

**RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
23rd Navajo Nation Council --- Third Year, 2017**

AN ACTION

**RELATING TO RESOURCES AND DEVELOPMENT; SUPPORTING THE NAVAJO
AGRICULTURAL PRODUCTS INDUSTRY'S REQUEST FOR CONGRESSIONAL
FUNDING LEVEL INCREASE RELATED TO THE COMPLETION OF THE NAVAJO
INDIAN IRRIGATION PROJECT AND RELATED OPERATIONS; SUPPORTING
NAABIK'ÍYÁTI' NIIP NEGOTIATION SUBCOMMITTEE EFFORT TO SECURE
INCREASE IN FUNDS; AND DIRECTIVE**

Section One. Authority

A. The Resources and Development Committee of the Navajo Nation Council is the legislative oversight authority for the Navajo Agricultural Products Industry. 2 N.N.C. § 500, 5 N.N.C. § 1604.

Section Two. Findings

A. Navajo Agricultural Products Industry is an enterprise of the Navajo Nation charged with operating a commercial farm on land held in trust by the United States for the Navajo Nation under federal legislation authorizing the Navajo Indian Irrigation Project (NIIP). 5 N.N.C. § 1602; Public Law 87-483, signed on June 13, 1962, amended by Public Law 91-416 on September 25, 1970; NIIP authorized by Acts of Congress approved April 11, 1956 (70 Stat. 105); June 13, 1962 (76 Stat. 96); and August 4, 1977 (91 Stat. 565).

B. The Navajo Agricultural Products Industry (NAPI) was originally established... primarily to plan, develop, and promote the use of agricultural, water and related resources for the use of Navajo Agricultural Products Industry and the Navajo Indian Irrigation Project resulting in a profit to Navajo Agricultural Products Industry and to prevent waste of valuable resources. See CJY-60-01.

C. Public Law 87-483 passed by Congress on June 13, 1962 authorized "the Secretary of the Interior to construct, operate, and maintain the Navajo Indian Irrigation Project and the initial

stage of the San Juan-Chama project as participating projects of the Colorado River Storage Project, and for other purposes." The authorization was amended September 25, 1970, by Public Law 91-416. To date the construction of the San Juan-Chama Project is completed while construction of the Navajo Indian Irrigation Project is only approximately 70% complete.

D. The Bureau of Indian Affairs, Navajo Area Office, and Farmington Construction Office have overall responsibility for the development of the NIIP, but in 2002 the Bureau of Indian Affairs supported a reduction of NIIP funding from \$24 million to \$12 million per year under the reasoning that such temporary funding reduction was necessitated by the costs of the United States war in Afghanistan.

E. The reduction of funding from \$24 million to \$12 million has not been temporary, but has continued in each funding year from Federal Fiscal Year 2002 through Federal Fiscal Year 2010 and more recently another reduction in 2012 to \$3.3 million per year in Fiscal Year 2012 to Fiscal Year 2017 due to the implementation of the 2011 Budget Control Act.

F. The lack of funding for NIIP has delayed and prevented the development of NAPI Block 9, which limits NAPI to cultivation of only 73,000 of the 110,630 acres authorized by the federal legislation.

G. The Navajo Nation authorized NAPI to contract under the Indian Self-Determination and Education Assistance Act, 25 U.S.C. §450 *et seq.* (P.L. 93-638, as amended) to include the remaining construction of the NIIP and to otherwise support Navajo Agricultural Products Industry's efforts to develop Blocks 9, 10, and 11 of the Navajo Indian Irrigation Project at the sole cost and expense of the United States. See NABID-82-15.

H. The Bureau of Reclamation transferred responsibility for the Operations and Maintenance (O&M) for the NIIP to NAPI and the Bureau of Indian Affairs (BIA), through Congressional appropriations, has provided significantly less funding than necessary to NAPI to fulfill the O&M obligations.

