



23RD NAVAJO NATION COUNCIL OFFICE OF THE SPEAKER

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Health, Education, and Human Services Committee provides time for public to address the replacement lease for Navajo Generating Station

WINDOW ROCK – During a special meeting held on Monday, the Health, Education, and Human Services Committee issued a “do pass” recommendation with a vote of 2-1 in support of Legislation No. 0194-17, which seeks the Navajo Nation Council’s approval of an agreement between the Navajo Nation and the owners of the Navajo Generating Station to extend the operations of the power plant until the end of December 2019.

The current NGS lease agreement is set to expire in December 2019, however the owners have determined that it would take approximately two years to decommission the power plant, which means that operations would have to begin ending in July 2017 to begin the decommissioning process. The legislation would allow for the operation of the power plant until the end of 2019 and provide additional time beyond 2019 for decommissioning.

During the four-hour discussion, HEHSC members addressed many concerns including waiver language contained in the legislation and the agreement, potential environmental and health impacts, and the timeline for issuing a final decision on whether or not to approve the legislation.

NGS owners have asked the Nation to issue a final decision on the proposed agreement by July 1 to allow sufficient time to finalize the agreement documents with the owners.

HEHSC chair Council Delegate Jonathan Hale (Oak Springs, St. Michaels) allowed a total of nine members of the audience to share their concerns and stance on the legislation, at the request of HEHSC member Council Delegate Nelson S. BeGaye (Lukachukai, Rock Point, Round Rock, Tsaile/Wheatfields, Tsé Ch’ izhi). Five of the individuals spoke in support of the legislation, and the remaining four urged the committee to vote down the legislation.

Legislation sponsor Speaker LoRenzo Bates (Nenahnezad, Newcomb, San Juan, Tiis Tsoh Sikaad, Tse’Daa’Kaan, Upper Fruitland) has previously stated that allowing NGS to remain in operation through 2019 provides the Navajo Nation some stability in terms of projected revenue that benefits the entire Navajo Nation. In addition, it allows time to continue pursuing other energy sources including renewable energy.

Speaker Bates explained that the proposed replacement lease would be for a term of 35-years, which addresses the operation of the power plant through 2019, the retirement and remediation

of the power plant site, long-term environmental monitoring, and the operation and maintenance of two transmission lines used to deliver electricity.

In accordance with the original 1969 agreement, the Navajo Nation has identified certain assets at the NGS site that the Nation would retain to promote economic development projects including the railroad track and related facilities, a lake pump facility, electrical distribution lines, and fencing and equipment. In addition, the Navajo Nation negotiated an additional \$54 million to be paid by the owners to the Navajo Nation beginning in 2020 – to be paid in equal installments over a three-year period.

The Navajo Nation receives over \$30 million each year in revenue from the NGS operations, which supports approximately one-third of the government's budget that also translates into direct services for the people of the Navajo Nation. If the power plant were to close, the Nation could lose over 400 jobs at NGS and hundreds more at Kayenta Mine, which is the sole provider of coal for NGS.

In addition, it has been estimated that the state of Arizona stands to lose over half a billion dollars from loss tax revenue and many other secondary markets that benefit from the power plant's operations and over 3,000 jobs, if the power plant should close this year.

Delegate Nelson BeGaye opposed the legislation, stating that he felt the Nation is "giving up too much" with regard to the waivers outlined in the legislation, particularly as they relate to the regulation of the remediation of the power plant site during the decommissioning period, also known as the "covenant not to regulate." He questioned why the owners do not want to be regulated by the Navajo Nation EPA.

A representative with the Navajo Nation EPA was present at the meeting, and explained that although the NNEPA does not have direct regulation authority, the agreement provides for a "voluntary compliance agreement" that allows the Navajo Nation to be involved in monitoring activities and to receive periodic reports that assess groundwater, fly ash, and other environmental data at the NGS site.

HEHSC member Council Delegate Nathaniel Brown (Chilchinbeto, Dennehotso, Kayenta) said he supports the 800 plus employees at NGS and Kayenta Mine, which is the sole coal provider for the NGS power plant. However, he also shared similar concerns over the "covenant not to regulate" and asked what measures the NNEPA has taken to assess the potential health and environmental impacts from the emissions at NGS and fly ash from the burning of coal at the power plant site.

"Are there any studies available? It would give me peace of mind to be able to tell community members that it's okay," stated Delegate Brown.

In response, the NNEPA representative said the NNEPA does not have the funding or the resources to conduct such a study, and that she is unaware of any health impacts caused by NGS. Additionally, she added that the Navajo Nation would have to develop more regulations and laws in order to adequately regulate the NGS site, which is currently regulated by the federal EPA.

At the conclusion of the discussion, HEHSC members voted 2-1 in support of Legislation No. 0194-17, which is scheduled to be considered next by the Resources and Development Committee on Tuesday. The bill will also be considered by the Budget and Finance Committee, Naabik'íyáti' Committee, and the Navajo Nation Council. The legislation will require two-thirds of Council's approval, or sixteen (16) supporting votes to pass.

Public comments for Legislation No. 0194-17 may be submitted until the legislation goes before the Navajo Nation Council for final consideration. Comments may be submitted by e-mail to comments@navajo-nsn.gov and written comments may be mailed to: Executive Director, Office of Legislative Services, P.O. Box 3390, Window Rock, AZ 86515.

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