



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

Status of Identified Environmental Concerns Related to the Office of Navajo and Hopi Indian Relocation's Administration of Land




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Memorandum

To: Deb Haaland
Secretary of the Interior

From: Mark Lee Greenblatt 
Inspector General

Subject: Final ONHIR Review – *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

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). Attachment 1 includes a list of prior reports in the series.

Our objective for this review was to determine the status of identified environmental concerns related to ONHIR's administration of land. Specifically, we sought to answer the following:

1. What is the status of identified environmental concerns?
2. What considerations exist for Congress and any 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 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, 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.

Amendments to the Act in 1980 authorized the U.S. Government to take a total of 400,000 acres into trust for the Navajo Nation. To date, 387,000 acres have been acquired pursuant to the Act. The United States holds the legal title, and the tribe holds the beneficial interest. ONHIR's role is to administer the land until the relocation of Navajo people and Hopi people off each other's designated land is complete.

Land selected in Arizona includes 352,000 acres that ONHIR refers to as the "New Lands."¹ This acreage now makes up the Navajo Nation's Nahata Dził Chapter (a unit of local tribal government). After being certified as eligible for relocation, Navajo relocatees may opt to move onto the Navajo Reservation, off reservation, or onto the New Lands. ONHIR facilitates construction of relocation homes in any location but only holds land administrator authority on the lands acquired pursuant to the Act.

ONHIR stated that the New Lands relocation community and the Twin Arrows Navajo Casino Resort (opened in 2013 near Flagstaff, AZ) have been the only developments since the lands were taken into trust. In addition, prior to the Tse Bonito parcel in New Mexico being taken into trust in 2017, a Navajo Department of Transit facility already existed there. ONHIR told us that while ONHIR maintains administrative authority for the land, the building remains the exclusive property of the Navajo Nation.

The Act's 1980 amendments also stated that no action taken by ONHIR pursuant to the Act shall be deemed a "major Federal action."² This exempts ONHIR from obtaining an environmental impact statement before initiating any activity that would otherwise require one under the National Environmental Policy Act of 1969 (NEPA). According to ONHIR, the exemption does not prohibit it from undertaking environmental reviews. ONHIR told us it has always required environmental impact statements before any land is taken into trust status and its

¹ 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. In its response to our draft report, the Navajo Nation 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. This report uses the term "New Lands" per ONHIR's definition.

² According to 40 C.F.R. § 1508, major Federal actions are activities or decisions subject to Federal control and responsibility. They may include the adoption of policy, formal plans, or programs, as well as the approval of specific projects, such as construction or management activities in a defined geographic area.

management manual requires submission of environmental assessments³ for right-of-way applications and certain leases. ONHIR added that it also completes environmental impact statements for any development on the New Lands that is not directly related to relocation efforts. In its response to our draft report, the Navajo Nation stated that it believes that “ONHIR’s exemption from NEPA should continue for the purpose of expediting fulfillment of ONHIR’s obligations with regard to infrastructure and community development.” It also stated that “the fact that many ONHIR actions are exempt from NEPA does not mean that ONHIR does not have a legal obligation to address environmental issues.”

ONHIR told us that as part of its Federal land administrator role, its staff monitor the New Lands for any environmental threats, such as the disposal of hazardous materials, but stated that “it is an open question whether ONHIR or the Navajo Nation (or both governments) would be responsible for remediation” should environmental issues be found on the New Lands or other lands acquired pursuant to the Navajo-Hopi Land Settlement Act. ONHIR stated the responsible party would depend on the particular issue found. Governing environmental agencies with jurisdiction over Navajo trust land include:

- **Navajo Nation Environmental Protection Agency (NNEPA).** A regulatory agency of the Navajo Nation, the NNEPA is charged with protecting air, land, and water resources per Navajo Nation authorities. According to ONHIR, its New Lands staff notify the NNEPA if they become aware of a possible environmental issue on the New Lands. The NNEPA may then choose to investigate the issue.
- **U.S. Environmental Protection Agency (EPA).** The EPA develops and enforces regulations and sets national standards that States and tribes enforce through their own regulations. The EPA issued a general statement of principles in 1984 that commits to incorporating tribal policy goals into its planning and management activities, including its budget, operating guidance, legislative initiatives, management accountability system, and ongoing policy and regulation development processes.⁴

While these agencies hold authority to manage environmental threats on ONHIR-administered lands, ONHIR has participated in studies and activities related to environmental concerns for the benefit of relocatees in the past. According to ONHIR, the following environmental studies have been completed on the New Lands, and all associated threats have been addressed:

- In 1994, the U.S. Geological Survey (USGS), in cooperation with ONHIR, issued a report summarizing a 4-year study on concerns about radioactivity and unsafe levels of water contamination in wells drilled in the Puerco River Basin, where the New Lands are located. Specifically, the study examined water and sediment samples

³ An environmental assessment determines whether a Federal action has potential to cause significant environmental effects. If the assessment determines that environmental impacts will be significant, an environmental impact statement is prepared, which has more detailed and rigorous requirements than an environmental assessment.

⁴ *EPA Policy for the Administration of Environmental Programs on Indian Reservations*, issued November 8, 1984.

throughout the Little Colorado River Basin and wells in the Puerco River Basin. Uranium was found to be present in water and sediment samples, but the studies did not link the uranium to the effects of mining. In addition, while the USGS found that the levels of radioactivity in sediment from the rivers would not pose a health risk, it also identified two wells on the New Lands that had unsafe levels of uranium and radium and one well that had unsafe levels of radon. The uranium levels were found, however, to be on a declining trend over the study timeframe. The report recommended that humans avoid breathing dust during windstorms and that livestock be prevented from drinking water heavily laden with sediment.

- In July 2015, ONHIR authorized and funded testing to mitigate concerns raised by the 14R Ranch Corporation (a nonprofit comprising the 14 range units on the New Lands) that uranium levels in New Lands wells might harm livestock. The testing identified levels of heavy metals possibly sufficient to harm livestock in 6 of the 68 wells located on the New Lands. The report recommended that five of the wells be used on a short-term basis only and specifically noted that one well would be harmful to humans over time. Based on testing results and the location and use of these wells, ONHIR decided to cap three of the six wells in 2017 and leave the remaining three available for short-term livestock use only.⁵
- In 2018, ONHIR engaged an environmental consulting firm to perform an environmental assessment of the properties where ONHIR's New Lands offices are located in Chambers and Sanders, AZ. This was done in preparation for a proposed Bureau of Indian Affairs takeover of these facilities and operations. The assessment did not include any other facilities or land, and its recommendations primarily addressed hazardous waste disposal and soil sampling analysis. The second phase of the assessment concluded that no further soil assessment was recommended at that time, and ONHIR affirmed to us that all recommendations were addressed. Ultimately, the transfer of these facilities and operations did not take place and may not occur until a determination is made that ONHIR's work is complete.

Status of Identified Environmental Concerns

ONHIR told us about one known site with environmental contamination at the former Painted Desert Inn. Separately, in an August 2019 resolution opposing ONHIR's termination, the Navajo Nation cited three additional concerns that appeared to be environmental: homes constructed on unsuitable sites, uranium mining waste contamination, and Peabody Energy mining contamination.⁶ Our review of documentation showed no claims of environmental concerns on lands associated with the relocation of Hopi people. The status of the four identified concerns is addressed below.

⁵ For further discussion of livestock water systems, see [OIG Report No. 2020-WR-016-F](#), *Status of the Office of Navajo and Hopi Indian Relocation's Range Maintenance Responsibilities and Activities on the New Lands*, issued September 2021.

⁶ Navajo Nation Council Legislation No. 0251-19 (August 19, 2019).

