

**Appendix A – Memorandum of Understanding between the
Navajo Nation and the Bureau of Indian Affairs, Navajo
Regional Office**

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE NAVAJO NATION
AND
THE BUREAU OF INDIAN AFFAIRS
NAVAJO REGION
FOR
DEVELOPMENT OF THE FORMER BENNETT FREEZE AREA
INTEGRATED RESOURCE MANAGEMENT PLAN

This Memorandum of Understanding (MOU) between the Navajo Nation and the Bureau of Indian Affairs, Navajo Region (BIA) is for the purpose of developing an Integrated Resource Management Plan (IRMP) for the Former Bennett Freeze Area of the Navajo Nation. This will be accomplished through an interdisciplinary team composed of both Navajo Nation and BIA personnel. The work shall include an Environmental Assessment/Impact Statement and other compliance work to finalize the IRMP.

- I. **Purpose.** The purpose of this MOU is for developing an IRMP for the Former Bennett Freeze Area (FBFA) of the Navajo Nation. Furthermore, this MOU defines the resources to be evaluated, identifies interdisciplinary team members from both the BIA and Navajo Nation, defines roles and responsibilities of each party and identifies the project time frames. It is the intent of the Navajo Nation and BIA to provide for a cooperative relationship to develop integrated resource management goals and policies that will provide direction for the planning and the implementation of the IRMP of the FBFA while protecting the environmental and cultural values.
- II. **Area of Consideration.** The IRMP will consider, principally, all resources within the area known as the Former Bennett Freeze Area of the Western Navajo Agency of the Navajo Nation. The planning area is approximately 1.6 million acres covering 9 Chapters. These Chapters are: Tuba City, Coalmine, Kaibito, Tonalea, Bodaway-Gap, Cameron, Tolani Lake, Leupp, and Coppermine,
- III. **Authority.** This IRMP will be developed in accordance with the following rules and regulations, but not limited to:

Regulation	Citation	Area of Application
National Environmental Policy Act (NEPA) of 1969, as amended, PL 91-190	42 U.S.C. § 4321 et seq.	NEPA requires federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions.
Council of Environmental Quality NEPA Regulations	40 CFR Parts 1500-1508	The CEQ coordinates Federal environmental efforts and works closely with agencies and other Federal offices in the development of environmental policies and initiatives. CEQ was established within the Executive Office of the President by Congress as part of the NEPA 1969 and additional responsibilities were added by the Environmental Quality Improvement Act of 1970.
Endangered Species Act of 1973	16 U.S.C.	An Act to provide for the conservation of

**MEMORANDUM OF UNDERSTANDING BETWEEN THE NAVAJO NATION AND THE BUREAU OF
INDIAN AFFAIRS, NAVAJO REGIONAL OFFICE FOR DEVELOPMENT OF THE FORMER
BENNETT FREEZE AREA INTEGRATED RESOURCE MANAGEMENT PLAN**

(ESA), as amended, PL 93-205	Chapter 35 § 1531 et seq.	endangered and threatened species of fish, wildlife, and plants, and for other purposes.
The National Historic Preservation Act (NHPA) of 1966, As Amended, PL 89-665	16 U.S.C. § 470	An Act to Establish a Program for the Preservation of Additional Historic Properties throughout the Nation, and for Other Purposes
American Indian Agricultural Resource Management Act (AIARMA) of 1993, PL 103-177	25 U.S.C. Chapter 39 §3701 et seq.	The purposes of AIARMA are to provide for the establishment of a viable system for the management and administration of Indian owned agricultural lands; to enhance the capability of Indian ranchers and farmers to produce crops and products from such lands; to affirm the authority of the Indian tribal governments in the management and regulation of Indian agricultural lands; and to enhance the educational opportunities for Indian students in the management of Indian natural resources

IV. Terms of Agreement.

The Navajo Nation's Responsibilities:

- a. As a federally-funded project, the Navajo Nation will comply with all applicable Federal and Tribal regulations, policies, and authorities.
- b. To designate specific individuals to serve on the IRMP Core Team that will be tasked with making decisions on the IRMP project. **See Supplemental A.**
- c. To identify individuals that will serve on the Interdisciplinary Team that will provide technical expertise, analyses, resources and supporting detail for the IRMP Core Team.
- d. To assure compliance with all applicable laws, regulations, and policies pertaining to preparation of the IRMP.
- e. To ensure invitations and adequate notice for the scheduled periodic meetings.

