

**Before the
Navajo Nation Telecommunications Regulatory Commission**

In the Matter of)	
)	
Navajo Nation Telecommunications Tower)	No. NNTRC-20-001
Siting Regulations)	
)	
)	
)	

NOTICE OF PROPOSED RULEMAKING – EXTENSION OF COMMENT PERIOD

1. The Navajo Nation Telecommunications Regulatory Commission (“NNTRC”) is authorized by the Navajo Nation Council to promulgate such rules and regulations as are appropriate for the accomplishment of its purpose, authority, duties and responsibilities pursuant to the Navajo Nation Telecommunications Regulatory Act (“Act”), 21 N.N.C. §§ 501 et seq., and to enforce such rules and regulations. NNTRC is hereby publishing a Notice of Proposed Rulemaking for the purpose of adopting a uniform set of siting regulations related to telecommunications and broadband towers located on the Navajo Nation.

2. The NNTRC is established as an independent Commission under the Office of the President and the Vice-President pursuant to 2 N.N.C. § 3451.

3. On February 11th, 2021, The NNTRC was requesting comments on the proposed rules contained in the original NPRM. Due to technical difficulties with our website, we were unable to publish the NPRM, and the proposed regulations on NNTRC.org. Specifically, our website was supported by Adobe Flash which is an application for developing rich content, user interfaces, and web applications. Adobe Flash was no longer supported on December 31st, 2020. The original comment period formally closed on March 13, 2021, Therefore, the NNTRC will be providing an extension of the comment period. In this Extension Notice, published on March 10, 2021, The NNTRC extended the comment period. The NNTRC will be publishing the original NPRM, Proposed Regulations Update, and the NPRM – Extension of Comment Period on www.navajo-nsn.gov (under Public Services*) effective March 10, 2021. The NNTRC will also publish in the next edition of the Navajo Times on March, 18, 2021.

* <https://www.navajo-nsn.gov/PDF%20Files/2021/Mar/NPRM%20Extension%20Order%20jed%20comments%203%2010%2021.pdf>

The same NPRM parameters will be applied to this extension which includes:

The Commission shall take no action on any proposed rule or regulation for at least 45 days from the date of Extension Notice.

The anticipated date to schedule a public hearing will be on April 26, 2021, Public Hearing Meeting will be held on teleconference software due to COVID-19 precautions and restrictions.

All comments are due no later than 5:00PM, on April 9, 2021. Please refer to section 4 below for instructions.

The proposed date to enact the proposed Draft Telecommunications Regulations will be on May 7th, 2021.

4. ADDRESSES:

Comments may be submitted in the following method:

Email comments to comments@nntrc.org

Please also indicate if you would like to partake in the Public Hearing Meeting.

Background

5. The NNTRC together with the Navajo Land Department (“NLD”) and the General Land Development Department (“GLDD”), have been working for several years to develop an updated and comprehensive set of regulations for telecommunications and broadband tower sites on the Navajo Nation.

6. The latest draft of these regulations are attached as Appendix A (“the Draft”). It is the intent of the Navajo Nation to adopt regulations based on the attached Draft. Comments are requested on the Draft generally, and in response to the specific questions raised below.

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Specific Issues Upon Which Comments are Requested

7. Enforcement Mechanisms.

Section Two of the Draft specifies:

The Executive Director of the Navajo Nation Telecommunications Regulatory Commission (“NNTRC”) is hereby delegated the authority to enforce compliance with all Navajo Nation laws and regulations relating to the transmission and receipt of radio frequencies for communications purposes, including without limitation, tower lighting and marking, and compound fencing and security, including all Federal Communications Commission rules, regulations, and orders.

Delegating the NNTRC Executive Director the power to “enforce compliance” with Navajo Nation laws appears to be inconsistent with the enforcement powers of the NNTRC generally. Specifically, enforcement of the Telecommunications Regulatory Act (the “Act”) requires that the NNTRC is the body to carry out the enforcement or through the courts of the Navajo Nation. 21 N.N.C. § 506(A). NNTRC contemplates modifying this section of the Draft to place the enforcement power in the NNTRC as a whole. Comments on this approach are requested.

8. Complaints to be Decided by NNTRC.

Section 6 provides that: “Any dispute or complaint by a party seeking to Collocate on a Tower or Non-Tower Structure relating to discriminatory treatment or alleging non-commercially reasonable terms by the owner of the Tower or Non-Tower Structure shall be heard and decided by the NNTRC within thirty (30) days of filing of a formal complaint with NNTRC, and NNTRC will take appropriate actions as authorized under the Telecommunications Act.” NNTRC seeks comments on whether the 30-day decision period is adequate to hear from all sides and make a decision. NNTRC contemplates modifying the Draft to state that NNTRC will issue a decision within forty-five (45) days of receiving comments from all parties involved in the dispute. The Draft also does not specify an appeals process for NNTRC decisions. NNTRC would note that under 21 N.N.C. § 516(F), the Act outlines an appeals process for any party “adversely affected’ by final decisions or orders by the NNTRC, that person may seek judicial review by first filing a “notice of appeal.” 21 N.N.C. § 516(F). NNTRC anticipates adding in this language to the final regulations and seeks comments on this approach.

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Ordering Clause

9. Accordingly, **IT IS ORDERED THAT**, pursuant to the statutory authority of the NNTRC under 2 N.N.C. §§ 3451-55 and 21 N.N.C. §§ 501-529, this Notice of Proposed Rulemaking is

HEREBY ADOPTED.

Adopted: November 18, 2020

The Navajo Nation Telecommunications Regulatory Commission

/s/

Arvin Trujillo

Chairperson

Navajo Nation Telecommunications Regulatory Commission

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Navajo Nation Telecommunications Tower) No. NNTRC-20-001
Siting Regulations)
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New Comment date: April 9, 2021
New Reply Comment date: April 26, 2021

ORDER EXTENDING COMMENT PERIOD

1. The Navajo Nation Telecommunications Regulatory Commission (“NNTRC”) is authorized by the Navajo Nation Council to promulgate such rules and regulations as are appropriate for the accomplishment of its purpose, authority, duties and responsibilities pursuant to the Navajo Nation Telecommunications Regulatory Act (“Act”), 21 N.N.C. §§ 501 et seq., and to enforce such rules and regulations.

2. The NNTRC is established as an independent Commission under the Office of the President and the Vice-President pursuant to 2 N.N.C. § 3451.

