

LEGISLATIVE SUMMARY SHEET

Tracking No. 0173-18

DATE: May 16, 2018

SUBJECT AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, NAABIK'ÍYÁTI' COMMITTEES: REQUESTING THE COMMISSIONERS OF MCKINLEY COUNTY ESTABLISH A MORATORIUM ON URANIUM DEVELOPMENT AND A CONDUCT PUBLIC HEARINGS ON THE POTENTIAL IMPACT OF SUCH MINING

PURPOSE: The purpose of this legislation is to endorse the adoption of moratorium on uranium development in McKinley County.

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 review the proposed resolution in detail.



PROPOSED STANDING COMMITTEE RESOLUTION
23RD NAVAJO NATION COUNCIL—Fourth Year, 2018

INTRODUCED BY



Primary Sponsor

TRACKING NO. 0173-18

AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES,
NAABIK'ÍYÁTI' COMMITTEES: REQUESTING THE COMMISSIONERS
OF MCKINLEY COUNTY ESTABLISH A MORATORIUM ON URANIUM
DEVELOPMENT AND A CONDUCT PUBLIC HEARINGS ON THE
POTENTIAL IMPACT OF SUCH MINING

WHEREAS:

Section One. Authority

- A. The Health, Education and Human Services Committee of the Navajo Nation Council has legislative authority and oversight over all matters related to education on the Navajo Nation. 2 N.N.C. § 401 (C) (1)
- B. The Naabik'iyáti' Committee of the Navajo Nation Council is empowered to assist and coordinate all testimony relating to proposed county, state and federal legislation impacting the Navajo Nation. 2 N.N.C. § 701 (A) (6).

Section Two: Findings

- A. The Navajo Nation and its People have been substantially harmed by the exploration for and the mining, production, processing, milling and transportation of uranium ore, yellowcake and other radioactive products on and near the Navajo Nation.
- B. Over five hundred (500) uranium mines were left abandoned in Navajo Indian Country, along with four extremely large deposits of uranium mill tailings.

- 1 C. Navajo uranium miners, their families and their communities continue to suffer
2 debilitating and lethal impacts from past uranium mining.
- 3 D. In 2005, in legislative response, the Navajo Nation enacted the Diné Natural Resources
4 Protection Act (Act) of 2005. 18 N.N.C. §1301 *et seq*
- 5 E. The Act was adopted, in part, on the finding that the mining and processing of uranium
6 ore on the Navajo Nation and in Navajo Indian Country has created substantial and often
7 irreparable harm to the economic, ecological and public health well being of the Navajo
8 Nation and its People. 18 N.N.C. §1301 (F).
- 9 F. The Act was further predicated on the finding that future mining and processing of
10 uranium can be expected to generate further economic and health related damage to the
11 land and the People of the Navajo Nation. 18 N.N.C. § 1301 (G)
- 12 G. The Navajo Nation prohibited any further mining and processing of uranium on any sites
13 within the Navajo Nation. 18 N.N.C. § 1303
- 14 H. In 2012, out of heightened concern with the increase in uranium mining activity
15 surrounding the Navajo Nation, the Navajo Nation Council adopted and the President of
16 the Navajo Nation signed, the Radioactive and Related Substances Equipment, Vehicles,
17 Persons and Materials Transportation Act in 2012. (Radioactive Transportation Act) 18
18 N.N.C. 1304 *et seq*
- 19 I. The Radioactive Transportation Act regulates the transportation across the roads of the
20 Navajo Nation of uranium ore, yellowcake, radioactive waste and other radioactive
21 products, other than those used for medical purposes, where such jurisdiction applies.
- 22 J. There is now renewed interest within McKinley County to undertake additional uranium
23 development.
- 24 K. The Navajo Nation and McKinley County share an extensive common boarder, natural
25 resources and people; with 79% of the County population being Native American by
26 census category. U.S. Census July 1, 2017 Population Estimates
- 27 L. The McKinley County Supervisors were asked, in 2016, to enact a three year moratorium
28 on uranium mining, processing and exploration. See Exhibit A.
29
30

1 M. The County would also, pursuant to the moratorium, hold at least six public meetings to
2 collect information on the impacts of uranium mining to be used as a basis for any
3 ordinances regulating uranium development in the County.

