

LEGISLATIVE SUMMARY SHEET

Tracking No. 0315-20

DATE: December 21, 2020

TITLE OF RESOLUTION: AN ACTION RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, NAABIK'ÍYÁTI' COMMITTEES, AND NAVAJO NATION COUNCIL; ALLOCATING \$1,424,705 IN SIHASIN FUNDS TO THE NAVAJO DIVISION OF TRANSPORTATION FOR THE N8065 ORAIBI WASH PROJECT; APPROVING AND ADOPTING THE N8065 ORAIBI WASH PROJECT EXPENDITURE PLAN PURSUANT TO 12 N.N.C §§ 2501 – 2508

PURPOSE: The purpose of this resolution is to allocate \$1,424,705 in Sihasin funds to the Navajo Division of Transportation for the N8065 Oraibi Wash Project and to approve and adopt the Expenditure Plan for the Project.

5-DAY BILL HOLD PERIOD: Johnson
Website Posting Time/Date: 4:27pm 12-21-20
Posting End Date: 12-26-20
Eligible for Action: 12-27-20

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

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL – Second Year, 2020

INTRODUCED BY


(Prime Sponsor)

TRACKING NO. 0315-20

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE,
NAABIK'ÍYÁTI' COMMITTEES, AND NAVAJO NATION COUNCIL;
ALLOCATING \$1,424,705 IN SIHASIN FUNDS TO THE NAVAJO DIVISION OF
TRANSPORATION FOR THE N8065 ORAIBI WASH PROJECT; APPROVING AND
ADOPTING THE N8065 ORAIBI WASH PROJECT EXPENDITURE PLAN
PURSUANT TO 12 N.N.C §§ 2501 – 2508

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Resources and Development Committee is the oversight committee for the Navajo Nation Division of Transportation. 2 N.N.C. §501 (C)(1).
- B. The Budget and Finance Committee is empowered to “appropriate, allocate, cancel, re-appropriate and review the use of Navajo Nation funds received including but not limited to all grants, contracts, gifts and other funds from all sources. 2 N.N.C. § 301(B)(3).
- C. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council with the responsibility to hear proposed resolution(s) that require final action by the Navajo Nation Council. 2 N.N.C. § 164(A)(9).

1 D. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C.
2 § 102(A).

3 E. The Navajo Nation Code provides the purpose of the Navajo Nation Síhasin Fund
4 (“Síhasin Fund”) is as follows:

5 § 2502 Purpose

6 A. The purposes of this Fund are to provide financial support and/or
7 financing for:

- 8 1. The planning and development of economic development and
9 regional infrastructure supporting economic development and
10 community development, including such infrastructure as, but
11 not limited to, housing, commercial and government
12 buildings, waterline, solid waste management development,
13 powerline projects, and transportation and communication
14 systems, within the Navajo Nation; and

- 15 2. Education opportunities for members of the Navajo Nation.

16 B. For the Purpose in § 2502(A)(1), Fund expenditures for
17 infrastructure shall not be limited by 12 NNC § 1310(F) or
18 TCDCJY-77-99.

19 C. Leveraging the Fund by way of guaranteeing loans, match
20 funding, direct funding in part, and other weighted uses of the
21 Fund, including loan financing from the Fund, for the purposes
22 in § 2502(A)(1), shall be favored over direct funding in whole.

23 12 N.N.C. § 2502, as amended by CJA-03-18.

24 F. The Síhasin Fund provides that “Fund Principal” shall consist of all deposits made
25 to the Síhasin Fund and that “Fund Income” shall consist of all earnings (interest,
26 dividends, etc.) generated and realized by the Fund Principal, and that Fund Income
27 shall be deposited in and added to Fund Principal until such time as a Fund
28 Expenditure Plan is duly adopted. 12 N.N.C. §§ 2504 and 2505 (C).

29 G. The Síhasin Fund provides that “Fund Principal and Income shall not be expended
30 except pursuant to a Fund Expenditure Plan consistent with the purposes set forth

1 in § 2502 of this Chapter and adopted by a two-thirds (2/3) vote of all members of
2 the Navajo Nation Council.” 12 N.N.C. § 2505(A).

3
4 **SECTION TWO. FINDINGS**

- 5 A. The N8065 Oraibi Wash Project is a \$1,860,220 project, as detailed in the “N8065 –
6 Black Mesa Project Summary and Recommendations” attached as **Exhibit A**.
- 7 B. The Resources and Development Committee approved the N8065 project within the
8 Navajo Nation’s Road Fund Program and the project was awarded \$435,515 in
9 construction funds. See Reso. Nos. TCDCJN-25-06 and RDCS-61-14. **Exhibit B**.
10 Because the project is estimated to cost a total of \$1,860,220 the amount of
11 \$1,424,705 is needed to complete the project.
- 12 C. The Navajo Division of Transportation (“NDOT”) has completed the environmental
13 clearances and is ready to advertise the project for construction. NDOT will provide
14 construction procurement and construction management for the project. N8065 is a
15 Bureau of Indian Affairs/Navajo Region Division of Transportation roadway and the
16 BIA/NRDOT will be responsible for the operation, maintenance, and repair of the
17 project once construction is completed. **Exhibit C**.
- 18 D. The Black Mesa Chapter has adopted a resolution supporting this Project. **Exhibit D**.
- 19 E. The Acting Principal of the Black Mesa Community School has written a letter to the
20 Navajo Nation, explaining the need for the Project and urging support for the Project.
21 **Exhibit E**.
- 22 F. The allocation of the \$1,424,705 for this Project meets the criteria for Sihasin
23 expenditures because this Project involves “infrastructure” such as “transportation”
24 as mentioned in 12 N.N.C. § 2502(A)(1).
- 25 G. The allocation of the \$1,424,705 for this Project meets the preference for leveraging
26 Sihasin funds, as mentioned in 12 N.N.C. § 2502(C), because \$435,515 in other
27 funding (from the Navajo Nation Road Fund Program) has already been awarded for
28 this Project.
- 29
30

1 **SECTION THREE. APPROVAL AND ADOPTION OF EXPENDITURE PLAN**

- 2 A. The Navajo Nation hereby approves and adopts the N8065 Oraibi Wash Project
3 Expenditure Plan, attached as **Exhibit A**.
- 4 B. The Navajo Nation hereby approves and adopts funding for the N8065 Oraibi Wash
5 Project Expenditure Plan in the amount of \$1,424,705 from the Navajo Nation
6 Sihasin Fund, in accordance with 12 N.N.C. § 2505(A).
- 7 C. The Sihasin Funds allocated for the N8065 Oraibi Wash Project may be further
8 leveraged by bond or loan financing pursuant to the Navajo Nation Bond Financing
9 Act, 12 N.N.C. § 1300 *et seq.*, as amended, using Sihasin Fund earnings for
10 repayment and financing costs upon the recommendation of the Budget and Finance
11 Committee and approval by a two-thirds (2/3) vote of all members of the Navajo
12 Nation Council.

