

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



December 28, 2020

Hon. Seth Damon
Office of the Speaker
Post Office Box 3390
Window Rock, AZ 86515

RE: CD-93-20, *An Action Relating to an Emergency for the Navajo Nation Council; Approving Supplemental Funding from the Unreserved, Undesignated Fund Balance in the Amount of One Million Nine Hundred Eighty-Five Thousand Two Hundred Ninety-Six Dollars and Eighty-Three Cents (\$1,985,296.83) for the 2021 Transmission Charge for the Navajo Nation's Use of Five Hundred (500) Megawatts of Electricity Pursuant to the Navajo Generating Station Extension Lease and Underlying Transmission Agreement with the Bureau of Reclamation; Waiving 12 N.N.C. §§ 820 (E), (F), and (J)*

Dear Speaker Damon,

We appreciate the Navajo Nation Council's approval of CD-93-20 with its foresight to cover the annual cost related to the 500MW use on the NGS transmission line system. With the Navajo Nation moving past the initial stages of the coronavirus pandemic, and to what we hope will be a post-pandemic government operation, divisions like the Division of Natural Resources will re-focus on getting their offices to normal operations.

The Division of Natural Resources will heed the Council's advice and directive; however, in response to the vilipend remarks regarding the Division's attention to this matter, let us not forget what the past 10 months has cost the Nation. Responding to the pandemic by protecting Navajo People and racing to spend down federal funds directed at the health and safety of our Nation have been our highest priority. During this time some matters had to become a second priority while still moving forward; in this instance the negotiation for marketing the Nation's 500MW use continues to move forward but at a slower pace due to a various negotiation matters that take time and protect the Nation's interest. We agree on finding new avenues for generating revenue and this 500MW opportunity is one such opportunity. The Division of Natural Resources will meet the timelines set and the Nation will have a new revenue source to support our energy development.

We sign CD-93-20 into law and we look forward to working together with the Council Committees to complete this important project.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Nez".

Jonathan Nez, President
THE NAVAJO NATION

A handwritten signature in black ink, appearing to read "Myron Lizer".

Myron Lizer, Vice President
THE NAVAJO NATION

RESOLUTION OF THE
 NAVAJO NATION COUNCIL
 24th NAVAJO NATION COUNCIL - SECOND YEAR, 2020

AN ACTION

RELATING TO AN EMERGENCY FOR THE NAVAJO NATION COUNCIL; APPROVING SUPPLEMENTAL FUNDING FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE IN THE AMOUNT OF ONE MILLION NINE HUNDRED EIGHTY-FIVE THOUSAND TWO HUNDRED NINETY-SIX DOLLARS AND EIGHTY-THREE CENTS (\$1,985,296.83) FOR THE 2021 TRANSMISSION CHARGE FOR THE NAVAJO NATION'S USE OF FIVE HUNDRED (500) MEGAWATTS OF ELECTRICITY PURSUANT TO THE NAVAJO GENERATING STATION EXTENSION LEASE AND UNDERLYING TRANSMISSION AGREEMENT WITH THE BUREAU OF RECLAMATION; WAIVING 12 N.N.C. §§ 820 (E), (F), AND (J)

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102.
- B. The Navajo Nation Code provides, [m]atters constituting an emergency shall be limited to the cessation of law enforcement services, and disaster relief services, fire protection services or other direct services required as an entitlement under Navajo Nation or Federal law, or which directly threaten the sovereignty of the Navajo Nation. Such an emergency matter must arise due to the pressing public need for such resolution(s) and must be a matter requiring final action by the Council." 2 N.N.C. § 164 (A)(16). A direct attribute of sovereignty and governing is responding quickly to requests from other sovereigns.
- C. The Navajo Nation Council has the authority to approve supplemental appropriations. 12 N.N.C. § 820(L). Pursuant to 12 N.N.C. § 820 (L), "[t]he Navajo Nation Council may adopt and approve supplemental appropriations to the Annual Comprehensive Budget during the fiscal year. Supplemental appropriations of General Funds within the current fiscal year are permitted, if and when additional sources of revenues above and beyond the initial or current revenue projections are projected and which are also in excess of the reserve amount set forth at 12 N.N.C. § 820 (J)."
- D. The Title 12 Finance Act Supplemental Appropriation requirements include:

