

RESOLUTION OF THE
NAVAJO NATION COUNCIL
25th NAVAJO NATION COUNCIL - FIRST YEAR, 2023

AN ACTION
RELATING TO LAW AND ORDER AND NAABIK'ÍYÁTI' COMMITTEES AND THE
NAVAJO NATION COUNCIL; CONFIRMING THE APPOINTMENT OF ETHEL B.
BRANCH AS THE NAVAJO NATION ATTORNEY GENERAL

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation and shall confirm the appointments of all division directors upon recommendation from the appropriate oversight committee. 2 N.N.C. §§ 102 (A) and (F).
- B. A proposed resolution requiring final action by the Navajo Nation Council shall be assigned to the Naabik'íyátí Committee. 2 N.N.C. § 164(A)(9).
- C. The Law and Order Committee is a standing committee of the Navajo Nation Council with oversight authority over the Navajo Nation Department of Justice and the administration of justice on the Navajo Nation. 2 N.N.C. §§ 600 and 601(C)(2).

D. SECTION TWO. FINDINGS

- A. The Navajo Nation Council appoints the Navajo Nation Attorney General at the recommendation of the Navajo Nation President. 2 N.N.C. § 1962(B).
- B. The Navajo Nation President recommends Ethel B. Branch as the Navajo Nation Attorney General. Ms. Branch's appointment letter and résumé are attached as Exhibit A.
- C. The Navajo Nation Attorney General serves at the pleasure of the Navajo Nation Council. 2 N.N.C. § 1962(B).

SECTION THREE. CONFIRMATION

- A. The Navajo Nation Council appoints and confirms Ethel. B. Branch as the Navajo Nation Attorney General.
- B. Ms. Branch shall serve at the pleasure of the Navajo Nation Council and her term shall run concurrent with the Navajo Nation President's term.

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the 25th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 17 in Favor, and 03 Opposed, on this 20th day of April 2023.



Honorable Crystalyne Curley, Speaker
25th Navajo Nation Council

4/27/23

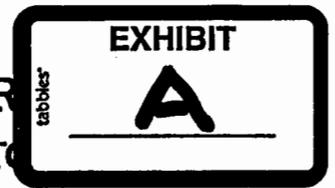
DATE

Motion: Honorable Brenda Jesus
Second: Honorable Cherilyn Yazzie

Speaker Crystalyne Curley not voting



The Navajo Nation DR. BUU NYGREN
Yideeskáadi Nitsáhákees RICHELLE MONTOYA



January 10, 2023

Ethel Branch
P.O. Box
Flagstaff, AZ 86002

RE: Appointment as Attorney General

Dear Ms. Branch,

We are pleased to offer you an appointment to serve as Attorney General of the Navajo Nation. This appointment takes affect at 12:00 p.m. on January 10, 2023. We are so pleased you verbally accepted this position and have started your new role.

Thank you for agreeing to serve the Nygren-Montoya Administration, the youngest Navajo Nation President elected, and the first woman to be Vice President. Together we will work hard for the Navajo people at the hogan level.

Ahéhee'

Dr. Buu Nygren, *President*
THE NAVAJO NATION

Richelle Montoya, *Vice President*
THE NAVAJO NATION



NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

ETHEL BRANCH
Attorney General

HEATHER L. CLAH
Deputy Attorney General

March 17, 2023

25th Navajo Nation Council

Re: Letter of Interest in Confirmation as Attorney General

Dear Honorable Speaker, Committee Chairs, Committee Vice Chairs, and Members:

I write to you respectfully requesting confirmation as the Navajo Nation's 13th Attorney General. I previously served as the Nation's 11th Attorney General and remain committed to protecting, defending, and advancing the Nation's legal position in all areas. It would be a special honor to serve as the Nation's 13th Attorney General under the 25th Navajo Nation Council because of the unique composition of the Council as innovators and forward thinkers. Never before has Council had the diversity of thought, experiences, and expertise as we now have in you, and I would be blessed beyond measure to have the opportunity to help you pursue the transformative work you seek to do for the good of our people over the next four years.

