



# STATE OF THE NAVAJO NATION ADDRESS

PRESIDENT JOE SHIRLEY, JR.

PRESENTED TO THE

21<sup>ST</sup> NAVAJO NATION COUNCIL

JULY 21, 2008

**S**peaker Morgan, Mr. Chief Justice, Navajo Nation Council Delegates, Vice President Shelly, relatives and guests, *Ya'at'eeb!*

It is an honor to present the State of the Navajo Nation address and to share with you our accomplishments for the third quarter of the year, our challenges and our vision for the future of the Navajo Nation.

Recently, the Navajo Nation Council considered but rejected legislation to dismiss our Attorney General Louis Denetsosie. Today, I'd like to extend my sincere appreciation to the Council for its support of Mr. Denetsosie. Your decision of June 30 is an indication that many Council members recognize the good Mr. Denetsosie has done to promote and protect our Nation's sovereignty, and the important leadership he provides at the Department of Justice. I thank you for acknowledging the long-term interests of our people and our Nation through your decision.

Every day, the Attorney General and the Navajo Nation Department of Justice work hard to protect our Nation's interests. I am very pleased to inform you that the Department, in close cooperation with the Resources Committee and the Budget and Finance Committee, entered into an interim agreement with the El Paso Natural Gas Company. This resulted in an agreement-in-



principle on financial terms for the rights-of-way the company has sought for its pipeline on Navajo land. The Nation and El Paso are now concluding negotiations on the non-economic terms and conditions. If all goes as expected, the Resources Committee will have the opportunity to review the entire package at the end of the month.

Details of the economic terms of each particular right-of-way transaction clearly should remain confidential. But I am at liberty and pleased to report that the annual payments required by the various new right-of-way agreements are much greater than the royalties and taxes that the Navajo Nation received from Peabody's Black Mesa Mine. While this certainly is good news, the Council should know that the Navajo Nation's fundamental rights as a sovereign and a landowner to condition the entry of non-members onto Navajo land came under direct attack by the natural gas industry when the El Paso Natural Gas Company sought to renew its expired pipeline rights-of-way.

Unfortunately, El Paso, through the New Mexico Oil and Gas Association, tried to amend the 1948 Indian Right-of-Way Act by an Act of Congress. The association worked with U.S. Senator Pete Domenici for introduction and passage of an amendment that would have abrogated the right of Native nations to withhold consent to grants of easements through tribal land. Senator Domenici wisely refused to introduce such a bill, but El Paso and the industry nonetheless succeeded in getting Congress to require the Departments of Interior and Energy to study the issue of Native American energy rights-of-way. At the same time, El Paso was formally urging the Secretary of the Interior to grant it a right-of-way for all of its pipelines in Navajo country for even less consideration than it had paid for those rights when the agreements were originally executed. The industry's campaign included what can only be described as a smear campaign against the Navajo Nation. It falsely stated to members of Congress that the Navajo Nation threatened to cut off gas supplies to Southern California, and even to military bases in that region.

Consequently, our lawyers presented detailed legal and factual position papers to the Interior Department's solicitor in response to this effort that showed why El Paso's request for



rights-of-way over the Navajo Nation's opposition must be denied. The Navajo Nation Department of Justice and our Nation's representatives participated fully in this work, and ultimately convinced the Departments of Interior and Energy that there was no need to change the law, and that El Paso's positions were wholly without merit. I thank our Attorney General, the Navajo Nation Department of Justice, and the Division of Natural Resources for their diligent work to overcome these serious challenges, and for protecting our Nation's sovereignty and property rights.

Earlier this past quarter, we also worked hard to protect the interests of our Utah Navajos with regard to the Utah Navajo Trust Fund. The Fund provides much-needed resources for Utah Navajo citizens who live both on and off the Navajo Nation. The funds derive from royalties received through oil and gas development and are administered by the State of Utah for the benefit of Utah Navajos. As the trustee of this Fund, the State of Utah is responsible to manage it for the benefit of Utah Navajos without consideration of the State's own interests. However, there is substantial evidence that the State of Utah mismanaged and misappropriated those funds.

The Legislative Auditor General for the State of Utah determined in 1991 that the State did not fulfill its fiduciary responsibility, and failed to make a full accounting of the Fund. In reaction to these ongoing concerns, the State of Utah recently enacted legislation to resign as trustee of the Fund. In the State's rush to free itself of its duty, there appears to be inadequate attention on finding a trustee capable of managing the Fund to ensure its long-term survival for the continuing benefit of the Utah Navajos. On June 19, I testified before the U.S. House Committee on Natural Resources to inform Congress that it is essential that we maintain a government-to-government relationship to decide matters that concern and affect Navajo lands, resources and citizens. The Navajo Nation insists on being actively involved in, and must consent to, the designation of a new trustee for the Utah Navajo Trust Fund. It is our hope that this process will begin soon to secure the long-term benefits for Utah Navajos.