13
14 **SECTION FOUR. APPROVAL AND ADOPTION OF EXPENDITURE PLAN**
15 **ADMINISTRATION**

16 The Navajo Nation Council hereby approves administration of the N8065 Oraibi Wash
17 Project Expenditure Plan as follows:

- 18 1. The Navajo Nation Controller shall determine whether the source of the annual
19 allocations from the total allocation of \$1,424,705 will be Sihasin Fund Principal
20 or Income or a combination of both.
- 21 2. The funding for the N8065 Oraibi Wash Project Expenditure Plan will be
22 distributed to the Navajo Division of Transportation within ten (10) days after the
23 effective date of this legislation. The Navajo Division of Transportation shall be
24 responsible for administering construction for the Project, in accordance with the
25 N8065 Oraibi Wash Project Expenditure Plan described in **Exhibit A**.
- 26 3. The funds allocated for the N8065 Oraibi Wash Project Expenditure Plan shall
27 be used solely to design, plan, and/or construct the N8065 Oraibi Wash Project
28 described in **Exhibit A**. Any and all cost-savings shall be returned to the Sihasin
29 Fund once the project is completed.
- 30

1 4. The funds allocated for the N8065 Oraibi Wash Project Expenditure Plan shall
2 not lapse on an annual basis pursuant to 12 N.N.C. §820(N), however, any funds
3 not spent or encumbered within thirty-six (36) months of the date funds are made
4 available to the Navajo Division of Transportation shall revert to the Síhasin Fund
5 principal, unless recommended otherwise by the Resources and Development
6 Committee of the Navajo Nation Council and approved by the Naabik'íyáti'
7 Committee.

8 5. Construction for the N8065 Oraibi Wash Project shall be administered by the
9 Navajo Division of Transportation, and operation, maintenance and repairs for
10 the Project shall be performed by the BIA/NRDOT.
11

12 **SECTION FIVE. EFFECTIVE DATE**

13 This legislation and the N8065 Oraibi Wash Project Expenditure Plan, as set forth above,
14 shall become effective pursuant to 12 N.N.C. § 2505.
15

16 **SECTION SIX. DIRECTIVES**

17 The Navajo Division of Transportation shall report the status of the N8065 Oraibi Wash
18 Project to the Resources and Development Committee, and to the Naabik'íyáti'
19 Committee, on a quarterly basis.
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Exhibit A



7878 North 16th Street
Phoenix, Arizona 85020
P 602.957.1155
F 602.957.2838

EXHIBIT

A

N8065 - Black Mesa Project Summary & Recommendations

Project Description:

The project is located approximately 13 miles north of Pinon, AZ, just east of the intersection at N8066 and the N8065 roadways within the Navajo Reservation boundary in Section 1 of Township 33 North, Range 20 East, Navajo County, AZ.

The existing N8065 roadway, near the crossing of the Oraibi Wash, is a 20-foot wide unpaved road and extends southwest from the N8066 roadway to the crossing at Oraibi Wash. West of Oraibi Wash, the N8065 roadway continues southwest and parallel with Oraibi Wash until it intersects with N41. There are six locations where washes currently flow over roadways during storm events. An exhibit of this site is attached. A drainage study was completed in 2015 to assess the hydrology and hydraulics of the low water crossing. Based on that drainage analysis, final plans were prepared. The Navajo Division of Transportation (NDOT) has sealed plans and is prepared to advertise the project for construction. The original programmed amount is \$435,515.

Estimated Cost:

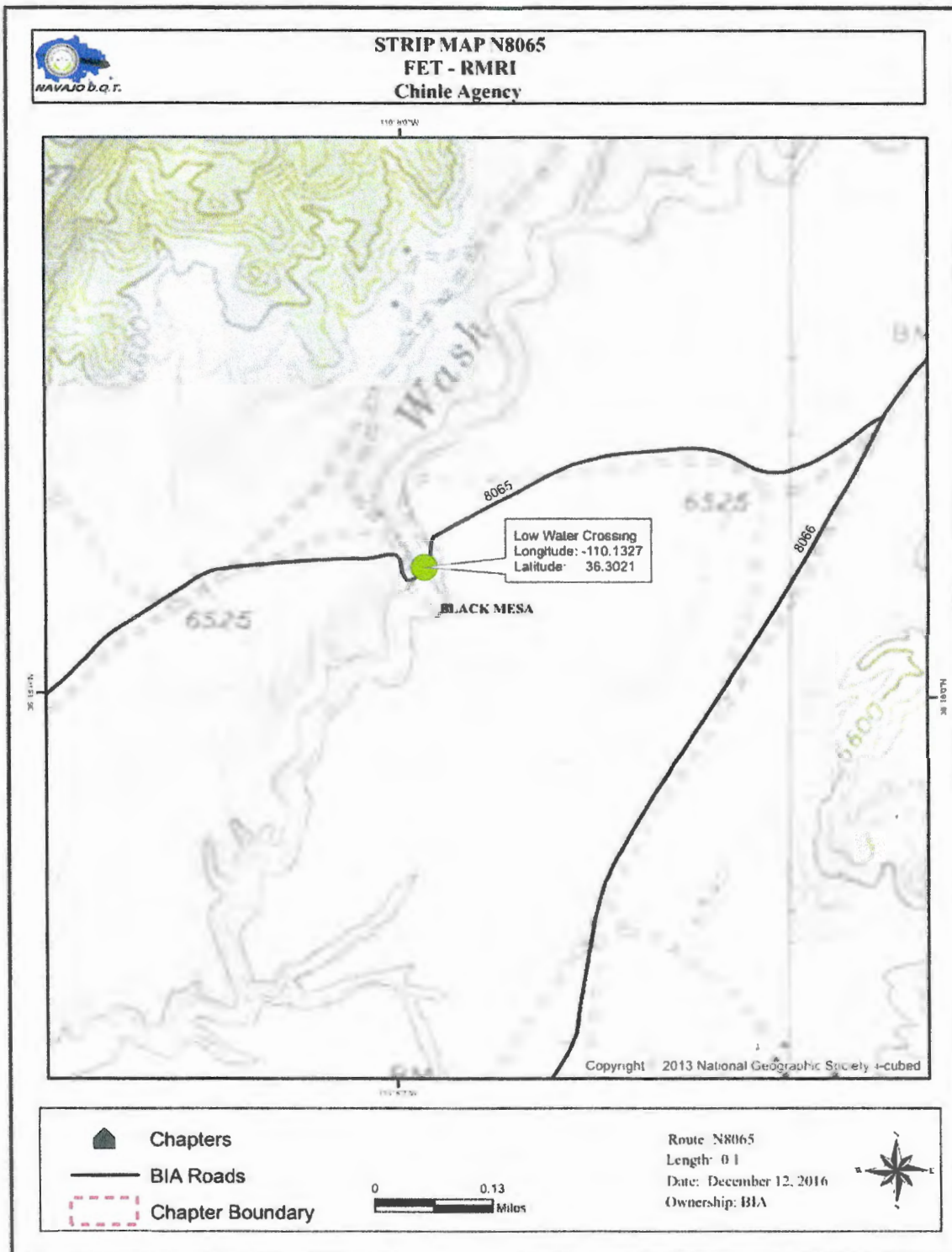
An Engineer's Opinion of Probable Construction Cost has been developed. The following is a breakdown of the current estimate.

