# RESOLUTION OF THE NAVAJO NATION COUNCIL

**23rd NAVAJO NATION COUNCIL -- Fourth Year, 2018**

**AN ACTION**

**RELATING TO BUDGET AND FINANCE, RESOURCES AND DEVELOPMENT AND NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL; AMENDING CO-57-16, THE SÍHASIN FUND PASTURE RANGE AND FORAGE EXPENDITURE PLAN, TO EXTEND THE SÍHASIN FUND GUARANTEE**

**BE IT ENACTED:**

**Section One. Authority**

A. The Budget and Finance Committee of the Navajo Nation Council is empowered to review and recommend to the Navajo Nation Council the budgeting, appropriation, investment, and management of all funds. 2 N.N.C. § 301 (B) (2).

B. The Resource and Development Committee of the Navajo Nation Council is empowered to exercise oversight authority over water, land, grazing and agriculture on the Navajo Nation. 2 N.N.C. § 500 (C) (1).

C. The Naabik'iyati' Committee of the Navajo Nation Council is empowered to review all proposed legislation, which requires final action by the Navajo Nation Council. 2 N.N.C. § 164 (A) (9).

D. The Naabik'íyáti' Committee additionally has the authority to delegate its authority as appropriate for efficiency and streamlining of government processes to appropriate entities and to establish a subcommittee that consists of committee members, which the committee selects. 2 N.N.C. §§ 186 and 701 (B). The Naabik'íyáti' Committee adopted NABIAP-20-15 establishing the Naabik'íyáti' Síhasin Fund Subcommittee to "recommend to the Naabik'íyáti' Committee and Navajo Nation Council financial support and/or financing plan(s) for the purposes designated in CD-68-14 [Navajo Nation Breach of Trust Settlement Act of 2014, establishing the Síhasin Fund]".

E. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102 (A).

**Section Two. Findings**

A. On November 3, 2016, the Navajo Nation Council adopted Resolution No. CO-57-16, attached as **Exhibit A**, enacting the Síhasin Fund Pasture Range and Forage Expenditure Plan ("PRF Expenditure Plan") and creating the Agriculture Infrastructure Fund as a mechanism to fund agriculture infrastructure projects, including but not limited to: range, grazing and livestock; tribal ranches infrastructure; farming and irrigation; agricultural water development; dams, reservoirs and catchments; watershed planning for agriculture; agricultural complexes; drought contingency plan (mitigation measures); area wide fencing; brand office and Navajo Partitioned Lands and former Bennett Freeze Area projects. The President of the Navajo Nation signed CO-57-16 on November 13, 2016.

B. CO-57-16 authorized the Navajo Nation, through its Division of Natural Resources ("DNR") and Department of Agriculture ("NNDOA"), to enroll in the United States Department of Agriculture's ("USDOA") Rainfall Index Pasture, Rangeland and Forage Pilot Insurance Program ("PRF Insurance Program") wherein USDOA will pay between 51% and 59% of the Nation's annual insurance premium.

C. USDOA pays PRF Insurance Program benefits in the form of indemnity payments. CO-57-16 reserved nineteen million eight hundred thirty-five thousand six hundred twelve dollars ($19,835,612) of Síhasin Funds to guarantee any portion of the annual insurance premiums not off-set by the indemnity payments for Crop Years 2017 and 2018.

D. For Crop Year 2017 (January 1, 2017 through December 31, 2017), as detailed in **Exhibit B**, indemnity payments to the Nation exceeded the Nation's portion of the annual premium cost by seventeen million three hundred eighty-six four hundred fifty-five dollars ($17,386,455) and the reserved Síhasin Funds were fully maintained.

E. Pursuant to CO-57-16, the Síhasin Fund guarantee of the annual PRF Insurance Program premium expires at the end of 2018 Crop Year and the Agriculture Infrastructure Fund, adopted as part of the PRF Expenditure Plan, requires DNR and NNDOA to set-aside or reserve enough of the 2017 and 2018 Crop Year indemnity payments to guarantee the Nation's 2019 Crop Year insurance premium before any portion of the indemnity payments can be used to fund agriculture infrastructure projects, including but not limited to: range, grazing and livestock; tribal ranches infrastructure; farming and irrigation; agricultural water development; dams, reservoirs and catchments; watershed planning for agriculture; agricultural complexes; drought contingency plan (mitigation measures); area wide fencing; brand office and Navajo Partitioned Lands and former Bennett Freeze Area projects. CO-57-16, p. 10, Section Three C.6 and p. 11, Section Four A.5.c.

F. On February 26, 2018, NNDOA presented information to the Síhasin Subcommittee that because CO-57-16 currently requires DNR and DOA to reserve or set-aside 2017 and 2018 Crop Year indemnity payments sufficient to guarantee the 2019 Crop Year PRF Insurance Program premiums, the amount of the 2017 Crop Year net identity proceeds of $17,386,455 that can be spent on agriculture infrastructure projects in calendar years 2018 and 2019 will be minimal.

