



23rd Navajo Nation Council

MEMORANDUM

To : Manuel Rico, Senior Programs and Projects Specialist
OFFICE OF LEGISLATIVE SERVICES

From : 15711
Tom Platero, Executive Director
OFFICE OF LEGISLATIVE SERVICES

Date : January 9, 2019

Subject : ***23rd Navajo Nation Council Expired Legislation***

Pursuant to 2 N.N.C. § 164 (A) (1), "The last day for consideration of resolutions shall be December 31st of the year immediately preceding the swearing in of the new Council", the following legislation need to be closed out and labeled as "expired":

NAVAJO NATION COUNCIL:

0399-17	0424-17	0098-18	0136-18
0183-18	0224-18	0328-18	0344-18
0356-18	0358-18	0367-18	0373-18
0385-18	0393-18	0404-18	0416-18
0422-18			

NAABIK'YATI' COMMITTEE:

0224-15	0361-16	0341-18	0406-18
0418-18	0427-18		

BUDGET AND FINANCE COMMITTEE:

0021-17	0392-17	0099-18	0261-18
0287-18	0398-18	0435-18	0436-18

HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE:

0414-18	0419-18	0451-18
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LAW AND ORDER COMMITTEE:

0114-17	0031-18	0217-18	0307-18
0353-18	0360-18	0364-18	0437-18

RESOURCES AND DEVELOPMENT COMMITTEE:

0402-15	0104-16	0121-16	0183-16
0282-16	0296-16	0370-16	0384-16
0135-17	0176-17	0386-17	0400-17
0076-18	0395-18	0415-18	0443-18

Legislation need to be closed out as soon as possible. If you have any questions, please let me know.

CONCURRENCE:



Honorable LoRenzo C. Bates, Speaker
23rd Navajo Nation Council

COPIES: Pete K. Atcitty, Chief of Staff, Office of the Speaker
Ed McCool, Acting Chief Legislative Counsel, Office of Legislative Counsel
Files

LEGISLATIVE SUMMARY SHEET

Tracking No. 0422-18

DATE: December 17, 2018

TITLE OF RESOLUTION: PROPOSED NAVAJO NATION COUNCIL RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE, THE NAABIK'ÍYÁI' COMMITTEE AND THE NAVAJO NATION COUNCIL; AMENDING CO-50-13; APPROVING AMENDMENTS TO THE PLAN OF OPERATION FOR THE NAVAJO NATION DIVISION OF NATURAL RESOURCES ADMINISTRATION; AND APPROVING THE PLAN OF OPERATION FOR THE ENERGY RESOURCES AND STRATEGIC DEVELOPMENT PLANNING OFFICE

PURPOSE: This resolution, if approved, will approve an amendment to CO-50-13 Exhibit A which would allow the Energy Office to be placed within the Division of Natural Resources; it would approve an amendment to the Plan of Operation of the Division of Natural Resources Administration; it would approve the Plan of Operation of the Navajo Nation Energy Resources and Strategic Development Planning Office; and it would direct all energy-related Navajo Nation enterprises and utilities to work collaboratively with the Energy Office to maximize the potential opportunities available from the Navajo Nation's energy resources consistent with Navajo values.

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.

5-DAY BILL HOLD PERIOD: None
Website Posting Time/Date: 5:34pm 12/18/18
Posting End Date: 12/23/2018
Eligible for Action: 12/24/2018

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

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
23rd NAVAJO NATION COUNCIL -- Fourth Year, 2018

INTRODUCED BY

ALTON JOE SHEPHERD
(Prime Sponsor)

TRACKING NO. 0422-18

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE, THE
NAABIK'ÍYÁÍ' COMMITTEE AND THE NAVAJO NATION COUNCIL;
AMENDING CO-50-13; APPROVING AMENDMENTS TO THE PLAN OF
OPERATION FOR THE NAVAJO NATION DIVISION OF NATURAL RESOURCES
ADMINISTRATION; AND APPROVING THE PLAN OF OPERATION FOR THE
ENERGY RESOURCES AND STRATEGIC DEVELOPMENT PLANNING OFFICE

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102 (A).
- B. The Navajo Nation Council established the Naabik'iyati' Committee was a Navajo Nation Council Standing Committee. All proposed legislation that requires final action by the Navajo Nation Council, shall be assigned to the Naabik'iyati' Committee. 2 N.N.C. §§ 164 (A) (9), 700 (A).
- C. The Resources and Development Committee (RDC) is established as a standing committee of the Navajo Nation Council with oversight committee for the Division of Natural Resources. 2 N.N.C. § 501 (C) (1).

1 SECTION TWO. FINDINGS

- 2 A. The Navajo Nation Council adopted the Navajo Nation Energy Policy of 2013
3 ("Energy Policy"). Resolution CO-50-13 is attached as **Exhibit 1**.
- 4 B. The Energy Policy calls for the creation of an Energy Office that "should be
5 separate and distinct from divisions." *See*, CO-50-13, **Exhibit 1**, Section 13 (b).
- 6 C. The Executive Director for the Division of Natural Resources (the "Executive
7 Director") has developed a plan of operation for the creation of the Energy
8 Resources and Strategic Development Planning Office (the "Energy Office") in
9 fulfillment of the Energy Policy. The plan of operation will place the Energy Office
10 within the Division of Natural Resources.
- 11 D. The Executive Director has determined that the Energy Office should be developed
12 in phases and at a future date, when the office develops sufficient capacity, the
13 structure should be revisited to determine if the Energy Office should be separate
14 and distinct from the Division of Natural Resources.
- 15 E. The proposed Plan of Operation for the Navajo Nation Energy Resources and
16 Strategic Development Planning Office is attached as **Exhibit 2**.
- 17 F. The proposed amended Plan of Operation for the Navajo Nation Division of Natural
18 Resources Administration is attached as **Exhibit 3**.
- 19 G. The Navajo Nation supports the creation of the Energy Office within the Division
20 of Natural Resources, as shown by funding of \$100,000.00 approved in the
21 Comprehensive Budget for Fiscal Year 2019. CO-78-18, Section Two, Paragraph
22 (C) (15).

23
24 SECTION THREE. AMENDING CO-50-13, THE NAVAJO NATION ENERGY
25 POLICY of 2013

- 26 A. The Navajo Nation hereby amends CO-50-13, Exhibit A, Section 13 (b) as follows:
27 (b) Structure. A Navajo Energy Office should be ~~separate and distinct from all~~
28 ~~existing divisions, departments, programs, enterprises and any other Navajo Nation~~
29 ~~entities or political subdivisions and with appropriate staffing and budget developed~~
30 within the Division of Natural Resources in phases, and, at a future date, when the

1 office has developed sufficient capacity, the structure should be revisited to
2 determine if the office should be separate and distinct from the Division of Natural
3 Resources.

4
5 **SECTION FOUR. APPROVING AMENDMENTS TO THE PLAN OF**
6 **OPERATION FOR THE DIVISION OF NATURAL RESOURCES**
7 **ADMINISTRATION AND APPROVING THE PLAN OF OPERATION FOR**
8 **THE NAVAJO NATION ENERGY RESOURCES AND STRATEGIC**
9 **DEVELOPMENT PLANNING OFFICE**

10 A. The Navajo Nation hereby approves the Plan of Operation for the Navajo Nation
11 Energy Resources and Strategic Development Planning Office, attached as **Exhibit**
12 **2.**

13 B. The Navajo Nation hereby approves the amended Plan of Operation for the Navajo
14 Nation Division of Natural Resources Administration, attached as **Exhibit 3.**

15
16 **SECTION FIVE. DIRECTIVE**

17 The Navajo Nation hereby directs all energy-related Navajo Nation enterprises and
18 utilities, including Navajo Transitional Energy Company, Navajo Nation Oil and
19 Gas Company, and Navajo Tribal Utility Authority, and all related Navajo Nation
20 divisions, programs, departments, and agencies to work collaboratively with the
21 Energy Office to maximize the potential opportunities available from the Navajo
22 Nation's energy resources consistent with Navajo values.



