

**RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
Of the 23rd Navajo Nation Council---Second Year 2016**

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; WAIVING THE APPLICABILITY OF RESOLUTION RCJY-142-92 WITH RESPECT TO THE HOMESITE LEASE APPLICATION FOR LEO, GENEVIEVE AND MICHAEL DENETSONE FOR A HOMESITE LEASE WITHIN THE NAVAJO COMMERCIAL FORESTRY AREA AND WITHIN THE CRYSTAL CHAPTER, NAVAJO NATION (SAN JUAN COUNTY) NEW MEXICO

BE IT ENACTED:

Section One. Authority

Pursuant to 2 N.N.C. §501 (B)(2), the Resources and Development Committee of the Navajo Nation Council has authority to give final approval of all land withdrawals, non-mineral leases, permits, licenses, rights-of-way, surface easements and bonding requirements on Navajo Nation lands and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfers, renewals, and terminations.

Section Two. Findings

A. The Resources Committee (Predecessor to the Resources and Development Committee) passed Resolution No. RCJY-142-92 "Establishing a Moratorium on New Structures, New Homesite Range Units Within the Navajo Commercial Forest Pending Development and Approval of a New Forest Management Plan", attached hereto and incorporated herein as Exhibit A.

B. Leo, Genevieve and Michael Denetsone have applied for a homesite lease within the Navajo Commercial Forestry Area and within the Crystal Chapter, Navajo Nation (San Juan County, New Mexico), as further described in the attached Exhibit B and have requested a waiver of Resolution No. RCJY-142-92 as pertains to their request for a homesite lease.

C. The proposed homesite lease will be located in San Juan County, New Mexico and is more particularly described on the map attached hereto and incorporated herein as Exhibit B.

D. The Crystal Chapter through Resolution CRY 06-2015-053, attached as Exhibit C, supports the homesite lease request and requests that the Resources and Development Committee of the Navajo Nation Council waive Resolution RCJYU-142-92.

E. A Consent Form signed by Betsy E. Newman, concerning Grazing Permit Number 18-04-90, grants consent to lease one acre or less of Navajo Tribal Land with in her permitted grazing area for residential purposes. The Consent Form is attached as Exhibit D.

F. A letter dated November 13, 2014 from the Forest Services Program/NFD to the Director of the Navajo Land Department, attached as Exhibit E, states that homesite lease application is within the commercial forest boundary and the Resources and Development Committee is authorized to give final approval authority because of moratorium described in Resources Committee resolution RCJY-142-92.

Section Three. Waiving Resolution No. RCJY-142-92

A. The Resources and Development Committee of the Navajo Nation Council hereby waives the applicability of Resolution No. RCJY-142-92 "Establishing a Moratorium on New Structures, New Homesite Range Units Within the Navajo Commercial Forest Pending Development and Approval of a New Forest Management Plan" (Exhibit A) with respect to the homesite lease application for Leo, Genevieve and Michael Denetsone for a homesite within the Navajo Commercial Forestry Area and within the Crystal Chapter, Navajo Nation (San Juan County, New Mexico), as further described in the attached Exhibit B, subject to the following terms and conditions:

1. The Lessee shall not infringe on the operation and management of the Navajo commercial forestry authority of the Navajo Nation.

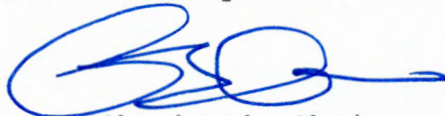
2. The Lessee shall comply with provisions for Homesite Lease Policy and Procedures for Tribal Trust/Fee Land.

3. The Lessee shall obtain a permit from the Navajo Forestry Department prior to cutting any trees within the homesite lease area.

B. The Resources and Development Committee of the Navajo Nation Council hereby authorizes the Director of the Navajo Land Department to process and to execute 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 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 3 in favor, 0 opposed, 1 abstained this 27th day of December, 2016.



