

LEGISLATIVE SUMMARY SHEET

Tracking No. 0345-15

DATE: September 24, 2015

TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE MODIFICATION TO LEASE NO. CH-89-85 FOR FLEMING D. BEGAYE TO SET RENTAL FEE TO EXCLUDE PERCENTAGE RENT ON GASOLINE SALES

PURPOSE: The purpose of the resolution is to approve modification to Business Site Lease No. CH-89-85 for Fleming D. Begaye. The modification would set rental to exclude percentage rent on gasoline sales.

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.

PROPOSED STANDING COMMITTEE RESOLUTION
23rd NAVAJO NATION COUNCIL -- First Year, 2015

INTRODUCED BY



(Prime Sponsor)

TRACKING NO. D345-15

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE
MODIFICATION TO LEASE NO. CH-89-85 FOR FLEMING D. BEGAYE TO SET
RENTAL FEE TO EXCLUDE PERCENTAGE RENT ON GASOLINE SALES

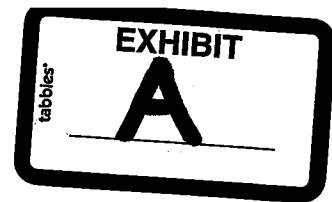
BE IT ENACTED:

Section One. Findings

- A. The Resources Committee is established as a standing committee of the Navajo Nation Council. 2 N.N.C. §500(A).
- B. The Resources Committee of the Navajo Nation Council is empowered to grant final approval for non-mineral leases. 2 N.N.C. §501(B)(2).
- C. Fleming D. Begaye through his attorney has requested that the Resources and Development Committee modify its Business Site Lease No. CH-89-85 to exclude percentage rent on gasoline sales from rental fees. Lease CH-89-85 is attached as Exhibit B.
- D. The original lessees included both Fleming D. Begaye and his wife Helen Begaye. Mrs. Begaye is now deceased and the Family Court of the Judicial District of Chinle, Arizona entered an Order and Final Decree in Probate recognizing the decedent's will as giving her business site lease to Mr. Fleming D. Begaye, Sr. The Order and Final Decree in Probate, CH-FC-876-12 is attached as Exhibit C.

Section Two. Approval

- 1 A. The Navajo Nation hereby approves the Modification to Lease No. CH-89-85, as
2 set forth in Exhibit A, setting rental to exclude percentage rent on gasoline sales.
3 B. The Navajo Nation hereby authorizes the President of the Navajo Nation to
4 execute this Lease Modification and all other documents necessary to effectuate
5 the intent of this resolution.
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LEASE MODIFICATION
LEASE NO. CH-89-85

It is hereby agreed by and between the NAVAJO NATION, Lessor, and Fleming D. Begaye, P.O. Box Chinle, Arizona 86503, Lessee and _____, Surety, that the Lease covering Business Site Lease CH-89-85 be modified this _____ day of _____ to provide:

Amendment to Section 5 RENTAL:

Amendment to Section 5 RENTAL to exclude percentage rent on gasoline sales, RENTAL to read as follows:

- (a) 3% of gross receipts from sale of general merchandise, operation of the café, and other sources.
- (b) The sum of \$24,000 as a Guaranteed Minimum Annual Rental (GMAR).

This modification does not change any of the terms and conditions, or stipulations except as specifically set forth herein. All other terms and conditions shall remain in force and effect.

Surety

Fleming D. Begaye, Lessee

Date: _____

NAVAJO NATION, LESSOR

By: _____
President, Navajo Nation

Date: _____

APPROVED: _____
Pursuant to Secretarial Redlegation Order
209 DM 8, 230 DM 1 and 3 IAM 4.

Regional Director, Navajo Region
Bureau of Indian Affairs

LEASE NUMBER: CH-89-85

LEASE FEE: \$240.00

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SUN



Atty John 35-38-11
Revised 6/68

L E A S E

THIS CONTRACT, in sextuplicate, made and entered into
 this 01 day of March, 1988, by and between

The Navajo Tribe of Indians,

hereinafter called the Lessor, whose address is P.O. Box

Window Rock, Navajo Nation (Arizona) 86515 and

Fleming D. Begaye, Sr., (C# , and Helen M. Begaye (C#),

as Husband and Wife and as Individuals , hereinafter

called the Lessee, whose address is P.O. Box

Chinle, Arizona 86503 , under the
 provisions of the Act of August 9, 1955, as implemented by
 Part 162-Leasing and Permitting of the Code of Federal
 Regulations, Title 25-Indians, and amendments thereto
 relative to business leases on restricted lands which by this
 reference are made a part hereof.

1. DEFINITIONS

- A. "Secretary" means the Secretary of the Interior or his authorized representative, delegate or successor.
- B. "Gross Receipts" means all income, including money and any other thing of value, received by or paid to Lessee or its affiliates, whether individuals, corporations, partnerships, or other legal entity, or received by or paid to others for Lessee's or its affiliates' use and benefit, derived from business done, sales made, or services rendered directly or indirectly from or on the leased premises or any portion thereof. All income accruing from credit transactions shall be treated as "gross receipts" as of the date credit is extended. Gross Receipts shall not include amounts collected and paid out for a sales or excise tax imposed by any duly constituted governmental authority where such tax is billed to the purchaser as a separate item. It shall not include credits for the exchange of goods or merchandise between stores, if any, of Lessee or its affiliates where such exchange is made solely for the convenient operation of business and not for the purpose of consummating a sale previously made directly from or

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on the leased premises. It shall not include the amount of any refund where the merchandise sold, or some part thereof, is returned by the purchaser and accepted by Lessee or its affiliates. It shall not include income from the sale of fixtures, or good will, or the sale of improvements, including but not limited to, corrals, buildings, livestock scales and holding pins.

- C. "Chairman" means the Chairman of the Navajo Tribal Council or his authorized representative, delegate, or successor. "Controller, Navajo Tribe" means the Controller of the Navajo Tribe, Window Rock, Arizona 86515.

2. LAND DESCRIPTION

For and in consideration of the rents, covenants, and agreements hereinafter set out, the Lessor hereby leases to the Lessee the following described premises:

A tract of land at the junction of Navajo Routes 7 and 8 near Chinle, Arizona, more completely described as follows:

Beginning at a point which is the intersection of the east right-of-way line of Route 8 and the north right-of-way of Route 7, such point being 75 feet right of Engineers station 3993-41.97 as appears on B.I.A. Road Project N8(7) 2 & 4; THENCE: N. 15° 47' W., along right-of-way line a distance of 395.12 feet to the N.W. Corner; THENCE: S. 78° 08' E., a distance of 497.83 feet to the N.E. Corner; THENCE: S. 15° 47' E., a distance of 395.12 feet to the S.E. Corner; THENCE: N. 78° 08' W., a distance of 497.83 feet to the S.W. Corner, the Point of Beginning, said tract containing 4.0 acres, more or less.

All of the above land being located in Chinle
County of Apache, State of Arizona,
subject to any prior, valid, existing rights-of-way. There is reserved from the perimeter of the demised premises a right of way for utilities constructed by or on authority of the Lessor.

3. PURPOSE

This Lease shall be only for the purpose of: operation of a convenience store, retail sale of gasoline, oil, and propane, operation of a laundromat facility, operation of a fast-food facility, operation of an automotive service center offering brake, muffler & tire repair service.

4. TERM

- (a) The term of this lease shall be twenty-five (25) years, beginning on October 01, 1987 and expiring on September 30, 2012.
- (b) Provided that Lessee is not in default of this lease, Lessee may renew this lease for an additional term of twenty-four (24) years, subject to Section 5(a) (iii) below. Lessee may exercise this option by providing Lessor with notice of its intent to renew one (1) year prior to the expiration of this lease.

5. RENTAL

The Lessee, in consideration of the foregoing, covenants and agrees to pay in lawful money of the United States of America to the Controller of the Navajo Tribe, for the use and benefit of the Lessor, the following rental:

(a) The following percentage of gross receipts of business as specified below, whether such businesses are operated by Lessee, Sublessee, Assignee or operator under a management agreement:

(i) Lease Years One (1) through Fifteen (15). Lessee shall pay as percentage rental hereunder an amount equal to one and one half percent (1.5%) of Lessee's gross receipts of all sales excluding sale of gasoline. Lessee shall pay as annual rental hereunder the sum of one and one-half cents (1.5¢) per gallon of gasoline sold.

(ii) Lease Years Sixteen (16) through Twenty-Five (25). Lessee shall pay as percentage rental hereunder an amount equal to two and one-half percent (2.5%) of Lessee's gross receipts from sales of zero (0) to Two Million Dollars (\$2,000,000.00), excluding gasoline sales. In addition to the foregoing, Lessee shall pay as percentage rental hereunder an amount equal to three percent (3%) of Lessee's gross receipts from sales in excess of Two Million Dollars (\$2,000,000.00), excluding gasoline sales. Lessee shall pay the sum of two cents (2¢) per gallon of gasoline sold.

