



## 24<sup>th</sup> NAVAJO NATION COUNCIL LEGISLATION SPONSORSHIP WITHDRAWAL

I, HON. ANDY NEZ, Primary Sponsor  
of proposed legislation hereby withdraw my sponsorship of the  
proposed legislation. The legislation tracking number is  
0130-23.

If there are any co-sponsors, they may re-sponsor the same bill  
by beginning a new legislation.

SPONSOR SIGNATURE:

A handwritten signature in black ink, appearing to be "A. Nez", written over a horizontal line.

DATE:

1/23/24

## **SUMMARY OF PROPOSED LEGISLATION**

Tracking No. 0130-23

DATE: June 9, 2023

**RE: AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION COUNCIL; APPROVING \$5,000,000 FROM THE SÍHASIN FUND TO NAVAJO EPA FOR THE ASSESSMENT AND REMEDIATION OF ENVIRONMENTAL DAMAGE FROM FORMER LUMBER PROCESSING OPERATIONS AT THE RED LAKE AND SAWMILL CHAPTERS; APPROVING THE RELATED EXPENDITURE PLAN**

### **Purpose of this Legislation:**

to approve \$5 million from the Sihasin Fund for the Navajo EPA for assessment and cleanup activities at the former NFPI and NTSE sites in the Red Lake and Sawmill Chapters; approving the related Expenditure Plan.

OLC No. 23-210-1

5-DAY BILL HOLD PERIOD: Ap Johnson  
Website Posting Time/Date: 5:33pm; 06-09-23  
Posting End Date: 06-14-23  
Eligible for Action: 06-15-23

Resources & Development Committee  
Thence  
Budget & Finance Committee  
Thence  
Naabik'iyáti' Committee  
Thence  
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
25<sup>th</sup> NAVAJO NATION COUNCIL - First Year, 2023

Introduced by:



(Prime Sponsor)

Tracking No. 0130-23

**AN ACTION**

**RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND  
FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION  
COUNCIL; APPROVING \$5,000,000 FROM THE SÍHASIN FUND TO NAVAJO EPA  
FOR THE ASSESSMENT AND REMEDIATION OF ENVIRONMENTAL DAMAGE  
FROM FORMER LUMBER PROCESSING OPERATIONS AT THE RED LAKE  
AND SAWMILL CHAPTERS; APPROVING THE RELATED EXPENDITURE PLAN**

**BE IT ENACTED:**

**SECTION ONE. AUTHORITY**

- A. The Resources and Development Committee was established as a standing committee of the Navajo Nation Council. 2 N.N.C. §500(A). As such, the Committee has legislative authority over the Navajo Nation's natural resources, environment, and land matters, as well as the protection of these resources. 2 N.N.C. §500(C)(1); 2 N.N.C. §500(C)(2).
- B. The Resources and Development Committee also serves as the Oversight Committee for the Navajo Environmental Protection Agency ("Navajo EPA"). 2 N.N.C. §501(C)(1).
- C. The Budget and Finance Committee is a standing committee of the Navajo Nation Council, with legislative authority 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).
- D. The Budget and Finance Committee also has the delegated authority to approve fund

1 management plans, after recommendation by the appropriate oversight committee and the  
2 affected Navajo Nation division or branch. 2 N.N.C. §301(B)(14).

3 E. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council that  
4 considers all proposed final actions by the Navajo Nation Council. 2 N.N.C. §164(A)(9).

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

6 As such, the Council may approve appropriations from the Navajo Nation's Síhasin Fund.

7 G. 12 N.N.C. §2502, as amended by CJA-03-18, states the purpose of the Navajo Nation's Síhasin  
8 Fund ("Síhasin Fund") as follows:

9 §2502 Purpose

10 A. The purposes of this Fund are to provide financial support and/or financing for:

11 1. The planning and development of economic development and regional  
12 infrastructure supporting economic development and community development,  
13 including such infrastructure as, but not limited to, housing, commercial and  
14 government buildings, waterline, solid waste management development, powerline  
15 projects, and transportation and communication systems, within the Navajo Nation;

16 B. For the Purpose in §2502(A)(1), Fund expenditures for infrastructure shall not be  
17 limited by 12 N.N.C. §1310(F) or TCDCJY-77-99.

18 C. Leveraging the Fund by way of guaranteeing loans, match funding, direct funding  
19 in part, and other weighted uses of the Fund, including loan financing from the  
20 Fund, for the purposes in §2502(A)(1), shall be favored over direct funding in  
21 whole.

22 H. The Síhasin Fund provides that "Fund Principal" shall consist of all deposits made to the  
23 Síhasin Fund and that "Fund Income" shall consist of all earnings (interest, dividends, etc.)  
24 generated and realized by the Fund Principal, and that Síhasin Fund Income shall be deposited  
25 in, and added to, the Fund Principal until such time as a Fund Expenditure Plan is duly  
26 approved. 12 N.N.C. §2504 and §2505(C).

27 I. The Síhasin Fund provides that "Fund Principal and Income shall not be expended except  
28 pursuant to a Fund Expenditure Plan consistent with the purposes set forth in §2502 of this  
29 Chapter and adopted by a two-thirds (2/3) vote of all members of the Navajo Nation Council."  
30 12 N.N.C. §2505(A).

1 **SECTION TWO. FINDINGS**

2 A. In Resolutions No. RLC-04-23-15, No. SAW-04-10-23-06, and No. FDC-2023-04-11-0-9, the  
3 Red Lake, Sawmill, and Fort Defiance Chapters request \$5,000,000 in Síhasin funding for the  
4 assessment and remediation of the former Navajo Forest Products Industries (“NFPI”) location  
5 in the Red Lake Chapter in Navajo, NM, and the former Navajo Tribal Sawmill Enterprise  
6 (“NTSE”) location in the Sawmill Chapter in Sawmill, AZ. See the attached resolutions at  
7 **EXHIBITS A-1, A-2, and A-3.**

8 B. In June of 2020, the Executive Director of the Navajo Nation Environmental Protection  
9 Agency (“Navajo EPA”) prepared a memorandum requesting \$5,000,000 for the assessment  
10 and remediation of the Red Lake site. **EXHIBIT A-4.**

11 C. Navajo EPA has prepared a Report, dated 12/16/2022, explaining the serious problem of the  
12 extensive contamination of the Red Lake Chapter location. This Report describes the existing  
13 groundwater and soil contamination, the leftover surface debris, and the overall environmental  
14 damage in the area, as well as the necessary scope of the cleanup project and its estimated cost.  
15 This site remains a significant public health hazard that requires immediate attention. This  
16 Report is attached hereto as **EXHIBIT B.** In 2021 and 2022, the Navajo EPA confirmed that  
17 hexavalent chromium, lead, and other heavy metals and petroleum are present in the soil and  
18 groundwater of the Red Lake Chapter site and in Black Creek, as well.

19 D. A Phase I Environmental Site Investigation of the Sawmill Chapter location has been  
20 performed, and a detailed Report was prepared. See **EXHIBIT C-1.** The Navajo EPA  
21 determined that the Sawmill Chapter site also needs a complete environmental assessment,  
22 including groundwater and soils testing, and deems the site a serious public health hazard that  
23 requires remediation as soon as possible. See map attached as **EXHIBIT C-2.**

24 E. The proposed Expenditure Plan for the NFPI/NTSE Remediation Project that describes the  
25 estimated expenses for the complete assessment and remediation of the both the Red Lake and  
26 Sawmill sites, is attached as **EXHIBIT D.** All expenditures from the Síhasin Fund shall be  
27 performed by the Navajo EPA, in accordance with the proposed Expenditure Plan.

28 F. The requested allocation of \$5,000,000 in Síhasin funds meets the criteria for Síhasin funding  
29 because the Navajo EPA’s expenditures will involve extensive work on “infrastructure” and  
30 “commercial and government buildings” and the cleanup project will facilitate “economic

development and community development” in both the Red Lake Chapter and Sawmill Chapter communities. 12 N.N.C. §2502(A)(1).

G. This funding request meets the preference for the leveraging of funds, as mentioned in 12 N.N.C. §2502(C), because in Summer 2021 the Navajo EPA urged the U.S. EPA Superfund Emergency Response Program to conduct a Time Critical Removal Action at the Red Lake site, and the U.S. EPA spent \$6,000,000 on surface cleanup of asbestos contamination. This U.S. EPA project involved 3.5 months of 70-hour workweeks, and accomplished the removal of over 4,000 cubic yards (about 200 tractor trailer loads) of hazardous asbestos waste and surface debris. Further significant spending by the Navajo Nation on the assessment and cleanup of both sites will allow Navajo EPA to continue leveraging funds to encourage further federal activities and potentially secure new funding for the remediation.

H. In light of the extensive contamination at the Red Lake Chapter and Sawmill Chapter locations, as described above and in the various EXHIBITS attached hereto, the Navajo Nation finds that a serious public health hazard exists in the two locations that demands immediate action to protect the public welfare, the Navajo Nation’s natural resources, and to repair environmental damage. Therefore, the Navajo Nation finds it in the best interest of the Navajo Nation and the Navajo People to approve the Navajo EPA’s requested allocation of \$5,000,000 from the Síhasin Fund.

**SECTION THREE. APPROVING \$5,000,000 FROM THE SÍHASIN FUND TO NAVAJO  
EPA FOR THE ASSESSMENT AND REMEDIATION OF  
ENVIRONMENTAL DAMAGE FROM FORMER LUMBER  
PROCESSING OPERATIONS AT THE RED LAKE AND  
SAWMILL CHAPTERS; APPROVING THE RELATED  
EXPENDITURE PLAN**

A. In accordance with 12 N.N.C. §2505(A), the Navajo Nation hereby approves \$5,000,000 from the Síhasin Fund to the Navajo EPA to perform, and contract as necessary, continued assessment work and environmental remediation activities at the former NFPI site located at the Red Lake Chapter, and at the former NTSE site located at the Sawmill Chapter. Navajo EPA’s activities will initially focus on the assessment and remediation of groundwater at the

1 Red Lake site, which groundwater is contaminated with hexavalent chromium and petroleum,  
2 as described in the attached **EXHIBIT B**. Secondly, Navajo EPA will use the Síhasin funds  
3 approved herein for the assessment and cleanup of the Sawmill site.

4 B. The Navajo Nation hereby approves the Expenditure Plan provided by the Navajo EPA, as  
5 detailed in the attached **EXHIBIT D**.

6 C. The Controller shall determine whether the source of the \$5,000,000 approved herein will be  
7 Síhasin Fund Principal or Síhasin Fund Income, or a combination of both.

8 D. The \$5,000,000 in Síhasin funds approved herein may be further leveraged by bond or loan  
9 financing pursuant to the Navajo Nation Bond Financing Act (12 N.N.C. §1300 *et seq.*, as  
10 amended), using Síhasin Fund earnings for repayment and financing costs, upon approval of  
11 the Budget and Finance Committee and upon further approval by a two-thirds (2/3) vote of the  
12 full membership of the Navajo Nation Council.

13 E. The Síhasin funds approved herein shall be made available to Navajo EPA within ten (10)  
14 business days following the effective date of this Action. Navajo EPA shall then be permitted  
15 to draw down from the Síhasin Fund account, as needed, for its assessment and remediation  
16 projects described herein.

17 F. From time-to-time as determined necessary and appropriate by Navajo EPA, the Agency may  
18 provide payments directly to qualified and eligible contractors selected by Navajo EPA,  
19 pursuant to an approved Scope of Work, a Project Activity Schedule, and in compliance with  
20 all Navajo Nation laws related to procurement and purchasing.

21 G. The approved Síhasin funds shall not be comingled with any other funds, and shall be used  
22 by Navajo EPA strictly for the Expenditure Plan approved herein. Navajo EPA shall be  
23 responsible for ensuring that all expenditures comply with the approved Expenditure Plan.

24 H. The approved Síhasin funds shall not lapse at the end of any fiscal year, as might otherwise  
25 occur under 12 N.N.C. §820(N), so long as: (1) all Síhasin funds are accounted for as of  
26 September 30 of each fiscal year; and (2) any/all remaining Síhasin funds are budgeted in  
27 the next upcoming fiscal year for use under the same Expenditure Plan.

28 I. Notwithstanding Section Three (H) above, any remaining amount of Síhasin funds not  
29 expended or encumbered by September 30, 2026 shall revert to the Síhasin Fund, unless  
30 determined otherwise prior to such reversion by the Naabik'íyáti' Committee.

1 J. The Síhasin Fund may be reimbursed in the amount of the allocation approved herein, from  
2 funds available to the Navajo Nation from any and all state and federal sources, including  
3 Congressional appropriations under the American Rescue Plan Act of 2021 or other COVID-  
4 19-related relief, if the expenditures by Navajo EPA described herein are deemed eligible under  
5 such funding sources.  
6

#### 7 **SECTION FOUR. DIRECTIVES**

8 A. The Navajo EPA shall submit written reports, and verbal reports if so requested, explaining  
9 the ongoing status of the Expenditure Plan approved herein and its expenditures of the  
10 approved Síhasin funds. Said reports shall be provided to the Resources and Development  
11 Committee, the Budget and Finance Committee, and the Naabik'íyáti' Committee by the end  
12 of the 2<sup>nd</sup> Quarter and the end of the 4<sup>th</sup> Quarter of each Fiscal Year until all approved Síhasin  
13 funds are exhausted, or upon the September 30, 2026 reversion deadline in Section Three  
14 (H) herein.

15 B. The Navajo Nation Department of Justice is hereby directed to research the legal issue of the  
16 potential liability of the United States and its federal agencies, for damages related to the  
17 environmental harm at the NFPI and NTSE locations and the costs for remediation needed to  
18 restore the areas to an environmentally safe condition.  
19

#### 20 **SECTION FIVE. EFFECTIVE DATE**

21 This Act and the Expenditure Plan approved herein shall become effective pursuant to 12 N.N.C.  
22 §2505(A) and 2 N.N.C. §221(B).  
23

#### 24 **SECTION SIX. SAVING CLAUSE**

25 If any portion of this Action is invalidated by the Supreme Court of the Navajo Nation, or by any  
26 Navajo Nation District Court without appeal to the Navajo Nation Supreme Court, the remainder  
27 of this Action shall be the law of the Navajo Nation.  
28

#### 29 **SECTION SEVEN. DISCLAIMER**

30 Nothing in this Action shall be interpreted as an admission of responsibility or liability on the part



1 of the Navajo Nation or any of its programs or employees, or its political subdivisions or  
2 enterprises, for any environmental harm or damage at the former NFPI and NTSE locations or to  
3 any person(s) or livestock from any hazardous substances located thereon.

Arval T. McCabe  
PRESIDENT  
Roger L. James  
VICE-PRESIDENT  
Loberta Redhouse  
SECRETARY/TREASURER  
Dr. Andy Nez, Council Delegate  
COUNCIL DELEGATE



Kathleen  
CHAIR  
Florence  
GRAZING COMMITTEE  
MEMBER

EXHIBIT

A-1

## RED LAKE CHAPTER

RLC-04-23-15

### RESOLUTION OF RED LAKE CHAPTER #18

**Supporting The Legislation Regarding The Creation Of A New "Navajo Tribal Sawmill Enterprise/Navajo Forest Products Industry Remediation Fund" In The Amount Of \$5,000,000 From The Navajo Nation S/hasin Funding For The Assessment And Remediation Of The Former Navajo Tribal Sawmill Enterprise/Navajo Forest Products Industry Locations; And Approving Its Related Expenditure Plan**

#### WHEREAS:

1. Pursuant to the N.N.C., Section 3 (A), the Red Lake Chapter #18 is a certified chapter of the Navajo Nation as listed under 11NNC., Part I, Section 10; and
2. The Red Lake Chapter #18, a recognized certified local government of the Navajo Nation, vested with the power and authority to advocate on behalf of its constituents for the improvement of health, education, safety, and general welfare; and
3. Red Lake Chapter provides multiple public services to the community, including services that directly affect the safety and health of the community; and
4. Red Lake Chapter recognizes that these assessments and remediation of the former Navajo Tribal Sawmill Enterprise and Navajo Forest Products Industry (NFPI) affect the community due to the historical operations and functions of Sawmill and for communities near the Black Creek Wash deriving from Red Lake/Navajo, NM area (former NFPI); and
5. The purposes of the Navajo Nation S/hasin Funds are to provide financial support and/or financing for: The planning and development of economic development and regional infrastructure supporting economic development and community development, including such infrastructure as, but not limited to, housing, commercial and government buildings, waterline, solid waste management development, powerline projects, and transportation and communication systems, within the Navajo Nation; and
6. Red Lake Chapter recognizes and supports that these funds will involve extensive work on "infrastructure" and "commercial and government buildings", and the cleanup project will facilitate "economic development and community development" in the Red Lake/Navajo and Sawmill area, which upon completion, will eliminate potential toxics and environmental-related disasters that affect the area; and
7. The Navajo Nation S/hasin Funds shall be used solely for planning, investigation, assessment, testing, and environmental remediation activities for the cleanup of the former Navajo Tribal Sawmill Enterprise and former NFPI location, including the purchase, installation, use, and maintenance of equipment and facilities, as necessary for the project; and

8. Red Lake Chapter recognizes that no contamination investigation has occurred for the initial Sawmill site since its closure in or around 1960 and was moved to Navajo, NM; however, according to the Navajo Nation Environmental Protection Agency, issues are similar to NFPI; and
9. The Navajo Nation Environmental Protection Agency describes the former NFPI's existing environmental damage, and provides the necessary scope of the cleanup project and its estimated cost, including details on the groundwater and soil contamination, as well as the leftover surface debris, which has created a significant public health hazard in the area that needs immediate attention, and a cost estimate of no less than \$100 million for clean up; and
10. Red Lake Chapter recognizes that cleanup will need to be done for the safety and longevity of its community members; and
11. The Navajo Nation Council will have final authority, and they are the governing body of the Navajo Nation per 2 N.N.C. §102(A). As such, the Navajo Nation Council may approve appropriations from the Navajo Nation's S'hasin Fund

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

1. Supporting the Legislation regarding the creation of a new "Navajo Tribal Sawmill Enterprise/Navajo Forest Products Industry Remediation Fund" in the amount of \$5,000,000 from the Navajo Nation S'hasin Funding for the assessment and remediation of the Former Navajo Tribal Sawmill Enterprise/Navajo Forest Products Industry Locations; and Approving its Related Expenditure Plan.

