



OFFICE OF  
**INSPECTOR GENERAL**  
U.S. DEPARTMENT OF THE INTERIOR

# Status of the Office of Navajo and Hopi Indian Relocation's Properties and Land Use Agreements

**This is a revised version of the report prepared for public release.**



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**INSPECTOR GENERAL**  
U.S. DEPARTMENT OF THE INTERIOR

MAR 02 2023

Memorandum

To: Deb Haaland  
Secretary of the Interior

From: Mark Lee Greenblatt   
Inspector General

Subject: Final ONHIR Review – *Status of the Office of Navajo and Hopi Indian Relocation's Properties and Land Use Agreements*  
Report No. 2020–WR–016–H

This report is part of a series of reports to help decision makers plan for the future of the Office of Navajo and Hopi Indian Relocation (ONHIR). We launched our review in December 2019 with an initial report that provided an overview of ONHIR's background and functions (Report No. 2019–WR–039). See Attachment 1 for a list of prior reports in the series.

Our objective for this review was to determine the status of ONHIR's properties<sup>1</sup> (including ONHIR-managed buildings<sup>2</sup>) and land use agreements (including property leases, homesite leases, rights-of-way (ROWs), and surface use agreements). Specifically, we sought to answer the following:

1. What is the current inventory of ONHIR's properties and land use agreements?
2. What is the condition of ONHIR's lease and surface use agreement documentation?
3. What is the status and value of revenues from leases and surface use agreements on ONHIR-administered Navajo trust land?
4. What congressional and legal considerations exist in the event of ONHIR's closure or transfer of duties?

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### About This Report Series

ONHIR's FY 2019 appropriation required a transfer of funds to our office to review ONHIR's finances and operations in preparation for its possible closure.

We are issuing a series of reports that describes ONHIR's responsibilities, functions, and current operations. Each report addresses a key topic and the related considerations for ONHIR's closure or transfer of duties to a successor agency or agencies.

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<sup>1</sup> For the purposes of this report, "ONHIR's properties" are Navajo trust land that ONHIR administers and any buildings on that land that ONHIR manages.

<sup>2</sup> As discussed in more detail subsequently, ONHIR represented that it owns certain buildings on Navajo trust land but did not provide documentation to support those statements. Accordingly, we use the term "ONHIR-managed" to refer to these buildings.

Due to the COVID–19 pandemic, we limited our fieldwork. In particular, we reviewed relevant laws, regulations, procedures, and documents but limited our site visits and interviews.

## Background

ONHIR is an independent Federal agency responsible for implementing the relocation of Navajo people and Hopi people living within each other’s boundaries as a result of U.S. Government partitioning of tribal land. ONHIR reports directly to the President of the United States and is overseen by both the U.S. Office of Management and Budget and the U.S. Congress. Pursuant to the Navajo-Hopi Land Settlement Act of 1974 (Pub. L. No. 93–531), as amended, once the President determines that its function has been fully discharged, ONHIR will be dissolved. A presidentially appointed Commissioner serves as the head of ONHIR, but this position has been vacant since 1994. A Senior Executive Service Executive Director who has been acting under delegated legal authority manages the agency.

Pursuant to the Act, as amended, ONHIR’s functions include certifying applicants as eligible for relocation, reviewing appeals, and providing relocation homes. ONHIR is also responsible for administering the land taken into trust for the Navajo Nation under the Act until relocation is complete. To date, 387,000 acres have been acquired pursuant to the Act, including 352,000 acres of land in Arizona that ONHIR refers to as the “New Lands.”<sup>3</sup> This acreage now makes up the Navajo Nation’s Nahata Dziil Chapter (a unit of local tribal government). The United States holds the legal title to land held in trust, and the tribe holds the beneficial interest. ONHIR represented to us, however, that it does not have any administrative authority over Hopi lands and is not involved with property or land use agreements there, and this report is accordingly limited to matters pertaining to Navajo Nation lands.

Amendments to the Act in 1988<sup>4</sup> gave ONHIR authority to issue leases, ROWs, and other land use approvals, but this authority will end if ONHIR closes. Should closure happen, a designated successor agency could be granted this authority, or the Navajo Nation could use its special leasing authority on Navajo trust land<sup>5</sup> to manage leasing activity instead of the U.S. Government.

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<sup>3</sup> Amendments to the Navajo-Hopi Land Settlement Act in 1980 authorized the U.S. Government to take a total of 400,000 acres into trust for the Navajo Nation. Land selected in Arizona includes 352,000 acres that ONHIR refers to as the “New Lands.” In contrast, the Navajo Nation refers to all lands in Arizona and New Mexico selected and acquired in trust pursuant to the Act as “new lands,” totaling about 387,000 acres. The Navajo Nation has stated that there is no legal difference between any lands taken into trust pursuant to the Act. ONHIR acknowledges its own administrative authority over the 387,000 acres but states that use and revenues from lands in Arizona and New Mexico follow different requirements. We acknowledge that ONHIR and the Navajo Nation do not agree on the appropriate definition of “new lands.” We do not express an opinion on these issues, and this report uses the term “New Lands” pursuant to ONHIR’s own definition to maintain consistency with prior reports in this series.

<sup>4</sup> Pub. L. No. 100–666.

<sup>5</sup> Special leasing authority for the Navajo Nation is established by the Navajo Nation Trust Land Leasing Act of 2000 (Pub. L. No. 106–568), as amended.

## **Current Inventory of ONHIR Properties and Land Use Agreements**

Pursuant to the Act, as amended, the land ONHIR administers is to be used solely for the benefit of the relocatees.<sup>6</sup> ONHIR has used its authority to manage buildings and issue land use agreements—including property leases, homesite leases, ROWs, and surface use agreements—on the New Lands for various purposes.

As discussed below, ONHIR and other stakeholders interact with land title and records offices (LTROs). According to the Bureau of Indian Affairs' (BIA's) Division of Land Titles and Records Office website, LTROs are the “official Federal offices-of-record for all documents affecting title to Indian lands and for the determination, maintenance, and certified reporting of land title ownership and encumbrance on Indian trust and restricted lands.” ONHIR policy identifies the BIA's Southwest LTRO as the official recording agency for leases, ROWs, and encumbrances on the New Lands.

### **Properties and Property Leases**

In April 2018, the U.S. Government Accountability Office (GAO) found that, contrary to Federal internal control standards, ONHIR did not have an inventory of occupied properties and property leases.<sup>7</sup> The GAO recommended that ONHIR establish a comprehensive inventory of properties located on trust land it administers with details about any leases for these properties, identifying which leases and other agreements need to be amended or assigned.

Since the GAO issued its report, ONHIR has updated an existing inventory of active leases. The inventory identifies 25 properties on the New Lands, including 13 ONHIR-managed buildings and 12 other buildings or land areas. These 25 properties are used or occupied by various lessees. We identified one additional property located outside of the New Lands relocation community (located in the area near Chambers and Sanders, AZ) for which ONHIR is a concurring party to the lease.<sup>8</sup> We included this property in our review to provide a more complete count of active leases, making the total number of properties in our review 26 (see Attachment 2 for a full list of the properties and leases). The inventory includes buildings ONHIR has constructed and buildings ONHIR inherited when the lands were originally acquired.

