



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

Status of the Office of Navajo and Hopi Indian Relocation's Appeals on Denied Eligibility Determination Cases



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Memorandum

SEP 29 2020

To: David Bernhardt
Secretary, U.S. Department of the Interior

From: Mark Lee Greenblatt
Inspector General

Subject: Final ONHIR Review – *Status of the Office of Navajo and Hopi Indian Relocation's Appeals on Denied Eligibility Determination Cases*
Report No. 2020-WR-016-B

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).

Our objective for this review was to determine the status of ONHIR's applicant appeals—both active appeals on denied eligibility determinations and cases eligible for appeal. Specifically, we sought to answer the following:

1. What is the status of open appeal cases in the U.S. District Court for the District of Arizona and the U.S. Court of Appeals for the Ninth Circuit?
2. What is the status of cases eligible for appeal and condition of the case files?
3. What congressional considerations and potential liabilities exist for a successor agency in the event of ONHIR's closure or transfer of duties?

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

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.

Background

ONHIR is an independent Federal agency responsible for assisting with the relocation of Navajo people and Hopi people living within each other's boundaries. 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, 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.

In addition to making initial determinations regarding eligibility for relocation benefits, one of ONHIR's key functions is managing the administrative appeals process. The appeals process for applicants who are denied relocation benefits can potentially span multiple years and three levels of Federal courts: the U.S. District Court for the District of Arizona, the U.S. Court of Appeals for the Ninth Circuit, and the U.S. Supreme Court. An overview of the process follows:¹

Initial request for reconsideration: If an applicant is not found eligible for relocation benefits in ONHIR's initial determination, the applicant may request a hearing for reconsideration. As a result of this hearing:

- If found eligible, the applicant receives relocation benefits.
- If still not found eligible, the applicant has a 6-year window to file an appeal with the District court. If the applicant takes no action during the 6-year window, the case is closed.

Appeal to District Court: If the applicant appeals ONHIR's denial of relocation benefit decision, the District Court will either reverse or affirm the decision. Specifically:

- If the decision is affirmed, the applicant has 60 days to appeal to the U.S. Court of Appeals. If the applicant takes no action during the 60 days, the case is closed.
- If the decision is reversed, the case is remanded (sent back) to ONHIR for further action. ONHIR also can initiate an appeal to the U.S. Court of Appeals.

Appeal to U.S. Court of Appeals: If the case is taken to the U.S. Court of Appeals, a new decision will be made to reverse or affirm the decision of the District Court. Specifically:

- If the denial of benefits is upheld, the applicant has 90 days to petition for judicial review by the U.S. Supreme Court. If the applicant takes no action during that time, the case is closed.

¹ The appeals process detailed in this report was informed by ONHIR's management manual, interviews with ONHIR officials, and Federal rules governing trial and appellate court proceedings.

- If the denial of benefits is reversed, the case may be remanded to ONHIR. ONHIR also has 90 days to petition for review by the U.S. Supreme Court.

Appeal to U.S. Supreme Court: The U.S. Supreme Court decides whether to accept cases for review. The possible outcomes from an applicant or ONHIR petitioning for judicial review are the following:

- If the Court denies the petition and the case is not heard, the U.S. Court of Appeals decision will stand.²
- If the Court hears the case, it will either remand the case to ONHIR or uphold the U.S. Court of Appeals decision

If remanded to ONHIR for reconsideration: Any court may remand the case to ONHIR for a new hearing for reconsideration for eligibility of relocation benefits. ONHIR will either determine the applicant is eligible and provide relocation benefits or issue another denial of benefits, beginning a new 6-year window for appeal.

According to ONHIR, as of May 2020, 1,351 denied applicants had requested a hearing for reconsideration of a denial of benefits decision. Of those applicants, ONHIR certified 521 as eligible for benefits without holding a hearing. In the remaining 830 cases, the denials were upheld and were therefore eligible for appeal to the District Court level. Of those cases, 259 have resulted in eligibility certification. Five of these certified applicants have not claimed their benefits.

