

LEGISLATIVE SUMMARY SHEET

Tracking No. 0422-15

DATE: December 30, 2015

TITLE OF RESOLUTION: PROPOSED NAVAJO NATION COUNCIL RESOLUTION;
AN ACTION RELATING TO AN EMERGENCY; APPROVING SUPPLEMENTAL
FUNDING FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE IN THE
AMOUNT OF \$4,999,999.00 FOR A GRANT TO THE NAVAJO NATION OIL AND GAS
COMPANY

PURPOSE: This resolution, if approved, will approve supplemental funding from the
unreserved, undesignated fund balance (UUFB) in the amount of \$4,999,999.00 for a grant to the
Navajo Nation Oil and Gas Company

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

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

23rd NAVAJO NATION COUNCIL—First Year, 2015

INTRODUCED BY

Primary Sponsor

TRACKING NO. 0422-15

AN ACTION

RELATING TO AN EMERGENCY; APPROVING SUPPLEMENTAL FUNDING
FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE IN THE
AMOUNT OF \$4,999,999.00 FOR A GRANT TO THE NAVAJO NATION OIL AND
GAS COMPANY

BE IT ENACTED:

Section One. Findings, Declaration and Purposes.

- A. The Navajo Nation Council is the governing body of the Navajo Nation, pursuant to 2 N.N.C. § 102 (A).
- B. Pursuant to 2 N.N.C. §164 (A)(16) “[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.”
- C. Pursuant to 12 N.N.C. § 820(M), all requests for annual operating funds and supplemental funds shall be submitted to the Office of Management and Budget (“OMB”) for budget impact analysis. Due to the pressing nature of this legislation, a memorandum from the Office of Management and Budget was not obtained;

1 however, the Director from the Office of Management and Budget is available to
2 answer questions regarding this proposed appropriation.

3 D. Pursuant to 12 N.N.C. § 820(L), the Navajo Nation Council may adopt and approve
4 supplemental appropriations to the Annual Comprehensive Budget during the fiscal
5 year. Supplemental appropriations of General Funds within the current fiscal year are
6 permitted, (1) if and when additional sources of revenues above and beyond the initial
7 or current revenue projections are projected and which are also in excess of the
8 reserve amount set for in § 820(J) or (2) when the Unreserved, Undesignated Fund
9 balance (UUFB) is in excess of the reserve amount set forth at § 820(J); a
10 memorandum from the Office of the Controller dated October 12, 2015 identifying
11 the UUFB is attached as Exhibit B.

12 E. The Navajo Nation Oil and Gas Company (“NNOGC” or “Company”) is a wholly
13 owned economic arm and instrumentality of the Navajo Nation, formed under Section
14 17 of the Indian Reorganization Act, as amended, pursuant to a Federal Charter of
15 Incorporation approved by the Nation and the United States Department of the
16 Interior, and defined as “the incorporated tribe” under such Act.

17 F. The Company holds significant real property assets of the Navajo Nation in the
18 Navajo public trust worth approximately \$350 million, assets which it grew from an
19 original investment in the Company by the Navajo Nation in the amount of \$15
20 million from the NNOGC Oil and Gas Revenue Fund derived from fuel excise taxes.

21 G. In Fiscal Year 2014, the Company made total direct and indirect payments to the
22 Navajo Nation of \$51.1 million, including \$14,597,000 in royalties, \$3,460,000 in
23 lease bonuses, \$1,600,000 in lease rentals, \$628,000 for rights-of-way, \$1,553,000 in
24 taxes and \$29,232,000 in indirect payments (jobs, contract payments, scholarships,
25 etc.).

