

**LEGISLATIVE SUMMARY SHEET**

Tracking No. 0201-14

**DATE:** April 11, 2016

**TITLE OF RESOLUTION:** AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; CONFIRMING THE APPOINTMENT OF MR. EDGAR TOHTSONI TO SERVE ON THE NAVAJO AGRICULTURAL PRODUCTS INDUSTRY BOARD OF DIRECTORS FOR A TERM OF THREE YEARS

**PURPOSE:** This resolution if approved will confirm the appointment of Mr. Edgar Tohtsoni to serve on the Navajo Agricultural Products Industry Board of Directors for a term of three years.

**This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed legislation in detail.**

5-DAY BILL HOLD PERIOD: None

Website Posting Time/Date: \_\_\_\_\_

Posting End Date: 7/4/2016

Eligible for Action: 7/5/2016

Resources & Development Committee

PROPOSED STANDING COMMITTEE RESOLUTION  
23<sup>RD</sup> NAVAJO NATION COUNCIL – Second Year, 2016

INTRODUCED BY

Jonathan Perry  
(Prime Sponsor)

TRACKING NO. 0201-16

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; CONFIRMING THE  
APPOINTMENT OF MR. EDGAR TOHTSONI TO SERVE ON THE NAVAJO  
AGRICULTURAL PRODUCTS INDUSTRY BOARD OF DIRECTORS FOR A TERM  
OF THREE YEARS

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 President of the Navajo Nation appoints and the Resources and Development Committee confirms the directors to the Navajo Agricultural Products Industry. 2 N.N.C. §501(B)(9); *See also* 5 N.N.C. §1601(A).

SECTION TWO. FINDINGS

- A. In the event of a vacancy on the Board of Directors, Navajo Nation Council Resolution CJA-05-10: "... the President of the Navajo Nation shall appoint a qualified candidate on or before thirty (30) working days. The Economic Development Committee of the Navajo Nation Council shall fill vacancies where

1 the President has not made an appointment within thirty (30) working days by  
2 appointing and confirming a candidate that meets the qualifications stated above.”

3 B. The Resources and Development Committee is the successor committee to the  
4 Economic Development Committee of the Navajo Nation Council. CO-45-12.

5 C. The President of the Navajo Nation has submitted an appointee for confirmation  
6 to the Resources and Development Committee within the thirty day requirement.  
7 *See* Exhibit A (Letter from Russell Begay (Navajo Nation President), to  
8 Honorable Jonathan Perry (Mar. 11, 2016)).

9 D. The President has appointed Mr. Edgar Tohtsoni to serve on the Board of  
10 Directors for the Navajo Agricultural Products Industry for a term of three years  
11 starting on October 28, 2014 and set to expire on October 28, 2017. *See* Exhibit B  
12 (Letter from Russell Begay (Navajo Nation President), to Mr. Edgar Tohtsoni  
13 (Mar. 10, 2016)).

14 E. Mr. Edgar Tohtsoni has submitted his letter of interest as well as his resume. *See*  
15 Exhibit C (Letter of Interest); *See also* Exhibit D (Resume).

16  
17 **SECTION THREE. CONFIRMING APPOINTMENT**  
18

19 A. The Resources and Development Committee hereby confirms the Presidential  
20 appointment of Mr. Edgar Tohtsoni to the Navajo Agricultural Products Industry  
21 Board of Directors for a term of three years commenced on October 28, 2014 and  
22 set to expire on October 28, 2017, pursuant to 5 N.N.C. § 1603 (A).  
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# THE NAVAJO NATION

RUSSELL BEGAYE  
JONATHAN NEZ



March 11, 2016

Honorable Jonathan Perry  
23<sup>rd</sup> Navajo Nation Council  
P.O. Box 3390  
Window Rock, AZ 86515

Dear Honorable Council Delegate Jonathan Perry:

We respectfully request that you sponsor the legislation to confirm the Presidential appointment of Mr. Edgar Tohtsoni, to the Board of Directors for the Navajo Agricultural Products Industry. After a considerable search and interview process, this Administration selected Mr. Edgar Tohtsoni, based on his extensive experience and knowledge, he possesses the qualifications and experience to best represent the Navajo Nation in this prestigious position.