1. All requests for annual operating funds and supplemental funds shall be submitted to the Office of Management and Budget for budget impact analysis. 12 N.N.C. § 820 (M).
2. When the Controller identifies additional sources of revenues above and beyond the initial or current revenue projections, supplemental appropriations may be approved by the Navajo Nation Council. 12 N.N.C. § 820 (L).
3. Supplemental Appropriations made from non-recurring revenues shall only be made for non-recurring operations or purposes, as set forth at § 820 (F). The Controller of the Navajo Nation shall be responsible for designation recurring and non-recurring revenues. 12 N.N.C. § 820 (L).
4. The Nation shall budget all recurring operating expenses, including capital maintenance, from recurring revenues. Long term debt shall not be used to finance recurring operating expenses. 12 N.N.C. § 820 (E).
5. The Navajo Nation Code provides, "[t]he Nation shall restrict non-recurring revenues to budget non-recurring expenditures. In addition, non-recurring revenues will be budgeted only after an examination by the Controller to determine whether or not the revenues are subsidizing an imbalance between recurring revenues and expenditures, and expenditures may be authorized only if a long-term (three-five year) forecast shows that the operating deficit will not continue. Otherwise, non-recurring revenues will be added to the Unreserved, Undesignated Fund balance. This provision may be amended or waived by a two-thirds vote of the full Navajo Nation Council." 12 N.N.C. § 820 (F).

SECTION TWO. FINDINGS

- A. This request for a supplemental appropriation is an emergency for the Navajo Nation since the payment to the Bureau of Reclamation is due no later than December 30, 2020. The consequence of not providing the payment on time will result in a notice of delinquency from the United States Bureau of Reclamation ("BOR"). If the Navajo Nation receives a delinquency notice from the United States, that may result in referral of the debt to the Department of Treasury for collection action, Department of Treasury offsets resulting in a reduction in federal payments made to the Navajo Nation, and litigation.

- B. As part of the Nation's compensation under the Navajo Generating Station ("NGS") Extension Lease, the Nation received the right to use (or market) 500 Megawatts ("500 MW") of electricity belonging to the BOR on the NGS transmission systems for thirty-five (35) years beginning on December 23, 2019. Extension Lease § 8 (A)(i).
- C. The NGS owners agreed to cover the Nation's operation and maintenance costs related to the 500 MW for ten (10) years beginning on December 23, 2019, but the Nation will be responsible for all other costs associated with the 500MW (herein referred to as "Transmission Costs" or "Capital Costs"). Extension Lease § 8 (A)(ii).
- D. On December 13, 2017, the Nation entered into a separate agreement with BOR and the Western Area Power Administration further detailing the Nation's rights and obligations related to the 500 MW (the "Transmission Agreement").
- E. Pursuant to the Transmission Agreement, the Nation will be billed by BOR for annual Capital Costs with payment due within thirty (30) calendar days after issuance of BOR's invoice or by December 31st, whichever is later. Transmission Agreement, Operating Procedure 3, Section 6.1.
- F. The Navajo Nation approved Council Resolution CD-53-19 on December 28, 2020 to fund the 2020 payment of the Transmission Charges in the amount of \$1,900,694.10.
- G. On December 01, 2020, the Nation received an invoice from BOR for the 2021 Transmission Charges (aka Capital Costs), in the amount of One Million Nine Hundred Eighty-Five Thousand Two Hundred Ninety-Six Dollars and Eighty-Three Cents (\$1,985,296.83); payment of the bill is due December 31, 2020. This invoice is attached as **Exhibit A**, however the Department of Justice has determined that last page of the invoice to be confidential information. The Department of Justice memorandum is included in **Exhibit A**.
- H. Navajo Nation budget forms, and Appendix K, the Navajo Nation Supplemental Funding Proposal Summary, are attached as **Exhibit B**.
- I. The Office of the Management and Budget has reviewed the budget forms and provided a budget impact analysis, as required by 12 N.N.C. § 820 (M), which is attached as **Exhibit C**.

- J. The Office of the Controller provided a memorandum as required by 12 N.N.C. § 820 (L), attached as **Exhibit D**, indicating the balance in the UUFb as of December 11, 2020 is \$16,746,624, and that the 500 MW cost is recurring. As a result of the Controller's determination that the cost is recurring, waiver language is included in this resolution.

SECTION THREE. WAIVING 12 N.N.C. §§ 820 (E), (F), AND (J) TO THE EXTENT THESE PROVISIONS PREVENT THE UNRESERVED, UNDESIGNATED FUND BALANCE TO BE USED TO FUND RECURRING EXPENDITURES OR GOVERNMENT OPERATIONS

The Navajo Nation Council hereby waives 12 N.N.C. §§ 820 (E), (F) and (J) in order to allow UUFb funds to be used for recurring expenditures and government operations.

