 11:59 AM  
Posting End Date: 10/28/19  
Eligible for Action: 10/29/19

PROPOSED NAVAJO NATION COMMITTEE RESOLUTION

24<sup>th</sup> NAVAJO NATION COUNCIL—First Year, 2019

INTRODUCED BY

  
Primary Sponsor

TRACKING NO. 0321-19

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE;  
APPROVING A LEASE BETWEEN THE NAVAJO NATION AND ST.  
BONAVENTURE SCHOOL AND MISSION FOR CONSTRUCTING,  
MAINTAINING, AND OPERATING A WATER WELL ON NAVAJO FEE  
LAND WITHIN THE BACA/PREWITT CHAPTER OF THE NAVAJO  
NATION

BE IT ENACTED:

**Section One. Authority**

A. The Resources and Development Committee has oversight authority over land and the authority to grant final approval for non-mineral leases within the Navajo Nation. 2 N.N.C. §§ 500(C), 501(B) (2) (a).

**Section Two. Findings**

A. The proposed lease between the Navajo Nation and St. Bonaventure School and Mission for constructing, maintaining, and operating a water well on Navajo fee land within the Baca/Prewitt Chapter of the Navajo Nation is attached hereto as **Exhibit A.**

- 1 B. The proposed Lease is composed of 1.0 acre, more or less, which is shown in a  
2 map attached as **Exhibit B**.
- 3 C. Environmental and archaeological studies and clearances are attached in **Exhibit C**  
4 and incorporated herein by this reference.
- 5 D. The District Land Board, in a letter dated August 24, 2018, states that there are no  
6 valid grazing permittees near the lease acreage. The letter is attached as **Exhibit**  
7 **D**.
- 8 E. The Baca/Prewitt Chapter resolution, dated April 8, 2019, supporting the lease is  
9 attached as **Exhibit E**.
- 10 F. The St. Bonaventure School and Mission through memorandum dated April 12,  
11 2019, attached as **Exhibit F**, is requesting approval of the lease.
- 12 G. The proposed Lease has been reviewed through Executive Official Review by the  
13 Fish and Wildlife; Historic Preservation; Minerals; Division of Natural Resources  
14 and the Department of Justice and "Approved" or found "Sufficient." See  
15 documents included in Executive Official Review, **Exhibit G**.

16  
17 **Section Three. Approval**

- 18 A. The Resources and Development Committee of the Navajo Nation Council hereby  
19 approves the Lease between the Navajo Nation and St. Bonaventure School and  
20 Mission for constructing, maintaining, and operating a water well within the  
21 Baca/Prewitt Chapter of the Navajo Nation as found at **Exhibit A**.
- 22 B. The Resources and Development Committee of the Navajo Nation Council hereby  
23 authorizes the President of the Navajo Nation to execute this Master Lease and all  
24 other documents necessary to effectuate the intent of this resolution.
- 25  
26  
27  
28  
29  
30



LEASE NO. \_\_\_\_\_

**THE NAVAJO NATION**

and

**ST. BONAVENTURE SCHOOL & MISSION**

**THIS LEASE** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between THE NAVAJO NATION, hereinafter called the "Lessor," whose address is P.O. Box 9000, Window Rock, Navajo Nation (Arizona) 86515, and St Bonaventure School and Mission, hereinafter called the "lessee," whose address is P.O. Box 610, Thoreau, Navajo Nation (New Mexico) 87323, in accordance with the provisions of 2 N.N.C. § 501 (B) (2) (a) and 25 U.S.C. § 415, as implemented by the regulations contained in 25 C.F.R. Part 162; and all amendments or successors thereto, which by this reference are made a part hereof.

**1. DEFINITIONS.**

(A) "*Approved Encumbrance*" means an encumbrance approved in writing by Lessor in accordance with the terms and conditions of this Lease.

(B) "*Encumbrancer*" means the owner and holder of an Approved Encumbrance, including all successors and assigns.

(C) "*Hazardous Substance*" means any "hazardous substance" as defined in the NNCERCLA, 4 N.N.C. § 2104 (Q) *et seq.*, including all amendments or successors thereto.

(D) "*NNCERLA*" means the Navajo Nation Comprehensive Environmental Response, Compensation and Liability Act, 4 N.N.C. § 2101 *et seq.*

(E) "*Regulated Substance*" means any regulated substance as defined at § 1502 V. of the Navajo Nation Underground and Aboveground Storage Act, 4 N.N.C. § 1501 *et seq.*, which includes petroleum and petroleum products.

**2. LEASED PREMISES.**

For and consideration of the rents, covenants, agreements, terms and conditions contained herein, Lessor hereby leases to Lessee all that tract or parcel of land situated within the chapter of Baca, Navajo Nation (NM), more particularly described in Exhibit "A," attached hereto and by this reference made a part hereof, containing approximately 1.0 acres, more or less, together with the right of reasonable ingress and egress, subject to any prior, valid, existing rights-of-way, is hereinafter called the "Leased Premises." There is hereby reserved and excepted from the Leased Premises rights-of-way for utilities constructed by or on the authority of Lessor, provided that such rights-of-way for utilities constructed by or on the authority of Lessor, provided that such rights-of-way do no unreasonably interfere with Lessee's use of the Leased Premises. NLD will submit one copy of this document to BIA for recording pursuant to 16 N.N.C. § 2322 (B).

**3. PURPOSE, UNLAWFUL USES.**

(A) Lessee shall develop, use and occupy the Leased Premises for the purpose of constructing, maintaining, and operating a water well and other purposes consistent with the principle uses of the Leased Premises for a water well.

(B) The Leased Premises shall not be used by Lessee for any purpose other than as provided herein, except with the prior written consent of the Lessor. The consent of the Lessor may be withheld, granted or granted upon conditions, in the sole discretion of the Lessor.

(C) Lessee agrees not to use or permit to be used any part of the Leased Premises for any unlawful conduct or purpose.

**4. TERM.**

The term of this Lease shall be twenty-five (25) years, beginning on the date the Lease is approved by the Nation.

**5. RENTAL.**

In consideration of the foregoing and the covenants, agreements, terms and conditions of this Lease, Lessee hereby covenants and agrees to pay Lessor, in lawful money of the United States, an annual rental of: **None**. In accordance with the provisions of 25 C.F.R. Part 162.604 (b) (2) & (3), only nominal rental is provided for herein because this Lease is for a drinking water facility program for the Navajo people.

**6. CONDITION OF LEASED PREMISES.**

Lessee has examined and knows the Leased Premises and improvements thereon and accepts the same as-is. Lessor or any agent of Lessor prior to or at the time of execution of this Lease has made no representation as to the condition of the Leased Premises. Lessee warrants that it has not relied on any warranty or representation made by or on behalf of Lessor, but solely upon Lessee's independent investigation.

**7. IMPROVEMENTS.**

(A) All buildings and other improvements on the Leased Premises, excluding removable personal property and trade fixtures, shall remain on the Leased Premises after termination of this Lease. At its option, Lessor may require Lessee to remove said buildings and other improvements and to restore the Leased Premises to its original state upon termination of this Lease.

(B) Lessee shall remove all removable personal property and trade fixtures prior to termination of this Lease. Should Lessee fail to remove said personal property and trade fixtures prior to termination of this Lease, said property shall thereupon become property of Lessor, and may be disposed of in any manner by Lessor.



(C) As used in this section, the term "removable personal property" shall not include property, which normally would be attached or affixed to buildings, other improvements or land in such a way that it would become a part of the realty, regardless of whether such property in fact is so attached or affixed.

(D) All Hazardous Substances, Hazardous Substance storage systems or conveyance facilities, including but not limited to Storage Tanks, placed on or under the Leased Premises are the property of Lessee and shall remain the property of Lessee upon termination of this Lease. Within a reasonable time prior to termination of this Lease, Lessee shall remove any such substances or improvements, shall assess the Leased Premises for contamination, shall remediate all contamination, if any, and shall address any third party damages occasioned by any contamination or otherwise by the use of the storage of such substances or improvements on Leased Premises. Should Lessee fail to complete such responsibilities prior to the termination of this Lease, Lessee shall remain responsible therefor, and shall be required to post a bond in an amount reasonably required to ensure that such responsibilities are completed within a reasonable time after termination of this Lease.

#### **8. CONSTRUCTION; MAINTENANCE; REPAIR; ALTERATION.**

(A) All buildings and other improvements placed on the Leased Premises shall be constructed in a good and workmanlike manner in compliance with applicable laws and building codes. All parts of buildings or other improvements visible to the public or from adjacent premises shall present a pleasant appearance and all service areas shall be screened from public view.

