

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
23rd Navajo Nation Council --- Third Year, 2017

AN ACTION

RELATING TO BUDGET AND FINANCE AND RESOURCES AND DEVELOPMENT;
REGARDING THE PURCHASE OF PROPERTY RESEARCHED FOR PURCHASE BY
THE NAVAJO NATION OF 11,380 ACRES, MORE OR LESS, LOCATED WITHIN
CUSTER COUNTY, COLORADO

BE IT ENACTED:

Section One. Authority

- A. The Navajo Nation Council by Resolution CJY-54-94 Established a Land Acquisition Trust Fund within the Navajo Land Department for the purchase of lands for the Navajo Nation according to the Land Acquisition Policy and Procedures and the Navajo Land Consolidation Act of 1988.
- B. Pursuant to 16 N.N.C. § 4, upon recommendation of the Budget and Finance Committee, the Resources and Development Committee grants final approval for [land] acquisitions of property not less than \$5,000,000 and not more than \$20,000,000.00 per calendar year. CAU-44-16 (Aug. 10, 2016).
- C. The Budget and Finance Committee and Resources and Development Committee shall approve price, acreage and location for the acquisition or disposition of real property exceeding the total expenditure of \$5,000,000 per calendar year and less than \$20,000,000 issue a resolution for approval or disapproval of such acquisition or disposition of real property. See Navajo Nation Land Acquisition Rules and Regulations, IV(C)(1)(2), RDCO-78-16 (Oct. 25, 2016).

Section Two. Findings

- A. The Navajo Nation Acquisition of Lands Act, 16 N.N.C. §2(A), states "The Navajo Nation's major purposes in acquiring new lands shall be to: (5) Provide land necessary for approved Navajo Nation economic development." See CAU-44-16.
- B. The Navajo Nation shall acquire and dispose of real property subject to land acquisition regulations as approved by the Resources and Development Committee of the Navajo Nation Council. 16 N.N.C. § 3, CAU-44-16.

- C. The Resources and Development Committee approved the Navajo Nation Land Acquisition Rules and Regulations. RDCO-78-16.
- D. The Navajo Nation Land Acquisition Rules and Regulations ("Rules and Regulations at Section III, (B)") authorizes the Executive Director of the Division of Natural Resources to:
 - 1. Strategize and evaluate properties for acquisition or disposition through coordination with appropriate Divisions, Chapters, and Enterprises;
 - 2. Conduct a preliminary assessment of the property in terms of location, value to the Navajo Nation, title and environmental issues;
 - 3. Coordinate with interested Divisions or Chapters to complete the assessment of the property for acquisition or disposition;
 - 4. Hire consultants, such as but not limited to, real estate brokers and agents to assist the Navajo Nation in the acquisition or disposition of real property; and
 - 5. Negotiate the purchase price for the subject property.
 - 6. Authorize the Navajo Land Department to conduct additional administrative duties that are not already identified herein.
- E. The Rules and Regulations provide general procedures for the purchase of real property where the Navajo Land Department shall conduct a preliminary inspection involving an on-site inspection of the property to identify the land, any title issues, inventory, readily identifiable environmental concerns, or any issues that may exist shall review preliminary title documents, if available, for identification of any liens, encumbrances, or title issues. See Rules and Regulations, VI, General Procedures for Purchase of Real Property, (C) (1) (2).
- F. The Land offered for sale includes Boyer Ranch described in **Exhibit A**.
- G. The Navajo Land Department has obtained from the owner information and data required to complete a purchase package for the acquisition of the Boyer Ranch property. All Due

Diligence studies to be performed during the 60 day inspection period.

- H. Funds are available from the FY2017 Land Acquisition Trust Fund Budget Business Unit 415000 to purchase property. A copy of the funds availability is attached as **Exhibit B**.
- I. The Navajo Land Department, pursuant to the Rules and Regulations, VI, General Procedures for Purchase of Real Property, (D)(1)(a), shall prepare a recommendation to the approving authority; and (b) verify the funds are available for the purchase.
- J. The Navajo Nation finds that the acquisition of this property is in the best interest of the Navajo Nation, which will provide land necessary for approved Navajo Nation economic development, agriculture use, water availability, recreational economic opportunity, enhancement to the Native Beef Program.