Status of Active Appeal Cases

As of March 2020, ONHIR was defending five appeal cases in the District Court and two cases in the U.S. Court of Appeals. There was also one case that had been remanded to ONHIR from the District Court and had a hearing pending, scheduled for June 2020.³

In addition to these active appeal cases, 212 cases were eligible for appeal because the 6-year statute of limitation had not yet expired. According to ONHIR, over the years, denied applicants have tended to wait until the 6-year window was almost up before filing for an appeal.

Between March and May 2020, nine additional cases were filed for appeals with the District Court, at least one of which was filed just 2 days before the 6-year deadline.

Active appeals as of March 2020:

- 5 in District Court
- 2 in Court of Appeals
- 1 remanded, pending ONHIR hearing

Cases eligible for appeal: 212

² According to USCourts.gov, the Supreme Court hears only 100 to 150 appeals of the more than 7,000 cases it is asked to review every year.

³ ONHIR provided updated case counts in response to the draft report, but we did not verify these counts. As of June 17, 2020, ONHIR reported 8 cases (totaling 13 plaintiffs) in District Court and 3 in the U.S. Court of Appeals; an additional 189 are eligible for appeal.

If ONHIR closes, its ongoing litigation will require a successor agency to be responsible for any appeal cases and to reconsider any decisions reversed by the courts and remanded for further action. Additionally, there may be demands for payment of attorney fees by applicants whose eligibility denials are reversed in Federal court.⁴ As there is no clear resolution date for these cases, relocation benefits may need to be provided for newly certified applicants for many years to come. Currently, if a denial decision is reversed, ONHIR provides relocation benefits that include a new home and various services such as assistance with house design, pre- and post-move counseling, and a home warranty.

Status of Cases Eligible for Appeal and Condition of Case Files

In an April 2018 report, the U.S. Government Accountability Office (GAO) found that ONHIR's information on the denied cases eligible for appeal was incomplete.⁵ In response, ONHIR said that this finding was inaccurate and that its eligibility case files were complete and up to date.

During a site visit to ONHIR's main office in Flagstaff, AZ, in March 2020, we reviewed 13 case files for applicants who are eligible for appeal. The other files for cases eligible for appeal, of which there are more than 200, are stored at the National Archives and Records Administration (NARA) office in Perris, CA. Due to the COVID-19 pandemic, the NARA office was closed, so we were unable to include additional files in our review sample. We were, however, able to compare ONHIR's list of cases eligible for appeal with NARA's inventory, and we found that ONHIR had accounted for all case files.

With respect to completeness of case files, ONHIR staff initially told us there is no set list of documents that would apply uniformly to all case files for all appeal circumstances but later identified 11 documents that would typically appear in every case file that we were able to review (see Attachment 1 for a list of these documents). Our onsite review time was limited due to the COVID-19 pandemic. We checked for the inclusion of these documents in the 13 case files we reviewed, but we could not always easily identify documents in the case files (whether mislabeled or missing) or examine the specific circumstances for each individual case. We have listed below the deficiencies that we noted during our review (see bullet list). In response to our draft report, ONHIR provided additional documentation to respond to these deficiencies and told us some of the files had been transferred to the NARA office since our review.

- We did not find a Notice of Hearing in seven files, even though all files included Hearing Transcripts. In response to the draft report, ONHIR provided three of these Notice of Hearing documents and said four files were no longer at ONHIR.
- We did not find a Certificate of Degree of Indian Blood (issued by the Bureau of Indian Affairs) in two files. In response to the draft report, ONHIR provided a Family

⁴ Under the Equal Access to Justice Act (Pub. L. No. 96-481), courts can order Federal agencies to pay reasonable attorney's fees and expenses for prevailing parties in lawsuits with the U.S. Government or any of its agencies.

⁵ 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.

Inquiry document in lieu of a Certificate of Degree of Indian Blood for one file and said one file was no longer at ONHIR.

- We did not find both an Appeal Letter and Acceptance of Appeal Letter in one file. In response to the draft report, ONHIR provided both the Appeal Letter and Acceptance of Appeal Letter for the file.
- We did not find a Post-Hearing Legal Memorandum in one file. In response to the draft report, ONHIR provided a letter sent from ONHIR to the independent hearing officer in lieu of the formal memorandum.