Here at home, our Administration continues to work hard to bring economic prosperity to the Navajo Nation. Ladies and gentlemen of the Council, an important key to this prosperity will



come through our gaming initiative. I am pleased to report that on June 16, the Church Rock Chapter hosted the groundbreaking ceremony for our first casino. The Navajo Nation Gaming Enterprise held job fairs in Church Rock and Window Rock the week after the groundbreaking to begin the process of filling the 300-plus jobs for the casino. The response from our people was overwhelming with almost 2,000 applications being received by the Gaming Enterprise. Although the Church Rock development is just the beginning, financial feasibility studies have been completed for three additional sites in Arizona and two in New Mexico. These demonstrate the potential for substantial employment for our people through gaming, and the generation of needed revenues for our Nation. Currently, the Gaming Enterprise and the Controller are working on various options in order to finance the development of the additional casinos.

Even while plans for the Church Rock casino and other developments are progressing well, our Administration continues to seek opportunity to bring additional resources to the Nation through our gaming rights. Last quarter, I reported that the Navajo Nation had become the first tribe ever to invoke the pooling provisions of its gaming compact with the State of Arizona. We placed our excess gaming devices not needed for our gaming operations into a pool and invited other Arizona gaming tribes to bid on them. As a result of this historic auction, the Nation negotiated terms with the Fort McDowell Yavapai Nation, the Tohono O'odam Nation, and the Gila River Indian Community. The agreements will result in more than \$130 million to the Navajo Nation over the next 18 years. The agreements also allow the Navajo Nation to use the payment stream as collateral for future loans. This approach guarantees a future source of revenue for the Navajo Nation as well as flexibility to seek loans for other casino developments. I commend Navajo Nation Gaming Regulatory Office Director Eddie Lockett, Jr., and the Nation's gaming counsel, Steve Hart of the Lewis & Roca law firm, for arranging this successful and profitable auction, and for their hard work to negotiate the agreements. I am pleased to report the agreements were approved last week by the Economic Development and Intergovernmental Relations Committees.



Commencing 22 years ago, the Desert Rock Energy Project was envisioned as a way to make use of our abundant resource of coal, and bring economic prosperity to our people. Members of the Council, this Project remains the most important economic, environmental, and energy challenge that the Navajo Nation has ever undertaken. As everyone acknowledges, Desert Rock will bring hundreds of Navajos home to work on the project, and keep hundreds more from leaving to seek employment elsewhere. When completed, the jobs and business Desert Rock creates throughout its 50-year life will stimulate our Navajo economy like nothing else can, and will allow Navajos to remain in their homeland rather than seek economic opportunity beyond their own borders.

Over the past year, we learned through the media that both New Mexico Governor Bill Richardson and the State of New Mexico have tried to prevent the issuance of the project's federal air quality permit that has been pending for almost five years. Despite our government-to-government relationship with the State, this has occurred without any prior notice to the Nation. Although the State has no jurisdiction over Navajo lands nor over our decision to develop this critical energy project, my staff held two meetings with New Mexico Environment Secretary Ron Curry to educate the State on technical issues regarding the project, and to answer his questions. We thoroughly explained the super-critical boiler technology that will be used, and how it is superior to integrated gasification combined cycle technology at our elevation and with the chemical composition of our coal. We explained how the plant is designed so that when carbon capture sequestration technology is viable for a power plant of this size, we will be able to implement it to decrease carbon dioxide emissions even more. With the plant's current design, superior environmental compliance will be achieved over any other pulverized coal plant anywhere in the country.

Undoubtedly, Desert Rock will be *the* cleanest pulverized coal-fired power plant in the United States – up to 10 times cleaner than nearby plants for key pollutants – as the air quality permit application shows. It will set a new baseline for future coal-fired power generation. From



the beginning, we have worked closely with the Navajo Nation EPA, U.S. EPA Region 9, and the National Park Service to ensure this, to address air emission issues from the project, and to preserve the quality of our natural environment. However, each month this project is delayed, the Navajo Nation loses \$5 million in direct benefits that would improve the quality of life for our Navajo people. For this reason, and consistent with the Council's support of the Desert Rock Energy Project, I will continue to try to educate New Mexico officials about how the Desert Rock project will exceed environmental requirements and bring positive economic, employment, and taxation benefits to both the State of New Mexico and the Navajo Nation. As President, it is my sincere hope that the Navajo Nation – through Desert Rock – will set a precedent for other coal plants that inevitably will be built in the U.S. and certainly around the world.