4 N. The proposed moratorium has the support of the Eastern Navajo Agency Council and the
5 Diné Medicine Men Association, Inc. See Exhibit B.

6 O. To date the McKinley County Commissioners have taken no action on the moratorium or
7 holding public hearings on such uranium activity.

8 P. The Navajo Nation finds it to be in the best interest of the Navajo Nation and its People
9 to see the McKinley County Commissioners adopt such a moratorium and hold such
10 public hearings.

11
12 **NOW THEREFORE, BE IT RESOLVED:**

13 A. The Navajo Nation hereby endorses the moratorium on uranium development within
14 McKinley County and the holding of public hearings, as found as Exhibit A.

15 B. The Navajo Nation hereby requests the McKinley County Commissioners to adopt the
16 moratorium resolution and conduct public hearings on the consequences of uranium
17 development to McKinley County, its environs and its residents.



ORDINANCE No. ____-16- ____

McKinley County, New Mexico

An Ordinance Establishing a Moratorium on Uranium Mining, Processing and Exploration;
Establishing Information Gathering Meetings; Establishing Penalties

WHEREAS, uranium mining and processing, including conventional milling and *in situ* leach (ISL) mining, occurred in McKinley county from the 1950s until the 1990s; and

WHEREAS, many companies operating uranium mines during this time failed to adequately or completely remediate uranium mining waste; and

WHEREAS, as a result there remain hundreds of unremediated, partially remediated, or inadequately remediated uranium mines in McKinley County; and

WHEREAS, an ISL pilot project in McKinley County failed to restore groundwater to pre-mining conditions; and

WHEREAS, no commercial ISL uranium mine in the United States has returned groundwater to pre-mining quality; and

WHEREAS, unremediated, inadequately remediated, and partially remediated uranium mines have resulted in widespread contamination of water, thereby preventing tens of millions of gallons of water from being used for domestic or agricultural purposes or other beneficial uses; and

WHEREAS, groundwater and surface water contaminated by unremediated, inadequately remediated, and partially remediated uranium mines has caused or contributed to significant economic damage to McKinley County government and businesses; and

WHEREAS unremediated, inadequately remediated, and partially remediated uranium mines, have contaminated significant soil resources in McKinley County; and

WHEREAS contaminated soil from unremediated, inadequately remediated, and partially remediated uranium mines has resulted in substantial economic damage to McKinley County businesses; and

WHEREAS, the United Nuclear Corporation uranium mine and mill complex in Churckrock has been declared a Superfund site under the Comprehensive Environmental Response, Compensation and Liability Act and continues to contaminate soil and water; and

WHEREAS, Churckrock, located in McKinley County, is the site of the nation's largest nuclear accident, the July 16, 1979 United Nuclear Corporation mill tailings spill, the environmental and public health impacts of which persist to the present; and

WHEREAS, recent epidemiological and public health studies have linked several diseases, including cancer, heart disease, kidney disease, hypertension, and autoimmune dysfunction to living in close proximity to unremediated, inadequately remediated, or partially remediated uranium mines; and

WHEREAS, the uranium market has been depressed for over twenty years and shows no signs of recovery making the purported economic benefits of new uranium mining unlikely; and

WHEREAS, McKinley County's future is rooted in environmentally and economically sustainable industries; and

WHEREAS, the uranium mining industry has failed to take financial responsibility for the costs of fully remediating uranium mines and mills, causing the economic burden for clean-up to fall on Federal, state, and local taxpayers; and

WHEREAS, all McKinley County residents have the right to clean, sanitary drinking water and a healthy environment; and

WHEREAS, the public health, environmental, and economic impacts of the uranium mining and processing industry have not been thoroughly studied, assessed, inventoried or quantified; and