Attached is Mr. Tohtsoni's appointment letter and resume. If you have any further questions, please contact Perry Shirley, Executive Staff Assistant at (928) 871-7000. Thank you.

Respectfully,

THE NAVAJO NATION

  
Russell Begaye, President

  
Jonathan Nez, Vice President

C: Arbin Mitchell, Chief of Staff  
Office of the President and Vice President

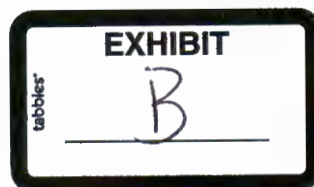


# THE NAVAJO NATION

RUSSELL BEGAYE

JONATHAN NEZ

March 10, 2016



Mr. Edgar Tohtsoni

**RE: Official Appointment to the Navajo Agricultural Products Industry Board of Directors**

Dear Mr. Edgar Tohtsoni

We are pleased to appoint you to the Navajo Agricultural Products Industry (NAPI) Board of Directors. We are confident you have the background, experience and education to represent the interest of this Administration on this Board.

Pursuant to the NAPI Board of Directors' Plan of Operations, this appointment is for a period of three years and is subject to confirmation by the 23<sup>rd</sup> Navajo Nation Council Resources and Development Committee. The Plan of Operations also states that the terms of appointment are on a set and staggered schedule; therefore, it is important to note that the term you are being appointed to began on October 28, 2014 and it will end on October 28, 2017. This appointment represents the Navajo people of Eastern Agency of the Navajo Nation and requires a bachelor degree.

We appreciate your desire to serve the Navajo Nation and the Navajo People. If there are any questions, please contact Ms. Nina Chester, Executive Staff Assistant at (928) 871-7000.

Sincerely,

**THE NAVAJO NATION**

A handwritten signature in blue ink, appearing to read "Russell Begaye".

Russell Begaye, President

A handwritten signature in blue ink, appearing to read "Jonathan Nez".

Jonathan Nez, Vice President



EDGAR TOHTSONI



## Letter of Interest

April 08, 2016

President Russell Begaye, Navajo Nation  
Office of the President and Vice President  
Window Rock, Arizona 86515

RE: NAPI Board of Directors Position

Mr. Begaye,

My name is Edgar Tohtsoni and have great interest in being part of the Navajo Agricultural Products Industry (NAPI) Board of Directors. I'm active with the Navajo Nation community in assisting business owners in building their business enterprise. This opportunity will allow me to give back more to the Navajo Nation by lending my educational and business experience to the NAPI enterprise.

My foundation is both as a community and economic developer, this spectrum includes business knowledge, financial planning and a strategic analyst. My past experience involves being a Financial Officer, where financial information played a vital role in making decisions for the firm for future economic success. This role also included a working relationships with various suppliers and venders in planning and providing goods for the business.

As an Economic Development Specialist, I've worked with various Business owners to meet their needs and find solutions to help build their businesses in meeting economic goals and success which therefore builds a stronger Navajo economy.

I like to change things for the better; I'm the type of person who can add improvements to an existing system. I've worked in the Navajo Nation system, I viewed areas that can be improved, which would make the system more efficient and accountable, to help meet the goals of our Navajo Nation enterprises.

I also understand that to meet these economic goals; team-work is required amongst various entities, departments and offices.

I'm confident you'll find me to be a strong asset as a Board Member to the Navajo Agricultural Products Industry enterprise, as I am not only versed in economic and community development strategies and planning, but I have a number of years experience in business technical assistance, financial accounting and management.

I appreciate your time and look forward to meeting with your office.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Edgar Tohtsoni".

