



NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

ETHEL B. BRANCH
ATTORNEY GENERAL

CHERIE ESPINOSA
ACTING DEPUTY ATTORNEY GENERAL

NAVAJO NATION OFFICE OF THE ATTORNEY GENERAL

Ethel B. Branch, Attorney General
Telephone #: (928) 871-6345
Email: ebranch@nndoj.org

FY 2018 First Quarter Report
(October, November, December 2017)

TABLE OF CONTENTS

	<u>Page No.</u>
I. EXECUTIVE SUMMARY	2
II. CRITICAL ISSUES	3
III. PROJECT STATUS	3
IV. BUDGET STATUS	15
V. OPERATIONAL & PROCESS IMPROVEMENT INITIATIVE STATUS	15

I. EXECUTIVE SUMMARY

The Department of Justice (“DOJ”) consists of the Office of the Attorney General (“OAG”) which oversees the following: 1) Litigation & Employment Unit; 2) Human Services & Government Unit; 3) Natural Resources Unit; 4) Economic/Community Development Unit; 5) Tax & Finance Unit; and 6) Water Rights Unit. The Office of the Attorney General also oversees the Navajo-Hopi Legal Services Program and the Office of the Prosecutor/Juvenile Justice.

On February 5, 1982, the former Navajo Tribal Legal Office became the Department of Justice. In celebrating our 35th anniversary, DOJ participated in the Navajo Nation Fair events and Parade. In addition on December 13, 2017, DOJ hosted a small event with three former AGs and Deputy AGs as guest speakers. We also awarded Certificates of Appreciation to all of our staff for their invaluable dedication and service.

DOJ participated in an Angel Tree project with the Navajo Area Agency on Aging. Donations from DOJ staff were used to purchase blankets, goodie bags, and other gifts. As of December 15th, DOJ raised \$1,165.00, which exceeded our goal. On December 19th, DOJ representatives, including the Attorney General, delivered the gifts to the Navajo Mountain Senior Citizens Center.

DOJ has been extremely busy with several lawsuits this quarter. A few will be mentioned in this Executive Summary but more public information is available in the Projects section of this Report. As always, DOJ recommends a private briefing for additional information.

First, in *Window Rock Unified School District, et al. v. Reeves, et al.*, DOJ filed its brief in opposition to the petition for *Writ of Certiorari* filed by the School Board to the U.S. Supreme Court (“SCOTUS”). The School Board filed a Reply and now the matter is fully briefed. We will now await a decision on whether SCOTUS will grant or deny the petition.

Second, in *Navajo Nation v. Department of the Interior*, a water rights case we filed in 2003 challenging decisions by the Secretary of the Interior in managing the Colorado River, the Ninth Circuit reversed the dismissal of the Nation’s breach of trust claims finding that the Administrative Procedures Act waives the immunity of the U.S. for all claims not seeking money damages, not just APA claims. This decision clarified the scope of the APA waiver in the Ninth Circuit. The Nation's breach of trust claim is remanded to the district court for further consideration. The Nation’s NEPA claims were dismissed for lack of Article III standing.

Third, on December 4, the Navajo Nation joined four other Tribes in filing suit against President Trump and other Defendants for attempting to revoke and replace the Bears Ears National Monument with two smaller monuments. The lawsuit was filed in the U.S. District Court for the District of Columbia.

Fourth, on December 12, we filed suit against Wells Fargo for its unfair sales practices with respect to our tribal members in the U.S. District Court for the District of New Mexico. Several

**Navajo Nation Office of Attorney General
FY 2018 First Quarter Report**

January 16, 2018

Page 3

meetings were held this quarter to coordinate this filing.

Fifth, on December 21, the Federal District Court of Utah issued a Memorandum Decision and Order adopting new boundary maps for the County Commission Districts and School Board Districts of San Juan County, Utah. This will remedy the racially gerrymandered County Commission Districts and the Voting Rights Act and Equal Protection violations that the court ruled on previously. The Order mandates a special election in November 2018 to implement the new maps.

In November, three of our attorneys who passed the Navajo Nation Bar were sworn in. Adjua Adjei-Danso is an Attorney in the Economic/Community Development Unit. Petra Rogers is a Principal Attorney in the Tax & Finance Unit. Nichole Alex is an Attorney in the Natural Resources Unit.