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

Motion: Honorable Davis Filfred
Second: Honorable Walter Phelps



RCJY-142-92

RESOLUTION
OF THE RESOURCES COMMITTEE
OF THE NAVAJO NATION COUNCIL

Establishing a Moratorium on New Structures, New Homesites and
Range Units Within the Navajo Commercial Forest Pending Development
and Approval of a New Forest Management Plan

WHEREAS:

1. Pursuant to 2 N.T.C. Section 691 and 695, et seq., the Resources Committee was established as a standing committee of the Navajo Nation Council with the responsibility to oversee and regulate all activities involving the disposition, or alteration of the natural state of the resources, and approving homesite leases; and

2. By 23 N.T.C. Chapter 7, Section 704, the Tribal Forest Manager is to develop a forest management plan for the development, protection and utilization of forest resources; and

3. By 23 N.T.C. Chapter 9, Section 902, the Resources Committee of the Navajo Nation Council is given authority to establish regulations for the forest as proposed by the Forest Manager; and

4. The Navajo Forestry Department is in the process of developing a new ten (10) year forest management plan for the commercial forest area; and

5. There has been a concern over increasing uses and developments in the forest that may limit future uses and management of the forest resources; and

6. The Forestry Department has recognized that the use of the forest has changed from a summer grazing use with seasonal sheep camp sites, to permanent homesites with increased utilities supplied; and

7. The Forestry Department recommends that a moratorium be placed on approvals of any new homesites or related structures within the Navajo Commercial Forest pending completion of the ten (10) year plan for the forest, to ensure future uses for the forest are not limited by today's unplanned actions.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Resources Committee issues a moratorium on construction and approving any new homesite leases, range units and


ARCHIVE COPY

related structures within the Navajo Commercial Forest, as identified on Exhibit "A", until a new ten (10) year forest management plan is approved by the Navajo Nation.

2. The Resources Committee directs all affected divisions, departments, programs, and entities to enforce this moratorium.

C E R T I F I C A T I O N

I hereby certify that the foregoing resolution was duly considered by the Resources 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 4 in favor, 0 opposed and 0 abstained, this 17th day of July, 1992.

