

PROPOSED

NAVAJO RANGELAND
IMPROVEMENT ACT OF 2014

GRAZING MANAGEMENT PROGRAM

Navajo Nation Department of Agriculture

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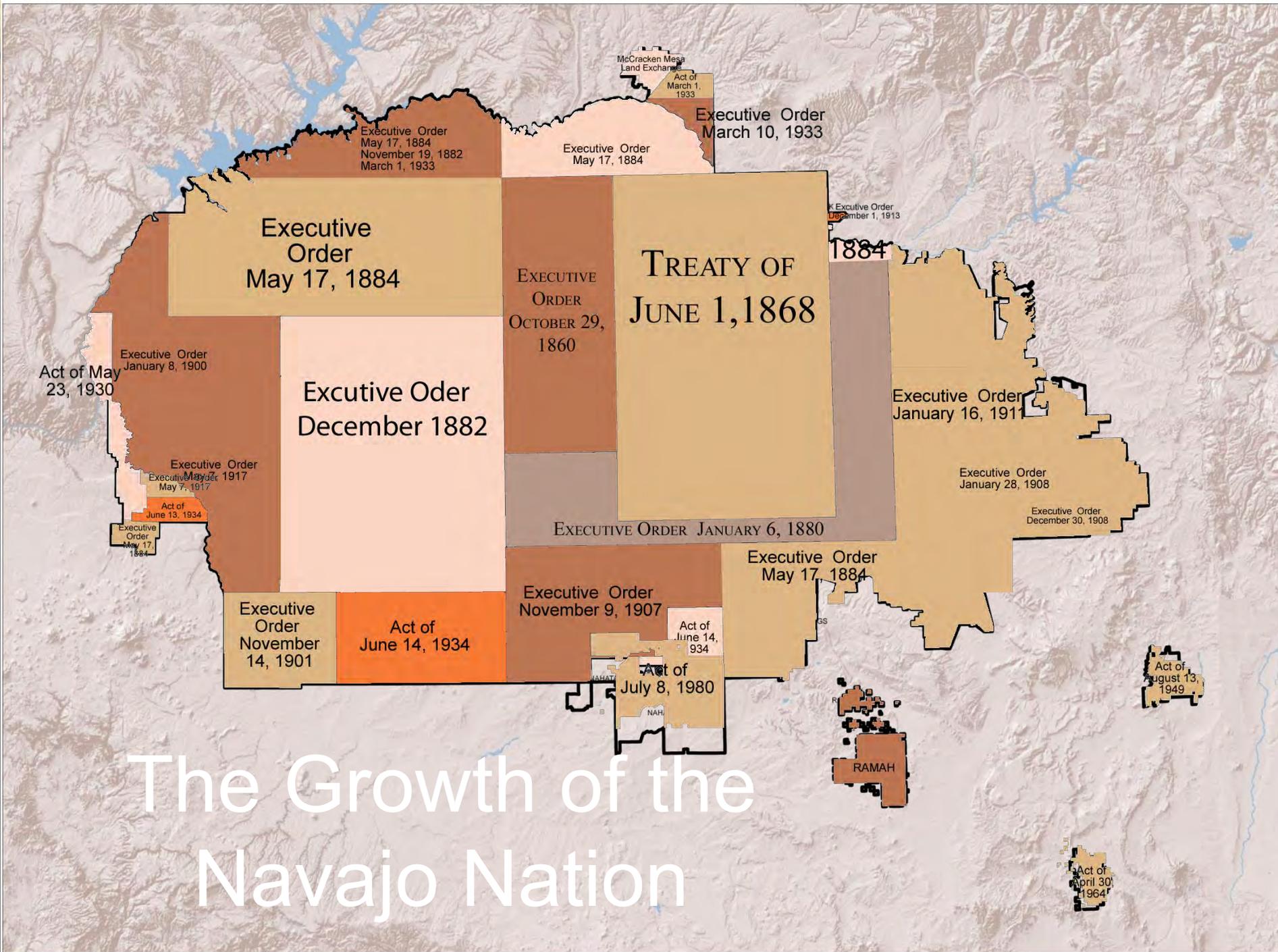
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ARTICLE V.

