

## **OFFICE OF THE AUDITOR GENERAL**

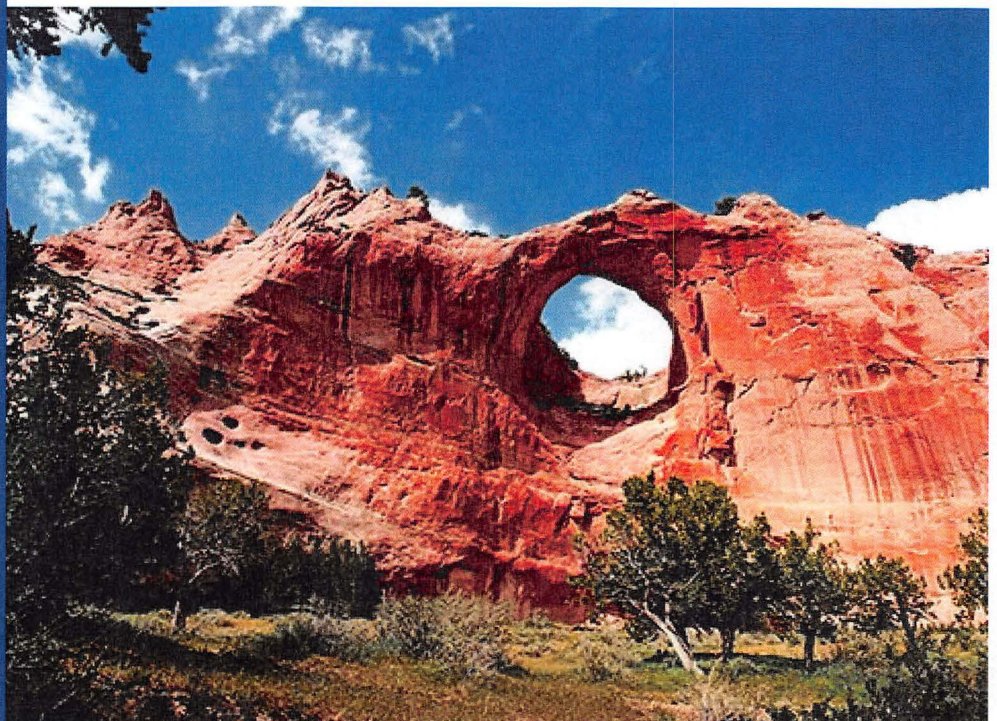
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**The Navajo Nation**

**A Special Review  
of the  
Navajo Land Department  
Home Site Lease Process**

**Report No. 19-02  
October 2018**

**Performed by:  
Jeanine Jones, Senior Auditor**

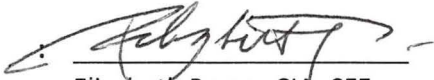






**M-E-M-O-R-A-N-D-U-M**

**TO** : Mike Halona, Program Manager III  
**NAVAJO LAND DEPARTMENT**

**FROM** :   
Elizabeth Begay, CIA, CFE  
Auditor General  
**OFFICE OF THE AUDITOR GENERAL**

**DATE** : October 5, 2018

**SUBJECT** : **Special Review of Navajo Land Department Home Site Lease Process**

The Office of the Auditor General herewith transmits Audit Report no. 19-02, Special Review of Navajo Land Department Homesite Lease Process. The audit objective was to examine and review Navajo Land Department's process to ensure homesite lease approvals and dispute resolution promote home ownership. Our review revealed the following observations and deficiencies.

1. Agency staff are working under unsafe conditions. One of the agencies' facility was found in disrepair due to a leaking roof and rodent infestation.
2. Homesite leases are not approved in a timely manner. The Navajo Land Department has not established timelines to complete the homesite lease approval process; however, based on discussions with the department, ten (10) months is considered a reasonable amount of time. One hundred (100) approvals were examined and we found 44 took longer than 10 months to approve.
3. Homesite lease regulations and policies are not enforced. Based on 382 existing homes examined, 235 (62%) were built without an approved homesite lease. Of this number, 129 houses are built in the sensitive area (endangered species & abandoned uranium mines).
4. Complaints are not documented nor resolved in a timely manner. Based on 18 complaints available and reviewed, 13 (or 72%) of the complaints were not adequately documented. Receipt, review, investigation and resolution were unknown and 44% (8 of 18) of the complaints documented were not resolved within the required 150 days.
5. The Navajo Nation System database is unreliable for tracking homesite lease applications. Approximately one-third of the database consisting of over 28,000 lease applications, has no status – finalized, pending or other. Policies and procedures have not been developed to provide direction and instruction to record and capture all applications. An examination of the past two years found that 56% (813 out of 1,460) of the pending applications and 70% (816 out of 1,173) of finalized applications were not in the Navajo Nation System.
6. Office equipment are inadequate for tracking and recording homesite leases. Two of the agencies' computer equipment are obsolete and they are unable to perform the required tasks.
7. The Department Manager's performance measurement is set unrealistically low and does not provide an effective metric. The Department has exceeded its lease application goal by more than 500% in each of the past two years.