The BIA's Responsibilities:

- f. To comply with all applicable Federal regulations, policies, Indian Affairs Manual (IAM) guidance, and authorities.
- g. To develop a firm, complete project plan (scope and schedule) for the IRMP in concurrence with the Navajo Nation IRMP Core Team.
- h. To develop an IRMP with Navajo Nation concurrence and will provide Navajo Nation the opportunity to review and comment at 30%, 60%, and 90% completion levels of the IRMP.
- i. To designate specific individuals to serve on the IRMP Core Team that will be tasked with making decisions on the IRMP project. **See Supplemental B.**
- j. To identify individuals that will serve on the Interdisciplinary Team that will provide expertise, analysis, and supporting detail for the IRMP Core Team.
- k. To assist the Navajo Nation in ensuring invitations and adequate notice for the scheduled periodic meetings.
- l. The BIA, and its hired consultant, will not divulge information deemed to be confidential. In cases where the Navajo Nation provides information it considers confidential, the BIA and its consultant will work with the Navajo Nation to present the information in a

**MEMORANDUM OF UNDERSTANDING BETWEEN THE NAVAJO NATION AND THE BUREAU OF
INDIAN AFFAIRS, NAVAJO REGIONAL OFFICE FOR DEVELOPMENT OF THE FORMER
BENNETT FREEZE AREA INTEGRATED RESOURCE MANAGEMENT PLAN**

manner that protects the rights of the Navajo Nation before sharing the information necessary for the environmental analysis with cooperating agencies, other agencies, or the public. Should any distribution of confidential information occur, the party receiving it will return the information to Navajo Nation or the BIA.

Mutual Responsibilities:

- l. Both the Navajo Nation and Bureau of Indian Affairs are identified as Co-lead on this project of developing an IRMP.
- m. All parties to this MOU will make every effort to attend scheduled meetings and meet project timelines as the IRMP development has a 1 year timeframe.
- n. **Availability of Data.** As practical, the parties to this MOU will make available for use all data in their control that is necessary for the development of the IRMP. As much as possible, all relevant Geographical Information System (GIS) data should be entered into the BIA and tribal GIS. Access to data that any party in this MOU considers sensitive in nature, particularly cultural resource information, will be restricted according to applicable federal and tribal law and regulation.
- o. All parties working on the development of the IRMP, will not divulge information deemed to be confidential. In cases where the Navajo Nation provides information it considers confidential, all parties involved in the development of the IRMP will work with the Navajo Nation to present the information in a manner that protects the rights of the Navajo Nation before sharing the information necessary for the proper analysis of alternatives or inclusion in the IRMP document. Should any distribution of confidential information occur, the party receiving it will return the information to Navajo Nation or the BIA.
- p. Parties to the MOU will have access to all information necessary for their participation in the IRMP development and analysis of alternatives to the extent permitted by applicable law and policy.
- q. The parties agree that all records or information requests of one party by the other party shall remain the property of the releasing party for public record disclosure purposes and will not be disclosed, transmitted, or otherwise divulged until properly vetted by the parties and information is prepared for public review or comment. Any breach of this provision may result in termination of this MOU.
- r. Modifications to this MOU may be proposed by either party, in writing, and shall become effective upon the written approval of each party. Changes to this MOU must be initialed and dated on each replacement page by the principal authorized agent of each party. See **Supplemental C.**
- s. Parties may agree to withdraw from this MOU after written notice of their intention to do so.
- t. Nothing in this agreement will be construed as limiting or affecting in any way the authority or responsibility of the Navajo Nation or the BIA.
- u. This MOU will remain in force, unless terminated by mutual consent, or until completion of the IRMP (approved and published).