G. Given that the Nation has pressing immediate needs to implement drought mitigation measures, feral horse reduction, and other conservation measures, the Síhasin Subcommittee recommends to the Naabik'íyáti' Committee and Navajo Nation Council that it is in the overall best long-term interests of the Navajo Nation to amend CO-57-16 to extend the Síhasin Fund guarantee of the PRF Insurance Program annual premiums for two additional years through the 2020 Crop Year, so that a large portion of the current net indemnity proceeds of $17,386,455 can be used to implement agriculture infrastructure projects in calendar years 2018 and 2019.

**Section Three. Amending Resolution No. CO-57-16**

The Navajo Nation hereby amends Navajo Nation Council Resolution No. CO-57-16 as follows:

Section Three. Approval and Adoption of Expenditure Plan

* * *

C. The Navajo Nation hereby approves and adopts total funding, in the form of a reserve, from the Síhasin Fund in the amount of nineteen million eight hundred thirty-five thousand six hundred twelve dollars ($19,835,612.00) to the Navajo Nation Division of Natural Resources to implement the Síhasin Fund

Pasture Range and Forage Expenditure Plan and establish the Agriculture Reserve Fund as follows:

1. The nineteen million eight hundred thirty-five thousand six hundred twelve dollars ($19,835,612.00) shall be reserved and remain in the Síhasin Fund until such time as the Nation is required to make USDA's Pasture, Rangeland, Forage Pilot Insurance Program premiums for the 2017 ~~and 2018~~ through 2023 Crop Years;

* * *

4. At the end of the ~~2018~~ 2023 Crop Year, any portion of the nineteen million eight hundred thirty-five thousand six hundred twelve dollars ($19,835,612.00) not used to pay USDA Pasture, Rangeland, and Forage Pilot Insurance Program premiums shall immediately become unreserved and available to fund other Síhasin Fund expenditure plans approved by Navajo Nation Council;

* * *

Section Four. Approval and Adoption of Expenditure Plan Administration

A. The Navajo Nation hereby approves administration of the Síhasin Fund Pasture Range and Forage Expenditure Plan and Agriculture Infrastructure Fund as follows:

   2. The Síhasin Funds reserved for the Navajo Nation's participation in the USDA's Rangeland, and Forage Pilot Insurance Program shall only be used to pay 2017 ~~and 2018~~ through 2023 Crop Year insurance premiums not covered by the applicable year's indemnity payment;

* * *

**Section Four. Effective Date**

The amendments to Navajo Nation Council Resolution No. CO-57-16, as set forth above, shall become effective pursuant to 12 N.N.C. § 2505 (A).

**CERTIFICATION**

I, hereby, certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 17 in favor and 00 opposed, on this 17th day of May 2018.

Seth Damon, Speaker Pro Tem
23rd Navajo Nation Council

May 21, 2018
Date

Motion: Honorable Lee Jack, Sr.
Second: Honorable Herman M. Daniels

Speaker Pro Tem Damon not voting

EXHIBIT

A

CO-57-16

RESOLUTION OF THE
NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL - Second Year, 2016

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE AND NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL; ADOPTING THE SÍHASIN FUND PASTURE RANGE AND FORAGE EXPENDITURE PLAN PURSUANT TO CD-68-14 AND 12 N.N.C §§ 2501 - 2508

BE IT ENACTED:

Section One. Authority

A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102 (A).

B. The Naabik'íyáti' Committee of the Navajo Nation Council is empowered to review all proposed legislation which requires final action by the Navajo Nation Council. 2 N.N.C. §164(A)(9).

C. The Naabik'íyáti' Committee additionally has the authority to delegate its authority as appropriate for efficiency and streamlining of government process to appropriate entities and to establish a subcommittee that consists of committee members which the committee selects. 2 N.N.C. §§ 186 and 701 (B).

D. The Budget and Finance Committee of the Navajo Nation Council is empowered to review and recommend to the Navajo Nation Council the budgeting, appropriation, investment, and management of all funds and to coordinate and review all fiscal, financial and investment activities of the Navajo Nation. 2 N.N.C. §§ 301 (B) (2) and (5).

E. The Resource and Development Committee of the Navajo Nation Council has been empowered to exercise oversight authority over water, land, grazing and agriculture and is further empowered to establish Navajo Nation policy with respect to the optimum utilization of all Navajo Nation resources, including the enumerated power to promulgate rules and regulations governing the use and development of Navajo Nation lands. 2 N.N.C. §§ 500 (C) and (C) (1) and 501 (B) (1).

**Section Two. Findings**

A. On May 30, 2014, the 22nd Navajo Nation Council adopted Resolution No. CMY-28-14 accepting a settlement of the Navajo Nation's lawsuit, *Navajo Nation v. United States*, No. 06-945L (United States Court of Federal Claims) against the United States for its historical mismanagement of the tribe's trust assets and its failure to ensure that the Navajo Nation received all funds due and owed under the United States' trust obligations and fiduciary duties. Resolution No. CMY-28-14 was signed into law by the President of the Navajo Nation on June 4, 2014.

B. The 22nd Navajo Nation Council recognized that during the many decades that the United States was in breach of its trust obligations and fiduciary duties to the Nation, the tribal government was without funds to develop the comprehensive nation-wide infrastructures necessary to support and promote community growth and sustainability through the expansion of economic development, as well as to provide the educational opportunities, critical for the prosperity of current and future generations of Diné. See Resolution No. CMY-28-14.