(B) Lessee shall maintain the Leased Premises and all buildings and other improvements thereon and any alterations, additions or appurtenances thereto, in good order and repair and in a safe, sanitary and neat condition.

(C) Lessee shall have the right to make reasonable alterations, additions or repairs to buildings or other improvements on the Leased Premises, consistent with other provisions of this Lease.

#### **9. CONSTRUCTION BOND**

Prior to the commencement of construction of any improvement on the Leased Premises, the Lessee shall require its construction contractor to post construction bonds in an amount sufficient to cover such construction as may be approved by Lessor. The Bond shall be written to protect the Lessor and Lessee. Copies of the bonds shall be submitted to Lessor upon written request.

#### **10. NON-RESPONSIBILITY NOTICES**

Prior to the commencement of construction of any improvement on the Leased Premises, or prior to the beginning of any repair or alteration thereto, or work or labor thereon, Lessee shall post non-responsibility notices at the site on Lessor's behalf.

## **11. UTILITY SERVICE LINE AGREEMENTS.**

(A) Lessee specifically is authorized to enter into appropriate service line agreements with utility companies for the provision of utility services to the Leased Premises, including gas, water, sewer, electricity, telephone, television and other utilities, without the further consent by Lessor, on the condition that:

- (1) such agreements are for the sole purpose of supplying utility services to the Leased Premises;
- (2) such agreements authorize utility service lines only within the Leased Premises;
- (3) such agreements do not extend beyond the term of this Lease;
- (4) executed copies of such agreements, together with plats or diagrams showing with particularity the location, size and extent of such service lines, are filed by the utility companies with Lessor within thirty (30) days of their execution; and
- (5) such agreements make Lessee and its Sublessee solely responsible for any charges; and
- (6) such agreements are otherwise in accordance with the provisions of 25 C.F.R. Part 169.51-169.56, including any amendments or successors thereto.

(B) Lessee shall pay, before becoming delinquent, all taxes, assessments and other like charges levied upon or against the Leased Premises, any interest therein or improvements thereon, for which Lessee is liable. Upon request by Lessor, Lessee shall furnish Lessor written evidence duly certified that any and all such taxes, assessments and other like charges required to be paid by Lessee have been paid, satisfied or otherwise discharged. Lessee shall have the right to contest any asserted tax, assessment or other like charge against the Leased Premises, any interest therein or improvements thereon, by posting bond to prevent enforcement of any lien resulting therefrom. Lessee agrees to protect and hold harmless Lessor and the Leased Premises and all interests therein and improvements thereon from any and all such taxes, assessments and like charges and from any lien therefor, any sale or other proceedings to enforce payment thereof, and all costs in connection therewith. Upon request by Lessee, Lessor shall execute and deliver any appropriate documents with reference to real estate tax exemption of the Leased Premises, any interest therein or improvements thereon.

(C) Lessee shall pay, before becoming delinquent, all charges for water, sewage, gas, electricity, telephone and other utility services supplied to the Leased Premises.

(D) Lessor shall have the right to pay any lien, tax, assessment or other charge payable by Lessee under this Lease, or to settle any action therefor, if, within a reasonable time



after written notice thereof from Lessor, Lessee fails to pay or to post bond against enforcement thereof. All costs and other expenses incurred by Lessor in so doing shall be repaid by Lessee to Lessor on demand, together with interest at the legal rate from the date of payment or incursion thereof by Lessor until repayment is made by Lessee.

### **13. SUBLEASES AND ASSIGNMENTS**

Lessee shall not assign, convey or otherwise transfer this Lease, or any interest therein, without the prior written approval of Lessor, and then only upon the condition that the assignee or other successor in interest shall agree, in writing, to be bound by each and every covenant agreement, term and condition of this Lease. Any such attempted assignment, conveyance, or transfer, without such written approval shall be void and of no effect. The approval of Lessor may be granted, granted upon conditions, or withheld at the sole discretion of Lessor. If the sublease or assignment is for the purposes stated in section 3 of this Lease, the approval of Lessor will not be unreasonably withheld. NLD will submit one copy of each Sublease to BIA for recording pursuant to 16 N.N.C. §2322 (B).

### **14. QUIET ENJOYMENT.**

Lessor hereby covenants and agrees that, upon performing each of its covenants, agreements, terms and conditions contained in this Lease, that Lessee shall peaceably and quietly have, hold and enjoy the Leased premises without any hindrance, interruption, ejection or molestation by Lessor or by any other person or persons claiming from or under Lessor.

### **15. ENCUMBRANCE.**

(A) This Lease or any interest therein may not be encumbered without the prior written approval of Lessor, and no such encumbrance shall be valid or binding without such prior written approval. An encumbrance shall be confined to the leasehold interest of Lessee, and shall not jeopardize in any way Lessor's interest in the land. Lessee agrees to furnish any requested financial statements or analyses pertinent to the encumbrance that Lessor may deem necessary to justify the amount, purpose and terms of said encumbrance.

(B) In the event of default by Lessee of the terms of an Approved Encumbrance, Encumbrancer may exercise any rights provided in such Approved Encumbrance, provided that prior to any sale of the leasehold, Encumbrancer shall give to Lessor notice of the same character and duration as is required to be given to Lessee by the terms of such Approved Encumbrance and by applicable law. In the event of such default, Lessor shall have the right, which may be exercised at any time prior to the completion of sale, to pay to Encumbrancer any and all amounts secured by the Approved Encumbrance, plus unpaid interest accrued to the date of such payment, plus expenses of sale incurred to the date of such payment.

(C) If Lessor exercises the above right, all rights, title and interests of Lessee in this Lease shall terminate and Lessor shall acquire this Lease; provided, however, that such termination shall not relieve Lessee of any obligation or liability, which shall have accrued prior



to the date of termination. Acquisition of this Lease by Lessor under these circumstances shall not serve to extinguish this Lease by merger or otherwise.

(D) If Lessor declines to exercise the above right and sale of the leasehold under the Approved Encumbrance shall occur, the purchaser at such sale shall succeed to all of the right, title and interest of Lessee in this Lease. It is further agreed that the purchaser at such sale if it is the Encumbrancer, the Encumbrancer may sell and assign this Lease without any further approval by Lessor, provided that the assignee shall agree in writing to be bound by all the covenants, agreements, terms and conditions of this Lease, and no such assignment shall be valid unless and until the assignee shall so agree. If Encumbrancer is the purchaser, it shall be required to perform the obligations of this Lease only so long as it retains title thereto. If the purchase is other than the Encumbrancer, the purchaser shall agree in writing to be bound by all the covenants, agreements, and terms and conditions of this Lease, and no such purchase shall be valid unless and until purchaser shall so agree.

## **16. DEFAULT.**

(A) Time declared to be of the essence in this Lease. Should Lessee default in any payment of monies when due under this Lease, fail to post bond or be in violation of any other provision of this Lease, said violation may be acted upon by the Lessor, said violation may be acted upon by the Nation in accordance with the provisions of 25 C.F.R. Part 162, including any amendments or successors thereto.

(B) In addition to the rights and remedies provided by the aforementioned regulations, Lessor may exercise the following options upon Lessee's default, authorized by applicable law subject to the provisions of the subsection (D) below:

- (1) Collect, by suit or otherwise, all monies as they become due hereunder, or enforce by suit or otherwise, Lessee's compliance with all provisions of Lease; or
- (2) Re-enter the premises if the lessee has abandoned the premises or has failed to conduct business for an extended period of time without notice, and remove all persons and property therefrom, and re-let the premises without terminating this Lease as the agent and for the account of Lessee, but without prejudice to the right to cause the termination of the Lease under applicable law thereafter, and without invalidating any right of Lessor or any obligations of Lessee hereunder. The terms and conditions of such re-letting shall be in the sole discretion of Lessor, who shall have the right to alter and repair the premises as it deems advisable and to re-let with or without any equipment or fixtures situated thereon. Rents from any such re-letting shall be applied first to the expense of re-letting, collection, altering and repairing, including reasonable attorney's fees and any reasonable real estate commission actually paid, insurance, taxes and assessments and thereafter toward payment to liquidate the total liability



of Lessee. Lessee shall pay to Lessor monthly when due, any deficiency and Lessor may sue thereafter as each monthly deficiency shall arise; or

(3) Take any other action authorized or allowed under applicable law.

(C) No waiver of a breach of any of the terms and conditions of this Lease shall be constructed to be a waiver of any succeeding breach of the same or any other term or condition of this Lease. Exercise of any of the remedies herein shall not exclude recourse to any other remedies, by suit or otherwise, which may be exercised by Lessor, or any other rights or remedies now held or which may be held by Lessor in the future.

