Navajo Nation
Energy Policy of 2013

Navajo Land Summit
Twin Arrows Navajo Casino Resort
Flagstaff, Arizona
HISTORY

- There have been four attempts to develop a Navajo Energy Policy
  - Only the 1980’s Policy was approved by the Navajo Nation Council
    - Adopted by the Council (CAP–34–80), April 29, 1980
  - 1992 – Zah Administration develops the President’s Energy Policy
  - 2011–2013 – Energy Policy of 2013 was approved and adopted by the 22\textsuperscript{nd} Navajo Nation Council
    - October 22, 2013 (CO–50–13)
HISTORY

1st approved Navajo Nation Energy Policy was developed and adopted on April 29, 1980 by the Navajo Nation Council.

- Gain control of the Nation’s energy resource management and development
- Optimal returns and equity from Energy development
- Invest in Economic Development ventures
- Eventually to become self-sustaining in the Energy markets
HISTORY

- Assisted NN in reevaluating mining leases and royalties, push Companies to pay
- As a result of the Policy, Chairman McDonald worked with large tribes and eventually formed Council of Energy Resource Tribes (CERT)
- Policy allowed NN to sue Peabody on ability to tax energy companies, US Supreme Court upheld decision
  - As a result of the decision, we celebrate Sovereignty Day.
In 2011, President Shelly created an Energy Advisory Committee composed of experts within the Navajo Nation Government and Enterprises in the fields of Natural Resources, Environmental, Water, Minerals, Economic Development, Taxes, and Legal.

- Their first task – Update the 1980’s Energy Policy.
- With an MOU in place the committee consulted with the staff of Sandia National Labs.
Energy Advisory Committee

1. The need for an updated Energy Policy
   - Create revenue, jobs, and opportunity for the Navajo people
   - Protect the interest of the Navajo People
   - Guidance for decisions regarding new and existing developments
     - Energy Leases and Energy development
     - Improve Energy Development on the Navajo Nation

2. Technical assistance from Sandia National Labs

3. Meetings with Stakeholders

4. Public meetings:
   - Nenahazad
   - Shonto
   - Cameron
   - ASU-Phoenix
   - Gallup
   - UNM-Albuquerque
   - 9 additional Townhall meetings

5. 4 meetings with the Resources & Development Committee
Energy Advisory Committee

By developing and executing a comprehensive energy strategy, the Nation can establish energy independence and build its future for future generations.

- Bring transparency and guidance for the people
- Realize the current policies of the Navajo Nation regarding future development of major energy projects on Navajo lands
- To ensure such resources and assets are used for the benefit of the Navajo people
- To create a self-sustaining economic future for the Navajo people on their lands
- To supply the Navajo communities with the benefits afforded by energy development through total resource sovereignty.
Energy Advisory Committee

Community Input, Support and Benefits from Energy Developments

- Based on the people ideas and visions that is designed to protect the energy natural resources and assets of the Nation
- The focus was on public input and grassroots support
- Public meetings were held and comments were received
The Energy Policy of 2013 addresses the Nation’s natural resource investment in the areas of:
- Sustainable Energy Economy
- Coal exploration,
- Compensation,
- Renewable Energy,
- Uranium,
- Taxation
- Creation of an Energy Office
  - Clearinghouse for future Energy Development
  - Form key Partnerships with other Energy Industry Companies
  - R&D that improves the Nation’s economy, Energy components and sustainability.
NN Energy Policy of 2013

Preamble

The Navajo Nation; to protect the energy natural resources and assets of the Nation; to ensure such resources and assets are used for the benefit of the Dine'; to create a self-sustaining economic future for the Dine' on their lands; to ensure sovereign control by the Nation over the extraction and flow of resources from the Nation’s lands; to supply Navajo communities with the benefits afforded by energy development through total resource sovereignty, hereby establishes the Navajo Nation Energy Policy of 2013.
Preamble

The 2013 Energy Policy provides guidance in common language for elected officials, community, leaders, managers, in the Nation’s government, board members, and managers of the Nation’s enterprises, federal and state regulatory authorities and Navajo and non-Navajo business interests dealing with energy issues on the Nation. The 2013 Energy Policy serves to guide in consideration of specific legislation, rules, and regulations, energy strategies, board resolutions, management policies, programs and decisions related to energy in and around the Nation.
NN Energy Policy of 2013