Contamination at the Former Painted Desert Inn Site

According to ONHIR, the former Painted Desert Inn site was taken into trust by the U.S. Department of the Interior as part of the Navajo Nation's selection of the New Lands in the mid-1980s. In 1988, when ONHIR came into existence, it assumed administrative authority of the land. Leaking underground fuel storage tanks at this site were removed in 1991. Because no responsible party was identified, in 2017, ONHIR and the U.S. Department of Justice reached an agreement with the Navajo Nation for ONHIR to fund remediation at the site. At that time, ONHIR officials were engaged in agency transition and closure discussions. ONHIR explained to us that it was "clear" that the Federal Government in some form would eventually pay for the remediation. Because ONHIR itself had funds available and expected to close soon, it decided to resolve these issues. In particular, ONHIR has paid the NNEPA \$2 million as a full and final settlement for "any and all" claims by the Navajo Nation against the United States in connection with contamination related to the underground storage tanks at the former Painted Desert Inn site.

The remediation is ongoing under the NNEPA's oversight. According to the settlement agreement, the NNEPA will consult with and consider comments by ONHIR or any successor agency in the course of its decision making. The NNEPA also reports to ONHIR on remediation activities and has agreed to continue reporting to any successor agency upon ONHIR's closure.

Relocation Homes Constructed on Unsuitable Sites

The Navajo Nation's 2019 resolution called for the repair or replacement of relocation homes that were constructed on "unsuitable sites." It did not identify specific locations or circumstances, but ONHIR has acknowledged that the expansion and contraction of soil over time in Arizona is common and that shifting soil can lead to cracks in the foundations or walls of homes.

In a 2016 evaluation, we identified three New Lands subdivisions with homeowners who had expressed concerns about the land on which their homes were built.⁷ Even though ONHIR made efforts to remediate affected homes in 2006, these homeowners told us at the time of the evaluation that they had continued concerns and wanted to have the homes repaired or replaced. At that time, ONHIR had replaced five relocatee homes that had damage due to subsidence (soil settling). In 2018, the U.S. Government Accountability Office reported that ONHIR had replaced an additional nine homes due to "foundation issues related to soil expansion and other issues, such as leaks in utility lines and septic tanks."⁸ In our 2020 report reviewing ONHIR's administration of relocation benefits, we identified at least one home with continued subsidence issues that might require structural repairs,⁹ but ONHIR more recently informed us that it found the needed repairs

⁷ See [OIG Report No. 2015-WR-067](#), *Office of Navajo and Hopi Indian Relocation's Eligibility and Relocation Practices*, issued February 2016. In that report, we noted that engineering firm Starling & Associates provided specific repair recommendations for each house, including installation of helical piers, slab jacking, topical floor leveling, or full home replacement.

⁸ [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.

⁹ [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.

to be only “cosmetic in nature.” ONHIR has since informed us that an additional complaint that may be related to subsidence issues has been submitted by another relocatee.

ONHIR has attributed continued soil collapse, in part, to homes being shared by multiple generations at once, leading to increased water use that exacerbates soil settling, and to insufficient land maintenance by homeowners. ONHIR warranty files provided to us during our review of relocation benefits in 2020 did not indicate systemic structural issues caused by subsidence. In its response to the relocation benefits report, the Navajo Nation stated it was “not confident that ONHIR has retained documentation that would show a more systemic failure” and claimed that the 2-year warranty on relocation homes is “dramatically less than historically required for other federally funded housing” with “more serious structural issues taking longer to manifest themselves.”

As described in the relocation benefits report, soil settling issues present a risk of future settling and damage that may necessitate significant repair or even replacement of additional homes. ONHIR or a successor agency will need to determine the extent of home repairs or replacement to be performed due to soil settling.