(iii) Should Lessee exercise its option to renew this lease as provided in Section 4(b) above, then upon renewal, and for the duration of the renewal term, Lessee shall pay as percentage rental hereunder an amount equal to three percent (3%) of Lessee's gross receipts from all sales, excluding sales of gasoline.

Lessee shall pay the sum of two cents (2¢) per each gallon of gasoline sold.

(b) Irrespective of the provisions of Article 5(a) above, the Lessee shall in any event pay the following guaranteed minimum annual rentals: The sum of Twenty-Four Thousand Dollars (\$24,000.00) as a guaranteed minimum annual rental (GMAR) hereunder.

The Lessee must make monthly rental payments equal to at least one-twelfth of the aforementioned minimum annual rental not later than the tenth (10th) day after the end of the month for which the rental is due. Lessee may elect to pay monthly rental in an amount based on the percentage rental rate on the month's gross receipts, however, no payment shall be less than one-twelfth of the minimum rental. Monthly payments based on the percentage rental rate on gross receipts shall be paid not later than the tenth (10th) day after the end of the month for which the rental is due. All rental shall be deposited with the Controller of the Navajo Tribe. When the annual accounting required by Provision 6 of this lease is completed, the Lessee shall pay any balance due on any percentage rental, or if there is over payment, the over payment shall be credited toward future rents.

Rental unpaid ten (10) days after the due date shall bear interest at the rate of three (3%) percent annum in excess of the prime interest rate established by the Valley National Bank, Phoenix, Arizona, from the date it becomes due until paid, but this provision shall not be construed to relieve the Lessee from any default in making any rental payment at that time and in the manner herein specified. The rents called for hereunder shall be paid without prior notice or demand.

While the leased premises are in trust or restricted status, the Secretary may in his discretion suspend the direct rental payment provisions of this lease, in which event the rental shall be paid to the Area Director, Navajo Area Office, Window Rock, Arizona 86515.

In the event a sublease, assignment, management agreement or transfer of this lease or any right to or interest in this lease or any improvements on the leased premises shall be entered into, the rent and other terms of this lease shall be subject to renegotiation and the provisions of Article 11 of this lease.

6. ACCOUNTING

The Lessee shall, not later than March 31, of each successive calendar year or fraction thereof following the date the term of this lease begins, submit to Lessor and the Secretary individually, certified statements of gross receipts. Failure to submit aforementioned statements on a timely basis shall be considered a breach of the lease and the lease may be subject to cancellation.

With said statements, Lessee shall tender payment of any balance due for the preceding calendar year under the percentage rental fee as set forth in Article 5 above. Said statement shall be prepared by a Certified Public Accountant, licensed in the State of Arizona, New Mexico or Utah, in conformity with standard accounting procedures. Any duly authorized representative of the United States Government or any qualified accounting agent or agents appointed by the Lessor, shall have access to and the right to examine and audit any pertinent books, documents, papers, and records of the Lessee and the Lessee's tenants, if any, relating to this lease during the normal business hours of any working day. Lessee shall insert a similar provision in all subleases pertaining to this right and shall make available to said representative, agent, or agents, all books and records of Lessee's tenants which may be requested or may be necessary for completion of a full audit of all business conducted on the leased premises. The acceptance by the Lessor or the Secretary of any monies paid to Lessor or the Secretary by Lessee as percentage rental for the leased premises as shown by any statement furnished by Lessee shall not be an admission of the accuracy of said statement, or of the sufficiency of the amount of said percentage rental payment, but the Lessor or the Secretary shall be entitled at any time within four (4) years after receipt of any such percentage rental payment to question the sufficiency of the amount thereof and/or the accuracy of the statements furnished by Lessee to justify same, and shall have the right to examine and/or audit as hereinbefore described. Therefore, Lessee shall for said period of four (4) years after submission to the Lessor or the Secretary of any such statement keep safe and intact all of Lessee's records, books, accounts, and other data which in any wise bear upon or are required to justify in detail any such statement, and Lessee shall insert a provision in all subleases requiring similar retention of records.

7. IMPROVEMENTS

As a material part of the consideration of this lease, the Lessee covenants and agrees to construct at its own cost and expense the permanent improvements specified below. Each respective improvement shall be completed within the time allocated by the following schedule, said schedule to commence upon approval of this lease by the Secretary. Upon completion, each improvement shall have a value equal to the value indicated below:

<u>Phase</u>	<u>Improvement</u>	<u>Schedule</u>	<u>Value</u>
Phase I	Convenience Store	Twelve (12) Months	\$ 350,000.00
	Gas Station		
Phase II	Laundromat	Twenty-Four (24) Months	300,000.00
	(40 Washers/20 Dryers)		
Phase III	Fast Food Facility	Thirty-Six (36) Months	350,000.00
Phase IV	Automotive Service	Forty-Eight (48) Months	175,000.00
	TOTAL VALUE		<u>\$1,175,000.00</u>

All buildings and improvements, excluding removable personal property and trade fixtures, on the leased property, shall remain on said property after termination of this lease and shall thereupon become the property of the Lessor, who may require Lessee, at Lessee's expense, to remove improvements and restore the premises to its original state within ninety (90) days after termination of this lease. The term "removable personal property" as used in this Article shall not include property which normally would be attached or affixed to the buildings, improvements, or land, in such a way that it would become apart of the realty, regardless of whether such property is in fact so placed in or on or affixed to the buildings, improvements, or land, in such a way as to legally retain the characteristics of personal property.

8. PLANS AND DESIGNS

Within one hundred-twenty (120) days after the approval of this lease, the Lessee will submit to the Lessor for approval a general plan and architect's design for the complete development of the entire leased premises, the Lessee shall submit to the Lessor comprehensive plans and specifications for improvements then proposed. PLANS AND SPECIFICATIONS SHALL INDICATE APPROVAL OF THE U. S. PUBLIC HEALTH SERVICE. The Lessor shall approve them if they conform to the general development plan, but shall not thereby assume any responsibility whatever for detailed design of structure or structures in violation of any public laws, ordinances and regulations applicable to same. The Lessor shall either approve or state his reasons for disapproval of plans and specifications within (30) days after their submission. No change will be made in plans or specifications after approval without the consent of the Lessor.

9. CONSTRUCTION, MAINTENANCE, REPAIR, ALTERATION

All improvements placed on the leased premises shall be constructed in a good and workmanlike manner and in compliance with applicable laws. All parts of buildings exposed to perimeter properties shall present a pleasant appearance and all service areas shall be screened from public view. Lessee shall have the right at any time during the term of this lease to make limited alterations or additions and any repair to any improvements on or placed upon the premises; no alteration, addition or remodeling of improvements involving an expenditure in excess of \$5,000.00 (Five Thousand Dollars) or removal or demolition of improvements shall take place without prior written consent of Lessor and the Secretary. The Lessee shall, at all times during the term of this lease and at Lessee's sole cost and expense, maintain the premises and all improvements thereon in good order and repair and in a neat, sanitary and attractive condition. Lessee shall construct, maintain and repair, as required by applicable law all improvements on the leased premises, and any alterations, additions or

appurtenances thereto, and shall otherwise comply with all public laws and ordinances and regulations applicable to said premises. Lessee shall indemnify and hold harmless the Lessor and the United States Government against liability for all claims arising from Lessee's failure to maintain said premises and the improvements thereon as hereinabove provided, or from Lessee's non-observance of any law, ordinance or regulation applicable thereto.

10. RENTAL AND PERFORMANCE BOND

Upon approval of this lease by the Secretary, Lessee agrees to post a corporate surety bond in a penal sum of \$ 24,000.00 which bond shall be deposited with the Secretary and shall remain in force for the full term of this lease, at the discretion of the Secretary.

It is understood and agreed that bond required by this Article will guarantee performance of the contractual obligations under this lease, and that corporate surety bond maybe furnished annually or may be continued from year to year by a certificate of renewal, copy of which certificate shall be furnished to the Secretary by Lessee. If U. S. Treasury Bonds are provided, Lessee agrees to make up any deficiency in the value deposited that might occur due to a decrease in the value of the bonds. Interest on said U. S. Treasury Bonds shall be paid to Lessee.

11. SUBLEASE, ASSIGNMENT, MANAGEMENT AGREEMENT, TRANSFER

The Lessee shall not sublease, assign, place under a management agreement, or transfer this lease or any right to or interest in this lease or any of the improvements on the leased premises without the written approval of the Lessor, the Secretary and sureties, and no such sublease, assignment, management agreement, or transfer shall be valid or binding without said approval, and then only upon condition that the sublessee, assignee, or other successor in interest, excepting an approved encumbrancer, shall agree in writing to be bound by each and all of the covenants and conditions of this lease. Lessor may either grant or withhold its approval of any transfer of this lease in its sole and absolute discretion.