EDGAR TOHTSONI

## **EDGAR TOHTSONI**

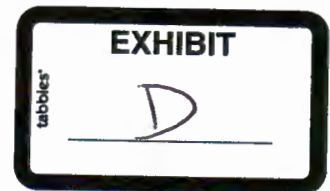
### **VISION FOR NAVAJO AGRICULTURAL PRODUCTS INDUSTRY ENTERPRISE**

My vision for a stronger Navajo enterprises looks at the long term future and opportunities to support a successful enterprise.

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- Continue to support the enterprises efforts grow and harvest top quality goods to the various economic sectors - agricultural goods and other NAPI provided products.
- Continue to provide full employment, economic growth, efficiency, stability and they are divided into both macroeconomic and microeconomic goals. On the macroeconomics spectrum, policies made to reach economic growth, stability and full employment. For microeconomics, decisions and policies that are driven towards reaching efficiency and accountability.
- Continue supporting and working to various venders in building a stronger relationship for the enterprise goods and products.
- Help create a savings program (or support such existing program) where net revenues are saved and reinvested back into the enterprise - this fund can be utilize for buying new equipment/assets and for other related equipment maintenance programs.
- Continue to provide a healthy staff work environment where employees know they are the key to providing success.
- Offer recommendations for the long term planning strategies/ avenues for continue success
- Update the NAPI Strategic Planning Goals to become a top player within the industry.
- Review economic goals on a quarterly basis to ensure success.
- The enterprise goal should be that NAPI continues to be a strong player within the agricultural industry as a leader in providing top quality goods and products.

**RESUME**  
**EDGAR TOHTSONI**



**■ EDUCATION**

**University of New Mexico**, Albuquerque, New Mexico, MA- Dual Degree Program in Economics and Community Regional Planning, in progress.

- Awarded and honored the *Native Scholar Commendation Certificate* for academic excellence by the Native American Scholarship and Research Council.
- In-process thesis research and work on Indian Taxation topic.
- Have done research on various Indian related topics to include:
  - o American Indian Educational Attainment Levels;
  - o Tribal Taxation;
  - o Indian Gaming in New Mexico;
  - o The Environment and its effects on Indian people and land.
  - o Tribal Water Development

**Arizona State University**, Tempe, Arizona, Bachelor of Science in ECONOMICS

PROFESSIONAL TRAINING:

Loan Portfolio Training; Individual Development Account Training, Payroll Management, UDSA and Small Business Administration Lending Training, Tribal "Project Shovel Readiness"

Also Served as:

- \* Chairperson, Albuquerque Public Schools Indian Education Committee -- 2001 to 2002
- \* Member, Business and Industrial Development Loan Fund, Approving Committee -- 2010- present
- \* Member, Rural Entrepreneur Institute, Advisory Team, UNM-Gallup -- 2010- present

**■ EMPLOYMENT**

**Navajo Nation Division of Economic Development, Eastern Regional Business Development Office, Churchrock, New Mexico;** *June 2006 to present.*

SENIOR ECONOMIC DEVELOPMENT SPECIALIST

- Responsible for Small Business Development Loan Fund maintenance, growth and development;
- Analyzed, evaluated and documentation of loan applications and clients;
- Originate (analyze, process and close) loans to small businesses owners throughout Eastern Agency, Navajo Nation;
- Assist Business Owners in the Business Site Lease process and Project Economic Development Planning.
- Interface with small business owners, chapters, local entities to provided business technical assistance; areas include: developing business plans, financial projections, marketing, financial recordkeeping, taxation, management organization, franchising feasibilities and business site leasing process;
- Oversee the Individual Development Account (IDA) program;
- Organized and conducted small business management courses to small business owners.

**Northwest New Mexico Community Development Corporation, Gallup, New Mexico;** *March 2004 to June 2006.*

SMALL BUSINESS DEVELOPMENT SPECIALIST and INDIVIDUAL DEVELOPMENT ACCOUNT SPECIALIST (IDA)

- Responsible for community development loan fund maintenance and its growth;
- Analyzed, evaluated and documentation of loan applications;
- Originate (analyze, process and close) loans to small businesses owners throughout NW New Mexico;
- Interface with borrowers and provided business technical assistance;
- Responsible for Individual Development Account program; Attended IDA training and workshops
- Assist with IDA participants with asset development;
- Conducted small business management courses to small business owners.