SECTION FOUR. APPROVING THE SUPPLEMENTAL APPROPRIATION ADVANCE FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE IN THE AMOUNT OF ONE MILLION NINE HUNDRED EIGHTY-FIVE THOUSAND TWO HUNDRED NINETY-SIX DOLLARS AND EIGHTY-THREE CENTS (\$1,985,296.83) TO PAY THE 2021 CHARGES FOR THE 500 MW

- A. This supplemental appropriation advance of \$1,985,296.83 shall be from that amount of funds that exceeds the minimum fund balance of the Unreserved, Undesignated Fund Balance as determined by the Office of the Controller and to the Division of Natural Resource, Business Unit Number, New.
- B. The Navajo Nation hereby approves the supplemental appropriation advance from the Unreserved, Undesignated Fund Balance to the Division of Natural Resources, Business Unit Number, NEW, for \$1,985,296.83 to pay the 2021 Transmission Charges for the 500 MW, as set forth in **Exhibit A**.

SECTION FIVE. APPROVING AND ADOPTING THE 500 MW REVENUE & REPAYMENT PLAN AND FUND AND DESIGNATING REVENUES GENERATED BY THE 500 MW TRANSMISSION LINE INTO THE REVENUE & REPAYMENT FUND

The Navajo Nation hereby approves and adopts the 500 MW Revenue & Repayment Plan as follows:

- A. The Office of the Controller and Office of Management & Budget shall work with the Division of Natural Resources to establish a fund, hereby called the 500 MW Revenue & Repayment Fund ("500 MW Fund"), to receive and hold any and all revenue received by the Nation for the use and marketing of the 500 MW and to fund expenditures as delineated below.

- B. Any and all revenue received from the use and marketing of the 500 MW shall not be deposited in the General Fund and shall instead be designated to fund the 500 MW Fund and deposited therein.
- C. The Office of the Controller shall determine an investment program for the 500 MW Fund wherein interest earnings are reinvested in the Fund.
- D. The Division of Natural Resources shall work with the Office of the Controller and Office of Management & Budget to establish a Fund Management Plan governing the 500 MW Fund, for approval by the Budget and Finance Committee upon the recommendation of the Resources & Development Committee, that establishes, among other things, use of the 500 MW Fund in the following order and priority:
 - 1. Repayment to the Unreserved Undesignated Fund Balance for the supplemental appropriation advances in the amount of \$3,885,990.93, \$1,900,694.10 approved in Council Resolution CD-53-19 for the 2020 annual transmission, and \$1,985,296.83 for the 2021 annual transmission;
 - 2. Payment of the following year Transmission Charges; and
 - 3. Funding of energy-related projects.
- E. If the Division of Natural Resources has not presented a Fund Management Plan governing the 500 MW Fund to the Resources & Development Committee by March 1, 2021, the Department of Justice, with the assistance of the Office of Controller, shall develop the Fund Management Plan governing the 500 MW Fund and present such to the Resources & Development Committee for approval by the Budget and Finance.
- F. After the supplemental appropriation advance of \$1,985,296.83 to the Unreserved Undesignated Fund Balance has been repaid, expenditures of the 500 MW Fund shall be limited to payment of annual Transmission Charges and energy-related projects recommended by the Division of Natural Resources and Office of the President & Vice-President and approved by the Resources & Development Committee.

SECTION SIX. DIRECTIVES

- A. The Division of Natural Resources shall provide a report to the Resources and Development Committee on its progress in drafting the 500 MW Fund, Fund Management Plan by January 31,

2021. In its report, the Division of Natural Resources shall communicate to the Resources and Development Committee any challenges or material issues that prevent the preparation of the 500 MW Fund, Fund Management Plan.

- B. Unless otherwise directed by the Resources and Development Committee, the Division of Natural Resources shall submit the 500 MW Fund, Fund Management Plan for approval by the Resources and Development and Budget and Finance Committees by February 28, 2021.

SECTION SEVEN. EFFECTIVE DATE

This legislation shall become effective in accordance with 2 N.N.C. § 221 (B).

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 21 in Favor, and 00 Opposed, on this 23rd day of December 2020.



Honorable Jamie Henio, Speaker Pro Tem
24th Navajo Nation Council

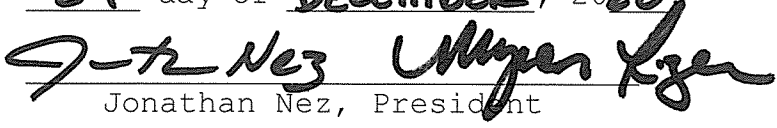
12/24/20
DATE

Motion: Honorable Thomas Walker, Jr.
Second: Honorable Paul Begay

Speaker Pro Tem Jamie Henio not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I, hereby, sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(10), on this 29 day of December, 2020.