CO-50-13

RESOLUTION OF THE
NAVAJO NATION COUNCIL

RELATING TO RESOURCES AND DEVELOPMENT AND NAABIKI'ÍYÁTI;
RESCINDING CAP-34-80; APPROVING THE NAVAJO NATION ENERGY
POLICY OF 2013

BE IT ENACTED:

1. The Navajo Nation makes the following findings with respect to this resolution.
 - a. The Navajo Nation Council adopted the Navajo Nation Energy Policy, CAP-34-80 on April 29, 1980 ("1980 Energy Policy"); and
 - b. The Nation acknowledges the enduring principles and motivations set forth in the 1980 Energy Policy; and
 - c. The Nation desires to update and amend the energy policies of the Nation by rescinding the 1980 Energy Policy (CAP-34-1980) by approving this 2013 Energy Policy; and
 - d. The energy resources of the Nation are owned by the Nation and are to be administered and managed by the Nation for the benefit of all Diné; and
 - e. The Nation will seek to maximize its level of autonomy in managing its energy resources and energy use on the Nation; and
 - f. The Nation will take a leadership role in exploring and developing its energy resources to exercise its political sovereignty, to build true economic sovereignty, and to promote greater self-determination for future generations of Diné; and

- g. The Nation has established wholly owned businesses that explore for, develop and manage certain of its energy resources. To optimize the Nation's use, management and conservation of its energy resources, the Nation may choose to utilize a combination of its wholly owned entities and outside energy companies to take advantage of the best technologies and capabilities to achieve the optimal balance of cost and results; and
- h. The 1980 Energy Policy helped build capacity of the Nation to realize many successes in the form of more favorable contracts and greater ownership of certain energy resources. It is acknowledged that the Nation can make improvements in the areas of governance, ownership, management, community involvement, health impacts, conservation and environmental protection of the Nation's energy resources; and
- i. The Navajo government should ensure that the local impacted communities are educated on relevant energy development and related issues. Prior energy development and related projects occurred with little or no consultation or results; and
- j. Energy forms a cornerstone of the Navajo economy by providing jobs for our people, electricity for our homes and business, and revenues for our local and central government. Developing energy resources will expand government revenues, create new industries and promote sustainable jobs for the Diné. This economic base provides opportunities for Navajos to pursue technical and managerial careers in many energy-related products, service and supporting industries. The ability for Navajos to build stable careers while remaining close to their families will build the strength of our families and communities that have been fragmented by the need of our people to find work in metropolitan centers. A growing Navajo economy draws

educated and experienced tribal members back to the Nation, and provide the economic growth to support Navajo entrepreneurs and business owners; and

- k. The Navajo People have made invaluable contributions to the strength of the United States and its economy by permitting and assisting in the extraction of uranium over several decades. Numerous uranium mines across the Nation were not properly reclaimed leading to widespread contamination and illness of our people and livestock; and
- l. The United States is the trustee of the resources of the Navajo Nation. In this role the United States government has a duty to protect the Nation's energy resources and to assist the Nation to manage such resources for the benefit of the Diné. The United States government is to engage in government-to-government dialogue and understanding and to respect Navajo Nation's decision in the users of its resources. Historically, the United States government has sought to control the Nation's resources to benefit external interests in the uses of its natural resources or refrained from assisting the Nation in the protection of its interests; and
- m. The Nation's depletable fossil fuels are abundant; however, some fossil fuels are currently out of favor with federal and state regulatory and environmental policies. A balanced portfolio of fossil fuel and cleaner renewable energy resources will provide the Nation with greater economic and financial stability; and
- n. The Nation has the great potential of solar and wind energy resources. The development of these cleaner renewable resources can provide our communities with cleaner energy and generate substantial economic value if sold to surrounding communities and metropolitan regions; and
- o. Many of the Nation's residents, businesses and institutions are located in growth centers while many others are dispersed in remote regions and lack access to electric

power. Greater access to electric power will provide a greater opportunity and access to modern conveniences for the Navajo residences; and

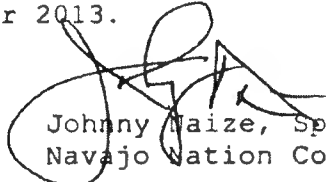
- p. The Nation is situated to provide pipeline and electrical transmission service provides access to more direct routes between energy sources and energy customers. The Nation's non-renewable energy resources require transportation and transmission to energy markets. Pipeline and transmission infrastructure can have a substantial impact on the environment communities and the viewscape. Establishing energy corridors are encouraged to enable the Nation to increase its revenues while minimizing the impact on the Nation; and
- q. Future development of cleaner renewable energy for export to metropolitan regions can generate substantial rents and business profits. These profits may be utilized to subsidize the cost of utilities for the Nation's residents, institutions and businesses; and
- r. By developing and executing a comprehensive energy strategy, the Nation can establish energy independence and build its economy for future generations. Diverse revenue streams from a balanced portfolio of energy extraction, generation and transmission will provide the Diné with economic stability, career opportunities and business opportunities.
- s. Approval and implementation of energy policies and agreements affect all parts of the Navajo Nation and it is important that the Executive Branch and Legislative Branch both be involved in the negotiation and approval of energy agreements.

2. The Navajo Nation hereby rescinds CAP-34-80, the 1980 Energy Policy.

3. The Navajo Nation hereby approves the Navajo Nation Energy Policy of 2013, attached hereto as Exhibit A.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 13 in favor and 6 opposed, this 22nd day of October 2013.


Johnny Naize, Speaker
Navajo Nation Council


10-24-13

Date

Motion: Honorable Walter Phelps
Second: Honorable Katherine Benally

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C) (10), on this _____ day of OCT 24 2013 2013.


Ben Shelly, President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C) (11), this _____ day of _____ 2013, for the reason(s) expressed in the attached letter to the Speaker.

Ben Shelly, President
Navajo Nation

Adopting the Navajo Nation Energy Policy of 2013

PREAMBLE:

The Navajo Nation ("Nation"); to protect the energy natural resources and assets of the Nation; to ensure such resources and assets are used for the benefit of the Diné; to create a self-sustaining economic future for the Diné on their lands; to ensure sovereign control by the Nation over the extraction and flow of resources from the Nation's lands; to supply Navajo communities with the benefits afforded by energy development through total resource sovereignty, hereby establishes the Navajo Nation Energy Policy of 2013 ("2013 Energy Policy").

This 2013 Energy Policy provides guidance in common language for elected officials, community leaders, managers in the Nation's government, board members and managers of the Nation's enterprises, federal and state regulatory authorities and Navajo and non-Navajo business interests dealing with energy issues on the Nation. The 2013 Energy Policy serves to guide in consideration of specific legislation, rules and regulations, energy strategies, board resolutions, management policies, programs and decisions related to energy in and around the Nation.

WHEREAS:

1. The Navajo Nation Council adopted the Navajo Nation Energy Policy (CAP-34-80) on April 29, 1980 ("1980 Energy Policy"); and
2. The Nation acknowledges the enduring principles and motivations set forth in the 1980 Energy Policy; and
3. The Nation desires to update and amend the energy policies of the Nation by rescinding the 1980 Energy Policy (CAP-34-80) and, hereby adopting this 2013 Energy Policy; and
4. The energy resources of the Nation are owned by the Nation and are to be administered and managed by the Nation for the benefit of all Diné; and
5. The Nation will seek to maximize its level of autonomy in managing its energy resources and energy use on the Nation; and
6. The Nation will take a leadership role in exploring and developing its energy resources to exercise its political sovereignty, to build true economic sovereignty, and to promote greater self-determination for future generations of Diné; and
7. The Nation has established wholly owned businesses that explore for, develop and manage certain of its energy resources. To optimize the Nation's use,

management and conservation of its energy resources, the Nation may choose to utilize a combination of its wholly owned entities and outside energy companies to take advantage of the best technologies and capabilities to achieve the optimal balance of cost and results; and

