

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
Of the 23rd Navajo Nation Council---Third Year 2017

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; AMENDING IGRJN-110-10, THE NAVAJO ELIGIBILITY REQUIREMENTS TO QUALIFY FOR ISSUANCE OF A GRAZING PERMITS ON THE NAVAJO PARTITIONED LANDS

BE IT ENACTED:

SECTION ONE. FINDING AND PURPOSE:

A. The Resources and Development Committee has oversight authority over the land, grazing, the environment, environmental protection, agriculture, livestock for the purpose of establishing a Navajo Nation policy with respect to optimum utilization of all Navajo Nation resources, the rights and the interest of the Navajo Nation and People to such resources, now and for future generations.

B. The Resources and Development Committee has the authority to promulgate rules and regulations governing environmental protection and the use of Navajo Nation lands whether held in fee or trust status. 2 N.N.C. §501(B)(1)

C. The Resources and Development Committee is authorized to grant final approval for all land withdrawals, non-mineral leases, permits, licenses, rights-of-way, surface easements and bonding requirements on Navajo Nation lands and unrestricted (fee) lands 2 N.N.C. §501(B)(2)

D. As stated in **Exhibit A** which provides background information on livestock grazing on the Navajo Partitioned Lands (NPL), administrative control of livestock grazing on the NPL began in 1940 with the issuance of grazing permits on the 1882 Executive Order Reservation. These NPL grazing permits were cancelled by court order in 1973. The Navajo-Hopi Settlement Act, P.L. 63-951, as amended, required the development of new grazing regulations for the NPL. New grazing regulations were published in October 2005 as 25 C.F.R. 161, the Navajo Partitioned Lands Grazing Permits and became effective January 2006. 25 C.F.R. 161.440(a) allows

the Navajo Nation to establish eligibility requirements for grazing allocations and grant permits.

E. It is in the best interest of the Navajo Nation to amend IGRJN-110-10, attached as **Exhibit B**, the Navajo Nation Eligibility Requirements to Qualify for Issuance of Grazing Permit on the Navajo Partitioned Lands.

Section Two: Amending the Navajo Nation Eligibility Requirements to Quality for Issuance of Grazing Permits on the Navajo Partitioned Lands, IGRJN-110-10.

The Navajo Nation hereby amends IGRJN-110-10 by approving the adoption of **Exhibit A**, the Eligibility Criteria Navajo Partitioned Lands.

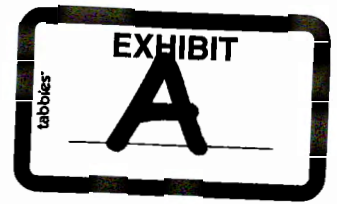
CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at Navajo Department of Transportation, (Navajo Nation) Tse Bonito, New Mexico, at which quorum was present and that same was passed by a vote of 5 in favor, 0 opposed, 1 abstained this 14th day of February, 2017.

A handwritten signature in black ink, appearing to read 'Benjamin Bennett', with a long horizontal line extending to the right.

**Benjamin Bennett, Vice-Chairperson
Resources and Development Committee
Of the 23rd Navajo Nation Council**

**Motion: Honorable Davis Filfred
Second: Honorable Leonard Pete**



**ELIGIBILITY CRITERIA
NAVAJO PARTITIONED LANDS**

**The Navajo Nation
Department of Agriculture
Grazing Management Program
District Grazing Committee**

June 30, 2010

December 02, 2015

Navajo Nation
Eligibility Requirements to Qualify
For Issuance of a Grazing Permit on the Navajo Partitioned Lands

I. Background

Administrative control of livestock grazing on the Navajo Partitioned Lands (NPL) began in 1940 with the issuance of the first formal grazing permits on the 1882 Executive Order Reservation (originally designated for use by the Hopi Tribe, but later placed under joint control of both Navajo and Hopi Tribes). In response to concerns raised by the Hopi Tribe, these and subsequent grazing permits issued under 25 CFR 71, Grazing, Navajo and Hopi Reservations, and 25 CFR 72 (later 152), Navajo Grazing Regulations, were canceled by court order on October 14, 1973. This cancellation was ordered so that permits covering not more than one half of the carrying capacity of the Joint Use area (JUA) could then be re-issued to the Navajo tribe or members thereof. The JUA was partitioned the following year. Revised stocking rates were determined by 1977, but except for a small number of interim grazing permits (issued for only one year), the Navajo grazing permits canceled in 1973 have never been re-issued.

A 1983 court ruling in Hopi vs. Watt declared that the pre-1982 grazing regulations were invalid because they did not have the concurrence of the Navajo or Hopi governments. As a result, the BIA became subject to the provisions of PL 63-951, the Navajo-Hopi Settlement Act, as amended, which required the development of new grazing regulations for the NPL with the concurrence of the Navajo Nation. New regulations governing the grazing of livestock on the NPL were published in October of 2005 as 25 CFR 161, Navajo Partitioned Lands Grazing Permits, and became effective in January of 2006. The Navajo Nation gave concurrence to the regulations as published, however, §161.400(a) of this regulation allows the Nation to "prescribe eligibility requirements for grazing allocations". Further, it is the right of the Navajo Nation "to authorize the granting of permits...and to prescribe...the conditions under which their lands may be used" (3NNC§701). Accordingly the Navajo Nation Department of Agriculture prescribes the eligibility criteria stated herein.

