

RESOLUTION OF THE
RESOURCES AND DEVELOPMENT COMMITTEE
23rd Navajo Nation Council --- Third Year, 2017

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING A LAND EXCHANGE
AGREEMENT BETWEEN THE COMMISSIONER OF PUBLIC LAND OF THE STATE
OF NEW MEXICO AND THE NAVAJO NATION

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Resources and Development Committee is established as a standing committee of the Navajo Nation Council. 2 N.N.C §500(A).
- B. The Resources and Development Committee of the Navajo Nation Council is empowered to grant final approval for land transfers. 2 N.N.C. §501(B)(2)(a).

SECTION TWO. FINDINGS

- A. The Navajo Nation was informed that a long standing burial site for Diné was in fact located on land under the jurisdiction of the State of New Mexico.
- B. It was agreed between the Navajo Nation and the Commissioner of Public Lands, State of New Mexico that a land exchange between the two sovereigns would be the most respectful resolution of the issue.
- C. To that end both parties have agreed to enter into an "Exchange Agreement Between the Commissioner of Public Lands of the State of New Mexico and the Navajo Nation" ("Agreement"). See Exhibit "A".
- D. The proposed Agreement has been reviewed by the Navajo Nation Department of Justice and found legally sufficient. See Exhibit "B".
- E. The Resources and Development Committee of the Navajo Nation finds it to be in the best interest of the Navajo Nation to approve the Exchange Agreement Between the Commissioner of


Public Lands of the State of New Mexico and the Navajo Nation as found at Exhibit "A".

SECTION THREE. Approval

- A. The Resources and Development Committee of the Navajo Nation hereby approves the Exchange Agreement Between the Commissioner of Public Lands of the State of New Mexico and the Navajo Nation as found at Exhibit "A".
- B. The Resources and Development Committee of the Navajo Nation hereby authorizes the President of the Navajo Nation to execute the Exchange Agreement Between the Commissioner of Public Lands of the State of New Mexico and the Navajo Nation and all other documents necessary to effectuate the intent of this resolution.

CERTIFICATION

I, hereby certify that the following resolution was duly considered by the Resources and Development Committee of the 23rd Navajo Nation Council at a duly called meeting at Navajo Nation Museum, Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 3 in favor, 0 opposed, 1 abstained on this 1st day of November, 2017.


Alton Joe Shepherd, Chairperson
Resources and Development Committee
of the 23rd Navajo Nation Council

Motion: Honorable Walter Phelps
Second: Honorable Leonard Pete



EXCHANGE AGREEMENT BETWEEN
THE COMMISSIONER OF PUBLIC LANDS OF
THE STATE OF NEW MEXICO AND
THE NAVAJO NATION

THIS AGREEMENT (the "Agreement") is made as of the ____ day of _____, 2017 (the "Effective Date"), between the Commissioner of Public Lands for the State of New Mexico (the "Commissioner"), trustee for State Trust Lands of Mexico (the "State") under the Act of June 20, 1910, 36 stat. 557, ch. 310 (the "Enabling Act"), and the Navajo Nation, a federally recognized and sovereign Indian nation (the Commissioner and the Navajo Nation are each a "Party" and together they are the "Parties").

I. RECITALS

A. The land described in Exhibit 1 to be attached hereto (the "State Trust Land") (to be identified) is owned by the State in fee simple and is subject to disposition by the Commissioner in accordance with the Enabling Act; N.M. Const., art. XII, § 12, XIII, § 2, art. XXI, § 9; and NMSA 1978, §§ 19-1-1 *et seq.*

B. The Navajo Nation will convey certain Land (described in Exhibit 2) (the "Navajo Nation Exchange Property").

C. In accordance with the requirements of the Enabling Act, the Commissioner has determined that the Exchange appears to be in the best interest of the trust and the Commissioner, following the appraisals provided for in this Agreement, must determine that the appraised value of the State Trust Lands reflects its true value and that the trust will receive at least that value if an exchange is to be completed as provided for in this Agreement.

D. The State Trust Land has great historical and cultural significance to the Navajo Nation and the Navajo Nation has determined that it is in its best interest to acquire the State Trust Land.

E. Pursuant to NMAC 19.2.21.2, 19.2.21.7(J), and 19.2.21.10(C) the Commissioner has determined that the Navajo Nation is a sovereign governmental entity and therefore a public bid process is not required.

F. The Navajo Nation in offering the Navajo Nation Exchange Property, may include surface estate and mineral estate, or surface estate only, under the terms and conditions set forth below.

G. The Parties understand that the conveyance of the State Trust Land pursuant to this Agreement will include the surface estate only.

II. AGREEMENT

A. **Recitals.** The Recitals are incorporated herein.

B. **Exchange of Real Property.** Pursuant to the terms and conditions of this Agreement, the Commissioner and the Navajo Nation agree to exchange the State Trust Land and the Exchange Property as described below.

