

**RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
OF THE NAVAJO NATION COUNCIL**

25TH NAVAJO NATION COUNCIL - Third Year, 2025

AN ACTION

**RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING A
WAIVER OF THE CHAPTER SUPPORT RESOLUTION REQUIREMENT FOR ANY
TRIBAL AUTHORIZATION ACCESS APPLICATION CONCERNING A PROJECT
FUNDED BY AMERICAN RESCUE PLAN ACT FISCAL RECOVERY FUNDS EITHER
IN WHOLE OR IN PART**

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Resources and Development Committee of the Navajo Nation Council has final approval for all land withdrawals, non-mineral leases, permits, licenses, rights-of-way, surface easements and bonding requirements on Navajo Nation lands and unrestricted (fee) lands. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfers, renewals and terminations. 2 N.N.C. § 501 (B) (2) (a).
- B. The Resources and Development Committee can delegate its final approval authority for the transactions listed in 2 N.N.C. § 501(B)(2)(a) to appropriate divisions, governance-certified Chapters, Townships or appropriate entities for efficiency and streamlining of government processes provided that the Committee first grants final approval of rules and regulations governing such delegations and rescission of such delegations. 2 N.N.C. § 501 (B) (3).

SECTION TWO. FINDINGS

- A. The Code of Federal Regulations, Title 25, Part 169. Rights-of-way over Indian Land Subpart A. Purpose, Definitions, General Provisions, 25 CFR § 169.4 (b) (3) (iii) states "You do not need a right-of-way if you are... (iii) An independent legal entity wholly owned and operated by the tribe that owns 100 percent of the trust or restricted interests in the land." 25 CFR § 169.4 (b) (3) (iii) further states: "but the following conditions apply . . . The tribal governing body must pass a tribal authorization authorizing access without BIA approval

and including a legal description, and you must submit both documents to BIA for our records."

- B. In 2020, the Resources and Development Committee approved the Tribal Authorization Access ("TAA") without BIA approval for its independent legal entities wholly owned and operated by the Navajo Nation in accordance with the requirements of 25 C.F.R. § 169.4 (b)(3)(iii) and delegated certain authorities to the Department Manager of the Navajo Land Department via RDCJN-17-20.
- C. With the approval of RDCJN-17-20, the Resources and Development Committee also approved the Departmental Administrative Rules and Regulations for the Delegation of Authority to the Department Manager of the Navajo Land Department to Grant Tribal Authorization Access for Proposed Overhead and Underground Electric, Water, Sewer, Natural Gas Distribution Lines, Transmission Lines, Substation Tracts, Fiber Optic Cable and Roads, for Navajo Residents on Fee and Trust Lands Including the Eastern Navajo Agency" (herein referred to as the "Departmental Administrative Rules and Regulations").
- D. In 2024, the Resources and Development Committee approved certain amendments to the Departmental Administrative Rules and Regulations via Resolution RDCMA-13-24.
- E. The current version of the Departmental Administrative Rules and Regulations is attached as **Exhibit A**.
- F. The Navajo Nation has received more than two billion dollars (\$2,000,000,000) from the federal government under the American Rescue Plan Act ("ARPA")'s Fiscal Recovery Fund ("FRF") partly to respond to the health, social and economic impacts of the Covid-19 pandemic suffered by the Navajo people and Navajo businesses.
- G. Through various approvals, including CJN-29-22, as amended, and numerous FRF Delegate Region Project Plans, the Navajo Nation has allocated millions of dollars to fund critical infrastructure projects like water and wastewater, broadband, home electricity connections and electric capacity projects.
- H. Pursuant to ARPA, FRF-funded projects must be completed, and all FRF-funds must be expended, by December 31, 2026.
- I. Many of the Navajo Nation's FRF-funded projects require the approval of a TAA.


- J. Among other things, the Departmental Administrative Rules and Regulations require a TAA application include a Chapter Support Resolution. Departmental Administrative Rules and Regulations § IV(B)(7).
- K. Given the deadlines imposed by ARPA and the fact that the Navajo Nation Chapters have been heavily involved in the selection of projects utilizing the Navajo Nation's FRF dollars, the Resources and Development Committee finds it is unnecessary to require a Chapter Support Resolution for any TAA application related to an FRF-funded project.
- L. The Resources and Development Committee therefore finds it is in the best interest of the Navajo Nation to waive the Departmental Administrative Rules and Regulations' requirement for a Chapter Support Resolution found at Section IV(B)(7) if the TAA application at-issue involves FRF funding in whole or in part.

SECTION THREE. APPROVAL

- A. The Resources and Development Committee of the Navajo Nation Council hereby approves a waiver of the requirement for a Chapter Support Resolution found at Section IV(B)(7) of the Departmental Administrative Rules and Regulations if the TAA application at-issue involves FRF funding in whole or in part. All other requirements of the Departmental Administrative Rules and Regulations remain in effect.

