



## MEMORANDUM

**TO :** Julissa M. Johnson, Policy Analyst  
Office of Legislative Services

**FROM :**   
Manuel Rico, Jr., Executive Director  
Office of Legislative Services

**DATE :** January 04, 2023

**SUBJECT :** 24<sup>th</sup> Navajo Nation Council Expired Legislation

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

0079-19	0116-19	0182-19	0207-19	0265-19	0285-19
0308-19	0320-19	0011-20	0138-20	0209-20	0221-20
0234-20	0271-20	0292-20	0315-20	0013-21	0109-21
0111-21	0112-21	0114-21	0158-21	0161-21	0167-21
0192-21	0229-21	0259-21	0261-21	0267-21	0020-22
0035-22	0040-22	0052-22	0064-22	0076-22	0101-22
0108-22	0149-22	0157-22	0158-22	0168-22	0180-22
0190-22	0191-22	0224-22	0227-22	0228-22	0232-22
0233-22	0236-22	0238-22	0243-22	0245-22	
0259-22	0260-22	0271-22	0272-22	0275-22	0276-22

If you have any questions, please let me know.

**CONCURRENCE:**



Dana Bobroff, Chief Legislative Counsel  
Office of Legislative Counsel

CC: Sherylene Yazzie, Chief of Staff, Office of the Speaker  
OLS Tracking Section  
File

**LEGISLATIVE SUMMARY SHEET**  
**Tracking No. 0271-20**

**DATE:** October 30, 2020

**TITLE OF RESOLUTION:** PROPOSED STANDING COMMITTEE RESOLUTION;  
AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT AND BUDGET  
AND FINANCE COMMITTEES; APPROVING THE NAVAJO DIVISION OF  
TRANSPORTATION AGGREGATE PIT FUND MANAGEMENT PLAN

**PURPOSE:** The purpose of this legislation is to approve Navajo Division of Transportation Aggregate Pit Fund Management Plan. According to the Navajo Division of Transportation Aggregate Pit Fund Management Plan, “[t]he purpose of the Division’s Fund Management Plan is to authorize the Division to receive and manage funds generated by revenue-producing activities of the Division. These funds will be used to recover administrative, operating and maintenance expenses of the Division.”

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

PROPOSED STANDING COMMITTEE RESOLUTION  
24<sup>th</sup> NAVAJO NATION COUNCIL – Second Year, 2020  
INTRODUCED BY

(Sponsor)

TRACKING NO. 0271-20

AN ACTION 

RELATING TO THE RESOURCES AND DEVELOPMENT AND BUDGET AND  
FINANCE COMMITTEES; APPROVING THE NAVAJO DIVISION OF  
TRANSPORTATION AGGREGATE PIT FUND MANAGEMENT PLAN

BE IT ENACTED:

**Section One. Authority**

- A. The Resources and Development Committee exercises oversight authority over land “[t]o oversee regulation of activities on Navajo Nation lands for disposition or acquisition of resources, surface disturbance, or alteration of the natural state of the resource, including the enforcement and administration of applicable Navajo Nation and federal laws, regulations, guidelines, and administrative procedures in the development and use of resources as a good steward.” 2 N.N.C. § 500 (C)(2).
- B. The Budget and Finance Committee is empowered to approve fund management plans upon the recommendation of the appropriate oversight committee and the affected division or branch. 2 N.N.C. § 301(B)(14).

**Section Two. Findings**

- A. The Navajo Nation’s Land Acquisition Trust Fund, pursuant to 16 N.N.C. §4, states that “[t]he Division of Natural Resources Executive Director is hereby delegated a limited grant of final approval for the acquisition or disposition of real

property(ies) not to exceed an accumulated sum of \$5,000,000.00 per calendar year.” 16 N.N.C. §4; CAU-44-16.

- B. The Division of Natural Resources Executive Director granted final approval for the purchase of the Indian Wells Gravel Pit (also known as the Hardluck Quarry-Gravel Pit) with the Land Acquisition Trust Fund.
- C. The Navajo Division of Transportation Aggregate Fund Management Plan will be used for the Indian Wells Gravel Pit in addition to other aggregate pits. The Navajo Division of Transportation Aggregate Pit Fund Management Plan is attached as **Exhibit 1**.
- D. The Navajo Division of Transportation Aggregate Pit Fund Management Plan Purpose as stated at Section II states: “The purpose of the Division’s Fund Management Plan is to authorize the Division to receive and manage funds generated by revenue-producing activities of the Division. These funds will be used to recover administrative, operating and maintenance expenses of the Division.” Navajo Division of Transportation Aggregate Pit Fund Management Plan, **Exhibit 1**.

