

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
24th Navajo Nation Council --- Third Year, 2021

AN ACTION

RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING A
BUDGET MODIFICATION TO NAVAJO NATION ENVIRONMENTAL PROTECTION
AGENCY, INCREASING THE HAZARDOUS SUBSTANCE SPECIAL REVENUE
ACCOUNT BUSINESS UNIT NUMBER 511007 BY \$800,000.00

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Resources and Development Committee serves as the oversight committee for the Navajo Nation Environmental Protection Agency. 2 N.N.C § 501 (C)(1).
- B. The Navajo Nation Fiscal Year 2021 Budget Instructions Manual, XI (C)(3) states that oversight committee approval is required for a budget modification increase of \$50,000 or more.
- C. The Fund Management Plan Hazardous Substance Fund Navajo Nation Environmental Protection Agency, I (Establishment) states at page 1 of 7, that "[t]he Resources Committee of the Navajo Nation Council will provide legislative oversight for the two funds [the Hazardous Substances Fund and the Natural and Cultural Resources Fund]."

SECTION TWO. FINDINGS

- A. The Navajo Nation Environmental Protection Agency has requested a budget modification. The Budget Revision Request budget forms are attached as **Exhibit A**.
- B. In a memorandum dated April 14, 2021, **Exhibit B**, the Executive Director of the Navajo Nation Environmental Protection Agency states: "The Navajo Nation Environmental Protection Agency (NNEPA) - Navajo Superfund Program requests for your approval of a budget modification to Special Revenue account - Hazardous Substance Business Unit No. 511007 which is over

\$50,000 and thus requires the approval of the NNEPA Oversight Committee per Budget Instructions Manual, section XI, Budget Revision Instructions and Procedures, page 18. The budget modification is for \$800,000 and is to be used for a Natural Resources Damages (NRD) Pre-Assessment of a number of Orphan Abandoned Uranium Mines contract. The budget modification is to transfer \$800,000 from within Business Unit 511007 ... from Object Code "other Revenue Sources/Miscellaneous 1930" to "Object Code Contractual Services/Other Technical Services 6830". Please note that this is not a transfer to a new account or business unit."

- C. The Navajo Nation Office of the Controller has determined funds are available in the Hazardous Substance Special Revenue Account. A Memorandum from Robert Willie, Office of the Controller, is attached as **Exhibit C**.
- D. The Office of Management and Budget memorandum dated May 14, 2021 is attached as **Exhibit E**.
- E. The Fund Management Plan Hazardous Substances Fund, Navajo Nation Environmental Protection Agency as approved in BFJA-09-11 is attached as **Exhibit D**.

SECTION THREE. APPROVAL

The Navajo Nation hereby approves the budget modification to Navajo Nation Environmental Protection Agency, increasing the Hazardous Substance Special Revenue Account Business Unit 511007 by \$800,000.00 in accordance with **Exhibit A**.

SECTION FOUR. DIRECTIVE TO THE OFFICE OF THE CONTROLLER

The Office of the Controller is directed to make the modifications as stated above in accordance with **Exhibit A**.

CERTIFICATION

I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 24th Navajo Nation Council at a duly called meeting held by a teleconference for which a quorum was present and that same was passed by a vote of 5 in favor, and 0 opposed, on this 19th day of May 2021.

A handwritten signature in black ink, appearing to read 'Rickie Nez', with a stylized flourish at the end.

Rickie Nez, Chairperson
Resources and Development Committee
of the 24th Navajo Nation Council

Motion: Honorable Mark A. Freeland
Second: Honorable Herman M. Daniels

Chairperson Rickie Nez not voting.

**THE NAVAJO NATION
OFFICE OF MANAGEMENT AND BUDGET
BUDGET REVISION REQUEST**

(For Use on NN Funds and External Grant Budgets)



PART I. PROGRAM INFORMATION:

Carletta Chevarillo		daniel.yazzie@navajo-nsn.gov	4/1/2021
PREPARED/REQUESTED BY (PRINTED NAME & TITLE)		EMAIL ADDRESS	DATE
511007	Navajo Superfund Program/NNEPA	928.871.7325	
BUSINESS UNIT NO.	PROGRAM / DEPARTMENT TITLE	PHONE NO.	

PART II. FOR EXTERNAL GRANT OR CONTRACT USE ONLY:

Hazardous Substance	10/1/2020 - 09/30/2021
TITLE OF EXTERNAL CONTRACT / GRANT	FUNDING PERIOD - START/ END DATE

PART III. TRANSFER FROM OBJECT CODE:

FUNDS AVAILABLE (OMB USE ONLY)	LOD	FROM OBJECT CODE & DESCRIPTION OF CODE	AMOUNT
	6	1930 - Miscellaneous	800,000.00
TOTAL			800,000.00

PART IV. TRANSFER TO OBJECT CODE:

LOD	TO OBJECT CODE & DESCRIPTION OF CODE	AMOUNT
6	6830 - Other Technical Services	800,000.00
TOTAL		800,000.00

PART V. JUSTIFICATION FOR BUDGET REVISION (Must be detailed and complete): Explain why the revision is required and provide calculations to show budget is sufficient for the purpose of the budget revision or to the end of the funding period. Do not simply repeat the information provided in Part III and IV above.

NNEPA/Navajo Superfund Program would like to request your assistance in reviewing and implementing the submission of this Budget Revision Request (BRR) for Special Revenue/Business Unit 511007 - Hazardous Substance. By this action Navajo Superfund would like to transfer funds in the amount of \$800,000.00 from object code 1930 - Miscellaneous to object code 6830 - Other Technical Services to cover contractual services for pre-assessment work for Phase II - 30 Orphan Mines Sites.

PART VI. IMPACT ON PROGRAM PERFORMANCE CRITERIA SET IN BUDGET FORM 2: Describe change in funding's (object code) affect on performance criteria. If any.


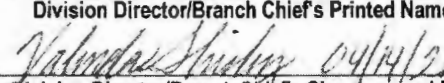
The impact is greatly beneficial, as the program moves forward to carry out tasks for abandoned uranium mines sites throughout the Navajo Nation.

PART VII. APPROPRIATE SIGNATURES:

Darrel Yazzie/Environmental Program Supervisor DEPARTMENT/PROGRAM DIRECTOR (PRINTED) APPROVAL SIGNATURE / DATE	Valinda Shirley/NNEPA Executive Director BRANCH/DIVISION DIRECTOR (PRINTED) CONCURRENCE SIGNATURE / DATE
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Do not attach original supporting documents such as PAFs, POs, Invoices, etc.

**THE NAVAJO NATION
PROGRAM PERFORMANCE CRITERIA**

PART I. PROGRAM INFORMATION:											
Business Unit No.: 511007			Program Name/Title: Navajo Superfund Program/Hazardous Substance								
PART II. PLAN OF OPERATION/RESOLUTION NUMBER/PURPOSE OF PROGRAM:											
CAP-49-95: Approving the Amendment of Enabling Legislation 2 N.N.C. Section 3401 et seq. for the Purpose of Establishing the Environmental Protection Agency and Adopting the Navajo Nation Environmental Policy Act. RDCMY-44-17: Navajo Nation Environmental Protection Agency's Plan of Operation.											
PART III. PROGRAM PERFORMANCE CRITERIA:			1st QTR		2nd QTR		3rd QTR		4th QTR		
			Goal	Actual	Goal	Actual	Goal	Actual	Goal	Actual	
1. Goal Statement:											
Routine reporting of program outcomes and services provided.											
Program Performance Measure: 1 Report per Qtr.											
Report on program activities, actions, technical support on a quarterly basis.			1/qtr		1/qtr		1/qtr		1/qtr		
2. Goal Statement:											
Evaluation of potential risks to public health and environment from hazardous substances.											
Program Performance Measure: 4 measures per month											
Perform assessments, reviews, provide oversight on remedial & response activities.			4/month		4/month		4/month		4/month		
3. Goal Statement:											
Continue partnership role with other government, State, & Tribal agencies.											
Program Performance Measure: 4 measures per month											
Engage in Weekly, Monthly, Quarterly meetings via telecommunication and report on Quarterly.			4/month		4/month		4/month		4/month		
4. Goal Statement:											
Continue required communication with community, chapters, stakeholders on project activities.											
Program Performance Measure: 3 measures per month											
Participate in at least 3 meetings per Quarter. Report on meetings in Quarterly Reporting.			3/month		3/month		3/month		3/month		
5. Goal Statement:											
N/A											
Program Performance Measure:											
N/A											
PART IV. I HEREBY ACKNOWLEDGE THAT THE ABOVE INFORMATION HAS BEEN THOROUGHLY REVIEWED.											
Daniel Yazzie			Valinda Shirley								
Program Manager's Printed Name			Division Director/Branch Chief's Printed Name								
 4/12/21			 04/14/21								
Program Manager's Signature and Date			Division Director/Branch Chief's Signature and Date								

FY 2021

THE NAVAJO NATION
LISTING OF POSITIONS AND ASSIGNMENTS BY BUSINESS UNIT

Page 3 of 8
BUDGET FORM 3

SUB ACCT	POS NO	JOB TYPE	POSITION TITLE	EMP ID	WRKSITE CODE	FY 2020 ACTUAL		FY 2021 PROPOSED	
						G/S	SALARY	HOURS	BUDGET

No Personnel Included

FY 2021

**THE NAVAJO NATION
DETAILED BUDGET AND JUSTIFICATION**

Page 4 of 8
BUDGET FORM 4

PART I. PROGRAM INFORMATION:			
Program Name/Title: Navajo Superfund Program/Hazardous Substance		Business Unit No.: 511007	
PART II. DETAILED BUDGET:			
(A)	(B)	(C)	(D)
Object Code (LOD 6)	Object Code Description and Justification (LOD 7)	Total by DETAILED Object Code (LOD 6)	Total by MAJOR Object Code (LOD 4)
	6500 CONTRACTUAL SERVICES		800,000
	Contractual services for specialized services.		
6830	Other Technical Services	800,000	
	6845 Environ Assessment/Survey 800,000.00		
TOTAL		800,000	800,000