Jonathan Nez, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this _____ day of _____, 20____ for the reason(s) expressed in the attached letter to the Speaker.

Jonathan Nez, President
Navajo Nation

3. I, hereby, exercise line-item veto pursuant to the budget line-item veto authority delegated to the President by vote of the Navajo People in 2009, on this _____ day of _____, 20____.

Jonathan Nez, President
Navajo Nation

EXHIBIT

tabbies

A

DI-1040

UNITED STATES DEPARTMENT OF THE INTERIOR
BILL FOR COLLECTIONMake Remittance Payable To: Bureau of Reclamation
Billing Contact: CINDY RICE Phone: 702-293-8031Bill #: 1803039387
Customer: 3000002232
Date: 12/01/2020
Due Date: 12/31/2020Remit Payment To: DOI - BOR - Region: Lower Colorado Basin
PO Box 6200-23
Portland, OR 97228-6200
Send Overnight Mail To:
US Bank-Attn: Government Lockbox-DOI
Lockbox # 6200-23
17650 NE Sandy Blvd.
Portland, OR 97230Payer: NAVAJO NATION
ATT: JONATHON NEZ PRESIDENT
PO BOX 7440
WINDOW ROCK, NAVAJO NATION
AZ 86515Checks must be made payable to Bureau of
Reclamation. Please detach the top portion or include
bill number on all remittances.

Amount of Payment: \$ _____

Date	Description	Qty	Unit Price		Amount
			Cost	Per	
12/01/2020	CONTRACT 18-CU-30-P1227 (ADMINISTRATION OF THE U.S. ENTITLEMENT IN THE NAVAJO TRANSMISSION PROJECT) OPERATING PROCEDURE NO. 3 PAYMENT FOR 2021 ANNUAL TRANSMISSION ESTIMATE FOR 2021 CAPITAL, LOSSES, & ADMINISTRATION EXPENSES (SEE ATTACHED) \$1,985,296.83 PLEASE REFER QUESTIONS TO: MATT STEMMER (MJSTEMMER@USBR.GOV OR 702-293-8223)	1	1,985,296.83	1	1,985,296.83

Amount Due this Bill: 1,985,296.83

Pursuant to the Debt Collection Act of 1982, (codified at 31 U.S.C. 3717) Interest will be assessed at the rate of 2.00 % on any unpaid balance if full payment is not made by the date of delinquency. A penalty charge of 6.00 % per annum will be charged on the unpaid portion of the debt, which remains unpaid 90 days after the date of delinquency. Additional administrative fee(s) of \$10.00(ea) will be assessed when a dunning notice(s) is issued. See notice of actions in the event of delinquency.

Accounting Classification:

WBS	Cost Center	Fund	Functional Area	SGL.CI
RX.12256761.5000000	RR03200000	XXXR4079V4	R12250000.000000	5900.Y00000

Customer: 3000002232
Bill #: 1803039387
TIN: *****2335

BUREAU OF RECLAMATION, LOWER COLORADO REGION PAYMENT OPTIONS

With any type of payment, it is important for the customer to reference the following on their payment:
(1) Contract or Agreement Number **and** (2) Cost Authority Number or Bill Number

PAYMENTS BY CHECK

Customers who would like to pay by check should mail the check to one of the following addresses:

If using USPS, checks should be mailed to:

DOI - BOR - Lower Colorado
P.O. Box 6200-23
Portland, OR 97228-6200

If using FedEx, checks should be mailed to:

U.S. Bank-Attn: Government Lockbox – DOI
Bureau of Reclamation Lower Colorado #6200-23
17650 NE Sandy Blvd.
Portland, OR 97230

CREDIT CARD PAYMENTS

If the customer would like to make a payment with a Visa, Mastercard, Discover, or American Express, call Cindy Rice at 702-293-8031 to complete this process over the phone or to request a credit card payment form, which may be printed and either faxed to 702-293-8017 or mailed to: Bureau of Reclamation, Attention: Cindy Rice, LC-7206, P.O. BOX 61470, Boulder City, Nevada 89006-1470

ELECTRONIC FUND TRANSFER (EFT) PAYMENTS

Customers who would like to make a payment via EFT should provide the following information to their bank:

ABA NUMBER # 021030004

ACCOUNT NUMBER # 14060905

The customer's bank may request the address for the Federal Reserve Bank. Please use the following:

Federal Reserve Bank
33 Liberty Street
Federal Reserve Post Office Station
New York, New York 10045

AUTOMATED CLEARING HOUSE (ACH) ELECTRONIC TRANSFER PAYMENTS

Customers who would like to make a payment to the Federal Reserve Bank (which represents the Department of the Treasury) using ACH should provide following information to their bank:

