The Navajo Leasing Act of 2000; allowed the Navajo Nation to develop a general leasing regulation and primary review process for surface land leasing without the prior approval of the Bureau of Indian Affairs.

The Purposes of the Navajo Leasing Act of 2000 was; “To establish a streamlined process for the Navajo Nation to lease trust lands.” The length of time required for a BIA - LTRO to produce a certified title search on tribal trust land remains 12 to 18 months.
The **General Leasing Regulation of 2013** was passed by the Tribal Council on October 22, 2013. The Bill is enabling legislation requesting the Secretary of Interior to give the Navajo Nation the authority to approve all Surface Leases and Permits (excluding minerals) Secretary of Interior signed on May 16, 2014.

These regulations apply to all leases and permits on Navajo Nation Trust Lands authorized under 25 U.S.C. §§ 415(a) and 415(e) and 635(a), including leases for the development or utilization of natural resources, renewable energy leases for wind and solar and agricultural leases, telecommunications site leases, and leases for public, religious, educational, recreational, or residential purposes, and business site leases which is authorized pursuant to separate regulations approved by the Secretary.
UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

APPROVAL OF
THE NAVAJO NATION
GENERAL LEASING REGULATIONS OF 2013

The attached Navajo Nation General Leasing Regulations of 2013, submitted by the Navajo Nation, Arizona, New Mexico, & Utah, and prepared in accordance with 25 U.S.C. § 415(e) Leases of restricted lands for the Navajo Nation, consisting of 25 pages and adopted by the Navajo Nation Council on November 6, 2013, are hereby approved.

Dated: 11/14

Assistant Secretary – Indian Affairs
United States Department of the Interior

Pursuant to the authority delegated by DIP-06-08

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RESOLUTION OF THE
NAVAJO NATION COUNCIL
22nd NAVAJO NATION COUNCIL – Third Year, 2013

AN ACT
RELATING TO RESOURCES AND DEVELOPMENT AND NAABIK’IYÁTI’; APPROVING THE NAVAJO NATION GENERAL LEASING REGULATIONS OF 2013 AND ENACTING THE SAME AT 16 N.M.C. §2301 ET SEQ.

BE IT ENACTED:

Section 1. Findings and Purposes

A. Except for mineral leases, the Navajo Nation Trust Land Leasing Act of 2000, 25 U.S.C. § 415(e), Public Law 106-568 (“Leasing Act”), authorizes the Navajo Nation to issue leases without the approval of the Secretary of the Interior. Regulations for issuance of such leases must be consistent with the Leasing Act and approved by the Secretary of the Interior.

B. The process on the Navajo Nation for agriculture, public, religious, educational, recreational and residential leases must be streamlined.

C. The review and approval of the Secretary of the Interior is not necessary for leases authorized and approved by the Navajo Nation under the Leasing Act and Navajo Nation law and regulations.

Section 2. Approving the Navajo Nation General Leasing Act of 2013

The Navajo Nation hereby approves and enacts the Navajo Nation General Leasing Act of 2013, as provided below. Such enactment shall be codified at 16 N.M.C. §2301 et seq. as follows:
§ 2302. Purpose

The purposes of the Navajo Nation General Leasing Regulations of 2013 are to:

A. Implement the authority of the Navajo Nation to issue Leases and Permits pursuant to the Navajo Leasing Act, as amended, and to establish streamlined procedures for environmental review, approval, management and enforcement of Leases;

B. Develop a framework for future Navajo Nation regulations that cover specific areas of leasing referenced in § 2305 as required by the Navajo Leasing Act and which are consistent with these General Leasing Regulations. The General Leasing Regulations must be in place prior to any Leases or Permits being approved under the authority of the Navajo Leasing Act;

C. Promote self-determination, encourage self-sufficiency, and improve efficiency of leasing of Navajo Nation Trust Lands;

D. Identify and implement processes to protect and preserve Navajo Nation Trust Land, including provisions for trust asset accounting, modern leasing practices, and accurate record keeping and title recording.