## **TAX HELP NEW MEXICO 2006-2008**

- Responsible for Tax Help program to provide free tax assistance to low/medium income taxpayers.

**Shiprock Alternative Schools Inc., Shiprock, New Mexico**

*August 2003 to March 2004*

### **TEACHER**

- Created lesson plans; provided instruction
- Created writing assignments, quizzes and exams;
- Graded homework and exams;
- Mentored and motivated students to achieve personal academic;
- Developed leadership skills needed for today's society.

**Navajo Preparatory High School, Farmington, New Mexico**

*August 2002 to May 2003*

### **TEACHER**

- Created lesson plans; provided instruction
- Created writing assignments, quizzes and exams;
- Graded homework and exams;
- Mentored and motivated students to achieve personal academic goals;
- Developed leadership skills needed for today's society.

**SPORTS ATHLETIC COACH** – *New Mexico Athletic Association: Football, Basketball, Baseball*

- Motivated students to achieve goals;
- Developed sports skills;
- Instilled cooperation in a competitive context and appropriate standards of behavior;
- Helped build character and developed leadership skills.

**American Indian Law Center, Inc., Albuquerque, New Mexico;**

*September 1996 to August 2002*

### **FINANCIAL OFFICER**

- Maintained daily records on all organizational; accounts;
- Reconciled bank accounts and daily monies;
- Prepared monthly financial statements on various accounts/programs;
- Prepared bi-weekly payroll and required tax deposits;
- Prepared cash disbursements and accounts payable reports;
- Prepared quarterly financial reports both federal and state.

**University of New Mexico, Albuquerque, New Mexico**

*September 1997 to May 2001*

### **GRADUATE TEACHING ASSISTANT** Duties include:

Assisted departmental Professors instructing undergraduate economic courses.  
To included research, grading, tutoring, conducted study and review sessions.

**Shiprock Chapter, Shiprock, New Mexico**

*February 1996 to August 1996*

### **ADMINISTRATIVE ASSISTANT**

- Helped planned and managed an Economic Summit to explain and describe the local community to the, Navajo Nation, local, state and federal officials on the factors why Indian communities are limited in its ability to grow economically to meet the needs of the community.

**ACCOUNTANT OFFICER** Duties include:

- Prepared financial reports for Corporation;
- Reconciled bank accounts and daily cash;
- Prepared cash disbursements and accounts payable reports;
- Ordered materials, goods and services;
- Maintained accounts receivable reports;
- Prepared business plans to include financial analysis;
- Assisted in development of marketing and tourism plan;
- Assisted in development of master plan and five-year plan.
- Filled-in as needed basis Acting General Manager

**United States Army and Reserve**

Military Police (MP) Branch

**■ COMPUTER SKILLS**

Strong Computer Skills and Aptitude, to include familiarity and experience with the following software programs:

Microsoft Office: Word, PowerPoint, Publisher, Excel.

Accounting and Budget Software

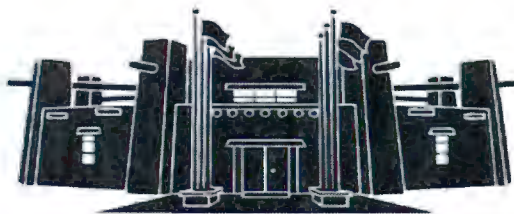
Electronic and Internet based research.

