

LEGISLATIVE SUMMARY SHEET

Tracking No. 0380-19

DATE: December 23, 2019

TITLE OF RESOLUTION: PROPOSED NAVAJO NATION COUNCIL RESOLUTION;
AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE AND
NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL; APPROVING
THE URANIUM CLEAN-UP POSITION STATEMENT

PURPOSE: The purpose of the resolution is to approve the Navajo Nation Uranium Clean-up
Position Statement.

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: 2888
Website Posting Time/Date: _____
Posting End Date: 12/29/19
Eligible for Action: 12/30/19

Resources & Development Committee
Thence
Naabik'iyáti Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
24th NAVAJO NATION COUNCIL—First Year, 2019

INTRODUCED BY

Primary Sponsor

Kee Allen Begay JR

TRACKING NO. 0380-19

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE AND
NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL;
APPROVING THE URANIUM CLEAN-UP POSITION STATEMENT

Section One. Authority

- A. The Navajo Nation established the Resources and Development Committee ("RDC") as a Navajo Nation Council standing committee and as such empowered RDC with oversight of land, environmental protection and cultural resources and authority to review and recommend resolutions to the Naabik'iyáti Committee and Navajo Nation Council to accomplish or impact the Committee purpose. *See* 2 N.N.C. §§ 164 (A)(9), 500 (C), 501 (B)(4)(a) (2015).
- B. The Navajo Nation established the Naabik'iyáti' Committee as a Navajo Nation Council standing committee and as such empowered Naabik'iyáti' Committee to review and continually monitor the programs and activities of federal and state departments and to assist development of such programs designed to serve the Navajo People and the Navajo Nation through intergovernmental relationships between the Navajo Nation and such departments. *See* 2 N.N.C. §§ 164 (A)(9), 700 (A), 701 (A)(7).
- C. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102 (A).

1 **Section Two. Findings**

- 2 A. The Uranium Clean-up Position Statement, attached as **Exhibit A**, states “Uranium
3 mining on the Navajo Nation has devastated both our lands and our way of life as
4 Diné people. The impact has not only been physical, but also spiritual and emotional
5 as well.”
- 6 B. The Uranium Clean-up Position Statement further states: “[T]he issue of uranium
7 contamination on the Navajo Nation is important and time-sensitive for Navajo
8 people. How can we live in harmony and balance when our people are chronically
9 being exposed to radiation and our Mother Earth has been exploited and scarred with
10 abandoned uranium mines?”
- 11 C. The Navajo Nation Uranium Clean-up Position Statement is organized in the
12 following manner:
- 13 1. The Legacy of Uranium Mining on the Navajo Nation;
14 2. The Navajo Nation’s Position on Abandoned Uranium Mine Clean-up; and
15 3. Former Mill Sites on the Navajo Nation.
- 16 D. “[T]he Uranium legacy on the Navajo Nation is not only costly, but the remediation
17 efforts are also fragmented across numerous federal agencies. . . . This fragmentation
18 results in constant state of evaluations and re-evaluations but never promulgates steps
19 toward expedited remediation.”
- 20 E. A Navajo Nation Uranium Clean-up Position Statement is needed to assist with an
21 organized approach to the remediation work.
- 22

23 **Section Three. Approval**

24 The Navajo Nation hereby approves the Navajo Nation Uranium Clean-Up Position
25 Statement attached as **Exhibit A**.

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Uranium Clean-up Position Statement

Uranium mining on the Navajo Nation has devastated both our lands and our way of life as *Diné* people. The impact has not only been physical, but also spiritual and emotional as well.

From the time of our emergence as Navajo people into our present world, our *Diyin Dine'é* have entrusted us *Diné* people with protecting and preserving our environment and land. Consequently, our Navajo creation story, as well as all of our oral traditions are intrinsically connected to our environment and land. Therefore, each Navajo individual has a sacred duty to maintain *Hózhó*, which in the English language can be translated to living in harmony and balance with our environment, land, and all living beings.

