

Supporting Statement A

Navajo Partitioned Lands Grazing Permits, 25 CFR 161

OMB Control Number 1076-0162

Terms of Clearance: None.

General Instructions

A completed Supporting Statement A must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified below. If an item is not applicable, provide a brief explanation. When the question “Does this ICR contain surveys, censuses, or employ statistical methods?” is checked "Yes," then a Supporting Statement B must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

This information collection is needed to implement the regulations at 25 CFR 161, *Navajo Partitioned Lands Grazing Permits*. Public Law 103-177, the *American Indian Agricultural Resource Management Act* (AIARMA), as amended, authorizes the Secretary of the Interior, in participation with the beneficial owner of the land, to manage Indian agricultural lands in a manner consistent with trust responsibilities and with identified tribal goals and priorities for conservation, multiple use, and sustained yield. Other laws and rulings affecting grazing on the Navajo Partitioned Lands (NPL) include the Navajo-Hopi Settlement Act of 1974, 24 U.S.C. 640d-6402-31, as amended by the Navajo-Hopi Indian Relocation Amendments Acts of 1980, 94 Stat. 929, and the Federal court decisions of *Healing v Jones*, 174 F. Supp.211 (D. Ariz. 1959) (*Healing I*), *Healing v. Jones*, 210 F. Suppl 126 (D. Ariz. 1962), *aff'd* 363 U.S. 758 (1963) (*Healing II*), *Hopi Tribe v. Watt*, 530 F. Supp. 1217 (D. Ariz. 1982), and *Hopi Tribe v. Watt*, 719 F.2d 314 (9th Cir. 1983). The regulations at 25 CFR 161 codify the above responsibilities and include the specific information collection requirements.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.**

The information gathered through this collection is used by the Department of the Interior, Bureau of Indian Affairs (BIA) and the Navajo Nation (Nation) to determine eligibility for an NPL grazing permit and to administer permits once issued. Information is submitted by individual Navajo tribal members wanting to obtain or modify a grazing permit and by departments and officials of the Navajo Nation.

Sections of 25 CFR 161 that identify individual elements of the information collection are summarized below.

Section 161.301 lists what a grazing permit must include. This information is included on **Form 5-5015, Grazing Permit**. Of the items listed on the form, the permit applicant must provide the following:

1. The permit holder's name and address;
2. Number and/or description of the intended grazing area;
3. Desired number and kind of livestock;
4. Animal identification brands and marks.

Section §161.400(a), the Navajo Nation prescribed eligibility requirements for grazing allocations. The permit applicant is required to provide evidence (or corroborate evidence provided by BIA or the Navajo Nation) that they meet all of the five (5) criteria prescribed by the Nation:

- 1) Appear as a permittee on the list of permits cancelled on October 14, 1973, or be the legally recognized heir or assignee of a deceased individual appearing on said list;
- 2) Be listed on the 1974 or 1975 BIA enumeration within NPL or be legally recognized heir or assignee to the permit of a deceased individual appearing on said list;
- 3) Be a recognized full-time resident of NPL and reside within the Customary Use Area where the cancelled permit was used;
- 4) Be an enrolled member of the Navajo Nation 18 years of age or older;
- 5) Not have received any of the following accommodations:
 - a) Signed an accommodation agreement to remain on Hopi Partitioned Lands; or have a valid grazing permit for Hopi Partitioned Lands.
 - b) Received a permit to graze livestock on New Lands.
 - c) Reissued a permit outside the Navajo Partitioned Land on the Navajo Reservation.

Under **Section §161.500** an existing permit can be transferred, assigned or modified. Form 5-5022, Modification of Grazing Permit, is used to document a permit modification and requires the permittee to provide information describing the desired change in land area and/or number of head of livestock to be grazed. Form 5-5023, Assignment of Grazing Permit, is used to assign all right, title and interest in and to a grazing permit to another individual qualified to hold a permit on NPL. This form requires the assignee to provide information on the brands and marks they will use to identify livestock grazed under the permit. All other information required to complete this form is available from existing BIA records.

3. Describe whether, and to what extent, the collection of information involves the use of

automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden and specifically how this collection meets GPEA requirements.