I. NAPI has repeatedly submitted annual budget increase requests to the BIA to meet the rising costs for managing the O&M for the

NIIP; however, the BIA has not changed the budget amount since 1994 and as a result the O&M funding has fallen short of the amount necessary to manage the O&M; this has jeopardized the overall structural integrity of the NIIP and cause substantial loss for NAPI as demonstrated by the May 3, 2016 Kutz Siphon breach.

J. The Navajo Agricultural Products Industry Board of Directors request the Navajo Nation advocate and lobby the U.S. Congress and federal officials to approve 1) Congressional appropriations for the Navajo Nation to complete construction of the NIIP, 2) Congressional appropriations for increased funding by Six Million Dollars (\$6,000,000) for NAPI to provide the necessary O&M for the NIIP, and 3) Congressional appropriations under the Water Improvements Acts of the Nation Act, Pub. L. 114-322, for the Navajo Nation to complete all deferred maintenance of Blocks 1 to 7 within the NIIP. NAPI Board of Directors Resolution, BDJN-20-17 attached as **Exhibit A**.

K. The Tribal Interior Budget Council is established to facilitate tribal government participation in the planning of the BIA budget and its mission is to provide an advisory government-to-government forum and process for Tribes and Departments to develop budgets that allow for the fulfillment of tribes' self-determination, self-governance, sovereignty, and treaty rights, as well as sufficient levels of funding to address the needs of Tribes and their tribal citizens.

L. The Navajo Nation established the Naabik'íyáti' NIIP Negotiation Subcommittee to negotiate with the United States to develop a Memorandum of Agreement regarding the funding and completion of the NIIP, advocate for funding for the operation and management of the NIIP, advocate for funding for NIIP under the Water Infrastructure Improvements for the Nation Act and lobby in the interest of the NIIP. See NABIAP-38-17.

Section Three. Approving Support of a Request of Congressional Funding Increase and a Directive to Support the Naabik'íyáti' NIIP Negotiation Subcommittee

A. The Resources and Development Committee supports the NAPI Board of Directors request to advocate and lobby the U.S. Congress and federal officials to approve 1) Congressional appropriations for the Navajo Nation to complete construction of the NIIP, 2) Congressional appropriations for increased funding by Six Million

Dollars (\$6,000,000) for NAPI to provide the necessary O&M for the NIIP, and 3) Congressional appropriations under the Water Improvements Acts of the Nation Act, Pub. L. 114-322, for the Navajo Nation to complete all deferred maintenance of Blocks 1 to 7 within the NIIP.

B. The Resources and Development Committee support the efforts of the Naabik'iyáti' NIIP Negotiation Subcommittee in advocating for funding for the operation and management of the NIIP, in advocating for funding for NIIP under the Water Infrastructure Improvements for the Nation Act and in lobby federal officials in the interest of the NIIP.

C. The Resources and Development Committee directs the Navajo Agricultural Products Industry management to support the Naabik'iyáti' NIIP Negotiation Subcommittee and the Office of the Speaker with appropriate information to assist in the effort to persuade federal officials participating in the Tribal Interior Budget Council on the need for increased funding for the NIIP and related operations.

CERTIFICATION

I, hereby certify that the following resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at Twin Arrows Navajo Casino Resort, Twin Arrows, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 4 in favor, 0 opposed, 1 abstained on this 24th day of July, 2017.



Alton Joe Shepherd, Chairperson
Resources and Development Committee
of the 23rd Navajo Nation Council

Motion: Honorable Leonard Pete
Second: Honorable Benjamin Bennett



BDJN-20-17

RESOLUTION OF THE
NAVAJO AGRICULTURAL PRODUCTS INDUSTRY
BOARD OF DIRECTORS

Requesting the Navajo Indian Irrigation Project (NIIP) Negotiation Subcommittee and the Resources and Development Committee of the Navajo Nation 23rd Council, in a unified effort with the Navajo Nation Council and the Office of the President and Vice President (OPVP) of the Navajo Nation, to Advocate and Lobby the United States Congress and federal officials, on behalf of the Navajo Nation, to Approve Short Term Goals (1) Congressional Appropriations for the Navajo Nation to Complete Construction of the NIIP, Block 9, (2) Congressional Appropriations to Increase Funding by \$6 Million Dollars for a total amount of \$9 Million Dollars for the Navajo Agricultural Products Industry (NAPI) to Provide the Necessary Operations and Maintenance for the NIIP under its Pub. L. 93-638 Contract, and (3) Congressional Appropriations under the Water Infrastructure Improvements for the Nation Act (WIIN Act), Pub. L. 114-322, for the Navajo Nation to Complete All Deferred Maintenance on Blocks 1 to 7 within the NIIP

