

**21<sup>ST</sup> NAVAJO NATION COUNCIL**

**FISCAL YEAR 09  
4TH QUARTERLY REPORT  
JULY - SEPTEMBER**

**PREPARED BY BMRB LIAISON  
EVALENA CLAW**

## **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.

Black Mesa Review Board

Irene Begaye - Chair Harry Brown Sr. – Vice Chair Angela Cody – Secretary  
David Shondee Member Jones Begay Member  
Kee T Yazzie Member  
Jonathan Hale Member



October 08, 2009

Honorable Speaker Morgan  
PO Box 3390  
Window Rock, AZ 86515

Dear Honorable Speaker:

On behalf of the board I would like to report the Boards accomplishments for the fourth quarter: As you know BMRB was awarded the AML full grant in the amount of \$300,000 to start the bathroom additions for Kayenta, Shonto, and Forest Lake Chapters, with this grant it has opened various opportunities to pursue funding for Many Mules Waterline Project. The Board also continues to pursue ongoing partnerships with current collaborative efforts to address ongoing issues such as grazing, roads and developing partnerships to bring those issues to the forefront. This past quarter the Board has met with Navajo Nation programs to address those concerns by working in conjunction with PWCC to develop action plans.

Unfortunately at the end of this quarter the Board ran out of funding due to loss of carry over in estimated amount of \$10,000 at the beginning of this fiscal year. Sadly resulting in shortage of financial support, for Board involvement to attend meetings, work sessions, and project updates. To address vital concerns of affected community, the Board advocates for. In spite of those adversities, the Board has managed to close this Fiscal Year 2009 with much success.

Respectfully,

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

Evalena Claw  
BMRB Liaison

<b>Officers:</b>	<b>Title</b>	<b>Chapters</b>	<b>Agency</b>
Irene Begaye	Chair	Forest Lake	Chinle
Harry Brown Sr.	Vice Chair	Shonto	Western
Angela Cody	Secretary	Office of the President	

**Members:**

Jones Begay		Forest Lake	Chinle
David Shondee		Chilchinbeto	Western
Kee T Yazzie		Kayenta	Western
Jonathan Hale		Office of the Speaker	

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

**Contact Information:**

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**Accomplishments:**

**AML Proposal** - Submission of proposal was awarded in the amount of \$300,000 for bathroom addition for Kayenta, Shonto, & Forest Lake Chapters. The proposal for Many Mules Water line project is for bathroom additions for all phases. AML funding will be used to initiate the pre construction requirements.

**PWCC Meetings:** Ongoing meetings to discuss collaborative efforts to continue partnership by addressing the concerns of local community.

**Grazing, Fencing, & Trespassing Issues** – Initiate meeting with NN Agriculture, PWCC, NN Land Dept, BIA Natural Resources, and BMRB to address concerns regarding land management, livestock rotation, livestock associations, fencing, reclamation, and customary land use. Develop action plan to address concerns.

## **4<sup>th</sup> QTR 09'**

<b>BMRB Meeting Dates</b>	<b>Location</b>	<b>Type</b>
July 7 <sup>th</sup> , 2009 9 am – 12 noon 1 pm – 4 pm	BMRB Office	Work Session Regular Meeting
September 1, 2009 9 am – 12 noon 1 pm – 4 pm	BMRB Office	Work Session Regular Meeting

### **I. BMRB Projects**

#### **A) INFRASTRUCTURES:**

##### ***1) NED YAZZIE COMMUNITY DEVELOPMENT PROJECT:***

On going efforts to get project site to be surveyed for clearances and Row. Initiate withdrawal process to formally start process. Current status in beginning stages.

##### ***2) MANY MULES WATERLINE PROJECT:***

On going collaborative efforts with Affected Chapters to address pre construction concerns to start project. Project was awarded \$300,000 for Kayenta, Shonto, and Forest Lake bathroom additions. The funding was a big step in getting the project to the forefront of address cost sharing efforts with various entities. Positive reinforcements to strengthen, existing partnerships and continue to seek funding to complete project.

##### ***3) The Black Mesa Pipeline (BMPI) Facilities:***

Is in the hands of the Navajo Nation to decide what to do with the Facilities and is still on going.

##### ***4) Scatter line Power line Project:***

On going efforts collaborating with Kayenta NTUA office to do a feasibility study for a handful of local residents to be given electrical services that currently do not have this. Doing field site visits and gathering data to initiate project list.