•... *desire to commence **farming**, he shall have the privilege to select, in the presence...a tract of land within said reservation, not exceeding one hundred and sixty acres in extent...and of his family, so long as he or they may continue to **cultivate it**.*

•*Any person over eighteen years of age, ...may in like manner select, and cause to be certified to him or her for purposes of **cultivation**, a quantity of land, not exceeding eighty acres in extent, and thereupon be entitled to the exclusive possession of the same as above directed.*

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The Growth of the Navajo Nation

HISTORICAL OVERVIEW

- In 1934 the Taylor Grazing Act was passed which was the first federal effort to regulate grazing on Navajo.
- In 1937 Grazing Regulations were adopted by the Navajo tribe.
- In 1941 the first Grazing Permit was issued by the BIA.
- In 1953 the District Grazing Committees were formed.
- 1956 Navajo Grazing Regulations Established (Adopted from 25 CFR, 1956)
- 1966 Title 3 NNC approved

HISTORICAL OVERVIEW (CONTINUED)

- In 1998 the Uniform Grazing Act was first attempted 32 individuals created the initial language of the Act.
- 1993 the AIARMA was passed by the 103rd Congress of the United States to improve the management, productivity, and use of Indian Agricultural lands and Resources.
- In 2000 the Act was renamed the Navajo Grazing Act, and it completed the executive SAS Review. It managed to pass through the Resource Committee.
- As it is about to reach the Navajo Nation Council the summer session adjourns and the Act is Tabled.
- In 2002 the Navajo Nation Council refers the Navajo Grazing Act as Referendum Measure during the Navajo Nation General election November 2002 (Oct 21st-25th)
- 2012 the RDC directed the Department of Agriculture to develop solutions/alternatives to address long standing Grazing issues, with the input of the people.



QUICK SUMMARY

- The Act will apply to all of Navajo.
- New Navajo Nation Grazing permits will be issued by the Navajo Nation.
- Sheep Unit Year Long will no longer be used & Animal Units will be used.
- NO MORE PROBATE.
- No Grazing Fee
- All Aspects of Navajo Nation Grazing law will become centralized within the Navajo Nation.
- Navajo Nation will keep all grazing records.
- Navajo Nation will hire Range Conservation Technicians as full time NNDA employees to take over the role of local grazing officials.

THE NAVAJO RANGELAND IMPROVEMENT ACT OF 2014 WILL:

- Have NO impact on current valid grazing permits
- Issue Permits on Navajo Partitioned Lands (NPL)
- Issue Permits on McCracken Mesa
- Maintain Seasonal Permits in collaboration with the Forestry and Fish & Wildlife programs
- Address current probate issues
- Exercise Navajo Nation “self determination” in managing the land
- Have an organized monitoring and management system
- Maintain “heir-ship” concept
- Consistent Management across the Navajo Nation for all land status’

THE FOLLOWING CODE SANCTIONS WILL NEED TO BE AMENDED

- Title 3: CHAPTER 1 AGRICULTURAL LEASES, ASSIGNMENTS, AND PERMITS; CHAPTER 3. RANGE LAND LEASES FOR PASTURE OF LIVESTOCK; CHAPTER 5. GRAZING; CHAPTER 7. CONTROL AND INSPECTION OF LIVESTOCK; CHAPTER 17. FENCES (1950)
- Title 2: CHAPTER 6. ETHICS IN GOVERNMENT LAW
- Title 11: CHAPTER 1. NAVAJO ELECTION CODE OF 1990
- Title 16: CHAPTER 15. RESIDENTIAL AND USE RIGHTS ON LANDS ADDED TO RESERVATION

THE ACT WILL CONSIST OF FOUR SECTIONS

- I. General Provisions
- II. Transition Period
- III. Grazing Permits
- IV. Trespass



SUBCHAPTER I. GENERAL PROVISIONS

- In 1950 it took an average of 22 acres to support one sheep for one year.
- Today there are places on Navajo where it takes up to 100 acres to support one sheep for one year.
- There are only 10,926 grazing permits in existence on the Navajo Nation. These permits are currently held by only 4.1% of the enrolled population. (majority rules vs. Permittees)

THE ACT WILL APPLY TO:

- NPL
- McCracken Mesa
- Navajo Satellite Communities
- New Lands
- Individually owned allotments held in trust
- Navajo Nation fee land
- Navajo Nation trust land

AUTHORITIES:

Joint Enforcement will be with the following departments:

- The Navajo Nation Forestry
- The Navajo Nation Parks and Recreation
- Fish and Wildlife
- Dept. of Agriculture
- Resource Enforcement
- Land Department
- Navajo EPA
- Historic Preservation

SUBCHAPTER II

TRANSITION PERIOD

- All individuals who currently hold a valid grazing permit must be Issued a “New Permit” by the Navajo Nation through an “application”.