II. Purpose and Need

The purpose of this document is to present from the Navajo Nation Department of Agriculture (NNDA) for revised eligibility criteria as provided for in 25 CFR §161.400(a). The Navajo Nation Department of Agriculture (NNDA) was designated by the Resources Committee as the lead tribal agency for preparing/submitting revisions on Navajo Partitioned Lands (NPL) grazing regulations. The eligibility criteria in this document are similar to those published in 25 CFR §161.400(a). However, the published criteria are not fully consistent with Navajo Nation Grazing Regulations, especially on the matter of probate rights, which allow for the transfer of grazing permits belonging to deceased permittees to legally recognized heirs. Additionally, the published criteria do not adequately redistribute benefits of grazing privileges to the residents of Navajo Partitioned Lands (NPL). The criteria revisions are necessary because the, 1.) are more fair and equitable to Navajo Partitioned Lands (NPL) residents and former permittees than published criteria; 2) provide grazing privileges to a larger number of residents than published

criteria; and 3) address the issue of permit probate and reduce the potential for lawsuits and court proceedings initiated by heirs of former permittees. Apart from providing more appropriate eligibility criteria than those currently published, the submission of revised criteria represents an exercise of the sovereignty of the Navajo Nation and its right to self-determination.

The criteria have been based on criteria previously submitted to the Resources Committee by the Navajo Partitioned Lands (NPL) District Grazing Committee. Additional input has been solicited from Navajo Nation administrative and legal departments and from the BIA. The environmental, social/cultural, and administrative impacts of the criteria have been assessed, and several mitigations have been outlined to lessen the identified impacts (See Section V. Mitigation of Adverse Impacts).

III. Navajo Nation Eligibility Requirements to Qualify For Issuance of a Grazing Permit on the Navajo Partitioned Lands

The Navajo Nation to prescribe eligibility requirements for reissuance of grazing permits on the Navajo Partitioned Lands. Only those individuals who meet all of the following requirements will be eligible to receive a permit. To receive a permit to graze livestock on the Navajo Partitioned Lands (NPL) a persons must meet all of the following criteria:

1. Appear as a permittee on the list of permits cancelled on October 14, 1973, ~~or be the legally recognized heir or assignee to the permit of a deceased individual appearing on said list;~~
2. Be listed on the 1974 or 1975 BIA enumeration within NPL ~~or be legally recognized heir or assignee to the permit of a deceased individual appearing on said list;~~
3. ~~Be a recognized full-time resident of the NPL and reside within the Customary Use Area~~ Have lived continuously within the enumeration area where the cancelled permit was used;
4. Be an enrolled member of the Navajo Nation; ~~18 years of age or older; and~~
5. Not have received any of the following accommodations:
 - a) Signed an accommodation agreement to remain on Hopi Partitioned Lands; or ~~have a valid grazing permit for Hopi Partitioned Lands.~~
 - b) Received a permit to graze livestock on ~~New Lands.~~ on lands outside the Navajo Partitioned Lands.
 - c) ~~Reissued a grazing permit outside the Navajo Partitioned Land on Navajo Reservation.~~
6. Should new permits be issued for the NPL under 25 C.F.R. § 161.401 legally recognized heirs of the permittees who appear on the list of permits cancelled on October 14, 1973, will have first priority

IV. Favorable Impacts

Relevant to the eligibility criteria, impacts to both rangeland resources and wildlife and botanical resources are expected to be positive, i.e., result in improvements from the current situation. Because the current grazing situation in the Navajo Nation Partitioned (NPL) is characterized by overuse as a result of excessive stocking, improper herd movement, and a general lack of range stewardship, the criteria would cause individuals who repeatedly violate Navajo Nation Grazing Regulations to be ineligible to receive a re-issued grazing permit. Impacts to wildlife and botanical resources are not directly relevant to the criteria, however, the implementation of 25 CFR 161 requires environmental compliance §161.201 and improved agricultural resource range management plan practices §161.200 which would result in increased density and occurrence of forage and browse species, increased and improved wildlife habitat, improved waterway conditions, decreased erosion, and other ecological benefits.

V. Mitigation of Adverse Impacts

The adverse impacts anticipated from the criteria are relevant to the socio-economic, environment and administrative operations. All of the impacts identified can be mitigated with procedures already in place, or with valid propositions for new procedures. It is worth noting that many of the impacts identified will also result from the criteria already published in 25 CFR §161.400(a).

