

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
24th Navajo Nation Council --- Third Year, 2021

AN ACTION

RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE; CONFIRMING
THE NAVAJO NATION PRESIDENT'S APPOINTMENT OF MR. EARL TULLEY TO
THE NAVAJO NATION WATER RIGHTS COMMISSION, FOR A TERM OF THREE
(3) YEARS, AS THE CHINLE AGENCY COMMISSIONER

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Resources and Development Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 500 (A).
- B. The Resources and Development Committee has legislative authority to grant final confirmation of appointments to enterprise boards; Navajo Nation Water Rights Commission; and entities under the authority of the Committee requiring appointments. 2 N.N.C. § 501 (B) (9).
- C. According to the Plan of Operation for the Navajo Nation Water Rights Commission ("NNWRC"), the President of the Navajo Nation has authority to appoint two members to the NNWRC. GSCAP-07-04, Subexhibit A, Article 5(A), attached as **Exhibit 1**.

SECTION TWO. FINDINGS

- A. Each NNWRC member shall serve for a four-year term pursuant to the NNWRC Plan of Operation, approved by GSCAP-07-04, Subexhibit A, Article 4 (C). **Exhibit 1**.
- B. The President of the Navajo Nation is authorized to appoint to the NNWRC one (1) Commission member from the Chinle Agency. GSCAP-07-04, Subexhibit A, Article 5 (C). See **Exhibit 1**.
- C. The Chinle Agency Commissioner position has been vacant since November 20, 2020, and has been vacant beyond the sixty (60) day appointment period afforded the President.
- D. Mr. Earl Tulley fulfills the requirements for appointment as the Chinle Agency Commissioner of the NNWRC. See **Exhibit 2**.

- E. The President of the Navajo Nation has appointed Mr. Earl Tulley as the Chinle Agency Commissioner of the NNWRC. See **Exhibit 3.**
- F. It is in the best interest of the Navajo Nation that Mr. Earl Tulley be appointed and confirmed as Commissioner of the Chinle Agency for the NNWRC.

SECTION THREE. APPOINTMENT

The Resources and Development Committee of the Navajo Nation Council hereby confirms the Navajo Nation President's appointment of Mr. Earl Tulley to the Navajo Nation Water Rights Commission. Mr. Tulley's appointment will begin upon confirmation by the Resources and Development Committee and end on November 19, 2023, fulfilling the remainder of a three-year term as provided for in the NNWRC Plan of Operation.

CERTIFICATION

I, hereby, certify that the following resolution was duly considered by the Resources and Development Committee of the 24th Navajo Nation Council at a duly called meeting held by a teleconference for which a quorum was present and that same was passed by a vote of 4 in favor, and 0 opposed, on this 18th day of August 2021.



Mark A. Freeland,
Pro Tempore Chairperson
Resources and Development Committee
of the 24th Navajo Nation Council

Motion: Honorable Rickie Nez
Second: Honorable Thomas Walker, Jr.

Pro Tempore Chairperson Mark A. Freeland not voting.

GSCAP-07-04

**RESOLUTION OF THE
GOVERNMENT SERVICES COMMITTEE
20th NAVAJO NATION COUNCIL - Second Year, 2004**

AN ACTION

**RELATING TO THE NAVAJO NATION WATER RIGHTS COMMISSION;
AMENDING THE PLAN OF OPERATION FOR THE NAVAJO NATION
WATER RIGHTS COMMISSION**

BE IT ENACTED:

The Navajo Nation hereby amends the Plan of Operation for the Navajo Nation Water Rights Commission, attached hereto as Exhibit "A".

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Government Services Committee of the Navajo Nation Council at a duly called meeting in LeChee, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 4 in favor and 0 opposed, this 14th day of April 2004.


Roy Laughter, Vice Chairperson
Government Services Committee

**Motion: Leonard Teller
Second: Orlanda S. Hodge**

EXHIBIT "A"

AMENDMENTS

Navajo Nation Water Rights Commission

Plan of Operation

Article 1. Establishment

The Navajo Nation Council by Resolution CAP-39-02 established the Navajo Nation Water Rights Commission (herein referred to as "Commission") in the Executive Branch of the Navajo Nation government.