**CERTIFICATION**

We, hereby certify that the foregoing resolution was duly considered by the Red Lake Chapter at a duly called meeting in Navajo, New Mexico (Navajo Nation) at which a quorum was present and that same was passed by a vote of 31 in favor 0 opposed and 01 abstained this 19th day of April 19, 2023.

  
Arval McCabe  
Chapter President

Motion by: Florina Howard  
Second by: Bruce Zah

Woodie Bennett, President  
Lewis Shirley, Vice President  
Timothy Y. Begay Jr., Sec/Treasurer  
Patrick Martinez, Grazing Representative  
Andy Nez, Council Delegate

# Sawmill Chapter

P.O. Box 1786, Ft. Defiance, AZ, 86504  
Ph: (928)729-4433/4432 | fax: (928)729-4435  
Email: sawmill@navajochapters.org

Jamm  
Ronald  
Louis

EXHIBIT

A-2

## RESOLUTION FOR SAWMILL CHAPTER SAW-04-10-23-06

**SUPPORTING THE LEGISLATION REGARDING THE CREATION OF A NEW  
"NAVAJO TRIBAL SAWMILL ENTERPRISE/NAVAJO FOREST PRODUCTS  
INDUSTRY REMEDIATION FUND" IN THE AMOUNT OF \$5,000,000 FROM THE  
NAVAJO NATION SIHASIN FUNDING FOR THE ASSESSMENT AND REMEDIATION  
OF THE FORMER NAVAJO TRIBAL SAWMILL ENTERPRISE/NAVAJO FOREST  
PRODUCTS INDUSTRY LOCATIONS; AND APPROVING ITS RELATED  
EXPENDITURE PLAN**

### WHEREAS:

1. The Sawmill Chapter, a recognized certified local government of the Navajo Nation, vested with the power and authority to advocate on behalf of its constituents for the improvement of health, education, safety, general welfare; and
2. Pursuant to the subchapter 1, section 131 (1); (2) of the same "Act", the Sawmill Chapter has the responsibility and authority to promote, protect, and preserve the interest and general welfare including the safety of its community people; and
3. Sawmill Chapter provides multiple public services to the community, including services that directly affect the safety and health of the community; and
4. Sawmill Chapter recognizes that these assessments and remediation of the former Navajo Tribal Sawmill Enterprise and Navajo Forest Products Industry (NFPI) affect the community due to the historical operations and functions of Sawmill and for communities near the Black Creek Wash deriving from Red Lake/Navajo, NM area (former NFPI); and
5. The purposes of the Navajo Nation Sihasin Funds are to provide financial support and/or financing for: The planning and development of economic development and regional infrastructure supporting economic development and community development, including such infrastructure as, but not limited to, housing, commercial and government buildings, waterline, solid waste management development, powerline projects, and transportation and communication systems, within the Navajo Nation; and
6. Sawmill Chapter recognizes and supports that these funds will involve extensive work on "infrastructure" and "commercial and government buildings", and the cleanup project will facilitate "economic development and community development" in the Red Lake/Navajo and Sawmill area, which upon completion, will eliminate potential toxics and environmental-related disasters that affect the area; and
7. The Navajo Nation Sihasin Funds shall be used solely for planning, investigation, assessment, testing, and environmental remediation activities for the cleanup of the former Navajo Tribal Sawmill Enterprise and former NFPI location, including the purchase, installation, use, and maintenance of equipment and facilities, as necessary for the Project; and
8. Sawmill Chapter recognizes that no contamination investigation has occurred for the initial Sawmill site since its closure in or around 1960 and was moved to Navajo, NM;

# Sawmill Chapter

P.O. Box 1786, Ft. Defiance, AZ, 86504  
Ph: (928)729-4433/4432 | fax: (928)729-4435  
Email: sawmill@navajochapters.org

9. however, according to the Navajo Nation Environmental Protection Agency, issues are similar to NFPI; and
10. The Navajo Nation Environmental Protection Agency describes the former NFPI's existing environmental damage, and provides the necessary scope of the cleanup project and its estimated cost, including details on the groundwater and soil contamination, as well as the leftover surface debris, which has created a significant public health hazard in the area that needs immediate attention, and a cost estimate of no less than \$100 million for clean up; and
11. Sawmill Chapter recognizes the historical use of timber staging water transport for water, lumber drying kiln, an existing open well, detected asbestos visible on the surface, and other unknown factors that need to be assessed and remediated; and
12. Sawmill Chapter recognizes that similar cleanup will need to be done for the safety and longevity of its community members; and
13. The Navajo Nation Council will have final authority, and they are the governing body of the Navajo Nation per 2 N.N.C. §102(A). As such, the Navajo Nation Council may approve appropriations from the Navajo Nation's S'hasin Fund

## NOW, THEREFORE BE IT RESOLVED THAT:

1. Supporting the Legislation Regarding the Creation of a New "Navajo Tribal Sawmill Enterprise/Navajo Forest Products Industry Remediation Fund" in the amount of \$5,000,000 from the Navajo Nation S'hasin Funding for the Assessment and Remediation of the Former Navajo Tribal Sawmill Enterprise/Navajo Forest Products Industry Locations; and Approving its Related Expenditure Plan

## CERTIFICATION

We hereby certify that the foregoing resolution was duly considered by the Sawmill Chapter at a duly called meeting (Navajo Nation), Arizona at which a quorum was present and that same was passed by a vote of 16 favor, 0 opposed and 1 abstained on this 10<sup>th</sup> day of April 2023.

Motioned by: Larry Foster  
Seconded by: Erwin Gail

  
\_\_\_\_\_  
Woodie Bennett, President



## THE NAVAJO NATION

Fort Defiance Chapter  
P.O. Box 366 ♦ Fort Defiance, Arizona 86504  
Phone: (928) 729-4352 ♦ Fax (928) 729-4353  
Email: [ftdefiance@navajochapters.org](mailto:ftdefiance@navajochapters.org)

Gen  
Grace J  
Her  
Dr. Andy N

EXHIBIT

A-3

BUU NYGREN  
Navajo Nation President

RICHELLE MONTYOYA  
Navajo Nation Vice President

### RESOLUTION OF THE FORT DEFIANCE CHAPTER

FDC-2023-04-11-09

**SUPPORTING THE LEGISLATION REGARDING THE CREATION OF A NEW "NAVAJO TRIBAL SAWMILL ENTERPRISE/NAVAJO FOREST PRODUCTS INDUSTRY REMEDIATION FUND" IN THE AMOUNT OF \$5,000.00 FROM THE NAVAJO NATION SIHASIN FUNDING FOR THE ASSESSMENT AND REMEDIATION OF THE FORMER NAVAJO TRIBAL SAWMILL ENTERPRISE/NAVAJO FOREST PRODUCTS INDUSTRY LOCATIONS: AND APPROVING ITS RELATED EXPENDITURE PLAN**

#### WHEREAS:

1. Pursuant to NNC section 3 (A), the Fort Defiance Chapter is a duly recognized certified Chapter of the Navajo Nation Government as listed as 22 NNC. Part 1, Section 10, and
2. Pursuant to 26 NNC Section 1 (B), the Fort Defiance Chapter is vested with the authority to review all matters affecting community to make appropriate corrections when necessary and to make recommendations to the Navajo Nation and other local agencies for appropriate actions, and
3. Fort Defiance Chapter recognizes that these assessments and remediation of the former Navajo Tribal Sawmill Enterprise and Navajo Forest Products Industry (NFPI) affect the community due to the historical operation and function of NFPI and its long-term effects concerning the downstream of Black Creek Wash in Red Lake, Navajo, NM area; and
4. The purposes of the Navajo Nation Sihasin Funds are to provide financial support and /or financing for; the planning and development of economic development and regional infrastructure supporting economic development and community development, including such infrastructure as, but not limited to, housing, commercial and government buildings, waterline, solid waste management development, powerline projects, and transportation and communications systems, with the Navajo Nation; and
5. Fort Defiance Chapter recognizes and supports that these funds will involve extensive work on "infrastructure" and "commercial and government buildings", and the cleanup project will facilitate "economic development and community development" in the Red Lake/Navajo area, which upon completion, will eliminate potential toxic and environmental-related disasters that affect the Fort Defiance area; and
6. The Sihasin Funds shall be used solely for planning, investigation, assessment, testing and environmental remediation activities for the cleanup of the former Navajo Tribal Sawmill Enterprise and for NFPI location, including the purchase, installation, use, and maintenance of equipment a facility, as necessary for the Project; and
7. The Navajo Nation Environmental Protection Agency describes the former NFPI's existing environmental damage, and provides the necessary scope of the cleanup project and its estimated cost, including details on the ground water and soil contamination, as well as the leftover surface debris, which has created a significant public health hazard in the area that needs immediate attention, and a cost estimate of no less than \$100 million for clean up; and
8. Fort Defiance Chapter recognizes this cleanup is necessary for the safety and longevity of its community members; and
9. The Navajo Nation Council will have final authority, and they are the governing body of the Navajo Nation per 2 N.N.C. 102 (A). As such the Navajo Nation Council may approve appropriations from the Navajo Nation's Sihasin Fund.

**NOW, THEREFORE E IT RESOLVED THAT**

1. The Fort Defiance Chapter fully supports the Legislation regarding the creation of a new "Navajo Tribal Sawmill Enterprise/Navajo Forest Products Industry remediation Fund" in the amount of \$5,000,000 from the Navajo Nation Sihasin Funding for the assessment and remediation of the former Navajo Tribal Sawmill Enterprise/Navajo Forest Products Industry location; and approving its related expenditure plan.

**CERTIFICATION**

We hereby certify that the foregoing Resolution was duly considered by the Fort Defiance Chapter (Navajo Nation), at a duly called meeting at which a quorum was present and that same was approved by a vote of in favor 25 opposed, 0 and 2 abstained, this 11<sup>th</sup> day of April 2023.

Motioned by: Stanley Denetheel

Seconded by Roger Delozay

Aaron D. Sam  
Fort Defiance Chapter President, Aaron D. Sam



# THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY

SUPERFUND DIVISION P.O. BOX 2946  
WINDOW ROCK, AZ 86515 • PHONE: (928) 871-7993 • FAX: (928) 871-7783


EXHIBIT

A-4



## MEMORANDUM

To : Hon. Delegate Wilson Stewart, Jr  
200 Parkway Administration  
Window Rock, AZ 86515

From :   
Valinda Shirley, Executive Director  
Navajo Nation EPA

Date : June 29, 2022

Subject: Request for Funding and Approval of the Expenditure Plan for the \$5 Million  
NFPI Cleanup Funding

Navajo Nation Environmental Protection Agency urges the Navajo Nation Council to launch funding for the continued assessment and environmental remediation of the former Navajo Forest Products Industry (NFPI) site by placing \$5 million into the Navajo EPA Superfund Hazardous Waste Fund to be used exclusively for the ongoing remediation of NFPI; Also, NNEPA approves the attached Expenditure Plan. If you have and questions or need further information please contact me at 928-871-7692 or contact Pam Maples at 927-871-7187.

Thank you

Attachment 1: Proposed Expenditure Plan for the NFPI Assessment and  
Remediation Fund





Navajo Forest Products Industry

1960 - 1995

Fact sheet For Presentation to

The 24th Navajo Council

12/16/2022

NFPI Circa 1985

Cooling towers

Power Plant

Evaporation Ponds

By Pam Maples, Remedial Project Manager

Navajo EPA Superfund: Brownfields Program

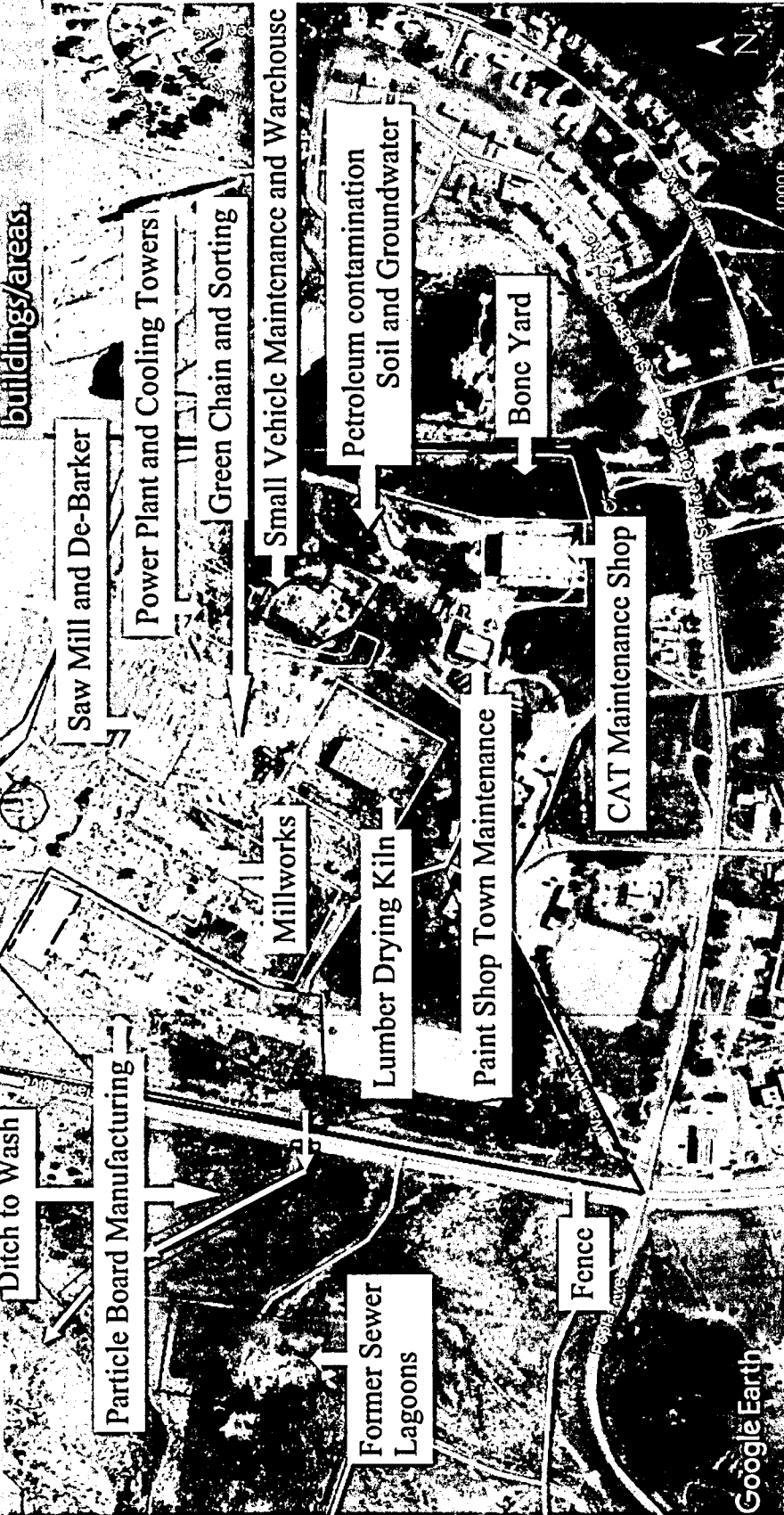
## Overview:

The Navajo Forest Products Industries (NFPI) sawmill and particle board manufacturing facility:

- The first wholly Navajo-owned tribal enterprise.
- It was originally built in 1939 and located in Sawmill, AZ.
- It was expanded and moved to Navajo, NM in 1960.
- It represented hope for a brighter future and an opportunity for the Navajo Nation to be economically self-sustaining.
- The NFPI site has been closed for 25 years with nothing done to mitigate the extensive contamination left by operations at the site.
- Plans are now being formulated to clean-up both sites where the Tribal Enterprise once stood. It needs assessment and cleanup to protect human health and the environment.
- As the work is completed at NFPI, the land can be reused in a way that provides jobs and supports the community of Navajo and Red Lake Chapter.
- It is a chance for rebirth of the dream the people had about this community as a place that they can again all be proud to call their home.

# Navajo Forest Products Industry in 2022

Polygons of Activity Areas within the fenced in mill site will have specific contaminates suspected due to manufacturing activity conducted within the buildings/areas.



Legend

- Hexavalent Chromium-GW
- Hexavalent Chromium-Soil

Chromium, Lead, Diesel, Mercury, Selenium Benzene, Naphthalene, and Toluene and various other solvents in soil at high levels at differing depths: surface to 25 fee depth.

