

B. This Act supersedes the safety and health responsibilities previously given to the Navajo Occupational Safety and Health Administration and provides broad new duties and responsibilities in an attempt to meet the requirements of the federal Occupational Safety and Health Act of 1970.¹

History

CAP-39-00, April 20, 2000.

§ 1573. Severability of the Act

If any provision of this Act or the application thereof to any person, employer, association, entity or circumstances is held invalid, such invalidity shall not affect the remaining provisions or applications of the Act.

History

CAP-39-00, April 20, 2000.

§ 1574. Effective date and amendment of the Act

A. The effective date of this Act shall be March 1, 2000 after the passage of the Act by the Navajo Nation Council and shall remain in effect until amended or repealed by the Navajo Nation Council.

B. Any amendment or repeal of the Act shall only be effective upon approval of the Navajo Nation Council, and shall not be valid if it has the effect of amending, modifying, limiting, expanding or waiving the Act for the benefit or the detriment of a particular individual.

C. Any amendment to the Act, unless expressly stated otherwise, shall become effective 60 days after the passage thereof by the Navajo Nation Council.

D. The Human Services Committee of the Navajo Nation Council will make amendments to the Navajo Nation Council from time-to-time or deemed appropriate and applicable with Navajo Nation laws.

History

CAP-39-00, April 20, 2000.

Title 16

Land

History

Note. Office of Tribal Land Administration previously codified as Chapter 1, Subchapter 3, §§ 201-204, has been deleted from this Code pursuant to Navajo Nation Attorney General's advice on Plans of Operation for Navajo Nation Divisions dated January 4, 1991.

Cross References

Navajo Nation Cultural Resources Protection Act, 19 N.N.C. § 1001 *et seq.*

Annotations

See annotations under Allotted Lands in digest.

Chapter 1. Navajo Nation Policy on Acquisition of Lands

§ 1. Major purposes

A. The Navajo Nation's major purposes in acquiring new lands shall be to:

1. Consolidate Indian holdings in "checkerboard" areas wherever the best interests of the Navajos residing in the area and the welfare of the Navajo Nation are served thereby;

2. Provide grazing lands for members of the Navajo Nation who do not have grazing permits;

3. Provide additional or substitute lands for members of the Navajo Nation who reside in overcrowded areas of the Reservation;

4. Relieve Reservation land resources from excessive use; and

5. Provide land necessary for approved Navajo Nation enterprises.

History

ACJN-117-68, June 13, 1968.

CAP-49-68, April 23, 1968.

ACJ-8-55, January 11, 1955.

CJ-23-54, June 9, 1954.

ACM-14-54, March 23, 1954.

Cross References

Industrialization program, acquisition of land, 5 N.N.C. § 5.

Labor policy of Navajo Nation, provisions in leases to obey, 15 N.N.C. § 609.

Navajo Nation Business Site Leasing Act of 2000, 5 N.N.C. § 2301 *et seq.*

School purposes, withdrawal of land, 10 N.N.C. § 1201.

United States Code

Allotment of Indian lands generally, see 25 U.S.C. §§ 331 and 461 *et seq.*

Homesteads to Indians located on public lands, 43 U.S.C. §§ 190, 190(a); 25 U.S.C. § 337(a).

Lease of restricted lands for public, religious, educational, recreational, residential, business, grazing and farming purposes, with maximum term of ninety-nine (99) years, 25 U.S.C. §§ 415, and 635(a).

Lease, sale, or other disposition of land owned in fee simple by Navajo Tribe, 25 U.S.C. § 635(b).

Rights-of-way through Indian lands, 25 U.S.C. § 311 *et seq.*

Title to certain lands held in trust for Canoncito Navajo Indians, 25 U.S.C. §§ 621 and 622.

Transfer to corporation owned by Tribe or municipal corporation of legal title or leasehold interest in any unallotted lands held for Navajo Nation, 25 U.S.C. § 635(c)

Code of Federal Regulations

Indian allotments, see 43 CFR § 2530.0-3 *et seq.*

Land acquisitions, see 25 CFR § 151.1 *et seq.*

Leases and permits, see 25 CFR § 162.100 *et seq.*

§ 2. Methods of acquisition

The Navajo Nation may acquire new lands by exchange, gift, or purchase.

History

ACJ-8-55; January 11, 1955.

§ 3. Land acquisition program; code of use; priorities

The Resources Committee of the Navajo Nation Council is authorized and directed to: (1) Formulate a land acquisition program; (2) Develop a code of use for land acquired; and (3) Establish areas to be given priority attention.

History

ACJ-8-55, January 11, 1955.

Cross References

Resources Committee generally, 2 N.N.C. § 691 *et seq.*

§ 4. Management of agricultural and range lands

It is the policy of the Navajo Nation to manage agricultural and range

lands in accordance with principles of sound and practical use, developing such lands to their maximum and preventing practices which damage or deteriorate them.

History

ACJ-8-55, January 11, 1955.

§ 5. Unrestricted lands; taxes and fees

Except as the United States may otherwise determine, the Navajo Nation shall, in acquiring unrestricted lands, assume responsibility for the payment of taxes lawfully imposed, and of all established fees for the use of federally or state-owned lands.

History

ACJ-8-55, January 11, 1955.

§ 6. Scope of land acquisition

Land acquisition includes agricultural and range lands and land for business or industrial purposes.

History

ACJ-8-55, January 11, 1955.

§ 7. Land acquisition proposals; plans for use

The Resources Committee of the Navajo Nation Council is authorized and directed to consider and investigate land acquisition proposals and to report findings and recommendations to the Navajo Nation Council. Proposals for land acquisition shall not be considered by the Navajo Nation Council unless the lands and the possible uses thereof conform to this land acquisition policy. Following acquisition thereof, a specific plan shall be prepared showing in detail the proposed use and operation of said land, which plan shall conform to the land use code and shall be strictly complied with. No deviation therefrom shall be permitted without the consent of the Navajo Nation Council based upon the recommendation of the Resources Committee.

History

CN-72-92, November 4, 1992.

CD-68-89, December 15, 1989.

ACJ-8-55, January 11, 1955.

Cross References

Land acquisition recommendations, 2 N.N.C. § 695(B)(3).

§ 8. Cost of purchased lands

Purchased lands shall be acquired within a total cost calculated to yield to the Navajo Nation sufficient income from such land to pay taxes, land use fees, cost of administration, and to amortize the Navajo Nation investment over a period not to exceed 50 years. Provided, however, that the cost of range lands purchased by the Navajo Nation in New Mexico may be amortized for a period not to exceed 99 years.

History

CMY-46-70, May 20, 1970.

ACJ-8-55, January 11, 1955.

§ 9. Appraisal of land

All acquisition of land shall be based on a comprehensive appraisal thereof, to be secured by the Navajo Nation and approved by the Navajo Nation Council and authorized officials of the Bureau of Indian Affairs. No Navajo Nation monies shall be expended for the purchase in excess of the appraisal value plus an amount equal to ten percent (10%) in excess of such appraised value unless fully justified. Purchases must conform to the limitations established in 16 N.N.C. § 8, as indicated by the approved appraisal report.

History

ACJ-8-55, January 11, 1955.

§ 10. Procedure for acquisition of land

A.¹ The procedure for acquisition of land shall be as follows:

1. Sufficient indication to Navajo Nation representatives that a property owner would consider sale of his or her property to the Navajo Nation, an instrument granting Navajo Nation representatives access to the property for the purpose of conducting preliminary investigations of the property will be secured.

2. When a preliminary investigation disclosing that the property is desirable when adjudged by the standards stated in the Navajo Nation land acquisition program, an appraisal report will be secured. After review by the Resources Committee, the appraisal report will be submitted to designated Bureau of Indian Affairs officials for approval.

3. After approval of the appraisal report by the Bureau of Indian Affairs, authorized Navajo Nation representatives may enter into negotiations with the property owner. Negotiations will be governed by the estimates in the approved appraisal report, and the principles of the Navajo Nation Land Purchase Program.

4. If negotiations are carried on longer than six months, the appraisal report will be supplemented to bring value estimates in line with current market conditions.

History

ACJ-8-55, January 11, 1955.

CM-37-53, May 21, 1953.

Chapter 3. Land Acquisition Trust Fund

History

CAP-41-94, April 20, 1989.

Note. Office of Tribal Land Administration previously codified as Chapter 1, Subchapter 3, §§ 201-204, has been deleted from this Code pursuant to the Navajo Nation Attorney General's advice on Plans of Operation for Navajo Nation Division dated January 4, 1991. Slightly reworded for purposes of statutory form.

§ 201. Establishment

There is hereby established, the Navajo Nation Land Acquisition Trust Fund (hereinafter referred to as the "Fund"). Each year, and during the appropriation of the Navajo Nation Operation Budget, the Navajo Nation Council shall budget a sum equal to at least two percent (2%) of any and all projected revenues of the Navajo Nation, including, but not limited to revenues received from taxes, oil and gas mining and minerals, timber, land rentals, interest and dividends, gain on sale of securities and other revenue producing activities for transfer to the Fund. Supplemental appropriations may be added to the Fund at any time. Any money deposited into the Fund, plus accrued interest, shall be used only as provided hereinafter.

History

CJY-54-94, July 20, 1994.

§ 202. Investment of the Fund

A. All monies deposited in the Fund shall be invested to purchase land for the Navajo Nation in accordance with the Land Acquisition Policies and Procedures adopted by the Resources Committee of the Navajo Nation Council.

B. Pursuant to 16 N.N.C. § 1, the major purposes of acquiring new lands are:

1. To consolidate Indian holdings in the "checkerboard" area wherever the best interests of the Navajos residing in the area and the welfare of the Navajo Nation are served thereby;
2. To provide grazing lands for members of the Navajo Nation who do not have grazing permits;
3. To provide additional or substitute lands for members of the Navajo Nation who reside in overcrowded areas of the Reservation;

4. To relieve Reservation land resources from excessive use; and

5. To provide land necessary for approved Navajo Nation enterprises.

C. Pursuant to 16 N.N.C. § 6, land acquisition may include agricultural and range lands and land for business or industrial purposes.

D. The administrative management of the Fund shall be entrusted with the Navajo Land Department. Pursuant to CN-72-92, the Resources Committee of the Navajo Nation Council serves as the Legislative Oversight Committee over the Navajo Land Department and has (certain authority and function in the land acquisition process). All investment objectives shall be approved in accordance with 16 N.N.C. § 1, *et seq.*, and other applicable Navajo Nation laws.

History

CJY-54-94, July 20, 1994.

§ 203. Definition of principal and income

The following definitions shall apply:

A. "Fund Principal" shall consist of the initial appropriation plus two percent (2%) annual contribution from any and all projected revenues of the Navajo Nation, including, but not limited to revenues received from taxes, oil and gas mining and minerals, timber, land rentals, interest and dividends, gain on sale of securities and other revenue producing activities for transfer to the Fund. The Fund principal shall include the supplemental appropriations that may be added to the Fund at any time.

B. "Fund Income" shall consist of all earnings, including interest, dividends, etc., generated by the principal of the Fund.

History

CJY-54-94, July 20, 1994.

§ 204. Expenditure of Fund principal

Fund principal shall not be expended except pursuant to a two-thirds (2/3) vote of the full membership of the Navajo Nation Council.

History

CJY-54-94, July 20, 1994.

§ 205. Expenditure of Fund income

Ninety percent (90%) of the Fund income shall be used for land acquisition(s). Ten percent (10%) of the Fund income shall be reinvested in the Fund to cover the rate of inflation.

History

CJY-54-94, July 20, 1994.

§ 206. Annual audited report

The Fund shall be audited annually by the Navajo Nation Auditor General. The audit report shall be made available to the Resources Committee, the Budget and Finance Committee, the Office of the Speaker, and the President and Vice-President of the Navajo Nation and members of the Navajo Nation Council.

History

CJY-54-94, July 20, 1994.

§ 207. Expenses

Expenses to hire licensed land appraiser may be paid from the fund income until the Navajo Land Department has employed a full-time licensed appraiser.

History

CJY-54-94, July 20, 1994.

§ 208. Amendments

Sections 201, 202, 203, 205, 206, and 207 may be amended by the Navajo Nation Council upon the recommendation of the Resources Committee of the Navajo Nation Council and the Navajo Land Department; § 204 shall be amended only by two-thirds (2/3) vote of the full membership of the Navajo Nation Council.

History

CJY-54-94, July 20, 1994.

Chapter 5. Acquisition of Lands

Subchapter 1. Acquisition of Public Lands

§ 401. Purchases under Isolated Tract Law

The Resources Committee and Navajo Nation Council are instructed to include the purchase of public land under the Isolated Tract Law (43 U.S.C. § 1171) or other applicable law in the Navajo Land Acquisition Program, and the President of the Navajo Nation, in accordance with such procedures as the Committee may approve, is authorized to submit applications, present bids, and assert preference rights, on behalf of the Navajo Nation, to purchase any tract of public land pursuant to applicable law.

History

CM-19-56, May 22, 1956.

Note. 2 N.N.C. § 695(B)(3) gives the Navajo Nation Council final authority to acquire lands. "Government Services Committee" was not inserted in lieu of "Advisory Committee".

§ 402. Applications, bids and preference rights under Isolated Tract Law

A. The President of the Navajo Nation, upon and with approval of the Resources Committee is authorized to submit applications and bids and assert preference rights on all lands available for purchase under the applicable public law as, in his or her discretion, would be desirable for the Navajo Nation to acquire in the "checkerboard" area of New Mexico and in the States of Arizona and Utah.

B. The President is further authorized to take any action necessary for the completion of these acquisitions including, but not limited to, perfecting appeals from adverse decisions of the Bureau of Land Management.

History

CO-68-89, December 15, 1989.

ACD-174-59, December 14, 1959.

ACJ-8-58, January 16, 1958.

Cross References

Resources Committee Authority, 2 N.N.C. § 695(B)(3).

Subchapter 3. Gifts of Lands

§ 451. Gifts of lands within Reservation

A. The President of the Navajo Nation is authorized to accept, on behalf of the Navajo Nation, gifts of unimproved lands within the exterior boundaries of the Navajo Indian Reservation, and of other lands within the exterior boundaries containing improvements not in excess of the value of one thousand dollars (\$1,000).

B. The President of the Navajo Nation with the consent of the Government Services Committee is authorized to accept gifts of lands within the exterior boundaries of the Navajo Indian Reservation containing improvements in excess of the value of one thousand dollars (\$1,000).

History

CJ-34-58, July 21, 1958.

Cross References

Gifts of property, 2 N.N.C. § 1010.

Resources Committee Authority, 2 N.N.C. § 695(B)(3).

§ 452. Gifts of lands outside Reservation

A. The President of the Navajo Nation with the consent of the Government Services Committee is authorized to accept gifts of lands not exceeding the value of ten thousand dollars (\$10,000), including the value of improvements thereon, outside the exterior boundaries of the Navajo Indian Reservation.

B. Gifts of lands outside the exterior boundaries of the Navajo Indian Reservation of a value exceeding ten thousand dollars (\$10,000), including the value of improvements thereon, shall be accepted by the President of the Navajo Nation only pursuant to special authorization of the Navajo Nation Council.

History

CJ-34-58, July 21, 1958.

Cross References

Gifts of property, 2 N.N.C. § 1010.

Resources Committee Authority, 2 N.N.C. § 695(B)(3).

§ 453. Lands defined

The term "lands", as used in 16 N.N.C. §§ 451 and 452 shall mean land or any parcel thereof, or any interest in land or in any parcel thereof, including leasehold interests.

History

CJ-34-58, July 21, 1958.