	Item	Cost
1	Erosion Protection	\$41,333
2	Roadway Cost	\$1,313,952.50
3	Drainage Cost	\$80,100
4	Miscellaneous Project Costs	\$160,000
5	Design Contingency (10%)	\$159,385.50
6	Tribal Tax (5%)	\$105,295.44
	TOTAL Improvements and Contingencies	\$1,860,220
	Funds Available	\$435,515
	Additional Funds Needed	\$1,424,705

The costs are much higher than originally estimated because of increases over the past 5 years in construction costs and a need to excavate over 106,235 cubic yards of dirt for this project.

Recommendations:

Washes that flow over N8065 can cause inconvenience to travelers, dangerous conditions during significant rainfall events, and continuous maintenance requirements. When the wash is flowing, school children are unable to get to school and Chapter members on the west side of Oraibi Wash are unable to get to the Chapter, school, or other areas within the Black Mesa Chapter. The detour is almost one hour. It is recommended that an additional \$1,424,705 be programmed in order to proceed with construction.





NAVAJO DIVISION OF TRANSPORTATION

Delegate Jimmy Yellowhair
24th Navajo Nation Council
P.O. Box 3390
Window Rock, AZ 86515

December 17, 2019

Honorable Yellowhair,

Thank you for your inquiry regarding the status of the N8065 and N8066 road projects.

Regarding N8065, the project addresses six locations of N8065 where washes overflow the roadway during storms and heavy downpour. Attached is a project description with recommendations and estimated costs.

Notably, this project needs additional funds in the amount of \$1,424,705 dollars.

Regarding N8066, in general this project encompasses paving approximately eight miles of N8066, bridge construction, drainage and grading. Attached to this memorandum is a project description with recommendations and estimated costs.

For N8066, the project needs additional funds in the amount of \$7,750,000 dollars.

Both N8065 and N8066 are a part of the Black Mesa Project located near or within the vicinity of Black Mesa, Ariz.

Please feel free to contact me with any further inquiries at (505) 371-8354 or email at gsilversmith@navajodot.org.

Sincerely,

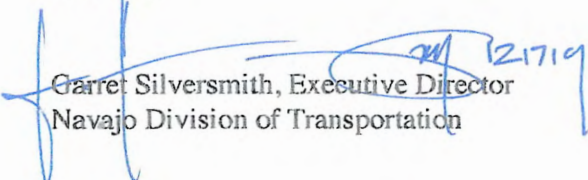

Garret Silversmith, Executive Director
Navajo Division of Transportation

Exhibit B

TCDCJN-25-06

TRANSPORTATION AND COMMUNITY DEVELOPMENT COMMITTEE
OF THE NAVAJO NATION COUNCIL

20TH NAVAJO NATION COUNCIL - FOURTH YEAR, 2006

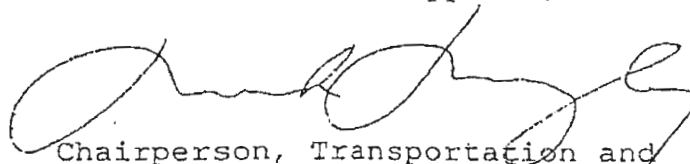
AN ACTION RELATING TO TRANSPORTATION; APPROVING THE NAVAJO
NATION ROAD FUNDING PLAN FOR FISCAL YEAR 2006

BE IT ENACTED:

1. The Navajo Nation approves the Navajo Nation Road Funding Plan for Fiscal Year 2006 as set forth in "Exhibit A."
2. Funds are available to pay for this Plan as identified in "Exhibit B."
3. The Navajo Department of Transportation is authorized to use the funds for the projects identified in the Plan.

CERTIFICATION

I hereby certify that the foregoing legislation was duly considered by the Transportation and Community Development Committee of the Navajo Nation Council at a duly called meeting at Burnham Chapter, Navajo Nation, (New Mexico), at which a quorum was present and that the same was passed by a vote of 5 in favor and 0 opposed, this 9th day of June, 2006.