§ 2304. Definitions

For purposes of these Regulations:

B. Categorical Exclusion or CATEX means a category of actions which do not individually or cumulatively have a significant effect on human health or the environment and is therefore not subject to the environmental review process under Subchapter 8 of these Regulations.

C. Delegation of Authority means, where, upon approval of the Resources and Development Committee of the Navajo Nation Council, or its successor in authority, a political subdivision of the Navajo Nation assumes leasing authority for Leases described within these Regulations that are also delegable pursuant to the local Governance Act, 25 N.M.C. §§ 1-2009, as amended, or other relevant Navajo Nation law.

D. Lease means a written agreement between the lessor and a Lessee, issued under these Regulations as authorized by 25 U.S.C. §§ 415 (a) and (e), wherein the Lessee is granted a right to possess, use, and benefit from a particular parcel of land for a specific purpose and limited duration.

E. Navajo Nation Trust Land means the surface estate of land or any interest therein held by the United States in trust for the benefit of the members of the Navajo Nation, and subject to federal restrictions against alienation or encumbrance, land held by the United States in trust for a Navajo Nation corporation chartered under Section 37 of the Indian Reorganization Act.
D. Permit means a written authorization or license granted by the Navajo Nation whereby the permittee is granted a use or reversion use privilege to use Navajo Nation Trust Land for a specified purpose and limited duration.

T. Significant Impact means a determination that an action will have a significant effect on the quality of the human environment after considering the following:

i. effects on public health and safety;

ii. effects on the unique characteristics of the geographic areas, including its historic or cultural resources, park lands or ecologically critical areas;

iii. highly controversial effects on the human environment;

iv. highly uncertain or unknown effects on the human environment;

V. effects in terms of precedent for future actions with significant effects;

vi. effects that may be individually insignificant, but when considered with other projects, have a significant impact on the environment;

vii. effects that cause loss or destruction of scientific, cultural, or historical resources, and

eight. effects on endangered or threatened species or habitat protected under Navajo Nation or federal law.

U. Sublease means a written agreement by which the lessee grants a right of possession no greater than that held by the lessee under the Lease.

W. Trespass means the unauthorized possession, or occupancy or use of Navajo Nation Trust Land as defined by Navajo Nation or federal law.

§ 3305. Scope

A. These Regulations apply to all Leases and Permits for use or possession of Navajo Nation trust lands authorized under 25 U.S.C. §§ 415(a), 415(e) and 631(a), including leases for the development or utilization of natural resources, including renewable energy leases and agricultural leases, telecommunications site leases, and Leases for public, religious, educational, recreational, or residential purposes, except business site leases which are authorized pursuant to Navajo Nation Business Leasing Regulations of 2005 approved by the Secretary on July 10, 2006. These Regulations shall not apply to mineral Leases. Nothing herein shall be construed to affect the terms and conditions of an existing Lease.

B. Leases are mandatory for any short or long term use of Navajo trust land or where any permanent structure is fixed or located on Navajo trust land. Failure to comply with this section shall be addressed pursuant to Navajo Nation law.
§ 2308. Duration and Renewal

No Lease shall be approved more than twelve (12) months prior to the commencement of the term of the Lease. A Lease for public, religious, educational, recreational, or residential purposes may provide for a term up to and not to exceed seventy-five (75) years. The term of a Lease for any other purpose shall not exceed twenty-five (25) years except that any such Lease may include an option to renew for up to two additional terms, each of which may not exceed twenty-five (25) years on such terms and conditions as may be specified in such Lease, or such greater term as may be authorized by Congress. Unless the term of a Lease is for less than one year, a lessee shall notify the Navajo Nation of its intent to renew a Lease at least one year prior to the end of the lease term.

§ 2321. Lease Application Supporting Documents

A. A final Lease application requires the following documents for processing: (1) a fully completed Lease form; (2) an appraisal, if applicable; (3) a certified site survey, survey plat and legal description; (4) documentation of environmental review made pursuant to subchapter 8 of these Regulations; and (5) other documents as may be required pursuant to Navajo Nation law or policies or applicable federal law.