We hired three attorneys this quarter. Robert Medina was hired as a Principal Attorney in the Natural Resources Unit. Robert Silva started in October with the Human Services & Government Unit. Louis Mallette, our latest addition, joined the Litigation Unit. Currently, DOJ has two Attorney and two Legal Secretary vacancies.

Two attorneys retired this quarter. In October, Water Rights Attorney Stanley Pollack ended his remarkable three-decade legacy with DOJ. However, he will continue to assist our Nation as contract counsel with primary focus on the Utah Water Settlement. In December, Attorney Regina Holyan also retired, but will also remain on contract to ease the transition as we recruit to fill the position she held for 14 years. We wish Stanley and Regina all the best, and are thankful for their dedication to the Nation in providing invaluable legal services.

On January 8, 2018 current Deputy Attorney General Rodgerick Begay will become the new Assistant Attorney General for the Water Rights Unit and Cherie Espinosa will begin serving as *Acting* Deputy Attorney General.

II. CRITICAL ISSUES

A. Building needs for the Office of the Prosecutor

During the first quarter, the Office of the Prosecutor (“OCP”) made two hires. Currently, that office has only 2 vacancies. As a result, building needs continue to be a critical matter for OCP. In Dilkon, Prosecutorial staff work within a closet-sized area of the DPS building. In Crownpoint, OCP faces a safety-related building inadequacy.

B. DOJ Budget

DOJ’s FY18 budget consists almost entirely of personnel costs. Even then, only the positions that were filled as of August 2017 were fully funded for FY18. The vacant positions were budgeted for only six months but we have been successful in filling three

of those positions this quarter. It's still too early to tell if we will need supplemental appropriation but we will continue to monitor this closely.

III. PROJECT(S) STATUS

In the first quarter, DOJ received 716 Requests for Legal Services and completed 560. These requests do not include other work such as time spent in meetings, court appearances, time spent preparing for litigation, phone calls, and responding to work/client email.

The projects mentioned below are notable projects which do not reflect all projects that DOJ is currently working on. Since all projects have legal and confidential elements, this report provides as much information as possible. For any additional information on any project, DOJ asks that you request a private briefing.

A. Office of the Attorney General (OAG)

OAG (and DOJ) is led by Attorney General Ethel B. Branch. OAG also consists of Deputy Attorney Rodgerick Begay, two Legal Secretaries, and three Support Staff. OAG oversees the six DOJ units, the Navajo-Hopi Legal Services Program, and the Offices of the Prosecutor and Juvenile Justice. In this quarter, notable projects include:

1. Title 17 Amendment Work Group. The White Collar Crime Amendments developed by OAG and OCP in collaboration with Judicial Branch and other criminal justice and public safety-related offices were approved by Council in the Fall Session of 2017, and the work group's Violent Crime, Weapons, and Sex Crimes amendments are almost final. This work group meets monthly in two-day drafting sessions.
2. Navajo Nation Public Corruption Task Force. OAG leads monthly meetings with ECDU, HSGU, LU, OCP, Office of the Auditor General, Office of General Services, Office of the Controller, and the Ethics and Rules Office designed to strategize against public corruption and coordinate on-going investigations.
3. Weekly and Monthly Meetings. OAG conducts weekly meetings with the Assistant Attorney Generals, Chief Prosecutor, and NHLSP on the progress made during the week. OAG also instituted monthly management meetings to address changes to internal policies for DOJ.
4. Diné Action Plan. The AG and Deputy AG have been participating in the workgroup to develop the Diné Action Plan and the Policies for the proposed Navajo Nation Diné Action Plan Committee.
5. CLE Speaker Presentations. In October, Deputy AG did a presentation on the Fundamental Law statute in Title 2, which earned continuing legal education credits for the Navajo Nation Bar. In October, AG Branch participated as a

speaker at the Tribal Water Law Conference to present on the Gold King Mine Spill. In December, Deputy AG did a presentation on the Gold King Mine to New Mexico State Bar members.

6. Step Increase / Bonus Review Committee (SIBRC). Initially, DPM considered and approved all requests for step increases, merit pay bonuses, and other bonuses. In early 2017, the Health, Education and Human Services Committee passed resolution HEHSCJA-02-17 replacing DPM with the SIBRC. The DAG was appointed as the DOJ representative. Numerous meetings have been held. Notwithstanding the progress made by the SIBRC progress, Legislation 0263-17 was introduced indicating that if the SIBRC does not consider a request within thirty (30) days, the bonus request will be automatically approved. SIBRC also finished the first draft for the “other bonus” policy which is anticipated to be presented before HEHSC for consideration and approval in the next quarter.
8. Informational Technology (IT). DOJ recently received new laptops for Attorney staff and our Senior Programmer Specialist (SPS) is preparing them for distribution. The SPS is a member of IT Specialists involved in the IT Strategic Planning for the Navajo Nation. He is also an on-going member of the Navajo Cyber Team.