Article 2. Purpose

The purpose of the Commission is to ensure that the water rights of the Navajo Nation are vigorously pursued, effectively coordinated, and to enhance the communication between all entities engaged in water rights efforts on behalf of the Navajo Nation.

Article 3. Definitions

As used herein the following terms shall be defined as:

A. "Appointed Members" means the five (5) members of the Commission who represent the Navajo public and are appointed pursuant to Article 5 of this Plan of Operation.

~~A.B.~~ "Supervise" means to oversee, direct and coordinate.

~~B.C.~~ "Water Rights" mean the development, filing and adjudication or settlement of claims in any jurisdiction and shall include the acquisition and development of wet water.

Article 4. Membership, Qualifications and Term of Office

A. The Commission shall consist of seven (7) members. No less than five (5) of the members shall be enrolled members of the Navajo Tribe. Two of the commissioners shall serve on the Commission by virtue of the

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position they occupy in the Navajo government; one (1) of the positions shall be occupied by the Attorney General or successor of the Navajo Nation and one (1) of the positions shall be occupied by the Director or the successor of the Department of Water Resources of the Division of Natural Resources of the Navajo government. Such positions shall have full membership and authority as a member of the Commission.

- B. The remaining five (5) positions shall be filled in accordance with the appointment process provided in Article 5 in this Plan of Operation, and they shall be members of the Navajo public representing each of the five (5) BIA geographic agencies on the Navajo Nation.
- C. Commission members representing the Navajo public shall serve a term of four (4) years and may be re-appointed. The first appointments having been confirmed on November 19, 2002; terms thereafter will expire on November 19 of the appropriate year.
- D. Appointed Commission members shall retain their positions until such time as his/her successor is appointed and confirmed
- ~~D.E.~~ In order to ensure continuity, at the first meeting of the Commission the five (5) commissioners appointed pursuant to Article 4 shall draw lots for their initial terms, two terms shall be for a one (1) year period, two terms shall be for a two (2) year term period, and one term shall be for a three (3) year period. At the conclusion of these initial terms all terms shall be a four year period.
- ~~E.F.~~ No elected official from any government (state, county, federal, city or tribal) shall be eligible for appointment.

Article 5. Appointments and Confirmations

- A. The Speaker of the Navajo Nation Council shall appoint two (2) members; the President of the Navajo Nation shall appoint two (2) members; and the Chief Justice of the Navajo Nation shall appoint one (1) member.
- B. The Government Services Resources Committee of the Navajo Nation Council shall confirm the five (5) appointed Commission members representing the Navajo public following a recommendation by the Resources Committee of the Navajo Nation Council.

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- C. As soon as practicable after the passage of this Plan of Operation, the three Branch Chiefs of the Navajo Nation shall meet and draw lots in order to assign the five (5) BIA geographic agencies among themselves for purposes of making appointments, as provided in Sub Section A above. Such lot drawing by the Branch Chiefs shall be conducted once every four years thereafter. The Speaker of the Navajo Nation Council is assigned to appoint one (1) member from the Eastern Agency and one (1) member from the Fort Defiance Agency; the President of the Navajo Nation is assigned to appoint one (1) member from the Shiprock Agency and one (1) member from the Chinle Agency; and the Chief Justice of the Navajo Nation is assigned to appoint one (1) member from the Western Agency. Such recommendations may be of individuals with experiences in, but not limited to the fields of engineering, economics, hydrology, natural resources law or serving in the capacity as a public official.
- D. A public announcement of the expiration of the term of an Appointed Commissioner shall be made sixty (60) days prior to November 19.