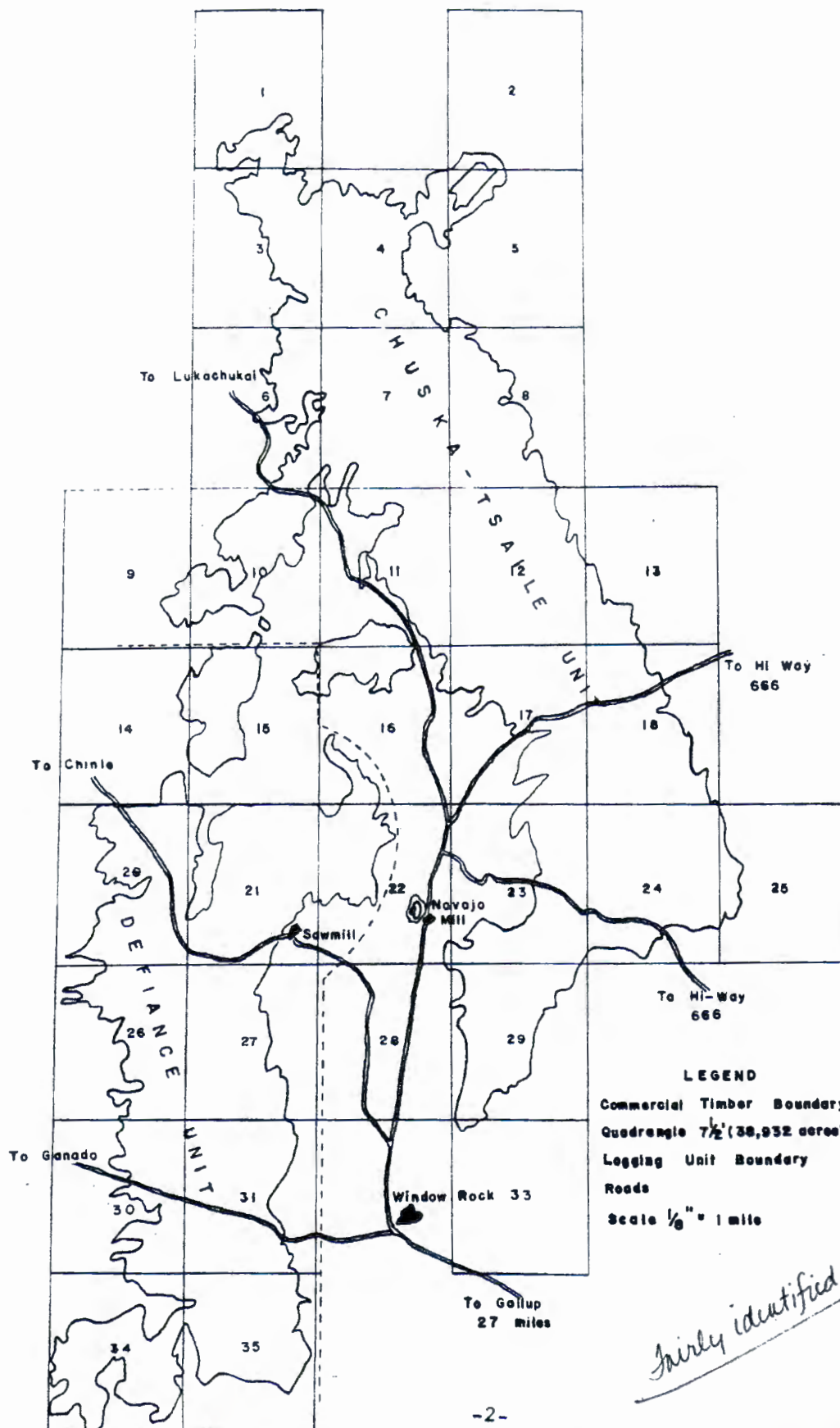

Elmer L. Milford
Chairperson

Motioned: Irving Billy
Seconded: Mark Peshlakai

ARCHIVE COPY

FIGURE 2.1

NAVY WORKING CIRCLE
COMMERCIAL TIMBER LANDS



UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF INDIAN
AFFAIRS NAVAJO AGENCY AND NAVAJO NATION

FOR OFFICE USE ONLY

Field Clearance _____ Consent _____ Filing Fee _____ Certificate of Indian Blood
Land Status _____ Reviewed By: _____ Date: _____

HOMESITE LEASE APPLICATION FORM

DATE: DECEMBER 1, 2012

NAME: LEO DENETSONE CENSUS NO. _____ AGE: 83 83

NAME: GENEVIEVE DENETSONE CENSUS NO. _____ AGE: 75

ADDRESS: MICHAEL DENETSONE " 50

PHONE NO: _____ OFFICE: _____

I, (We) hereby apply for one acre or less of Navajo Tribal Land for a homesite lease from the Navajo Nation for the purpose of developing a private dwelling for the term of sixty-five (65) years within: SECTION _____ TOWNSHIP _____ RANGE _____

CHAPTER: CRYSTAL STATE: NEW MEXICO

COUNTY: SAN JUAN AGENCY: FT. DEFENCE

GRAZING DISTRICT: 18 UNIT: 1

Draw map showing the location and direction to the proposed site.

N
W + E
S

SEE ATTACHED MAP

ACKNOWLEDGEMENT

[Signature]

LOCAL GRAZING OFFICIAL/FARM BOARD MEMBER

7-28-15

DATE

FOR JOINT APPLICANTS ONLY

We have selected one of the following Cotenancy. We acknowledge and understand the difference. (For information, contact Navajo Land Department.)

M.D.
Ed
BW

XXX Joint Tenancy with right of Survivorship: is held by two or more persons jointly, with equal rights to possession and enjoyment during their lives. It is distinguished from other forms of cotenancy by the right of survivorship. Under the doctrine of survivorship, the entire estate upon the death of one of the joint tenants, goes to the survivor, (or, in the case of more than two joint tenants, to the survivors, and so on to the last survivor); the estate of the deceased joint tenant has no interest, and because there is no interest for a testamentary will to transmit, a joint tenancy may not devise his or her interest in the joint tenancy.

In community property jurisdictions, including the Navajo Nation, it is possible for spouses to hold property in joint tenancy, but such property is separate and not subject to the court's distribution upon divorce, nor is it subject to probate upon the death of one spouse.