B. Litigation Unit (LU)

LU is led by Assistant Attorney General Paul Spruhan who manages three Attorneys, one Tribal Court Advocate, and one Legal Secretary. LU handles internal and external litigation by representing the Navajo Nation government in hearings before the Navajo Labor Commission, Navajo District Courts, Navajo Supreme Court, and the State/Federal Courts. LU also provides presentations to governmental clients on many subjects including the disciplinary action process. With the amount of court filings LU does, the Unit is in need of another Legal Secretary position. In November, LU welcomed new Attorney Louis Mallette to the team. LU still has one attorney vacancy. This quarter’s notable projects include:

1. Last quarter LU secured a victory in *Window Rock Unified School District, et. al. v. Reeves, et.al*. This quarter, the opposing parties filed petitions for writ of certiorari from the Supreme Court, requesting review of the case. The Nation filed its brief in opposition to certiorari, and a reply by opposing counsel has been filed. We now await a decision from SCOTUS.
2. Last quarter LU also secured a victory in *Public Service Company of NM v. Barboan and Approximately 15.49 Acres of Land*. The opposing party also filed a petition for writ of certiorari from the Supreme Court, but USDOJ filed for (and received) an extension to file a brief in opposition to the petition. We anticipate filing our brief in opposition early in the next quarter.

**Navajo Nation Office of Attorney General
FY 2018 First Quarter Report**

January 16, 2018

Page 6

3. *Hopi Tribe, et al., v. Trump, et al.* President Trump signed a proclamation on December 4, 2017 in an attempt to revoke and replace the Bears Ears National Monument. That same day, the Navajo Nation, along with four other Tribes, filed suit against the President for this unlawful action. The AG, LU, HSGU, and the Native American Rights Fund worked collaboratively on the complaint.
4. *Carter v. Washburn*: The Goldwater Institute filed an appeal to the Ninth Circuit Court of Appeals. LU filed a Response Brief this quarter. The Institute's Reply Brief will be due the next quarter.
5. *Navajo Nation v. San Juan County*. The Federal District Court of Utah adopted new boundary maps for the County Commission Districts and School Board Districts of San Juan County, Utah to remedy the racially gerrymandered County Commission Districts and Voting Rights Act and Equal Protection violations. A special election will occur in November 2018 to implement the new boundaries. This good work was conducted through outside counsel Steve Boos in coordination with LU and the Navajo Nation Human Rights Commission.
6. LU continues to provide trainings on employment grievances to Nation programs. LU also represents personnel actions pending before the Office of Hearings & Appeals, Navajo Nation Labor Commission, Navajo District Court, and the Navajo Supreme Court. Several hearings and pleadings were managed by LU this quarter.

C. Human Services and Government Unit (HSGU)

HSGU is led by Assistant Attorney General Kandis Martine who manages six Attorneys, two Tribal Court Advocates, and three Legal Secretaries. HSGU is our largest Unit because they assist 8 Divisions/Departments consisting of over 65 programs. The retirement of Regina Holyan will create an attorney vacancy in the next quarter. In this quarter, notable projects include:

1. Revisions to the Intergovernmental Agreements (IGA) with New Mexico, Utah, and Arizona regarding ICWA matters. The goal of the revisions are to have the IGAs consistent with the BIA Regulations. The Arizona IGA is nearly complete. HSGU is continuing to meet with NM and UT with a goal to complete those revisions by the end of next quarter.
2. Texas v. Zinke. This is a new federal case challenging ICWA which has developed this quarter. This case arises from a state case where the state court granted a change of placement for a child to a Navajo family in NM. The lower case has been resolved but the federal case will continue to develop. HSGU will continue to monitor this case.
3. Consent Decree. HSGU devoted substantial time to complete four pleadings relating to the Consent Decree (Motion to Modify Consent Decree, Memorandum

Navajo Nation Office of Attorney General
FY 2018 First Quarter Report

January 16, 2018

Page 7

in Support of Motion, Motion Requesting Direction, and a draft Court Order). HSGU worked closely with DOC in preparing the main motion and its exhibits. The pleadings will be filed in the WR District Court on or before December 20, 2017.