Article 6. Resignation, Removal, and Filling Vacancies

- A. The Resources Committee of the Navajo Nation Council may remove a Commission member appointed pursuant to Article 4 5, only after 1) providing that Commissioner with a written notice of the ground for removal, 2) providing an opportunity for a response, and 3) approval of two-thirds of the full membership. The removal of a Commission member shall be for good cause such as, but not limited to, neglect of duty, misconduct or inability to discharge the duties of the Commission. Removal of the Attorney General or successor and Director or successor of the Department of Water Resources from the Commission shall occur only when these individuals are removed from their respective positions in a manner consistent with 2 N.N.C. § 1962 (B) pertaining to the Attorney General and the Navajo Preference in Employment Act, 15 N.N.C. § 601 et seq. pertaining to the Director of the Department of Water Resources.
- B. When a Commission member resigns or does not complete the term of office for any reason, the vacant position shall be filled in the same manner provided in Article 4 5 for those positions representing the Navajo public, provided that the appointment by the relevant Branch Chief is made within 60 days of notice of the vacancy. If there is no appointment within said 60 days the Resources Committee of the Navajo Nation Council shall make the appointment for the balance of the term of the vacated position. The positions reserved for the Attorney

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General and the Director of the Department of Water Resources of the Division of Natural Resources shall be filled on an interim basis by acting personnel until permanently filled.

C. Resignations shall be in writing to the Chairperson of the Commission and the Chairperson of the Resources Committee of the Navajo Nation Council.

D. The appointment shall be for the balance of the term of the position vacated.

E. If there is no appointment within said 60 days of the vacancy, the Resources Committee of the Navajo Nation Council shall make the appointment.

Article 7. Officers, ~~Quorum~~ and Decision-making

A. The Commission shall select from among the five (5) Commissioners, by majority vote, a Chairperson, and Vice-Chairperson. Neither the Attorney General nor the Director of the Department of Water Resources shall serve in these capacities.

~~B. Four (4) Commission members, including the Chairperson and/or Vice Chairperson shall constitute a quorum.~~

~~C.B.~~ Consensus shall be required to carry all official actions of the Commission, with the exception of the election of officers pursuant to Sub-section A, above.

Article 8. Authorities

A. The Commission shall have the following enumerated authorities:

1. To assess, approve and implement the Navajo Nation's water rights claims to determine the feasibility and prioritization of such claims and devise an overall strategy for the Nation's pursuit of such claims.

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2. To advise and report to the President of the Navajo Nation, and Resources Committee of the Navajo Nation Council, on the status and progress of water rights claims, consistent with Sub-Section A.1 above.
3. To serve as the principal point of contact for the Navajo Nation on all media, public relations and public education efforts regarding water rights and shall coordinate all public statements on these issues.
4. To establish the policies and priorities for the expenditure of the Navajo Nation Water Rights Claim Fund.
5. To approve the budget and expenditure of the Navajo Nation Water Rights Claim Fund.
6. To develop and recommend to the Resources Committee and Budget and Finance Committees of the Navajo Nation Council, the expenditure plan for the Navajo Nation Water Rights Claim Fund specifying the procedures for requesting the use of money from the Fund.
7. To establish and supervise negotiating teams for any and all Navajo Nation water rights negotiation efforts to ensure consistency of positions and to maximize success consistent with the Navajo Nation water strategy.
8. To enhance communication between the appropriate Navajo Nation divisions, departments, programs, chapters and appropriate agencies, the Navajo public on water rights issues by producing periodic newsletters, fostering the immediate use of wet water and other action to preserve or enhance Navajo Nation Water Rights Claims.
9. To conduct public meetings ~~hearings~~ to seek and receive input from the Navajo public on water rights issues.
10. To recommend resolutions or legislation to the Resources Committee or other Standing Committees of the Navajo Nation Council to enhance the Navajo Nation position on water rights claims.

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11. To adopt such rules and regulations including, meeting procedures as it deems necessary and proper for the orderly and efficient conduct of meetings and business.
 12. To approve pertinent contracts, employment, and personnel, including the hiring of specialists/experts and other personnel provided for in the Water Rights Claims Funds.
- B. The Commission shall have all necessary and proper authorities to implement and carry out the purposes set forth in Article 2 above.