1. **Conveyance of State Trust Land.** By issuance of an exchange patent substantially in the form of Exhibit 3 (the "Exchange Patent"), the Commissioner shall convey to the Navajo Nation the State Trust Land, subject to the reservations described in this agreement and subject to existing encumbrances.

a) **Reservation of Minerals.** The Exchange Patent provided will reserve to the State, except as otherwise provided in this paragraph all minerals of whatsoever kind in, under, or upon the Land, including but not limited to, oil and natural gas, helium, carbon dioxide, coal and lignite, uranium, brine, salt, copper, iron, lead, talc, barite, precious and semi-precious stones and jewels, caliche, building stones, shale, clay, sand, gravel, and all commercially valuable rock; all of the foregoing whether or not now known to exist or to have value, of whatever form or type, at whatever depth, in whatever nature of deposit, whether solid, semi-solid, liquid, or gaseous, whether similar or dissimilar to any of those minerals enumerated, and regardless of the method of extraction, whether by wells (including input wells), mining (including by subterranean, open-pit, or strip mines), surface or subsurface leaching or dissolution, or any other means now or hereafter known or employed; provided, however, that this reservation expressly excludes gold, silver, and quicksilver, which are reserved to the United States.

b) The Commissioner will cooperate with the Navajo Nation to attempt to convey the mineral estate to the Department of Interior on behalf of the Navajo Nation as memorialized in a separate agreement.

c) **Reservation of Water.** The Exchange Patent shall reserve to the State all water necessary for oil and gas and other mineral development. The Navajo Nation agrees to act reasonably and in good faith in drilling, developing, appropriation, transporting and accessing water from the State Trust Land that could impact the production of oil and gas or other minerals belonging to the trust. The State will act in accordance with NMSA §19-10-26 with respect to surface damage. Any mineral lessee must secure the written permission of the Navajo Nation prior to commencing activities which require entry on the surface estate held by the Navajo Nation which permission shall not be unreasonably withheld.

d) **State Trust Land Transferred "As-Is."** The Navajo Nation will take title to the State Trust Lands "as-is" in their present condition and subject to encumbrances. The SLO will provide the Navajo Nation with copies of lease information and encumbrances from the SLO tract books. The Navajo Nation shall take the State Trust Land subject to existing leases, rights of way, easements, permits, agreements, or

other encumbrances (collectively, "encumbrances") that affect the State Trust Land including, but not limited to, those encumbrances shown on the records of the State Land Office and any encumbrances of record with the County Clerk for McKinley County, New Mexico. The Navajo Nation acknowledges that the Commissioner makes no representation or gives any warranty, express or implied, written or oral, with respect to the condition of the State Trust Land, or its fitness, suitability, or availability for any particular use or purpose.

2. Conveyance of the Navajo Nation Exchange Property. By execution of a warranty deed (the "Navajo Nation Warranty Deed"), the Navajo Nation shall convey to the State all of its right, title, and interest in the Navajo Nation Exchange Property, subject to any valid existing leases, rights of way, easements, permits, agreements, or other encumbrances of record in the offices of the County Clerk where the Navajo Nation Exchange Property is located. The Commissioner may determine that the deed may be in a form other than a general warranty deed, such as a special warranty deed.

a) Exchange Property Conveyed with Warranties. The Navajo Nation shall warrant that to its knowledge there are no liabilities or litigation attached to or involving the Exchange Property. Should any liabilities or litigation affecting the Exchange Property become known to the Navajo Nation, the Navajo Nation shall immediately notify the Commissioner, his Deputy Commissioner, and his General Counsel by fax and overnight courier in the manner provided for in the Notices; Contact Persons Paragraph of this Agreement.

b) Resolution of Liabilities or Litigation. Failure to release or resolve any liabilities or litigation involving the Navajo Nation Exchange Property to the satisfaction of the Commissioner prior to Closing shall be grounds for the Commissioner not to execute and deliver the Exchange Patent. Subsequent discovery of such present or pending litigation will entitle the Commissioner to revoke this exchange.

c) Reservation of Minerals. The Navajo Nation Warranty Deed will reserve to the Navajo Nation, except as otherwise provided in this paragraph all minerals of whatsoever kind in, under, or upon the Land, including but not limited to, oil and natural gas, helium, carbon dioxide, coal and lignite, uranium, brine, salt, copper, iron, lead, talc, barite, precious and semi-precious stones and jewels, caliche, building stones, shale, clay, sand, gravel, and all commercially valuable rock; all of the foregoing whether or not now known to exist or to have value, of whatever form or type, at whatever depth, in whatever nature of deposit, whether solid, semi-solid, liquid, or gaseous, whether similar or dissimilar to any of those minerals enumerated, and regardless of the method of extraction, whether by wells (including input wells), mining (including by subterranean, open-pit, or strip mines), surface or subsurface leaching or dissolution, or any other means now or hereafter known or employed; provided, however, that this reservation expressly excludes gold, silver, and quicksilver, which are reserved to the United States.

d) The Navajo Nation will cooperate with the Commissioner to convey the mineral estate to the SLO.

3. Execution and Delivery of the Exchange Patent and the Navajo Nation Warranty Deed. The Parties' respective duties to execute and deliver the Exchange Patent and the Navajo Nation Warranty Deed, and to perform any other acts necessary to complete the transaction described herein, are subject to satisfaction of the conditions set forth in this Agreement.