(D) Lessor as the case may be, shall give to an Encumbrancer a copy of each notice of default by Lessee at the same time as such notice of default shall be given to Lessee. Lessor shall accept performance by an encumbrancer of any of Lessee's obligations under this Lease, with the same force and effect as though performed by Lessee. An Encumbrancer shall have standing to pursue any appeals permitted by applicable federal or Navajo Nation law that Lessee would be entitled to pursue. The Lessor shall not terminate this Lease if an Encumbrancer has cured or is taking action diligently to cure Lessee's default and has commenced and is pursuing diligently either a foreclosure action or an assignment in lieu of foreclosure.

#### **17. SANITATION.**

Lessee hereby agrees to comply with all applicable sanitation laws, regulations or other requirements of the Navajo Nation. Lessee agrees to dispose of all solid waste in compliance with applicable federal and Navajo Nation law. Lessee further agrees at all times to maintain the entire Leased Premises in a safe and sanitary condition, presenting a good appearance both inside and outside the Leased Premises.

#### **18. HAZARDOUS AND REGULATED SUBSTANCES.**

(A) Lessee shall not cause or permit any Hazardous or Regulated Substance to be used, stored, generated or disposed of on or in the Leased Premises without first notifying Lessor and obtaining Lessor's prior written consent. If Hazardous or Regulated Substances are used, stored, generated or disposed of on or in the Leased Premises, with or without lessor's consent, or if the premises become contaminated in any manner. Lessee shall indemnify and hold harmless the Lessor from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses (including without limitation, a decrease in value of the Leased Premises, damages due to loss or restriction of without limitation, a decrease in a value of the Leased Premises, damages due to loss or restriction of rentable or usable space, any and all sums paid for settlement of claims, and any costs related to marketing the Leased Premises), as well as attorney's fees, consultant and expert fees arising during or after the Lease term and arising as a result of such contamination regardless of fault, with the exception that the lessee is not required to indemnify the Indian landowners for liability or cost arising from the Indian landowners' negligence or willful misconduct. This indemnification includes, without limitation, any and all costs incurred due to any investigation of the site or any cleanup, removal or restoration mandated by the federal government or the Nation. Without limitation of the foregoing, if



Lessee causes or permits any Hazardous or Regulated Substance on the Leased Premises and the presence of such results in any contamination of the Leased Premises, including, but not limited to, the improvements, soil, surface water or groundwater, Lessee shall promptly, at its sole expense, take any and all necessary actions to return the Leased Premises to the condition existing prior to the contamination by any such Hazardous or Regulated Substance on the Leased premises. Lessee shall first obtain Lessor's approval for any such remedial action.

(B) Lessee shall provide the Navajo Environmental Protection Agency and the Risk Management Department of the Nation with a clear and legible copy of all notices, or reports concerning release of Hazardous or Regulated Substance, testing, or remediation at the premises subject to this Lease which Lessee is required by applicable law, or regulation, to provide to the United States Environmental Protection Agency. Service of documents as required by this Lease upon the Navajo Environmental Protection Agency shall be by first class mail to:

Waste Regulatory and Compliance Program  
Navajo Environmental Protection Agency  
Post Office Box 3089  
Window Rock, Navajo Nation (Arizona) 86515

and,

Risk Management Department  
Navajo Environmental Protection Agency  
Post Office Box 1690  
Window Rock, Navajo Nation (Arizona) 86515

or their respective institutional successors.

## **19. PUBLIC LIABILITY INSURANCE.**

(A) At all times during the term of this Lease, Lessee shall carry a public liability insurance policy in the amount of at least \$1,000,000 for personal injury to one (1) person and \$2,000,000 per occurrence, and \$500,000 for damage to property. Said policy shall be obtained a reliable insurance company authorized to do business in the Navajo Nation and in the State of New Mexico and shall be written to protect Lessee and Lessor and shall provide for notification to Lessor prior to any material change, cancellation or non-renewal of said policy for any reason, including non-payment of premiums. Upon written request therefor, copies of said policy shall be furnished to Lessor.

(B) Lessor may require that the amount of the insurance policy required by subsection (A) of this section be increased no more than every five (5) years from the beginning date of this Lease and only upon the Lessor's determination that such increase reasonable is necessary for the protection of Lessor.

(C) With the prior written approval of Lessor, which will not be unreasonably withheld, the insurance obligation under this section may be satisfied by a self-insurance program maintained by Lessee or by other means of alternative performance satisfactory to Lessor.

## **20. NON-LIABILITY**

Except for liability arising from the Lessor's negligence or misconduct, Lessor nor their officers, agents, or employees, shall be liable for any loss, damage, death or injury of any kind whatsoever to the person or property of Lessee or any other person whomsoever, caused by any use of the Leased Premises by Lessee, or by any defect in any structure existing or erected thereon, or arising from accident, fire, or from any other casualty on said premises or from any other cause whatsoever and Lessee, as a material part of the consideration for this Lease, hereby waives on Lessee's behalf all claims against Lessor and agrees to defend and hold Lessor free and harmless from liability for all acclaims for any loss, damage, injury or death arising from the condition of the premises or use of the premises by Lessee, together with all costs and expenses in connection therewith.

## **21. PROPERTY DAMAGE, FIRE AND CASUALTY INSURANCE**

(A) At all times during the term of this Lease Lessee shall carry fire and casualty insurance with an extended coverage endorsement covering not less than the full insurable value of all improvements on the Leased Premises. Said policy shall be obtained from a reliable insurance company authorized to do business in the Navajo Nation and in the State of New Mexico, and shall be written to protect Lessee and Lessor and an Encumbrancer, if any, and shall provide for notification to Lessor, and any Encumbrancer prior to any material change, cancellation or non-renewal of said policy for any reason, including non-payment of premiums. Upon written request therefor, copies of said policy shall be furnished to Lessor.

(B) Subject to the provisions of subsections (C) and (D) of this section, in the event of destruction of or damage to any improvement on the Leased Premises, Lessee shall promptly replace or repair the destroyed or damaged improvement to a condition as good or better than before the destruction or damage occurred.

(C) In the event of destruction of or damage to any improvement on the Leased Premises, Lessee shall have the option not to replace or repair said improvement. Lessee shall provide Lessor with written notice of exercise of Lessee's option within thirty (3) days of the said event damage. Should Lessee exercise its option not to replace or repair in accordance with this subsection, this Lease shall terminate ninety (90) days after the effective date of notice thereof and all proceeds of fire and damage insurance shall be paid to Lessor. Lessee shall clear the Leased Premises of all debris prior to termination of this Lease.

(D) In the event of destruction of or damage to any improvement on the Leased Premises while an Approved Encumbrance remains in effect, the proceeds of fire and damage insurance equal to the amount of destruction or damage to the encumbered improvements (but not exceeding the remaining balance of the Approved Encumbrance) shall be paid to Encumbrancer



on the condition that Encumbrancer agrees to perform and comply with Lessee's replacement and repair obligations set forth in subsections (B) and (C) of this section. If such amount paid to Encumbrancer is sufficient to repair the destroyed or damaged improvements with respect to which it was paid, or, if within three (3) months after such payment by the insurer to Encumbrancer, Lessor or Lessee shall deposit with Encumbrancer sufficient additional funds, if any, required to completely replace or repair the destruction or damage, upon written order of Lessor or Lessee, Encumbrancer shall pay such the costs of such replacement or repair, and such payment shall not be deemed a payment or credit on the Approved Encumbrance. Otherwise, at the expiration of such three (3) months said sum so paid by the insurer to Encumbrancer shall be applied and credited on the Approved Encumbrance.

(E) With the prior written approval of Lessor, which will not be unreasonably withheld, the insurance obligation under this section may be satisfied by a self-insurance program maintained by Lessee or by other means of alternative performance satisfactory to Lessor.

## **22. INSPECTION.**

The Lessor and its authorized representatives shall have the right, upon reasonable notice to Lessee, to enter upon the Leased Premises, or any part thereof, to inspect the same and all improvements erected and placed thereon for purposes, including, but not limited to, conditions affecting the health, safety and welfare of those entering the premises, the protection of the Leased Premises, any improvements thereto or any adjoining property or uses, or compliance with applicable environmental health or safety laws and regulations. No showing of probable cause shall be required for such entry and inspection. If testing for environmental contamination reveals environmental contamination in violation of applicable law, Lessee shall pay the costs of such testing provided such contamination arose due to Lessee's acts or omissions. Nothing in this section shall limit Lessee's obligation under applicable law or this Lease to perform testing or remediation or otherwise limit Lessee's liability.

## **23. INDEMNIFICATION.**

Except to the extent of the negligence or intentional misconduct of the Nation and its agents, employees and contractors, Lessee shall defend, indemnify and hold harmless the Navajo Nation and their authorized agents, employees, against any liability for loss of life, personal injury and property damages arising from the construction on or maintenance, operation, occupancy or use of the Leased Premises by Lessee.