Absence of a valid contrary contractual agreement among or between the joint tenants, each joint tenant may unilaterally sever the joint tenancy by conveying or encumbering his/her fractional interest. The grantee then becomes a tenant in common (see below) with other joint tenant or tenants and the right of survivorship is destroyed. The fractional interest of each joint tenant can also be taken in satisfaction of debts; such taking severs the joint tenancy. **NO PROBATE REQUIRED, HOMESITE GOES TO SURVIVING PERSON.**

~~**Tenancy in Common:** is identical to a joint tenancy in all but one significant attribute - it lacks the right of survivorship. When a cotenant in common dies, the surviving cotenant(s) does not succeed to the decedent's interest. Rather, the decedent's fractional interest in the property must be probated. **PROBATE REQUIRED, COURT WILL MAKE DECISION, ATTORNEY FEES INVOLVED.**~~

~~**Community Property:** By statute. The Navajo Nation is a community property jurisdiction (see 9 N.T.C. §205). If a married couple does not elect to hold their homesite in community property, then community property principles will govern the distribution of the marital property upon dissolution of marriage, and upon the death of one spouse, one half of the community property (the decedent's share) must be probated in accordance with Navajo law. **PROBATE REQUIRED, COURT WILL MAKE DECISION, ATTORNEY FEES INVOLVED.**~~

The above mentioned cotenancy has been explained to us. We acknowledge and understand the difference.

Signed this 12th day of January, 2013.

Leo Denetsone
Applicant **Leo Denetsone**

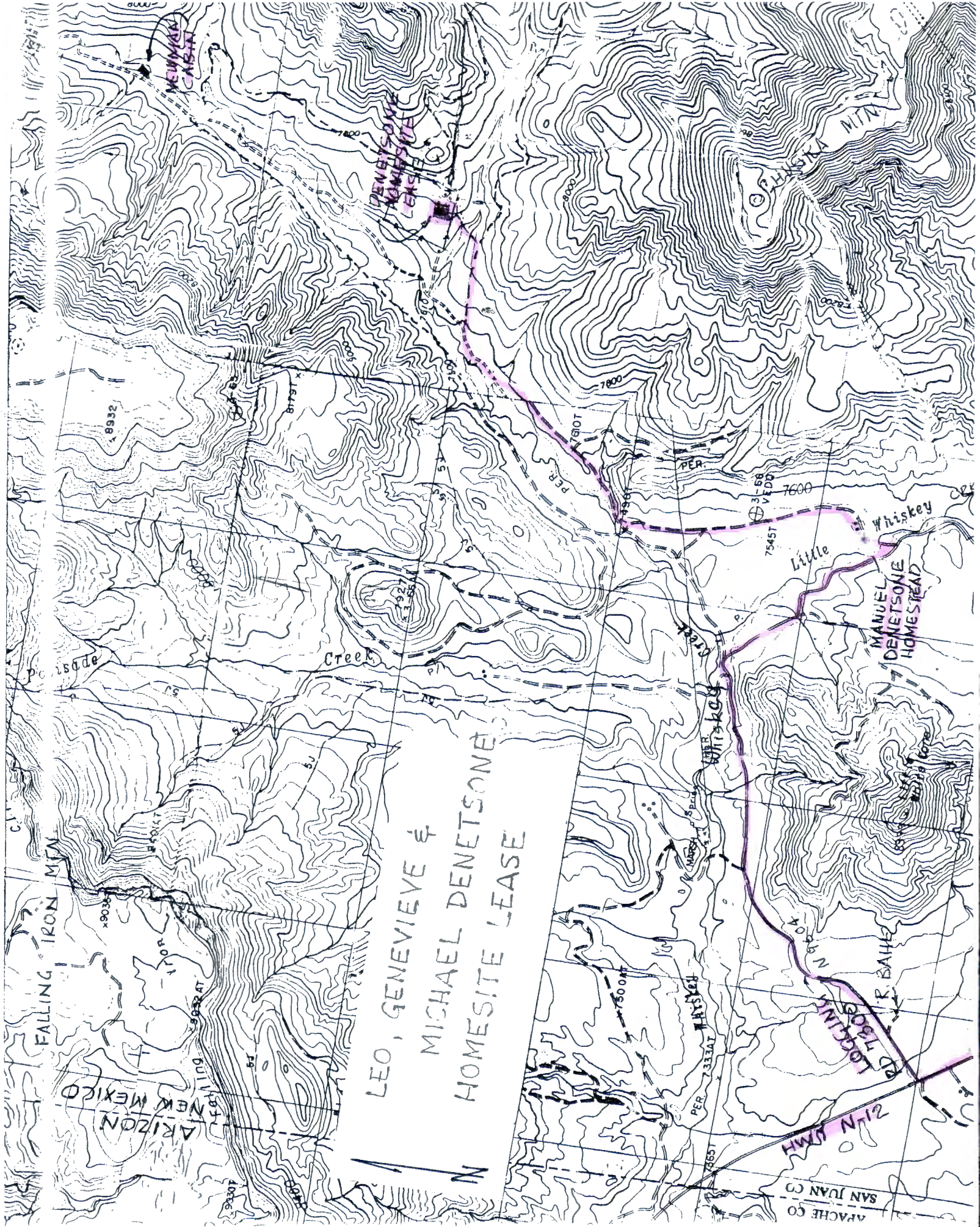
Census No.