According to its inventory and records, ONHIR has used its leasing authority to issue or cosign 18 leases for buildings and land. ONHIR is the lessor on 15 leases and a concurring party

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<sup>6</sup> For the purposes of this report, “relocatees” is defined as individuals who have relocated from Hopi Partitioned Lands to Navajo Partitioned Lands or vice versa using relocation benefits received pursuant to the Act.

<sup>7</sup> GAO Report No. GAO-18-266, *Office of Navajo and Hopi Indian Relocation: Executive Branch and Legislative Action Needed for Closure and Transfer of Activities*, issued April 2018.

<sup>8</sup> ONHIR is a concurring party to the lease for the Twin Arrows Navajo Casino Resort, located near Flagstaff, AZ.

on 3 leases for which the Navajo Nation is the lessor.<sup>9</sup> The remaining eight properties are vacant, used with an expired lease, or lack a written lease. See Figure 1 for a summary.

**Figure 1: Summary of ONHIR Properties With and Without Documented Leases**

	<b>No. of Properties</b>	<b>No. of ONHIR- Managed Buildings Included</b>
<b>Properties With Documented Leases</b>		
Lessor is ONHIR	15	6
Lessor is Navajo Nation (with ONHIR concurrence)	3	0
<i>Subtotal</i>	<i>18</i>	<i>6</i>
<b>Properties Without Lease Documentation</b>		
ONHIR-occupied	3	3
Occupied by another party with verbal agreements or expired leases	4	3
<i>Subtotal</i>	<i>7</i>	<i>6</i>
<b>Other</b>		
Vacant	1	1
<i>Subtotal</i>	<i>1</i>	<i>1</i>
<b>Totals</b>	<b>26</b>	<b>13</b>

The GAO stated in its 2018 report that ONHIR is the lessor on most of the leases, contradicting policy in ONHIR’s management manual, which requires the Navajo Nation to serve as the lessor unless the Navajo Nation specifically requests ONHIR to be the lessor. ONHIR’s response to the GAO report stated that ONHIR has the specific power to act as lessor over the lands it administers. ONHIR also stated that it has become the lessor on some leases at the request of the Navajo Nation and that other leases have been jointly negotiated with and approved by the Navajo Nation’s Department of Justice. The GAO finding had not been resolved by ONHIR as of March 2022. In the event of ONHIR’s closure, it is unclear which entity will take over as lessor for active leases, because the agreements do not specify a successor. Moreover, ONHIR could not produce documentation to us to support its claim of ownership of any buildings on the New Lands. Although we are not aware of any disputes to ONHIR’s ownership of these buildings, the lack of ownership documentation could complicate transfer of title of these buildings to a successor agency or the Navajo Nation in the event of agency closure.<sup>10</sup>

<sup>9</sup> A lessor is an individual or entity that transfers property by a contract (i.e., a landlord). For the purposes of this report, a concurring party is neither lessor nor lessee, but a third party that signs in agreement with the terms of the lease.

<sup>10</sup> We did not attempt to determine if the Southwest LTRO, tribal records office, or county recorder’s office possessed the missing ownership documentation.

## Homesite Leases

In the context of Navajo and Hopi relocation, homesites are parcels of land leased to relocatees on which a home will be built. ONHIR policy allows for extended family members of eligible relocatees to acquire homesite leases on the New Lands in certain circumstances. Relocatees are required to obtain a homesite lease prior to each relocation on the New Lands. The Navajo Nation is the lessor for homesite leases, but ONHIR administers the leasing process. Specifically, ONHIR's Relocation Office administers an in-house homesite lease program with a homesite lease specialist who assists relocatees with the leasing process. The relocatees pay administrative fees to the Navajo Nation (the lessor) for homesite leases, and ONHIR pays other costs, such as those for site analysis and archaeological clearances. ONHIR collects no revenue from homesite leases.

Homesite leases are issued for a term of 75 years and, according to ONHIR officials, must be renewed with the Navajo Nation when they expire. If the leaseholder dies, heirship is decided in Navajo family court probate proceedings. In the event of an abandoned homesite, ONHIR can use its authority to issue an order of abandonment and cancel the lease, an action that is subject to appeal.

There are 786 total homesites on the New Lands. Out of the total New Lands homesites, 531 are occupied by relocatees or their extended family members through homesite leases, and 237 undeveloped homesites are available for future relocatees or their families. The remaining 18 homesites are in the East Mill and East Mill Expansion communities, but they are not available for new relocatees due to subsidence (soil settling) issues affecting those areas, as described in our 2020 report reviewing ONHIR's administration of relocation benefits.<sup>11</sup> While there are 237 available homesites, ONHIR reported in its November 2021 annual performance report that there were 5 relocatee families left to move. In the event of its closure, an ONHIR official suggested that "a successor agency could choose to help facilitate homesite lease processing for future clients" as ONHIR currently does.

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### Homesites on the New Lands:

- 531 occupied (via homesite leases) by relocatees
- 237 available for future relocatees
- 18 vacant and unavailable for use

**Total: 786**

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<sup>11</sup> [OIG Report No. 2020-WR-016-A](#), *Status of the Office of Navajo and Hopi Indian Relocation's Administration of Relocation Benefits*, issued September 2020.

## Rights-of-Way

ONHIR also issues ROWs giving other agencies access to or use of the land it administers. ONHIR collects no revenue for ROWs. The BIA and the Indian Health Service make up the majority<sup>12</sup> of requests for ROWs for utilities and roads because ONHIR has identified them as cooperating agencies in the development of the New Lands. After ONHIR's initial review of an ROW application to ensure it conforms to the master development plan for the New Lands, the Navajo Nation has 30 days to review and comment on the proposed ROW.<sup>13</sup> Following issuance of an ROW, ONHIR forwards the ROW to the BIA for recording at the Southwest LTRO. The official BIA ROW records are maintained at the Fort Defiance Agency Realty Office. While ONHIR keeps copies of ROWs in its files, ONHIR does not maintain its own master list of ROWs and instead relies on the BIA to maintain the official record of New Lands ROWs. ONHIR last received a list of these ROWs in June 2019 showing 32 ROWs. ONHIR officials told us that they have since provided the BIA with a correction to the ROW list, bringing the total to 33. Documentation we obtained from the BIA confirms that there are 33 ROWs on ONHIR-administered land.

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There are  
**33**  
ROWs on  
ONHIR lands.

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The BIA's list showed that one ROW is set to expire in 2023 (all other ROWs have no term limits). ONHIR officials did not have any detailed information on this agreement but explained that upon expiration, unless renewal options were built in, it would no longer be effective and that the applicant would have to reapply for the ROW.

ONHIR told us that it does not perform an active role in monitoring or enforcing the ROWs because, for the most part, they are issued to other Federal agencies and are used for the benefit of relocatees. ONHIR expects that in the event of its closure, the assignment of rights to any existing ROWs will be addressed by Congress in closeout legislation. ONHIR's lack of a regularly maintained, comprehensive inventory of ROWs may present additional complications in the event of agency closure because its records cannot be easily reconciled to those of the BIA without a thorough review of ONHIR's files.