## **24. MINERALS.**

All minerals, including sand and gravel, contained in or on the Leased Premises are reserved for the use of Lessor. Lessor also reserves the right to enter upon the Leased Premises and search for and remove minerals located thereon, paying just compensation for any damage or injury caused to Lessee's personal property or improvements constructed by Lessee.

## **25. EMINENT DOMAIN.**

If the Leased Premises or any part thereof is taken under the laws of eminent domain at any time during the term of this Lease, Lessee's interest in the Leased Premises or the part of the Leased Premises taken shall thereupon cease. Compensation awarded for the taking of the Leased Premises or any part thereof, including any improvements located thereon, shall be awarded to Lessor and Lessee as their respective interests may appear at the time of such taking, provided that Lessee's right to such awards shall be subject to the rights of an Encumbrancer under an Approved Encumbrance.

**26. DELIVERY OF PREMISES.**

At the termination of this Lease, Lessee shall peaceably and without legal process deliver up the possession of the Leased Premises in good condition, usual wear and tear excepted. Upon the written request of the Navajo Nation, Lessee shall provide to the Navajo Nation, at Lessee's sole cost and expense, an environmental audit assessment of the Leased Premises at least sixty (60) days prior to delivery of said premises.

**27. HOLDING OVER.**

Holding over by Lessee after termination of this Lease shall not constitute a renewal or extension thereof or give Lessee any rights hereunder or in or to the Leased Premises or to any improvements located thereon.

**28. ATTORNEY'S FEES.**

Lessee agrees to pay and discharge all reasonable costs, attorney's fees and expenses that may be incurred by Lessor in enforcing the provisions of this Lease or in pursuing an action against Lessee or any Sublessee for breach, default or liability arising under this Lease.

**29. AGREEMENT TO ABIDE BY NAVAJO NATION LAWS AND FEDERAL LAWS.**

Lessee and the Lessee's employees, agents, and sublessees and their employees and agents agree to abide by all laws, regulations, and ordinances of the Navajo Nation and all applicable laws, regulations and ordinances of the United States now in force and effect or as may be hereafter in force and effect including, but not limited to the Navajo Education Policies, 10 N.N.C. §§ 101 *et seq.*, Navajo Preference in Employment Act, 15 N.N.C. §§ 601 *et seq.* (NPEA) and the Navajo Nation Business Opportunity Act, 5 N.N.C. §§ 201 *et seq.* (NNBOA).

**30. GOVERNING LAW AND CHOICE OF FORUM.**

Except as prohibited by applicable federal law, the law of the Navajo Nation shall govern the construction, performance and enforcement of this Lease. Any action or proceeding brought by Lessee against the Nation in connection with or arising out of the terms and conditions of this Lease, to the extent authorized by Navajo law, shall be brought only in the courts of the



Nation, and no such action or proceeding shall be brought by Lessee against the Nation in any court or administrative body of any State.

**31. RESERVATION OF LESSEE'S RIGHTS TO ADMINISTRATIVE AND JUDICIAL REVIEW.**

Nothing in this agreement shall be construed as divesting the Lessee of any right to an administrative appeal or judicial review of an administrative decision regarding this lease under 25 C.F.R. Part 2; 43 C.F.R. Part 4, Subpart D; 5 U.S.C. §704; or any other applicable regulation or statute.

**32. DISPUTE RESOLUTION.**

In the event that a dispute arises under this Lease, the Parties agree to, before initiating any action or proceeding, agrees to use their good faith efforts to resolve such disputes through mediation, informal discussion, or other non-binding methods of dispute resolution in connection with this Lease.

**33. CONSENT TO JURISDICTION.**

Lessee hereby consents to the legislative, executive and judicial jurisdiction of the Navajo Nation in connection with all activities conducted by the Lessee within the Navajo Nation.

**34. COVENANT NOT TO CONTEST JURISDICTION.**

Lessee hereby covenants and agrees never to contest or challenge the legislative, executive or judicial jurisdiction of the Navajo Nation on the basis that such jurisdiction is inconsistent with the status of the Navajo Nation as an Indian nation, or that the Navajo Nation government is not a government of general jurisdiction, or that the Navajo Nation government does not possess police power (i.e., the power to legislate and regulate for the general health and welfare) over all lands, persons and activities within its territorial boundaries, or on any other basis not generally applicable to a similar challenge to the jurisdiction of a state government. Nothing in this section shall be construed to negate or impair federal responsibilities with respect to the Leased Premises or to the Navajo Nation.

**35. NO WAIVER OF SOVEREIGN IMMUNITY.**

Nothing in this Lease shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

**36. INTEREST OF MEMBER OF CONGRESS.**

No member of or delegate to Congress or any Resident Commissioner shall be admitted to any share or part of this Lease or to any benefit that may arise here from, but this provision shall

not be construed to extend to this Lease if made with a corporation or company for its general benefit.

**37. OBLIGATIONS TO THE UNITED STATES.**

It is understood and agreed that while the Leased Premises are in trust or restricted status, all of Lessee's obligations under this Lease and the obligations of its sureties are to the United States as well as to Lessor.

**38. NOTICES AND DEMANDS.**

(A) Any notices, demands, requests or other communications provided for in this Lease, or given or made in connection with this Lease, (hereinafter referred to as "notices,") shall be in writing and shall be addressed as follows:

To or upon Lessor:

President, The Navajo Nation  
Office of the President/Vice-President  
Post Office Box 9000  
Window Rock, Navajo Nation (Arizona) 86515  
Fax: (928) 871-7005

To or upon Lessee:

St. Bonaventure Indian Mission School  
Post Office Box 610  
Thoreau, New Mexico 87323  
Fax: (505) 862-7029

(B) All notices shall be given by personal delivery, by registered or certified mail, postage prepaid, or by facsimile transmission, followed by surface mail. Notices shall be effective and shall be deemed delivered: if by personal delivery, on the date of delivery if during normal business hours, or if not during normal business hours on the next business day following delivery; if by registered or certified mail, or by facsimile transmission, followed by surface mail, on the next business day following actual delivery and receipt.

(C) Lessor and Lessee may at any time change its address for purposes of this section by notice.

**39. SUCCESSORS AND ASSIGNS.**

The terms and conditions contained herein shall extend to and be binding upon the successors, heirs, assigns, executors, administrators, employees and agents, including all contractors and subcontractors, of Lessee. Except as the context otherwise requires, the term



"Lessee," as used in this Lease, shall be deemed to include all such successors, heirs, executors, assigns, employees and agents.

**40. RESERVATION OF JURISDICTION.**

There is expressly reserved to the Navajo Nation full territorial legislative, executive and judicial jurisdiction over the area under the lease and all lands burdened by the lease, including without limitation over all persons, including the public, and all activities conducted or otherwise occurring within the area under the lease; and the area under the lease and all lands burdened by the lease shall be and forever remain Navajo Indian Country for purposes of Navajo Nation jurisdiction.

**41. EFFECTIVE DATE; VALIDITY.**

This Lease shall take effect on the date it is approved by the Navajo Nation. This Lease, and any modification of or amendment to this Lease, shall not be valid or binding upon either party until the Navajo Nation approves it.