8. The 1980 Energy Policy helped build capacity of the Nation to realize many successes in the form of more favorable contracts and greater ownership of certain energy resources. It is acknowledged that the Nation can make improvements in the areas of governance, ownership, management, community involvement, health impacts, conservation and environmental protection of the Nation's energy resources; and
9. The Navajo government should ensure that the local impacted communities are educated on relevant energy development and related issues. Prior energy development and related projects occurred with little or no consultation or results; and
10. Energy forms a cornerstone of the Navajo economy by providing jobs for our people, electricity for our homes and businesses, and revenues for our local and central government. Developing energy resources will expand government revenues, create new industries and promote sustainable jobs for the Diné. This economic base provides opportunities for Navajos to pursue technical and managerial careers in many energy-related product, service and supporting industries. The ability for Navajos to build stable careers while remaining close to their families will build the strength of our families and communities that have been fragmented by the need of our people to find work in metropolitan centers. A growing Navajo economy draws educated and experienced tribal members back to the Nation, and provide the economic growth to support Navajo entrepreneurs and business owners; and
11. The Navajo People have made invaluable contributions to the strength of the United States and its economy by permitting and assisting in the extraction of uranium over several decades. Numerous uranium mines across the Nation were not properly reclaimed leading to widespread contamination and illness of our people and livestock; and
12. The Nation's coal resources make a significant contribution to the support of many Navajo families and to the financial the stability of the Navajo Nation government and its communities. The current policies of the federal government of the United States do not favor the use of coal. These policies negatively impact the Navajo Nation and the lives of its residents, and are contrary to the interests of the Navajo Nation; and
13. The United States is the trustee of the resources of the Navajo Nation. In this role the United States government has a duty to protect the Nation's energy resources and to assist the Nation to manage such resources for the benefit of

the Diné. The United States government is to engage in government to government dialogue and understanding and to respect Navajo Nation's decision in the uses of its resources. Historically, the United States government has sought to control the Nation's resources to benefit external interests in the uses of its natural resources or refrained from assisting the Nation in the protection of its interests; and

14. The Nation's depletable fossil fuels are abundant however some fossil fuels are currently out of favor with federal and state regulatory and environmental policies. A balanced portfolio of fossil fuel and cleaner renewable energy resources will provide the Nation with greater economic and financial stability; and
15. The Nation has the great potential of solar and wind energy resources. The development of these cleaner renewable resources can provide our communities with cleaner energy and generate substantial economic value when sold to surrounding communities and metropolitan regions; and
16. Many of the Nation's residents, businesses and institutions are located in growth centers while many others are dispersed in remote regions and lack access to electric power. Greater access to electric power will provide a greater opportunity and access to modern conveniences for the Navajo residences; and
17. The Nation is situated to provide pipeline and electrical transmission service providers with access to more direct routes between energy sources and energy customers. The Nation's non-renewable and renewable energy resources require transportation and transmission to energy markets. Pipeline and transmission infrastructure can have a substantial impact on the environment, communities and the viewscape. Establishing energy corridors are encouraged to enable the Nation to increase its revenues while minimizing the impact on the Nation.
18. Future development of cleaner renewable energy for export to metropolitan regions can generate substantial rents and business profits. These profits may be utilized to subsidize the cost of utilities for the Nation's residents, institutions and businesses; and
19. By developing and executing a comprehensive energy strategy, the Nation can establish energy independence and build its economy for future generations. Diverse revenue streams from a balanced portfolio of energy extraction, generation and transmission, will provide the Diné with economic stability, career opportunities and business opportunities.

NOW, THEREFORE, BE IT RESOLVED THAT THE NAVAJO NATION COUNCIL
HEREBY RESCINDS THE 1980 ENERGY POLICY (CAP-34-80) AND ADOPTS THE
NAVAJO NATION ENERGY POLICY OF 2013, ATTACHED HERETO AS EXHIBIT A.

EXHIBIT A

NAVAJO NATION ENERGY POLICY OF 2013

Section 1: Short Title

Short title - The Navajo Nation Energy Policy of 2013 hereinafter is referred to as the "2013 Energy Policy". The Navajo Nation hereinafter is referred to as the "Nation"

Section 2: Scope and Review

This 2013 Energy Policy sets forth principles relating to the exploration, development, sustainable management and use of energy resources on the Nation. The energy resources and assets of the Nation addressed by the 2013 Energy Policy include fuel resources, mines, generation facilities, transmission and distribution infrastructure and pipelines. The energy uses addressed by the 2013 Energy Policy include, but are not limited to, residential, commercial, industrial and governmental uses, including heating, cooling, mechanical, industrial process and transportation uses.

The 2013 Energy Policy addresses the Nation's natural resource endowment in the areas of resource assessment, exploration, severance, development, production, preservation, management, protection, and distribution in order to maximize revenue and job creation for the benefit of the citizens of the Nation.

This 2013 Energy Policy may be amended by the Nation if, and when, circumstances require. The Navajo Energy Office, referenced herein, will recommend proposed amendments to the 2013 Energy Policy as needed.

Section 3: Definitions

Section 301: The following terms are defined for the purposes of this document..

- A. Electricity generating facilities. Includes facilities that burn fossil and biomass fuels to generate electricity; facilities that convert renewable resources to electricity (such as wind, solar, geothermal and hydroelectric); and, facilities generating electricity through nuclear fusion or fission for use on the Nation and for export for use off the Nation.
- B. Electricity transmission infrastructure. Includes high voltage and distribution transmission lines, substations and related infrastructure.

- C. Fuel minerals. Includes petroleum (e.g. oil, natural gas and associated liquids and gasses), coal, coal bed methane, uranium and any derivatives or associated minerals.
- D. Large-scale energy developments. Includes (a) electricity generating facilities with capacity of one (1.0) megawatt or greater, (b) energy-related facilities utilizing five (5) acres of land or more, and (c) transmission lines or pipelines extending more than five hundred (500) feet.
- E. High Voltage. Includes 69KV and higher.
- F. Pipelines. Includes oil and gas pipelines, coal slurry lines and related compression and pumping infrastructure.

Section 4: Navajo Fundamental Law

Section 401: Before commencement of any Large-Scale Energy Development or other projects utilizing the Nation's energy resources, the Navajo Medicine Men's Association may be consulted to ensure the proper ceremonies, prayers and other rituals are conducted to maintain the Navajo people's Great Covenant with the deities. By doing so, the Nation shall strive to maintain a proper balance with the natural world.

Section 5: Sustainable Energy Economy

Section 501: Chapter 2 of the Navajo Nation Code entitled "The Foundation of the Diné, Diné Law, and Diné Government" describes the four sacred elements of life as "air, light/fire, water, and earth/pollen" and provides that "in all their forms [they] must be respected, honored, and protected for they sustain life". Recognizing the sacredness of these elements, the Nation desires to establish a sustainable energy economy based on the Nation's human capital, natural resources, capital resources and the exercise of its inherent sovereign authorities. A sustainable Energy Economy ensures an acceptable quality of life for Navajo people; proper planning and management by governmental officials; energy security; environmental stewardship; adequate rents, royalties, bonuses and taxes to ensure benefits for a sustainable Nation.

Section 6: General Provisions

Section 601: Applicability of the Nation's Laws and Regulations. The Nation's laws and regulations will apply to energy projects located within the Nation's territorial jurisdiction.

Section 602: Long-Term Sustainability of Energy Developments. Energy developments on the Nation will be designed to be sustainable over the long-term based on economic considerations and environmental and community impacts.

Section 603: Lease Rent and Royalty Rates. Lease rental and royalty rates and charges for easements and rights-of-way will be equal to or greater than fair market value including energy projects where the Nation or an affiliate is an owner, taking into consideration the direct and indirect economic benefits of the energy project to the Nation.

Section 604: Renewal of Leases for Existing Energy Infrastructure. When negotiating renewals of rights-of-ways, leases for existing power generating facilities, transmission infrastructure and pipeline infrastructure and related water allocations, the Nation will maximize the total value of consideration to be received by the Nation.

Section 605: Selecting External Development Partners. External development partners of the Nation and its enterprises must possess relevant experience in the industry and those specific technologies required for the proposed energy development, as well as sufficient financial resources to adequately fund their portion of development expenses and contemplated investment in the project.

Section 606: End of Project Life. Leases and rights-of-way for energy projects will require the lessees to return the land to its original condition, or better, at the end of the projects, except where the Nation desires to retain improvements and related infrastructure after lease or right-of-way termination.

Section 607: Consistency in Energy-Related Decision Making. The development and management framework for the Nation's energy resources will encourage consistency in decisions involving the use of Navajo resources. The process for making energy development decisions shall be guided by the process shown on the flow chart attached hereto and titled "Navajo Nation Project Development Process" and will be clearly communicated to the Nation and its stakeholders.

Section 608: Impact on Other Resources. New energy projects shall minimize negative impacts on other scarce and valuable resources of the Nation and manage such impacts in accordance with the Nation's laws, policies and plans for its resources, and will mitigate adverse impacts where necessary.