WHEREAS:

1. The Navajo Agricultural Products Industry ("NAPI") is a wholly owned enterprise of the Navajo Nation charged with operating and managing a commercial farm on land held in trust by the United States for the Navajo Nation under legislation enacted in 1962 authorizing the Navajo Indian Irrigation Project ("NIIP"), *see* 5 N.N.C. § 1601 *et seq.* (2005); and

2. The NIIP is an irrigated agriculture project in northwest New Mexico located on Navajo tribal lands just south of the city of Farmington; and

3. The NIIP was created in exchange for the Navajo Nation relinquishing a significant portion of its historic water rights in the basin of the San Juan River; and

4. The Navajo Nation negotiated with the United States and the State of New Mexico for more than ten years before reaching an agreement to develop 110,630 acres (10 blocks) of irrigated farmland at the NIIP, in exchange for the Navajo Nation's agreement that 110,000 acre-feet per year of water from the San Juan Basin (water that the Navajo Nation might otherwise assert a valid claim to) could be diverted to the Rio Grande Basin by way of the San Juan-Chama Diversion Project ("SJCDP"); and

5. The United States also agreed to provide for the Operations and Maintenance ("O&M") of the NIIP during the construction period until the Navajo Nation assumed full ownership and control over the NIIP upon the project's completion; and

6. The 1962 NIIP legislation contemplated that the SJCDP and the NIIP would be constructed and completed by 1976, but only the SJCDP was completed on schedule (in 1971) and the NIIP remains incomplete today; and

7. The NIIP has been subject to numerous delays and currently serves NAPI operations at just 66% of its originally planned size with Blocks 1-8 completed, Block 9 remains largely incomplete (the Gallegos pumping station is complete, but irrigation infrastructure has no laterals for the on-farm development), and Blocks 10-11 not yet under construction; and

8. On October 1, 1985, the Bureau of Reclamation ("BOR") transferred responsibility for the O&M for the NIIP to NAPI under Pub. L. 93-638 ("638") and the Bureau of Indian Affairs ("BIA") through Congressional appropriations has provided significantly less than the necessary funding for NAPI to fulfill the 638 obligations; and

9. The O&M expenses for the NIIP have increased since 1985 and will continue to increase as additional acreage is added to the NIIP and as the existing infrastructure deteriorates; and

10. Although NAPI has repeatedly submitted an annual budget increase requests to BIA to meet the rising costs for managing the O&M for the NIIP, the BIA has not changed the budget amount since 1994 and O&M funding has fallen short of the amount necessary to manage the O&M, which has jeopardized the overall structural integrity of the NIIP project and caused substantial loss for NAPI and to its contractors as demonstrated by the May 13, 2016, Kutz Siphon breach failure; and

11. NAPI management reports that there will be an estimated \$1.7 Million shortfall in O&M funding by the end of this calendar year, causing more deferred maintenance, risk of further deterioration to the NIIP infrastructure, and uncertainty for NAPI's operations and profitability in the future; and

12. The United States' failure to complete the NIIP by 1976, as anticipated in the 1962 legislation, has imposed significant costs on the Navajo Nation and NAPI; and

13. Due to the federal government's failure to provide the necessary appropriations to complete the NIIP, NAPI management recommends that the development of the NIIP construction should be assumed by the Navajo Nation under a 638 contract to complete construction for Block 9; and

14. Pursuant to the terms of the 1962 NIIP legislation, the United States Congress must appropriate the necessary funds for the BIA and BOR to complete construction of the NIIP; and