Additionally, our elders have taught us that it is only by living this way that we as Navajo people can experience wholeness, self-respect, and maintain an overall positive state of well-being. In contrast, when we don't do this, we experience *Hóchxó*, which in the English language can be interpreted as all that is ugly, unhappy and disharmonious in our world, including all of the physical impacts that we are now experiencing across our Navajo Nation. From health issues like cancer and other diseases, to social issues like depression, suicide, domestic violence, and alcohol and drug abuse, to environmental issues like drought and now radiation exposure.

While the outside world might consider these beliefs to be folly, implausible and not grounded in science, logic, or reason, we Navajo are a spiritual people, and as such we understand that our thoughts, actions, and traditional practices contain very real and inherent metaphysical power, which transfers into our daily lives, both for good and bad.

This is why the issue of uranium contamination on the Navajo Nation is such an important and time-sensitive issue for our Navajo people. How can we live in harmony and balance when our people are chronically being exposed to radiation and our Mother Earth has been exploited and scarred with abandoned uranium mines?

I. The Legacy of Uranium Mining on the Navajo Nation

The United States first opened up Navajo land for uranium mining in 1944 to support the U.S. Military's Manhattan Project. Following World War II, uranium mining on Navajo lands increased due to the Cold War, and the United States Atomic Energy Commission (AEC) became the sole purchaser of all uranium ore mined in the United States until 1970.¹ This subsequent mining boom led to the creation of hundreds of mines on the Navajo Nation and our Navajo people working in those mines. According to the U.S. EPA, approximately thirty million tons of uranium ore was extracted during mining operations within the Navajo Nation from 1944 to 1986.² However, we won't know the actual amount of uranium mine waste left behind until

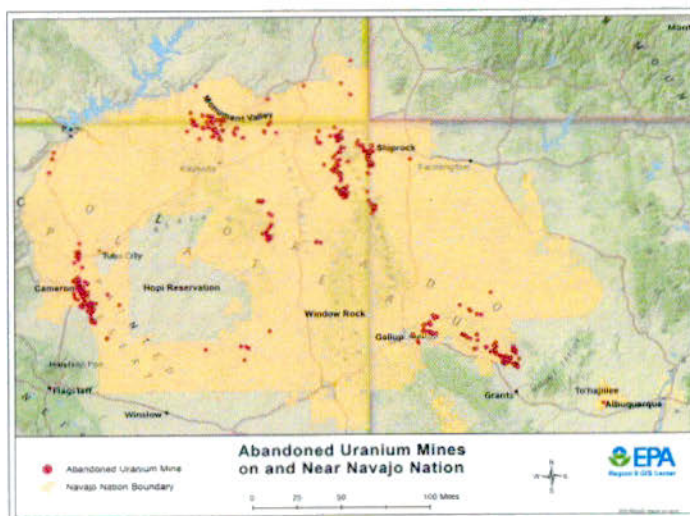
¹ Brugee, Doug, Timothy Benally, and Esther Yazzie-Lewis. *The Navajo People and Uranium Mining*, Albuquerque: University of New Mexico Press, 2006.

² Navajo Nation: Cleaning Up Abandoned Uranium Mines. (2019, April 12). Retrieved July 9, 2019, from <https://www.epa.gov/navajo-nation-uranium-cleanup>

remedial site evaluations are completed for all of the abandoned uranium mines on the Navajo Nation.

Once the Cold War ended and the federal government no longer needed uranium ore to produce nuclear weapons, all of these mines were abandoned without any reclamation, let alone remediation. According to U.S. EPA, there are approximately 524 abandoned uranium mine sites on the Navajo Nation, while the Navajo Nation estimates that there could be far more.

Unfortunately, only 219 of EPA's identified sites have available funds for clean-up and remediation efforts, leaving a total of 305 sites not being addressed, and that pose severe environmental and health hazards to surrounding areas and people.³ Additionally, while these 219 sites have funds available, which total approximately \$1.7 billion, it is not yet clear whether this amount is sufficient. Moreover, the Navajo Nation estimates that it will cost an additional \$3 to \$4 billion to address the remaining 305 sites, which does not include the cost of long-term monitoring and maintenance of areas where hazardous waste may be contained in a disposal cell.