26 H. The Company is charged pursuant to its Federal Charter of Incorporation with
27 continuing to grow the Navajo Nation’s assets and returning the Nation’s investment
28 through dividends and distributions of profit to be devoted to essential governmental
29 functions.
30

- 1 I. In 2013, the Company's hedging program was discontinued, resulting in a \$60
2 million reduction in the Company's borrowing base, a repayment of \$42.75 million to
3 the Company's lenders, comprising nearly all of the Company's easily liquidable
4 assets, and requiring a reduction in force and severe cost control measures. Current
5 management has since reinstated the hedging program and the Company's Board of
6 Directors has approved a mandatory risk management policy requiring management
7 to implement hedging as a prudent risk management philosophy for the Company
8 now and in the future.
- 9 J. As a result of a further reduction of \$20 million in the Company's borrowing base by
10 Wells Fargo Bank and participating lenders (collectively, "Wells") on June 18, 2015,
11 due to a further drop in the price of oil, the loss of revenues from lower oil prices, and
12 the attendant reduction in the value of the Company's oil and gas properties, the
13 Company was required to pay its lenders \$12.5 million by November 30, 2015, which
14 was more than the Company's cash flow models projected could be met with its
15 current cash flow. Due in part to additional austerity measures (including additional
16 layoffs), NNOGC was able to make the required \$12.5 million payments timely.
17 However, on December 18, 2015, Wells sent NNOGC notice of yet another reduction
18 in the borrowing base of \$37.5 million, see Exhibit A, resulting in a Borrowing Base
19 Deficiency of \$37,500,000 which NNOGC has elected to pay in six (6) monthly
20 installments of \$6.25 million each beginning December 31, 2015 in order to avoid
21 default. Because of the low crude oil prices and the prior failure to hedge, NNOGC
22 lacks the cash to make the first payment, but can devote \$1,250,001 to the first
23 payment.
- 24 K. The Navajo Nation has determined that an appropriation in the form of a grant to the
25 Company in the amount of \$4,999,999 million is in the critical best interests of the
26 Company and its sole owner the Navajo Nation for the purpose of making the first
27 payment due to Wells on December 31, 2015. Budget forms for the \$4,999,999.00
28 are attached as Exhibit A.
- 29 L. There is available in the Undesignated, Unreserved Funds Balance ("UUFB")
30 sufficient funds to provide NNOGC with an appropriation of \$4,999,999 million to

1 avoid potential default and foreclosure of NNOGC's valuable oil and gas and pipeline
2 properties, or the sale of such assets at unreasonably low prices, and NNOGC
3 management states that it can pay the remainder of \$1,250,001 from its cash reserves.

- 4 M. The Navajo Nation Council hereby finds and declares that an emergency exists
5 requiring an immediate appropriation of \$4,999,999 from the Undesignated,
6 Unreserved Fund Balance to NNOGC for the purpose set forth hereinabove.

7
8 **Section Two. Approvals, Authorizations, and Directives.**

- 9
10 A. The Navajo Nation Council hereby approves an appropriation in the form of grant to
11 the Navajo Nation Oil and Gas Company in the amount of four million, nine hundred
12 ninety-nine thousand, nine hundred and ninety-nine dollars (\$4,999,999.00), budget
13 forms are attached as Exhibit A. Such appropriation to be funded from the
14 Undesignated, Unreserved Fund Balance, and used solely to permit the Company to
15 make its first monthly payment of such amount as required under NNOGC's credit
16 agreement.
- 17 B. The Navajo Nation Council hereby directs the Navajo Nation Investment Committee,
18 the Navajo Nation Office of the Controller and the Budget and Finance Committee of
19 the Navajo Nation Council and any other official or entity to immediately take all
20 actions necessary to effectuate the intent of this Resolution.
- 21 C. This supplemental appropriation of four million, nine hundred ninety-nine thousand,
22 nine hundred and ninety-nine dollars (\$4,999,999.00) shall be to a new Business Unit
23 Number and from that amount of funds that exceeds the minimum fund balance of the
24 UUFB.

25
26 **Section Three. Savings, Severability, and Survivability.**

27
28 Should any provision herein be determined invalid by the Navajo courts or other
29 court of competent jurisdiction, all other provisions of this legislation not determined
30 to be invalid shall remain in full force and effect.

