

**RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
23rd Navajo Nation Council --- Fourth Year, 2018**

AN ACTION

**RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; PURSUANT TO 25
CFR § 161.204(c) IMPLEMENTING THE BUREAU OF INDIAN AFFAIRS
RECOMMENDATION OF EQUAL DISTRIBUTION OF TEN (10) SHEEP UNITS
YEAR LONG (SUYL) FOR THE NAVAJO PARTITIONED LANDS (NPL) AND
DIRECTING THE NAVAJO DEPARTMENT OF AGRICULTURE TO IMPLEMENT THE
RECOMMENDATIONS OF THE BUREAU OF INDIAN AFFAIRS IN THIS MATTER**

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. Pursuant to 2 N.N.C. Section §501 (C)(1), The Resources and Development Committee of the Navajo Nation Council has the authority to establish Navajo Nation policy with respect to the optimum utilization of all Navajo Nation resources and to protect the rights, interests, sacred sites and freedoms of the Navajo Nation and People to such resources, now and for future generations.
- B. The Resources and Development Committee serves as oversight of the Division of Natural Resources, including District Grazing Officers, Eastern Navajo Land Board, Farm Boards, Soil and Water Conservation Districts, including grazing issues to accomplish the duties set forth in 3 N.N.C. §§ 832 and 852. 2 N.N.C. § 501 (C)(1).

SECTION TWO. FINDINGS

- A. The United States Department of the Interior, Bureau of Indian Affairs, Navajo Regional Office (BIA) sent correspondences to President Russell Begaye regarding the Navajo Partitioned Lands and recommended equal distribution of ten (10) Sheep Units Year Long due to diminished grazing capacity of the land. See **Exhibit A**.

- B. On November 15, 2017 the Resources and Development Committee of the Navajo Nation requested legal review of the acceptance of the BIA recommendations prior to its implementation as policy. See **Exhibit B**.
- C. The Navajo Nation Department of Justice, Natural Resources Unit has communicated its approval of the acceptance by resolution of the Resources and Development Committee, of the BIA recommendations to the Office of Legislative Counsel by email and in direct conversation.
- D. It is in the best interest of the Navajo Nation and consistent with the provisions of 25 CFR § 161.204(c), which states that the "BIA will review the carrying capacity of the grazing units on a continuing basis and in consultation with the Grazing Committee and affected permittees, adjust the stocking rate for each range or management unit as conditions warrant" for the Resources and Development Committee to accept the recommendations of the BIA in this matter.
- E. It is in the best interest of the Navajo Nation that the Resources and Development Committee direct the Navajo Department of Agriculture to implement the BIA recommendation and to do so on a "Chapter ready" basis.

Section Three. Approval

- A. The Resources and Development Committee of the Navajo Nation hereby accepts the recommendations of the BIA regarding the grazing capacities of the NPL and the recommended SUYs, as found at **Exhibit A**.
- B. The Resources and Development Committee hereby directs the Navajo Department of Agriculture to implement these BIA recommendations and to do so on a "Chapter ready" basis.
- C. The Resources and Development Committee reaffirms the 750 feet controlled zones as established by Navajo Tribal Resolution CV-9-50 as attached as **Exhibit C**.

CERTIFICATION

I, hereby certify that the following resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at the Navajo Division of Transportation, Tse Bonito, Navajo Nation (New Mexico), at which a quorum was present and that same was passed by a vote of 3 in favor, 1 opposed, 1 abstained on this 21st day of March, 2018.



Alton Joe Shepherd, Chairperson
Resources and Development Committee
of the 23rd Navajo Nation Council

Motion: Honorable Leonard Pete
Second: Honorable Jonathan Perry



United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
Navajo Regional Office
P.O. Box 1060
Gallup, New Mexico 87301



IN REPLY REFER TO
Office of N460

FEB 03 2017

Honorable Russell Begaye
President, The Navajo Nation
P.O. Box 9000
Window Rock, Arizona 86515

Attention: Department of Agriculture

Dear President Begay:

RE: 2017 Navajo Partitioned Lands Carrying Capacity and Stocking Rate
Recommendation