3. On February 11th, 2021, The NNTRC published in [other publications like newspapers] a Notice of Proposed Rulemaking (NPRM), requesting comments on proposed rules related to the siting of telecommunications towers and antennas on Navajo lands. Due to technical difficulties with our website, we were unable to publish the NPRM, and the proposed regulations on NNTRC.ORG. Specifically, our website was supported by Adobe Flash which is an application for developing rich content, user interfaces, and web applications. Adobe Flash was no longer supported on December 31st, 2020. The original comment period formally closed on March 13, 2021,

4. In order to provide full notice and receive comments from relevant stakeholders, the NNTRC will be providing an extension of the comment period. In this Extension Order, published on March 11, 2021, The NNTRC hereby extends the comment period until **April 9, 2021**. Reply Comments will be due **April 26, 2021**. The NNTRC will be publishing the original NPRM, Proposed Regulations Update, and the NPRM – Extension of Comment Period on

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WWW.NAVAJO-NSN.GOV* (Posted under Public Services Tab) effective March 10, 2021.
The NNTRC will also publish in the next edition of the Navajo Times on March, 18, 2021.

5. The same NPRM parameters will be applied to this extension which includes:

The Commission shall take no action on any proposed rule or regulation for at least 45 days from the date of Extension Notice.

The anticipated date to schedule a public hearing will be on April 26, 2021, Public Hearing Meeting will be held on teleconference software due to COVID-19 precautions and restrictions.

All comments are due no later than 5:00PM, on April 9, 2021. Please refer to section 6 below for instructions. These comments will be public and placed on the NNTRC website as soon as practicable.

The proposed date to enact the proposed Draft Telecommunications Regulations will be on May 7th, 2021.

6. ADDRESSES:

Comments may be submitted in the following method:

Email comments to comments@nntrc.org

Please also indicate if you would like to partake in the Public Hearing Meeting.

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7. The NNTRC together with the Navajo Land Department (“NLD”) and the General Land Development Department (“GLDD”), have been working for several years to develop an updated and comprehensive set of regulations for telecommunications and broadband tower sites on the Navajo Nation.

8. The latest draft of these regulations are attached as Appendix A (“the Draft”). It is the intent of the Navajo Nation to adopt regulations based on the attached Draft. Comments are requested on the Draft generally, and in response to the specific questions raised below.

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Delegating the NNTRC Executive Director the power to “enforce compliance” with Navajo Nation laws appears to be inconsistent with the enforcement powers of the NNTRC generally. Specifically, enforcement of the Telecommunications Regulatory Act (the “Act”) requires that the NNTRC is the body to carry out the enforcement or through the courts of the Navajo Nation. 21 N.N.C. § 506(A). NNTRC contemplates modifying this section of the Draft to place the enforcement power in the NNTRC as a whole. Comments on this approach are requested.

11. Complaints to be Decided by NNTRC.

Section 6 provides that: “Any dispute or complaint by a party seeking to Collocate on a Tower or Non-Tower Structure relating to discriminatory treatment or alleging non-commercially reasonable terms by the owner of the Tower or Non-Tower Structure shall be heard and decided by the NNTRC within thirty (30) days of filing of a formal complaint with NNTRC, and NNTRC will take appropriate actions as authorized under the Telecommunications Act.” NNTRC seeks comments on whether the 30-day decision period is adequate to hear from all sides and make a decision. NNTRC contemplates modifying the Draft to state that NNTRC will issue a decision within forty-five (45) days of receiving comments from all parties involved in the dispute. The Draft also does not specify an appeals process for NNTRC decisions. NNTRC would note that under 21 N.N.C. § 516(F), the Act outlines an appeals process for any party “adversely affected’ by final decisions or orders by the NNTRC, that person may seek judicial review by first filing a “notice of appeal.” 21 N.N.C. § 516(F). NNTRC anticipates adding in this language to the final regulations and seeks comments on this approach.

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HEREBY ADOPTED.

Adopted: March 11, 2021

The Navajo Nation Telecommunications Regulatory Commission

/s/

Arvin Trujillo

Chairperson

Navajo Nation Telecommunications Regulatory Commission

NAVAJO NATION

TELECOMMUNICATIONS SITING REGULATIONS

§ 1. Title

These Regulations shall be referred to as the Telecommunications Siting Regulations.

§ 2. Authority; Delegation; Rescission of all Prior Delegations, Resolutions, Waivers, and Concessions

These Telecommunications Siting Regulations (“Regulations”) are adopted pursuant to the Navajo Nation General Leasing Regulations of 2013 (the “General Leasing Regulations”) (approved by Navajo Nation Council Resolution No. CO-53-13 (Oct. 22, 2013) and by the Assistant Secretary of Indian Affairs (May 16, 2014)), the Navajo Telecommunications Regulatory Act, 21 N.N.C. § 501 *et seq.*, (the “Telecommunications Act”), 2 N.N.C. §§ 500(C) and 501, Resolution No. _____ of the Resources and Development Committee of the Navajo Nation Council (____, 2017), and _____, 2017 Order of the Navajo Nation Telecommunications Regulatory Commission in Docket No. _____.

All previous delegations, resolutions, rights, and authorities of any nature granted by the Resources and Development Committee of the Navajo Nation Council (“RDC”) or any governmental bodies or agencies under the authority of the RDC relating to communications siting and leasing authority, and all resolutions, rights, waivers, and concessions granted by the RDC or any governmental bodies or agencies under the authority of the RDC to any party or parties relating to ground leases, rights of way, permits, licenses or similar rights, for the construction, development or use of communications towers or equipment, or for collocations of communications equipment on any structure, are hereby rescinded and replaced by these Regulations.

The Navajo Nation Division of Natural Resources (“DNR”) may delegate to programs within DNR, including to the Navajo Land Department (“NLD”) and General Land Development Department (“GLDD”), such authorities as are delegated to DNR hereunder.

The Department Manager of NLD is hereby delegated the authority to approve and

enter into, modify, renew, and enforce collection of rent for, all Telecommunications Tower Leases on Navajo Nation Land, all expansions of ground area rights in connection with Towers and communications equipment, all Collocations on Non-Tower Structures on Navajo Nation Land, and all issuances of Collocation Permits and TTPs. Any decision or determination noted to be made by NLD hereunder shall be made the Department Manager of NLD. The Department Manager of NLD may delegate to GLDD review and processing of any items to be submitted to NLD hereunder.

The Executive Director of the Navajo Nation Telecommunications Regulatory Commission (“NNTRC”) is hereby delegated the authority to enforce compliance with all Navajo Nation laws and regulations relating to the transmission and receipt of radio frequencies for communications purposes, including without limitation, tower lighting and marking, and compound fencing and security, including all Federal Communications Commission rules, regulations, and orders.

