

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0080-19_

SPONSOR: Edmund Yazzie

**TITLE: An Action Relating To Resources And Development Committee;
Approving The Grant Of Right-Of-Way To Jemez Mountain Electric Cooperative,
Inc. To Construct, Operate And Maintain The Bevale Camp 14.4 KV Single Phase
Powerline Project Located On Navajo Nation Trust Lands In Nageezie Chapter,
Navajo Nation (San Juan County, New Mexico)**

Date posted: April 3, 2019 at 5:16 PM

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0080-19

DATE: March 28, 2019

TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION;
AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE;
APPROVING THE GRANT OF RIGHT-OF-WAY TO JEMEZ MOUNTAIN ELECTRIC
COOPERATIVE, INC. TO CONSTRUCT, OPERATE AND MAINTAIN THE BEYALE
CAMP 14.4 KV SINGLE PHASE POWERLINE PROJECT LOCATED ON NAVAJO
NATION TRUST LANDS IN NAGEEZI CHAPTER, NAVAJO NATION (SAN JUAN
COUNTY, NEW MEXICO)

PURPOSE: Approving the Grant of Right-of-Way to the grant of right-of-way to Jemez
Mountain Electric Cooperative, Inc., to construct, operate and maintain the Beyale Camp 14.4
kV electric powerline on, over and across Navajo Nation Trust Lands in Nageezi Chapter (San
Juan County, New Mexico).

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

Website Posting Time/Date: _____

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Eligible for Action: 4/9/19

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PROPOSED STANDING COMMITTEE RESOLUTION
24th NAVAJO NATION COUNCIL—First Year, 2019

INTRODUCED BY



Primary Sponsor

TRACKING NO. 0080-19

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING
THE GRANT OF RIGHT-OF-WAY TO JEMEZ MOUNTAIN ELECTRIC
COOPERATIVE, INC. TO CONSTRUCT, OPERATE AND MAINTAIN THE
BEYALE CAMP 14.4 KV SINGLE PHASE POWERLINE PROJECT LOCATED ON
NAVAJO NATION TRUST LANDS IN NAGEEZI CHAPTER, NAVAJO NATION
(SAN JUAN COUNTY, NEW MEXICO)

BE IT ENACTED:

Section One. Authorities

Pursuant to 2 N.N.C. § 500 (B) (2), the Resources and Development Committee of the Navajo Nation Council has the authority to grant final approval for all land withdrawals, non-mineral leases, permits, licenses, right-of-way, surface easements and bonding requirements on Navajo Nation lands and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfers, renewals, and terminations.

Section Two. Findings

A. The Jemez Mountain Electric Cooperative, Inc., P.O. Box 128, Espanola, New Mexico 87532, has submitted a right-of-way application, to construct, operate and maintain the Beyale Camp 14.4 kV electric powerline on, over and across Navajo

1 Nation Trust Lands in Nageezi Chapter (San Juan County, New Mexico), attached as
2 **Exhibit C.**

3 B. The proposed right-of-way is described in **Exhibit B.**

4 C. The Land Board Member of the Nageezi Chapter, District 19, has issued a
5 memorandum dated April 17, 2017, **Exhibit D**, stating that "there is no grazing
6 permit issued for Navajo Trust Land located in [the proposed project area]."

7 D. 25 CFR § 169.110 addresses how much monetary compensation must be paid for
8 a right-of-way over or across tribal land. It states: *(a) A right-of-way over or
9 across tribal land may allow for any payment amount negotiated by the tribe, and
10 we will defer to the tribe and not require a valuation if the tribe submits a tribal
11 authorization expressly stating that it:*

12 *(1) Has agreed upon compensation satisfactory to the tribe;*

13 *(2) Waives valuation; and*

14 *(3) Has determined that accepting such agreed-upon compensation and waiving
15 valuation is in its best interest.*

16 *(b) The tribe may request, in writing, that we determine fair market value, in
17 which case we will use a valuation in accordance with § 169.114. After providing
18 the tribe with the fair market value, we will defer to a tribe's decision to allow for
19 any compensation negotiated by the tribe.*

20 *(c) If the conditions in paragraph (a) or (b) of this section are not met, we will
21 require that the grantee pay fair market value based on a valuation in accordance
22 with § 169.114.*

23 E. 25 CFR § 169.103 address bond, insurance or alternative forms of security. It
24 states: *(a) You must include payment of bonds, insurance, or alternative forms of
25 security with your application for a right-of-way in amounts that cover:*

26 *(1) The highest annual rental specified in the grant, unless compensation is a one-
27 time payment;*

28 *(2) The estimated damages resulting from the construction of any permanent
29 improvements;*

30

1 (3) *The estimated damages and remediation costs from any potential release of*
2 *contaminants, explosives, hazardous material or waste;*

3 (4) *The operation and maintenance charges for any land located within an*
4 *irrigation project;*

5 (5) *The restoration of the premises to their condition at the start of the right-of-*
6 *way or reclamation to some other specified condition if agreed to by the*
7 *landowners.*

8 * * * *

9 (f) *We may waive the requirement for a bond, insurance, or alternative form of*
10 *security:*

11 * * * *

12 (2) *For tribal land, deferring, to the maximum extent possible, to the tribe's*
13 *determination that a waiver of a bond, insurance or alternative form of security is*
14 *in its best interest.*

15 F. The Resources and Development Committee, through resolution number RDCID-97-
16 18, limited the amount of a waiver of compensation to no more than 50% that will be
17 allowed for utility companies requesting a waiver of compensation.

18 G. The environmental and archaeological studies have been completed and are attached
19 hereto as **Exhibit E**.

20 H. The application for the Right-of-Way has been reviewed by the Fish and Wildlife;
21 Historic Preservation; Minerals; Navajo Nation Environmental Protection; Division
22 of Natural Resources and the Department of Justice and "Approved" or found
23 "Sufficient." See documents included in Executive Official Review Document
24 Number 009706, **Exhibit F**.

25
26 **Section Three. Approval**

27 A. The Resources and Development Committee of the Navajo Nation Council hereby
28 approves the grant of right-of-way to Jemez Mountain Electric Cooperative, Inc., to
29 construct, operate and maintain the Beyale Camp 14.4 kV electric powerline on, over
30 and across Navajo Nation Trust Lands in Nageezi Chapter (San Juan County, New

1 Mexico), the location is more particularly described on the survey map attached as
2 **Exhibit B.**

3 B. The Resources and Development Committee of the Navajo Nation Council hereby
4 approves the grant of right-of-way subject to, but not limited to, the terms and
5 conditions attached as **Exhibit A.**

6 C. The Resources and Development Committee of the Navajo Nation Council hereby
7 authorizes the President of the Navajo Nation to execute any and all documents to
8 affect the intent and purpose of this resolution.

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