The Navajo Nation Department of Agriculture and the Bureau of Indian Affairs (BIA), Branch of Natural Resources, has been meeting to discuss a "Critical Path" for re-issuing Grazing Permits on Navajo Partitioned Lands (NPL) and we are now at the stage where we are ready to send the Navajo Nation a list of names. However, pursuant to CFR 161.402 we are required to submit a current carrying capacity and stocking rate along with the list of names for the NPL Precincts. To develop this recommendation, the team reviewed 2004 and 2016 vegetative carrying capacities established from vegetation studies completed by BIA and its contractors with a standard stocking rate of (1) 790lb Cow or AUM = to (4) 197.5lb Sheep or SUYL.

The Range inventory reports completed in 2004 are available for Precincts 1, 2 and 3. The Range inventory reports completed in 2016 are available for Precincts 1 and 3. The 2016 range inventory report available for Precinct 2 will be completed in 2017 and provided to the Navajo Nation as soon as finalized.

Upon review and analysis of the above described range inventory information, combined with grazing permit data for all three precincts, the team is recommending that NPL grazing permits be re-issued at the above stocking rate and a carrying capacity of 10 sheep units yearlong (SUYL). CFR 161.302 sets to a minimum allowed to issue a permit at ten (10) SUYL.

This recommendation accounts for range conditions trending negatively since 2004 and as a result the rangelands will not be able to withstand grazing at 1972 carrying capacities. For historical reference, a total of 65,116 SUYL were contained in 1147 grazing permits on the NPL in 1972. These permits were cancelled with an average number of 57 SUYL.

Analysis:

The 2004 Range Inventory data and carrying capacity in SUYL by precinct is summarized in Table 1.0 below. In 2004, the carrying capacity was 5.79 SUYL in Precinct 1, 12.27 SUYL in Precinct 2, and 11 SUYL in Precinct 3.

Table 1.0
NPL Carrying Capacity Summary for Precincts 1, 2 and 3

			No of Permits			SUYL/Permit 1972
SUYL 1972 65117			1147			56.72
Carrying Cap SUYL 2004	Carrying Cap SUYL 2016 Initial	Carrying Cap SUYL 2016 Adjusted	No of Permits	SUYL/Permit 2004	SUYL/Permit 2016 Initial	SUYL/Permit 2016 Adjusted
Precinct 1			441			
2556	1303	984		5.79	2.95	2.23
Precinct 2			424			
5202	Not available	Not Available		12.27	Not Available	Not Available
Precinct 3			283			
3041	1177	881		10.74	4.16	3.11

In the same table 1.0, the 2016 Range Inventory data shows a 50% decrease (or more) from the 2004 numbers in the carrying capacity for Precinct 1 and 3. An "adjusted" carrying capacity is also incorporated in the data. This adjustment is determined by taking into consideration the distance to water and the percentage of slope of the land. Grazing land with a greater distance to water and higher slopes will not be as readily useable for livestock so the carrying capacity is reduced or "adjusted". Therefore, the 2016 adjusted carrying capacity in Precinct 1 and 3 are further reduced to 2.23 SUYL and 3.11 SUYL respectively. The adjustment factor is about 25 percent.

In absence of 2016 range inventory data for Precinct 2, the team agrees that there is likely a comparable decrease and a similar adjustment from the 2004 data in Precinct 2. Thus, the carrying capacity in Precinct 2 was considered similar to the data from Precinct 1 and 3.

Table 2.0 shows 1997, 2004 and 2016 known carrying capacities for Precincts 1, 2, and 3. These capacities show a decrease in the availability of vegetation on NPL over a period of time.