## Surface Use Agreements

With the exception of a single agreement with the Navajo Nation, ONHIR's surface use agreements grant rights to private companies to use the land to extract resources. The 2018 GAO report found that ONHIR did not have an inventory of surface use agreements. In response to that report, ONHIR created an inventory identifying seven surface use agreements on Navajo trust land it administers (see Attachment 3 for the full list). ONHIR, rather than the Navajo Nation, is the grantor for use of the land under four of these agreements; the GAO report found that this also contradicts policy in ONHIR's management manual. Further, one of the seven

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<sup>12</sup> Twenty-nine of the 33 ROWs were granted to the BIA and the Indian Health Service. Of the remaining four ROWs, two were granted to private entities providing utilities to the area, and two were granted to other Government or tribal agencies. In 1988, ONHIR was granted authority to issue ROWs on lands it administered. Prior to this, the power to issue ROWs resided with the Secretary of the Interior, and ROW applications would not have been submitted to ONHIR.

<sup>13</sup> The ONHIR New Lands Manager sends one complete set of the ROW application documents to the Nahata Dził Chapter, the BIA Navajo Area Office Branch of Real Property Management, and the Navajo-Hopi Land Commission Office.

agreements does not have current documentation identifying ONHIR's role in administering the land (see the next section for more detail).

ONHIR manages the trust land used under these agreements. In the event of ONHIR's closure, it is unclear to whom the responsibility for these agreements will fall. We note, however, that for two of the seven agreements the Navajo Nation signed its concurrence and named itself as a potential successor to ONHIR's role as lessor.

## **Documentation for Leases and Surface Use Agreements**

Our review of ONHIR's lease and surface use agreement documentation found that there are no leases for eight properties and that nearly half of existing leases and surface use agreements have incomplete documentation.

Due to the COVID-19 pandemic, we were only able to review the condition of documentation for leases and surface use agreements, and we were unable to make additional site visits to the offices responsible for homesite leases and ROWs.

### **Absence of Lease Documentation**

Eight properties on the New Lands are occupied or used without lease documentation, including seven sites with ONHIR-managed buildings and one site without buildings. See Figure 2 on the next page for details on these undocumented properties.

The GAO stated in its 2018 report that ONHIR occupies and uses properties on Navajo trust land without written leases, which is inconsistent with policy in ONHIR's management manual. The policy requires leases on the New Lands to be executed with the Navajo Nation as lessor and in accordance with Navajo Nation policy and procedure. Additionally, officials from the BIA's LTRO told us that ONHIR must have a lease issued by the Navajo Nation for occupying or using any trust lands.<sup>14</sup> In its response to the GAO report, ONHIR represented that the Navajo Nation and the Nahata Dziil Chapter are "fully aware" of ONHIR's use of the New Lands properties and have never requested formal leases. ONHIR also stated that it would prepare leases if the Navajo Nation were to request them.

ONHIR manages four buildings on Navajo trust land but did not establish leases with the Navajo Nation for these buildings or the use of the land. ONHIR occupies three of these buildings, and one is vacant. ONHIR also manages four additional properties (buildings and land) and allows them to be used by other entities without written leases. The lack of written leases for occupied properties raises potential uncertainty regarding the properties themselves and responsibility for any incidents occurring on the premises. This uncertainty may need to be resolved prior to ONHIR's possible closure or transition of duties.

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<sup>14</sup> We take no position as to whether the BIA's LTRO staff have the authority to opine on ONHIR's legal authorities or whether these statements are in fact correct. We note, however, that this statement from the LTRO highlights the potential lack of clarity surrounding ONHIR's responsibility for lease documentation and that this issue may need to be resolved in the event of ONHIR's closure or transfer of duties.

**Figure 2: ONHIR Properties Without Documented Agreements**

	<b>Occupant</b>	<b>Comments</b>
<b>3 buildings are occupied by ONHIR without leases</b>		
ONHIR Range Office/Marty House/Chambers Office	ONHIR	ONHIR manages and occupies this building for Government purposes.
Chambers Ranch HQ	ONHIR	ONHIR manages and occupies this building for operating the Padres Mesa Demonstration Ranch.
ONHIR New Lands Office	ONHIR	ONHIR manages and occupies this building for business purposes related to administration of the New Lands.
<b>4 buildings or land areas are used under expired leases or without written leases</b>		
3.67-acre property on the New Lands	Federal Aviation Administration (FAA)	The FAA uses this ONHIR-administered trust land for aircraft navigation equipment. A lease for use of the site expired in 2011 and has not been renewed. The FAA still occupies the land and makes annual payments to ONHIR. ONHIR stated to us that it believes the Navajo Nation will assume responsibility for the lease but has not yet done so.
Public Health Building	Fort Defiance Indian Hospital Board	A contractor uses this ONHIR-managed building for an Indian Health Service-funded nursing program.
Head Start Building	Head Start program	This ONHIR-managed building is occupied by the Head Start program under a verbal agreement. No payments are made to ONHIR.
Alf House (aka Parker Draw House)	Navajo Nation ranger	This ONHIR-managed house is currently occupied by a ranger employed by the Navajo Nation. No rent is paid.
<b>1 vacant building has no lease</b>		
Sale Barn	Vacant	This ONHIR-managed metal building was formerly used as an auction yard but is now vacant.

**Incomplete Documentation for Leases and Surface Use Agreements**

We found that 8 of ONHIR’s 18 leases had incomplete documentation or lacked signatures (details in Attachment 2). Five of these leases are missing attachments cited in the agreements that provide specific descriptions of the leased land, and two of the leases are missing dates. One of the properties missing documentation is a shopping center site. There is a memorandum of understanding between ONHIR and the Navajo Nation that prescribes certain standards for business site leases on the property, including how lease revenue is spent. ONHIR

officials told us they were unable to provide us with the business site leases at the New Lands shopping center site governed by the memorandum of understanding because the Navajo Nation has not sent them to ONHIR.

Further, ONHIR does not have complete documentation for three of its seven surface use agreements. One is missing signatures, and one is missing an attachment. ONHIR also does not have a current surface use agreement in place for the land used by Newmont Realty Company (see Attachment 3 for details). ONHIR provided documentation of an agreement between a railroad company and the original, individual landowners that predates ONHIR's existence. The land was part of the original New Lands acquisition, but the agreement was never updated to reflect ONHIR's role as the new land administrator. ONHIR continues to receive payments from Newmont for the use of the land (see Figure 3 on the next page for a summary of ONHIR revenues).

ONHIR's leases and surface use agreements with incomplete documentation could present complications for a successor agency seeking to assume responsibility for ONHIR's leases and surface use agreements.

## **Revenues From Leases and Surface Use Agreements**

ONHIR retains revenues for some of its leases and surface use agreements; according to ONHIR, from fiscal years (FYs) 2017 through 2021, these revenues totaled \$148,936. Other leases require payments to other payees, namely the Navajo Nation, the Nahata Dziil Chapter, and the Navajo Rehabilitation Trust Fund (NRTF). ONHIR officials told us they could not provide records of payments to these other payees because ONHIR does not have an active role in monitoring those payments.