§ 454. Funds for taxes, rents or other charges

Before the President shall accept any gifts of lands on behalf of the Navajo Nation he or she shall ascertain what taxes, rents, or other charges will become due thereon during the remainder of the fiscal year in which such gift is to be accepted, and shall not accept any such gift unless sufficient funds are provided in the Navajo Nation budget currently in force to pay such charges during such fiscal year.

History

CJ-34-58, July 21, 1958.

Chapter 6. Navajo Land Consolidation Plan

§ 501. Purpose of Plan

The purpose of the Navajo Land Consolidation Plan is to provide additional authority to consolidate and augment the Navajo land base, in

accordance with the provisions of the Indian Land Consolidation Act, 25 U.S.C. §§ 2201, *et seq.* (ILCA). The Indian Finance Act (April 12, 1974; P.L. 93-262, Title 1); 88 Stat. 78 (codified at 25 U.S.C. § 1466 [1983], 25 U.S.C. 463(a)); 25 U.S.C. 465, the Federal Property and Administration Services Act of 1949, as amended (codified at 40 U.S.C. § 483(a) [Supp. 1987]), and § 5 of the Navajo and Hopi Indian Rehabilitation Act of 1950, as amended (codified at 25 U.S.C. § 635) provide further authority for taking land and improvements into trust for the Navajo Nation under this Plan. Acquisitions of land under this Plan shall conform to the policies, priorities, and procedures of Chapter 1, Title 16 of the Navajo Nation Code, unless otherwise expressly stated in this Plan or any amendment thereto approved by the Navajo Nation Council or a duly authorized committee. Lands so acquired will be administered for economic, industrial, residential, recreation, and other purposes as set forth by the Navajo Nation Council and its duly authorized committees.

History

CMY-23-88, May 4, 1988.

§ 502. Land consolidation area

A. The land acquisition and consolidation area includes all lands, including federally administered and public domain lands, within:

1. The boundaries of the Navajo Reservation;
2. Navajo "Indian Country" as defined by 18 U.S.C. § 1151;
3. The aboriginal land area of the Navajo Tribe of Indians, as established by the Indian Claims Commission;
4. The Counties of McKinley, San Juan, Sandoval, Cibola, Bernalillo, Socorro, and Valencia in the State of New Mexico; and
5. Such other lands as designated on the map attached as Figure "A" to Navajo Nation Council Resolution CMY-23-88.

B. Any land consolidation plans approved previously by the Bureau of Indian Affairs for the satellite Reservations of Alamo, Canoncito, and Ramah shall be deemed to be incorporated herein, and may be amended by the Navajo Nation Council or its duly authorized committees.

History

CMY-23-88, May 4, 1988

Note. Canoncito is now referred to as Tóhajiilee.

§ 503. Operational policy and procedure

A. Tracts and properties within the land consolidation area will be continually monitored to identify available acquisitions. Close contact will be maintained with the Bureau of Indian Affairs, Navajo Area Branch of Realty personnel for identification of individual allotted and restricted heirship

lands or minerals or water rights, with the Navajo Nation's preferential rights being exercised during the sale process.

B. Specific proposals for acquisition and consolidation will be developed by the Resources Committee of the Navajo Nation Council, with the assistance of the Navajo Division of Natural Resources and the Department of Justice of the Navajo Nation. The Resources Committee will recommend to the Navajo Nation Council resolutions for final action, and to authorize the Bureau of Indian Affairs to accomplish any federal actions needed to effect such transaction.

C. An interest bearing trust account shall be established by the Secretary of the Interior or his or her delegate pursuant to 25 U.S.C. § 2203(a)(4). All proceeds derived from transactions of tribal land consolidations shall be deposited into this account and utilized only for the purposes of land consolidation.

D. An appraisal of value will be developed in accordance with the established standards of the appraisal profession by the Navajo Land Department and utilized as a guide in all acquisitions, disposals, exchanges, and other proposals for land consolidation. The Navajo Nation Code and all applicable provisions of the Code of Federal Regulations (25 C.F.R. Part 151-Land Acquisitions) shall be followed.

History

CO-43-88, October 25, 1988.

CMY-23-88, May 4, 1988.

§ 504. Purchase, sale or exchange of interests

The Navajo Nation Council upon recommendation of the Resources Committee, may sell, exchange, purchase, or acquire any Navajo trust or restricted or unrestricted lands, or interests in such lands for the purpose of eliminating undivided fractional interests in Navajo Nation trust or restricted lands, or consolidation of Navajo Nation land holdings. Any such purchase, sale, or exchange shall conform to the following conditions:

A. The sale price paid or exchange value received by the Navajo Nation for land or interests in land covered by this Section shall deviate by no more than ten percent (10%) of the fair market value;

B. If the Navajo Nation land involved in an exchange is of greater or lesser value than the land for which it is being exchanged, the Navajo Nation may accept the land exchange or give or receive cash in such exchange to equalize the values of the property exchanged;

C. Proceeds from the sale of land or interests in land or proceeds received by the Navajo Nation to equalize an exchange made pursuant to this Section shall be deposited into the account established pursuant to § 503(C) above, and additional monies may be deposited in said account as authorized by the Navajo Nation Council;

D. The Navajo Nation may reserve the mineral and water rights to such

sold or exchanged land; and

E. The Navajo Nation may purchase less than the whole estate.

History

CO-43-88, October 25, 1988.

CMY-23-88, May 4, 1988.

§ 505. Purchase of undivided fractional interests

A. The Navajo Nation may purchase at no less than the fair market value all of the surface interests of any tract of trust or restricted land within the land consolidation area described in § 502 above with the consent of the majority of the owners of such tract or allotment as required by 25 U.S.C. § 2204, under the following conditions:

1. Any Navajo person owning an undivided interest, and in actual use and possession of such tract for at least three consecutive years preceding the Nation's offer may purchase such tract by matching the Navajo Nation's offer;

2. If at any time within five years following the date of acquisition of such land by an individual under § 505(A)(1), such property is offered for sale or a petition is filed with the Bureau of Indian Affairs for removal of the property from trust or restricted status, the Navajo Nation shall have 90 days from the date it is notified of such offer or petition to acquire such property by paying to the owner the fair market value.

B. The Navajo Nation may purchase at no less than fair market value part of all of the interests in any tract of trust or restricted land from willing sellers and shall acquire pursuant to the Indian Land Consolidation Act any *de minimis* undivided fractionated interests in allotments subject to the escheat provision of the Indian Land Consolidation Act (25 U.S.C. § 2206).

C. All sales which comply with federal law shall be approved by the Bureau of Indian Affairs. Appeals of Bureau of Indian Affairs actions shall be pursuant to Title 25 Code of Federal Regulations, Part 2.

History

CMY-23-88, May 4, 1988.

§ 506. Public purpose; U.S. acceptance of trust allotments

A. It is hereby declared that the acquisition by the Navajo Nation of trust allotments or of interests in trust allotments within the land consolidation area described in § 502 above is required in the public interest and constitutes a public purpose under Navajo law and under this Act.

B. Upon the approval of the President of the Navajo Nation or his or her duly authorized delegate and notwithstanding any provision of Navajo law to the

contrary, the United States is authorized and directed to accept deeds of trust allotments or interest in trust allotments from any allottee or heir who owns any interest in such allotment and who has deeded such allotment or interest in such allotment or portion thereof to the United States in trust for the Navajo Nation.

C. No taxes shall be paid by the Navajo Nation on any lands to this Section, and the requirements of §§ 5 and 7-10 (inclusive) of Title 16 of the Navajo Nation Code.

History

CMY-23-88, May 4, 1988.

§ 507. Administrative rules and regulations

The Director of the Navajo Land Department may, subject to the approval by the Resources Committee of the Navajo Nation Council, promulgate regulations governing the implementation of the provisions of this Navajo Land Consolidation Plan.

History

CMY-23-88, May 4, 1988.

Chapter 7. Use and Disposition of Lands Generally

Subchapter 1. General Provisions

§ 601. Use By non-Navajos

Grants of land-use to non-Navajo traders, religious organizations, and other non-Navajo individuals or organizations should be carefully considered and kept to a minimum. The approval of these matters by the Navajo Nation Council and the Assistant Secretary of the Interior for Indian Affairs is required.

History

1922-1951, Res. p. 167, June 23, 1942.

Cross References

Committee authority-

Economic Development Committee, 2 N.N.C. § 724(B).

Resources Committee, 2 N.N.C. § 695(B)(2).

Transportation and Community Development Committee, 2 N.N.C. § 423 *et seq.*

§ 602. Leases, licenses or easements on unrestricted lands

A. The Resources Committee of the Navajo Nation Council is authorized to grant easements, leases, and licenses on lands owned by the Navajo Nation in fee simple where the best interests of the Nation are served thereby, provided, however, that in no case shall any lease or license be granted for a period in excess of five years, except upon specific authorization by the Navajo Nation Council.

B. However, the Resources Committee may grant homesite leases according to established Navajo Nation policy for a term not to exceed 65 years, and may provide for the encumbrance of the leasehold interest to secure capital for the construction or modification of improvements.

History

CJY-75-71, July 29, 1971.

CJ-56-53, July 23, 1953.

Cross References

Authority of the Resources Committee at 2 N.N.C. § 695(B)(2) and (4);

§ 603. Approval of rights-of-way; damages

The President of the Navajo Nation and the Navajo Area Director are authorized to approve all applications for rights of way over Navajo Nation lands, and to assess proper damages therefor; all payments for damages shall be credited to Navajo Nation funds.

History

1922-1951 Res. pp. 177, 178, November 5, 1947.

Note. This Section requires rescission by the Navajo Nation Council due to its inconsistency with current law despite the "null and void" provision of Navajo Nation Council Resolution CD-68-89, Resolved Clause 4.

Cross References

Navajo Nation Committee Authority-Resources Committee, see 2 N.N.C. § 695(B)(2).

Transportation and Community Development Committee, see 2 N.N.C. § 423(C)(2), (3), and (4).

Annotations

1. Jurisdiction of state

Authority under which state was permitted to construct a highway through and over Navajo Reservation failed to extinguish title to the Navajo Tribe to such lands in view of the fact that state has no jurisdiction over Indian lands until title of Indian *certiorari denied* has been extinguished. *State v. Begay* 63 N.M. 409, 320 P.2d 1017 (1958), *certiorari denied* 357 U.S. 918, 78 S.Ct.

1359, 2 L.Ed.2d 363.

§ 604. Trees and shrubs

All living trees and shrubs shall not be moved, cut, or injured without written permission of the Superintendent for legitimate purposes.

History

1922-1951 Res. p. 526, July 12, 1934.

Cross References

Authority of the Resources Committee, 2 N.N.C. § 695 (B) (6) (1992).

Subchapter 3. Permits for Exploration, Mapping, Prospecting, and Other Surface Activities

Cross References

CD-68-89, December 15, 1989, limited the powers of the Navajo Nation President and re delegated powers to Navajo Nation Council standing committees. Generally see 2 N.N.C. *et seq.*

§ 651. Surveys, mapping and other surface activities

The President of the Navajo Nation with the approval of the Navajo Area Director may grant permission on any Navajo Nation lands for surveying, mapping and other surface activities which do not cause damage to the land.

History

CF-22-58, February 20, 1958.

Cross References

Sketch or diagram of land, survey and legal description necessary for business leases of land, see 5 N.N.C. § 2304.

Authority of Resources Committee, 2 N.N.C. § 695 (B) (2).

§ 652. Oil and gas prospecting permits

Oil and gas prospecting permits without preference to lease may be issued for areas requested, but in no case for a larger area than a land management district. These permits may be granted by the President of the Navajo Nation Council with the consent of a majority of the district council delegates from the district concerned and the approval of the Navajo Area Director.

History

CF-22-58, February 20, 1958.

Cross References

Authority of the Resources Committee with regard to prospecting permits, 2 N.N.C. § 695(B) (2) (1992).

§ 653. [Repealed]

History

CMY-19-88, May 3, 1988.

§ 654. Other permits

The Resources Committee shall consider all other requests for permits and the President of the Navajo Nation, with approval of the Resources Committee, shall have authority to grant permits for exploration, prospecting, and other activities not otherwise provided for by Council action, with the approval of the Navajo Area Director.

History

CF-22-58, February 20, 1958.

Cross References

Resources Committee authority, 2 N.N.C. § 695(B) (2).

§ 655. [Rescinded]

History

ACN-310-70, November 20, 1970.

ACMY-65-68, May 15, 1968.

History

This Section was based on ACMY-65-68, May 15, 1968 and established permit fees.

§ 656. Fees for non-Navajo prospecting permits

A. Geophysical permit. Includes but is not limited to seismic, gravimetric, and magnetic methods, requiring vehicular or airborne support. Applicant must post not less than five thousand dollars (\$5,000) bond.

Period	12 months
Fee	One hundred dollars (\$100.00) per district

B. Geological permit. Designed for surface geologic studies, including mapping, outcrop examination, hand sampling, and the use of portable instruments carried by hand. (Does not include drilling, coring, trenching or other types of excavating). Applicant must post not less than five thousand dollars (\$5,000) bond.

Period	12 months
Fee	Fifty dollars (\$50.00) per district

C. The permits as described above are applicable on Navajo Nation lands, regardless of the minerals ownership.

History

ACN-310-70, November 20, 1970.

Cross References

Authority of the Resources Committee, 2 N.N.C. § 695(B).

Chapter 9. Homesites

Subchapter 1. Homesite Permits Within Townsites

§ 801. Powers of Resources Committee

A. The Resources Committee of the Navajo Nation Council is authorized to act for and in lieu of the Navajo Nation Council to approve withdrawals, set-asides, or make allocations of Navajo Nation lands in or near communities and Government or Navajo Nation installations for homesite purposes.

B. The District Council Delegates of districts in which lands are proposed for such purposes shall consent thereto before approval may be granted by the Resources Committee.

C. The Area Director is requested to take such steps as may be necessary to cause any such areas withdrawn to be surveyed, plotted, and staked into lots for assignment to individual Navajo families or individuals for homesites under such procedures as shall be prescribed by the Resources Committee and approved by the Area Director.

History

CN-72-92, November 11, 1992.

CD-68-89, December 15, 1989.

CN-52-87, November 17, 1987.

ACF-20-70, February 11, 1970.

CJ-14-53, 1953, January 16, 1953.

Note. References to the "Advisory Committee" have been changed to "Resources Committee".

Cross References

Tables showing specific withdrawals of land for homesites or housing purposes, see Table 7d (Land Tables) at end of this Code.

Powers of the Resources Committee, 2 N.N.C. § 695(B).

Powers of Transportation and Community Development Committee, 2 N.N.C. § 423(C) (2) and (3).

§ 802. Procedure for granting homesite permits

A. The following procedures are prescribed for the making of applications and the granting of homesite permits on Navajo Nation lands which have been withdrawn for that purpose under authorization of the Navajo Nation Council and which have been surveyed, platted and subdivided:

1. Applications shall be submitted on forms approved by the President of the Navajo Nation and Navajo Area Director;

2. The applications shall be referred to the District Council Delegate and the field representative of the Bureau in the area in which the lands are located;

3. The District Council Delegate and the field representative shall submit such applications to the Superintendent of the Navajo Agency with recommendations;

4. The President of the Navajo Nation and the Superintendent of the Navajo Agency are authorized to consider and take final action on the applications, and in the case of applications which are approved, grant to the applicant, a homesite permit on a form approved by the President and Superintendent of the Navajo Agency.

B. The foregoing prescribed procedures shall continue in effect as interim procedures until development and adoption of a land code for the Navajo Reservation.

History

RCN-255-95, November 9, 1995.

RCD-289-93, December 22, 1993.

CD-68-89, December 15, 1989.

RCJ-6-88, January 13, 1988.

CN-52-87, November 17, 1987.

ACM-13-54, 1954, March 23, 1954.