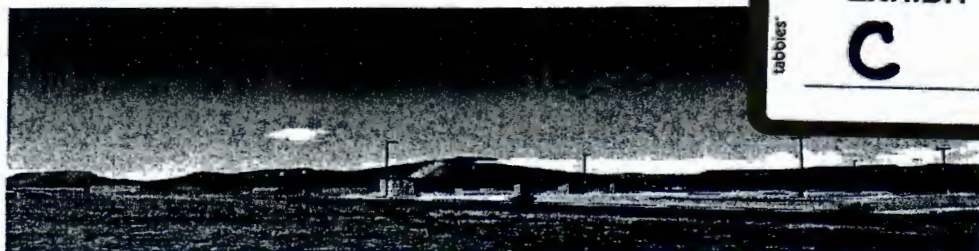
Genevieve Denetsone
Applicant **Genevieve Denetsone**

Census No.

Michael Denetsone
Applicant **Michael Denetsone**

Census No.





PO Box 775, Navajo, New Mexico 87328

(505)777-2800/2801 (505)777-2805

CRY 06-2015-053

CRYSTAL CHAPTER RESOLUTION

SUPPORTING THE REQUEST OF THE DENETSONE'S FOR A HOME SITE LEASE WITHIN THEIR TRADITIONAL USE AREA, NEAR WHISKEY CREEK CANYON

WHEREAS:

1. Pursuant to 26 N.N.C. Section 3(A), the Crystal Chapter is a certified Chapter of the Navajo Nation as listed under 11 N.N.C., Part 1, Section 10; and
2. Pursuant to 26 N.N.C. Section 1(B), the Crystal Chapter is delegated the governmental authority to make decisions over local matters consistent with the Navajo law, custom and tradition; and
3. Leo, Genevieve and Michael Denetsone (enrolled members of the Navajo Tribe) have applied for a one-acre home site lease located within a fenced field in Shortey's Canyon, near Whiskey Creek, Crystal, New Mexico. The Whiskey Creek Canyon is located within the Denetsone family traditional use area and has been occupied and ranched for almost 150 years (since shortly after their great-grandfather returned from Fort Sumner. The family has had an exclusive grazing permit for the Canyon for many generations. In addition to running sheep and cattle, in earlier years various pasture areas were farmed with irrigation systems being installed. The proposed home site is within one of these formerly farmed pasture areas.
4. A Field Clearance Certification has been signed by Louise Q. Mark, Grazing Committee Member, for Grazing Management District 18-1, together with a consent form signed by Betsey Denetsone Newman, the authorized grazing permit.
5. On July 11, 2015, a letter was submitted to the Navajo Nation Forestry Department requesting support of the home site lease application as an exception to the moratorium on approving new home sites within Navajo commercial forested areas per Resources Committee Resolution No. RCJY-142-92.
6. Subsequently, the applicant and a Forestry representative toured the site and the applicant was informed the Forestry Department could recommend approval, subject to a waiver of requirements by the Resources Committee. A later field inspection was conducted by the Forestry representative and Grazing Committee member. After numerous follow-up visits, a memorandum dated November 13, 2014 was issued by the Forest Services Program which denied the home site lease application going forward and stated the Resources Committee had the final approval authority to allow the application to go forward. This denial means archaeological and other clearances cannot be requested.
7. Resolution No. RCJY-142-92 was adopted on July 17, 1992. I issued a moratorium on approval of any new home sites (et al) until a new ten year forest management plan was approved by the Navajo Nation. It has now been 23 years, and this delay in approval of such a plan has placed an unfair burden on traditional land users' rights for home site leases in traditional use areas that will not adversely impact commercial timber resources.

