

RESOLUTION OF THE
NAVAJO NATION COUNCIL

22ND NAVJO NATION COUNCIL - Second Year 2012

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT, LAW AND ORDER, AND
NAABIKI'YATI'; ENACTING THE AMENDMENTS TO THE NAVAJO NATION SAFE
DRINKING WATER ACT OF 2012

BE IT ENACTED:

Section 1. Findings

The Navajo Nation finds the following with respect to this legislation:

- a) The Navajo Nation Environmental Protection Agency has regulatory, monitoring and enforcement authority over all natural resources relating to the quality of the environment within the Navajo Nation; and
- b) The Navajo Nation Public Water Systems Supervision Program within the Navajo Environmental Protection Agency is responsible for ensuring that all owners and operators of public water systems provide safe drinking water to the residents of the Navajo Nation as required by the Navajo Nation Safe Drinking Water Act, 22 N.N.C. §§2501 et Seq.; and
- c) The Navajo Nation Public Water Systems Supervision Program has identified proposed revisions to the Navajo Nation Safe Drinking Water Act including defining the authority for the regulation of bottled water, clarifying the Voluntary Compliance Agreement, and clarifying provisions regarding reporting results of tests and analyses.
- d) The Navajo Environmental Protection Agency provided public notice of the proposed amendments. Exhibit A.

Section 2. Enactment of the Amendments to the Navajo Nation Safe Drinking Water Act of 2012

The Navajo Nation hereby approves the amendments to the Navajo Nation Safe Drinking Water Act of 2012.

Section 3. Amendments to Title 22 of the Navajo Nation Code

The Navajo Nation hereby amends the Navajo Nation Code, Title 22, §§2503 *et Seq.*, as follows:

TITLE 22. WATER

CHAPTER 13. NAVAJO NATION SAFE DRINKING WATER ACT

§2503. Purpose

The purpose of this Act is to protect the health and welfare of the Navajo people and the environment by establishing appropriate drinking water standards to ensure that drinking water is safe for consumption, and by protecting underground sources of drinking water from potential contamination by underground injection activities. For these purposes, "drinking water" includes bottled drinking water, and this Act provides authority for the regulation of both public water systems and bottled water systems.

§2504. Definitions

1. "Administrator" - Means the administrator of the United States Environmental Protection Agency.

2. "Aquifer" - Means a geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

3. "Attorney General" - Means the Attorney General of the Navajo Nation.

4. "Bottled Water System" - Means a water system that manufactures bottled water.

[subsequate paragraphs will be renumberd to conform to the amended sequencing]

25 26. "Resources and Development Committee" - Means the Resources and Development Committee, the standing committee of the Navajo Nation Council, as defined in 2 N.N.C. §§691 et seq.500-503, with oversight authority over the Navajo Nation Environmental Protection Agency as provided for by Navajo Nation Council Resolution No. CAP47109511, or any successor Navajo Nation governmental entity, including any Navajo Nation Executive Branch Division or Department, to which authorities of the Resources and Development Committee may be delegated.

[subsequate paragraphs will be renumberd to conform to the amended sequencing]

§ 2506. Voluntary Compliance Agreement

~~A. Any person to whom the provisions of this Act are not otherwise applicable, may apply to the Director to enter into a voluntary compliance agreement with the Navajo Nation with respect to any property to which the provisions of this Act and/or regulations promulgated hereunder, in whole or in part, are not otherwise applicable.~~

~~B. A proposal to enter into a voluntary compliance agreement shall be in writing, shall indicate the person and property proposed term of the agreement, and shall indicate the part or parts of this Act and/or regulations promulgated hereunder, in whole or in part, with voluntary compliance is proposed.~~

~~C. A voluntary compliance agreement shall be for a term of not less than one year, and maybe subject to renewal for successive terms of not less than one year. A voluntary compliance agreement may not vary the requirements of this Act, except that the consent required to be given in accordance with~~

~~'2572 of this Act shall be strictly limited to the application of this Act and regulations promulgated pursuant to this Act in accordance with the terms of said voluntary compliance agreement, including any renewals thereof.~~

~~D. a voluntary compliance agreement shall not be effective unless and until there is final approval of the agreement by the Director.~~

~~E. Except as otherwise expressly provided in the agreement, by entering into a voluntary compliance agreement, no person shall be deprived of the benefit of any valid covenant not to regulate or otherwise exercise jurisdiction over such person or property owned or operated by such person.~~

~~F. A person may enter into a voluntary compliance agreement in accordance with this Section, notwithstanding that the validity of such person's claim to be exempt from the provisions of this Act has not been judicially determined, whenever the Director determines that entering into such an agreement is in the best interest of the Navajo Nation. Entering into an agreement pursuant to this Subsection shall not constitute a determination or admission by the Navajo Nation that such claim of exemption is valid.~~

Subject to 2 N.N.C. §164(B)(2), 2 N.N.C. '222(A), and 2 N.N.C. §1005(C)(2), the Director may enter into voluntary compliance agreements with entities that otherwise may not be subject to the provisions of this Act, or as to which there is a dispute regarding the applicability of this Act, under which the entity would be regulated by the Navajo Nation in order to achieve the goals and purposes of this Act, and provided that the Director finds, after consultation with the Resources and Development Committee, that entering into the agreement is in the best interests of the Navajo Nation. Such agreements may contain provisions that differ from and supersede the requirements of this Act and implementing regulations, provided that the minimum federal requirements apply to the entity in question.