FY 2021

THE NAVAJO NATION
SUMMARY OF CHANGES TO BUDGETED POSITIONS

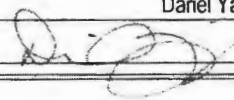

Page 5 of 8
BUDGET FORM 5

PART I. PROGRAM INFORMATION:								
Program Name/Title: Navajo Superfund Program/Hazardous Substance						Business Unit No.: 511007		
PART II. PERSONNEL/POSITION CHANGES:								
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)
Type of Change	Sub Acct Object Code	Position Number	Job Type / Class Code	Position Title	Employee ID No. or Vacant	Salary	Fringe Benefit	Total (Col. G + H)
				NO PERSONNEL INCLUDED				- - - - - - - - - - - -
PAGE TOTAL:						-	-	-

FY 2021

**THE NAVAJO NATION
EXTERNAL CONTRACT AND GRANT FUNDING INFORMATION**

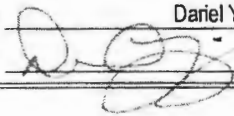
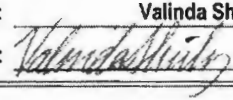
Page 6 of 8
BUDGET FORM 6

PART I. PROGRAM INFORMATION:		Funding Period: 10/1/2020 - 09/30/2021	
Program Name/Title: Navajo Superfund Program/SACA CORE Grant		K #: To Be Assigned	
Contract/Grant No.:		Prepared by: Carletta Chevarillo	
PART II. PURPOSE OF FUNDING AND MATCH FUNDS REQUIREMENT			
PART III. BUDGET INFORMATION:			
(A) Major Object Code and Description	(B) Current Award Fiscal Year 2020	(C) Anticipated Funding Fiscal Year 2021	(D) Difference Columns (C) - (B)
2001 Personnel Expenses		245,831	245,831.00
3000 Travel Expenses		51,653	51,653.00
3500 Meeting Expenses			
4000 Supplies		18,500	18,500.00
5000 Lease and Rental		9,000	9,000.00
5500 Communication and Utilities		3,500	3,500.00
6000 Repairs and Maintenance		1,000	1,000.00
6500 Contractual Services		48,000	48,000.00
7000 Special Transaction		43,746	43,746.00
8000 Assistance			
9000 Capital Outlay			
9510 Matching - Cash			
9610 Matching - In - Kind			
9710 Indirect Cost (Overhead) Allocation		78,770	78,770.00
TOTALS:		500,000	500,000.00
PART IV.			
MATCH FUNDS - No. of Positions:			-
MATCH FUNDS - Required GF Cash Match:			-
CONCURRED BY:			
Required GF In-Kind Match:			-
Contracting Officer's Signature / Date:			-
Required GF % Match:			
PART V. ACKNOWLEDGEMENT:			
Submitted by (print): Daniel Yazzie		Approved by (print): Valinda Shirley	
Signature/Date:  4/12/21		Signature/Date:  4/14/21	

FY 2021

**THE NAVAJO NATION
EXTERNAL CONTRACT AND GRANT FUNDING INFORMATION**

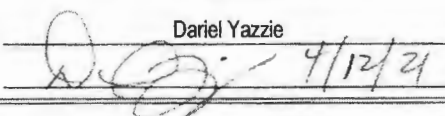
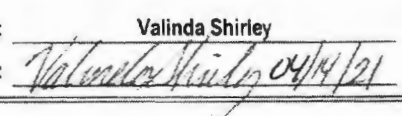
Page 7 of 8
BUDGET FORM 6

PART I. PROGRAM INFORMATION:		Funding Period: 10/1/2020 - 09/30/2021	
Program Name/Title: Navajo Superfund Program/Region 6 Prewitt Site		K #: To Be Assigned	
Contract/Grant No.:		Prepared by: Carletta Chevarillo	
PART II. PURPOSE OF FUNDING AND MATCH FUNDS REQUIREMENT			
PART III. BUDGET INFORMATION:			
(A)	(B)	(C)	(D)
Major Object Code and Description	Current Award Fiscal Year	Anticipated Funding Fiscal Year 2021	Difference Columns (C) - (B)
2001 Personnel Expenses		6,415	6,415.00
3000 Travel Expenses			
3500 Meeting Expenses			
4000 Supplies			
5000 Lease and Rental			
5500 Communication and Utilities			
6000 Repairs and Maintenance			
6500 Contractual Services			
7000 Special Transaction		60	60.00
8000 Assistance			
9000 Capital Outlay			
9510 Matching - Cash			
9610 Matching - In - Kind			
9710 Indirect Cost (Overhead) Allocation		1,211	1,211.00
TOTALS:	-	7,686	7,686.00
PART IV. MATCH FUNDS - No. of Positions:			-
MATCH FUNDS - Required GF Cash Match:			-
CONCURRED BY:			-
Required GF In-Kind Match:			-
Contracting Officer's Signature / Date:			-
Required GF % Match:			-
PART V. ACKNOWLEDGEMENT:			
Submitted by (print): Daniel Yazzie		Approved by (print): Valinda Shirley	
Signature/Date:  4/12/21		Signature/Date:  4/14/21	

FY 2021

**THE NAVAJO NATION
EXTERNAL CONTRACT AND GRANT FUNDING INFORMATION**

Page 8 of 8
BUDGET FORM 6

PART I. PROGRAM INFORMATION:		Funding Period: 10/1/2020 - 09/30/2021	
Program Name/Title: Navajo Superfund Program/Region 6 UNC Site		K #: To Be Assigned	
Contract/Grant No.:		Prepared by: Carletta Chevarillo	
PART II. PURPOSE OF FUNDING AND MATCH FUNDS REQUIREMENT			
PART III. BUDGET INFORMATION:			
(A)	(B)	(C)	(D)
Major Object Code and Description	Current Award Fiscal Year	Anticipated Funding Fiscal Year 2021	Difference Columns (C) - (B)
2001 Personnel Expenses		12,753	12,753.00
3000 Travel Expenses			
3500 Meeting Expenses			
4000 Supplies			
5000 Lease and Rental			
5500 Communication and Utilities			
6000 Repairs and Maintenance			
6500 Contractual Services			
7000 Special Transaction		119	119.00
8000 Assistance			
9000 Capital Outlay			
9510 Matching - Cash			
9610 Matching - In - Kind			
9710 Indirect Cost (Overhead) Allocation		2,407	2,407.00
TOTALS:	-	15,279	15,279.00
PART IV. MATCH FUNDS - No. of Positions:			-
MATCH FUNDS - Required GF Cash Match:			-
CONCURRED BY:			-
Required GF In-Kind Match:			-
Contracting Officer's Signature / Date:			-
Required GF % Match:			-
PART V. ACKNOWLEDGEMENT:			
Submitted by (print): Dariel Yazzie		Approved by (print): Valinda Shirley	
Signature/Date:  4/12/21		Signature/Date:  04/14/21	

R55AR19A
NN0002

NAVAJO NATION

4/30/2020 10:47:22

Cashier's Receipt

Received From: N/A

Page - 1 of 1

Payment ID 1130375

Customer Number N/A

***** ANY CHECKS RETURNED ARE SUBJECT TO A \$35.00 SERVICE CHARGE *****

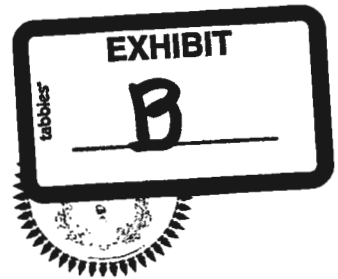
Check Number	Explanation / Remark	Account Number	Payment Amount
04-23-20	EPA HAZARD-TMA TREAS/PHASE 1	511007.1939	800,000.00
Total:			800,000.00

Thank You for Your Payment

Signature of Collecting Employee

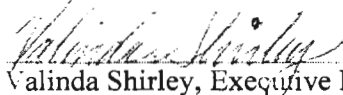
THE NAVAJO NATION

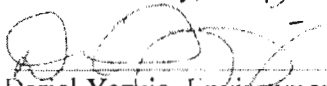
JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



MEMORANDUM

TO: Oversight Committee of Navajo Nation Environmental Protection Agency
Resources and Development Committee, Navajo Nation Council

THRU: 
Valinda Shirley, Executive Director, NNEPA

FROM: 
Daniel Yazzie, Environmental Program Supervisor, Navajo Superfund/NNEPA

DATE: April 14, 2021

SUBJECT: Request for Budget Modification to Special Revenue - Hazardous Substance Business Unit No. 511007 by Oversight Committee to NNEPA

The Navajo Nation Environmental Protection Agency (NNEPA) – Navajo Superfund Program requests for your approval of a budget modification to Special Revenue account - Hazardous Substance Business Unit No. 511007 which is over \$50,000 and thus requires the approval of the NNEPA Oversight Committee per Budget Instructions Manual, section XI, Budget Revision Instructions and Procedures, page 18. The budget modification is for \$800,000 and is to be used for a Natural Resources Damages (NRD) Pre-Assessment of a number of Orphan Abandoned Uranium Mines contract.

The budget modification is to transfer \$800,000 from within Business Unit 511007 (where the funds were deposited in April of 2020 by the United States Department of Justice) from Object Code "Other Revenue Sources/Miscellaneous 1930" to "Object Code Contractual Services/Other Technical Services 6830". Please note that this is not a transfer to a new account or business unit.

The request is to set up a budget in object code 6830. Navajo Superfund is requesting access to the fund balance since the Special Account (511007) budget is set at \$1,500,000.00 for FY2021 and had already went through oversight for approval. We are requesting the budget to be modified to include the \$800,000. The funds were deposited by the US DOJ in FY2020 but due to the Coronavirus Pandemic (COVID-19), the funds were not used or transferred since all work was being focused on COVID-19.