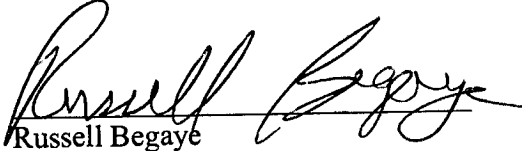
V. **Resources.** The resources identified for incorporation into this IRMP process include, but are not limited to:

- a. Agriculture - dry land and irrigated

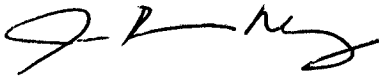
MEMORANDUM OF UNDERSTANDING BETWEEN THE NAVAJO NATION AND THE BUREAU OF
INDIAN AFFAIRS, NAVAJO REGIONAL OFFICE FOR DEVELOPMENT OF THE FORMER
BENNETT FREEZE AREA INTEGRATED RESOURCE MANAGEMENT PLAN

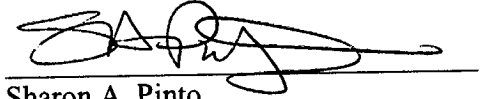
- c. **Plan Implementation.** Following completion of the IRMP document, the Navajo Nation and BIA will prepare and implement appropriate action plans (i.e. additional NEPA actions, conservation plans, annual work plans, etc.)

Approved:


Russell Begaye
President, Navajo Nation

Nov 21st, 2015
Date




Sharon A. Pinto
Regional Director, BIA Navajo Region

November 21, 2015
Date

**MEMORANDUM OF UNDERSTANDING BETWEEN THE NAVAJO NATION AND THE BUREAU OF
INDIAN AFFAIRS, NAVAJO REGIONAL OFFICE FOR DEVELOPMENT OF THE FORMER
BENNETT FREEZE AREA INTEGRATED RESOURCE MANAGEMENT PLAN**

**Supplemental A
To Memorandum Of Understanding
Navajo Nation Core and Interdisciplinary Teams**

This supplemental A identifies the Core and the Interdisciplinary Team members who will assist in the development of an Integrated Resource Management Plan (IRMP) for the Former Bennett Freeze Area of the Navajo Nation.

The Navajo Nation Core Team will serve as the main group to provide guidance and assure that all regulations are adhered to during the process of conducting the Environmental Assessment (EA) and throughout the completion of IRMP.

Core Team:

1. Bidtah Becker, Executive Director, Division of Natural Resources
2. Wenona Benally, Executive Director, Navajo-Hopi Land Commission Office
3. Dr. Donald Benn, Acting Executive Director, Navajo Nation EPA
4. W. Mike Halona, Department Manager III, Navajo Land Department
5. Chavez John, Acting Director, Division of Community Development
6. Darryl Bradley, Acting Director, Navajo Division of Transportation

The Interdisciplinary Team will provide technical assistance and input in their specialized field when requested upon during the EA process.

Interdisciplinary Team:

1. Gloria Tom, Director, Fish and Wildlife Department
2. Ora Marek-Martinez, Director, Historic Preservation Department
3. Leo Watchman, Director, Department of Agriculture
4. David Tallman, Civil Engineer, Technical Construction and Operations Branch,
Department of Water Resources
5. Caroline Harvey, GIS Analyst, Water Management Branch, Department of Water
Resources
6. Eddie Sam, Forester, Forestry Department
7. Tom Benally, Navajo-Hopi Land Commission Office

**MEMORANDUM OF UNDERSTANDING BETWEEN THE NAVAJO NATION AND THE BUREAU OF
INDIAN AFFAIRS, NAVAJO REGIONAL OFFICE FOR DEVELOPMENT OF THE FORMER
BENNETT FREEZE AREA INTEGRATED RESOURCE MANAGEMENT PLAN**

**Supplemental B
TO Memorandum Of Understanding
BIA Core and Interdisciplinary Teams**

This supplemental B identifies the Core and the Interdisciplinary Team members to assist the Navajo Nation on the development of an Integrated Resource Management Plan (IRMP) for the Former Bennett Freeze Area of the Navajo Nation. The development of the IRMP will be accomplished through an interdisciplinary team setting of both Navajo Nation and BIA personnel.