§ 3. Purpose

The purpose of these Regulations is to:

- A. Develop and streamline policies and procedures for the issuance of Telecommunications Tower Leases and Permits as they relate to surface land use for telecommunications, as well as Collocations on Non-Tower Structures, to implement the Navajo Nation General Leasing Regulations; and
- B. Delegate final approval authority from the RDC to DNR, acting through the Department Manager of NLD, to enter into, modify, renew, and enforce collection of rent for, all Telecommunications Tower Leases on Navajo Nation Land, all expansions of ground area rights in connection with Towers and communications equipment, and all Collocations on Non-Tower Structures on Navajo Nation Land; and
- C. Delegate authority to the Executive Director of NNTRC to enforce compliance with all Navajo Nation laws and regulations relating to the transmission and receipt of radio frequencies for communications purposes, including all Federal Communications Commission rules, regulations, and orders; and
- D. Grant authority to the Department Manager of NLD to write procedures for review and approval of Telecommunications Tower Leases, Permits, and Collocations

Site Leases on Navajo Nation Land, as required by these Regulations; and

E. Approve a new and updated form of Telecommunications Tower Lease and Collocation Site Lease for Non-Tower Structures to be used by the Navajo Nation for new leases or renewal of existing lease relationships upon expiration; and

F. Consistent with these Regulations and other applicable law, help ensure that residents, businesses, government institutions, health facilities, and public safety facilities located on the Navajo Nation have reliable access to telecommunications networks and broadband to promote the health and welfare of the Navajo citizenry and to successfully bridge the “digital divide”; and

G. Encourage the further deployment and investment in communications infrastructure by carriers, neutral host tower companies, and other third parties by providing streamlined and established rules and regulations, and consistent non-discriminatory application of such rules and regulations; and

H. Create uniformity of review, approach, and management of existing and future Telecommunications Tower Leases and Collocation Site Leases, and uniformity of enforcement of established rules and regulations; and

I. Ensure that the placement, construction, and modification of Towers and Telecommunications Facilities comply with applicable federal and Navajo Nation law and are consistent with federal and Navajo Nation telecommunications and land use policies, and to protect the health, safety, welfare, aesthetic character, and traditional cultural values of the Navajo Nation, in part by:

1. Encouraging the use of existing Towers, where appropriate and feasible, for Collocations of Telecommunications Facilities to minimize the number of new Towers that would otherwise need to be constructed;
2. Encouraging the placement of Towers and Telecommunications Facilities in unserved and underserved areas of the Navajo Nation;
3. Conducting a Compliance Determination (biological and cultural compliance) consistent with Navajo law and land use policies and the

General Leasing Regulations, and submit the compliance determination to the Federal Communications Commission (“FCC”).

§ 4. Scope and Applicability

These Regulations apply to all Towers and Telecommunications Facilities and related equipment or improvements placed on Navajo Nation Lands and on Non-Tower Structures located on Navajo Nation Lands by any Person, except that the following communications facilities and infrastructure are not subject to these Regulations:

- A. Fiber optic cable requiring a right-of-way under 25 C.F.R. Part 169;
- B. Antennae used by a Single Residence solely for personal communications;
- C. Cellular signal booster used solely for a Single Residence;
- D. Satellite reception antennae used solely for a Single Residence; and
- E. Communications equipment and facilities used by parties holding valid business leases or other permits, licenses or grants from the Navajo Nation for commercial operations, provided any such communications equipment and facilities does not create a ground disturbance as is used for the internal communications needs of the party and not for direct revenue generation or use by the public at large.

§ 5. Jurisdiction

Each Person, by owning, operating, or locating any Towers or Telecommunications Facilities or Collocating equipment on the Navajo Nation, consents to the legislative, executive and judicial jurisdiction of the Nation in connection with all activities conducted by such Person and its employees and agents within the Nation.

§ 6. Requirement for Neutral Hosting and Collocation on Existing Towers

All Towers on Navajo Nation Land shall be made available on a non-discriminatory basis by the applicable Tower owner for subleasing to other tenants/telecommunications providers at commercially reasonable rates to be determined by the Tower owner based on factors such as proposed height and location of the Telecommunications Facilities (RAD center), availability of loading, length of term, and amount of ground space requested, where such Towers are physically capable of supporting such Collocation based upon ANSI/TIA-222 Rev H standards, or such revised tower industry standards as may be subsequently published by the Telecommunications Industry Association (the “TIA Standards”). Preference shall be given to Collocation on existing Towers (including prior to Collocation on Non-Tower Structures) over granting rights to develop new Towers. NLD shall review applications for construction of new Towers and, as part of its review, shall examine whether an existing Tower can support the requested Telecommunications Facilities intended to be installed on the new Tower based on proximity to the location of the proposed new Tower, structural/loading capacity of the existing Tower (including any proposed modifications to the existing Tower to support additional loading), and whether there would be a material and adverse impact upon the functionality or quality of the network proposed to be served by the Telecommunications Facilities if located on the existing Tower as compared to the proposed new Tower, and shall make recommendations to the Department Manager of NLD. An existing Tower shall be presumed to be acceptable for Collocation (and an application for a new Tower shall be denied unless such presumption is rebutted to the satisfaction of the Department Manager of NLD) if the existing Tower is located within a half mile radius of the location of the proposed new Tower and if the existing Tower can support the additional loading of the proposed Telecommunications Facilities or would require less than \$50,000 in modification costs to reinforce the existing Tower to support such additional loading. Any dispute or complaint by a party seeking to Collocate on a Tower or Non-Tower Structure relating to discriminatory treatment or alleging non-commercially reasonable terms by the owner of the Tower or Non-Tower Structure shall be heard and decided by the NNTRC within thirty (30) days of filing of a formal complaint with NNTRC, and NNTRC will take appropriate actions as authorized under the Telecommunications Act. The Department Manager of NLD, upon recommendation from GLDD, may consider whether a Tower owner has acted in a non-discriminatory manner with respect to third party collocators in determining whether to renew or modify a Telecommunications Tower Lease.