Section 609: Negotiation of Energy Agreements. The Executive and the Legislative Branches of the Navajo Nation shall be involved in the negotiation and approval of energy agreements.

Section 7: Large-Scale Energy Developments

Section 701: Maximize Ownership, Control and Revenues. The Nation promotes majority ownership by the Nation or its entities of large-scale energy projects that utilize the Nation's resources in order to optimize the Nation's participation in profits, in balance with the risks; maximize control and revenues; and, to ensure the interests of the Navajo people are protected. The Nation will have the option to purchase a majority of the equity of new large-scale energy projects on the Nation, including expansions of existing facilities and developments.

Section 702: Maximizing Navajo Return on Investment. When the Nation invests in energy projects, the primary goal will be to maximize profits and return on investment, in light of the attendant risks, for the benefit of the Nation.

Section 703: Navajo Ownership and Development Representatives. The Nation may acquire or designate an entity as its representative in any energy project in which the Nation desires to take ownership of a portion of such project.

Section 704: Operating Capabilities. The Nation will ensure that energy developments, including where the Nation or its enterprises possess a degree of ownership, will be operated and managed by entities that possess appropriate industry experience and capabilities.

Section 8: Community and Economy

Section 801: Expanding Rural Electrification. The Nation will continue to seek ways to expand electrical services to the residents of the Nation in balance with the cost to serve remote regions.

Section 802: Local Community Input, Support for, and Benefits from Energy Developments. Communities impacted by energy development will have the opportunity to provide input on and to indicate their support for such projects, and where substantially and adversely impacted by the development to share in a portion of the financial benefits of such projects. The financial benefits from such projects shall be equal to five percent (5%) of the annual lease payment each lease year.

Section 803: Managing the Cost of Energy for Residents of the Nation. The Nation will continue to seek ways to manage the cost of electricity and fuel for its residents to minimize the financial burden on Navajo communities.

Section 804: Navajo-Owned Small Businesses. The Nation will encourage the development of Navajo-owned small businesses that will support the Nation's energy industries.

Section 805: Fostering Economic Development, Developing Capabilities and Creating Career Opportunities. Energy projects will be developed to foster industrial and commercial growth, create career opportunities, and build the management skills

and capabilities of the Navajo workforce in order to build the Nation's institutional capacity to manage its own energy resources.

Section 806: Distributed Electricity Generation. The Nation supports the development of distributed electricity generation and community scale electricity generation for use on the Nation.

Section 807: Science, Technology, Engineering, and Mathematics Education (STEM). The Nation shall support the pursuit of educational studies in STEM by its youth in order to create an interest in careers in the energy industry and to build a workforce that is prepared for technical and managerial careers in the energy industry.

Section 808: Health and Safety. The Nation will strive to protect the safety and health of Navajo communities when considering new energy developments and regulating existing energy developments.

Section 809: Energy Efficiency and Conservation. The Nation will continue to seek ways to enhance and promote energy efficiency and conservation on the Nation in order to manage future energy demand, reduce environmental impacts, reduce the financial energy costs for the residents of the Nation and build energy efficient industries.

Section 9: Coal

Section 901: The Future of Coal and Coal-Fired Power Plants. Coal and coal-fired plants are a significant component of the Navajo economy and the Nation's revenues. The Nation will encourage a future in coal as a key component of the Nation's energy mix as a coal producer that derives a significant amount of royalties, rent, fees, jobs and tax revenue from coal mining and production of electricity. The Nation will pursue federal coal fuel legislation.

Section 10: Renewable Energy

Section 1001: Renewable Energy Development. The Nation will continue to develop a renewable portfolio of power generating facilities that balances coal, gas or oil-fired generation with economically viable renewable energy generation from such sources as wind, solar, hydro, geothermal and biomass.

Section 1002: Renewable Energy Portfolio Standard (REPS). The Nation will evaluate the appropriateness of implementing a Renewable Energy Portfolio Standard (REPS) for electricity used on the Nation. If an REPS is established, the Nation will strive to mitigate the impacts of increased costs of electricity for residential customers within the Nation caused by the implementation of an REPS.

Section 11: Nuclear Matters

Section 1101: Uranium Mining and Nuclear Power Generation. The Nation currently supports the moratorium on uranium mining on tribal trust, allotted trust and fee lands on the Navajo Nation. The Nation will continue to monitor uranium technologies and secondary mineral extraction techniques as well as market conditions to assess the safety, viability and potential of these activities for the future.

Section 12: Electrical and Energy Distribution Systems

Section 1201: New Electricity Transmission and Pipeline Infrastructure. The Nation supports the development of new electricity transmission infrastructure that provides the Nation with an opportunity to unlock the value of its vast renewable and conventional energy resources by providing transmission corridors to metropolitan centers.

Section 1202: Energy Corridors. The Nation will establish energy corridors to manage and minimize the impact on Navajo communities resulting from future electrical transmission, pipeline and railroad infrastructure.

Section 13: Navajo Energy Office

Section 1301: Establishment of a Navajo Energy Office. It is the intent of the Navajo Nation Council to establish a Navajo Energy Office within the Executive Branch of the Navajo Nation government as outlined herein.

- (a) Creation. The Navajo Nation Department of Justice and the Office of Legislative Counsel shall work together to develop the appropriate statutory and regulatory language, including but not limited to a Plan of Operation, consistent with this section for the Navajo Nation Council's consideration.
- (b) Structure. A Navajo Energy Office should be separate and distinct from all existing divisions, departments, programs, enterprises and any other Navajo Nation entities or political subdivisions, and with appropriate staffing and budget.
- (c) Responsibilities. The Navajo Energy Office should act as a clearinghouse for energy related projects, to facilitate energy development on the Nation and to increase institutional capacity on energy issues within Navajo Nation governmental agencies and enterprises.
- (d) Strategic, Integrated Approach to Energy Planning. The Navajo Energy Office should develop a long-term Strategic Energy Plan. A Strategic Energy Plan will be designed to stimulate increased revenues from energy projects, spur energy infrastructure development, and diversify the Navajo energy economy.

The Strategic Energy Plan will address opportunities to foster a competitive business environment to attract private investors to energy projects on the Nation, address how the Nation will strategically engage the key governmental and community representatives on Navajo energy projects, investigate and inventory the reserves and potential of all the Nation's available energy resources in all regions and serve as a resource to assist the Nation's leadership to prioritize energy projects

Section 14: Research and Development

Section 1401: Support for Technologies that Enhance the Use of Navajo Coal. The Nation will support clean coal technologies being developed through research and development which lessen the environmental impact of coal based electricity generation and maximize the efficient use of the Nation's coal resources.

Section 1402: Support for Technologies that Enable and Enhance the Use of All of the Nation's Resources. The Nation shall support the research and development of technologies that will allow the Nation to use its resources to maximize their benefit to the Nation and also lessen the environmental impact of their use.

Section 15: Taxation

Section 1501: Navajo Nation Taxation. The Nation shall seek to exert primacy in the taxation of energy development on the Nation to contribute to the funding of essential governmental services on the Nation.

Section 1502: Tax Incentive. The Nation may provide tax incentives to encourage the development of the Nation's energy resources, while balancing the need to provide supporting infrastructure, services and the Nation's finances.

Section 16: Limitations

Section 1601: Limitations. Nothing in the 2013 Energy Policy is intended to, nor shall it be construed to:

- a) Alter, amend or diminish in any way the sovereign immunity of the Navajo Nation or constitute a waiver of the sovereign immunity of the Navajo Nation, as defined in 1 N.N.C. § 551, et seq.;
- b) Abrogate any authority conferred by the Navajo Nation Council upon any agency, enterprise or other instrumentality of the Navajo Nation;

- c) Repeal in whole or in part any law or regulation duly promulgated by the Navajo Nation or any of its agencies;
- d) Authorize or sanction the breach of any contractual duty or diminish any vested property rights; or
- e) Provide the basis for a private cause of action by or against any person or entity, or confer jurisdiction upon any court for any cause of action predicated on the 2013 Energy Policy.

Energy Resources and Strategic Development Planning Office

Plan of Operation

I. Establishment

In accordance with Section 13 of the Navajo Nation Energy Policy of 2013, the Energy Resources and Strategic Development Planning Office (“Energy Office”) is established as a department within the Division of Natural Resources within the Executive Branch of the Navajo Nation.