Tribes, tribal organizations and individual Indians submit required information in standard written formats. Barriers to the use of electronic technology to collect this information include lack of telecommunications infrastructure, language barriers, and the fact that many or most of the individual respondents do not own personal computers.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

This information is not duplicated in any other data collection. This information is unique to the issuance and administration of permits on tribal and individual Indian lands. In keeping with the Paperwork Reduction Act and other statutory requirements, the information collected is the minimum needed for the intended purpose.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

Tribes are not considered to be small entities under the Small Business Regulatory Enforcement Fairness Act (SBREFA); however, the BIA has minimized the burden on tribes and individual Indians by restricting the information collection to only that information that is required and not available to BIA through other means.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The information collection burden cannot be reduced any further without jeopardizing implementation of the Navajo Partitioned Lands Grazing Permits regulation. Grazing on Navajo partitioned lands is integral to the way of life and will occur regardless of whether the information is collected and permits are issued; the permit program and associated information collection ensure that the grazing practices are sustainable. If the collection is not conducted, or is conducted less frequently, the BIA will not be able to properly administer and monitor grazing permits on Indian lands or ensure sustainable practices are followed.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- * **requiring respondents to report information to the agency more often than quarterly;**
- * **requiring respondents to prepare a written response to a collection of information**

- in fewer than 30 days after receipt of it;**
- * requiring respondents to submit more than an original and two copies of any document;**
- * requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- * in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- * requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- * that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- * requiring respondents to submit proprietary trade secrets, or other confidential information, unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are two circumstances that require exceptions to 5 CFR 1320.5(d)(2):

- **Permit Violations:** The regulations at section 161.605 require a permit holder to respond within 10 days of a written notice of violation of the terms of a permit. This is an exception to the 30-day rule because time is of the essence in correcting many violations of permit terms. A 30-day period to respond to a permit violation could endanger the integrity of the permit and possibly do irreparable damage to the corpus of the trust resource.
- **Trespass:** An alleged trespasser must contact the BIA within the timeframes established in the trespass violation notice to explain why the notice is in error or to take appropriate corrective action. The notice document itself could specify a time period of less than 30 days, depending upon the nature of the trespass. Again, the circumstances of a trespass may be of such a serious nature that the 30-day response time would not be appropriate and, furthermore, could harm the corpus of the trust resource.

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

A 60-day notice for public comments was published in the Federal Register on March 8, 2013 (78 FR 15036). There were no comments received in response to this Federal Register notice.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be

recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

BIA contacted the following individuals regarding the estimated time burdens, availability of data, etc.:

- Debrah McBride, member of a Navajo livestock grazing family from Klagetoh, AZ; phone: (703) 638-4856
- Anna Owens-Brown, member of a Navajo livestock grazing family from Cross Canyon, AZ; phone: (240) 429-2709

Most Navajos are familiar with grazing and the rules that govern grazing on the “Big Reservation”. The rules for obtaining a permit and grazing livestock on the NPL are somewhat different and will require clarification, in the Navajo language. For this reason Ms. McBride feels nearly an hour would be a good estimate of the time needed to understand the process and to provide the required information. She also indicates that the kind and amount of information is reasonable and would not present any difficulty to grazing permit seekers.

Ms. Owens-Brown felt that the front grazing form was easily understood with the information requirements what would be expected to issue a permit. Understanding the stipulations on the back of the form required more time, but together the two would not require more than an hour of the applicant’s time.

Based on the responses from Ms. McBride and Ms. Owens-Brown, we have adjusted the time burden (from 1/3 to 1 hour) to complete the Navajo Partitioned Lands Grazing Permit. In addition, changes were made to the forms to make them clear and easy to understand.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payments or gifts are provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

There is no assurance of confidentiality provided to respondents in connection with this information collection.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly

considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature included in the information collected.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- * Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- * If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- * Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.**

We estimated the annualized cost would include one hour for providing the information necessary for a grazing permit and/or reissuance of a permit, and 20 minutes for modifying, assigning, or transferring a grazing permit. This results in a total hour burden of 2,122 hours per year or the amount equivalent to \$91,628.