**■ ACCOMPLISHMENTS**

- Instrumental in improving and updating an accounts payable system in which was severely defective.
- Helped to install and monitor new accounting software system.
- Involved in major project planning for the San Carlos Lake Marina.
- Helped in developing and marketing for previous employers.
- Instrumental and involved in conducting audits which before was not possible because of previous bookkeeping methods.
- Helped initiate new business startups and expansions, thus creating employment opportunities.
- Helped create and build the Navajo Regional Economy and Opportunities

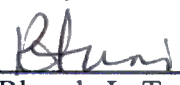
**■ PREFERRED SKILLS AND RESPONSIBILITIES**

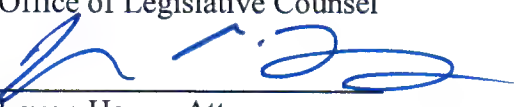
- Mathematical Skills - ability to calculate figures and amounts such as discounts, interest, percentages, and other financial analysis.
- Reasoning Ability - to address and solve practical problems/issues and deal with a variety of concrete variables.
- Ability to interpret a variety of instructions furnished in written, oral or schedule form.
- Knowledgeable of financing, origination, processing and closing of loans for both existing and proposed loan types.
- Experience as a loan processor, loan officer, underwriter and originator.
- Able to plan, organize and prioritize work, present ideas effectively; maintain confidentiality; analyze issues and problems and reach for solutions.
- Have interpersonal skills necessary to deal effectively with a diverse group of external contacts as well as internal contacts.
- Language Skills - ability to read, analyze and interpret general technical procedures.
- Ability to write reports and business correspondences.
- Ability to effectively present information and respond to questions from diverse audiences in person and over the telephone.
- Experience as a supervisor.
- Familiarity with budgeting and economic projections.
- Commitment to social and economic justice.



**MEMORANDUM**

**TO:** Honorable Jonathan Perry  
Navajo Nation Council

**FROM:**   
Rhonda L. Tuni  
Office of Legislative Counsel

**THRU:**   
Levon Henry, Attorney  
Office of Legislative Counsel

**DATE:** April 11, 2016

**SUBJECT:** AN ACTION RELATING TO RESOURCES AND DEVELOPMENT;  
CONFIRMING THE APPOINTMENT OF MR. EDGAR TOHTSONI TO  
SERVE ON THE NAVAJO AGRICULTURAL PRODUCTS  
INDUSTRY BOARD OF DIRECTORS FOR A TERM OF THREE  
YEARS

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. Based on existing law and review of documents submitted, the resolution as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge. Please ensure that his particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution.

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0201-16\_\_

SPONSOR: Jonathan Perry

**TITLE: An Action Relating To Resources And Development; Confirming The Appointment Of Mr. Edgar Tohtsoni To Serve On The Navajo Agricultural Products Industry Board Of Directors For A Term Of Three Years**

***Date posted: June 29, 2016 at 3:48 PM***

**Digital comments may be e-mailed to [comments@navajo-nsn.gov](mailto:comments@navajo-nsn.gov)**

**Written comments may be mailed to:**

**Executive Director  
Office of Legislative Services  
P.O. Box 3390  
Window Rock, AZ 86515  
(928) 871-7586**

**Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.**

**Please note:** This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*



**THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW SUMMARY**

**LEGISLATION NO.: 0201-16**

**SPONSOR: Honorable Jonathan Perry**

**TITLE: An Action Relating to Resources And Development; Confirming The Appointment Of Mr. Edgar Tohtsoni To Serve On The Navajo Agricultural Products Industry Board Of Directors For A Term Of Three Years.**

**Posted: June 29, 2016 at 3:48 PM**

**5 DAY Comment Period Ended: July 4, 2016**

**Digital Comments received:**

<b>Comments Supporting</b>	<i>None</i>
<b>Comments Opposing</b>	<i>None</i>
<b>Inclusive Comments</b>	<i>None</i>



**Executive Director  
Office of Legislative Services**

07-05-16 @ 8:42 AM

**Date/Time**

**THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW SUMMARY**

**LEGISLATION NO.: 0201-16**

**SPONSOR: Honorable Jonathan Perry**

**TITLE: An Action Relating to Resources And Development; Confirming The Appointment Of Mr. Edgar Tohtsoni To Serve On The Navajo Agricultural Products Industry Board Of Directors For A Term Of Three Years.**