The BIA Core Team will serve as the main group to provide guidance and assure that all regulations are adhered to during the process of conducting Environmental Assessment (EA) and throughout the completion of IRMP.

Core Team:

1. Tony Robbins – Natural Resource Manager, Western Navajo Agency
2. Leonard Notah – Supervisory Natural Resource Specialist (Acting), Navajo Region
3. Derrith Watchman-Moore – Deputy Regional Director, Trust Services, Navajo Region
4. Sharon Pinto – Regional Director, Navajo Region

The Interdisciplinary Team will provide technical assistance and input in their specialized field when requested upon during the EA process.

Interdisciplinary Team:

1. Renee Benally – Natural Resource Specialist, Western Navajo Agency
2. Harrilene Yazzie – Supervisory Environmental Protection Specialist, Navajo Region
3. Casey Francisco – Rangeland Management Specialist, Western Navajo Agency
4. Bernadette Tsosie – Hydrologist, Navajo Region
5. Andy Cadenhead – Forester, Navajo Region
6. Dale Glenmore – Fire Management Officer, Fort Defiance Agency
7. Ryan Hunter – Real Estate, Navajo Region
8. Herby Larsen – Transportation, Navajo Region
9. Frances Price – Self Determination, Navajo Region
10. Karlene Zajicek – Housing Program Officer/Acting FOIA Coordinator, Navajo Region
11. Pearl Chamberlin – Engineering Services and Technical Support, Navajo Region

**MEMORANDUM OF UNDERSTANDING BETWEEN THE NAVAJO NATION AND THE BUREAU OF
INDIAN AFFAIRS, NAVAJO REGIONAL OFFICE FOR DEVELOPMENT OF THE FORMER
BENNETT FREEZE AREA INTEGRATED RESOURCE MANAGEMENT PLAN**

**Supplemental C
To Memorandum Of Understanding
Principal Authorized Agents**

For purposes of administering the terms and provisions of this agreement, the Navajo Nation's principal authorized agent shall be the Navajo Nation President or his duly authorized representative. The BIA, Navajo Region's principal authorized agent shall be the Regional Director, BIA Navajo Region, or her duly authorized representative.

**MEMORANDUM OF UNDERSTANDING BETWEEN THE NAVAJO NATION AND THE BUREAU OF
INDIAN AFFAIRS, NAVAJO REGIONAL OFFICE FOR DEVELOPMENT OF THE FORMER
BENNETT FREEZE AREA INTEGRATED RESOURCE MANAGEMENT PLAN**

**Supplemental D
TO Memorandum Of Understanding
IRMP Development Schedule**

Development of an IRMP

Date	Activities and Deliverables	Lead
November 2014	Task 1: Review and familiarize with the existing data. Use existing work in development of the IRMP and the Former Bennett Freeze Area Recovery Plan.	EMI (Consultant)
November 2014	Task 2: Based on review of existing data, determine what other information is needed to complete the IRMP, resulting in Resource Analysis.	EMI
November 2014	Task 3: Develop work plan and schedule.	EMI, Core Team
November 2014	Task 4: Meet with the Core Group.	EMI, Core Team, BIA, Navajo Nation
March 31, 2014	Task 5: Facilitate the development of the MOU between BIA and Navajo Nation.	EMI, BIA, Navajo Nation
To be determined	Task 6: Facilitate the identification of key players.	EMI, BIA, Navajo Nation
Ongoing	Task 7: Gather data. Current and proposed development plans for the FBFA from Navajo Nation Programs and enterprises such as the Navajo Tribal Utility Authority, other Bureau of Indian Affairs Programs, such as transportation, and other Federal and local agencies such as: Indian Health Services; Department of Agriculture Natural Resources Conservation Services, etc. (BIA)	EMI
Ongoing	Task 8: Facilitate and Provide Technical Assistance in Development of the IRMP. <ul style="list-style-type: none"> • Project Management • Meetings • Technical Assistance 	EMI
11/15/2015	Task 9: Develop alternatives for each resource with Core Team.	EMI, Core Team
May 2014: Allow 4 weeks for BIA and Navajo Nation to comment.	**Task 10: Develop a 30-Percent Draft for Review.	EMI
12/7/2015	Task 11: Preferred Alternative Selection with Core Team and input from Scoping Meetings.	EMI, Core Team
3/15/2016: Allow 3 weeks for BIA and Navajo Nation to comment.	**Task 12: Provide 60-Percent Draft for Comment and Review Period.	EMI
4/15/2016: Allow 3 weeks for	Task 13: Revise and update IRMP.	EMI