We also note two pending issues raised by the Navajo Nation (described further below). First, the Navajo Nation submitted a letter to the U.S. Department of the Interior (DOI) in May 2020 claiming ownership of all revenues that ONHIR has retained from leases and surface use agreements. Second, the Navajo Nation requested in February 2020 that Congress forgive its debts to the NRTF.

### **Revenue From Leases and Surface Use Agreements Retained by ONHIR**

During FYs 2017 through 2021, ONHIR retained revenues from three leases and one surface use agreement and deposited them into ONHIR's account with the U.S. Department of the Treasury. ONHIR also rented out two houses it managed as living quarters for one contract employee and one permanent employee; in each case, ONHIR received rent in the form of wage deductions.<sup>15</sup> Figure 3 on the next page provides summary information about these revenues.

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<sup>15</sup> The permanent employee has since retired, and that house is now rented to a contract employee.

**Figure 3: Revenues From Leases and Surface Use Agreements  
on ONHIR Properties, FYs 2017–2021\***

Lessee	Agreement Type and Purpose	Revenue (\$)					Total
		FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	
Navajo Nation Hospitality Enterprise†	Travel center lease—payments are based on net revenues	30,124	40,901	0	0	0	71,025
Newmont Realty Company	Sand mining surface use agreement	5,951	14,229	6,155	2,089	477	28,901
Federal Aviation Administration	VORTAC antenna site—no current lease in place	5,358	5,358	5,358	5,358	5,358	26,790
Arizona Department of Public Safety	Radio tower site lease	240	240	240	240	240	1,200
ONHIR employee	Lease for living quarters	2,340	2,340	2,340	2,400	2,000	11,420
ONHIR contract employee	Lease for living quarters	2,400	2,400	2,400	0	2,400	9,600
<b>Total</b>		<b>\$46,413</b>	<b>\$65,468</b>	<b>\$16,493</b>	<b>\$10,087</b>	<b>\$10,475</b>	<b>\$148,936</b>

\* We did not audit any financial information provided by ONHIR.

† ONHIR told us that the Navajo Nation Hospitality Enterprise claimed \$0 net revenue for FYs 2019–2021 because payments for a renovation and Paycheck Protection Program loans negated its revenue for those years.

Additionally, ONHIR has entered into 10 lease agreements that do not require any payments or require nominal fees of \$1 (summarized in Attachment 2). ONHIR does not collect the nominal fees, and therefore these fees are not included in Figure 3 above.

### **Revenue From Leases and Surface Use Agreements to Other Payees**

Ten other leases and surface use agreements provide revenue to three non-ONHIR payees: the Navajo Nation, the Nahata Dził Chapter, and the NRTF. As previously noted, ONHIR officials told us they could not provide records of payments to these other payees because ONHIR does not have an active role in monitoring those payments. See Attachments 2 and 3 for details on these leases and surface use agreements.

### **Navajo Nation Claim to Lease Revenues Retained by ONHIR**

In May 2020, the Navajo Nation sent correspondence to the DOI claiming ownership of revenues from all trust land leases collected and retained by ONHIR that were not provided to the Navajo Nation or invested for the Nation’s benefit. The letter from the Navajo Nation

referenced the 2018 GAO report, which found that ONHIR had retained in its Treasury account more than \$1 million in revenue from leases and surface use agreements on the New Lands since the 1990s. The GAO stated in its report that the Navajo-Hopi Land Settlement Act, as amended, does not explicitly allow ONHIR to collect, retain, and use revenue from leases of Navajo trust land.<sup>16</sup>

The Navajo Nation's letter stated that it was submitting the claim to the DOI in accordance with the 2014 settlement agreement for *Navajo Nation v. United States*.<sup>17</sup> DOI officials, however, referred the claim to ONHIR. ONHIR's response to the GAO's finding asserted that it uses the revenues in support of its statutory duty to administer the land and that it has "broad authority to determine the most appropriate method of carrying out its statutory duties." As of December 2022, the claim had not been resolved.

### **Navajo Request for Forgiveness of NRTF Debt**

The NRTF is a trust fund established by the 1988 amendments to the Navajo-Hopi Land Settlement Act for the rehabilitation and improvement of Navajo communities affected by the Act. Congress authorized up to \$60 million for the fund over a 6-year period. To date, \$16 million has been appropriated for the Navajo Nation, and the Navajo Nation is expected to repay the funds to the U.S. Department of Treasury. Specifically, all net income derived by the Navajo Nation from the surface and mineral estates of resettlement lands in New Mexico is to be deposited in the NRTF.

ONHIR is a concurring party to two agreements for which revenues are to be paid by the Navajo Nation to the NRTF: a lease for the Twin Arrows Navajo Casino Resort and a surface use agreement with the Navajo Department of Transportation. As stated above, ONHIR does not have an active role in monitoring payments to the NRTF.

In February 2020 testimony before a U.S. House of Representatives appropriations subcommittee, the Chairman of the Navajo-Hopi Land Commission requested forgiveness for debts owed to the NRTF.<sup>18</sup> He further stated that the revenues expected from investing the NRTF funds never materialized. An ONHIR official told us that as of May 2021, ONHIR is not aware of any new developments regarding this request.

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<sup>16</sup> In a legal decision dated September 17, 2020 (File No. B-329446), the GAO found that ONHIR was in violation of the miscellaneous receipts statute, 31 U.S.C. § 3302(b), when it failed to deposit money received from the sale of cattle into the U.S. Department of Treasury and instead used that money to offset the Padres Mesa Demonstration Ranch's operating costs. For additional details regarding ONHIR's collection of revenues from the Padres Mesa Demonstration Ranch, see OIG Report No. 2020-WR-016-D, *Status of the Office of Navajo and Hopi Indian Relocation's Padres Mesa Demonstration Ranch*, issued September 2021.

<sup>17</sup> In this action, which was initiated in 2006, the Navajo Nation sought monetary damages from the United States for alleged mismanagement of trust funds and resources. *Navajo Nation v. United States*, Case No. 06-cv-00945L (Fed. Cl. 2006).

<sup>18</sup> ONHIR does not have a role in monitoring debt repayment to the NRTF, so we do not have information on the exact balance.

## **Congressional and Legal Considerations in the Event of ONHIR’s Closure or Transfer of Duties**

In the event of ONHIR’s closure or transfer of duties,<sup>19</sup> legislation may be needed to:

- Authorize a successor agency to conduct leasing activities, including taking over existing land use agreements, on Navajo trust land acquired pursuant to the Navajo-Hopi Land Settlement Act.
- To the extent the issue is not settled in pending litigation, resolve the Navajo Nation’s claims to revenues collected and retained by ONHIR for leases and surface use agreements on the New Lands.
- Respond to the Navajo Nation’s request for NRTF debt forgiveness.