Section Three. Approval

- A. The Navajo Nation hereby approves of the purchase of the 11,380 acres, more or less, as described in paragraph F above, at \$7,510,000 plus any closing costs and expenses, consistent with the general terms of the Real Estate Purchase Agreement.
- B. The Navajo Nation hereby approves the expenditure from the Land Acquisition Trust Fund in the amount approved to purchase the property to benefit the Navajo Nation.
- C. The Navajo Nation directs the Division of Natural Resources Executive Director to initiate and complete the requirements for the purchase of real property on or before November 17, 2017, through a Purchase Agreement with related documents as described in the "Navajo Nation Land Acquisition Rules and Regulations, VI. General Procedure for Purchase of Real Property, E. Purchase Agreement and Opening Escrow".
- D. The Navajo Nation hereby approves the expenditure from the Land Acquisition Trust Fund in the amount approved to purchase the property to benefit the Navajo Nation for use of the land and facility for economic development purposes equine therapy sessions, veteran rehabilitation therapy, educational purposes, housing, firewood and traditional Navajo practices among the purposes that are in the best interest of the Navajo Nation.

CERTIFICATION

I, hereby certify that the following resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at Budget and Finance Conference Room, Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 3 in favor, 0 opposed, 1 abstained on this 13th day of October, 2017.

A handwritten signature in blue ink, appearing to read 'Alton Joe Shepherd', is written over the printed name.

Alton Joe Shepherd, Chairperson
Resources and Development Committee
of the 23rd Navajo Nation Council

Motion: Honorable Leonard Pete
Second: Honorable Jonathan Perry

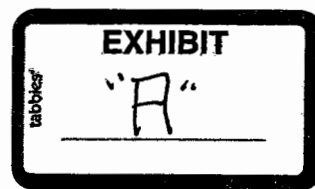


Exhibit "A"
DESCRIPTION OF PROPERTY – CUSTER COUNTY, CO.
(3 Pages)

SCHEDULE A
LEGAL DESCRIPTION

PARCEL A:

A parcel of land being portions of the East 1/2 of the Northeast 1/4, the Northeast 1/4 of the Southeast 1/4 of Section 22 and the West 1/2 of the Northwest 1/4, the Northwest 1/4 of the Southwest 1/4 of Section 23, all in Township 23 South, Range 72 West of the 6th P.M., Custer County, Colorado, being more particularly described as follows:
Beginning at the Northwest corner of said Section 23; thence on the following 6 courses:
1. South 87°41'53" East on the North line thereof, 885.75 feet;
2. South 01°01'04" West, 3948.18 feet to a point on the South line of said Northwest 1/4 of the Southwest 1/4 of Section 23;
3. North 87°13'15" West on said South line, 893.10 feet to the Southwest corner thereof;
4. North 88°39'56" West on the South line of said Northeast 1/4 of the Southeast 1/4 of Section 22, 878.63 feet;
5. North 01°02'46" East, 3954.25 feet to a point on the North line of said East 1/2 of the Northeast 1/4 of Section 22;
6. South 87°46'55" East on said North line, 884.00 feet to the point of beginning;

AND ALSO a parcel of land being portions of the Northwest 1/4 and the North 1/2 of the Southwest 1/4 of Section 23, Township 23 South, Range 72 West of the 6th P.M., Custer County, Colorado, being more particularly described as follows:
Beginning at the North 1/4 corner of said Section 23; thence on the following four courses:
1. South 01°07'12" West on the East line of the West 1/2 of said Section 23, 3982.72 feet to the Southeast corner of said North 1/2 of the Southwest 1/4;
2. North 87°13'15" West on the South line thereof, 1763.32 feet;
3. North 01°01'04" East, 3948.18 feet to a point on the North line of said Northwest 1/4 of Section 23;
4. South 87°41'53" East on said North line, 1770.00 feet to the point of beginning.

Together with a nonexclusive easement for ingress and egress and the installation and maintenance of utilities to benefit and burden, and to run with the above described land. The easement is described as follows:
Beginning at the Southwest corner of the North 1/2 of the Southeast 1/4 of Section 22, Township 23 South, Range 72 West of the 6th P.M., Custer County, Colorado; Thence on the following six courses:
1. North 00°32'11" East on the West line of the North 1/2 of the Southeast 1/4, 60.00 feet;
2. South 88°39'56" East, parallel to and 60 feet North of the South line of said North 1/2 of the Southeast 1/4, 2629.44 feet;
3. South 87°13'15" East, parallel to and 60 feet North of the South line of the North 1/2 of the Southwest 1/4 of said Section 22, 892.89 feet;
4. Curve right, central angle 183° 31'30", radius 50.00 feet, length 180.16 feet, chord bears South 50°21'07" East, to a point on said South line of the North 1/2 of the Southwest 1/4 of Section 23;
5. North 87°13'15" West on said South line 971.21 feet;
6. North 88°39'56" West on said South line of the North 1/2 of the Southeast 1/4 of Section 22, 2628.82 feet to the point of beginning.