Section 1: Short Title

Section 2: Scope and Review

Section 3: Definitions
Before commencement of any Large-Scale Energy Development or other projects utilizing the Nation’s energy resources, the Navajo Medicine Men’s Association may be consulted to ensure the proper ceremonies, prayers and other rituals are conducted to maintain the Navajo people’s Great Covenant with the deities. By doing so, the Nation shall strive to maintain a proper balance with the natural world.
Chapter 2 of the Navajo Nation Code entitled “The Foundation of the Dine, Dine Law, and Dine Government” describes the four sacred elements of life as “air, light/fire, water, and earth/pollen” and provides that “in all their forms [they] must be respected, honored, and protected for they sustain life”. Recognizing the sacredness of these elements, the Nation desires to establish a sustainable energy economy based on the Nation’s human capital, natural resources, capital resources and the exercise of its inherent sovereign authorities. A sustainable Energy Economy ensures an acceptable quality of life for Navajo people; proper planning and management by governmental officials; energy security; environmental stewardship; adequate rents, royalties, bonuses and taxes to ensure benefits for a sustainable Nation.
NN Energy Policy of 2013

Section 6: General Provisions

Section 601: Applicability of the Nation’s Laws and Regulations

Section 602: Long Term Sustainability of Energy Developments

Section 603: Lease Rent and Royalty Rates
Section 6: General Provisions

Section 604: Renewal of Leases for Existing Energy Infrastructure
Section 605: Selecting External Development Partners
Section 606: End of Project Life
Section 607: Consistency in Energy—Related Decision Making
Section 608: Impact on Other Resources
NN Energy Policy of 2013

Section 7: Large-Scale Energy Development
Section 701: Maximize Ownership, Control, and Revenues
Section 702: Maximizing Navajo Return on Investment
Section 703: Navajo Ownership and Development Representatives
Section 704: Operating Capabilities
Section 8: Community and Economy

Section 801: Expanding Rural Electrification
Section 802: Local Community Input, support for, and benefits from Energy Developments
Section 803: Managing the Cost of Energy for Residents of the Nation
Section 804: Navajo-Owned Small Businesses
Section 805: Fostering Economic Development, Developing Capabilities and Creating Career Opportunities
NN Energy Policy of 2013

Section 8: Community and Economy

Section 806: Distributed Electricity Generation
Section 807: Science, Technology, Engineering, and Mathematics Education (STEM)
Section 808: Health and Safety
Section 809: Energy Efficiency and Conservation
NN Energy Policy of 2013

Section 9: Coal

Coal and Coal-fired plants are a significant component of the Navajo economy and the Nation’s revenues. The Nation will encourage a future in coal as a key component of the Nation’s energy mix as a coal producer that derives a significant amount of royalties, rent, fees, jobs, and tax revenue from coal mining and production of electricity. The Nation will pursue federal coal fuel legislation.
Section 10: Renewable Energy

Section 1001: Renewable Energy Development – The Nation will continue to develop a renewable portfolio of power generating facilities that balances coal, gas or oil-fired generation with economically viable renewable energy generation from such sources as wind, solar, hydro, geothermal, and biomass.

Section 1002: Renewable Energy Portfolio Standard (REPS) – The Nation will evaluate the appropriateness of implementing a Renewable Energy Portfolio Standard (REPS) for electricity used on the Nation. If an REPS is established, the Nation will strive to mitigate the impacts of increased costs of electricity for residential customers within the Nation caused by the implementation of an REPS.
Section 11: Nuclear Matters

The Nation currently supports the moratorium on uranium mining on tribal trust, allotted trust and fee lands on the Navajo Nation. The Nation will continue to monitor uranium technologies and secondary mineral extraction techniques as well as market conditions to assess the safety, viability and potential of these activities for the future.
Section 12: Electrical and Energy Distribution System

Section 1201: New Electricity Transmission and Pipeline Infrastructure — The Nation supports the development of new electricity transmission infrastructure that provides the Nation with an opportunity to unlock the value of its vast renewable and conventional energy resources by providing transmission corridors to metropolitan centers.