Formaldehyde strongly suspected. Needs immediate investigation

Chloroform coming up as Soil Gas

Hexavalent chromium in soil

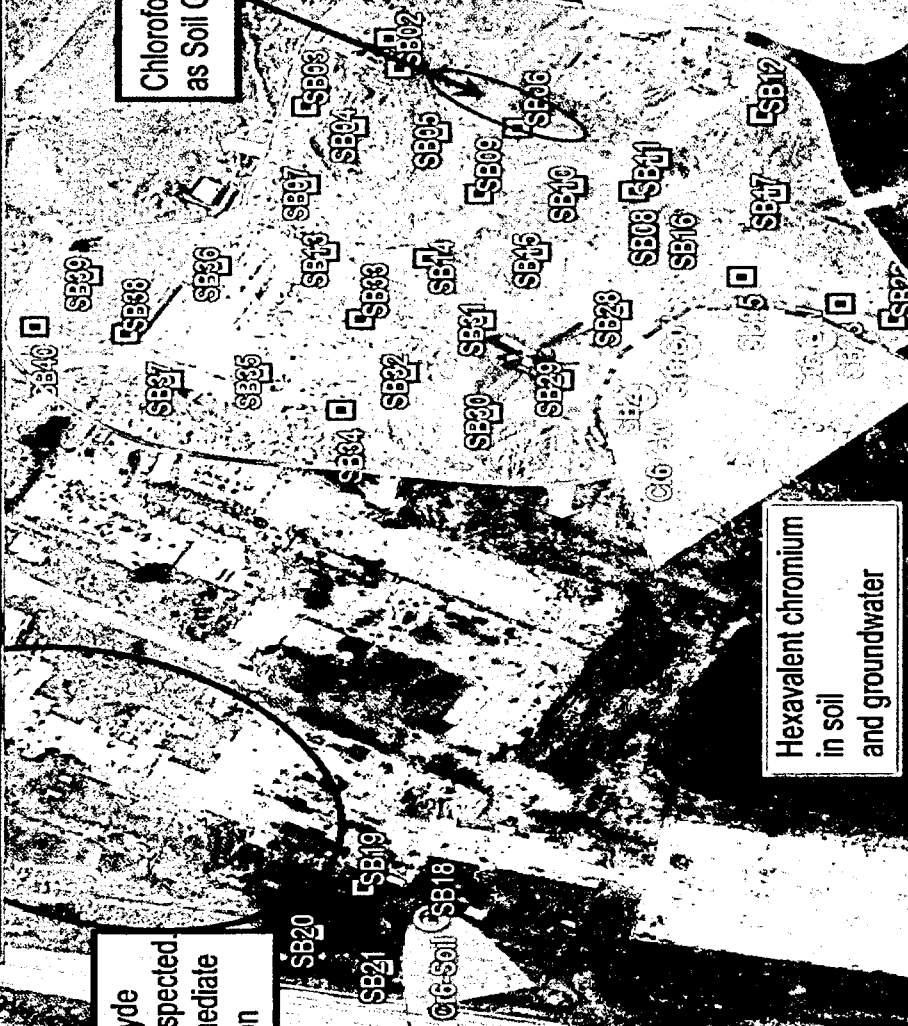
Diesel, Lead, and Chromium in soil and groundwater

Hexavalent chromium in soil and groundwater

Diesel and Gasoline in soil and groundwater

Groundwater Flow Direction

N



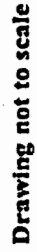
Notes, NFPI, Navajo, NM:

1. NFPI operated for 8 years before there was a National Environmental Protection Agency and 10 years before the establishment of the Navajo Nation Environmental Protection Commission.
2. However, due to their standard operating procedures NFPI has always been in violation of The Federal Water Pollution Control Act of 1948.
3. Since 1972, the facility has had multiple unpermitted Discharges and Violations of The Clean Water Act.
4. NTUA had sludge management issues in their sewer lagoons due to the waste water from NFPI containing chemicals to precipitate impurities out of boiler water being discharged through ditches into the lagoons. The lagoons were accumulating sludge rapidly.
  - Where did they put the dredged sludge when they removed it?
  - Sampling will be needed in that location also.
5. Environmental problems arise when water escapes from a boiler system into the environment from unlined cooling/evaporation ponds, in the form of droplets from the cooling towers, from leaking boiler piping, and/or the connecting pipes between power generation plants and cooling towers.
6. During discussions between NFPI and NTUA about the non-functionality of the wastewater lagoons, NFPI admitted that they discharged into the NTUA sewer lagoons but **NOT** in to Black Creek.
7. Later, USEPA field inspection staff observed discharge from the leaking underground pipe from the power plant/cooling towers being discharged **into** Black Creek.

Ponderosa Products Inc. (PPI) the particleboard Manufacturing sub lessee drained boiler cooling water into the roadside ditch of N-12. From there, it proceeded under the roadway via culvert into the wash below Red Lake.

**2022:** discovered hexavalent chromium and dioxins in the ditch outside the facility boundary fence to the east.

**NFPI surface ditches and building sumps drained to the former NTUA Sewer Lagoons**



5



- Soil and Groundwater Sampling Location
- Soil Sampling Location
- Seep Sampling Location
- ⊙ no samples were collected
- ⊕ Approximate Location of Former Evaporation Trench
- Approximate Location of Former Structures
- Approximate Site Boundary

The sample results were screened against the NIEPA Leaking Storage Tank Water Cleanup Standards and USEPA Maximum Contaminant Levels



- Lead
- Chromium
- Cadmium
- Barium
- Arsenic
- Miscellaneous Organic
- Diesel Range Organics

1. Details, including boring depths and analytical concentrations, are located in Section 4 of this report.
2. Data presentation design by Pam Maple, NNEPA

USEPA UCL	USEPA UCL	
	CLL	UCL
Lead	150	150
Chromium	100	100
Cadmium	100	100
Barium	100	100
Arsenic	100	100
Miscellaneous Organic	100	100
Diesel Range Organics	100	100

Notes:  
1. Contaminant System: NIEPA UCL Zone 1M  
2. Background: Source: Soil, Water, Air, and the U.S. Environment  
Project Location:  
Former Navajo Forest Products Industry Site  
Navajo, New Mexico 87225

Contract:  
Navajo Nation EPA  
EPA Site Specific Brownfield Assessment Grant  
Phase II Environmental Site Assessment

Figure No.

6

Metals Exceedances and Petroleum Hydrocarbons in Groundwater

2022 delineation of contamination preliminary results:  
Metals & Petroleum in GROUNDWATER exceeding action levels.

Hexavalent Chromium in groundwater present but below the action levels

Hexavalent Chromium  
In Soil from 2-14 feet depth

Groundwater Seep Location at a Residence across N-12 in the wash approximately 1,400 feet southwest of the mill compound. Chromium here as well but just below the action level.



Hexavalent Chromium Plume Extent?

Hexavalent Chromium in groundwater ABOVE the action levels

Petroleum in Groundwater

- 1. Fire Station
- 2. Electric Shop
- 3. Electric Sub Station
- 4. Warehouse & Diesel Vehicle Maintenance
- 5. CAT Maintenance Shop
- 6. 1970's Shop and Vehicle Maintenance
- 7. 1970's Shop and Vehicle Maintenance
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### **Summer, 2022 Corrective Actions:**

Hexavalent chromium-based compounds are among the most efficient and cheapest boiler water corrosion inhibitors available. They were widely used from the 1940s through the 1990s.

- 2021 - Using the limited grant resources available to the program, Brownfields staff confirmed that hexavalent chromium has been released in the locations of the cooling towers, the power plant, and the pipes in between.
  - It was confirmed in the soil and groundwater.
  - Also that there is chloroform oozing up out of the ground as soil gas in that same area.
  - There are dioxins and furans in the soil of that area as well.
- 2022 - Site Specific Brownfields Assessment Grant funded field work indicates that the hexavalent chromium in groundwater is migrating down gradient.
  - Chromium is present in every groundwater sample and all but 1 soil sample ranging from 2 to 15 feet below the surface.
  - Hexavalent chromium (Cr-6) reverts to the more stable but still toxic chromium (Cr-3) over time.
  - Hexavalent chromium began to show up in the final two groundwater samples as funding ran out.
  - The groundwater seep or spring at a Residence across N-12 In the wash approximately 1,400 feet southwest of the site has cadmium, diesel organics, motor oil organics, and barium above the action levels. There is chromium here as well but below the action level
- The petroleum plume delineated in 2018 has continued to migrate down gradient and has spread.
- 2022 – Environmental Justice Grant funded field work discovered hexavalent chromium and dioxins IN the sediments of Black Creek and in the drainage ditch to the east of the site.



Black Creek is eroding the facility dump

Children playing in the creek, sheep grazing on vegetation in the flood plain, Creek water used for irrigation.

Water Contamination, Soil & Sediment Contamination:

Hexavalent Chromium confirmed at levels exceeding the screening level for protection of groundwater.

We have not yet sampled for other contaminants.



- Children play in the creek, livestock drink the water and eat the vegetation that grows along the banks of the stream. The creek water is used for irrigation for kitchen vegetables and crops. And to fill Red Lake.

- This major source of hexavalent chromium continues to erode and fall into the creek with every rain/snow melt event.

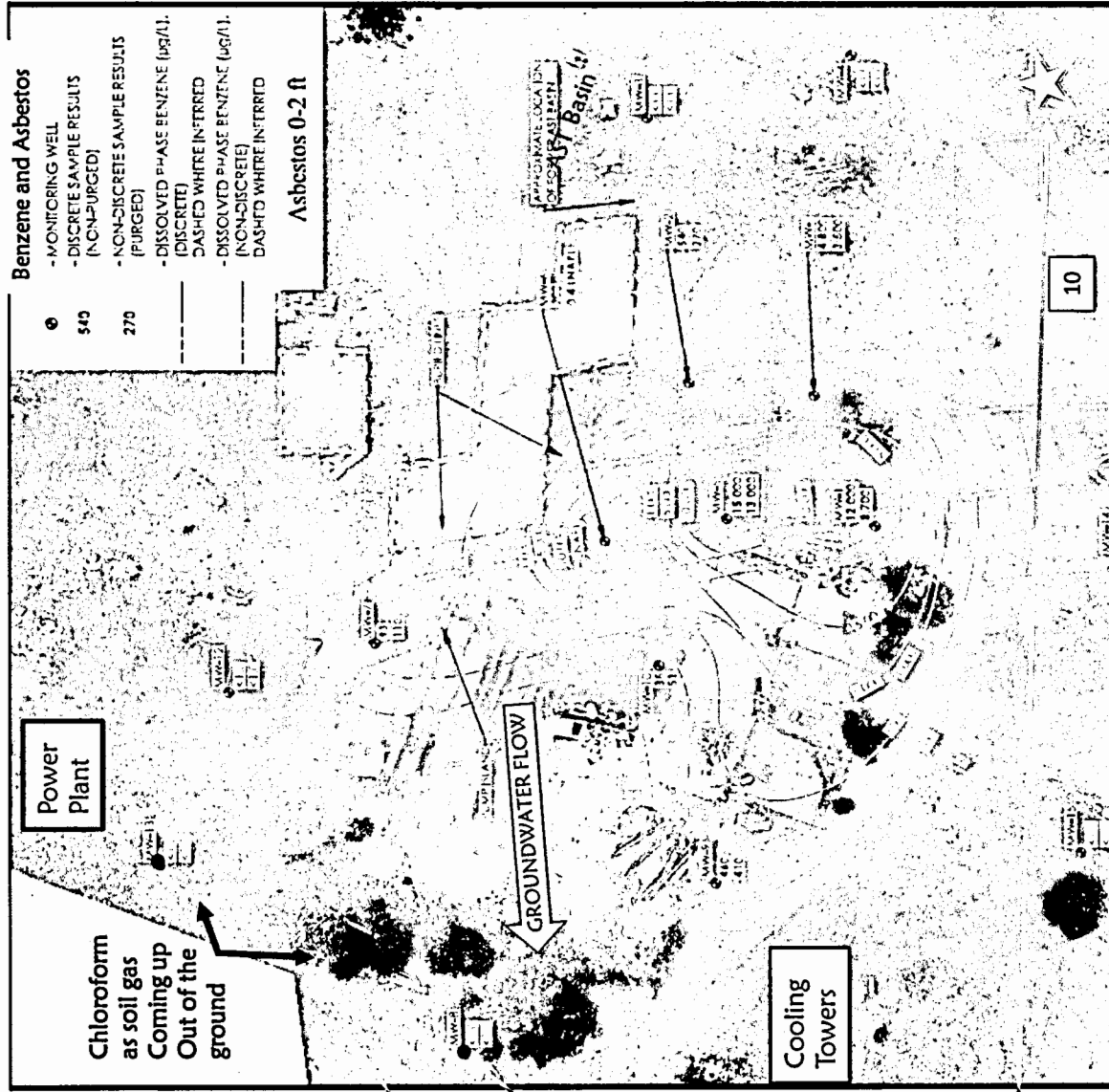
- Emergency intervention to prevent any more of that pile of waste from falling into the creek has no funding and will be among one of the first actions taken using this trust fund.

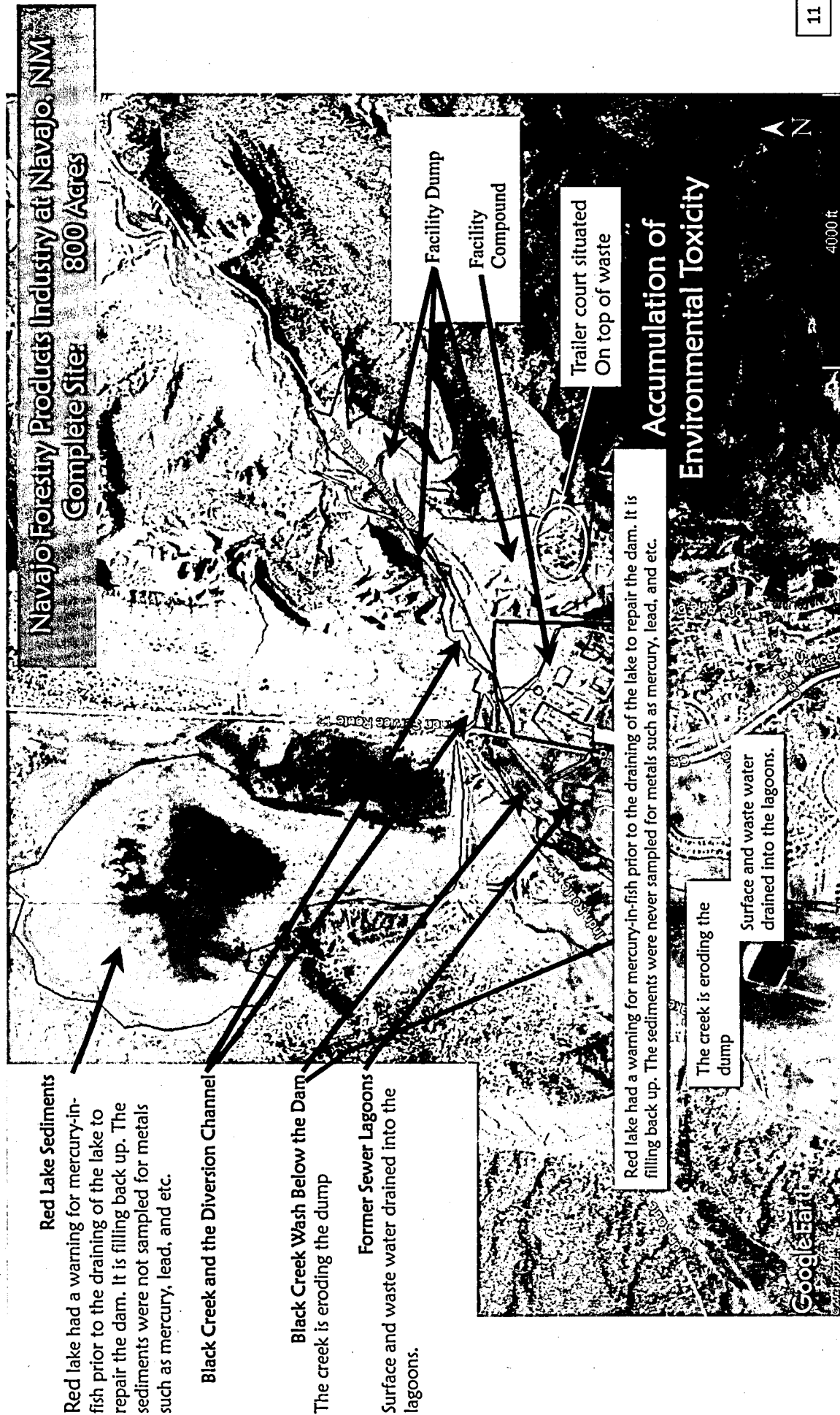
- A phased approach to characterize the soil in the creek and the flood plain will be needed to assess the extent of the hexavalent chromium and other contaminants in the soil and water of the entire drainage west and south of the site.

- A further discussion of this dump will be presented in greater detail later in the presentation.



- ### An Area of Comingling of Contaminates
- Groundwater Contamination, Soil Contamination; Petroleum, Asbestos, Hexavalent Chromium**
- Petroleum groundwater contamination approximately 2 acres (as of 2018). The shallow aquifer is at an average of 20 feet below ground surface.
  - Two feet of Diesel fuel floating on top of the groundwater had been reduced to an inch or less by 2018. Fuel is likely re-accumulating since the initial reduction because the source soil is heavily contaminated. There has been no remediation activity at the site due to the pandemic, and lack of non-federal funding to hire a remediation contractor.
  - There are approximately 22,000 cubic yards of heavily contaminated source soil "bleeding" diesel and gasoline into the groundwater.
  - Asbestos is comingled in the petroleum contaminated soil to a depth of at least 2 feet in a portion of that soil making any cleanup plan very complicated.
  - Hexavalent Chromium has been found in the groundwater, the surface soil, and soil at depth very near the petroleum contaminated soil. It is probably co-mingled. It has recently been discovered in Black Creek to the north of the site and in the ditch that bounds the site on the east. Further investigation/delineation is needed.
  - The soil gas report from the 2021 TBA shows **Chloroform** off-gassing from shallow soil in the area of the powerplant and cooling towers.
  - **Chemicals** in the drum storage yard on the east side of the site were the subject of an inspection in 1991 where the rubber soles of the inspector's boots were melting off.
    - This area was apparently covered with soil.
    - It is not clear if the area was remediated or just covered.





### Red Lake Sediments

Red lake had a warning for mercury-in-fish prior to the draining of the lake to repair the dam. It is filling back up. The sediments were not sampled for metals such as mercury, lead, and etc.

### Black Creek and the Diversion Channel

Black Creek Wash Below the Dam  
The creek is eroding the dump

Former Sewer Lagoons  
Surface and waste water drained into the lagoons.

Facility Dump  
Facility Compound

Trailer court situated  
On top of waste

Red lake had a warning for mercury-in-fish prior to the draining of the lake to repair the dam. It is filling back up. The sediments were never sampled for metals such as mercury, lead, and etc.

The creek is eroding the  
dump

Surface and waste water  
drained into the lagoons.

## Accumulation of Environmental Toxicity

**Notes:**

**ALL STREAM AND WASH SEDIMENTS ARE SUSPECT**

All sediments must be evaluated for the presence of RCRA Metals, Hexavalent Chromium, Formaldehyde, Asbestos, and other hazardous, toxic, and carcinogenic substances.