In its response to our draft report, the Navajo Nation raised an additional concern regarding the Coalmine Canyon Chapter House, a building constructed by ONHIR in 2004 but not located on the New Lands or acreage acquired under the Navajo-Hopi Land Settlement Act. According to the Navajo Nation, as a result of “serious structural and other flaws,” the Chapter House has been vacant for nearly 2 years due to “imminent danger and concern for the safety of the public and staff.” ONHIR responded to a follow up inquiry from the OIG by stating that, although it helped fund and led construction on the building and contributed to maintenance costs, the Chapter House is not a Federal building; ONHIR further stated that it does not have an assigned role in the maintenance or management of the building. According to ONHIR, it was working with the Navajo Nation and the Coalmine Canyon Chapter on a collaborative project to perform an estimated \$807,000 in repairs to the building, but the project was “abandoned” in 2020 when ONHIR received notice that the Navajo-Hopi Land Commission adopted a resolution requesting that ONHIR replace the building. Although ONHIR told us it has not taken the idea of a collaborative effort for the rehabilitation “off the table,” in August 2021, the Navajo Nation filed a complaint against ONHIR and the U.S. Department of the Interior in the U.S. District Court for the District of Arizona claiming “\$20 million is needed for Chapter Houses” in four Chapters.

Contamination From Uranium Mining Waste

The Navajo Nation also identified a “longstanding concern about contamination from radioactive mining waste and uranium that needs to be addressed.” The comment did not provide further detail about specific locations or circumstances of concern.

ONHIR officials told us they consider the uranium contamination issue resolved based on past studies, which noted that most New Lands residents are connected to a public water supply with systems required to comply with EPA water quality standards and that the use of wells with uranium levels above that recommended for human consumption has been limited.

The 1994 USGS report identified the “greatest concern” to be water coming from private wells that had not been tested and noted that water testing would determine whether the water was safe to drink. ONHIR officials told us that all relocation homes are connected to public water supplies unless a relocatee insists on moving to a site that does not have access. In these cases, ONHIR provides the home with a cistern system. ONHIR officials are aware of one relocatee group that has a private drinking well and, in that instance, ONHIR told us it required that the well meet standards for safe drinking water set by the EPA.

ONHIR officials did not know whether the NNEPA had performed any further investigations or additional testing regarding the concerns about uranium mining waste noted in the Navajo Nation’s resolution. In response to our draft report, the Navajo Nation stated that it does not have the resources to perform a comprehensive evaluation of this potential threat and believes a comprehensive study should instead be funded by the Federal Government to resolve all environmental issues.

Contamination From Peabody Energy Mining

The Navajo Nation claimed that environmental contamination from a mine operated by Peabody Energy affected relocatees and that mine reclamation and restoration were needed. Its 2019 resolution did not provide additional details on the mine’s effects on the relocatees. ONHIR facilitated the construction of relocation homes near the mines, but no homes were built on reclaimed land, and the area in question is not located on the trust lands acquired pursuant to the Navajo-Hopi Land Settlement Act. ONHIR also reported to us that the mine is now closed.

ONHIR officials told us they have received no complaints related to soil or land contamination in the area where the relocation homes were built. Additionally, ONHIR stated that it has no mandated role to address environmental issues and that it has no land administrator role because the mine in question is outside the lands acquired pursuant to the Act.

Congressional Considerations in the Event of ONHIR’s Closure or Transfer of Duties

In the event of ONHIR’s closure or transfer of duties,¹⁰ legislation may be needed to:

- Determine whether ONHIR’s exemption from NEPA environmental impact statements should be extended to a successor agency

¹⁰ We acknowledge the Navajo Nation’s two pending claims. First, on August 23, 2021, the Navajo Nation filed a complaint in the U.S. Court of Federal Claims against the United States on behalf of the relocation beneficiaries for alleged maladministration of the New Lands. It is seeking \$40 million in damages and remanding to ONHIR and the U.S. Department of the Interior (DOI) with direction to improve administration of and recordkeeping for 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 (as mentioned in the “Relocation Homes Constructed on Unsuitable Sites” section of this report). 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.”