1. Impact: Livestock producers ineligible to receive a grazing permit will experience a loss of grazing privileges on Navajo Partitioned Lands (NPL) rangelands.
 - Mitigation: Navajo Nation Department of Agriculture (NNDA) will conduct outreach and education on alternative options, highlighting the benefits and procedures of forming livestock cooperative associations, maintaining health of animals kept in corrals, and leasing range tracts such as those held by the Tribal Ranches Program.
 - Mitigation: Navajo Nation Department of Agriculture (NNDA) will give livestock producers who do not receive grazing permits priority access to alternative range areas, such as Tribal Ranch tracts (especially the Winslow Tract), bull pasture, and reclaimed post-mined range units (such as Peabody, P&M, and other sites).
 - Mitigation: Navajo Nation Department of Agriculture (NNDA) will actively advocate for land acquisition through Navajo Hopi Land Commission (NHLC)/Navajo Land Department (NLD) for the primary purpose of grazing use.
 - Mitigation: Navajo Nation Department of Agriculture (NNDA) will encourage Chapters to include in their Land Use Plans the withdrawal of Chapter land for community use areas for grazing and related activities (This should be factored into the re-permitting aspect as it would affect the available land base used to determine stocking rates).
2. Impact: Navajo Partitioned Lands (NPL) District Grazing Committee Members (DGCM's) will incur increased workload and perhaps additional work-related stress as a result of livestock control/reduction activities, providing records of livestock activities and any related violations, and increased disputes between land users.

- Mitigation: Navajo Nation Department of Agriculture (NNDA) has developed guidelines to aid District Grazing Committee Members (DGCM's) in the implementation of Navajo Partitioned Land (NPL) grazing policies.
- ~~Mitigation: Navajo Nation Department of Agriculture (NNDA) has initiated the development of Navajo Partitioned Land (NPL) Precincts to provide a venue for conducting business directly related to Navajo Partitioned Land (NPL) issues, separate from main body reservation Agency or District business. District Grazing Committee Members (DGCM's) will receive pay to attend Precinct meetings in lieu of Agency meetings. Navajo Nation Department of Agriculture and Bureau of Indian Affairs designated to finish out the initiatives for the next five years.~~
- Mitigation: Navajo Nation Department of Agriculture (NNDA) will provide District Grazing Committee Members (DGCM's) with guidelines for dispute procedures.
- Mitigation: Collection of fees will not become effective until the livestock and related economical and environment conditions have improved to a sustainable level.

3. Impact: Increased need for enforcement of livestock control/reduction and related activities and violations.

- Mitigation: Amendments to 3NNC, Livestock Inspection and Control, will become effective November 2006. These regulations provide improved enforcement mechanisms and procedures involving Department of Resource Enforcement (DRE), Navajo Nation Police Department, Navajo Tribal Courts, Navajo Nation Veterinary Program, Deputy Livestock Inspectors and members of the District Grazing Committee (DGC)/ Eastern Navajo Land Board (ENLB).
- Mitigation: The Navajo Nation Department of Agriculture (NNDA) has requested that the Navajo Resources Committee direct Department of Resource Enforcement (DRE) to commit staff and resources to ensure adequate enforcement.

4. Impact: Increased or renewed land use and boundary disputes among livestock producers, community members, and other land users. Customary Use Areas, Claim Use Areas, Homesite Lease Areas, and related disputes will likely be challenged by permittees or asserted by other land users against permittees.

- Mitigation: To accommodate these disputes, Navajo Nation Department of Agriculture (NNDA) has prepared guidelines outlining dispute procedures, including those handled through the Office of Hearing and Appeals. The guidelines will be available to anyone requesting assistance with dispute proceedings.

5. Impact: Increased demand for probates by heirs of deceased permittees.

- Mitigation: To expedite the probate heir process, Navajo Nation Department of Agriculture (NNDA) ~~will inform Navajo Tribal Courts of the impending case load, and~~ will provide, through the District Grazing Committee (DGC), public awareness of the procedures and requirements for completing the probate heir process. The mutual agreement between the immediate family for and on behalf of the deceased permit cancelled by U.S. District Court of Arizona in October of 1972. (Hopi vs Watt requires BIA to get consent from Navajo).

- A. General. Any individuals who meets the eligibility requirements and who wishes to be named the recognized heir to a cancelled permit in NPL must submit an application to the Department.
- B. Initial Application. An individual [applicant] who wishes to be named the recognized heir shall complete, sign, and submit to the Director an application. The applicant must submit the following documents with the application:
1. A copy of the original permittee's Death Certificate;
 2. Documentation establishing applicant as descendant of deceased permittee;
 3. Documentation verifying applicant is a full time resident of the NPL and resides within the customary use area where the cancelled permit was used;
 4. Proof applicant is an enrolled Navajo and at least 18 years of age;
 5. An affidavit signed by all descendants designating applicant as the recognized heir;
 6. An affidavit demonstrating the applicant's history of grazing in Navajo including the area he or she has grazed, for how long, and the number of animals;
 7. A Range Management Plan;
 8. A copy of original cancelled permit is recommended but not required; and
 9. Any other documentation the Director may deem necessary.
- C. Application Review. The Director shall not begin the processing of an application until the Applicant has fully complied with the application requirements.
1. Each application submitted shall be reviewed for completeness by the Director within sixty (60) days of its receipt. Upon completing the review the Director may also request additional information from an applicant when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.
 2. If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied.
- D. Notice.
1. Notice to Identify Descendants. Once the Department deems an application complete, the Department will mail out notice, via first class mail, to all the identified descendants of the cancelled permit. The notice shall inform the descendants that an application for the cancelled permit has been filed with the Department. Notice is not required if applicant has submitted an affidavit signed by all descendants. All notices shall contain the following minimum information:

- a. The name the applicant;
 - b. The name of the original deceased permittee;
 - c. An application with instructions on how to complete and submit it; and
 - d. A statement informing the individual that if he or she wishes to submit an application to the Department they must do so with sixty (60) days of the date of the letter.
2. Notice to Public. The Department is required to publish notice, within the Navajo Nation, that an application has been submitted on behalf of the original deceased permittee. Public notice shall be provided for in a newspaper of the Navajo Nation, through a posting at the Chapter House of the deceased permittee, on the Department of Agriculture website, and through any additional method reasonably determined to give actual notice of the application to the individuals potentially affected by it. Any costs associated with publishing notice shall be paid by the applicant within two weeks from the date the application is submitted to the Department. All public notices shall contain the following minimum information:
 - a. The name of the original deceased permittee;
 - b. That an application to be named the recognized heir of the deceased permittee's canceled grazing permit has been submitted to the Department;
 - c. That any descendent of the original deceased permittee who wishes to be named the recognized heir must submit an application to the Department within sixty (60) days; and
 - d. That any descendant may contact the Department for an application.
- E. Assessment of Conservation Management Plans. After sixty (60) days have passed, the Department shall perform a technical review of all the conservation management plans submitted on behalf of the cancelled permit. The Department shall complete an assessment of viability for each conservation management plan. Review of Conservation Management Plans. Conservation plans will be evaluated on:
 1. The proper grazing use of the permit by the permittee. There cannot be any overstock but only the actual number of livestock allowed by the permit;
 2. The implementation of conservation practices to improve the environmental condition of the land;
 3. The improvement of the livestock breed. To improve the quality, vigor of the livestock and prevent inbreeding; and
 4. A plan to decrease noxious and poisonous weeds on the range.
- F. Reviewing Committee. After an assessment of the management plans is completed, all the application packets shall be referred to the Reviewing Committee.
 1. Composition. The Reviewing Committee shall be comprised of employees from Department of Agriculture, Division of Natural Resources, Forestry, Fish and Wildlife,

the affiliated District Grazing Committee Member and any other individuals who the Department deem necessary.

2. Chairman. The Reviewing Committee shall be chaired by a chairman designated by the Director. The Chairman shall be responsible for all the administrative duties, including the scheduling of committee meetings and making sure all members are provided with relevant documentation for review. The chairman shall not participate in the determination of a recognized heir unless the committee finds there is more than one applicant qualified to be named the recognized heir. In such circumstances the Chairman shall cast the deciding vote.
3. Duties. The Reviewing Committee shall all the applications submitted for the cancelled permit. In reviewing the applications the Committee shall make sure such each applicant is eligible to receive a permit. In determining which Applicant will be named the designated heir to the cancelled permit the Committee shall give priority to Applicants who have a demonstrated interest in grazing and who submitted a viable management plan.
4. Majority. In order for the Committee to take any action a simple majority of its members must be present.

G. Notification of Determination. After the Reviewing Committee determines who the recognized heir is, written notification will be sent out to all applicants informing them of the Committee's decision, the basis for the decision, and that applicants have thirty (30) days to appeal the Committee's decision to the Office of Hearing and Appeals.

6. Impact: Treatment of Relocates not on Navajo Partitioned Lands (NPL)
 - Mitigation: Information from Office of Navajo Hopi Indian Relocation (ONHIR) regarding accommodations already received by relocates.
7. Impact: Treatment of Relocates on Navajo Partitioned Lands (NPL) (those who lost grazing land/relocated but still have Navajo Partitioned Lands (NPL) cancelled permit)
 - Mitigation: Navajo Nation Department of Agriculture (NNDA) will encourage Relocates' participation in cooperative livestock associations and related activities.
 - Mitigation: Navajo Nation Department of Agriculture (NNDA) will provide Relocates who have lost grazing privileges education about and access to alternative range areas, such as Tribal Ranches.



