

*21<sup>st</sup> Navajo Nation Council*

*Fiscal Year 09 First Quarterly Report  
Oct – Dec 08'*

*Prepared by BMRB Liaison  
Evalena Claw*

# **BLACK MESA REVIEW BOARD**

PO Box 650 Kayenta, AZ 86033 (928) 677-5069 cell (928) 349-1282 fax (928) 677-5181 or 871-7255



Kee Yazzie, Chair Harry Brown Sr., Vice Chair Jones Begay, Secretary Irene Begaye, Member David Shondee, Member Jonathan Hale, Member

January 15, 2008

Honorable Speaker Lawrence T. Morgan  
21st Navajo Nation Council

Dear Honorable Speaker:

On behalf of Black Mesa Review Board I would like to extend gratitude for your appointment of a representative from your office. Since that time the board has found alternative avenues, guidance, support and recommendations. Your representative has had a profound effect in working with the Board. His membership has had a positive impact and the Board hopes he will continue on with his representation from your office.

This quarter the Board has accomplish much and has prioritized their Fiscal Year 09 project planning but fell short of financial support to implement their goals and objectives for the upcoming year. The Board was relying on an estimate amount of \$10,000.00 carry over from FY 08 to address their goals and objective for their project action plan.

Two of the past ongoing Power line projects have been finalized. Another power line project will be completed by this coming fall that was initiated 20 years ago. The Board also has met with other NN programs to address ongoing issues within the Leasehold area. For example one issue; concerning grazing, trespassing issues, and finding a solution to address those concerns on behalf of the residents.

Respectfully,

A handwritten signature in black ink that reads "Evalena Claw". The signature is written in a cursive, flowing style.

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Evalena Claw, BMRB Community Liaison

## **Purpose of the Board:**

### ***2 N.N.C. §901-910***

#### **§ 902. Purpose and Authority**

*The purpose of the Board shall be to advocate for fair and just compensation for Navajo families within the five Navajo Nation chapters whose socio-economic and environmental interests are adversely affected or impacted by coal mining and related operations of Peabody Western Coal Company, as authorized and provided for by the company's two coal mining leases with the Navajo Nation, Lease No. 14-20-0603-9910 and Lease No. 14-20-0603-8580, as "PWCC" and said term includes any of PWCC's employees, officers, contractors, subcontractors, agents, designees, successors, heirs, or assigns. The Board may also make appropriate recommendations to the President of the Navajo Nation, the Navajo Nation Council, the Resources Committee of the Navajo Nation Council, or to PWCC, concerning the health, social welfare, education, and environment of the Navajo People affected by any of PWCC's mining and post mining or related operations.*

### **BMRB Vision Statement**

It is the vision of the Black Mesa Review Board to restore the natural order and harmony, for the Diné People residing in the Peabody Western Coal Company (PWCC) Leased Area and who are adversely impact by the coal mining operations.

### **BMRB Mission Statement**

It is the mission of Black Mesa Review Board to advocate for the best interest of the local families within the leased area of Peabody Western Coal Company (PWCC) and to utilize the available resources to enhance the quality of life and restore harmony and balance for the people and the land.

<b>Officers:</b>	<b><u>Title</u></b>	<b><u>Chapters</u></b>	<b><u>Agency</u></b>
Kee Yazzie	Chair	Kayenta	Tuba City
Harry Brown Sr.	Vice Chair	Shonto	Tuba City
Jones Begay	Secretary	Black Mesa	Chinle

**Members:**

Irene Begaye		Forest Lake	Chinle
David Shondee		Chilchinbeto	Tuba City
Jonathan Hale		Office of the Speaker	

\*\*\* President's appointment to the Board is currently vacant for membership to the Board

**Board Staff:** Evalena Claw, Community Liaison

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**Meeting Dates****Location****Type**

October 7 9 am 1 pm	BMRB Meeting Room Peabody Lease Area	Work Session  Meeting
October 15 10 am	PWCC Flagstaff Office	Many Mules Waterline Meeting
November 3 10 am	NN Land Dept Conference Room Window Rock, AZ	Leasehold Issues Meeting
November 6 9 am 1 pm	BMRB Meeting Room Peabody Lease Area	Work Session  Meeting
November 12 – 14 9 am – 3 pm	PWCC Flagstaff Office Flagstaff, AZ	Stragetic 09 Work Session
November 24 10 am	Forest Lake Chapter Forest Lake, AZ	PWCC Sector Meeting
December 5 11 am	Peabody Lease Area BMRB Meeting Room	Meeting