Detailed explanations for all issues can be found in the body of the report.

xc: Bitah N. Becker, Executive Director  
**NAVAJO NATION DIVISION OF NATURAL RESOURCES**

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## **INTRODUCTION AND BACKGROUND**

The Office of the Auditor General conducted a special review to examine and review Navajo Land Department's process in approving homesite leases and resolving disputes to promote home ownership. The review was conducted in response to a request from the Navajo Nation Council. A Homesite Lease is a written document evidencing approval from the Navajo Nation and the Bureau of Indian Affairs to withdraw and lease one acre or less of Navajo Tribal trust or fee land for residential purposes. This document is required when seeking a mortgage, utilities assistance, and other residential related matters. Decisions are made in the best interest of the Navajo citizens.

Homesite Lease Regulations were initially developed and implemented in 1993 and amended in October of 2016. The amended regulations were effective as of April of 2017. The amendments clarified details in the approval process and added provisions required by Navajo Nation, the state and federal government. In addition, compliance requirements, restrictions, penalties and fines were included. The homesite lease process involves five homesite lease agencies under the Navajo Land Department and four other departments within the Navajo Division of Natural Resources.

The Navajo Land Department was delegated by committee of the Navajo Nation Council to review and grant homesite leases. With the approval of the Navajo Nation General Leasing Regulations of 2013 by the Secretary of Interior, the Navajo Nation was authorized to unilaterally issue homesite leases and promote home ownership to qualified Navajo.

## **AUDIT OBJECTIVE, SCOPE, AND METHODOLOGY**

The overall audit objective is to determine if homesite lease process is promoting home ownership.

The objective is divided into 4 sub-objectives:

- Determine if homesite lease requests are approved in a timely manner.
- Determine if homesite lease regulations are enforced.
- Determine if homesite lease complaints are handled in compliance with Homesite Lease Regulations.
- Determine if tracking of applications in the database is reliable.

The audit examined activity for a 24-month period: October 1, 2015 through September 30, 2017.

To answer our audit objectives, we interviewed the Chapter administration and officials, observed Chapter operations, and examined available records. More specifically, judgmental sampling was conducted to test approved/pending applications and 100% examination was performed on complaints. Substantive testing was used to verify compliance with the Homesite Lease Regulations and database (Navajo Nation System).

## **GOVERNMENT AUDITING STANDARDS**

We conducted this special review in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The Office of the Auditor General would like to express its appreciation to the Navajo Land Department and Homesite Lease Agency staff for their cooperation and assistance throughout the audit.

## REVIEW RESULTS

**FINDING I: AGENCY STAFF ARE WORKING UNDER UNSAFE CONDITIONS.**

- CRITERIA:** The Navajo Nation Code, Title 15, Chapter 7, Section 604, (B), (9) states that all Navajo Nation employers shall maintain a safe and clean working environment.
- CONDITION:** While on agency site visits, we found Tuba City facility in a depleted condition including leaking roof, covered vents due to rodent infestations, missing tiles, and sagging ceilings. See Exhibit A
- EFFECT:** Under these conditions, employees could get sick, injured and/or loss of life.
- CAUSE:** The agencies are not allocated enough funds to adequately maintain their facilities.
- RECOMMENDATION:** The department should notify NOSHA or Safety Program for inspection of the facilities and address the problems.

**FINDING II: THERE IS NO SET TIMELINE ESTABLISHED IN FINALIZING HOMESITE LEASE IN A TIMELY MANNER.**

- CRITERIA:** The department has not established formal timelines to complete homesite lease applications.
- CONDITION:** The department has not established criteria; however, the staff use 8-10 months as a guideline. Using 10 months as the criteria, we selected 100 out of 1,173 finalized homesite leases, including new and request for change leases, to verify if they were finalized within reasonable amount of time (10 months or less). Based on our judgmental sampling, we had the following results:

Month/Year	New Lease	*Change Lease	Total	Percentage
Less than 10 months	44	12	56	56%
11 -24 months	20	5	25	25%
25 months-5 years	11	6	17	17%
6-10 years	1		1	1%
More than 15 years	1		1	1%

\*modification, assignment, termination

- EFFECT:** Homesite leases are not approved in a timely manner, resulting in a program that is not promoting home ownership.
- CAUSE:** No timeframe goals have been defined for the scheduling or completion of events in the homesite lease approval process. There are no enforceable deadlines for the agencies and departments involved in the process.
- RECOMMENDATION:** Department manager and agency supervisors should establish with the agencies and departments involved in the finalizing homesite lease realistic timelines to complete their individual tasks.