Note. Reference to "Chairman of the Tribal Council" changed to "President of the Navajo Nation".

Cross References

Powers of the Resources Committee of the Navajo Nation Council, 2 N.N.C. § 695(B) (1992).

Homesite Lease/Certificate Guidelines.

Subchapter 3. Homesite Leases Outside Townsites

§ 851. Powers of Resources Committee

A. The Resources Committee of the Navajo Nation Council is authorized and empowered, with the approval of the Area Director, to set aside and assign for homesite purposes any Navajo Nation lands, rent-free or at a nominal rent.

B. The Resources Committee is further authorized to adopt procedures and forms to govern the granting of homesite assignments and leases to individual applicants.

C. The President of the Navajo Nation, with the approval of the Navajo Area Director, is authorized to enter into lease of assignment agreements upon approval of the Resources Committee on behalf of the Navajo Nation.

D. Sections 852-854 of this title are confirmed, ratified and approved and any and all actions taken by the Resources Committee or President of the Navajo Nation pursuant to the procedures and authorities therein contained are ratified and confirmed.

History

CD-68-89, December 15, 1989.

CN-52-87, November 17, 1987.

CO-58-58, October 8, 1958.

Note. References to "Advisory Committee" have been changed to "Resources Committee", 2 N.N.C. § 695(B).

Reference to "Chairman of the Tribal Council" changed to "President of the Navajo Nation".

§ 852. Procedure for granting homesite leases outside townsites

A. The following procedures are prescribed for the making of applications and the granting of homesite leases on Navajo Nation lands which have not been withdrawn for that purpose, nor surveyed, subdivided, or plotted:

1. Applications shall be on forms approved by the Resources Committee of the Navajo Nation Council and the Navajo Area Director.

2. The applications shall be referred to at least two district Council Delegates, the District Grazing Committee, and the subagency

Superintendent for the area in which the lands are located, for their recommendations.

3. The Resources Committee shall make the final decision on each application.

4. The President of the Navajo Nation with the approval of the Navajo Area Director shall grant a homesite lease to approved applicants, on a lease form approved by the Resources Committee of the Navajo Nation Council and the Navajo Area Director.

B. The foregoing procedures shall continue in effect as interim procedures until the development and adoption of a land code for the Navajo Nation.

History

RCN-255-95, November 9, 1995.

RCD-289-93, December 22, 1993.

CN-72-92, November 4, 1992.

CD-68-89, December 15, 1989.

CN-52-87, November 17, 1987.

ACJ-7-58, January 16, 1958.

Note. Previously codified § 852(C) has been deleted pursuant to § 852(A) (1).

§ 852(A) (3). This authority has been delegated to the Navajo Land Department pursuant to CN-72-92, 2 N.N.C. § 695(B) (4).

Annotations

1. Grazing areas

"Proximity alone of a homesite to a grazing area is not sufficient to prevent approval of a homesite lease application." *Begay v. King*, No. SC-CV-51-06, slip op. at 4 (Nav. Sup. Ct. April 13, 2009).

2. Office of Hearings and Appeals

"If it has been determined that the objecting party has no grounds to object, such homesite application will be processed and finalized. Homesite Lease Policy & Procedures, XIII B.7. This provision clearly supports the notion that a groundless objection will not halt the finalization of a homesite lease application. Thus, the OHA erred in its legal conclusion that the Kings' consent was a condition precedent. The OHA does not explain how or what law provides that consent is a condition precedent. The OHA's legal conclusion therefore was not supported by substantial evidence and is not in accordance with the law." *Begay v. King*, No. SC-CV-51-06, slip op. at 4 (Nav. Sup. Ct. April 13, 2009).

§ 853. [Reserved]

History

Note. Form deleted. Current forms are available from the Division of Natural Resources.

§ 854. [Reserved]

History

Note. Form deleted. Current forms are available from the Division of Natural Resources.

Subchapter 5. Homesite Leases Not to Exceed 99 Years

§ 901. Authority of Resources Committee

The Resources Committee is authorized and directed to negotiate and grant leases of Navajo Nation lands for homesite purposes for terms not to exceed 99 years, subject to the following conditions:

A. In order to encourage individual home ownership and community development, including local housing authorities, annual rentals shall be nominal.

B. No assignment of leasehold interests shall be permitted without the approval of the Resources Committee of the Navajo Nation Council.

C. No leases granted under this Section shall be made to nonmembers of the Navajo Nation except to such individuals whose presence on the Reservation may be determined by the Government Services Committee to be of indefinite duration and beneficial to the Navajo Nation.

D. Each leasing instrument shall contain a provision permitting the Navajo Nation to reenter the premises upon the violation of any of its provisions, together with an option to acquire housing property equities whenever an individual defaults and foreclosure and sale is instituted.

E. Each leasing instrument shall contain a legal description of the leased premises prepared by a registered civil land surveyor and acceptable to the Land Investigations Department of the Navajo Nation, the Federal Housing Administration, and any other federal housing agency involved.

F. Each leasing instrument shall contain provisions binding the lessee to compliance with all ordinances of the Navajo Nation as they may relate to housing developments on Navajo Nation-owned land.

History

CN-52-87, November 17, 1987.

CAU-46-61, August 31, 1961.

Note. "Advisory Committee" changed to "Resources Committee", 2 N.N.C. § 695.

Section 901(A)(3) "Advisory Committee" was changed to Government Services Committee as the Resources Committee lacks specific authority to grant Homesite Leases to non-Navajo members.

Cross References

Approval of leases to non-Navajos by the Navajo Nation Council, see 16 N.N.C. § 601.

Navajo Nation Cultural Resources Protection Act, see 19 N.N.C. § 1001 *et seq.*

United States Code

Congressional authority to lease Tribal lands for terms not to exceed ninety-nine (99) years, see 25 U.S.C. § 415, in Appendix, Part 2, Acts of Congress, of Navajo Nation Code.

Chapter 11. Land for Public, Charitable and Religious Purposes

Subchapter 1. [Reserved]

§ 1101. [Reserved]

History

CD-68-89, December 15, 1989.

Note. CD-68-89 re delegated authority of the standing committees of the Navajo Nation Council including the Transportation and Community Development Committee and the Resources Committee codified at 2 N.N.C. § 420 *et seq.*, and 2 N.N.C. § 691 *et seq.* respectively.

Subchapter 3. Mission Sites

§ 1151. **Permits for religious activities; applications for lands**

A. The Navajo Nation Council adopts 16 N.N.C. §§ 1151-1164 for the issuance of permits to missionaries and mission bodies to conduct religious and other related activities on the Navajo Nation.

B. No missionary or mission group shall construct, commence construction, install or otherwise effect any improvements upon Navajo Nation lands, or use existing improvements upon Navajo Nation lands, for the purpose of using such improvements for the conduct of religious services or ceremonies at intervals of twice per month or more in frequency, without possessing a valid mission site permit. Any missionary or mission group violating the provisions of this Section shall be, if such missionary or mission group is subject to the civil jurisdiction of the Navajo Nation, liable for reasonable rental fees for lands used, or, if such missionary or mission group is not subject to the civil

jurisdiction of the Navajo Nation, subject to the provisions of 17 N.N.C. §§ 1901-1906, or to the exercise of any other applicable remedies exercisable by the Navajo Nation.

C. The Resources Committee of the Navajo Nation Council is authorized to act for the Navajo Nation Council in considering all applications of missionaries and mission bodies for Navajo Nation lands, in approving or disapproving such applications, and in transmitting them to the Secretary of the Interior.

D. All persons and entities occupying lands withdrawn pursuant to this Subchapter and all programs operated on lands withdrawn pursuant to this Subchapter are subject to the laws of the Navajo Nation.

History

CN-61-84, November 14, 1984.

ACM-53-70, March 13, 1970.

Tribal Council Res. 1922-1951, Res. p. 184, § 1, March 15, 1950.

Note. "Advisory Committee" changed to "Resources Committee", 2 N.N.C. § 695(B)(2) (1992).

§ 1152. Revocation of permits

No mission site permit may be renewed or issued except on a revocable basis; provided that such permit shall be cancelled by the Secretary for failure to carry out the purpose or purposes for which it was renewed or issued within a reasonable time.

History

Tribal Council Res. 1922-1951, Res. p. 184, March 15, 1950.

§ 1153. Contents of applications

A. No permit to enlarge the area of Navajo Nation land presently under permit to a missionary or mission body, and no permit to grant Navajo Nation land for a new mission site will be granted by the Resources Committee unless the application for such permit has first been reviewed by the Navajo Land Department of the Navajo Nation.

B. Such application shall contain the following information and documentation:

1. An exact description of the Navajo Nation land for which application is made.

2. A detailed statement of the purpose or purposes for which the said Navajo Nation land shall be used. If a missionary or mission body proposes to establish facilities for educational, medical, or other non-religious activities, the application shall set forth fully the

extent and character thereof.

3. A signed petition of a substantial number of Navajos residing in the vicinity of the proposed site endorsing the proposed permit.

4. An endorsement of Navajo Nation Council Delegates of the District in which the proposed site is located.

5. A description of buildings and improvements to be placed on Navajo Nation lands and an estimate of the cost thereof.

History

ACM-53-70, March 13, 1970.

Tribal Council Res. 1922-1951, Res. p. 184, March 15, 1950.

§ 1154. Report by Navajo Area Director

The Navajo Area Director shall, within 60 days from the receipt of a permit application, submit to the Resources Committee a report thereon, containing a statement of the proposed withdrawal of Navajo Nation lands on:

A. The water resources of the Reservation area concerned;

B. The use rights to the Navajo Nation lands covered by a permit which are claimed by any Navajo or Navajo family; and

C. Any other interest of the Navajo Nation.

History

Note. "Advisory Committee" changed to "Resources Committee", 2 N.N.C. § 695 (1992).

Tribal Council Res. 1922-1951, Res. p. 184, March 15, 1950.

§ 1155. Number of missions in area

The Resources Committee is authorized to deny or grant, on behalf of the Navajo Nation, any permit with special consideration to the establishment of too many missions in any one area or at any one point.

History

Note. "Advisory Committee" changed to "Resources Committee", 2 N.N.C. § 695(B) (2).

Tribal Council Res. 1922-1951, Res. p. 184, March 15, 1950.

§ 1156. Transfer of permits

No permit issued in accordance with 16 N.N.C. §§ 1151-1156 shall be transferable, except with the consent of the Resources Committee and of the

Secretary of the Interior.

History

Note. "Advisory Committee" changed to "Resources Committee", 2 N.N.C. § 695(B) (2).

Tribal Council Res. 1922-1951, Res. p. 184, March 15, 1950.

§ 1157. Rental fees; exemption

The Resources Committee of the Navajo Nation Council hereby establishes a minimum rental fee of fifteen dollars (\$15.00) per acre per year for all mission sites in the Navajo Nation. Notwithstanding the above, any mission in the Navajo Nation, which is actively conducting either substantial medical programs or state, Navajo Nation, or federally accredited educational programs upon its site shall be exempt from the above rental fee.

History

ACM-53-70, March 13, 1970.

Cross References

Resources Committee authority, 2 N.N.C. § 695(B) (4).

§ 1158. Expansion of sites

It shall be the policy of the Navajo Nation that requests for expansion of present mission sites shall be granted only in those cases where an expansion of a mission site is required for the construction of permanent facilities for community use or for the conduct of substantial medical or accredited educational programs.

History

ACM-53-70, March 13, 1970.

Cross References

Resources Committee authority, 2 N.N.C. § 695(B) (2).

§ 1159. Acreage limitations—Generally

A. It shall be the policy of the Navajo Nation that acreage used for each mission site shall be the minimum acreage required for the conduct of mission programs thereon.

B. The following acreage limitations shall apply to all applicants for permits:

1. Mission site for purely religious activities: one and one-half acres (1 1/2);

2. Mission site for religious activities and community services facilities: three and one-half acres (3 1/2);

3. Mission site for religious activities and either substantial medical or accredited educational programs: eight acres (8); and

4. The Resources Committee may, in the case of applications for mission sites in or near areas withdrawn for townships in the Navajo Nation, limit site acreage to less than two and five-tenths acres (2 5/10), and may set rental fees with due regard for present or future competing demands for land use in such areas.

C. For the purposes of this Subchapter, "community service facilities" shall be deemed to include only those permanent improvements upon the permitted site which are for the purpose of providing recreational programs, non-religious educational programs, including adult education, and other non-religious programs of benefit to the community.

History

ACM-53-70, March 13, 1970.

§ 1160. Waiver

A. The acreage limitations established by 16 N.N.C. § 1159 may be waived by the Resources Committee upon a showing by the applicant that planned programs will be of sufficient benefit to the Navajo People to justify waiver of acreage limitations. No waiver of acreage limitations shall be granted unless the applicant has complied with 16 N.N.C. §§ 1153 and 1161, and all other procedures provided by law.

B. No waiver of acreage limitations shall be granted in cases of applications subject to acreage limitations established by 16 N.N.C. § 1159(B) (1).

History

ACM-53-70, March 13, 1970.

§ 1161. Applications for mission sites and waiver of acreage limitations

No application for a mission site permit for an area of Navajo Nation land in excess of the limitations established in 16 N.N.C. § 1159 shall be granted by the Resources Committee unless the application for such permit has been reviewed and approved by the Division of Community Development of the Navajo Nation, and by the Navajo Land Department of the Navajo Nation.

History

ACM-53-70, March 13, 1970.

§ 1162. Permits for excess acreage

No mission site permit shall be granted for an area in excess of the

acreage limitations established by 16 N.N.C. § 1159, unless the permit includes the following conditions:

A. That the permit is revocable at the will of the Resources Committee;

B. That the permit, as to acreage in excess of that provided in 16 N.N.C. § 1159, shall automatically terminate upon the discontinuance of non-religious programs for the benefit of the Navajo People;

C. That the missionary or mission group permittee submit yearly written reports describing in detail the community service programs carried on by the permittee, such reports to be submitted to the Navajo Land Department of the Navajo Nation no later than January 31 of the following year. The Navajo Land Department shall review such reports, and make recommendations as are appropriate to the Resources Committee. The failure to submit such a report shall result in automatic revocation of the mission site permit, as to the entire permitted area; and

D. That the permittee pay in accordance with this Subchapter such additional rental fees as the Resources Committee may establish.

History

ACM-53-70, March 13, 1970.

§ 1163. Lapse of present permits

Three years from the date 16 N.N.C. §§ 1157-1164 becomes effective, all mission site permits granted prior to said date shall automatically terminate. The Navajo Land Department is authorized and directed to take such steps as are necessary to notify present permittees of the contents of this Section. Present permittees may reapply for mission site permits under the provisions of this Subchapter.

History

ACM-53-70, March 13, 1970.

§ 1164. Termination of permits

If any missionary or mission group shall fail to pay yearly rental fees due, by December 30, prior to the year for which such fees are due, the mission site permit granted such missionary or mission group shall automatically terminate.

History

ACM-53-70, March 13, 1970.

Chapter 13. Compensation for Improvements and Customary Use Rights Upon Adverse Disposition of Land

Annotations

1. Eminent domain

The Navajo Tribe has the power to take or authorize the taking of property without the consent of the owners of the property or of any interest therein, provided that the owners are given due process of law and just compensation. *Dennison v. Tucson Gas and Electric Co.*, 1 Nav. R. 95 (Nav. Sup.Ct. 1974).

2. Legislative approval

Under the customary division of governmental power into three separate branches, a division which exists in the Navajo Nation, the right to exercise the power of eminent domain may be authorized only by the legislature and there can be no taking of private property for public use against the will of the owner without direct authority from the legislature and then the taking must be only in the manner prescribed by the legislature. *Dennison v. Tucson Gas and Electric Co.*, 1 Nav. R. 95 (Nav. Sup. Ct. 1974).