15. The United States Congress must also take necessary steps to appropriate the necessary funds for NAPI to fulfill its obligations under its existing 638 contract with the BIA to carry out the necessary O&M functions for the NIIP; and

16. The NAPI Board of Directors has reviewed the report, attached hereto as Exhibit "A", and heard the recommendations of NAPI management and has determined that it is in the best interest of NAPI and the Navajo Nation to request that the NIIP Negotiation Subcommittee and the Resources and Development Committee of the Navajo Nation 23rd Council, in a unified effort with the Navajo Nation Council and the Office of the President and Vice President of the Navajo Nation, to advocate and lobby the United States Congress and federal officials, on behalf of the Navajo Nation, to approve (1) congressional appropriations for the Navajo Nation to complete construction of the NIIP, Block 9, (2) congressional appropriations to increase funding by \$6 Million Dollars for NAPI to provide the necessary O&M for the NIIP under its 638 Contract, and (3) congressional appropriations under the WIIN Act, Pub. L. 114-322, for the Navajo Nation to complete all deferred maintenance on Blocks 1 to 7 within the NIIP.

NOW THEREFORE BE IT RESOLVED THAT:

1. The NAPI Board of Directors respectfully requests that the NIIP Negotiation Subcommittee and Resources and Development Committee of the Navajo Nation 23rd Council, in a unified effort with the Navajo Nation Council and the Office of the President and Vice President of the Navajo Nation, to advocate and lobby the United States Congress and federal officials, on behalf of the Navajo Nation, to approve short term goals (1) congressional appropriations for the Navajo Nation to complete construction of the NIIP, Block 9, (2) congressional appropriations to increase funding by \$6 Million Dollars for a total amount of \$9 Million Dollars for NAPI to provide the necessary O&M for the NIIP under its 638 Contract, and (3) congressional appropriations under the WIIN Act, Pub. L. 114-322, for the Navajo Nation to complete all deferred maintenance on Blocks 1 to 7 within the NIIP.

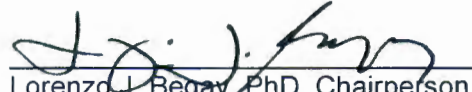
2. The NAPI Board of Directors formally approves the NAPI Management Report attached hereto as Exhibit "A".

3. The Chief Executive Officer is authorized and directed to communicate this resolution to the appropriate officials of the Navajo Nation and to take any and all actions necessary to carry out the purpose and intent of this resolution.