C. Between October 6, 2014 and November 8, 2014 the Office of the Speaker held seven (7) Public Hearings, as directed by the Navajo Nation Council's Naabik'íyáti' Committee on July 10, 2014, to receive input from Navajo Nation members on how the net proceeds from *Navajo Nation v. United States'* should be used. During that same time period, the Office of the President & Vice-President also held five (5) town hall meetings for a similar purpose.

D. On December 13, 2014, the 22nd Navajo Nation Council adopted Resolution No. CD-68-14 enacting the Navajo Nation Breach of Trust Settlement Act of 2014 (hereinafter "2014 Act") and establishing the Navajo Nation Síhasin Fund at 12 N.N.C. § 2501 et seq. The President of the Navajo Nation signed Resolution No. CD-68-14 into law on December 31, 2014.

E. The 2014 Act mandated that the net proceeds and earnings thereon received by the Navajo Nation from the settlement of *Navajo Nation v. United States*, No. 06-945L, and that, when duly designated, the net proceeds of settlements or judgement awards of other litigation(s) brought against the

United States concerning its failure to ensure that the Navajo Nation received all funds due and owing under the United States' trust obligations and fiduciary duties, be deposited into the Síhasin Fund and managed and invested to provide financial support and/or financing for (1) the planning and development of regional infrastructure supporting economic and community development, including housing, within the Navajo Nation; and/or (2) education opportunities for members of the Navajo Nation. See 12 N.N.C § 2501 and § 2502 (A).

F. The 2014 Act also established that "leveraging of the [Síhasin] Fund by way of guaranteeing loans, match funding, direct funding in part and other weighted uses of the Fund shall be favored over direct funding in whole". 12 N.N.C § 2502 (B).

G. The 2014 Act further established that with the exception of outstanding and accrued litigation costs, Síhasin Fund Principal and Income shall only be expended pursuant to a Fund Expenditure Plan consistent with the purposes set forth in the 2014 Act at 12 N.N.C. §2502 and adopted by a two-thirds (2/3) vote of all members of the Navajo Nation Council. See 12 N.N.C. § 2505 (A).

H. The 2014 Act states that "Fund Principal" shall consist of all deposits made to the Síhasin Fund and that "Fund Income" shall consist of all earnings (interest, dividends, etc.) generated and realized by the Fund Principal and that Fund Income shall be deposited in and added to Fund Principal until such time as a Fund Expenditure Plan is duly adopted. See 12 N.N.C. §§ 2504 and 2505 (c).

I. The Office of the Controller reported that as of January 1, 2016, the amount of the Síhasin Fund Principal is four hundred eighty-seven million nine hundred ninety thousand eight hundred forty-one dollars and ninety-one cents ($487,990,841.91) with interest earnings of four hundred fifty-eight thousand four hundred thirty-one dollars and seventy-five cents ($458,431.75).

J. On April 9, 2015, the Naabik'íyáti' Committee adopted NABIAP-20-15 establishing the Naabik'íyáti' Síhasin Fund Subcommittee to "review and evaluate the Public Hearing comments and recommendations from the Navajo People" and "recommend to the Naabik'íyáti' Committee and Navajo Nation

Council financial support and/or financing plan(s) for the purposes designated in CD-68-14 [Navajo Nation Breach of Trust Settlement Act of 2014, establishing the Síhasin Fund]".

K. Between April 2015 and October 2016, the Síhasin Fund Subcommittee, assisted by the Office of Legislative Services, Office of the Speaker, and Office of Legislative Counsel, met on at least twenty-five (25) occasions in either work sessions or official meetings to review and evaluate the Public Hearing comments and recommendations from the Navajo People; hear proposals from Navajo Nation entities, chapters, programs and officials; and develop an expenditure plan(s) for the Síhasin Fund Principal and Income consistent with the purposes set forth in the 2014 Act.

L. The Síhasin Fund Subcommittee determined that for an expenditure plan to fully meet the leveraging criteria of the 2014 Act, the expenditure plan shall not rely on Síhasin Funds for full direct project funding, unless such funds are to be repaid under a loan agreement, and instead must utilize the Síhasin Funds for (1) match funding, joint funding, contribution funding, cost-share funding or similar weighted uses of the funds; (2) reimbursement funding; and/or (3) loan or bond financing or guarantee.

M. The Síhasin Fund Subcommittee also determined that the 2014 Act allowed for the adoption of multiple expenditure plans and that it would be prudent for the Navajo Nation to adopt integrated, yet distinct, expenditure plans for regional-level infrastructure planning and development in four broad infrastructure areas or categories consistent with the purposes of the 2014 Act: Water and Natural Resource Infrastructure Development; Economic Development; Community Development; and Housing Development.