## I. Accomplishment

### A. BMRB Strategic FY 09 Work Session

Board members discussed, planned, and prioritize their goals and objectives for fiscal year 09. Outlined and prioritize their project listing

*\*\*Attachment One: BMRB Project Listing*

### B. Board Membership

All Board members appointed by affected chapters: Forest Lake, Kayenta, Shonto, Chilchinbeto and Black Mesa. Office of the Speaker has appointed a representative and Presidents office has appointed one but has not been confirmed and sworn in. All Chapter membership expires 2011. Office of the Speaker expires January 09 and will be renewed upon current Speakers term of office.

Board membership may be reduced by two members due to loss of FY 08 Carryovers and lacking financial stipend to support boards participation to travel and attend meetings per their FY 09 planning.

### C. Ongoing Collaboration Efforts

#### 1. Forest Lake Chapter

Working on Many Mules project, referrals system of constituents; home improvements, bathroom addition, getting homes project ready, house wiring, use of chapter for meetings, assisting in research, hold update meetings and maintaining working relationship. Has initiated work on power line project for constituents in Dinebeto Wash. Assisting residents with coal cards and road maintenance during winter storms and keeping dirt roads clear of mud.

#### 2. Land Department

Hold update meeting, assisting in research, collaborative efforts to continue working relationships, field research, resolving land disputes/conflicts, recommendations to land boundaries, escrow payments, and provide GPS reading. Technical assistance, and sharing information such as maps, documents, and guidelines and procedures.

- Closing out and finalizing N9 escrow payments to 5 family whose compensation was held up due to internal discrepancy
- J 7 escrow research coming to an end and awaiting last recommendation meeting to be held with Dept of Agriculture, Land Dept, Dept of Justice and NPL office.
- Awaiting future escrow documents to transfer payouts for elderly residents.

### **3. PWCC Liaisons**

Update meetings, referrals of residential concerns, collaborative efforts to maintain services, assisting in research, field research, sharing of information, technology assistance, and willingness to maintain working relationship. Met with PWCC on grazing issues, trespassing, and fencing repairs. Assisting in planning with Power line, community projects and possible project manager for Many Mules Waterline.

### **4. OEHE Many Farms Office**

Provided technical study, holding update meeting, sharing of information, and to continue working relationship to finish Many Mules project. Needing resolution from Kayenta and Forest Lake Chapter to initiate Phase I of the Project estimate cost \$5,197,094 million. Currently updating inflation cost percentage for project. Looking for Cost sharing efforts to initiate funding for Phase I. Updating project listing and renewing residential applications.

### **5. NTUA – Kayenta Office**

Providing technical assistance to extend powerline and maintain electrical services in Black Mesa area. Sharing of information, maps, documents, etc. Field research, collaborative efforts to complete and keep project on track.

## **D. Residential Concerns**

- |                             |   |
|-----------------------------|---|
| <b>1. Wood Hauling</b>      | Partnering with Ranger to address concerns  |
| <b>2. Trash Dumping</b>     | Ongoing problems  |
| <b>3. Strays</b>            | Referral to Animal Control to round up  |
| <b>4. Water Wells</b>       | Open second tap to minimize traffic at well   |
| <b>5. Red dog gravel</b>    | PWCC to maintain road & compact for travel on dirt road.  |
| <b>6. Evasive Plants</b>    | Ongoing eradication efforts.  |
| <b>7. Earth dams/</b>       | On going rehabilitate dam & natural spring  |
| <b>8. Sink Holes</b>        | PWCC to fill and maintain   |
| <b>9. Trespassers</b>       | Ongoing Problem – trying to get Police sub station on the mesa to address these concerns.                   |
| <b>10. Water Hauling</b>    | Getting residents project ready for Many Mules water line for running water to homes                        |
| <b>11. Fence Repairs</b>    | Fencing that has been cut and not repairs. Causes conflict and trespassing of livestock to reclaimed areas. |
| <b>12. Road Maintenance</b> | Winter Storms and muddy conditions. Keeping road Clear of snow, ice and saturated mud off roads.            |