3. Just compensation

Where the Chairman of the Navajo Tribe, on behalf of the Tribe, granted gas and electric company a right-of-way across land of plaintiffs, who had a grazing permit and had a home and other improvements on the land, to build and maintain a power line, and just compensation was not given plaintiffs, the taking of the land was illegal and not in accord with this Chapter, and the defense of sovereign immunity from suit was not available to the Tribe in plaintiffs' suit for damages. An injunction was obtained against further trespass and cancellation of the allegedly fraudulently obtained consent to the taking. *Dennison v. Tucson Gas and Electric Co.*, 1 Nav. R. 95 (Nav. Sup. Ct. 1974).

§ 1401. Damages to improvements of individual Navajo Indians

A. Whenever the Navajo Nation disposes of land containing any improvement belonging to a Navajo Indian who will not donate the same, whether the disposition is made by surface lease, permit, consent to grant of right-of-way or consent to commencement of construction on a proposed right of way, or in any other manner that gives the grantee or proposed grantee exclusive use of the surface of the land containing such improvement, or authorizes the grantee or proposed grantee to use the surface of the land in such manner that said improvement or improvements must be removed, damaged, or destroyed, the Navajo Nation will pay damages to the rightful claimant of such improvement or improvements.

B. As used in this Chapter "improvement" means house, hogans, sunshades, stables, storage sheds and dugouts, and sweathouses; sheep and horse corrals, lamb pens, and fences lawfully maintained; irrigation ditches, dams, charcos, development work on springs, and other water supply developments; any and all structures used for lawful purposes and other things having economic value. Where any improvement of a Navajo Indian is readily removable and such person has an opportunity to remove the same, damages payable on account of said improvement shall be limited to the reasonable cost of removal, if any, even though the claimant thereof may have failed to remove such improvement and it may have been destroyed or damaged in the authorized course of use of the land on which it is located.

C. No damages shall be paid to any person for any improvement, when such person at the time of building or acquiring said improvement knew or with reasonable diligence ought to have known that the area in which it was located was proposed to be disposed of by the Navajo Nation adversely to such person's interest.

D. Damages to be paid to individual Navajo Indians under this Section shall be fixed by negotiation and consent between the President of the Navajo Nation or his or her authorized representative and the individual involved. If no agreement satisfactory to the President or his or her representative can be reached within a reasonable time, the President of Navajo Nation shall appoint one appraiser, the individual shall appoint one appraiser, and the two appraisers so appointed shall appoint a third appraiser; but if they cannot agree upon the third appraiser within ten days, the President may appoint him or her. The three appraisers shall examine the improvement alleged to be damaged and shall appraise and determine the damages. Their determination shall be submitted to the Resources Committee and when, if, and as approved by said Committee the amount thereof shall be final. The Navajo Nation shall pay the fees of said appraisers, except where they are regular Navajo Nation employees, in which case they shall not be entitled to any fees. In addition the Navajo Nation shall pay the reasonable and necessary expenses of said appraisers, whether or not such appraisers are Navajo Nation employees.

History

CN-101-72, November 30, 1972.

CJA-18-60, January 22, 1960.

Cross References

Damages for improvements to specific highways, 14 N.N.C. § 1023.

Annotations

1. Construction and application

"Nowhere in the statute is there an express or implied allowance for the creation of customary use ownership from the mere act of fixing up an already existing or currently owned building." *Hood v. Bordy*, 6 Nav. R. 349, 356 (Nav. Sup. Ct. 1991).

§ 1402. Economic damage to intangible interests of Navajo Indians

A. Whenever as a result of the granting of any lease or permit embracing Navajo Nation land, or of granting permission by the Navajo Nation for the use of Navajo Nation land, or as a result of the use of Navajo Nation land under such lease, permit or permission, the value of any part of such land for its customary use by any Navajo Indian formerly lawfully using the same is destroyed or diminished, the Navajo Nation will compensate the former Navajo Indian user in the manner hereinafter specified.

B. When the livelihood of the former Navajo Indian user is gravely

affected by the new use, such user shall have first priority in resettling on other lands acquired by the Navajo Nation, except the area acquired pursuant to the Act of September 2, 1958 (72 Stat. 1686); and the Navajo Nation shall pay the expense of removing said person, his or her family, and property to any new land made available for his or her use, and such shall constitute full compensation to such Navajo.

C. In all other cases involving damages under this Paragraph, the amount thereof shall be fixed and determined in the manner specified in 16 N.N.C. § 1401 (D).

D. Where by reseeding, irrigation, or otherwise, the remaining land in the customary use area of any individual damaged by adverse disposition of Navajo Nation land is within a reasonable time made able to provide the same economic return as his or her former entire customary use area, no damages shall be payable to such person, except for the period, if any, between adverse disposition of the land in the customary use area and the time when the productivity of the remaining land achieves equality with the entire former customary use area.

E. Only lawful and authorized use shall be compensated under this Section. Thus, no person shall be compensated for loss of use of land for grazing animals in excess of his or her permitted number, or without a permit.

F. Every person otherwise entitled to damages under Subsection (C) of this Section shall not be entitled to receive any payment thereof until that person has surrendered for cancellation that person's grazing permit as to all animal units in excess of the carrying capacity of the land remaining in that person's customary use area. Persons so surrendering their grazing permits shall be entitled to an immediate lump sum payment of ten dollars (\$10.00) for each sheep unit cancelled.

History

CJA-18-60, January 22, 1960.

Annotations

1. Property interests

"Customary usage is therefore viewed as a property interest by the Navajo Nation." *In re: Estate of Wauneka, Sr.*, 5 Nav. R. 79, 81 (Nav. Sup. Ct. 1986).

"The Navajo Tribal Council has recognized that customary usage is a property right for which compensation is available if diminished by the sovereign." *In re: Estate of Wauneka, Sr.*, 5 Nav. R. 79, 81 (Nav. Sup. Ct. 1986).

2. Customary use

" ... [C]ustomary use area and improvements incident can pass as property under our laws of succession." *In re: Estate of Wauneka, Sr.*, 5 Nav. R. 79, 82 (Nav. Sup. Ct. 1986).

§ 1403. Adverse disposition of Navajo Nation land not to be made until individual damages are estimated

Neither lessee, permittee, or the grantee of a right-of-way or other interest in or right to use Navajo Nation lands, shall commence any construction thereon, nor make any change in the grade or contour thereof or remove any surface vegetation thereon until the damages to the improvements thereon or the customary use rights of the individuals affected thereby have been estimated by the Navajo Land Department of the Navajo Nation. Unless the Navajo Nation Council has previously authorized the payment of such damages from nonreimbursable funds of the Navajo Nation, the President shall require the applicant for such lease, permit or grant of a right of way, or other interest in or right to use Navajo Nation lands, to deposit with the Controller of the Navajo Nation an amount equal to at least double the estimate of damage made by the Navajo Land Department. After the lease, permit, or grant of right of way or user has become final and the damages have been determined, either by appraisal, estimate or by consent as herein before provided, the President shall cause the Controller to pay, from and out of this deposit, to the person or persons damaged thereby such sum as he, she or they may be entitled to under the terms of this resolution, and to return to the applicant the excess thereof, except where the individual damaged has not consented to the determination of the amount thereof, it shall be withheld in order to satisfy the excess amount, if any, determined under 16 N.N.C. § 1402(C). Such disbursements shall be made without further appropriation of the Navajo Nation Council. All sums held by the Controller of the Navajo Nation, pursuant to the terms of this Chapter, for a period of more than 30 days shall be deposited in a Federal Savings and Loan Association or invested in bonds of the United States until needed for disbursement.

History

CJA-18-60, January 22, 1960.

Chapter 15. Residential and Use Rights on Lands Added to Reservation

§ 1601. Navajos having rights to establish residence and use of area added to the Navajo Reservation; priorities

A. Navajos desiring to reside in or use the lands added to the Navajo Reservation pursuant to the Act of September 2, 1958, Public Law 85-868 (72 Stat. 1686), may file applications therefor with the President of the Navajo Nation in the manner herein provided.

B. The President shall refer all applications to the Resources Committee, which may grant residence and use rights or use rights only to such applicants as prove to the satisfaction of the Committee that they fall within one of the following categories. In granting such rights, the Resources Committee shall give preference to applicants in the following order:

1. Navajos having occupancy and/or use of the area prior to September 2, 1958. It is the intention of the Council, in carrying out the purposes of the aforesaid Act of Congress to confirm to Navajos who resided in the area added to the Reservation or to be added to the

Reservation as aforesaid, or who regularly used the said area prior to September 2, 1958, such residence rights and the use of appurtenant grazing lands to the extent practicable, by dividing the area into grazing use areas compatible with the rights of other Navajos and the customs of the Navajo Nation. Navajos whose homes are or were close to the boundary line of the area added to the Reservation and who used other public lands adjacent to this area added to the Reservation, shall be regarded as entitled to preference in this category of applicants, provided that all applicants in this category shall prove to the satisfaction of the Resources Committee that they regularly used or occupied the lands prior to September 2, 1958, for which application is made.

2. Navajos who used or occupied other public land in San Juan County, Utah, prior to September 2, 1958. Navajo Indians who have not lived upon or otherwise made use of the said lands added to the Navajo Reservation, but who have used other public lands in San Juan County, Utah, not in the said Navajo Reservation prior to September 2, 1958, may receive residence and grazing permits in the same manner as herein above specified; provided that the said applicant abandon his or her residence elsewhere in the public domain in San Juan County and establish his or her residence within said land added to the Navajo Reservation.

3. Navajos who did not reside in or use areas added to the Reservation or other public lands in San Juan County, Utah. After January 1, 1963, the Resources Committee may, in its discretion, grant residence and use rights or use rights only to other Navajos making applications for settlement within the area added to the Reservation by said Act of Congress, provided that at the time of granting such rights there is unused range carrying capacity available in said area.

History

CN-56-59, November 5, 1959.

Note. "Advisory Committee" changed to "Resources Committee", 2 N.N.C. § 695(B) (2).

Throughout this Chapter, the citation of the Act of Congress has been changed to a uniform style: "Act of September 2, 1958, Public Law 85-868 (72 Stat. 1686)".

§ 1602. Families of applicants

The permission granted by the Resources Committee to any Navajo to establish residence on land added to the Reservation pursuant to the Act of September 2, 1958, Public Law 85-868 (72 Stat. 1686), shall include permission for all persons, related by blood or marriage, who regularly reside with such Navajo as members of his or her family to reside on such land in the same camp with such Navajo.

History

CN-56-59, November 5, 1959.

§ 1603. McCracken Mesa area as part of Land Management District 12

All areas which have been or may hereafter be added to the Navajo Indian Reservation pursuant to the Act of September 2, 1958, Public Law 85-868 (72 Stat. 1686), shall be a part of Land Management District 12, and shall constitute a new Range Management Unit of said district, to be known as the McCracken Mesa Unit. Notwithstanding any other provision of law or regulation, livestock permittees within the McCracken Mesa Unit may elect one member to the District 12 Grazing Committee, and the membership of said committee is hereby increased by one.

History

CN-56-59, November 5, 1959.

§ 1604. Procedure on applications to use or reside on lands added or to be added to Reservation

A. The Director of the Natural Resources Division shall provide forms for applying for permission to use or reside in the area to be added to the Reservation pursuant to the Act of September 2, 1958, Public Law 85-868 (72 Stat. 1686), to all Navajo Indians who said Director has reason to believe may be eligible to use or reside in said area under the terms of this Chapter. Said Director shall give all reasonable assistance to such persons in properly filling out and signing their applications, and in conjunction with the Navajo Land Department shall make a thorough investigation of all applicants' claims and report thereon to the Resources Committee.

B. Hearing, action on disputes. The Resources Committee or a subcommittee thereof shall hold a hearing on each application to use or reside on any land added to the Navajo Indian Reservation pursuant to the Act of September 2, 1958, Public Law 85-868 (72 Stat. 1686); and whenever it grants an application shall, with the advice and assistance of the District 12 Grazing Committee, designate the approximate area the applicant may use; and if the applicant desires to reside on such lands, the place or places he or she may establish a home or seasonal camp. Such areas and places shall be as nearly as conveniently possible the same as the areas or places within the added lands that the applicant or his or her ancestors previously lived on or used. Insofar as customary grazing use areas are not defined by the Resources Committee, they shall be determined by consent of the grazing permittees involved, and any dispute shall be decided by the District 12 Grazing Committee, subject to the right of appeal to the Central Grazing Committee. No grazing permittee who has been permitted by the Resources Committee to use any of the lands added to the Reservation shall be subject to civil or criminal action in the District Court of the Navajo Nation under 3 N.N.C. § 710(A) (5) for any alleged trespass occurring on such lands until after his or her customary use area has been defined by the District 12 Grazing Committee, or in case of an appeal, by the Central Grazing Committee; and the final decision of the District or Central Grazing Committee as to what constitutes any permittee's customary use area shall be conclusive on the Navajo Nation Courts in all such cases.

History

CN-56-59, November 5, 1959.

Cross References

Resources Committee authority, 2 N.N.C. § 695(B) (1).

§ 1605. Resettlement of Navajos displaced from areas eliminated from Reservation

Inasmuch as the Lichee Range Management Unit in District 1 of the Navajo Reservation is currently stocked to only part of its carrying capacity, all persons required to remove from the area eliminated from the Navajo Indian Reservation by the Act of September 2, 1958, Public Law 85-868 (72 Stat. 1686), which is within the Lichee Range Management Unit, shall be permitted to resettle in said unit until said Lichee Unit is stocked to one hundred percent (100%) of its actual carrying capacity. Persons displaced from the area eliminated from the Reservation shall resettle at such place or places in the Lichee Unit as the District 1 Grazing Committee may designate. Any such person aggrieved by any action of the District 1 Grazing Committee may appeal to the Office of Hearing and Appeals, and shall be entitled to a hearing before said committee upon such appeal. The Resources Committee shall make provision for resettlement of any Navajos remaining displaced after full stocking of the Lichee Unit.

History

CN-56-59, November 5, 1959.

Note. Reference to "Central Grazing Committee" changed to "Office of Hearing and Appeals" pursuant to CO-59-03, October 21, 2003. See Resolved Clause 2 and 6.

Cross References

Resources Committee authority, 2 N.N.C. § 695(B) (1).

§ 1606. Determination of carrying capacity of McCracken Mesa Range Management Unit

The Director of the Natural Resources Division of the Navajo Nation, in cooperation with the Navajo Agency personnel, is hereby directed as soon as possible to secure qualified range technicians to ascertain the carrying capacity of all lands included in the McCracken Mesa Range Management Unit or proposed for inclusion therein, in the manner provided in 3 N.N.C. § 706(C), and to submit his or her conclusions to the Superintendent, the Area Director, and the Commissioner of Indian Affairs, as a basis upon which the Commissioner may make a final determination of the authorized carrying capacity of such unit.

History

CN-56-59, November 5, 1959.

§ 1607. Issuance of grazing permits to persons permitted by Resources Committee to use McCracken Mesa Unit

The Superintendent of the Shiprock subagency shall promptly issue grazing permits to each Navajo permitted by decision of the Resources Committee to use land added to the Reservation pursuant to the Act of September 2, 1958, Public Law 85-868 (72 Stat. 1686), for a number of sheep units, determined by the formula given below, so that the total permitted numbers will not exceed the carrying capacity of the McCracken Mesa Range Management Unit, less ten percent (10%) reserved for range management and other Navajos entitled to preference. When the Resources Committee shall have determined that the reoccupation and resettlement of the lands added to the Reservation pursuant to the Act of September 2, 1958, is substantially complete, or on January 1, 1963, whichever date is later, the remaining capacity reserved above shall be added to the permits regularly issued. The regular grazing permits shall allow each permittee a number of sheep units determined by the following formula:

$$x = b(c/a)$$

Where:

x = number of sheep units to be allowed by permit.

a = total sheep units of all persons entitled to use McCracken Mesa Unit, as determined by the Resources Committee.

b = sheep units to which individual is entitled, as determined by the Resources Committee.

c = ninety percent (90%) of carrying capacity of McCracken Mesa Unit as determined by the Commissioner of Indian Affairs.