4. Comprehensive IT Policies. HSGU is assisting the Department of Informational Technology's goal to develop a DIT Information Technology Governance Law, DIT Plan of Operation, and nineteen (19) DIT user policies.
5. Navajo Nation Telecommunication Siting Regulation and Leasing Procedures. HSGU has been participating in a workgroup to amend the Regulations and the Procedures. The Regulations were published in June 2017 to obtain public and industry comments. The proposed Regulations were presented to the Resources and Development Committee and the Committee wants the Regulations published one more time.
6. Department of Family Services (DFS). HSGU attended work sessions regarding revisions to the DFS manual and court forms. The final draft has been submitted for review which may take some time because it is a long document.
7. Indian Child Welfare Act (ICWA). HSGU assists the Navajo Children and Family Services and contract counsel with five pending ICWA actions pending in State and Navajo Courts.
8. Navajo Head Start Task Force. At the end of the fourth quarter, the Navajo Nation received notice that grant funding would be reduced by approximately \$7.4 million. HSGU participates on the Task Force to address the grant funding reduction.
9. Veterans. HSGU assisted the Veteran's Administration, Veterans Advisory Council, and OPVP in developing a Housing Plan as well as developing amendments to the Housing Program policies and procedures. HSGU also assisted in drafting a legislative fix to two legislations that affect the Veterans Trust Fund.
10. 638 Contract Programs. HSGU assists the Office of Management and Budget (OMB) and the 638 funded programs with responses to the Bureau of Indian Affairs (BIA) regarding the Nation's contract renewal and Successor Annual Funding Agreement proposals for CY2018. HSGU also assisted with 638 contracts involving the Indian Health Service. DOJ received notice that the proceeds of the settlement regarding IHS 638 contract support costs were received in early December.
11. Department of Corrections Background Check Policies and Procedures. HSGU worked closely with DOC to finalize these policies which were reviewed and approved by LOC in November and by HEHSC in December.

12. Navajo Nation Insurance. HSGU continues to provide advice and assistance to the Navajo Nation Insurance Services department in all pending and potential insurance liability claims/cases involving the Navajo Nation and its covered entities, agents, and/or employees, as well as other insurance matters coming from the Navajo Nation Workers' Compensation Program and Group Benefits Office, along with the Navajo Nation Insurance Commission. Covered entities include Chapters and Enterprises.
13. Child Support Enforcement Cases. There's still a vacancy for the attorney position dedicated to Child Support Services. As a result, HSGU continues to attend and review all cases in all five agencies which consistently number 300 cases each quarter. The work includes travel to prepare witnesses for hearings.

D. Natural Resources Unit (NRU)

NRU is led by Assistant Attorney General Veronica Blackhat who manages six Attorneys, one Tribal Court Advocate, and two Legal Secretaries. Primarily, NRU provides legal assistance to the Division of Natural Resources. However, NRU is also involved in many other matters affecting our natural resources and our environment. NRU hired one attorney this quarter and has 1 attorney vacancy and 1 legal secretary vacancy. In this quarter, notable projects include:

1. Business Site Leases within Tribally Designated Parks. NPRD has authority to review and approve developments within tribal parks to ensure it does not adversely impact the natural, cultural, recreational, and scientific resources or park values. Leases were being approved without consulting with NPRD. Initially, an MOU was proposed between the Division of Economic Development and NPRD. However, the approach changed to having NPRD updating their General Management Plan.
2. Uranium. With the assistance of OPVP, NRU scheduled and conducted the first Uranium Commission meeting on November 22, 2017. Along with outside counsel Jill Grant, NRU is working on implementation of the Phase 2 settlement with the United States. A contractor has been retained to begin work on performing Removal Site Evaluations (RSEs) at thirty uranium mine sites around the Navajo Nation. The Phase 1 Trust is scheduled to complete its work preparing RSEs at sixteen mine sites in 2018.
3. Navajo Division of Transportation. NRU reviews contracts and agreements regarding parking lot projects and other road maintenance activities where NDOT is contracting on its own or partnering with neighboring State entities. NRU also reviewed various agreements, including grant agreements, with the Federal Highway Administration, Federal Aviation Administration, the Arizona Department of Transportation, and the New Mexico Department of Transportation. NRU is continuing to review efforts to develop Navajo-specific contracts for the Nation.