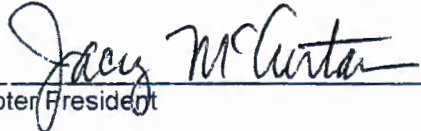
8. The Denetsone applicants hereby requests the Crystal Chapter to support the home site lease application and support a request to the Resources Committee of the Navajo Nation Council to grant an exception to the moratorium on approval of a home site lease in the Whiskey Creek Canyon lands.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Crystal Chapter supports home site leases for traditional land use members.
2. The Crystal Chapter concurs that the location of the proposed home site lease will not adversely impact the commercial timber and forested area.
3. The Crystal Chapter respectfully requests the Navajo Resources Committee of the Navajo Nation Council to waive the requirements of the moratorium established by Resolution No RCJYU-142-92 and approve the home site lease application of Leo, Genevieve and Michael Denetsone.

CERTIFICATION

I hereby certify that the foregoing resolution was considered at a duly called meeting of the Crystal Chapter, (Navajo Nation) Crystal, New Mexico at which a quorum was present and that same was motioned by Betty McCurtain and seconded by Tashina Begay and adopted with votes of 24 in favor, 0 opposed and 4 abstained on this 14th day of June 2015.


Chapter President



CONSENT FORM
FOR
NAVAJO TRUST LAND

I, Betsy E. Newman hereby grant consent to the Navajo Nation
and the Bureau of Indian Affairs to permit #18-04-90 Leo Denetsone, Genevieve
Denetsone and Michael Denetsone to lease one acre or less of Navajo Tribal
Land within my permitted grazing/land use area for residential purposes as illus-
trated and acknowledged by the Grazing/Land Farm Board Official on the Homesite
Lease Application.

I further waive any rights I may have to compensate for the diminishment in
value of my permitted grazing/land use rights as a result of the proposed homesite
development.

Signed this 4th day of February, 2013.

WITNESSES:
(For thumbprint use, or)

Betsy E. Newman
Permit Holder's Signature

C# Leo Denetsone

Grazing Permit No.: 18-04-90
Date of Issue: 2-16-90
Farm Plot No.: -----

ACKNOWLEDGED:

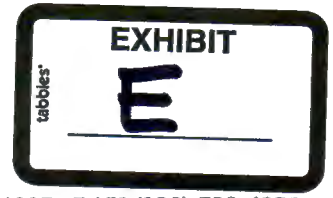
AQR
Grazing Official/Farm Board Member

2/4/13
Date

CRYSTAL CHAPTER
Chapter



THE
NAVAJO
NATION



NAVAJO FORESTRY DEPARTMENT P.O. BOX 230 FT. DEFIANCE, ARIZONA 86504 PH: (928) 729-4007 FAX (928) 729-4225

RUSSELL BEGAY
PRESIDENT

JONATHAN NEZ
VICE-PRESIDENT

November 13, 2014

TO: M. Wilder Halona, Director
Navajo Land Department
Division of Natural Resources

FROM: Michael Yazzie
Michael Yazzie, Program Manager
Forest Services Program/NFD
Division of Natural Resources

SUBJECT: Proposed Homesite lease recommendation for Michael Denetsone
P.O. Box 3088 , Window Rock, Arizona 86515

The Navajo Forestry Department is in receipt of a proposed homesite lease application for Mr. & Mrs. Leo (Genevieve) Denetsone, for their son, Michael Denetsone, situated within the Falling Irons and Whiskey Creek geographical area. The land status is within the Navajo commercial forest boundary for which there is a moratorium prohibiting any new homesite leases being developed thereof.