## II. BMRB Member Activity

### A. Chilchinbeto Representative – David Shondee:

NO REPORT GIVEN

### B. Black Mesa Chapter Representative – Jones Begay:

- Attend chapter planning and meetings.
- Missed November's due to road conditions and personal commitments, misinformed on planning meeting and missed the meeting.
- Attend work session in Flagstaff, AZ
- Attended White Grass's sector meeting but only one resident and staff was in attendance.
- Visited Area One resident to discuss powerline project and alternative road routes for future public roads.
- I got coal cards , Thanksgiving and Christmas dinner for Black Mesa Chapter

### C. Forest Lake Chapter Representative - Irene Begaye:

NO REPORT GIVEN

### D. Shonto Chapter Representative – Harry Brown Sr.:

Oct 7

- Attend BMRB regular meeting, heard letter of support for Harrison Crank resident of White Grass area – approved by the board
- Approved resolution of CIP Chapter allocation
- Update on OSM house damage
- Many Mules Resolution for affected chapter

Oct 10

- Report to Shonto Chapter
- Some active within Lease area
- Budget cuts, money for furniture
- Looking for funding source for Many Mules Project

Nov 3

- Attend meeting in Window Rock with Land Dept Board Room
- Items of discussion: Grazing, Trespassing, compensations, and recommendations within the PWCC leasehold areas

Nov 24



- BMRB meet with the Lease area residents at Forest Lake Chapter

Dec 5

- BMRB meeting at PWCC lease office. Update on PWCC Regional Sector meetings.
- Some of projects not completed in regional areas
- Councilman Roy Laughter update on Chilchinbeto Estates
- Budget for BMRB is approved
- Resolution for Kayenta Chapter adoption by the Board

Dec 7

- Shonto Chapter meeting reported BMRB activity from last month, projects and work session discussions

### E. Kayenta Chapter Representative – Kee T. Yazzie:

- 10/4 Organize and file Black Mesa Review Board stuff.
- 10/5 Organize and file Black Mesa Review Board stuff. Black Mesa Review Board meeting prep.
- 10/7 Black Mesa Review Board (BMRB) work session at Black Mesa at BMRB office, 9:00 AM to 12:00 PM. BMRB regular meeting at Black Mesa at BMRB office, 1:00 PM to 4:00 PM.
- 10/9 Teleconference with Peabody Western Coal Company (PWCC) Tribal and Government Relations Manager, Walter Begay. Mr. Begay advised that PWCC did not approve the Board's request for access road to the Ned Yazzie Community Development Site. After discussion Mr. Begay advised for the Board to write a letter requesting PWCC to reconsider and state the reasons why. Mr. Begay also said the Board needs approval from the BIA, Division of Transportation. He advised the Board set a meeting with BIA Western Navajo Agency Engineer, Roland Becenti and Navajo DOT Planner, Joe Salt.
- 10/9 Talked to BMRB Liaison about setting up meetings with Water Begay concerning N41, Many Mules Water Line Project, the Ned Yazzie Community Development Project and a list of requests from the residents of Black Mesa. We also, talked about a request from Lita Williams who requested a field review and to walk the Many Mules Water Line Project alignment so residents can see on the ground where the water line will go.