12. ENCUMBRANCE

This lease, or any right to or interest in this lease or any of the improvements on the leased premises, may not be encumbered without the written approval of the Lessor, the Secretary and sureties, and no such encumbrance shall be valid without said approval.

An encumbrance must be confined to the Leasehold interest of Lessee or the Sublease hold interest of a sublessee, and shall not jeopardize in any way the Lessor's interest in the land. Lessee agrees to furnish as requested any financial

statements or analyses pertinent to the encumbrances that the Lessor and the Secretary may deem necessary to justify the amount, purpose and terms of said encumbrance.

"Approved encumbrances" herein shall mean an encumbrance approved by the Secretary, the Lessor, and sureties, if any, in the manner provided herein. "Encumbrancer" herein shall mean the owner and holder of an approved encumbrance.

1. An encumbrancer of any sublessee, in the event of default by sublessee of the terms of an approved encumbrance, may exercise any rights provided in such approved encumbrance, provided that before any sale of sublease hold, whether under power of sale or foreclosure, the encumbrancer shall give to the Lessor, the Secretary, and the Lessee hereunder notice of the same character and duration as is required to be given to the sublessee by the encumbrancer and/or the laws of the State specified in the land description, Article 2 above.

If notice of such sale shall be given and the defaults of any of them upon which such notice of sale is based shall then continue, Lessee shall have the following rights which may be exercised at any time prior to the completion of sale proceedings:

(a) To pay the encumbrancer the full unpaid principal amount of the approved encumbrance, plus unpaid interest accrued to the date of such payment, plus foreclosure or sale costs incurred to the date of such payment.

(b) To execute in favor of the encumbrancer a promissory note and a new encumbrance for the full unpaid principal amount of the approved encumbrance, plus unpaid interest accrued to the date of such execution plus sale expenses incurred to the date of such execution, upon the same terms and conditions as originally provided by the approved encumbrance, and delivering to the encumbrancer a policy of title insurance in the amount of such promissory note issued by a reputable title insurance company, and insuring that the new encumbrance is a first lien upon the sublease hold described in said sublease subject only to current taxes and to conditions, restrictions, and reservations of record at the time of recording the approved encumbrance.

If the Lessee exercises either of the above rights all of the right, title and interest of the sublessee in the sublease shall automatically terminate on the same date the right is exercised and the lessee shall on the same date acquire the sublease hold; however, the acquisition of the sublease hold by Lessee under these circumstances shall not serve to extinguish the sublease by merger with the lease otherwise.

In the event Lessee does not avail himself of the above rights and any sale under the approved encumbrance occurs, whether by power of sale or foreclosure, the purchaser at

such sale shall succeed to all of the rights, title and interest of the sublessee in the sublease hold covered by said encumbrance. It is further agreed that if the purchaser at such a sale is the encumbrancer, the encumbrancer may sell and assign the sublease hold without any further consent, provided that the assignee shall agree in writing to be bound by all the terms and conditions of the sublease. If the encumbrancer is the purchaser, it shall be required to perform the sublease only so long as it retains title thereto. If a sale under the approved encumbrance occurs and the purchaser is a party other than the encumbrancer, approval by the Secretary of any assignment will be required and said purchaser, as successor in interest to the sublessee, shall be bound by all the terms and conditions of the sublease and will assume in writing all the obligations thereunder.

2. In the event of default by the Lessee of the terms of an approved encumbrance, the encumbrance may exercise any rights provided in such approved encumbrance, provided that before any sale of the leasehold, whether under power of sale of foreclosure, the encumbrancer shall give to Lessor and the Secretary notice of the same character and duration as is required to be given Lessee by such encumbrance and/or the laws of the State specified in the land description Article 2 above.

If notice of such sale be given and the defaults or any of them upon which notice of sale is based shall then continue, Lessor shall have the following rights which may be exercised at any time prior to the completion of sale proceedings:

(a) To pay to the encumbrancer the full unpaid principal amount of the approved encumbrance plus unpaid interest accrued to the date of such payment, plus sale costs incurred to the date of such payment.

(b) To execute in favor of the encumbrancer a promissory note and a new encumbrance, which new encumbrance must be approved by the Secretary, for the full unpaid principal amount of the approved encumbrance, plus unpaid interest accrued to the date of such execution, plus sale expenses incurred to the date of such execution, upon the same terms and conditions as originally provided by the approved encumbrance, and delivering to the encumbrancer a policy of title insurance in the face amount of such promissory note, issued by a reputable title insurance company, and insuring that the new encumbrance is a first lien upon the property described in this lease subject only to current taxes and to conditions, restrictions and reservations of record at the time of recording the new encumbrance.

If the Lessor exercises either of the above rights, this lease shall automatically terminate on the date the right is exercised and shall be of no further force and effect; provided, however, that such termination shall not relieve

the Lessee from any obligation or liability which had accrued prior to the date of termination.

In the event Lessor does not avail himself of the rights above set forth in this Article and any sale under the approved encumbrance occurs, whether by power of sale or foreclosure, the purchaser at such sale shall succeed to all of the rights, title, and interest of the Lessee in the leasehold estate covered by said approved encumbrance. It is further agreed that if the purchaser at such sale is the encumbrancer, the encumbrancer may sell and assign the leasehold interest without any further consent, provided that the assignee shall agree in writing to be bound by all the terms and conditions of this lease. If the encumbrance is the purchaser, it shall be required to perform this lease only so long as it retains title thereto. If a sale under the approved encumbrances occurs and the purchaser is a party other than the encumbrancer, approval by the Secretary of any assignment will be required and said purchaser, as successor in interest to the Lessee, shall be bound by all the terms laws of the State specified in the land description Article 2 above and conditions of this lease and will assume in writing all the obligations thereunder.

13. LESSOR'S PAYING CLAIMS

Lessor shall have the option to pay any lien or charge payable by Lessee under this lease, or settle any action therefore, if the Lessee after written notice from the Lessor or Secretary fails to pay or to post bond against enforcement. All costs and other expenses incurred by Lessor in so doing shall be paid to Lessor by Lessee on demand, with interest at the rate of three (3%) percent per annum in excess of the prime interest rate established by the Valley National Bank, Phoenix, Arizona, from the date of payment until repaid. Default in such repayment shall constitute a breach of the covenants of this lease.

14. SANITATION

Lessee hereby agrees to comply with all applicable sanitation codes, requirements or laws which may be related to the purpose of this document as set forth in Article 3 hereinabove. Such compliance shall specifically include, but not be limited to the sanitary regulations of the U. S. Public Health Service. Lessee further agrees to at all times maintain the entire premises in a safe, sanitary condition, presenting a good appearance both inside and out in all buildings operated on the lease premises.

15. PUBLIC LIABILITY INSURANCE

At all times during the term of this lease, Lessee shall carry a public liability insurance policy in the amount of not less than \$500,000 per person for personal injury, \$1,000,000 per occurrence and \$150,000 for property damage, said

policy to be written jointly to protect Lessee and Lessor. Copy of said policy shall be furnished Lessor and the Secretary. Neither the Lessor nor the United States Government, nor their officers, agents, and employees shall be liable for any loss, damage or injury of any kind whatsoever to the person or property of the Lessee or sublessee or of any premises, or by any defect in any structure erected thereon, or arising from any accident, fire, or other casualty on said premises or from any other causes whatsoever; and Lessee, as a material part of the consideration for this lease, hereby waives on Lessee's behalf all claims against Lessor and/or the United States Government and agrees to hold Lessor and/or the United States Government free and harmless from liability for all claims for any loss, damage or injury arising from the use of the premises by Lessee, together with all costs and expenses in connection therewith.

16. FIRE AND DAMAGE INSURANCE

Lessee shall, from the date of approval of this lease, carry fire insurance with extended coverage endorsements, and vandalism, jointly in the names of the Lessee and Lessor, covering the full insurable value of all improvements on the leased premises. Said policy or policies shall be deposited with the Secretary and Lessee shall pay all premiums and other charges payable in respect to such insurance, and shall deposit with the Lessor the receipt for each premium or other charge as paid, or satisfactory evidence thereof. In the event of damage to any improvement on the leased premises, Lessee shall reconstruct the improvement in compliance with applicable laws and regulations and in accordance with plans to be approved pursuant to Article 8 hereinabove. Such reconstruction shall commence with six (6) months after the damage occurs and shall be pursued diligently. Insurance proceeds shall be deposited in escrow with an institution approved by Lessor and the Secretary. The Lessee shall also deposit in said escrow all additional funds required to reconstruct the damaged improvements.

Escrow instructions shall include provisions that all funds so deposited shall be used to reconstruct the damaged improvements and funds shall be disbursed during the progress of reconstruction on proper architect's, engineer's or contractor's certificates.

If Lessee has not defaulted under this lease, all money in escrow after reconstruction has been completed shall be paid to Lessee; if a default has taken place, said money shall remain in escrow as security for performance of Lessee until said default is corrected, after which funds remaining shall be paid to Lessee. If Lessee does not correct the default, said funds shall be paid to the Lessor.