Chairperson, Transportation and
Community Development Committee

Motion: David Rico
Second: Willie Begay

Navajo Nation FET-2006 Priority List

Priority	Route #	Proj. #	Proj. Name/Location	MI.	Chapter	Est. Cost	FETRF		Agency	Score	Safety Need	1st Con. Yr.	Project Description
							Funding	Score					
1	N/A	233	Navajo AMU/JUMTRA parking	1284	N/A	St Michaels	\$ 268,965	100%	FL Defiance	100	Med.	2006	P.S.&E Design
2	N/A	160	Shiprock Airport-Runway	1287	N/A	Shiprock	\$ 31,729	5%	Shiprock	100	High	2006	Rehabilitate runway.
3	N/A	161	Chinle Airport	1288	N/A	Chinle	\$ 4,500	5%	Chinle	100	Med	2006	Airport Master Plan.
4	N/A	162	Tuba City Airport	1289	N/A	Western	\$ 5,000	5%	Tuba City	100	Med	2006	Airport Master Plan.
5	N/A	163	Window Rock Airport	1290	N/A	St. Michaels	\$ 4,500	5%	FL Defiance	100	Med	2006	Airport Master Plan.
6	N/A	164	Ganado Airport access road	1291	N/A	Ganado	\$ 1,279	5%	FL Defiance	100	Med	2006	P.S.&E Design for access road.
7	N/A	165	Crownpoint Airport	1292	N/A	Crownpoint	\$ 18,308	6%	Eastern	100	High	2006	Rehabilitate runway.
8	N368	160	Nenahnezad bus route	1293	2.7	Nenahnezad	\$ 571,371	100%	Shiprock	95	High	2006	Heavy maintenance for bus route
9	Various	167	Sanostee various dirt roads	1294	80	Sanostee	\$ 8,076	100%	Shiprock	95	High	2006	Payment to BIA to blade dirt roads.
10	512, 570, & 364	198	Shiprock streets	1295	?	Shiprock	\$ 1,763,711	100%	Shiprock	95	High	2006	pavement overlay of existing streets.
11	CR-004 A	109	Road	1246	7	Chl Chil Tah	\$ 783,861	50%	Eastern	90	High	2005	Heavy maintenance for bus route
12	N37	166	Coal Mine Road school route	1297	4.24	Coyote Canyon	\$ 530,000	100%	FL Defiance	90	High	2006	Heavy maintenance for bus route
13	N9073	176	Blue Canyon road	1298	13.2	FL Defiance	\$ 171,740	100%	FL Defiance	90	High	2006	To establish new alignment.
14	N/A	206	Airport and Street Lighting	1299	N/A	Navajo Nation	\$ 46,580	100%	Navajo Nation	90	High	2006	Funding to support Street and Airport lights.
15	N9102	104	Jeddito bus route	1300	6	Jeddito	\$ 431,000	50%	FL Defiance	85	High	2006	Heavy maintenance for bus route
16	CR-006 B	112	Oak Mesa bus route	1301	3.5	Chl Chil Tah	\$ 386,571	50%	Eastern	80	High	2006	Heavy maintenance for bus route
17	N/A	119	Navajo Fish and Wildlife office complex	1302	N/A	St. Michaels	\$ 20,000	100%	FL Defiance	80	High	2006	P, S, & E Design
18	N8065	107	Black Mesa bus route drainage crossing	1303	N/A	Black Mesa	\$ 468,676	100%	Chinle	80	High	2006	Construct low water crossing.
19	N20	108	Coppermine bus route	1304	27.8	Coppermine	\$ 64,000	20%	Western	80	High	2006	Grada, drain, and pave roadway.
20	N9003	131	Pueblo Colorado Wash crossing	1305	N/A	Groeswood	\$ 250,000	100%	FL Defiance	80	High	2006	Construct low water crossing.
21	N124	143	Aspen Loop bus route	1306	10.6	Oak Springs	\$ 711,186	100%	FL Defiance	80	High	2006	Heavy maintenance for bus route
22	CR7750	174	Lake Valley bus route	1307	5.77	Lake Valley	\$ 800,000	66%	Eastern	80	High	2006	Grada, drain, and pave roadway.
23	N/A	210	Chapter House, Senior Center & Head Start Parking Lot	1308	N/A	Bread Springs	\$ 169,245	100%	Eastern	75	Med	2006	P, S, & E Design
24	CR 004-E	111	Badger Loop CR-004 E	1309	3	Chl Chil Tah	\$ 335,000	85%	Eastern	75	High	2006	Blade, Shape, Base course, Soil Stabilizer, Chip Seal, Test
25	N/A	159	Window Rock Airport - Rehabilitate Runway 2/20	1317	N/A	Navajo Nation	\$ 1,017	10%	FL Defiance	75	High	2006	Matching Funds for AIP 3-04-051-06

RDCS-61-14

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
Of the 22nd Navajo Nation Council---Fourth Year 2014

AN ACTION

Approving The Equal Distribution Of The Fuel Excise Tax Fund
Balance of \$13,000,000 Among The Five Agencies And The Priority
List Of Transportation Road Improvement Projects

BE IT ENACTED:

Section One. Findings

1. The Navajo Nation Road Fund Management Plan, 12 N.N.C. §§ 1003 et seq., authorizes the Resources and Development Committee to appropriate all Navajo Nation Fuel Excise Taxes Funds for administrative cost, preliminary studies, road maintenance, and road improvement activities.
2. The Navajo Nation's transportation needs, demands and requirements are unique in nature and scope due to its large population, land mass in excess of 25,000 square miles, and 110 rurally disperse Chapter governments served by roads which are predominantly dirt and unimproved.
3. The Navajo Davison of Transportation was directed by the Naabik'iyati' Committee of the Navajo Nation Council to propose legislation to include a Priority List for equal distribution of \$13,000,000 of the Fuel Excise Tax funds among the five agencies within the Navajo Nation. NABIMA-16-13(Exhibit B).

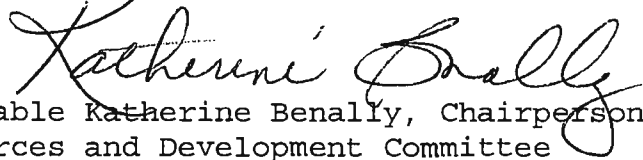
Section Two. Approvals

1. The Navajo Nation hereby approves the Navajo Division of Transportation Road Priority List herein attached as Exhibit "A."
2. The Navajo Nation hereby approves the equal distribution of \$13,000,000 of Fuel Excise Tax funds, as referenced in NABIMA-16-13, among the five agencies within the Navajo Nation for the road projects on the Priority List.

3. The Navajo Nation Office of the Controller and the Office of Management and Budgets are directed to establish business units for the use of the funds consistent with this resolution.

C E R T I F I C A T I O N

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the 22nd Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 03 in favor, 00 oppose, and 00 Abstain on this 30th Day of September, 2014.