ABA NUMBER: 051036706

ACCOUNT NUMBER: 312018

The customer's bank may request the address for the Federal Reserve Bank. Please use the following:

Federal Reserve Bank
701 East Byrd Street
Richmond, Virginia 23219

PREAUTHORIZED PAYMENT PROGRAM

For customers who are on a monthly billing cycle, the Department of the Treasury and Reclamation strongly encourages the use of the Preauthorized Payment Program. This program allows customers to make payments on predetermined dates through an electronic transfer of funds from their bank account to Reclamation. The customer must complete and sign SF-5510, Authorization Agreement for Preauthorized Payments. To receive this form, or for additional information, please call Cindy Rice at 702-293-8031.

NOTIFICATION OF ACTIONS IN CASE OF NON-PAYMENT AND NOTICE OF RIGHTS

Federal debt management procedures require agencies to notify debtors when their debts become delinquent. These procedures also require agencies to provide notification to delinquent debtors of the collection actions that may be initiated by agencies to collect delinquent debts. Such notification is provided herein.

If you have submitted payment or otherwise settled this debt, please disregard this notification.

Payment of the referenced bill issued to you by the DOI - BOR - Region: Lower Colorado Basin has not been received, and is delinquent, In accordance with Government regulations, you are hereby notified:

- 1) that any or all of the following actions may be initiated against you in order to collect this debt,
- 2) of your rights pertaining to this debt.

. Referral of the debt to the Department of Treasury: The debt may be referred to Treasury in order to initiate additional collection action. Referral will also result in additional fees added to your debt.

. Offset to reduce Federal payment, including your tax refund: Certain payments from the U.S. government may be reduced by the amount of your debt. Federal payments subject to reduction include your Federal salary or retirement pay, IRS tax refunds, contractor/vendor payment, and certain Federal benefit payments. If you are entitled to receive payment that may legally be offset, we intend to reduce your payment to collect your debt.

. Refer your debt to a private collection agency: Your delinquent debt may be referred to a private collection agency for collection, resulting in increasing costs to you.

. Litigation: The debt may be referred to the DOI Office of the Solicitor or to the Department of Justice, which may result in legal action against you.

. Credit reporting: Your delinquent debt may be reported to national credit bureaus. We intend to disclose to a consumer reporting agency, within 60 days from the date of the attached letter, that you are responsible for this debt. A credit report showing poor payment history may seriously impair your ability to obtain credit.

Your delinquent business debt may be reported immediately to a commercial reporting agency without notice.

. Investigation: The U.S. Treasury may order an investigation of your assets to determine your ability to pay your debt.

. Report your debt to the Internal Revenue Service (IRS): If your debt is determined to be uncollectible, the U.S. Treasury may report your debt to the IRS as income to you (Form 1099). You may owe taxes on this income.

See the next page for notification of rights regarding this debt.

NOTICE OF RIGHTS

1. **Administrative Offset.** If you are entitled to receive a Federal payment that may be legally offset, we intend to have your debt collected through administrative offset. You have the following rights:

- . You may inspect and copy DOI - BOR - Region: Lower Colorado Basin records related to this debt.

- . You may request a waiver of DOI - BOR - Region: Lower Colorado Basin determination that you owe a debt or request a waiver of the debt if the law provides for a waiver.

- . You may be entitled to an oral hearing if required by statute or if the agency determines that a determination of the validity of your debt cannot be resolved by a review of the documentary evidence.

- . You may enter into a written agreement with the DOI - BOR - Region: Lower Colorado Basin (or with the Department of Treasury if the debt is referred to Treasury for collection) to pay the debt.

2. **Credit Bureau Reporting.** In case of non-payment, your debt may be reported to national credit bureaus. The information to be disclosed to consumer reporting agencies will include your name, address, taxpayer identification number, the amount, status and history of your debt, and the name of the agency or program under which the debt arose.

You have the following rights with respect to the debts to be reported to consumer reporting agencies:

- . You may conduct a complete examination of your debt.

- . You may dispute information in the DOI - BOR - Region: Lower Colorado Basin records about your debt.

- . You may request administrative review of the debt or appeal, unless all administrative appeals have been exhausted.

- . You may be entitled to an oral hearing if required by statute or if the DOI - BOR - Region: Lower Colorado Basin determines that the question of the validity of your debt cannot be resolved by review of the documentary evidence.

