

**LEGISLATIVE SUMMARY SHEET**

Tracking No. 0121-14

**DATE:** April 11, 2016

**TITLE OF RESOLUTION:** AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, REOURCES AND DEVELOPMENT; NAABIK'ÍYÁTI' COMMITTEES; OPPOSING HYDRAULIC FRACTURING WITHIN THE NAVAJO NATION

**PURPOSE:** This resolution if approved will establish that the Navajo Nation is opposed to the practice of hydraulic fracturing within the Navajo Nation.

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

5-DAY BILL HOLD PERIOD: None  
Website Posting Time/Date: 1:38pm 4/13/16  
Posting End Date: 4/18/2016  
Eligible for Action: 4/19/2016

Health, Education & Human Services Committee  
THENCE  
Resources & Development Committee  
THENCE  
Naa'bik'íyáti' Committee

PROPOSED STANDING COMMITTEE RESOLUTION  
23<sup>RD</sup> NAVAJO NATION COUNCIL—SECOND YEAR, 2016

INTRODUCED BY



Primary Sponsor

TRACKING NO. 0121-16

AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, REOURCES  
AND DEVELOPMENT; NAABIK'ÍYÁTI' COMMITTEES; OPPOSING  
HYDRAULIC FRACTURING WITHIN THE NAVAJO NATION

WHEREAS:

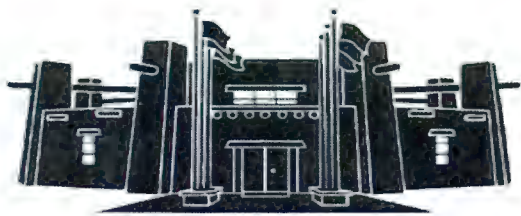
- A. The Navajo Nation established the Health, Education and Human Services Committee (HEHSC) as a standing committee of the Navajo Nation Council to promulgate regulations and provide legislative oversight on matters involving health; and to review and recommend resolutions relating to health and environmental health. *See* 2 N.N.C. §§ 400 (C)(1); 401 (B)(6)(a) (2015).
- B. The Navajo Nation established the Resources and Development Committee (RDC) as a standing committee of the Navajo Nation Council to exercise oversight authority over water, land, environment, and environmental protection; and to promulgate rules and regulations governing environmental protection. *See* 2 N.N.C. §§ 500 (A); 500 (C); 501 (B)(1) (2015).
- C. The Navajo Nation established the Naabik'íyáti' Committee as a Navajo Nation Council standing committee and as such empowered Naabik'íyáti' Committee to recommend resolutions to the Navajo Nation Council on matters within the Committee's jurisdiction. 2 N.N.C. §§ 164 (A)(9), 700 (A), 701 (A)(1) (2015); *see also* CO-45-12.

- 1 D. Hydraulic fracturing (hereinafter “fracking”) is the injection of fluid into shale  
2 beds at high pressure in order to free up petroleum resources (such as oil or  
3 natural gas); fracking creates tiny fissures in the rock deep beneath the earth  
4 which then allows gas and oil to flow into the well. *See* Merriam-Webster,  
5 Definition of Fracking (April 6, 2016, 10:10 AM), [http://www.merriam-](http://www.merriam-webster.com/dictionary/fracking)  
6 [webster.com/dictionary/fracking](http://www.merriam-webster.com/dictionary/fracking).
- 7 E. Currently, the United States has more than 500,000 active natural gas wells, each  
8 well requires an average of 400 water tanker trucks to supply the site and takes  
9 about one to eight million gallons of water to complete each well. *See* Linda  
10 Dong, WHAT GOES IN AND OUT OF HYDRAULIC FRACTURING, (Apr.  
11 11, 2016, 10:50 AM), <http://dangersoffracking.com>.
- 12 F. The fracturing site has water brought in and the water is mixed with sand and  
13 chemicals to create the fracking fluid; the fracking fluid consist of 600 chemicals  
14 including toxins such as lead, uranium, mercury, ethylene glycol, radium,  
15 methanol, and formaldehyde; the fracturing fluid is then injected (10,000 feet)  
16 into the ground through a drilled pipeline; and once the mixture reaches the end of  
17 the well the high pressure causes the nearby shale rock to crack, creating fissures  
18 where natural gas flows into the well. *See* Linda Dong, WHAT GOES IN AND  
19 OUT OF HYDRAULIC FRACTURING, (Apr. 11, 2016, 10:50 AM),  
20 <http://dangersoffracking.com>.
- 21 G. There are several potential reasons for considering fracking a few which include  
22 economic benefits; reduction in air pollution and water use (as compared to other  
23 fossil fuels); and switching from using coal for electricity to natural gas can  
24 reduce sulfur, nitrogen, mercury and air pollution matter. *See* Robert B. Jackson,  
25 et. al., THE ENVIRONMENTAL COSTS AND BENEFITS OF FRACKING  
26 (2014).
- 27 H. There also various concerns such as: the water requirements for fracking; the well  
28 integrity and fracturing induced stress to the land; risks to surface-water and  
29 groundwater resources; induced earthquakes from fracking and the deep injection  
30 of wastewater causing significantly higher-energy earthquakes; wastewater

1 disposal; surface spills; increase in volatile organic compounds; and locally the air  
2 toxins are potential health threats. See Robert B. Jackson, et. al., THE  
3 ENVIRONMENTAL COSTS AND BENEFITS OF FRACKING (2014).