PART I. Business Unit No.: <u>NEW</u>		Program Title: <u>NAVAJO NATION OIL & GAS COMPANY</u>		Division/Branch: _____	
Prepared By: <u>Hon. Seth Damon, NNC Delegate</u>		Phone No.: <u>(928)871-6380</u>		Email Address: <u>sdamon@navajo-nsn.gov</u>	

PART II. FUNDING SOURCE(S)	Fiscal Year Term	Amount	% of Total	PART III. BUDGET SUMMARY				
UUFB	10/1/15 - 09/30/16	\$ 4,999,999.00	100%		(A)	(B)	(C)	
					Fund Type Code	NNC Approved Original Budget	Proposed Budget	Difference (Column B - A)
				2001	Personnel Expenses			0
				3000	Travel Expenses			0
				3500	Meeting Expenses			0
				4000	Supplies			0
				5000	Lease and Rental			0
				5500	Communications and Utilities			0
				6000	Repairs and Maintenance			0
				6500	Contractual Services			0
				7000	Special Transactions			0
				8000	Public Assistance		\$4,999,999.00	\$ 4,999,999.00
				9000	Capital Outlay			0
				9500	Matching Funds			0
				9500	Indirect Cost			0
				TOTAL		\$0.00	\$ 4,999,999.00	\$ 4,999,999.00

				PART IV. POSITIONS AND VEHICLES				
						(D)	(E)	
				Total # of Positions Budgeted:				
				Total # of Permanently Assigned Vehicles:				
TOTAL:		\$ 4,999,999.00	100%					

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

Hon. Seth Damon, NNC Delegate

Hon. LoRenzo C. Bates, Speaker/NNC

SUBMITTED BY: Program Manager's Printed Name and Signature / Date

APPROVED BY: Division Director/Branch Chief's Printed Name and Signature / Date

THE NAVAJO NATION PROGRAM PERFORMANCE CRITERIA

PART I. PROGRAM INFORMATION:Business Unit No.: NEWProgram Name/Title: NAVAJO NATION OIL & GAS COMPANY**PART II. PLAN OF OPERATION REFERENCE/LEGISLATED PROGRAM PURPOSE:**

To Keep Navajo Nation Oil & Gas Company operation until the New Board Comes on in January 2016. The New Board working with the Sharholders then can move the company forward.

PART III. PROGRAM PERFORMANCE CRITERIA:

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

1. Program Performance Area:

To keep Navajo Nation Oil & Gas Company from going into loan default

Goal Statement:

Pay of the December Payment of their loan. Which is due on Dec 31, 2015

1							
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2. Program Performance Area:

Make room for the Navajo Nation Oil & Gas to come up with a real plan in the month of Jan 2016

Goal Statement:

Establish New Board and work with the Shareholders and Executive Branch to come up with a real plan

1							
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3. Program Performance Area:

Goal Statement:

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4. Program Performance Area:

Goal Statement:

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5. Program Performance Area:

Goal Statement:

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

Hon. Seth Damon, NNC, Delegate

Program Manager's Printed Name and Signature/Date

Hon. LoRenzo C. Bates, Speaker/NNC

Division Director/Branch Chief's Printed Name and Signature / Date

THE NAVAJO NATION
DETAILED LINE ITEM BUDGET AND JUSTIFICATION

PART I. PROGRAM INFORMATION:			
Program Name/Title: <u>NAVAJO NATION OIL & GAS COMPANY</u>		Business Unit No.: <u>NEW</u>	
PART II. DETAILED BUDGET:			
(A)	(B)	(C)	(D)
Object Code (LOD 6)	Object Code Description and Justification	Total by DETAILED Object Code	Total by MAJOR Object Code
8780	8000 ASSISTANCE To assist the Navajo Nation Oil & Gas Company from going into loan default, by repayment of loan. ENTITIES 8785: Entities Grants		\$4,999,999.00
		\$4,999,999.00	
TOTAL		\$4,999,999.00	\$4,999,999.00

NAVAJO NATION OIL & GAS COMPANY

A Federal Corporation

Post Office Box 4439 • Window Rock, Arizona • 86515

Telephone (928) 871-4880 • FAX (928) 871-4882



December 30, 2015

Honorable Lorenzo Bates, Speaker
Navajo Nation Council
P.O. Box 3390
Window Rock, AZ 86515

Honorable Seth Damon, Chairman
Budget and Finance Committee
Navajo Nation Council
P.O. Box 3390
Window Rock, AZ 86515

Dear Sirs:

I hereby commit the Navajo Nation Oil and Gas Company (NNOGC) to pay \$1,250,001.00, in a partial payment of the NNOGC's borrowing base deficiency payment of \$6,250,000.00 that is due to Wells Fargo Bank on December 31, 2015, provided that the Navajo Nation Council makes a matching appropriation of \$4,999,999.00, and the Office of President and Vice President approves legislation, towards such payment. Together the appropriation and NNOGC's commitment will provide sufficient funds to make the \$6,250,000.00 payment.

