



DR. JOE SHIRLEY, JR.
President

BEN SHIELLY
Vice President

MEMORANDUM

Margaret Jones

11/08/10
4:35pm

TO: Lawrence T. Morgan, Speaker
Navajo Nation Council

FROM: *[Signature]*
Dr. Joe Shirley, Jr., President
THE NAVAJO NATION

DATE: November 8, 2010

SUBJECT: Resolution No. CO-42-10

On November 5, 2007, my office established the Navajo Nation Renewable Energy Task Force to coordinate, evaluate, develop and implement renewable energy projects on the Navajo Nation. After several months of planning and negotiations, the Task Force, in coordination with the Navajo Tribal Utility Authority, worked to secure the first wind generation project to be developed on Navajoland.

The Big Boquillas Wind Project involves the Navajo Nation, NTUA, Edison Mission Energy, and Foresight Energy. NTUA, through the use of a for-profit affiliate, will be a 51 percent owner of the project. The Navajo Nation negotiated with NTUA to complete the agreements with the project company consistent with the requirements of Navajo law.

In addition to sharing 51 percent of the profits from the wind project through NTUA's for-profit affiliates, the Navajo Nation will be compensated under the terms of the leases and through an additional financing fee assessed against the gross revenues of the wind project.

On the other hand, the Sempra and International Piping Products, Inc., (IPP) term sheet approved pursuant to Resolution No. CO-42-10 did not obtain the required review and approval by the Resources Committee of the Navajo Nation Council, nor were the terms negotiated by the Executive Branch, as required by Navajo law. This circumvention creates exclusivity for a non-Navajo entity to gain and maintain complete control over a Navajo resource which encompasses 45,000 acres of Navajo trust land, up to 75 years.

The term sheet does not allow the Navajo Nation a controlling ownership interest (51 percent +) in the wind project. This means that a non-Navajo entity will be able to control and decide all assignments and subleases without Navajo approval. Further, the term sheet waives all applicable Navajo taxes and Sempra and IPP are under no obligation to comply with the Navajo Nation Procurement and Employment laws.

Finally, while I understand that Semptra and IPP have made a significant investment to obtain authorization to develop this wind project on Grey Mountain, I am extremely concerned about the tactics used to obtain the approval. Reports have been received that Semptra and IPP representatives offered certain elected officials cash for their approval. On Oct. 21, Council Delegate Norman John stated on the floor of the Navajo Nation Council that on Sept. 23 he was offered "campaign funds" to vote green. He said he had not voted on Semptra during that morning's Resources Committee meeting, and did not want to vote after the offer was made without being advised by the Legislative Counsel. Despite this alarming pronouncement alleging an illegal bribe, Council debate was allowed to continue when an immediate inquiry was warranted. Consequently, the integrity, probity and rectitude of the Nation's government is at stake. I cannot stand by to allow such questionable activities and possible violation of the Navajo Ethics and Government Law to dictate this important policy decision that will have long-term impacts on the Navajo Nation and our natural resources:

For the reasons stated herein and by the authority vested in me as President of the Navajo Nation, I hereby veto Resolution No. CO-42-10.

xc: Navajo Nation Council


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