## ***B) ROADS:***

### ***1) N41, TURQUOISE TRAIL:***

Road does not currently have any clearances or ROW in place. Currently addressing those concerns with PWCC, NDOT, and Navajo County to develop project plan. BMRB submitted a request for funding for a feasibility study on N41 from Jct 160 (Black Mesa Store) to Hull Road turn off past the PWCC airport strip. It has been almost a year since that funding proposal was submitted. Currently still awaiting word if funding application was selected or not. Presently TCDC committee has not released selected applicants. On going meeting with Navajo County to get this project ready for future funding.

### ***2) Black Mesa Regional Road Planning:***

Board part of BM Regional task road planning, this committee was developed after the emergency from snow melting in rural Black Mesa. This committee works on addressing road condition, how to maintain those roads and procedures to severe road conditions in this regional area. Met in May to identify dirt roads to be improved and where roads are, and based on the funding requirements. Committee produced a snow removal procedure and guideline for the upcoming winter. Board has partnered up with Navajo County, NDOT and Apache County to address rural concerns of Black Mesa.

### ***3) NDOT Road Inventory:***

Western agency road inventory was done but still ongoing concerns related to current and future mining operations and may affect where these public roads may be placed or developed. Currently, ongoing collaborative efforts with NDOT, to address those concerns, and need more meetings to discuss related issues.

### ***4) Red Dog Gravel Partnership Task Team:***

Participate in various discussion and meetings with NDOT, Navajo County, affected Chapters, and Community concerned with dirt road conditions. Partnering with those entities mentioned to address dirt road improvement before weather inhibits winter travel. To avoid a emergency declare due to adverse weather conditions in rural communities. Currently awaiting Resource Committee to waiver Royalty fees required of Navajo County to provide services to communities of Apache, Coconino and Navajo Counties.

**C) SECTORS:**

**BLACK MESA - KAYENTA MINES LEASEHOLD AREA, LAND USE AND COMMUNITY DEVELOPMENT PLAN:**

According to the Land Use Plan the BMRB has started meetings and organizing the residents in each sector to become planning groups and for the residents within the PWCC leasehold area to develop a 501 (C) (3) non-profit organization. The Sectors are meeting and have elected officers to lead them in developing their own Land Use Plans. The Sectors have organized a Focus Group made up of the leaders from each Sector to apply for and become a non-profit organization. The Focus Group has developed a website for the organization.

**A) Sage Brush Spring Meeting Dates**

<b>July 25, 2009</b>	<b>10 am</b>	<b>Lucille Shirley Residence</b>
<b>August 22, 2009</b>	<b>10 am</b>	<b>Lucille Shirley Residence</b>
<b>September 26, 2009</b>	<b>10 am</b>	<b>Lucille Shirley Residence</b>

**B) White House Meeting Dates:**

<b>July 24, 2009</b>	<b>6 pm</b>	<b>Maxine Kescoli Residence</b>
<b>August 21, 2009</b>	<b>5 pm</b>	<b>Maxine Kescoli Residence</b>
<b>Sept 18, 2009</b>	<b>4 pm</b>	<b>Theresa Little Residence</b>

**C) Yellow Water Meeting Dates:**

<b>July 6, 2009</b>	<b>10 am</b>	<b>BMRB Office</b>
<b>August 8, 2009</b>	<b>6 pm</b>	<b>BMRB Office</b>

**D) Great Spring Meeting Dates**

<b>July 6, 2009</b>	<b>10 am</b>	<b>BMRB Office</b>
<b>August 8, 2009</b>	<b>6 pm</b>	<b>BMRB Office</b>

**E) White Grass Meeting Dates:**

**No dates given**

**F) Sand Spring Meeting Dates:**

<b>July 6, 2009</b>	<b>6 pm</b>	<b>BMRB Office</b>
<b>July 13, 2009</b>	<b>5 pm</b>	<b>BMRB Office</b>
<b>July 27, 2009</b>	<b>6 pm</b>	<b>BMRB Office</b>
<b>August 22, 2009</b>	<b>10 am</b>	<b>BMRB Office</b>
<b>Sept 7, 2009</b>	<b>10 am</b>	<b>BMRB Office</b>

**G) Focus Group Meeting Dates: All Sector Representatives, discussion for 501 C 3 Status**

<b>July 11, 2009</b>	<b>10 am</b>	<b>BMRB Office</b>
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## ***II. COLLABORATIVE PARTNERSHIPS:***