Naturally, environmental protection and air quality is critically important to the Navajo Nation. So I am pleased to report that on July 3, the Navajo Nation Environmental Protection Agency's Air Quality Control Program issued its first Clean Air Act Title V operating permit to the Navajo Generating Station located in LeChee Chapter. This is the first complete operating permit that has been issued by the Navajo Nation for a major power plant. The permit is valid for five years and will be enforced by the Navajo Nation EPA. The enforcement authority includes ensuring compliance with emission limits and standards, issuing compliance certification, and requiring compliance with permit terms and conditions. The Navajo Nation is the first Native Nation to obtain federally-delegated authority to issue Title V operating permits. I commend Navajo EPA Director Stephen Etsitty and the entire Air Quality Program staff for their hard work, and for carrying out this important regulatory function to protect the environmental health and welfare of our Navajo people.

Caring for our priorities in Washington to advance the Nation's interests is one of the responsibilities of our Navajo Nation Washington Office. Through the leadership of Washington Office Director Sharon Clahchischilliage and Division of Community Development Director Arbin Mitchell, the Executive Branch undertook a process late last year to identify the Nation's Fiscal



Year 2010 Bureau of Indian Affairs Budget Priorities. This initiative was designed to inform the U.S. Office of Management and Budget of our budget needs well in advance of the Nation's funding requests rather than waiting until the end of the budget process when it is much more difficult to secure funding. All Executive Branch divisions, the oversight committees and the Judicial Branch were involved. It was determined that the Nation's number one priority is public safety and justice. Number two is economic and community development. Number three is education. Number four is natural resource management, and number five is human services. I commend the Washington Office, our Divisions and the Navajo Nation Office of Management and Budget for their hard work, and for coordinating this effort. Because of this, I believe we are well prepared to advocate for our funding priorities.

I want to take this opportunity to share with you another important initiative of our Administration. Our Executive Branch Strategic Goals and Guiding Principles outline 10 priority areas. These include government streamlining, enhancing and improving service delivery in the areas of education, economic development, community and infrastructure development, information technology, law enforcement, veterans affairs, elderly care, youth development and intergovernmental relations. For each goal statement affecting a particular division, guiding principles govern how we carry out our stated goals. These principles include promoting the use of *ké* and promoting and preserving the *Diné* language, history, and culture; working to promote constituent participation in our governmental process; establishing partnerships to create new opportunities and to strengthen sovereignty; adhering to fiscal integrity; creating and maintaining a well-integrated, cost-efficient, and decentralized service delivery system; and, finally, supporting our Navajo work force by expanding and exploring employee training programs and opportunities. As Executive Branch programs work to implement our strategic plans, you will begin to see an improvement in all these important service delivery areas. I plan to use our strategic plan to guide the development of the FY 2009 Executive Branch Comprehensive Budget. With your support, our Nation will benefit from this planning effort and strategic direction.



Lastly, as everyone now knows, the entire country has been concerned about a mysterious outbreak of salmonella poisoning affecting food supplies, particularly fresh vegetables. What some may not know is that Navajo Nation Community Health Representatives, and staff from the Northern Navajo Medical Center in Shiprock were instrumental in solving the mystery through painstaking legwork in the early weeks of the outbreak. Our CHRs tracked down people who fell ill and determined what and where they had eaten to help figure out that the source of the illness was salmonella. Although the earliest cases were from New Mexico, Texas, and the Navajo Nation, the outbreak progressed from a regional health concern to a national health emergency, and has resulted in the activation of both the Food & Drug Administration and the Centers for Disease Control Emergency Operation Centers. As of last Friday, there were 1,237 confirmed cases from 43 states, the District of Columbia, and Canada associated with the *Salmonella* Saintpaul investigation. Of these, 54 are from Arizona and 102 are from New Mexico. Tomatoes have been removed from the warning list, but the CDC reports that jalapenos and Serrano peppers are still under investigation. It is expected that a team from the CDC will continue its investigation on the Navajo Nation in the Gallup, Shiprock and Crownpoint areas today.

Ladies and gentlemen of the Council, I thank you and hope that you have a successful and productive summer session.