§ 7. Treatment of Leases and Rights Effective Prior to these Regulations

A. Transfer to New Standard Lease Form for Prior Existing Leases and Rights

All leases and other rights existing as of the date of these Regulations and

granting to any party the use of Navajo Nation Lands or Navajo Nation Non-Tower Structures for communications purposes shall be transferred to substantially the form of Lease attached as Appendix __ at the earliest possible time, as more particularly set forth in these Regulations.

i. Transfers of Non-BIA/Non-Lease Rights

All valid and effective current Rights-of-Way, Revocable Use Permits, Permits, Resolutions and any other instrument (other than leases) relating to Towers, or Collocations on Non-Tower Structures or Utility Structures (including any such structures owned or used by utility companies operating for the benefit of the Navajo Nation) (“Non-BIA/Non-Lease Rights”) shall be transferred and converted to Leases at the earliest date permissible without breaching the terms of any such grants. To the extent any such Non-BIA/Non-Lease Rights are terminable, notice of termination shall be deemed to have been given on the effective date of these Regulations.

ii. Transfers of BIA/Lease Rights

Any Revocable Use Permit, Right-of-Way, Permit, lease or other instrument that was issued by the Bureau of Indian Affairs, and any lease issued by the Navajo Nation Government to any party, including any utility companies operating for the benefit of the Navajo Nation (collectively “BIA/Lease Rights”), which BIA/Lease Right is for Towers, Telecommunications Facilities, COWs, COLTs, Collocations on Non-Tower Structures or Utility Structures, or any other communications related use will expire, if not already expired, 5 years from the date of the original lease or other instrument, unless an earlier expiration or termination is set forth or permitted therein, in which case they will expire upon such earlier expiration or be deemed to receive notice of termination as of the effective date of these Regulations.

iii. Timeline and Grace Period for Execution of New Leases

All holders of Non-BIA/Non-Lease Rights and BIA/Lease Rights that have expired or are terminated on the effective date of these Regulations in accordance with Section 7.A.i. and ii. above shall have four (4) months from the effective date of these Regulations (subject to extension of one (1) month in the event of a force majeure event or

due to delays by NLD) to obtain a valid Lease pursuant to these Regulations. Holders of any other Non-BIA/Non-Lease Rights and BIA/Lease Rights that have not expired or are not terminated as set forth in this Section 7 shall apply for and obtain a new valid Lease at least four (4) months prior to expiration of their existing rights. An extension beyond the four (4) month period or beyond expiration of an existing right may be considered upon request to the Department Manager of NLD and may be granted or denied in his/her sole discretion based on the following considerations: a) such party shall have applied for a new Lease as soon as reasonably possible, not unnecessarily delayed application for a new Lease, and acted in good faith to obtain a new Lease as quickly as possible so as not to unnecessarily extend the duration of the expired or terminated right; and b) the application is not complete due to a delay in obtaining grazing official approval.

iv. Application Process for Transfers to Leases

Applications for transfers to Leases shall comply with the Lease Application Checklist attached as Appendix ___ to these Regulations and shall not be deemed complete until all items on the Application Checklist have been submitted and approved. Upon submission of a complete application, the Department Manager of NLD may enter into and execute a Lease in substantially the form attached as Appendix ___ to these Regulations. So long as the land use area subject to the Lease has not been modified or expanded beyond the prior area and use, the Department Manager of NLD may, in his/her sole discretion, in lieu of obtaining new or updated versions, accept resubmission of any prior approved environmental and cultural compliance documents, clearances, and surveys.

v. Prohibitions on Transfers to Lease

No required transfer to Lease under this Section 7 shall be permitted or processed if the underlying interest to be transferred to Lease has not been paid current for any past due or uncollected amounts of rent, permit fees, taxes or other fees due to the Navajo Nation, or is otherwise not in compliance with the laws of the Navajo Nation. It shall be the responsibility of each applicant for a transfer to Lease to provide

evidence that all payments for the underlying interest are current.

§ 8. New Leases; Modifications; Collocations and Collocations Permits

A. Telecommunications Tower Leases for New Communications Sites

i. Leases Required

All requests for the use of Navajo Nation Land for communications infrastructure or any infrastructure with a primary use of providing communications equipment and services, including Towers, if approved in accordance with these Regulations, shall be fulfilled by use of a Telecommunications Tower Lease in substantially the form attached as Appendix ____. Permits, easements, rights-of-way, licenses, revocable use permits, separate resolutions, waivers, concessions, and all other types of rights or interests that are not a Lease substantially in the form of Appendix ____ shall not be permitted, granted, or used for communications infrastructure of any sort. Business site lease holders shall not enter into leases or grant rights to third parties to use any of the premises granted under the business site lease for communications purposes.

ii. Telecommunications Tower Leases shall be in substantially the form attached as Appendix __, shall not exceed an initial term of ten (10) years, and shall be renewable pursuant to §__ of these regulations. Each Telecommunications Tower Lease shall ensure that there is adequate ingress and egress to a public road. If there are no adequate existing roads to be used for ingress and egress and roadways need to be improved or created, the holder of the Telecommunications Tower Lease must apply for a Right-of-Way separately through GLDD.

iii. Applications for Telecommunications Tower Leases for new communications sites shall comply with the Lease Application Checklist attached as Appendix __ to these Regulations and shall not be deemed complete until all items on the Application Checklist have been submitted and approved. Upon submission of a complete application, the Department Manager of NLD may enter into and

execute a Telecommunications Tower Lease in substantially the form attached as Appendix ___ to these Regulations.

- iv. To obtain a Telecommunications Tower Lease, the applicant must obtain reviews and approvals to comply with the General Leasing Regulations, the Land Withdrawal Regulations, and the Telecommunications Act. The reviews include:
 - a. Biological Resources Compliance Form, obtained from the Navajo Nation Department of Fish and Wildlife, and permission to proceed or mitigation actions that must be taken prior to proceeding. If the Navajo Nation Department of Fish and Wildlife does not provide a response within thirty (30) days of request, it shall be deemed to have granted permission to proceed without any mitigation actions required;
 - b. Cultural Resources Compliance Form, obtained from Navajo Nation Department of Historic Preservation, and permission to proceed or mitigation actions that must be taken prior to proceeding. If the Navajo Nation Department of Historic Preservation does not provide a response within thirty (30) days of request, it shall be deemed to have granted permission to proceed without any mitigation actions required;
 - c. Compliance Determination by GLDD. If GLDD does not provide a response as to its Compliance Determination within thirty (30) days of request, GLDD shall be deemed to have approved the application as in Compliance. Notwithstanding anything to the contrary, Compliance Determinations are not required for Collocations, COWs, COLTs, or temporary Ballasted Structures, or on already disturbed land for which an environmental review has been previously conducted; and
 - d. Grazing Official Consent. The applicable grazing official shall be consulted as early in the application process as practical. In the event a grazing official has not responded

with an approval or denial prior to expiration of the 150 day review period identified in clause (v) below, the grazing official shall be deemed to have consented and approved the proposed location for the Telecommunication Tower Lease; provided, however, in no event shall a grazing official have less than sixty (60) days to respond (which period may extend the 150 day review period below). It shall be the obligation of the applicant to prove with certainty that a request has been made to the applicable grazing official, and the date such request was made.