II. Purpose

The Purpose of the Energy Office is:

- A. To establish long-term strategic energy planning, incorporating the collaborative problem-solving approach used with the Navajo Generating Station extension lease to align the Nation’s division and enterprise goals with the long-term needs of the Nation;
- B. At a National level, to provide a collective and comprehensive energy strategy that looks across all energy resources of the Nation independent of, but with consideration and collaboration of, division, department and enterprise level planning;
- C. To benefit the Navajo Nation and its people through proactive, strategic and responsible development of energy resources for sustainable economic, financial and non-financial benefit in a manner consistent with the Navajo culture;
- D. To address how the Nation will strategically engage the key governmental and community representatives on Navajo energy projects;
- E. To foster an inclusive, market driven, and competitive business environment to attract qualified investors and accelerate energy economic development on the Nation to support a sustainable energy economy, in alignment with the Energy Policy of 2013 and to meet total return on investment criteria;
- F. To serve as a central, neutral point for energy-related data and information from all sources; providing data, metrics and reports to assist and support the Nation’s leadership in short and long-term decision making;
- G. To provide a central point for initial internal and external energy development communication, access to documented energy development processes, and referrals for easy and consistent access by internal and external parties, in accordance with applicable Navajo Nation laws, regulations, leases and other agreements;
- H. To support a positive legal environment to promote sustainable energy development through effective policy, legislation, regulation and planning; and
- I. To supersede any and all prior versions of an energy office or enterprise established to direct and control comprehensive energy development on the Navajo Nation.

III. Navajo Fundamental Law

- A. In enacting Diné Fundamental Law, the Navajo Nation Council has recognized that Diné Natural Law requires the four sacred elements of life — air, light/fire, water and

earth/pollen — to “be respected, honored and protected” because they sustain life. 1 N.N.C. § 205(A)

- B. The Council further recognized that all creation, including Mother Earth, Father Sky and other animate and inanimate earth surface beings, each have their own laws, rights and freedom to exist. 1 N.N.C. §205(C).
- C. The recognition of those elements, their laws and their independent rights and freedoms to exist, create a sacred obligation and duty of the Five Fingered People to respect, preserve and protect Mother Earth as stewards and guardians, treating that bond with love and respect, without exerting dominance but as equals, to protect and preserve the beauty of the natural world for future generations.
- D. *liná*, or life, is energy that is in all life forms and sentient beings. As such, all of life has the capability and capacity of *hozho* (good or goodness) or *hasheji* (bad or badness) that must be balanced to achieve beneficial results. It is this balance, known by the Navajo word *hózhó* that the Energy Office must strive to achieve in carrying out its functions.
- E. The Energy Office, using traditional characteristics of each of the Four Directions: (i) *Nitsahakees*, for intuition, discovery and thinking of the East; *Nahat’a*, or planning, and *Naat’aaji*, or the talk of planning, of the South to carefully examine and involve all interests and knowledge holders in the process; *liná* to implement thought and consensual plans actively and for good result in the West; and *Sihasin*, or reflection and reconsideration, to assess the result of thinking, talking, planning and doing, of the North.
- F. The Four Direction planning process of Navajo tradition is also expressed in modern Western principles of good governance, including legitimacy and voice with effective participation and consensus; direction by way of strategic vision; performance with institutional responsiveness, effectiveness and efficiency; accountability with responsibility to government and civil society and transparency with a free flow of information; fairness with equity to all; and adherence to the rule of law.

IV. Personnel

- A. There is established the position of Strategic Energy Manager to oversee and manage the Energy Office. This and other such positions may from time to time be budgeted by the Navajo Nation Council as might be acceptable to the Navajo Nation President.
- B. The Strategic Energy Manager may create such positions as are necessary to carry out the purpose, authorities, duties, and responsibilities as stated herein. These positions shall be created in accordance with applicable Personnel Policy and Procedures.
- C. All personnel hired shall be compensated pursuant to applicable Navajo Nation Personnel Policies and Procedures.

V. Authority, Duties, and Responsibilities

The Strategic Energy Manager, Energy Resources and Strategic Development Planning Office, is hereby authorized and directed to:

- A. Represent the Energy Office at executive-level planning and accomplish all necessary programming and budgeting for the Office;
- B. Prepare and execute programs and budgets for the Energy Office;
- C. Represent the Navajo Nation with agencies, activities, and organizations within and outside the Navajo Nation on matters relating to energy development;
- D. Be responsible for the efficient management and administration of the Energy Office;
- E. Formulate overall administration and operation policies and procedures for the Energy Office as necessary;
- F. Direct the activity of the Energy Office, delegate authority as necessary, and oversee supervision of all assigned personnel;
- G. Hire all Energy Office staff and ensure all hiring is accomplished consistent with the Navajo Nation Personnel Policies and Procedures;
- H. Implement the Purposes listed herein;
- I. Develop the Navajo Nation's comprehensive energy strategy which will include all energy-related resource areas. Energy resources are defined as those resources used to generate energy. Energy-related resources are defined as those resources that facilitate or enable the generation, movement, use or saving of energy. The comprehensive strategy and planning includes and is not limited to the following, except where expressly limited by Navajo Nation law:
 - a. Conventional – coal, oil, natural gas
 - b. Unconventional – oil shale, oil sands, advanced energy systems (e.g., waste heat recovery, combined heat and power)
 - c. Renewable – wind, solar, biomass, hydro, geothermal
 - d. Infrastructure – electric transmission and distribution, natural gas pipelines, oil & liquid fuels pipelines, vehicle fueling and charging facilities
 - e. Energy Efficiency – industrial, commercial, residential;
- J. Carry out the Purpose, Mission, and Scope listed above, and, as referenced in Section 13 of the Navajo Nation Energy Policy of 2013;
- K. Oversee Resource Identification & Management by:
 - a. Identifying, inventorying, mapping, assessing and modeling the Nation's regionally diverse energy-related natural resources in collaboration with the Nation's divisions, departments and enterprises incorporating all existing information from internal and external resources such as the Energy Roadmap and third-party sources.
 - b. Tracking all energy development and operations for the Nation, including but not limited to actual and forecast data for financial and non-financial parameters for Navajo-owned and non-Navajo-owned facilities;
- L. Facilitate Resource Development by:
 - a. Acting as a clearing house for all energy-related proposals and projects within the Nation's territorial jurisdiction providing a centralized point of communication, by receiving and evaluating all energy-related proposals and letters of interest, conducting appropriate due diligence and recommending projects on behalf of the

Navajo Nation separate from existing division, department and enterprise processes.

- b. Establish total return on investment criteria, both quantitative and qualitative for assistance in approving, prioritizing, scheduling and determining funding levels for the Nation's energy development.
 - c. Organizing, facilitating, and/or supporting as appropriate, all energy and energy-related projects on the Navajo Nation by working collaboratively with the Nation's divisions, departments, enterprises and outside organizations on current and future energy-related development projects to understand strategic fit and total return on investment for the Navajo Nation.
 - d. Recommending, creating, supporting and/or implementing where appropriate well-defined energy development processes and procedures for use by energy developers to make the Nation competitive in attracting best-in-class energy development opportunities.
 - e. Consulting with the governments of local Navajo Chapters impacted by energy development to enable them to provide input and indicate their level of support for such projects, and where substantially and adversely impacted by the development, to share in a portion of the financial benefits of such projects as outlined in the Navajo Nation Energy Policy of 2013 Section 802.
 - f. Coordinating and collaborating with any division, department, enterprise or similar entity of the Navajo Nation engaged in an energy or energy-related project aligned with the strategic plan.
 - g. Leading and compelling cooperation among existing Navajo Nation divisions, department and enterprises dealing with energy development matters.
 - h. Investigating and gathering information related to energy strategy, markets, development and issues;
- M. Strategize and Plan Energy Resource Development by:
- a. Establishing and providing in an ongoing manner, a comprehensive energy strategy and plan including, but not limited to, a rolling five-year plan and long-term (10-30 year) strategic energy plan incorporating relevant internal and external sources of data and information with the intent to increased economic, financial and non-financial benefits from energy development, build and maintain energy infrastructure, and diversify the Navajo energy economy.
 - b. Fostering a competitive business environment to attract qualified private investors to energy projects on the Nation and strategically engage the key governmental and community representatives on energy projects.
 - c. Recommending the appropriate supporting business structures, such as the Naat'aanii Development Corporation model, to facilitate and foster various avenues of sustainable energy development for the benefit of the Nation and its people.
 - d. Promoting, supporting and/or developing a sustainable portfolio of power generating facilities that balances economically viable energy production from coal, gas, oil or renewable sources in a manner consistent with Navajo cultural values.
 - e. Developing and proposing policies, plans, legislation and regulations for implementation regarding energy development, operation and use, including

amendments to the Energy Policy of 2013 or the creation of subsidiary programs as needed; and

N. Grow the Navajo Nation's Energy Capacity by:

- a. Increasing the Nation's institutional and human capacity to manage its own energy resources, including general education and energy workforce development.