Any encumbrancer shall be named as a beneficiary under the insurance mentioned in the within paragraph and in the event

of loss or damage to the buildings on the lease property while an approved encumbrance remains unpaid, the amount of such loss or damage to the buildings on the lease property while an approved encumbrance remains unpaid, the amount of such loss or damage (but not exceeding the amount of the approved encumbrance) shall be paid to the encumbrancer. If such amount paid to the encumbrancer is sufficient to repair the loss or with respect to which was paid or if Lessor or Lessee shall within three (3) months after such payment by the insurer to the encumbrancer deposit with the encumbrancer enough money to completely repair the loss or damage, when added to the amount paid by the insurer to the Lessor and Lessee pay such monies for such repair for such repair and it shall not be deemed a payment or credit on the encumbrancer; but otherwise, at the expiration of such three (3) months said sum so paid by the insurer to the encumbrancer shall be applied and credited upon the approved encumbrance.

In the event of damage to the extent of seventy-five (75) percent or more of the total value of all improvements on the leased premises during the last five (5) years of the term of this lease, the Lessee shall have the option whether or not to reconstruct said improvements. Should Lessee elect not to reconstruct, the leased premises shall be cleared at Lessee's expense. In that event, all insurance proceeds shall be paid to Lessor.

17. UNLAWFUL USES

Lessee agrees that it will not use or cause to be used any part of the leased premises for any unlawful conduct or purposes. No exterior signs shall be permitted without the written approval of Lessor.

18. COMPLETION OF DEVELOPMENT

The Lessee shall complete the full improvements and development of the leased premises in accordance with the general plan and architect's design, submitted in accordance with Article 8 above, within 48 months from the beginning date of the term of this lease. If Lessee fails to complete full development within such period, such failure shall constitute a breach of the terms of this lease and may be cause for cancellation.

Whenever under this instrument a time is stated within which or by which original construction, repairs or reconstruction of said improvements shall be made and during such period a general or sympathetic strike or lock out occurs, war or rebellion ensues, or some event unquestionably beyond Lessee's power to control, the period of delay so caused shall be added to the period limited herein for the completion of such work.

In the event of condemnation of the leased premises or any part thereof, the compensation or award insofar only as it is

awarded for damages of the unpaid balance of any approved encumbrance, shall be paid to the encumbrancer. As between the Lessor and Lessee or sublessor and sublessee as the case maybe, such amount shall be deemed paid to the Lessee or sublessee, and if such amount exceeds the amount to which the Lessee or sublessee is entitled under the terms of this lease, Lessee shall pay any such excess to Lessor.

19. EMINENT DOMAIN

If, at any time during the term of this lease, the leased premises or any part thereof is taken or condemned under the laws of EMINENT DOMAIN, then and in every such case, the leasehold estate and interest of the Lessee in said premises or part thereof is taken shall forthwith cease and terminate. All compensation award by reason of the takings of the leased land and any taking of or injury to the buildings or improvements located thereon shall be awarded to the Lessee and the Lessor as their interests appear at the time of such taking. The rental thereafter payable hereunder to the remainder of the terms of this lease shall be reduced in the proportion that the value of the entire premises is reduced by such taking or condemnation.

20. ENTIRE AGREEMENT

This lease and any exhibits attached hereto or to be attached hereto and forming part hereof, set forth all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee concerning the leased premises and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as are herein contained. It is in this regard, Lessee acknowledges that this lease contains terms and conditions which may differ from lease terms authorized by the Navajo Nation Business Site Leasing Act of 1987.

21. DEFAULT

Time is declared to be of the essence of this lease. Should Lessee default in any payment of monies or fail to post bond, as required by the terms of this lease, or should Lessee breach any other covenant of this lease and if such default or breach shall continue uncured for the period of thirty (30) days after written notice thereof by the Secretary to the Lessee, then Lessor or the Secretary may either:

A. Collect, by suit or otherwise, all monies as they become due hereunder or enforce, by suit or otherwise, Lessee's compliance with any other provision of this lease; or

B. Reenter the premises and remove all persons and property therefrom, excluding the property belonging to authorized sublessees and either:

1. Re-let the premises without terminating this lease as the agent and for the account of Lessee, but without prejudice to the right to terminate the lease thereafter, and without invalidating any right of Lessor and the Secretary or any obligation of Lessee hereunder; or

2. The Secretary or the Lessor may terminate this lease at any time and even though Lessor and the Secretary have exercised rights as outlined in one (1) above. Exercise of this remedy shall exclude recourse to any other remedy under one (1) above.

Any default by Thriftway Marketing Corporation under the terms of its promissory note (attached hereto and incorporated herein as Exhibit "A") of even date herewith executed in favor of Lessor shall constitute a breach of this lease.

Any action taken by or against Lessee as a debtor under any insolvency or bankruptcy act shall constitute a breach of this lease. In such event, the Lessor and the Secretary shall have the options as set forth in subarticles (1) and (2) herein.

At least forty-five (45) days prior to any termination of the lease the Lessor shall give to the encumbrancer written notice of his intention to so terminate. If such proposed termination be for any default of Lessee under the lease, the encumbrancer shall be entitled to remedy default at any time before such termination occurs, and thereby prevent termination for such default, or if default cannot be remedied within forty-five (45) days, to commence the remedy thereof within thirty (30) days and diligently prosecute the same thereafter, during which time the lease shall not be terminated for such default.

No waiver of a breach of any of the covenants of this lease shall be construed to be a waiver of any succeeding breach of the same or any other covenant.

22. ATTORNEY'S FEES

If action be brought by Lessor in unlawful detainer for rent or any other sums of money due under this lease, or to enforce performance of any of the covenants and conditions of this lease, the losing party shall pay reasonable attorney's fees of the prevailing party, to be fixed by the Court as a part of a costs in any such action.

23. NO PARTNERSHIP: OPERATION OF BUSINESS

Regardless of the fact that terms of rental are in part on a percentage basis, Lessee and Lessor are not in partnership.

All businesses on the leased premises shall be conducted during the regular and customary hours of such businesses and on all business days in good faith, so that Lessor will at all times receive the maximum income under the percentage rental provisions of this lease.

24. TERMINATION OF FEDERAL TRUST

Nothing contained in this lease shall operate to delay or prevent a termination of Federal Trust responsibilities with respect to the land by the issuance of a fee patent or otherwise during the term of this lease; however, such termination shall not serve to abrogate the lease. The owners of the land and the Lessee and their surety or sureties shall be notified of any such change in the status of the land.

25. OBLIGATIONS OF LESSEE

While the leased premises are in trust or restricted status, all of Lessee's obligations under this lease, and the obligations of their sureties are to the United States as well as to the Lessor.

26. STATUS OF SUBLEASES

Termination of this lease, by cancellation or otherwise, shall not serve to cancel approved subleases and/or subtenancies, but shall operate as an assignment to Lessor of any and all such subleases and/or tenancies.

27. PAYMENTS AND NOTICES

All notices, payments, and demands shall be sent to the parties hereto at the addresses herein recited or to such addresses as the parties may hereafter designate in writing. Notices and demands shall be sent by registered mail. Service of any notice or demand shall be deemed complete ten (10) days after mailing or on the date actually received, whatever occurs first. Copies of all notices and demands shall be sent to the Secretary in care of the Area Director, Navajo Area Office, Window Rock, Arizona 86515.

28. INSPECTION

The Secretary and the Lessor and their authorized representative shall have the right at any reasonable time during the term of this lease to enter upon the leased premises or any part thereof to inspect the same and all buildings and other improvements erected and placed thereon.

29. HOLDING OVER

Holding over by the Lessee after the termination of this lease shall not constitute a renewal or extensions thereof or give the Lessee any rights hereunder or in or to the leased

premises. Lessee agrees to remove all property removable under the terms of this lease within sixty (60) days after termination of this lease or pay daily rental computed at the rate of double the daily rental charged during the year immediately preceding termination of the lease, from the day following the termination date of the lease until said property is removed.

30. DELIVERY OF PREMISES

At the termination of lease, Lessee will peaceably and without legal process deliver up the possession of the leased premises, in good condition, usual wear and tear and acts of God excepted.

31. EMPLOYMENT OF NAVAJOS

Lessee shall give preference in employment arising in connection with this lease to qualified, willing and available Navajos and other Indians living on or near the Navajo Reservation during the term of this lease, and in construction of any facilities thereon to the extent authorized by law.

32. FENCING OF PREMISES - USE OF WATER

Lessee shall have the right to fence all or any portion of the demised premises if the same shall be necessary or desirable to the proper and efficient conduct and operation of Lessee's business.

Upon approval of the Lessor, the Lessee may drill for water on the leased premises. Any water available at the business site in excess of the domestic and business requirements of the Lessee shall be open to free use of the Navajos.

