

# GUIDELINES

## DIVISION OF SANITATION FACILITIES CONSTRUCTION

Office of Environmental Health and Engineering  
Navajo Area Indian Health Service  
Window Rock, Arizona

### CHAPTER 2--Project Development

#### Section 2: Extensions and/or Improvements to Transferred P.L. 86-121 Projects

Guideline No. 2.2 (99-03)

October 1, 1999

Supersedes: G 2.2 (96-6), G 2.2 (89-8), G78-14

Distribution: Standard List

Prior to 1978, when SFCB Guideline 78-14 was issued, local policy was that when the Indian Health Service (IHS) began a P.L. 86-121 project to extend or improve an existing system the ownership of the system was transferred back to IHS. This meant that the IHS was responsible for the operation and maintenance (O&M) of the existing system until the new project was completed and transferred.

With the issuance of SFCB Guideline 78-14 this practice was discontinued due to several IHS general council and court decisions saying that the "IHS does not have the authority to accept ownership of facilities that have been transferred."

Accordingly, the following policies will apply when projects are initiated to improve and/or extend an existing system, including those that are all or partly made up of projects transferred to the Navajo Nation:

1. The Navajo Nation and/or the operating entity gives IHS the authority to enter on and modify the facilities previously installed and transferred for the purpose of making specified improvements and/or extensions. These are limited to those spelled out in the Project Summary and Memorandum of Agreement (MOA) for the new project.
2. If IHS extends an existing system to serve additional homes and provides capital improvements, such as a well or storage tank, to the existing system, the existing system remains the property of the Navajo Nation. The added improvement will be turned on and transferred when the new project is complete.

3. The operation and maintenance of the existing previously transferred system remains the responsibility of the tribal O&M entity throughout the construction of the new project. If the new project involves substantial modifications to the existing source, storage, or distribution facilities, IHS can provide appropriate assistance to the O&M entity until the modifications are complete. However, this must be specifically stated in the Project Summary and MOA.
4. The IHS will be responsible for paying the operating utility for water used from an existing system for such things as pressure testing and disinfection. Arrangements must be made with the local operator in charge on metering, scheduling, and volume of use so that the systems operation will not be adversely affected.

APPROVED BY:



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