Section 1202: Energy Corridors — The Nation will establish energy corridors to manage and minimize the impact on Navajo communities resulting from future electrical transmission, pipeline and railroad infrastructure.
Section 13: Navajo Energy Office

Section 1301: Establishment of a Navajo Energy Office – It is the intent of the Navajo Nation Council to establish a Navajo Energy Office within the Executive Branch of the Navajo Nation government as outlined herein.

a) Creation – The Nation Department of Justice and the Office of Legislative Counsel shall work together to develop the appropriate statutory and regulatory language, including but not limited to a Plan of Operation, consistent with this section for the Navajo Nation Council’s consideration.

b) Structure. A Navajo Energy Office should be separate and distinct from all existing divisions, departments, programs, enterprises and any other Navajo Nation entities or political subdivisions, and with appropriate staffing and budget.
Section 13: Navajo Energy Office

c) Responsibilities. The Navajo Energy Office should act as a clearinghouse for energy related projects, to facilitate energy development on the Nation and to increase institutional capacity on energy issues within Navajo Nation governmental agencies and enterprises.
Section 13: Navajo Energy Office

d) Strategic, Integrated Approach to Energy Planning. The Navajo Energy Office should develop a long-term Strategic Energy Plan. A Strategic Energy Plan will be designed to stimulate increased revenues from energy projects, spur energy infrastructure development, and diversify the Navajo energy economy. The Strategic Energy Plan will address opportunities to foster a competitive business environment to attract private investors to energy projects on the Nation, address how the Nation will strategically engage the key governmental and community representatives on Navajo energy projects, investigate and inventory the reserves and potential of all the Nation’s available energy resources in all regions and serve as a resource to assist the Nation’s leadership to prioritize energy projects.
Section 14: Research and Development

Section 1401: Support for Technologies that Enhance the Use of Navajo Coal – The Nation will support clean coal technologies being developed through research and development which lessen the environmental impact of coal based electricity generation and maximize the efficient use of the Nation’s coal resources.

Section 1402: Support for Technologies that Enable and Enhance the Use of All of the Nation’s Resources – The Nation shall support the research and development of technologies that will allow the Nation to use its resources to maximize their benefit to the Nation and also lessen the environmental impact of their use.
Section 15: Taxation

Section 1501: Navajo Nation Taxation – The Nation shall seek to exert primacy in the taxation of energy development on the Nation to contribute to the funding of essential governmental services on the Nation.

Section 1502: Tax Incentive – The Nation may provide tax incentives to encourage the development of the Nation’s energy resources, while balancing the need to provide supporting infrastructure, services and the Nation’s finances.
Section 16: Limitations

Section 1601: Limitations. Nothing in the 2013 Energy Policy is intended to, nor shall it be construed to:

a) Alter, amend or diminish in any way the sovereign immunity of the Navajo Nation or constitute a waiver of the sovereign immunity of the Navajo Nation, as defined in 1 N.N.C. § 551, et seq.;

b) Abrogate any authority conferred by the Navajo Nation Council upon any agency, enterprise or other instrumentality of the Navajo Nation;

c) Repeal in whole or in part any law or regulation duly promulgated by the Navajo Nation or any of its agencies;
NN Energy Policy of 2013

Section 16: Limitations

d) Authorize or sanction the breach of any contractual duty or diminish any vested property rights; or

e) Provide the basis for a private cause of action by or against any person or entity, or confer jurisdiction upon any court for any cause of action predicated on the 2011 Energy Policy.
Conclusion

- The Energy Policy of 2013 was approved and adopted on October 24, 2013 by the 22nd Navajo Nation Council
  - The Nation’s resources and assets will be protected, developed, and managed to create a self sustaining energy economy for future generations to come.
  - The Navajo Nation is taking steps to be more competitive.
  - Strengthening our sovereignty to be more self sufficient
  - Balancing our resources while sustaining Navajo traditions.
  - Improving the quality of life for our people by investing and partnerships.
  - To employ qualified Navajo people in the Energy Markets.
Conclusion

Through focused energy policies and strategies, the Nation will achieve energy independence which will lead to greater control over energy developments and define itself as a true energy trading partner.
NN Energy Policy of 2013

Download the FINAL copy from the following websites

www.dnrnavajo.org

www.navajo-nsn.gov
Future Event

Navajo Nation Energy Summit
February 4–6, 2014
Twin Arrows Navajo Casino Resort

For more information
www.navajoenergysummit.com

Topics:
Renewable Energy
Fossil Fuels
Policy and Regulations