Eligibility Requirements:

- Enrolled member of the Navajo Nation;
- Be 18 years of age or older;
- Have a “Customary Use” on the land that is subject to the permit
- Not be issued a grazing permit, of any kind, in any other Grazing District.

RE-ISSUANCE OF NEW GRAZING PERMITS

- All grazing permits on Navajo shall remain valid, but shall no longer be renewed automatically. Instead, permittees must “apply” to have their permits renewed.
- Permittees must submit an “application”, a copy of their permit, & a conservation management plan.
- Permit “approval” is based on a “sufficient” (adequate; satisfactory) conservation plan.

Conservation plans will be evaluated on:

- Proper grazing permit use by permittee. (There cannot be overstock & only the permitted number allowed)
- Conservation put in practice to show improvements of the land
- Improved livestock breed, quality, vigor (health) of the livestock, and no inbreeding.
- Plan to decrease noxious and poisonous weeds on the range.

Permit Renewal Schedule:

- Each year a District will be scheduled for permit renewal after the first year of the Act approval.
- Director shall provide notice to current grazing permittees (locate permit holders; 1st notice; 2nd notice; minors) in the affected districts by first class mail.



SUBCHAPTER III GRAZING PERMITS

- All livestock grazing on the Navajo rangeland by “all Navajo persons” Must be Authorized by a grazing permit issued by the Navajo Nation.
- To qualify you have to meet the “eligibility requirements”.

GRAZING PERMIT WILL CONTAIN

- Name, census number, and current address
- Unique grazing permit number;
- Permit's term (beginning date and expiration date);
- Range unit number;
- Description of the land covered by the permit;
- Range management plan requirements;
- Number of AU allowed under the permit;
- Animal identification information (e.g., brands, identifying marks, microchips, freeze brands, earmarks, tattoos);

CONTENTS (CONTINUED)

- Permittee Agrees to: not use any part of the permitted area for any unlawful conduct or purpose;
- The permit authorizes no other privilege than grazing use;
- Reserving a right of “entry” by the Navajo Nation for range survey, carrying capacity assessment, livestock counts, inspection or compliance purposes, and other purposes related to management of grazing permits;
- Prohibit nuisance, any illegal activity related to grazing or rangelands, and negligent use or waste of resources;
- Includes Provision (regulation) on how trespass proceeds (money) be distributed;
- Permit cannot be subdivided once it has been issued;
- Any other provisions which Director(s) deem necessary
- Track Permit A (25AU=250SU); Track Permit B-Reserved; Track Permit C (10AU=50SU) or less.
- Recreational Livestock: any individual who wishes to keep livestock within their homesite must obtain a “certificate of registration” & Department Shall Not Deny registration for any reason & have No jurisdiction to regulate animals on homesite.

TERM RENEWAL

- The term of a grazing permit issued will be every five (5) years.
- Grazing permits may be renewed upon “satisfactory compliance” with this Act and any rules and regulations.
- All permit renewals shall occur when an “application” for renewal is “filed” with the Director. Grazing permits shall not renew automatically. Submit conservation plans, update status and comply with old plan.
- Supplemental Annual Permits: If a permittee believes that the carrying capacity of the land has increased, the permittee may request a “carrying capacity assessment”. Assessment will be conducted to check for feasibility of request.

CO-PERMITTEE & TRANSFER

- Co-Permittee shall have No Rights or responsibilities under the grazing permit. Upon the Death of the Permittee, the Co-Permittee will automatically become the new permittee, and assume all responsibilities and agreements.
- A permit can only be transferred to a person who meets the eligibility requirements.
- Grazing permit may not be geographically transferred, as it is Tied to the Tract of Rangeland it is assigned to.
- Approval: “All Transfers” must be Approved by the Navajo Nation. Navajo Nation shall honor all transfers directed by Navajo Nation Courts in cases involving “divorce or separation” of a permittee.
- Consolidation: If a permittee acquires Additional Permit by other means, including purchase or transfer, the permittee will have ninety (90) days to “apply” to Navajo Nation to “Consolidate All Permits” within the Same District into a “Single Permit”.
- Navajo Nation will grant 90 days for a Co-Permittee to become “compliant” with the “eligibility requirement”. (Example: to relocate to permit area)
- Sublessee, or Livestock Operator : Permittee may “sublet” all or part of grazing permit, or “Designate a Livestock Operator” to care for livestock in their absence. Examples of “valid absence”: permittee is away at school, work or other residence)