Table 2.0 - Carrying Capacities for Precincts on the Navajo Partitioned Lands						
Precincts	Chapters	Range Units	1997	2004	2004 Reduction Factor^1	2015/2016
3	Tonalea	101	238	425	255	102
3	Tonalea	102	202	368	221	112
3	Tonalea	103	186	229	137	72
3	Tonalea	104	68	82	49	27
3	Tonalea	105	206	598	358	230
3	Tonalea	106	180	105	63	13
3	Tonalea	107	265	165	99	93
3	Tonalea	108	184	125	75	13
3	Tonalea	109	135	182	109	23
3	Shonto	110	593	594	356	85
3	Chilchinbeto	301	114	60	36	26
3	Shonto	602	129	108	65	20
Total P3		12	2500	3041	1823	816
2	Forest Lake	302	157	204	122	TBD
2	Forest Lake/Hard Rock	303	278	290	174	TBD
2	Hard Rock	304	633	443	265	TBD
2	Hard Rock /Pinon	305	429	461	276	TBD
2	Pinon	306	443	336	201	TBD
2	Pinon	307	424	307	184	TBD
2	Black Mesa	308	508	382	229	TBD
2	Forest Lake	309	439	505	303	TBD
3	Black Mesa	310	345	173	104	65
2	Black Mesa	311	629	432	259	TBD
2	Pinon	401	234	254	152	TBD
2	Blue Gap	402	448	253	152	TBD
2	Whippoorwill	403	92	126	75	TBD
2	Blue Gap	404	254	165	99	TBD
2	Pinon	405	182	157	94	TBD

2	Pinon	406	381	398	239	TBD
2	Whippoorwill	407	127	125	75	TBD
2	Whippoorwill	408	162	191	114	TBD
Total P2		18	6165	5202	3117	TBD
1	Low Mountain	409	273	231	138	93
1	Tolani Lake	501	267	74	44	99
1	Tolani Lake	502	30	9	5	7
1	Tolani Lake	503	47	111	66	40
1	Teesto	504	102	116	69	49
1	Teesto	505	24	38	23	7
1	Teesto	506	24	102	61	23
1	Whitecone	507	331	374	224	155
1	Whitecone	508	146	162	97	49
1	Whitecone	509	257	127	76	86
1	Whitecone	510	222	173	104	75
1	Whitecone	511	280	155	93	48
1	Whitecone	512	160	197	118	76
1	Whitecone	513	212	61	36	67
1	Jeddito	514	347	248	148	48
1	Jeddito	515	45	107	64	10
1	Jeddito	516	35	24	14	3
1	Jeddito	517	163	143	86	30
1	Whitecone	518	90	104	62	19
Total P1		19	3055	2556	1528	984
GRAND TOTAL		49	11720	10799	6468	TBD

Recommendation:

Based on decreasing vegetation from 1997 to 2016 in Precincts 1 and 3, and presumed the same in Precinct 2, re-issuing grazing permits at 1972 SUYL levels is not prudent. Therefore, the range inventory data on NPL suggest adjustments are needed based on the carrying capacity. If we were to implement the adjustment based on old 1972 carrying capacity numbers some permittees who already had low carrying capacities would be well below (10) SUYL which is not allowable under 25 CFR 161.302 and other permittee's who had very high old 1972 carrying capacities would have numbers that the land cannot sustain.

Therefore in fairness, an equal distribution of (10) SUYL carrying capacity for all permits reissued is the recommended best solution at this time.

The team also recommends the carrying capacities for the reissued permits be revisited and possibly adjusted based on yearly range monitoring, range inventory data completed, and conservation planning. By doing so, the Navajo Nation, BIA and the permit holders can manage the range lands and improve the range conditions to produce more productive livestock.

BIA Navajo Region concurs with the recommendations above and requests the concurrence from the Navajo Nation pursuant to 25 CFR 161.204 and 25 CFR 161.403. If you have any questions and for further discussion, please contact Mr. Calvert L. Curley, Division of Natural Resources, at (505) 863-8204.

Sincerely,

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

Regional Director, Navajo




MEMORANDUM

DATE : November 28, 2017

TO : Mariana Kahn Legislative Counsel
23rd Navajo Nation Council

Latonia Becenti-Johnson, Esq.,
Navajo Nation Department of Justice

FROM : 
Alton Joe Shepherd, Chairperson
Resources and Development Committee

SUBJECT : **Requesting for Review for Legal Sufficiency of Attached Letter Relative to the Re-Issuance of the NPL Grazing Permits**

On November 15, 2017, Resources and Development Committee held their regular meeting at TANCR in Twin Arrows and at that time the Committee had on their agenda the discussion with NPL Grazing Official the re-issuance of NPL grazing permits. At that time the Committee issued a directive to have the attached draft correspondence review for legal sufficiency.