4  
5 NOW THEREFORE, BE IT RESOLVED:

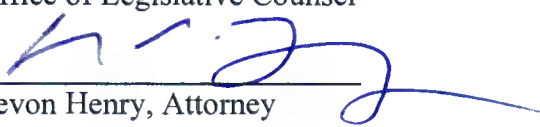
- 6 A. The Naabik'íyáti' Committee of the Navajo Nation Council hereby opposes the  
7 practice of fracking within the Navajo Nation due to the potential environmental  
8 and health risks associated with fracking.
- 9 B. The Naabik'íyáti' Committee hereby authorizes the Navajo Nation President, the  
10 Navajo Nation Speaker, the Navajo Nation Chief Justice and their designees, to  
11 oppose the practice of fracking within the Navajo Nation due to the potential  
12 environmental and health risks associated with fracking.
- 13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30



**MEMORANDUM**

**TO:** Honorable Jonathan Hale  
Navajo Nation Council

**FROM:**   
Rhonda L. Tuni  
Office of Legislative Counsel

**THRU:**   
Levon Henry, Attorney  
Office of Legislative Counsel

**DATE:** April 11, 2016

**SUBJECT:** AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, RESOURCES AND DEVELOPMENT; NAABIK'ÍYÁTI' COMMITTEES; OPPOSING HYDRAULIC FRACTURING WITHIN THE NAVAJO NATION

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge. Please ensure that this 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).

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution.



THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0121-16\_\_

SPONSOR: Jonathan L. Hale

**TITLE: An Action Relating To Health, Education and Human Services, Resources and Development; NAABIK'IYATI' Committees; Opposing Hydraulic Fracturing Within The Navajo Nation**

***Date posted:*** April 13, 2016 at 1:38 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.: 0121-16**

**SPONSOR: Honorable Jonathan L. Hale**

**TITLE: An Action Relating To Health, Education And Human Services, Resources And Development; Naabik'iyati' Committees; Opposing Hydraulic Fracturing Within The Navajo Nation.**

**Posted: April 13, 2016 at 1:38 PM**

**5 DAY Comment Period Ended: April 18, 2016**

**Digital Comments received:**

<b>Comments Supporting</b>	<i>None</i>
<b>Comments Opposing (1)</b>	<b>1. Louise Denetsosie, Chief Executive Officer; Navajo Nation Oil and Gas Company.</b>
<b>Inclusive Comments</b>	<i>None</i>

  
\_\_\_\_\_  
**Executive Director  
Office of Legislative Services**

04/19/2016 - 8:40 am  
\_\_\_\_\_  
**Date/Time**

## NNOGC Public Comments on Draft Navajo Nation Legislation No. 0121-16

Louis Denetsosie <ldenetsosie@nnogc.com>

NAVJO NATION NSN

comments <comments@navajo-nsn.gov>;

File

2016-04-18 NNOGC comments on draft NN legis 0121-16.pdf;

Dear Sir or Madam,

Attached are the comments of the Navajo Nation Oil and Gas Company on draft Navajo Nation Legislation No. 0121-16 Opposing Hydraulic Fracturing within the Navajo Nation.

Please make available to the members of the Navajo Nation Council.



**NAVAJO NATION OIL & GAS COMPANY**

A Federal Corporation

Post Office Box 4439 • Window Rock, Arizona • 86515

Telephone (928) 871-4880 • FAX (928) 871-4882



April 18, 2016

Honorable 23rd Navajo Nation Council Delegates

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

**Re: Comments of Navajo Nation Oil and Gas Company on Legislation No. 0121-16: An Action Relating To Health, Education and Human Services, Resources and Development; Naa'biki'yati Committees; Opposing Hydraulic Fracturing Within The Navajo Nation**

Dear Honorable Delegates:

As a wholly owned entity of the Navajo Nation government that holds significant oil and gas assets of the Navajo Nation in the Navajo public trust, the Navajo Nation Oil and Gas Company ("NNOGC") appreciates this opportunity to provide comments on the above captioned legislation. As expressed in the mission statement of NNOGC, respect for the environment and minimizing and mitigating negative impacts to the environment from the extraction of oil and gas from *Dinétaah*, consistent with Navajo values and teachings, is of paramount importance in NNOGC carrying out its obligations on behalf the Navajo Nation and Navajo people to maximize the value of the Nation's oil and gas resources for current and future generations of Navajo citizens.<sup>1</sup> For that reason, I write to convey the serious concern of NNOGC and its Board of Directors in regard to the above captioned proposed Legislation No. 0121-16 to oppose hydraulic fracturing ("fracking") within the Navajo Nation ("Legislation No. 0121-16").

Legislation No. 0121-16 is not based in sound science, is not in the Navajo Nation's best interest, and is inconsistent with the Navajo Nation's Energy Policy Act of 2013, Navajo Nation Council Resolution No. CO-50-13 (Oct. 24, 2013) ("2013 Energy Policy"). Legislation No. 0121-16 would also purport to have standing committees of the Navajo Nation Council make policy statements on behalf of the Nation, an authority reserved to the Council under Title 2 that has never been delegated to the standing committees. It would also purport to "authorize" the Chief Justice, the leader of the Judicial Branch, to take a political position on legal matters that may come before it. That is wholly inappropriate and a violation of the separation of powers doctrine under Navajo Fundamental Law. For these reasons, and others, the standing committees of the 23rd Navajo Nation Council should *reject* and *not pass* proposed Legislation No. 0121-16.