CFR Section	Description	Respondents	Annual responses	Hour Burden per response	Total Annual Hour Burden (rounded)	Total Hourly Burden Cost (\$43.18/hr x hour burden)
161.102	Provide copy of tribal law or policy affecting grazing	1	0 (complete)	0	0	\$0
161.206	Vaccinate/treat livestock	700	700	1/2	350	\$ 15,113
161.301	Provide info for grazing permit and reissuance	700	700	1	700	\$ 30,226
161.402	Provide info for grazing permit reissuance	700	700	1	700	\$ 30,226
161.500	Provide info to modify, assign or transfer grazing permit	70	70	1/3	23	\$ 993.14

161.605	Response to notice of permit violation	35	35	1/2	18	\$ 777.24
161.704	Respond to notice of trespass	35	35	1/2	18	\$ 777.24
161.710	Providing proof of ownership	10	10	1	10	\$ 431.80
161.800	Written concurrence, submission of evidence	700	700	1/4	175	\$ 7,556.50
161.801	Filing appeal	85	85	1/2	43	\$ 1,856.74
161.802	Recommend amendments	85	85	1	85	\$ 3,670.30
Totals		700	3,120		2,122	\$ 91,628

We estimate the salary for persons compiling the information to be \$30.84 per hour. This estimate is based on the Bureau of Labor Statistics' Employer Costs for Employee Compensation – December 2012, USDL 13-0421, Table 1, Civilian Workers, for all workers at <http://www.bls.gov/news.release/pdf/ecec.pdf>. Including a multiplier of 1.4 for benefits, this results in a total salary of **\$43.18** per hour. The multiplier of 1.4 is derived from the Bureau of Labor Statistics, Employer Costs for Employee Compensation – December 2012 at <http://www.bls.gov/news.release/pdf/ecec.pdf>.

13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)

- * **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- * **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- * **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for**

reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

There is no non-hour cost burden associated with this information collection.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

We estimate the annual cost to the Federal Government to administer this information collection to be **\$69,191.**

CFR Section	Description	Respondents	Annual Responses	Federal Burden Hours per Response	Federal Annual Burden Hours	Federal Burden Hour Cost (\$30.65x total hourly burden)
166.102	Review tribal law or policy affecting grazing	1	0 (complete)	1/2	0	\$ 0
161.206	Review documentation re: vaccination/treatment	700	700	1/4	175	\$5,363.75
161.301	Review grazing permit	700	700	1	175	\$5,363.75
161.304	Record permit	700	0	1/4	175	\$5,363.75
161.502	Provide copies of permit					
161.402	Review for grazing permit reissuance	700	700	1	700	\$21,455
161.500	Review to modify, assign or transfer grazing permit	70	70	1	70	\$2,145.50
161.604	Provide written notice of violation	35	35	1	35	\$1,072.25
161.606	Provide written notice of cancellation	35	35	1	35	\$1,072.25
161.703	Provide written notice of trespass	35	35	1	35	\$1,072.25
161.708	Provide written notice to impound	10	10	1	10	\$306.50
161.717	Written demand for settlement	10	10	2	20	\$613
161.800	Submit written declaration of nonconcurrence, plan	700	700	1	700	\$21,455
161.801	Response brief	85	85	1	85	\$2,605.25

161.802	File concurrence	85	85	1/4	42.5	\$1,302.63
Totals		700	3,165		2,257.5	\$69,191

We estimate the salary for a GS-8, Step 5, employee implementing this program to be \$20.43 per hour. This estimate is based on the Office of Personnel Management Salary Table 2012 – GS at <http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2012/general-schedule/2012-gs-hourlyovertime-rates-by-grade-and-step/>. Including a multiplier of 1.5 for benefits, this results in a total salary of \$30.65 per hour. The multiplier of 1.5 is derived from the Bureau of Labor Statistics, Employer Costs for Employee Compensation – December 2012 at <http://www.bls.gov/news.release/pdf/ecec.pdf>.

15. Explain the reasons for any program changes or adjustments in hour or cost burden.

The program made adjustments to Form 5-5015 – Navajo Partitioned Lands Grazing Permit Form to simplify the instructions and clearly state the guidance on the permit. The burden hours have been increased from (1,188 to 2,122) based on the responses we received from individuals we consulted for this information collection. The time to complete the Grazing Permit Form was increased from 20 minutes to 1 hour.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

There are no plans to publish the results of this collection of information.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

We will display the OMB control number and expiration date on all forms and other appropriate materials.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no exceptions.