

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

20TH NAVAJO NATION COUNCIL – Third Year, 2005

INTRODUCED BY

TRACKING NO. 0886-04

AN ACT

RELATING TO RESOURCES, AND DINÉ FUNDAMENTAL LAW; ENACTING THE
DINÉ NATURAL RESOURCES PROTECTION ACT OF 2005; AMENDING
EIGHTEEN OF THE NAVAJO NATION CODE

BE IT ENACTED:

Section 1. Enactment of the Diné Natural Resources Protection Act of 2004

The Navajo Nation Council hereby enacts the Diné Natural Resources Protection Act of 2004.

Section 2. Purpose

The purpose of the Diné Natural Resources Protection Act of 2004 is to ensure that no further damage to the culture, society, and economy of the Navajo Nation occurs because of uranium mining within the Navajo Nation and Navajo Indian Country and that no further damage to the culture, society and economy of the Navajo Nation occurs because of uranium processing until all adverse economic, environmental and human health effects from past uranium mining and processing have been eliminated or substantially reduced to the satisfaction of the Navajo Nation Council.

Section 3. Amendments to Title 18 Navajo Nation Code

The Navajo Nation Council hereby amends the Navajo Nation Code, Title 18, as follows:

THENCE
BUDGET & FINANCE COMMITTEE
THENCE
ECONOMIC DEVELOPMENT COMMITTEE
THENCE
RESOURCES COMMITTEE
THENCE
TITLE & RULES COMMITTEE
THENCE
NAVAJO NATION COUNCIL

1 **§1301. Findings**

2 A. The Navajo Nation Council finds that the wise and sustainable use of the natural
3 resources in Navajo Indian Country traditionally has been, and remains, a matter of
4 paramount governmental interest of the Navajo Nation and a fundamental exercise of
5 Navajo tribal sovereignty.

6 B. The Navajo Nation Council finds that the Fundamental Laws of the Diné (*Diné Bi*
7 *Beenahaz'annii*), as set forth in the 2002 amendments to Title 1 of the Navajo Nation
8 Code, Resolution No. CN-69-02, support preserving and protecting the Navajo Nation's
9 natural resources, especially the four sacred elements of life — air, light/fire, water and
10 earth/pollen — for these resources are the foundation of the peoples' spiritual ceremonies
11 and the *Diné* life way, and that it is the duty and responsibility of the *Diné* to protect and
12 preserve the natural world for future generations.

13 C. The Navajo Nation Council finds that the Traditional (*Diyin Bitsaase Beehazaanii*)
14 and Customary laws of the Diné (*Diyin Dinée Bi Beehaz'aani Bitse silei*), which are
15 codified in Title 1 as sections 3 and 4 of the Fundamental Laws of the Diné, provide that it
16 is the right and freedom of the people to be respected, honored and protected with a
17 healthy physical and mental environment.

18 D. The Navajo Nation Council finds that the Diné medicine peoples' interpretation of
19 the Diné Natural Law (*Nahaszaan doo Yadhilhil Bitsaadee Beehazaanii*), which is codified
20 in Title 1 as 5 of the Fundamental Laws of the Diné, mandates respect for all natural
21 resources within the four sacred mountains and is symbolized by the Sacred Mountain
22 Soil Prayer Bundle (*Dahndiilyee*) to maintain harmony and balance in life and a healthy
23 environment, and their recitation of the ceremonies and stories that have been passed
24 down from generation to generation warn that certain substances in the Earth (*doo nal yee*
25 *dah*) that are harmful to the people should not be disturbed, and that the people now know
26 that uranium is one such substance, and therefore, that its extraction should be avoided as
27 traditional practice and prohibited by Navajo law.

28 E. The Navajo Nation Council finds that the social, cultural, natural resource, and
29 economic damage to the Navajo Nation from past uranium mining and processing is
30 ongoing due to (i) the continuing need for full monetary compensation of former Navajo

1 uranium workers and their family members for their radiation and mining-induced
2 diseases, (ii) the presence of hundreds of unremediated or partially remediated uranium
3 mines, tailings piles, and waste piles located in Navajo Indian Country, and (iii) the
4 absence of medical studies of the health status of Diné who live in uranium mining-
5 impacted communities.

6 F. The Navajo Nation Council finds that the mining and processing of uranium ore on
7 the Navajo Nation and in Navajo Indian Country since the mid-1940s has created
8 substantial and irreparable economic detriments to the Nation and its people in the form of
9 lands lost to permanent disposal of mining and processing wastes, lands left unproductive
10 and unusable because they are the sites of hundreds of abandoned uranium mines that
11 have not been successfully reclaimed, surface water and ground water left unpotable by
12 mining and processing operations, livestock that could not be marketed because they were
13 believed to have been contaminated by uranium, Navajo workers who lost thousands of
14 person-years to gainful economic activity as a result of their mining-induced illnesses and
15 deaths, and the families of Navajo uranium workers whose livelihoods, agricultural lands
16 and homesites were diminished in value because of the illnesses and premature deaths of
17 the workers.