§2521. Use of Llead Ppipes, Ssolder, and Fflux

§2522. Tampering with Public Water Systems

§2523. Other Violations

§2524. Operating a Public Water System Without a Permit

§2525. Operating an Underground Injection Facility
Without a Permit

§2531. Primary Drinking Water Regulations

§2532. Secondary Drinking Water Regulations

§2533. Sampling and Aanalytical Regulations

2534. Reporting, Record Keeping and Public Notification
Requirements

§2535. Surface Water Treatment Regulations

§2536. Lead and Copper Regulations

§2537. Laboratory Requirements

§2541. Record Keeping

§2542. Reporting Results of Tests and Analyses

H. The NNEPA must make reports of the public water systems available to the public upon request and must maintain a copy of the reports for one year. The e Certifications submitted by the public water systems stating that they submitted consumer confidence reports to their customers should be kept for five years.

§2543. General Public Notification Requirements

§2544. Lead Public Notification Requirements

§2545. Emergency Water Plan

§2546. Consumer Confidence Reports by Community Water Systems

§2551. Design Criteria

A. Public Water Systems

1. No new or substantially modified public water system shall be authorized to begin construction or operation within the jurisdiction of the Navajo Nation until such time as the Director has received the proposed design of such facility to ensure that it is capable of compliance with applicable minimum construction guidelines for public water systems. ~~In conducting this review, the~~

~~Director is authorized to rely upon the technical assistance of the Office of Environmental Health and Engineering, United States Indian Health Service.~~

§2562. Small Systems Variances

§2572. Submission of Information

§2573. Program Funds

§2583. Judicial Enforcement

§2585. Administrative Hearings and Subpoenas

§2586. Judicial Review

Section 4. Effective Date

The Act is effective upon its approval pursuant to 2 N.N.C. §221.

Section 5. Codification

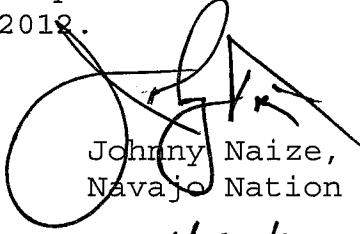
The provisions of this ordinance which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

Section 6. Saving Clause

Should any provisions of this ordinance be determined invalid by the Navajo Nation Supreme Court, or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, those portions of this ordinance 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 20 in favor and 0 opposed, this 17th day of April 2012.


Johnny Naize, Speaker
Navajo Nation Council

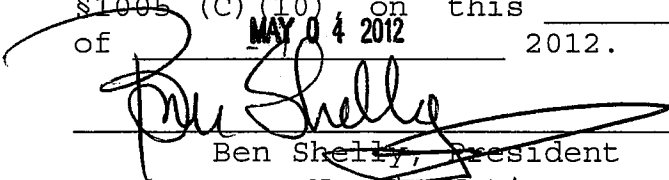
04/25/12
Date

Motion: Alton Joe Shepherd

Second: Jonathan Hale

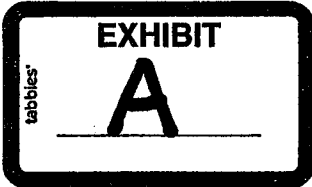
ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (10) on this _____ day of MAY 04 2012 2012.


Ben Shelly, President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this _____ day of _____ 2012 for the reason(s) expressed in the attached letter to the Speaker.

Ben Shelly, President
Navajo Nation



Affidavit of Publication

STATE OF NEW MEXICO)
) SS
COUNTY OF MCKINLEY

REBECCA PAQUIN being duly sworn upon oath, deposes and says:

As LEGAL CLERK of The Independent, a newspaper published in and having a general circulation in McKinley County, New Mexico and in the City of Gallup, New Mexico and having a general circulation in Cibola County, New Mexico and in the City of Grants, New Mexico and having a general circulation in Apache County, Arizona and in the City of St. Johns and in the City of Window Rock, Arizona therein: that this affiant makes the affidavit based upon personal knowledge of the facts herein sworn to. That the publication, a copy of which is hereto attached was published in said newspaper during the period time of publication and said notice was published in the newspaper proper, and not in a supplement thereof, for FOUR TIMES, the first publication being on the 30th day of September, 2011, the second publication being on the _____ day of _____ August, 2011, the third publication being on the 12th day of August, 2010,

and the last publication being on the 19th day of August, 2011. That such newspaper, in which such notice or advertisement was published, is now and has been at all times material hereto, duly qualified for such purpose, and to publish legal notices and advertisements within the meaning of Chapter 12, of the statutes of the State of New Mexico, 1941 compilation,

Rebecca Paquin
Affiant.