Article 9. Meeting, Notice, and Quorum Reimbursement of Expenses

A. Official Meetings

1. Regular meetings. The Commission shall meet at least once a month. Regular meetings shall be held the second Thursday of every month. Commission members need not be physically present at the regular meetings for purposes of establishing a quorum but may shall attend and participate regular meetings electronically telephonically for good cause if not physically present.
2. Special meetings. Special meetings may be called by the Chairperson of the Commission. Commission members need not be physically present at the special meetings for purposes of establishing a quorum but may shall attend and participate special meetings electronically telephonically if not physically present.
3. Quarterly Public Meetings. The Commission shall conduct at least once in a quarter a meeting where the Navajo general public may provide recommendations on the Navajo water rights issues. Such public meetings shall rotate among the five agencies on a quarterly basis.
4. Emergency Meetings. The Commission may conduct emergency meetings on or off the Navajo Nation without prior twenty-four (24) hour notice.

B. Notice of Meetings

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1. Unless a meeting date and time is established at the prior Commission meeting, A notice of meetings stating the date and time, place and agenda shall be properly addressed to each Commission member.
 2. Notice is deemed waived by the Commission members attending the meeting in which the next meeting date and time is established.
 - ~~2.3.~~ To call an emergency meeting, the Chairperson must determine whether an emergency exists. Further, the members of the Commission members attending the meeting will document the existence of such emergency in its meeting minutes and resolutions.
 4. Notices of quarterly public meetings shall be provided through public media (e.g. radio and/or newspaper) at least two weeks prior to the quarterly public meeting.
- C. Quorum. Four (4) Commission members including the Chairperson and/or Vice Chairperson shall constitute a quorum.
- ~~C.D.~~ Commission Actions. All substantive actions of the Commission shall be taken by written resolution duly certified by the presiding officer. Such resolutions shall be based upon consensus of the Commission members, as provided in Article 7 CB above.
- ~~E.~~ The Commission members shall be reimbursed expenses at the rate approved for members of the Navajo Nation Council and only Commissioners appointed pursuant to Article F shall be compensated \$200.00 for each day of official commission meetings, when physically present at such meeting.
- ~~D.E.~~ Minutes and Resolutions. Access to minutes of meetings and resolutions of the Commission, and all other records of the Commission shall be governed by the Navajo Nation Privacy Act, 2 N.N.C. Section §§ 81, et seq.

Article 10. Reimbursement and Stipends

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- A. The Commission members shall be reimbursed actual and reasonable expenses at the rate approved for members of the Navajo Nation Council when physically or telephonically present at all meetings, as defined in Article 9 and occasions as defined in Article 10(C).
- B. Appointed Commission members shall be compensated up to \$250.00 for each day of official Commission meetings as specified in Article 9 when physically or telephonically present at such meetings.
- C. Appointed commission members may be compensated up to \$250.00 when physically present at negotiations, court hearings, public meetings, and other such occasions approved by the Commission or necessary for the execution of the Commission's purpose as specified in Article 2.

Article ~~10.~~ 11. Administrative Support

The Navajo Department of Water Resources shall provide administrative support to the Commission until such time as the Commission hires a Commission staff.

Article ~~11.~~ 12. Organizational Chart

Attached to this Plan of Operation as "Exhibit 1" is an organizational chart that depicts how the Commission is integrated into the Navajo Nation governmental structure.

Article ~~12.~~ 13. Amendments to the Plan of Operation

This Plan of Operation (including the Organizational Chart) may be amended from time to time by the Government Services Committee of the Navajo Nation Council upon the recommendation of the Resources Committee of the Navajo Nation and the Navajo Nation Water Rights Commission.

Honorable President Jonathan Nez

Office of the President and Vice-President

Post Office Box

Window Rock, Arizona 86515

July 21, 2021

Subject: Navajo Nation Water Rights Commission

Honorable President Nez,

This communication written to express my interest to serve on the Navajo Nation Water Rights Commission.

For the past thirty plus years of my employment with Navajo Housing Authority has provided opportunity to work closely with Navajo communities, Chapter Officers while developing homes in their communities. From which, I learned many chapters have infrastructure needs and need access to potable water to grow their communities safely.

I firmly believe my three decades of experience in planning, development, and construction will be an asset to the Commission in vigorously pursuing Navajo Nation water needs for generations yet to come for the purposes of domestic, agricultural, livestock and industrial/commercial uses. I am a firm believer in what is rightly Navajos, we must secure, and what is due to Navajo we must work to obtain and must advocate for ourselves.