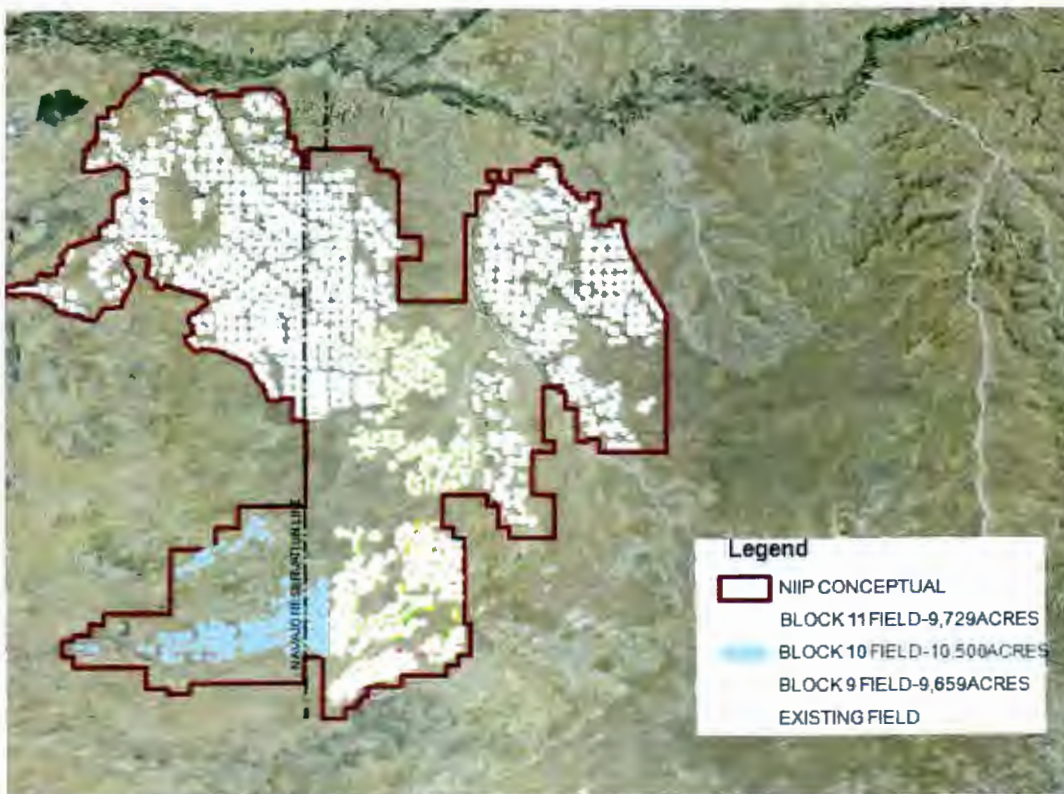
CERTIFICATION

I hereby certify that the foregoing resolution was considered by the Navajo Agricultural Products Industry Board of Directors at a regularly called meeting at which a quorum was present at NAPI Headquarters near Farmington, New Mexico, and that the same was passed by a vote of 2 in favor, 0 opposed, and 0 abstained, this 30th day of June, 2017.

Motion: Veronica D. Tso
Second: Lawrence R. Platero


Lorenzo J. Begay, PhD, Chairperson
NAPI Board of Directors

Navajo Nation Council and the Office of the President and Vice President prioritize the completion of the Navajo Indian Irrigation Project authorized by Public Law 87-483 and communicate to the highest level of federal authority the importance of the NIIP to the Navajo Nation for furnishing irrigation water and providing economic sustainability to the Navajo Nation and Four Corners Region.



1) Objective: Increase annual funding to \$27 M for NIIP New Construction to complete Block 9

Benefits:

(A) Four years of construction work to the Navajo Nation contractors.

(B) Assets under-utilized:

- a. Burnham Canal (\$20.6 Million)
- b. B0.1R and B0.9L Pumping Plants (\$17.1 Million)
- c. Gallegos Pumping Plant (\$60

Million)

d. Overhead Powerlines (to B0.1R and B0.9L)

(C) The development of 9,873 additional acres in block 9 will increase the utilization of water resources for Navajo Nation economic development in food production.

# of Fields	Total Acres
149	9,873

NIIP Cost	On-Farm Development Cost
\$108.7 M	\$34.6 M

Navajo Indian Irrigation Project
Construction Funds - History (Dollars in Thousands)