**Resolution of the
Intergovernmental Relations Committee
Of the Navajo Nation Council**

21st Navajo Nation Council – Fourth year 2010

An action

**RELATING TO RESOURCES AND INTERGOVERNMENTAL RELATIONS;
APPROVING THE NAVAJO NATION ELIGIBILITY REQUIREMENTS TO
QUALIFY FOR ISSUANCE OF A GRAZING PERMIT ON THE NAVAJO
PARTITIONED LANDS**

BE IT ENACTED:

- 1. The Navajo Nation hereby approves the Navajo Nation Eligibility requirements to qualify for issuance Of a grazing permit on the Navajo Partitioned Lands, attached hereto as Exhibit A.**
- 2. The Navajo Nation hereby authorizes the President of the Navajo Nation to execute any and all documents necessary to Effectuate the intent and purpose of this resolution.**

CERTIFICATION

I hereby certify that the foregoing resolution was duly Considered by the Intergovernmental Relations Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that Same was passed by a vote of 7 in favor and 0 opposed, this 30th day June, 2010

**Lawrence T. Morgan, Chairperson
Intergovernmental Relations Committee**

**Motion: Raymond Joe
Second: Thomas Walker, Jr.**



**ELIGIBILITY CRITERIA
NAVAJO PARTITIONED LANDS**

**Proposed
By:**

**The Navajo Nation
Department of Agriculture
Grazing Management Program
District Grazing Committee**

**Submitted
To:**

Navajo Nation Council Resources Committee

November 16, 2006

**Navajo Nation
Proposed Eligibility Requirements to Qualify
for Reissuance of a Grazing Permit on the Navajo Partitioned Lands**

I. Background

Administrative control of livestock grazing on the Navajo Partitioned Lands (NPL) began in 1940 with the issuance of the first formal grazing permits on the 1882 Executive Order Reservation (originally designated for use by the Hopi Tribe, but later placed under joint control of both Navajo and Hopi Tribes). In response to concerns raised by the Hopi Tribe, these and subsequent grazing permits issued under 25 CFR 71, Grazing, Navajo and Hopi Reservations, and 25 CFR 72 (later 152), Navajo Grazing Regulations, were canceled by court order on October 14, 1973. This cancellation was ordered so that permits covering not more than one half of the carrying capacity of the Joint Use area (JUA) could then be re-issued to the Navajo tribe or members thereof. The JUA was partitioned the following year. Revised stocking rates were determined by 1977, but except for a small number of interim grazing permits (issued for only one year), the Navajo grazing permits canceled in 1973 have never been re-issued.

A 1983 court ruling in *Hopi vs. Watt* declared that the pre-1982 grazing regulations were invalid because they did not have the concurrence of the Navajo or Hopi governments. As a result, the BIA became subject to the provisions of PL 63-951, the Navajo-Hopi Settlement Act, as amended, which required the development of new grazing regulations for the NPL with the concurrence of the Navajo Nation. New regulations governing the grazing of livestock on the NPL were published in October of 2005 as 25 CFR 161, Navajo Partitioned Lands Grazing Permits, and became effective in January of 2006. The Navajo Nation gave concurrence to the regulations as published, however, §161.400(a) of this regulation allows the Nation to "prescribe eligibility requirements for grazing allocations...". Further, it is the right of the Navajo Nation "to authorize the granting of permits...and to prescribe...the conditions under which their lands may be used" (3NNC§701). Accordingly the Navajo Nation Department of Agriculture proposes the eligibility criteria stated herein.

II. Purpose and Need

The purpose of this document is to present a proposal from the Navajo Nation Department of Agriculture (NDA) for revised eligibility criteria as provided for in 25 CFR §161.400(a). The Navajo Nation Department of Agriculture (NDA) was designated by the Resources Committee as the lead tribal agency for preparing/submitting revisions on Navajo Partitioned Lands (NPL) grazing regulations. The eligibility criteria proposed in this document are similar to those published in 25 CFR §161.400(a). However, the published criteria are not fully consistent with Navajo Nation Grazing Regulations, especially on the matter of probate rights, which allow for the transfer of grazing permits belonging to deceased permittees to legally recognized heirs. Additionally, the published criteria do not adequately redistribute benefits of grazing privileges to the residents of Navajo Partitioned Lands (NPL). The proposed criteria revisions are necessary because they 1) are more fair and equitable to Navajo Partitioned Lands (NPL)

residents and former permittees than published criteria; 2) provide grazing privileges to a larger number of residents than published criteria; and 3) address the issue of permit probate and reduce the potential for lawsuits and court proceedings initiated by heirs of former permittees. Apart from providing more appropriate eligibility criteria than those currently published, the submission of revised criteria represents an exercise of the sovereignty of the Navajo Nation and its right to self-determination.

The proposed criteria have been based on criteria previously submitted to the Resources Committee by the Navajo Partitioned Lands (NPL) District Grazing Committee. Additional input has been solicited from Navajo Nation administrative and legal departments and from the BIA. The environmental, social/cultural, and administrative impacts of the proposed criteria have been assessed, and several mitigations have been outlined to lessen the identified impacts (See Section V. Mitigation of Adverse Impacts).