In its report, the GAO noted that incomplete files increase the risk that a successor agency will not be able to effectively assume ONHIR's duties. In the event of ONHIR's closure and transfer of functions, it will be vital to ensure that active and eligible appeal case files include all necessary documents.

Congressional Considerations and Potential Liabilities in the Event of ONHIR's Closure or Transfer of Duties

We cannot resolve any disagreements between ONHIR and the Navajo Nation regarding the appeals process, but we emphasize the below considerations for Congress as it determines how to proceed.

In the event of ONHIR's closure or transfer of duties, legislation may be needed to:

- Identify a successor agency to be responsible for ongoing and future appeals and litigation in Federal court
- Designate the relocation benefits that will be provided and the agency or bureau that will provide them to applicants
- Direct ONHIR to ensure that case files include all necessary documents for active and eligible appeals

As of December 2019, the relocation benefit for a certified applicant was set by ONHIR (after consultation with the U.S. Department of Housing and Urban Development) at \$134,000 for a household of three or fewer and \$140,000 for a household of four or more. Predicting estimated costs and liabilities associated with appeals is difficult because it is not known how many denied applicants will appeal their cases or how many ONHIR decisions will be reversed, which could result in the provision of relocation benefits. For example, the 2008 decision in *Herbert v. Office of Navajo and Hopi Indian Relocation* not only reversed an applicant's denial but led ONHIR to reopen the application period (which had closed in 2010) for the fourth and most recent time for those seeking relocation benefits. The application period was reopened for another 2 years, during which ONHIR received about 3,000 new applications. Each application had to be individually reviewed and eligibility decisions made, thus also extending the period for potential appeal cases and cost liability.

In its April 2018 report, the GAO showed that the rate of denials per applicants for the last application period (95 percent) was significantly higher than that for the previous three periods, which were 21 percent, 65 percent, and 63 percent, respectively. Further, the applicants in the last application period made up 32 percent of all applicants but 65 percent of all denied cases. The Navajo Nation commented in its response to our draft report that this may be due to changes in the eligibility standards applied by ONHIR's administrative judge, citing denied applicants in the latest round whose circumstances the Navajo Nation believed were essentially identical to those who had been previously certified, such as siblings from the same homesite. In contrast, in its response to the GAO report, ONHIR stated that, during the last application period, the Navajo Nation encouraged as many Navajo as possible to apply, including applicants who did not meet eligibility criteria. Regardless of the reasons for the increased number of applicants and rate of denial, all of these applicants may continue to exercise their appellate rights for many years to come.

ONHIR estimates that its costs when a denial of eligibility is reversed typically amount to \$300,000. This amount includes costs for the relocation benefit, infrastructure, contractor incentives, staff time for appeal processing and pre- and post-move services, the independent hearing officer and any co-counsel, outside counsel, hearing interpreter, hearing transcript, any investigations, payments for the applicant's counsel, and other miscellaneous ONHIR office expenses such as postage, telephone service, and general overhead.

If these benefits are retained, the 212 eligible appeal cases present \$63.6 million in potential costs under the current benefit package. Although it is difficult to provide an estimate of likely costs given uncertainties about how many applicants might appeal and what the outcomes of those appeals might be, this amount is at least potentially possible. An additional consideration in the event of ONHIR's closure or transfer of duties may include determining whether any changes are needed to the relocation benefits that can be given to eligible applicants, a decision that could either increase or decrease potential expenditures. Finally, the \$63.6 million does not account for any decisions that may affect cases outside of those currently eligible. Until all cases are closed, decisions such as *Herbert v. ONHIR* could have broader effects, such as reopening the application period again or providing a basis for currently ineligible cases to be reheard in court. Any such ruling would increase the upper limit of potential costs.

In response to the draft report, the Navajo Nation expressed a desire for a "more sensible way to address remaining appeals" along with a number of general concerns regarding the potential closure of ONHIR and suggested, for example, that ONHIR receive additional funding and authorities. We also note that the Navajo Nation requested that Congress consult with the Navajo Nation and that any decisions be made with "adequate time" to enable ONHIR to "fully discharge its functions."