---

<sup>1</sup> NNOGC's mission statement is to "Maximize resources for the benefit of the Navajo Nation with respect for Mother Earth."

### Legislation No. 0121-16 Violates Separation of Powers

Legislation No. 0121-16 violates the doctrine of separation of powers under Navajo Fundamental Law, and, if passed, would therefore be invalid. "Separation of functions is a concept that is so deeply-rooted in Navajo culture that it is accepted without questions. It is essential to maintaining balance and harmony . . . [i]f one branch oversteps its powers, and infringes on the role of another branch, the integrity of the government is ruined." *Tuba City Judicial Dist. v. Sloan*, 8 Nav. R. 159, 167-68 (Nav. Sup. Ct. 2001). "One of the basic tenets which derives from the doctrine of separation of powers is judicial independence. The judiciary's function is to render judgments and to enforce its judgments and orders. No other branch or office of the government may legally interfere with the judiciary's duty to render judgments and enforce judgments in any way. Likewise, no other branch, office, or entity of the government may influence a court with the intent of altering its decision. Outcomes of cases that are before the courts must be free of any form of political influence." *Id.* at 168. Here, Legislation No. 0121-16 would purportedly "authorize[] . . . the Navajo Nation Chief Justice . . . to oppose the practice of fracking with the Navajo Nation due to the potential environmental and health risks associated with fracking." That is a violation of the doctrine of separation of powers and would subject the legislation to being invalidated by the Navajo Nation courts.

### Legislation No. 0121-16 Violates Title 2

Legislation No. 0121-16 also violates Title 2, because it would purport to give policy making authority to standing committees of the Navajo Nation Council without final Council approval. See Legislation No. 0121-16 (titled "Relating To *Health, Education and Human Services, Resources and Development; Naa'biki'yati Committees*;" not the Navajo Nation Council). However, 2 N.N.C. § 164(A) provides that "[s]tatements of policy . . . must be reviewed and approved by resolution by the appropriate standing committee(s) and the Navajo Nation Council . . . ." 2 N.N.C. § 164(A) (emphases added). Because Legislation No. 0121-16 is not assigned to the Navajo Nation Council, and only the standing committees, if passed by the committees, it would be either of no legal effect under Title 2, or subject to being invalidated by the Navajo Nation courts.

### Legislation No. 0121-16 Conflicts with the Nation's 2013 Energy Policy, Which Is In Harmony with the Federal Approach to Fracking

Legislation No. 0121-16 conflicts with the 2013 Energy Policy. As the Navajo Nation Council explained in the 2013 Energy Policy:

Energy forms a cornerstone of the Navajo economy by providing jobs for our people, electricity for our homes and businesses, and revenues for our local and central government. Developing energy resources will expand government revenues, create new industries and promote sustainable jobs for the *Diné*. This economic base provides opportunities for Navajos to pursue technical and managerial careers in many energy-related product, service and supporting industries. The ability for Navajos to build stable careers while remaining close

to their families will build the strength of our families and communities that have been fragmented by the need of our people to find work in metropolitan centers. A growing Navajo economy draws educated and experienced tribal members back to the nation, and provide[s] the economic growth to support Navajo entrepreneurs and business owners.

2013 Energy Policy Act, Section 1(j). The 2013 Energy Policy is positive Navajo law and represents a consensus reached after many years of discussion among the Nation's leaders. Those leaders concluded that *maximizing* development of traditional fossil fuels, including oil and gas, and coal, and renewable resources, including wind and solar, all of which the Navajo Nation is richly blessed with, in harmony with Navajo environmental values and traditional teachings, is what is best for the Nation's future. Natural gas, including Helium—for which the Navajo Nation may have some of the richest reserves in the United States—is a key component of the Navajo Nation's energy portfolio. The responsible development of natural gas and other fossil fuels will provide environmental benefits and critical economic and energy security for the Navajo Nation and Navajo citizenry. Simply banning fracking does not balance these vital interests, and would minimize development of significant natural gas (and oil) resources. Such a ban would not be in the short or long term best interests of the Nation, and is contrary to the 2013 Energy Policy balancing these important interests.

The Nation's balanced approach to energy development in the 2013 Energy Policy is also consistent with the findings and approach of the federal government. The United States Environmental Protection Agency ("USEPA") has explained that "[n]atural gas plays a key role in our nation's clean energy future. The U.S. has vast reserves of natural gas that are commercially viable as a result of advances in horizontal drilling and hydraulic fracturing technologies enabling greater access to gas in shale formations. Responsible development of America's shale gas resources offers important economic, energy security, and environmental benefits."<sup>2</sup>

#### Legislation No. 0121-16 Has Insufficient Findings Not Based In Sound Science

Legislation No. 0121-16 is not based in sound science and makes no legitimate findings to support opposition to hydraulic fracturing. Legislation No. 0121-16 relies principally on statements purportedly made by a "Linda Dong" on an otherwise anonymous website ("What Goes In and Out of Hydraulic Fracturing," *available at* <http://dangersoffracking.com>.) See Legislation No. 0121-16, Recital Clause (E) and (F). From what NNOGC can tell, Linda Dong is not a scientist, and is, in fact, just the website designer, relying on other sources' websites for information. See *id.*; see also <http://www.lindadong.com/>. Brief, bare and unsupported statements are insufficient as legislative findings. See *Nelson v. Initiative Comm. to Reduce the Navajo Nation Council*, No. SC-CV-03-10, slip op. at 7 (Nav. Sup. Ct. Jan. 4, 2011); *Office of*

---

<sup>2</sup> USEPA, Natural Gas Extraction - Hydraulic Fracturing, *available at*: <https://www.epa.gov/hydraulicfracturing>.