WHEREAS, McKinley County possesses authority to regulate land use within the County's boundaries; and

WHEREAS, McKinley County has authority pursuant to its inherent police powers to protect the public health, safety and welfare; and

WHEREAS, McKinley County has the authority and obligation to prevent nuisances; and

WHEREAS, McKinley County possesses the legal authority to impose a reasonable moratorium on any noxious, dangerous, hazardous, industrial or other activity the County deems a threat to the public health, welfare, safety, environment, resources or economy; and

WHEREAS, this exercise of County authority does not conflict with nor is pre-empted by any state or federal law,

THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSION OF MCKINLEY COUNTY THAT:

1. The McKinley County Commission hereby enacts a three year moratorium on all uranium mining, processing and exploration within County boundaries, effective within thirty (30) days of enactment of this Ordinance;

2. During the three year moratorium, the County will hold a minimum of six public meetings to collect information on the impacts of uranium mining in McKinley County in order

to determine whether it is necessary and desirable to develop an ordinance regulating uranium development in McKinley County;

3. Before the end of the three year moratorium, the Commission shall consider the need for additional time to compile and analyze information on the impacts of uranium mining, processing, and remediation, and may extend the moratorium for a reasonable period of additional time, not to exceed 6 months, only if substantial progress toward an ordinance regulating uranium development in McKinley County has been made;

4. Violation of this Moratorium by engaging in uranium mining, processing, or exploration shall be punished as set forth in NMSA 1978, § 4-37-3 or by enjoining the activity violating this ordinance;

5. If any part of this Ordinance is, for any reason, held to be unconstitutional, invalid or void, the remaining portion shall not be affected since it is the express intention of the McKinley County Board of Commissioners to pass such part separately and independently from every other part.

6. This moratorium shall not be effective on any lands within the jurisdiction of any Indian tribe.

APPROVED, ADOPTED and PASSED THIS ____ DAY OF _____, 2016.

BOARD OF COUNTY COMMISSIONERS



**RESOLUTION
OF THE
EASTERN NAVAJO AGENCY COUNCIL
THE NAVAJO NATION**

No. ENAC-08/17-008

**SUPPORTING THE DINE NATURAL RESOURCES AND PROTECTION ACT (DNRPA)
AND THE CREATION OF A MCKINLEY COUNTY URANIUM TASK FORCE**

WHEREAS:

1. The Eastern Navajo Agency Council is established under the Legislative Branch of the Navajo Nation and certified by Resolution IGRS-251-01; and
2. Pursuant to 26 N.N.C. Section 103 (D) (4), the Eastern Navajo Agency Council, a consortium of elected Chapter Officials representing thirty-one (31) certified Navajo Nation Chapters, agree to address and undertake common goals and interests for the benefit of the Eastern Navajo Agency Chapters; and
3. Pursuant 2 N.N.C SECTION: 4028; the Eastern Navajo Agency Council is vested with government authority to review all matters affecting the community to make most appropriate recommendations when necessary to the Navajo Nation, County, State, Federal and other local agencies; and
4. Tribal Indian lands and private lands surround the City of Gallup and that past uranium mining has resulted in hundreds of abandoned mines that have contributed to contamination of land, air and water; and
5. Eastern Navajo Agency Council is aware that there was strong opposition in any further uranium mining, due to the serious effects and contamination; and
6. Eastern Navajo Agency Council is aware that due to the strong opposition to new uranium mining and processing, the DNRPA – Dine Resources Protection Act became effective since April 15, 2005
7. The McKinley County, New Mexico and the Navajo Nation have been long time partners in many aspects, when it comes to business, health and what is in the best interests of all its people and culture; and
8. The Navajo Nation Council, in 2005, banned uranium mining on the Navajo Nation.

NOW, THEREFORE BE IT RESOLVED THAT:

1. The Eastern Navajo Agency Council supports the Dine Natural Resources and Protection Act (DNRPA) and the creation of a McKinley County Uranium Task Force.
2. Further, the McKinley County Commission refrain from any involvement with companies or industries who are interested in uranium production, as long as DNRPA is in place.
3. Further, the McKinley County Commission should introduce a similar moratorium, and should implement a Task Force to work with relevant stakeholders on the effects of past and proposed uranium development, which is not in the best interests of all the people.