4. NHA Land Process Task Force. NRU participates in a Task Force created to address delays in the homesite leasing process. This is separate from the ongoing effort to amend the Homesite Leasing Regulations.
5. Navajo Partitioned Lands. NRU continues to assist with the various issues arising from the NPL area. Most recently, NRU has been assisting the Division of Agriculture in meetings with the BIA, District Grazing Committees, and area Chapters to help mediate in the proposed range unit boundary disputes.
6. Navajo Generating Station. NRU continues to dedicate a substantial amount of time addressing the many primary and ancillary issues surrounding NGS. Namely, NRU:
 - a. Assisted with the comments to the public draft of the environmental assessment issued by the BIA and BOR.
 - b. Assisted in numerous preliminary activities leading up to the execution of the NGS Extension Lease by the DOI.
 - c. With assistance of outside counsel, negotiated and drafted the transmission agreement (re: the 500 megawatts of transmission on the NGS transmission systems granted to the Nation per the NGS Extension Lease) which was executed on December 13, 2017.
 - d. Is reviewing the NGS Right of Way agreements.
 - e. Is assisting with the identification of “Qualified Purchasers” who could be potential new owners for NGS.

E. Economic/Community Development Unit (ECDU)

ECDU is led by Assistant Attorney General Latonia B. Johnson who manages five Attorneys and two Legal Secretaries. ECDU’s primary clients are the Division of Economic Development, Division of Community Development, and the 110 Chapter governments. However, ECDU is also involved in other matters such as gaming. ECDU currently has one attorney vacancy. In this quarter, notable projects include:

1. New Mexico Capital Outlay. ECDU participates in reconciliation meetings (internal and external) regarding funding by the State of New Mexico and Capital Outlay Projects.
2. Public Corruption Task Force. ECDU participates in meetings to address the mismanagement of Navajo Nation property (funds and property) that are alleged to be committed by Nation employees and officials.
3. Business Site Leases. ECDU assists the Division of Economic Development in various matters arising from business site leases. Such matters include providing guidance and support in terminating leases in default, evicting holdover tenants, and negotiating settlement agreements as appropriate.

**Navajo Nation Office of Attorney General
FY 2018 First Quarter Report**

January 16, 2018

Page 10

4. Arizona Gaming Compact. ECDU serves as the DOJ's representative in the negotiations of the Arizona Gaming Compact. In this quarter, meetings have focused on Arizona's proposals.
5. Internal DOJ Training. ECDU provided an internal training on the use of the new laptops which have new updated operating systems and software. This training will be extended to the entire DOJ in the next quarter.
6. Business Industrial Development Fund Administrative Management Plan. ECDU reviewed the plan which was a DED priority.
7. Proposed Amendments to the Plan of Operation for the Division of Community Development. ECDU assisted DCD with amendments which are expected to be presented to the Resources Development Committee by February 2018.
8. Ramah Navajo Chapter. Many DOJ Units, including ECDU, contributed significant time to an issue arising from Ramah Navajo Chapter. Details can be provided in a private setting.
9. NHA Reform Taskforce. ECDU has participated in all meetings of the taskforce.

F. Tax and Finance Unit (TFU)

TFU is led by Assistant Attorney General Jana Werner who manages two Attorneys and one Legal Secretary. TFU provides legal assistance to the Navajo Tax Commission, Office of the Controller, Office of Management & Budget, Retirement Services Department, and the Investment Committee. TFU also attends the Budget & Finance Committee meetings on a regular basis. In this quarter, notable projects include:

1. Navajo Nation v. Wells Fargo and Company and Wells Fargo Bank, N.A. On November 12, 2017, the Nation sued Wells Fargo for engaging in predatory and unlawful practices which targeted and harmed the Navajo People. TFU will continue to work with the Attorney General and outside counsel in moving this case forward.
2. Angel Tree for Elders. TFU led several DOJ Units in partnering with the Navajo Area Agency on Aging for this project. Donations from DOJ staff were used to purchase blankets, goodie bags, and other gifts. As of December 15th, DOJ raised \$1,165.00 which exceeded our goal. On December 19th, DOJ representatives, including the Attorney General, delivered the gifts to the Navajo Mountain Senior Citizens Center.
3. Indirect Cost. TFU and HSGU has been meeting with OMB staff regarding IDC matters such as the FY18 IDC rate proposal, alternative timekeeping systems, 10% rate base reduction, and the exclusion of subcontracted services from the rate base.