In preparation for the possibility of ONHIR’s closure or transfer of duties, legal determinations may be needed regarding whether ONHIR, the Navajo Nation, and/or a successor agency should:

- Amend leases and surface use agreements to include a provision for the transfer to the Navajo Nation or ONHIR’s successor.
- Address deficiencies such as missing documentation or signatures in existing leases and surface use agreements prior to transfer.
- Establish leases, as needed, prior to closure or transfer of duties for land uses that currently do not have an existing lease and ensure leases are filed with the BIA’s Southwest LTRO if required.
- Establish documentation for legal ownership of buildings that ONHIR has built or inherited on Navajo trust lands.

## **Conclusion**

As we acknowledge in the report itself, there is pending litigation between ONHIR, the Navajo Nation, a group of relocation beneficiaries, and the DOI. We take no position on the merits of this litigation, the need for closure, or any other related issues, and we do not express an opinion on the parties’ positions. Rather, we have conducted our work to provide information to any and all interested stakeholders but play no role in making these decisions.

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<sup>19</sup> We acknowledge the Navajo Nation’s two pending lawsuits. First, on August 23, 2021, the Navajo Nation and an Identifiable Group of Relocation Beneficiaries filed a complaint in the U.S. Court of Federal Claims against the United States for alleged maladministration of the New Lands. It is seeking \$40 million in damages and remanding to ONHIR and the DOI with direction to properly maintain records for and administer and use the New Lands and revenues. Second, on August 24, 2021, the Navajo Nation filed a complaint in the U.S. District Court for the District of Arizona naming as defendants ONHIR and the DOI. The complaint states that it seeks declaratory and injunctive relief “to secure prompt and proper conclusion of federal relocation . . . as well as prevention of premature closure of a federal agency before it fully discharges its statutory functions.”

We invited ONHIR and Navajo and Hopi officials to provide input on a draft version of this report. ONHIR and the Navajo Nation provided written responses, which are included in Attachment 4. After reviewing these responses, we made revisions and updated information in this report where applicable and appropriate. Hopi officials did not provide a response. In addition, the DOI's Office of the Solicitor provided suggested edits and comments after receiving a courtesy copy of the draft report. We considered these comments only to the extent that the suggested edits provided objective corrections on particular items or specific, verifiable clarifying points.

In ONHIR's comments on the draft report, it asserted that the DOI OIG has a "conflict of interest in being part of DOI" and that the DOI OIG "should have had some other Department's OIG review ONHIR's records relating to land." It also claimed that the DOI OIG has an "inherent bias" in favor of the DOI. ONHIR did not, however, offer any support for these claims. As noted at the outset of this report and all of the other reports in this series, we conducted our work because of a specific appropriation and a Congressional mandate. In particular, ONHIR was required to transfer funds to our office to review its finances and operations "in preparation for its possible closure." We would not otherwise have had the jurisdiction to review any aspect of ONHIR, which is an independent Federal entity. More fundamentally—and by its very nature—the DOI OIG conducts oversight of the programs and operations of the DOI itself. The fact that the DOI may have some involvement in the issues in this report by virtue of pending litigation or otherwise does not change the nature of our relationship with the DOI. We face no conflict of interest and act independently and objectively.

Due to the COVID-19 pandemic, we had to limit our fieldwork. In particular, we reviewed relevant laws, regulations, procedures, and documents but limited our site visits and interviews. We conducted our review in accordance with the *Quality Standards for Inspection and Evaluation* as put forth by the Council of the Inspectors General on Integrity and Efficiency. We believe that the work performed provides a reasonable basis for our conclusions.

We do not require a response to this report. We will notify Congress about our findings, and we will summarize this work in our next *Semiannual Report to Congress*, as required by law. We will also post a public version of this report on our website. If you have any questions, please contact me at 202-208-5745, or your staff may contact Bryan Brazil, Western Region Audit Director, at 916-978-6199.

cc: Christopher J. Bavasi, Executive Director, Office of Navajo and Hopi Indian Relocation  
Bryan Newland, Assistant Secretary for Indian Affairs  
Darryl LaCounte, Director, Bureau of Indian Affairs  
Clint Bowers, Acting Chief of Staff, Bureau of Indian Affairs  
Jerry Gidner, Director, Bureau of Trust Funds Administration  
Robert Anderson, Solicitor, Office of the Solicitor  
Ben Burnett, Acting Chief of the Interior Branch, U.S. Office of Management and Budget  
Patrick J. Sandoval, Chief of Staff, Office of the President and Vice President, Navajo Nation  
Timothy L. Nuvangyaoma, Chairman, Hopi Tribal Council

Attachments (4)

## **Attachment 1: Prior Reports in the ONHIR Review Series**

[Office of Navajo and Hopi Indian Relocation Background and Functions](#)

(Report No. 2019–WR–039), issued December 17, 2019.

[Status of the Office of Navajo and Hopi Indian Relocation's Administration of Relocation Benefits](#) (Report No. 2020–WR–016–A), issued September 29, 2020.

[Status of the Office of Navajo and Hopi Indian Relocation's Appeals on Denied Eligibility Determination Cases](#) (Report No. 2020–WR–016–B), issued September 29, 2020.

[Status of the Office of Navajo and Hopi Indian Relocation's Land Selection in Arizona and New Mexico](#) (Report No. 2020–WR–016–C), issued September 29, 2020.

[Status of the Office of Navajo and Hopi Indian Relocation's Padres Mesa Demonstration Ranch](#) (Report No. 2020–WR–016–D), issued September 21, 2021.

[Status of the Office of Navajo and Hopi Indian Relocation's Grazing Responsibilities and Activities on the New Lands](#) (Report No. 2020–WR–016–E), issued September 21, 2021.

[Status of the Office of Navajo and Hopi Indian Relocation's Range Maintenance Responsibilities and Activities on the New Lands](#) (Report No. 2020–WR–016–F), issued September 21, 2021.

[Status of Identified Environmental Concerns Related to the Office of Navajo and Hopi Indian Relocation's Administration of Land](#) (Report No. 2020–WR–016–G), issued February 9, 2022.

[Status of the Office of Navajo and Hopi Indian Relocation's Assets and Official Records](#) (Report No. 2020–WR–016–I), issued March 25, 2022.