The funds were deposited by the United States Department of Justice (US DOJ) under the Phase 2 Settlement Agreement between the United States and the Navajo Nation. Article 7 of said agreement states that the Navajo Nation shall perform...natural resource damage pre-assessment projects. The Navajo Nation shall commence work on the project(s) within twelve months of

THE NAVAJO NATION



JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

Navajo Superfund Program
Request to Oversight Committee
Budget Modification to Business Unit 511007
April 14, 2021

receipt of the funding.

Attached is the receipt of funds from the US DOJ in the amount of \$800,000 for said project. The Navajo Superfund Program is planning to enter into a contract with a company for the NRD pre-assessment(s).

Also attached are copies of our Navajo Nation Budget Forms which show the budget required for approval.

Your prompt approval is most appreciated. Should you have any questions, please call Dariel Yazzie at 928-871-7325 or Carletta Chevarillo at 928-871-7331.

Approved:

By: _____
Rickie Nez, Chair
Resources and Development Committee

Date: _____

Attachments:

1. Navajo Nation Budget Forms
2. Navajo Nation Cashiers Receipt, Payment ID 1130375

Email Copies:

Carletta Chevarillo, Senior Accountant, Navajo Superfund
Lavern Begay, NNEPA
Michele Dineyazhe, IPA-USEPA/Navajo Superfund



THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

Memorandum:

To: Darrel Yazzie Environmental Program Supervisor
NNEPA/Navajo Superfund Program

From: *Robert Willie*
Robert Willie, Accounting Manager
Office of the Controller

Date: May 5, 2021

Subject: Request for Fund Use and Transfer to FY 2021 Budget for 511007-
Hazardous Substance Special Revenue Account

The Office of the Controller has received a requested memo dated April 15, 2021. The following information is attached:

- 1) The Office of the Controller has calculated the unaudited fund balance for the Hazardous Substance Fund as of month ending March 31, 2021. The un-audited amount available as of March 31 2021 is \$44,062,849, see Exhibit A, footnote 1.
- 2) The program deposited \$800,000 into Business Unit 511007.1939 on April 23, 2020 which is part of the Hazardous Substance Fund. This amount has closed out to the fund balance at year end September 30, 2020. The amount will need to be appropriated for program use.
- 3) The budget forms attached indicated that the amount will be utilized in Business Unit 511007 and object code 6830. This will be an increase to the allocated amount for FY 2021.

If you should have any questions you can contact me at tribal extension X6125

NAVAJO NATION OFFICE OF THE CONTROLLER
P.O. BOX 3150 • WINDOW ROCK, AZ 86515 • PHONE (928) 871-6398 • FAX (928) 871-6026

THE NAVAJO NATION
Combining Balance Sheet
March 31, 2021 (Unaudited)

EXHIBIT A

Assets

Current Assets:	
Cash and cash equivalents	\$ 45,570,856
Investments	-
Receivables:	
Interest Receivable	-
Total Current Assets	<u>45,570,856</u>
Total Assets	<u>\$ 45,570,856</u>

Liabilities and Fund Balances

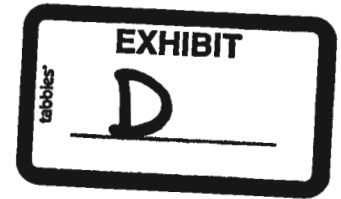
Current Liabilities:	
Accounts Payable	\$ (1,643)
Accruals	-
Other Liabilities	-
Total Current Liabilities	<u>(1,643)</u>
Total Liabilities	(1,643)
Fund Balances:	
Special Projects	(44,062,849)
Committed	(1,485,466)
Assigned	(20,898)
Total Fund Balances	<u>(45,569,213)</u>
Total Liabilities and fund balances	<u>\$ (45,570,856)</u>

THE NAVAJO NATION
Combining Statement of Revenues, Expenditures and Changes in Fund Balance
March 31, 2021 (Unaudited)

Revenues:	
Tax Revenue	\$ -
Interest & Dividends	-
Fees & Permits	-
Other Revenue	-
Total Revenue	<u>-</u>
Expenditures:	
Total Expenditures	<u>(636,748)</u>
Excess (deficit) of revenues over expenditures	(636,748)
Transfers	-
Net change in fund balances	<u>(636,748)</u>

- Amount Available for Hazardous Substance Fund projects

Prepared by General Accounting
5/05/2021



FUND MANAGEMENT PLAN
HAZARDOUS SUBSTANCES FUND
NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY

I. Establishment

This Fund Management Plan ("FMP") provides for the establishment and administration of the Hazardous Substances Fund ("HSF") (Account Number 5510XX) and the Natural and Cultural Resources Fund ("NCRF") (Account Number 5510XX), pursuant to §§ 2701 and 2702, respectively, of the Navajo Nation Comprehensive Environmental Response, Compensation, and Liability Act ("NNCERCLA" or "Act"). The funds will be administered by the Navajo Superfund Program ("NSP"), a program within the Waste Regulatory Compliance Department of the Navajo Nation Environmental Protection Agency ("NNEPA"). The Resources Committee of the Navajo Nation Council will provide legislative oversight for the two funds.

II. Purpose & Objective

The Act provides NNEPA with authority to specify requirements for responses to releases or threatened releases of hazardous substances that endanger the public health or the environment and for cleanup of abandoned or uncontrolled hazardous waste sites. NNEPA also has the authority to enforce those requirements and to require responsible parties to clean up contaminated sites. Monies in the HSF are to be used to fund the activities of the NSP in the administration, implementation, and enforcement of the NNCERCLA. In addition, when it is not possible to locate parties responsible for contaminating a site, monies in the HSF may be used to fund the clean-up. *See* NNCERCLA § 2701(A). The NCRF is to be used to "restore, replace or acquire natural or cultural resources equivalent to those damaged, destroyed or otherwise lost." NNCERCLA § 2702(A).

This FMP describes how monies in the funds are collected, managed, and utilized by the NSP to ensure the protection of the air, soils, surface and ground water from releases of hazardous substances from the contaminated site, and to take any other appropriate corrective actions.

III. Administration

A. FUNDING SOURCES

- (1) Revenues for Account 5110XX, the Hazardous Substances Fund, will come from the following sources:
 - a. Registration fees for transporters of hazardous substances pursuant to NNCERCLA § 2703
 - b. Tariff on transporters of hazardous substances - NNCERCLA §2704
 - c. Amounts appropriated for the NSP - NNCERCLA § 2701(B)(6)
 - d. Fees for monitoring clean-up activities ("Oversight fees") – NNCERCLA §§ 2402(E), 2504(A)(3)

- e. Application fees to participate in voluntary clean-up program pursuant to settlement of natural or cultural resource damage claims pursuant to NNCERCLA § 2402
- f. Fees and penalties recovered pursuant to administrative actions, citizen suits, and other enforcement actions - NNCERCLA § 2701(B)(7)
- g. Response costs recovered pursuant to any cost recovery actions brought under this Act - NNCERCLA § 2701(B)(8)
- h. Any payments made by a responsible party pursuant to a settlement agreement or voluntary clean-up agreement, unless funds are to be used to carry out a settlement agreement as provided in NNCERCLA § 2504(A)(5) or a voluntary clean-up agreement under §2402, or are in settlement of natural or cultural resource damage claims pursuant to NNCERCLA § 2508. -See NNCERCLA § 2504(A)(3); § 2701(B)(6), (8); § 2702(B).
- i. Funds received from any other sources for NSP implementation, but not including USEPA grants or other grant funds which by their terms must be maintained in a separate account - NNCERCLA § 2701(B)(7)

(2) Revenues for Account 5510XX, the Natural and Cultural Resources Fund, come from the following sources:

- a. Amounts received from natural or cultural resource damage claims brought under the NNCERCLA - NNCERCLA § 2702(B)
- b. Amounts from settlement of natural or cultural resource damage claims pursuant to NNCERCLA § 2508

B. RATES FOR TAXES AND FEES

The Act authorizes the following taxes and fees (rates will be established by regulation unless otherwise indicated):

<u>FEE</u>	<u>RATE</u>	<u>ACCOUNT # PLACEMENT</u>
Tariff on Transporters (Pipelines, Products with MSDS, etc.)	To be determined	5510XX
Registration Fee for Transporters (Same as Above)	\$100.00 annually	5510XX
Application Fee for VCP	To be determined	5510XX
Oversight Fees for VCP	To be determined	5510XX

C. COLLECTIONS

The taxes and fees listed in the chart above are established by the NNCERCLA and implementing regulations. The NSP will provide registration forms to transporters of hazardous substances, as that term is defined in NNCERCLA § 2703(A), and annual registration fees must be submitted with the forms. It is anticipated that transporters of hazardous substances will submit monthly forms and payment for the tariff, as well as an annual reconciliation form, pursuant to the rulemaking required in NNCERCLA § 2704.

An application fee will be charged when an owner or operator applies to participate in the voluntary clean-up program. Once the application and a corrective action plan are approved, the NSP will charge an oversight fee to monitor the cleanup.

Each account will be invoiced a late fee based on current interest rates and/or a bounced check fee of \$12.00 per check.

D. DEPOSIT INTO ACCOUNTS

When checks are received by the NSP, the NSP Accounting Clerk will enter the name of the payer, address, amount of check, and name of the financial institution onto a general ledger form. The Accounting Clerk also will indicate on the general ledger form the account into which the funds should be deposited. The Accounting Clerk then will hand deliver the general ledger form to the NNEPA Principal Contract Analyst for review, who will sign the general ledger to confirm the total amount that will be deposited into one or the other of the two accounts described above. The general ledger form is hand-delivered to the NNEPA Executive Director for signature. The NSP Accounting Clerk copies all the checks and the general ledger form and hand-delivers the general ledger form and the checks to Accounts Receivable. The amounts will then be deposited into the appropriate account, as described above, and a deposit slip for the amount will be issued to the NSP Accounting Clerk.