- e. Chapter Resolution. A Chapter Resolution acknowledging the proposed new tower site shall be requested from the applicable Chapter. After request, each Chapter shall have thirty (30) days to review and issue the acknowledgment. If a Chapter fails to issue a written acknowledgment within such thirty (30) day period, the Chapter shall be deemed to have issued its acknowledgment for finalization of the approval of the Lease. If a Chapter provides a detailed written objection to the location of the Lease (and such objection may only be as to location and not as to any other aspect of the proposed Tower), such objection shall be submitted to the Department Manager of NLD for review. If the Department Manager agrees with the objections noted by the Chapter, the Lease at the proposed location shall be denied and the applicant shall be free to resubmit a new application for a new location. If the Department Manager disagrees with the objections noted by the Chapter, the applicant may submit the issue to RDC for ultimate review and determination.

All of these departmental requests may be pursued in parallel to provide for expedited timing on overall reviews of applications.

- v. Applications for Telecommunications Tower Leases for construction of new Towers shall be reviewed and approved or denied in writing within one hundred fifty (150) days of receipt of the application and relevant supporting documentation. NLD, in reviewing such applications, shall take into consideration the factors set forth in Section 6 above, as well

as the following:

- a. The proposed location of the Tower and any historic or cultural significance of the proposed location,
- b. The amount of ground space required and availability of such ground space,
- c. Safety and security of the Tower and the public, including fencing surrounding the Tower compound and other components, including generators,
- d. Availability of nearby Towers capable of supporting the proposed Anchor Collocation in lieu of construction of a new Tower,
- e. execution of an acceptable Telecommunications Tower Lease between NLD and the owner of the Tower in substantially the form attached as Appendix __ as may be updated from time to time,
- f. such other items as may reasonably be requested by NLD.

B. Modifications

- i. Any modifications to a Telecommunications Tower Lease to increase the area of land granted as the premises under the Telecommunications Tower Lease require approval by NLD and compliance with NLD's procedures, and may include an increase in rent payable for the premises and compliance with Land Withdrawal Regulations, if applicable. Any expansion of premises hereunder shall not require a new grazing official approval beyond any approval previously obtained for the Telecommunications Tower Lease as long as the expansion of the compound or premises is not a Substantial Modification.
- ii. Modifications to add or replace equipment on any Tower or Non-Tower Structure must first be notified in writing to NLD and, for Non-Tower Structures, must obtain NLD approval prior to installation. If NLD requests, the applicant shall provide a structural analysis for the Non-Tower Structure under the TIA Standards inclusive of the proposed modifications, additions or replacements. If the structural analysis indicates a failure, such

modifications, additions or replacements shall be deemed denied. If a Substantial Modification is required, the applicant shall follow the procedures for Substantial Modifications set forth herein. Notwithstanding anything to the contrary, like for like exchanges or exact replacements of equipment shall not require notice or approval.

- iii. NLD is authorized to create and maintain copies of standard procedures and checklists, and update same, for all modifications to ground space and modifications to equipment for Towers and Non-Tower Structures.

C. Collocations

i. On Towers

- a. Any proposed Collocation on Towers shall be permitted by right so long as such Collocations meet the following requirements:
 - 1. Written notice of the Collocation, together with a copy of the applicable subtenant lease or a certified summary thereof, inclusive of economic terms, is provided to NLD at least twenty (20) days prior to the proposed installation of the Telecommunications Facilities (the “Review Period”).
 - 2. A copy of a structural analysis of the Tower, inclusive of the proposed Telecommunications Facilities, is provided to NLD within the Review Period, and such structural analysis indicates that the Tower will not fail under the TIA Standard upon installation of such proposed Telecommunications Facilities.
 - 3. The Collocation will not require a Substantial Modification.
 - 4. The applicant obtains and pays for a Collocation Permit as more particularly set forth below.

A proposed Collocation on a Tower that does not satisfy the permitted by right requirements of this paragraph C(i) shall require prior review and approval by NLD; provided, however, if NLD has not approved or denied such proposed Collocation within ninety (90) days of the date of receipt of all necessary information relating to the Collocation (including structural analysis and proposed height and area for a Substantial Modification, if applicable), such proposed Collocation shall be deemed approved. Once approved and upon receipt of the applicable payment, the applicant shall receive a Collocation Permit as described below.

ii. On Non-Tower Structures

All Collocations on Non-Tower Structures owned, controlled, or operated for the benefit of the Navajo Nation must obtain a Collocation Site Lease from NLD. Collocations on all other Non-Tower Structures shall require issuance of a Collocation Permit.

- a. All Collocations of Telecommunications Facilities on Non-Tower Structures and any Accessory Equipment shall not extend more than 15 feet above the highest part of the existing Non-Tower Structure unless specifically approved by NLD upon reasonable justification for the need to extend higher than such 15 feet.
- b. Any proposed Collocation on Non-Tower Structures owned, controlled, or operated by or on behalf of the Navajo Nation or a utility owned or controlled, in whole or in part, by the Navajo Nation, shall be subject to the prior review and approval of NLD, which shall examine, among other things:
 1. the proposed location of the Telecommunications Facilities on buildings or other occupied Non-Tower Structures,
 2. a structural analysis showing the Non-Tower Structure is capable of supporting the proposed Collocation,
 3. methods of attachment,
 4. aesthetics,
 5. safety and security,
 6. availability of nearby Towers capable of supporting the

Telecommunications Facilities,

7. historic or cultural significance of the Non-Tower Structure,
 8. ease of access to the Telecommunications Facilities on the Non-Tower Structure for ongoing maintenance and repair, and
 9. execution of an acceptable Collocation Site Lease between NLD and the party seeking to Collocate equipment in substantially the form attached as Appendix __. If the requested Collocation is on a Utility Structure, the applicant shall also provide an acknowledgement letter from the utility owner/agency of the Utility Structure indicating it has received notice of the proposed Collocation and that the Telecommunications Facilities to be installed at the proposed location upon the Utility Structure would not interfere with or impede the successful operations of the utility. If such acknowledgement letter or a written objection detailing the reason for the objection by the utility is not provided within thirty (30) days of request by the applicant, the utility owner/agency shall be deemed to have acknowledged and consented to the proposed Collocation.
- c. In the event the Non-Tower Structure is a Utility Structure owned or controlled by, or operated for the benefit of, the Navajo Nation (including any such Utility Structures utilizing Nation resources), the utility entity may continue to operate its utility functions on such Utility Structure; however, all Collocations of Telecommunications Facilities other than those used by the utility provider solely for its own internal communications network shall require Collocation Site Leases with NLD (and any such existing site leases on applicable Utility Structures shall be assigned by the Utility to NLD or transferred to lease as set forth in Section 7(a)).
- d. Any application to place Telecommunications Facilities and/or Accessory Equipment on a Non-Tower Structure not owned by the Navajo Nation or a public utility owned or controlled by, or serving

the Navajo Nation, and which Non-Tower Structure is located on Navajo Nation Land, shall obtain a Telecommunications Collocation Permit (“Collocation Permit”) issued by NLD to authorize installation of the Telecommunications Facilities and/or Accessory Equipment. NLD shall review an application for a Collocation Permit in accordance with the procedures set forth in these Regulations and shall take into consideration the factors set forth in Section 7(D)(ii)(a).