**IN WITNESS WHEREOF**, the parties hereto have caused this Lease to be executed as of the date first above written.

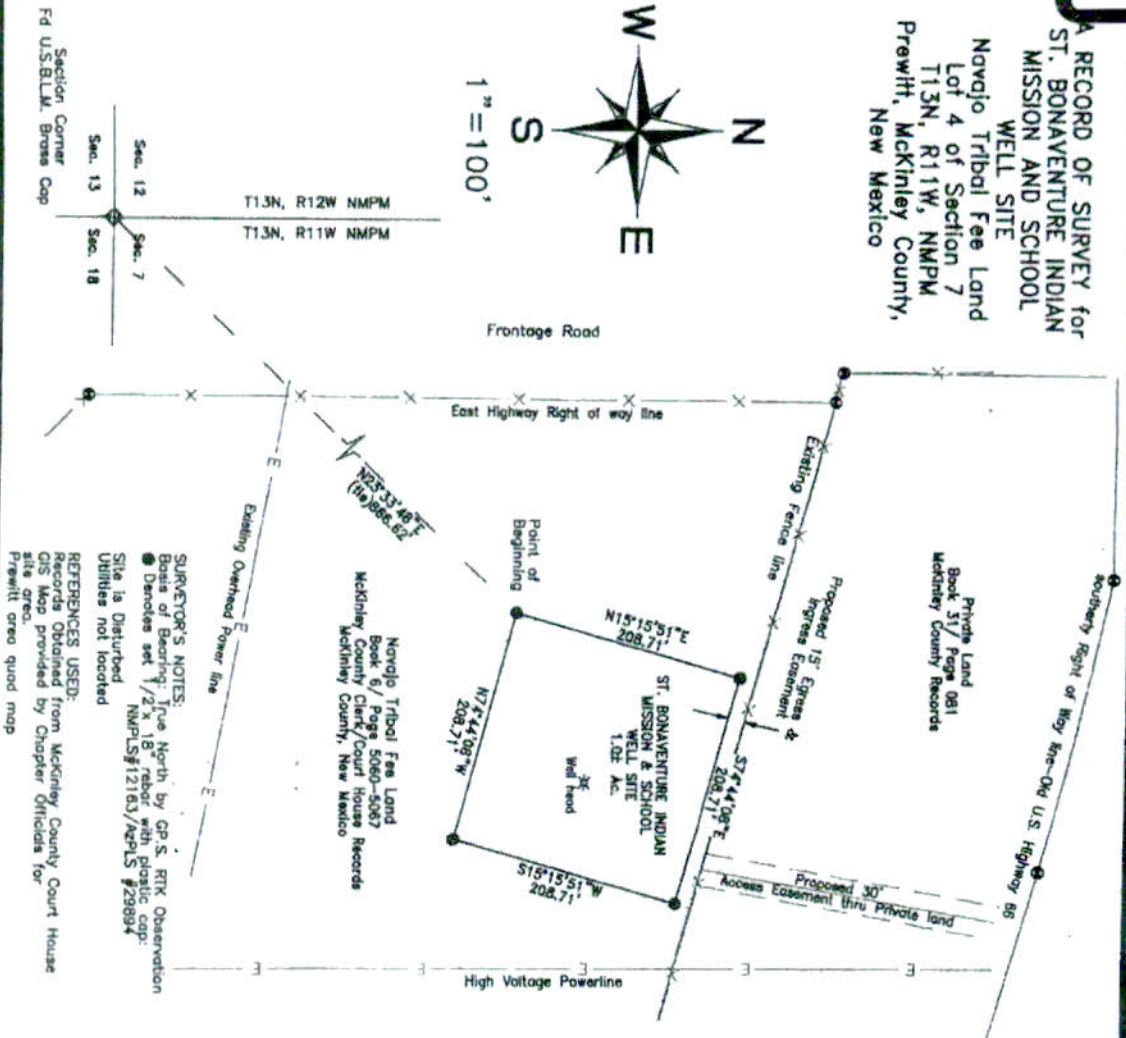
**THE NAVAJO NATION, LESSOR**

By: \_\_\_\_\_  
Jonathan Nez, President

**ST. BONAVENTURE INDIAN MISSION SCHOOL,  
LESSEE**

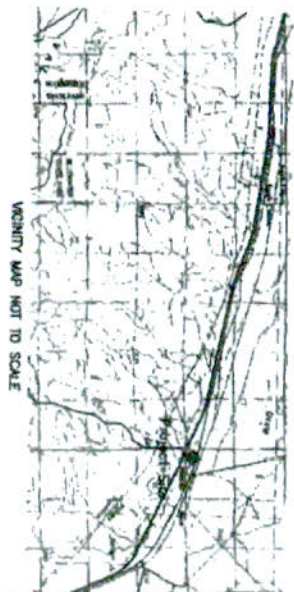
By: \_\_\_\_\_  
Chris Halter, Executive Director

A RECORD OF SURVEY for  
ST. BONAVENTURE INDIAN  
MISSION AND SCHOOL  
WELL SITE  
Navajo Tribal Fee Land  
Lot 4 of Section 7  
T13N, R11W, NMPM  
Prewitt, McKinley County,  
New Mexico



**SURVEYOR'S NOTES:**  
Basis of Bearing: True North by GP.S. RTK Observation  
● Denotes set 1/2" x 18" rebar with plastic cap.  
NMP.L.S.#12163/A.P.L.S. #29894  
Site is Disturbed  
Utilities not located

**REFERENCES USED:**  
Records Obtained from McKinley County Court House  
GIS Map provided by Chapter Officials for  
Prewitt area quad map



A parcel of land located in Lot 4 of Section 7, Township 13 North, Range 11 West, N.M.P.M., McKinley County, New Mexico, situated in the Black/Prewitt Chapter area and being being more particularly described as follows:

**BEGINNING** at the Point of Beginning being the southwestern corner of said parcel which bears North 23°33'48" East, a distance of 888.62 feet from the Southwest Section Corner of said Section 7;

thence North 19°15'51" East, a distance of 208.71 feet to a set 1/2" rebar; thence South 74°44'08" East, a distance of 208.71 feet to a set 1/2" rebar; thence South 15°15'51" West, a distance of 208.71 feet to a set 1/2" rebar; thence North 74°44'08" West, a distance of 208.71 feet to the Point of Beginning. Said parcel containing 1.02 acres more or less in area and being subject to any easements, restrictions and reservations of record.

This is to certify that this plot was prepared from field notes of actual surveys made under my supervision. The survey complies with the minimum standards of property surveys in New Mexico and is accurately represented on this plot.

*Henry Thomas*  
Henry Thomas  
Registered N.M.P.L.S. #12163



<b>RED VALLEY SURVEY</b>	
A Survey of Record for the	
ST. BONAVENTURE INDIAN	
MISSION and SCHOOL	
WELL SITE	
Booked within Lot 4 - Section 7, T13N, R11W, NMPM	
McKinley County, New Mexico	
Surveyed by	Surveyed on
Checked by	Checked on
Drawn by	Drawn on
Plotted by	Plotted on
RVS#19-40	



# St. Bonaventure Indian Mission and School Well Site

Baca/Prewitt, McKinley County, New Mexico

Legend  
POB

122

Fonlage Rd

POB 35°21'54.12"N, 108°3'4.60"W





NNDFW Review No. 18bapr-01

**BIOLOGICAL RESOURCES COMPLIANCE FORM  
NAVAJO NATION DEPARTMENT OF FISH AND WILDLIFE  
P.O. BOX 1480, WINDOW ROCK, ARIZONA 86515-1480**

It is the Department's opinion the project described below, with applicable conditions, is in compliance with Tribal and Federal laws protecting biological resources including the Navajo Endangered Species and Environmental Policy Codes, U.S. Endangered Species, Migratory Bird Treaty, Eagle Protection and National Environmental Policy Acts. This form does not preclude or replace consultation with the U.S. Fish and Wildlife Service if a Federally-listed species is affected.

**PROJECT NAME & NO.:** Baca/Prewitt Chapter Water Well and Associated Utilities

**DESCRIPTION:** The Baca/Prewitt Chapter proposes a 1.0-acre land withdrawal for the development of a water well and associated utilities for community use.

**LOCATION:** SW¼ of Section 7, T13N, R11W, NMPM, Prewitt, McKinley County, New Mexico

**REPRESENTATIVE:** Sharon Francisco, Manager, Baca/Prewitt Chapter

**ACTION AGENCY:** Bureau of Indian Affairs and Navajo Nation

**B.R. REPORT TITLE / DATE / PREPARER:** Request for review & concurrence/24 AUG 2018/Sharon Francisco

**SIGNIFICANT BIOLOGICAL RESOURCES FOUND:** Area 3.

**POTENTIAL IMPACTS**

**NESL SPECIES POTENTIALLY IMPACTED:** NA

**FEDERALLY-LISTED SPECIES AFFECTED:** NA

**OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES:** NA

**AVOIDANCE / MITIGATION MEASURES:** NA

**CONDITIONS OF COMPLIANCE\*:** NA

**FORM PREPARED BY / DATE:** Pamela A. Kyselka/27 SEP 2018

**COPIES TO:** (add categories as necessary)



**2 NTC § 164 Recommendation:**

**Signature**

**Date**

☒ Approval

☐ Conditional Approval (with memo)

☐ Disapproval (with memo)

☐ Categorical Exclusion (with request letter)

☐ None (with memo)

Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife

10/02/18

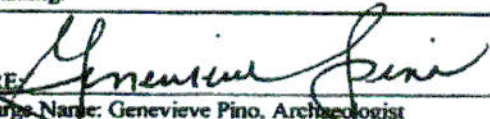
**\*I understand and accept the conditions of compliance, and acknowledge that lack of signature may be grounds for the Department not recommending the above described project for approval to the Tribal Decision-maker.**