4. Sihasin Fund Twin Arrows Travel Center Loan Agreement for the Navajo Nation Gaming Enterprise. TFU assisted in the negotiation and drafting of the loan agreement and the Construction and Education Plan. On December 5, 2017, the BFC passed legislation 0462-17 to approve the agreement. Next, the agreement will go through the 164 review process for the President's signature.
5. Investment Committee meetings. TFU attended three regular and special meetings of the Investment Committee. TFU is also working with the AG and Controller on the NNOGC term sheet for a proposed direct investment.
6. Navajo Bank Initiative. TFU has been participating in the Nation's efforts to purchase a bank.

G. Water Rights Unit (WRU)

In the first quarter, WRU was led by *Acting* Assistant Attorney General Kate Hoover after the retirement of Stanley Pollack. As reported, Rodgerick Begay will start as AAG for WRU in January 2018. Mr. Begay will supervise three Attorneys and two Legal Secretaries in WRU. WRU represents the Navajo Nation's interests in state and federal courts, including five general stream adjudications. In this quarter, notable projects include:

1. San Juan River Basin. WRU is engaged in asserting and protecting the Nation's water rights claims in the basin-wide San Juan River Basin Adjudication (*New Mexico v. United States*, New Mexico Dist. Ct., 11th Judicial District, No. 74-184, filed in 1974) and the four appeals of the Navajo *Inter Se* proceeding (Subfile AB-07-01), in which the state District Court approved the settlement of the Nation's claims in the basin. The Unit also provides legal advice regarding the implementation of the Navajo settlement and to the NIIP (Navajo Indian Irrigation Project) Task Force, and participates in the San Juan River Recovery Implementation Program, and the Animas-La Plata Project (ALP) Operation and Maintenance Association. In this quarter, WRU participated in several meetings on several matters arising from the Navajo-Gallup Water Supply Project.
2. Zuni River Basin. WRU attorneys are counsel of record in the Zuni River Basin Adjudication, *United States v. State of New Mexico, et al.* CIV 6:01-0072-MV-WPL, U.S. District Court, D. New Mexico (filed in 1999). The claims of the Nation (Case 12-cv-1298 MV/WPL) and the Zuni Tribe (Case 07-cv-00681-MV-WPL) are proceeding on separate tracks. Settlement negotiations between the two tribes, the United States and the State are focused primarily on reaching consensus on a hydrologic model for the basin that could be used both to evaluate impacts of development of the tribes' claims and as a tool to administer a future decree. On December 1st, WRU filed the Zuni River Basin Status Report in the Navajo proceeding. WRU also joined in the status report for the Zuni proceeding on December 20th. Development of the hydrologic model is nearing completion

Navajo Nation Office of Attorney General
FY 2018 First Quarter Report

January 16, 2018

Page 12

and WRU anticipates that a fully calibrated model capable of running water use scenarios to determine potential impairment to the tribes during the next quarter.

3. Little Colorado River Basin (AZ). WRU attorneys are counsel of record with the firm of Sacks Tierney (“ST”) in the LCR Adjudication (filed in 1979), which will determine the rights of the Navajo Nation. *In re the General Adjudication to Use Water from the Little Colorado River System and Source*, Civil Case No. 6417, Superior Court for Apache County. The McElroy law firm (“MMWC”), while also still of record, is transitioning out of its role as litigation lead. WRU attorneys also participate in Arizona Southwest Navajo Technical Advisory Group (TAG) meetings addressing on-going water development efforts.
 - a. *In Re Hopi Priority*. On October 18th, WRU participated in oral argument on motions filed by Hopi and SRP. The Special Master ordered ADWR to file a report by December 22nd and all parties must file comments by January 10, 2018. Oral argument will be held on January 18, 2018 on the issues.
 - b. Hopi Claims. The Hopi claims are set for trial in September 2018. WRU has been working with outside counsel and experts in preparation for discovery and trial. Conference calls with outside counsel are held on a weekly basis.
 - c. Navajo claims. WRU continues to work on the development of the Nation’s claims. WRU meets with WMB and consultants on a monthly basis. Information on the priority of Navajo water uses are expected to be filed with the Court on January 12, 2018.
4. Colorado River Basin (AZ): WRU attorneys are counsel of record with the McElroy law firm in *Navajo Nation v. Department of the Interior*, Ninth Circuit Court of Appeals, CIV 14-16864, an appeal of the District Court action filed in 2003 challenging the Secretary’s decisions concerning the management of the Lower Colorado River for failure to comply with NEPA and his fiduciary duties to the Nation. The dismissal of the Nation’s breach of trust claim was reversed by order of the Court on December 5, and will be remanded for further determination by the District Court. WRU attorneys will monitor developments on the Colorado River, including participating in the Ten Tribes Partnership and the Western Navajo Pipeline TAG, in efforts to identify additional opportunities to advance the Nation’s water rights claims.
5. San Juan River Basin (UT). WRU participates in monthly teleconferences with representatives of the Federal Negotiation Team and the State of Utah to discuss matters necessary to achieve Administration and Congressional support for NUWRSA. Stanley Pollack accompanied the Navajo delegation to a meeting with BOR Acting Commissioner Alan Mikkelson on October 23. Mr. Pollack also visited Congressman Bishop (R-UT), Senator Merkley (D-OR), and Senator Gardner (R-CO) to discuss the NUWRSA on October 24. WRU and outside