Conclusion

Due to the COVID-19 pandemic, we had to limit our fieldwork. In particular, we reviewed relevant laws, regulations, procedures, and documents but had to limit 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 invited ONHIR and Navajo and Hopi officials to provide input on a draft version of this report. ONHIR provided updated case numbers along with additional legal citations and case file documentation, which we have noted in the report where applicable. The Navajo Nation provided a written response; we have made revisions and have incorporated some information in this report where applicable and included the full response in Attachment 2. Hopi officials did not provide a response.

If you have any questions, please contact me at 202-208-5745.

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on reports issued.

cc: Christopher J. Bavasi, Executive Director, Office of Navajo and Hopi Indian Relocation
Tara Sweeney, Assistant Secretary – Indian Affairs
Richard Myers, Chief of Staff, Bureau of Indian Affairs
Jerold Gidner, Director, Bureau of Trust Funds Administration
Dan Jorjani, Solicitor, Office of the Solicitor
Craig Crutchfield, Chief of the Interior Branch, U.S. Office of Management and Budget
Milton Bluehouse, Jr., Deputy Chief of Staff to the President and Vice President, Navajo Nation
Clark Tenakhongva, Vice Chairman, Hopi Tribal Council

Attachments (2)

Attachment 1: Documents Included in File Review

The Office of Navajo and Hopi Indian Relocation (ONHIR) identified the following 11 documents as essential for a typical appeal case:

- Application for relocation benefits
- Birth certificate or proof of identification
- Certificate of Degree of Indian Blood
- Denial Letter (from ONHIR to denied applicant)
- Appeal Letter (submitted by denied applicant to ONHIR)
- Acceptance of Appeal Letter (from ONHIR to denied applicant)
- Notice of Hearing
- Hearing Transcript
- Post-Hearing Legal Memorandum
- Independent Hearing Officer Decision
- Notice of Final Agency Action (from ONHIR to denied applicant)

Attachment 2: Response to Draft From the Navajo Nation

The Navajo Nation's response to our draft report follows on page 10.

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



MEMORANDUM

To: Office of the Inspector General, Department of the Interior

From: Navajo Nation

Re: Navajo Nation Comments on Office of Inspector General Draft Report Current Status of the Office of Navajo and Hopi Indian Relocation's Appeals on Denied Eligibility Determination Cases, Report No. 2020-WR-016-B

Date: July 31, 2020

Introduction. Thank you for the opportunity to comment on the OIG draft report titled Current Status of the Office of Navajo and Hopi Indian Relocation's Appeals on Denied Eligibility Determination Cases. Although the report is largely descriptive in character, there are certain statements that the Nation does not agree with or that otherwise would benefit from additional context.

Navajo Nation Rejects the Implication that It Is "In Part" Responsible for the Relocation. In the Background section, the draft report states: "ONHIR is an independent Federal agency responsible for assisting *with the relocation of Navajo people* and Hopi people living within each other's boundaries *as a result, in part, of a longstanding land dispute between the tribes.*" (Emphasis added.) The draft report never explains the reference to "in part," however, the Navajo Nation strongly disputes the notion that the cause of the relocation is in any part the responsibility of the Navajo people or, in its origin, the result of a "longstanding land dispute" between the Navajo and the Hopi given the generations of peaceful coexistence between our peoples before outside forces "created" the land dispute. Notably:

- The actual origin of the land dispute was federal policy towards the Church of Jesus Christ of Latter Day Saints. In 1882, at the request of the local Bureau of Indian Affairs agent who was seeking authority to evict two Mormon missionaries working among the Hopi, President Chester Arthur signed an executive order establishing a reservation "for the use and occupancy of Moqui [Hopi], and such other Indians as the Secretary of the Interior may see fit to settle thereon."¹ At the time the reservation was created there were 300 to 600 Navajos living within its boundaries and approximately 1800 Hopis.² President Arthur's order, by its broad reference to "such other Indians," clearly encompassed the Navajos who made up to one-quarter of the population. Even so, it was evident that little thought had been given to

¹ *Healing v. Jones (II)*, 210 F. Supp. 125, 129 (D. Ariz., 1962).