History

CN-56-59, November 5, 1959.

Chapter 17. Forcible Entry and Detainer

§ 1801. Definitions

A. A person is guilty of forcible entry and detainer, or of forcible detainer, as the case may be, if he or she:

1. Makes an entry into any lands, tenements or other real property, except in cases where entry is given by law, and such an entry is by force.

2. Willfully holds over any lands, tenements or other real property after termination of his or her right to possession, after demand made in writing for the possession thereof by the person entitled to such possession.

B. A "forcible entry", or an entry where entry is not given by law within

the meaning of this article, is:

1. An entry without the consent of the person having the actual possession.

2. As to a landlord, an entry upon the possession of his or her tenant, without the tenant's consent.

C. There is a forcible detainer if:

1. A tenant at will or by sufferance, after termination of his or her tenancy or after written demand of possession by his or her landlord, or a tenant from month to month or a lesser period whose rent is due and unpaid, fails or refuses for five days after demand in writing to surrender and give possession to his or her landlord.

2. The tenant of a person who has made a forcible entry refuses for five days after written demand to give possession to the person upon whose possession the forcible entry was made.

3. A person who has made a forcible entry upon the possession of one who acquired such possession by forcible entry refuses for five days after written demand to give possession to the person upon whose possession the first forcible entry was made.

4. A person who has made a forcible entry upon the possession of a tenant for a term refuses to deliver possession to the landlord for five days after written demand, after the term expires. If the term expires while a writ of forcible entry applied for by the tenant is pending, the landlord may at his or her own cost and for his or her own benefit, prosecute it in the name of the tenant.

History

CN-100-69, November 21, 1969.

Annotations

1. Construction and application

"The Court holds that the FED statute does not apply to mutual help homebuyers. The FED statute sets up a process for a 'landlord' to remove someone who has no right of possession or for a 'tenant' to remove someone who is interfering with his or her right of possession." *Navajo Housing Authority v. Clark*, No. SC-CV-53-05, slip op. at 3-4 (Nav. Sup. Ct. April 4, 2006).

"As the Clarks observe, the statute authorizes, among other claims, an action by a 'landlord' to evict a 'tenant' for not paying 'rent'." *Navajo Housing Authority v. Clark*, No. SC-CV-53-05, slip op. at 4 (Nav. Sup. Ct. April 4, 2006).

"However, by its plain language the FED does not cover disputes between two parties who each claim a property interest." *Navajo Housing Authority v. Clark*, No. SC-CV-53-05, slip op. at 4 (Nav. Sup. Ct. April 4, 2006).

"That Alonzo is not a successor means that the Navajo Nation incorrectly filed a forcible detainer action against Arviso to remove him from its property. Based on Alonzo's status, he cannot be subject to a forcible detainer action under the forcible entry and detainer statute." *Navajo Nation v. Alonzo Arviso*, No. SC-CV-14-05, slip op. at 4 (Nav. Sup. Ct. August 11, 2005).

2. Actual possession

"Although the Nation filed the wrong type of action, a different sub-section of Section 1801 is applicable using a 'forcible entry' action. Under Section 1801(B)(1), a 'forcible entry' occurs when an entry is made 'without the consent of the person having the actual possession.' In this case, the Nation has 'actual possession' and the Nation has not consented for Arviso to use its land for business purposes." *Navajo Nation v. Alonzo Arviso*, No. SC-CV-14-05, slip op. at 4 (Nav. Sup. Ct. August 11, 2005).

§ 1802. Time of possession by tenant

It is not material whether a tenant received possession from his or her landlord or became his or her tenant after obtaining possession.

History

CN-100-69, November 21, 1969.

§ 1803. Complaint, summons and answer; service and return

A. When a party aggrieved files a complaint of forcible entry or forcible detainer, in writing and under oath, with the clerk of the Navajo Nation Court or Navajo Nation Judge of the Navajo Nation Court in the district where the property is situated, summons shall immediately issue commanding the person against whom the complaint is made to appear and answer the complaint at a time and place named, not more than six nor less than three days from the date of service of the summons.

B. The complaint shall contain a description of the premises of which possession is claimed in sufficient detail to identify them, and shall also state the facts which entitle plaintiff to possession and authorize the action.

C. The summons shall be served at least two days before the return day, and return made thereof on the day assigned for trial.

D. The summons shall be served by a person duly authorized by law.

History

CN-100-69, November 21, 1969.

Annotations

1. Construction and application

"The disposition of this case depends on our interpretation of the forcible

entry and detainer statute, 16 N.N.C. § 1801 *et seq.*, and Rule 23 of the Navajo Rules of Civil Appellate Procedure." *Fort Defiance Housing Corporation v. Allen*, No. SC-CV-32-03, slip op. at 3 (Nav. Sup. Ct. June 7, 2004).

"Evictions on the Navajo Nation are governed by the forcible entry and detainer statute, 16 N.N.C. § 1801 *et seq.*" *Fort Defiance Housing Corporation v. Lowe*, No. SC-CV-32-03, slip op. at 2 (Nav. Sup. Ct. April 12, 2004).

2. Jurisdiction

A non-Indian may be sued in the Navajo courts if he or she is found within the Tribe's territorial jurisdiction; a defendant corporations may be sued for forcible entry and detainer. *Navajo Tribe v. Orlando Helicopter Airways, Inc.*, 1 Nav. R. 40 (Nav. Sup. Ct. 1972).

§ 1804. Suit brought in adjoining district

If there be no judge of the Navajo Nation Court in the district where the premises are situated, able or qualified by law to act, suit may be brought before a judge of the Navajo Nation Court in any adjoining district.

History

CN-100-69, November 21, 1969.

§ 1805. Trial and issue; postponement of trial

A. On the trial of an action of forcible entry or forcible detainer, the only issue shall be the right of actual possession and the merits of title shall not be inquired into. An action for forcible entry or forcible detainer may not be brought in connection with any other action, nor may it be made the subject of any setoff or counterclaim.

B. The action shall be tried by the court.

C. For good cause shown, supported by affidavit, the trial may be postponed for a time not to exceed ten days.

History

CN-100-69, November 21, 1969.

Annotations

1. Due process

" ... due process in the context of taking away a person's home through the use of the forcible entry and detainer statute requires that a district court include in its eviction order (1) notice of the appeal bond requirement, (2) the timing for submission of the bond or waiver request, and (3) the conditions the district court will require for the bond." *Fort Defiance Housing Corporation v. Lowe*, No. SC-CV-32-03, slip op. at 7-8 (Nav. Sup. Ct. April 12, 2004).

§ 1806. Judgment; writ of restitution; limitation on issuance

A. If defendant is found guilty, the court shall give judgment for plaintiff for restitution of the premises and for costs and, at plaintiffs option, for all rent found to be due and unpaid at the date of judgment, and shall grant a writ of restitution putting plaintiff in possession of the premises, and a warrant of removal shall issue accordingly which shall command the Navajo Police Department to immediately remove the defendant, to use such force as is necessary to effect removal if the defendant resists, and which shall further command such Department to levy damages and costs as fixed by the court.

B. If defendant is found not guilty, judgment shall be given for defendant against plaintiff for costs, and if it appears that plaintiff has acquired possession of the premises since commencement of the action, a writ of restitution shall issue in favor of defendant.

C. No writ of restitution or warrant shall issue until the expiration of five days after the rendition of judgment.

History

CN-100-69, November 21, 1969.

§ 1807. Appeal; notice; bond

A. Either party may appeal from the decision to the Supreme Court of the Navajo Nation by giving notice as in other actions and filing with the court within five days after rendition of the judgment a bond in an amount equal to double the yearly value or rental of the premises in dispute, with sureties to be approved by the Navajo Nation Court judge, payable to the adverse party and conditioned that he or she will prosecute the appeal to effect and pay all costs and damages which may be adjudged against him or her.

B. The yearly value or rental of the premises in dispute shall be determined by the Navajo Nation Court judge for the purpose of fixing the amount of the bond.

History

CN-100-69, November 21, 1969.

Annotations

1. Filing of notice of appeal

This Section means that the notice of appeal is to be filed within the five day period. *Navajo Housing Authority v. Benally*, 3 Nav. R. 55 (Nav. Ct. App. 1981).

Where notice of appeal was filed some 22 days after the judgment was rendered, the Court of Appeals did not have jurisdiction over the appeal since it was filed well beyond the five day period mandated by this Section. *Navajo Housing Authority v. Benally*, 3 Nav. R. 55 (Nav. Ct. App. 1981).

2. Bonding requirements

"An appellant complies with Section 1807 when he or she submits a bond within five (5) days of the district court's order, or when the district court waives the bond on request." *Fort Defiance House Corporation v. Lowe*, No. SC-CV-32-03 slip op. at 3 (Nav. Sup. Ct. April 12, 2004).

"The Court herein declares that 16 N.N.C. § 1807 requiring bond in an amount equal to double the yearly value or rental is in violation of the equal protection clause and as such, any bond required is to be approved by the Navajo Nation Court judges as to the amount and as to when it is to be paid. This Court rules that in order to accomplish the intent of posting adequate security, which are to preserve the property at issue, to guard an awarded damage, or to insure a landlord against loss of rent if the tenant remain in possession, the Navajo Nation judge can waive the requirement that the bond be posted before an appeal is granted provided that the judge is satisfied that the appellant made an earnest attempt to comply with the statute by providing documents showing such attempts." *Navajo Townsite Community Development Corporation v. Sorrell*, No. SC-CV-19-00, slip op. at 6-7 (Nav. Sup. Ct. January 28, 2002).

3. Construction and application

"Therefore, we instruct that the following procedures be followed in forcible entry and detainer cases when the court orders the eviction of a tenant from his or her residence. The judge must include explicit language in the eviction order alerting the tenant that he or she has five (5) working days to submit an appeal bond to properly appeal the order. Also, the trial judge must include the conditions for the bond in the order. Tenants who wish to appeal must file the bond with the court within five (5) working days, or, within that time, file a waiver request setting out why they cannot comply with the conditions set forth in the order. Consistent with previous opinions, the trial court has discretion to grant or deny the waiver." *Fort Defiance Housing Corporation v. Lowe*, No. SC-CV-32-03, slip op. at 2 (Nav. Sup. Ct. April 12, 2004).

"While under a strict interpretation of the statute we must dismiss this appeal, we are compelled to inquire whether or not a dismissal would violate a fundamental right of Appellants under Navajo law. We will interpret Section 1807 in the light of the Navajo Bill of Rights, as informed by *Diyin Nohookáá Dine'é Bi Beehaz'áanii* (Navajo Common Law), to decide whether we must dismiss this case." *Fort Defiance House Corporation v. Lowe*, No. SC-CV-32-03 slip op. at 3 (Nav. Sup. Ct. April 12, 2004).

"Section 1807 is jurisdictional, and failure to comply with its conditions requires that this Court dismiss the appeal." *Fort Defiance House Corporation v. Lowe*, No. SC-CV-32-03 slip op. at 3 (Nav. Sup. Ct. April 12, 2004).

4. Due process

"We therefore hold that in order to assure due process, a district court's eviction order must give tenants notice of the appeal bond requirement, the timing requirements, and the specific conditions for the bond set by the court. We also interpret the five (5) days in the statute to be five (5) working days, to give tenants additional time to comply with the judge's conditions." *Fort*

Defiance House Corporation v. Lowe, No. SC-CV-32-03 slip op. at 7 (Nav. Sup. Ct. April 12, 2004).

5. Time of appeal

"Based on the above, we hold that the time to file a notice of appeal in a forcible entry and detainer case is the same as the time to file the appeal bond, five (5) working days from the receipt of the order. This Court must dismiss any appeals when a notice of appeal is untimely filed, as we cannot extend the time for a notice of appeal. NRCAP 5(b)." *Fort Defiance Housing Corporation v. Allen*, No. SC-CV-32-03, slip op. at 5 (Nav. Sup. Ct. June 7, 2004).

"The thirty (30) day period of Rule 23 therefore cannot override the five (5) day period mandated by 16 N.N.C. § 1807. We therefore cannot apply Rule 23, and we instruct practitioners to disregard its timing requirement." *Fort Defiance Housing Corporation v. Allen*, No. SC-CV-32-03, slip op. at 4 (Nav. Sup. Ct. June 7, 2004).

"This Court previously interpreted Section 1807 to require an appellant to file both the appeal bond and the notice of appeal within five (5) days of the order. *Benally v. Navajo Housing Authority*, 3 Nav. R. 55, 55 (Nav. Ct. App. 1981). In residential cases the five (5) days is working days from receipt of the order. *Fort Defiance Housing Corporation v. Lowe*, No. SC-CV-32-03. slip op. at 7 (Nav. Sup. Ct. April 12, 2004)." *Fort Defiance Housing Corporation v. Allen*, No. SC-CV-32-03, slip op. at 3 (Nav. Sup. Ct. June 7, 2004).

§ 1808. Stay of proceedings on judgment; record on appeal

When the appeal bond is filed and approved, the judge shall stay further proceedings on the judgment and immediately prepare a transcript of all entries on his or her docket in the action and transmit it, together with all original papers, to the Clerk of the Supreme Court of the Navajo Nation.

History

CN-100-69, November 21, 1969.

§ 1809. Trial on appeal

The Supreme Court of the Navajo Nation on the trial on appeal shall proceed to hear the case as a new case. The Appellee, if out of possession and the right of possession is adjudged to him or her, shall be entitled to damages for loss of possession of the premises during pendency of the appeal in addition to the other judgment previously rendered in the lower court, and the judgment shall be against the appealing party and the sureties on his or her bond for the damages proved and costs.

History

CN-100-69, November 21, 1969.

Annotations

1. Construction and application

"This opinion concerns whether the Judicial Reform Act repealed a provision in the Forcible Entry and Detainer statute mandating treating an appeal as a 'new case.' The Court holds it did not, and therefore will review a district court's factual finding de novo consistent with the procedures announced in this opinion." *Allen v. Fort Defiance Housing Corporation*, No. SC-CV-05-05, slip op. at 1 (Nav. Sup. Ct. December 14, 2005).

§ 1810. Proceedings no bar to certain actions

The proceedings under a forcible entry or forcible detainer shall not bar an action for trespass, waste, rent or mesne profits, or any other action at law or equity.

History

CN-100-69, November 21, 1969.

Chapter 19. Navajo Nation Deeds of Trust Act

§ 2001. Purpose of Act

The purpose of this Act is to enable the Navajo Nation to assist enrolled members of the Navajo Nation to obtain adequate, decent, safe and sanitary housing, or to repair, improve, or modernize existing dwellings on the Navajo Nation, by serving as loan agent on the deed of trust for federal and Navajo Nation home loan programs.

History

CO-80-93, October 28, 1993.

§ 2002. Definitions

A. "Borrower" (or "Trustor") means an enrolled member or members of the Navajo Nation conveying loan property by a deed of trust as security for the performance of an obligation, or the successor(s) in interest of such person or persons.

B. "Contract" means an agreement between an enrolled member of the Navajo Nation who is the borrower and a federal or Navajo Nation agency to secure a loan pursuant to federal and Navajo Nation law enabling the construction or improvement of housing in Navajo Indian Country, as defined by 7 N.N.C. § 254, as amended.