counsel drafted testimony for the Nation to present at the first Congressional hearing on NUWRSA held by the Senate Committee on Indian Affairs on December 6th.

H. Navajo-Hopi Legal Services Program (NHLSP)

NHLSP is led by Principal Attorney Susan Eastman who manages one Attorney and one Legal Secretary. NHLSP is located in Tuba City, Arizona and is charged with representing relocatee applicants before the Office of Navajo-Hopi Indian Relocation (ONHIR).

This quarter, NHLSP in-house counsel represented one applicant in one administrative appeal hearing before Hearing Officer Harold J. Merkow at ONHIR in Flagstaff on October 6, 2017 – the last hearing for an applicant represented by NHLSP counsel. The NHLSP and outside counsel also submitted seven (7) post-hearing briefs to the Hearing Officer and ONHIR this quarter for hearings held in September and on October 6th.

On November 21, 2017, NHLSP received a positive decision from Hearing Officer Merkow certifying a client as eligible for relocation benefits. According to ONHIR's own statistics, there were 25 active appeals remaining as of December 2, 2017, and ONHIR planned to conclude administrative appeal hearings as of December 15, 2017.

NHLSP in-house and outside counsel have continued to file appeals of ONHIR's administrative denials in the Federal District Court of Arizona. Currently, there are sixteen cases pending before the Federal District Court of Arizona and one pending before the Ninth Circuit Court of Appeals. One additional federal complaint is expected to be filed before the end of the first quarter.

The NHLSP continues to participate in the Navajo Nation ONHIR Transition Team meetings. The closure of ONHIR remains unclear. The next meeting is scheduled for January 16, 2018.

I. Office of the Prosecutor and Juvenile Justice

The Office of the Prosecutor manages and oversees the prosecution of Adult Criminal cases and Delinquency and CHINS cases for twelve Judicial Districts across the Navajo Nation. This includes working with other law enforcement agencies, Family Services, federal agencies, and such to ensure the successful investigation and prosecution of alleged violations of the Navajo Nation criminal law. In this quarter, the Office filed 2,736 criminal cases and 128 juvenile cases.

The OCP requested and was granted two additional tribal vehicles for use in Crownpoint and Chinle. Currently, Chinle District also covers Dził Yijiin and Crownpoint District will soon be covering Pueblo Pintado. The newly hired Senior Network Specialist, Kyle King, started in October, 2017. Mr. King is attending Cyber Team Meetings and NNIJISP Meetings regularly. New laptop workstations were ordered for the legal staff.

Navajo Nation Office of Attorney General
FY 2018 First Quarter Report

January 16, 2018

Page 14

Mr. King is now in the process of installing the laptops and workstations in each of the Prosecutor districts.

The Chief Prosecutor started two new initiatives to evaluate and create a baseline for improvement of the Office's case management software, JustWare. The first initiative involved establishing a weekly reporting system for the district. This began in October. JustWare does not give an accurate count of the number of police reports coming into each district. The weekly reports require the district offices to report how many reports (Criminal and DFS) and how many walk-ins they received. The districts are also asked how many JustWare cases they uploaded during the week. The purpose of the weekly reports is to get a clear idea which district are receiving the most number of reports and which districts are keeping up with or falling behind in uploading cases into JustWare. The second initiative was a JustWare audit to analyze whether the districts are accurately inputting information into JustWare. The audit revealed a wide-range of accuracy amongst the districts, with only one District getting through with no errors detected. Most of the other districts had a number of errors. The districts with errors were required to prepare a memo describing how they would address the audit results to improve use of JustWare. The districts were told to use the audit results as a baseline upon which to improve. Afterward, the Chief Prosecutor provided a training to the district supervisors on how to run the JustWare audit report so they are can conduct district audits.