E. EXPENDITURE OF FUNDS

Expenditures of the funds from Account 5510XX and Account 5510XX will be made in accordance with the requirements of the Act.

ACCOUNT 5510XX: Funds under this account will be expended, pursuant to Section 2701 of the Act, for the administration, implementation, and enforcement of the Act, including the funding of response actions taken under the Act when other sources of funds are not available.

(1) The Act provides the following requirements for response actions:

a. **Corrective Actions**

The Director is authorized to:

1. Require the owner or operator of a contaminated site to undertake corrective action with respect to any release of a regulated substance when the Director determines that such corrective action will be done properly and promptly by the owner or operator of the contaminated site from which the release occurs (see § 2504); or
2. Undertake corrective actions, under the general response authority in § 2401 and utilizing available funds from the Hazardous Substance Fund, with respect to any release of a regulated substance into the environment only if such action is necessary, in the judgment of the Director, to protect human

health and the environment. In addition, the Director shall undertake corrective actions if the criteria under Section 2401 are satisfied and one or more of the following situations exist:

- A. No person can be found, within 90 days or such shorter period as may be necessary to protect human health and the environment, who is-
 - i. An owner or operator of the site of concern, and
 - ii. Capable of carrying out such corrective action properly, either financially or otherwise;
 - B. A situation exists which requires prompt action by the Director to protect human health and the environment, and
 - C. The owner or operator of the contaminated site has failed or refused to comply with an order of the Director to comply with corrective action requirements.
3. Undertake the removal of the contaminated site, pursuant to § 2401, when in the judgment of the Director, said removal is necessary to protect human health, safety or the environment and sufficient funds exist in the Hazardous Substance Fund account.

b. **Priority for Corrective Actions**

Pursuant to § 2304, the Director shall give priority in undertaking corrective actions and in issuing orders requiring owners or operators to undertake such actions to releases of regulated substances from its sources which pose the greatest threat to human health and the environment.

c. **Corrective Action Orders**

The Administrator is authorized under § 2403 to issue orders to the owner or operator of a contaminated site to carry out the Act or implementing regulations.

d. **Allowable Corrective Actions**

There is broad authority in §§ 2305 and 2401 as to the types of corrective action the Director may take. In addition to remediation, these actions may include, for example, temporary or permanent relocation of residents (or temporary closure of business where necessary to protect the public health) and the establishment of alternative household or public water supplies. In connection with the performance of any corrective action under Section 2305 of the Act, the Director may undertake an exposure assessment. The cost of any such assessment may be treated as corrective action for purposes of Section 2305 of the Act related to cost recovery.

e. **Recovery of Costs**

1. **In General**

Whenever costs have been incurred by the Director for undertaking corrective action or enforcement action with respect to the release of a regulated substance from a contaminated source, the owner or operator of such sources shall be liable to the Director, pursuant to §§ 2501 and 2503. Section 2501(B) provides that there is joint and several liability, and the Director may use funds from the Hazardous Substance Fund to pursue recovery of cost, as provided in § 2701(A).

2. **Effect on Liability**

A. **No Transfer of Liability**

Pursuant to § 2501(C)(1), no indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer liability from the owner or operator of any contaminated site or from any person who may be liable for a release or threat of release to any other person. Nothing in Section 2501 shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under Section 2501 of the Act.

B. **No Bar to Cause of Action**

Pursuant to § 2501(C)(2), nothing in the Act, including the provisions of Section 2501 of the Act, shall bar a cause of action that an owner or operator or any other person subject to liability under this Section 2501 of the Act, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

f. **Emergency Procurement Powers**

Pursuant to § 2105(C), notwithstanding any other provision of law, the Director may authorize the use of such emergency procurement powers as he or she deems necessary.

g. **Facilities Owned by the Federal Government or the Navajo Nation, Facilities not Subject to Tariffs, and Facilities not in Compliance with the Tariff Requirements**

Pursuant to Section 2701(C), the Director shall expend no monies from the Hazardous Substance Fund to clean up releases at any facility owned by the federal government or the Navajo Nation or its entities (excluding tribal enterprises), any facility not subject to tariffs under the Act, or any facility that has failed to pay any tariffs owed under the Act when due. At such facilities the Director shall use the

authorities provided in the Act to order corrective action to clean up such releases. Notwithstanding the provisions of Section 2701(C) of the Act, the Director may use monies from the fund to take the corrective actions authorized by Sections 2305 and 2401 of the Act to protect human health at such facilities and shall seek full recovery of the costs of all such actions pursuant to the provisions of Sections 2501 and 2503 of the Act and without consideration of the defenses to liability in Section 2502(A) of the Act. Nothing in Section 2701 of the Act shall prevent the Director from taking corrective action at a facility where there is no solvent owner or operator or where immediate action is necessary to respond to an imminent and substantial endangerment of human health or the environment.

- (2) Expenditures to administer and implement the Act will include, but will not be limited to the following:

- 1000 Personnel and Fringe Benefits
Technical Staff
- 3000 Travel Expenses
Personal Travel Expenses, Vehicle Rental and Mileage
- 4000 Supplies
Expendable Office Supplies
- 5000 Lease, Communications, and Utilities
Equipment Rental, Communication Expenses, Data Processing, and Software Support
- 6000 Repairs and Maintenance
Calibration of Monitoring Instruments
- 6500 Contractual Services and Special Transactions
Registration Fees, Advertising, Medical Monitoring, and Other Services
Consultant Fees and Expenses for Archaeological Clearances and Monitoring
Consultant Fees and Expenses for Geo and Electromagnetic Surveys and Reports
- 9000 Capital Expenditures
Equipment, Furniture, Computers, Real Property, and Vehicles

ACCOUNT 5510XX: Funds under this account will be expended, pursuant to Section 2702 of the Act, to restore, replace, or acquire natural or cultural resources equivalent to those damaged or otherwise lost.

F. PERIODIC REVIEW

The Executive Director, Environmental Department Manager, and Principal Contract Analyst will review expenditures on a quarterly basis. The Executive Director, Environmental Manager or designee will report to the Resources Committee and the Navajo Nation Council annually.

Quarterly meetings will also be held with the Navajo Nation Tax Commission to confirm and compare information pertaining to the tariff on transporters of hazardous substances.

The Navajo Nation Business Preference and Navajo Nation financial requirements shall apply to all purchases and procurement of supplies, goods, consultant and contractual services.

On a biannual basis, an audit will be requested of all financial transactions utilizing the services of either the Navajo Nation Auditor General and/or private auditing firm.

G. FORMS

The following forms have been prepared for recording payments to the Hazardous Substance Fund and the Natural and Cultural Resources Fund, including payments made pursuant to settlement agreements:

- Exhibit A: Itemization of Funds Paid to the HSF
- Exhibit B: Itemization of Funds Paid to the NCRF
- Exhibit C: Report to Finance Division of Total Payments to the HSF
- Exhibit D: Report to Finance Division of Total Payments to the NCRF
- Exhibit E: Invoice to Owners for Investigation and Response Costs under Settlement Authority
 - Attachment 1: Oversight Fee Information Form for Settlement Agreements
 - Attachment 2: Cost Recovery Information Form for Settlement Agreements
- Exhibit F: Settlement Payment Form
- Exhibit G: Flowchart for the Process of Collection and Deposition of Revenues & Fees

IV. Amendments

Sections I through III may be amended from time to time by the Budget and Finance Committee pursuant to recommendations from the Resources Committee of the Navajo Nation.

Exhibit A

NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY
Superfund Program Fees and Other Funds

(HSF Special Revenue Funds)

Account #

5510XX

PAYEE	Check Date	Check Number	Total Amount	Registration Fee	Application Fee	Monitoring Fee	Penalties	*CR Funds	*SA Funds	*VCA Funds	Appropriations	Other
1.												
2.												
3.												
4.												
5.												
6.												
7.												
8.												
9.												
			Total:	Subtotal:	Subtotal:	Subtotal:	Subtotal:	Subtotal	Subtotal	Subtotal	Subtotal:	Subtotal
			\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

*Cost Recovery (CR); Settlement Agreement (SA); Voluntary Cleanup Agreement (VCA)

Prepared By: _____
Verified By: _____
Navajo EPA: _____

Kristina M. Casuse, Accounting Clerk
Laverne Begay, Principal Contract Analyst
Stephen B. Etsitty, Executive Director

Date

Date

Date

Exhibit B

NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY (NCRF Special Revenue Funds)
Superfund Program Funds Account #

5510XX

PAYEE	Check Date	Check Number	Total Amount	Funds from Natural/Cultural Resource Damage Claims	Settlement Agreement Funds	Other
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
			Total: \$ _____	Subtotal: \$ _____	Subtotal: \$ _____	Subtotal \$ _____

Prepared By: _____
Verified By: _____
Navajo EPA: _____

Kristina M. Casuse, Accounting Clerk
Laverne Begay, Principal Contract Analyst
Stephen B. Etsitty, Executive Director

Date
Date
Date



Exhibit C

NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF THE EXECUTIVE DIRECTOR

P.O. Box 2946, Window Rock, Navajo Nation, AZ. 86515
Telephone: (928) 871-6859 Fax: (928) 871-7325



JOE SHIRLEY, JR.
PRESIDENT

BEN SHELLY
VICE-PRESIDENT

MEMORANDUM:

TO : Cashier
Division of Finance

FROM : _____
Kristina M. Casuse, Accounting Clerk
NNEPA/WRCD/Superfund Program

DATE : August 31, 2010

SUBJECT : Report of Periodic Payments to Miscellaneous Accounts #5510XX
by the Superfund Program

By means of this memorandum, the Superfund Program of the Navajo Nation Environmental Protection Agency (NNEPA) is reporting the payments submitted to the Hazardous Substances Fund (HSF) (Account # 5510XX) for Fiscal Year 2011 in accordance with the NNCERCLA Act of March 10, 2008. This memorandum records payments submitted on a periodic basis as follows:

Time Period of Collection: 10/1/10 through 09/30/11

	Special Revenue Account (Acct# 5510XX)
(XXXX)-Registration Fees	\$ _____
(XXXX)-Application Fees	\$ _____
(XXXX)-Monitoring Fees	\$ _____
(XXXX)-Penalty Fees	\$ _____
(XXXX)-Costs Recovery Fees	\$ _____
(XXXX)-Settlement Agreement Fees	\$ _____
(XXXX)-Voluntary Cleanup Agreement Fees	\$ _____
(XXXX)-Navajo Nation Council Appropriations	\$ _____
(XXXX)-Other Sources	\$ _____

Payments received during this time period are attached. There may be several periodic submittals per month. (Please see attached for detailed information about individual payments received).

