



OFFICE OF HEARINGS AND APPEALS

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FY 2016 Second Quarter Report
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TABLE OF CONTENTS

	<u>Page No.</u>
I. EXECUTIVE SUMMARY	2
II. CRITICAL ISSUES	3
III. PROJECT STATUS	3
IV. BUDGET STATUS	4
V. OPERATIONAL & PROCESS IMPROVEMENT INITIATIVE STATUS	4

I. EXECUTIVE SUMMARY

A. Establishment of OHA.

i. The Office of Hearings and Appeals (OHA) was established by the Government Services Committee of the Navajo Nation Council on April 27, 1993 pursuant to Resolution GSCAP-20-93. The Government Services Committee reauthorized the continued existence of OHA on April 4, 1995 pursuant to Resolution GSCAP-19-95. The Plan of Operation for OHA is codified at 2 N.N.C. § 1051 et.seq.

B. Authority and Jurisdiction given to OHA in 1995:

- i. Navajo Tax law cases;
- ii. Environmental Protection Agency cases;
- iii. Navajo Occupational and Safety cases;
- iv. Business and Procurement Act cases;
- v. Navajo Nation Personnel Grievance cases;
- vi. Navajo Nation Child Support Enforcement Act cases;
- vii. Civil Trespass Statute cases; and,
- viii. Deed of Trust Act cases.

C. Additional Authority and Jurisdiction was given to OHA on February 01, 2001 pursuant to Resolution CJA-05-01,

- i. Navajo Nation Election Grievance cases.

D. Additional Authority and Jurisdiction was given to OHA on October 31, 2003 pursuant to Resolution CO-59-03,

- i. Grazing Rights dispute cases;
- ii. Land Boundaries and Fence cases; and,
- iii. Home-site Lease Application dispute cases.

E. Additional Authority and Jurisdiction was given to OHA on November 17, 2014 pursuant to Resolution CO-48-14,

- i. Navajo Preference in Employment Act cases.

F. Staffing:

- i. Chief Hearing Officer;
- ii. Hearing Officer;
- iii. Administrative Assistant;
- iv. Office Specialist; and,
- v. Legal Secretary (vacant).

II. CRITICAL ISSUES

A. Lack of a Legal Secretary.

i. The Navajo Nation Department of Personnel Management (DPM) advertised and screened 14 applicants for the Legal Secretary position. Contemporaneously,

OHA received, as a courtesy copy, an appeal from one applicant who was deemed to be unqualified by DPM. Regardless of that appeal, one (1) applicant was referred to OHA for an interview by the DPM. OHA sent a notice to DPM that an interview will not take place until the appeal of that individual took its course (there may be other appeals which has not been disclosed). To date, there is no response from DPM.

B. Lack of Sufficient Office Space.

ii. Once OHA hires a Legal Secretary, we will need additional space to house all the staff; presently, the current office space at the west wing of the Navajo Nation Staff Development and Training Center is sufficient, but it is not a solution for a long term commitment.

C. Lack of Sufficient Funding.

iii. OHA lacks sufficient funding to hire another Hearing Officer with proper administrative support staff. Funding is required for office supplies and equipment. The authorized funding for three (3) tribal vehicles will have to be diverted for travel and supplies during this fiscal year.

III. PROJECT(S) STATUS

A. Office Space.

i. OHA is optimistic that it will have an additional Hearing Officer and a Legal Secretary with adequate support staff in the future. With that goal in mind, OHA met with a contractor who was conducting a survey with Navajo Nation entities about office space. We are also always on the alert regarding office vacancies and hope to expand in the near future.

B. Monthly Performance Reporting.

i. In non-child support cases, OHA opened 49 cases and closed 9 cases, of these, 27 cases were heard by administrative hearings; there are:

- a. 3 Land Boundaries and Fence Appeal cases;
- b. 3 Grazing Rights cases;
- c. 3 Home-site Lease cases;
- d. 5 Navajo Nation Personnel grievance cases;
- e. 16 Ethics and Rules cases;
- f. 2 Environmental Protection Act cases;
- g. 2 Navajo Election grievance cases;
- h. 2 Department for Self-Reliance cases;
- i. 2 Navajo Tax cases;
- j. 0 Navajo Occupational Safety Act cases;
- k. 0 Business and Procurement Act cases;
- l. 0 Business Preference Act cases;
- m. 0 Civil Trespass cases;
- n. 0 Deed of Trust cases;
- o. 9 Navajo Preference in Employment Act cases ; and,
- p. 6 pro bono cases assigned by the Navajo Nation District/Family Courts.

ii. Child Support Enforcement Act cases:

- a. Had 1,088 open cases from the prior quarter;
- b. Signed 908 enforcement orders;
- c. Signed 1,512 paternity establishment orders;
- d. Signed 421 new paternity establishment cases;
- e. Held 220 administrative hearings;
- f. 86 cases were closed; and,
- g. 123 new cases were filed with OHA.

IV. BUDGET STATUS

At the end of this quarter, OHA has expended 25.11 % of its operating budget and 26.31 % of its personnel budget.

V. OPERATIONAL & PROCESS IMPROVEMENT INITIATIVE STATUS

A. Revision of OHA Rules of Procedures

i. OHA uses a number of different Rules of Procedures depending on the type of case it hears. The current Rules of Procedures have been inherited by OHA along with the type of cases, which the Navajo Nation Council assigned to OHA. For example, the Navajo Nation Child Support Enforcement Office has its Rules of Procedures, which is radically different from Election cases. As noted before, OHA hears cases from a number of different entities. See Executive Summary above. In an effort to streamline and standardize its Rules of Procedures, OHA contracted with a Washington DC firm to assist in revising its Rules of Procedure. It has been produced in a draft format. Further revisions are necessary for review and approval by the oversight committee.