C. "Credit Bid" means a bid made by the lender in full or partial satisfaction of a contract which is secured by the trust deed.

D. "Deed of Trust" or "Trust deed" means a deed executed in conformity with this Chapter and conveying an encumbrance of a leasehold interest to the loan agent to secure the performance of an obligation of the borrower, or other person named in the deed, to a lender.

E. "Lender" means a federal or Navajo Nation agency which is lending funds for housing construction, repair or improvement. The Lender (or "Beneficiary") is the entity for whose benefit a deed of trust is given, or the Lender's successor in interest.

F. "Loan Agent" (or "Trustee") means the Navajo Nation, to whom title to the loan property is conveyed by trust deed, or the Navajo Nation's successor in interest.

G. "Loan Property" (or "Trust Property") means an encumbrance of a leasehold interest in the loan property which is capable of being transferred.

H. "Waste" means spoilage or destruction of the loan property which results in substantial injury to the property.

History

CO-80-93, October 28, 1993.

§ 2003. No waiver of Navajo Nation sovereign immunity

Nothing herein shall be interpreted as constituting a waiver, express or implied, of the sovereign immunity of the Navajo Nation.

History

CO-80-93, October 28, 1993.

Cross References

Navajo Nation Sovereign Immunity Act, 1 N.N.C. § 551 *et seq.*

§ 2004. Description of loan property; mailing addresses

A. In deeds of trust the legal description of the loan property shall be given by one of the following methods:

1. By the use of lot, block, tract or parcel as set forth within a recorded subdivision plat;

2. By the use of a metes and bounds or course and distance survey,
or

3. By the use of the governmental rectangular survey system with specific identification of the location within any section or sections, tract or tracts, of a township and range.

B. The mailing address of each borrower, lender, and loan agent shall be specified in each deed of trust.

History

CO-80-93, October 28, 1993.

§ 2005. Deeds of Trust as security

Deeds of Trust may be executed as security for the performance of a contract. Statutes of the Navajo Nation which may refer to mortgages as security instruments are deemed to also include deeds of trust, unless the context otherwise requires.

History

CO-80-93, October 28, 1993.

§ 2006. Transfers of loan property; uses

A. Transfers of the loan property may be made to secure the performance of the contract by the borrower or any other person, subject to appropriate approvals by the lender, the loan agent and the BIA. An interest in the loan property acquired by the borrower subsequent to the execution of the trust deed shall become additional security for the contract for which the loan property is conveyed as if the interest of claim had been acquired before execution of the deed.

B. The loan agent or lender shall have a right to maintain an action in the courts of the Navajo Nation against any person, including the borrower, for a claim for relief where damage or injury occurs or may occur to the loan property or interests therein, including but not limited to, actions for damages or to prevent:

1. Physical abuse to or destruction of the loan property or any portion thereof;
2. Waste;
3. Impairment of the security provided by the deed of trust.

C. In any such action under § 2006(B), the loan agent or lender, or both, shall also be entitled to recover reasonable costs of bringing the action and shall be entitled to all remedies available. Recovery of damages under this Section shall be limited to damages or injuries incurred during the time the borrower is in possession or control of the loan property.

History

CO-80-93, October 28, 1993.

§ 2007. Borrower's right to transfer; no transfer fee; Interest rate increase limit

A. Nothing in this Chapter shall be construed to prevent or limit the right of a borrower to transfer his or her interest in the loan property, subject to approval of such transfer by the loan agent, the lender and the BIA.

B. When a borrower transfers his or her interest in the loan property, no lender or loan agent shall charge a fee on the transfer.

C. When a borrower transfers his or her interest in the loan property, no lender or loan agent shall increase the interest rate on the obligation secured by the trust deed unless the transferring borrower is released from all liability, and in no event shall the amount of such increase exceed one-half of one percent (1%) per annum more than the interest rate paid by the transferring borrower.

D. This Chapter shall be applicable only to loan property which is not used for commercial purposes and which is limited to and utilized for dwelling units.

History

CO-80-93, October 28, 1993.

§ 2008. Sale of loan property; power of loan agent; foreclosure of trust deed

A. A power of sale is hereby conferred upon the loan agent of a deed of trust under which the loan property may be sold in the manner provided in this Chapter, after a breach or default in performance of the contract, for which the loan property is conveyed as security, or a breach or default of the trust deed.

B. If the loan agent fails to exercise the power of sale within 90 days of receipt of a copy of the formal letter of acceleration from the lender, the lender may file and maintain an action to foreclose a deed of trust in the courts of the Navajo Nation.

C. The power of sale of trust property conferred upon the loan agent shall not be exercised before the expiration of 90 days from the recording of the notice of intent to sell.

History

CO-80-93, October 28, 1993.

§ 2009. Notice of land agent's sale

A. The loan agent shall give written notice of the time and place of sale legally describing the loan property to be sold by methods which shall include the following:

1. Publication of such notice in *The Navajo Times*, or such other publication of general circulation on or near the Navajo Nation, once a week for four consecutive weeks;

2. Posting of such notice, at least 21 days before the date of sale, at places provided for posting public notices in Window Rock, at the local BIA Agency, and at the chapter house where the loan property is to be sold;

3. Recording of such notice with the BIA, at the BIA address as specified in the deed of trust;

4. Giving notice as provided in § 2011, to the extent applicable.

B. The sale shall be held at the time and place designated in the notice of intent to sell at a special place on the loan property, at the chapter house, or at a specified location at a place of business of the loan agent, in any agency in which part of the loan property to be sold is situated.

C. The notice of sale shall contain:

1. An identifiable location, including directions from the nearest chapter house, as well as the legal description of the loan property;

2. The original principal balance as shown on the deed of trust;

3. The names and addresses of the lender and the loan agent, the name and address of the original borrower as stated in the deed of trust and the signature of the loan agent; and

4. The borrower's right to reinstate according to § 2010.

D. Any error or omission in the information required by Subsection (C) of this Section, other than an error in the legal description of the loan property, or failure to include notice of right to reinstate, shall not invalidate a loan agent's sale. Any error in the legal description of the loan property shall not invalidate a loan agent's sale if, considered as a whole, the information provided is sufficient to identify the loan property being sold.

History

CO-80-93, October 28, 1993.

§ 2010. Right of reinstatement

A. The borrower may, before 5:00 p.m. on the last business day before the date of sale, reinstate the deed of trust by paying to the lender the arrearage on the contract or deed of trust, any reasonable amount advanced by the lender as provided in the contract or deed of trust for protection or maintenance of the loan property, and for reasonable loan agent's costs.

B. Upon performance of the conditions under Subsection (A), the contract of deed of trust shall be reinstated and in force as if no breach or default had occurred. The lender shall notify the loan agent in writing of the reinstatement before the loan agent's sale, and shall forward the payment to the loan agent for costs.

C. The loan agent and the lender shall provide to the borrower, or upon request, to any person entitled to notice pursuant to § 2011, a good faith estimate of the sum which is necessary to reinstate the trust deed. A reinstatement based on a good faith estimate shall be effective.

D. Upon receipt of notice of reinstatement, the loan agent shall cancel the proceedings, and shall record a cancellation of the notice if sale was

recorded.

History

CO-80-93, October 28, 1993.

§ 2011. Request for copies of notice of intent to sell; mailings by loan agent; disclosure of information regarding loan agent sale; opportunity for hearing

A. A person desiring notice of intent to sell under a trust deed shall, at any time after the recording of the trust deed and before the recording of a notice of intent to sell, record with the recording office of the Navajo Nation or with the office to which the Navajo Nation has given authority to record title, a duly acknowledged request for a copy of the notice of intent to sell.

B. Not later than 30 days after recording the notice of intent to sell, the loan agent shall mail by certified or registered mail a copy of such notice with the recording date shown, together with any notice required to be given by § 2009, addressed as follows:

1. To each person whose name and address are set forth in a request for notice, which has been recorded before the recording of the notice of intent to sell;

2. To each person who, at the time of recording of the notice of intent to sell, appears on the records of the BIA or the Navajo Nation to have an interest in the loan property. Such copy of the notice shall be addressed to the person whose interest so appears at the address set forth in the document; and

3. To each person who was a party to the trust deed.

C. A return, self-addressed, postage paid postcard shall be enclosed with notice to the borrower. If the borrower desires a hearing, this postcard shall be returned by mail to the loan agent within 14 days, who shall direct the request for hearing to the Navajo Nation Office of Hearings and Appeals. The hearing shall be subject to rules and regulations as defined by the Office of Hearings and Appeals. If no postcard is returned, the power of sale will be exercised without a hearing.

D. No request for a copy of a notice recorded pursuant to this Section, nor any statement or allegation in any such request, nor any record thereof, shall affect the title to the loan property or be deemed notice to any person that a person requesting a copy of notice of intent to sell has or claims any interest in, or claim upon the loan property.

E. Not sooner than 30 days after recordation of the notice of loan agent's sale, the loan agent shall upon receipt of a written request, provide, if actually known to the loan agent, the following information relating to the agent's sale and the loan property:

1. The unpaid principal balance of the note or other obligation which is secured by the deed of trust;

2. The name and address of record of the owner of the loan property as of the date of recording the notice of loan agent's sale; and

3. A list of the liens and encumbrances recorded on the trust property as of the date of recording the notice of loan agent's sale.

F. At any time during the day of sale but before the sale begins, or on the last business day preceding the day of sale, the loan agent shall provide to any person who requests it, a good faith estimate of the maximum credit bid the lender shall be entitled to make at the sale.

G. In providing information pursuant to Subsections (E) and (F) of this Section, the loan agent may, without obligation or liability for the accuracy or completeness of the information, respond to oral requests, respond orally or in writing or provide additional information not required by such Subsections. With respect to loan property which is the subject of a loan agent's sale, the lender or the holder of any prior lien may provide information concerning such deed of trust or any prior lien which is not required by Subsections (E) or (F) of this Section. The providing of such information by any lender or holder of a prior lien shall be without obligation or liability for the accuracy or completeness of the information.

History

CO-80-93, October 28, 1993.

§ 2012. Sale at public auction; postponement of sale

A. On the date and at the time and place designated in the notice of intent to sell, the loan agent shall sell the loan property at public auction to the highest qualified bidder. A representative of the loan agent may conduct the sale, and act at such sale as the auctioneer. Any qualified person, including the loan agent or lender may bid at the sale. Only the lender may make a credit bid, in lieu of cash, at such sale. The sale shall not be deemed completed until the purchaser pays the price bid in a form satisfactory to the loan agent.

B. The person conducting the sale may, for any cause deemed in the interest of the lender or borrower, or both, postpone or continue the sale from time to time, or change the place of the sale to any other location authorized pursuant to this Chapter by giving notice of the new date, time and place by public declaration at the time and place last appointed for the sale. Any new sale date shall be a fixed date within 90 calendar days of the date of the declaration.

C. A sale shall not be complete if the sale as held is contrary to or in violation of any federal statute in effect because of an unknown or undisclosed bankruptcy.

History

CO-80-93, October 28, 1993.

§ 2013. Payment of bid; loan agent's deed

A. The purchaser at the sale, other than the lender to the extent of a credit bid or the loan agent, shall pay the price bid within five working days. If the sale is continued, the loan agent shall provide notice of the continuation of the sale, by registered or certified mail with postage prepaid, to all bidders who provide their names, addresses and telephone numbers in writing to the party conducting the sale. A purchaser who fails to pay the amount bid by him or her is liable to any person who suffers loss or expenses as a result. In any subsequent sale of the loan property, the loan agent may reject any bid of a purchaser who fails to pay the amount bid.

B. The price bid shall be paid at the office of the loan agent or his or her representative. The payment of the bid price may be made at a later time if agreed upon in writing by the loan agent. Upon receipt of payment, in a form satisfactory to the loan agent, the loan agent shall execute and deliver his or her deed to the purchaser.

C. The loan agent's deed shall operate to convey to the purchaser the title, interest and claim of the loan agent, the borrower, the lender, their respective successors in interest and of all persons claiming the loan property sold by or through them, including all interest or claim in the loan property acquired subsequent to the recording of the deed of trust and prior to delivery of the loan agent's deed. Such conveyance shall be absolute, without right of redemption and clear of all liens, claims or interests having a priority subordinate to the deed of trust.

History

CO-80-93, October 28, 1993.

§ 2014. No right to recover deficiency; disposition of proceeds of sale

A. The proceeds of the sale shall be deemed to be in full satisfaction of the obligation and no right to recover a deficiency in any action shall exist.

B. The loan agent shall apply the proceeds of the sale of the loan property as follows:

1. To the costs and expenses of exercising the power of sale and of the sale itself;
2. To payment of the contract secured by the trust deed;
3. To the payment of all other obligations provided in or secured by the trust deed; and
4. To the junior lienholders, or encumbrancers in order of their priority. After payment in full to all junior lienholders and encumbrancers, payment shall be made to the borrower.

History

CO-80-93, October 28, 1993.

§ 2015. Transfer of secured contract

The transfer of any contract secured by a trust deed, subject to proper approvals, shall operate as a transfer of the security for such contract.

History

CO-80-93, October 28, 1993.

§ 2016. Notice from instruments recorded; assignment of a beneficial interest

Except as otherwise provided in this Section, a trust deed, substitution of loan agent, assignment of a beneficial interest under a trust deed, notice of intent to sell, loan agent's deed, deed of release, and any instrument by which a loan agent is subordinated or waived as to priority, if acknowledged as provided by law, shall from the time of being recorded impart notice of the content to all persons, including subsequent purchasers and encumbrancers for value. The recording of an assignment of the beneficial interest in a trust deed shall not be deemed notice of such assignment to the borrower, his or her heirs or personal representatives, so as to invalidate any payment made by them to the person previously holding the note, or other instrument evidencing the contract secured by the trust deed.

History

CO-80-93, October 28, 1993.

§ 2017. Loan agent's right to rely

In carrying out duties under the provisions of this Chapter or any deed of trust, the loan agent shall have the absolute right to rely upon any written direction or information furnished by the lender.

History

CO-80-93, October 28, 1993.

§ 2018. Recordation with the BIA

The loan agent shall provide the BIA with a certified copy of any assignment of lease or deed of trust.

History

CO-80-93, October 28, 1993.

§ 2019. Development of rules, regulations and guidelines; effective date

The department or entity responsible for acting on behalf of the loan agent shall have authority to develop rules, regulations and operating guidelines to further the purpose of and otherwise implement this Chapter. This Chapter shall become effective upon the approval of these rules, regulations, and guidelines by the Transportation and Community Development

Committee after consultation with the Resources Committee, the Human Services Committee, and any other appropriate standing committee of the Navajo Nation Council.

History

CO-80-93, October 28, 1993.

§ 2020. Severability

Should any provision of this Chapter or its applicability be found to be invalid by the courts of the Navajo Nation, the remaining provisions which can be implemented without the invalid provision shall be given full force and effect. To this extent, the provisions of this Chapter are severable.

History

CO-80-93, October 28, 1993.

Chapter 21. Navajo Nation Civil Trespass Act

Subchapter 1. General Provisions

§ 2201. Short title

This chapter may be cited as the "Navajo Nation Civil Trespass Act."

History

CJY-26-07, July 20, 2007. Added "Short title" at § 2201 and renumbered previous § 2201 to § 2202, "Findings; purpose."