### **Section Three. Approval**

- A. The Navajo Nation approves the Navajo Division of Transportation Aggregate Pit Fund Management Plan as attached in **Exhibit 1**.
- B. The Navajo Division of Transportation Aggregate Pit Fund Management Plan Sections I through V may be amended from time to time by the Budget and Finance Committee upon recommendation by the Resources and Development Committee.

**NAVAJO DIVISION OF TRANSPORTATION  
EXECUTIVE BRANCH**

**AGGREGATE PIT FUND MANAGEMENT PLAN**

**I. ESTABLISHMENT**

There is hereby established the Navajo Division of Transportation Fund Management Plan for use by the Navajo Division of Transportation (Division). The Resources and Development Committee of the Navajo Nation Council shall provide legislative oversight.

**II. PURPOSE**

The purpose of the Division's Fund Management Plan is to authorize the Division to receive and manage funds generated by revenue-producing activities of the Division. These funds will be used to recover administrative, operating and maintenance expenses of the Division.

**III. ADMINISTRATION**

**A. FUNDING SOURCE:**

The Division operates aggregate pit(s) for the purpose of producing aggregate materials to be used to maintain and improve roads within the Navajo Nation. Any entity, agency, or program, other than the Division, wishing to acquire materials produced at the pit are charged a per ton fee. The revenue produced from the fees is then utilized to maintain and operate the pits. It is also utilized to produce, deliver, and place additional aggregate materials on Navajo Nation roads.

The Navajo DOT may enter into an agreement with Navajo Chapters to furnish aggregate, free of charge to be used on roads included within the Navajo Road Inventory.

Revenue may also be obtained from leases. The Division may enter into a lease to allow contractors to produce aggregate materials from the pit(s). The revenue from the leases shall be deposited into the Aggregate Pit Fund.

**B. RATE-SETTING MECHANISM:**

Fees and rates will be established according to usual and customary business practices in similar institutions. Fees and rates will be re-assessed on an annual basis by the Division. Below are the current rates established for the Division.

<b>PRODUCT:</b>	<b>FEE</b>
<b>AGGREGATE FOR ASPHALT CONCRETE</b>	
Aggregate for AC	\$30.00/ton
<b>AGGREGATE BASE</b>	
ABC 1"	\$17.00/ton
ABC 1" minus	\$16.00/ton
ABC Type II	\$16.00/ton
ABC Class 2	\$12.00/ton
ABC Class 3	\$16.00/ton
ABC Class 6	\$10.00/ton
<b>BALLAST</b>	
3" ballast rock	\$20.00/ton
<b>BASALT</b>	
1 1/2" Basalt Rock	\$22.00/ton
1" Basalt Rock	\$17.00/ton
3/4" Basalt Rock	\$14.00/ton
1/2" Basalt Rock	\$16.00/ton
<b>BORROW MATERIAL</b>	
1" minus Borrow Material	\$9.00/ton
<b>CHIPS</b>	
3/8" Chips	\$20.00/ton
<b>CRUSHER FINES</b>	
Basalt Crusher Fines	\$22.00/ton
Washed Crusher Fines	\$22.00/ton
<b>RIP RAP</b>	
Basalt Rip Rap	\$23.00/ton
3" to 12"	\$24.00/ton
>12" to 24"	\$25.00/ton
>24"	\$30.00/ton
<b>OTHER MATERIALS</b>	
Structural Backfill	\$19.00/ton
<b>OTHER SERVICES</b>	
Labor In the case of unusual circumstances requiring the assistance of Division staff, an hourly fee may be assessed, at the discretion of the Director, and varies depending on what labor rates apply. Fee is charged to help cover the cost of providing Division staff services outside the scope of their regularly assigned duties.	TBD
Delivery of aggregate material	\$.60/mile per ton

### C. PURPOSE OF FUNDS

Generated revenue from fees will be used to cover the operating costs of the Navajo Nation Division of Transportation aggregate pit(s) and the cost to produce aggregate materials for use on the Navajo Nation roads. Use of Aggregate by the Navajo DOT will be confined to roads categorized as "public roads" as defined in the Navajo Nation public roads inventory.

The Navajo DOT may also use aggregate products for bridges, airports, and other public assets, without paying a fee.

Such permissible expenditures shall include, but are not limited to:

- Capital and operating expenses.
- Cost to produce, haul and place aggregate on roads within the Navajo Nation Inventory.
- Promotion for the aggregate pit(s) and its services.
- Royalty payments for mineral leases.
- Costs for insurance and bonds.
- Reimbursement for contribution to capital and operating costs.
- Cost for employees involved in developing, implementing or operating pits.
- Purchase or rental of equipment to operate the pit(s).
- Employee related training
- Employee related expenses to earn and maintain certifications.