**Representative's signature**

**Date**



# ARCHAEOLOGICAL INVENTORY REPORT DOCUMENTATION PAGE (HPD JAN/91)

1. HPD REPORT NO.	2. (FOR HPD USE ONLY)	3. RECIPIENTS NO.
4. TITLE OF REPORT: A Cultural Resources Inventory of a 1-acre Water Well and Associated Utilities in Baca/Prewitt, McKinley County, New Mexico for the Baca/Prewitt Community.		5 FIELD WORK DATES 1-22-2018
Author: Genevieve Pino		6. REPORT DATE 1-30-2018
7. CONSULTANT NAME AND ADDRESS: Gen'l Charge: Genevieve Pino Org. Name: Org. Address: P.O. Box 6235 Gallup, New Mexico 87305		8. Permit No. B18008
Phone: (505) 495-9488		9. Consultant Report No GP-18-001
10. SPONSOR NAME AND ADDRESS: Ind. Responsible: Sharon Francisco, Community Service Coordinator Org. Address: 22A Pillow Crest Road PO Box 563 Prewitt, New Mexico 87045 Phone: (505) 972-9917 (505) 972-4221		11. SPONSOR PROJECT NO.
		12. AREA OF EFFECT: 1.0 ac (0.40 ha) AREA SURVEYED: 2.9 ac (1.2 ha)
13. LOCATION (MAP ATTACHED)		
a. Chapter: Baca/Prewitt	e. Land Status: Tribal Fee Land	
b. Agency: Crownpoint	f. UTM Center: Zone 12: 3917537N, 767990E	
c. County: McKinley	g. Area: T.13N, R.11W SW¼ of Sec. 7	
d. State: New Mexico	h. 7.5 Map Name(s): Prewitt, N. Mex., 1963	
14. REPORT OR SUMMARY (REPORT ATTACHED) //		
a. Description of Undertaking: A private contractor will construct a water well and install associated facilities within the one-acre well site to service the Baca/Prewitt Chapter. The total area of effect equals approximately 43,563 sq ft (4047 sq m) or 1.0 ac (0.40 ha). Ground disturbance, both surface and subsurface, is expected to be intensive and extensive from the use of heavy equipment.		
b. Existing Data Review: A check of NNHPD archival records indicates that two archaeological survey projects HPD 89-212 and HPD 01-943 have been conducted, and one archaeological sites NM-Q-41-26 has been recorded, within an approximate 100 m radius of the current project area. Site NM-Q-41-26 is located outside the well site.		
c. Area Environmental & Cultural Setting: The project area is situated on flatland at an elevation of 6858 ft (2090 m). Vegetation consists of juniper, greasewood, rabbitbrush, snakeweed and small seasonals. The surface sediment is aeolian sand. The nearest water source is an unnamed drainage, located approximately 2,500 ft (762 m) to the southeast. The surrounding area has been impacted by existing dirt/paved roads, nearby homes, waterlines, powerlines and natural erosion.		
d. Field Methods: The requested archaeological survey and a TCP interview were conducted by Genevieve Pino. A Class III pedestrian survey was conducted by walking concentric circular transects spaced 15 meters apart extending out to a 200 ft (61 m) radius centered over the proposed well site. The total area inventoried equaled approximately 125,664 ft (11,674 sq m) or 2.9 ac (1.2 ha)		
15. CULTURAL RESOURCES FINDINGS: No archaeological sites, Traditional Cultural Properties (TCPs) or isolated occurrences were identified during the survey; however one in-use area was encountered. IUA-1 consists of a meter pole and a well head.		
b. Evaluation of Significance of Each Resource: The in-use are (IUA) is less than 50 years old and ineligible for inclusion into the National Register of Historical Places.		
16. MANAGEMENT SUMMARY (RECOMMENDATION): A determination of "no historic properties affected" is recommended for the proposed undertaking.		
17. CERTIFICATION: SIGNATURE:  DATE: 1-30-18		
General/Charge Name: Genevieve Pino, Archaeologist		





THE NAVAJO NATION  
HERITAGE & HISTORIC PRESERVATION DEPARTMENT

PO Box 4950, Window Rock, Arizona 86515  
TEL: (928) 871-7198 FAX: (928) 871-7886

CULTURAL RESOURCES COMPLIANCE FORM

ROUTE COPIES TO:

☒ GP

NNHPD NO.: **HPD-18-178**

OTHER PROJECT NO.: **GP-18-001**

PROJECT TITLE: A Cultural Resource Inventory of a 1-acre Water Well and Associated Utilities in Baca/Prewitt, McKinley County, New Mexico

LEAD AGENCY: BIA/NR

SPONSOR: Sharon Francisco, CSC/Baca-Prewitt Chapter, 22A Pillow Crest Road, PO Box 563, Prewitt, NM 87045

PROJECT DESCRIPTION: The proposed undertaking will involve the construction of a water well and installation of associated facilities within the one-acre well site. Ground disturbing activities will be intensive and extensive with the use of heavy equipment.

LAND STATUS:	Navajo Tribal Trust									
CHAPTER:	Baca/Prewitt									
LOCATION:	T.	13	N.	R.	11	W.	Sec.	07	Prewitt	Quadrangle, McKinley County New Mexico NMPM
PROJECT ARCHAEOLOGIST:	Genevieve Pino									
NAVAJO ANTIQUITIES PERMIT NO.:	B18008									
DATE INSPECTED:	01/22/18									
DATE OF REPORT:	01/30/18									
TOTAL ACREAGE INSPECTED:	2.9 ac									
METHOD OF INVESTIGATION:	Class III pedestrian inventory with transects spaced 10 m apart.									
LIST OF CULTURAL RESOURCES FOUND:	(1) In-Use Area (IUA)									
LIST OF ELIGIBLE PROPERTIES:	None									
LIST OF NON-ELIGIBLE PROPERTIES:	(1) IUA									
LIST OF ARCHAEOLOGICAL RESOURCES:	None									

EFFECT/CONDITIONS OF COMPLIANCE: No historic properties affected.

In the event of a discovery ["discovery" means any previously unidentified or incorrectly identified cultural resources including but not limited to archaeological deposits, human remains, or locations reportedly associated with Native American religious/traditional beliefs or practices], all operations in the immediate vicinity of the discovery must cease, and the Navajo Nation Historic Preservation Department must be notified at (928) 871-7198.


FORM PREPARED BY: Tamara Billie  
FINALIZED: April 10, 2018

Notification to Proceed  
Recommended

☒ Yes ☐ No

Conditions:

☐ Yes ☒ No

  
Richard M. Begay, Dept. Mgr./NNHPD  
The Navajo Nation  
Heritage & Historic Preservation Department

4/10/18  
Date

Navajo Region Approval

☒ Yes ☐ No

  
BIA - Navajo Regional Office

4/13/18  
Date



**BIOLOGICAL RESOURCES COMPLIANCE FORM**  
**NAVAJO NATION DEPARTMENT OF FISH AND WILDLIFE**  
**P.O. BOX 1480, WINDOW ROCK, ARIZONA 86515-1480**

It is the Department's opinion the project described below, with applicable conditions, is in compliance with Tribal and Federal laws protecting biological resources including the Navajo Endangered Species and Environmental Policy Codes, U.S. Endangered Species, Migratory Bird Treaty, Eagle Protection and National Environmental Policy Acts. This form does not preclude or replace consultation with the U.S. Fish and Wildlife Service if a Federally-listed species is affected.

PROJECT NAME & NO.: Baca/Prewitt Chapter Water Well and Associated Utilities

DESCRIPTION: The St. Bonaventure Indian Mission & School, with the support of Baca/Prewitt Chapter proposes a 1.0 acre lease of Navajo Fee Land for the development of a water well and associated utilities for community benefits.

LOCATION: SW¼ of Section 7, T13N, R11W, NMPM, Prewitt, McKinley County, New Mexico

REPRESENTATIVE: Chris Halter, Director, St. Bonaventure Indian Mission & School

ACTION AGENCY: Bureau of Indian Affairs and Navajo Nation

B.R. REPORT TITLE / DATE / PREPARER: Request for review & concurrence/24 AUG 2018/Sharon Francisco

SIGNIFICANT BIOLOGICAL RESOURCES FOUND: Area 3.

POTENTIAL IMPACTS

NESL SPECIES POTENTIALLY IMPACTED: NA

FEDERALLY-LISTED SPECIES AFFECTED: NA

OTHER SIGNIFICANT IMPACTS TO BIOLOGICAL RESOURCES: NA

AVOIDANCE / MITIGATION MEASURES: NA

CONDITIONS OF COMPLIANCE\*: NA

FORM PREPARED BY / DATE: Pamela A. Kyselka/27 SEP 2018; updated BRCF on 27 MAR 2019 per R. Biehl

COPIES TO: (add categories as necessary)



2 NTC § 164 Recommendation:

Signature

Date

☒ Approval

☐ Conditional Approval (with memo)

☐ Disapproval (with memo)

☐ Categorical Exclusion (with request letter)

☐ None (with memo)

Gloria M. Tom, Director, Navajo Nation Department of Fish and Wildlife

3/28/19

\*I understand and accept the conditions of compliance, and acknowledge that lack of signature may be grounds for the Department not recommending the above described project for approval to the Tribal Decision-maker.