The OCP organized a staff meeting from November 30th to December 1st during which training was offered on the following subjects: JustWare, Admin "How To" Overview, Victim's Rights, TeamViewer Overview, Refresher on Microsoft Products, Evidence – Chain of Custody, Evidence – DWI Cases, Neurobiology of Trauma, and Privacy & Confidentiality in the Office. We also had a supervisor meeting and a Prosecutor/JPO meeting during the staff meeting. On-Call cell phones were passed out to the supervisors (every district now has an on-call prosecutor available to law enforcement and DFS). Staff recognition also took place during the staff meeting.

The Chief Prosecutor and Deputy Chief Prosecutor regularly participate in ongoing meetings on subjects impacting the work of the Office of the Prosecutor including: the Title 17 Amendment Sessions. In the last quarter the Office of the Prosecutor has participated in revisions regarding the Rules of Criminal Procedure, Bail, Exclusion/Banishment, and Firearms Offenses. The first set of amendments to Title 17 (White Collar Crime Amendments) were signed into law this quarter. The Chief Prosecutor has drafted a letter to the Judicial Branch requesting they establish a Uniform Bail Schedule. The letter should be delivered to Judicial by the end of December. The Chief Prosecutor drafted a petition to the Supreme Court to consider the proposed amendments to the Rules of Criminal Procedure. The Chief Prosecutor and White Collar Crime Unit regularly participate in the Public Corruption Task Force meetings comprised of various executive and legislative offices having a role in combating public corruption. The Chief and Deputy Chief Prosecutors are continuing to meet with law enforcement leadership to discuss sexual assault reporting in the Ft. Defiance District with Dr. Renee Ornelas. The Chief Prosecutor provided a training on Criminal Law for the ASU Law CLE in October.

**Navajo Nation Office of Attorney General
FY 2018 First Quarter Report**

January 16, 2018

Page 15

The Office of the Chief Prosecutor fully participated in the Tribal Access Program rollout. During the quarter, the Office of the Prosecutor completed an information exchange agreement with Office of Background Investigation (OBI) to create a partnership whereby OBI will complete background checks for the Office of the Prosecutor utilizing the Prosecutor ORI and avoiding background check fees for Prosecutor applicants. The TAP rollout took place the week of November 13th. The Office of the Prosecutor had several staff members in attendance.

IV. BUDGET STATUS

Quarter Budget Information

Funding Source General Funds etc	Number of Personnel #	FY 2018 Personnel \$ amt	% Used	FY 2018 Operating \$ amt	% Used
OAG	46	\$4,189,203.00	18.47%	\$124,431.00	21.60%
Prosecutor	23	\$1,750,629.00	14.70%	\$155,022.00	19.82%
Juvenile Justice	10	\$627,112.00	11.83%	\$272,569.00	11.42%
NHLSP	3	\$276,965.00	15.72%	\$22,359.00	10.70%
Fixed Cost Litigation	0	0	0	\$5,108,640.61	93.00%
Water Rights Lit.	7	\$7,005,694.60	88.00%	\$11,417,678.11	81.00%
Navajo-Hopi Rent	0	0	0	\$120,400.00	0.00%
TOTAL	89	\$13,849,603.60		\$17,221,099.72	

Funding Source External Funds	Number of Personnel #	FY 2016 /15 Personnel \$ amt	% Used	FY 2016/15 Operating \$ amt	% Used
NA		\$	%	\$	%

V. OPERATIONAL & PROCESS IMPROVEMENT INITIATIVE STATUS

Initially, DOJ formed an internal taskforce consisting of the Attorney General, Deputy Attorney General, Assistant Attorney Generals, Chief Prosecutor, and the Principal Attorney for NHLSP. Although the identity of the taskforce changed, the members for the monthly Management Meetings remain the same. The purposes of the meetings also remain the same which is to discuss and address ways to make DOJ more efficient. In this quarter, meetings were held on October 16th, November 6th, and November 30th.