N. After reviewing the comments submitted during the Public Hearings and town hall meetings, as well as the reports and comments made during Síhasin Fund Subcommittee meetings, the Subcommittee determined that the inadequacy of agriculture infrastructure within the Navajo Nation was detrimental to the establishment of a vibrant and sustainable agriculture economy on the Navajo Nation; that full or partial funding of Navajo Nation agriculture projects throughout the reservation could benefit each region within the Navajo Nation in providing financing and infrastructure capital to leverage funding from federal and state agencies for natural resources infrastructure development and conservation initiatives throughout the Navajo Nation; and that the implementation of sound conservation practices would allow ranchers, farmers and resource managers to adequately reduce sedimentation, reduce the threat of catastrophic fire, increase the amount of water for livestock and wildlife use, improve rangeland resources, and altogether better manage and sustain the Navajo Nation's natural resources.

O. In September of 2016, the Navajo Nation Division of Natural Resources' ("DNR"), through its Department of Agriculture ("DOA"), provided the Síhasin Fund Subcommittee with information, attached as Exhibit A, concerning the United States Department of Agriculture's ("USDA") Rainfall Index Pasture, Rangeland and Forage Pilot Insurance Program ("PRF Insurance Program")wherein USDA subsidizes 51% (fifty-one percent) to 59% (fifty-nine percent) of the cost of insurance coverage against lack of rainfall, based on a precipitation index, that an entity may procure to provide protection for pasture, rangeland and forage grown for the intended use of grazing by livestock or haying. *See also* www.rma.usda.gov/pubs/rme/fctsht.html.

P. The PRF Insurance Program is a risk management tool designed to insure decline in an area-based precipitation index value, determined by the National Oceanic and Atmospheric Climate Prediction Center ("NOAA CPC"), that is based on the long-term, historical, average precipitation for the same area of land for the same period of time; the PRF Insurance Program does not measure, capture or use the actual crop production of any producer or any of the actual crop production within the area; PRF Insurance Program coverage is based on the entire grid and is not based on individual farms or ranches or specific weather stations in the general area. Exhibit A; *see also* www.rma.usda.gov/pubs/rme/fctsht.html.

Q. The PRF Insurance Program applies NOAA CPC data to the grid area and two-month interval(s) that an entity chooses to insure; when the final grid index falls below the entities "trigger grid index", the entity may receive an indemnity. Exhibit A; *see also* www.rma.usda.gov/pubs/rme/fctsht.html.

R. In September of 2015, the PRF Insurance Program was expanded by USDA to include acreage defined by grids in the states of Arizona, New Mexico, Utah and Colorado and covering the whole of Navajo Nation trust and fee lands, with the exception that, as a general rule, leased lands must be insured by the individual lessee and allotments must be insured by the allottee. Exhibit A; *see also* www.rma.usda.gov/pubs/rme/fctsht.html.

S. The PRF Insurance Program benefits are paid in the form of an indemnity and based solely on the basis of lack of precipitation and indemnity options can include payouts once precipitation hits 90% of the average precipitation in the area and interval insured. Exhibit A; *see also* www.rma.usda.gov/pubs/rme/fctsht.html.

T. DOA provided the Síhasin Fund Subcommittee with information, attached as Exhibit B, that, based on NOAA CPC area-specific historical average precipitation data, if the PRF Insurance Program had been available over the last two decades and the Navajo Nation had insured 6,984,343.10 acres at an annual insurance premium cost of $19,835,612.00, the Nation would have received an indemnity payment above the premium cost in 19 (nineteen) out of the last 20 (twenty) years with an average yearly indemnity payment of $34,315,608.76 above the cost of the insurance premium and even without the USDA's subsidizing 51% (fifty-one percent) of the insurance premium, the Nation would have received an average yearly indemnity payout of a little over $14,000,000.00 above the cost of the insurance premium.

U. DOA also provided the Síhasin Fund Subcommittee with information that since it had not as yet identified a source of funding to guarantee the payment of insurance premiums, DOA has not applied to participate in the PRF Insurance Program on behalf of the Navajo Nation and that the completed application to participate in the PRF Insurance Program for the 2017 Crop Year was required to be signed by the Navajo Nation President and submitted to USDA by no later than November 1, 2016. Exhibit A; *see also* www.rma.usda.gov/pubs/rme/fctsht.html.

V. On September 30, 2016, the DNR-DOA presented a proposal, attached as Exhibit C, to the Síhasin Fund Subcommittee, to establish and fund the Navajo Nation Agriculture Infrastructure Fund as follows:

1. Authorize the DNR-DOA, on behalf of the Navajo Nation, to apply to USDA to participate in the PRF Insurance Program;

2. Reserve nineteen million eight hundred thirty-five thousand six hundred twelve dollars ($19,835,612.00) of Síhasin Funds to guarantee annual Crop Year insurance premiums for 6,984,343.10 acres which shall only be draw-down from the Síhasin Fund if the PRF Insurance Program indemnity is insufficient to cover the insurance premium;

3. Approve the use of indemnity payments in excess of the amount necessary to guarantee the subsequent Crop Year's insurance premiums to fund agriculture infrastructure projects, including but not limited to: range, grazing and livestock; tribal ranches infrastructure; farming and irrigation; agricultural water development; dams, reservoirs and catchments; watershed planning for agriculture; agricultural complexes; drought contingency plan (mitigation measures); area wide fencing; brand office and Navajo Partitioned Lands and former Bennett Freeze Area projects, including administration costs.