Honorable Katherine Benally, Chairperson
Resources and Development Committee

Motion: Honorable Leonard Tsosie
Second: Honorable Leonard H. Pete

EXHIBIT A
NAVAJO DIVISION OF TRANSPORTATION
PRIORITY LIST OF TRANSPORTATION
ROAD IMPROVEMENT PROJECTS

CHINLE AGENCY							
	ROUTE	MILES	LOCATION	ACTIVITIES/SCOPE OF WORK	TOTAL COST	FET DISTRIBUTION	COST SHARE
1	13(6)	4.7	Lukachukai, NM	Pavement Striping from N12 to Base of Mountain	\$7,160.30	\$7,160.30	\$0.00
2	13(8)	4.7	Lukachukai, NM	Pavement Striping from Base of Mountain to Buffalo Pass	\$9,880.80	\$9,880.80	\$0.00
3	131	0.4	Lukachukai, NM	Pavement Striping from N13 to Chapter House	\$956.60	\$956.60	\$0.00
4	133	0.4	Lukachukai, NM	Pavement Striping for School Spur Road	\$1,029.40	\$1,029.40	\$0.00
5	CR566	5.1	Many Farms, AZ	Earthwork, Grade and Drain, and Gravel	\$1,275,000.00	\$300,000.00	\$975,000.00
6	41	20.4	Pinon, AZ	Pavement Crack Sealing and Striping from Pinon to Forest Lake	\$484,347.05	\$484,347.05	\$0.00
7	59	20.7	Many Farms, AZ	Pavement Crack Sealing and Striping from Many Farms to Western Agency Line	\$90,201.38	\$90,201.38	\$0.00
8	61	2.0	Whippoorwill, AZ	Stabilize subgrade	\$135,683.00	\$135,683.00	\$0.00
9	4	3.0	Pinon, AZ	Gravel & Stabilizer	\$500,000.00	\$500,000.00	\$0.00
10	8073	3.0	Pinon, AZ	Gravel & Stabilizer	\$425,000.00	\$425,000.00	\$0.00
11	8085	5.0	Many Farms, AZ	Stabilize gravel	\$81,776.67	\$81,776.67	\$0.00
12	8065	0.1	Black Mesa, AZ	Low Water Crossing near N41/N8065 Junction	\$281,982.40	\$281,982.40	\$0.00
13	8066	0.1	Black Mesa, AZ	Two Culvert Installations	\$281,982.40	\$281,982.40	\$0.00
		69.6		CHNILE AGENCY TOTAL	\$3,575,000.00	\$2,600,000.00	\$975,000.00
FORT DEFIANCE AGENCY							
	ROUTE	MILES	LOCATION	ACTIVITIES/SCOPE OF WORK	TOTAL COST	FET DISTRIBUTION	COST SHARE
1	Access Road	0.5	Crystal, NM	Earthwork, subgrade preparation, gravel & pavement for Crystal Multipurpose Complex	\$500,000.00	\$500,000.00	\$0.00
2	112	3.0	Ft. Defiance, AZ	Subgrade preparation & gravel	\$188,496.00	\$188,496.00	\$0.00
3	124	10.7	Oak Springs, AZ	Subgrade preparation, gravel & stabilizer	\$306,504.00	\$306,504.00	\$0.00
4	9056	0.4	Jeddito, AZ	Subgrade preparation, gravel, stabilizer & culvert installation from SR 264 to HPL	\$650,000.00	\$650,000.00	\$0.00
5	9062	4.7	Whitecone, AZ	Subgrade preparation, gravel & stabilizer from Whitecone to Hopi Reservation Line	\$352,500.00	\$352,500.00	\$0.00
6	9069/9062	3.5	Teesto, AZ	Subgrade preparation, millings, asphalt binder from N60 to HPL	\$488,544.00	\$352,500.00	\$136,044.00

Exhibit C



NAVAJO DIVISION OF TRANSPORTATION

POST OFFICE BOX 4620
WINDOW ROCK, ARIZONA 86515

TEL: 505.371-8300
FAX: 505.371-8399

EXHIBIT

tabbles

C

Jonathan Nez, President

Myron Lizer, Vice President

December 15, 2020

Luralene Tapahe, Principal Advocate
Navajo Nation Office of Legislative Counsel
P.O. Box 3390
Window Rock, AZ 86515

RE: N8065 Low Water Crossing at Oraibi Wash in Black Mesa, AZ
OLC#20-059-1

Dear Ms. Tapahe:

The Navajo Division of Transportation (NDOT) is working with the BIA Navajo Region Division of Transportation (NRDOT) and Black Mesa Chapter to construct a Low Water Crossing at Oraibi Wash along BIA Route N8065 within the Black Mesa Chapter. The current dirt road and wash crossing is not sufficiently safe, the road is routinely overtopped, the road surface is muddy and slick when wet, and impassable during heavy rains. When Oraibi Wash is flowing, school children are unable to get to school and Chapter members on the west side of Oraibi Wash are unable to get the Chapter, community school or other areas within Black Mesa Chapter. The detour is almost one hour.

The Resources and Development Committee approved the N8065 Low Water Crossing project on the Navajo Nation's Road Fund Program and the project was awarded \$435,515 in construction funds. NDOT has completed a drainage study and final sealed plans to construct the N8065 Low Water Crossing. NDOT has also completed environmental clearances and is ready to advertise the project for construction. NDOT will provide construction procurement and construction management for the project. N8065 is a BIA NRDOT roadway and the BIA NRDOT will be responsible for operation and maintenance once construction is completed.

The NDOT prepared an Engineer's Opinion of Probable Construction Cost for the N8065 Low Water Crossing improvements with contingencies and the total cost is \$1,860,220 (see next page for cost breakdown). As mentioned above, the N8065 Low Water Crossing project has received \$435,515 in Navajo Nation Road Fund Program funds for construction. An additional \$1,424,705 is needed in order to proceed with construction of the N8065 Low Water Crossing. At the request of the Black Mesa Chapter leadership and community members, Delegate Jimmy Yellowhair is requesting approval of \$1,500,000 of Sihasin Funds to supplement the existing Navajo Nation Road Fund Program funds of \$435,515 to construct the N8065 Low Water Crossing.

December 15, 2020

RE: N8065 Low Water Crossing at Oraibi Wash in Black Mesa, AZ

OLC#20-059-1

N8065 Engineer's Opinion of Probable Construction Cost

	Item	Cost
1	Erosion Protection	\$41,333.00
2	Roadway Cost	\$1,313,952.50
3	Drainage Cost	\$80,100.00
4	Miscellaneous Project Construction Costs	\$160,000.00
5	Design Contingency (10%)	\$159,385.50
6	Navajo Nation Tax (6%)	\$105,295.44
	TOTAL Improvements and Contingencies	\$1,860,220.00
	Funds Available	\$435,515.00
	Additional Funds Needed	\$1,424,705.00

If additional information is needed regarding the N8065 Low Water Crossing project, please feel free to call me at (505) 371-8397. Thank you for your assistance.

Sincerely,



Darryl Bradley, Principal Civil Engineer
Navajo Division of Transportation

Exhibit D



BLACK MESA CHAPTER

P.O. Box 189 * Pinon, Arizona 86510



EXHIBIT

D

RESOLUTION OF THE BLACK MESA (Kits'iili) CHAPTER Resolution BMC-20-01-023

WHERE AS:

BLACK MESA CHAPTER IS RESPECTFULLY IN SUPPORT AND APPROVAL OF ONE MILLION AND FIVE HUNDRED THOUSAND DOLLARS OF SIHASIN FUNDS REQUESTED BY NAVAJO DEPARTMENT OF TRANSPORTATION (NDOT) FOR THE CONSTRUCTION OF LOW WATER CROSSING @ REDHAIR'S CROSSING IN ORAIBI WASH ON N8065.