My experience as the Nation's 11th Attorney General has allowed me to hit the ground running. I don't require the same level of time and effort in getting up to speed on many of the legal issues and cases facing the Nation at this time because I served in this role a mere 4 years ago. The leadership team in place at DOJ also largely remains the same, so we are able to operate as a cohesive unit more rapidly. I am also extremely committed. I started work as your Attorney General at Noon on January 10 and held my first All Attorney zoom with staff on January 11. Since then I have had a regular in-person presence at Office of the Attorney General here in Window Rock because I strongly believe that this position requires in-person service in order to best serve the Nation as its Chief Legal Officer.

I am very results-oriented, and will make the most of the next 4 years for you and all of the Navajo Nation. You can see this in my track record as the Nation's 11th Attorney General. In that role, I rapidly rebuilt the Nation's legal team. I was appointed Attorney General in May of 2015. In December of 2015, I was contending with a vacant Chief Prosecutor position as well as 8 vacancies in the Office of the Prosecutor and 11 vacancies at the Department of Justice. When I completed my term as the Nation's 11th Attorney General, I more than doubled the Nation's prosecutorial staff and left behind only 4 vacancies at the Department of Justice and 6 vacancies in the Office of the Prosecutor. Upon my return to this position in January, I again find the Department and the Office of the Prosecutor with high vacancies (each had 17 vacancies as of January 10, which leads to a total of 34 vacancies, which is about a third of our total staffing). These high vacancies translate into lower productivity in an environment where we have no margin for delay. We need

ARPA documents flowing through the Department of Justice as quickly as possible, and we need to ensure that families impacted by violence and other crimes receive justice in a timely manner. For Navajo Nation government to function at a higher level, we need a stable and fully staffed Department of Justice and Office of the Prosecutor. I will make it my primary charge to again restore staffing and stability to these offices. Already my team has attended a recruiting event at the University of Utah Law School, and is scheduled to recruit with the University of New Mexico and at the Federal Bar Association's Annual Indian Law Conference in the coming weeks. We are also actively reaching out to desired recruits, urging them to join our team.

As the Nation's 11th Attorney General, I also established a reputation for the Department of Justice as the premier in-house legal team in Indian country. This is more than fitting for the country's largest and most powerful Indigenous Nation. I was able to flex my diverse experience as a transactional attorney and high stakes litigator and negotiator in that position. Under my leadership, the Department assisted in a historic first-of-its-kind in Indian country limited public offering of governmental bonds in the amount of \$53 million. We also secured numerous beneficial settlements, including recovery of tens of millions in Indirect Costs and IHS Contract Support Costs. Additionally, we were able to end arbitrary application of Treasury offsets against Navajo Nation funds. On the litigation front, the Nation secured numerous federal court victories under my leadership as the Nation's Attorney General. For example, by successfully blocking U.S. Supreme Court review and thus preserving important pro-Navajo sovereignty rulings in *Public Service Co. of New Mexico v. Barboan* and *Window Rock Unified School District v. Reeves*. I also filed a number of high-profile lawsuits to defend the Nation's interests that have resulted in bringing tens of millions of dollars to the Nation.

Finally, as the Nation's 11th Attorney General, I built important partnerships and pursued actions to enhance public safety and combat crime and corruption on the Nation. I organized public safety summits focused on creating collaborative working relationships between the various partners vital to the smooth and efficient functioning of the Nation's overall public safety system, and that facilitated an annual cross-entity Navajo Nation strategy for preventing crime, providing victim services, and ensuring timely prosecution and disposition of criminal cases. Collectively we pursued amendment of the Nation's Criminal Code and related laws. I also formed a Public Integrity Task Force focused on coordinating the Nation's response to white collar crime and public corruption. This was a collaborative effort with the Office of the Auditor General, the Ethics and Rules Office, Office of the Prosecutor, the Department of Justice, and other key partners. As part of this effort to ensure integrity in government, I led an effort to revise the Nation's laws regarding white collar crime and increased the prosecution of those crimes.