W. The Síhasin Fund Subcommittee has determined that the DNR-DOA proposal, dated September 30, 2016, attached as Exhibit C, addresses the lack of agricultural infrastructure and a stagnant agriculture economy on the Navajo Nation and therefore meets the 2014 Act requirement for the "planning and development of regional infrastructure supporting economic and community development, including housing, within the Navajo Nation". See 12 N.N.C. §2502 (A) (1).

X. The Síhasin Fund Subcommittee has also determined that DNR-DOA's projection, based on NOAA CPC, historical average precipitation data, that it can turn a reserve and guarantee of nineteen million eight hundred thirty-five thousand six hundred twelve dollars ($19,835,612.00) of Síhasin Funds into an annual net indemnity payment averaging above thirty-four million dollars

($34,000,000.00) satisfies the 2014 Act requirement that "leveraging of the [Sîhasin] Fund by way of guaranteeing loans, match funding, direct funding in part and other weighted uses of the Fund shall be favored over direct funding in whole". 12 N.N.C § 2502 (B).

Y. The Sîhasin Fund Subcommittee additionally determined that USDA's subsidy of fifty-one percent (51%) to fifty-nine percent (59%) of PRF Insurance Program premiums further satisfies the 2014 Act requirement that "leveraging of the [Sîhasin] Fund by way of guaranteeing loans, match funding, direct funding in part and other weighted uses of the Fund shall be favored over direct funding in whole". 12 N.N.C § 2502 (B).

Z. The Sîhasin Fund Subcommittee further determined that it was in the best long-term interest of the Navajo Nation and Navajo communities to reserve Sîhasin Funds for DNR-DOA to ensure the payment of annual insurance premiums to participate in the USDA's Pasture, Rangeland, Forage Pilot Insurance Program and to use annual net indemnity payments to fund agriculture infrastructure projects on the Navajo Nation and recommends to the Navajo Nation Standing Committees and the Navajo Nation Council that nineteen million eight hundred thirty-five thousand six hundred twelve dollars ($19,835,612.00) of Sîhasin Funds be reserved for DNR-DOA as the Sîhasin Fund Pasture Range and Forage Expenditure Plan, attached as Exhibit C, under section 2505 of the 2014 Act.

AA. After considering the recommendations of the Sîhasin Fund Subcommittee, the Navajo Nation Council hereby determines that reserving Sîhasin Funds for DNR-DOA to ensure the payment of annual insurance premiums to participate in the USDA's Pasture, Rangeland, Forage Pilot Insurance Program and using net indemnity payments to fund agriculture infrastructure projects fits within the priorities established under the July 20, 2015 One Nation, One Voice Navajo Nation Three Branch Agreement and that it is in the best interests of the Navajo Nation, as well as in the best interests of economic and community development and the revitalization of the agricultural economy within the Navajo Nation, to adopt the Sîhasin Fund Pasture Range and Forage Expenditure Plan, attached as Exhibit C.

**Section Three. Approval and Adoption of Expenditure Plan**

A. The Navajo Nation hereby approves and adopts the Síhasin Fund Pasture Rangeland and Forage Expenditure Plan, attached and incorporated herein as Exhibit C, including the establishment of the Agriculture Infrastructure Fund.

B. The Navajo Nation hereby authorizes the Navajo Nation Division of Natural Resources and Department of Agriculture to apply, on behalf of the Navajo Nation, to participate in the USDA's Pasture, Rangeland, Forage Pilot Insurance Program.

C. The Navajo Nation hereby approves and adopts total funding, in the form of a reserve, from the Síhasin Fund in the amount of nineteen million eight hundred thirty-five thousand six hundred twelve dollars ($19,835,612.00) to the Navajo Nation Division of Natural Resources to implement the Síhasin Fund Pasture Range and Forage Expenditure Plan and establish the Agriculture Reserve Fund as follows:

1. The nineteen million eight hundred thirty-five thousand six hundred twelve dollars ($19,835,612.00) shall be reserved and remain in the Síhasin Fund until such time as the Nation is required to make USDA's Pasture, Rangeland, Forage Pilot Insurance Program premiums for the 2017 and 2018 Crop Years;

2. If the Navajo Nation's application to participate in the USDA's Pasture, Rangeland, Forage Pilot Insurance Program is denied, without right of appeal, the nineteen million eight hundred thirty-five thousand six hundred twelve dollars ($19,835,612.00) shall immediately become unreserved and available to fund other Síhasin Fund expenditure plans as approved by Navajo Nation Council;

3. If the Navajo Nation's application to participate in the USDA's Pasture, Rangeland, Forage Pilot Insurance Program is accepted for acreage at a level requiring less than a premium of nineteen million eight hundred thirty-five thousand six hundred twelve dollars ($19,835,612.00), the excess of reserved Síhasin Funds shall immediately become unreserved and available to fund other Síhasin Fund expenditure plans as approved by Navajo Nation Council;

4. At the end of the 2018 Crop Year, any portion of the nineteen million eight hundred thirty-five thousand six hundred twelve dollars ($19,835,612.00) not used to pay USDA Pasture, Rangeland, Forage Pilot Insurance Program premiums shall immediately become unreserved and available to fund other Sihasin Fund expenditure plans approved by Navajo Nation Council;

5. Any portion of the nineteen million eight hundred thirty-five thousand six hundred twelve dollars ($19,835,612.00) of Sihasin Fund dollars used to pay USDA Pasture, Rangeland, Forage Pilot Insurance Program premiums shall be reimbursed and repaid to the Sihasin Fund from accrued insurance indemnity payments; and

6. If there are accrued indemnity funds remaining above the amount necessary to fund the subsequent Crop Year's insurance premiums and after the Sihasin Fund has been reimbursed for any actual expenditures, the accrued indemnity funds may be used to fund agriculture infrastructure projects as set forth below.