CERTIFICATION

I hereby certify that the foregoing resolution was approved by the Eastern Navajo Agency Council at a duly called meeting at Nageezi Chapter, Navajo Nation, New Mexico, at which a quorum was present and the same was passed by a vote of 62 in favor, 00 opposed, 07 abstained, this 26th day of August 2017.

Moved by: Rapheal Martin, Pinedale Chapter
Seconded: Johnny Johnson Tse'i'ahi Chapter



President Jamie Henio

ATTEST



W. Wanda Arviso, Secretary



Dine' Medicine Men Association, Inc.

Diné Bi Nahagha' Yee Da' Ahoota'

P.O. Box 4574

Gallup NM 87301

RESOLUTION

#91017-2

By Virtue of the Inherent Rights of the Dine' Medicine Men's Association, Inc. and the Dine' Traditional Medicine-People, urging the McKinley County Commissioners to honor and respect the DNRPA- Dine' Natural Resources Protection Act which became Law on April 2005, that addressed the fact that uranium ore mining had contaminated drinking water, air, land, and can have long health effects which was proven in many of the McKinley County community's and at nearby Gallup area, and where many of the uranium mine cleanup has not been implemented in same area.

Whereas:

1. The Dine' Medicine Men Association, Inc. is a non-profit organization incorporated with the Navajo Nation of Commerce and has been in existence since the early 1970s, and
2. Dine' traditional medicine people always have had the commitment to teach, preserve and protect the welfare of the Dine' people as well as the welfare of the Dine' Nation through providing exceptional protocols of the traditional knowledge of the distinctive oral philosophy of Indigenous way of life on the basis of the Dine' Ancient Oral Sacred Philosophy of the Spiritual Belief Foundation. Hence, it always has been the moral principle that guided the ceremonial sacred songs and prayers interwoven with intellectual and oral proceedings of planning and teaching with dignity and integrity which is still the foundation of Dine life way since time immemorial; and
3. The local and national elected leaders are bestowed to protect their peoples equally as Dine people, and as their children..
4. Dine' people have the right to self-determination and culture. By virtue of this right the Dine' people freely determine their political status and freely pursue their economic, social, and cultural development. The right of self-determination is the fundamental human right and cannot be desecrated, discriminated, and taken away by any business entity or any governing institute; and
5. Dine' Medicine Men Association is aware that Tribal Indian lands and nearby private lands surround the City of Gallup and is aware that past uranium mining has resulted in hundreds of abandoned mines that have contributed to contamination of land, air and water; and

6. Dine' Medicine Men Association is aware that there is strong opposition to any further uranium mining, due to the serious effects and contamination; and
7. Dine' Medicine Men Association is aware that due to the strong opposition to new uranium mining and processing, a Law, the (DNRPA) – Dine' Resources Protection Act became effective April 15, 2005
8. The McKinley County, New Mexico and the Navajo Nation have been long time partners in many aspects, when it comes to economic development, public health, protection of natural resources and what is in the best interests of all of its people and culture.
9. Under the United Nations Declaration on the Rights of Indigenous Peoples, the Diné have certain inalienable and fundamental rights that uranium mining and processing infringes upon, including: the right to self-determination, which encompasses the right to freely pursue their economic, social and cultural development (Article 3); the right to practice their religious and spiritual traditions, including the right to preserve, maintain and have access to culturally important sites (Article 12); the right to maintain and strengthen their distinctive spiritual connection with their traditionally owned, occupied or used lands and water (Article 25); and the right to determine and develop priorities and strategies for the use or development of their land and resources.


NOW, THEREFORE BE IT RESOLVED THAT:

1. The McKinley County Commission refrain from any involvement with companies or industries who are interested in uranium production, as long as DNRPA is in place.
2. The McKinley County Commission should introduce a similar moratorium, and should implement a Task Force to work with relevant stakeholders on the effects of past and proposed uranium development, which is not in the best interests of all the people.