In the years since, I have remained committed to improving the lives of our people by helping lead a grassroots effort to protect Navajo and Hopi families from the COVID-19 pandemic. Our efforts provided direct relief in the form of food, water, and PPE to approximately half a million Navajo and Hopi individuals (counting each service event once). After responding to the worst of the pandemic, we focused our efforts on making sure our communities are pandemic proof for the long term through the creation of innovation hubs focused on rebuilding local economies and food systems. Under my leadership we opened two such centers in Monument Valley and Sheep Springs. We were also able to secure federal 501(c)(3) designation as a nonprofit. Through my empowerment and nurturing of second level leadership, the organization continues to thrive and stands on the verge of opening a third center.

I hope to bring my results-based style of collaborative leadership back to the Nation so I can assist elected leadership in moving the mark on numerous idle issues and projects that demand renewed attention given the impacts of the pandemic. For example, the high vacancies in Navajo government, the dire need for housing across all income levels, the need for a robust development plan that will pave the path for our people to come home, the need for strengthening of our public safety system in order to keep our communities safe, and the need for renewed integrity in our government.

Thank you for considering my application to again serve you as the Navajo Nation Attorney General.

Respectfully,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Ethel B. Branch

ETHEL B. BRANCH

EDUCATION

HARVARD LAW SCHOOL, J.D., June 2008

Honors: Zuckerman Fellow, for commitment to public service
Nationbuilding Fellow, for research on tribal governance
Activities: Environmental Law Review, Senior Editor, Article Editor
International Law Journal, Subciter
Native American Law Students Association, President
Research Assistant to Professor Kevin Washburn
Research Assistant to Professor Joseph Singer

HARVARD KENNEDY SCHOOL, M.P.P., June 2008

HARVARD UNIVERSITY, A.B. *cum laude* in History, June 2001

BAR & COURT ADMISSIONS

Navajo Nation Bar Association, November 2008
State Bar of Arizona, February 2009
Oregon State Bar Association, November 2009 (inactive)
Washington State Bar Association, November 2013 (inactive)
U.S. District Court, Western District of Washington, November 2013
U.S. District Court, District of Arizona, May 2017

EXPERIENCE

NAVAJO & HOPI FAMILIES COVID-19 RELIEF FUND, Flagstaff, AZ

Executive Director (July 2021-January 2023)

Interim Executive Director (July 2020-July 2021)

Founder and Leadership Team Member (March 2020-June 2020)

Organized a COVID-19 relief effort focused on the elderly, immunocompromised, and struggling families on the Navajo and Hopi nations that raised over \$18 million; provided direct relief (food, water and PPE) to approximately half a million Navajo and Hopi individuals (counting each service event once); and facilitated the transfer of three pallets of surgical gloves and almost 200,000 masks and other PPE to medical staff, first responders, high contact individuals, and community members. Ran a vaccination campaign that reached over 800,000 Navajo and Hopi people (counting each contact once). Successfully launched community centers in Monument Valley and Sheep Springs that work to make the community pandemic proof for the long term by providing support to small business and social entrepreneurs, creating a youth entrepreneur pipeline, promoting food security, and facilitating language and culture transmission. Secured funding to sustain the Monument Valley Community Center and create two additional community centers on the Navajo Nation.

KANJI & KATZEN, PLLC, Flagstaff, AZ
Of Counsel (October 2021-Present)
Member (May 2019-October 2021)

Served as General Counsel to the Havasupai Tribe. Represented the Tribe in day-to-day legal matters, advocacy to stop uranium extraction activities on the South Rim of the Grand Canyon, advocacy to stop development that would endanger its water supply, and COVID response. Successfully assisted the Tribe in passing COVID-related resolutions that shut down its borders to entry and exit except for certain limited essential purposes, and implemented a lock down within its community.

