

RESOLUTION OF THE
NAVAJO NATION COUNCIL
24th NAVAJO NATION COUNCIL - SECOND YEAR, 2020

AN ACTION

RELATING TO AN EMERGENCY; AUTHORIZING DINÉ COLLEGE AND THE NAVAJO TECHNICAL UNIVERSITY TO MAKE APPLICATION FOR A SPECIAL TEMPORARY AUTHORITY WITH THE FEDERAL COMMUNICATIONS COMMISSION UNDER REPORT AND ORDER ISSUED JULY 11, 2019, WT DOCKET NO. 18-120, IN THE MATTER OF TRANSFORMING THE 2.5 GHZ BAND

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102 (A).
- B. Pursuant to 2 N.N.C. §164 (A) (16): "Matters constituting an emergency shall be limited to the cessation of law enforcement services, disaster relief services, fire protection services or other direct services required as an entitlement under the Navajo Nation or Federal law, or which directly threaten the sovereignty of the Navajo Nation. Such an emergency matter must arise due to the pressing public need for such resolution(s) and must be a matter requiring final action by the Council." 2 N.N.C. §164 (A) (16).
- C. Ensuring the continuation of higher education within the Navajo Nation and protecting the health of all residents of the Navajo Nation are inherent attributes of sovereignty.

SECTION TWO. FINDINGS

- A. On July 11, 2019, the Federal Communications Commission issued its Report and Order under WT Docket No. 18-120, concerning "THE MATTER OF TRANSFORMING THE 2.5 GHZ BAND." See, <https://docs.fcc.gov/public/attachments/DOC-358065A1.pdf>. Rule and Order incorporated herein by this reference. This ruling and order grants Special Temporary Authority (STA) to permit immediate or temporary operation of certain radio facilities during emergencies or other urgent conditions." 47 C.F.R. § 1.931. See also, <https://www.fcc.gov/research-reports/guides/special-temporary-authority-licensing>. According to the commission, the Report and Order "allows for more efficient and effective use of 2.5 GHz spectrum by

increasing flexibility for existing EBS licensees and providing new opportunities for rural Tribal Nations and other entities to access unused portions of the band." *Rule and Order*. It explained,

"In order to move this spectrum into the hands of those who will provide service, including 5G, to Americans across the country, and particularly in rural and Tribal areas, we are replacing an outdated regulatory regime, developed in the days when educational TV was the only use envisioned for this spectrum, with one that not only gives incumbent users more flexibility in how they use the spectrum, but also provides opportunities for additional entities to obtain access to unused 2.5 GHz spectrum." *Rule and Order*.

- B. On February 3, 2020, the Federal Communications Commission issued notice entitled "2.5 GHz Rural Tribal Window." The notice covers the period February 3, 2020 to August 3, 2020 and it provides:

"This window is a unique opportunity for Tribes in rural areas to directly access unassigned spectrum over their Tribal lands, subject to buildout requirements. The 2.5 GHz band is suitable for both mobile coverage and fixed point-to-point uses, and is currently used to provide broadband service by legacy educational licensees and commercial providers that lease the spectrum." See, <https://www.fcc.gov/25-ghz-rural-tribal-window> (incorporated herein by this reference).

- C. The 6-month window of opportunity is exclusive to Indian tribes and its entities. The Federal Communications Commission provides:

"Through this Rural Tribal Priority Window, the FCC is establishing a process for federally recognized Tribes and eligible Tribally owned entities to apply for overlay licenses for unassigned eligible 2.5 GHz spectrum, before any remaining unassigned spectrum will be made available for commercial use by competitive bidding." See, <https://www.fcc.gov/25-ghz-rural-tribal-window>.

- D. Diné College and Navajo Technical University are entities of the Navajo Nation, located on the Navajo Nation. Because of the COVID-19, pandemic, and the crisis faced by residents of the Navajo Nation, including students, these tribal entities are seeking authorization from the Navajo Nation to seek and make application for a Special Temporary Authority with the Federal Communications Commission under Report and Order

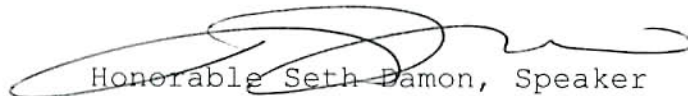
Issued July 11, 2019, *In The Matter Of Transforming The 2.5 GHZ*, Wt. Docket No. 18-120. See attached **Exhibit A**.