A. **VI. Legislative Oversight**Pursuant to 2 N.N.C. § 501(C), the Resources and Development Committee of the Navajo Nation Council serves as the oversight committee for the Division of Natural Resources.

- B. Pursuant to 2 N.N.C. § 501(B)(11), the Resources and Development Committee of the Navajo Nation Council may delegate certain authorities to the Strategic Energy Manager of the Energy Office, which may include administrative rules and regulations and enforcement for the efficient and administration of the Energy Office and pursuant to its plan of operation.

VII. AMENDMENTS

This plan of operation may be amended from time to time by the Resources and Development Committee of the Navajo Nation Council.



MASTER
PLAN OF OPERATION
OF THE
DIVISION OF NATURAL RESOURCES

I. ESTABLISHMENT

There is hereby established the Division of Natural Resources within the Executive Branch of the Navajo Nation Government.

II. PURPOSES

- A. To provide for the protection restoration, conservation, management and sustainable development of Navajo natural resources, under the guidance and direction of the people of the Navajo Nation, of the Navajo Nation Council, and of the President and Vice-President.
- B. To ensure that the highest quality of natural resources are available for the enjoyment and use of present and future generations of Navajo people.
- C. To comprehensively manage the multiple uses of Navajo natural resources and to preserve the Nation's cultural resources.
- D. To coordinate with appropriate Divisions and Departments the development, recommendation and implementation of rules and regulations governing effective and efficient resource management, preservation of cultural resources and restoration of damaged resources.
- E. To ensure the employment of professional staff by Department directors to integrate resource planning and management efforts with the Departments within the Division.
- F. To solicit Navajo public input and participation in the development of regulation for the integrated and efficient management and administration of natural resources.
- G. To ensure the most judicious, sustainable, and profitable use and development of Navajo resources to provide for the needs of the Navajo people and those of future generations.
- H. To provide for the accommodation of visitors to the Navajo Nation with quality services and facilities that are under the authority of the Division of Natural Resources.

III. PERSONNEL AND ORGANIZATION

A. Personnel

1. The Division of Natural Resources shall be administered by an Executive Director, who shall be appointed by the President of the Navajo Nation, and confirmed by the Navajo Nation Council
2. All personnel within the Division other than the Executive Director shall be subject to the Personnel Policies and Procedures of the Navajo Nation and such positions as are budgeted and approved.

B. Organization

1. The Division of Natural Resources shall comprise of such programs and administrative components as may be deemed necessary subject to legislative review and approval of the department's and/or program's Plans of Operation.
2. The Division of Natural Resources shall consist of the following Departments:
 - a. Navajo Land Department
 - b. Fish and Wildlife Department
 - c. Minerals Department
 - d. Forestry Department
 - e. Department of Resource Enforcement
 - f. Department of Water Resources
 - g. Navajo AML Reclamation Department/UMTRA
 - h. Navajo Parks and Recreation Department
 - i. Navajo Nation Heritage and Historic Preservation Department
 - k. Navajo Nation Museum
 - l. Department of Agriculture
 - m. Administration
 - n. ~~Project Review Department~~ General Land Development Department
 - o. Energy Resources and Strategic Development Planning Office
3. The organizational structure of the Division of Natural Resources is shown on the attached chart. Figure 1, and incorporated herein.
4. Each Office and Department within the Division of Natural Resources consists of Programs or Sections or Branches as established and authorized by their respective Plans of Operation.

IV. AUTHORITY, RESPONSIBILITIES AND DUTIES

The Executive Director, Division of Natural Resources is hereby authorized to:

- A. Be responsible for the efficient management and administration of the Division of Natural Resources;
- B. Coordinate with Departments of the Division the administrative, financial and operating policies for the Division;
- C. Supervise Department directors within the Division of Natural Resources and delegate authority as necessary;
- D. Implement rules and regulations and interdisciplinary resource teams to protect, restore, conserve, manage and ensure sustainable development and optimum utilization of the Nation's natural resources, including energy resources, and cultural resources through integrated resources management;
- E. Represent the Navajo Nation government within the area of responsibility and authority of the Division of Natural Resources' dealings and relations with all persons and organizations outside the Navajo Nation government, including consultation with those persons and organizations and coordination with other Indian tribes for improvement of resource management on Indian Lands by working with congress and federal agencies;
- F. Provide technical assistance to all persons and organizations as appropriate and educate all persons and organizations as appropriate;
- G. Set priorities and participate in overall department and program budget planning process;
- H. Coordinate the establishment of enterprise funds with the appropriate Departments and Programs and to coordinate with Department directors for departments' effectiveness and progress in accordance with approved operating budget;
- I. Serve as a catalyst in initiating and coordinating comprehensive land use planning on Navajo lands by working with the Divisions and Departments of the Executive Branch and the standing committees of the Navajo Nation Council;
- J. Develop regulations and policies governing approval or review potential impacts to the Nation's natural and cultural resources and of authorized permits, contracts, or leases, for the use of the Nation's natural resources including but not limited to rights-of-way, housing, forest product use and development, grazing and mineral development, surface mining and reclamation, environmental protection projects, and water usage;

- K. Represent the Division at executive level planning session and other meetings as required.
- L. Oversee the enforcement of Navajo Nation and federal rules and regulations, and laws pertaining to the protection of natural resources; and
- M. Develop and implement regulations governing the issuance of cease and desist orders prohibiting any threatened or continuing activity that may present an imminent and substantial harm to natural resources.

V. LEGISLATIVE OVERSIGHT

- A. Pursuant to 2 NN.C. § 501 (C) (1) the Resources and Development Committee of the Navajo Nation Council is the oversight committee for the Division of Natural Resources
- B. Pursuant to 2 N.N.C. § 501 (B) (3) the Resources and Development Committee may delegate certain authorities to the Executive Director of the Division of Natural Resources, which shall include administrative rules and regulations and enforcement for the optimized management of the Nation's natural resources and the efficient administration of the Division of Natural Resources.

VI. AMENDMENTS

This Master Plan of Operation may be amended by the Resources and Development Committee of the Navajo Nation Council upon the recommendation of the Executive Director, Division of Natural Resources.



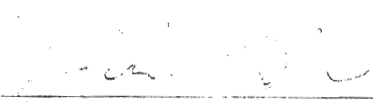
NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

ETHEL B. BRANCH
ATTORNEY GENERAL

CHERIE ESPINOSA
ACTING DEPUTY ATTORNEY GENERAL

MEMORANDUM

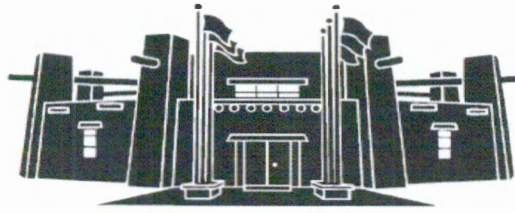
TO: Mariana Kahn, Attorney
Navajo Nation Legislative Counsel

FROM: 
April Quinn, Attorney
Natural Resources Unit, Department of Justice

DATE: December 13, 2018

SUBJECT: Energy Resources and Strategic Development Planning Office ("Energy Office")
Plan of Operation; Edits to Division of Natural Resources Master Plan; Draft
Resolution

The Department of Justice (DOJ) has reviewed the above-referenced documents. I have made edits to the Energy Office's Plan of Operation and the draft resolution and have discussed those edits with the Division of Natural Resources (DNR). My edits are enclosed with this memorandum for your reference. I made no edits to the Division of Natural Resources Master Plan. The only edits that are being made to that particular document are the redlined edits provided to you by DNR. With the incorporation of my edits, DOJ deems all of the referenced documents legally sufficient.