- 10/10 Got a call from BMRB Liaison saying that the Expenditure Authorized Signature Form needs to be signed. I made arrangements to go to Window Rock on October 14<sup>th</sup>.
- 10/11 Worked on Board files, organizing, filing and planning.
- 10/12 Worked on Many Mules Water Line project power point presentation. Power point presentation will be used to make presentation by Council Delegates and it will be used as presentation at the Navajo Nation Council Session.
- 10/13 Attended the Western Navajo Agency Roads Committee meeting. Walter Begay and I made presentation to the Committee concerning N41 project and the N41 Road Fund Application.
- 10/13 I met with Regional Business Development Office at Tuba City concerning the Ned Yazzie Community Development Project. I gave an update of the project and gave copies of all correspondence to the office. The Board is still lacking funds to do the Land Survey for land withdrawal. The cost estimate to do a Land Survey is approximately \$11,000.00.
- 10/14 I called Walter Begay of PWCC to set a date for meeting tomorrow. I traveled to Window Rock to sign the Expenditure Authorized Signature Form at the Speaker's office.
- 10/15 Many Mules Water Line Project Quarterly Meeting at PWCC office in Flagstaff. Discussed the following:
1. Donation of water wells by PWCC. PWCC and IHS have agreed in a pervious meeting that it is better to drill new wells.
  2. The group made a decision to hire a project manager for the Many Mules Water Line Project to work on getting homes project ready. Kayenta Chapter is to make the request by resolution to the Speaker's office and the Board will seek funding from the Speaker's office for consultant work. The Board will write up a scope of work and make the advertisements. The Board will also do the selecting of the consultant. The Chapter and CHR will assist in determining who will receive help for bathroom additions and plumbing work, and any other work that needs to be done to get homes project ready. The individuals who receive help or get water line will need a home site lease.
  3. The project team made plans to lobby Council Delegates and to have some food ready for the Fall

Session to give out to the Council Delegates. The Many Mules Water Line Project will be on the Navajo Nation Fall Session agenda. The Board is also preparing a power point presentation for Amos Johnson to use to present the Water Line Project at the Fall Session.

- 10/15 Meeting with PWCC at PWCC office at Flagstaff. We discussed ongoing issues including the following:
1. Animals trespassing into PWCC fenced areas where land is being reclaimed.
  2. People requesting ponds and windmills be repaired or reinstalled. There is no water for livestock due to drought.
  3. Upgrade of N8034 and other dirt roads for permanent alignments.
  4. Scattered power line project.
  5. Reduction of services by PWCC.
  6. Land use, grazing, permits and homes inside PWCC Leasehold area.
  7. Black Mesa Pipe Line Inc. (BMPI), what to do with existing facilities being abandoned by BMPI and PWCC.
- 10/16 Wrote a letter to the Navajo Nation President requesting his support of the Many Mules Water Line Project.
- 10/17 Meeting with PWCC, at PWCC office at Flagstaff. The meeting was set up to meet with Bret Brown of PWCC but he had an emergency to take care and had to leave Flagstaff. A conference call was arranged so we were able to meet via teleconference. We talked about many things including future plans of PWCC. The Board told PWCC that the people living within the Lease Area need the basic things such as water, power lines, roads, communication towers and the internet services. We need to work on sustainable projects that will benefit the people now and in the future. Not only the people of Black Mesa but the Navajo Nation as a whole. We talked about the Many Mules Water Line Project, N41, Road projects, and implementation of the Land Use Plan, economic development projects and requested support from PWCC to support these projects. PWCC wants to partner with the Navajo Nation and the Board to work on projects. PWCC does not want the Board to be a compliant department.
- 10/19 I met with the residents of Black Mesa and asked them to make plans to go to Window Rock during the Navajo Nation Fall Session to make food for the Council Delegates. This

would be good opportunity to request Council Delegates to support the Many Mules Water Line Project.

- 10/19 Kayenta Chapter Meeting, at Kayenta Chapter House at 1:00 PM. I attended the Chapter meeting where the passed a resolution to hire a Project Manager for the Many Mules Water Line Project. The Chapter also passed a resolutions to fund the Many Mules Water Line Project in the amount of \$20,000.00 for bathroom additions and plumbing to get homes ready for the Water Line Project. The Chapter passed a third resolution to allocate \$2000.00 for EA for the Ned Yazzie Community Development Project.
- 10/23 Many Mules Water Line Project, hiring of a project manager. I followed up on the progress with BMRB Liaison and Mr. Jonathan Hale (Board member). Received information that the Many Mules Water Line Project was removed from the NN Council Fall Session due to lack of funding.
- 10/27 Speaker's office cancelled their plans to visit the Black Mesa Pipe Line Facilities tour. I worked on writing letters and organizing my files.
- 11/3 Meeting with PWCC and Navajo Land Department, at Window Rock at 10:00 AM, at Navajo Land Department Conference Room. We discussed issues with grazing, bond release, fencing, grazing management, starting Grazing Management Associations, horse roundup, trespassing on reclaimed lands, probate, and escrow payments. Who is eligible for escrow payments, benefits, and grazing rights? We decided to start grazing management training, and to continue these meetings.
- 11/3 I went to the Speaker's office and worked on writing letters for the Board.
- 11/3 Walter Begay of PWCC called and requested from the Board written project descriptions of ongoing BMRB projects. PWCC wants to submit BMRB projects to St Louis as sustainable projects. I wrote some project descriptions and faxed them to him.
- 11/5 I wrote more project descriptions for the ongoing BMRB projects for PWCC.
- 11/6 BMRB Regular meeting at Board Office at 11:00 AM.