Currently, I do not hold an elected official or board membership positions, thus I am able to provide my full attention to Navajo Nation Water Rights Commission activities. Attached hereto you will find supporting Blue Gap Chapter Resolution, supporting me to represent Chinle Agency.

Thank you for your time and consideration. Please contact me directly at _____ or at _____

Respectfully,

Earl Tulley, Blue Gap Community Member



Earl Tulley

Chapter Membership:

Tachee/Blue Gap Chapter Voting Member, Chinle Agency.

Language Proficiency:

I am able to communicate fluently in Navajo and English; I am comfortable and proficient to translate and interpretate in both languages.

Run for Elected Office:

I do not currently hold an elected position, though in 2010 I was selected as Vice-Presidential running mate to Senator Lynda Lovejoy when she competed for President of the Navajo Nation.

Appointment:

I served as a member on the Board of Regents for Navajo Technically University, formerly known then as Crownpoint Institute of Technology and Navajo Technical College. During my tenure, I served as Chairman.

Volunteer Membership:

I am currently a Peace Development Fund (PDF) Board Member. PDF is more than a funding agency, our model of philanthropy involves direct funding, advocacy, where appropriate partnerships are built around mutual respect, sharing resources, and transparency of planning and decision making.

Employment:

My work with Navajo Housing Authority (NHA) has provided me a unique perspective on Navajo Nation's need to greatly enhance our infrastructure and to secure water resources for domestic, industrial and agriculture uses, in order for Navajo residents to have a permanent homeland. The COVID-19 pandemic shed light on the need to develop and secure our water needs for present and future needs to help grow our Navajo homes and families.

As drought increases in the Southwest, tribal water right claims, and settlement become ever more urgent and important for the Navajo Nation and its future generations.

2018 – 2021

Executive Branch – Executive Office: Veteran Liaison. Assist Navajo Veteran families in learning more about the NHA Housing Programs. Provide training and dispense information of housing payments, purchase of homes, general requirements for admission and required documents for the housing programs. Work closely with the Navajo Nation Veterans Administration, Veteran Service Officers and Chapter Commanding Officers to share information on NHA's Veteran Housing Assistance Program.

2015 – 2018

Operations Branch - Construction and Development Division - Planning Department: Senior Development Coordinator. Developed and provided information on Sustainable Community Master Plan to present to Chapter Officers and Community Land Use Plan members requesting Technical Assistance for housing developments. Activities included accepting Chapter Resolutions, Pre-site feasibility study, evaluate identified land for development, worked with A&E firms to evaluate and assess environmental reviews to official withdraw land with Navajo Land Department. Served five Agency service areas.

2010 – 2015

Executive Branch – Executive Office: Government and Public Relations. Provided and developed reports to the Navajo Nations Executive and Legislative Offices on development and construction of homes as projected in the approved Indian Housing Plan. Provided reports and assisted with information to community lay members to advocate for more land withdrawals to develop additional homes and improve infrastructure for Navajo Housing Authority developments. Served five Agency service areas.

2003 – 2010

Operations Branch - Construction Service Division: Construction Supervisor. Responsible for Planning, Developing and Constructing Housing across the Navajo Nation. Monitored construction contracts and processing payments to General Contractors. Conducted and facilitated Construction Meetings and monitor development budget to avoid cost over runs and change orders and ensure all building activities are in accordance with uniform building codes and federal and state guidelines. Facilitated Congressional and Urban Housing Development visits and tours of construction sites. Served five Agency service areas.

1998-2003

Operations Branch - Housing Management Division: Ganado Housing Manager. Provided property management of 380 Public Rental and Homeownership Units. Assisted and promoted Homeownership opportunities for families on their Homesite Leases and promoted Veteran Housing Opportunities for Navajo Veteran Families. Assisted families with developing and improving their subdivision with play grounds, networking with private organization to

improve their homemaking skill and family budgeting/finance's and family conflicts. Served eight Chapter Service Areas, including Ganado, Steamboat, Cornfields, Greasewood, Wide Ruins, Klagetoh, Kinlichee, Nazlini.