1. Pursuant to the "Local Governance Act," 26 N.N.C. , Chapter 1, Subchapter 1, Section 3, (a) the Black Mesa Chapter is certified a local chapter of the Navajo Nation Government by the Navajo Nation Council Resolution No. 34-98; AND
2. Pursuant to Chapter 1, Section 131 (1) (2) of the same "Act," the chapter has the responsibility and authority to promote, protect, and preserve the interest and the general welfare of its community people and programs; AND
3. Pursuant to "Indian Self Determination Act (PL 93-638)" as mentioned by the U.S. Congress, the Black Mesa Chapter is entitled to support and initiate plans, make decisions, and recommendations according to the needs and desires of the community people; AND
4. Black Mesa Chapter acknowledges that it has great needs for paved roads and bridges to enhance the quality of life for the people, alleviate emergency response time, and greatly improve education and health services which will be made possible with the completion of Low Water Crossing Project on N8065. Furthermore, the chapter desires the economic growth that will be enhanced by the completion of N8066 Road and Bridge Project; AND
5. Navajo Department of Transportation (NDOT) proposes to pave the road all the way to Black Mesa Community School and Black Mesa Chapter House, and construct two major permanent bridges crossing the Oraibi Wash along N8065 within the Black Mesa Chapter boundary; AND
6. Black Mesa Chapter is requesting approval of the supplemental funds from Sihasin Funds because this proposed undertaking will provide adequate and much needed transportation services to the community where paved roads is only seven miles; AND
7. Black Mesa Chapter finds it in their best interest that Low Water Crossing Project at Redhair's Crossing on N8065 be completed as soon as possible because it is used as a school bus route by Black Mesa Community School, Pinon Unified School District, Pinon Community School, Navajo Head Start and the local government entities and residents.

NOW THEREFORE BE IT RSOLVED THAT:

BLACK MESA CHAPTER IS RESPECTFULLY IN SUPPORT AND APPROVAL OF ONE MILLION AND FIVE HUNDRED THOUSAND DOLLARS OF SIHASIN FUNDS REQUESTED BY NAVAJO DEPARTMENT OF TRANSPORTATION (NDOT) FOR THE CONSTRUCTION OF LOW WATER CROSSING @ REDHAIR'S CROSSING IN ORAIBI WASH ON N8065.

CERTIFICATION

We hereby certify that the foregoing resolution was fully considered by the Black Mesa Chapter at a duly called meeting at Black Mesa, Arizona at which a quorum was present and that same was passed by a vote of 17 in favor, 0 opposed, and 0 abstained, on this 10th day of January 2020.

Motioned by: Dorothy Yazzie

Seconded by: Brenda Redhair Falsomito

Maryin Yellowhair
Maryin Yellowhair, President

Edbert Little
Edbert Little, Vice -President

Marlene Biltah
Marlene Biltah, Secretary/Treasurer

Jimmy Yellowhair
Jimmy Yellowhair, Council Delegate

Exhibit E

Black Mesa Community School

PO Box 97
Pinon, AZ 86510
Tel: 928-674-3632
Fax: 775-659-8187



School Board President
School Board Vice President
School Board Secretary, Carolyn Best
School Board Member, Marvin Yellowhair
Principal, Marie Rose

EXHIBIT

tabbies

E

January 30, 2020

Resource & Development Committee Members

Navajo Nation Council
PO Box 3390
Window Rock, AZ 86515

Navajo Division of Transportation

PO Box 4620
Window Rock, AZ 86515

RE: Supporting the N8066(3)/N8065(1)1.2&4 Road Construction Project

Respectfully, the Governing Board and Administration of Black Mesa Community School supports the effort of the Black Mesa Chapter requesting for full funding to complete pavement of N8066/N8065 that includes two bridges and strongly requesting the Navajo Nation Division of Transportation (NDOT) and the Navajo Nation Resources and Development Committee (RDC) of Navajo Nation Council to fully fund the project.

The Black Mesa Community School recognizes that to provide services to students and families within Black Mesa Chapter community, both roads are utilized by our School, Pinon Unified School District (PUSD), Pinon Community School, Navajo Nation Head Start Program, Non-Emergency Transport Services, Navajo Nation Social Services, Pinon/Chinle Health Providers, Forest Lake Chapter Senior Center, UPS, Public Safety, Ambulance Services, NTUA, Tribal, County and Governmental entities.

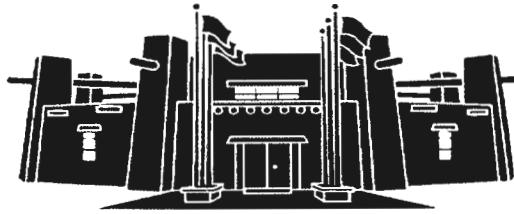
The Black Mesa Community School experiences a constant minor and major repairs to school buses and school vehicles; and hardship for the students to be on buses for two hours in morning and another two hours in afternoon.

The Black Mesa Community School also recognizes that N8066 is paved only for eight (8) miles off N41 and that N8065 is all dirt road. The residents of Black Mesa community utilize these routes on a daily basis to appointments, obtain essential needs for their family, domestic water and feed for their livestock, etc.

Your thoughtfulness and understanding of our need for paved road is very much appreciated.

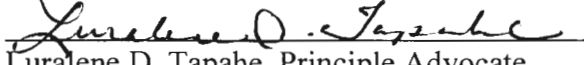
Sincerely,

Phyllis Rose
Acting Principal



MEMORANDUM

TO : Honorable Jimmy Yellowhair, Delegate
24th Navajo Nation Council

FROM : 
Luralene D. Tapahe, Principle Advocate
Office of Legislative Counsel

DATE : December 21, 2020

SUBJECT : **AN ACTION RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, NAABIK'ÍYÁTI' COMMITTEES, AND NAVAJO NATION COUNCIL; ALLOCATING \$1,424,705 IN SIHASIN FUNDS TO THE NAVAJO DIVISION OF TRANSPORTATION FOR THE N8065 ORAIBI WASH PROJECT; APPROVING AND ADOPTING THE N8065 ORAIBI WASH PROJECT EXPENDITURE PLAN PURSUANT TO 12 N.N.C §§ 2501 – 2508**

I have prepared the above referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. The resolution drafted is legally sufficient. However, as with any legislation, it can be subject to review by the courts in the event of a proper challenge. Also, please understand that the Speaker is authorized to refer this proposed resolution to other committees than those stated in the title.