SECTION THREE. AUTHORIZING SUBMISSION OF APPLICATION FOR SPECIAL TEMPORARY AUTHORITY

- A. The Navajo Nation hereby authorizes Diné College and Navajo Technical University, entities of the Navajo Nation, to apply for Special Temporary Authority with the Federal Communications Commission under Report and Order Issued July 11, 2019, *In The Matter Of Transforming The 2.5 GHZ*, Wt. Docket No. 18-120.
- B. Except as provided by this emergency action of the Navajo Nation Council, the Diné College and Navajo Technical University shall comply with all Navajo Nation laws. It shall also coordinate all matters relative to this application process with the Navajo Nation Telecommunications Regulatory Commission.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the 24th 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 18 in Favor, and 04 Opposed, on this 17th day of April 2020.


Honorable Seth Damon, Speaker
24th Navajo Nation Council


DATE

Motion: Honorable Eugenia Charles-Newton
Second: Honorable Kee Allen Begay, Jr.

Speaker Seth Damon not voting

Exhibit A

**Diné College and Navajo Technical University
Application for Special Temporary Authorization**

Diné College and Navajo Technical University with the concurrence of the Navajo Nation Council is requesting an expeditious approval for Special Temporary Authority (STA) on behalf of Navajo Nation colleges and universities: Diné College and Navajo Technical University (NTU).

Diné College and NTU request an STA valid for a period of 60 days, to operate on unassigned 2.5 GHz spectrum, formerly Educational Broadband Service spectrum, specifically New Channel 1 (2502-2551.5 MHz), New Channel 2 (2551.5-2602 MHz) and New Channel 3 (2615-2616 MHz and 2673.5-2690 MHz), over the eligible rural tribal land of Navajo Nation Reservation (as defined in the shape file located at <https://fcc.maps.arcgis.com/apps/webappviewer/index.html?id=4287bc078a5e4c7dbd291d78e0534ca7&extent=-112.227871352,34.1237227201,-106.442053933,38.0688970401>).

The recent national and local COVID-19 virus pandemic has exacerbated the need for stable internet within the community. The STA is a critical component in the tribe's ability to respond to the impacts of the COVID-19 pandemic locally.

Mandatory precautions authorized by the Governors of the State of New Mexico, the State of Arizona, State of Utah and State of Colorado as well as the President of Navajo Nation and the Navajo Tribal Council¹ has closed all educational institutions PreK-12, higher education and required students and families to stay at home. In spite of the closures, educational programming and leave home only when it is necessary for their health, safety, or welfare. Diné College and NTU also serve as incident command centers for the surrounding communities. Classes and community information are expected to continue via internet or other alternative electronic methods. However, due to the rural and isolated reservation environment, many community members do not have internet access at home. As of April 7th, 38% of NTU students reported not having internet access. At this time, access to internet access is critical.

The STA will allow Diné College and NTU to support students enrolled in higher learning courses from a number of partner colleges and universities, but also the students enrolled in PreK-12 programs who do not have access to the internet at home. The availability of internet access at home is essential for a number of other important reasons: to enable students to maintain classwork and schedules as required. The STA will allow the community members to maintain communication with Nation leadership and programs regarding changes in mandatory COVID-19 requirements and other information during this time of crisis as well as allow the Nation to respond effectively to meet the educational, social, informational and health needs of community members.

¹ <http://www.navajo-nsn.gov/News%20Releases/NNDOH/2020/March/NDOH%20Public%20Health%20Emergency%20Order%202020-004%20Dikos%20Ntsaaijii-19.pdf>

NAVAJO NATION

294

4/17/2020

Navajo Nation Council Special Session

03:42:49 PM

Amd# to Amd#	Legislation 0092-20: Authorizing	PASSED
MOT Charles-Newton	Dine College and the Navajo	
SEC Begay, K	Technical University to Make	
	Application for a Special...	

Yeas : 18

Nays : 4

Excused : 0

Not Voting : 1

Yea : 18

Begay, E	Halona, P	Smith	Tso, E
Begay, K	Henio, J	Stewart, W	Walker, T
Begay, P	James, V	Tso, C	Wauneka, E
Charles-Newton	Nez, R	Tso, D	Yellowhair
Freeland, M	Slater, C		

Nay : 4

Daniels	Yazzie	Brown	Tso
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Excused : 0

Not Voting : 1

Crotty

Presiding Speaker: Damon