AND ALSO all of that portion of the Northeast 1/4 of the Northeast 1/4 of Section 23, Township 22 South, Range 72 West of the 6th P.M., lying South and West of State Highway Number 69.

AND
Township 23 South, Range 72 West of the 6th P.M.;
Section 23: NW1/4 NE1/4, S1/2 NE1/4, SE1/4 SW1/4, SE1/4
Section 24: S1/2 SW1/4

ALSO a tract described as follows:

Beginning at a point 33 feet North of the West corner of said Section 24 Corner No. 1; thence South 53°5' East 487 feet to

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GUARANTY COMPANY



Beginning at the Station No. 1 in the center of State Highway No. 69, whence the center of Section 5, Township 24 South, Range 71 West of the 6th P.M. bears East 284 feet; thence along center of said Highway No. 69 South 35° East 556 feet; thence South 24° 45' East 1200 feet; thence South 36°30' East 1418 feet, said point being 1375 feet East of the South 1/4 corner of Section 5; thence South 36°30' East 300 feet; thence South 45° East 1455 feet to a point 185 feet West of the Southeast corner of the Northeast 1/4 of the Northeast 1/4 of Section 8.

EXCEPT a tract of land conveyed to Harmony Community Building Association, recorded in Book 90 at Page 350, described as follows:

A tract of land in the Northwest 1/4 of the Southeast 1/4 of Section 5, Township 24 South, Range 71 West of the 6th P.M., described as follows:

Beginning at a point 475 feet South of the Northwest corner of said subdivision; thence 435 feet South on the survey line; thence 235 feet East at a right angle; thence 61 1/2° back to the point of beginning.

ALSO EXCEPT those tracts of land conveyed to State Highway Department of Highways, State of Colorado, recorded in Book 177 at Page 361 as Reception No. 123278.

Section 6: All except that part of the NE1/4 NE1/4 lying North and East of Highway No. 69.

EXCEPTING a portion of land located in Sections 5 and 6, Township 24 South, Range 71 West of the 6th P.M., Custer County, Colorado, more particularly described as follows:

Starting at the point of beginning on the South right of way of Highway 69 on the North Section line of Section 8; thence 270°00'00" azimuth, a distance of 530 feet; thence 306°40'47" azimuth a distance of 5819 feet; thence 50°51'22" azimuth a distance of 1720 feet; thence 139°50'12" azimuth a distance of 5627 feet back to the point of beginning.

Section 7: W1/2

Section 8: NW1/4, SE1/4 and that part of the S1/2 NE1/4 lying South and West of Highway No. 69

Section 9: All that part lying South and West of Highway No. 69

Section 17: All

Section 18: NW1/4

Section 20: All

Section 21: All lying South and West of Highway No. 69.

PARCEL C:

TOWNSHIP 24 SOUTH, RANGE 72 WEST OF THE 6TH P.M.,

Section 13: E1/2 SE1/4

Section 23: E1/2, E1/2 W1/2, W1/2 SW1/4

Section 24: All

Section 25: N1/2 NE1/4, NW1/4, W1/2 SW1/4, SE1/4, E1/2 SW1/4, S1/2 NE1/4

Section 26: E1/2

Section 35: N1/2 NE1/4

TOWNSHIP 24 SOUTH, RANGE 71 WEST OF THE 6TH P.M.

Section 18: Lot 4 also known as the SW1/4 SW1/4

Section 19: Lot 1 also known as the NW1/4 NW1/4



Corner No. 2;
thence South 71°20' East 2,306 feet to Corner No. 3;
thence South 303 feet to Corner No. 4, being the Southeast corner of the Northeast 1/4 of the Southwest 1/4 of said Section 24;
thence West 2640 feet to Corner No. 5, being the Southwest corner of the Northwest 1/4 of the Southwest 1/4 of said Section 24;
thence North 1353 feet to Corner No. 1, the place of beginning.

ALSO all that portion of the Southeast 1/4 lying South and West of State Highway No. 69.

Section 25: NW1/4, S1/2, and that portion of the W1/2 NE1/4 lying South and West of State Highway 69.

Section 26: NE 1/4

TOWNSHIP 23 SOUTH, RANGE 71 WEST OF THE 6TH P.M.