### ***A) Addressing Grazing, Trespassing, and Fencing Issues w/in PWCC Leasehold area***

***NN LAND Dept  
NN Dept of Agriculture  
BIA Western Natural Resource  
PWCC***

The Board has ongoing meetings with the Navajo Land Department, PWCC, Navajo Department of Agriculture and the BIA Natural Resource Office. The meetings were initiated to resolve issues having to do with fencing, wild horses, trespassing, grazing on reclaimed lands, escrow payments, treatment NPL/ HPL grazing permits, and other issues. The meetings are going well and proceeding with developing grazing management plans and setting up training for residents. The goal is to maintain reclaimed lands and improve livestock for marketing and not allow reclaimed lands to be over grazed and destroyed. The grazing management plans will resolve most of the ongoing issues having to do with livestock.

### ***B) NN Water Resource Dept***

The BMRB, Navajo Nation Water Resources, and the Board have formed a Conditional Partnership to share information, services and resources to work on the Many Mules Waterline project. This Partnership is necessary to complete the waterline project and allow the project to keep moving. Collaborative efforts to address Many Mules Waterline projects and various alternatives to start up Phase One and continuing to find cost sharing funds.

### ***C) NN Land Dept***

Ongoing collaborative effort to address, issues and concerns of community, per land in PWCC leasehold area. Currently meeting to address grazing, trespassing, escrow, research and land disputes within PWCC leasehold area. Providing technical assistance, research, gps, field work and site visits.

### ***D) PWCC***

Collaborative efforts to address local issues, gps, mapping, technical assistance, field research, and site visits.



### ***E) BIA Western Agency – Natural Resource***

Provide seminar, educating on natural resources, land base, land management, and addressing grazing issues.

### ***F) Chapters***

- ***Forest Lake:*** Data assessment, research, two way communication, supporting Board efforts by resolutions, letter, and addressing local issues on behalf of their constituents. Participation and attending meetings, work sessions to provide chapter input.
- ***Shonto:*** Providing technical support, data assessment, and participation to address local issues by attending meetings, work sessions, and communicating their chapter input.
- ***Kayenta:*** Data assessment, supporting BMRB activities by resolutions and letter of support.
- ***Black Mesa:***        ***No participation***
- ***Chilchinbeto:***    ***No participation***

***G) Navajo County:*** Partnering to address and support Red Dog Gravel efforts for future maintenance of dirt road for public travel safer. Addressing and identify road concerns. Meeting to address road improvement. Interest in Waterline project as well, possible partnership for future projects

### ***H) Navajo Dept of Transportation (NDOT):***

Address Road inventory request, road concerns, collaborative efforts to work with the community to address concerns, and identify future public road system. Ongoing meetings to reassess road concerns.

***I) Western AML:*** *Providing technical assistance to do GPS for Many Mules Water line project. Awarded BMRB to start the preconstruction for Many Mules Waterline project. Partnering to monitor funding allocation of Many Mules Waterline Project.*

***J) OEHE Many Farms Office:*** *Making recommendation and providing technical assistance regarding Many Mules Water Line data. Collaborative efforts to maintain communication regarding project.*

**K) NN Dept of Agriculture:** Address PWCC concerns regarding overgrazing, land management, livestock association, and developing Land Use plan for community members who have an interest to maintain their livestock. Provide technical assistance by doing presentation, educating community on livestock and land management.

**L) Navajo Partitioned Land (NPL):** Ongoing collaborative efforts to address concerns of community that reside within the impacted area of Joint Use Area. Has worked on some referral regarding windmills for livestock and currently in process to maintain a windmill within Leasehold area.