*the President and Vice President v. Navajo Nation Council*, No. SC-CV-02-10, slip op. at 14 (Nav. Sup. Ct. May 28, 2010) (“It is the settled expectation of the People that government actions must be explained. Without specific findings, the purpose of any government action will be questioned.”)

Indeed, the most recent scientific studies of hydraulic fracturing are to the contrary. For example, in a draft assessment of impacts of hydraulic fracturing on drinking water, now out for peer review, USEPA concludes that there have not been widespread or systemic impacts on drinking water resources as a result of fracking, and that the number of identified cases is small compared to the number of hydraulically fractured wells.<sup>3</sup> That comports with studies done by Yale University<sup>4</sup> and Colorado State University (CSU)<sup>5</sup> for two different centers of drilling, the first in northeastern Pennsylvania and the second in northeastern Colorado. The Yale-led study found “no evidence that trace contamination of organic compounds in drinking water wells near the Marcellus Shale” resulted from underground migration of the chemicals. *See* n. 4. When the researchers did find “low levels of organic compounds” near a natural gas well, it was caused by “surface releases,” *e.g.*, by above ground activities that can be mitigated or prevented. *Id.* The CSU study found “no evidence of water-based contaminants seeping into drinking water.” *See* n. 5. Researchers did detect non-toxic methane seepage in 2 percent of the wells, but concluded that it likely stemmed from “compromised well casings,” *i.e.*, from aging of the casings, not from fracturing technologies. *Id.* CSU stated that “[w]ith regard to the really bad stuff – the bariums, chromiums and other soluble contaminants that people have been worried about getting into their water – [the study] team didn’t find any.” *Id.*

### Conclusion

Developing the Nation’s natural resources in harmony with Navajo environmental values and traditional teachings is very important. However, Legislation No. 0121-16 is not based in sound science, is not in the Navajo Nation’s best interest, and is inconsistent with the 2013 Energy Policy, as it would not maximize the value of the Nation’s resources consistent with Navajo environmental values. Legislation No. 0121-16 would have standing committees of the Navajo Nation Council make policy statements, an authority reserved to the Council under Title 2 that has never been delegated to the standing committees. It would also purport to authorize

---

<sup>3</sup> USEPA, Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources (External Review Draft), *available at* <https://cfpub.epa.gov/ncea/hfstudy/recordisplay.cfm?deid=244651>.

<sup>4</sup> Elevated Levels of Diesel Range Organic Compounds in Groundwater near Marcellus Gas Operations Are Derived from Surface Activities, Brian D. Drollette, et al., *available at* <http://www.pnas.org/content/112/43/13184.abstract>.

<sup>5</sup> *See* Colorado State University Press Release, “No water-based contaminants found in Colorado wells,” *available at* <http://source.colostate.edu/study-no-water-based-contaminants-found-in-colorado-wells/> (the studies were published in *Environmental Science and Technology*, and in *Water Research*).

the Chief Justice to take a political position on legal matters that may come before it, which is a violation of the separation of powers doctrine under Navajo Fundamental Law, and the Court's ethical responsibilities. For these reasons, NNOGC strongly urges the standing committees of the 23rd Navajo Nation Council to reject and not pass proposed Legislation No. 0121-16.

Thank you for consideration of NNOGC's comments. If you have any questions, please call me at 928-871-4880.

Sincerely,

NAVAJO NATION OIL AND GAS COMPANY



---

Louis Denetsosie, Chief Executive Officer

c: The Honorable LoRenzo Bates  
Speaker, 23rd Navajo Nation Council

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

**LEGISLATION NO.: 0121-16**

**SPONSOR: Honorable Jonathan L. Hale**

**TITLE: An Action Relating To Health, Education And Human Services, Resources And Development; Naabik'iyati' Committees; Opposing Hydraulic Fracturing Within The Navajo Nation.**

**Posted: April 13, 2016 at 1:38 PM**

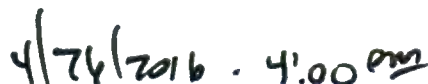
**5 DAY Comment Period Ended: April 18, 2016**

**Digital Comments received:**

<b>Comments Supporting (2)</b>	<b>1. Rechanda Lee 2. Ojo Encino Chapter 3. Cheyenne Antonio</b>
<b>Comments Opposing</b>	
<b>Inclusive Comments</b>	<i>None</i>



**Executive Director  
Office of Legislative Services**



**Date/Time**



## Legislation 0121-16 comments

Rechanda Lee <bluelizard\_rll@yahoo.com>

Wed 4/20/2016 8:56 AM

To: comments <comments@navajo-nsn.gov>;

1 attachment

Legislation0121-16Letter.pdf;

Hello,

See attached for Legislation 0121-16 comments.

Thanks  
R. Lee

April 18, 2016

Executive Director Office of Legislative Services  
P.O. Box 3390  
Window Rock, AZ 86515

To Whom It May Concern,

As a community member who has been directly impacted by the development of oil and gas (fracking) I support Legislation 0121-16. There has been a lot of oil and gas activity in my community and we have witnessed complete instability, human rights and environmental injustices, as well as the desecration and disturbance of sacred areas and traditional cultural sites (archaeological sites). It's a shame that our community has to continuously fight for the health and safety of our people as oil and gas development moves into the surrounding vicinity of our communities.