CANCELLATION

Navajo Nation May Cancel for Non-compliance of the Following:

- Two consecutive years of Non-Use," if not authorized" in advance by the Navajo Nation.
- Civil monetary "sanctions have not been paid" after 60 days of written notice (Example: impoundment fees)
- Permittee has violated any one of the provisions of grazing permit
- Permittee has violated this Act or any rules or regulations promulgated, including "any reasons for cancellation" that are Created by Regulation, this includes any criminal or illegal activity
- Carrying capacity of the permitted area has Diminished to a point where it Can Not Support the Minimum Number of Livestock authorized by this Act.
- Permittee has violated any other law that is related to livestock or management of Navajo rangeland.

NO MORE PERMIT PROBATE

- Grazing permits will not be eligible for probate in Navajo Nation Court. A permittee does not have a vested right in the grazing permit; rather they “Hold the Permit at the Pleasure of the Nation”.
- Once a permittee is deceased, their grazing permit reverts back to the Nation Only upon No Co-Permittee Designation
- Livestock is Considered Property and Can Be Probated.

FENCING AND RANGE UNITS

Fencing Regulations

- Fencing regulations shall be developed by the Director, in consultation with Navajo Nation Fish and Wildlife Department.
- No grazing permittee may build any fence for grazing-related purpose, unless they have a “Range Unit Application” Approved by the Department, and in compliance with the range management plan.

Range Units

- Navajo Nation is Authorized to Establish and Adjust Range Units based on the need to “Preserve” the amount and quality of Forage, Land Status, and Customary Use Areas.
- The establishment of a range unit “does not grant” the permittee “exclusive use” of that area. Permittee will “not prohibit access” to other Navajos who desire to hunt wildlife, gather herbs, firewood, pinion nuts, or other resources.

MOBILE LIVESTOCK AUCTION PROGRAM

- Subject to a special appropriation of funds by the Navajo Nation, the Department shall institute mobile livestock auctions for Navajo permittees who need to sell excess livestock & have no equipment or means to transport livestock to auction.
- Navajo Nation shall inform the permittee in writing, of the scheduled mobile livestock auction in their area.
- Permittees who need to sell livestock in order to comply with their permit and do not have the means to transport their livestock to market shall be given priority at mobile livestock auctions.

VOLUNTARY ASSOCIATIONS AND COOPERATIVES

- Permittees within specific range units are “encouraged to establish livestock associations and/or cooperatives” to support livestock management planning for the individual “range unit”.
- Livestock Association or Cooperative: will establish internal protocol, membership and decision making process. Maintain a fund management plan should it be decided to develop funding for the organization.

PROHIBITED LIVESTOCK, UNAUTHORIZED USE OF MOTOR VEHICLE, & BURIALS

- All rodeo stock and stallions is prohibited from grazing upon Navajo rangelands. The maximum number of horses that a grazing permit may authorize is two.
- It is prohibited for any person to use a motor vehicle (all-terrain vehicles & motorcycles) on Navajo rangelands:
 - For herding or rounding up livestock;
 - That unreasonably damages or disturbs Navajo rangeland or any of its vegetative or wildlife resources.

Exceptions:

- Law enforcement officers, employees, independent contractors, or consultants, provided they are operating a motor vehicle in their official capacity;
 - Any person who receives advance written exemption from the department
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- No deceased person shall be buried on Navajo rangeland. Deceased persons shall only be buried in designated burial sites, or land that has otherwise been withdrawn from Navajo rangeland for burial.

ENFORCEMENT & BRAND OFFICE

- Navajo Nation law enforcement officers shall have the authority to seize permits for probable cause to suspect forged, illegally altered, or otherwise part of a felony.