### **III. BMRB MEMBER ACTIVITY**

**A) Kee T Yazzie**

**Kayenta Chapter's Representative**

#### **July - September Participation**

##### **Black Mesa Review Board Work Sessions:**

<b>Date</b>	<b>Time</b>	<b>Place</b>
July 7, 2009	9:00 AM	BMRB Office
September 1, 2009	9:00 AM	BMRB Office

##### **Black Mesa Review Board Regular Board Meetings:**

<b>Date</b>	<b>Time</b>	<b>Place</b>
July 7, 2009	1:00 PM	BMRB Office
September 1, 2009	1:00 PM	BMRB Office

##### **Other Black Mesa Review Board Meetings:**

<b>Type of Meeting</b>	<b>Date</b>	<b>Time</b>	<b>Place</b>
Sand Springs Sector Meeting	July 6, 2009	5:00 PM	BMRB Office
Great Springs Sector Meeting	July 10, 2009	6:00 PM	BMRB Office
Yellow Water Sector Meeting	July 10, 2009	6:00 PM	BMRB Office
Focus Group Meeting	July 11, 2009	10:00 AM	BMRB Office
Meeting with PWCC	July 24, 2009	9:00 AM	PWCC N8 Off
BMRB Budget Meeting	August 7, 2009	2:00 PM	Window Rock
Great Springs Sector Meeting	August 8, 2009	8:00 AM	BMRB Office
Yellow Water Sector Meeting	August 8, 2009	8:00 AM	BMRB Office
Navajo Nation Budget Hearings	August 10, 2009	9:00 AM	Window Rock
Navajo Partnership meeting	August 19, 2009	8:00 AM	Flagstaff
Road Inventory Meeting	August 19, 2009	1:00 PM	Flagstaff
Many Mules Waterline Project	August 27, 2009	10:00 AM	Kayenta
Kayenta Chapter Meeting	Sept. 20, 2009	1:00 PM	Kayenta

**July 5, 2009** – I did prep Work for Sand Springs Sector meeting, BMRB Work Session, BMRB Regular Meeting, Great Springs and Yellow Water Meetings and Focus Meeting.

**July 6, 2009** – I did more prep work for BMRB Work Session and BMRB Regular meetings.

**July 7, 2009** – The Board decided not to have any more Board meetings from now to the end of the fiscal year. The Board has no more funds. The Board also decided to keep all scheduled meetings from now to the end of the fiscal year. Board members will donate their time, there will be no mileage paid for traveling to meetings.

**July 8, 2009** – I contacted PWCC to advise them that the land users of N7 and N8 want to develop a grazing management plan.

**July 9, 2009** – Teleconference with Goldtooth Precision Survey, update on Ned Yazzie Community Development Project land survey. Goldtooth Precision Survey met with PWCC. PWCC is still reviewing the Community Development site access roads. Some major work may need to be done to make a road over the conveyor belt. PWCC is reviewing various designs to see what is most feasible to upgrade overpass road. PWCC may design and construct the overpass roads as PWCC contribution to the project. Or if the access roads are denied, then a new access road will need to be identified and surveyed. Goldtooth Precision Survey is going ahead with the survey as if PWCC has approved the access road. The land survey will be used to submit to the Natural Resource Land Office for land withdrawal.

**July 10 – 11, 2009** – The Great Springs, Yellow Water and White Grass Sectors are reviewing the, “Black Mesa Articles of Incorporation”, for the 501 (C)(3) Non profit organization. On July 11<sup>th</sup> the, “Focus Group”, which is made up of all the leaders from each sector, met to discuss the, “Articles of Incorporation”, the website and fund raising to pay the fees for filing the 501 (C)(3) organization. The, “Articles of Incorporation”, will be finalized at the October 3, 2009 meeting. Then the 501 (C)(3) organization will be filed with the state on October 5, 2009. After this the new organization will begin work on the Bylaws.

**July 14, 2009** – Teleconference with the BMRB Liaison concerning update on projects and to follow up on action items.

**July 22, 2009** – Teleconference with Many Farms IHS – OEH concerning the Many Mules Waterline project and the up coming project update meeting.

**July 24, 2009** – PWCC advised the Board that N7 and N8 has been returned to the Navajo Nation and that the request to set up a grazing management plan will have to go to the BIA. The Board made a request to the BIA to develop a grazing management plan for N7 and N8. The BIA agreed and requested that a meeting with the BIA be planned.

**August 3 – 7, 2009** – Worked on BMRB Budget report. On August 7<sup>th</sup> the Board called a special meeting at Window Rock to finalize the budget report.

**August 7, 2009** – Goldtooth Precision Survey crew is doing survey work on the Ned Yazzie Community Development site land survey.

**August 8, 2009** – The Great Springs and Yellow Water Sectors finalized the, “Articles of Incorporation”. The Focus Group will finalize the, “Articles of Incorporation”, on their meeting on October 3, 2009. All the Sectors should have reviewed the Articles by October. The, “Articles of Incorporation”, will be filed on October 5, 2009.

