

RESOLUTION OF THE
NAABIK'ÍYÁTI' COMMITTEE OF THE
NAVAJO NATION COUNCIL—SECOND YEAR, 2016

AN ACT

RELATING TO RESOURCES AND DEVELOPMENT AND NAABIK'ÍYÁTI'; RESPECTFULLY
REQUESTING CONGRESS TO AMEND INDIAN LANDS SECTION 710 (j) (4)

WHEREAS:

- A. The Navajo Nation established the Resources and Development Committee (RDC) as a Navajo Nation Council standing committee and as such empowered RDC to review and recommend resolutions regarding the environment. 2 N.N.C. §§ 164 (A) (9), 500 (A), 500 (C), 500 (C) (2) (2015); *see also* CO-45-12.
- B. The Navajo Nation established the Naabik'íyáti' Committee as a Navajo Nation Council standing committee and as such empowered the Naabik'íyáti' Committee to coordinate all federal programs and to assist and coordinate all requests for information, appearances and testimony relating to federal legislation impacting the Navajo Nation. 2 N.N.C. §§ 164 (A) (9), 700 (A), 701 (A) (4), 701 (A) (6) (2015); *see also* CO-45-12.
- C. The Navajo Nation has a government-to-government relationship with the United States of America, Treaty of 1868, Aug. 12, 1868, 15 Stat. 667.
- D. On January 4, 1977, the Surface Mining Control and Reclamation Act of 1977 (SMCRA of 1977) - sponsored by House Representative Morris K. Udall - was introduced to the 95th United States Congress and signed into law by the President on August 3, 1977. *See* <http://legcounsel.house.gov>.
- E. The SMCRA of 1977 was introduced to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes.
- F. Under Section 710 (j) (4) of the SMCRA of 1977, as amended through Pub. L. 109-432, enacted December 20, 2006, Judicial Review in civil actions:
 - (i) In General, after exhausting all tribal remedies with respect to a civil action arising under a tribal program approved under section 504 (e), an interested party may file a petition for judicial review of the circuit in which the surface coal mining operation named in the petition is located.

(ii) Scope of Review: (I) Questions of Law-the United States circuit court shall review de novo any questions of law under clause (i). (II) Findings of Fact-the United States circuit court shall review findings of fact under clause (i) using clearly erroneous standard.

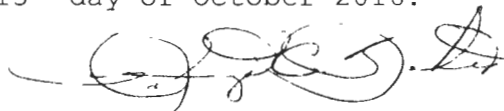
- G. Judicial Review in criminal actions-any criminal action brought under section 518 with respect to surface coal mining or reclamation operations on Indian reservation lands shall be brought in: (i) the United States District Court for the District of Columbia; or (ii) the United States District Court in which the criminal activity is alleged to have occurred. *Id.*
- H. An amendment of the SMCRA of 1977, by removing the judicial review over tribal courts would be in the best interest of the Navajo Nation.

NOW, THEREFORE, BE IT RESOLVED:

- A. The Navajo Nation requests an amendment to Section 710 (j)(4) of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 109-432, enacted December 20, 2006, to remove the judicial review provision over tribal court decisions.
- B. The Navajo Nation hereby authorizes the Navajo Nation President, the Navajo Nation Speaker, the Navajo Nation Chief Justice and their designees, to advocate for the amendment to the Surface Mining Control and Reclamation Act of 1977, Section 710 (j)(4).

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Naabik'iyáti' Committee of the 23rd 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 11 in Favor, and 00 Opposed, on this 13th day of October 2016.



LoRenzo C. Bates, Chairperson
Naabik'iyáti' Committee

Motioned: Honorable Davis Filfred
Second : Honorable Peterson Yazzie

(Pursuant to 2 N.N.C. §700 (d), Two members from each committee)

NAVAJO NATION

RCS# 584

Naa'bik'iyati Committee

10/13/2016

06:15:01 PM

Amd# to Amd#

Legislation No. 0316-16:

PASSED

MOT Filfred

Respectfully Requesting Congress

SEC Yazzie, P

to Amend Indian Lands Section

710(j)(4)

Yea : 11

Nay : 0

Not Voting : 11

Yea : 11

Begay, K
Brown
Crotty

Damon
Daniels
Filfred

Pete
Phelps
Smith

Tsosie
Yazzie, P

Nay : 0

Not Voting : 11

Bates
Begay, NM
BeGaye, N
Bennett

Chee
Hale
Jack

Perry
Shepherd
Slim

Tso
Witherspoon
Yazzie