A GPS reading was noted of which is North 36°, 09' 31.20"; West 108°, 59' 18.00" with an elevation of 07790 FT. This reading is within a disturbed area utilized in previous years as part of an agricultural field of which the elderly Mr. Denetsone stated they grew oats, potatoes over 14 years ago, but stopped due to the current drought conditions. Currently the area is fenced-in with barbed wire.

Due to the request being in the commercial forest boundary, and other entities involved in the approval process; it is the opinion of the Navajo Forestry Department to gather more information in reference to how this applicant can ensure their trust responsibility in managing this as a multi-natural resource plan objective with Navajo Fish & Wildlife Department, Navajo Department of Agriculture, Crystal Grazing representative, EPA and Historic Preservation Departments.

It is the opinion of the Navajo Forestry Department to follow protocol of not allowing this request go forth as a finalized "homesite lease", per Resource Committee Resolution RCJY-142-92.

The applicants have been advised of the moratorium and that the Resources & Development Committee of the Navajo Nation Council have the final approval authority to allow this application to go forth as a legal Homesite Lease document.

Xc :File

Applicant- Michael Denetsone
Crystal Grazing official, Louise Mark

November 13, 2014
Alex Becenti
Forest Manager
Navajo Nation
Fort Defiance Arizona

Re: Homesite lease in Whiskey Creek Canyon

Dear Mr. Becenti:

My wife Genevieve Denestone, our son Michael Denetsone, and I, all enrolled members of the Navajo Nation, are applying for a homesite lease in Whiskey Creek Canyon, where my family has lived and ranched for almost 150 years. For the reasons set out below, I request that the Forestry Department recommend approval of my homesite lease and support a waiver of the moratorium on building in Whiskey Creek Canyon.

My family has been occupying the Whiskey Creek Canyon since shortly after my great grandfather returned from Fort Sumner. I was raised in the Canyon along with my brothers and sister. My family has had an exclusive grazing permit for the Canyon for many generations. In addition to running cattle in the Canyon, my father and I farmed various pasture areas after building irrigation systems to provide water to the pasture area. The homesite lease I am applying for is located on the east side of the Canyon in one of those pastures we had farmed so the land has already been disturbed. My sister Betsy built a cabin on the west side of Whiskey Creek in 1989. There are no other structures inside the Canyon. (The Denetsone ranch house in which I grew up is located just outside the mouth of the Canyon and is presently occupied by another family member.)

In the late 1960s, a man claiming to be a relative of the Denetsone family asserted his right to live in the Canyon and moved into an old deteriorating cabin my family had build on the same pasture I am seeking to get a homesite lease on. (This cabin has since fallen down.) I told the man that he had no rights in the Canyon. When the man refused to leave, I filed a law suit in Navajo Tribal Court asking the Court to require the man to leave. Before the Court issued a decision, I agreed to pay the man \$400 in return for the man agreeing to relinquish all rights to the Canyon. The settlement was presented to the Court which issued an order giving me the exclusive rights to the area.

I am a veteran and getting on in years, with my 87th birthday coming up in April. Because of this and because of my family's longstanding occupation of the Canyon, I request that your office support my application for a homesite lease at the location I have identified in Whiskey Creek Canyon as an exception to the moratorium on building in Whiskey Creek Canyon.

Sincerely yours,


Leo Denesone

P. O. Box 3088
Window Rock, AZ 86515

11 July 2013

Mr. Alexious C. Becenti, Sr.
Forest Manager
Navajo Forestry Department
P. O. Box 230
Fort Defiance, AZ 8604

Dear Mr. Becenti:

Leo, Genevieve and Michael Denetsone (members of the Navajo Tribe) are applying for a one-acre homesite lease located on a field in Shortey's Canyon, near Whiskey Creek, Crystal, New Mexico. It is our belief that no timber will be adversely affected by approval of the homesite.

Last week, I visited your office to request a field inspection for forestry clearance purposes. Thereafter, Mr. Michael Yazzie and I toured the site. Mr. Yazzie indicated that the Forestry Department could recommend approval, subject to a waiver of requirements by the Resources Committee.

This is to request that you forward your favorable recommendation to the Office of the Resources Committee so that the item may be placed on the Committee agenda for consideration purposes.

Thank you very much.

Sincerely,



Leo Denetsone