There are also four Uranium Mill Tailings Remediation Control Act (UMTRCA) sites located within the Navajo Nation. These sites exist as a result of the uranium mill processing sites that were decommissioned by the United States. Here, the radioactive mill tailings were merely capped with clay and rock and left at the former mill sites. As a result, the groundwater underneath these sites has been severely impacted with hazardous waste contamination. These disposal cell sites are located in Mexican Hat, Utah, Shiprock, NM, Tuba City, AZ, and Monument Valley, Arizona.

There is also one other uranium mill processing site located immediately adjacent to the Navajo Nation in Church Rock, NM, which has caused severe heartache for the Navajo people living in that area. It was here, on July 16, 1979, that the largest hazardous waste spill in the history of the United States occurred when the earthen dam to the pond holding the processing mill's uranium tailings was breached.⁴ The spill, releasing over 1,000 tons of radioactive mill waste and 93 million gallons of acidic radioactive tailings solution into the Puerco River, traveled downstream through the Navajo Nation, to the community of Sanders, AZ, located nearly 60 miles west of

³ Abandoned Uranium Mine Settlements on the Navajo Nation. (2018, April). Retrieved July 9, 2019, from https://www.epa.gov/sites/production/files/2018-05/documents/navajo_nation_settlement_fact_sheet-2018-04-18.pdf

⁴ Community Involvement Plan. (2016). Retrieved July 9, 2019, from https://www.epa.gov/sites/production/files/2017-11/documents/cip_northeast_churchrock_kerr-mcgee_quivira.pdf

the spill site.⁵ The effects of this spill are still being felt today and may be linked to the discovery of elevated levels of uranium in the local school's drinking water. The cleanup and management of these sites is currently being performed and monitored by the Department of Energy Office of Legacy Management at an annual cost of approximately \$4 million.⁶ This does not include cleanup of the Sanders water contamination.

At present, the uranium legacy on the Navajo Nation is not only costly, but the remediation efforts are also fragmented across numerous federal agencies, including the U.S. Environmental Protection Agency (EPA), U.S. Bureau of Indian Affairs (BIA), U.S. Nuclear Regulatory Commission (NRC), the U.S. Department of Energy (DOE), Indian Health Service (IHS), and the Agency for Toxic Substances and Disease Registry, just to name a few. This fragmentation results in constant state of evaluations and re-evaluations but never promulgates steps toward expedited remediation.

II. The Navajo Nation's Position on Abandoned Uranium Mine Clean-up

In light of the aforementioned, the position of the Navajo Nation in relation to the abandoned uranium mines (AUMs) on Navajo lands is as follows:

- The federal government is responsible for funding the clean-up of the remaining 305 AUM sites, which currently sit stagnant with no remediation efforts taking place.
- The federal government should work with the Navajo Nation President, Navajo Nation Council and our Navajo Nation Environmental Protection Agency (NNEPA) to develop a comprehensive clean-up plan and funding package to clean-up these remaining 305 AUM sites.
- The NNEPA is the Navajo Nation's designated lead agency for the clean-up of AUMs on Navajo lands.
- It should be the United States Environmental Protection Agency's (USEPA) primary objective to build the capacity of NNEPA to also be the lead agency between both agencies for the clean-up on AUMs on Navajo lands.
- USEPA should do so by providing direct funding, mentorship, technical assistance, and training to NNEPA.
- Because of the spiritual and emotional impacts to our Navajo people it is vital that our NNEPA, through its Navajo workforce and the implementation of Navajo fundamental law into the clean-up process, takes the lead in cleaning-up all AUM sites on Navajo lands, as doing so will better promote and facilitate the healing that needs to take place in order to restore our Navajo people to a state of *Hózhó*.
- In addition to the clean-up of AUMs on Navajo lands, the Navajo Nation also requests that the federal government conduct comprehensive groundwater studies for all uranium impacted areas, as well as comprehensive Nation-wide studies regarding the health impacts to Navajo people as the result of seven decades of chronic radiation exposure.