- Black Creek above and below the diversion dam extending a mile and a half east along the facility dump,
- The fenced-in facility compound,
- The former sewer lagoons located in the wash below Red Lake,
- The wash below Red Lake for a distance yet to be determined, and
- The lake bed of Red Lake

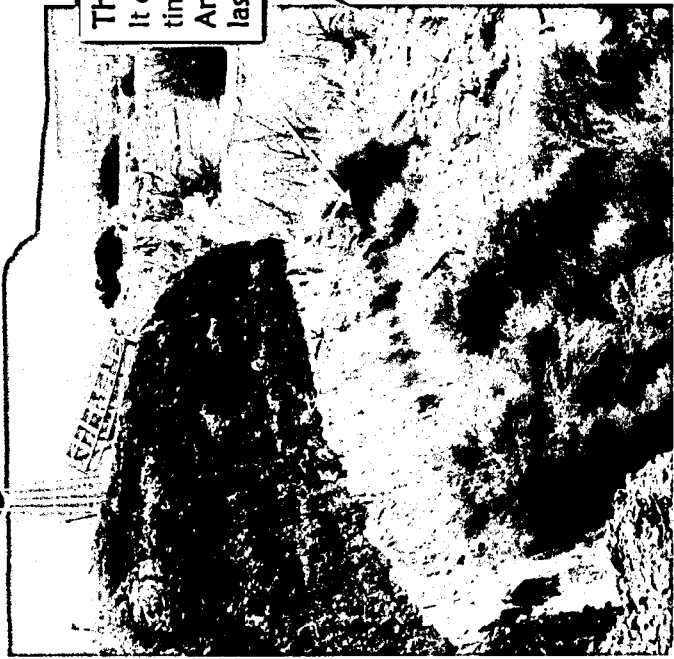
**BECAUSE OF:**

1. The fact that Black Creek and its tributary have been and ARE CURRENTLY ERODING THE FACILITY DUMP;
2. the quantity and diversity of the automotive and equipment batteries and chemicals (including mercury and formaldehyde) used in the various processes of a sawmill and particle board manufacturing operation were placed in the dump.
3. the myriad of drainage ditches and underground pipes across the site and their potential for leakage,
4. the underground pipe drainages beneath the roadway and those that bypassed the lagoons and drained straight into the wash below Red Lake Dam,
5. the facility discharging all waste water and boiler blowdown water directly into:
  - Black Creek, and the wash above and below the dam
  - The roadside ditch along IR-12, and
  - The NTUA sewer lagoons
- the levels of **Mercury in the fish** In 2004 Navajo Surface and Groundwater and US Fish and Wildlife conducted a water quality test of Red Lake
  - A Fish Advisory to not consume fish from Red Lake.
  - The lake was drained because of dam structural issues. The sediments were not sampled and the lake is being filled back up and stocked with fish.
- All waste from the facility was disposed of in the dump.
- Lake water is used for irrigation for crops and kitchen vegetables.
- The lake is used for recreation.
- Children play in the creek and lake water.
- Livestock drink the water of the Red Lake and of Black Creek and consume the vegetation growing in the creek bed.

Black Creek is actively eroding the 167+ acre open dump. It's water is used to fill Red Lake

Additional Assessment, on hold due to no \$\$

- Assessment of the stream water and sediments,
- Sediments behind the diversion dam,
- Sediments in the diversion ditch, and
- Sediments in the lake are needed now more than ever since hexavalent chromium had been confirmed in the creek.
- Sampling the lake sediments will require special equipment
- Sampling the former location of the NTUA Lagoons may require permission from NTUA.



### The Facility Open Dump

- Sampling the open dump will take specialized sampling and safety equipment to not injure workers because of questionable subsurface strength due to smoldering fires throughout the years
  - Open dumps make their own chemical contaminants. As water percolates through the dump aerobic and anaerobic conditions are encountered.
  - Contaminates such as cyanide can be created and leach out of open dumps; a comprehensive list of possible contaminants will need to be developed.
- The debris in the dump will have to be assessed for content, density, contaminants, and to calculate the cubic yardage of the debris.
- There will be LOTS of automobile batteries in the dump.
- There will potentially be contamination found in the soil and groundwater beneath the dump, as well as in the stream sediments, and in the sediments of Red Lake.

### This pile (both pictures) is IN the flood plain of Black Creek

It contains dioxins and it contains hexavalent chromium at a level 15 times higher than that allowable for the protection of groundwater.

Another 1,500 + cubic yards of this waste fell into the creek during the last monsoon season and winter.

### Corrective Measures

1. Need to fund an emergency contract to pull the waste back from the rim of the wash ASAP.
2. That requires full closure of N-31 which is only (closed "on paper")
3. The resident on N-31 needs safe access to the paved road to the east so they don't have to use N-31 any longer.



## NFPI Mile Long Facility Open Dump: a Public Health Threat

- The facility open dump extends more than a mile up Black Creek
- The high wall at the most recently active end of the dump, is about 50 feet tall X 150 YARDS wide
- There is a newly discovered abandoned 10-inch water well in the wash adjacent to the site. It needs investigation and sampling. This improperly abandoned well could be a conduit for contamination to the deeper groundwater.

The dump extends through Black Creek Canyon along Old Rte. 31 (a dirt road north of the facility) past a tributary that feeds into the creek one mile east of the facility. There is waste material on both sides of the road and on both sides of the tributary which has cut an erosional channel through the dump.



- There is potentially too much waste in the open dump to transport to another facility. Several million cubic yards of debris will likely not be accepted by any "nearby" existing landfill.
- Nearby is a relative term; there are no nearby permitted landfills.
- The cost of hauling is exorbitant
- We must develop a waste separation, characterization, and then reduction plan.

Run off and rain water percolating down through an open dump leach out chemical elements that recombine to form more toxic contaminants than were placed into the dump.

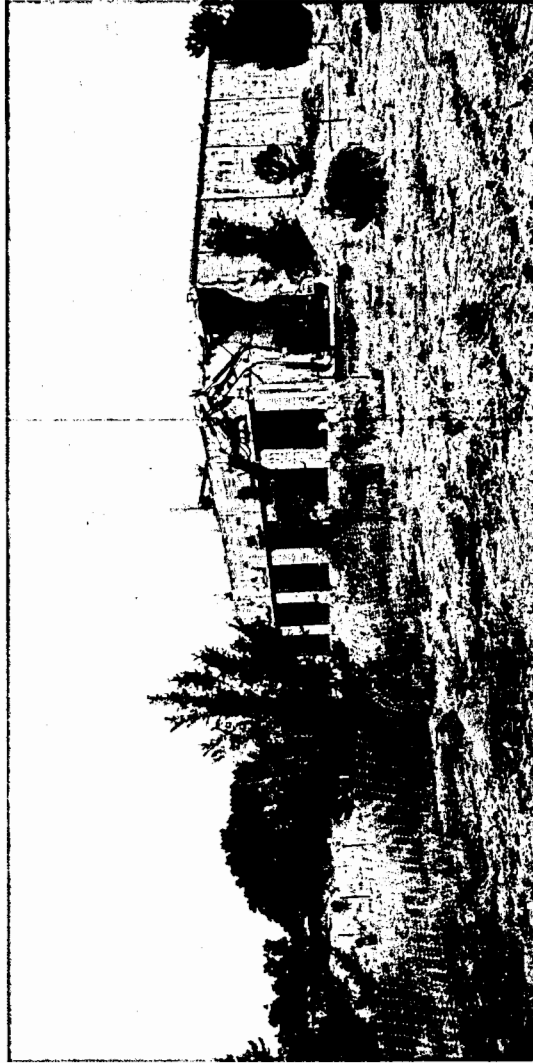
This erosion of the open dump is a **PUBLIC HEALTH THREAT.**



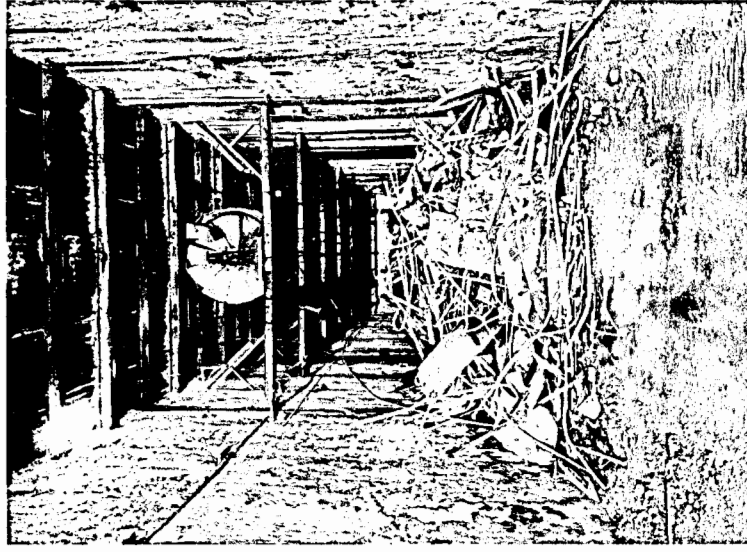
## ASBESTOS HAZARD; MOSTLY MITIGATED

Surface Asbestos was addressed through a one-time Emergency Time Critical Removal Action through USEPA Superfund Region 9 (summer 2021)

- There were large diameter Transite pipe fragments at the powerplant location and the cooling towers location. They were removed but there are piping and pipe fragments beneath the surface remaining in each area.
- The remaining underground piping for fire suppression and other transport of fluids throughout the 104 acre facility is either known as or suspected to be suspected to be Transite, an Asbestos Containing Material (ACM).
- ACM roofing material (some as much as 60% asbestos fibers) was present on the ground over much of the site and was concentrated at the lumber sales slab of PPI. An unknown quantity remains sub-surface in the area.
- Vermiculite insulation at the near surface and sub-surface remains in several areas of the site.
- Asbestos in soil remains comingled with the petroleum contaminated soil due to improper tear down of the power plant.



- ☒ The drums and totes of hazardous waste were removed during the TCRA summer 2021.
- ☐ The amount of remaining waste metal of all types littering the site is enormous.
- ☐ There are piles of heavy equipment tires.
- ☐ There are piles of the remains of all of the concrete foundations and slabs, some of which are contaminated by oil and grease deposits.
- ☐ There are pits, sumps, and manways that are traps for children and animals.





## Physical hazards; the Particle Board Slab

The Particle board press sump is roughly 80' X 25' and is 15 feet deep at the edges with vertical sides. No ladders or other means of egress are to be seen in the sides. The sump is deeper in the center. This sump always has water in it, either completely full or down 3 feet or more as evaporation occurs.

- There is a greasy slimy sheen on top of the water.
- There is dark oil staining of the concrete and soil along the southern and western edges of the sump.
- It is reported that the people who purchased the machinery dumped all of the oils and fluids out on the bank behind the building before hauling. This area is stained a dark black and is at the top of the embankment for Navajo Rte. 12.
- RECENT RECORDS DISCOVERED BENEATH A BURNED PILE ON SITE INDICATE THE POTENTIAL FOR A VAST AMOUNT OF VERY NASTY CONTAMINATION SURROUNDING THIS AREA EXTENDING INTO THE FLOOD PLAIN ACROSS THE HIGHWAY
  - The ditch beside Indian route-12 was described as always containing brown-black, foul smelling water. See slide #1.
  - There was a hot process to add gules, resins, urea formaldehyde, etc. to the waste shavings before they were pressed.
  - There were boilers and at least one cooling tower in this area.
  - There was a large trash pit in the area.
  - Leaking hydraulic oil was a constant problem in this plant. So much so that they began to pour the oil onto piles of sawdust as absorbent then disposed of it all in the facility dump.
  - Facility well #29 (unknown depth) is still in this area, unsampled and unplugged, and is a possible conduit for contamination to the deeper aquifers.



This sump (left) was for the particle board press. The floating foam was the "solution" of the contractor who removed the metal buildings to render the sumps non-hazardous after the buildings were removed. The foam did not last in solid form and can be seen blowing around the site floating on water and caught in weeds.

The sanding & melamine press smaller sump, (right), of unknown depth in the same slab. It is nearly full of smelly black soil and stunted plants. When it has water visible in it there is an oily rainbow sheen on top of the black water.



# Navajo EPA Brownfields Program Sampling Strategy for NFPI: A Plan Under Development. For the Mill Site Within the Fence:

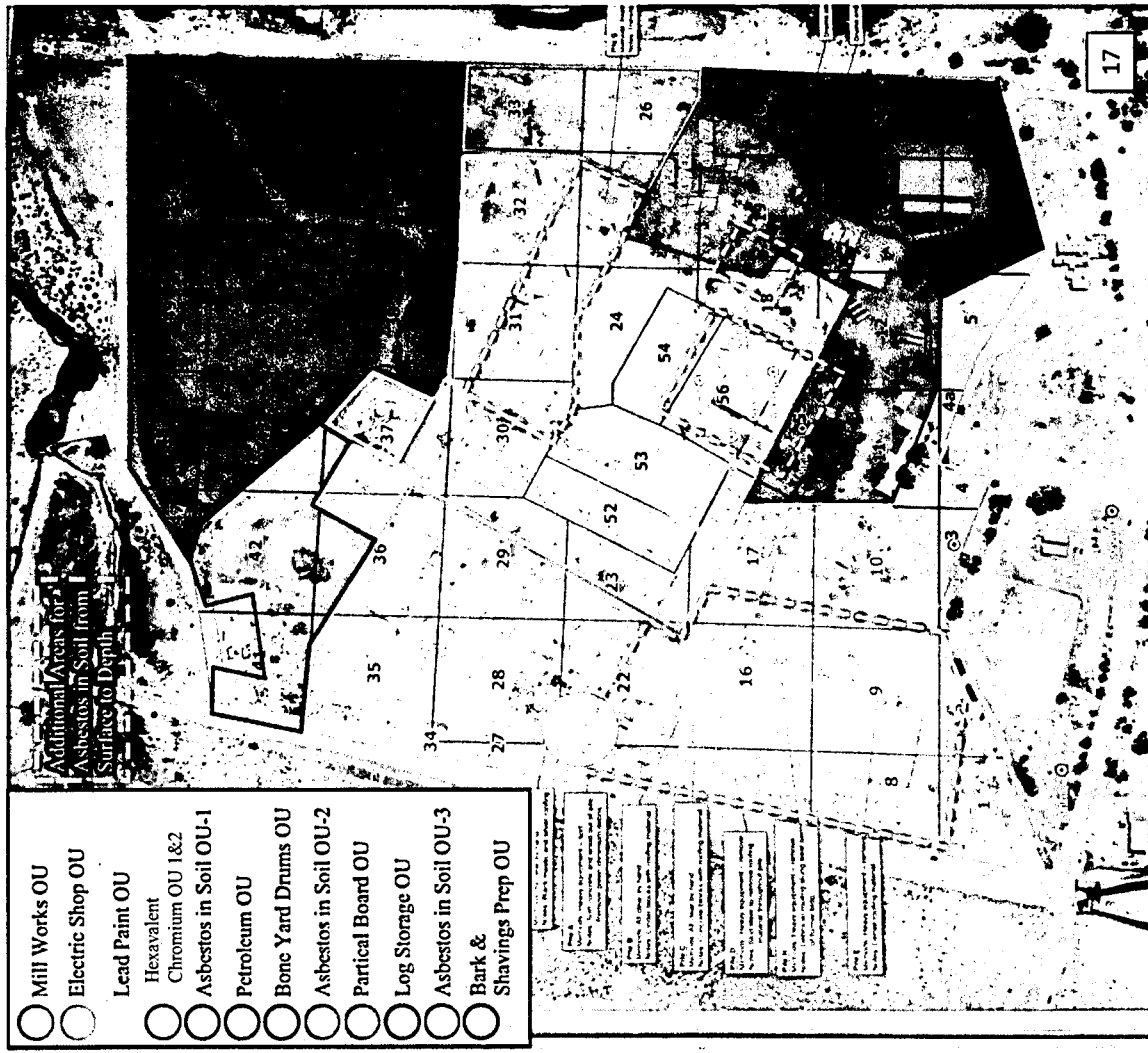
- Separate the site in operational units such as these to maximize the possibility of winning more than one cleanup grant.
- Render all immediate hazards safe or safer
  - The hydraulic press sump, the facility supply well #29, and the unknown well in the wash are priorities
- Stream bank stabilization to stop the eroding landfill
- Delineate the hexavalent chromium and formaldehyde
- Permanently close Old Rte. 31 and stop traffic passage through the dump because of fugitive dust creation and breathing exposure to drivers and near by residences.
- Detailed site assessment to create a 3D site conceptual model for each operational unit & eventually, the entire site

## Meticulous Sampling is Needed Because NFPI has no Conceptual Site Model (CSM).

### Within the fenced in compound:

With the exception of the diesel and gasoline contamination, we don't know where anything is. Without a CSM a cost estimate and timeline can't be determined accurately. That is why thorough assessment is needed. Detailed assessment takes time and costs money.

- Sampling of the soil from the surface to the groundwater table (~20 ft) will yield a thorough 3-D map of contamination provided the right Contaminates Of Concern are sampled for in the correct areas.
- There's a chance it can be less contaminated than it appears to be.
- There's an equal chance it can be more contaminated than it appears to be.
- The site has sat for 25 years with sporadic cleanup efforts with years and decades in between allowing contamination to spread.



NFPI Current List of Suspected Contaminates by Operational Unit. The waste from all of these areas went into the dump.