Section 30: A tract of land situated in the Southwest 1/4, Section 30, Township 23 South, Range 71 West of the 6th P.M., described as follows:

Beginning at the West corner, Section 30, Township 23 South, Range 71 West, Corner No. 1; thence South 2640 feet to the Southwest corner of said Section 30, Corner No. 2; thence East 1683.32 feet to Corner No. 3; thence Northwest to Corner No. 1, the place of beginning.

Section 31: SW1/4 NW1/4, NW1/4 SW1/4, E1/2 SW1/4

ALSO a tract of land situated in the East 1/2, Section 31, Township 23 South, Range 71 West, described as follows:
Beginning at Corner No. 1, a point whence the Northeast corner of the Southeast 1/4 of the Northwest 1/4 said Section 31 bears North 132.5 feet; thence South 3,827.5 feet to the South 1/4 corner said Section 31, Corner No. 2; thence East 2,410 feet to Corner No. 3; thence Northwest to Corner No. 1, the place of beginning.

AND E1/2 NW1/4, SW1/4 NW1/4, Section 26, Township 23 South, Range 72 West of the 6th P.M.

AND Lot 4, Section 31, Township 23 South, Range 71 West of the 6th P.M.

AND Township 23 South, Range 71 West of the 6th P.M.

Section 31: Lot 1, E1/2 NW1/4 less that part lying North and East of Highway 69.

TOWNSHIP 23 SOUTH, RANGE 72 WEST OF THE 6TH P.M.

Section 25: All that part of the E1/2 NE1/4 lying South and West of Highway 69

PARCEL B:

Township 24 South, Range 72 West of the 6th P.M.,

Section 1: All

Section 2: E1/2

Section 11: E1/2

Section 12: All

Section 13: N1/2, SW1/4, W1/2 SE1/4

Section 14: NE1/4 NE1/4, S1/2 N1/2, S1/2

Township 24 South, Range 71 West of the 6th P.M.

Section 5: A tract of land situated in the Northwest 1/4 of Section 5, Township 24 South, Range 71 West of the 6th P.M., described as follows:

Beginning at Station No. 1, a point whence the Northwest corner of Section 5, Township 24 South, Range 71 West of the 6th P.M. bears North 500 feet; thence South 83°30' East 654 feet to Station 2; thence South 83° East 300 feet to Station 3; thence along the center of State Highway No. 69, South 38°30' East 1180 feet to Station No. 4; thence South 39° East along center of said Highway, 1200 feet to Station No. 5, a point in the center of Highway, 285 feet West of the center of Section 5; thence West 2372 feet to the West 1/4 corner of said Section 5; thence North along the line between Sections 5 and 6, 2140 feet to Station No. 1 being the place of beginning.

EXCEPT a tract of land conveyed to the Department of Highways, State of Colorado, recorded in Book 175 at Page 664 as Reception No. 119678.

Sections 5 and 8:

A tract of land situated in the South 1/2 of Section 5 and in the North 1/2 of the Northeast 1/4 of Section 6, Township 24 South, Range 71 West, lying South and West of the following described line:

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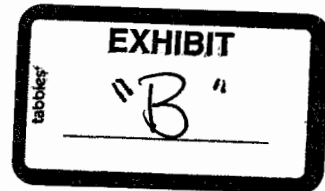
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GUARANTY COMPANY





THE NAVAJO NATION


RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE-PRESIDENT



Memorandum

Date: May 19, 2017

To: Honorable Russell Begay, Navajo Nation President
Office of President and Vice President

From: 
Pearline Kirk, Controller
Office of the Controller

Subject: Proof of Funds in the Land Acquisition Fund, as of March 31, 2017

Per your request via Memorandum dated May 18, 2017, the Office of the Controller has calculated the unaudited balance, as of March 31, 2017 for the Land Acquisition Fund. Please see the attached balance sheet and income statement. The unaudited Unreserved amount available for use in the fund balance is \$160,796,570.

If you should have any question please feel free to call me at tribal extension X6308.

THE NAVAJO NATION
Land Acquisition Fund
Combining Balance Sheet
As of March 31, 2017 (Unaudited)

| Assets | |
|--------------------------------------|-----------------------------|
| Current Assets: | |
| Cash and cash equivalents | (54) |
| Investments | 36,748,408 |
| Receivables: | |
| Accounts Receivable, net | 425,396 |
| Accrued interest receivable | - |
| Note receivable | - |
| Interfund Receivable | 361,238 |
| Total Current Assets | <u>37,534,989</u> |
| Long term Assets: | |
| Investments | 129,141,230 |
| Receivables | 0 |
| Total Long term Assets | <u>129,141,230</u> |
| Total Assets | <u><u>166,676,219</u></u> |
| Liabilities and Fund Balances | |
| Liabilities: | |
| Accounts Payable | (11,187) |
| Accrued liabilities | (1) |
| Other liabilities | - |
| Total Liabilities | <u>(11,188)</u> |
| Fund Balances: | |
| Unreserved | (160,796,570) (1) |
| Committed | (5,727,234) |
| Assigned | (141,226) |
| Total Fund Balances | <u>(166,665,030)</u> |
| Total Liabilities and fund balances | <u><u>(166,676,219)</u></u> |

(1) Unreserved- amount available for appropriation.