I made an appointment to meet with Lita Williams and family on 11/16 at 10:00 AM. Lita Williams requested that I show the family the alignment of the Many Mules Water Line project.

- 11/7            Teleconference with Kayenta Chapter to discuss N41 Chapter resolution. I worked on completing an application for Road Funding from the Navajo Department of Transportation (Navajo DOT) for Feasibility Study for N41.
- 11/12 – 11/14    BMRB Strategic Planning Work Session at Flagstaff at PWCC Office.
- 11/14            Meeting with PWCC at Flagstaff at PWCC Office at 2:00 PM. Discussed issues and requests made at regular Board meetings by residents of Black Mesa.
- 11/16            Kayenta Chapter Meeting at Kayenta Chapter House at 1:00 PM. Kayenta Chapter passed a resolution supporting the Board to submit an application to Navajo DOT for Road Funds for a Feasibility Study for N41.
- 11/17            N41. I worked on N41 Road Fund Application. The Application is due today at Navajo DOT office.
- 11/18            N41. I worked on N41 Road Fund Application. There are some errors on the application. Navajo DOT allowed us to make corrections.
- 11/20            N41. We made all corrections on the N41 Application and submitted the completed parts to Navajo DOT.
- 11/20            I attended the Speaker's Thanksgiving Dinner at noon. I attended the bqaz workshops at Navajo Nation Museum at 3:00 PM and 5:00 PM.
- 11/22            Many Mules Water Line Project. I met with some residents of Yellow Water Sector. I gave an update on the Many Mules Water Line project and advised people to get their homes project ready and to make sure they have home site leases in order.
- 11/24            Black Mesa – Kayenta Mines Leasehold Area, Land Use & Community Development Plan. The Board set up a meeting for residents of Black Mesa at Forest Lake Chapter at 10:00 AM to start and organize themselves to meet and start implementing the Land Use Plan. The decision was to select leaders from each sector who will meet with resides within the six sectors

identified in the Land Use Plan. The six leaders will report to the Board their progress each month at the regular Board meetings. Sector meeting were scheduled for Yellow Water Sector at BMRB Office on 12/6, at 10:00 AM, Whitegrass on 12/8 at Rose Yazzie's residents at 10:00 AM, and Great Springs Sector at BMRB Office on 12/16 at 10:00 AM. On 11/25 the Yellow Water Sector meeting was rescheduled to 12/5 at BMRB Office at 9:00 AM.

- 12/5 Land Use Plan, Yellow Water Sector meeting, at BMRB Office at 9:00 AM. Not enough people showed so meeting will be rescheduled. BMRB Regular meeting at BMRB Office at 11:00 AM.
- 12/10 Meeting with Hopi Tribe at Flagstaff at 9:00 AM. On the agenda was N41 (Turquoise Trail). The Hopi Tribe received funding to do design and meetings are going to be scheduled to partner with the Navajo Nation. Scheduled a meeting with Navajo DOT to attend the next Board meeting to give the Board an update report concerning the status of Turquoise Trail.

### III. Projects

### Status

#### A. Ned Yazzie Community Development

**Ongoing – Long Range**

Land donated by local resident (Ned Yazzie), 111 acre of land amended from 120 acres. Mr Yazzie would like a nursing home built on Black Mesa for the elderly so they don't have to leave to far away places. This development would also include; Community Center, Headstart, Recreation Center, Fire and Police Station and Health Clinic. Amended resolution passed by Kayenta Chapter. November 14, 2007 - Meeting between Western Agency Natural Resources, Dst 8 Grazing Committee officials, BMRB Chair and affected party. Opinion to proceed on Community Development w/out surrounding land users.