33. MINERALS

All minerals, sand and gravel contained in the tract leased, in whatever concentration are hereby reserved for the use of the Lessor together with the right of the Lessor or its authorized agents or representatives at any time to enter upon the land and prospect for, mine, and remove same, paying just compensation for any damage or injury caused thereby. In case of disagreement as to the just compensation of any item or items, the just compensation shall be determined by the Secretary.

34. LEASE BINDING

This lease and the covenants, conditions and restrictions hereof shall extend to and be binding upon the successors, heirs, assigns, executors, and administrators of the parties hereto.

35. INTEREST OF MEMBER OF CONGRESS

No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom, but this provision shall not be construed to extend to this contract, if made with a corporation or company for its general benefit.

36. LIENS, TAXES, ASSESSMENTS, UTILITY CHARGES

Lessee shall not permit to be enforced against the leased premises or any part thereof any liens arising from any work performed, materials furnished, or obligations incurred by Lessee, but Lessee shall discharge all such liens before any action is brought to enforce same; further, Lessee shall pay when and as the same become due and payable all taxes, assessments, licenses, fees, and other like charges levied during the term of this lease upon or against the leased land and interest therein and property thereon, for which either the Lessee or Lessor may become liable. Upon written application the Lessee shall furnish to the Secretary written evidence duly certified, that any and all taxes required to be paid by Lessee have been paid, satisfied or otherwise discharged.

Lessee shall have the right to contest any claim, asserted tax, or assessment against the property, by posting bond to prevent enforcement of any lien resulting therefrom, and Lessee agrees to protect and hold harmless the Lessor, the Secretary, and the leased premises and all interest therein and improvements thereon from any and all claims, taxes, assessments, and like charges from any lien therefrom, or sale or other proceedings to enforce payment thereof, and all costs in connection therewith. Lessor shall execute and file any appropriate documents with reference to real estate tax exemption of the land when requested by Lessee. In addition to the rents, taxes, and other charges herein described, Lessee shall pay all charges for water, sewage, gas, electricity, telephone, and other utility services supplied to said premises.

37. VALIDITY

This lease and any modification of or amendment to this lease, shall not be valid or binding upon either party hereto until approved by the Secretary.

38. USE OF NAVAJO PRODUCED GOODS AND SERVICES

Lessee agrees to make all purchases of materials, equipment, goods, and services, and transportation from Navajo owned businesses to the extent required by Navajo law.

790-442-89

39. OWNERSHIP AND MANAGEMENT

- A. The Lessee shall personally operate and manage all business activities on the lease site, except when written approval has been obtained from the Navajo Tribe for a different management arrangement
- B. The Lessee shall notify the Navajo Tribe of any change in corporate ownership greater than ten percent (10%) of any corporation holding a leasehold interest in this lease. If there is a change in ownership greater than fifty-one percent (50%), the change shall be subject to the approval of the Navajo Tribe.

40. JURISDICTION AND GOVERNING LAW

The Lessee and the Lessee's employees, agents, and sublessees and their employees and agents agree to abide by all laws, regulations, and ordinances of the Navajo Nation now in force and effect or that may be hereafter in force and effect. The Lessee and Lessee's employees, agents, and sublessees and their employees and agents hereby consent to the jurisdiction of the courts of the Navajo Nation and agree that any dispute arising between Lessor and Lessee under this lease shall lie within the exclusive jurisdiction of the courts of the Navajo Nation. Nothing in this paragraph is intended to impair the validity of applicable federal law as it applies to this lease.

790-442-89


Fleming D. Begaye, Sr., Lessee

THE NAVAJO TRIBE OF INDIANS, LESSOR

Johnny E. Thompson
Vice Chairman
Navy's Policy Council

APPROVED:

Pursuant to Secretarial Redlegation
Order 209 DM 8 and 230 DM 3. and
Navy to Area Addendum to 10 BIAM 3 BE

CTING

Area Director, Navajo Area Office

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790-442-89

APPENDIX A

TRADER'S LEASE--NAVAJO RESERVATION

Forming a part of the indenture of lease between THE NAVAJO TRIBE OF INDIANS 730 38.12
and Fleming D. Begaye for the tract of land
known as ~~#####~~ Fleming's Service Station. The said tract,
according to the plat of survey made by Joe G. Martinez,
Licensed Surveyor of the State of New Mexico on March 26, 1960
is accurately described as follows:

A tract of land at the junction of Navajo Routes 8 and 7 near
Chinle, Arizona more properly described as follows:
Beginning at a point which is the intersection of the east right-of-way line of
Route 8 and the north right-of-way line of Route 7, such point being 75 feet right
of Engineer's station 3993/41.97 as appears on B.I.A. Road Project N8(7)2&4;
Thence N15°-47'W along right-of-way line a distance of 395.12 feet to the N.W. Cor;
Thence S78°-08'E a distance of 497.83 feet to the N.E. Corner;
Thence S15°-47'E a distance of 395.12 feet to the S.E. Corner;
Thence N78°-08'W a distance of 497.83 feet to the S.W. Corner, the Point of
Beginning, said tract containing 4.0 Acres, more or less.

RECEIVED
JUN 17 1985
COMMERCE DEPT.
BUS. SITE LEAS.

Signed

Joe G. Martinez
Licensed Surveyor

State of New Mexico

License No. 2765

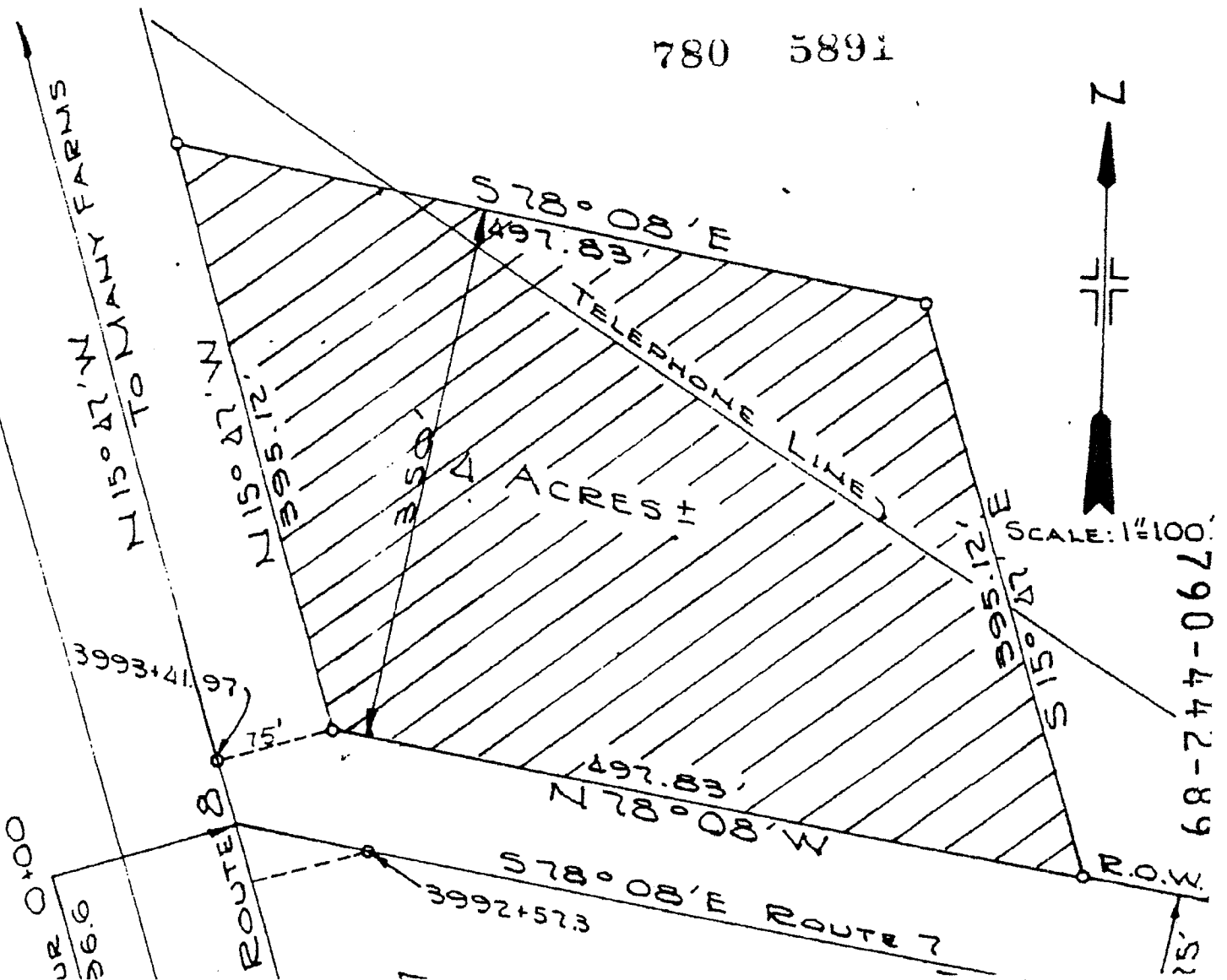
Practising in Arizona under Ariz. Land Surveyor Lic. 2315

NOTE TO SURVEYORS: If public land surveys have been extended over or near the land, tie to an official corner; if land has not been officially surveyed, tie to one of following land-marks: (1) Mineral monuments placed recently by University of Arizona. (2) School building. (3) Numbered Government windmill. (4) Known or named hill, mountain, or ridge. (5) Any permanent and easily identified structure, monument, or landmark.