² Emily Benedek, *The Wind Won't Know Me* (1992) at 34; Hollis A. Whitson, *A Policy Review of the Federal Government's Relocation of Navajo Indians Under P.L. 93-531 and P.L. 96-305*, 27 Arizona Law Review 371, 372-373, 375 n.30 (1985).

the actual land usage of the two tribes as the boundaries of the new reservation (known as the 1882 Reservation) were artificially designated as a rectangle--one degree of latitude in width and one degree of longitude in height. Inside this artificial reservation there were over 900 Indian sites--the majority of which were Navajo.³

- After creating an irrational reservation designation, for suspect purposes, the Federal government then sought to divide the land for energy development. According to a history of the land dispute “[i]t was not repeated Hopi complaints about Navajo encroachment onto uninhabited 1882-area lands that drove the [Federal] government to action. It was the pressure of oil and gas companies to determine ownership of the area.” The “disputed lands” lie on top of one of the richest coal beds in the Western United States.⁴
- The Navajo Nation strongly opposed the relocation, which was not voluntary in nature, and offered numerous alternatives, generally in the form of land exchanges, that would have allowed Navajo families to remain on the land that they had inhabited for many generations. In light of Navajo opposition to the relocation, it is notable that the draft report uses “Settlement Act” as an abbreviation for the Navajo-Hopi Settlement Act of 1974 (Pub. L. No. 93-531, as amended), reinforcing the false concept that the Navajo Nation agreed to a settlement that included mandatory relocation of Navajo people, even though the only “settlement” was imposed by Congress and court order.⁵ In these comments, the Act will be referred to as the “Relocation Act” since its central purpose was to impose a mandatory relocation on approximately 15,000+ traditional Navajos from their ancestral land, consistent with titles of the 1980 and 1988 amendments to the Act.

Appeals Process is More Elaborate than Described. Page 2 of the draft report notes that “[i]f the applicant appeals ONHIR’s denial of relocation benefit decision, the District Court will rule to either reverse or affirm the decision.” A similar point is made on the same page regarding Court of Appeals decisions on review of District Court decisions. However, in recent decisions, the District Court has been remanding back to ONHIR for new evidentiary hearings and/or for ONHIR’s administrative judge to write new decisions based on the District Court’s ruling. In one of these remanded cases, it was determined that an evidentiary hearing was not needed and all that remained to be decided was a single legal issue which was briefed by both parties. ONHIR’s administrative judge then issued a new decision granting the appeal and recommending certification, which ONHIR did. Had he denied the appeal, the applicant likely would have appealed again to the District Court.

ONHIR Changes Eligibility Criteria to the Detriment of Navajo Applicants. In April 2018, the U.S. Government Accountability Office (“GAO”) issued a report on the potential closure of

³ Whitson, *supra*, at 375 n.30, citing *Healing v. Jones (II)*, 210 F. Supp. at 137 n.8 (“As revealed by extensive archeological studies, there were over nine hundred old Indian sites, no longer in use, within what was to become the executive order area but outside of the lands where the Hopi villages and adjacent farm lands were located. Most of these were Navajo sites. Tree ring or dendrochronological studies show that of a total of 125 of these Indian sites within the executive order area for which data was successfully processed, the wood used in the structures was cut during a range of years from 1662 to 1939. A considerable number of these specimens were cut and presumably used in structures prior to 1882. There is no convincing evidence of any mass migration of Navajos either into or out of the executive order area at any time for which the tree ring data were available.”).

⁴ Benedek, *supra*, at 134.

⁵ See former 25 U.S.C. § 640d-3; *Sekaquaptewa v. MacDonald*, 626 F.3d 113 (9th Cir. 1980).

ONHIR and the administrative and legislative logistics such closure would require.⁶ The Navajo Nation provided extensive comments on this report, which are incorporated therein as Appendix III. GAO accurately details the long history of neglectful implementation of the eligibility and appeals process by ONHIR, requiring the application period to be reopened three times. Although derivable from GAO's table summarizing the number of applications submitted and the number approved, GAO did not highlight that in the fourth and final application period denial rates shot up to 94%.⁷ In the three prior periods, the denial rate was respectively 21%, 65% and 63%. The Navajo Nation believes that this is because ONHIR's administrative judge changed his evidentiary standards, not because the cases are weaker.