III. Navajo Nation Proposed Eligibility Requirements to Qualify For re-issuance of a Grazing Permit on the Navajo Partitioned Lands

The Navajo Nation proposes to prescribe eligibility requirements for reissuance of grazing permits on the Navajo Partitioned Lands. Only those individuals who meet all of the following requirements will be eligible to receive a permit. To receive a permit to graze livestock on the Navajo Partitioned Lands persons must:

1. Appear as a permittee on the list of permits cancelled on October 14, 1973, or be the legally recognized heir or assignee to the permit of a deceased individual appearing on said list;
2. Be listed on the 1974 or 1975 BIA enumeration within NPL or be legally recognized heir or assignee to the permit of a deceased individual appearing on said list;
3. Be a recognized full-time resident of the NPL and reside within the Customary Use Area where the cancelled permit was used;
4. Be an enrolled member of the Navajo Nation 18 years of age or older; and
5. Not have received any of the following accommodations:
 - a) Signed an accommodation agreement to remain on Hopi Partitioned Lands; or have a valid grazing permit for Hopi Partitioned Lands.
 - b) Received a permit to graze livestock on New Lands.
 - c) Reissued a grazing permit outside the Navajo Partitioned Land on Navajo Reservation.

IV. Favorable Impacts

Relevant to the proposed eligibility criteria, impacts to both rangeland resources and wildlife and botanical resources are expected to be positive, i.e., result in improvements from the current

situation. Because the current grazing situation in the Navajo Nation Partitioned (NPL) is characterized by overuse as a result of excessive stocking, improper herd movement, and a general lack of range stewardship, the proposed criteria would cause individuals who repeatedly violate Navajo Nation Grazing Regulations to be ineligible to receive a re-issued grazing permit. Impacts to wildlife and botanical resources are not directly relevant to the proposed criteria, however, the implementation of 25 CFR 161 requires improved range management practices which would result in increased density and occurrence of forage and browse species, increased and improved wildlife habitat, improved waterway conditions, decreased erosion, and other ecological benefits.

V. Mitigation of Adverse Impacts

The adverse impacts anticipated from the proposed criteria are relevant to the socio-economic, environment and administrative operations. All of the impacts identified can be mitigated with procedures already in place, or with valid propositions for new procedures. It is worth noting that many of the impacts identified will also result from the criteria already published in 25 CFR §161.400(a).

1. Impact: Livestock producers ineligible to receive a grazing permit will experience a loss of grazing privileges on Navajo Partitioned Lands (NPL) rangelands.
 - Mitigation: Navajo Nation Department of Agriculture (NNDA) will conduct outreach and education on alternative options, highlighting the benefits and procedures of forming livestock cooperative associations, maintaining health of animals kept in corrals, and leasing range tracts such as those held by the Tribal Ranches Program.
 - Mitigation: Navajo Nation Department of Agriculture (NNDA) will give livestock producers who do not receive grazing permits priority access to alternative range areas, such as Tribal Ranch tracts (especially the Winslow Tract), bull pasture, and reclaimed post-mined range units (such as Peabody, P&M, and other sites).
 - Mitigation: Navajo Nation Department of Agriculture (NNDA) will actively advocate for land acquisition through Navajo Hopi Land Commission(NHLC)/Navajo Land Department (NLD) for the primary purpose of grazing use.
 - Mitigation: Navajo Nation Department of Agriculture (NNDA) will encourage Chapters to include in their Land Use Plans the withdrawal of Chapter land for community use areas for grazing and related activities (This should be factored into the re-permitting aspect as it would affect the available land base used to determine stocking rates).
2. Impact: Navajo Partitioned Lands (NPL) District Grazing Committee Members will incur increased workload and perhaps additional work-related stress as a result of livestock control/reduction activities, providing records of livestock activities and any related violations, and increased disputes between land users.
 - Mitigation: Navajo Nation Department of Agriculture (NNDA) has developed guidelines to aid District Grazing Committee Members (DGCMs) in the implementation of Navajo Partitioned Land (NPL) grazing policies.
 - Mitigation: Navajo Nation Department of Agriculture (NNDA) has initiated the development of Navajo Partitioned Land (NPL) Precincts to provide a venue for

conducting business directly related to Navajo Partitioned Land (NPL) issues, separate from main body reservation Agency or District business. District Grazing Committee Members (DGCMs) will receive pay to attend Precinct meetings in lieu of Agency meetings.

- Mitigation: Navajo Nation Department of Agriculture (NND) will provide District Grazing Committee Members (DGCMs) with guidelines for dispute procedures.
- Mitigation: Collection of fees will not become effective until the livestock and related economical and environment conditions have improved to a sustainable level.