## Attachment 2: Inventory of ONHIR Properties and Lease Status

Property Count	X = Leased	Lessor	Lessee	Lease Term	Expires	Property Name and Current Building Use or Lease Purpose and Building Occupant	X = ONHIR-Managed Building	Payment Amount	Payee	X = No Lease or Vacant	X = Lease Is Missing Documents and/or Signatures
1	X	ONHIR	Arizona Department of Public Safety	23 years	10/6/2020	Radio communication site	-	\$240/year	ONHIR	-	-
2	X	ONHIR	Navajo Nation Department of Behavioral Health Services	20 years	4/12/2022	Hogan site: Lease is for two undeveloped lots for the Navajo Nation to construct a treatment center, including traditional healing grounds	-	None	-	-	X
3	X	ONHIR	Preferred Sands, Inc.	20 years	2/9/2026	Sand processing and storage facilities	-	\$50,000/year	Nahata Dziil Commission Governance	-	X
4	X	ONHIR	Preferred Sands, Inc.	20 years	2/9/2026	Modification to previous lease adding acreage for sand processing plant	-	\$57,000/year	Nahata Dziil Commission Governance	-	-
5	X	ONHIR	Navajo Nation Department of Behavioral Health Services	50 years	4/12/2056	Land for the development of an outpatient counseling center	-	\$1/year	ONHIR	-	-
6	X	ONHIR	Nahata Dziil Commission Governance	25 years	2/19/2034	Rodeo grounds and other community recreation	-	None	-	-	X
7	X	ONHIR	Nahata Dziil Commission Governance	25 years	2/19/2034	Rim Community Building area: Serves as a multipurpose community building	-	None	-	-	X
8	X	ONHIR	Nahata Dziil Commission Governance	25 years	2/19/2034	Chapter House for chapter offices and various community purposes	X	None	-	-	X

Property Count	X = Leased	Lessor	Lessee	Lease Term	Expires	Property Name and Current Building Use or Lease Purpose and Building Occupant	X = ONHIR-Managed Building	Payment Amount	Payee	X = No Lease or Vacant	X = Lease Is Missing Documents and/or Signatures
9	X	ONHIR	Navajo Nation Hospitality Enterprise	65 years	1/23/2057	Travel center with tourism facilities	-	Variable (see Figure 3 for payments made in FYs 2017-2019)	ONHIR	-	-
10	X	ONHIR	Sanders Unified School District	99 years	12/12/2090	High school site	-	\$1/year	ONHIR	-	-
11	X	ONHIR	Fort Defiance Indian Hospital	25 years	10/10/2037	Industrial Building or New Clinic: Used as a health care facility	X	None	-	-	-
12	X	ONHIR	Nahata Dziil Commission Governance	25 years	7/13/2041	Senior center and law enforcement facility	X	None	-	-	X
13	X	ONHIR	Nahata Dziil Commission Governance	25 years	12/11/2045	Old Clinic and Administration Building: The NDCG plans to sublease the property to the Navajo Division of Public Safety for law enforcement purposes	X	None	-	-	-
14	X	ONHIR	ONHIR contract employee	Indefinite	-	Nichol House: Used as living quarters for ONHIR contract employee	X	\$200/month	ONHIR (via wage deduction)	-	-
15	X	ONHIR	ONHIR contract employee	Indefinite	-	Stuart House: Used as living quarters for ONHIR contract employee	X	\$200/month	ONHIR (via wage deduction)	-	-
16	X	Navajo (cosigned by ONHIR)	Navajo Housing Authority	50 years	5/11/2049	Housing project and other related public facilities	-	None	-	-	X

Property Count	X = Leased	Lessor	Lessee	Lease Term	Expires	Property Name and Current Building Use or Lease Purpose and Building Occupant	X = ONHIR-Managed Building	Payment Amount	Payee	X = No Lease or Vacant	X = Lease Is Missing Documents and/or Signatures
17	X	Navajo (cosigned by ONHIR)	Navajo Nation Gaming Enterprise	25 years	1/11/2036	Twin Arrows Navajo Casino Resort	-	Variable (payments calculated by formula tied to Consumer Price Index)	Navajo Rehabilitation Trust Fund	-	-
18	X	Navajo (cosigned by ONHIR)	Various businesses	None	-	Memorandum of understanding between ONHIR and the Navajo Nation states that the Navajo Nation is the lessor for business leases at this shopping center. ONHIR will cosign the business leases. The Navajo Nation has not issued formal business site leases for businesses operating in the shopping center, so ONHIR does not have any business site leases for the shopping center in its records.	-	Unknown	Navajo Nation	-	X
19	-	-	-	-	-	ONHIR Range Office/Marty House/Chambers Office: Used by ONHIR for Government business purposes	X	None	-	X (no lease)	-
20	-	-	-	-	-	Chambers Ranch HQ: Used by ONHIR for ranch operation	X	None	-	X (no lease)	-
21	-	-	-	-	-	ONHIR Office in Sanders, AZ: Used by ONHIR for business purposes related to administration of the New Lands	X	None	-	X (no lease)	-

Property Count	X = Leased	Lessor	Lessee	Lease Term	Expires	Property Name and Current Building Use or Lease Purpose and Building Occupant	X = ONHIR-Managed Building	Payment Amount	Payee	X = No Lease or Vacant	X = Lease Is Missing Documents and/or Signatures
22	-	-	-	-	-	Nahata Dziil Public Health Building: Used by a contractor for an Indian Health Service-funded nursing program	X	None	-	X (no lease)	-
23	-	-	-	-	-	Head Start Building: Occupied by a local Head Start program based on a verbal agreement	X	None	-	X (no lease)	-
24	-	-	-	-	-	Alf House, also known as Parker Draw House: Occupied by a Navajo Nation ranger; no formal agreement in place	X	None	-	X (no lease)	-
25	-	-	Federal Aviation Administration (FAA)	-	9/30/2011	FAA VORTAC site: The FAA leased this 3.67-acre site on ONHIR-administered trust land for a VORTAC antenna, a type of aircraft navigation equipment. The lease expired in 2011 and has not been renewed. The FAA still occupies the land and makes annual payments to ONHIR. ONHIR told us that the Navajo Nation will assume responsibility for the lease but has not yet done so.	-	\$5,358	ONHIR	X (no lease)	-
26	-	-	-	-	-	Sale Barn	X	None	-	X (vacant)	-
<b>Totals</b>	<b>18</b>	-	-	-	-	-	<b>13</b>	-	-	<b>8</b>	<b>8</b>

### Attachment 3: Inventory of Surface Use Agreements on ONHIR Properties

Agreement Count	Grantor	Grantee/ Surface User	X = ONHIR Cosigned	Lease Term	Expires	Agreement Purpose	Payee	Payment to ONHIR (None or Payment Term)	X = No Current Agreement	X = Agreement Is Missing Documents and/or Signatures
1	ONHIR	Ranger Development LLC	-	20 years	3/29/2035	Helium wells	Nahata Dziil Chapter	None	-	X
2	ONHIR	Vision Energy LLC	-	20 years	5/18/2036	Helium, oil, or gas wells	Nahata Dziil Chapter	None	-	-
3	ONHIR	Preferred Sands	-	15 years	5/17/2031	Silica and sand mining	Payment allocations jointly agreed upon by the Navajo Nation and Nahata Dziil Chapter.	None	-	X
4	ONHIR	Newmont Realty Company	-	Permanent	n/a	Bentonite mining	ONHIR	\$0.01 per ton of bentonite extracted	X	X
5	Navajo- Hopi Land Commission	Navajo Department of Transportation	X	25 years	1/13/2030	Used by the Navajo Department of Transportation	Navajo Rehabilitation Trust Fund	None	-	-
6	ONHIR/ Navajo	Ranger Development LLC	-	20 years	10/13/2037	Helium well drilling	Nahata Dziil Chapter	None	-	-
7	ONHIR/ Navajo	Ranger Development LLC	-	20 years	8/31/2038	Helium well drilling	Nahata Dziil Chapter	None	-	-

## **Attachment 4: Responses to Draft Report**

The Office of Navajo and Hopi Indian Relocation's response to our draft report follows on page 21, and the Navajo Nation's response follows on page 24.



