

RESOLUTION OF THE
NAABIK'ÍYÁTI' COMMITTEE OF THE
NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL—First Year, 2015

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT AND NAABIK'ÍYÁTI'; URGING THE BUREAU OF INDIAN AFFAIRS, NAVAJO AGENCY, TO WAIVE THE FEDERAL ENVIRONMENTAL PROTECTION LAW REQUIREMENTS FOR PLACEMENT OF GRAVEL MATERIAL ON EXISTING DIRT ROADS ON THE NAVAJO NATION

WHEREAS:

- A. The Resources and Development Committee (RDC) is a Navajo Nation Council standing committee and has oversight authority to oversee regulation of activities on Navajo Nation lands including the enforcement and administration of applicable Navajo Nation and federal laws, regulations, guidelines and administrative procedures. 2 N.N.C. § 500(C)(2).
- B. The Navajo Nation established the Naabik'íyáti' Committee as a Navajo Nation Council standing committee and empowered the Naabik'íyáti' Committee to coordinate all requests for information, appearances and testimony relating to federal legislation impacting the Navajo Nation. 2 N.N.C. §§ 164(A)(9), 701(A)(6).
- C. The Western Navajo Agency Council resolution, WNA No. 171-194 No. 10, attached as Exhibit A, states the need to waive federal environmental protection laws that the Western Navajo Agency Council identifies as hindering the graveling of existing dirt roads on the Navajo Nation.
- D. The Western Navajo Agency Council resolution states that there are not sufficient funds to complete federally mandated archaeological studies and biological clearances before gravel can be applied to existing dirt roads.
- E. The National Environmental Policy Act (NEPA) and other laws that apply include the National Historic Preservation Act (NHPA), the Resources Conservation and Recovery Act (RCRA) and the Clean Water Act (CWA) as required by the Bureau of

Indian Affairs' (BIA) internal guidelines set forth under Indian Affairs Manual (IAM) Part 59, Environmental and Cultural Resources Management.

NOW, THEREFORE, BE IT RESOLVED:

The Navajo Nation urges the Bureau of Indian Affairs to waive the federal environmental protection laws regarding archaeological studies and biological clearances when an existing dirt road located on Navajo Nation Trust Land is to be graveled. Specific federal laws that the Navajo Nation urges the Bureau of Indian Affairs to waive include the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA), the Federal Endangered Species Act (ESA), the Resources Conservation and Recovery Act (RCRA) and the Clean Water Act (CWA) as required by the Bureau of Indian Affairs' (BIA) internal guidelines set forth under Indian Affairs Manual (IAM) Part 59, Environmental and Cultural Resources Management.

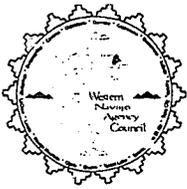
CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Naabik'íyáti' Committee of the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 15 in favor and 0 opposed, this 14th day of October 2015.



LoRenzo Bates, Chairperson
Naabik'íyáti' Committee

Motion: Honorable Dwight Witherspoon
Second: Honorable Davis Filfred

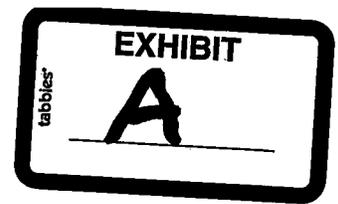


WESTERN NAVAJO AGENCY COUNCIL
STANLEY YAZZIE ISABELLE WALKER LOUISE KERLEY

President

Vice-President

Secretary



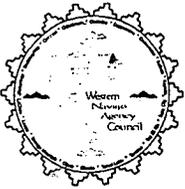
RESOLUTION OF THE WESTERN NAVAJO AGENCY COUNCIL

REQUESTING THE BUREAU OF INDIAN AFFAIRS, NAVAJO NATION AGENCY, TO WAIVE THE NEPA REQUIREMENTS FOR PLACEMENT OF GRAVEL MATERIAL ON DIRT ROADS

WHEREAS:

WNA#: 171-194#10

1. The roads in Indian Country, like the rest of the Navajo Nation are mostly dirt roads that quickly become impassable with rain or snow; and,
2. The current surface transportation authorization, Moving Ahead for Progress in the 21st Century (MAP 21), is deficient in funding tribal road maintenance and eliminated the School Bus Route maintenance funding, The inadequacy of funds have dramatically limited the various road agencies capacity to procure new gravel for dirt roads.
3. The road surface material is mostly, if not entirely native soil, which is not suitable as a road material. The native soil functions in an inferior manner to gravel material. The native soil consists of clay and sand and does not hold the road profile after a blading operation like a gravel road. These characteristics of the native soil require more frequent maintenance, however, due to lack of funding the dirt roads go unmaintained for extended periods; and,
4. The desired road profile for a dirt road is a crown shaped configuration to allow water to fail-off the road. Budget restrictions and requirement to undertake archaeological and biological clearances have limited the gravel placement on dirt roads. As a result, the dirt roads of the Navajo Nation have been weathered to the point that the road surface profile is an inverted crown, and in periods of wet weather resemble canals instead of passable roads; and,
5. Cultural resources within the template of unimproved Navajo roads can be protected by applying gravel and building a crown to the tribal dirt roads. The allocation of surface transportation funding to obtain NEPA clearance results in the unintended consequence of destroying the cultural resources it is supposed to protect due to the fact that the only maintenance activity its regulations permit is blading; and,
6. The NEPA requirements add unneeded cost to road maintenance and yet the historical funding has been significantly inadequate. The waiving of the NEPA requirements would allow BIA and its partners, Navajo DOT and Navajo County, to utilize dollars where they are needed - road improvements.



WESTERN NAVAJO AGENCY COUNCIL
STANLEY YAZZIE ISABELLE WALKER LOUISE KERLEY

President

Vice-President

Secretary



NOW, THEREFORE, BE IT RESOLVED:

1. The Western Agency Council hereby respectfully requests that the BIA waive all NEPA requirements for the placement of gravel on dirt roads that are in the BIA road inventory and that have been used for 25 years or more.
2. Insert a reference about NEPA's unintended consequence of destroying the cultural resources it is supposed to protect due to the fact that the only maintenance activity its regulations permit is blading. The only way cultural resources within the template of unimproved Navajo roads can be protected is by building a crown and applying gravel to those roads. That is an important point should be explicitly stated.

CERTIFICATION

We hereby certify that the forgoing resolution was considered at a duly called meeting of the Western Agency Navajo Council at Tsidi To, Arizona, where a quorum was present, and that same was passed by a vote of 24 in favor, 4 opposed, 5 abstained, this **20th** day of **June, 2015**.

Motion by: Martha Tate

Second by: Stanley Clitso

[Signature]
President

[Signature]
Vice President

[Signature]
Secretary/Treasurer

Birdsprings ~ Bodaway/Gap ~ Cameron ~ Chilchinbeto ~ Coalmine ~ Coppermine ~ Dennehotso ~
Kaibeto ~ Kayenta ~ LeChee ~ Leupp ~ Navajo Mountain ~ Oljato ~ Shonto ~ Tolani Lake ~
Tónaneesdizi ~ Tonalea ~ Ts'ah Bii' Kin