Power Plant	Area	Media	Potential Contaminants of Concern
		Soil, air, ground water	Asbestos Containing Material (ACM), lime, sodium, mercury, sulfuric acid, hexavalent chromium, solvents, water treatment chemicals
Saw Mill		Soil, Surface, and ground water	ACM, lubricants, PCBs, mercury, pitch solvent
Green Chain: Sorting, Stacking, Pre-Kiln Storage		Soil, air	ACM
Drying Kiln, Cooling Shed & Surrounding area		Soil, air	ACM
Planer between buildings		Soil, air, groundwater	Possible polychlorinated biphenyl (PCB), mercury, lubricants, solvents
Resaw, Millwork, Cut Plant		Soil	Possible polychlorinated biphenyl, mercury, lubricants, solvents
Bark Processing Plant		Soil	Lubricants, Solvents, hexavalent chromium
AST Basin		Soil, groundwater	Gasoline, diesel, former ASTs marked "chemicals"
Cooling Tower		Soil, ground water	Acids, lime, sodium, mercury, sulfuric acid, hexavalent chromium
Gasoline Engine Repair Shop		Soil, Groundwater	Stoddard solvent, 1,1,1-Trichloroethane, dichlorobenzene (DCB), lubricants, solvents, anti-freeze, acids, muriatic acid
PPi's Mechanical and Electrical Shop		Soil, Groundwater	Possible polychlorinated biphenyl, mercury, lubricants, solvents, acids, muriatic acid, resins, degreasers, machine oil, asbestos
Electric Shop		Soil	Possible polychlorinated biphenyl, mercury
Water Tower		Soil, Air	Lead
Electric Sub Station		Soil	Possibly PCB's
Warehouse/Small vehicle maintenance (had been the heavy equipment shop until the CAT shop was built)		Soil, groundwater	Stoddard solvent, 1,1,1-Trichloroethane, DCB, lubricants, solvents, anti-freeze, muriatic acid, degreasers, brake and transmission fluid, motor oil, asbestos comingled in soil with diesel and gasoline.
CAT/Heavy Equipment		Soil, groundwater	Stoddard solvent, 1,1,1-Trichloroethane, dichlorobenzene (DCB), used motor oil, lubricants, solvents, anti-freeze, acids, muriatic acid, brake fluid, hydraulic fluid
Paint Shop and General Maintenance		Soil, Groundwater	Lead, paint thinners, solvents, lubricants
Waste Shavings Receiving			Physical crushing hazard from falling concrete walls.
Particle Board Manufacturing Shavings Prep,		Soil, Groundwater	Cesium-137, Americium-241, Stoddard solvent, 1,1,1-Trichloroethane, dichlorobenzene (DCB), acetone,
Formaldehyde Application Area, Compression-Gluing- Trimming, Vinyl Laminated Particle Board Lime		Soil, Groundwater	waste oil, formaldehyde, acetone, adhesives, soluble oil in water mix, hydraulic fluid, machine oil, current physical drowning hazard,
Particle Board Storage: 40		Soil, air, ground water	Possible PCB's mercury, formaldehyde

## NFPI Current List of Suspected Contaminates, Continued

Former sewer lagoons And sediments in the overflow routes from the lagoons	Soil, Groundwater	Multiple discharge permit violations; Boiler blow down water, asbestos, RCRA metals, lime, sodium, mercury, sulfuric acid, hexavalent chromium, polychlorinated biphenyl, resins, degreasers, paint thinners, paints, antifreeze, brake and transmission fluid, motor oil, formaldehyde, Stoddard solvent, 1,1,1- Trichloroethane, dichlorobenzene (DCB), lubricants, other solvents, anti-freeze, acids, muriatic acid...
	Groundwater	Asbestos, RCRA metals Other facility used chemicals
6-Facility Supply Wells: #26, #28, and #29,		
Drainage via Culvert Beneath Route 12 and ditch Into the Wash and the Wash itself	Soil, Groundwater	Multiple discharge permit violations; Boiler blow down water, asbestos, RCRA metals, lime, sodium, mercury, sulfuric acid, hexavalent chromium, polychlorinated biphenyl, resins, degreasers, paint thinners, paints, antifreeze, brake and transmission fluid, motor oil, formaldehyde, Stoddard solvent, 1,1,1- Trichloroethane, dichlorobenzene (DCB), lubricants, other solvents, anti-freeze, acids, muriatic acid.
	Soil Groundwater	Suspect Boiler Blowdown Water and Hot Lime Process water at least. <u>Confirmed</u> hexavalent chromium and dioxins (summer 2022).
Dam on Black Creek	Soil, Surface and Groundwater	All of the waste from the NFPI went into the dump. Automotive repair waste, batteries, parts. ACM, formaldehyde, PCB, All PCOC's mentioned in this table. Residue from firefighting foam.
Sawdust Disposal Areas	Soil, Surface and Groundwater	Reported unknown areas of disposal of unknown substances throughout this sawdust disposal area. Residue from firefighting foam.
Sediments Above the Dam in Black Creek and the Diversion Channel		
	Soil, Groundwater	ACM, Anything leachable from the processed waste shavings and the dump; formaldehyde, metals, acids, lime, sodium, mercury, sulfuric acid, hexavalent chromium, Residue from firefighting foam.
Red Lake	Surface water, Soil, Edible Fish	Mercury, Other contaminants listed above as being derived from the dump and plant activities that have found their way into the lake by the diversion channel or any other means.

## SUMMARY:

### Environmental concerns include:

- The groundwater beneath the mill site is contaminated with hexavalent chromium, diesel, gasoline, arsenic, cadmium, chromium, lead, chrysene, naphthalene, and other compounds resulting from the incomplete combustion of organic matter –like sawdust.
  - Approx. 2 feet of diesel fuel is floating on areas of the groundwater at the site. Diesel contaminated groundwater area is about 2.5 acres.
  - Asbestos is comingled with the petroleum source soil in several locations at the site to a depth of two feet below ground surface.
  - We have not looked for anything else in the shallow groundwater due to lack of funding. We suspect heavy formaldehyde contamination.
- Soil at the site is contaminated by mercury, hexavalent chromium, dioxins, heavy metals, pesticides, asbestos, solvents, oil, grease, etc.
- Investigations have still to be conducted for other contaminants such as formaldehyde, resins, solvents, waxes, and etc.
- Trace amounts of formaldehyde were found in the seep, 1,400 feet southwest of the site.
- Chloroform gas is coming up out of the soil in the area of the powerhouse, (the only place we have sampled so far).
- There was discharge of cooling tower blowdown and boiler water into Black Creek east, north, and west of the site, and into the former sewer lagoons.
- These discharges contained lime, sodium aluminate, soda ash, sulfuric acid, descalants such as hexavalent chromium and algicides.
- There is also concern about mercury contamination in the sediments, water, and edible fish of Red Lake.
- The contents of drums and chemical totes that were present at the site have been found to contain or formerly contained ferrous chloride solution, hydraulic fluid, waste oil, diesel, gasoline, antifreeze, mercury, transformer oil-old enough to contain PCBs, saw glide lubricant, etc.
- The 176 acre open facility dump extends up Black Creek 1 mile and is known to contain sawdust soaked with formaldehyde, hexavalent chromium, and hydraulic fluid. All chemical wastes from operation and maintenance of the sawmill and particle board manufacturing, including equipment and automobile batteries, were disposed of in this dump.
  - The open dump does not have any liner and, due to different conditions at depth in open dumps, chemicals and contaminants that were never placed into the dump can be created and leach out into the ground beneath the dump and into the creek.
  - Old N-31 runs over the dump and the dust from traffic has the very real potential to contain asbestos, hexavalent chromium, formaldehyde, and etc.
  - Asbestos fibers remain air born long after the visible dust has settled.
- Hexavalent chromium at levels substantially above the regional standard for protection of groundwater and dioxins have been leaching from the rapidly eroding facility dump since its placement and have recently been confirmed IN Black Creek north and east of the mill site, and behind the diversion dam used to fill Red Lake.
- The site had been a serious asbestos hazard up until last summer. Subsurface asbestos remains.
- The presence of various toxic heavy metals on the Site and in the creek could have resulted in impaired neurological development of children who live and attend school near the site. NNEPA is currently researching the uptake of metals and hexavalent chromium in edible plants and livestock

## Current List of possible Federal Funding

### Competitive Grants Currently Applied For Will Be Available for Fiscal Year-24 If awarded

#### 1. Historic Bipartisan Infrastructure Law (BIL)

1. \$2 million Community Wide Assessment Grant –Must be spent on no fewer than 10 sites across the Navajo Nation
  2. \$2 million Community Wide Cleanup Grant –Must be spent on no fewer than 10 sites across the Navajo Nation
- FY-23-27 Additional Grant**
- BIL Additional 128(a) Brownfields Program Grant with \$800,000 in site specific assessment and/or cleanup money budgeted **\*\* with strings attached.**

#### Competitive Grant Currently Being Considered

- The Agency for Toxic Substances and Disease Registry (ATSDR) APPLETREE program/funding opportunity for Public Health Assessments. ATSDR has said “no” already once.

### **\*\*A word about cleanup and federal dollars**

#### **Why Tribal Funding is Necessary**

- No assessment or cleanup of leakage from Aboveground Storage Tanks is allowed under federal EPA grants. The petroleum contamination at the site came from aboveground tanks.
- The “NO DIRECT EXPOSURE PATHWAY” justification used by USEPA to delay or avoid cleanup with federal funds all together.
- Assessment grants can not be used for cleanup.
- Cleanup Grants are not that large and can only be awarded once per site.
- Brownfields Cleanup Grants can not be used to cleanup groundwater because Groundwater is defined by Region 9 as “not real property”.

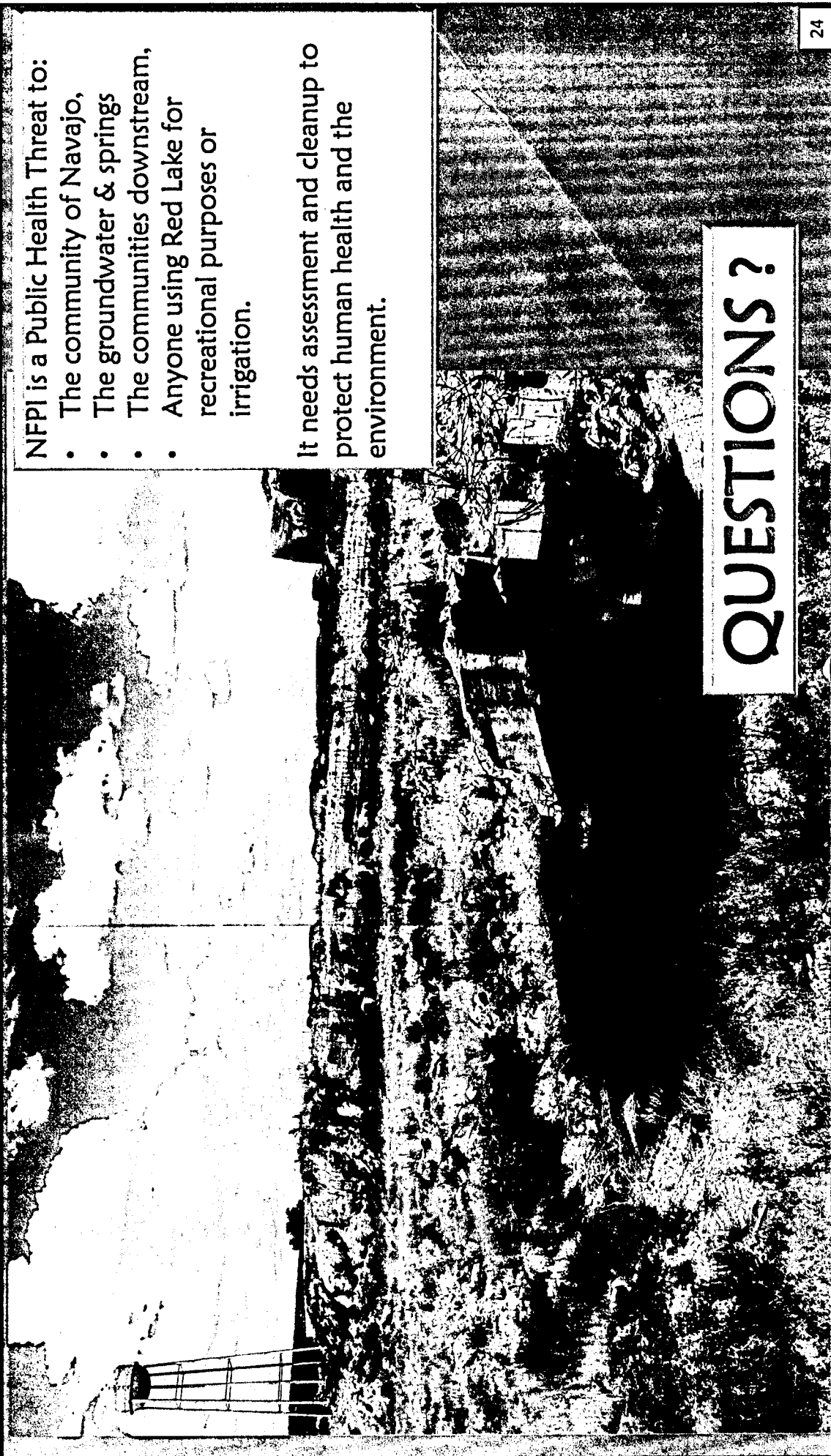
NFPI Assessment (and Limited Cleanup) Approximate Costs		
Cleanup methods and cost can not be accurately determined until the nature and extent of the contamination is known		
100% of the funds in this trust will be used for assessment and remediation of the site locations.		
Sampling and analysis only		
The 104 fenced Mill Site From The Surface To About 20 Feet Below Ground Surface	\$	7,000,000.00
Black Creek: Ongoing Public Health Emergency	\$	3,000,000.00
Red Lake; Sediments and Lake Water	\$	3,000,000.00
The Wash Below Red Lake Dam	\$	3,000,000.00
The former NTUA Sewer Lagoons	\$	500,000.00
Investigation of the housing area build on top of the dump area including the former rodeo grounds	\$	1,000,000.00
Sampling, Analysis, and Cleanup of 2 areas		
For the 176 Acre Facility Open dump, From The Surface Through an Unknown Thickness of Debris To Five Feet Below the Actual Native Ground Surface	\$	500,000,000.00
The Benzene and Naphthalene in the Soil of the DEAP Charter School	\$	1,000,000.00
Estimated Total:	\$	518,500,000.00

## Cleanup Cost Comparison

### Libby Montana Asbestos Site      \$850 million So Far

- For 30 years vermiculite was mined near the town.
  - In 1999, USEPA responded to citizen, local government and media concerns regarding possible exposure to asbestos from the nearby vermiculite mine. They estimated a two-year cleanup.
  - USEPA's Removal program began conducting investigations and removal actions to address asbestos contamination beginning in 2000 and the site kept getting larger and more complex as the investigation proceeded.
  - By 2016 the cost for cleanup had exceeded \$450 million.
  - More than \$600 million of federal money was spent during the decontamination efforts during the ensuing 18 years.
  - \$250 million more was spent by the responsible party.
  - Plus, the responsible party has billions of dollars in health related claims to settle.
- 
- Twenty one years later, in 2020, the USEPA transferred oversight and responsibility for much of the project to the Montana Department of Environmental Quality, but;
  - USEPA retains cleanup authority of the mine site and is still working there.





NFPI is a Public Health Threat to:

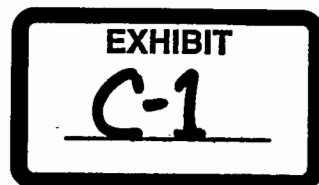
- The community of Navajo,
- The groundwater & springs
- The communities downstream,
- Anyone using Red Lake for recreational purposes or irrigation.

It needs assessment and cleanup to protect human health and the environment.

QUESTIONS?



Weston Solutions, Inc.  
2300 Clayton Road, Suite 900  
Concord, CA 94520  
www.westonsolutions.com



September 2, 2022

Mr. Jeremy Johnstone  
Federal On-Scene Coordinator  
U. S. Environmental Protection Agency  
Region 9, Emergency Response Section  
75 Hawthorne Street  
San Francisco, CA 94105

**Subject: Sawmill, AZ Asbestos Removal Assessment  
Sawmill Chapter, Navajo Nation, Arizona  
Task Order (TO) No.: 68HE0919F0081-20  
Document Control No.: 0145-08-AAXL**

Dear Mr. Johnstone:

Under TO No. 68HE0919F0081-20, the U.S. Environmental Protection Agency (EPA) Region 9 tasked the Weston Solutions, Inc. (WESTON®) Superfund Technical Assessment and Response Team (START) to assist the EPA Federal On-Scene Coordinator (FOSC) at the Sawmill, AZ Asbestos Removal Assessment in Sawmill, Apache County, Arizona, in the Sawmill Chapter of the Navajo Nation (**Figure 1**). The objective of this Removal Assessment was to further evaluate the presence of asbestos associated with the former Drying Kiln Building as well as perform an assessment of the building material debris located throughout the Site. This letter report summarizes the support activities provided by START for the Sawmill, AZ Asbestos Removal Assessment.

### **SITE DESCRIPTION**

The Sawmill, AZ Asbestos Site is near Indian Service Route 7 in Sawmill, Apache County, Arizona, in the Sawmill Chapter of the Navajo Nation. The geographic coordinates for the approximate center of the Site are Longitude 35° 54' 8" North and Latitude 109° 9' 50" West. The Site is approximately 7 acres and includes the former drying kiln area, power plant area, and several unknown features (**Figure 2**).

The Site is approximately 7,675 feet above mean sea level and is flat with regional topography sloping gently to the southeast toward the Quartzite Wash Reservoir, approximately 1 mile away.

### **BACKGROUND**

Construction at the Sawmill, AZ Asbestos Site started in 1939 and the Site was decommissioned after Navajo Forest Product Industries was brought online, around 1962. Historically, several buildings were present on-site, including a drying kiln building, a power plant, and several unknown buildings. It appears all structures have been demolished with only concrete slabs or minimal remnants remaining except for the former Drying Kiln Building. The Site is unfenced with open access and shows obvious signs of trespassing.

A Site visit was conducted by EPA and Navajo Nation Environmental Protection Agency



September 2, 2022

(NNEPA) in the summer of 2021. Collected samples confirmed the presence of asbestos-containing material (ACM) in building materials. The roof of the former Drying Kiln Building has collapsed but the walls are standing. Analytical results from previous sampling show asbestos concentration of the black wall coating is 3% chrysotile and the concrete was non-detect.