- Determine any environmental reviews or actions to be completed before ONHIR's closure or transfer of duties
- Determine whether any environmental concerns raised by the Navajo Nation require further review, analysis, or action by ONHIR or a successor agency

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 did not provide formal comments but instead made suggested changes to the background and narrative information. Notwithstanding the form of the submission, we reviewed these suggestions and incorporated them in this report where applicable and appropriate. The Navajo Nation provided a written response, included in Attachment 2. After reviewing this response, we made revisions and updated information in this report where applicable and appropriate. Hopi officials did not provide a response.

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 Regional Manager for Audits, Inspections, and Evaluations, 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
 Ben Burnett, Acting 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: 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.

Attachment 2: Navajo Nation Response to Draft Report

The Navajo Nation's response to our draft report follows on page 11.

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



August 23, 2021

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 Identified Environmental Concerns Related to the Office of Navajo and Hopi Indian Relocation's Administration of Land,"*** Report No. 2020-WR-016-G.

Dear Inspector General Greenblatt,

Thank you for the opportunity to comment on the OIG draft report titled ***"Status of Identified Environmental Concerns Related to the Office of Navajo and Hopi Indian Relocation's Administration of Land."***

The draft report sets forth the principal environmental concerns that the Navajo Nation ("Nation") has raised with regard to the administration of lands by the Office of Navajo and Hopi Indian Relocation ("ONHIR"), with a description of ONHIR's response to those concerns. The Nation remains concerned about the identified issues, even if they have been mitigated to some degree. The Nation appreciates the report noting that issues with soil settling, which have compromised the structure of many homes, as well as the Coalmine Canyon Chapter House (see discussion below), are not fully resolved, and certainly not resolved to the satisfaction of the Nation (see draft report, pp. 5-6, "As described in the relocation benefits report, soil settling issues present a risk of future settling and damage that may necessitate significant repair or even replacement of additional homes. ONHIR or a successor agency will need to determine the extent of home repairs or replacement to be performed due to soil settling.") The Nation's concerns regarding exposure to radiation raise complicated physical and emotional health issues, not only because radiation is a threat that cannot be seen, but also because of the Nation's bitter history with regard to the adverse impact of uranium mining on the health of Navajo uranium workers and their families. The Nation does not have the resources to perform a comprehensive evaluation of this potential threat and, while the Nation appreciates testing on water sources, the Nation also believes that a comprehensive study should be funded by the federal government to definitively define and resolve all environmental issues. The Nation, itself, is not in a position to conduct such an analysis from its own resources.

Congressional Considerations. The draft report proposes three "Congressional Considerations" in the event of ONHIR's closure or transfer of duties:

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

- Determine whether ONHIR's exemption from NEPA environmental impact statements should be extended to a successor agency
- Determine any environmental reviews or actions to be completed before ONHIR's closure or transfer of duties
- Determine whether any environmental concerns raised by the Navajo Nation require further review, analysis, or action by ONHIR or a successor agency

As we have noted in other comments, the Nation does not believe that ONHIR has fulfilled its responsibilities under the law and therefore the time has not come for ONHIR to close or to have its duties transferred. That said, the Nation does believe that ONHIR's exemption from NEPA should continue for the purpose of expediting fulfillment of ONHIR's obligations with regard to infrastructure and community development. Notwithstanding that exemption, ONHIR has a legal responsibility under its regulation to address environmental issues (see discussion below). Further, the Nation would like a formal consultation on the outstanding environmental issues to develop a plan for addressing them to the satisfaction of all parties.

