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Navajo Nation Council approves formation of Navajo Transitional Energy Company, LLC to act on its behalf for BHP Navajo Mine acquisition

WINDOW ROCK – During a special session on Apr. 29, the Navajo Nation Council approved Legislation No. 0116-13 with a vote of 17-4, to create the Navajo Transitional Energy Company, LLC – an action that will orient the Navajo Nation toward greater economic independence and self-reliance.

The approval authorizes the company to act as an arm of the Navajo Nation, and to carry out necessary business actions on behalf of the Nation in its endeavors for the possible acquisition of the BHP Navajo Mine.

Speaker Johnny Naize (Low Mountain, Many Farms, Nazlini, Tachee/Blue Gap, Tselani/Cottonwood), sponsor of the legislation, said the new company would be responsible for overseeing operations of the mine once it is purchased by the Nation.

“When [NTEC] is established, it will have a manager and staff. The manager will be responsible for signing all documents needed to finalize the purchase,” explained Speaker Naize, adding that the manager’s additional responsibilities would include authorizing a Coal Supply Agreement and a Mine Management Agreement to ensure the continuation of operations at the mine.

During an Apr. 25 Naabik’iyáti’ Committee meeting, a member of an outside due diligence investigations team the Nation hired to complete legal work on the proposed mine acquisition told the committee that based on their assessment, the transaction would be a favorable move for the nation.

At that meeting, attorney Craig Moyer with Manatt, Phelps, & Phillips said although the mine’s financial gains under Navajo ownership for the first 3 years would be tight, by the fourth year the Nation should be able to pay off its purchase of the mine.

Because of the anticipated shutdown of 3 units at the Four Corners Power Plant, coal volumes will decrease by 25-percent, said Moyer, but after 2016, the Nation can expect higher revenue returns because it will be fetching a higher price for its coal.

At least 10-percent of net income generated by the mine under Navajo ownership will be reinvested to fund the research and development of renewable and alternative sources of energy, which is in line with what Speaker Naize has stated before on the mine acquisition being a stepping stone to more sustainable means of energy.

“Although the action this Council is taking is a risk, it is a very courageous risk. It is a risk that has foresight. It is going to open the doors of opportunity,” said Council Delegate Walter Phelps (Cameron, Coalmine Canyon, Leupp, Tolani Lake, Tsidi Tó ii). “If we want to learn to live what it means to be self-sufficient, we have to take risks, and I think this is one step in that direction.”

Council Delegate Mel Begay (Coyote Canyon, Mexican Springs, Naschitti, Tohatchi, Bahastl'a'a') hailed the legislation as a “venture into a new era,” in that it would create opportunities for young Navajos with higher education and training to play a greater role in developing a more self-sustaining nation.

“It is a vision for the future,” said Delegate LoRenzo Bates (Nenahnezad, Newcomb, San Juan, T'iis Tsoh Sikaad, Tsé Daa' Kaan, Upper Fruitland) when urging fellow colleagues to vote for the legislation’s approval.

Delegate Bates further iterated that BHP and the APS Four Corners Power Plant has a history of success, and once the remaining two units at the power plant are retrofitted with selective catalytic reduction technology, nitrogen oxides emissions will be reduced by 80-percent.

Council Delegate Joshua Lavar Butler (Tó Nanees Dizi) said the legislation represented Navajo jobs, economy and revenues that support Navajo programs.

“I don’t support the continued extraction of natural resources, but I also have to consider the revenues that are generated and that come back to the Navajo Nation,” said Delegate Butler, adding that with sequestration cuts expected to have a “huge impact” on federally-funded programs, it was critical for the Nation to maintain its revenue generation stream to ensure continuation of vital services.

Earlier this evening, Council Delegate Edmund Yazzie (Churchrock, Iyanbito, Mariano Lake, Pinedale, Smith Lake, Thoreau), who served as Speaker Pro Tem during the Council proceedings at the time of Legislation No. 0116-13’s consideration, signed the approved Council resolution.

Immediately thereafter, President Ben Shelly authorized the action at a signing ceremony in his office.

A mine management agreement is expected to be submitted to the APS this Friday. A Surface Mining Control and Reclamation Act application is also expected to be submitted by Friday to approve the merger.

The newly formed Navajo Transitional Energy Company will be on track to sign a mine management agreement with BHP and a coal supply agreement with APS by July 1.

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