Navajo Nation Brand Office:

- will initiate and provide a recording system for brand registration for permittees
- will update all brands used by grazing permittees and maintain a tracking system for livestock ownership
- will establish and assess for brand registration, renewals and application of brands

SUBCHAPTER IV TRESPASS

Upon a determination of trespass, Navajo Nation may provide the offending individual with a Notice of Trespass that includes:

- an explanation of the trespass decision and reasons
- instructions to correct the trespass, if necessary

CIVIL SANCTIONS

Director is authorized to assess any combination of the following sanctions on an individual:

- Impose a civil penalty
- Impound the trespassing livestock
- Order monetary damages, for the following:
 - Value of the forage consumed by the trespassing livestock (determined by fair market value)
 - Any damage to Navajo rangeland caused by the trespassing livestock while in trespass;
 - Costs of gathering, impounding, feeding or pasturing, and caring for trespassing livestock
 - Other reasonable costs associated with this Act

IMPOUNDMENT OF LIVESTOCK

Notice of Livestock Impoundment will be provided to the livestock owner in person.

Notice of Livestock Impoundment shall contain:

- Name of livestock owner, if known;
 - Description of trespassing livestock;
 - Type of trespass with citation to the provision(s) of this Act or other applicable law;
 - Time and date for livestock owner to correct the trespass to avoid impoundment.
- Seven (7) days notice will be provided before impound of trespassing livestock
 - Navajo Nation may impound trespassing livestock without notice:
 - If owner does not possess a valid grazing permit;
 - Trespassing livestock is in a restricted or withdrawn area closed to grazing; or
 - Livestock presents a serious risk to the health and safety of the public, other livestock, or wildlife

SALE OF IMPOUNDED LIVESTOCK

- Livestock not claimed within 7 days following the day of impoundment may be sold at a public sale or auction. All proceeds shall be deposited in a special account until the outcome of any hearing.
- Proceeds of any a sale of impounded livestock shall be:
 - Reimburse the Navajo Nation for expenses incurred
 - To satisfy payment of any penalties or damages assessed pursuant to this Act.
 - To return all remaining proceeds to the livestock owner. If the owner does not claim the proceeds within 6 months of receiving a Notice of Livestock Sale, the owner shall be deemed to forfeited those proceeds to Navajo Nation.
- The Navajo Nation, shall provide a Notice of Sale of Impounded Livestock to the livestock owner in person or via first class mail.

RETURNING IMPOUNDED LIVESTOCK TO OWNER

- Upon satisfactory compliance, livestock owner may claim livestock impounded at any time before sale, provided that the owner first address the following requirements:
 - Submit proof of ownership;
 - Pay for expenses in gathering, impounding, feeding or pasturing, and otherwise caring for the livestock; and
 - Pay any trespassing-related civil penalties or damages assessed
- If returning the impounded livestock results in a violation of law, the livestock shall not be returned but shall be sold.
- Navajo Nation shall return unlawfully impounded livestock to the owner by delivering the livestock to the area covered by the owner's grazing permit.

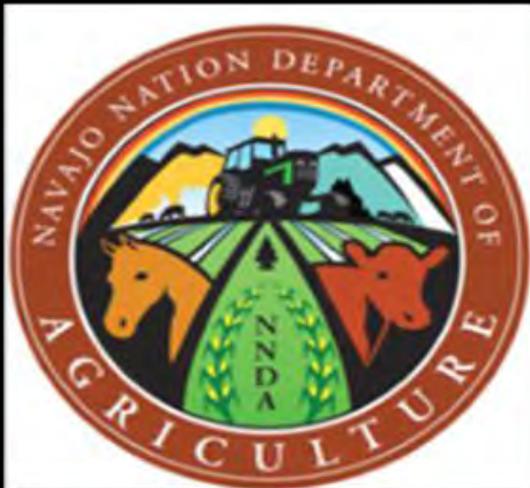
QUESTIONS & NNDA CONTACT INFORMATION

Grazing Management Program

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DISASSEMBLY OF DISTRICT GRAZING COMMITTEES

- District Grazing Committees shall be dissolved at the end of the current term.
- Upon the dissolution of the DGC, all authorities relating to grazing and rangeland management shall be transferred to the NNDA.
- Staff Development is Subject to special appropriation of Funds by the Navajo Nation, the NNDA shall establish a “Staff Development Program” to provide assistance to District Grazing Committee Members to attain necessary educational requirements for the “Range Technician Position”.