### **FIELD ACTIVITIES – JULY 12, 2022**

On July 12, 2022, EPA and START personnel participated in a Site walk with NNEPA. The Site walk was performed to further evaluate the building materials associated with the former Drying Kiln Building for the presence of asbestos. In addition, an assessment was performed during a Site walk to evaluate building material debris located throughout the Site for the presence of asbestos. Samples were collected from the former Drying Kiln Building, a concrete trough to the west, and from the former Power Supply Building. A certified asbestos building inspector performed the sampling. Sampling locations were selected by the EPA FOSC and the asbestos building inspector in the field.

To perform the assessment, START collected 12 bulk asbestos samples from the Site (**Figure 3**). Analytical reports and chain-of-custody documentation are included in **Appendix B**.

The bulk asbestos samples collected at the Site were sealed in the appropriate sample container, assigned a discrete sample identification number, and submitted using proper chain-of-custody procedures. The bulk building material samples were submitted to EMC Labs Inc. (EMC) and analyzed by polarized light microscopy (PLM) by EPA Method 600/R-93/116. EMC is an accredited laboratory in the National Voluntary Laboratory Accreditation Program (NVLAP) for bulk asbestos fiber analysis.

### **ANALYTICAL RESULTS**

Twelve bulk samples were collected, and 13 separate layers were analyzed. Of the 13 bulk samples collected, nine samples contained asbestos at concentrations ranging from 3% to 80% chrysotile. Sample results are shown below in **Table 1**. **Figure 3** shows the location of the asbestos bulk samples collected at the Site.

**Table 1**  
**Bulk Sample Results – July 2022**

<b><u>Sample Number</u></b>	<b><u>Bulk Sample Description</u></b>	<b><u>Asbestos (% / Type)</u></b>
SAZ-BS-001	Membrane, Black	5% Chrysotile
SAZ-BS-002	Membrane, Black	5% Chrysotile
SAZ-BS-003	Membrane, Black	5% Chrysotile
SAZ-BS-004 (Layer 1)	Transite, Off White	15% Chrysotile
SAZ-BS-004 (Layer 2)	Corrugated Roofing, Gray	8% Chrysotile



September 2, 2022

<u>Sample Number</u>	<u>Bulk Sample Description</u>	<u>Asbestos (% / Type)</u>
SAZ-BS-005	Asphaltic Roofing, Black	Not Detected
SAZ-BS-006	Asphaltic Roofing, Black / Gray	Not Detected
SAZ-BS-007	Concrete, Off White w/ Black	Not Detected
SAZ-BS-008	Patch, Black	5% Chrysotile
SAZ-BS-009	Patch, Black / Gray	10% Chrysotile
SAZ-BS-010	Concrete under Corrugated Roof, Off White	3% Chrysotile
SAZ-BS-011	Fiberboard / Aircell, Black/ Gray	80% Chrysotile
SAZ-BS-012	Mortar, Beige/Gray	Not Detected

Note: \* Samples were analyzed by PLM by EPA Method 600/R-93/116 by EMC Labs Inc.

## **DISCUSSION**

Based on the analytical results of the samples collected during the Site walk, building materials are present at the Site with an asbestos content in excess of 1%. The ACM can be found scattered throughout the Site and in the area around the former Drying Kiln Building.

Building materials associated with the former Drying Kiln Building have an asbestos content in excess of 1%. Because the concentrations are above 1%, the materials are designated as ACM. **Table 2** below serves to provide an estimate for the quantities of building materials estimated to contain asbestos greater than 1%. The estimates are based on a structure size of approximately 85 feet in length by 80 feet in width by 25 feet in height. Minimal asbestos coating was observed on the interior walls of the former Drying Kiln Building.

**Table 2**  
**Former Drying Kiln Building Material Estimates – July 2022**

<b>Material Type</b>	<b>Quantity</b>
Asphaltic Roofing with Mastic	6,800 SF
Coating on Interior Concrete Walls	3,000 SF
Corrugated Transite Roofing	6,800 SF

Notes:  
SF = square feet

The building materials identified to be ACM associated with the former Drying Kiln Building have deteriorated and have been dispersed by the wind to the surrounding area. Visibly identifiable ACM was observed in significant quantities at varying distances along each side of the structure ranging from 20 feet to 75 feet. The most significant presence of ACM appears to be located on the north and west side of the structure.



September 2, 2022

An asbestos evaluation was performed for various building material debris that was observed throughout the Site as a result of historical demolition activities. The assessment identified building material debris that contained asbestos in concentrations greater than 1% at various locations throughout the Site. The ACM identified included transite roof panels, fiberboard, corrugated roofing, and a black membrane. The remnants of this ACM appear to be present in various amounts throughout the Site. A majority of the identified ACM is located in and around the former Drying Kiln Building and the Power Supply Building. Some of the ACM is scattered about the Site and is not near one of these large sources.

### **SUMMARY**

EPA tasked START to provide support during the Sawmill, AZ Asbestos Removal Assessment in Sawmill, Arizona. The assessment was performed to further evaluate the building materials surrounding the former Drying Kiln Building for the presence of asbestos. Based on the analytical results of the samples collected during this Site walk, building materials that are ACM are associated with the former Drying Kiln Building. These materials include transite roof panels, fiberboard, corrugated roofing, and a black membrane on the interior concrete of the building.

An asbestos evaluation was performed for remnant building debris that was observed at various locations throughout the Site as a result of historical demolition activities. The assessment identified building material debris that contained asbestos in concentrations greater than 1% at various locations throughout the Site. Based on the data obtained to date, additional assessment activities appear to be required to ensure remnant debris from the historical demolition work is managed and disposed of appropriately.

Should you have any questions regarding the information presented in this letter report, please contact me at (480) 477-4918, or at [Greg.Roussos@WestonSolutions.com](mailto:Greg.Roussos@WestonSolutions.com).

Respectfully,

Weston Solutions, Inc.

A handwritten signature in black ink, appearing to read "Greg Roussos".

Greg Roussos  
START Project Manager

### **Attachments:**

- A – Figures
- B – Analytical Data Packages
- C – Photographic Log

cc: WESTON START DCN File

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**ATTACHMENT A**  
**FIGURES**

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Legend



Site Location



Contract:  
68HE0919D0002  
Task Order:  
68HE0919F0081-20  
DCN:  
0145-08-AAXL

Prepared For  
EPA Region 9  
Pacific Southwest  
Prepared By  
Weston Solutions, Inc.  
Long Beach, CA 90805  
August 2022



**FIGURE 1**  
**Site Location**  
Sawmill, Arizona Asbestos  
Removal Assessment  
Sawmill Chapter, Navajo Nation  
Sawmill, Apache County, AZ



# Legend

- Former Power Plant Area (Approximate)
- Former Drying Kiln Building Area
- Site Boundary (Approximate)



Contract: 68HE0919D0002  
Task Order: 68HE0919F0081-20  
DCN: 0145-08-AAXL

Prepared For  
EPA Region 9  
Pacific Southwest  
Prepared By  
Weston Solutions, Inc.  
Long Beach, CA 90805  
August 2022



**FIGURE 2**  
**Site Layout**  
Sawmill, Arizona Asbestos  
Removal Assessment  
Sawmill Chapter, Navajo Nation  
Sawmill, Apache County, AZ





Legend

- Former Power Plant Area (Approximate)
- Former Drying Kiln Building Area
- Site Boundary (Approximate)
- Negative Bulk Asbestos Sample Detection
- Positive Bulk Asbestos Sample Detection



Contract: 68HE0919D0002  
Task Order: 68HE0919F0081-20  
DCN: 0145-08-AAXL

Prepared For  
EPA Region 9  
Pacific Southwest  
Prepared By  
Weston Solutions, Inc.  
Long Beach, CA 90805  
August 2022



**FIGURE 3**  
**Bulk Asbestos Sample Locations**  
Sawmill, Arizona Asbestos  
Removal Assessment  
Sawmill Chapter, Navajo Nation  
Sawmill, Apache County, AZ

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**ATTACHMENT B**  
**ANALYTICAL DATA PACKAGES**

---

# EMC LABS, INC.

9830 S. 51st Street, Suite B109, Phoenix, AZ 85044  
Phone: 800-362-3373 or 480-940-5294 - Fax: (480) 893-1726

Laboratory Report  
**0276130**

## Bulk Asbestos Analysis by Polarized Light Microscopy

NVLAP#101926-0

Client:	WESTON SOLUTIONS	Job# / P.O. #:	
Address:	2300 CLAYTON RD, STE 900	Date Received:	07/15/2022
	CONCORD, CA 94520	Date Analyzed:	07/22/2022
Collected:	07/12/2022	Date Reported:	07/22/2022
Project Name:	SAWMILL, AZ ASBESTOS	EPA Method:	EPA 600/R-93/116
Address:		Submitted By:	GREG ROUSSOS
		Collected By:	

Lab ID Client ID	Sample Location	Layer Name / Sample Description	Asbestos Detected	Asbestos Type (%)	Non-Asbestos Constituents
0276130-001 SAZ-BS-001		Membrane, Black	Yes	Chrysotile 5%	Carbonates Quartz Binder/Filler 95%
0276130-002 SAZ-BS-002		Membrane, Black	Yes	Chrysotile 5%	Carbonates Quartz Binder/Filler 95%
0276130-003 SAZ-BS-003		Membrane, Black	Yes	Chrysotile 5%	Carbonates Quartz Binder/Filler 95%
0276130-004 SAZ-BS-004		LAYER 1 Transite, Off White	Yes	Chrysotile 15%	Carbonates Gypsum Quartz Binder/Filler 85%
		LAYER 2 Corrugated Roofing, Gray	Yes	Chrysotile 8%	Cellulose Fiber 2% Carbonates Gypsum Quartz Binder/Filler 90%
0276130-005 SAZ-BS-005		Asphaltic Roofing, Black	No	None Detected	Cellulose Fiber 18% Synthetic Fiber 2% Carbonates Gypsum Quartz Binder/Filler 80%

# EMC LABS, INC.

9830 S. 51st Street, Suite B109, Phoenix, AZ 85044  
Phone: 800-362-3373 or 480-940-5294 - Fax: (480) 893-1726

Laboratory Report  
**0276130**

## Bulk Asbestos Analysis by Polarized Light Microscopy

NVLAP#101926-0

Client:	WESTON SOLUTIONS	Job# / P.O. #:	
Address:	2300 CLAYTON RD, STE 900	Date Received:	07/15/2022
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Collected:	07/12/2022	Date Reported:	07/22/2022
Project Name:	SAWMILL, AZ ASBESTOS	EPA Method:	EPA 600/R-93/116
Address:		Submitted By:	GREG ROUSSOS
		Collected By:	

Lab ID Client ID	Sample Location	Layer Name / Sample Description	Asbestos Detected	Asbestos Type (%)	Non-Asbestos Constituents
0276130-006 SAZ-BS-006		Asphaltic Roofing, Black / Gray	No	None Detected	Cellulose Fiber 15% Carbonates Quartz Binder/Filler 85%
0276130-007 SAZ-BS-007		Concrete, Off White w/ Black	No	None Detected	Quartz Gypsum Mica Carbonates Binder/Filler 100%
0276130-008 SAZ-BS-008		Patch, Black	Yes	Chrysotile 5%	Carbonates Quartz Binder/Filler 95%
0276130-009 SAZ-BS-009		Patch, Black / Gray	Yes	Chrysotile 10%	Carbonates Quartz Binder/Filler 90%
0276130-010 SAZ-BS-010		Concrete under Corrugated Roof, Off White	Yes	Chrysotile 3%	Carbonates Gypsum Quartz Binder/Filler 97%
0276130-011 SAZ-BS-011		Fiberboard / Aircell, Black/ Gray	Yes	Chrysotile 80%	Cellulose Fiber 7% Carbonates Quartz Binder/Filler 13%

# EMC LABS, INC.

9830 S. 51st Street, Suite B109, Phoenix, AZ 85044  
Phone: 800-362-3373 or 480-940-5294 - Fax: (480) 893-1726

Laboratory Report  
**0276130**

## Bulk Asbestos Analysis by Polarized Light Microscopy

NVLAP#101926-0

Client: WESTON SOLUTIONS  
Address: 2300 CLAYTON RD, STE 900

CONCORD, CA 94520

Collected: 07/12/2022

Project Name: SAWMILL, AZ ASBESTOS

Address:

Job# / P.O. #:

Date Received: 07/15/2022

Date Analyzed: 07/22/2022

Date Reported: 07/22/2022

EPA Method: EPA 600/R-93/116

Submitted By: GREG ROUSSOS

Collected By:

Lab ID	Sample	Layer Name /	Asbestos	Asbestos Type	Non-Asbestos
Client ID	Location	Sample Description	Detected	(%)	Constituents
0276130-012		Mortar, Beige/ Gray	No	None Detected	
SAZ-BS-012					Gypsum Carbonates Quartz Binder/Filler 100%



Analyst - Matt Kettler



Signatory - Lab Director - Kurt Kettler

Distinctly stratified, easily separable layers of samples are analyzed as subsamples of the whole and are reported separately for each discernible layer. All analyses are derived from calibrated visual estimate and measured in area percent unless otherwise noted. The report applies to the standards or procedures identified and to the sample(s) tested. The test results are not necessarily indicative or representative of the qualities of the lot from which the sample was taken or of apparently identical or similar products, nor do they represent an ongoing quality assurance program unless so noted. These reports are for the exclusive use of the addressed client and that they will not be reproduced wholly or in part for advertising or other purposes over our signature or in connection with our name without special written permission. The report shall not be reproduced except in full, without written approval by our laboratory. The samples not destroyed in testing are retained a maximum of thirty days. The laboratory measurement of uncertainty for the test method is approximately less than 1 by area percent. Accredited by the National Institute of Standards and Technology, Voluntary Laboratory Accreditation Program for selected test method for asbestos. The accreditation or any reports generated by this laboratory in no way constitutes or implies product certification, approval, or endorsement by the National Institute of Standards and Technology. The report must not be used by the client to claim product certification, approval, or endorsement by NVLAP, NIST, or any agency of the Federal Government. Polarized Light Microscopy may not be consistently reliable in detecting asbestos in floor coverings and similar non-friable organically bound materials.

12  
pak

## CHAIN OF CUSTODY

EMC Labs, Inc.  
9830 S. 51<sup>st</sup> St., Ste B-109  
Phoenix, AZ 85044  
(480) 940-5294 Fax (480) 893-1726

LAB#: 276130  
TAT: 35 Days  
Rec'd: JUL 15 P.M.

COMPANY NAME: Weston Solutions  
Address: 2300 Clayton Road, Suite 900  
Concord, CA 94520  
CONTACT: Greg Roussos  
Phone/Fax: 513-604-4797  
Email: Greg.Roussos@WestonSolutions.com

BILL TO: (If Different Location)

Now Accepting: VISA - MASTERCARD

Price Quoted: \$6.50 / Sample \$ / Layers

COMPLETE ITEMS 1-4: (Failure to complete any items may cause a delay in processing or analyzing your samples)

1. TURNAROUND TIME: {Same Day Rush} {1-2 Days} {3-4-5 Days} {6-10 Days}

\*\*\*\*Prior confirmation of turnaround time is required

\*\*\*\*Additional charges for rush analysis (please call marketing department for pricing details)

\*\*\*\*Laboratory analysis may be subject to delay if credit terms are not met

2. TYPE OF ANALYSIS: {Bulk-PLM} {Air-PCM} {Load} {Point Count} {Fungi: AOC, W-C, Bulk, Swab, Tape}

3. DISPOSAL INSTRUCTIONS: {Dispose of samples at EMC} / {Return samples to me at my expense}

(If you do not indicate preference, EMC will dispose of samples 30 days from analysis.)

4. Project Name: Sawmill, AZ Asbestos

P.O. Number:

Project Number:

EMC SAMPLE #	CLIENT SAMPLE #	DATE & TIME SAMPLED	LOCATION/MATERIAL TYPE	Samples Accepted Yes / No	AIR SAMPLE INFO / COMMENTS ON OFF FLOW RATE		
1	SAZ-BS-001	7-12-22	Black membrane - trough	Y N			
2	SAZ-BS-002		Black membrane - trough	Y N			
3	SAZ-BS-003		Black membrane - trough	Y N			
4	SAZ-BS-004		Corrugated Roofing (transite)	Y N			
5	SAZ-BS-005		Asphaltic Roofing (black)	Y N			
6	SAZ-BS-006		Asphaltic Roofing (black/grey)	Y N			
7	SAZ-BS-007		Lightweight concrete w/ black	Y N			
8	SAZ-BS-008		Wall patch (black) - Kila wall	Y N			
9	SAZ-BS-009		Wall patch (black & grey) - Kila	Y N			
10	SAZ-BS-010		Lightweight concrete under corrugated roof	Y N			
11	SAZ-BS-011		Black/grey gaskets - Ground	Y N			
12	SAZ-BS-012		Marking - Power Plant	Y N			
				Y N			
				Y N			
				Y N			

## SPECIAL INSTRUCTIONS:

Sample Collector: (Print) Mark Williams(Signature) [Signature]Relinquished by: [Signature] Date/Time: 7/13/22 Received by: [Signature] Date/Time: 7/13/22Relinquished by: \_\_\_\_\_ Date/Time: \_\_\_\_\_ Received by: Diana Federico Date/Time: 7/15/22Relinquished by: Diana Federico Date/Time: 7/15/22 Received by: [Signature] Date/Time: 7/15/22

\*\* In the event of any dispute between the above parties for these services or otherwise, parties agree that jurisdiction and venue will be  
in Phoenix, Arizona and prevailing party will be entitled to attorney's fees and court costs.