D. Collocation Permits

All installation of Telecommunications Facilities and Accessory Equipment, whether in connection with Collocations on Tower or on Non-Towers Structures, shall require receipt of a Collocation Permit issued by NLD in accordance with this Section.

- i. A Collocation Permit may only be issued for placement of Telecommunication Facilities and Accessory Equipment on Towers and Non-Tower Structures that are situated on a valid surface lease or on land withdrawn for Navajo Nation or federal governmental purposes, and where such placement will not cause any New Land Disturbance. The Collocation Permit applicant must have written permission from the Authorized Occupant, and the Authorized Occupant must be in compliance with all Navajo Nation laws, including payment of rent and any taxes due.
- ii. Collocation Permits are issued pursuant to the Nation’s authority as a sovereign Indian government and convey no possessory interest in Navajo Nation Land.
- iii. If approved for issuance, the Collocation Permit shall permit installation of only the Telecommunication Facilities and Accessory Equipment identified in the application, shall be necessary only in connection with the initial installation, and shall be issued upon payment of a permit fee of \$500. Any installation of additional Telecommunications Facilities or Accessory Equipment shall require application for an additional Collocation Permit. Exact replacements or like for like replacements shall not require issuance of a new Collocation Permit.

§ 9. Leases on Allotments

The DNR and its departments do not have jurisdiction to enter into leases on allotments. However, notification that a communications lease has been entered into on a Navajo allotment must be sent in writing to NLD and NNTRC within fifteen (15) days of entering into such lease. Any leases on allotments must still comply with all laws and regulations of the Navajo Nation and the Federal Communications Commission. Violators will be subject to enforcement as set forth in these Regulations.

§ 10. Leases on Encumbered Trust Land

This section applies to any and all Leases, Permits, and other land rights that are administered or granted by NLD, GLDD, DNR and NNTRC on encumbered Trust land.

- A. If a party desires to develop a Tower on a parcel of land that has an existing business site lease or is withdrawn for a specific purpose, the lessee or party holding an interest in such land (“Other User”) must relinquish that portion of the land where the Tower is intended to be developed. The relinquished portion of land must be resurveyed and otherwise comply with all of the requirements and procedures for obtaining a Telecommunications Tower Lease. The Other User must consent to the development of a Tower on the relinquished portion of land, which consent will be evidenced in an amendment to the original lease or other right granted to such Other User also reflecting the relinquishment of the applicable portion of land.
- B. An Other User cannot receive rents, compensation or receive anything of value from a Tower or owner of a Tower on Navajo Land, or from relinquishing a portion of its land.

§ 11. Leases on Navajo Nation Fee Land

- A. Telecommunications Tower Leases may be entered into on Navajo Nation Fee Land following the same leasing and permitting processes set forth in these Regulations in Sections 6 through 8. Permission from the Authorized Occupant of such fee land must be produced to NLD as part of the application process.

- B. The original lease or other right granted between the Navajo Nation and the Authorized Occupant must be amended to allow for the additional use.

§ 12. Temporary Telecommunications Permits

A. Every Person seeking to temporarily place any non-permanent communications structure, including COWs, COLTs, or Ballasted Support Structures on Navajo Nation Land is required to obtain a Temporary Telecommunications Permit (“TTP”) issued by NLD.

B. TTPs will only be issued for placement on land that is: already disturbed or authorized to be disturbed pursuant to a valid surface lease or authorized to be disturbed within a land withdrawal area because the site has gone through a satisfactory federal or Navajo Nation environmental review. Placement of a COW, COLT or Ballasted Support Structures on Navajo Nation Land where these conditions are not met shall require a Lease which may be short-term in nature if requested by the applicant.

C. Issuance of a TTP is subject to the express written permission of the Authorized Occupant of the encumbered or withdrawn Navajo Nation Land.

D. TTPs are issued pursuant to the Nation’s authority as a sovereign Indian government and convey no possessory interest in Navajo Nation Land.

E. The maximum term of a TTP shall be 90 days and may be renewable for additional 90-day periods not to exceed two hundred seventy (270) days in total upon petition to NLD. Should an emergency repair situation on a tower occur, temporary approval may be granted via email by NLD, and the formal application for a TTP shall be submitted within fifteen (15) days of any temporary email approval.

F. A TTP may be revoked at any time and for any reason by NLD upon 15 days’ notice to the permit holder, after which the owner of the COW, COLT or Ballasted Support Structure shall have 15 days to remove the Structure and restore the land to its original condition. Failure to comply shall result in a daily running fine of \$500 per day.

G. A TTP shall be revoked by NLD upon a written request by the Authorized Occupant of the encumbered or withdrawn land. In the event of a revocation of the TTP through no fault of the permit holder, the permit holder shall be entitled to reimbursement from the Nation for any additional term paid by the permit holder after

revocation. In no event shall the Nation be responsible for reimbursement of any payments made to the Authorized Occupant by the permit holder.

H. The Department Manager of NLD shall set reasonable rates and fees for the issuance of TTPs.

§ 13. Lease, Permit and TTP Rentals and Fees.

Notwithstanding the General Leasing Regulations §2234, the Department Manager of NLD is authorized to determine reasonable market rental rates and fees for each Lease, Permit, or TTPs. Reasonable market rates shall take into consideration the location and size of the land for Telecommunications Tower Leases requested, the windloading and type of Telecommunications Facilities and Accessory Equipment to be installed on a Non-Tower Structure in a Collocation Site Lease, any public benefit, whether the applicant is a Certified Carrier of Last Resort, and such other factors as may be applicable. The Department Manager of NLD may rely on information submitted by third parties to establish reasonable market rates based on the size and location, and competitive market forces, for Leases. In no event shall the Department Manager of NLD enter into Leases for no or nominal consideration without prior approval from RDC; provided however, the following agencies of the Navajo Nation shall be presumed to be permitted to Collocate for no or nominal consideration payable to Nation so long as the purpose of the Collocation is to fulfill such agencies' primary mandates and is not for the use of third party communications providers: Department of Education, Navajo TV, NTUA, NNTU, NDOT, Navajo Nation police departments and first responders, and such other Navajo Nation agencies involved in providing public health, safety, education and irrigation services. In addition, any application requesting a reduction or elimination of rent or fees by a COLR shall include proof of state certification as a COLR, the location of Tower and Non-Tower Structures for which such reduction or elimination of rent or fees applies to, an indication of the number of households served by such COLR as such locations, and a full financial analysis justifying any reduction or elimination of rent or fees.