B. The NND or its successor shall not process the Lease or Permit application for final approval until all the required documents under this section have been provided for review and consideration by the authorized approving authority.

§ 2322. Records

A. The Navajo Nation shall record all Leases, Permits (except Permits that do not involve any land disturbance) Subleases, Assignments, amendments, encumbrances, renewals, modifications and cancellations, made, issued or otherwise authorized pursuant to these Regulations, with the:

Land Title and Records Office
Southwest Regional Office
Bureau of Indian Affairs
P.O. Box 26567
Albuquerque, NM 87125-6567

§ 2323. Ownership of Records

Records of activities taken pursuant to these Regulations are the property of the United States and the Navajo Nation and its delegated political subdivisions. Records compiled, developed or received by the Navajo Nation in the course of business with the Secretary are the property of the Navajo Nation.

Subchapter 3. Lease Requirements

§ 2330. Terms and Conditions

Leases shall be in a form approved by the Navajo Nation in accordance with applicable law and shall include standard terms and conditions. The standard terms and conditions may be modified only with the approval of the Navajo Nation. Leases may contain a provision that requires a lessee to consent to the jurisdiction of the Navajo Nation to address all issues arising out of the Lease.
§ 2336. Insurance

A lessee shall secure insurance from a nationally accredited insurance company with a financial strength rating of "A" or equivalent, and must be authorized to do business in the state where the premises is located, or authorized by the Navajo Nation according to applicable Navajo Nation law. It shall cover general liability and casualty. The amount shall be sufficient to cover the improvements, personal injury or death, and any reasonably potential foreseeable loss of the lessee and the United States. The insurance shall expressly identify the lessee and the United States as additional named insured parties. The insurance requirements shall not apply to home site leases or when the Navajo Nation is the lessor. The Navajo Nation may waive the insurance requirement for any lessee that is an entity or enterprise of the Navajo Nation.

§ 2337. Improvements

A. Improvements to the premises shall become the property of the Navajo Nation at the termination of the leasehold unless otherwise provided for in the Lease. If the Lease authorizes the improvements to be removed by the lessee, the Lease shall specify the time allowed for such removal.

B. If provided for in the Lease, a lessee may develop equity value in the improvements and sell its interest in the Lease based on the equity value. The Navajo Nation shall have a right of first refusal to purchase such interest.

§ 2338. Subleases, Assignments, Amendments and Encumbrances

A. All Subleases, Assignments, amendments or encumbrances of any Lease shall require the written consent of the Navajo Nation as well as any parties, unless otherwise provided herein.

B. A Lease may authorize Subleases, in whole or in part. The lessee shall remain liable for its duties under the Lease notwithstanding any subleasing of the leasehold or any part thereof.

C. The lease may authorize encumbrances to the leasehold interest for the purpose of financing to develop and improve the premises, subject to the approval of the Navajo Nation. If a sale or foreclosure occurs and the encumbrancer is the purchaser, the encumbrancer may assign the Lease without approval of the Navajo Nation or lessor, provided the encumbrancer assigns the Lease to the purchaser in writing to be bound by all the terms and conditions of the lease. If the purchaser is a party other than the encumbrancer, approval by the Navajo Nation shall be required, and any approved purchaser must agree in writing to be bound by all the terms and conditions of the lease.
Subchapter 4. Lease Administration

§ 2350. Administration

A. The Navajo Nation shall administer Leases executed pursuant to these Regulations and may administer existing Leases previously approved by the Secretary as may be provided for under a P.L. 93-638 self-determination contract or compact or under other applicable authority.

B. The Navajo Nation shall employ sound real estate management practices in exercising its authority under these Regulations, including without limitation accounting, collections, monitoring, enforcement, relief, and remedies.

C. Political subdivisions of the Navajo Nation may issue Leases pursuant to a Delegation of Authority provided they do so in accordance with these Regulations and Navajo Nation law. Administration by a political subdivision of Leases executed prior to such political subdivision obtaining such authority shall require an assignment of the Navajo Nation’s duties and rights as lessor and consent of the lessee. Such Delegation of Authority shall be revocable by the Resources and Development Committee of the Navajo Nation Council upon recommendation of the Navajo Nation Department of Justice.