**August 10, 2009** – BMRB budget for FY 2010 was passed by B&F Committee. The Board will be getting less then what was approved for the FY 2009 budget.

**August 19, 2009** – Hopi gave update on Turquoise Trail. Hopi has funds for project development of the first four miles from Hopi reservation going north to crossing of Dinnebeto Wash. There might be funds to design the Bridge to cross Dinnebeto Wash. I had a chance to talk to PWCC about N41. PWCC stated that N41 belongs to the Navajo Nation. PWCC does not have right-of-way to N41. PWCC is not willing to

upgrade N41 for the Navajo Nation. They can consider matching funds to upgrade N41 to current design standards. In a previous meeting with the BIA, BIA said the same thing PWCC said. That N41 is not a BIA system road. BIA does not have right-of-way to N41. The BIA can not spend funds on a road that belongs to PWCC. As long as N41 is on PWCC lease area the BIA will not maintain it nor do any work on it. The road will have to be transferred to the BIA before they can work on it.

**August 27, 2009** – Many Mules Waterline project update meeting. The main topic of discuss was the AML Application for bathroom additions and plumbing. The AML office returned the application to the Board asking for more information. The Board asked the Chapters to assist in gathering the requested information.

**September 11, 2009** – I worked on meeting prep for Kayenta Chapter Planning meeting. It turned out that the Chapter Planning meeting took place on September 7, 2009.

**B) Jones Begay** *Black Mesa Chapter's Representative*

**NO REPORT SUBMITTED**

**C) Harry Brown Sr.** *Shonto Chapter's Representative*

**July 24, 2009**

Attend meeting at PWCC Operations conference room to update and have group discussion on trespassing, fencing, and grazing issues within Leasehold area.

**August 27, 2009**

Meeting at Kayenta Chapter, regarding Many Mules Waterline project update and discussion per funding sources, deadline dates and criteria's. Partnering with: NTUA, CDBG, and Chapter officials, All in agreement to continue to have update meetings per waterline project.

**September 1, 2009**

Attend regular BMRB meeting, 9 am to 12 noon work session. Work session on Budget FY 2010 planning and projecting amount. Update report on projects: Many Mules, Roads, Powerline, and Grazing within the Leasehold area. Discussion resolution support from Chapters. As well as discuss upcoming Budget session for carry over in Window Rock.

**D) Irene Begaye** *Forest Lake Chapter's Representative*

**NO REPORT SUBMITTED**

**E) David Shondee** *Chilchinbeto Chapter's Representative*

**NO REPORT SUBMITTED**

**F) Jonathan Hale**

**Office of the Speaker Representative**

**NO REPORT SUBMITTED**

**G) Angela Cody**

**Office of the President's Representative**

**NO REPORT SUBMITTED**

#### ***IV. Concerns and Recommendations:***

The BMRB was established to be the voice for the people living within the PWCC leasehold area to advocate positive improvements that will help bring healing and relief. The people and the land are one and cannot be separated. The land is wounded and so are the people. No amount of compensation, land development, infrastructure, or improvements can heal these wounds. BMRB is there for the people to bring about improvements and balance between the land and the people so it can begin to heal and make things better. There is no other means by which this help will come. Therefore it is necessary for the Board to remain until a suitable replacement for the Board is established.

The surrounding Chapters do not have the staff, time or the funds necessary to carry on the work the projects and issues that BMRB is working on. If the Chapters take over the ongoing BMRB projects they may never be completed. These projects will most likely be no longer high priority. Any funds that may be allocated for these projects may be directed to other Chapter high priority projects.

Chapters are providing or suppose to be addressing those services. We understand the residents of Black Mesa who are adversely affected by coal mining activities have needs and priorities that the chapters do not always recognize. The chapters have their own priorities that do not include the residents of Black Mesa, PWCC lease area. The chapters believe that PWCC takes care of the people of Black Mesa. They think Black Mesa people have everything and do not need any kind of assistance. So the Board steps in to advocate, support and provide the services the chapters will not provide. The people of Black Mesa need running water, electrical services, phone and cell phone services, roads, housing and internet services. The people of Black Mesa need wood hauling permits and regulations, rangers, police protection, land fills and transfer stations. The people need enforcement to deal with illegal trash dumping, dumping of unwanted dogs and cats, control of cutting green trees, etc. The people of Black Mesa need schools, emergency services, etc.