UNITED STATES GOVERNMENT  
**OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION**

**Christopher J. Bavasi**  
Executive Director

August 10, 2022

**Mark Lee Greenblatt**  
Inspector General  
U.S. Department of the Interior

**Re: Draft ONHIR Review –  
Status of the Office of Navajo and Hopi Indian Relocation’s Properties and Land Use  
Agreements, Report No. 2020–WR–016–H.**

Dear Mr. Greenblatt:

ONHIR has reviewed the draft OIG Report on ONHIR Properties and Land Use Agreements, and our comments follow:

- **General Comment: As DOI OIG knows, the DOI, through its Indian Affairs Land Title and Records Office is the official repository of records relating to Indian Tribal and Individual (Allotment) Trust Land—not ONHIR.**
  - The Draft Report does not point this out and does not note that it is DOI and not ONHIR that has primary responsibility for such documentation.
  - In addition, OIG had and has full access to the ONHIR Management Manual—Section 1810I (it is on our website), and this Manual explicitly requires that copies of all land-related documents such as rights-of-way, land withdrawals and leases entered into by ONHIR be filed with the Southwest LTRO.
    - Given this, so long as SWLTRO has documents, the importance of ONHIR having such documents is minimal at best.
  - Perhaps given DOI OIG’s conflict of interest in being part of DOI—like the LTRO and BLM, OIG should have had some other Department’s OIG review ONHIR’s records relating to land.
- **General Comment—need to lease or lease-type documents for ONHIR use of New Lands. (p. 1., n.1., p. 7)**
  - While DOI OIG raises questions about ONHIR owning and using buildings on the New Lands to carry out ONHIR’s obligations under the Navajo—Hopi Settlement Act without written agreement with the Navajo Nation, DOI OIG has never cited any legal authority for the proposition that such agreements are legally required.

- This is yet another example of where DOI OIG's inherent bias in favor of how the DOI does business with Indian Nations and yet another reason that DOI should have had another Department's OIG conduct this review.
- The statement in the draft, "The GAO stated in its 2018 report that ONHIR is the lessor on most of the leases, contradicting policy in ONHIR's management manual, which requires the Navajo Nation to serve as the lessor unless the Navajo Nation specifically requests ONHIR to be the lessor" may well be what the GAO "stated," but they were incorrect and OIG is wrong—the ONHIR Management Manual only provides that the Navajo Nation is the presumptive Lessor for business site leases. (Section 1810). (p. 4.)
- While OIG suggests that ONHIR could not produce evidence it "owns" the buildings is constructed on the New Lands, OIG has failed to provide any evidence that anyone has ever challenged ONHIR's ownership of such buildings. (p. 1. N. 1., p. 7.)
  - In point of fact, the Navajo Nation Department of Justice recently reviewed and approved leases by ONHIR to the NDCG Chapter of two such buildings.
- ONHIR has followed recent Navajo Nation policy with respect to Homesite Leases to married couples in providing the form of ownership to be a joint tenancy with a right of survivorship. (p. 5.)
- We believe the BIA Ft. Defiance Agency Realty Office moved from Window Rock to Gallup, NM because of workplace safety issues. (p. 6.)
- The draft report notes that ONHIR and BIA have reconciled the number of issued ROW's and then says such a reconciliation has not been done. This needs to be corrected. (p. 6.)
- The draft report's comments about surface agreements fails to note that this situation arose because DOI and its BLM refused to acquire the mineral reservation in such lands and this DOI, rather than ONHIR created the problem. (p. 6.)
- ONHIR does not know what "eight properties" are missing documentation ( pp. 7, 8) or the three surface agreements lacking documentation. (p. 9.)
  - DOI should provide this information to ONHIR immediately, so ONHIR can determine if the OIG statement is true and—if it is—take those actions needed to correct the omissions.
- The Head Start Building was initially authorized by ONHIR's New Lands Manager on July 31, 2000, for a five-year period by use of a written Permit. It has been used since then to provide early childhood education for the children of Navajo Relocateses under the direction and control of the Navajo Nation Head Start Program. (p. 8.)
  - While ONHIR has given verbal approval for the continued use of the facility for this purpose, there is not a written extension agreement in place.
  - Use by the Navajo Nation of the New Lands for purposes that provide services to the families of Navajo Relocateses are consistent with the purposes of the Settlement Act, and ONHIR has and will continue to support such use.

- While ONHIR would like to see formal written agreements for any such use, given the difficulty and time that the Navajo Nation has historically taken to document such activities, ONHIR has considered the provision of vital services to be more important than having written documentation in place, when the entity using the property is a governmental authority.
- With respect to certain properties, ONHIR has deferred to requests by the Navajo Nation to let them take the lead with respect to land agreements in the New Lands. Sadly, in some cases, years have passed, and the Navajo Nation has not brought these matters to closure. (p. 9.)
  - For example, ONHIR has been advised that the Navajo Nation is “in the process” of adopting a procedure for radio towers such as that used by the Arizona DPS
  - The Navajo Nation wanted to negotiate a lease with the FAA for a VORTEC.
- A Navajo Nation 93-638 Grantee—Ft. Defiance Indian Health Board Inc. is moving forward with a lease amendment to include the building used by the Public Health Nursing Program in the master NDCG Clinic Lease.
- With respect to the Silica Sands lease and the helium-related surface agreements, ONHIR does not receive the lease payments—the agreements provided for all payments to be made to NDCG (though the Navajo Nation has recently interfered with such payments). (p. 9.)
  - This approach is what the NDCG Chapter requested and is consistent with Indian Self-Determination.

If you have questions on any of our comments, please let us know.

Sincerely,



Christopher J. Bavasi

Executive Director

# THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT

MYRON LIZER | VICE PRESIDENT



*Transmitted via email:* [aie\\_reports@doioig.gov](mailto:aie_reports@doioig.gov)

August 15, 2022

Mark L. Greenblatt, Inspector General  
U.S. Department of the Interior  
Office of Inspector General  
1849 C Street NW - Mail Stop 4428  
Washington, D.C. 20240

**Re: Navajo Nation Comments on Office of Inspector General Draft Report “*Status of the Office of Navajo and Hopi Indian Relocation’s Properties and Land Use Agreements*,” Report No. 2020-WR-016-H**

Dear Inspector General Greenblatt:

Thank you for the opportunity to provide written comments on the Office of Inspector General’s (“OIG”) draft report titled “*Status of the Office of Navajo and Hopi Indian Relocation’s Properties and Land Use Agreements*.” The Navajo Nation (“Nation”) has extensively reviewed the draft report and would like to provide detailed feedback and general observations on the following:

### **ONHIR’s Deficient Recordkeeping**

The Nation appreciates that OIG has documented the Office of Navajo and Hopi Indian Relocation’s (“ONHIR’s”) failure to maintain proper leasing records and failure to comply with Federal leasing requirements. These failures are symptomatic of ONHIR’s larger failure to provide adequate and safe housing and related community facilities and services, such as water, sewers, roads, schools, and health facilities, for relocatees at their relocation sites, which includes the Nahata Dziil Chapter, and other locations within the Navajo Partitioned Land and in the vicinity of the Navajo Reservation.