D. The Sihasin Funds reserved for the Sihasin Fund Pasture Range and Forage Expenditure Plan may be further leveraged by the Navajo Nation through bond or loan financing pursuant to the Navajo Nation Bond Financing Act, 12 N.N.C. § 1300 et seq., as amended, using Sihasin Fund Earnings for repayment and financing costs upon the recommendation of the Budget & Finance Committee and approval by a two-thirds (2/3) vote of all members of the Navajo Nation Council.

**Section Four. Approval and Adoption of Expenditure Plan Administration**

A. The Navajo Nation hereby approves administration of the Sihasin Fund Pasture Range and Forage Expenditure Plan and Agriculture Infrastructure Fund as follows:

1. The Navajo Nation Controller shall determine whether the source of the reserved $19,835,612.00 will be Sihasin Fund Principal or Income or a combination of both;

2. The Síhasin Funds reserved for the Navajo Nation's participation in the USDA's Pasture, Rangeland, Forage Pilot Insurance Program shall only be used to pay 2017 and 2018 Crop Year insurance premiums not covered by the applicable year's indemnity payment;

3. 2 N.N.C. §§ 933-936 is hereby waived and the Division of Natural Resources shall be responsible for complying with Navajo Nation procurement laws, regulations and policies in procuring the services of an insurance agent or carrier eligible to provide USDA Pasture, Rangeland, Forage Pilot Insurance in the capacity necessary to satisfy the Nation's needs, as well as the experience and expertise necessary to develop the Nation's application to the Pasture Rangeland and Forage Insurance Program for the 2017 Crop Year within the expedited time frame;

4. The Division of Natural Resources, with the assistance of the Office of the President and Vice-President, Office of the Controller and Department of Justice, shall be responsible for conducting due diligence on the insurance agent or carrier selected and reporting the results of such due diligence to the Budget and Finance Committee and Office of President & Vice-President before any insurance premiums are actually paid with the reserved Síhasin Funds;

5. The Office of the Controller and Office of Management & Budget shall work with the Division of Natural Resources and Department of Agriculture to establish a fund, herein called the Agriculture Infrastructure Fund, to:

    a. Receive and hold any and all indemnity payments from the USDA's Pasture, Rangeland, Forage Pilot Insurance Program;

    b. Use accrued indemnity payments to reimburse and repay Síhasin Funds actually expended; and

    c. Use any remaining indemnity payments in excess of the amount necessary to guarantee the subsequent Crop Year's insurance premiums to fund and implement agriculture infrastructure projects on the Navajo Nation, including but not limited to:

range, grazing and livestock; tribal ranches infrastructure; farming and irrigation; agricultural water development; dams, reservoirs and catchments; watershed planning for agriculture; agricultural complexes; drought contingency plan (mitigation measures); area wide fencing; brand office and Navajo Partitioned Lands and former Bennett Freeze Area projects, including administration costs.

6. The Division of Natural Resources and its Department of Agriculture shall have the authority and responsibility to manage and administer the Agriculture Infrastructure Fund and implement agriculture infrastructure projects pursuant to a fund management plan approved by the Budget & Finance Committee which shall at least include provisions that:

   a. All interval indemnity payments received from the USDA's Pasture, Rangeland, Forage Pilot Insurance Program will be deposited into Fund when received by the Navajo Nation and invested as determined by the Office of the Controller with any realized interest earnings or investment income devoted to the implementation of agriculture infrastructure projects;

   b. During the first month after the end of each Navajo Nation Fiscal Year, withdrawals from and/or reserves within the Fund shall be made in the following order or priority:

      1. Annual USDA Pasture, Rangeland, Forage Pilot Insurance Program premiums covering no more acreage than insured the previous year;

      2. Repayment and reimbursement of any portion of the $19,835,612.00 of Síhasin Funds actually expended; and

      3. If there are additional funds remaining, upon the approval of the Budget & Finance Committee, those funds may either be used to

increase the acreage insured or to implement agriculture infrastructure projects on the Navajo Nation or a combination of both.

c. The Department of Agriculture, under the legislative oversight of the Resources and Development Committee, shall have the responsibility to administer, oversee and use indemnity funds allocated for agriculture infrastructure projects, consistent with an annual plan recommended by the Division of Natural Resources and approved by the Resources and Development Committee, for range, grazing and livestock; tribal ranches infrastructure; farming and irrigation; agricultural water development; dams, reservoirs and catchments; watershed planning for agriculture; agricultural complexes; drought contingency plan (mitigation measures); area wide fencing; brand office and Navajo Partitioned Lands and former Bennett Freeze Area, including administration costs;

d. The Department of Agriculture shall account for the money spent and such accounting or expenditure report shall be included as part of the Executive Branch's quarterly program report submitted to the Resources and Development Committee; and

e. The Department of Agriculture shall have the authority to enter into match funding, partnership, cooperative and other cost saving or cost sharing arrangements or leveraging agreements with Navajo Nation entities and enterprises, Navajo Nation chapters and other political subdivisions, other Navajo Nation programs and federal and state agencies and such agreements shall not be deemed procurement contracts subject to the Navajo Nation Procurement Act, 12 N.N.C. §§301 -371 or Navajo Business Opportunity Act 5 N.N.C. §§ 201-215.

