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.

5-DAY BILL HOLD PERIOD: J Johnson
Website Posting Time/Date: 7:03 pm; 10-30-20
Posting End Date: 11-04-20
Eligible for Action: 11-05-20

Resources & Development Committee
Thence
Budget & Finance Committee

PROPOSED STANDING COMMITTEE RESOLUTION

24th NAVAJO NATION COUNCIL – Second Year, 2020

INTRODUCED BY

_____

(Sponsor)

TRACKING NO. **0271-20**

AN ACTION Thomas Walker, Jr.

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 ad 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.

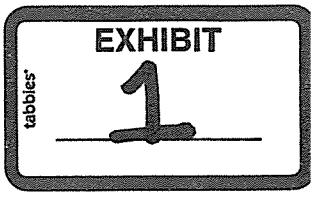
C. The Navajo Division of Transportation Aggregate Fund Management Plan will be used for the Indian Wells Gravel Pit in addition to other aggregate pits. The Navajo Division of Transportation Aggregate Pit Fund Management Plan is attached as **Exhibit 1**.

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.

PRODUCT:	FEE
AGGREGATE FOR ASPHALT CONCRETE	
Aggregate for AC	$30.00/ton
AGGREGATE BASE	
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
BALLAST	
3" ballast rock	$20.00/ton
BASALT	
1 ½" Basalt Rock	$22.00/ton
1" Basalt Rock	$17.00/ton
¾" Basalt Rock	$14.00/ton
½" Basalt Rock	$16.00/ton
BORROW MATERIAL	
1" minus Borrow Material	$9.00/ton
CHIPS	
3/8" Chips	$20.00/ton
CRUSHER FINES	
Basalt Crusher Fines	$22.00/ton
Washed Crusher Fines	$22.00/ton
RIP RAP	
Basalt Rip Rap	$23.00/ton
3" to 12"	$24.00/ton
>12" to 24"	$25.00/ton
>24"	$30.00/ton
OTHER MATERIALS	
Structural Backfill	$19.00/ton
OTHER SERVICES	
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

☐ RESUBMITTAL

REQUEST FOR SERVICES

RECEIVED
JUN - 8 2020
DEPARTMENT OF JUSTICE
ADMINISTRATION

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

*** FOR NNDOJ 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 verison 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 Blackhat DATE / TIME: 6/15/20 10:12 am

DOJ Secretary Called: for Document Pick Up on at: By:

PICKED UP BY: *(PRINT)* DATE / TIME:

NNDOJ/DRRF-July 2013

Approved

JUN 2020

6.15.20

NAVAJO DIVISION OF TRANSPORTATION

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.

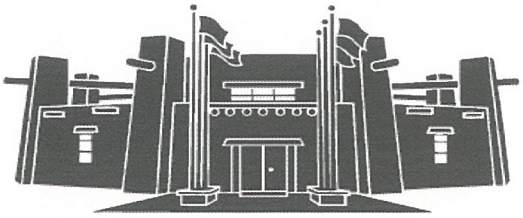
Attached is the revised version of the Fund Management Plan. Also included in the attachements are your original comments and NDOT's responses. The revised version of the plan incorporates your comments.

Please advise.

Sincerely,

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

Office of Legislative Counsel
Telephone: (928) 871-7166
Fax # (928) 871-7576



Honorable Seth Damon
Speaker
24th Navajo Nation Council

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

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:

Comments Supporting	***None***
Comments Opposing	***None***
Inconclusive Comments	***None***

Legislative Tracking Secretary
Office of Legislative Services

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