1994 – 1998

Housing Management Division: Fort Defiance Housing Occupancy Counselor. Assisted and provided Homeownership and Tenant training session for families regarding roles and responsibility while residing in the Housing Programs. The goal was to graduated families from Pubic Rental units to Homeownership opportunities and assisted families to resolve residence conflicts and violations of program policies. Served six Chapter Service Areas, including Fort Defiance, St. Michaels, Houck, Lupton, Manuelito, Nahata Dziil.

1989 – 1994

Productions Division: Project Representative. Project manage multi-millions dollar housing and infrastructure construction development across the Navajo Nation. Worked with various entities in developing and constructing utilities and roadways for housing developments. Coordinated with local Chapter Officers and Contractors in planning, developing, and constructing homes to grow housing stock for Navajo community membership. Served 11 Chapter Service Areas, comprising of Kayenta, Red Lake, Kaibeto, Lechee, Navajo Mountain, Sheepsprings, Standing Rock, Crownpoint, Becenti, Dilkon, and Whitecone.

BLUE GAP/TACHEE CHAPTER

P.O. Box 4427

Blue Gap, Arizona 86520

Ph: (928) 349-0507 Fax: NA

KEE ALLEN BEGAY COUNCIL DELEGATE

ELLA M. KAY COMMUNITY SERVICES COORDINATOR

BGCH19-09-002

BLUE GAP/TACHEE CHAPTER RESOLUTION

BLUE GAP TACHEE CHAPTER SUPPORTS THE NOMINATION OF EARL TULLEY TO REPRESENT CHINLE AGENCY ON THE NAVAJO NATION WATER RIGHTS COMMISSION AND REQUESTING THE RESOURCES AND DEVELOPMENT COMMITTEE OF THE NAVAJO NATION COUNCIL TO EXPEDITE HIS CONFIRMATION

WHEREAS:

1. Pursuant to 26 N.N.C., Section 1 (B) Blue Gap/Tachee Chapter is vested with the authority to review all matters affecting the community and to make appropriate recommendations to the Navajo Nation and other local agencies; AND
2. Blue Gap/Tachee Chapter has been informed that a vacancy exists for the Chinle Agency Representative to the Navajo Nation Water Rights Commission; AND
3. Blue Gap/Tachee Chapter is a stakeholder for all actions, activities and decisions related to water rights on Navajo Nation, AND
4. Blue Gap/Tachee Chapter is concerned that the Chinle Agency Representative to the Navajo Nation Water Rights Commission has been vacant for several years and wishes to nominate a qualified representative.

NOW THEREFORE BE IT RESOLVED THAT:

1. Blue Gap/Tachee Chapter hereby nominates and supports Mr. Earl Tulley to represent Chinle Agency on the Navajo Nation Water Rights Commission; and
2. Blue Gap/Tachee Chapter requests the Resources and Development Committee of the Navajo Nation Council to expedite Mr. Tulley's confirmation.

CERTIFICATION

We hereby certify that the foregoing resolution was duly considered and moved for adoption by Jackie Burbank, seconded by Polly Bitsui, and passed by a vote of 20 in favor, 00 opposed, 06 abstained, this _____ day of September 6, 2019.

Chapter President-Aaron Yazzie

Vice President-Marcus Tulley

Secretary/Treasurer-Betty Askie

Council Delegate- Kee Allen Begay

Aaron Yazzie, President

Marcus Tulley, Vice President

Betty Askie, Sec./Treasurer

Benjamin Manyows, Grazing Representative

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



July 22, 2021

Mr. Earl Tulley
Post Office Box
Window Rock, Arizona 86515


Dear Mr. Tulley:

On behalf of the Navajo Nation, I am nominating you to the Navajo Nation Water Rights Commission to fulfill an initial 3-year term from the Chinle Agency.

You have expressed interest in this appointment and are qualified through your service to the Navajo Nation from your employment over the past 30 years, as well as your ability to translate and interpret in both Navajo and English language, a preferred qualification to the commission.

If you have any questions you may contact my Executive Staff Assistant Christopher Bahe at cbahe@navajo-nsn.gov or (928) 871-7000.

Sincerely,


Jonathan Nez, *President*
THE NAVAJO NATION

NAVAJO NATION OFFICE OF THE PRESIDENT AND VICE PRESIDENT

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