§ 2202. Findings; purpose

A. The Navajo Nation Council finds:

1. The Navajo Nation is comprised of over 27,000 square miles of land, the vast majority of which is Navajo Nation Lands as defined in this Chapter;

2. The Navajo Nation also owns lands and interests in lands outside the territorial boundaries of the Navajo Nation, all of which are Navajo Nation Lands as defined in this Chapter;

3. The Navajo Nation has approved, issued or granted, and continues to approve, issue or grant, numerous leases, easements, rights-of-way, and permits for the use of Navajo Nation Lands to Navajo Nation residents and non-residents, Navajo Nation tribal members and nonmembers, corporations, and other legal entities;

4. Unauthorized possession of, holding over upon, entry upon and use of Navajo Nation Lands causes significant harm to Navajo Nation resources and causes substantial economic and other damage to the Navajo

Nation as sovereign and landowner;

5. The Navajo people possess the inherent right of self-government and self-determination, which rights are recognized, secured and protected by Treaties between the Navajo Tribe of Indians and the United States of America of September 9, 1849, 9 Stat. 974, and of June 1, 1868, 15 Stat. 667, and other federal laws;

6. The rights of the Navajo Nation as landowner and as sovereign include the power to exclude nonmembers from Navajo Nation Lands within the Navajo Nation; the power to place conditions on the entry upon, the acquisition of rights to or interests in, or the use of Navajo Nation Lands; and the power to regulate such use in accordance with applicable Navajo and federal law and with any applicable contracts;

7. The authority of the Secretary of the Interior to issue and approve business site leases has been delegated to the Navajo Nation pursuant to the Navajo Nation Trust Land Leasing Act of 2000, Pub. L. 106-568, 114 Stat. 2933; the Energy Policy Act of 2005 provides that the Secretary's authority to grant certain rights-of-way and leases of Navajo lands will also be delegated to the Navajo Nation upon the Nation's compliance with certain conditions; and federal policy since 1934 has encouraged greater tribal control over reservation resources generally;

8. The United States of America has treaty-based, statutory, and trust duties to manage lands held in trust for the Navajo Nation, but the Bureau of Indian Affairs, which must shoulder the task of doing so, has such staggering responsibilities that federal assistance to the Navajo Nation to prevent or remedy trespasses on Navajo Nation Lands has been and is expected to be limited;

9. Acquisition of interests in, the possession or use of, trespasses on, and other local actions involving Navajo Nation Lands within the Navajo Nation are subject to the laws and regulations of the Navajo Nation;

10. The Navajo Nation does not have any criminal laws regarding trespass on Navajo Nation Lands applicable to non-members, and the Navajo Nation has historically favored resolution of all allegations of trespass on Navajo Nation Lands through the civil law, rather than through criminal sanctions.

B. The purposes of this Chapter are:

1. To state the terms on which the Navajo Nation will give its consent to persons to obtain an interest in, enter upon, or otherwise use Navajo Nation Lands;

2. To define administrative responsibility within the Navajo Nation government for addressing trespasses on Navajo Nation Lands;

3. To provide appropriate notice, opportunity to be heard, and other administrative procedures to determine whether a person or entity is trespassing on Navajo Nation Lands, and, if so, to establish

guidelines and factors for setting civil administrative trespass assessments and the enforcement of the same;

4. To provide for judicial review of such civil administrative trespass assessments;

5. To compensate for lost revenues, interest, costs, opportunity costs, attorney fees, costs of administration, and other tangible and intangible costs and damages, if a person or entity is determined to have been or to be trespassing on Navajo Nation Lands;

6. To ensure that the ability of the Navajo Nation and the United States of America as trustee to address and remedy trespasses on Navajo Nation Lands is not limited or compromised in any way by the operation of this chapter.

History

CJY-26-07, July 20, 2007. Renumbered and amended previous § 2201-"Findings; purpose," as § 2202.

CO-92-94, October 26, 1994.

Note. Slightly reworded at subsection (B) for clarity.

§ 2203. Definitions

As used in this Chapter:

A. "Director" means the Executive Director of the Navajo Nation Division of Natural Resources, or its successor agency, or his or her designee.

B. "Easement" and "Right-of-Way" means any valid, duly authorized grant of, or agreement relating to, an easement or right-of-way in, over, under, through or to Navajo Nation Lands. Where the context requires, "Easement" and "Right-of-Way" refer to the interest created by a grant of easement or right-of-way, or by any agreement with the Navajo Nation relating to the same. As applied to Navajo Nation Lands held in trust for the Navajo Nation by the United States of America, "Easement" and "Right-of-Way" include all interests in land held in accordance with the provisions of 25 U.S.C. §§ 311-328 and regulations at 25 C.F.R. Part 169; Title 5 of the Energy Policy Act of the 2005, 25 U.S.C. § 3501 *et seq.*, as amended; any other federal law authorizing easements or rights-of-way in Indian lands; any amendments to such laws or regulations; and any future federal or Navajo Nation legislation permitting the grant or easements or rights-of-way in, over, under, through or to such Navajo Nation Lands.

C. "Land" or "Lands" means any and all land and interests in land, including land held by original title, land held in trust by the United States, land owned in fee simple, land held under lease, easement, permit or otherwise, whether restricted or otherwise, and includes all rights and incidents appurtenant to any land or interests in land, including without limitation rights to water and minerals, whether surface or subsurface, and to airspace.

D. "Lease" means any valid, duly authorized lease or lease agreement conveying a leasehold interest in or to, and authorizing the possession or use of, Navajo Nation Lands. Where the context requires, "Lease" refers to the interest created by a lease or lease agreement with the Navajo Nation. As applied to Navajo Nation Lands held in trust for the Navajo Nation by the United States of America, "Lease" includes all permits and leases issued in accordance with the provisions of the Navajo and Hopi Rehabilitation Act of 1950, 25 U.S.C. §§ 631-638; the Indian Long-Term Leasing Act of 1955, 25 U.S.C. §§ 415-415d; the Navajo Nation Trust Land Leasing Act of 2000, 25 U.S.C. § 415(e); the Indian Mineral Leasing Act of 1938, 25 U.S.C. §§ 396a-396g; the Indian Mineral Development Act of 1982, 25 U.S.C. §§ 2101-2108; Title 5 of the Energy Policy Act of 2005, 25 U.S.C. § 3501 *et seq.*, as amended; regulations implementing any federal law permitting the leasing of Indian lands, including without limitation regulations at 25 C.F.R. Parts 162, 166, 167, 211, 212, 221, 225 and any Navajo Nation regulations relating to such leasing; any other federal law authorizing the leasing or permitting of Indian Lands; any amendments to such laws or regulations; and any future federal or Navajo Nation legislation authorizing the leasing of Navajo Nation Lands.

E. "Navajo Customary Law" means the usages or practices of the Navajo people which, by common acquiescence, governs and has governed their traditional activities and relationships among themselves from time immemorial, whether or not later interpreted by the courts of the Navajo Nation or other courts of competent jurisdiction.

F. "Navajo Nation" means:

1. When referring to the body politic, the same meaning as set forth in 1 N.N.C. § 552.

2. When referring to governmental territorial jurisdiction, the same meaning as set forth in 7 N.N.C. § 254(A) and 18 U.S.C. § 1151, including without limitation all lands within the boundaries of Navajo chapters listed in 11 N.N.C. § 10, any other land over which the Navajo Nation may exercise governmental authority in accordance with Navajo and federal law.

G. "Navajo Nation Council" means the governing body of the Navajo Nation as set forth in 2 N.N.C. § 101.

H. "Navajo Nation Lands" means any Land or any interest in Land owned or held by the Navajo Nation, or held in trust in whole or in part by the United States of America for the Navajo Nation, whether within or outside the boundaries of the Navajo Nation.

I. "Navajo Regional Director" means the Regional Director of the Navajo Regional Office of the United States Bureau of Indian Affairs or its successor agency, or his or her duly authorized representative.

J. "Permit" means any document or agreement granting, authorizing or relating to any duly authorized usufruct or permissive use of Navajo Nation Lands, including without limitation sand and gravel, borrow material, surveying, and drilling or other exploration permits. When the context requires, "Permit" refers to the usufruct or permissive use granted or

authorized thereby or any agreement with the Navajo Nation related thereto.

K. "Person" means any individual, group of individuals, corporation, partnership, association, company, state, municipality, commission, political subdivision of a state, interstate body, and the federal government or any agency thereof, but does not include the Navajo Nation.

L. "Resources Committee" means the Resources Committee of the Navajo Nation Council established and authorized as a standing committee thereof by 2 N.N.C. § 691 *et seq.*, or its successor.

M. "Resources Enforcement Agency" means the enforcement arm of the Navajo Nation Division of Natural Resources, as established by Navajo Nation Council Resolution No. ACJY-139-88, as amended, or its successor.

N. "Secretary" means the Secretary of the United States Department of the Interior or his or her authorized representative.

O. "Trespass" means the unauthorized interest in, possession of, holding over upon, entry upon, the accidental spilling or intentional dumping of petroleum products or any hazardous waste as defined by Navajo or federal law on, or other use of (including without limitation the disposal of industrial wastes, mine wastes, tailings, and other contamination on and/or the failure to remove such materials from) Navajo Nation Lands.

History

CJY-26-07, July 20, 2007. Renumbered and amended previous § 2202—"Definitions," as § 2203.

CO-92-94, October 26, 1994.

§ 2204. Effective date

A. The effective date of this amended Navajo Nation Civil Trespass Act shall be thirty days after the date of enactment.

B. Trespasses occurring and terminating before such effective date shall be governed by the provisions of the Navajo Nation Civil Trespass Act in effect prior to such effective date.

C. In the case of any trespass commencing or occurring before such effective date but continuing after such effective date, the provisions of the Navajo Nation Civil Trespass Act in effect prior to such effective date shall apply to each violation before such effective date and the provisions of this amended Navajo Nation Civil Trespass Act shall apply to each violation after such effective date.

History

CJY-26-07, July 20, 2007. Added "Effective date" at § 2204 and renumbered previous § 2204, "Applicability," to § 2205.

Note. Resolution CJY-26-07 was signed into law by President Joe Shirley, Jr. on

July 30, 2007.

§ 2205. Applicability

A. Except as otherwise provided in Subsection (B) of this Section, this Chapter shall apply to all Navajo Nation Lands and to all persons holding or claiming an interest in, possessing, holding over upon, entering upon, burdening, or otherwise using Navajo Nation Lands.

B. This Chapter shall not apply to enrolled members of the Navajo Nation holding or claiming an interest in, possessing, entering upon, burdening, or otherwise using Navajo Nation Lands pursuant to and in accordance with Navajo Customary Law.

History

CJY-26-07, July 20, 2007. Renumbered and amended previous § 2203 "Applicability."

CO-92-94, October 26, 1994.

§ 2206. Rules and regulations

A. The Director shall promulgate such rules and regulations from time to time as may be deemed necessary or desirable to carry out the provisions of this Chapter. Such regulations may include without limitation:

1. Regulations governing administration of this Chapter by the Director;
2. Regulations governing the determination of civil trespass assessments under this Chapter; and
3. Rules and procedures governing appeals provided for under this Chapter.

B. Proposed rules and regulations shall be published for public review and comment at least 30 days prior to their adoption. Rules and regulations shall be effective in accordance with their terms after review and approval by the Resources Committee.

C. The effectiveness and enforceability of this Chapter shall not be dependent on the adoption of regulations under Subsections (A) and (B) of this Section.

History

CJY-26-07, July 20, 2007. Renumbered and amended previous § 2204-"Rules and regulations," as § 2206.

CO-92-94, October 26, 1994.

§ 2207. Construction

A. The provisions of this Chapter shall be liberally construed to fulfill the purposes of this Chapter and consistent with its findings, as set forth in § 2202, and so as not to conflict with applicable federal law.

B. Nothing in this Chapter shall be construed to diminish, limit or otherwise adversely affect any right or remedy otherwise available to the Navajo Nation or its members under other applicable law.

C. Nothing in this Chapter shall be construed to affect the application to any person of otherwise applicable Navajo Nation laws, nor to prohibit the Navajo Nation from enforcing other laws against members of the Navajo Nation or nonmember Indians, including without limitation laws concerning intentional and knowing trespasses on lands or property of another, criminal entry, trespass with force or violence, or burglary under 17 N.N.C. §§ 350-354.

History

CJY-26-07, July 20, 2007. Renumbered and amended previous § 2205-
"Construction," as § 2207.

CO-92-94, October 26, 1994.

§ 2208. Severability

If any provision of this Chapter, or its application to any person or class of persons, or to any lands or in any particular circumstance, is held invalid or unlawful for any reason by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby and shall remain in full force and effect.

History

CJY-26-07, July 20, 2007. Renumbered and amended previous § 2206-
"Severability," as § 2208.

CO-92-94, October 26, 1994.

§ 2209. Condition of consents, grants and agreements

A. As matters of both contract and of applicable Navajo Nation law, acknowledgment and acceptance of the provisions and applicability of this Chapter shall be a term and condition of the consent or grant by the Navajo Nation to or of each and every Lease, Easement or Right-of-Way, Permit, or agreement relating thereto, made or entered into from and after the enactment of this Chapter.

B. Subsection (A) of this Section is not intended to, nor shall it be construed to, diminish, limit, or otherwise adversely affect the application of this chapter to any person or lands or to any existing Lease, Easement or Right-of-Way, Permit, or agreement relating thereto.

C. By accepting the rights and privileges of entering and using Navajo Nation Lands under any Lease, Easement or Right-of-Way, or Permit, the lessee, grantee, or permittee, as the case may be, shall have consented and shall be

deemed to have consented to be governed by this Chapter, and to the full legislative, judicial (including subject matter, personal, and *in rem* jurisdiction), regulatory, and administrative jurisdiction of the Navajo Nation and its courts as may be necessary or convenient for the full application and enforcement of this Chapter in accordance with its provisions. However, this Paragraph shall not apply to the United States or any State or political subdivision thereof, to the extent inconsistent with applicable federal or State law.

D. The Navajo Nation Council or any duly authorized Committee thereof may exempt particular lessees, grantees, or permittees from the provisions of this Section for one transaction or a class of transactions by legislation explicitly stating its intent to do so.

E. Nothing in this Section is intended, nor shall it be construed, to diminish any prior existing contract or property right of any person or entity.

History

CJY-26-07, July 20, 2007. Renumbered and amended previous § 2207—"Chapter condition of future consents, grants and agreements," and § 2209—"Amendments," combined as § 2209.

CO-92-94, October 26, 1994.

Subchapter 3. Prohibitions; Unlawful Acts; Penalties; Damages

§ 2251. Prohibition on possession or use of Navajo Nation Lands without permission

A. Except as otherwise provided in Subsection B of this Section, no person shall have an interest in or to, or possess, enter upon, burden, or use Navajo Nation Lands except pursuant to and in strict compliance with the terms and conditions of a valid Lease, Easement, Right-of-Way or Permit, duly issued, approved, or consented to by the Navajo Nation, or by the United States with the express, valid and contemporaneous consent of the Navajo Nation.

B. Notwithstanding the provisions of Subsection A of this Section, it shall be lawful and permissible for an enrolled member of the Navajo Nation to have an interest in, possess, enter upon or otherwise use Navajo Nation Lands pursuant to and in substantial compliance with Navajo Customary Law, and to possess and use land under a validly issued homesite lease or grazing permit which has expired but where a timely and sufficient application for renewal thereof has been made in good faith and remains pending.

C. Any person trespassing on or otherwise entering, using, possessing, holding over on, claiming an interest in, or otherwise burdening Navajo Nation Lands within the Navajo Nation without lawful authority shall have consented, and shall be deemed to have consented, by its presence and use of such lands within such jurisdiction, to the full legislative, judicial (including subject matter, personal and *in rem* jurisdiction), regulatory, and administrative jurisdiction of the Navajo Nation and its courts as may be necessary or convenient for the full application and enforcement of this Chapter in

accordance with its provisions.

History

CAP-14-09, April 22, 2009. Amended Subsection C.

CJY-26-07, July 20, 2007.

CO-92-94, October 26, 1994.