You may contact Zachary Waters regarding this bill at 702-293-8138 or via Email address:



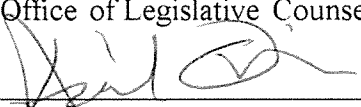
NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

DOREEN N. MCPAUL
Attorney General

KIMBERLY A. DUTCHER
Deputy Attorney General

MEMORANDUM

TO: Dana Bobroff, Chief Legislative Counsel
Office of Legislative Counsel

FROM: 
April Quinn, Principal Attorney
Natural Resources Unit

DATE: December 14, 2020

**SUBJECT: UUF B Legislation for \$1.9 Million to the Bureau of Reclamation (BOR) re:
Navajo Generating Station (NGS) Extension Lease & Transmission
Agreement – Confidential Exhibit**

In accordance with the terms of the NGS Extension Lease and a Transmission Agreement entered into with BOR, the Navajo Nation owes annual capital costs for the use of 500MW along the NGS transmission systems. It is DOJ's understanding that next year's annual capital costs are approximately \$1.9 million and that legislation is being developed regarding the same. It is also our understanding that BOR's invoice provided to the Navajo Nation will be attached to the legislation.

Pursuant to 2 N.N.C. § 164(A)(6), DOJ has the authority to deem any exhibit to a piece of legislation as confidential. In accordance with that authority, I deem the last page of the BOR invoice entitled "2021 Navajo Transmission Charge" as confidential and request that the exhibit be treated as such. Release of the information contained on this page of the invoice may negatively impact the Nation's ability to negotiate potential agreements or transactions related to the 500MW.



Appendix K

THE NAVAJO NATION SUPPLEMENTAL FUNDING PROPOSAL SUMMARY

PART I. Business Unit No.: <u>NEW</u>		Program Title: <u>DNR Administration Office</u>	
Division/Branch: <u>Natural Resources/Executive</u>	Amount Requested: <u>1,985,297.00</u>	Prepared By: <u>Melinda Arviso-Ciocco</u>	
Phone No.: <u>928-871-7160</u>	Email Address: <u>melindaciocco@navajo-nsn.gov</u>		

PART II. REASON FOR REQUEST AND STATEMENT OF NEED:


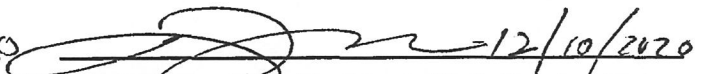
As part of the Navajo Generating Station Extension Lease agreement, the Navajo Nation is assigned 500MW from the Bureau of Reclamation that began December 23, 2019 for 35 years.

The first ten years the Navajo Nation is responsible for the capital cost for the use of the assigned 500MW. Beginning year 11 to year 35 the NN is responsible for the Capital Cost and the Operation & Maintenance expenses. Payment is due 30 days from the date of the invoice which is generally at the end of the calendar year.

PART III. LIST ALTERNATIVE FUNDING SOURCES BEING PURSUED AND CONTINGENCY PLAN IF REQUEST IS NOT FUNDED:

To seek Undesignated Unreserved Fund Balance (UUFB) to fund Capital Cost for 500 MW Transmission.

PART IV. AFFIRMATION IS PROVIDED THAT THE PROPOSAL INFORMATION IS COMPLETE AND ACCURATE AND THE APPROPRIATE BRANCH CHIEF RECOMMENDS APPROVAL.

 REVIEWED BY: Division Director's Signature / Date	 RECOMMEND APPROVAL: Branch Chief's Signature / Date
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THE NAVAJO NATION PROGRAM BUDGET SUMMARY

PART I. Business Unit No.: <u>NEW</u>		Program Title: _____		Administration Office _____		Division/Branch: <u>Natural Resources/Executive</u>	
Prepared By: <u>Melinda Arviso-Ciocco</u>		Phone No.: _____		(928)871-7160		Email Address: <u>melindaciocco@navajo-nsn.gov</u>	
PART II. FUNDING SOURCE(S)	Fiscal Year / Item	Amount	% of Total	PART III. BUDGET SUMMARY			
UUFB	10/1/20-9/30/21	1,985,297.00	100%	2001 Personnel Expenses	Fund Type Code	(A) NNC Approved Original Budget	(B) Proposed Budget
				3000 Travel Expenses			
				3500 Meeting Expenses			
				4000 Supplies			
				5000 Lease and Rental			
				5500 Communications and Utilities			
				6000 Repairs and Maintenance			
				6500 Contractual Services	1		1,985,297
				7000 Special Transactions			
				8000 Public Assistance			
				9000 Capital Outlay			
				9500 Matching Funds			
				9500 Indirect Cost			
TOTAL:		\$1,985,297.00	100%	TOTAL		\$0.00	1,985,297.00
				PART IV. POSITIONS AND VEHICLES			
				Total # of Positions Budgeted:		(D)	(E)
				Total # of Vehicles Budgeted:		0	0
						0	0

PART V. I HEREBY ACKNOWLEDGE THAT THE INFORMATION CONTAINED IN THIS BUDGET PACKAGE IS COMPLETE AND ACCURATE.