CONCURRED BY: _____
Stephen B. Etsitty, Executive Director, NNEPA



Exhibit D

NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF THE EXECUTIVE DIRECTOR

P.O. Box 2946, Window Rock, Navajo Nation, AZ, 86515

Telephone: (928) 871-6859 Fax: (928) 871-7325



JOE SHIRLEY, JR.
PRESIDENT
PRESIDENT

BEN SHELLEY
VICE-

MEMORANDUM:

TO : Cashier
Division of Finance

FROM : _____
Kristina M. Casuse, Accounting Clerk
NNEPA/WRCD/Superfund Program

DATE : August 31, 2010

| SUBJECT : Report of Periodic Payments to Miscellaneous Accounts #5510XX
by the Superfund Program

By means of this memorandum, the Superfund Program of the Navajo Nation Environmental Protection Agency (NNEPA) is reporting the payments submitted to the Natural and Cultural Resources Fund (NCRF) (Account # 5510XX) during Fiscal Year 2011 in accordance with the NNCERCLA Act of March 10, 2008. This memorandum records payments submitted on a periodic basis as follows:

Time Period of Collection: 10/01/10 through 09/30/11

(XXXX)-Damage Claim Fees

Special Revenue Account
(Acct# 5510XX)

\$ _____

(XXXX)-Settlement Agreement Fees

\$ _____

Payments received during this time period are attached. There may be several periodic submittals per month. (Please see attached for detailed information about individual payments received).

CONCURRED BY: _____

Stephen B. Etsitty, Executive Director, NNEPA



Exhibit E

NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF THE EXECUTIVE DIRECTOR

P.O. Box 2946, Window Rock, Navajo Nation, AZ 86515

Telephone: (928) 871-6859 Fax: (928) 871-7325



JOE SHIRLEY, JR.
PRESIDENT

BEN SHELLY
VICE-PRESIDENT

DATE

INSIDE ADDRESS

Dear Sir/Madam:

The Navajo Nation CERCLA, 4 N.N.C. § 2504(A)(3), provides for fees to be charged to the owner of a site for site investigation/characterization and oversight activities covered by agreements to perform investigation or response actions. The Director has determined that you are responsible for payment of the following fees, as itemized in more detail on the attached forms:

	Name of Project	Oversight Fees (for Review & Oversight)	Cost Recovery (characterization fee)
1			
2			
3			
Total			

Please send payment to cover these fees to the following address:

Navajo Nation Environmental Protection Agency
Superfund Program
P.O. Box 2946
Window Rock, AZ 86515

If you have any questions, please call at (928) 871- 6859. Thank you for your cooperation.

Sincerely,

Freida S. White
Environmental Program Supervisor

xc: Diane Malone, Program Manager, WRCD/NNEPA



**NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF THE EXECUTIVE DIRECTOR**
P.O. Box 2946, Window Rock, Navajo Nation, AZ 86515
Telephone: (928) 871-6859 Fax: (928) 871-7325



JOE SHIRLEY, JR.
PRESIDENT

BEN SHELLEY
VICE-PRESIDENT

**OVERSIGHT FEE INFORMATION FORM
FOR SITE INVESTIGATION/CHARACTERIZATION AND RESPONSE
ACTIONS PURSUANT TO 4 N.N.C. § 2504(A)(3)**

OWNER INFORMATION

Company Name: _____
Company Address: _____

Contact Person: _____
Contact's Title: _____
Contact's Phone No.: _____
Contact's Email: _____

DETAILED INFORMATION FOR INVOICING

Project Name: _____
Project Number: _____
Project Location: _____
Project Address: _____
Project Latitude: _____ Longitude: _____

Summary of Oversight Activities at Cost of \$70/hour

Involved Staff Positions	Time for Review of Documents	Time for Meetings	Time for Onsite Monitoring	Time for Documentation	Time for Closeout	Total Hours
1						
2						
3						
Grand Total					Hours	

Travel, Per Diem, and Re-billable Cost

Involved Staff Positions	Mileage	Per Diem (Meals, Hotel)	Re-billable Cost	Total
1				
2				
3				
Total Cost				

Grand Total Cost = [(Grand Total Hours x \$70/hr) + Total Cost] = \$ _____



**NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF THE EXECUTIVE DIRECTOR**

P.O. Box 2946, Window Rock, Navajo Nation, AZ 86515
Telephone: (928) 871-6859 Fax: (928) 871-7325



JOE SHIRLEY, JR.
PRESIDENT

BEN SHELLY
VICE-PRESIDENT

**COST RECOVERY INFORMATION FORM
FOR SITE INVESTIGATION/CHARACTERIZATION AND RESPONSE
ACTIONS PURSUANT TO 4 N.N.C. § 2504(A)(3)**

OWNER INFORMATION

Company Name: _____
Company Address: _____

Contact Person: _____
Contact's Title: _____
Contact's Phone No.: _____
Contact's Email: _____

DETAILED INFORMATION FOR INVOICING

Project Name: _____
Project Number: _____
Project Location: _____
Project Address: _____
Project Latitude: _____ Longitude: _____

Summary of Cost Recovery Activities at \$70/hour

Involved Staff Positions	Time for Review of Documents	Time for Meetings	Time for Onsite Monitoring	Time for Documentation	Time for Closeout	Total Hours
1						
2						
3						
Grand Total						Hours

Travel, Per Diem, and Re-billable Cost

Involved Staff Positions	Mileage	Per Diem (Meals, Hotel)	Re-billable Cost	Total
1				
2				
3				
Total Cost				

Grand Total Cost = [(Grand Total Hours x \$70/hr) + Total Cost] = \$ _____



Exhibit F

NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY

Superfund Program

P.O. Box 2946, Window Rock, Navajo Nation, AZ 86515

Telephone: (928) 871-6859 Fax: (928) 871-7325



JOE SHIRLEY, JR.
PRESIDENT

BEN SHELLY
VICE-PRESIDENT

SETTLEMENT INFORMATION FORM

RESPONSIBLE PARTY INFORMATION

Company Name: _____
Company Address: _____

Contact Person: _____
Contact's Title: _____
Contact's Phone No.: _____
Contact's Email: _____

SETTLEMENT INFORMATION

Case Name and Number: _____

Type of Site (Mark all that Apply):
☐ Mines
☐ Brownfields
☐ Other (Describe: _____)

Type of Payment (Mark all that Apply):
☐ Cashier's Check No. _____
☐ Money Order No. _____

Payable To: Navajo Nation Environmental Protection Agency
Superfund Program
PO Box 2946
Window Rock, AZ 86515

Payment Amount: _____

Date of Payment: _____

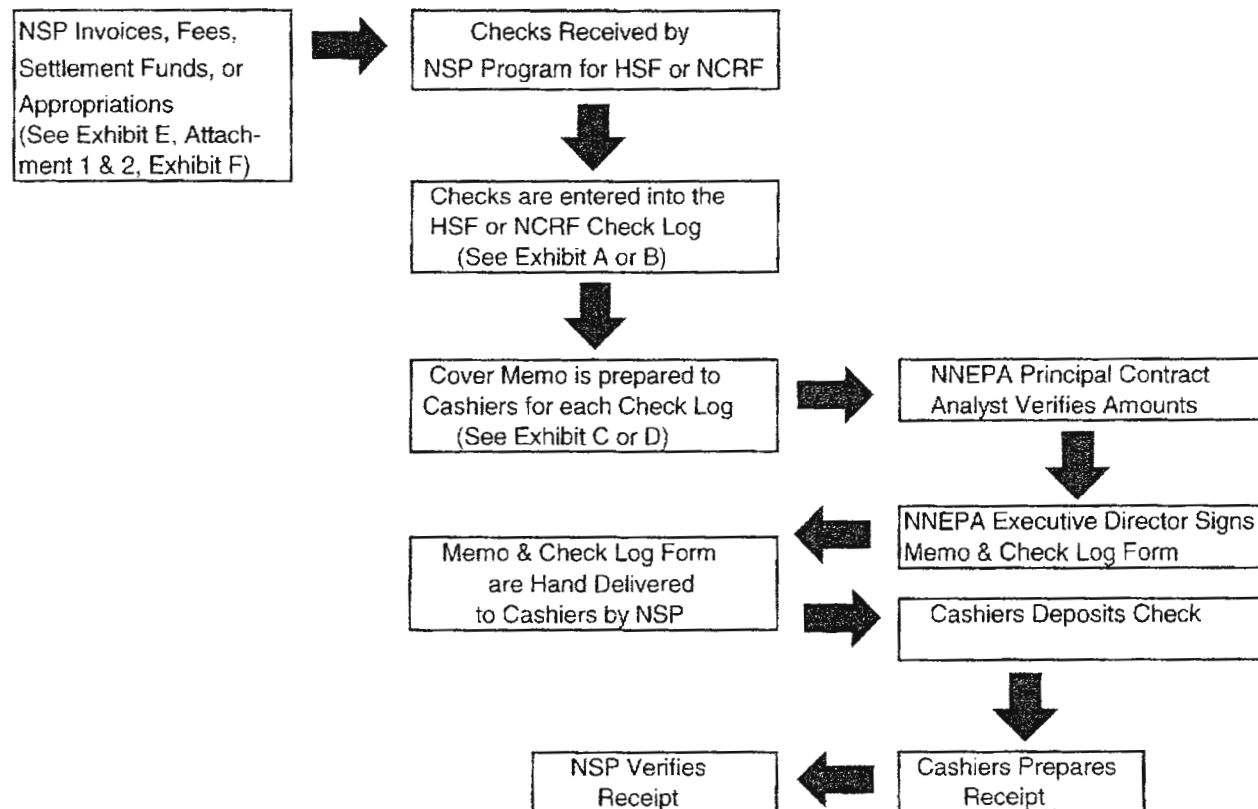
Indicate if Payment is for:
☐ Hazardous Substance Fund
☐ Natural & Cultural Resources Fund