790-442-89

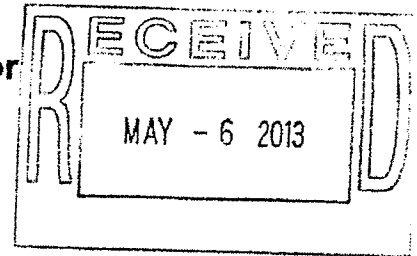
FLEMING D. BEGAYE TRACT JUNCTION OF NAVAJO ROUTE 8 & 7 NEAR CHINLE, ARIZONA

780 5891





United States Department of the Interior
Bureau of Indian Affairs
Navajo Region
P.O. Box 1060
Gallup, New Mexico 87305-1060



IN REPLY REFER TO:
Real Estate Services/2N420

MAY 01 2013

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Fleming D. Begaye
P. O. Box
Chinle, Arizona 86503

Dear Mr. Begaye:

By letter dated October 1, 2012 you were advised that it was determined your notice of renewal of Business Lease No. CH-89-85 was not timely submitted. This determination is hereby withdrawn pursuant to the Settlement Agreement and Stipulation for Dismissal made March 6, 2013.

Based on the March 6, 2013 Settlement Agreement and Stipulation for Dismissal, and based on the unique circumstances described therein, Business Lease Number No. CH-89-85 is renewed for a term of 24 years commencing October 1, 2012.

Sincerely,

(S/ Sharon A. Felt)

Regional Director

CC: Sampson Martinez, Esq. 300 West Hill Avenue, Suite B, P. O. Box 2415, Gallup, NM 87305
Veronica Walters, P. O. Box 188, Chinle, AZ 86503 (Certified Mail - Return Receipt Requested)
Giant Four Corners, Inc. 1250 West Washington Street, Suite 101, Room W1052, Tempe, AZ 85281
BCC: President, Navajo Nation
Director, Division of Economic Development
Director, Division of Economic Development, Small Business Development
Chinle Regional Business Development Office



IN THE FAMILY COURT OF THE NAVAJO NATION
JUDICIAL DISTRICT OF CHINLE, ARIZONA

IN THE MATTER OF THE ESTATE OF:
Helen M. Begaye
DOD: _____

Deceased,

And Concerning:
Veronica V. Walter C# _____

No: CH-FC-876-12

**ORDER AND FINAL DECREE IN
PROBATE**

Veronica V. Walter, the Administrator of the Estate of Helen M. Begaye and Sampson Martinez filed the Final Report and Proposed to Close the Estate of Helen M. Begaye.

The court was advised that no dispute exists as to the final documentation submitted to the court for approval. The heirs have consented to the document entitled, "Final Report, and Proposal to Close." Therefore, the Court being fully advised in the premises, FINDS:

1. The Court has jurisdiction over the parties and the subject matter.
2. Helen M. Begaye died on January 24, 2008.
3. On November 29, 2012, Veronica V. Walter was appointed the Administrator of the Estate of Helen M. Begaye.
4. The decedent died testate. The decedent had a Will. The Will is attached as Exhibit "A."
5. There are eight (8) heirs, and they are as follows:

	<u>NAME</u>	<u>ADDRESS</u>	<u>RELATIONSHIP</u>
a.	Fleming D. Begaye, Sr.	P.O. Box Chinle, Arizona 86503	Husband
b.	Otis E. Begaye	None	Son (Deceased)

- | | | | |
|----|---------------------|-----------------------------------|----------------|
| c. | Veronica V. Walters | P.O. Box
Chinle, Arizona 86503 | Daughter |
| d. | Fleming Begaye, Jr. | None | Son (Deceased) |
| e. | Terry L. Oliver | P.O. Box
Chinle, Arizona 86503 | Granddaughter |
| f. | Torres C. Oliver | P.O. Box
Chinle, Arizona 86503 | Grandson |
| g. | Trenton Nez | Phoenix, Az 85015 | Grandson |
| h. | Theodosia Ott | Phoenix, Az 85015 | Granddaughter |

The affidavits consenting to the Final Report are attached as Exhibit "B."

6. The decedent had a will, and as such, the decedent had predetermined how her properties and assets were to be distributed upon her death. There is no dispute about the Will. Therefore, the court will honor the Will as follows:
 - a. Decedent gave all of her business site lease, including the sublease with Thriftway Marketing Corporation, the transfer agreement with Giants Four Corners and related documents to Mr. Fleming D. Begaye, Sr.
 - b. In the Will, Decedent gave all of her properties to her husband, Mr. Begaye, Sr. At the time of decedent's death, she had a home with her husband. This house is located on the business site lease. In accordance with decedent's wishes, the home including all of the furniture, dishes and household items are awarded to Mr. Fleming D. Begaye, Sr. as part of honoring the wishes of the decedent.

- c. The will provides that if Mr. Fleming D. Begaye, Sr. does not survive her, the gifts will go to her other children. This provision and similar provisions in the will does not apply because Mr. Fleming D. Begaye, Sr. did not die before decedent's death. Therefore, as stated in the will, all of the properties belong to Mr. Fleming D. Begaye, Sr.
7. Before decedent's death, the decedent gave a grazing permit including the farm to Terry L. Oliver who is the granddaughter of decedent. The grazing permit has been executed on August 5, 2008, but the court finds that decedent transferred her grazing permit on September 4, 2007. See, Exhibit "F." The grazing permit including the farm was made before decedent's death, and the court acknowledges transfer of the grazing permit.
8. Notices to creditors and interested parties were given on February 14, 2013, February 21, 2013, and March 28, 2013 and were published in the Navajo Times. Attached as Exhibit "H."
9. The court finds the following debts of the estate:

<u>Creditors</u>	<u>Amount</u>
a. Funeral Expenses	\$ 4,000.00 Approx.
b. Navajo Times (Publications)	\$ 245.70
c. Filing fee	\$ 35.00
d. Administrative cost	None

All of the above expenses have been paid including funeral expenses. There are no outstanding debts of the Estate, and the Administrator is not making a claim for reimbursement of the expenses.

10. Decedent's personal items have been distributed among the family members in accordance with Navajo custom. There are no disputes as to how the personal items were distributed.
11. The Administrator has completed her duties and should be discharged from her duties.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

1. The amended inventory is approved.
2. The Will is accepted as valid, and the wishes of the decedent are respectfully honored.
3. Per the Will, the business site lease number CH-89-85, sublease CH-89-85A and accompanying documents are awarded to Mr. Fleming D. Begaye, Sr.
4. Per the Will, the home and all items in the house are awarded to Mr. Fleming D. Begaye, Sr.
5. The grazing permit including the farm belongs to Terry L. Oliver in accordance with the wishes of decedent.
6. The estate is fully settled, and the Administrator is discharged from any claims or demands from any person, and the Administrator is discharged from her duties.

So Ordered: 2 May 2013

Rudy J. Bedonie
Judge, Chinle Family Court

This is a true and correct copy of the instrument on file in the Chinle Family Court.
Chinle Family Court

**Lease Modification for
Business Site Lease No. CH-89-85
Chinle, Arizona**

Executive Summary

- 1. Memorandum – Summary dated November 14, 2014**
- 2. Letter of Request**
- 3. Business Site Lease Modification for Fleming D. Begaye**
- 4. Business Site Lease No. CH-89-85**
- 5. Account Receivable Procurement Clearance**
- 6. Credit Services Procurement Clearance**



MEMORANDUM

TO: EXECUTIVE REVIEWERS

FROM:

Genevieve Kleetso-Bighorse
Genevieve Kleetso-Bighorse, EDS
Western Regional Business Development Office
Division of Economic Development

Att 11/21/14

DATE: November 18, 2014

SUBJECT: Lease Modification for Fleming D. Begaye, Business Site Lease No. CH-89-85

This memorandum is a summary of the above subject for a Lease Modification for Fleming D. Begaye. The purpose of the Lease Modification is to exclude the percentage of rent on gasoline sale from gross receipts because the Navajo Nation collects revenue from the sale of motor fuel on the Fuel Excise Tax of 18 cents per gallon. All other term and conditions of the Lease shall remain in force and effect.

Business Site Lease No. CH-89-85 was renewed for term of 24 years commencing October 1, 2012. Also, Business Site Lease No. CH-89-85 is not novated therefore does not meet the Navajo Nation Business Site Lease Management Plan. This Lease is under the authority of the Bureau of Indian Affairs and requires approval from the Navajo Nation Resources and Development Committee and the Bureau of Indian Affairs. The procurement clearances from Account Receivable and Credit Services are enclosed.