**MEMORANDUM OF UNDERSTANDING BETWEEN THE NAVAJO NATION AND THE BUREAU OF
INDIAN AFFAIRS, NAVAJO REGIONAL OFFICE FOR DEVELOPMENT OF THE FORMER
BENNETT FREEZE AREA INTEGRATED RESOURCE MANAGEMENT PLAN**

revisions to IRMP.		
5/15/2016	Task 14: Public comment period with draft available on website.	EMI
6/15/2016	**Task 15: Provide 90-Percent Draft.	EMI
7/15/2016	Task 16: Finalize complete IRMP.	EMI
8/15/2016	Task 18: Obtain Navajo Nation and BIA Approval.	EMI
9/15/2016	Task 19: Publish and distribute IRMP.	EMI

****Milestones**

Additional Consensus Building/Collaboration Tasks to be determined with Core Team

TBD	Scoping Meetings	Navajo Nation, BIA, EMI
TBD	Draft IRMP Comment - Community Meetings	Navajo Nation, BIA, EMI
TBD	Cooperating Agency Agreements and Tribal Consultation	Navajo Nation, BIA, EMI

The schedule can be changed only with the consensus of the Core Team.

**MEMORANDUM OF UNDERSTANDING BETWEEN THE NAVAJO NATION AND THE BUREAU OF
INDIAN AFFAIRS, NAVAJO REGIONAL OFFICE FOR DEVELOPMENT OF THE FORMER
BENNETT FREEZE AREA INTEGRATED RESOURCE MANAGEMENT PLAN**

- b. Air Quality
- c. Cultural Resources - archeology, sacred, traditional, native cultural or medicinal species
- d. Fisheries
- e. Forest Resources
- f. Livestock - domestic and feral
- g. Minerals - oil & gas, methane, coal, gravel, scoria
- h. Noxious weeds and other invasive species
- i. Rangelands
- j. Realty -, landstatus, ownership, leases, permits, ROWs
- k. Recreation
- l. Riparian and Wetlands
- m. Roads - highways, and unpaved roads, farm, logging
- n. Socioeconomics
- o. Soils
- p. Vegetation
- q. Viewsheds
- r. Water Resources - surface, ground, irrigation, industrial, municipal, quality of water
- s. Wildlife - game and non-game species
- t. Woodlands
- u. Threatened and endangered species

VI. Organization.

Project team lead within the Core Team for Navajo Nation will be designated by the Navajo Nation President (Navajo Nation representative); and the BIA representative is the BIA Supervisory Natural Resource Specialist.

The final decision will be made in accordance with both parties in agreement with the current approval process within each party's approval process. The Core Team members designated from both parties will be the decision-makers in the development of the IRMP.

VII. Development Schedule. See Supplemental D.

The schedule cannot be changed without the consensus of the Core Team.

VIII. Administrative Provisions

- a. **Non-Fund Obligation.** Nothing in this MOU may be construed to obligate the Department of Interior or the United States to any current or future expenditure of resources in advance of the availability of appropriations from Congress.
- b. **Funding.** All salary, travel, training, and other costs associated with the IRMP development will be paid by individual organizations as applicable. This includes expenses for team members and those for any other participants. However, the Navajo Nation may request for IRMP funding through appropriate procedures and processes for funding through a Public Law 93-638 arrangement to cover some expenses. The BIA currently has funding for the work to develop the IRMP. Any additional funding beyond what has been authorized depends on available appropriations, and in accordance with Appropriation Law.