**FINDING III: COMPLIANCE OFFICER HAS NOT BEEN HIRED TO ENFORCE HOMESITE LEASE COMPLIANCE AND RESTRICTIONS.**

- CRITERIA:** Homesite Lease Regulations 2016, section 17.08, (A), states applicants shall not disturb or commence construction activities on the proposed site until the applicant receives an approved homesite lease.
- CONDITION:** We reviewed residential developments within three selected areas of existing homesites to verify compliance including areas that are declared sensitive areas and not recommended for development because of endangered species & abandoned uranium mines. We found 235 out of 382 (62%) existing homes were built without an approved homesite lease. 106 homes were built in a recommended area (St. Michaels) and 129 homes built in the sensitive areas (Cove and Shiprock) - all without approval. Exhibit B
- EFFECT:** Homes are built illegally or without prior approval on Navajo Land. In addition, endangered species habitats are being destroyed and health risk increases due to proximity to closed mines when homes are built without prior approval.
- CAUSE:** Compliance Officers have not been hired to enforce homesite lease compliance and restrictions as of May 4, 2018.
- RECOMMENDATION:** The department should hire Compliance Officers to improve compliance through inspections.

**FINDING IV: COMPLAINTS ARE NOT DOCUMENTED NOR RESOLVED IN A TIMELY MANNER.**

- CRITERIA:** Homesite Lease Regulations, sections 18.02-18.05, states complaints will be reviewed to determine whether an investigation is warranted within 30 days. If warranted, the complaint will be investigated within the next 90 days and then resolved within 30 days after the investigation. Further, all complaints will be documented and official records of all documentation will be kept.
- CONDITION:** A listing of 18 complaints were reviewed. 13 out of 18 (72%) complaints had little or no documentation to support the resolution. Further, 8 out 18 (44%) of the complaints were not resolved within the required 150 days.
- EFFECT:** Complaints are not adequately documented and/or resolved in the required timeframe as required in the regulations.
- CAUSE:** Homesite lease regulation were not followed on reviewing, investigating and resolving complaints.
- RECOMMENDATION:** The department should have a detailed, written Complaint Process that takes into account the requirements of the regulation that defines what needs to be documented and who is responsible. The Complaint Process should further define how the process will be tracked to ensure compliance with the required timeframes.

**FINDING V: NAVAJO NATION'S DATABASE IS UNRELIABLE IN TRACKING AND RECORDING HOMESITE LEASE APPLICATIONS.**

**CRITERIA:** Navajo Land Title Data System development plan states a data policies and procedures will be developed utilizing current technologies to integrate the data into an effective, efficient and productive medium.

**CONDITION:** Based on data provided from: 1) the agencies, 2) Navajo Nation's accounting system (FMIS) and 3) the Navajo Land Department (NN System), 813 out 1,460 (56%) pending and 816 out 1,173 (70%) finalized applications were not recorded in the NN System. A review of the 28,417 total recorded applications in the NN System, we found 10,164 (36%) had no status identified.

**EFFECT:** The database information cannot be relied upon to track Homesite Lease applications.

**CAUSE:** Policies and procedures have not been developed to communicate what information is required and needs to be submitted/transmitted to the Navajo Nation System.

**RECOMMENDATION:**

1. Policies and Procedures should be developed and implemented outlining information requirements, timing, submission/transmittal and reconciliation to clean up the database.
2. The Policies and Procedures need to be communicated and all staff need to be trained on the requirements.

**FINDING VI: AGENCIES' OFFICE EQUIPMENT ARE INEFFECTIVE IN TRACKING AND RECORDING HOMESITE LEASES.**

**CRITERIA:** Department mission statement states to provide quality customer service by utilizing technology to insure proper optimum use of real property for all to benefit.

**CONDITION:** Agencies' office equipment are obsolete. Office equipment used by all facilities were found unable to execute tasks required to process and record homesite lease applications.

**EFFECT:** Staff cannot perform their required tasks.

**CAUSE:** The agencies are not allocated enough funds to furnished proper equipment to meet their required duties.

**RECOMMENDATION:** The department should update obsolete office equipment.

**FINDING VII: THE CURRENT PERFORMANCE MEASUREMENT IS INEFFECTIVE AND UNDERREPORTED.**

- CRITERIA:** Budget Instruction Manual, Section II, A, states measurable program performance criteria are required for each program and reported on a quarterly basis.
- CONDITION:** Current performance (past 2 years) has exceeded department goals by >500% without an appropriate increase in the goals.
- EFFECT:** Performance goals are ineffective to measure program performance.
- CAUSE:** Performance goals are not reviewed and set based on historic performance.
- RECOMMENDATION:** Performance goals should be reviewed and set annually based on historic performance and realistic targets.