3. Impact: Increased need for enforcement of livestock control/reduction and related activities and violations.

- Mitigation: Amendments to 3NNC, Livestock Inspection and Control, will become effective November 2006. These regulations provide improved enforcement mechanisms and procedures involving Department of Resource Enforcement (DRE), Navajo Nation Police Department, Navajo Tribal Courts, Navajo Nation Veterinary Program, Deputy Livestock Inspectors and members of the District Grazing Committee (DGC)/ Eastern Navajo Land Board (ENLB).
- Mitigation: The Navajo Nation Department of Agriculture (NND) has requested that the Navajo Resources Committee direct Department of Resource Enforcement (DRE) to commit staff and resources to ensure adequate enforcement.

4. Impact: Increased or renewed land use and boundary disputes among livestock producers, community members, and other land users. Customary Use Areas, Claim Use Areas, Homesite Lease Areas, and related disputes will likely be challenged by permittees or asserted by other land users against permittees.

- Mitigation: To accommodate these disputes, Navajo Nation Department of Agriculture (NND) has prepared guidelines outlining dispute procedures, including those handled through the Office of Hearing and Appeals. The guidelines will be available to anyone requesting assistance with dispute proceedings.

5. Impact: Increased demand for probates by heirs of deceased permittees.

- Mitigation: To expedite the probate process, Navajo Nation Department of Agriculture (NND) will inform Navajo Tribal Courts of the impending case load, and will provide, through the District Grazing Committee (DGC), public awareness of the procedures and requirements for completing the probate process.

6. Impact: Treatment of Relocatees not on Navajo Partitioned Lands (NPL)

- Mitigation: Information from Office of Navajo Hopi Indian Relocation (ONHIR) regarding accommodations already received by relocatees.

7. Impact: Treatment of Relocatees on Navajo Partitioned Lands (NPL) (those who lost grazing land/relocated but still have Navajo Partitioned Lands (NPL) cancelled permit)

- Mitigation: Navajo Nation Department of Agriculture (NND) will encourage Relocatees' participation in cooperative livestock associations and related activities.
- Mitigation: Navajo Nation Department of Agriculture (NND) will provide Relocatees who have lost grazing privileges education about and access to alternative range areas,

such as Tribal Ranch tracts (especially the Winslow Tract), bull pasture, and reclaimed range units (such as from Peabody, P&M, and other sites).



M-E-M-O-R-A-N-D-U-M

TO: 164 Reviewers

FROM: **Grazing Management Program**
Navajo Dept. of Agriculture

DATE: December 14, 2015

SUBJECT: Incorporated Changes DOJ Recommended

DIVISION OF
NATURAL RESOURCES
DEC 17 2015

On November 16, 2015 the Navajo Department of Agriculture submitted a request for Navajo Department of Justice to review the proposed amendments to the eligibility criteria of the Navajo Nations Eligibility Criteria Requirements to qualify for the issuance of a grazing permit on Navajo Partitioned Lands. The resolution that is being amended is IGRJ-110-10. On December 1, 2015 the Navajo Department of Justice completed its review and provided the following comments:

- 1.) Restate the following sentence "Should new permits be issued for the NPL under 25 CFR section 161.401, legally recognized heirs of the permittees who appear on the list of permits cancelled on October 14, 1973 will have first priority." (Page 2)
- 2.) Strike out "for probates" and have it read "Increased demand by heirs of deceased permittees". (Page 3)
- 3.) A space was added between "the Department" and "is". (Page 5)
- 4.) A question was asked on how many people will make up the reviewing committee? This question is addressed under "Composition" The reviewing committee will comprise of 6 people all listed plus the addition of a member from the Bureau of Indian Affairs. (Page 7)
- 5.) Restate "Notification of Determination: After the reviewing committee determines who the recognized heir is, written notification will be sent out to all the applicants informing them of the committee's decision, the basis for the decision, and that applicants have thirty (30) days to appeal the committee's decision to the Office of Hearings and Appeals" (Page 9)

This memo is informing the 164 reviewers that DOJ's comments were addressed by the Department. If you have any questions or concerns over this matter please feel free to contact me at 1(928) 871-6604.



NAVAJO NATION DEPARTMENT OF JUSTICE



REQUEST FOR SERVICES

RECEIVED
NOV 16 2015
DEPARTMENT OF JUSTICE
RECEPTIONIST DESK

DOJ

DATE / TIME

RFS #: _____

UNIT: _____

☒ **RESUBMITTAL** (RFS #: 15-2003)

*** FOR NNDJ USE ONLY - DO NOT CHANGE OR REVISE FORM. VARIATIONS OF THIS FORM WILL NOT BE ACCEPTED. ***

CLIENT TO COMPLETE

DATE OF REQUEST: 11/16/2015 ENTITY/DIVISION: Division of Natural Resources
CONTACT NAME: Leo Watman Jr. DEPARTMENT: Agriculture
PHONE NUMBER: 928.871.6605 E-MAIL: lwjtrust@yahoo.com

COMPLETE DESCRIPTION OF LEGAL NEED AND SERVICES REQUESTED (Attach Documents):
This is a resubmittal of the returned Document RFS #: 15-2003. Request for DOJ review for the proposed amendments to the eligibility criteria of the Navajo Nation Eligibility Criteria Requirements to qualify for the Issuance of a Grazing Permit on Navajo Partitioned Lands. The Resolution that is being amended is: IGRJ-110-10. Attached is the underlined and overstrike through that incorporates the proposed changes.