Notably, there are a number of examples of applicants being denied who had essentially identical facts as applicants who were certified eligible for benefits in earlier years. Many of these recently denied applicants came from families who occupied the same homesites on Hopi-Partitioned Land ("HPL") as prior applicants and family members who were earlier certified eligible from these same homesites. Yet these current applicants are being denied eligibility, with ONHIR going as far as to question the existence of HPL homesites previously established for other family members that supported ONHIR determining that the earlier family members were eligible for benefits.⁸ For example, ONHIR previously determined that some applicants were eligible for benefits, but denied their recent sibling applicants' appeals even though they are claiming the same homesite as their siblings. In the last few years, the federal district court has overturned several of ONHIR decisions that denied relocation eligibility.⁹

Assessment of Liability. Based on certain assumptions, and ONHIR's estimate that a reversed denial of eligibility costs \$300,000 (slightly more than double the cost of actually providing the benefit), the draft report projects a potential cost liability of \$63.6 million to the United States under the current benefit package. The draft report goes on to note that: "Until all cases are closed, the Government is at risk of similar decisions that could have broader effects such as reopening the application period again or providing a basis for currently ineligible cases to be reheard in court." However, the Government's liability under the Relocation Act extends beyond the individual cases that were the basis for this assessment. Given the failure of ONHIR to provide promised infrastructure, community facilities, social services and so forth, the actual liability of the United States far exceeds \$63.6 million.¹⁰

An Alternative Approach? It is a sad irony that the cost of a reversed denial of eligibility is

⁶ *ONHIR: Executive Branch and Legislative Action Needed for Closure and Transfer of Activities*, GAO-18-266 (April 24, 2018) ("2018 GAO Report").

⁷ *Id.*, Table 1 at 20.

⁸ See 25 C.F.R. § 700.147(a).

⁹ See, e.g., *Jason Begay v. ONHIR*, 16-CV-08221-DGC (September 28, 2017). In the *Jason Begay* case, the Hearings Officer was overturned by a Federal District Court judge for being arbitrary and capricious. The Hearings Officer refused to accept the sworn testimony of an applicant as to the man's annual income because the Navajo testified that he had been paid in cash for landscaping work. The Hearings Officer determined that the employer was of the Mormon religion, and concluded that a Mormon would be honest and would not pay a Navajo under-the-table. Even though the employer was not present in the hearing and there was no actual evidence contrary to the Navajo man's testimony, the Navajo claimant's testimony as to his total gross income was disregarded and benefits were not allowed. ONHIR hired a private investigator to try to create proof of what the Mormon employer's practices were thirty years ago, rather than accept the Navajo person's sworn testimony. ONHIR ultimately settled the case on remand but without conceding Mr. Begay is eligible for relocation benefits.

¹⁰ See 2018 GAO Report at 125-26.

\$300,000, while the benefit value is less than half of that. The Navajo Nation urges OIG to present for consideration by the Congress whether there is a more sensible way to address the remaining appeals, as well as other issues the Navajo Nation has raised with regard to the failure to provide adequate infrastructure, community facilities, social services and so forth. The Navajo Nation has presented a number of proposals for increased funding for ONHIR to carry out its current responsibilities and increased authority for ONHIR to work in the areas of the Navajo Nation that have been the subject of multi-decade construction freezes. Such proposals can form the basis for a just and humane resolution to the relocation process, though its impact will likely resonate for years to come.

Conclusion. The ongoing appeals, vacation and remand of ONHIR decisions is a flashing red light that there are issues that have not been adequately addressed. OIG should recommend that Congress, in close consultation and coordination with the Navajo Nation, assure adequate time to address all issues arising out of ONHIR's implementation of the Relocation Act and not bring ONHIR to an abrupt and rushed end before it fully discharges its functions, as Congress originally required 46 years ago.

Sincerely,



Jonathan Nez, *President*
THE NAVAJO NATION



Myron Lizer, *Vice-President*
THE NAVAJO NATION

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