MEMORANDUM

TO: Honorable Alton Shepherd
Jeddito, Cornfields, Ganado, Kinlichee, Steamboat Chapters

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

DATE: December 17, 2018

SUBJECT: PROPOSED NAVAJO NATION COUNCIL RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE, THE NAABIK'ÍYÁI' COMMITTEE AND THE NAVAJO NATION COUNCIL; AMENDING CO-50-13; APPROVING AMENDMENTS TO THE PLAN OF OPERATION FOR THE NAVAJO NATION DIVISION OF NATURAL RESOURCES ADMINISTRATION; AND APPROVING THE PLAN OF OPERATION FOR THE ENERGY RESOURCES AND STRATEGIC DEVELOPMENT PLANNING OFFICE

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.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

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: _0422-18__

SPONSOR: Alton Joe Shepherd

TITLE: An Action Relating To Resources And Development Committee, The NAABIK'IYATI' Committee And The Navajo Nation Council; Amending CO-50-13; Approving Amendments To The Plan Of Operation For The Navajo Nation Division Of Natural Resources Administration; And Approving The Plan Of Operation For The Energy Resources And Strategic Development Planning Office

Date posted: December 18, 2018 at 5:36 PM

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

**Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586**

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

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

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

LEGISLATION NO.: 0422-18

SPONSOR: Honorable Alton Joe Shepherd

TITLE: An Action Relating To Resources And Development Committee, The NAABIK'IYATI' Committee And The Navajo Nation Council; Amending CO-50-13; Approving Amendments To The Plan Of Operation For The Navajo Nation Division Of Natural Resources Administration; And Approving The Plan Of Operation For The Energy Resources And Strategic Development Planning Office

Posted: December 18, 2018 at 5:36 PM

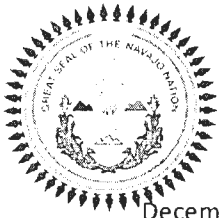
5 DAY Comment Period Ended: December 23, 2018

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inconclusive Comment (1)	1. Bidtah N. Becker, Director; Navajo Division of Natural Resources


Legislative Secretary II
Office of Legislative Services

12/24/2018 8:30am
Date/Time



THE NAVAJO NATION

RUSSELL BEGAYE
JONATHAN NEZ

December 20, 2018

Executive Director
Office of Legislative Services
PO Box 3390
Window Rock, AZ 86515
Via email: comments@navajo-nsn.gov

Dear Honorable Delegates,

The Navajo Nation Division of Natural Resources (DNR) thanks you for considering Legislation # 0422-18, Approving the Plan of Operation for the Energy Resources and Strategic Planning Office. DNR provides the following information to provide information and address some of the comments and questions that have arisen as this legislation has been developed.

Vision & Mission

The vision of the Energy Office for the Navajo Nation is to be the central driver **of comprehensive strategy and planning** of all energy development and operation on Navajo Nation lands for the sustainable benefit of the Nation and its people while ensuring the development is consistent with Navajo values.

To enable that vision, the mission is to provide a comprehensive energy interface for the Navajo Nation Council and its committees, the Office of the President – Vice-President, other Navajo Nation decision makers, and to provide an efficient and effective initial interface for developers to facilitate sustainable energy development in a manner that maximizes the sustainable benefit for the Nation and its people.

The Energy Office includes all energy resources **as well as energy efficiency**. While the various divisions, departments and enterprises cover their respective pieces of that energy scope, the Energy Office is focused on bringing all the areas together for a single comprehensive view **at a strategic level** for long term planning.

Resources & Work Plan

The Energy Office will start with minimum staff then grow as the work evolves and expands. The initial phase of work includes establishing the Office along with necessary processes, data gathering to create a central repository, responding to energy proposals/requests and launching renewable energy development processes. These are the building blocks that position the Energy Office to start the second phase of work in strategic planning at the Nation level.

Phase 1 – Establish the office and foundational processes

- Create office and hire staff
- Create central repository of Navajo Nation energy resource information, identify gaps and outline plans to fill them.
- Inventory all energy related projects
- Respond to new energy proposals/requests
- Solidify and launch renewable energy development process(es) and renewable energy zones

Phase 2 – Move to strategic planning and energy development

- Outline strategic planning process for energy resources including divisions, departments, and enterprises
- Establish market information and data collection processes
- Launch ongoing strategic energy planning
- Facilitate accelerated energy development

Initial staffing will include two new positions created to bring in the skills, expertise and experience required for this strategic energy work, a Strategic Energy Manager and a Financial Analyst. These two positions will work to launch the Energy Office and put in place the fundamental building blocks to support strategic energy resource planning for the Nation. Once the building blocks are in place, the Energy Office will be able to launch the strategic planning which may require additional personnel.

The Strategic Energy Manager will be a permanent executive level position with the appropriate energy, strategy and development experience. The position is responsible for establishing the Energy Office and implement Energy Office programs. DNR's current Strategic Energy Manager is on a one-year contract and will lead a collaborative effort to draft the technical job description for the Strategic Energy Manager position with the energy related enterprises (NTEC, NNOG, NTUA) and DPM. This is to ensure that a qualified person is hired who will receive support from the enterprises and the divisions.

The Financial Analyst will report to the Strategic Energy Manager and is responsible for financial analysis, data analytics and modelling in the evaluation of energy proposals, financial assessment of operating energy projects, as well as other data analysis to support strategic planning and assessment. The Financial Analyst will be shared with the Department of Economic Development.

Funding

The Legislature and President approved Energy Office funding in the amount of \$100,000 for the remainder of FY 2019. In addition, as of this memo, the Division of Economic Development will co-fund the Financial Analyst position.

After this initial fiscal year, the Energy Office would like to use a mix of funding from the Navajo Nation central government, funding from the Nation's enterprises, grant funding, and/or fees or profit sharing from energy development. Of interest, one enterprise has offered to provide funding for the office. That enterprise has also indicated that it wants to be included in the hiring of the Strategic Energy Manager. DNR will work through the issues of continued funding and is hopeful that the enterprises will see value added and will consider funding the Office.

Development of the Legislation

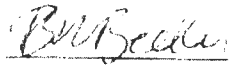
DNR developed this plan of operation based on the Nation's experience in energy project development and with comments from various commenters. Attached is a list of commenters and how those comments were addressed.

Thank you

DNR thanks you for your support of this legislation. DNR would be happy to answer any additional questions you may have regarding the proposed Energy Office. You can contact any of the following

with questions: Bidtah N. Becker, bidtahnbecker@navajo-nsn.gov; Michelle Henry: michellehenry@navajo-nsn.gov; or Rebecca Kaufmann at rkauffman@navajo-nsn.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "B. Becker", written in dark ink on a white background.

Bidtah N. Becker, Director

Attachment

Source	Comment	Response
NTEC - 2018-11-02 Clark Mosely, Donncha Carroll Comments on Narrative Document.	Asked for clarification of the purpose.	Added language to clarify the purpose incorporating much of their suggested language.
	Suggested calling out those areas of NN processes that slow things down and to target them specifically.	Streamlining the energy development processes is part of EO work, but adding very detailed information to a Plan of Operation may limit the EO from acting on other issues not yet known. No additional language added.
	Supportive of "one organization that is the arbiter of truth on all matters energy within the Nation would be valuable. Have one source of truth would provide a centralized fact base for decision making.	No action required.
	Asked for clearer language in a number of places and separate responsibilities of entities.	We reviewed the narrative and plan of operations and made changes to help clarify the language throughout.
Minerals - 2018-11-08 Akhtar Zaman	Concerns about EO too broad and overstretched and having overlapping roles with other energy related entities.	This seems to be a general misunderstanding of the EO as a strategic planning and facilitation of energy development vs. a regulator or permitting office like Minerals. DNR worked to more clearly state the purpose within the EO plan of operations.
	Suggestion to start the EO as a pilot project.	DNR reduced the EO office to 2 resources for establishing the office and strategic planning processes.
Minerals - 2018-11-09 Rowena Cheromiah, Steven Prince, Richard Carlton	Supportive of the Energy Office after a long discussion on the overall scope and how it interacts with Minerals role and work.	DNR worked to clarify the language on the EO purpose and powers.
Navajo Nation Gaming Enterprise - 2018-11-09 Brian Parrish	Supportive - "...we believe the proposal to establish an Office of Energy Resources and Development is an excellent idea and has tremendous merit."	No action required.
	Suggested creating a "return on investment criteria" which would be qualitative and quantitative for prioritizing and scheduling projects as well as determining funding levels."	Incorporated language for total return on investment criteria with the objective to periodically modify as markets and industries change.
NTUA - 2018-11-11 Derek Dyson, Walter Haase, Aresh Moalemi, Glenn Steiger	Additional language "to support" enterprises in their energy development.	Added language to support the Nation's divisions, departments and enterprises in energy development that aligns with the strategic energy plan outlined by the Nation's leadership.
	Additional language to state the EO is not superseding or regulating NTUA. (multiple comments)	This again is most likely an misunderstanding of the EO as a strategy and planning organization and not a regulator. The Nations leadership as the 100% owner of an enterprise may use EO information to provide strategic direction.
	Statements that outline the limits of NTUA operation with respect to their loan covenants, plan of operation and and federal regulations that mandate the utilities management. But, no specifics provided.	The EO does not intend to regulate NTUA but is a strategic planning office who's scope includes NTUA's work as a 100% Navajo owned entity. If there are specific issues provided we would work to make further language changes.