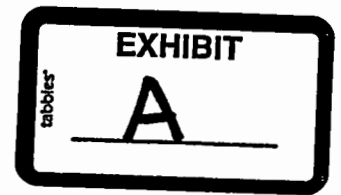
CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the Navajo Nation Council at a duly called meeting held at Tse Bonito, Navajo Nation (New Mexico) at which a quorum was present and that the same was passed by a vote of 4 in favor and 0 opposed, this 28th day of July 2025.



Honorable Brenda Jesus, Chairperson
Resources and Development Committee

Motion: Honorable Casey Allen Johnson
Second: Honorable Rickie Nez



**DEPARTMENTAL ADMINISTRATIVE RULES AND REGULATIONS FOR THE
DELEGATION OF AUTHORITY TO THE DEPARTMENT MANAGER OF THE
NAVAJO LAND DEPARTMENT TO GRANT TRIBAL AUTHORIZATION ACCESS FOR
PROPOSED OVERHEAD AND UNDERGROUND ELECTRIC, WATER, SEWER,
NATURAL GAS DISTRIBUTION LINES, TRANSMISSION LINES, SUBSTATION
TRACTS, FIBER OPTIC CABLE AND ROADS ON FEE AND TRUST LANDS
INCLUDING THE EASTERN NAVAJO AGENCY**

I. AUTHORITIES

Pursuant to 2 N.N.C. §500 (A) and (C) (1) and 2 N.N.C. §501 (C) (1), the Resources & Development Committee was established as a standing committee of the Navajo Nation Council to ensure the optimum utilization and protection of all resources of the Navajo Nation. The Resources & Development Committee serves as the Legislative oversight authority for the Division of Natural Resources.

Pursuant to 2 N.N.C §501 (B) (11), the Resources and Development Committee is authorized to delegate its responsibilities and authorities as appropriate for efficiency and streamlining of government processes to executive officials within the Division of Natural Resources provided that the Committee first approves rules and regulations governing such delegations.

By resolution RCDO-80-16, the General Land Development Department is a Department under the Division of Natural Resources. This Department administratively processes applications for land withdrawals, non-mineral leases, permits and rights-of-way, on and across Navajo Nation lands, including any amendments, subleases, or assignments thereof. The General Land Development Department is further authorized to obtain, require, manage and record all land user consents for the issuance of mineral surface leases, permits, and rights-of-way on or across all Navajo Nation lands consistent with the requirements of Navajo Nation laws, regulations, procedures and policies including those governmental requirements codified at 16 N.N.C §§1401-1403.

25 C.F.R. § 169.4(b)(3)(iii) provides that “[y]ou do not need a right-of-way to cross Indian land if: . . . (3) You meet any of the criteria in the following table: . . . you do not need a right-of-way if you are . . . (iii) an independent legal entity wholly owned and operated by the tribe that owns 100 percent of the trust or restricted interests in the land . . . but the following conditions apply . . . The tribal governing body must pass a tribal authorization authorizing access without BIA approval and including a legal description, and you must submit both documents to BIA for our records.”

II. PURPOSE AND SCOPE

The purpose of this Administrative Rule is to authorize and empower the Department Manager of the Navajo Land Department of the Division of Natural Resources to grant tribal authorization access for overhead and underground electric, water, sewer, natural gas distribution lines, transmission lines, utility fiber optic, temporary construction easements and roads that are consistent with applicable Federal and Navajo Nation Laws. Telecommunication tower land leases do not qualify as rights-of-way and do not fall under these regulations.

III. DELEGATION

The Resources & Development Committee hereby delegates to the Department Manager of the Navajo Land Department the following powers and authorities:

- a. To grant tribal authorization access for applications for overhead and underground electric, water, sewer, natural gas distribution lines, transmission lines, utility fiber optic, temporary construction easements and roads to legal entities wholly owned by the Navajo Nation and Navajo Nation governmental agencies on Navajo Nation trust and fee lands. Legal entities wholly owned by the Navajo Nation included but are not limited to: Navajo Tribal Utility Authority (NTUA), Navajo Transitional Energy Company, LLC (NTEC), Navajo Engineering and Construction Authority (NECA), Navajo Nation Oil and Gas Company (NNOGC), Navajo Nation Gaming Enterprise (NNGE), Navajo Agricultural Product Industry (NAPI), Navajo Housing Authority (NHA), Navajo Nation Hospitality Enterprise (NNHE) and Dine Power Authority (DPA).
- b. The Department Manager of the Navajo Land Department shall ensure that all applications are accompanied by proper surveys, easements, evaluations, and clearances as may be required by Federal and Navajo Nation Laws and Regulations.
- c. The Department Manager of the Navajo Land Department shall ensure that all applications are accompanied by proper environmental and cultural resources clearances, and reviewed by appropriate tribal departments.
- d. The Department Manager of the Navajo Land Department shall grant tribal authorization access, subject to, but not limited to, the terms and conditions contained in Exhibit "B", attached hereto and incorporated herein by this reference. The Resources and Development Committee retains the authority to approve all commercial tribal authorization accesses.