You are advised and encouraged to review the proposed resolution to ensure it is drafted to your satisfaction. If you are satisfied with the proposed resolution, please sign it as “sponsor” and submit it to the Office of Legislative Services where it will be given a tracking number and sent to the Office of the Speaker for assignment.

If the proposed legislation 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. Ahe'he'.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0315-20__

SPONSOR: Jimmy Yellowhair

TITLE: An Action Relating to Resources and Development, Budget and Finance, Naabik'iyáti' Committees, and Navajo Nation Council; Allocating \$1,424,705 in Síhasin Funds to the Navajo Division of Transportation for the N8065 Oraibi Wash Project; Approving and Adopting the N8065 Oraibi Wash Project Expenditure Plan Pursuant to 12 N.N.C. §§ 2501 – 2508

Date posted: December 21, 2020 at 4:27PM

Digital comments may be e-mailed to 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) 871-7586

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.: 0315-20

SPONSOR: Honorable Jimmy Yellowhair

TITLE: An Action Relating to Resources and Development, Budget and Finance, Naabik'iyáti' Committees, and Navajo Nation Council; Allocating \$1,424,705 in Síhasin Funds to the Navajo Division of Transportation for the N8065 Oraibi Wash Project; Approving and Adopting the N8065 Oraibi Wash Project Expenditure Plan Pursuant to 12 N.N.C. §§ 2501 –2508

Posted: December 21, 2020 at 4:27 PM

5 DAY Comment Period Ended: December 26, 2020

Digital Comments received:

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



**Legislative Tracking Secretary
Office of Legislative Services**

12:00 PM 12/28/20

Date/Time

**THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY**

LEGISLATION NO.: 0315-20

SPONSOR: Honorable Jimmy Yellowhair

TITLE: An Action Relating to Resources and Development, Budget and Finance, Naabik'iyáti' Committees, and Navajo Nation Council; Allocating \$1,424,705 in Síhasin Funds to the Navajo Division of Transportation for the N8065 Oraibi Wash Project; Approving and Adopting the N8065 Oraibi Wash Project Expenditure Plan Pursuant to 12 N.N.C. §§ 2501 –2508

Posted: December 21, 2020 at 4:27 PM

5 DAY Comment Period Ended: December 26, 2020

Digital Comments received:

Comments Supporting	1) Amos F. Johnson
Comments Opposing	<i>None</i>
Comments/Recommendations	<i>None</i>


 Legislative Tracking Secretary
 Office of Legislative Services

8:00 AM 12/30/20

Date/Time

December 23, 2020

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515

SUBJECT: Legislation No. 0315-20

Dear Executive Director,

Season's Greeting! Please find my written comments to legislation No. *An Action Relating to Resources and Development, Budget and Finance, Naabik'iyati Committee, and Navajo Nation Council; Allocating \$1,424,705 in Sihasin Funds to the Navajo Division of Transportation for the N8065 Oraibi Wash Project; Approving and Adopting the N8065 Oraibi Wash Project Expenditure Plan Pursuant to 13 N.N.C. Sec., 2501-2508.*

I request that my comments are forwarded to the appropriate body as part of the record in support of this legislation.

Respectfully signed,

Amos F. Johnson, Former Council Delegate
& Resident of Black Mesa Chapter

P.O. Box
Chinle, AZ 86503

SUBJECT: Legislation No. 0315-20

Dear Honorable Council Delegates of the Navajo Nation Council,

Season's Greetings. I am requesting for your advocacy and support for legislation No. 0315-20, *An Action Relating to Resources and Development, Budget and Finance, Naabik'iyati Committee, and Navajo Nation Council; Allocating \$1,424,705 in Sihasin Funds to the Navajo Division of Transportation for the N8065 Oraibi Wash Project; Approving and Adopting the N8065 Oraibi Wash Project Expenditure Plan Pursuant to 13 N.N.C. Sec., 2501-2508.*

As you may know Black Mesa is one of the most rural areas of the Navajo Nation with none to minimum paved roads including any transportation infrastructure making access to the community and residents a challenge requiring appropriate types of vehicles. During inclement weather with water running in Oraibi Wash residents along N8065 get stranded making travel very difficult. The Oraibi Wash project also referred to the Low Water Crossing Project has been in the planning stage for many decades and approving this legislation will do diligence saving the wear and tear of vehicles, expediated safe access for emergency personnel and school buses, and safe transportation for residents.

I also commend a few individuals and the Black Mesa Community School Administration for their dedicated advocacy for this project. Completing the Oraibi Wash Project will surely improve the livelihood of the people residing along Navajo Route N8065 and Black Mesa as whole. Also, appreciate our Delegate Honorable Jimmy Yellowhair for sponsoring this legislation.

Respectfully signed,

Amos F. Johnson, Resident of Black Mesa &
Former Council Delegate

RESOURCES AND DEVELOPMENT COMMITTEE
24th Navajo Nation Council

SECOND YEAR 2020

ROLL CALL
VOTE TALLY SHEET:

Legislation # 0315-20: An Action Relating to Resources and Development, Budget and Finance, Naabik'Iyati Committees and Navajo Nation Council; Allocating \$1,424,705 in Sihasin Funds to the Navajo Division of Transportation for the N8065 Oraibi Wash Project; Approving and Adopting the N8065 Oraibi Wash Project Expenditure Plan Pursuant to 12 N.N.C. §§ 2501-2508. *Sponsor: Honorable Jimmy Yellowhair*

Date: December 30, 2020 – Regular Meeting (Teleconference)
Meeting Location: (RDC members called in via teleconference from their location within the boundary of the Navajo Nation.)

Main Motion:

Motion: Mark A. Freeland S: Thomas Walker, Jr. Vote: 4-0-1 (CNV)

In Favor: Mark A. Freeland, Wilson C. Stewart, Jr., Herman M. Daniels and Thomas Walker, Jr.

Oppose: NONE

Excuse: Kee Allen Begay, Jr. (Delegate Begay was excused to take a telephone call from his Chapter.)