⁵ *Id.*

⁶ Federal Plans: Related Documents. (2018, September 20). Retrieved July 9, 2019, from <https://www.epa.gov/navajo-nation-uranium-cleanup/federal-plans-related-documents#docs>

- Furthermore, that the federal government also conduct comprehensive Nation-wide studies regarding potential risk exposure pathways, including the plants we traditionally eat and use for ceremonial purposes, our sheep and livestock, which are primary sources of sustenance, and the water sources many of our Navajo people still use for drinking water and ceremonial purposes.
- That the federal government establish cancer treatment centers throughout the Navajo Nation to serve our Navajo people who are currently suffering from cancer, as well as to collect and track data.
- That the federal government provide compensation and relocation for all Navajo families living in areas impacted by uranium mining.
- That the federal government begin utilizing and researching better practices and technologies for AUM site assessments and clean-up of uranium waste, which could significantly reduce clean-up costs and provide better clean-up outcomes.
- Lastly, that USEPA prioritize the Tronox AUM sites on the Navajo Nation to receive first priority in relation to clean-up activities under the Tronox settlement agreement.

III. Former Mill Sites on the Navajo Nation

Another area of concern for the Navajo Nation that is currently not being addressed as part of the present uranium contamination clean-up efforts is the previously mentioned UMTRCA sites within the Navajo Nation, which are overseen by the DOE. All of these sites have groundwater issues and the remediation strategy that was implemented has not been successful. As a result, DOE is now reevaluating their approach and is considering 3 across the board alternatives for these sites:

Alternative	Main Points
#1: Remove Pond – Continued Monitoring	• Remove evaporation ponds. • Cease contaminate extraction and use supplemental standards. • Continued Monitoring. • May include removal of unneeded infrastructure throughout site.
#2: Replace Pond – Implement Newer Technology	• Replace pond. • Continue contaminate extraction. • Implement newer remediation technologies.
#3: No Action	• Continue with current strategy. • Monitor buildup of sediment in pond. • Repair liner as needed.

As to these alternatives, 1 and 3 are not acceptable, but the Navajo Nation supports alternative 2 upon further consultation with the Navajo Nation.

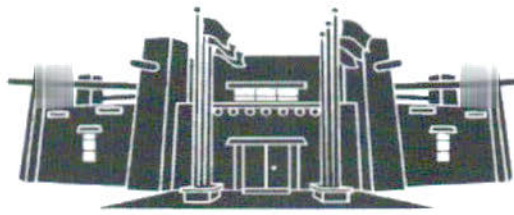
Regarding the Shiprock mill site in particular, it is the Navajo Nation's position that the Shiprock disposal cell be removed. It is not unprecedented for DOE to remove uranium mill-related contamination away from important waterways and population centers. Similar actions were taken in Durango and Grand Junction, CO, and are currently occurring in Moab, UT. Though this will not clean up the contamination already present in the groundwater, it will prevent additional

contaminants from entering the system. The disposal cell is continuing to drain and will do so indefinitely. In addition, DOE cannot guarantee that the current cell cover will not begin to allow more atmospheric moisture to enter the cell as natural processes introduce cracks into the radon barrier. This additional moisture will carry additional contaminants into the groundwater system over time.

The Shiprock community has grown significantly since the uranium mill was constructed outside of town in 1954. It will continue to encroach on the site around the disposal cell as development continues in the future. In past and more recent public meetings, Navajo Nation leaders have heard repeated calls from this community to remove the disposal cell. The Navajo Nation President and Navajo Nation Council hear their concerns and support their desire for cell removal. On their behalf, the Navajo Nation requests that DOE perform a detailed investigation on removal of the Shiprock disposal cell.

Conclusion

Water is a precious resource and the Navajo Nation wants to protect all sources of water for future generations. The Navajo Nation's Fundamental Law also outlines the cultural importance of protecting plants, animals, and the environment. As such, the Navajo Nation emphasizes the need for federal agency cooperation in protecting our natural world, its resources, and our Navajo lands with these principals in mind.



MEMORANDUM

TO: Honorable Kee Allen Begay
Tachee, Blue Gap, Many Farms, Nazlini, Tselani/Cottonwood, Low Mountain
Chapters

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

DATE: December 23, 2019

SUBJECT: PROPOSED NAVAJO NATION COUNCIL RESOLUTION; AN ACTION
RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE AND
NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL;
APPROVING THE URANIUM CLEAN-UP POSITION STATEMENT

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 with the above-mentioned documents will be 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).