---

**ATTACHMENT C**  
**PHOTOGRAPHIC LOG**

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## PHOTOGRAPH LOG

**Project Name:**  
Sawmill, AZ Asbestos

**Site Location:**  
Sawmill Chapter, Navajo Nation  
Sawmill, Apache County, Arizona

**TO No.:**  
68HE0919F0081-20

**Photo No. 1**      **Date:**  
9/30/2021

**Direction Photo Taken:**

Southwest

**Description:**

Overview of the former Drying Kiln Building



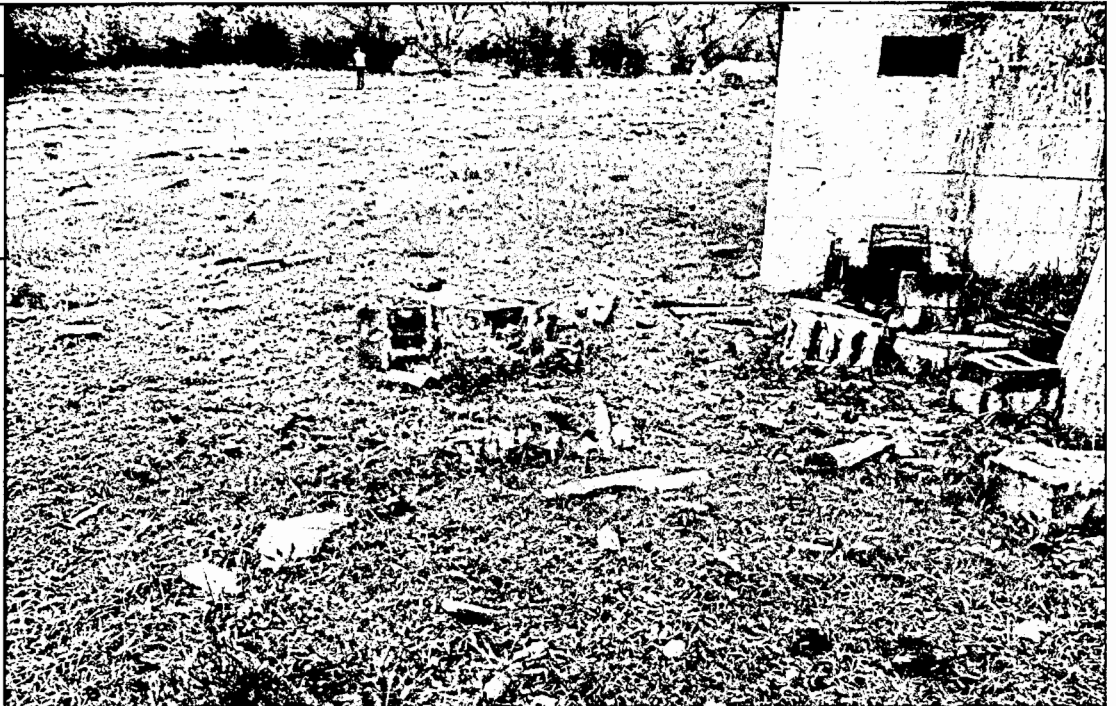
**Photo No. 2**      **Date:**  
9/30/2021

**Direction Photo Taken:**

East


**Description:**


Example of suspected ACM debris surrounding the former Drying Kiln Building







## PHOTOGRAPH LOG

<b>Project Name:</b> Sawmill, AZ Asbestos		<b>Site Location:</b> Sawmill Chapter, Navajo Nation Sawmill, Apache County, Arizona	<b>TO No.:</b> 68HE0919F0081-20
<b>Photo No. 3</b>	<b>Date:</b> 9/30/2021		
<b>Direction Photo Taken:</b>  West			
<b>Description:</b>  View inside the former Drying Kiln Building showing collapsed roof			

<b>Photo No. 4</b>	<b>Date:</b> 7/12/2022	
<b>Direction Photo Taken:</b>  North		
<b>Description:</b>  Sample SAZ-BS-001, black membrane on trough west of the former Drying Kiln Building.		

## PHOTOGRAPH LOG

<b>Project Name:</b> Sawmill, AZ Asbestos		<b>Site Location:</b> Sawmill Chapter, Navajo Nation Sawmill, Apache County, Arizona	<b>TO No.:</b> 68HE0919F0081-20
<b>Photo No. 5</b>	<b>Date:</b> 7/12/2022		
<b>Direction Photo Taken:</b>  East			
<b>Description:</b>  Sample SAZ-BS-004, corrugated roofing material adjacent to former Drying Kiln Building			

<b>Photo No. 6</b>	<b>Date:</b> 7/12/2022	
<b>Direction Photo Taken:</b>  North		
<b>Description:</b>  Sample SAZ-BS-009, black sealant in cracks along the north wall of bay 2 in the former Drying Kiln Building		

# Sawmill, AZ 2012 Image

Former Navajo Tribal Sawmill Enterprise  
1st Location

Saw Mill and Asbestos-  
Containing  
Lumber Drying Kiln

Sawmill

Powerplant  
Areas

Asbestos Littering the Surface  
visible throughout this area

Former Sawmill  
Buildings and Structures

Cooling Drying Yard

Sawmill Chapter House

Sawmill Express

Sawmill Preschool

Lumber Drying Kiln has a roof made of Transite (asbestos product)  
and the walls are coated with asbestos containing coatings.

EXHIBIT

C-2

Legend

NAVAJO ENVIRONMENTAL PROTECTION AGENCY  
proposed **EXPENDITURE PLAN** for the use of Síhasin Funds  
for the assessment and remediation of the  
former Navajo Forest Products Industry and Navajo Tribal Sawmill  
Enterprise Locations

1. All Síhasin Funds approved by the Navajo Nation Council shall be used by the Navajo EPA in strict accordance with the approved Expenditure Plan governing the ongoing assessment work and environmental remediation activities at the form NFPI location.
2. All Síhasin Funds shall be used solely for planning, investigation, assessment, testing, and environmental remediation activities for the cleanup of the former NFPI locations, including the purchase, installation, use, and maintenance of equipment and facilities, as necessary for the Project.
3. Under authority vested in the Navajo EPA Superfund Program by NNCERCLA, the Navajo EPA Superfund Brownfields Program shall be responsible for all planning, work, and activities related to the assessment and remediation for the Project, as well as the ongoing operation, maintenance and repairs, if any, for the Project.
4. The Navajo EPA Superfund Program shall be responsible for the administration and accounting of all funds expended for the Project by the Navajo EPA itself, and by all qualified contractors who will be selected by Navajo EPA in accordance with Navajo Nation Procurement laws and regulations.
5. Streambank stabilization, soil gas testing of the housing that seems to be built on top of the facility dump, full delineation and remediation of groundwater contamination, and subsurface asbestos removal are among the top priorities. Sampling of the soil and groundwater will show the extent and depth of contamination.

## NFPI/NTSE Expenditure Plan

Prepared for 25<sup>th</sup> Navajo Council 5/19//2023

100% of the funds will be used for assessment and remediation at NFPI and NTSE.

Summary of Estimated Costs: NFPI	
<b>Sampling and analysis (Assessment) of 6 areas focusing on surface and groundwater</b>	
The 104 fenced Mill Site from The Surface to About 20 Feet Below Ground Surface	\$ 7,000,000.00
Black Creek North of the Mill Site: Ongoing Public Health Threat	\$ 3,000,000.00
Red Lake; Sediments and Lake Water	\$ 3,000,000.00
The Wash Below Red Lake Dam	\$ 3,000,000.00
The former NTUA Sewer Lagoons	\$ 500,000.00
Investigation of the housing area build on top of the dump area including the former rodeo grounds	\$ 1,000,000.00
<b>Sampling, Analysis, <u>and</u> Cleanup of 2 areas</b>	
For the 176 Acre Facility Open dump, From the Surface Through an Unknown Thickness of Debris To Five Feet Below the Actual Native Ground Surface	\$ 500,000,000.00
The Benzene and Naphthalene in the Soil of the DEAP Charter School	\$ 1,000,000.00
<b>Estimated Total:</b>	<b>\$ 518,500,000.00</b>

## NFPI/NTSE Expenditure Plan

Prepared for 25<sup>th</sup> Navajo Council 5/19//2023

100% of the funds will be used for assessment and remediation at NFPI and NTSE.

### Summary of Estimated Costs: NTSE

- The only thing currently known at this site is that asbestos containing material (ACM) litters the surface of the site from sawmill activities dating from 1939-1960.
- The ACM source is the Lumber Drying Kiln and roofing material.
- This site will have soil and groundwater contamination similar to NFPI but will be less than half the size of NFPI.
- There will probably be a dump associated with this site although not so large as the dump at NFPI.

After the Time Critical Removal Action for asbestos currently scheduled for 2024, other sampling can begin safely.

#### **Sampling and analysis (Assessment) focusing on surface and groundwater**

#### **Very Roughly Estimated Costs**

The roughly 25 acre Mill Site from The Surface to About 30 Feet Below Ground Surface and,

Any additional or unlooked for contamination from this mill site such as in the surface water ways and livestock water wells.

**\$ 3,500,000.00**

#### **Discovery, Sampling, Analysis, and Cleanup of the Facility Dump**

For the 176 Acre Facility Open dump,  
From the Surface Through an Unknown Thickness of Debris  
To Five Feet Below the Actual Native Ground Surface

**\$ 100,000,000.00**

**Estimated Total: \$ 103,500,000.00**

## NFPI Expenditure Plan Estimated Costs Detail Sheet

100% of the funds will be used for assessment and remediation at NFPI and NTSE.

<b>NFPI Assessment Detail Sheet</b> <b>Of the Soil and Groundwater at the Former Navajo Forest Products Industry</b> <b>Sawmill - Powerplant - Particleboard Manufacturing</b>		
For the 104 Fenced Acres of the Mill Site, From the Surface to About 20 Feet Below Ground Surface	EXAMPLE: One Mobilization and Investigation similar to 2022 Assessment Grant delineation project	14 separate investigations of the same size/scope to cover the entire fenced area of the site
Developing the SAP, QAPP, Workplan, Securing and paying Subcontractors and Materials, Reporting and Deliverables costs	\$200,000.00	\$2,800,000.00
Fieldwork and lab analysis: Three soil samples and one groundwater sample per boring.      **40 borings @ \$7,000/boring:	\$280,000.00	
Total for a Single Investigation, 7 contaminants sampled for:	\$480,000.00	
To characterize the 104 acre mill site in 14 consecutive investigations: **560 borings @ \$7,000/boring:		\$4,200,000.00
**Minimum contaminate sample list per sample: Metals, Petroleum, PCBs, semi volatile compounds, volatile organic compounds, asbestos, and dioxin.		
104 acre total, borings + mobilizations + deliverables: \$6,720,000.	<b>Rounded Total:</b>	<b>\$7,000,000.00</b>
<b>Not Included:</b> overages, weather and other contingencies.		
Boring cost may increase in areas where additional contaminants are investigated.		
<b>Black Creek: Ongoing Public Health Hazard</b>		
Emergency Streambank Stabilization to prevent further erosion of the dump, Sampling: Includes streambank and watercourse sediments including sediments behind the Diversion Dam, the Diversion Channel, and the Small Tributary that has eroded a channel through the dump.	\$1,000,000.00 - \$5,000,000.00	<b>\$ 3,000,000.00</b>
Cleanup methods and cost cannot be accurately determined until the nature and extent of the contamination is fully determined.		

## NFPI Assessment Detail Sheet, Continued

### Red Lake; Sediments and Lake Water

Sampling of the lake sediments and a Mercury-In-Fish study:		\$ 3,000,000.00
Cleanup methods and cost cannot be determined until the nature and extent of the contamination is known.	\$1,000,000.00 - \$5,000,000.00	

### The Wash Below Red Lake

Sampling and Cleanup For an Undetermined Length and the Ditch Leading To It from NFPI:		\$ 3,000,000.00
Cleanup methods and cost cannot be determined until the nature and extent of the contamination is known.	\$1,000,000.00 - \$5,000,000.00	

### The former NTUA Sewer Lagoons

Sampling of the former lagoon area and the location where excavated lagoon sludge was dumped after dredging events required by the chemistry of the NFPI wastewater:	\$200,000.00 - \$800,000.00	\$ 500,000.00
Cleanup methods and cost cannot be determined until the nature and extent of the contamination is known.		

### Investigation of the housing area build on top of the dump area including the former rodeo grounds.

Soil Gas sampling		\$ 1,000,000.00
Cleanup methods and cost cannot be determined until the nature and extent of the contamination is known.		

### For the 176 Acre Facility Open dump, From the Surface Through an Unknown Thickness of Debris To Five Feet Below the Actual Native Ground Surface

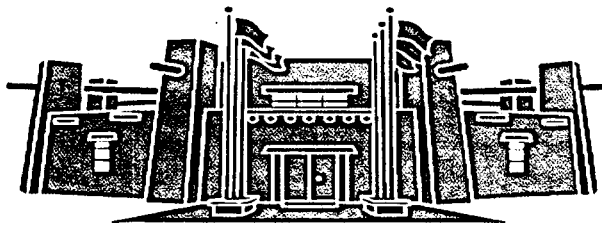
Sampling and Cleanup:	Estimated Cost Range	Average Estimated Cost
Based on what other cleanup costs at dump sites with similar objectives such as the Tuba City Open Dump have cost. Entire Dump Characterization and removal of debris to a "Nearby" landfill. Hauling is a large percentage of this cost estimate:	\$300,000,000.00 - \$700,000,000.00	\$ 500,000,000.00

### The Benzene and Naphthalene in the Soil of the DEAP Charter School

Sampling and Cleanup Based on findings, may need sampling and cleanup of other land adjacent to the site:	\$500,000.00 - \$2,000,000.00	\$ 1,000,000.00
Cleanup methods and cost cannot be determined until the nature and extent of the contamination is known.		
<b>Estimated Total</b>		<b>\$ 518,500,000.00</b>
<b>To assess the entire 800 acre NFPI site and clean up the dump &amp; Charter School grounds:</b>		


Cleanup methods and actual cost cannot be determined until the nature and extent of the contamination is known.





## MEMORANDUM

To: Hon. Dr. Andy Nez, Member  
Health, Education, and Human Services Committee  
25<sup>th</sup> Navajo Nation Council

From:   
Luralene D. Tapahe, Principal Advocate  
Office of Legislative Counsel

Date: June 9, 2023

Subject: **AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION COUNCIL; APPROVING \$5,000,000 FROM THE SÍHASIN FUND TO NAVAJO EPA FOR THE ASSESSMENT AND REMEDIATION OF ENVIRONMENTAL DAMAGE FROM FORMER LUMBER PROCESSING OPERATIONS AT THE RED LAKE AND SAWMILL CHAPTERS; APPROVING THE RELATED EXPENDITURE PLAN**

---

The Office of Legislative Counsel has prepared the above-referenced proposed legislation and related summary sheet. Based on existing Navajo Nation law and other applicable laws, and upon review of all supporting documents regarding your request that were submitted to OLC, this legislation as drafted is legally sufficient. However, as with any action of government, this legislation may be subject to judicial review in the event of a legal challenge.

**Please review this legislation to make sure it is drafted to your satisfaction, and that all necessary and appropriate supporting documents have been provided and all attached Exhibits are correct.**

OLC has reviewed the appropriate standing committees' authorities to consider this legislation, based on the standing committees' powers and responsibilities set forth in Title 2 of the Navajo Nation Code. Based on its review, OLC has listed those committees in the title of this legislation. However, the Speaker may assign this legislation to any committee(s) other than those shown in the title, pursuant to his authority under 2 N.N.C. §164(A)(5).

If you find anything unacceptable, please let me know immediately and advise me of your desired changes. I can be reached at phone no. (928)871-7166 or by email at: [LuraleneTapahe@navajo-nsn.gov](mailto:LuraleneTapahe@navajo-nsn.gov)

Thank you for your cooperation.

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0130-23\_

SPONSOR: Andy Nez

**TITLE: An Action Relating to the Resources and Development, Budget and Finance, and Naabik'iváti' Committees, and to the Navajo Nation Council; Approving \$5,000,000 from the Síhasin Fund to Navajo EPA for the Assessment and Remediation of Environmental Damage from Former Lumber Processing Operations at the Red Lake and Sawmill Chapters; Approving the Related Expenditure Plan**

*Date posted:* June 09, 2023 5:33 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.: 0130-23**

**SPONSOR: Honorable Andy Nez**

**TITLE: An Action Relating to the Resources and Development, Budget and Finance, and Naabik'iyáti' Committees, and to the Navajo Nation Council; Approving \$5,000,000 from the Síhasin Fund to Navajo EPA for the Assessment and Remediation of Environmental Damage from Former Lumber Processing Operations at the Red Lake and Sawmill Chapters; Approving the Related Expenditure Plan**

**Posted: June 09, 2023 at 5:33 PM**

**5 DAY Comment Period Ended: June 14, 2023**

**Digital Comments received:**

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



**Legislative Secretary II  
Office of Legislative Services**

**June 14, 2023; 8:28 AM**

**Date/Time**

**RESOURCES AND DEVELOPMENT COMMITTEE  
25th NAVAJO NATION COUNCIL**

**FIRST YEAR 2023**

**COMMITTEE REPORT**

Madam Speaker,

The **RESOURCES AND DEVELOPMENT COMMITTEE** to whom has been assigned:

**LEGISLATION #0130-23:** AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION COUNCIL; APPROVING \$5,000,000 FROM THE SÍHASIN FUND TO NAVAJO EPA FOR THE ASSESSMENT AND REMEDIATION OF ENVIRONMENTAL DAMAGE FROM FORMER LUMBER PROCESSING OPERATIONS AT THE RED LAKE AND SAWMILL CHAPTERS; APPROVING THE RELATED EXPENDITURE PLAN. *Sponsor: Honorable Andy Nez*

Has had it under consideration and reports a **DO PASS** with one (1) amendment.

**AMENDMENT #1:**

1. On Page 6 at Line 18, after the sentence ending in the word “condition” insert the following new sentence:

Regarding this Directive the Department of Justice shall present a written report, and a verbal report if so requested, to the Resources and Development Committee no later than 180 calendar days after the effective date of this Action.

2. Renumber or re-letter succeeding paragraphs, sections, and exhibits, as necessary and appropriate. The Office of Legislative Services and the Office of Legislative Counsel are authorized to make technical edits to this legislation and its exhibits to implement the Committee's intent. This Amendment supersedes inconsistent language in any other amendment(s).

And thereafter the legislation was referred to the Budget and Finance Committee.