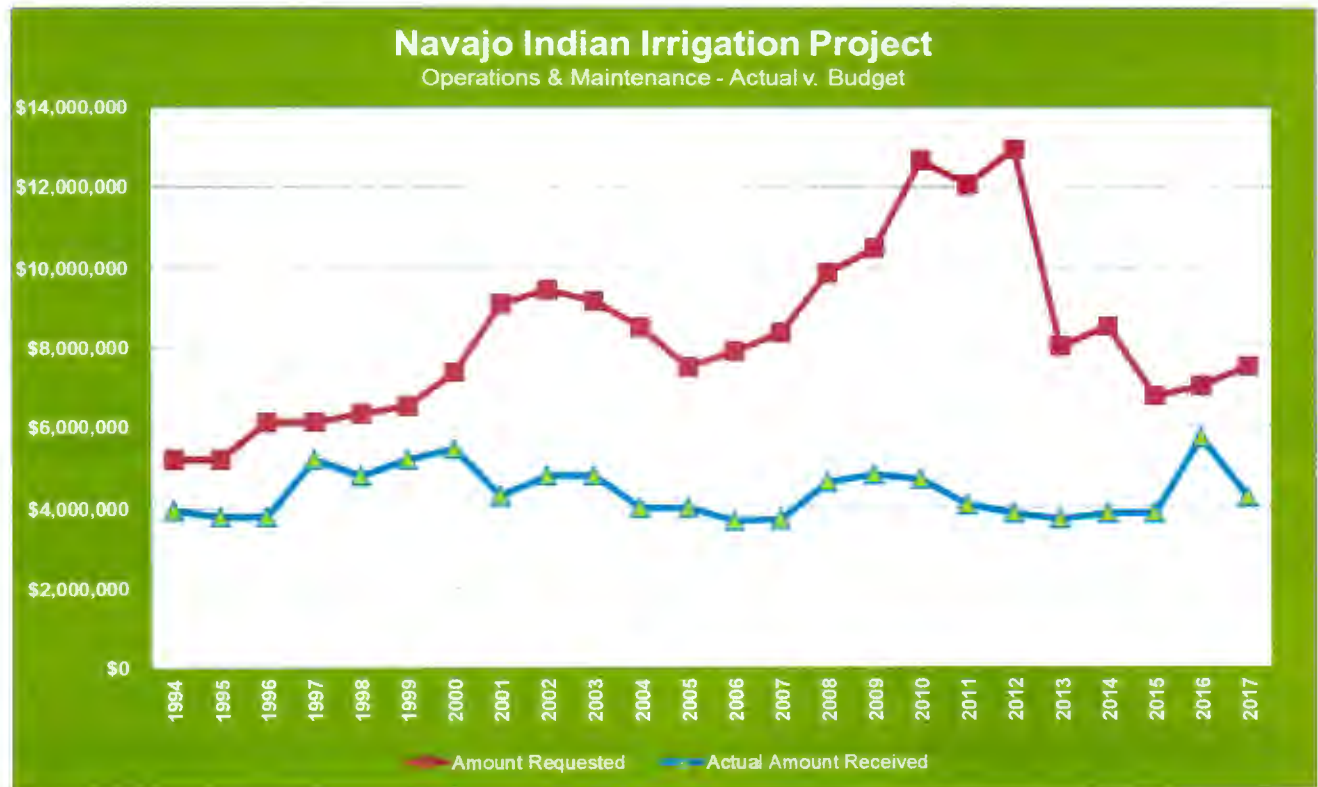


2) Objective: Increase funding to \$6 M for operations and maintenance to deliver water to ~70,000 acres of farmland in Blocks 1 – 7.

Benefits:

(A) Utilize NIIP infrastructure to deliver water to crops and food production.

(B) Protect capital investments in NIIP infrastructure including reservoir, canals, substations, electrical distribution lines, pumping plants and lateral pipes.



Facilities transferred since 1994:

Block 6	1994
Block 7	2000
Block 8 - B2.1R & Burnham canal	2012
Gallegos Pumping Plant	2016
Block 8 – B3.1R-AH	2017

3) Objective: NIIP Qualifications for WIIN Act PL 144-322 funding for deferred maintenance

Benefits:

A) Protect federal infrastructure investments in blocks 1-7.

B) Grow crops in blocks 1-7 and bring a positive economic impact to the Four Corners Region and Navajo Nation.



Summary of Remediation and Replacement Costs

Description	Remediation Cost	Current Replacement Value
Structures		
Structure Rehabilitation for Key Canals and Laterals	\$11,558,401	\$278,203,590
Structure Rehabilitation for Remaining Laterals	\$13,259,987	\$113,110,744
Subtotal	\$24,818,388	\$391,314,334
Canals		
Canal Constriction	\$832,488	\$834,296
Canal Liner Local Failure	\$2,532,128	\$2,765,099
Canal Liner Rehabilitation	\$18,814,471	\$285,770,761
Cleaning/Reshaping (Drains)	\$877,742	\$877,742
Pipelines		
Canals and Laterals	\$126,240,502	\$210,884,198
Subtotal	\$149,297,332	\$501,132,097
Transmission Lines	\$594,642	\$8,193,659
Grand Total	\$174,710,362	\$900,640,090