7. The Division of Natural Resources and Department of Agriculture shall have the continuing authority and responsibility to further leverage the Agriculture Infrastructure Fund and shall present an annual

leveraging plan to the Resources and Development and Budget and Finance Committees during the first quarter of each Navajo Nation Fiscal Year.

8. The funds deposited into the Agriculture Infrastructure Fund shall not lapse on an annual basis pursuant to 12 N.N.C. §820 (N).

B. The Navajo Nation Controller, Director of the Division of Natural Resources and Program Manager of the Department of Agriculture shall jointly account for and be held accountable for the expenditure of allocated Síhasin Fund funds and shall arrange for an annual audit of the Agriculture Infrastructure Fund with such audit report(s) submitted to the Resources and Development, Budget and Finance and Naabik'íyáti' Committees, Office of the Controller and Office of the President and Vice-President on an annual basis.

C. The Division of Natural Resources shall report the status of the Síhasin Fund Pasture Range and Forage Expenditure Plan, specifically including the use and status of the Síhasin Funds and the status of the Agriculture Infrastructure Fund to the Resources and Development, Budget and Finance and Naabik'íyáti' Committees and Office of the President and Vice-President on a quarterly basis.

**Section Five. Effective Date**

The Síhasin Fund Pasture Range and Forage Expenditure Plan, as set forth above, shall become effective pursuant to 12 N.N.C. § 2505.

**Section Six. Directives**

A. All Navajo Nation programs, specifically including, but not limited to, the Office of Controller, Office of Management & Budget, Division of Natural Resources and Department of Agriculture, shall take all steps necessary to expeditiously implement the Síhasin Fund Pasture Range and Forage Expenditure Plan.

B. The Department of Agriculture shall develop a knowledge *bank collecting and archiving information about the PRF* Insurance Program and the Nation's participation.

C. All Navajo Nation programs named in this legislation shall be held accountable for the progress of tasks under their responsibility and control and shall report on a semi-annual basis to the Naabik'íyáti' Committee on the progress of their respective tasks.

**CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 18 in favor and 4 opposed, this $27^{th}$ day of October 2016.

LoRenzo Bates, Speaker
Navajo Nation Council

11-3-16
Date

Motion: Honorable Peterson B. Yazzie
Second: Honorable Otto Tso

CO-57-16

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (C)(10), on this 13th day of November 2016.

Russell Begaye

Russell Begaye, President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this ______ day of ____________ 2016 for the reason(s) expressed in the attached letter to the Speaker.

______________________________

Russell Begaye, President
Navajo Nation

# Pasture, Rangeland, Forage Pilot Insurance Program

Revised August 2015

## Pasture, Rangeland, Forage

The Risk Management Agency's (RMA) Pasture, Rangeland, Forage (PRF) Pilot Insurance Program is designed to provide insurance coverage on your pasture, rangeland, or forage acres. This innovative pilot program is based on precipitation, Rainfall Index. This program is designed to give you the ability to buy insurance protection for losses of forage produced for grazing or harvested for hay, which result in increased costs for feed, destocking, depopulating, or other actions.

## Availability

PRF is available in the 48 contiguous states with the exception of a few grids that cross international borders. The Rainfall Index will replace the Vegetation Index beginning in the 2016 crop year.

## Coverage and Claims

The Rainfall Index uses National Oceanic and Atmospheric Administration Climate Prediction Center (NOAA CPC) data and each grid is 0.25 degrees in latitude by 0.25 degrees in longitude, which translates to approximately 17 x 17 miles at the equator. You must select at least two, 2-month periods where precipitation is important to your operation. These periods are called index intervals.

Your insurance payments are determined by using NOAA CPC data for the grid(s) and index interval(s) you have chosen to insure. When the final grid index falls below your "trigger grid index", you may receive an indemnity. This insurance coverage is for a single peril, lack of precipitation. Coverage is based on the experience of the entire grid. It is not based on individual farms or ranches or specific weather stations in the general area. You can find more detailed information on the NOAA website at www.cpc.ncep.noaa.gov/products/monitoring_and_data/.

Pasture, Rangeland, Forage insurance was designed to help protect your operation from the risks of forage losses that are produced for grazing or harvested for hay resulting in increased costs for feed. The program is designed to allow maximum flexibility to meet the risk management needs of your operation. You are not required to insure all your acres, but you cannot exceed the total number of grazing or haying acres you operate. The program provides protection while allowing you to insure only those acres that are important to your grazing program or hay operation. By selecting a productivity factor, you can establish a value between 60 and 150 percent of the county base value and match the amount of your protection to the value of forage that best represents your specific grazing or hay operation.