Subchapter 5. Enforcement

§ 2360. Enforcement

The Navajo Nation and its delegated political subdivisions shall have the authority to enforce the terms and conditions of Leases and Permits issued under these Regulations in accordance with applicable Navajo Nation and federal law.

Subchapter 7. Reserved

Subchapter 8. Environmental Review Process

§ 2380. Environmental Review

Prior to exercising leasing authority under these Regulations, the Navajo Nation shall create a position within the Navajo Nation Division of Natural Resources to be the Environmental Compliance Officer for Leases (“Environmental Reviewer” or “ER”) who shall be responsible for carrying out the Environmental Review Process (“Environmental Review Process” or “ERP”) under this Subchapter.

§ 2363. Harmful or Threatening Activities

If a lessee or other party causes or threatens to cause immediate and significant harm to the premises, or engages in criminal activity thereon, the Navajo Nation may take appropriate emergency action in accordance with Navajo Nation law, including immediately cancelling the Lease, commencing eviction proceedings, bringing an action for forcible entry and detainer, pursuing remedies under the Navajo Nation Civil Trespass Act, or any other action deemed appropriate to protect the public interest, the premises, and the environment.

[Subchapter 7. Reserved]
To Predict the Future, you have to Invent it.

NAVAJO LAND DEPARTMENT
W. Mike Halona
928-871-6401
m_halona@frontiernet.net

“Do not let circumstances control you, Control your circumstances”
The Navajo Leasing Act of 2000; allowed the Navajo Nation to develop a general leasing regulation and primary review process for surface land leasing without the prior approval of the Bureau of Indian Affairs.

The General Leasing Regulation of 2013 is currently waiting for Tribal Council to approve the enabling legislation requesting the Secretary of Interior to delegate the Navajo Nation authorization to approve all Surface Leases and Permits (not including ROW and minerals)
The **General Leasing Regulation of 2013** was passed by the Tribal Council on October 22, 2013. The Bill is an enabling legislation requesting the Secretary of Interior to give the Navajo Nation the authorization to approve all Surface Leases which was approved May 16, 2014. (excluding minerals)

These regulations apply to all leases and permits on Navajo Nation Trust Lands authorized under 25 U.S.C. §§ 415(a) and 415(e) and 635(a), including leases for the development or utilization of natural resources, renewable energy leases for wind and solar, agricultural leases, telecommunications site leases, and leases for public, religious, educational, recreational, or residential purposes, and business site leases which are authorized pursuant to separate regulations approved by the Secretary.

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**Eastern Grazing Units**

**Examples:**

Grazing Management Plans
The Growth of the Navajo Nation
“District 6 Joint Council”
STRATEGIC WORK SESSION
- History of Navajo Nation
- Land Impacts
- Community Land Use Planning

W. Mike Halona, Department Director
Navajo Land Department
Grazing District Units Linked to Ownership Data

GIS maps are linked to data and documents and can open with all metadata and links...

Also CADD survey applications.

BIA/Navajo Nation forms can be complete in the field and automatically saved to documents and data bases.
1. An existing backlog of lease request reviews;
2. Tribal base maps in the Public Land Survey System are protracted not cadastral (only 30% of the townships and sections in the Navajo Nation, Public Land Survey have been confirmed by cadastral survey by BLM), though the Navajo Nation supports federal cadastral cost with a Navajo survey team.
3. GIS does not properly overlay the historic title records and these discrepancies have not been resolved by BIA or BLM;
4. The Navajo Nation and other tribal land are still described in BIA files with historic special meridians like the Navajo Special meridian and don’t line up with the PLS;
5. The title chains describing ownership interests are missing or incomplete;
6. Conveyance documents are on every type of medium; there are many conveyance formats;
7. An existing backlog of requested land appraisals;
8. Conveyance records are located within the Regional LTRO Offices (the regional LTRO serving Navajo is in Albuquerque) and in tribal files. There is no master list of file locations. Few records have been digitally reproduced; if reproduced digitally, many are of poor quality or in unusable file formats.