THE NAVAJO NATION, Window Rock, AZ
Attorney General (May 2015-January 2019)

Served as the chief legal officer to the Navajo Nation. Oversaw a staff of 88 attorneys, legal advocates, prosecutors, and administrative staff. Managed outside counsel contracts and work. Directly oversaw and coordinated the legal work associated with the Nation's response to the Gold King Mine Spill, litigation against Wells Fargo for unfair business practices, litigation against President Trump relating to the Bears Ears National Monument, litigation against opioids manufacturers and distributors, and Arizona voting rights litigation (filed post-midterm election). Provided guidance and leadership to a litigation team that prevailed in blocking certiorari petitions to the U.S. Supreme Court in two significant Indian law cases and secured positive rulings in numerous federal courts of appeal and district court cases. Helped lead effort to strengthen the Nation's public safety system through better coordination of limited resources, elimination of administrative barriers through reform of the Nation's Criminal Code and Rules of Criminal Procedure, and funding of much-needed public safety facilities and staff. Helped launch and oversaw the Nation's Public Integrity Task Force, which developed partnerships, processes, and proposed law and policy changes to enable the Nation to respond quickly and effectively to reports of white-collar crime and public corruption.

KANJI & KATZEN, PLLC, Seattle, WA
Associate (October 2012-May 2015)

Advocated for the protection of tribal sovereign authority and treaty rights through high stakes litigation and sovereign-to-sovereign negotiations. Arbitrated on behalf of a tribe to protect over a half-billion dollars in withheld gaming exclusivity fee payments from being remitted to a state where exclusivity was breached (the parties settled less than a month after the arbitration hearing). Represented a tribe in negotiations with a state regarding the proper basis for calculating gaming revenue share payments. Represented a tribe in negotiations with the Internal Revenue Service related to federal attempts to tax land-based tribal revenues allocated to tribal members on a per capita basis. Represented a tribe in blocking a proposed dock project that threatened adverse impacts to tribal treaty resources. Represented a tribal lead administrative trustee engaged in a seven-trustee CERCLA natural resources damages claim (work centered on the protection of treaty shellfish harvest rights). Represented a tribe in negotiating special Army Corps permit conditions for a state cleanup. Conducted legal, financial, and trial expert research; prepared formal comments on development projects; drafted memos and letters; assisted with hearing-related matters (e.g., exhibit collection, preparation, and management); and engaged regularly with experts and clients.

SEATTLE HUMAN RIGHTS COMMISSION, Seattle, WA
Co-Chair (June 2014-May 2015); Member (September 2013-May 2014)

Led a team of 15 commissioners who advised the Mayor and City Council on advancing human

rights in the City of Seattle. Served on an administrative appellate body for labor and civil rights cases referred to the Seattle Office of Civil Rights. Individual work centered on the advancement of indigenous human rights. Played an integral role in advancing the City's recognition of the second Monday of October as Indigenous Peoples' Day. Led a statewide effort to prompt public comments on the State of Washington's proposed new water quality standards that would have a disproportionate adverse effect on tribal subsistence fish consumers.

INDIAN LAW RESOURCE CENTER, Washington, DC

Attorney (October 2011-August 2012)

Advanced the implementation of the U.N. Declaration on the Rights of Indigenous Peoples in the United States and the Americas by educating tribal leaders, law students, legal professionals, and scientists on the Declaration and the creative ways it can be used to fossilize soft human rights principles into enforceable laws and policies.

NATIVE AMERICAN YOUTH & FAMILY CENTER, Portland, OR

Board Member (September 2009-June 2011)

Served on the Board of a truly remarkable social services-based nonprofit that provides wrap-around services to Native Americans in the Portland metropolitan area. Its services include a high school with an extremely high graduation rate, job training and emerging entrepreneurs training programs, elders programming, cultural programming, housing programs, and much more.