Prepared by General Accounting
5/8/2017

THE NAVAJO NATION
Land Acquisition Fund
Combining Statement of Revenues, Expenditures, and Changes in Fund Balances
As of March 31, 2017 (Unaudited)

Revenues:

| | |
|------------------------|--------------------|
| Stocks & Bonds | (6,015,206) |
| Other Financial Income | <u>(3,077,548)</u> |
| Total Revenue | <u>(9,092,754)</u> |

Expenditures:

| | |
|--------------------|------------------|
| Total Expenditures | <u>3,631,518</u> |
|--------------------|------------------|

| | |
|--|---------------------------|
| Excess (deficit) of revenues over expenditures | <u><u>(5,461,236)</u></u> |
|--|---------------------------|

Prepared by General Accounting
5/8/2017

Boyer Ranch - Wells

| <u>Name</u> | <u>Power</u> | <u>Permit #</u> | <u>Depth</u> | <u>Pump Level</u> | <u>Static</u> | <u>GPM</u> |
|--|--------------|---------------------------|--------------|-------------------|---------------|------------|
| Aurich/Griffen (shared) cleaned 2/20/02 | gen | | 220 | | 180 | 10 |
| Aurich/White Corral re-drilled 2001 | E | 6440-A | 526 | 525 | 400 | 15 |
| Bridge drilled 2001 | E | 227459 | 510 | 480 | 400 | 10 |
| Froze Ck. drilled 2001 | solar | 223179 | 394 | 100 | 35 | 25 |
| Griffin-north cleaned 2001 | solar/gen | | 85 | 75 | 30 | 15 |
| Pfaffenhauser drilled 2002 | gen | 240238 | 351 | 340 | 260 | 14 |
| Pfaffenhauser-South pulled 2001 | windmill | | 285 | 275 | 250 | 15 |
| <u>Headquarters</u> | | | | | | |
| #1 Corral | artesian | old 21053F new 209440 | 180 | | | 15 |
| #2 Froze | artesian | old 021054F new 209446 | 180 | | | 15 |
| Bull pasture | artesian | | 150 | | | 15 |
| Main house | E | | 57 | | | |
| So. House | E | | 50 | | | |
| Vickerman | windmill | | 50 | | | 5 |

Exhibit B, Boyer Ranch Water Rights

Boyer Ranch - Water Rights

| <u>Ditch Name</u> | <u>Creek</u> | <u>CFS</u> | <u>Priority</u> | <u>Acres</u> |
|-------------------|----------------|----------------|-----------------|-----------------------|
| Old EP Smith | Cottonwood | .98 CFS | Aug. 1, 1871 | 50 ac |
| 1st Enlargement | Cottonwood | .68 CFS | July 1, 1879 | |
| Frank & Co | Cottonwood | 1.10 CFS | June 15, 1875 | 240 ac |
| 1st Enlargement | Cottonwood | .75 CFS | June 15, 1876 | |
| 2nd Enlargement | Cottonwood | .36 CFS | June 15, 1879 | |
| Pasture | Cottonwood | .66 CFS | March 15, 1876 | 90 ac |
| J. L. Schwab | Froze | 3.00 CFS | May 10, 1881 | 25 ac |
| J. L. Schwab | Cottonwood #2 | 2.13 CFS | May 10, 1881 | 80 ac |
| J.L. Schwab | Cottonwood #1 | 4.00 CFS | May 15, 1881 | 165 ac |
| Hudson & Siber | Froze Creek #1 | 2.40 CFS | June 1, 1882 | 130 ac |
| Hudson & Siber | Froze Creek #2 | 1.50 CFS | June 1, 1882 | 30 ac |
| J. L. Schwab | Cottonwood #4 | .40 CFS | May 5, 1887 | 20 ac |
| J. L. Schwab | Cottonwood #5 | <u>.40 CFS</u> | May 5, 1887 | <u>25 ac</u> |
| | | 18.38 CFS | | 855 adjudicated acres |

Exhibit B, Boyer Ranch Water Rights