18 G. The Navajo Nation Council finds that there is a reasonable expectation that future
19 mining and processing of uranium will generate further economic detriments to the Navajo
20 Nation. These economic detriments include, but are not limited to, the potential damage
21 projected to the land, water, vegetation, and other natural resources of the Navajo Nation
22 by uranium mining and processing operations, the forbearance or foreclosure of the Navajo
23 Nation from using these natural resources for other economic purposes, the potential
24 remediation costs for damage projected to the natural resources on lands within the Navajo
25 Nation, the potential injury to livestock from uranium mining, including, but not limited to,
26 losses in livestock production, veterinary and other costs, and the potential injury to human
27 beings from uranium mining, including, but not limited to, loss of wages, loss of
28 consortium, medical costs, loss of access to and use of vegetation used in traditional
29 ceremonies, loss of current and future potable water supplies, and other costs.

1 H. The Navajo Nation Council finds that uranium mining is and has been expressly left
2 unregulated by the federal government, and is currently unregulated by any tribal entity
3 within Navajo Indian Country.

4
5 **§ 1302. Definitions.**

6 For purposes of this Act, the Navajo Nation Council adopts the following definitions:

7 A. Navajo Indian Country shall mean all lands within the territorial jurisdiction of the
8 Navajo Nation as defined in 7 N.N.C. §254 and 18 U.S.C. §1151.

9 B. Natural resources shall have the same meaning as set forth in 2 N.N.C. §692(A).

10 C. Person shall mean any natural person or any other entity including domestic or
11 foreign corporations, partnerships, associations, responsible business or association agents
12 or officers, any of the several States or a political subdivision of the state or agency of the
13 state, department or instrumentality of the United States and any of its officers, agents or
14 employees .

15 D. Remediation shall mean the permanent closure of uranium mining and processing
16 sites, waste piles and associated buildings for the purposes of eliminating or substantially
17 reducing releases of radioactive and toxic substances to the air, land and water in such
18 ways as to prevent or substantially minimize human exposure to such substances now and
19 for future generations.

20 E. United States shall mean the federal government of the United States of America
21 and any of its agencies, departments, subdivisions, or instrumentalities or officers, agents,
22 or employees thereof.

23 F. Uranium mining shall mean the extraction of uranium or uranium ores by
24 mechanical means including, but not limited to, surface mining, open pit mining or
25 underground mining. Uranium mining shall not include extraction of uranium or uranium
26 ores by solution mining.

27 G. Uranium processing shall mean the alteration of uranium or uranium ores from
28 their natural state by mechanical or chemical processes including, but not limited to,
29 crushing, grinding, and *in situ leach* mining or solution mining.

1 **§ 1303. Prohibition Of Uranium Mining**

2 No person shall engage in uranium mining on any sites within Navajo Indian
3 Country.

4
5 **§ 1304. Moratorium On Uranium Processing**

6 No person shall engage in uranium processing on any sites within Navajo Indian
7 Country for 25 years from the date of enactment of this Act or until the United States
8 remediates all existing contamination on or beneath lands within Navajo Indian Country
9 caused by past uranium mining and processing; fully compensates all eligible Navajo
10 uranium workers and their families for their uranium-related illnesses as provided for by
11 the Radiation Exposure Compensation Act, 42 U.S.C. 2210, as amended by Public Law
12 106-245 (July 10, 2000); and authorizes and fully funds all health studies needed among
13 Navajo populations exposed to uranium mining and processing, and the results of such
14 studies indicate no adverse effects, whichever date is sooner.

15
16 **§ 1305. Enforcement**

17 Any person mining or processing uranium within Navajo Indian Country without
18 the approval of the Economic Development Committee, Health and Social Services
19 Committee, Resources Committee and Budget and Finance Committee of the Navajo
20 Nation Council shall be subject to civil penalties not to exceed fifty thousand dollars
21 (\$50,000) per day for each day the person is in violation of the requirements of this Part.
22 Enforcement proceedings shall be initiated in the District Court of the Navajo Nation in
23 the district where the infraction occurs.

24
25 **Section 4. Codification**

26 The provisions of this Act which adopt new sections of the Navajo Nation Code
27 shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel
28 shall include these sections in the next recodification or supplement of the Navajo Nation
29 Code, to the extent practicable.

1 **Section 5. Savings Clause**

2 Should any provisions of this Act be determined invalid by the Navajo Nation
3 Supreme Court, or the District Courts of the Navajo Nation, without appeal to the Navajo
4 Nation Supreme Court, or any other court of competent jurisdiction, those portions of this
5 Act which are not determined invalid shall remain the law of the Navajo Nation.