The Department of Agriculture apparently drafted the attached letter to be sent to the BIA-Regional Director Ms. Sharon Pinto. They were seeking the Committee's approval for the letter to be sent to Bureau of Indian Affairs; however, the letter needs to be reviewed by OLC and NNDOJ for legal sufficiency. In the letter it references the Committee accepting the February 3, 2017 memorandum from BIA recommending equal distribution of ten (10) sheep units yearlong stock rate and carrying capacity for all permits issued in NPL Range Unit 1, 2 and 3. The letter from Ms. Sharon Pinto is also attached to assist with the legal review as well.

The Committee is requesting to ensure the legal review of acceptance of the BIA's recommendation is fair and equitable, particularly for all of the people that were enumerated when the permits were cancelled in 1974. Mean while, Committee will not move forward with the reissuance process until the letter is legally reviewed and will await your response on the review. Thank you in advance for your assistance.

Cc: Levon Henry, Chief Legal Counsel
Ethel Branch, Attorney General



NAVAJO NATION DEPARTMENT OF JUSTICE

COPY

REQUEST FOR SERVICES



DOJ
#1/28/17 3:55pm
DATE / TIME
RFS #: 17-2798
UNIT: DAG
COPY: ECDU

☐ RESUBMITTAL

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

CLIENT TO COMPLETE

DATE OF REQUEST: 11-28-17 ENTITY/DIVISION: Legislative Branch
CONTACT NAME: Shammie Begay DEPARTMENT: OLS
PHONE NUMBER: X7254 E-MAIL:

COMPLETE DESCRIPTION OF LEGAL NEED AND SERVICES REQUESTED (attach documents):
Re-issuance of NPL Grazing Permits

DEADLINE: asap REASON: RDC to move forward after legal review

DOJ SECRETARY TO COMPLETE

DATE/TIME IN UNIT: 11/28/17 @ 4:58p REVIEWING ATTORNEY/ADVOCATE: Latonia Johnson

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

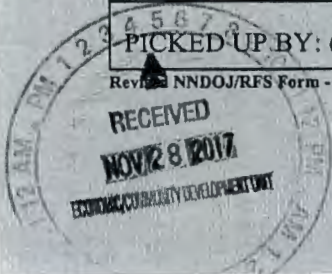
DOJ ATTORNEY / ADVOCATE COMMENTS

REVIEWED BY: (PRINT) DATE / TIME

DOJ Secretary Called: for Document Pick Up on at By:

PICKED UP BY: (PRINT) DATE / TIME:

Rev. NNDOJ/RFS Form - July 2013



RESOURCES AND DEVELOPMENT COMMITTEE

Regular Meeting

March 21, 2018

ROLL CALL **VOTE TALLY SHEET:**

Legislation # 0075-18: An Action Relating to Resources and Development, Pursuant to 25 C.F.R. §161.204(C) Implementing the Bureau of Indian Affairs Recommendation of Equal Distribution of Ten (10) Sheep Units Year Long (SUYL) for the Navajo Partitioned Lands (NPL) and Directing the Navajo Department of Agriculture to Implement The Recommendation of the Bureau of Indian Affairs in this matter.
Sponsor: Honorable Walter Phelps

MAIN MOTION: Leonard Pete **S:** Jonathan Perry **V: 3-1-1 (CNV)**

ROLL CALL VOTE TALLY:

YEAS: Benjamin Bennett; Jonathan Perry; and Leonard Pete

NAYS: Walter Phelps

NOT VOTING: Alton Joe Shepherd (Presiding)

AMENDMENT # 1 MOTION: Benjamin Bennett Second: Leonard Pete Vote: 3-1-1 (CNV)

ROLL CALL VOTE TALLY:

YEAS: Benjamin Bennett; Jonathan Perry; and Leonard Pete

NAYS: Walter Phelps

NOT VOTING: Alton Joe Shepherd (Presiding)

EXCUSED: Davis Filfred



Alton Joe Shepherd, Presiding Chairman
Resources and Development Committee



Shammie Begay, Legislative Advisor
Resources and Development Committee