Received By: _____
Date: _____

Print Name: _____

**NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY
SUPERFUND PROGRAM (NSP)**

Process for the Collection and Deposition of Revenues & Fees



PROJECTION OF FUNDS

for the Hazardous Substance Fund and Natural and Cultural Resource Fund

The Hazardous Substance Fund is for the collection of Special Revenue Funds to address contaminated sites on the Navajo Nation. The Natural and Cultural Resource Fund is the same except that it will address natural and cultural damaged resources on the Navajo Nation. Both funds are cited in the Navajo Nation Comprehensive Environmental Response, Compensation, and Liability Act (NNCERCLA) which became law on March 10, 2008 and was one the most significant accomplishments of the Navajo Superfund Program's (NSP) Navajo Nation Response Program (NNRP).

NSP continues to make progress in developing the NNRP. Inventorying for Brownfields sites has been ongoing with an estimate of ten potentially contaminated Brownfields sites found in ten Chapters. Inventorying of other chapters will be ongoing.

The NNRP is allowed to address these Brownfields sites that would never be considered for remediation under USEPA's current criteria. For example, the criteria uses population density and nearby potential sources of contamination to score sites. The Navajo Nation does not have the population density and nearby potential sources of contamination as structured in a city. Subsequently, these sites would score low to prevent the federal government from dedicating funds and resources to remediating the Navajo Nation's potentially contaminated sites.

These contaminated sites are estimated to cost at least \$20,000 per acre, from assessment activities through remediation. Of course, it could be higher pending the remediation method selected. Using an average acreage of 10 acres per site, the estimate budget needed would be \$200,000 per site. Using the minimal rate of one contaminated site per chapter, the estimate budget would be \$22,000,000.

Additionally, there are greater than 500 groups of mine sites or greater than 1000 individual mine sites left unearthed by uranium miners during the Cold War. Some have been reclaimed to correct for physical hazards but remain as environmental risks. With erosion of these reclaimed mine sites, risks are compounded. These mine sites pose a continual health risk to the Navajo Nation and its environment. To address these sites, the NSP under the Navajo Nation Environmental Protection Agency (NNEPA) with assistance of the Navajo Nation Department Of Justice (NNDOJ) has sought the Responsible Parties, companies that left the unearthed mine sites. NNDOJ in working with the U.S. Department Of Justice has successfully received a settlement for an estimate of two of these grouped mine sites. The settlement expected by the last week of December 2010 is designated for the Hazardous Substance Fund for use to remediate these two grouped mine sites. Using this \$1,000,000 settlement as an example, the rate for each grouped mine site would average to \$500,000. Consequently, there could be a minimal estimate of \$249,000,000 for the balance of 498 mine site groups provided that the RPs are discovered and processed for a settlement.

Other estimated sources of funds would be from oversight fees and cost recovery fees yet to be determined. Finding responsible parties (RP) that would voluntarily remediate the site would be the better option to allow NSP to monitor their work at cost (oversight fees). The cost recovery

fee at a rate of three times the quantity of its cost to remediate the site would be billed to the found or uncooperative RP. There are also annual registration fees of \$100 that will eventually be charged pending the yet to be determined process, application fees that may be \$500 to \$1000 per site should an RP desire to participate in the Voluntary Cleanup Program to remediate their contaminated site, and fees and penalties in the *NNCERCLA under 2701 (B)(7)* that range from \$5000 to \$500,000 in the case an RP was facetious or not compliant despite cooperative efforts.

For the Natural and Cultural Resource Fund, there are natural and cultural resource damage claim fees that can be collected in the case an RP destroys Navajo Nation resources. Damage Claim Fees are varied and can be at least \$10,000,000 as an estimate. For example, \$20,000,000 as a minimal estimate could have been claimed in response to United Nuclear Corporation's breached dam that released eleven hundred tons of radioactive mill wastes and ninety million gallons of contaminated liquid pouring toward Arizona in 1979. This dam is located in Churchrock, New Mexico.

The above projections are noted to demonstrate funding sources under the attached Fund Management Plan (FMP) for the Hazardous Substance Fund. A complete list can be found in the FMP under *III. Administration, A. FUNDING SOURCES*.



THE NAVAJO NATION



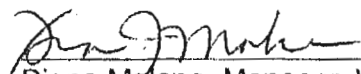
JOE SHIRLEY, JR.
PRESIDENT


BEN SHELLY
VICE-PRESIDENT

November 8, 2010

MEMORANDUM

TO : Stephen B. Etsitty, Executive Director, NNEPA
Navajo Nation Environmental Protection Agency

THRU: 
Diane Malone, Manager, WRC Department
NNEPA

FROM: 
Freida S. White, Environmental Program Supervisor
NNEPA/Navajo Superfund Program

RE : Request for Review and Approval of the Navajo Superfund Program's (NSP)
Fund Management Plan cited in the Navajo Nation Comprehensive
Environmental Response Compensation and Liability Act (NNCERCLA)
Passed on March 10, 2008

This is a request to approve NSP's Fund Management Plan (FMP). The FMP contains the Hazardous Substance Fund (HSF) and the Natural and Cultural Resource Fund (NCRF). The approval is necessary for depositing of Settlement Funds into the Hazardous Substance Fund. The settlement funds are expected by end of December 2010. The awarded quantity of settlement funds has been determined by the U.S. Department of Justice (USDOJ) for mine site remediation and has been formally accepted by the NN Department of Justice, who responded to confirm that the settlement funds will be used for mine site remediation and put into the Hazardous Substance Fund. Other types of funding sources will eventually be received, as indicated in attached documents.

The NSP Office is designated as the authority for all activities within or affecting the Navajo Nation relating to the recent passage of our NNCERCLA Law. Activities under our NN Law include remedial response work at mine sites.

Your approval and understanding would be most appreciated. Please call at X6859 if there are questions. Thank you.

XC: FILE



THE NAVAJO NATION



JOE SHIRLEY, JR.
PRESIDENT

BEN SHELLY
VICE-PRESIDENT

January 3, 2011

MEMORANDUM

TO: SAS Reviewers

Robert Willie, General Accounting Supervisor
Office of the Controller

Ancita Tsosie, Senior Management Analyst
OMB/Management and Policy Section

FROM:

Freida S. White, Environmental Program Supervisor
NNEPA/Navajo Superfund Program

RE: **Response to Comments on NNCERCLA Fund Management Plan**

This Memo responds to the comments submitted regarding the Navajo Superfund Program's Fund Management Plan, prepared pursuant to the Navajo Nation Comprehensive Environmental Response, Compensation, and Liability Act ("NNCERCLA"), 4 N.N.C. §§ 2101-2805.

Office of the Controller

1. The inquiry of whether the Hazardous Substances Fund ("HSF") and the Natural and Cultural Resources Fund ("NCRF") are two separate funds or whether they both fall under the HSF. They are two separate funds, as required by NNCERCLA §§ 2701 and 2702. Pursuant to § 2701(A), the HSF is to be used for the administration, implementation, and enforcement of the NNCERCLA, including for cleanup costs when other sources of funds are not available. Pursuant to § 2702(A), the NCRF is to be used to restore, replace, or acquire natural or cultural resources equivalent to those damaged, destroyed, or otherwise lost.
2. You noted that account numbers will be assigned once the relevant legislation has been adopted and the proper fund type is identified. The NNCERCLA was adopted on March 10, 2008. NNCERCLA § 2701(A) provides that the HSF is to be a special revenue fund. NNCERCLA § 2702(A) provides that the NCRF is to be a fiduciary fund.



**THE
NAVAJO
NATION**

POST OFFICE BOX 9000

• WINDOW ROCK, AZ 86515

• (928) 871-6000

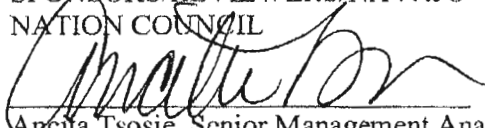
JOE SHIRLEY, JR.
PRESIDENT

BENNIE SHELLEY
VICE-PRESIDENT

November 19, 2010

MEMORANDUM:

TO : SPONSORS/REVIEWERS/NAVAJO
NATION COUNCIL

FROM : 
Arcita Tsosie, Senior Management Analyst
OMB/Management and Policy Section

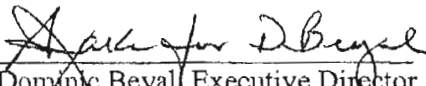
SUBJECT : SAS # 23918 – EPA Superfund Program

The Office of Management and Budget reviewed the above subject proposal according to the provision of 12 N.N.C. § 820 (M) and the following is noted:

1. If there is a reason for any revenue funds to be carried over, such language should be included and justified. If not funds will lapse at year-end. A recommended ceiling or cap could also be set for this fund; setting a budget level for what is needed for the year.
2. Depending on the amount to be generated from this activity, it is recommended to be in compliance with the following resolutions:
 - a. BFN-187-03: "Approving the Eligibility Criteria for the Expenditure of Revenues Generated by Programs and Departments" for program generating less than \$250,000.
 - b. BFMY-38-02: "Approving the Eligibility Criteria for the Establishment of a Fund and Related Fund Management Plan" for programs generating more than \$250,000 per year.