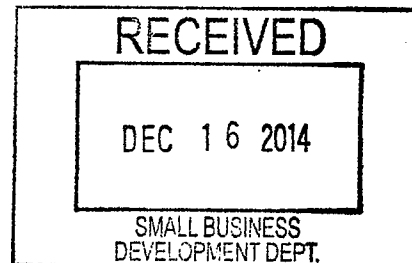
Your consideration and surname of this Lease Modification is greatly appreciated. If you have any questions, call me at (928) 283-3013.

SAMPSON MARTINEZ
PROFESSIONAL CORPORATION

300 WEST HILL AVE., SUITE B
P. O. Box 2415
GALLUP, N.M. 87305
TEL: (505) 726-1218
FAX: (505) 726-1219

December 5, 2014

Elaine Young, Department Manager
Small Business Development Department
Division of Economic Development
Window Rock, Arizona 86515



Re: Lease Modification and Assignment to lease number CH-89-85 and to Sublease Number CH-89-85A.

Dear Ms. Young,

I am writing this letter on behalf of Mr. Fleming D. Begaye and Ms. Veronica V. Walters whom are my clients. They have authorized me to work with Mrs. Theo Ott. Mrs. Ott is the granddaughter of Mr. Begaye and the daughter of Ms. Walters. She has been the contact person and has been involved in the lease modification process.

We would like to have the Resources and Development Committee of the Navajo Nation Council and the Bureau of Indian Affairs ("BIA") approve the lease modification, assignment, renewal of the lease and sublease and modify the lease rental. My clients have expressed their desire against novation at this time, and would like to continue having BIA's oversight approval over the lease and sublease cited above.

More than a year ago, Mrs. Ott received an email from Mr. Ryan Hunter, Navajo Region Realty Officer, BIA. The email was initially addressed to Mr. Anslem Harvey, Sr., Economic Development Specialist for the Chinle Regional Business Development Office. The email states that the modification of the lease should be changed to an assignment of the lease. My client agrees with BIA to address the assignment.

We surmise that BIA's request for an assignment is based upon the settlement agreement that was reached between my clients and the Regional Director of Navajo Region, Bureau of Indian Affairs. In the settlement, the parties agreed that upon the completion of the probate of the Estate of the late Helen M. Begaye, my clients would seek consent from the Navajo Nation to modify the lease to add Ms. Walters as Co-Lessee or Sole Lessee to Lease Number CH-89-85. The Estate of the late Helen M. Begaye was probated on May 2, 2013. The court awarded the entire leasehold interest of CH-89-85 to Mr. Begaye per decedent's Will. The final probate order is attached.

In the email to Mr. Harvey from Mr. Hunter, Mr. Hunter requested an assignment because it transfers the rights and obligations from Mr. Begaye to Ms. Walters. The assignment is a stronger instrument than a modification. Mr. Begaye has been in favor of assigning his rights and obligations to Ms. Walters as the sole lessee of Lease Number CH-89-85. My clients would like to request the assignment form used by your office. If you do not have one, let me know, and I will draft one. I will then have my clients sign the instrument.

Turning to the modification of the lease, the lease should be modified along with the assignment. The modification involves several items. There was a proposed modification of the lease drafted by Mr. Arthur J. Hubbard, Jr. and Mr. Harvey. At the time, Mr. Hubbard was employed with the Division of Economic Development of the Navajo Nation. Mr. Harvey is still employed with the Navajo Nation. The proposed modification went through the tribal review process (164 review) but was never presented to the Resources and Development Committee of the Navajo Nation for approval. This proposal was to remove the names of Fleming D. Begaye and Helen M. Begaye from the lease and insert Ms. Veronica V. Walter's name into the lease. This proposed should be put on hold until all items are addressed.

The lease needs to be renewed for additional twenty five (25) years. The provision concerning rent needs to be modified. On October 21, 2014, Genevieve Keetso-Bighorse, EDS, wrote a letter and attached a lease modification that removed the percentage rent for sales of gasoline. My clients do not object to this proposal as it pertains to percentage rent. The new GMAR would have to be included in the modified lease.

The sublease should be modified to mirror changes to the main lease. The assignment discussed above applies to the sublease. The duration of the sublease should be modified and rental provisions modified. There may be other provisions of the lease that been to be changed. Please let me or Mrs. Ott know about the other changes to the lease and sublease.

It has been over a year since any work has been done on the lease modification and assignment. I am available to help compile the information needed to expedite the modification and assignment of the leases. Mr. Harvey and Mrs. Keetso-Bighorse can communicate directly with Mrs. Ott. The form used for assignment by the Navajo Nation should be mailed or emailed to my office or to Mrs. Ott. There are some documents that I mentioned above which are not attached to this letter. If you need any of the documents, please call my office, and I will make them available to you.

If you need clarification of this letter or need additional information, please email me at samatlaw@qwestoffice.net or call my office at (505) 726-1218.

Thank you.

Sincerely,


Sampson Martinez, Attorney at Law

Cc: Genevieve Keetso-Bighorse, Economic Development Specialist
Western Regional Business Development Office
P.O. Box 487
Tuba City, Arizona 86045

Anslem Harvey, Sr., Economic Development Specialist
Chinle Regional Business Development Office
P.O. Box 565
Chinle, Arizona 86503

Karis N. Begay, Attorney
Office of the Attorney General
Navajo Nation Department of Justice
P.O. Box 2010
Window Rock, Arizona 86515

Navajo Regional Director
Bureau of Indian Affairs
P.O. Box 1060
Gallup, New Mexico 87305

File

FLEMING BEGAYE COMPANY, LLC

P.O. Box 188
Chinle, Arizona 86503

August 21, 2013

Arthur Hubbard, Jr., Program Manager
Chinle Regional Business Development Office
The Navajo Nation
Post Office Box 565
Chinle, Arizona 86503

Dear Mr. Hubbard,

I am writing to you for to ask for a modification that we would like to have done for the Lease that we have with the Bureau of Indian Affairs CH-89-85. We would like to have, under the Lease contract paragraph #5 (Rental), the gas sales of 0.02 cents per gallon of gas removed from the lease. Since there is a sales tax charge for gas with the Navajo Nation in place now, we request for that to be deleted/removed from the contract.

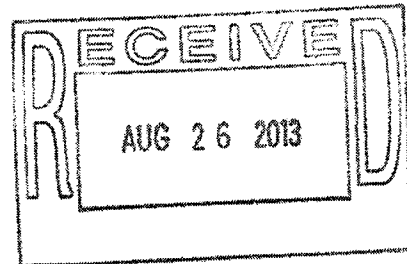
If you have any questions or concerns, please contact me at (928) 814-6641.

Best regards,



Veronica Walters, Lessee

FlemingBeyaveCompany@gmail.com



THE NAVAJO NATION



BEN SHELLY PRESIDENT
REX LEE JIM VICE PRESIDENT

November 17, 2014

MEMORANDUM

TO : Genevieve Keetso - Bighorse, EDS
Regional Business Development Office
Division of Economic Development

FROM : Lena Arviso
Lena Arviso, Accounting Manager
Accounts Receivable Section, OOC

SUBJECT : "Navajo Business and Procurement Act clearance check"

Pursuant to your request dated November 14, 2014 (received and logged in at Accounts Receivable Section on 11/14/2014 @ 11:30 a.m.) seeking procurement clearance check on the following individual/ Business is as follows:

NAME. Address	BSL#/Account Information	A.R. DEBT DUE	ACTION
Fleming Begaye Company, LLC <i>Fleming Begaye, Owner</i>	BSL# CH 89-85 AB# None Post Office Box Chinle, AZ 86503	\$0.00	Procurement Cleared. This BSL account is the base lease for Western Refining Inc. /Giant Industries Inc. Any rental due is paid by the sub-lessee.

Thank you for complying with the "NNB&P ACT". Our office requests that all relevant information of the individual(s) / business (es) is provided to ensure accurate clearance check. The information contained in this memorandum is privileged and confidential. Therefore, when disseminating this information to the 164 reviewers, block out information that are not applicable to the SAS package if this procurement memo is to be included.

Should you have any questions, please contact Accounts Receivable Section at 871-6769 or 6770. Thank you.

/kl
CC: Accounts Receivable File, OOC

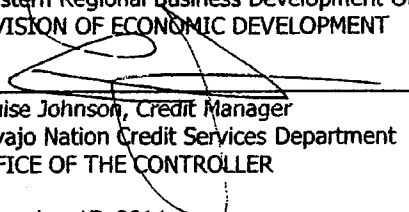
THE NAVAJO NATION

BEN SHELLY PRESIDENT
REX LEE JIM VICEPRESIDENT**Louise Johnson, Credit Manager**

VIA: FACSIMILE

MEMORANDUM

TO: Genevieve Keetso-Bighorse, EDS
Western Regional Business Development Office
DIVISION OF ECONOMIC DEVELOPMENT

FROM : 
Louise Johnson, Credit Manager
Navajo Nation Credit Services Department
OFFICE OF THE CONTROLLER

DATE: November 17, 2014

SUBJECT: **PROCUREMENT CLEARANCE**

RECEIVED

NOV 17 2014

Western Regional
Business Development Office

Pursuant to your memo requesting for procurement clearance on the individual(s)/business is as follows:

XX The individual(s)/business listed **do not have** loans outstanding with the **Navajo Nation Credit Services Department**.