SUBMITTED BY: Melinda Arviso-Ciocco, Legislative Staff Assistant APPROVED BY: Seth Damon, Speaker, 24th NN Council

Program Manager's Printed Name: Melinda Arviso-Ciocco Division Director/Branch Chief's Printed Name: Seth Damon

Program Manager's Signature and Date: Melinda Arviso-Ciocco 12/10/20 Division Director/Branch Chief's Signature and Date: Seth Damon 12/10/2020

FY: 2021

THE NAVAJO NATION
PROGRAM PERFORMANCE CRITERIA

Page: 2 of: 3
BUDGET FORM 2

PART I. PROGRAM INFORMATION:

Business Unit No.: NEW

Program Name/Title:

Administration Office

PART II. PLAN OF OPERATION/RESOLUTION NUMBER/PURPOSE OF PROGRAM:

RDCO-79-16 A. To provide for the protection, restoration, conservation, management, and sustainable development of Navajo natural resources under the guidance and direction of the people of the Navajo Nation and the Navajo Nation Council and of the President and Vice President. B. To ensure the highest quality of natural resources are available for the enjoyment and use of present and future generations of the Navajo people. C. To comprehensively manage the multiple uses of Navajo natural resources and to preserve the Nation's cultural resources.

PART III. PROGRAM PERFORMANCE CRITERIA:

	1st QTR		2nd QTR		3rd QTR		4th QTR	
	Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual

1. Goal Statement:

Payment of the capital cost per the Extension lease agreement for the use of the assigned 500MW Transmission

Program Performance Measure:

Complete payment for the use of the transmission from USBOR

2. Goal Statement:

Program Performance Measure:

3. Goal Statement:

Program Performance Measure:

4. Goal Statement:

Program Performance Measure:

5. Goal Statement:

Program Performance Measure:

PART IV. I HEREBY ACKNOWLEDGE THAT THE ABOVE INFORMATION HAS BEEN THOROUGHLY REVIEWED.

Melinda Arviso-Ciocco, Legislative Staff Assistant

Program Manager's Printed Name

Seth Damon, Speaker, 24th NN Council

Division Director/Branch Chief's Printed Name

Program Manager's Signature and Date

Division Director/Branch Chief's Signature and Date

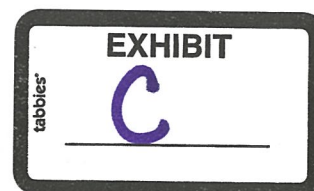
FY:2021

THE NAVAJO NATION
DETAILED BUDGET AND JUSTIFICATION

Page: 3 of: 3
BUDGET FORM 4

PART I. PROGRAM INFORMATION:			
Program Name/Title: _____		Administration Office _____	
		Business Unit No.: _____	
		NEW _____	
PART II. DETAILED BUDGET:			
(A)	(B)	(C)	(D)
Object Code (LOD 6)	Object Code Description and Justification (LOD 7)	Total by DETAILED Object Code (LOD 6)	Total by MAJOR Object Code (LOD 4)
6910	6500 CONTRACTUAL SERVICES Costs associated for the assignment of the 500 MW Transmission through the NGS Extension Lease Other Contractual Services		1,985,297
	6921 Other Services	1,985,297	
TOTAL		1,985,297	1,985,297

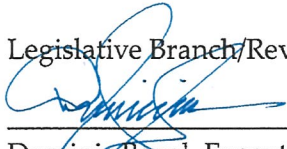
THE NAVAJO NATION



JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

MEMORANDUM

TO : Legislative Branch/Reviewers

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

DATE : December 11, 2020

SUBJECT : Review of Supplemental Funding Request from the Undesignated, Unreserved Fund Balance (UUFB) for \$1,985,297.00 for the 2021 Transmission Charge For Use of 500 MW of Electricity Per NGS Extension Lease.