### **Technical Points**

The Nation has no substantive dispute with OIG’s tabulation of ONHIR’s properties and land use agreement, but there are a variety of technical points that require clarification or correction which include:

1. The term “ONHIR properties” as referenced in the title of the report and on the top of page 3 should be changed to “ONHIR–Administered Properties” or something similar that is consistent with the governing law and relevant facts. The relevant lands are all expressly mandated by Congress to be held by the United States in trust for the Nation as part of the Navajo Reservation. (See Pub. L. 93-531, § 11(a) as amended, previously codified at 25 U.S.C. § 640d-10(a)). The first sentence on page 3 of the draft report appropriately states that this report concerns “Navajo Trust land that ONHIR administers.” It is no more appropriate to refer to these lands as “ONHIR properties” as it would be to refer to all federally held trust lands for all Indian Tribes and Individual Indians throughout the United States as “BIA properties.” These “New Lands” like other Indian trust lands are categorically different than other properties that might be actually wholly owned by ONHIR or

the Bureau of Indian Affairs (“BIA”). The terminology in the report therefore should be corrected.

2. The draft report in footnote 2 on page 2 asserts that the “report uses the term “New Lands” pursuant to ONHIR’s own definition” to mean only the “New Lands” acquired under the Relocation Act within Arizona. As the Nation has indicated in prior comments, this is legally and factually incorrect and should be changed. ONHIR’s actual own, official definition of “New Lands” is codified in 25 C.F.R. § 700.701(b) and categorically encompasses all lands acquired under former 25 U.S.C. § 640d-10, without regard to location in New Mexico or Arizona. Any other definition of the “New Lands” contravenes ONHIR’s own regulations.
3. Notwithstanding the OIG assertion that the “New Lands” encompass “New Lands” in Arizona, the text in and accompanying footnote 6 on page 3 makes clear that OIG and ONHIR actually only intend “New Lands” to mean “New Lands” within the Nahata Dziil Chapter. Specifically, the draft report there references the (488-acre) Twin Arrows Casino Resort as being “outside of the “New Lands”. This is not correct. ONHIR is a concurring party for the Twin Arrows lease only precisely because this land is part of the “New Lands”, like the 86-acre Tse Bonito parcel in New Mexico. If the OIG and ONHIR just acknowledged the legal reality that Twin Arrows is part of the “New Lands” it would be necessary for OIG to state after the footnote that including the Twin Arrows lease is necessary “to provide a more complete count of active leases.”
4. The same issue as above would apply for the approximately 34,000-acre Paragon Ranch if there were a lease for that, though ONHIR apparently does allow non-Indian grazing there contrary to its own regulations. The same also applies to the 375-acre Turquoise Ranch, near Winslow, which apparently also otherwise remains vacant. Information on leasing of or not of all those “New Lands” needs to be included in Figure 1 on page 4 of the report and in Attachment 2. The failure of ONHIR and the OIG to properly recognize the status of all “New Lands” may be part of the problem for why those “outlier” “New Lands” are not properly treated as they should be. Given this, the Nation recommends that the OIG include all “New Lands” as defined under the Act and ONHIR’s own grazing regulations, to ensure that all such lands are covered in the report. As the text accompanying footnote 2 on page 2 makes clear, there are an additional 35,000 acres of “New Lands” not within the Nahata Dziil Chapter (“NDC”), but rather in New Mexico. Those need to be acknowledged for what they are and properly assessed and administered as required under the Act as well as ONHIR’s grazing regulations and the ONHIR Management Manual (“OMM”).
5. The Nation appreciates the respective references on pages 4 and 6 that ONHIR being the lessor under leases and the grantor under surface use agreements contradicts the OMM, and the statement on page 7 that allowing “New Lands” occupation without leases “is inconsistent with” the OMM. It also is helpful to see OIG’s comment on page 5 that rights of way (“ROW”) must conform to 25 C.F.R. Section 169. Those four statements are all legally required under the OMM, which warrants a supporting comment in the report. If anything, these points in the report should be stated more categorically, since it violates the OMM to not have those required approvals. See OMM Sections 1810.11 and 1810.325.1.
6. While the draft report on page 5 states that the ROWs must comply within Part 169, the draft report immediately follows that by stating that ONHIR collects no revenue for ROWs. The following text in and accompanying footnote 10 implies that this is because the ROWs are to the BIA, IHS, and private entities providing utilities to the area. That is legally unwarranted and precluded because the incorporated ROW regulations expressly require not less than fair market value consideration

except when waived by the landowners. See 25 C.F.R. Section 169.12 (1980, redesignated 1982), superseded by 25 C.F.R. Sections 169.110, .114 (2016) (imposing same requirement). Neither of those have happened, so the report should note that.

7. Because the draft report seems to limit the scope of the “New Lands” to those within the NDC, it is unclear whether the reference to ROWs across those lands are also limited. As noted above, there are 35,000 additional acres of “New Lands” in New Mexico. The OIG report needs to identify and address all ROWs across those lands.
8. Footnote 15 on page 12 acknowledges the Nation’s “two pending claims”, respectively in the U.S. Court of Federal Claims (“CFC”) and the U.S. District Court for the District of Arizona (“DAZ”). That reference should be to “two pending lawsuits” since each has multiple claims, namely, six (6) in the CFC and three (3) in the DAZ. Also, the statement there that the CFC case was filed by the Nation on behalf of the relocation beneficiaries is inaccurate. That case has been brought by the Nation on behalf of itself and separately also by the relocation beneficiaries.
9. The draft report raised five “Congressional Considerations”, all of which are premised on the event of ONHIR’s closure or transfer of duties. The Nation agrees with the statements in the text on page 12 regarding congressional and legal considerations in the event of ONHIR’s closure or transfer of duties. However, the Nation believes that no such closure or transfer of duties can take place without Federal legislation. However, the Nation opposes any such closure or transfer of duties until ONHIR has fulfilled its obligations under the Navajo-Hopi Land Settlement Act of 1974 (Pub. L. 93-531), as identified by the Nation in separate submissions to the OIG for OIG’s related reports on ONHIR.

### **Conclusion**

The United States promised a generous and humane relocation and that the United States would bear the costs of that relocation—promises that have not been kept. Before ONHIR is closed, all of the issues identified by OIG and by the Nation need to be fully and adequately addressed, in close consultation and coordination with the Nation.

Should you or your staff have any questions, please do not hesitate to contact Lashawna R. Tso, Executive Director of the Navajo Nation Washington Office at (202) 682-7390 or by email at [REDACTED] Ahéhéé (thank you).

Sincerely,



Jonathan Nez, *President*  
**THE NAVAJO NATION**



# REPORT FRAUD, WASTE, ABUSE, AND MISMANAGEMENT

The Office of Inspector General (OIG) provides independent oversight and promotes integrity and accountability in the programs and operations of the U.S. Department of the Interior (DOI). One way we achieve this mission is by working with the people who contact us through our hotline.



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