## **CONCLUSION**

Based on our audit, the objective of homesite lease process in promoting home ownership, was not being met by the Navajo Land Department.

- Agency staff are working under unsafe conditions;
- There is no set timeline established in finalizing homesite lease in a timely manner;
- Compliance officer has not been hired to enforce homesite lease compliance and restrictions;
- Complaints are not documented nor resolved in a timely manner;
- Navajo Nation's database is unreliable in tracking and recording homesite lease applications;
- Agencies' office equipment are ineffective in tracking and recording homesite leases and;
- Current performance measurement is ineffective and underreported.



# **EXHIBIT A**





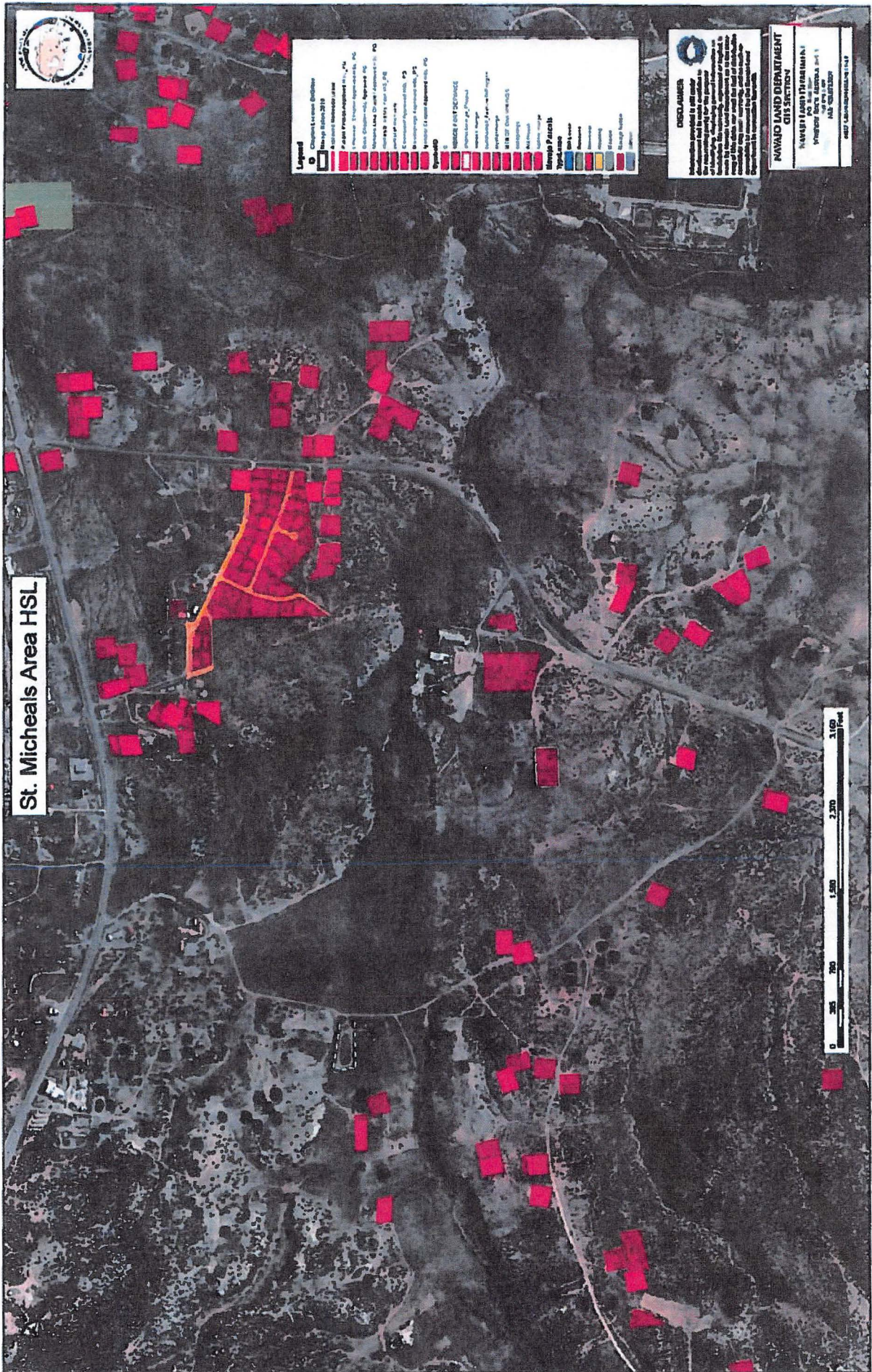


# **EXHIBIT B**





# St. Michaels Area HSL



**Legend**

- Change Location (Redline)
- Change Location (2018)
- Current Ownership (Red)
- Future Property Acquisition (Yellow)
- Future Property Acquisition (2018)
- Future Property Acquisition (2019)
- Future Property Acquisition (2020)
- Future Property Acquisition (2021)
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- Future Property Acquisition (2100)

**DISCLAIMER**  
 Information provided is not a guarantee of accuracy and is for informational purposes only. The information is provided as a service to the public and is not intended to be used for any other purpose. The information is provided as a service to the public and is not intended to be used for any other purpose. The information is provided as a service to the public and is not intended to be used for any other purpose.