Representative's signature

Date

August 24, 2018

Navajo Nation Land Department  
P.O. Box 2249  
Window Rock, AZ 86515

Dear Mr. Halona,

The Baca/Prewitt Chapter has requested a letter to identify current valid grazing permittees close to Section 7 SW ¼, T13N, and R11W, Navajo tribal fee land. This letter is to verify there are no valid grazing permittees near this land description. If you should have any questions please call me at (505) 870-5385.

Respectfully,

  
Robert Delgarito, District Land Board





## Baca/Prewitt Chapter

Cecil Lewis Jr., President  
Norma James, Vice President  
Cindy V. Howe, Secretary-Treasurer  
Daniel Tso, Council Delegate  
Bobby Delgarito, Land Board  
Tina Becenti, Manager  
Vacant, A.A



EXHIBIT

E

### RESOLUTION OF THE BACA/PREWITT CHAPTER BPC/19/04/37

#### RESOLUTION SUPPORTING THE REQUEST OF ST. BONAVENTURE INDIAN MISSION AND SCHOOL TO LEASE LAND OF 1.0 ACRE OR LESS ON NAVAJO TRIBAL FEE LAND WITHIN THE SW ¼ OF SEC. 7, T13N, R11W, NMPM AND PREWITT MCKINLY COUNTY TO DEVELOP A WATER WELL AND ALL ASSOCIATED INFRASTRUCTURES.

##### WHEREAS:

1. Pursuant to Navajo Nation Code 2, Title 26 Section 4001 and 11 NNC Part 1, Section 10, the Baca/Prewitt Chapter is a duly certified and recognized local government entity of the Navajo Nation; to plan review, recommend, approve and promote all business matters that affects the Baca/Prewitt community in dealing with the Navajo Nation, Federal, State, County and other local entities who need support, approval and consideration; and
2. The Baca/Prewitt Chapter and the surrounding communities still have families who do not have access to plumbing or running water in their homes. For several decades St. Bonaventure Indian Mission has delivered clean drinking water to families to several Chapters in the eastern Navajo reservation; and
3. The demand for these services have increased over the years, St. Bonaventure had to purchase an additional water truck to meet the demands. St. Bonaventure is currently utilizing one water well located in Thoreau to serve six (6) Chapters on a daily basis. The water well is working over its capacity and knew there was a need to establish another water well; and
4. The Baca/Prewitt Chapter leaders and community knew there were approximately 92 individuals who received water from St. Bonaventure in their area. A recommendation was made to assist the Mission by allowing them to utilize the proposed water well that was to be built on land that belonged to the Navajo Nation as a second watering point; and
5. By allowing St. Bonaventure to develop and utilize the water well they would not have to return to Thoreau to get another load, instead they could get the water in Baca/Prewitt and continue to deliver. The homes that are served are scattered approximately three to sixteen miles apart and would be more convenient; and
6. Funds have been secured for the project and Baca/Prewitt Chapter would respectfully request to have the land withdrawal completed and leased to St. Bonaventure approved as quickly as possible; and
7. Baca/Prewitt Chapter and St. Bonaventure through coordinated efforts will obtain all surveys, cultural and biological clearances, and other supporting documents needed to complete the land withdrawal and lease for this project, requiring a land area of approximately one acre or less.

##### NOW THEREFORE, BE IT RESOLVED THAT:

1. The Baca/Prewitt Chapter hereby supports and recognizes this land withdrawal for community development, which may include, but not limited to, the following purposes; housing, education, economic development, healthcare facilities, public use, or governmental use. Industrial development is not supported for this area; and
2. Baca/Prewitt Chapter also hereby supports and recognizes St. Bonaventure Indian Mission and School obtaining a lease needed from the Navajo Nation for the land withdrawn, to allow St. Bonaventure Indian Mission to access, own, operate and maintain the proposed water well facilities for the benefit of Baca/Prewitt Chapter.



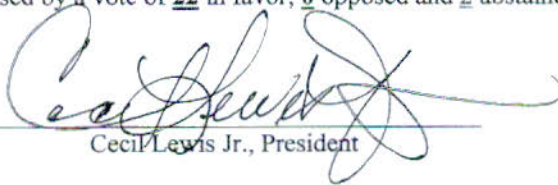
## Baca/Prewitt Chapter

Cecil Lewis Jr., President  
Norma James, Vice President  
Cindy V. Howe, Secretary-Treasurer  
Daniel Tso, Council Delegate  
Bobby Delgarito, Land Board  
Tina Becenti, Manager  
Vacant, A.A



### CERTIFICATION

WE HEREBY certify that this foregoing resolution was duly discussed and considered at a duly called Baca/Prewitt Chapter meeting and adopted by Darlene Arviso, seconded by Grace Lewis and that same passed by a vote of 22 in favor, 0 opposed and 2 abstained on this 8th day of April 2019.



Cecil Lewis Jr., President



Tina Becenti, Manager





# St. Bonaventure Indian Mission & School

Eastern Navajo Reservation

25 Navarre Blvd W \* Thoreau, NM \* 87323  
Mailing: P.O. Box 610 \* Thoreau, NM \* 87323-0610

Phone: (505) 862-7847 \* Fax: (505) 862-7029  
[www.stbonaventuremission.org](http://www.stbonaventuremission.org)



April 12, 2019

Elerina Yazzie, Department Manager  
General Land Development Department  
P.O. Box 2249  
Window Rock, AZ 86515

St. Bonaventure Indian Mission & School is writing this application letter requesting to lease approximately 1.0 acres of Navajo Tribal Fee land located within the SW ¼ of the SW ¼ of Section 7, Township 13N, Range 11W within McKinley Co, N.M, further described on the attached survey plat map.

St. Bonaventure Indian Mission & School, is a non-profit organization established in 1974 located in Thoreau, New Mexico that operates a drinking water delivery program to benefit Navajo families in the area, including many in Baca/Prewitt Chapter. The demand for these water delivery services has drastically increased. The current water well St. Bonaventure owns and operates is currently working well over its capacity.

The land requested for lease is located in the Baca/Prewitt community, and will be used to equip an existing water well that was never put into use with a pump, pumphouse, tank and related appurtenances. The water from the well will be delivered to Navajo families who are currently equipped with a cistern system. This will allow for individuals to have clean drinking water in their homes, promoting health as well as workforce and social development.

Note, as the well will be a potable water source on tribal lands, St. Bonaventure Indian Mission & School is also coordinating with the Navajo Nation Department of Water Resources as well as Navajo EPA for well permitting and construction permitting.

We are respectfully requesting your assistance in granting St. Bonaventure Indian Mission and School Inc. a 65 year or more lease so that we may continue to grow our water delivery program for the Navajo people in the Baca/Prewitt area and its surrounding communities. If you should have any questions please call (505) 862-7847 ext. 6102 or email [chalter@stbonaventuremission.org](mailto:chalter@stbonaventuremission.org).

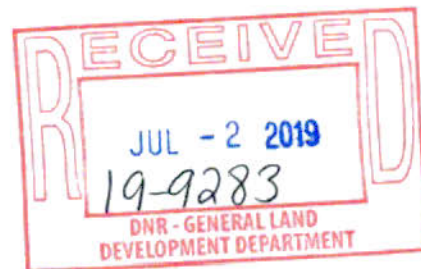
Respectfully,

*Christopher J Halter*

Christopher Halter, Executive Director  
St. Bonaventure Indian Mission and School

Attached:

- Legal Survey
- Supporting Baca/Prewitt Chapter Resolution
- Letter from Grazing Officer
- BRCF
- CRCF



*I am the Good Shepherd. I seek out My sheep who are lost. I have come that they may have life and have it abundantly. (John)*

Document No. 012841

Date Issued: 07/02/2019

**EXECUTIVE OFFICIAL REVIEW**

Title of Document: St. Bonaventure Well Site Lease

Contact Name: YAZZIE, ELERINA B

Program/Division: DIVISION OF NATURAL RESOURCES

Email: e\_yazzie@navajo-nsn.gov

Phone Number: 928/871/6447

☐ **Business Site Lease**

Sufficient Insufficient

1. Division: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐
2. Office of the Controller: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐
- (only if Procurement Clearance is not issued within 30 days of the initiation of the E.O. review)
3. Office of the Attorney General: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