Sworn and Subscribed to before me this 26th day of September, A.D., 2011.

Cristal Chavez
Notary Public

My commission expires.
June 25th, 2014

LEGAL NOTICE
Window Rock- Apache County
Arizona
Navajo Nation
Environmental Protection
Agency
Amendments to the Navajo Na-
tion Safe Drinking Water Act

The Navajo Nation Environmental Protection Agency Public Water Systems Supervision Program is presenting the proposed amendments to the Navajo Nation Safe Drinking Water Act for review and comment.

Copies of these proposed amendments can be obtained by calling the Navajo PWSSP office at (928) 871-7755. Requests for public hearings will need to be made in writing to the PWSSP.

The deadline to submit comments is August 31, 2011. Comments may be mailed to the Navajo PWSSP at Navajo EPA-PWSSP, P.O. Box 339, Window Rock, AZ, by e-mail to info@navajopublicwater.org or by delivery to the Navajo EPA-PWSSP Office at the Fairgrounds. If there are any ques-

tions, please contact the Navajo PWSSP staff at (928) 871-7755.

Legal # 12751 Published in The Independent July 30, 2011, August 5 & 12 & 19, 2011.

COMMITTEE REPORT
RESOURCES AND DEVELOPMENT COMMITTEE
22ND NAVAJO NATION COUNCIL --- Second Year, 2012

Mr. Speaker:

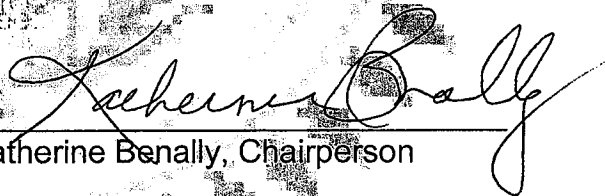
The Resources and Development Committee, to whom has been referred;

LEGISLATION NO. 0036-12
Introduced by the Hon. Roscoe Smith

An action relating to Resources and Development, Law and Order, and Naabik'iyati'; Enacting the amendments to the Navajo Nation Safe Drinking Water Act of 2012

has had it under consideration and reports the same with a **DO PASS** recommendation with no amendments.

And thence referred to the **LAW AND ORDER COMMITTEE** on this 28th Day of February 2012.


Katherine Benally, Chairperson

Motion: David L. Tom
Second: George Apacito
Vote: 4-0-0

**LAW AND ORDER COMMITTEE
22nd NAVAJO NATION COUNCIL**

SECOND YEAR 2012

COMMITTEE REPORT

Mr. Speaker,

The **LAW AND ORDER COMMITTEE** to whom has been assigned:

NAVAJO LEGISLATION NO. 0036-12

Legislation No. 0036-12: An Action Relating to Resources and Development, Law and Order, and Naabik'Iyati': Enacting the Amendments to the Navajo Nation Safety Drinking Water Act of 2012. *Sponsor: Honorable Roscoe Smith*

Has had it under consideration and report the same with a recommendation that it **DO PASS**, with no amendments

and therefore referred to **NABIK'IYATI COMMITTEE**.

Respectfully submitted,



Alton Joe Shepherd, Vice-Chairperson
Law and Order Committee of the
22nd Navajo Nation Council

Date: April 2, 2012

The vote was 3 in favor and 0 opposed.

Motion: Duane S. Tsinigine

Second: Elmer P. Begaye

NAA'BIK'IYATI' COMMITTEE REPORT
22ND NAVAJO NATION COUNCIL – SECOND YEAR 2012

Mr. Speaker:

The NAA'BIK'IYATI' COMMITTEE to whom has been assigned:

LEGISLATIVE NO. 0036-12

Introduced by Roscoe Smith

AN ACTION

Relating to Resources and Development, Law and Order, and Naa'bik'iyati'' Enacting
the Amendments to the Navajo Nation Safe Drinking Water Act of 2012

Has had it under consideration and reports the same with a DO PASS with No
AMENDMENTS and thence referred to the Navajo Nation Council.

CERTIFICATION

I, hereby certify that the foregoing legislation was duly considered by the Naa'bik'iyati'
Committee of the Navajo Nation Council at a duly called meeting at Window Rock,
Navajo Nation (Arizona), at which a quorum was present and that the same was passed
with a vote of 12 in favor and 0 opposed this 6th day of April 2012.



Mr. Johnny Naize, Chairperson
Naa'bik'iyati' Committee

MOTION: Alton Shepherd

SECOND: Leonard Pete