Non-permissible uses are identified as:

- Expenditures of funds on non-transportation related improvements.

### III. EXPENDITURE REQUIREMENT

A. Expenditures from this account shall be made in accordance with established Navajo Nation Laws, Policies and Procedures, including the Navajo Business Opportunity Act, and shall be budgeted each Fiscal Year through the Navajo Nation annual budgeting process.

B. The Division shall develop a mining plan for each pit. This plan shall include the in-house procedures governing the expenditure of funds and generation of revenues for each pit.

C. Unexpended revenue shall revert to the Aggregate Pit Fund at the end of the Fiscal Year. The use of reverted funds must be approved by the oversight committee in the same manner as new funds.

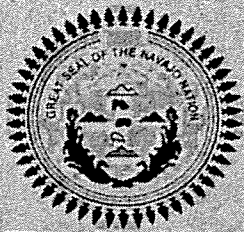
D. The Division's Rates and Fees Schedule is subject to an Annual Review survey through the Resources and Development Committee and the Annual Budget Justification process. This Annual Review will include the participation of the Controller to review the Division's rates and fees, projected revenue and historical cost data, level of service, demand and forecasting methods.

#### **IV. AMENDMENTS**

Sections I through V may be amended from time to time by the Budget and Finance Committee upon the recommendation of the Resources and Development Committee of the Navajo Nation Council as appropriate.



# NAVAJO NATION DEPARTMENT OF JUSTICE



## REQUEST FOR SERVICES



DOJ
6/8/2020 3:39 pm
DATE / TIME
RFS #: 20-0661
UNIT: NR4

☐ RESUBMITTAL

\*\*\* FOR NNDJ USE ONLY - DO NOT CHANGE OR REVISE FORM. VARIATIONS OF THIS FORM WILL NOT BE ACCEPTED. \*\*\*

CLIENT TO COMPLETE			
DATE OF REQUEST: 6/8/2020		ENTITY/DIVISION: Navajo DOT	
CONTACT NAME: Mibio Manus		DEPARTMENT: Executive	
PHONE NUMBER: 505-371-8356		E-MAIL: mmanus@navajodot.org	
COMPLETE DESCRIPTION OF LEGAL NEED AND SERVICES REQUESTED (Attach Documents): CHARACTERS ALLOWED Revised version of the Fund Management Plan			
DEADLINE:	6/16/2020	REASON:	Need to implement fund management plan
DOJ SECRETARY TO COMPLETE			
DATE/TIME IN UNIT: 6/9/20		REVIEWING ATTORNEY/ADVOCATE: Veronica	
DATE TIME OUT OF UNIT:		PREPARED BY (initial):	
DOJ ATTORNEY/ADVOCATE COMMENTS			
OK			
REVIEWED BY: (PRINT) V/Blankhat		DATE / TIME: 6/15/20 10:12 am	
DOJ Secretary Called:		for Document Pick Up on at By:	
PICKED UP BY: (PRINT)		DATE / TIME:	

NNDJ/DRRF-July 2013

Dept's Copy

JUN 2020

6-13-20



## NAVAJO DIVISION OF TRANSPORTATION

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Navajo Division of Transportation  
P.O. Box 4620  
Window Rock, AZ 86515

June 8, 2020

Veronica Blackhat, Assistant Attorney General  
Navajo Nation Department of Justice  
PO Box 2010  
Window Rock, AZ 86515

Ms. Blackhat:

The Navajo Division of Transportation will assist the Navajo Nation in continuing and furthering operation of the Brimhall Gravel Pit located in Indian Wells, Ariz. The Navajo Nation purchased the gravel pit in January 2020.

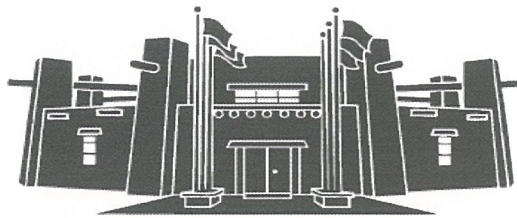
Navajo DOT is asking for your review of the Fund Management Plan for the aggregate pit.

Attached is the revised version of the Fund Management Plan. Also included in the attachments are your original comments and NDOT's responses. The revised version of the plan incorporates your comments.

Please advise.