The Office of Management and Budget (OMB) reviewed the proposed budget documents in accordance with 12 NNC Section 820 (B) and (M) for budget impact analysis and provides the following:

1. Per FY 2021 Budget Instructions Manual, Section XII, A., all requests for supplemental funding requests shall be submitted through the Navajo Nation official administrative review process prior to consideration by the appropriate legislative bodies. This document was not reviewed through the Executive Branch review process for proper review by the appropriate offices.
2. The Executive Branch, Division of Natural Resources, is responsible for this project. As such, DNR has also initiated the same request. However, the DNR request is for \$2,145,297 allowing for contingencies. DNR needs to be consulted to arrive at an agreed upon amount.
3. In FY 2020, per CD-53-19 the Navajo Nation Council appropriated \$1.9 million for Year 1 of the transmission costs. CD-53-19 also adopted the 500 MW Revenue and Repayment Plan ("500 MW Fund"). Further, a fund management plan is to be established to govern the use of the 500 MW Fund with priorities of; 1) repaying the UUFB, 2) provide for subsequent years transmission costs, and 3) fund energy-related projects. The Division of Natural Resources should provide the status of this task.
4. With this Year 2 request, will the transmission costs continue to be funded by the UUFB on an annual basis for the next several years since this is a long term obligation?
5. Review of the budget forms.
 - a. Correct Business Unit No. is 115041, which was assigned by Office of the Controller in FY 2020. The same business unit no. needs to be used on the budget forms for this year 2 funding request.
 - b. The Authorized signatories on Budget Form 1 and 2 is the Division of Natural Resources, Executive Branch. See FY2021 BIM, Section XII.B.1.a.
 - c. Budget Form 1, Part III, Column (A) should be the FY 2020 appropriation for \$1,900,694.



Page Two (02)

Memo to Legislative Branch/Reviewers

Re: UUFB Request for \$1.9 Mil for 2021 Transmission Costs

December 11, 2020

6. The Appropriations Act requires that non-recurring funds be used for non-recurring purposes (12 NNC Section 820 (E), (F), (J), and (L). The Controller needs to make this determination.
7. The latest OOC memorandum dated October 19, 2020 indicates \$37,189,207 is available in the UUFB as of 9/30/2020. Since then CO-81-20 appropriated \$442,583 to the Election Office. Second, budget resolution CN-88-20 set aside \$20 million of the FY 2020 UUFB for use in FY 2022 budget. As a result, the current UUFB is approximately \$16,746,624 and there is another request for \$17,420,482 for the Health Operations Command Center. There is not sufficient funds. The Controller's Office can provide the official information.

Contact D.Sam, Senior Budget Analyst at (928) 871-6029/6470 if there are any questions and/or concerns regarding this memorandum.

xc: Rudy Shebala, Div of Natural Resources
Paulson Chaco, Chief of Staff - OPVP






THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

Memorandum:

To: 2 NNC § 164 Reviewers
Delegates & 2 NNC '164 Reviewers
Navajo Nation Government

From: 
Pearline Kirk, Controller
Office of the Controller

Date: December 11, 2020

Subject: UUFB- \$1,985,297 Capital Cost and Transmission Charges to Bureau of Reclamation

The Office of the Controller has reviewed the above referenced document.

1. The balance of the UUFB is \$16,746,624 as of December 11, 2020. There was a provision in the FY 21 budget resolution CN-88-20 which approved \$20,000,000 to be set aside for the FY 2022 budget process. Unmet needs amounts for all programs FY2021 Comprehensive Budgets have yet to be compiled.
2. This request is for \$1,985,297 for Capital Cost and Transmission Charges to Bureau of Reclamation under the attendant Transmission Agreement. This bill is due by December 31, 2020. There are no appropriations to pay this cost in the FY 21 budget.
3. The Business unit indicated on the budget forms is NEW – Administration Office under Natural Resources. In FY 2020 there was a Navajo Nation Council resolution CD-53-19 UUFB approved for these transmission cost. The amount was \$1,900,694.14 and the business unit set up was 115041- DNR-NGS Transmission Costs.
4. This request would be considered **RECURRING** for operational expenses, unmet needs. This will need to be funded in future years.

If you should have any questions you can contact me at tribal extension X6308.

NAVAJO NATION

597

12/23/2020

Navajo Nation Council Special Session

10:56:27 PM

Amd# to Amd#

Legislation 0312-20:W/Amend #1

PASSED

MOT Walker, T

Approving Supplemental Funding

SEC Begay, P

from the Unreserved, Undesignated
Fund Balance in the amount...

Yeas : 21

Nays : 0

Excused : 0

Not Voting : 2

Yea : 21

Begay, E

Damon

Slater, C

Tso, E

Begay, K

Daniels

Stewart, W

Walker, T

Begay, P

Halona, P

Tso

Wauneka, E

Brown

James, V

Tso, C

Yazzie

Charles-Newton

Nez, R

Tso, D

Yellowhair

Crotty

Nay : 0

Excused : 0

Not Voting : 2

Smith

Freeland, M

Presiding Speaker: Henio, J