☐ **Business and Industrial Development Financing, Veteran Loans, (i.e. Loan, Loan Guarantee and Investment) or Delegation of Approving and/or Management Authority of Leasing transactions**

1. Division: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐
2. Office of the Attorney General: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

☐ **Fund Management Plan, Expenditure Plans, Carry Over Requests, Budget Modifications**

1. Office of Management and Budget: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐
2. Office of the Controller: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐
3. Office of the Attorney General: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

☐ **Navajo Housing Authority Request for Release of Funds**

1. NNEPA: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐
2. Office of the Attorney General: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

☐ **Lease Purchase Agreements**

1. Office of the Controller: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐
- (recommendation only)
2. Office of the Attorney General: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

☐ **Grant Applications**

1. Office of Management and Budget: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐
2. Office of the Controller: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐
3. Office of the Attorney General: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

☐ **Five Management Plan of the Local Governance Act, Delegation of an Approving Authority from a Standing Committee, Local Ordinances (Local Government Units), or Plans of Operation/Division Policies Requiring Committee Approval**

1. Division: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐
2. Office of the Attorney General: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐

☐ **Relinquishment of Navajo Membership**

1. Land Department: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐
2. Elections: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐
3. Office of the Attorney General: \_\_\_\_\_ Date: \_\_\_\_\_ ☐ ☐



☐ Land Withdrawal or Relinquishment for Commercial Purposes

			Sufficient	Insufficient
1. Division:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☐ Land Withdrawals for Non-Commercial Purposes, General Land Leases and Resource Leases

1. NLD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. F&W	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. HPD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5. NNEPA	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
6. DNR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
7. DOJ	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☐ Rights of Way

1. NLD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. F&W	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. HPD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5. NNEPA	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
6. Office of the Attorney General:	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
7. OPVP	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☐ Oil and Gas Prospecting Permits, Drilling and Exploration Permits, Mining Permit, Mining Lease

1. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. OPVP	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. NLD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☐ Assignment of Mineral Lease

1. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. DNR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. DOJ	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>

☒ ROW (where there has been no delegation of authority to the Navajo Land Department to grant the Nation's consent to a ROW)

1. NLD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. F&W	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. HPD	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. Minerals	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5. NNEPA	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
6. DNR	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
7. DOJ - ic	<i>V. B. [signature]</i>	Date: <i>9/20/19</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. OPVP	<i>8/22</i>	Date: <i>9/25/19</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

☐ OTHER:

1. _____	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
2. _____	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
3. _____	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
4. _____	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>
5. _____	_____	Date: _____	<input type="checkbox"/>	<input type="checkbox"/>



# NAVAJO NATION DEPARTMENT OF JUSTICE

## DOCUMENT REVIEW REQUEST FORM

☐ RESUBMITTAL



DOJ	
7/29/19 @ 1:37p	DATE / TIME
<input type="checkbox"/> 7 Day Deadline	
DOC #: 012841	
SAS #:	
UNIT: NM	

\*\*\* FOR NNDJ USE ONLY - DO NOT CHANGE OR REVISE FORM. VARIATIONS OF THIS FORM WILL NOT BE ACCEPTED. \*\*\*

### CLIENT TO COMPLETE

DATE OF REQUEST:	7/29/2019	DIVISION:	NATURAL RESOURCES
CONTACT NAME:	Michelle Hoskie or Stevie Hudson	DEPARTMENT:	GENERAL LAND DEVELOPMENT DEPARTMENT
PHONE NUMBER:	x 6447 or x 6423	E-MAIL:	steviehudson@frontier.com

TITLE OF DOCUMENT: EOR#12841, St. Bonaventure Well Site Lease

### DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT:	7-29-19 4:12 PM	REVIEWING ATTORNEY/ADVOCATE:	Minchey 8/1/19
DATE TIME OUT OF UNIT:	9-20-19 10:15 AM		

### DOJ ATTORNEY / ADVOCATE COMMENTS

- Document is now legally sufficient after Proposed Lease was drafted & attached. Required documents are attached.

REVIEWED BY: (Print)	Date / Time	SURNAMED BY: (Print)	Date / Time
Travis A. Ace	9/19/19	V Blackhat	9/20/19 9:09 AM

DOJ Secretary Called: Marcelena for Document Pick Up on 9-20-19 at 10 AM By: Bz

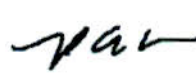


PICKED UP BY: (Print) DATE / TIME:

NNDJ/DRRF-July 2013


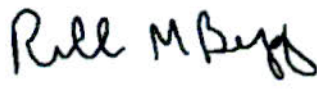
COMPLETED



### Tier 1 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Najamh Tariq (Navajo Land Title Data System - Windowrock AZ)	Approver	Department of Water Resources	Approved	no comments	No Reply	10-Jul-2019	
Pam Kyselka F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	1. An updated BRCF (18bapr-01) was uploaded to the NLTDS.	1. No Reply	03-Jul-2019	
Rebecca Gilchrist MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	no comments	No Reply	16-Jul-2019	
Tamara Billie NNHP (Navajo Land Title Data System - Windowrock AZ)	HPD Reviewer	Historic Preservation Department	Approved	1. HPD-18-178	1. No Reply	22-Jul-2019	

### Tier 2 Document Voting Results

User Name (Facility)	Job Title	Department	Vote Cast	Comments	Replies	Vote Date	Signature
Chad Smith - F&W (Navajo Land Title Data System - Windowrock AZ)	Technical Review	Fish and Wildlife	Approved	no comments	No Reply	25-Jul-2019	
Richard Begay NNHP (Navajo Land Title Data System - Windowrock AZ)	Navajo Nation Historic Preservation Officer	Historic Preservation Department	Approved	no comments	No Reply	22-Jul-2019	

Robert Allan DNR (Navajo Land Title Data System - Windowrock AZ)	Deputy Director DNR	DNR Administration	Approved	1	CONDITIONAL--need to attach lease indenture.	1	No Reply	23-Jul-2019
--	---------------------	--------------------	----------	---	--	---	----------	-------------

Robert O. Allan

Steven Prince MIN (Navajo Land Title Data System - Windowrock AZ)	Technical Reviewer	Navajo Nation Minerals Management	Approved	no comments	No Reply	22-Jul-2019
---	--------------------	-----------------------------------	----------	-------------	----------	-------------

Steven L Prince

W. Mike Halona (NLTDS - Everytt)	DCD Division Director	Navajo Nation	Approved	no comments	No Reply	22-Jul-2019
----------------------------------	-----------------------	---------------	----------	-------------	----------	-------------

W. Mike Halona





## MEMORANDUM

TO: Honorable Edmund Yazzie  
Churchrock, Iyanbito, Mariano Lake, Pinedale, Smith Lake and Thoreau Chapters

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

DATE: October 3, 2019

SUBJECT: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING A LEASE BETWEEN THE NAVAJO NATION AND ST. BONAVENTURE SCHOOL AND MISSION FOR CONSTRUCTING, MAINTAINING, AND OPERATING A WATER WELL ON NAVAJO FEE LAND WITHIN THE BACA/PREWITT CHAPTER OF THE NAVAJO NATION

I have prepared the above-referenced proposed resolution pursuant to your request for waivers of valuation and compensation and waiver of bond, insurance, or alternative form of security to the right-of-way that was approved by resolution RDCAU-65-18.

Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge.

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

Please ensure that his particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0321-19\_\_\_\_\_

SPONSOR: Edmund Yazzie

**TITLE:** An Action Relating to Resources and Development Committee; approving a lease between the Navajo Nation and St. Bonaventure School and Mission for constructing, maintaining, and operating a water well on Navajo fee land within the Baca/Prewitt Chapter of the Navajo Nation

*Date posted:* October 23, 2019 at 11:59am

Digital comments may be e-mailed to [comments@navajo-nsn.gov](mailto:comments@navajo-nsn.gov)

Written comments may be mailed to:

Executive Director  
Office of Legislative Services  
P.O. Box 3390  
Window Rock, AZ 86515  
(928) 871-7590

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

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



THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0321-19

SPONSOR: Honorable Edmund Yazzie

TITLE: An Action Relating to Resources and Development Committee; approving a lease between the Navajo Nation and St. Bonaventure School and Mission for constructing, maintaining, and operating a water well on Navajo fee land within the Baca/Prewitt Chapter of the Navajo Nation

Posted: October 23, 2019 at 11:59 AM

5 DAY Comment Period Ended: October 28, 2019

Digital Comments received:

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

  
\_\_\_\_\_  
Legislative Tracking Secretary  
Office of Legislative Services

12/29/19 8:21 AM  
\_\_\_\_\_  
Date/Time