NLTDS is completely automated with computer-generated reports, computer-generated graphics, and time/date signatures of all data. Document/record audits, documents/records loading, approval and document/record changes are auto-generated. All activities are recorded and linked.
The National Institute of Standards and Technology (NIST) developed the current federally adopted standards for IT security requirements. These requirements include redundant systems for power lines, information lines, energy systems and physical security.

The Federal government recognized that massive liability would crush the research, development and use of anti-terror technologies, and passed the “SAFETY Act” as part of the Homeland Security Act of 2002, Pub. L. 107-296. The aim of the SAFETY Act is to “encourage the development and deployment of anti-terrorism technologies that will substantially enhance the protection of the nation.”

Future of Indian Nations

Indian Nations now enjoy the greatest freedom to determine their own social and economic destinies using their own homelands to assist in creating a sustainable economy and better quality of life for themselves and future generations to preserve their culture forever.

Tribes no longer need to ask the Federal government for permission in advance, but make these strategic decisions within a framework that protects the trust duties of the United States of America to the American Indian people.
In 2005, the Navajo Nation began planning a certified/non-certified Land Title Status search capacity for the Navajo Nation; a Navajo Nation LTRO Office soon emerged as the most feasible course. The Navajo Nation developed the Navajo Land Title Data System (NLTDS) from Navajo General Funds and in 2007, the initial design for a title plant for the Navajo Nation was completed.

NLTDS meets the American National Standard Institute (ANSI) and International Standards Organization (ISO) document control requirements; these voluntary standards are approved by federal regulation to meet requirements for: privacy, document control, digital records and tribal trust documents.

The NLTDS application is a comprehensive solution offering the following benefits:

• Provides cost-effective implementations of federal/tribal mandated leasing requirements;
• The use of the application will reduce the costs associated with traditional review processes;
• Provides web based systems for Corrective Actions for lease enforcement; Internal Audit; Records/Data/Document Tracking under FOIA and Navajo Nation/Federal Privacy Acts;
• Improves project continuity; project management tools allowing for continual progress on Federal Contract reports and deliverables;
• Can be accessed by any PC with a web-browser and secured link to the web, with no additional IT installation required for users; All activity is conducted behind firewalls.
Ms. Elizabeth Appel,
Office of Regulatory Affairs and Collaborative Action
U.S. Department of the Interior
1849 C Street NW, MS 4141
Washington, DC 20240
Email: consultation@bia.gov

RE: Navajo Nation Comments Concerning Proposed Rule for Rights-of-Way on Indian Land; RIN 1076-1AF20

Dear Ms. Appel:

The Navajo Nation is supportive of the proposed amendments to 25 C.F.R. Part 169. We appreciate the BIA’s move to strengthen tribal sovereignty, as well as taking the time to listen to and address our concerns. After reviewing the proposed rule for rights-of-way (“ROW”) on Indian land, we have the following comments and questions:

1. As a general matter, the regulations should include language acknowledging that ROWs must be issued in accordance with any pertinent treaty provisions. Also, while the regulations do distinguish between tribal trust land and allotments, they do so in a confusing manner. It would be helpful if the regulations clearly delineated the rules that apply to tribal trust land from those that apply to allotments. Perhaps the two categories should be divided into separate sections within the regulations.
Right-of-Way – Service Line Agreements - Lease - Permits
Right-of-Way:
• Roads
• Waterlines
• Gas Lines
• Transmission Lines
• Distribution Lines (utility-fiber)
• Temporary Construction Easement

Service Line Agreements:
• Utility Connection for (1) one Customer
  (Electric, Water, Gas, Sewer & Fiber)

Lease:
• Residential (HSL)
• Renewable energy Wind
• Solar
• Agricultural
• Telecommunications sites
• Public use areas
• Religious
• Educational
• Recreational
• * Business site leases

Permits:
• Mission sites
• Revocable Use
• Cell Phone Antennas

Mineral Lease:
• Sand and Gravel

*Business Site Lease is for Commercial Operation Compensation is Assessed

Tier 3 Data Center
The Navajo Nation System