Although this legislation only supports the banning of fracking on the Navajo Nation, I hope that the Navajo Nation will express concern for lands leased directly next to Navajo communities. The checkboard area in Eastern Agency is dealing with the encroachment and invasion of oil and gas development and as a result we are already feeling the impacts. I challenge the Navajo Nation Council and President's Office to help its people on the Eastern Reservation who are being impacted by oil and gas development. Some of the local chapters (Counselor, Nageezi, Huerfano, Ojo Encino) have been battling BLM and energy companies for some time now and I think it's probably time that the Nation provides its people with help both on and off reservation.

There has been much research on the impacts of oil and gas development in other areas across the United States, and from these scientific findings we are learning about the negative footprint that oil and gas imprints on the land. We as a community are concerned with the health and safety of our people and we shouldn't have to continuously fight for the ability to have clean air and clean water. We should also not have to worry about the invasion on our cultural practices, as oil locations impact sound and visual quality which effect early morning prayers, night observances, and other cultural practices.

I am deeply concerned for the health and well-being of the people within my community who are being directly impacted by oil and gas development. We have to deal with heavy traffic which becomes a huge safety concern especially during times of inclement weather. We now have to deal with social, environmental, and cultural issues that oil and gas development has brought upon our community. We are at the fringe of seeing more instability and I hope the Navajo Nation provides us with direction and help!

Best Regard,  
R. Lee  
Navajo Community Member  
PO Box  
Nageezi, Navajo Nation [NM] 87037

**OJO ENCINO CHAPTER**  
**HCR 79 BOX 1500**  
**OJO ENCINO, NM 87013**  
**PHONE (505)731-2263 OR (505)731-2262; FAX (505)731-1516**  
**EMAIL: [www.ojoencino@navajochapters.org](http://www.ojoencino@navajochapters.org)**

**FAX TRANSMITTAL FORM**

**TO:** COMMENTS

**PHONE NUMBER:**

**FAX NUMBER:** (928) 871-7259

**CC:**

**FROM:** GEORGE WERITO

**DATE:** 4/18/16

**NUMBER OF PAGES:** 11

**INCLUDING COVER SHEET**

---

**MESSAGE:**

WE WOULD LIKE TO COMMENT ON LEGISLATION No: 0121-16  
OPPOSING HYDRAULIC FRACTURING WITHIN THE NAVAJO NATION



OJO ENCINO CHAPTER  
HCR 79 BOX 1500, OJO ENCINO, NEW MEXICO 87013  
PHONE (505)731-2263 or 731-2262 FAX (505)731-1516  
EMAIL: ojoencino@navajochapters.org

---

This letter is in support of the proposed legislation 0121-16. The Ojo Encino Chapter has passed a resolution supporting a Hydraulic Fracturing moratorium in the Eastern Agency. In addition, this led to the Eastern Navajo Agency Council passing a resolution requesting a hydraulic fracturing moratorium to the BLM Farmington Field Office.

It is time for the Navajo Nation to lead into the future a new way of being based on our cultural ways and norms. When we have forgotten our cultural ways, we have suffered. This is an opportunity for our Nation to provide an example for the rest of the world on how to build a better future.

Multiple states in the USA have banned hydraulic fracturing and many municipalities and counties in the USA have banned it as well. Multiple countries have banned the practice of hydraulic fracturing. If the Navajo Nation passes a ban on hydraulic fracturing it will be in good company, and will ensure that we are ahead of the curve instead of clinging to older ways that were never in line with our cultural systems.

A great deal of scientific data shows the many probable negative impacts of hydraulic fracturing on people, communities, and the environment. This information along with the negative impacts upon communities in the Eastern areas of the Navajo Nation, should inform council delegates on their vote regarding this legislation.

We should not allow fear to prevent us from making the right decision. We should not allow fear to prevent us from protecting our people. We should not allow fear to prevent us from protecting our communities. We should not allow fear to prevent us from protecting our Nation. We should not allow fear to prevent us from protecting the Earth.

Fear and Avarice are monsters which are likely to permeate the decisions made by leaders regarding this legislation. We must defeat Fear and Avarice, and build a new future for our Nation. We must create a future based on our relationship with our lands. We must build a future that prioritizes the health, safety, and welfare of our communities.

Vote for legislation 0121-16 and start building a new and strong future for the Navajo Nation.

George Werito

Ojo Encino Chapter President

4/18/2016  
Date

Attachment A: Ojo Encino ENAC Hydraulic Fracturing moratorium support resolution

Attachment B: Ojo Encino Sandoval County County Moratorium Support Resolution

Attachment C: Eastern Navajo Agency Council Hydraulic Fracturing moratorium request resolution

---

George Werito Jr., Chapter President  
Jeanette Vice, Chapter Vice President  
Brandon Sam, Chapter Secretary/Treasurer

---

Gloria Chiquito, Chapter Manager  
Leonard Tsosie, Council Delegate  
Elizabeth Stoney, Land Board Member

Ojo Encino Chapter  
Legislation 0121-16 Comment

**Attachment A**

Ojo Encino ENAC Moratorium Support Resolution





OJO ENCINO CHAPTER  
HCR 79 BOX 1500, OJO ENCINO, NEW MEXICO 87013  
PHONE (505)731-2263 or 731-2262 FAX (505)731-1516  
EMAIL: ojoencino@navajochapters.org

Resolution of the Ojo Encino Chapter  
of the Navajo Nation  
Resolution No. OJOE 12-06-13/002

This resolution is in support of the proposed Eastern Navajo Agency Council ("ENAC") resolution which provides for a one year (extendable to two years) moratorium on hydraulically fractured horizontal drilling activities in the mancos/gallup formation that takes place on tribal trust lands, Navajo allotments, BLM lands, and state lands within the boundaries of the Navajo Nation and Navajo chapters. This moratorium will be put in place to protect tribal health, safety, cultural properties, and assets since they have not been adequately considered by the BLM. Since the Federal-Tribal trust relationship requires the BLM to account for impacts on tribal health, safety, cultural properties, and assets the ENAC is bringing this moratorium about to provide time for the BLM, other responsible federal entities, Navajo Nation, and Navajo chapters to understand the potential impacts and ways to mitigate any negative impacts.