DED - 2018-11-13 Sean McCabe	Clearly define "energy" or "energy related" terms and how that might relate to DED, NTEC & NTUA	Added language about energy and energy related terms. In many cases the EO would be collaborating or working with divisions, departments and enterprises at some point with any energy development they undertake.
NNOGC - 2018-11-08 Louis Denetsoie	Concerns about duplication of effort.	Their concerns are similar to Minerals comments. In the latest version of the EO Plan of Operations there is new language to help clarify that this is not intended to duplicate or replace current division, department, or enterprise functions, but to provide additional value by delivering a strategic plan that takes into account ALL of the Nation's energy resources, not just conventional (coal, oil & gas) for Nation level long term planning and decision making.
	Who will negotiate energy contracts?	This is a new observation, but I would defer to you whether this is an appropriate topic to add into the EO plan of operations or there is a better place to address this topic.
	Concerns about improvements to specific operational areas.	NNOG provided a number of specific areas for process improvement and who should be party to those efforts which I have noted for future EO work.
	Propose specific minimum criteria for any new legal entity to possess if involved in energy ownership.	Their comments regarding minimum qualification of legal entities used for energy development are good. The concept should be incorporated If there are to be additional changes to the EO Plan of Operations.
	Reluctance to share/provide information with the NN Energy Office.	The Nation as the 100% owner of NNOG should have access to any and all information about the company and its operations, AND should also have processes in place for proper handling. However, the EO only has interest in the information which will contribute to constructing an overall strategic plan for all energy resources and information that allows the Nation to understand the contribution of NNOG's energy development to the Nation.
Steve Grey - Date unknown Difficult to understand as they look more like speaking notes for Steve than written comments	Who will negotiate energy contracts?	The term "Communities" as used in the EO Plan of Operations is meant to refer to Chapters or communities (e.g., St. Michaels, Sheep Springs) and not NGO's.
	Would like further clarification of "Navajo cultural values"	Unclear whether this comment was before or after the addition of Navajo Fundamental Law. If there are further definitions available they can be added to the document.
	Concerns about duplication of effort and locating the office in the NE of the Nation.	Steve's other comments miss the point that there are other energy resources than coal, oil & gas, and miss that there is currently no overall picture of all energy resources to inform the Nation's leadership.

**RESOURCES AND DEVELOPMENT COMMITTEE
23rd NAVAJO NATION COUNCIL**

FOURTH YEAR 2018

COMMITTEE REPORT

Mr. Speaker,

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

Legislation # 0422-18: An Action Relating to Resources and Development and Naabik'Iyati Committees and Navajo Nation Council; Amending CO-50-13; Approving Amendments to the Plan of Operation for the Navajo Division of Natural Resources Administration; and Approving the Plan of Operation for the Energy Resources and Strategic Development Planning Office. *Sponsor: Honorable Alton Joe Shepherd*

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

And thereafter the legislation was approved..

Respectfully submitted,



Benjamin Bennett, Presiding Vice-Chairperson
Resource and Development Committee of
the 23rd Navajo Nation Council

Date: December 26, 2018 – Regular Meeting

Meeting Location: Navajo Nation Council Chambers, Window Rock, Arizona

MAIN MOTION:

M: Walter Phelps S: Leonard Pete Vote: 4-0-1 (VCNV)

YEAS: Benjamin Bennett, Walter Phelps; Leonard Pete and Davis Filfred

NAYS:

EXCUSED: Jonathan Perry

RESOURCES AND DEVELOPMENT COMMITTEE
Regular Meeting

ROLL CALL
VOTE TALLY SHEET:

Legislation # 0422-18: An Action Relating to Resources and Development and Naabik'Iyati Committees and Navajo Nation Council; Amending CO-50-13; Approving Amendments to the Plan of Operation for the Navajo Division of Natural Resources Administration; and Approving the Plan of Operation for the Energy Resources and Strategic Development Planning Office. *Sponsor: Honorable Alton Joe Shepherd*

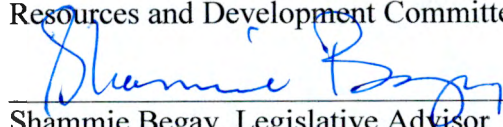
MAIN MOTION:

M: Walter Phelps S: Leonard Pete Vote: 4-0-1 (VCNV)
YEAS: Benjamin Bennett, Walter Phelps; Leonard Pete and Davis Filfred
NAYS:
EXCUSED: Jonathan Perry

Date: December 26, 2018 – Regular Meeting
Meeting Location: Navajo Nation Council Chambers, Window Rock, Arizona



Honorable Benjamin Bennett, Presiding Vice-Chairman
Resources and Development Committee



Shammie Begay, Legislative Advisor
Office of Legislative Services

23rd NAVAJO NATION COUNCIL NAABIK'ÍYÁTI' COMMITTEE REPORT Fourth Year 2018

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

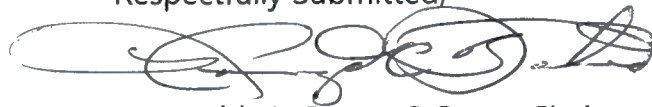
NAVAJO LEGISLATIVE BILL #0422-18

An Action Relating to Resources and Development Committee, the Naabik'íyáti' Committee and the Navajo Nation Council; Amending CO-50-13; approving amendments to the Plan of Operation for the Navajo Nation Division of Natural Resources Administration; and approving the Plan of Operation for the Energy Resources and Strategic Development Planning Office

*Sponsored by: Honorable Alton Joe Shepherd
Co-Sponsored by: Honorable Olin Kieyoomia*

Has had it under consideration and reports the same that the legislation **WAS PASSED AND REFERRED TO THE NAVAJO NATION COUNCIL**

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'LoRenzo C. Bates', with a stylized flourish at the end.

*Honorable LoRenzo C. Bates, Chairman
NAABIK'ÍYÁTI' COMMITTEE*

27 DECEMBER 2018

MAIN MOTION

Motioned by: Honorable Otto Tso

Seconded by: Honorable Lee Jack, Sr.

Vote: 08 in Favor, 01 Opposed (Chairman Bates not voting)

Per N.N.C. § 700 (D), "A quorum of the committee shall be satisfied by the presence of two (2) members of each standing committee..."

NAVAJO NATION

RCS# 1188

12/27/2018

Naa'bik'iyati Committee

11:05:27 PM

Amd# to Amd#

Legislation 0422-18: Amending

PASSED

MOT Tso

CO-50-13; Approving Amendments

SEC Jack

to the Plan of Operation...

Yea : 8

Nay : 1

Excused : 0

Not Voting : 15

Yea : 8

Begay, K
BeGaye, N

Filfred
Jack

Kieyoomia
Smith

Tso
Yellowhair

Nay : 1

Bennett

Excused : 0

Not Voting : 15

Bates
Begay, NM
Brown
Chee

Crotty
Damon
Daniels
Hale

Perry
Pete
Phelps
Shepherd

Slim
Tsosie
Yazzie