§ 2252. Unlawful acts

It shall be unlawful to possess, hold over upon, enter upon, burden, trespass upon, or otherwise use Navajo Nation Lands in violation of any provision of § 2251. Each day that a person shall so violate any provision of § 2251 shall constitute a separate violation. Each violation with respect to a separate parcel of land shall constitute a separate violation. A parcel shall be considered separate for purposes of this Section where rights to or interests in it are created by a separate instrument, is physically noncontiguous, or is used, in whole or in part, for additional, other, or distinct purposes. The Director may further define "separate parcel" in regulations adopted in accordance with § 2205.

History

CAP-14-09, April 22, 2009.

CJY-26-07, July 20, 2007.

CO-92-94, October 26, 1994.

§ 2253. Civil trespass assessments

A. Any person who commits any unlawful act under § 2252 shall be subject to a civil assessment not to exceed twenty-five thousand dollars (\$25,000) for each violation.

B. In determining the amount of such civil assessment, the Director, hearing officer, or the court, as the case may be, shall consider the seriousness of the violation or violations, the economic or other benefits to the trespasser resulting from the violation, any opportunity costs, any actual damages to Navajo Nation Lands attributable to the trespass, whether the trespasser had actual or constructive notice of the trespass, any history of other violations by the trespasser, any costs to the Navajo Nation attributable to the trespasser's attempts to avoid its responsibilities to the Navajo Nation including without limitation costs of enforcement and attorney fees for any and all related proceedings, any relevant contractual provisions, any good-faith efforts to comply with applicable requirements, and such other factors as justice may require. In no event shall the amount of the assessment be less than the costs of enforcement, the opportunity costs to the Navajo Nation, the damage to Navajo Nation Lands attributable to the trespass, and any other direct, consequential or special harm suffered by the Navajo Nation attributable to the trespass, unless extraordinary circumstances require otherwise.

History

CJY-26-07, July 20, 2007. Amended previous § 2253 "Penalties."

CO-92-94, October 26, 1994.

Note. Previous § 2254 "Damages," deleted by CJY-26-07, July 20, 2007.

§ 2254. Damages

A. Any person who violates any provision of § 2252 of this Chapter shall be liable to the Navajo Nation for all damages proximately caused by such violation.

B. Damage proximately caused by a violation shall be determined by the Director or the court, as the case may be, based upon:

1. The higher of the economic benefit to the violator or the detriment to the Navajo Nation (including, but not limited to, lost opportunity costs);
2. The costs of enforcement; and
3. All other consequential or special damages proximately flowing from the violation.

History

CO-92-94, October 26, 1994.

Subchapter 5. Enforcement

§ 2281. Information and investigation

A. Any person may provide information to the Director in writing concerning facts which indicate a trespass upon Navajo Nation Lands.

B. Any employee or official of the Navajo Nation with knowledge of facts which indicate a trespass upon Navajo Nation Lands shall promptly report such information to the Director in writing.

C. Upon receipt of information indicating a trespass upon Navajo Nation Lands, the Director shall:

1. Notify affected divisions, departments or programs of the Navajo Nation; and
 2. Undertake such investigation as may be necessary to determine whether a trespass has occurred and how to proceed in case a trespass is found.
- D. The Director shall consult with affected divisions, departments or

programs prior to determining how to proceed in case a trespass is found.

E. If the lands involved are within the Navajo Nation, the Director shall proceed in accordance with § 2282. If the lands involved are outside the Navajo Nation, the Director shall proceed in accordance with § 2290.

History

CJY-26-07, July 20, 2007.

CO-92-94, October 26, 1994.

§ 2282. Enforcement within the Navajo Nation

Whenever on the basis of information available to him or her the Director finds that any person has violated any provision of § 2252 on Navajo Nation Lands within the Navajo Nation, the Director shall notify the Attorney General and, after such consultation with the Attorney General as the Director deems appropriate, may take any of the following actions or combination of actions:

A. Issue a Notice of Trespass and Order to Comply in accordance with § 2283;

B. Issue a Civil Trespass Assessment in accordance with § 2284;

C. Request the President of the Navajo Nation to initiate exclusion proceedings pursuant to 17 N.N.C. §§ 1901 and 1902;

D. Enforce the Lease, Easement or Right-of-Way or Permit in accordance with § 2292.

E. Request assistance from the Secretary or other appropriate agency of the United States to address the trespass and to assist in the enforcement of this Navajo Nation Civil Trespass Act and any other applicable Navajo or federal law;

F. If any property or equipment of the trespasser has reverted to or is otherwise owned by the Navajo Nation under the provisions of any applicable law or agreement, determine, after consultation with the Attorney General, if such property or equipment should be retained by the Navajo Nation, sold or otherwise conveyed by the Navajo Nation, or leased or otherwise conveyed to a person able and willing to continue to operate or use such property or equipment in conformity with applicable Navajo and federal law and on such terms and conditions as the Director deems appropriate, subject to any required approvals of the Navajo Nation Council or any standing committee thereof; and/or

G. Take any other reasonable and necessary steps to address and remedy the trespass in conformity with this Navajo Nation Civil Trespass Act and any other applicable Navajo or federal law.

History

CJY-26-07, July 20, 2007.

CO-92-94, October 26, 1994.

§ 2283. Notice of trespass and order to comply

A. A Notice of Trespass and Order to Comply ("Notice") shall be in writing, shall identify the person who is trespassing and the location and date of each known trespass, shall include a short statement of facts indicating the nature and circumstances of the trespass, and shall include a copy of this Navajo Nation Civil Trespass Act as it may be amended from time to time.

B. The Notice shall specify the action needed to be taken by the trespasser to remedy the trespass. Such action may include without limitation:

1. Removal of persons or property from the premises;

2. Compliance with the terms, conditions, covenants or restrictions of any applicable Lease, Easement or Right-of-Way, or Permit or any agreement related thereto; and/or

3. Such other action as may be necessary to cure a violation.

C. The notice and order shall specify a reasonable period of time within which to comply.

D. The Notice shall not require any action or specify any time period inconsistent with any provision of an applicable Navajo or federal law or any term of the Lease, Easement or Right-of-Way, or Permit at issue or any agreement related thereto.

E. The Notice shall advise the person identified therein of the rights of appeal available under § 2287.

F. The Notice shall be served upon the person identified therein in a manner reasonably calculated to provide actual notice of the matter to such person, including without limitation personal delivery, service by certified mail, return receipt requested, service to such person at the address given in any relevant agreement, and any manner of service authorized under Rule 4 of the Navajo Rules of Civil Procedure or Rule 4 of the Federal Rules of Civil Procedure, or as otherwise specified in any agreement related to the Lease, Easement or Right-of-Way, or Permit at issue, or any combination of these means.

G. Nothing in this Section shall prohibit the imposition of civil trespass assessments for trespasses occurring prior to service of a Notice or prior to the completion of any compliance period provided by a Notice or prior to the completion of any administrative and/or judicial proceedings related to such assessments.

History

CJY-26-07, July 20, 2007.

CO-92-94, October 26, 1994.

§ 2284. Service of Civil Trespass Assessment

A. The Director may serve a Civil Trespass Assessment ("Assessment") in the manner specified in § 2283(F), either with or without a Notice.

B. The Assessment shall be in writing, shall identify the person who is trespassing and the location and date of each known trespass, and shall include a short statement of facts indicating the nature and circumstances of the trespass.

C. The Assessment shall state:

1. The dollar amount of the Assessment in accordance with § 2253; and

2. The time period for which each Assessment is made.

D. Each Assessment shall reference the provisions of this Chapter or of any regulations adopted pursuant to this § 2205 which govern the calculation of the assessment amount, shall include a short description of the method by which such amount was determined, and shall include a copy of this Navajo Nation Civil Trespass Act, as it may be amended from time to time.

E. The Assessment shall specify the date by which payment is due to the Nation under § 2285.

F. The Assessment shall advise the person identified therein of the rights of appeal available under § 2287.

History

CJY-26-07, July 20, 2007. Amended previous § 2284—"Notice of assessment of penalty and damages."

CO-92-94, October 26, 1994.

§ 2285. Payment of assessment

A. Any Assessment under § 2284 shall be due and payable upon receipt thereof and shall become delinquent 25 days thereafter.

B. Payments shall be made by certified check payable to the order of the Navajo Nation, Division of Natural Resources.

C. Interest on any delinquencies shall accrue from the date of the Assessment until paid in full. Interest shall be calculated using a rate five percent (5%) above the highest prime rate listed on the date of the Assessment by any bank operating within the Navajo Nation, and said rate shall continue in effect until such Assessment is paid in full or otherwise discharged.

D. Monies collected through payment of Assessments and any interest thereon shall be deposited in the Navajo Nation General Fund.

History

CJY-26-07, July 20, 2007. Amended previous § 2285—"Payment of penalties and damages."

CO-92-94, October 26, 1994.

§ 2286. Notice to divisions, departments and programs

The Director shall deliver a copy of any Notice and/or Assessment, and any subsequent notices, pleadings, orders, or other documents or materials filed with or by the Director, or by any party to any appeal, to:

- A. The Office of the President of the Navajo Nation;
- B. The Office of the Attorney General of the Navajo Nation;
- C. The Resources Enforcement Agency;
- D. The Director of the Minerals Department, if the trespass involves mineral resources, sand and gravel, geology, and/or energy related Leases, Easements, Rights-of-Way, or Permits;
- E. The Executive Director of the Division of Economic Development, if the trespass involves a business site Lease, Easement, Right-of-Way, or Permit; and
- F. The director of the division, department or program that issued or approved the Lease, Easement, Right-of-Way, or Permit.

History

CJY-26-07, July 20, 2007.

CO-92-94, October 26, 1994.

§ 2287. Appeals

A. Any person who receives a Notice pursuant to § 2283 or an Assessment pursuant to § 2284 may appeal by filing with the Navajo Nation Office of Hearings and Appeals, with a copy to the Director, a notice of appeal within 15 days of the date such Notice or Assessment was served on such person.

B. The notice of appeal shall be in writing and shall:

1. Identify the person who is trespassing or alleged to be trespassing and the location and date of the alleged trespass, and shall include a short statement of facts indicating the nature and circumstances of the alleged trespass;
2. Specify the Notice or Assessment being appealed;
3. Specify the legal basis for the appeal; and
4. Include a statement of facts upon which the appellant relies in

support of the appeal and such argument as appellant may care to make in support of the appeal.

C. Within five days after receipt of a notice of appeal, the Navajo Nation Office of Hearings and Appeals shall assign the appeal to a qualified and impartial hearing officer.

D. If a person is properly served with a Notice and/or Assessment and fails to file a notice of appeal within the time permitted under this Section, then such person shall have waived any further right to challenge the Notice and/or Assessment, and the Notice and/or Assessment shall be final and binding on such person.

History

CJY-26-07, July 20, 2007.

CO-92-94, October 26, 1994.

§ 2288. Stay upon appeal

A. The filing of a notice of appeal with the Navajo Nation Office of Hearings and Appeals shall not stay the enforcement of the Notice or Assessment. However, an appellant may file a motion for stay of enforcement at any time. A stay may be granted by the hearing officer where justice so requires, and upon such terms and conditions (including without limitation the posting of a bond) as the hearing officer may find just and proper. An order granting or denying a stay shall be in writing and shall state the grounds therefore, and an order granting a stay shall state the terms and conditions thereof, if any. The hearing officer may decrease or increase the amount of any bonding requirement to reflect any cessation or continuation of alleged wrongful conduct during the course of proceedings under this Chapter.

B. An order granting or denying a stay, and any terms or conditions of an order granting a stay, shall be final and may be appealed to the Navajo Nation Supreme Court in accordance with the Navajo Nation Rules of Civil Appellate Procedure by filing a notice of appeal with the Clerk of the Navajo Nation Supreme Court within 30 days of the entry and service of such order.

History

CJY-26-07, July 20, 2007.

CO-92-94, October 26, 1994.

§ 2289. Hearing and decision

A. The hearing officer shall hear the appeal within 30 days of receipt of the notice of appeal by the Navajo Nation Office of Hearings and Appeals. Upon request by either the Navajo Nation or the appellant, or upon their agreement, and for good cause shown, the hearing officer may grant a continuance of not more than 45 days for the hearing.

B. The hearing officer shall give the parties at least ten days notice of

the date, time and place of the hearing. Each party at the hearing may be represented by counsel and shall have the opportunity to subpoena witnesses, present evidence, and examine witnesses, provided, that nothing in this Chapter shall be construed to amend or affect the operation of the Navajo Sovereign Immunity Act.

C. After the hearing, each party shall have ten days to submit in writing proposed findings of fact and conclusions of law. The hearing officer may uphold, reverse, or modify the decision of the Director or any part thereof.

D. The hearing officer shall issue a decision on the appeal which shall include written findings of fact and conclusions of law.

E. The decision of the hearing officer shall be final and may be appealed by any party to the Navajo Nation Supreme Court in accordance with the Navajo Nation Rules of Civil Appellate Procedure by filing a notice of appeal with the Clerk of the Navajo Nation Supreme Court within 30 days of the entry and service of such decision. The Court shall review the decision of the hearing officer on the administrative record only. The decision of the hearing officer shall be affirmed unless the decision is arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law; contrary to any right, power, privilege, or immunity protected under the Navajo Bill of Rights; in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; without observance of procedure required by law; or unsupported by substantial evidence in the record.

History

CJY-26-07, July 20, 2007.

CO-92-94, October 26, 1994.

§ 2290. Enforcement outside the Navajo Nation

Whenever on the basis of information available to him or her, the Director finds that any person has violated the provisions of § 2252 on Navajo Nation Lands outside the Navajo Nation, the Director may take any of the following actions or combination thereof:

A. Enforce the Lease, Easement or Right-of-Way, or Permit in accordance with § 2291;

B. Request the Attorney General to bring a civil action in accordance with § 2292; and/or

C. Pursue such other rights and remedies on behalf of the Navajo Nation as may be authorized by the laws of the state in which such Lands are located.

History

CJY-26-07, July 20, 2007.

CO-92-94, October 26, 1994.

§ 2291. Enforcement of Lease, Easement, Right-of-Way, or Permit

A. The Director may take any action authorized or allowed under the provisions, terms and conditions, and covenants of an applicable Lease, Easement or Right-of-Way, or Permit, or agreement relating thereto, and may take any other action as may be authorized or allowed under applicable law.

B. The Director may request any government official or agency with jurisdiction to enforce:

1. The provisions, terms and conditions, and covenants of any Lease, Easement or Right-of-Way, Permit, or agreement relating thereto; and

2. Any federal, Navajo, state or local laws applicable to any Lease, Easement or Right-of-Way, Permit, or agreement relating thereto, or relating to the conduct of business or other activity on the Lands involved.

History

CJY-26-07, July 20, 2007.

CO-92-94, October 26, 1994.

§ 2292. Judicial enforcement

At the request of the Director or otherwise, the Attorney General of the Navajo Nation may bring a civil action in any court of competent jurisdiction to enjoin a trespass or to obtain payment or enforcement of any Assessment, or for such other relief as may be authorized or allowed under any applicable law.

History

CJY-26-07, July 20, 2007.

CO-92-94, October 26, 1994.

§ 2293. Reservation of rights

Nothing in this Chapter is intended, nor shall it be construed, to limit the independent rights or to abrogate any duties of the Attorney General of the Navajo Nation or of the United States of America or any of its agencies, including without limitation the Bureau of Indian Affairs and the Department of Justice, to take any action authorized or required by applicable law to enjoin, redress, and/or seek damages, including without limitation actual, compensatory, consequential, special, and punitive damages, attorney fees and costs of suit, for any trespass on Navajo Nation Lands or any damages or harm related to the actions or omissions of a trespasser.

History

CJY-26-07, July 20, 2007.