If you have any questions, please contact our office at (928) 871-6570.

CONCURRENCE:


Dominic Beyer, Executive Director
Office of Management and Budget

xc: OMB File
Steven Etsitty, Div. Dir., EPA
Diane Malone, Manager, WRC Dept.

RESOLUTION OF THE
BUDGET AND FINANCE COMMITTEE
OF THE NAVAJO NATION COUNCIL

Approving the Eligibility Criteria for the Establishment of a
Fund and Related Fund Management Plan

WHEREAS:

1. Pursuant to 2 N.N.C. §374 (B) (2), the Budget and Finance Committee of the Navajo Nation Council is authorized to the extent permitted by federal or Navajo Nation laws and regulations, to appropriate, allocate, cancel, reappropriate and review the use of Navajo Nation funds received including but not limited to all grants, contracts, gifts and other funds from all sources; and

2. Pursuant to 2 N.N.C. §374 (B) (4), the Budget and Finance Committee of the Navajo Nation Council is authorized to coordinate and review all fiscal, financial and investment activities of the Navajo Nation and its enterprises, as well as other agencies, federal, state, regional and private; and

3. The Budget and Finance Committee has received requests from programs and departments to establish a Fund Management Plan to utilize revenues generated to support the programs operations; and

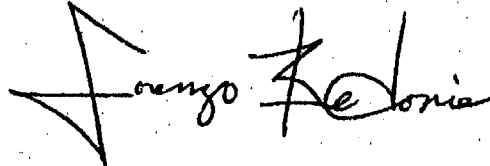
4. Pursuant to directive from the Budget and Finance Committee of the Navajo Nation Council, the committee requested the development of criteria to determine what plan should be adopted. Through several drafts and work sessions between Office of the Controller, Office of the Auditor General, Office of Management and Budget and the Department of Justice, the plan has been finalized. The Eligibility Criteria for the Establishment of a Fund and Related Fund Management Plan has been prepared and is attached hereto and incorporated herein as Exhibit "A".

NOW THEREFORE BE IT RESOLVED THAT:

The Budget and Finance Committee of the Navajo Nation Council hereby adopts the Eligibility Criteria for the Establishment of a Fund Management Plan, attached hereto as Exhibit "A", to provide as a guide review criteria.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Budget and Finance Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 5 in favor, 0 opposed and 0 abstained this 7th day of May, 2002.

A handwritten signature in black ink, appearing to read "Lorenzo Bedonie". The signature is stylized with a large, sweeping initial "L" and a distinct "B".

Lorenzo Bedonie
Chairperson

Motion: Bennie Shelly
Second: Raymond Jones

**THE NAVAJO NATION
ELIGIBILITY CRITERIA FOR THE ESTABLISHMENT OF A FUND AND RELATED
FUND MANAGEMENT PLAN**

I. PURPOSE

To establish criteria for Navajo Nation Programs and Departments that propose to establish a fund and related fund management plan. The program or department shall meet all the criteria outlined below to establish a fund and related fund management plan.

II. CRITERIA

1. Programs and department shall have an approved Plan of Operation to establish a fund. The program or department shall provide a copy of the current approved Plan of Operation to the Office of the Controller.
2. Programs and/or departments proposing a fund management plan shall satisfy the definition of Governmental Fund, Proprietary Fund, or Fiduciary Fund under the Navajo Nation Appropriations Act and Generally Accepted Accounting Principles. The proposed fund management plan shall identify the type of fund designation being sought and the reason why that type of fund is appropriate.
3. The collections of revenues and/or fees for goods and/or services shall have oversight committee and Budget and Finance Committee approval. The program or department shall provide to the Office of the Controller copies of the appropriate legislation.
4. The collections of revenues and/or fees for goods and/or services shall comply with sound financial administration. The program or department shall provide the Office of the Controller with written policies and procedures governing the revenue and fee collections.
5. Programs and departments will explain that the revenues generated and/or fees collected cannot be allocated to other programs or uses. This will ensure the budget process maintains its primary purpose which is the rational allocation of scarce financial resources based upon identified goals and objectives.
6. The amount of revenues that the programs/departments generate must not negatively impact the amount of annual recurring revenue to the general fund such that future financial flexibility is restricted.
7. The programs and departments must demonstrate that it will recover the full cost of operations from the revenues and/or fees collected and will not require any annual appropriations from the Navajo Nation General Funds or other sources. The proposed fund management plan shall provide reasonable assurance that the program's or department's activity is financed solely through the collections of

revenues and/or fees for goods and services provided. In order to provide this assurance:

- a. The program or department will provide to the Office of the Controller a budget for the most recent completed fiscal year detailing the amount of revenue received from goods and/or services and from the Navajo Nation General Fund.
 - b. The program or department will provide to the Office of the Controller a schedule of fees and charges that will recover the program's or department's personnel and operating costs, including depreciation and loans.
8. Programs and departments must generate a minimum of \$250,000 in annual revenues and/or fees to qualify for establishment of a fund. Annual revenues and/or fees collected for goods and services provided must be at least a minimum of \$250,000 to avoid the risk of establishing unnecessary funds, which can result in the Navajo Nation financial system becoming inflexible, complex and inefficient. With the recommendation of the Navajo Nation Controller, the Budget and Finance Committee of the Navajo Nation may increase or decrease this amount to maintain the efficiency and flexibility of the financial system. For example, if the number of funds becomes substantial and causes the financial system to become too complex and inefficient, the Controller will recommend a higher minimum amount.
9. Program and departments shall establish and utilize a process that provides for recording of all revenues and/or fees received; appropriately safeguarding and depositing of all revenues and/or fees intact into an approved depository bank account, the Navajo Nation's depository account, or to the Navajo Nation Cashier's office.

**RESOLUTION OF THE
BUDGET AND FINANCE COMMITTEE
OF THE NAVAJO NATION COUNCIL**

**Approving the Eligibility Criteria for the Expenditure of
Revenues Generated by Programs and Departments**

WHEREAS:

1. Pursuant to 2 N.N.C. § 374 (B) (2), the Budget and Finance Committee of the Navajo Nation Council is authorized to the extent permitted by federal or Navajo Nation laws and regulations, to appropriate, allocate, cancel, reappropriate and review the use of Navajo Nation funds received including but not limited to all grants, contracts, gifts and other funds from all sources; and

2. Pursuant to 2 N.N.C. § 374 (B) (4), the Budget and Finance Committee of the Navajo Nation Council is authorized to coordinate and review all fiscal, financial and investment activities of the Navajo Nation and its enterprises, as well as other agencies, federal, state, regional and private; and

3. The Budget and Finance Committee has received requests from programs and departments to establish a Fund Management Plan to utilize revenues generated to support the program operations; and

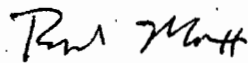
4. Pursuant to directive from the Budget and Finance Committee of the Navajo Nation Council, the committee requested the development of criteria to determine what plan should be adopted. Through a couple of drafts and a work session between the Office of the Controller, Office of the Auditor General, Office of Management and Budget and the Department of Justice the plan has been finalized. The Eligibility Criteria for the Expenditure of Revenues Generated by Programs and Departments has been prepared and is attached hereto and incorporated herein as Exhibit "A".

NOW THEREFORE BE IT RESOLVED THAT:

The Budget and Finance Committee of the Navajo Nation Council hereby adopts the Eligibility Criteria for the Expenditure of Revenues Generated by Programs and Departments, attached hereto as Exhibit "A", to provide as a guide review criteria.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Budget and Finance Committee of the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that same was passed by a vote of 7 in favor, 0 opposed and 0 abstained, this 18th day of November, 2003.



**Raymond Maxx
Chairperson**

**Motion : Ernest Hubbell
Second : Jerry Bodie**

ELIGIBILITY CRITERIA FOR THE EXPENDITURE OF REVENUES GENERATED BY PROGRAMS AND DEPARTMENTS

I. PURPOSE

To establish criteria for Navajo Nation Programs and Departments, who do not meet the criteria of BFMY-38-02 (Eligibility Criteria for the Establishment of a Fund and Related Fund Management Plan), to generate revenue, including the collection of fees, for goods and/or services provided and to expend such revenue generated. This criteria is not intended to apply to chapters or fund raising activities conducted by employees.

II. CRITERIA

1. Programs and departments shall have a current and approved Plan of Operation on file with the Office of the Controller.
2. A program's and/or department's generation of revenue for goods and/or services provided and expenditure of such revenues shall have Navajo Nation oversight committee and Budget and Finance Committee approval legislation. Such legislation can be part of or separate from the program or department's Plan of Operation. The program or department shall provide the Office of the Controller with copies of the legislation. At a minimum, such legislation shall include:
 - A. A detailed explanation of the specific sources from which such revenue is to be generated; and
 - B. A detailed explanation of the rate or fee setting method and process used; and
 - C. A statement defining the purposes for which the revenue generated can be expended and/or utilized. The expenditure and/or utilization of revenue shall have a correlation with the reason for the generation of revenue. For example, if a program collects fees for the use of its equipment, such revenue should only be expended for the repair, maintenance, and/or replacement of such equipment.

- D. A statement that the revenues generated cannot be expended on or allocated to uses other than those specified in the legislation.
- E. A statement that the expenditure and utilization of all revenue generated and/or fees collected will comply with Navajo Nation law, including the Navajo Business Opportunity Act.
- F. A statement that any unexpended revenue generated shall revert to the Navajo Nation General Fund at the end of the fiscal year.