WHEREAS, the to be proposed moratorium resolution by the ENAC should have full effect. Each chapter quorum should also approve and provide support for the moratorium as well.

WHEREAS, the BLM has insufficiently provided analysis on potential impacts on tribal health, safety, and assets by hydraulically fractured horizontal wells in the mancos/gallup formation. The potential negative impacts are great enough to warrant a moratorium to formulate mitigation strategies to reduce negative impacts.

**NOW, THEREFORE, be it resolved that the Ojo Encino chapter quorum at a duly called meeting supports the proposed ENAC moratorium resolution.**

**CERTIFICATION**

I hereby certify that the foregoing resolution was considered by the Members of the Ojo Encino Chapter at a duly called meeting at the Chapter House at which a quorum was present, and that the same was passed by vote of in favor, opposed, and abstaining, this 06 day of December, 2013.  
17 00 12

Motion: Olsen Juan

Second: Mervin Martinez

George Werito, Chapter President  
Ojo Encino Chapter of the Navajo Nation

George Werito, Chapter President  
Jeanette Vice, Chapter Vice President  
Brandon Sam, Chapter Secretary/Treasurer

Gloria Chiquito, Chapter Manager  
Leonard Tsosie, Council Delegate  
Elizabeth Stoney, Land Board Member



Ojo Encino Chapter  
Legislation 0121-16 Comment

**Attachment B**

Ojo Encino Sandoval County Moratorium Support Resolution



OJO ENCINO CHAPTER  
HCR 79 BOX 1500, OJO ENCINO, NEW MEXICO 87013  
PHONE (505)731-2263 or 731-2262 FAX (505)731-1516  
EMAIL: ojoencino@navajochapters.org

**RESOLUTION OF THE OJO ENCINO CHAPTER**  
**OF THE NAVAJO NATION**  
**RESOLUTION#OJOE-04-07-16/005**

Resolution of Support for the Town of Bernalillo Resolution #03/28/16 and the  
Village of Corrales Resolution #16-11

**WHEREAS,**

1. The Ojo Encino Chapter (the "Chapter") is a political subdivision of the Navajo Nation under 11 N.N.C. § 10 and a local governance certified chapter pursuant to 26 N.N.C. § 102, and the Chapter is responsible for the health, safety, and welfare of its local residents and for stewardship of its Chapter lands and resources; and
2. The Chapter has an interest in the impacts of oil and gas development on its residents and members; and
3. The Chapter has members and residents who also are voters of Sandoval County; and
4. The Chapter fully supports planning efforts by Sandoval County in regards to Oil and Gas development;

**NOW THEREFORE BE IT RESOLVED THAT**

1. The Chapter would like to express its support of resolutions by the Town of Bernalillo (Resolution # 03/28/16: Exhibit A) and Village of Corrales (Resolution # 16-11: Exhibit B).

**CERTIFICATION**

I hereby certify that the foregoing resolution was considered by the Members of the Ojo Encino Chapter at a duly called meeting at the Ojo Encino Chapter House at which a quorum was present, and that the same was passed by vote of 10 approving, 0 opposed, and 5 abstaining, this 7th day of April, 2016.

**Motioned by:** Leonard Werito

**Seconded by:** Reuben Jake

George Werito, Chapter President

George Werito Jr., Chapter President  
Jeanette Vice, Chapter Vice President  
Brandon Sam, Chapter Secretary/Treasurer

Gloria Chiquito, Chapter Manager  
Leonard Tsosie, Council Delegate  
Elizabeth Stoney, Land Board Member



Ojo Encino Chapter  
Legislation 0121-16 Comment

**Attachment C**

Eastern Navajo Agency Council Moratorium Request Resolution



**EASTERN NAVAJO AGENCY COUNCIL  
THE NAVAJO NATION**

P.O. Box 668  
Crownpoint, New Mexico 87313  
Phone: (505) 786-2090  
Fax: (505) 786-2097

**Ben Shelly, President**

Ervin Chavez  
President

Johnny Johnson  
Vice-President

**Rex Lee Jim, Vice-President**

Femie Yazzie  
Secretary/Treasurer

Resolution No. ENAC 12-2013-03

**Resolution of the Eastern Navajo Agency Council  
of the Navajo Nation**

**ESTABLISHING A TWELVE (12) MORATORIUM ON NEW HYDRAULIC FRACTURING ACTIVITIES UTILIZING HORIZONTAL DRILLING IN THE MANCOS/GALLUP FORMATIONS FOR BOTH DEVELOPMENT AND EXPLORATION PURPOSES, WITHIN THE EASTERN AGENCY, CHECKERBOARD AREA OF THE NAVAJO NATION, TO ALLOW TIME FOR CHAPTER COMMUNITIES TO UNDERSTAND POTENTIAL IMPACTS ON HEALTH, SAFETY, THE IMPACTS ON CHAPTER LAND USE PLANS/ASSETS AND THAT A GRADUATED RESPONSIBLE DEVELOPMENT PLAN CAN BE PUT IN PLACE, THAT THIS MORATORIUM BE ACCOMPLISHED WITHIN 12 MONTHS, EXTENDABLE IN 90 DAYS INCREMENTS UP TO FOUR TIMES, FOR A TOTAL PERIOD NOT TO EXCEED 24 MONTHS.**

WHEREAS, the Eastern Navajo Agency Council ("ENAC") is a governmental entity comprised of officials from all Eastern Navajo Agency Chapters.

