

NAVAJO COUNTY BOARD OF SUPERVISORS' MINUTES
WEDNESDAY, October 31, 2012

****Special Meeting****

PRESENT: David Tenney, Supervisor; Jesse Thompson, Supervisor; Jonathan M. Nez, Supervisor; Jerry Brownlow, Supervisor; and J.R. DeSpain, Chairman.

8:35 a.m. Call to Order: Pledge of Allegiance and Invocation was led by **Supervisor Tenney**.

CALL TO THE PUBLIC: David Newlin with the Little Colorado River RC&D spoke regarding the continuation of the Apache Railway. Mr. Newlin recommended preserving the railway. Paul Watson, Manager of the Town of Snowflake spoke to the Board regarding the economic impact of the closing of Catalyst Mill. Mr. Watson indicated that if condemnation is the way to get Catalyst to communicate than that is the way we need to go. Keith Watkins with Arizona Commerce Authority spoke to the Board regarding Apache Railway. He indicated that the Arizona Commerce Authority has not received any notice of intent to abandon the Apache Railway line. The Arizona Commerce Authority is watching this with keen interest. Kerry Ballard, Councilman of Snowflake spoke to the Board regarding the possible condemnation of the Apache Railway. He indicated that distribution centers need rail. Tom Porcharsky, City Councilmen of Snowflake spoke to the Board regarding the Apache Railway and indicated that he is in favor of condemnation. Dale Patton, City Attorney of Winslow spoke regarding the economic development of Navajo County and suggested that the County consider an adoption of a countywide economic development plan. Steve Brophy, President of AZTEC Land and Cattle spoke to the Board in favor of condemnation. David Brown, Attorney for AZTEC introduced Mr. Nick Patton whom has joined Brown & Brown. Mr. Brown spoke to the Board regarding condemnation and constitution eminent domain and the power to condemn. Mr. Brown urged the Board to consider listening to your legal counsel. Jared Hatch spoke to the Board regarding a rush to a decision. He indicated that it is unfortunate to see what has occurred with Catalyst however he indicated that they have the right to do what they are doing. He believes in free enterprise and his view is to help and assist and attract business. We are here to govern not force the hand said Mr. Hatch. Senator Sylvia Allen indicated that we need to make sure that hate or fear does not drive our decisions. She indicated that the railroad does not belong to you it belongs to Catalyst. Senator Allen indicated that if private property rights do not exist than liberty does not exist either. Senator Allen indicated that she does not think that condemnation is the right course for taxpayers. Vern Turley, resident of Snowflake Arizona spoke to the Board regarding the Apache Railway. Eric Duthie, Town Manager of the Town of Taylor spoke on behalf of Real Az Corridor. Mr. Duthie cleared the record that the email that was sent out was not from Real Az Corridor.

BOARD OF SUPERVISORS:

- a. **EXECUTIVE SESSION** pursuant to A.R.S. §38-431.03(A)(3) for the Board to receive legal advice from its attorneys regarding possible Board action for condemnation/purchase of the Apache Railway: **Supervisor Tenney** made a motion to enter into Executive Session; motion seconded by **Supervisor Brownlow**. Vote unanimous approving the motion at 9:38 a.m.
RECONVENE for discussion and possible Board action for condemnation/purchase of the Apache Railway: At 10:22 a.m. **Supervisor Tenney** made a motion to return to regular session; motion seconded by **Supervisor Brownlow**. Vote unanimous approving the motion. Chairman DeSpain turned it over to the Board for discussion. Supervisor Tenney stated that his position is that it is not our duty to enter into an eminent domain and condemn someone's property. He stated that what is going on is a

tragedy. He stated that he cannot support condemnation at this time. **Supervisor Thompson** stated that there are still too many questions left unanswered and cannot support condemnation. **Supervisor Nez** stated that there are still too many questions that need to be answered before he can support this condemnation. **Supervisor Brownlow** indicated that he cannot support condemnation. **Chairman DeSpain** stated that he leans towards his constituents in the Snowflake, Taylor and Holbrook areas and feels that they the Board has authority to stop the Apache Railway from being scrapped. **Supervisor Brownlow** made a motion to not to proceed with the item; motion seconded by **Supervisor Tenney**. **Supervisor Nez, Supervisor Thompson, Supervisor Tenney and Supervisor Brownlow were all in favor of the motion. Chairman DeSpain was not in favor the motion.**

ADJOURN: At 10:37 a.m. **Supervisor Tenney** made a motion to adjourn; motion seconded by **Supervisor Nez**. Vote unanimous approving the motion.

APPROVED:

DATE: December 11, 2012

J.R. DeSpain, Chairman

ATTEST:

Melissa W. Buckley - Clerk of the Board