Sincerely,

Mihio Manus, Sr. Public Information Officer  
Navajo Division of Transportation



## MEMORANDUM

TO: Honorable Kee Allen Begay  
Tachee, Blue Gap, Many Farms, Nazlini, Tselani/Cottonwood, Low Mountain  
Chapters

FROM:

*Mariana Kahn*

Mariana Kahn, Attorney  
Office of Legislative Counsel

DATE: October 30, 2020

SUBJECT: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION  
RELATING TO THE RESOURCES AND DEVELOPMENT AND BUDGET  
AND FINANCE COMMITTEES; APPROVING THE NAVAJO DIVISION OF  
TRANSPORTATION AGGREGATE PIT FUND MANAGEMENT PLAN

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 with the above-mentioned documents are legally sufficient with regard to formatting. As with any action of government however, it can be subject to review by the courts in the event of proper challenge. Please ensure that his particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§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).

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0271-20\_\_

SPONSOR: Kee Allen Begay, Jr.

**TITLE: An Action Relating To The Resources And Development And Budget And Finance Committees; Approving The Navajo Division Of Transportation Aggregate Pit Fund Management Plan**

***Date posted: October 30, 2020 at 7:03 PM***

**Digital comments may be e-mailed to [comments@navajo-nsn.gov](mailto: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.: 0271-20**

**SPONSOR: Honorable Kee Allen Begay, Jr.**

**TITLE: An Action Relating To The Resources And Development And Budget And Finance Committees; Approving The Navajo Division Of Transportation Aggregate Pit Fund Management Plan**

**Posted: October 30, 2020 at 7:03 PM**

**5 DAY Comment Period Ended: November 04, 2020**

**Digital Comments received:**

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

  
**Legislative Tracking Secretary  
Office of Legislative Services**

11/06/20 10:00 AM  
**Date/Time**

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

**LEGISLATION NO.: 0271-20**

**SPONSOR: Honorable Kee Allen Begay, Jr.**

**TITLE: An Action Relating To The Resources And Development And Budget And Finance Committees; Approving The Navajo Division Of Transportation Aggregate Pit Fund Management Plan**

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**Digital Comments received:**

<b>Comments Supporting</b>	<i>None</i>
<b>Comments Opposing</b>	<i>None</i>
<b>Comments/Recommendations</b>	<b>1) Ancita Largo, OMB</b>

  
\_\_\_\_\_  
**Legislative Tracking Secretary  
Office of Legislative Services**

11/16/20     1:36pm  
\_\_\_\_\_  
**Date/Time**

# THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT    MYRON LIZER | VICE PRESIDENT



November 13, 2020

## MEMORANDUM:

TO : Reviewers/Sponsors/NM Council Delegates

FROM :   
Ancita Largo, Senior Management Analyst  
Office of Management and Budget

SUBJECT : Legislation #0271-20

AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT AND BUDGET AND  
FINANCE COMMITTEES, APPROVING THE NAVAJO DIVISION OF TRANSPORTATION  
AGGREGATE PIT FUND MANAGEMENT PLAN

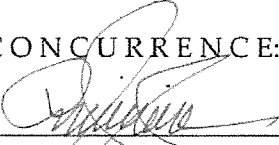
The Office of Management and Budget reviewed above subject legislation according to 12 N.N.C. § 820 (M) and the following are noted:

1. Due to the fiduciary responsibility for the proper and efficient operation of all Executive Branch offices and functions this Division of Transportation Fund Management Plan needs to be reviewed through 164 Review and Signature Process. This has not been done and the Fund Management Plan should be reviewed through 164 Review process.
2. Resolution BFMY-38-02 approved the Eligibility Criteria for the Establishment of a Fund and Related Fund Management Plan. In this resolution it states "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 had 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".
3. Eligibility Criteria purpose to establish criteria states "The program or department shall meet all the criteria outlined below to establish a fund and related fund management plan.
4. Criteria, 1. States "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."
5. Division of Transportation, Plan of Operation, CAP-13-13 needs to be amended to include the Aggregate Pit Program or establish a separate Plan of Operation to meet the criteria to establish a Fund Management Plan.

6. The plan of operation for Division of Transportation has no mention of developing Aggregate Pit in all programs.
7. Resolution BFMY-16-14 is a Fund Management Plan for Roads Fund. Sub section 1004. B. 2. States, Equipment Purchases. And d. Equipment to process aggregate materials; f. Sand, gravel borrow pit and water well/source acquisitions and other required permits."

If you have any questions, please contact our office at 928-871-6570/6470.

CONCURRENCE:



Dominic Beyer, Executive Director  
Office of Management and Budget

xc: OMB File



**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.