III. EXPENDITURE REQUIREMENT

The expenditure and generation of revenues and/or collection of fees shall comply with sound financial administration, including accountability principles. Programs and departments shall utilize the Office of the Controller's established internal process for recording and depositing all revenues generated and/or fees collected. The program or department shall provide the Office of the Controller with written in-house procedures governing the expenditure and generation of revenue. Such procedures shall ensure the safeguarding of revenues and/or fees and depositing of such revenues and or fees intact into the Navajo Nation's depository account or to the Navajo Nation's Cashier's Section.

IV. BUDGET REQUIREMENT

The revenues generated will be credited to the program's or department's general fund budget upon receipt by the Office of the Controller Cashier's Section. Programs and/or departments shall develop a general fund budget using Navajo Nation Budget Form #___ at the beginning of the fiscal year that includes a conservative projection of the revenues that will be generated. The estimated expenditures shall be consistent with Section II above. This conservative yearly projection shall meet the intent of this policy.

V. AMENDMENTS

The Budget and Finance Committee may amend these Eligibility Criteria for the Expenditure of Revenues Generated by Programs and Departments upon recommendation by the Office of the Controller.



THE NAVAJO NATION

General Accounting * P. O. Box 3150 * Window Rock, AZ 86515 * (928)871-7653

Joe Shirley, Jr.
President

Bennie Shelly.
Vice-President

December 21, 2010

MEMORANDUM:

TO : SAS § 164 Reviewers, Divisions, Programs
Navajo Nation

FROM : Robert Willie
Robert Willie, General Accounting Supervisor
OFFICE OF THE CONTROLLER

SUBJECT : SAS # 23918 Proposed resolution of the Resouce Committee and the Budget & Finance Committee of the Navajo Nation Council; To "Review and Approve the Navajo Superfund Program's (NSP) Fund Management Plan cited in the Navajo Nation Comprehensive Environmental Response Compensation and Liability Act (NNCERCLA) Passed on March 10, 2008.

The Office of the Controller has reviewed the above referenced document.

1. The proposed Fund Management Plan indicates two funds which are Hazardous Substance Fund and the Natural and Cultural Resource Fund which fall under the general heading of Hazardous Substance Fund. The question is whether these are two separate funds or do they both fall under the Hazardous Substance Fund.
2. An attempt at account numbers is also included within the Fund Management Plan. Account numbers are assigned once legislation has been adopted and proper fund type is identified. In this case it appears that the fund will fall under the category of Special Revenue.
3. Rates for fund should be submitted with clarification on how amounts were arrived at so determination could be made what initial projection should be.

These are the comments from the General Accounting Section, Office of Controller. If you should have any questions please feel free to contact me at 928-871-6125.

RESOLUTION OF THE
BUDGET AND FINANCE COMMITTEE
OF THE NAVAJO NATION COUNCIL

21st OF THE NAVAJO NATION COUNCIL - FOURTH YEAR, 2011

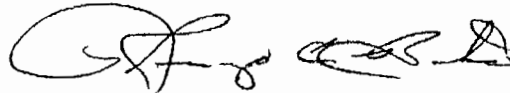
AN ACTION
RELATING TO RESOURCES AND FINANCE; APPROVING THE NAVAJO
SUPERFUND PROGRAM'S FUND MANAGEMENT PLAN CITED IN THE NAVAJO
NATION COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND
LIABILITY ACT OF MARCH 10, 2008

BE IT ENACTED:

1. The Navajo Nation hereby approves the Navajo Superfund Program's Fund Management Plan cited in the Navajo Nation Comprehensive Environmental response Compensation and Liability Act of March 10, 2008, as set forth in Exhibit A.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Budget and Finance Committee of the 21st Navajo Nation Council at a duly called meeting held at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 07 in favor, 00 opposed and 00 abstained, on this 4th of January, 2011.



LoRenzo C. Bates, Chairperson
Budget and Finance Committee

Motion: Hoskie Kee
Second: Ralph Bennett

NOV 12 2010

The Navajo Nation
Window Rock, Arizona 86515

SECTION 164 REVIEW PROCESS

№ 23918

NOV 12 2010

Office of Management & Budget
The Navajo Nation
Window Rock, AZ

Dept. INNEPA/WRCO SUPERFUND PROGRAM Name Freida S. White Phone No. X-6859

DOCUMENT:

Proposed resolution of the Resource Committee and the Budget and Finance Committee of the Navajo Nation Council: to "Review and Approve the Navajo Superfund Program's (NSP) Fund Management Plan cited in the Navajo Nation Comprehensive Environmental Response Compensation and Liability Act (NNCERCLA) Passed on March 10, 2008."

REVIEWERS

1. Sponsor/Program	: <u>Freida S. White, dpr</u>	Date: <u>11/9/10</u>
2. Division	: <u>Thy. D. Kelly</u>	Date: <u>11/12/10</u>
3. Office of Management & Budget:	<u>Mark D. Boyd (see memo)</u>	Date: <u>11/19/10</u>
4. Office of the Controller	: <u>Glennie (see memo for Rob. Williams)</u>	Date: <u>12-22-10</u>
5. Office of Attorney General	: <u>Richard A. Quinn</u>	Date: <u>1-3-11</u>
6. Office of the President	: <u>[Signature]</u>	Date: <u>1/4/11</u>
7. Legislative Counsel	:	Date:
8. Committee Chairperson	:	Date:

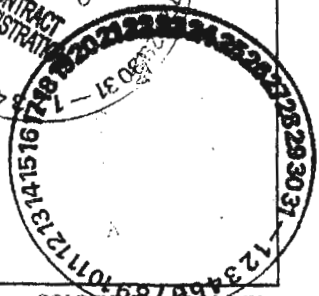
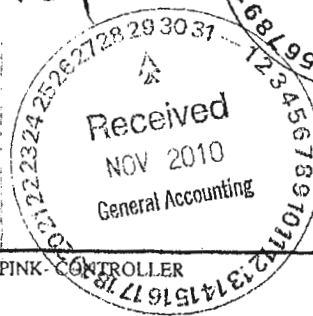
CONTRACTS/AGREEMENTS/GRANTS: RETURN ENTIRE DOCUMENTS TO O.M.B. FOR ADMINISTRATIVE IMPLEMENTATION.

Business Regulatory Dept., DED: _____ Date: _____

COMMENTS:

Note! Corrections recommended from
OMB have been made
ea/dot 1-3-10

JAN - 3 2011



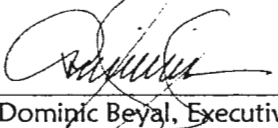


THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

MEMORANDUM

TO: Resources & Development Committee

FROM: 
Dominic Beyer, Executive Director
Office of Management and Budget

DATE: May 14, 2021

SUBJECT: Legislation No. 0082-21 Approving a Budget Modification in the amount of \$800,000 for BU# 511007 Hazardous Substance Special Revenue Account

1. The FMIS system does not show the amount of \$800,000 in the revenue object code 1930 Miscellaneous as of May 14, 2021.
2. The Budget Forms 1 and 4 are correct. The Budget Forms 3 and 5 are not needed, there are no personnel funded.
3. Budget Form 2, number of goals should start from 3rd quarter. Navajo Nation is in the 3rd quarter.

Contact OMB at (928) 871-6570 if there are any questions and/or concerns regarding this memorandum.

RESOURCES AND DEVELOPMENT COMMITTEE
24th Navajo Nation Council

THIRD YEAR 2021

ROLL CALL
VOTE TALLY SHEET

LEGISLATION # 0082-21: AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING A BUDGET MODIFICATION IN THE AMOUNT OF \$800,000 TO NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY, HAZARDOUS SUBSTANCE SPECIAL REVENUE ACCOUNT BUSINESS UNIT 511007, OBJECT CODE 1930 TO BUSINESS UNIT NUMBER 5110, OBJECT CODE 6830. *Sponsor: Honorable Kee Allen Begay, Jr.*

Date: May 19, 2021 – Regular Meeting (Teleconference)
Meeting Location: (RDC members called in via teleconference from their location within the boundary of the Navajo Nation.)

Main Motion:

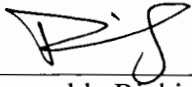
Motion: Mark A. Freeland S: Herman M. Daniels V: 5-0-1 (CNV)
In Favor: Mark A. Freeland, Wilson C. Stewart, Jr., Kee Allen Begay, Jr., Herman M. Daniels, and Thomas Walker, Jr.
Excuse: NONE
Not Voting: Presiding Chairperson Rickie Nez

AMENDMENT # 1:

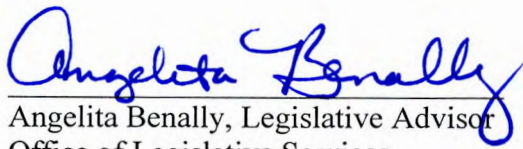
Motion: Wilson C. Stewart, Jr. S: Mark A. Freeland V: 5-0-1 (CNV)
In Favor: Mark A. Freeland, Wilson C. Stewart, Jr., Kee Allen Begay, Jr., Herman M. Daniels, and Thomas Walker, Jr.
Excuse:
Not Voting: Presiding Chairperson Rickie Nez

AMENDMENT # 2:

Motion: Thomas Walker, Jr. S: Wilson C. Stewart, Jr. V: 5-0-1 (CNV)
In Favor: Mark A. Freeland, Wilson C. Stewart, Jr., Kee Allen Begay, Jr., Herman M. Daniels, and Thomas Walker, Jr.
Excuse: NONE
Not Voting: Presiding Chairperson Rickie Nez



Honorable Rickie Nez, Presiding Chairperson
Resources and Development Committee



Angelita Benally, Legislative Advisor
Office of Legislative Services