WHEREAS, the ENAC, comprised of Eastern Agency chapter officials, has concerns about the protection of tribal health, safety, and assets of Navajo residents of the Eastern agency in relation to increased hydraulic fracturing exploration and development activity occurring within the Mancos/Gallup formation.

WHEREAS, the ENAC feels that the Federal-Tribal trust relationship has not been fully upheld by the BLM in the areas of the Navajo checkerboard. This trust relationship is very important for ensuring that tribal health and safety are protected and that tribal assets are protected from negative impacts. Currently, BLM field Office RMPs do not appear to protect these aspects of the Federal-Tribal relationship as outlined in Intergovernmental Relations Part 512 Chapter 2, Secretarial Order No. 3215, and H-1601-1 - Land Use Planning Handbook.

WHEREAS, Counselor Chapter (member of the ENAC) was part of a 2010 settlement with the BLM in regards to the 2003 Farmington Field Office Resource Management Plan which requires BLM to

**ENAC RESOLUTION 12-2013-3****PAGE 2 OF 4**

prepare geographic area National Environmental Policy Act documents to assess grouped wells and ancillary development (roads, pipelines, compressors, etc.) to determine significance of an action.

WHEREAS, BLM Farmington Field Office has now prepared approximately 50 Environmental Assessments for well pad projects in the Counselor area which now should be considered development rather than exploration requiring an Environmental Impact Statement

WHEREAS, BLM Farmington Field Office has inferred that a Resource Management Plan Amendment will be prepared for the Mancos Shale with a new Reasonably Foreseeable Development Scenario, Air Quality, and Water Quality documents which are needed to evaluate new and unique impacts associated with horizontal drilling and production requirements for shale oil in the region.

WHEREAS, the ENAC concludes that the BLM Farmington Field Office is not currently prepared for the types of development occurring in the Navajo checkerboard areas of the Eastern Agency. Namely, hydraulically fractured horizontal wells. This is evidenced from the office's own Reasonable Foreseeable Development ("RFD") which states: "Horizontal drilling is possible but not currently applied in the San Juan Basin due to poor cost to benefit ratio. If horizontal drilling should prove economically and technically feasible in the future, the next advancement in horizontal well technology could be drilling multi-laterals or hydraulic fracturing horizontal wells. Multilaterals could be one, two or branched laterals in a single formation or single laterals in different formations. Hydraulic fracturing could be a single fracture axial with the horizontal well or multiple fractures perpendicular to the horizontal well. These techniques are currently complex and costly, and therefore typically inappropriate for most onshore U.S. reservoirs. Comprehensive engineering and geologic research will be required in the near future in order for these techniques to become viable within the 20 year time frame anticipated by this RFD (8.3)".

WHEREAS, ENAC is also concerned about the impact on Tribal Cultural Properties ("TCPs") which may not currently be documented by Navajo Nation Historic Preservation Office and federal entities. Many TCPs are better identified by chapter level governments, but these governments need time and knowledge about identifying TCPs.

WHEREAS, due to the nature of horizontal drilling combined with hydraulic fracturing, new potential impacts to tribal health, safety, and assets have become obvious. Some of these impacts include the increased chances for well communication events, potential for drainage trespass on tribal assets, and increased need for water and effluent disposal (including injection wells). Many times these water supplies come from shallow water sources that border Navajo areas, impacting Navajo shallow water supplies which some Navajo residents use for subsistence purposes. Since the original RFD did not see this as a likely combination of technologies to be used, new assessments must be made by the BLM to account for these new impacts in order for the BLM to keep its part of the Federal-Tribal trust relationship.

**ENAC RESOLUTION 12-2013-03**  
**PAGE 3 OF 4**

**NOW, THEREFORE BE IT RESOLVE THAT:**

The Eastern Navajo Agency Council (ENAC) made up thirty-on Navajo Chapters, in the Eastern Agency of the Navajo Nation, New Mexico, hereby demands establishing a twelve (12) moratorium on new hydraulic fracturing activities utilizing horizontal drilling in the Mancos/Gallup formations for both development and exploration purposes, within the Eastern Agency, Checkerboard Area of the Navajo Navajo to allow time for Navajo Chapter communities to understand potential impacts of health/safety, impacts on Chapter Land Use Plans/Assets and that a graduated responsible development plan be put in place, that this moratorium be accomplished within 12 months, extendable in 90 day increments up to four times for a total period not to exceed 24 months.