Respectfully submitted,



Brenda Jesus, Chairperson  
Resources and Development Committee of  
the 25th Navajo Nation Council



**RESOURCES AND DEVELOPMENT COMMITTEE  
25th NAVAJO NATION COUNCIL**

**FIRST YEAR 2023**

**ROLL CALL  
VOTE TALLY SHEET**

**LEGISLATION #0130-23:** AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, AND NAABIK'ÍYÁTI' COMMITTEES, AND TO THE NAVAJO NATION COUNCIL; APPROVING \$5,000,000 FROM THE SÍHASIN FUND TO NAVAJO EPA FOR THE ASSESSMENT AND REMEDIATION OF ENVIRONMENTAL DAMAGE FROM FORMER LUMBER PROCESSING OPERATIONS AT THE RED LAKE AND SAWMILL CHAPTERS; APPROVING THE RELATED EXPENDITURE PLAN. *Sponsor: Honorable Andy Nez*


**Date:** June 21, 2023 – Regular Meeting (Twin Arrows Police & Fire Station (Fire Station #81) and Teleconference)  
**Location:** Twin Arrows Police and Fire Station (Fire Station #81) – 22181 Resort Boulevard – Flagstaff, Arizona. Resources and Development Committee called in via teleconference from their location within the boundary of the Navajo Nation.

**Amendment #1:**

**M:** Shawna Ann Claw                      **S:** Danny Simpson                      **V:** 4-0-1 (CNV)  
**In Favor:** Casey Allen Johnson; Shawna Ann Claw; Danny Simpson; Otto Tso  
**Opposition:** None  
**Excused:** Rickie Nez;  
**Not Voting:** Brenda Jesus, *Chairperson*

**Main Motion:**

**M:** Shawna Ann Claw                      **S:** Otto Tso                      **V:** 4-0-1 (CNV)  
**In Favor:** Casey Allen Johnson; Shawna Ann Claw; Danny Simpson; Otto Tso  
**Opposition:** None  
**Excused:** Rickie Nez;  
**Not Voting:** Brenda Jesus, *Chairperson*

  
\_\_\_\_\_  
Honorable Brenda Jesus, *Chairperson*  
Resources and Development Committee

Rodney L. Tahe  
Rodney L. Tahe, *Legislative Advisor*  
Office of Legislative Services

25<sup>th</sup> NAVAJO NATION COUNCIL

First Year 2023

Ms. Speaker:

The **BUDGET & FINANCE COMMITTEE** to whom has been assigned

**NAVAJO LEGISLATIVE BILL # 0130-23:**

An Action Relating to the Resources and Development, Budget and Finance, and Naabik'iyáti' Committees, and to the Navajo Nation Council; Approving \$5,000,000 from the Síhasin Fund to Navajo EPA for the Assessment and Remediation of Environmental Damage from Former Lumber Processing Operations at the Red Lake and Sawmill Chapters; Approving the Related Expenditure Plan

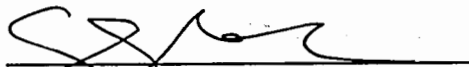
has had it under consideration and reports the same with the recommendation that it **TABLE** without amendment.

1. On page --, line -- insert "\_\_\_" and on page -- line -- insert "\_\_\_\_\_".  
M: S: Vote: Yeas: Nays:

And, therefore referred to the **NAABIKIYATI** Committee

*[Agenda item on July 12, 2023; Main motion held by Amber K. Crotty seconded by Seth A. Damon; Tabling motion made by Amber K. Crotty second: Lomardo Aseret Vote: 5-0 Yeas: Norman M. Begay, Lomardo Aseret, Amber K. Crotty, Seth A. Damon, Carl R. Slater; Tabled until the Committee meets with the Department of Justice on the US EPA's findings to determine who is responsible for remediation]*

Respectfully submitted,

  
Shaandiin Parrish, Chairperson

Adopted: \_\_\_\_\_  
Legislative Advisor

Not Adopted:   
Legislative Advisor

**July 12, 2023**

The vote was\_\_ in favor \_ opposed yeas: nays:  
Main Motion: Amber K. Crotty  
Second: Seth A. Damon



## BUDGET AND FINANCE COMMITTEE

July 12, 2023

Special Meeting

### VOTE TALLY SHEET:

**Legislation No. 0130-23:** An Action Relating to the Resources and Development, Budget and Finance, and Naabik'iyáti' Committees, and to the Navajo Nation Council; Approving \$5,000,000 from the Sihasin Fund to Navajo EPA for the Assessment and Remediation of Environmental Damage from Former Lumber Processing Operations at the Red Lake and Sawmill Chapters; Approving the Related Expenditure Plan

*Sponsor: Andy Nez, Council Delegate*

*Motion: Amber K. Crotty*

*Second: Seth A. Damon*

*Vote: 0-0, Chairperson not voting*

*[Agenda item on July 12, 2023; Main motion held by Amber K. Crotty seconded by Seth A. Damon; Tabling motion made by Amber K. Crotty second: Lomardo Aseret Vote: 5-0 Yeas: Norman M. Begay, Lomardo Aseret, Amber K. Crotty, Seth A. Damon, Carl R. Slater; Tabled until the Committee meets with the Department of Justice on the US EPA's findings to determine who is responsible for remediation]*

### Final Vote Tally:

Lomardo Aseret		
Norman M. Begay		
Amber K. Crotty		
Seth A. Damon		
Shaandiin Parrish		
Carl R. Slater		

*Absent:*



Shaandiin Parrish, Chairperson  
Budget & Finance Committee



Peggy Nakai, Legislative Advisor  
Budget & Finance Committee

# 25<sup>th</sup> NAVAJO NATION COUNCIL

## NAABIK'ÍYÁTI' COMMITTEE REPORT

### First Year 2023

The **NAABIK'ÍYÁTI' COMMITTEE** to whom has been assigned:

#### **NAVAJO LEGISLATIVE BILL #0130-23**

An Action Relating to the Resources and Development, Budget and Finance, and Naabik'iyáti' Committee and to the Navajo Nation Council; Approving \$5,000,000 from the Síhasin Fund to Navajo EPA for the Assessment and Remediation of Environmental Damage from Former Lumber Processing Operations at the Red Lake and Sawmill Chapters; Approving the Related Expenditure Plan

*Sponsored by: Honorable Andy Nez*

Has had it under consideration and reports the same that the legislation **FAILED AND REFERRED TO THE NAVAJO NATION COUNCIL.**

Respectfully Submitted,



*Honorable Crystalyne Curley, Chairperson*  
**NAABIK'ÍYÁTI' COMMITTEE**

**13 July 2023**

#### **MAIN MOTION**

*Motioned by: Honorable Casey Allen Johnson*

*Seconded by: Honorable Rickie Nez*

*Vote: 4 In Favor, 8 Opposed (Chairperson Crystalyne Curley Not Voting)*

#### -----**FAILED MOTIONS**-----

#### **REFERRAL MOTION**

Motion to Refer Legislation 0130-23 to a Naabik'iyáti' Committee Work Session within 60 days to address all questions raised by the Naabik'iyáti' Committee Members

*Motioned by: Honorable Andy Nez*

*Seconded by: Honorable George H. Tolth*

*Vote: 5 in Favor, 7 Opposed (Chairperson Crystalyne Curley Not Voting)*

## NAVAJO NATION

Naa'bik'iyati' Committee Regular Meeting

7/13/2023  
06:49:00 PM

Amd#2 to Amd#      Hold a Naabik'iyati' Committee  
MOT Nez, A              Work Session within 60 days  
SEC Tolth, G             for #0130-23

FAILED

Yeas : 5

Nays : 7

Excused : 6

Not Voting : 5

## Yea : 5

Crotty, A  
Daniels, H

Nez, A

Notah, N

Tolth, G

## Nay : 7

Damon, S  
James, VJohnson, C  
Nez, RParrish, S  
Slater, C

Yazzie, C

## Excused : 6

Begay, H  
Charles-Newton, EClaw, S  
Jesus, B

Simpson, D

Tso, O

## Not Voting : 5

Arviso, S  
Aseret, L

Begay, N

Simonson, G

Yanito, C

Presiding Speaker: Curley, C

# NAVAJO NATION

Naa'bik'iyati' Committee Regular Meeting

7/13/2023  
06:51:27 PM

Amd# to Amd#      New Business: Item G.  
MOT Johnson, C      Legislation 0130-23: Approving  
SEC Nez, R      \$5,000,000 from the Sihasin Fund  
to Navajo EPA for the Assess...

FAILED

Yeas : 4

Nays : 8

Excused : 6

Not Voting : 5

Yea : 4

Daniels, H

James, V

Notah, N

Nez, A

Nay : 8

Crotty, A  
Damon, S

Johnson, C  
Nez, R

Parrish, S  
Slater, C

Tolth, G  
Yazzie, C

Excused : 6

Begay, H  
Charles-Newton, E

Claw, S  
Jesus, B

Simpson, D

Tso, O

Not Voting : 5

Arviso, S  
Aseret, L

Begay, N

Simonson, G

Yanito, C

Presiding Speaker: Curley, C

# **25<sup>th</sup> NAVAJO NATION COUNCIL ACTION REPORT First Year 2023**

The **NAVAJO NATION COUNCIL** to whom has been assigned:


## **NAVAJO LEGISLATIVE BILL #0130-23**

An Action Relating to the Resources and Development, Budget and Finance, and Naabik'iyáti' Committees, and to the Navajo Nation Council; Approving \$5,000,000 from the Síhasin Fund to Navajo EPA for the Assessment and Remediation of Environmental Damage from Former Lumber Processing Operations at the Red Lake and Sawmill Chapters; Approving the Related Expenditure Plan

*Sponsored by: Honorable Andy Nez*

Has had it under consideration and reports the same that the legislation **WAS REFERRED BACK TO A NAABIK'YATI' COMMITTEE WORK SESSION.**

Respectfully Submitted,



*Honorable Crystalyne Curley, Speaker  
25<sup>th</sup> NAVAJO NATION COUNCIL*

**19 July 2023**

### **REFERRAL MOTION**

Motion to Refer Legislation 0130-23 to a Naabik'iyáti' Committee Work Session and bring back no later than Navajo Nation Council Winter Session 2024.

*Motioned by: Honorable Carl R. Slater*

*Seconded by: Honorable Cherilyn Yazzie*

*Vote: 10 in Favor, 09 Opposed (Speaker Curley Voting)*

### **MAIN MOTION**

*Motioned by: Honorable Carl R. Slater*

*Seconded by: Honorable Danny Simpson*

*Vote: VOTE PENDING*

# NAVAJO NATION

191

7/19/2023

## Navajo Nation Council Summer Session

06:56:06 PM

Amd# to Amd#

Motion to Refer Legislation

PASSED

MOT Slater, C

0130-23 to a Naabikiyati

SEC Yazzie, C

Committee Work Session and bring  
back no later than Navajo...

**Yeas : 10**

**Nays : 9**

**Excused : 1**

**Not Voting : 4**

### **Yea : 10**

Crotty, A  
Curley, C  
Jesus, B

Nez, A  
Notah, N  
Parrish, S

Simonson, G  
Simpson, D

Slater, C  
Yazzie, C

### **Nay : 9**

Begay, H  
Begay, N  
Charles-Newton, E

Claw, S  
Daniels, H

James, V  
Johnson, C

Nez, R  
Tolth, G

### **Excused : 1**

Damon, S

### **Not Voting : 4**

Arviso, S

Aseret, L

Tso, O

Yanito, C

**Presiding Speaker: Curley, C**

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

**LEGISLATION NO.: 0130-23**

**SPONSOR: Honorable Andy Nez**

**TITLE: An Action Relating to the Resources and Development, Budget and Finance, and Naabik'iyáti' Committees, and to the Navajo Nation Council; Approving \$5,000,000 from the Síhasin Fund to Navajo EPA for the Assessment and Remediation of Environmental Damage from Former Lumber Processing Operations at the Red Lake and Sawmill Chapters; Approving the Related Expenditure Plan**

**Posted: June 09, 2023 at 5:33 PM**

**5 DAY Comment Period Ended: June 14, 2023**

**Digital Comments received:**

<b>Comments Supporting</b>	<b>1) Prestene Garnenez</b>
<b>Comments Opposing</b>	<b>None</b>
<b>Comments/Recommendations</b>	<b>1) Justin Morgan</b>



**Legislative Secretary II  
Office of Legislative Services**

**December 27, 2023; 10:30 AM**

**Date/Time**

[Reply all](#) | [Delete](#) [Junk](#) | [...](#)

## Legislation 130-23

**Prestene Garnenez**

Tue 12/19, 1:50 PM

[comments](#) [↕](#)[Reply all](#) | [...](#)

Inbox

Dear Honorable Members of the 25th Navajo Nation Council:

Please accept this letter of support of this legislation where the community of Red Lake #18 is asking for funds to help with the continued assessments and remediation/clean-up of the former Navajo Forest Products Industries (NFPI) sawmill site and areas affected by its operations in and around the community of Navajo, NM.

I'm a long-standing community member and recall as a child the former NFPI site in operation. Since its closure more than 25 years ago, the mill seems to have been left abandoned by the Navajo Nation. I saw it vandalized and portions of it set on fire. In more recent years, I've taken a deeper interest in learning about the site and looking at how to clean it up. I've learned that contamination of the site is complex because it is contaminated with many different chemicals (some hazardous and very dangerous to human health) and is spreading beyond the borders of the fence line. Groundwater is contaminated, the air took pieces of asbestos as the wind blew, surface waters/run-off took chemicals off the site and into the creek and Red Lake. As I learned about all this, I was very disturbed by it. I wondered why my tribal leaders didn't do more to make it safe for our community or worse yet, seemed not to be concerned by the contamination and lack of clean-up.

When the Navajo Tribal Council began working to create the NFPI site in the 1950's, they didn't come to see my grandmother (who was a permit holder just to the north of NFPI and town of Navajo). She was not part of the decision to set the plant here. Yet, 70 years later, my family and the land we steward is directly impacted by the former NFPI site and its operations. We are now told that we cannot allow our livestock to graze near the creek nor to drink from the creek. This feels unfair to us and the next generations if nothing continues to be done to clean-up/remediate the site.

I feel very strongly that the Navajo Nation needs to be a leader in this effort to clean-up the site and to look out for the thousands of people who have been, are, and will be impacted by the former NFPI and its operations (past, present and future). I also strongly believe that the site can be put back into beneficial use and contribute to the Navajo Nation's economy and the continued healthy development of the Red Lake #18 Chapter. This beneficial use could go beyond the \$5 million that we're asking for now. However, I don't just think about this request for funds in just monetary aspects, but rather in value/importance of the health of the community, environment, livestock, wildlife, farmlands, etc. As Dine', don't we have an obligation to Nihima' Nahasdzaa'n? In the early days of the Navajo Nation, this mill provided for the Navajo Nation, in revenue, in jobs, in families... I believe it is now time for the Navajo Nation to help restore hozho' to our community. Please support this request.

Thank you.



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## Legislation 130-23

**Justin Morgan**

Thu 12/21, 6:56 AM

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Action Items



Hello,

My name is Justin Morgan. I am a former resident and graduate of Navajo Pine high school. I'm writing because I am concerned about the cleanup site at Navajo Forestry Products Industries' former business site. Please promote the legislation to continue the cleanup of this area.

I graduated in 1990 and I witnessed the shut down of The Mill as it was known in those days. I watched in economy dwindle. I saw many struggles with men and women who had lost their jobs. Jobs that they had relied upon for many years. I have also driven through Navajo dozens of times since I graduated and I have seen the slow deterioration, the vandalism, destruction, and overall neglect of the area. I am hoping that you will take into consideration the struggle of the community and help them clean up the mess that was left along time ago.

Thank you promoting the cleanup of the NFPI site.

Sincerely,

Justin Morgan

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

**LEGISLATION NO.: 0130-23**

**SPONSOR: Honorable Andy Nez**

**TITLE: An Action Relating to the Resources and Development, Budget and Finance, and Naabik'iyáti' Committees, and to the Navajo Nation Council; Approving \$5,000,000 from the Síhasin Fund to Navajo EPA for the Assessment and Remediation of Environmental Damage from Former Lumber Processing Operations at the Red Lake and Sawmill Chapters; Approving the Related Expenditure Plan**

**Posted: June 09, 2023 at 5:33 PM**

**5 DAY Comment Period Ended: June 14, 2023**

**Digital Comments received:**

<b>Comments Supporting</b>	<b>1) Kathleen Shurley</b>
<b>Comments Opposing</b>	<i>None</i>
<b>Comments/Recommendations</b>	<b>1) Philene Tyler</b>

  
**Legislative Secretary II  
Office of Legislative Services**

**January 11, 2024 11:45 AM**  
**Date/Time**

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## Legislation 130-23



Kathleen Shurley

Thu 1/4, 11:09 AM

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Inbox

I am in support of Legislation 130-23 to request funds in the amount of \$5M to assess and clean up and remediate the former NFPI Site and the old dump site in Navajo, NM. This is a major community concern to clean up and restore the local environment to beneficial use. In addition, this is for the safety and health concern of the local community as well, as communities downstream along the Black Creek Wash. Thank you.

Kathleen Shurley, CSC  
Red Lake Chapter

[kshurley@nnchapters.org](mailto:kshurley@nnchapters.org)

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## Legislation 130-23

**Philene Tyler**

Fri 12/29/2023, 8:36 PM

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### Inbox

I am writing as a concern community member of Red Lake/Navajo, New Mexico. There was a time when Navajo, New Mexico was known for a successful lumber industry which was Navajo Forestry Product Industry (NFPI). The Navajo Nation was proud of their success until the plant was shut down. Since, the plant shut down, the town of Navajo, New Mexico was left with an eyesore. We're told there are dangerous chemicals left behind that are dangerous to our health, plants, wildlife, herbal plants, farm lands and even to communities downstream.

As our leaders of our Dine Nation, I ask you to please support **Legislation 130-23**. Help us put our community back to a clean environment and safe and healthy community. We look forward to the day the site is cleaned and our children, grandchildren are not exposed to hazard environment.

Thank you,  
Philene Tyler

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