- e. The Department Manager of the Navajo Land Department shall have the authority to waive compensation for any tribal authorization access related to a “public purpose”. “Public purpose” means any residence, governmental building, including chapter houses, healthcare facility, school, including higher education entities, daycare, Head Start building, senior center, library, or public safety building.
- f. The Resources and Development Committee of the Navajo Nation Council retains the authority to approve tribal authorization accesses for commercial purposes. “Commercial” means a tribal authorization access for which its use/purpose, either in whole or in part, is commercial/for profit in nature, regardless of whether or not the tribal authorization access applicant is commercial/for profit in nature, but does not include any uses/purposes defined under “public purpose”.
- g. If a tribal authorization access application includes both a “public purpose” and non-public purpose component (e.g. a commercial component), the tribal authorization access must be approved by the Resources and Development Committee of the Navajo Nation Council.
- h. This delegation of authority to the Department Manager of the Navajo Land Department shall also apply to any renewal or amendment to a tribal authorization access, as long as the renewal or amendment is consistent with these Administrative Rules and Regulations.
- i. This delegation of authority shall not be re-delegated to any other tribal official without the consent and approval of the Resources & Development Committee of the Navajo Nation Council.

IV. AUTHORITY, DUTY AND RESPONSIBILITY

- a. The Department Manager of the Navajo Land Department is authorized to implement and administer this delegation of authority to grant tribal authorization access for overhead and underground electric, water, sewer, natural gas distribution lines, transmission lines, utility fiber optic, temporary construction easements and roads to legal entities wholly owned by the Navajo Nation and Navajo Nation governmental agencies on Navajo Nation trust and fee lands.
- b. Requirements to process all rights-of-way applications include:
 - 1. Letter of Application
 - 2. Survey of Right-of-Way and Location Maps with legal descriptions
 - 3. Biological Resource Compliance Forms (BRCF)
 - 4. Cultural Resources Compliance Form
 - 5. Compliance Determination

6. Grazing Permittee Consent Documents
 7. Chapter Support Resolution
 8. Other pertinent documents if necessary
- c. Respective Tribal Departments (e.g. General Land Development Department, Fish & Wildlife Department, Heritage and Historic Preservation Department, Minerals Department, Department of Water Resources, Navajo Environmental Protection Agency and the Navajo Nation Department of Justice) shall receive one set of the application forms with the Executive Official Review Signature Sheet that is sent electronically. Each Tribal Department shall concurrently review the application. The respective Department's reviewer shall review, surname and return the application with the signed Executive Official Review Signature Sheet to the Department Manager of the Navajo Land Department within ten (10) business days for final approval. If the application is not reviewed and surnamed within the said timeline, the Department Manager of the Navajo Land Department may approve the application; provided, however, the Navajo Land Department is responsible for ensuring compliance with all applicable environmental and natural resources laws.

The Department Manager of the Navajo Land Department shall provide the Resources and Development Committee with an annual report on the status of all granted tribal authorization accesses applications.

V. REVIEW AND AMENDMENT

- a. This tribal authorization access only applies to legally owned entities of the Navajo Nation and cannot be transferred, assigned or provided to another entity or LLC or any holding companies that are established or created in the future, including any subsidiary of a legal entity wholly owned by the Navajo Nation.
- b. The scope and administration of this delegation of authority to the Department Manager of the Navajo Land Department and Administrative Rules and Regulations may be amended or rescinded by the Resources and Development Committee of the Navajo Nation Council, including on the recommendation of the Navajo Land Department and the Division of Natural Resources Division Director.

RESOURCES & DEVELOPMENT COMMITTEE
July 28, 2025
Regular Meeting

VOTE TALLY SHEET:

Legislation No. 0176-25: An Action Relating to the Resources and Development Committee; Approving a waiver of the Chapter Support Resolution Requirement for any Tribal Authorization Access Application Concerning a Project Funded by American Rescue Plan Act Fiscal Recovery Funds Either in Whole or in Part
Sponsor: Danny Simpson, Council Delegate

Motion: Honorable Casey Allen Johnson
Second: Honorable Rickie Nez
Vote: 4-0, Chairperson not voting

Final Vote Tally:

Shawna A. Claw	Y	
Brenda Jesus		NV
Casey Allen Johnson	Y	
Rickie Nez	Y	
Danny Simpson	Y	
Otto Tso		E

Excused: Honorable Otto Tso



Brenda Jesus, Chairperson
Resources & Development Committee



Shural Notah, Legislative Advisor
Resources & Development Committee