Not Voting: Presiding Chairperson Rickie Nez



Honorable Rickie Nez, Presiding Chairperson
Resources and Development Committee



Shammie Begay, Legislative Advisor
Office of Legislative Services

**RESOURCES AND DEVELOPMENT COMMITTEE
24th NAVAJO NATION COUNCIL**

SECOND YEAR 2020

COMMITTEE REPORT

Mr. Speaker,

The **RESOURCES AND DEVELOPMENT COMMITTEE** to whom has been assigned:

Legislation # 0315-20: An Action Relating to Resources and Development, Budget and Finance, Naabik'Iyati Committees and Navajo Nation Council; Allocating \$1,424,705 in Sihasin Funds to the Navajo Division of Transportation for the N8065 Oraibi Wash Project; Approving and Adopting the N8065 Oraibi Wash Project Expenditure Plan Pursuant to 12 N.N.C. §§ 2501-2508. *Sponsor: Honorable Jimmy Yellowhair*

Has had it under consideration and reports a DO PASS with no amendment;

and thereafter the legislation was referred to Budget and Finance Committee.

Respectfully submitted,



Rickie Nez, Chairperson
Resources and Development Committee of
the 24th Navajo Nation Council

Date: December 30, 2020 – Regular Meeting (Teleconference)
Meeting Location: (RDC members called in via teleconference from their location within the boundary of the Navajo Nation.)

Main Motion:

Motion: Mark A. Freeland S: Thomas Walker, Jr. Vote: 4-0-1 (CNV)

In Favor: Mark A. Freeland, Wilson C. Stewart, Jr., Herman M. Daniels and Thomas Walker, Jr.

Oppose: NONE

Excuse: Kee Allen Begay, Jr. (Delegate Begay was excused to take a telephone call from his Chapter.)

Not Voting: Presiding Chairperson Rickie Nez

(NOTE: Vote Tally attached.)

24th NAVAJO NATION COUNCIL

Third Year 2021

Mr. Speaker:

The **BUDGET & FINANCE COMMITTEE** to whom has been assigned

NAVAJO LEGISLATIVE BILL # 0315-20:

An Action Relating to Resources and Development, Budget and Finance, Naabik'iyáti' Committees, and Navajo Nation Council; Allocating \$1,424,705 in Síhasin Funds to the Navajo Division of Transportation for the N8065 Oraibi Wash Project; Approving and Adopting the N8065 Oraibi Wash Project Expenditure Plan Pursuant to 12 N.N.C. §§ 2501 – 2508 *Sponsored by Jimmy Yellowhair, Council Delegate*

has had it under consideration and reports the same with the recommendation that It **Did Not Vote, no second to the motion**, without amendment.

And, therefore referred to the **NAABIKIYATI** Committee

Respectfully submitted,


Jamie Henio, Chairman

Adopted: _____
Legislative Advisor

Not Adopted: 
Legislative Advisor

5 JANUARY 2021

The vote was __ in favor __ opposed yeas: nays:

Main Motion: Jimmy Yellowhair

Second: no second [Legislative Counsel advised "no second" is an action taken by the Committee therefore, the Legislation moves forward to the next committee for consideration.]

BUDGET AND FINANCE COMMITTEE

5 JANUARY 2021

Regular Meeting

VOTE TALLY SHEET:

Legislation No. 0315-20: An Action Relating to Resources and Development, Budget and Finance, Naabik'íyáti' Committees, and Navajo Nation Council; Allocating \$1,424,705 in Síhasin Funds to the Navajo Division of Transportation for the N8065 Oraibi Wash Project; Approving and Adopting the N8065 Oraibi Wash Project Expenditure Plan Pursuant to 12 N.N.C. §§ 2501 – 2508 *Sponsored by Jimmy Yellowhair, Council Delegate*

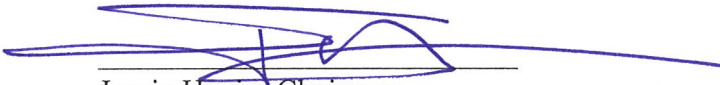
Motion: Jimmy Yellowhair

Second: no second [Legislative Counsel advised "no second" is an action taken by the Committee therefore, the Legislation moves forward to the next committee for consideration.]

Vote: 0-0, Chairman not voting

Final Vote Tally:

Jamie Henio		
Jimmy Yellowhair		
Raymond Smith Jr.		
Elmer P. Begay		
Amber K. Crotty		
Nathaniel Brown		



Jamie Henio, Chairman
Budget & Finance Committee

Peggy Nakai, Legislative Advisor
Budget & Finance Committee

24th NAVAJO NATION COUNCIL NAABIK'ÍYÁTI' COMMITTEE REPORT Third Year 2021

The **NAABIK'ÍYÁTI' COMMITTEE** to whom has been assigned:

NAVAJO LEGISLATIVE BILL #0315-20

An Action Relating to Resources and Development, Budget and Finance, Naabik'íyáti' Committees, and Navajo Nation Council; Allocating \$1,424,705 in Síhasin Funds to the Navajo Division of Transportation for the N8065 Oraibi Wash Project; Approving and Adopting the N8065 Oraibi Wash Project Expenditure Plan Pursuant to 12 N.N.C. §§ 2501 – 2508

Sponsored by: Honorable Jimmy Yellowhair

Has had it under consideration and reports the same that the legislation **FAILED AND IS REFERRED TO THE NAVAJO NATION COUNCIL.**¹

Respectfully Submitted,



Honorable Seth Damon, Chairman
NAABIK'ÍYÁTI' COMMITTEE

14 January 2021

MAIN MOTION

Motioned by: Honorable Jimmy Yellowhair

Seconded by: Honorable Eugenia Charles-Newton

Vote: 07 in Favor, 15 Opposed (Chairman Damon Not Voting)

¹ 2 N.N.C. § 164 (12) "...A legislation that does not receive sufficient vote for passage by a committee without final approval authority over the matter shall move forward to the subsequent assigned committee(s) or Navajo Nation Council for action."

NAVAJO NATION

833

1/14/2021

Naa'bik'iyati' Committee Regular Meeting

02:37:41 PM

Amd# to Amd#	Legislation 0315-20: Allocating	FAILED
MOT Yellowhair	\$1,424,705 in Sihasin Funds to	
SEC Charles-Newton	the Navajo Division of	
	Transportation for the N8065....	

Yeas : 7

Nays : 15

Excused : 1

Not Voting : 0

Yea : 7

Begay, K	Smith	Walker, T	Yellowhair
Charles-Newton	Tso, E	Wauneka, E	

Nay : 15

Begay, E	Freeland, M	Nez, R	Tso, D
Begay, P	Halona, P	Slater, C	Tso, O
Crotty	Henio, J	Stewart, W	Yazzie
Daniels	James, V	Tso, C	

Excused : 1

Brown

Not Voting : 0

Presiding Speaker: Damon