NNOGC management and employees appreciate the Navajo Nation Council's willingness to consider passage of this legislation, and thank you for your leadership in leading this effort.

NAVAJO NATION OIL AND GAS COMPANY,

A handwritten signature in cursive script, appearing to read "Louis Denetsosie".

Louis Denetsosie
CEO and President

NAVAJO NATION OIL & GAS COMPANY

A Federal Corporation

Post Office Box 4439 • Window Rock, Arizona • 86515

Telephone (928) 871-4880 • FAX (928) 871-4882



Dear Navajo Nation Leaders and Members:

We write to inform you about a matter of great importance affecting NNOGC, the most valuable business entity owned by and for the people of the Navajo Nation. It is our duty to inform you of this decision, why it was made and how it could impact you.

The Board of Directors of the Navajo Nation Oil and Gas Company (NNOGC) has authorized the sale of vital NNOGC assets that for decades have provided a source of financial security and prosperity to the Navajo Nation. The result of these actions, if taken, would be felt throughout our nation, impacting many of you in both direct and indirect ways.

For the past six months, NNOGC has met with its bankers, leaders of the Navajo Nation and committees of the Navajo Nation Council – including the President, Vice President and Speaker, as well as the Resource & Development Committee and Investment Committee – to tell them about the company's dire financial situation caused by falling oil prices and ways to address it without selling off vital assets. Unfortunately, the Navajo Nation has not responded to NNOGC's requests for assistance.

Oil prices declined steeply over the past year, and the banks have reacted by requesting additional payments from NNOGC. The financial assistance requested of the Nation is an investment that will protect the company's ability to create value for the benefit of the Nation.

As early as September 2015, NNOGC provided drafts of legislation to the Navajo Council requesting financial assistance and proposing plans to place the company in a strong financial position for the benefit of the Navajo Nation. However, no action has been taken on that legislation. The company now faces immediate debt payments and must act or risk closing its doors.

NNOGC has been able to pay off over \$55 million of outstanding debt to banks over the past two years by practicing sound financial management. The company has reduced costs by delaying projects, eliminating expenditures and taking the difficult step of laying off employees, among other actions. Because oil prices continue to hit record lows, banks yet again decreased NNOGC's line of credit and have demanded additional, immediate payments that the company cannot pay. Although NNOGC is able to meet its other financial commitments, its lenders Banks are requiring a total of \$37.5 million in payments over the next six months, with \$6.25 million due on December 31, 2015.

As Board members, we have a fiduciary responsibility to do what we can to protect NNOGC on behalf of the Navajo Nation. Because the company faces immediate debt payments it is unable to pay, it is left with no other choice than to sell assets. These assets include the Running Horse Pipeline and production in the Greater Aneth Field, two of the company's most valuable assets and the source of a significant portion of the company's revenues.

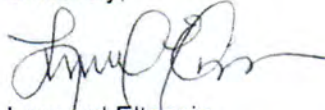
What this would mean for the Navajo Nation:

- NNOGC – once the Nation's greatest financial asset – will become a much less valuable asset, reducing the financial security of future generations.
- NNOGC's revenues will decrease by more than half, significantly reducing both direct and indirect payments to the Navajo Nation. Those payments totaled \$130 million over the past three years.
- NNOGC will be unable to provide benefits in the form of scholarships. Since 2003, NNOGC contributed \$1.5 million in scholarships, including \$270,000 in 2015 alone.
- Prospects for NNOGC to take advantage of current market opportunities and grow for the good of the Navajo Nation will be lost.

We had hoped to avoid this unfortunate situation but we are left with nowhere else to turn if NNOGC is to remain a viable company. As the owners of the company, you need to know this.

NNOGC was created by and for the benefit of the Navajo Nation people. This is your company. If you have any questions about this matter or would like to share your thoughts, please feel free to reach us at (928) 871-4880.