§ 14. Enforcement of Terms and Conditions of Telecommunications Tower Leases, Permits and These Regulations.

A. NNTRC shall be responsible for enforcing the contract terms and conditions of Telecommunications Tower Leases, Collocation Site Leases, Collocation Permits, TTPs on Navajo Nation Lands, and the provisions of these Regulations pursuant to 21 N.N.C. § 2201 *et seq.* and the General Leasing Regulations at 21 N.N.C. § 2301 *et seq.*

B. Failure to obtain a Lease, Collocation Permit, or TTP, as applicable, in compliance with these Regulations for the development and siting of a new Tower or for installation of Telecommunications Facilities and Accessory Equipment, and failure to renew or maintain any such rights while continuing to operate or install a Tower or Telecommunications Facilities and Accessor Equipment, shall be a civil trespass, without need for any notice, as defined under the Navajo Nation Civil Trespass Act, 16 N.N.C. § 2201 *et seq.* Accordingly, any violators may be charged with civil trespass assessment as authorized under such Act, and may also subject such Persons to a civil sanction, including, but not limited to, the exclusionary process included in 17 N.N.C. § 1901 and fines and penalties as may be assessed by the NNTRC pursuant to the Telecommunications Act at 21 N.N.C. §506.

§ 15. Design Requirements

A. For Towers

Unless a variance is approved by the Department Manager of NLD in his/her sole discretion based upon a reasonable and justifiable basis for such request, the following design requirements shall apply to development of all Towers from and after the effective date of these Regulations:

1. Tower height and registration must comply with requirements established by the FCC and Federal Aviation Administration (FAA) requirements and is otherwise subject to the approval of NLD if taller than _____ feet.
2. A tower blueprint approved and stamped by a certified engineer shall be submitted to NLD with a description of the proposed Tower, and including a list containing the following:
3. Accessory Equipment, including any buildings, cabinets, or shelters shall be used only to house equipment and other supplies in support of the operation of the Telecommunications Facility or Tower. Any equipment not used in direct support of such operation shall not be stored on the site.

4. Buildings or shelters shall be covered with materials that are compatible with the surrounding development and landscape.
5. All anticipated antennae and mounting hardware shall be shown on drawings for review.
6. All cable runs and conduits should be through tower portals and within the Tower itself. Other than on lattice towers, where cable is required to be located on the exterior of a tower for Collocation of additional antennae, the cable shall match as closely as practicable the tower color.
7. Tower shall not be lighted or marked unless required by the FCC or FAA.
8. Towers and all related equipment and improvements shall be secured and enclosed with fencing not less than six feet in height and may include up to three strands of barbed or razor wire at the top.
9. No third-party advertising or display is permitted on any Telecommunication Facility or related equipment. All Towers must clearly include the FCC required Antenna Structure Registration and contact information for the tower owner, and relevant warning signs.
10. The Department Manager of NLD in his discretion may require Towers to be developed with concealment measures.

B. For Collocations on Non-Tower Structures

Any Collocations on Non-Tower Structures, such as Navajo Nation or commercial buildings, water towers, or other structures, must coordinate with the building owner, the appropriate Navajo Nation Government office (such as Facilities Maintenance) if it is a government building, and NLD for approval of the proposed equipment and location of the Collocation. Any damages caused by Collocators on a Non-Tower Structure shall be the sole responsibility of the Collocator.

§ 16. Abandonment

Any Telecommunications Facility or Tower that is not operating as evidenced by removal or lack of communications equipment, lack of electricity to the site, or lack of any transmission or reception of radio frequencies for a period of 180 consecutive days shall be deemed abandoned. In such event, any Lease, Permit, TPP, or any other right or grant for the use of land or a Non-Tower Structure shall no longer be valid, cannot be transferred or assigned, and any such Telecommunications Facilities or Towers shall become the exclusive property of the Navajo Nation and may be resold or leased by the Nation unless the owner of the Telecommunication Facility or Tower removes such property and restores the land or Non-Tower Structure to substantially the condition it was in prior to installation of the relevant equipment and improvements. If Telecommunications Facilities or Towers are abandoned and the Navajo Nation takes ownership of same, such property uninstalled, dismantled and removed, and the last owner of record shall be liable for the total cost of removal plus a ten percent (10%) administration fee.

§ 17. Compliance with Laws; Non-Interference; Navajo Preference

A. Federal and Navajo Nation Regulations: All Telecommunications Facilities and Towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the Navajo Nation or Federal Government with the authority to regulate Telecommunications Facilities and Telecommunications Carriers.

B. Interference Requirements: All Telecommunications Facilities shall be installed, operated, and maintained in accordance with all applicable laws, regulations, and ordinances so as not to interfere or cause interference with existing communications including, but not limited to, other carrier systems, radios, televisions, computers, and the Navajo Nation's or other public entity's emergency broadcast systems.

C. Maintenance: Ordinary Maintenance of Telecommunications Facilities and Towers shall be exempt from permitting/approval requirements. This includes subcontracting with other companies to perform maintenance.

D. All owners of Telecommunications Facilities and Towers shall endeavor to contract and employ Navajo companies and workers for any site maintenance, inspections, tower climbing (if certified), and repair and maintenance work, to the extent available and commercially reasonable within the workforce.

§ 18. Taxes

All owners of Telecommunications Facilities and Towers shall be responsible for payment of all taxes due to the Navajo Nation in connection with their ownership and operations on Navajo Nation Land. In particular, such parties are responsible to determine and satisfy any liability for the following taxes payable to the Nation:

- 1) Construction tax in the amount of _____;
- 2) Sales tax in the amount of _____;
- 3) Possessory Interest Tax (PIT) annually based on the greater of \$1,000 or three percent (3%) of net receipts from Subtenants;
- 4) [ADDITIONAL? MARTY PLEASE REVIEW AND ADVISE AS TO AMOUNTS AND TYPES OF TAXES THAT SHOULD BE PAID?]

§ 19. Penalties for failure to comply with these regulations

These Regulations will be enforced by NNTRC pursuant to the Navajo Nation Trespass Act, found at 16 N.N.C. § 2201 *et seq.*; and the General Leasing Regulations, found at 16 N.N.C. § 2301 *et seq.*, and such other penalties as may be enacted from time to time by RDC pursuant to resolution or amendment to these Regulations.