Comments on *Background* Section: The Background section is similar to the Background section found in prior draft reports (e.g., *Current Status of the Office of Navajo and Hopi Indian Relocation's Padres Mesa Demonstration Ranch*. Report No. 2020-WR-016-D). As OIG knows, the Navajo Nation has taken sharp exception to the way these other Background sections characterize ONHIR and ONHIR's responsibilities, including that ONHIR is merely "assisting" relocation, that its responsibilities are terminated once relocation is complete, as well as an implication that Navajo people were trespassing on the Hopi Reservation. The Navajo Nation refers OIG to its comments on these earlier draft reports which explain in detail, among other things, that ONHIR's responsibilities extend beyond the completion of relocation of Navajo and Hopi people.

Definitional Issue of "New Lands." The Nation continues to disagree with regard to the definition of "New Lands" used by OIG. We will not repeat here the arguments that we have set forth in our comments on prior draft reports, but we would like to note that in this draft report, at footnote 1, ONHIR justifies limiting its definition to the 352,000 acres of land managed by ONHIR within the Nahata Dziil Chapter ("NDC") because this "is the site of the only relocation community that ONHIR manages." However, ONHIR is statutorily required to administer all new lands and this draft report concerns environmental concerns, which exist regardless of whether there is a relocation community there. By OIG's logic, any toxic waste spilled at the Paragon Ranch, Turquoise Ranch, Tse Bonito, or Twin Arrows, all part of the "New Lands," is impliedly of no concern to ONHIR. Such an interpretation would do a grave disservice to the Nation under the Act. Notably, ONHIR's own regulations provide a broader definition than that used by OIG:

(b) *New Lands* means the land acquired for the use of relocatees under the authority of Pub. L. 96-305, 25 U.S.C. 640d-10. These lands include the 215,000 acres of lands acquired by the Navajo and Hopi Indian Relocation Commission and added to the Navajo

Reservation and 150,000 acres of private lands previously owned by the Navajo Nation in fee and taken in trust by the United States pursuant to 25 U.S.C. 640d-10.

25 CFR § 700.701(b).

Other Developments. On page 2, the fourth paragraph asserts that the only development on lands administered by ONHIR have been at NDC and Twin Arrows, but there has also been some development at Tse Bonito and initiatives at other locations.

ONHIR's Environmental Responsibilities. On page 3, the draft report states that ONHIR does not have a legal obligation to address environmental issues itself. The fact that many ONHIR actions are exempt from the National Environmental Policy Act does not mean that ONHIR does not have a legal obligation to address environmental issues. For example, ONHIR has accepted that oversight responsibility for issuance of rights of way and leases on the New Lands (not just within the Nahata Dził Chapter). Specifically, ONHIR Management Manual ("OMM") Section 1810.11(f) requires submission of environmental assessments prepared in consultation with the Navajo Nation attached to right of way applications. OMM Section 1810.322(4) provides that an enterprise seeking a nonprofit lease for new construction or remodeling and renovation of an existing facility on any New Lands may be required to obtain or pay for an "environmental impact assessment" and a cultural resources assessment.

Coalmine Canyon Chapter House. On pages 5-6, the draft report discusses relocation homes constructed on unsuitable sites. A new section should be added discussing faulty design and construction of the Coalmine Canyon Chapter House, which is not on the New Lands but was built by ONHIR to replace the former Coalmine Mesa Chapter House. This "new" Chapter House has been vacated for almost two years due to serious structural and other flaws for which ONHIR remains responsible. (See *Resolution of the Coalmine Canyon Chapter*, CCC-10-0006-20 (October 20, 2019): "7. The Coalmine Canyon Chapter House has deteriorated within the past year. Therefore, the chapter administration has completely vacated the building on October 17, 2019 due to the imminent danger and concern for the safety of the public and staff.")

Conclusion. The United States promised a generous and humane relocation—a promise that was not kept. Before ONHIR is closed, all of the issues identified by OIG and by the Navajo Nation need to be fully and adequately addressed, in close consultation and coordination with the Navajo Nation.

Sincerely,


Jonathan Nez, *President*
THE NAVAJO NATION


Myron Lizer, *Vice President*
THE NAVAJO NATION

Report Fraud, Waste, and Mismanagement



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