Fleming Begay	Fleming Begaye Company, LLC	P.O. Box Chinle, Arizona 86503	Procurement Cleared
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Should you have any questions, please contact our office at (928) 871-6749.

ye;lj;br
Xc: File/Chrono

EXECUTIVE OFFICIAL REVIEWTitle of Document: BSL MODIFICATION FOR BSL NO. CH-89-85 Contact Name: KEETSO-BIGHORSE, GENEVIEVEProgram/Division: DIV. OF ECONOMIC DEVELOPMENTEmail: gkeetsobighorse@navajobusiness.com Phone Number: (928) 283-3013☒ **Business Site Lease**

			Sufficient	Insufficient
1. Division:	<u>El Albert A. Damond</u>	Date: <u>11/24/14</u>	☒	☐
2. Office of the Controller:		Date: _____	☐	☐
(only if Procurement Clearance is not issued within 30 days of the initiation of the E.O. review)				
3. Office of the Attorney General:	<u>Robert J. ...</u>	Date: <u>12-18-14</u>	☒	☐

☐ **Business and Industrial Development Financing, Veteran Loans, (i.e. Loan, Loan Guarantee and Investment) or Delegation of Approving and/or Management Authority of Leasing transactions**

1. Division:	_____	Date: _____	☐	☐
2. Office of the Attorney General:	_____	Date: _____	☐	☐

☐ **Fund Management Plan, Expenditure Plans, Carry Over Requests, Budget Modifications**

1. Office of Management and Budget:	_____	Date: _____	☐	☐
2. Office of the Controller:	_____	Date: _____	☐	☐
3. Office of the Attorney General:	_____	Date: _____	☐	☐

☐ **Navajo Housing Authority Request for Release of Funds**

1. NNEPA:	_____	Date: _____	☐	☐
2. Office of the Attorney General:	_____	Date: _____	☐	☐

☐ **Lease Purchase Agreements**

1. Office of the Controller:	_____	Date: _____	☐	☐
(recommendation only)				
2. Office of the Attorney General:	_____	Date: _____	☐	☐

☐ **Grant Applications**

1. Office of Management and Budget:	_____	Date: _____	☐	☐
2. Office of the Controller:	_____	Date: _____	☐	☐
3. Office of the Attorney General:	_____	Date: _____	☐	☐

☐ **Five Management Plan of the Local Governance Act, Delegation of an Approving Authority from a Standing Committee, Local Ordinances (Local Government Units), or Plans of Operation/Division Policies Requiring Committee Approval**

1. Division:	_____	Date: _____	☐	☐
2. Office of the Attorney General:	_____	Date: _____	☐	☐

☐ **Relinquishment of Navajo Membership**

1. Land Department:	_____	Date: _____	☐	☐
2. Elections:	_____	Date: _____	☐	☐
3. Office of the Attorney General:	_____	Date: _____	☐	☐

☐ **Land Withdrawal or Relinquishment for Commercial Purposes**

Sufficient Insufficient

1. Division:	_____	Date: _____	☐	☐
2. Office of the Attorney General:	_____	Date: _____	☐	☐

☐ **Land Withdrawals for Non-Commercial Purposes, General Land Leases and Resource Leases**

1. NLD	_____	Date: _____	☐	☐
2. F&W	_____	Date: _____	☐	☐
3. HPD	_____	Date: _____	☐	☐
4. Minerals	_____	Date: _____	☐	☐
5. NNEPA	_____	Date: _____	☐	☐
6. DNR	_____	Date: _____	☐	☐
7. DOJ	_____	Date: _____	☐	☐

☐ **Rights of Way**

1. NLD	_____	Date: _____	☐	☐
2. F&W	_____	Date: _____	☐	☐
3. HPD	_____	Date: _____	☐	☐
4. Minerals	_____	Date: _____	☐	☐
5. NNEPA	_____	Date: _____	☐	☐
6. Office of the Attorney General:	_____	Date: _____	☐	☐
7. OPVP	_____	Date: _____	☐	☐

☐ **Oil and Gas Prospecting Permits, Drilling and Exploration Permits, Mining Permit, Mining Lease**

1. Minerals	_____	Date: _____	☐	☐
2. OPVP	_____	Date: _____	☐	☐
3. NLD	_____	Date: _____	☐	☐

☐ **Assignment of Mineral Lease**

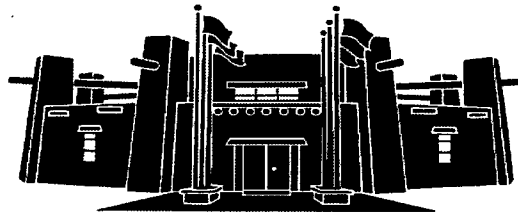
1. Minerals	_____	Date: _____	☐	☐
2. DNR	_____	Date: _____	☐	☐
3. DOJ	_____	Date: _____	☐	☐

☐ **ROW (where there has been no delegation of authority to the Navajo Land Department to grant the Nation's consent to a ROW)**

1. NLD	_____	Date: _____	☐	☐
2. F&W	_____	Date: _____	☐	☐
3. HPD	_____	Date: _____	☐	☐
4. Minerals	_____	Date: _____	☐	☐
5. NNEPA	_____	Date: _____	☐	☐
6. DNR	_____	Date: _____	☐	☐
7. DOJ	_____	Date: _____	☐	☐
8. OPVP	_____	Date: _____	☐	☐

☐ **OTHER:**

1. _____	_____	Date: _____	☐	☐
2. _____	_____	Date: _____	☐	☐
3. _____	_____	Date: _____	☐	☐
4. _____	_____	Date: _____	☐	☐
5. _____	_____	Date: _____	☐	☐



MEMORANDUM

TO: Honorable Leonard Pete
23rd Navajo Nation Council Delegate, Chinle Chapter

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

DATE: September 24, 2015

SUBJECT: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE MODIFICATION TO LEASE NO. CH-89-85 FOR FLEMING D. BEGAYE TO SET RENTAL FEE TO EXCLUDE PERCENTAGE RENT ON GASOLINE SALES

As requested, I prepared the above-reference proposed resolution and associated legislative summary sheet. Based on existing law, the resolution drafted is legally sufficient. However, as with all legislation, the proposed resolution is subject to review by the courts in the event of a challenge. You are encouraged to review the proposed resolution to ensure this is drafted to your satisfaction.

The Office of Legislative Council confirms the appropriate standing committee(s) reviews 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 you are satisfied with the proposed resolution, please sign as "Primary Sponsor" and submit to the Office of Legislative Services where the proposed resolution 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 to make.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0345-15_____ SPONSOR: Leonard Pete

TITLE: An Action Relating To Resources and Development; Approving Modification Two to Lease No. CH-89-85 for Fleming D. Begaye Updating the Legal Description of Lease No. CH-89-85.

Date posted: September 28, 2015 at 3:03pm

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) 871-7590

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 Nav, ajo 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.: 0345-15

SPONSOR: Honorable Leonard H. Pete

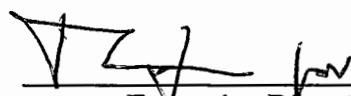
TITLE An Action Relating To Resources and Development; Approving Modification Two to Lease No. CH-89-85 for Fleming D. Begaye Updating the Legal Description of Lease No. CH-89-85.

Posted: September 28, 2015 at 3:03PM

5 DAY Comment Period Ended: October 3, 2015

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inclusive Comments (1)	1. Genevieve Keetso-Bighorse; Western Regional Business Development Office.



Executive Director
Office of Legislative Services

10/05/15 9:25 a.m.
Date/Time

0345-15

Genevieve Keetso-Bighorse <gkeetsobighorse@navajobusiness.com>

Fri 10/2/2015 10:38 AM

To: comments <comments@navajo-nsn.gov>;

This legislation is to set rental fee to exclude percentage rent on gasoline sales. This legislation title states " Approving Modification Two to Lease No. CH-89-85 for Fleming D. Begaye Updating the Legal Description of Lease No.. CH-89-85" this is incorrect. This is not Modification Two and its not updating the Legal Description. This legislation is just Modification or Modification One and it is to set rental fee to exclude percentage rent on gasoline sales.

Genevieve Keetso-Bighorse

Western Regional Business Development Office

P.O. Box 485

Tuba City, Arizona 86045

(928) 283-3013

(928) 283-3015 FAX

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