The Eastern Navajo Agency Council, hereby strongly demands the Bureau of Land Mangement establishes a moratorium in the following manner:

1. Declaration of a 12 month moratorium on all new horizontal hydraulic fracturing exploration and development activities in mancos/gallup formation on tribal trust lands, Navajo allotment lands, state lands, and BLM lands that are within the chapter boundaries. This moratorium may be extended by the ENAC no more than four times for 90 days each for a total moratorium time of no more than two years. This time is to be used to do the following:
  - a. Understand how horizontal hydraulic fracturing impacts Navajo Nation and Navajo chapter land use plans.
  - b. Understand how horizontal hydraulic fracturing impacts on various tribal trust assets.
  - c. Understand how horizontal hydraulic fracturing can impact tribal health and safety.
  - d. Chapters to inventory local tribal cultural properties to better inform the BLM of potential cultural site impacts.
  - e. Utilize new understanding for Navajo Nation and Navajo chapters to produce regulations and land use plan amendments to mitigate any potential negative impacts.

2.



**ENAC RESOLUTION 12-2013-03****PAGE 4 OF 4**

- f. To allow for a control neighborly-like development of resources requiring oil field employees and equipment operators to respect the land use rights of the Navajo people who live in the area
- 2 The BLM are responsible for working with Navajo chapters and the Navajo Nation to foster the elements outlined in section 1.. The Navajo Nation, Navajo Chapters, BLM, and other responsible entities must work together to resolve the concerns which have led to this resolution.
- 3 The ENAC, Navajo Chapters, and other Navajo Nation entities expect to be cooperating agencies in the preparation of new Resource Management Plan amendments and any new RFD updates/creations.
4. A representative shall be appointed to the Farmington Resource Advisory Council that will represent the positions/views of Navajo Chapters, particularly chapters in in the checkerboard region.

**C E R T I F I C A T I O N**

We hereby certify that the foregoing resolution was presented at duly called meeting of the Eastern Navajo Agency Council discussed and considered by the members of the Eastern Navajo Agency Council at the Iyanbito Chapter House, Navajo Nation (New Mexico) at which a quorum was present, and that the same was passed by vote of 50 in favor, 03 opposed, and 16 abstaining, this 07<sup>th</sup> day of December, 2013.

**Motion: Clinton Jim (Standing Rock)**

**Second: Wilson Ray (Huerfano Chapter)**



**Ervin Chavez , President  
Eastern Navajo Agency Council, The Navajo Nation**

# OPPOSITION

Cheyenne Antonio <canton11@unm.edu>

Tue 4/19/2016 11:59 PM

To: comments <comments@navajo-nsn.gov>;

**TO:**

**Executive Director**

**Office of Legislation Services**

**PO BOX 3390**

**Window Rock, AZ, 86515**

**E: [comments@navajo-nsn.gov](mailto:comments@navajo-nsn.gov)**

**Dear Executive Director,**

**My name is Cheyenne Antonio, a member of the Navajo Nation, the oldest of five brothers and sister, and a student from Pueblo Pintado, New Mexico. I write this letter in OPPOSITION to fracking on the Navajo Nation. The reason why I'm in opposition is because of fracking happens within Eastern Navajo already. The Bureau of Land Management agreed to 100 exploratory oil drilling wells that stretches out to Dzil-Na-oh-Dlii and Dinetah. Two years ago a cloud of methane was detected by NASA from the flares of the oil wells in this area. Majority of these lands that are being heavily fracked by multi-billion dollar companies and lands are owned by BLM and a mixture of private and tribal owners. Although BLM owns much of the land that is being fracked, the land has Navajo residents that reside there. The oil wells are within the community and minutes away from schools and homeowners, there has been times where a drill would explode and Lybrook Elementary School being right over a hill, would have to immediately send students home so they won't be exposed to the hazardous gas. Since the oil industry began to build and transport oil, crimes and deaths rates have risen. I feel like the Nation does not know what they're putting their people into. Fracking causes cancers and our water to be polluted with methane and more violence caused by non-natives moving in and taking our jobs. BLM has already agreed to fracking and majority of the oil workers are non-native, and we have seen high numbers of cancers within our communities. A health assessment has yet to be done from fracking in Eastern Navajo. There is so much needed in the community from governing entities that has yet to happen. Tribal communities and communities in general from across the United States already know what fracking consists of and how fracking completely ruins our water systems and health.**

**Saddle Butte Midstream an oil and natural gas corporation based out of Denver has introduced to the Bureau of Land Management a 130 mi long pipeline called the Pinion Pipeline that will effect private property and tribal lands. The pipeline will start from Lybrook, New Mexico and end in Prewitt, New Mexico. Saddle Butte is asking to place this pipeline to transfer crude oil**

quicker from Lybrook, NM to Prewitt, NM. This pipeline route is designed to transfer 15,000 barrels of oil per day from Lybrook, NM. This pipeline also destroys the significance of Chaco Canyon and aquifers within this region, there is already fracking happening surrounding Chaco Canyon that has yet to be discussed with the Navajo Nation Council. Fracking comes with so much violence among the community that there is already so much violence happening now. There are no hospitals, reliable stores or police sub-stations within Counselor, Lybrook, Torreon, Pueblo Pintado and Standing Rock. Fracking from corporations is a result of environmental racism in aiming for impoverished communities. I come from Eastern Navajo and the traffic from gas industries is ridiculous, my family is slowly being diagnosed with cancer, and the violence towards women and children is unexplainable. So I ask to please OPPOSE FRACKING because the struggle is real and I do not want my future children to suffer from having contaminated water. Protect my future.

Fracking by the Numbers and how it damages our Earth resource:

<http://www.environmentamerica.org/sites/environment/files/reports/Fracking%20by%20the%20Numbers%20vUS.pdf>

In struggle,  
Cheyenne Antonio