DEADLINE: 11/23/2015 REASON: Its part of the request made by RDC.

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: _____ REVIEWING ATTORNEY/ADVOCATE: _____

DATE/TIME OUT OF UNIT: _____ PREPARED BY (initial): _____

DOJ ATTORNEY / ADVOCATE COMMENTS

REVIEWED BY: (PRINT) *Adrian Blackhat* DATE / TIME: 12/1/15 1:52 PM

DOJ Secretary Called: *Connel* for Document Pick Up on *12/1/15* at *1:52* By: *Adrian*

PICKED UP BY: (PRINT) *Adrian Blackhat* DATE / TIME: 12/1/15 - 3:11

NNDJ/DRRF-July 2013

COMPLETED



NAVAJO NATION DEPARTMENT OF JUSTICE

DOCUMENT REVIEW REQUEST FORM



DOJ	
12-17-15 9:08a	DATE / TIME
<input checked="" type="checkbox"/> 7 Day Deadline	
DOC #: 005093	
SAS #:	
UNIT: Nru	


☐ RESUBMITTAL

*** FOR NNDJ USE ONLY - DO NOT CHANGE OR REVISE FORM. VARIATIONS OF THIS FORM WILL NOT BE ACCEPTED. ***

CLIENT TO COMPLETE			
DATE OF REQUEST: 12/17/15		ENTITY/DIVISION: DNatural Resources	
CONTACT NAME: Leo Watchman Jr.		DEPARTMENT: Agriculture	
PHONE NUMBER: 928 871 6605		E-MAIL: lwjtrust@yahoo.com	
TITLE OF DOCUMENT: NN Rules Regs Grazing Permit Issuance			
DOJ SECRETARY TO COMPLETE			
DATE/TIME IN UNIT: 12/17/15 10:19 AM		REVIEWING ATTORNEY/ADVOCATE: Veronica 12/22/15	
DATE/TIME OUT OF UNIT: 12/22/15 4:19 PM			
DOJ ATTORNEY / ADVOCATE COMMENTS			
legally sufficient			
REVIEWED BY: (PRINT)	DATE / TIME	SURNAMED BY: (PRINT)	DATE / TIME
		Veronica Blackhat	12-22-15 2:25 PM
DOJ Secretary Called: Left msg w/ Kim for Leo Watchman Jr.		for Document Pick Up on 12/22/15 at 4:08 PM By: JB	
PICKED UP BY: (PRINT)		DATE / TIME:	

Document No. 005093Date Issued: 12/03/2015**SECTION 164 REVIEW FORM**Title of Document: NN.Rules.Regis.Graz'gPermit_IssuanceContact Name: CASTILLO, RAYMONDProgram/Division: DIVISION OF NATURAL RESOURCESEmail: rcastillo_nnda@yahoo.comPhone Number: 928 871-6605Division Director Approval for 164A: 

Check document category: only submit to category reviewers. Each reviewer has a maximum 7 working days, except Business Regulatory Department which has 2 days, to review and determine whether the document(s) are sufficient or insufficient. If deemed insufficient, a memorandum explaining the insufficiency of the document(s) is required.

Section 164(A) Final approval rests with Legislative Standing Committee(s) or Council☒ **Statement of Policy or Positive Law:**1. OAG: Date: 12-22-15Sufficient ☒ Insufficient ☐☐ **IGA, Budget Resolutions, Budget Reallocations or amendments: (OMB and Controller sign ONLY if document expends or receives funds)**

1. OMB: _____

Date: _____

☐☐

2. OOC: _____

Date: _____

☐☐

3. OAG: _____

Date: _____

☐☐**Section 164(B) Final approval rests with the President of the Navajo Nation**☐ **Grant/Funding Agreement or amendment:**

1. Division: _____

Date: _____

☐☐

2. OMB: _____

Date: _____

☐☐

3. OOC: _____

Date: _____

☐☐

4. OAG: _____

Date: _____

☐☐☐ **Subcontract/Contract expending or receiving funds or amendment:**

1. Division: _____

Date: _____

☐☐

2. BRD: _____

Date: _____

☐☐

3. OMB: _____

Date: _____

☐☐

4. OOC: _____

Date: _____

☐☐

5. OAG: _____

Date: _____

☐☐☐ **Letter of Assurance/M.O.A./M.O.U./Other agreement not expending funds or amendment:**

1. Division: _____

Date: _____

☐☐

2. OAG: _____

Date: _____

☐☐☐ **M.O.A. or Letter of Assurance expending or receiving funds or amendment:**

1. Division: _____

Date: _____

☐☐

2. OMB: _____

Date: _____

☐☐

3. OOC: _____

Date: _____

☐☐

4. OAG: _____

Date: _____

☐☐