CAP-18-05

RESOLUTION OF THE
NAVAJO NATION COUNCIL

20th NAVAJO NATION COUNCIL - Third Year, 2005

AN ACT

RELATING TO RESOURCES, AND DINÉ FUNDAMENTAL LAW; ENACTING THE DINÉ NATURAL RESOURCES PROTECTION ACT OF 2005; AMENDING TITLE 18 OF THE NAVAJO NATION CODE

BE IT ENACTED:

Section 1. Enactment of the Diné Natural Resources Protection Act of 2005

The Navajo Nation Council hereby enacts the Diné Natural Resources Protection Act of 2005.

Section 2. Purpose

The purpose of the Diné Natural Resources Protection Act of 2005 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 the 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:

<u>§1301. Findings</u>

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

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

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

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

E. The Navajo Nation Council finds that the social, cultural, natural resource, and economic damage to the Navajo Nation from past uranium mining and processing is ongoing due to (i) the continuing need for full monetary compensation of former Navajo uranium workers and their family members for their radiation and mining-induced diseases, (ii) the presence of hundreds of unremediated or partially remediated uranium mines, tailings piles, and waste piles located in Navajo Indian Country, and (iii) the

absence of medical studies of the health status of Diné who live in uranium mining-impacted communities.

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

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

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

§1302. Definitions.

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

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

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

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

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

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

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

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

§1303. Prohibition of Uranium Mining

No person shall engage in uranium mining and uranium processing on any sites within Navajo Indian Country.

Section 4. Codification

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

Section 5. Savings Clause

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

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 63 in favor and 19 opposed, this 19th day of April 2005.

Lawrence T. Morgan, Speaker
Navajo Nation Council

21 Apr '05
Date

Motion: Mark Maryboy
Second: Harry Hubbard

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (C)(10), on this 29th day of April 2005.

Joe Shirley, Jr., President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this _____ day of _____ 2005 for the reason(s) expressed in the attached letter to the Speaker.

Joe Shirley, Jr., President
Navajo Nation