Sincerely,



Lennard Eltsosie
Chairman of the Board
NNOGC



Louis Denetsosie
CEO and President
NNOGC

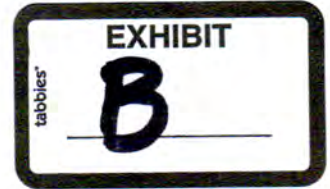
On behalf of the Board of Directors, Navajo Nation Oil and Gas Company (NNOGC)





THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE-PRESIDENT



MEMORANDUM:

TO : 2 NNC § 164 Reviewers

Delegates & 2 NNC '164 Reviewers
Navajo Nation Government

FROM :

Robert Willie
Robert Willie, Acting Controller
Office of the Controller

DATE :

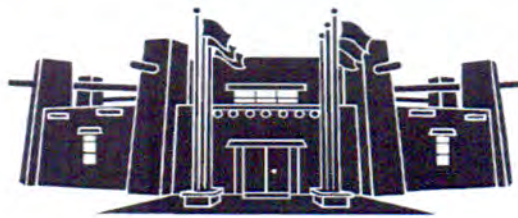
October 12, 2015

SUBJECT :

164 4881-Supplemental Request for stipend payments for District Grazing
Officials, Eastern Navajo Land Board, and Farm Boards

1. The Balance in the UUFB as of September 30, 2015 is \$4,306,679.
2. The program is requesting supplemental funding in the amount of \$1,786,240 to fund stipend payments for District Grazing Officials, Eastern Navajo Land Board, and Farm Boards.

If you should have any questions you can contact me at tribal extension X6125



MEMORANDUM

TO: Honorable Seth Damon
23rd NNC Delegate

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

DATE: December 30, 2015

SUBJECT: PROPOSED NAVAJO NATION COUNCIL RESOLUTION; AN ACTION RELATING TO AN EMERGENCY; APPROVING SUPPLEMENTAL FUNDING FROM THE UNRESERVED, UNDESIGNATED FUND BALANCE IN THE AMOUNT OF \$4,999,999.00 FOR A GRANT TO THE NAVAJO NATION OIL AND GAS COMPANY

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge. Please ensure that this particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§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).

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution.

23rd NAVAJO NATION COUNCIL

Second Year 2016

The **NAVAJO NATION COUNCIL** to whom has been assigned:

NAVAJO LEGISLATIVE BILL #0422-15

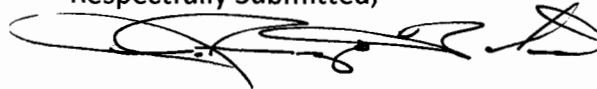
An Action Relating to an EMERGENCY; Approving Supplemental Funding from the Unreserved, Undesignated Fund Balance in the amount of \$4,999,999.00 for a Grant to the Navajo Nation Oil and Gas Company

Sponsored by: Honorable Seth Damon

*Co-Sponsored by: Honorable Davis Filfred
Honorable Benjamin Bennett*

Has had it under consideration and reports the same was **TABLED FOR NO LATER THAN TWO WEEKS**

Respectfully Submitted,



Honorable LoRenzo C. Bates, Speaker
NAVAJO NATION COUNCIL

27 JANUARY 2016

MOTION TO TABLE:

Motion: *Honorable Raymond Smith, Jr.*

Second: *Honorable Nathaniel Brown*

VOTE: 08 in Favor, 07 Opposed (Speaker Bates not voting)

MAIN MOTION

Motion: *Honorable Leonard Tsosie*

Second: *Honorable Lee Jack, Sr.*

Vote :

NAVAJO NATION

RCS# 376

Winter Session

1/27/2016

05:42:47 PM

Amd# to Amd#

Table Legislation No. 0422-15

PASSED

MOT Smith

no later than 2 weeks

SEC Brown

Yea : 8

Nay : 7

Not Voting : 9

Yea : 8

Begay, M
Begay, NM

Brown
Chee

Damon
Phelps

Slim
Smith

Nay : 7

Begay, K
BeGaye, N

Daniels
Jack

Tso
Tsosie

Yazzie

Not Voting : 9

Bates
Bennett
Crotty

Filfred
Hale

Perry
Pete

Shepherd
Witherspoon