**NEVADA LAND DEPARTMENT**  
 DIVISION OF LAND MANAGEMENT  
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106 = 45%  
 235

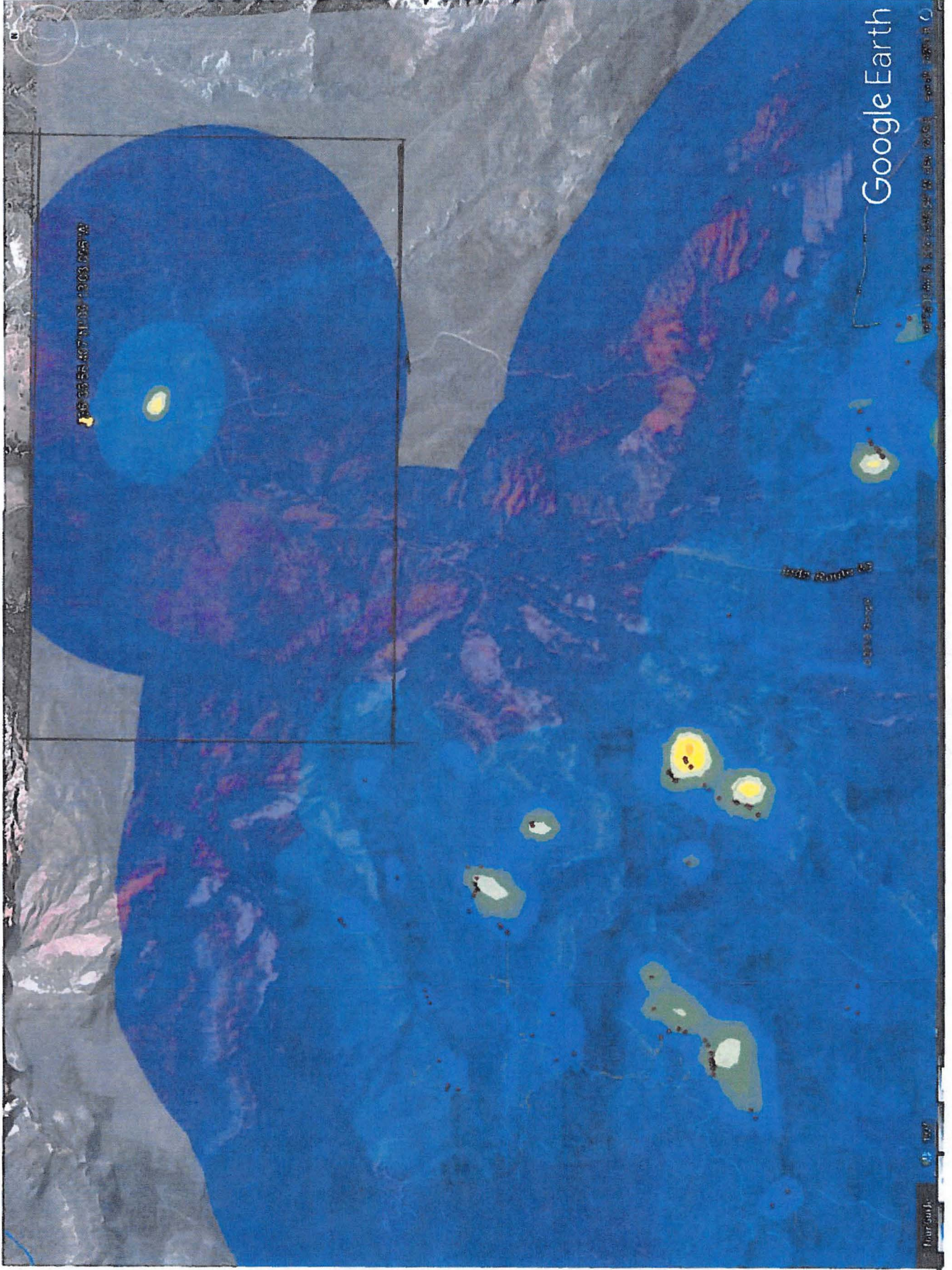


Cove Area

Yellow - Mine

Blue - 1/2 Buffer Zone (not recommended)