#### B. Utilities on Black Mesa

**Ongoing – Short Range**

##### 1. NTUA – Kayenta Office

- a. **Cody (Area 13):** **Project Completed and Finalized.** Residents now have electricity.
- b. **Etsitty Camp (Area 10):** Awaiting finalization for one resident to pay for meter hook up.

- c. **Chief (Area 14):** Project Completed and Finalization and all resident have electricity to their homes
- d. **Area 1 (Forest Lake) :** Lines installation in homes completed and re need to assess SEI needs to be done. Awaiting poles to be set and waiting for start of construction. Project was delayed due to inflation cost in the estimate amount of \$13, 000. Forest Lake approved resolution for funding to pay amount, SAS packet completed in November 08. Poles sent to PWCC gravel pit, resurveying of project and clearance of right of way but delayed due to severe winter conditions in Dinebeto Wash. Projected project completion date April 09.
- e. **Start up Dst 2 Powerline Project to and Scattered project for last phase of electricity on Blk Mesa.** Start feasibility studies in Summer of 09 when Area One is done and reassess which residents to include on list and invite NTUA to do presentation on Scattered project.
- f. **Environmental Health – Water – MF office:** Awaiting funding sources and willing to collaborate on grants and funding sources.

### C. Roads in Leasehold Area

### On Going – Long Range

#### 1. BIA Rt N 8034

#### Long Range

BMRB passed resolution to request PWCC to improve road from PWCC Boundary line to Oak Ridge Community. Still awaiting resolution from Black Mesa Chapter for resolution support.  
Awaiting White House Sector to meet to discuss future road development to plan and support future road realignment in Dinebeto Wash.

#### 2. N 41

#### Long Range

BMRB passed resolution to request PWCC to upgrade road for approximately 12.4 miles, from Jct US 160 to Western Agency Boundary Line, to meet current American Society of Highway and Transportation Officials Standards. Inform local residents to start meeting for consensus road project through RMU area. Request funding in 08 for Project Proposal for feasibility study. Working with PWCC to initiate estimate cost for project. Submit resolutions to Western and Chinle Road Agency to initiate project priority listing.

**D. JJ Clac Land Use Plan****Long Range**

To implement and use 2005 Kayenta – Black Mesa Mine Land Use Plan that was paid by the Office of the Speaker. Utilize this plan to give guidance in post mining and reclamation efforts on behalf of the PWCC leasehold residents.

Each sector per the Land Use plan to prioritize their plans for their community and develop goals and objectives for future projects.

**1. 6 Area Sectors (Lease hold)****Short****a. Yellow Water**

Selected date but only one person showed reset date in Jan 09

**b. Great Spring**

Set date but two resident showed and reselected a Jan 09 date

**c. Owl Spring**

No report of any activities. Need to get them re-involved and initiate meetings.

Given out flyers but no response

**d. White House**

Selected Dec meeting date. One resident showed, reschedule, no show due to winter storm and closure of road. Selected Jan 09 date to discuss road realignment

**e. Sand Spring**

No report of any activities. Need to get them re-involved and initiate meetings.

Informed residents but no response

**f. White Grass**

Currently meeting and need them to give an update to their activities to Board. Meeting bi weekly and set agenda of four items to be discussed

Elected to have one representative from area to run meetings and rotate thru residents to hold meetings

**E. Cell Phone Towers****Long Range**

Currently researching possible communication companies. Residents to locate sight of cell towers in lease hold area. Proposed 5 towers. To invite to meetings for presentation on location and work with residents to identify sites for towers. Initiate resolutions to chapter to initiate location of those proposed towers on Lease area. Meet with PWCC to assist in locating high points in Leasehold area for possible communication towers.



#### **IV. Concerns & Recommendation of the Board**

- Appointment from President's & Speakers office for Board membership
- Having quarterly meeting with the Speaker
- Supporting Board projects from NN programs, Chapters and Council
- One way communication: Wanting open communication with NN programs, Chapters and Council
- Expand support staff to address concerns and issues for the community
- Not enough financial support to address needs and services for PWCC leasehold residents
- Amendment to Plan of Operation
- To obtain original Leasehold Lease agreement
- Funding sources for projects for Leasehold area
- Support for 501 C 3 Status for PWCC Leasehold residents