**Posted: June 29, 2016 at 3:48 PM**

**5 DAY Comment Period Ended: July 4, 2016**

**Digital Comments received:**

<b>Comments Supporting</b>	<i>None</i>
<b>Comments Opposing (1)</b>	<b>1. Lorenzo J. Begay, Vice Chairperson; NAPI Board of Directors.</b>
<b>Inclusive Comments</b>	<i>None</i>

*(Signature)*

**Executive Director  
Office of Legislative Services**

*7/12/2016. 9:45 AM*

**Date/Time**



**NAVAJO AGRICULTURAL PRODUCTS INDUSTRY**

P.O. Drawer 1318  
Farmington, NM 87499  
Telephone: (505) 566-2600  
Fax: (505) 960-9458  
[www.navajopride.com](http://www.navajopride.com)

July 11, 2016

**VIA HAND DELIVERY**

President Russell Begaye  
The Navajo Nation  
Office of the President/Vice-President  
P.O. Box 7440  
Window Rock, AZ 86515

Alton Joe Shepherd, Chairman  
Resources and Development Committee  
Navajo Nation Council  
P.O. Box 3390  
Window Rock, AZ 86515

Jonathan Perry, Council Delegate  
Resources and Development Committee  
Navajo Nation Council  
P.O. Box 3390  
Window Rock, AZ 86515

Dear President Begaye, Chairman Shepherd and Delegate Perry:

The purpose of this letter is to bring to your attention an issue associated with Legislation # 0201-16 "An Action Relating to Resources and Development; Confirming the Appointment of Mr. Edgar Tohtsoni to Serve on the Navajo Agricultural Products[Industry] Board of Directors for a Term of Three Years" (the "Legislation"). The intent of the Legislation is to appoint Edgar Tohtsoni to the NAPI Board as the member from the Eastern Agency, but currently there are no vacancies on the five-person Board and there is already a Board member from the Eastern Agency, Lawrence Platero. Mr. Platero's appointment was effective October 28, 2014 and will not expire until October 28, 2017.

The letter to Mr. Edgar Tohtsoni from the Office of the President and Vice President dated March 10, 2016, indicates that the term "began on October 28, 2014 and it will end on October 28, 2017. This appointment represents the Navajo people of Eastern agency of the Navajo Nation and requires a bachelor degree." Based on the dates of the term, it is obvious that this appointment is an effort to fill the remainder of Mr. Platero's term with Mr. Tohtsoni. Mr. Platero has not, however, resigned nor has he been removed. Furthermore, there does not appear to be an action to remove Mr. Platero as a director of the Navajo Agricultural Products Industry ("NAPI") Board.

The Plan of Operation provides that a Board member may be removed by a simple majority of the oversight committee members at a lawful meeting only if:

- a. Such member has failed to attend two (2) consecutive meetings of the Board without prior written approval of absence by the Chairperson of the Board. The Secretary shall report to the President of the Navajo Nation when a member has failed to attend two consecutive meetings without prior approval;
- b. Such member has been convicted of any crime reflecting upon such member's honesty or ability to fulfill the fiduciary obligations imposed by law upon such member;
- c. Such member has been adjudged in any action, suit, or other proceeding to be liable, suit or other proceeding to be liable for gross negligence or misconduct, in the performance of any management duties;
- d. Such member violates the Navajo Nation Ethics in Government Law;
- e. Such member commits malfeasance or misfeasance of office; or
- f. Breach of the duties of a director as set forth in Article 5(B).

Plan of Operation, Article 5(E) CJA-05-10. Article 5(B) provides:

The conduct of each member of the Board of Directors shall conform to fiduciary standards, and shall, in any event, conform to that required of members of a board of directors of a for-profit corporation under the Navajo Corporation Code, the Navajo Nation Ethics in Government Act, and other applicable Navajo law.

Mr. Platero has not conducted himself in any way that would cause him to be subject to a removal action. Curiously, there is no evidence that the Nation intends to remove Mr. Platero.