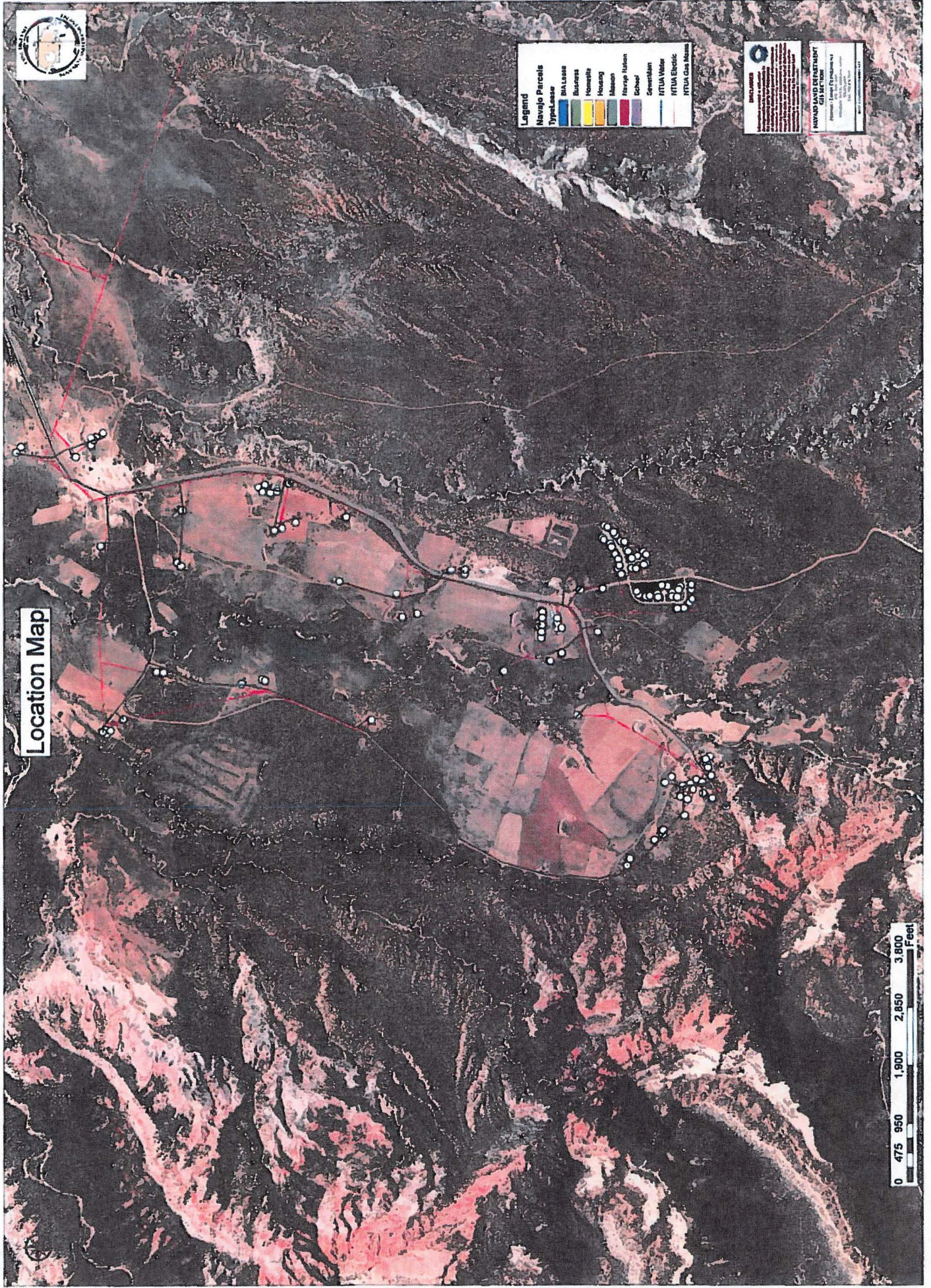
Purple - 2nd layer of Buffer Zone





# Cove Area

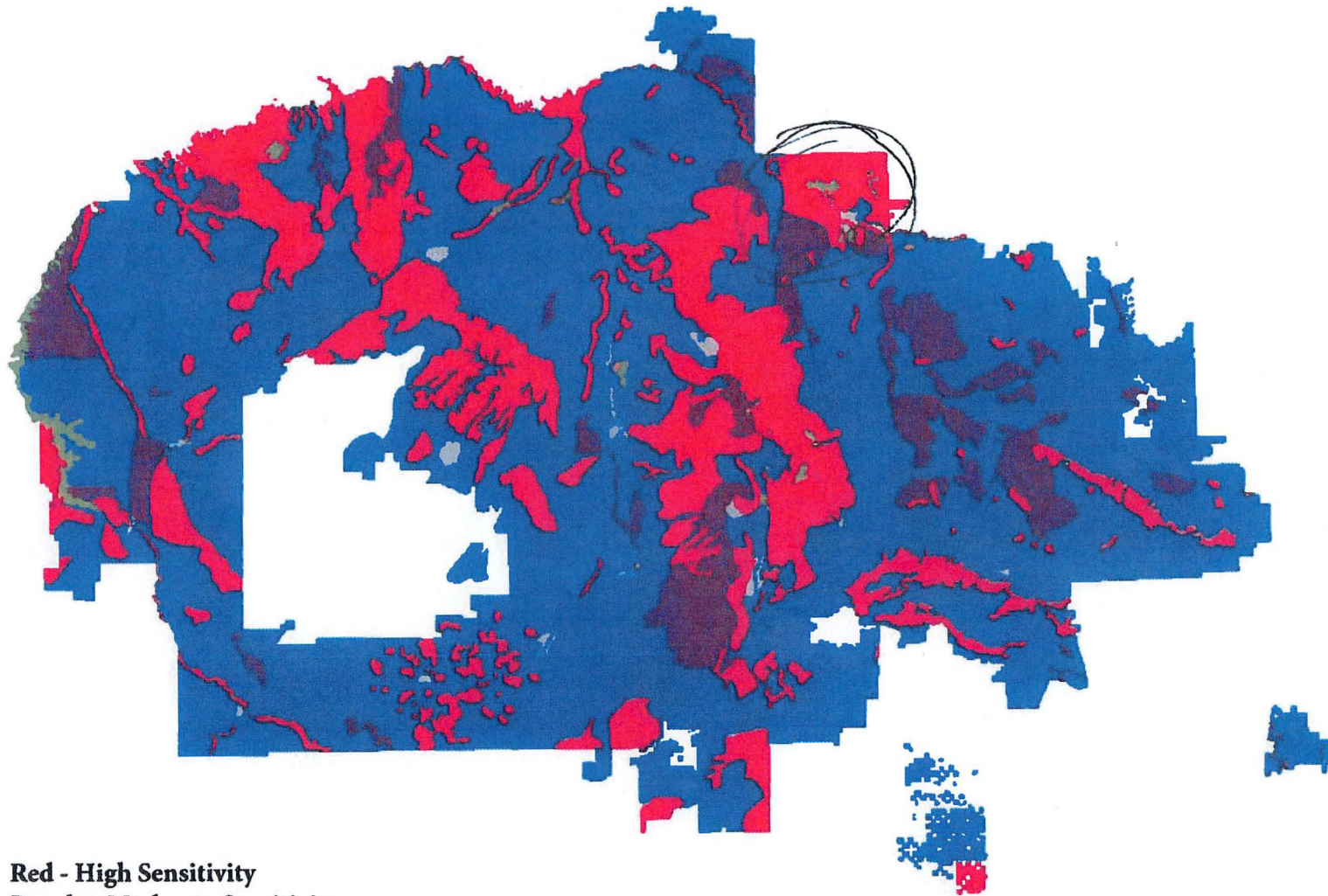
## Location Map



\* - School

0-114 houses





- Red - High Sensitivity**
- Purple - Moderate Sensitivity**
- Blue - Low Sensitivity**
- Gray - Community Development**
- Green - Biological Preserves**
- Brown - Recreational Areas**







# **CLIENT RESPONSE**



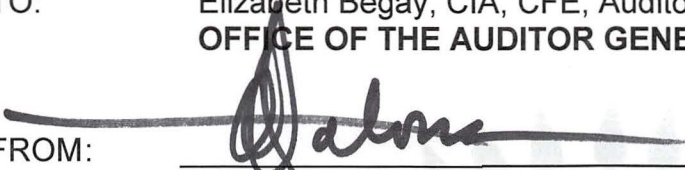


# THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT  
JONATHAN NEZ VICE PRESIDENT

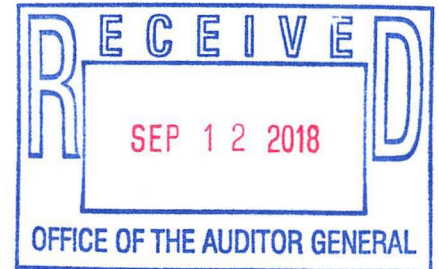
## MEMORANDUM

TO: Elizabeth Begay, CIA, CFE, Auditor General  
OFFICE OF THE AUDITOR GENERAL

FROM:   
W. Mike Halona, Department Manager III,  
NAVAJO LAND DEPARTMENT  
DIVISION OF NATURAL RESOURCES

DATE: September 10, 2018

SUBJECT: **RESPONSE TO AUDIT REVIEW**



This memo is in response to the audit performed on the Homesite Section under the Navajo Land Department (NLD). The NLD does not dispute any of the Office of Auditor General's Findings, however, it is critical for all to understand the background of the NLD.