ORRICK, HERRINGTON & SUTCLIFFE, LLP, Portland, OR

Public Finance Associate (October 2008-June 2011)

Drafted borrowing documents to facilitate tax-exempt financings for tribes, states, and local governments. Drafted and reviewed resolutions, statutes, memos, contracts, offering documents, opinions, and rating presentations primarily for tribal clients. Served as bond counsel to the Navajo Nation and helped the Nation secure its first bond rating, refinance its Fire Rock Navajo Casino, finance its additional casino projects, and issue the first tribal general obligation bond (\$60 million) governed by tribal law and enforceable in tribal courts (issue was awarded the 2011 Native American Finance Officers Association Deal of the Year Award). Assisted with the first Tribal Economic Development Bond issue and assisted with an over half a billion dollars refinancing for a tribal casino project. Coordinated pooled issuer document review by 23 associates and paralegals in six offices on a \$1.2 billion Build America Bond issue.

PATTON BOGGS, LLP, Washington, DC

Summer Associate (Summer 2007)

Identified investment incentives related to tribes in the Tax and Indian chapters of the United States Code. Conducted a survey of tribal telecommunications regulations. Drafted a memo on how to enforce a tribal corporation's \$2.1 million judgment against an out-of-state corporation. Reviewed a Draft Environmental Impact Statement for a tribe's land-into-trust application.

SNELL & WILMER, LLP, Phoenix, AZ

Summer Associate (Summer 2007)

Drafted a tribal film ordinance; researched a project's potential Environmental Impact Statement challenges; and wrote memos on the soundness of investing in a specific tribal casino and the instances in which tribal judgments will be enforced in state courts.

UNITED STATES DEPARTMENT OF JUSTICE, Washington, DC

Appellate Section Intern, Environment and Natural Resources Division (Summer 2006)

Drafted an appellate brief relating to a tribal membership dispute that addressed issues of tribal subject matter jurisdiction and tribal and federal sovereign immunity for a case argued and won in the Ninth Circuit Court of Appeals. Wrote a motion to the D.C. Circuit Court of Appeals for summary affirmance on a *res judicata*-barred tribal membership dispute.

UNITED STATES SENATE, Washington, DC

Legal Intern for Senator Byron L. Dorgan, Committee on Indian Affairs (Summer 2005)

Researched and drafted memos on the Indian Gaming Regulatory Act, the Indian Healthcare Improvement Act, and the Native American Graves Protection and Repatriation Act. Provided legal and policy analysis of *Cobell v. Norton*. Advised on hearings and legislation addressing teen suicide and education in Indian country.

DIN SOUTHWEST HIGH SCHOOL, Seba Dalkai, Navajo Nation

Headmistress; Language Arts and History Teacher; Special Education Instructor

(September 2001-June 2002)

Led the administration of a small, public charter high school. Provided instruction in Language Arts and History, for both regular and special education students.

INTERESTS

Mentoring youth and young attorneys, advancing human rights and social justice, following politics, yoga, hiking, and traveling.

NAVAJO NATION

107

4/20/2023

Navajo Nation Council Spring Session

04:56:27 PM

Amd# to Amd#

Legislation 0049-23: Confirming
the Appointment of Ethel B.
Branch as the Navajo Nation as
the Attorney General

PASSED

MOT Jesus, B
SEC Yazzie, C

Yeas : 17

Nays : 3

Excused : 2

Not Voting : 1

Yea : 17

Arviso, S
Begay, H
Begay, N
Claw, S
Daniels, H

James, V
Jesus, B
Johnson, C
Nez, A

Nez, R
Notah, N
Parrish, S
Simonson, G

Simpson, D
Slater, C
Yanito, C
Yazzie, C

Nay : 3

Charles-Newton, E

Aseret, L

Tso, O

Excused : 2

Crotty, A

Damon, S

Not Voting : 1

Tolth, G

Presiding Speaker: Curley, C