CERTIFICATION

I, hereby, certify that the following resolution was duly considered by the Diné Medicine Men Association at a duly called meeting in Gallup NM NCI, at which a quorum of membership was present and that the same was passed by a vote of 10 in favor, 0 opposed, and 00 abstained this 10th day of September 2017.

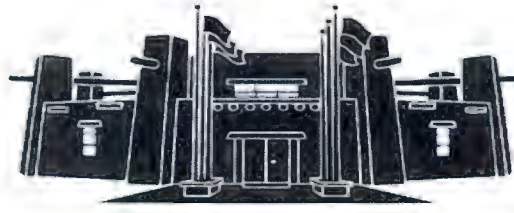
Motion by: Tommy Pine



Mr. Kenneth Maryboy, President

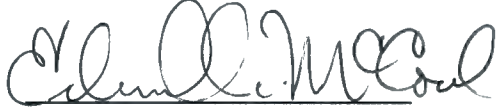
Seconded by: Narron Martin

March 20th 18
Date



MEMORANDUM

TO: Honorable Jonathan Hale
Navajo Nation Council

FROM: 
Edward A. McCool, Principal Attorney
Office of Legislative Counsel

DATE: May 16, 2018

SUBJECT AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, NAABIK'ÍYÁTI' COMMITTEES: REQUESTING THE COMMISSIONERS OF MCKINLEY COUNTY ESTABLISH A MORATORIUM ON URANIUM DEVELOPMENT AND A CONDUCT PUBLIC HEARINGS ON THE POTENTIAL IMPACT OF SUCH MINING

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge. Please ensure that this particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§500, 501. 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 the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0173-18_____ SPONSOR: Jonathan Hale

TITLE: An Action Relating to Health, Education and Human Services, Naabik'iyati' Committees: Requesting the Commissioners of McKinley County establish a moratorium on Uranium Development and a conduct public hearings on the potential impact of such mining

Date posted: May 17, 2018 at 1:22pm

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 Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

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

LEGISLATION NO.: 0173-18

SPONSOR: Honorable Jonathan L. Hale

TITLE: An Action Relating To Health, Education and Human Services, Naabik'iyati' Committees: Requesting the Commissioners of McKinley County establish a moratorium on Uranium Development and a conduct public hearings on the potential impact of such mining

Posted: May 17, 2018 at 1:22pm

5 DAY Comment Period Ended: May 22, 2018

Digital Comments received:

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



**Legislative Assistant
Office of Legislative Services**



Date/Time

Committee Report

THE HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE OF THE NAVAJO NATION COUNCIL to whom has been assigned;

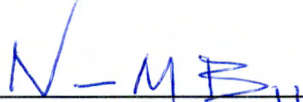
LEGISLATION NO. 0173-18

AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, NAABIK' IYATI' COMMITTEES; REQUESTING THE COMMISSIONERS OF MCKINLEY COUNTY ESTABLISH A MORATORIUM ON URANIUM DEVELOPMENT AND CONDUCT PUBLIC HEARINGS ON THE POTENTIAL IMPACT OF SUCH MINING

Sponsor: Honorable Jonathan L. Hale

Has had under consideration and report the same with the recommendation that Legislation Q173-18 PASS with no amendment and no directive; and therefore referred the same to the NAABIK' IYATI' COMMITTEE OF THE NAVAJO NATION COUNCIL

Respectfully Submitted,



Norman M. Begay, Vice-Chairperson
Health, Education and Human Services Committee

June 11, 2018 - Main Motion

Motion by: Honorable Jonathan L. Hale

Seconded by: Honorable Steven Begay

Vote: 4 in favor; 0 Opposed; Vice-Chairperson Not Voting

Absent (excused): Amber Kanazbah Crotty

Yeas: Jonathan L. Hale; Steven Begay; Nelson BeGaye; Nathaniel Brown

Nays: None