§ 20. Emergency Exclusion

COWs, COLTs, or Ballasted Support Structures placed for a period of not more than 120 days after a Declaration of an emergency or a disaster by the Navajo Nation President and/or the Emergency Management Commission are excluded from these regulations. However, any party availing itself of this emergency exclusion must coordinate with Navajo Emergency Management Department and notify NLD in writing of the placement and location of all COWs and COLTs. All such structures must be removed upon the earlier of expiration of the 120-day period or the termination of the Declaration of emergency.

§ 21. Severability

If any provision of this Act or the application of such provision shall be held invalid the remainder of the Act and the application of such provision other than those held invalid shall

not be affected thereby.

§ 22. Definitions

- A. Accessory Equipment: Any equipment serving or being used in conjunction with a Telecommunications Facility or Tower for communications purposes. This equipment includes, but is not limited to, utility or transmission equipment, converters, power supplies, fuel tanks, generators, batteries, cables, wiring, equipment buildings, equipment cabinets and storage sheds, shelters or other structures.
- B. Allotted Lands: Individually owned federal trust acreage.
- C. Antenna(e): Any device used to collect or radiate electromagnetic radio frequencies for the provision of wireless communications services, including but not limited to, cellular, paging, personal communications services (PCS), public safety, broadcast radio and television, and microwave communications. Such devices include, but are not limited to, directional antennae, such as panels, microwave dishes and satellite dishes, and omnidirectional antennae.
- D. Authorized Occupant: Any lessee or permit holder who has been issued a valid approved instrument by the Navajo Nation or the BIA that is currently in effect.
- E. Ballasted Support Structure: Ballasted base frame supporting a monopole, without placement of foundations or footings in the ground.
- F. Carrier of Last Resort or COLR: A carrier that is required by law or commits to provide service to any customer in a service area that requests it, even if serving that customer would not be economically viable at prevailing rates. The carrier will be regulated by the state in which they are located and certified as such.
- G. Cell on Wheels (“COW”): A portable self-contained cell site that can be moved to a location and set up to provide local wireless services on a temporary or emergency basis. A COW is normally vehicle or trailer-mounted and contains a telescoping boom as the antenna support structure.
- H. Cell on Light Truck (“COLT”): A portable self-contained cell site that is located

on a light truck and can be used to provide local wireless services on a temporary or emergency basis.

I. Collocate: means to install, mount, maintain, modify, operate, or replace Telecommunications Facilities on or adjacent to an existing Tower or Utility Pole. “Collocation” has a corresponding meaning.

J. Collocation Permit: means a permit issued to a Collocator authorizing installation of Telecommunications Facilities and/or Accessory Equipment.

K. Collocation Site Lease: means a lease of space on a Non-Tower Structure to a communications provider.

L. Collocator: A person or company that places equipment on a Tower or Non- Tower Structure and is not the owner or lessee of the tower.

M. Navajo Nation Fee Lands: Lands partially or wholly owned in fee-simple by the Navajo Nation.

N. Navajo Nation Government: Navajo Nation Government is comprised of the legislative, executive, and judicial branches, as well as political subdivisions. For the purpose of land use ownership, and these regulations, enterprises, businesses, housing authorities, or other entities created or owned by the Navajo Nation are not entities of the Navajo Nation Government.

O. Navajo Nation Land(s): Land(s) held in trust for the Navajo Nation by the United States for which the Navajo Nation is the beneficial owner; and lands partially or wholly owned in fee-simple by the Navajo Nation, including such Lands leased to a third-party, including leases to Navajo tribal members and non-members. Allotted lands are not included in the definition of Navajo Nation Lands.

P. New Land Disturbance: Any action by any person that would result in any ground disturbance (either laterally or with vertical depth) outside previously disturbed areas, including disturbance associated with temporary support of utility, communications, or related transmission lines. For purposes of this definition, “ground disturbance” means any activity that moves, compacts, alters, displaces, or penetrates the ground surface of previously undisturbed soils. [USE?]

Q. Non-Tower Structure: Such man-made structures as Utility Structures, buildings, and water tanks, which are not Towers.

R. Permit: A permit or license given by an authorized public official or agency to allow a person or business to perform certain acts with respect to the maintenance, ownership, or operation of a Tower or Telecommunications Facilities, and shall include Collocation Permits and TTPs.

S. Person: A natural person, either a Navajo or non-Navajo individual, sole proprietorship, partnership, corporation, joint venture, limited liability company, limited liability partnership, trust, estate, or other such similar entity formed under the laws of the United States, a state, or a tribe, unincorporated association, public or private organization, for-profit or not-for-profit entity, government (other than the Navajo Nation central government or non-governance certified chapters where providing exclusively internal telecommunications services), all instrumentalities owned by the Navajo Nation government such as enterprises, housing authorities, corporations, and LLCs, and any part, division or agency of any of the foregoing or any other entity.

AA. Previous Instrument: Revocable Use Permit, Permit, Resolution, Rights-of-Way, or any other instrument, waiver or concession previously issued and approved by any entity to allow telecommunication use on Navajo Nation Land.

BB. Single Residence: A single or multi-extended family home, or small group of extended family residences, within a homesite(s), including hooghans.

EE. Substantial Modification: Means a proposed modification or replacement to an existing Tower or Utility Structure which will substantially change the physical dimensions of the Tower or Utility Structure under the objective standard for substantial change adopted by the Federal Communications Commission pursuant to 47 C.F.R. § 1.40001, or a proposed modification of the equipment compound boundaries in excess of the site dimensions specified in Section III.B of 47 C.F.R. Part 1, Appendix C.

FF. Telecommunications Facility: means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, Antennas, coaxial or fiber-optic cable, regular and backup power supplies,

and comparable equipment, regardless of technological configuration. The term includes Small Wireless Facilities. The term does not include: (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) coaxial or fiber-optic cable that is between wireless structures or Utility Structures or that is otherwise not immediately adjacent to or directly associated with a particular Antenna.

GG. Telecommunications Tower Leases: Leases of Navajo Nation Land approved by and entered into by NLD for the erection of new Towers , or the rights to continue to lease land underlying existing Towers.

HH. Tower: A structure designed and erected as its primary purpose to support Telecommunications Facilities, including, but not limited to, monopoles, guyed, self-support, and lattice style towers.

II. Utility Structures: means a pole or similar structure that is or may be used in whole or in part by or for wireline communications, electric distribution, lighting, traffic control, signage, or a similar function; provided, however, such term shall not include Towers or electric transmission structures (other than such electric transmission structures as are owned or controlled by any utility owned or controlled, in whole or in part, by the Navajo Nation).

[END]