## New Coverage Available for 2016

RMA has introduced a new pricing methodology starting with the 2016 crop year that will better reflect your replacement costs for feed and the actual losses you experience. RMA is also offering an irrigated hay practice in some states that is designed to cover above normal irrigation expenses when normal precipitation shortfalls are observed. However, normal irrigation costs are not covered.

## Tools

You will be asked to make several choices when insuring your grazing or hay production, including coverage level, index intervals, irrigated practice, productivity factor, and number of acres. You should work with your crop insurance agent to view the Grid ID Locator map and index grids for your area, and assign acreage to one or more grids based on the location and use of the acreage to be insured. RMA also encourages you to use the Grid ID Locator, historical indices tool, and decision support tools available on RMA's website to help you decide whether PRF is the right insurance coverage for your operation. The rainfall index does not measure your direct production or loss. You are insuring a rainfall index that is expected to estimate your

*This fact sheet gives only a general overview of the crop insurance program and is not a complete policy. For further information and an evaluation of your risk management needs, contact a crop insurance agent.*

production. Please review the historical indices tools for your grid along with past production records to determine if these programs will work for your operation and which periods work best for your forage production.

## Buying a PRF Policy

You can buy a PRF policy from a crop insurance agent by the sales closing date shown for each county in the actuarial documents at webapp.rma.usda.gov/apps/actuarialinformationbrowser/. A list of crop insurance agents is available at all USDA service centers and on the RMA website at www.rma.usda.gov/tools/agent.html.

## Contact Us

USDA/RMA
Mail Stop 0801
1400 Independence Ave., SW Washington, DC 20250
**Phone:** (202) 720-0723
**Fax:** (202) 690-2818
**Website:** www.rma.usda.gov
**E-mail:** RMA.Media.Requests@rma.usda.gov

**Download Copies from the Web**
Visit our online publications/fact sheets page at: www.rma.usda.gov/pubs/rme/fctsht.html

EXHIBIT B

# 2017/2018 PASTURE RANGE FORAGE INSURANCE UPDATE

## (February 26, 2018)

### A. 2017 PRF PREMIUM

| | |
|---|---|
| Base Premium | $44,491,801 |
| -USDA Subsidy (51%) | 22,690,820 |
| Navajo Nation PRF Premium | $21,800,981 |

**PRF PREMIUM (BY COUNTY)**

| | |
|---|---|
| Apache | $9,107,909 |
| Coconino | 7,663,094 |
| Navajo | 5,029,978 |
| Total | $21,800,981 |

### C. 2017 INDEMNITY PERFORMANCE BY INTERVAL

| | | |
|---|---|---|
| Jan – Feb | $208,770 | |
| Feb – Mar | 1,343,371 | |
| Mar – Apr | 3,472,678 | |
| Apr – May | -0- | |
| May – Jun | 6,026,320 | |
| Jun – Jul | 1,094,800 | |
| Jul – Aug | -0- | |
| Aug – Sep | Not Selected | |
| Sep – Oct | Not Selected | |
| Oct – Nov | 5,795,559 | $17,941,499 YTD |
| Nov – Dec | TBD | |

### B. 2017 PRF Premium Summary

| | |
|---|---|
| 2017 Premium | $21,800,981 |
| -2017 Indemnities thru Oct. 1 | 12,145,940 |
| 2017 Paid from Reserve Fund | $9,655,131 |
| -Oct/Nov Indemnity Received | 5,795,559 |
| 2017 PRF Reserve Balance | $3,859,572 |
| | |
| Nov – Dec 2017 Indemnity | $21,246,027 |
| -2017 Reserve Balance | 3,859,572 |
| Total | $17,386,455 |

Potential Agriculture Infrastructure Fund (Yr 1)

$17,386,455

### D. 2018 PRF ACTION PLAN

- Submit application to USDA by 11/15/17
- Consider adding NM & UT grids
- Fund Mgt Plan & Fund Expenditure Plan
- Reauthorize Sihasin Reserve for 2 years
- Implement Agriculture Infrastructure Fund
- Monitor 2018 Farm Bill & USDA 2019 Budget
- Other considerations & analysis

## NAVAJO NATION

RCS# 1130

5/17/2018

Special Session

04:20:56 PM

Amd# to Amd#

Legislation 0118-18:

PASSED

MOT Jack

SEC Daniels

Amending CO-57-16, the Sihasin fund Pasture Range and Forage Expenditure Plan, to Extend...

**Yea : 17** **Nay : 0** **Excused : 0** **Not Voting : 7**

**Yea : 17**

| | | | |
|---|---|---|---|
| Bates | Chee | Hale | Slim |
| Begay, K | Crotty | Jack | Tso |
| Begay, NM | Daniels | Pete | Tsosie |
| Begay, S | Filfred | Phelps | Witherspoon |
| Bennett | | | |

**Nay : 0**

**Excused : 0**

**Not Voting : 7**

| | | | |
|---|---|---|---|
| BeGaye, N | Damon | Shepherd | Yazzie |
| Brown | Perry | Smith | |