### **Brief Background**

The greatest negative impact that the NLD has and occurs every year is the overall program budget cuts. The NLD once had a 150 employees in 1994, when I started as a Director in 2005, there were 45 employees and currently there are 27 employees.

The office buildings that are found not to be suitable for employees was previously brought to my attention by the Homesite staff. For the past several years, I attempted to resolve these problems by developing the "one-stop shop" concept, where all leasing would be completed in one office, this included business leases. Two years ago, the Division of Natural Resources (DNR) provided a proposed one-stop shop plan of operations and budget to include all leasing being completed at the agency offices, utilizing the Regional Development Business Agency Offices (RDBO). This failed.

### **Accomplished**

The NLD offices have been operating in the unsuitable offices and recently (prior to the audit) my intention was to close the Tuba City NLD. However, I was approached by the Western Delegates who requested to discuss possible alternate locations for

office space and not close the office. I explained the attempt of the one-stop shop where we would be combining resources and have safe working conditions for our employees to provide the direct services needed. There has not been an identified alternate office for the Tuba City Homesite Office.

The NLD technical staff are limited, however, Mr. Everytt Begay, GIS Supervisor, was able to assist the new General Land Development Department (GLDD) in converting the 164 review paper manual system to electronic processing. Mr. Begay is currently working on updating computer systems at the Homesite Agency Offices and also converting the homesite leasing process to electronic processing and tracking. As he is the only employee with this expertise it is difficult for NLD to move at a faster pace in converting to digital processing. In addition, in the past several years, I have attempted to request for unmet needs or a supplemental request for funding for additional positions, including Compliance Officers, every year this funding request is not met, but instead budget cuts are imposed.

Over the years, Mr. Begay also budgets the amounts for upgrades and computer enhancements for the overall NLD. This a growing difficult task due to the budget cuts and rising costs of technology each year. However, the Navajo Nation System requires internet connection, therefore, computer upgrades are required and adequate Internet Services at the agency level.

The NLD has also completed an inventory of all "backlogged" homesite lease applications that are not processed. Many of the reasons for this was due to a backlog of review completed by the Navajo Nation Environmental Protection Agency (NNEPA). Approximately two years ago, the GLDD retained an Environmental Specialist position and the responsibilities of the homesite environmental review has been reverted to GLDD, which has sped up part of the review process.

Other reasons for homesite leases that are not processed timely is many homesite staff have retired, resigned or left without training other staff on processing homesite leases, this includes the Section Supervisor Harlan Charley. The processing of homesite leases is in high demand but there are few staff individuals that have experience in processing homesite leases. Many of the agency staff are Office Specialist that process homesite leases, when these individuals should have been compensated as Homesite Agents and Homesite Agent positions added at each agency office.

### **Moving Forward**

The NLD currently has a masterplan in place that is updated every year. NLD will implement changes that reflect the findings the Auditor's Office. These added

changes are restricted to only what NLD is capable of due to limited funding. There are three primary areas that will be included (and also included on Budget Form 2):

1. Written policies and procedures regarding the Navajo Land Title Data System (NLTDS) and Standards of Procedures that office agency staff will be required to follow.
2. The databases and modules for the Homesite Section will be completed to monitor and track all homesite lease applications and dispute management.
3. A training and mentoring program will be implemented to train new or younger employees on how to process homesite leases.

### **Conclusion**

As the NLD experiences budget cuts like every other department, NLD has been attempting to utilize the limited resources at hand. Instead of laying off employees every year, the NLD prepares for areas in the budget to be cut (office equipment, travel, etc.), thus, leaving almost nothing for new office equipment, new office buildings, etc. for our agency staff.

However, the need for extreme changes can only be documented by the NLD to be improved such as providing upgraded computer systems, new safe offices, etc. for future reference, if the NLD receives additional funding.

The Nation needs to continue to promote combining resources such as the one-stop shop concept to streamline and utilizes limited resources efficiently. A few years from now, if these issues are not addressed and we continue to operate at the current state, there may not be any staff or resources left to provide the direct services to the Navajo people. The NLD appreciates all your services, I can be contacted at (928) 871-6401.

Cc:

Bidtah Becker, Division Director, DNR  
Jeanine Jones, Senior Auditor, OAG  
Robert O. Allan, Attorney, DNR  
Veronica Blackhat, Natural Resources, DOJ  
NLD Chrono file