The letter from the President's Office focuses on Mr. Tohtsoni's achievement of a degree of bachelor of science. Although Article 5(C) of the Plan of Operation states that "[a]ll directors shall have at least a bachelor of science degree," Mr. Platero does not have a bachelor of science degree. The Resources and Development Committee knew that Mr. Platero did not have a bachelor of science degree when the Committee appointed and confirmed him. His resume was provided to the Committee. Mr. Platero presented his credentials and he was appointed and confirmed notwithstanding his lack of a bachelor of science degree and in accordance with the Plan of Operation. There was a vacancy on the NAPI Board of Directors for an individual from the Eastern Agency, which vacancy had existed for more than 30 days. The President had not submitted an appointee for confirmation. The Resources and Development Committee approved the appointment of Mr. Platero for a term of 3 years on Oct. 28, 2014, the term to begin immediately. Mr. Platero's term does not expire until Oct. 28, 2017.

The current appointment of Mr. Tohtsoni is not in accordance with the Plan of Operation or Navajo law. In accordance with the Plan of Operation, the President may only appoint upon the creation of a vacancy. A vacancy exists from the date of "the resignation, death, or removal of a Director. . . ." See Plan of Operation, art. 5(F)(1) and (2). Mr. Platero, has not resigned, died or been removed. Mr. Platero has not been notified of



any effort by the Resources and Development Committee to remove him. Therefore, there is no vacancy to be filled.

Such removal, without affording Mr. Platero of his due process formalities of "notice, inspection of written reports, investigation of disputed facts by a neutral third party, the right of the accused to attend a meeting at which their removal . . . is discussed, and right to provide a response prior to Board action" would be a violation of Mr. Platero's rights. See *Navajo Nation Oil and Gas Co. v. Window Rock Dist. Ct.*, 12 Am. Tribal Law 22 (2014); *Guzman-Vargas v. Calderon*, 672 F. Supp. 2d 273, 291-93 (D.P.R. 2009)(plaintiff has a legitimate claim of entitlement to his board member position for a fixed term absent "just cause" for his removal). Like the charter of the Navajo Nation Oil and Gas Co., the NAPI Plan of Operation provides that "any member of the Board of Directors may be removed by a simple majority vote of the [Resources and Development] Committee." Like the charter of Navajo Nation Oil and Gas, the Plan of Operation is silent regarding a due process procedure. However, the Navajo Nation Supreme Court cautioned against reading such a provision in isolation. "Our Navajo Nation laws must be read comprehensively and in combination, not piñon picked for provisions that support a given position." *Navajo Nation Oil and Gas*, 12 Am. Tribal Law at \_\_\_ (citations omitted). Mr. Platero has a property interest in his continued appointment on the Board of Directors. His appointment is not at will, "cause" as defined in the Plan of Operation is needed to remove him. Because he has received an appointment for a specific term that cannot be withdrawn without a determination of cause, Mr. Platero's property right as a Board member may not be deprived without due process of law. 1 N.N.C. § 3.

For the reasons discussed above, the NAPI Board of Directors urges the President's Office to withdraw the appointment of Mr. Tohtsoni as a NAPI Board member from the Eastern Agency, for Mr. Perry to withdraw his sponsorship of the Legislation or for the Resources and Development Committee to withdraw the Legislation. Please address any questions that you may have regarding this matter to me, Lorenzo Begay, Vice Chairperson at 480.980.0211 or [ljbegay@tpbcs.com](mailto:ljbegay@tpbcs.com).

Sincerely,



Lorenzo J. Begay, Vice Chairperson  
NAPI Board of Directors

- c: Hon. Lorenzo Bates, Speaker, The Navajo Nation Council  
Hon. Leonard Pete, Resources & Development Committee  
Hon. Walter Phelps, Resources & Development Committee  
Hon. Benjamin Bennett, Resources & Development Committee  
Hon. Davis Filfred, Resources & Development Committee  
file