C. Appraisals; Value of Property to Be Exchanged; Schedule for Completion of Appraisals, Appraisal Review, and Completion of Exchange; Conveyance of State Trust Land Mineral Estate.

1. Appraisals. Appraisals of the State Trust Land surface estate and the Navajo Nation Exchange Property shall both be performed by one or more appraiser(s) chosen jointly by the Navajo Nation and the Commissioner. Each party must approve the choice of appraiser(s) in writing prior to the commencement of the appraisal. Each party will pay for their own appraisal. All appraisals shall be performed by a qualified appraiser conforming to the uniform standards of professional appraisal practice (USPAP). Either party may require specific appraisal instructions.

a) Exchange Property Appraisal Instructions. For the Navajo Nation Exchange Property, if there are improvements on the land to be exchanged, the appraisal must (i) utilize an appraisal approach that allows the Parties to identify the raw land value as separate from the value of any improvements, and (ii) include an appraised value for improvements.

b) State Trust Land Appraisal Instructions. For the State Trust Land, if there are improvements on the land, the appraisal must (i) utilize an appraisal approach that allows the Parties to identify the raw land value as separate from the value of any improvements and (ii) include an appraised value for improvements.

c) State Land Office Appraisal Review. For all appraisals conducted to implement this Agreement, as required by law, the State Land Office staff appraiser, or outside appraiser designated by the Commissioner, shall have the opportunity to conduct an appraisal review pursuant to applicable USPAP standards and to make a recommendation to the Commissioner that the appraisal completed and paid for by the Navajo Nation be accepted, rejected, or accepted with adjustments. The Commissioner reserves the right to reject an appraisal for reasonable cause, which shall be set forth in writing. For purposes of this Agreement, reasonable cause to reject an appraisal exists where the appraisal does not comply with appraisal instructions or USPAP standards.

2. Value of Property to Be Exchanged. Subject to the Commissioner and the Navajo Nation President's approval of the appraisals, which appraisals shall be used to determine the value of the property to be exchanged, the Parties agree as follows:

a) Value of State Trust Land. The total value of the State Trust Land shall include the raw land value, and the value of any improvements.

b) Value of the Navajo Nation Exchange Property. The Navajo Nation Exchange Property to be selected shall, to the greatest extent possible, be equal in value to the total value of the State Trust Land. The Navajo Nation Exchange Property may have a value that is lower than the total value of the State Trust Land, and the Navajo Nation shall make up the difference by an alternative method to the Commissioner; provided, however, that unless the parties mutually agree otherwise in writing, the value of the Navajo Nation Exchange Property shall not have a value that is lower by more than 5% (five percent) of the total value of the State Trust Land. Under no circumstances will the Commissioner be required to contribute cash toward the completion of the exchange.

3. Schedule for Completion of Appraisals, Appraisal Review, and Completion of Exchange. The parties agree that the Exchange shall be completed by August 31, 2018, and agree to the following schedule.

a) The State Trust Land appraisal shall be completed no later than (to be negotiated).

b) Upon completion of the State Trust Land appraisal, the Commissioner shall have 30 days to review the appraisal and to either accept it, reject it in writing for reasonable cause, or accept it with adjustments requested in writing.

c) The Navajo Nation Exchange Property appraisal shall be completed after the completion and approval of the State Trust Land appraisal but no later than February 28, 2017.

d) Upon completion of the Navajo Nation Exchange Property appraisal, the Commissioner shall have 30 days to review and to either accept it, reject it in writing for reasonable cause, or accept it with adjustments requested in writing.

e) Unless the Parties mutually agree in writing otherwise, the Exchange must be completed within 90 days of the completion of the Navajo Nation Exchange Property appraisal. In the event that the exchange is not completed in that time frame, and the Parties wish to proceed with the exchange, either Party may require an update of any appraisal required for this exchange.

D. Costs Associated with Transaction and Closing. The Navajo Nation will pay (1) the costs of recording the Exchange Patent, the Navajo Nation Warranty Deed, and any other documents necessary to effectuate the transaction in the appropriate county real property records; and (2) the costs for the issuance of the owner's policy or policies for the Navajo Nation Exchange Property, including any amounts charged by the title insurance company for deletion of the standard exceptions described below.

Each party will pay for their respective environmental and biological assessment. The Navajo Nation will perform and pay for environmental and biological assessments for the state trust land they acquire and the State Land Office will pay for environmental or biological assessments for the Navajo land they acquire.

The Commissioner shall record the Exchange Patent and the Navajo Nation Warranty Deed in State Land Office records at no charge.

E. Closing; Closing Instructions.

1. Closing. Subject to satisfaction of the conditions for the exchange set forth in this Agreement, the closing of the proposed transaction shall occur on a date (the "Closing Date") and at a location agreeable to both parties. Designated representatives of the Navajo Nation and of the Commissioner shall be present at the closing. The Commissioner shall sign the Exchange Patent and the Navajo Nation shall sign the Navajo Nation Warranty Deed, but may do so prior to closing and need not be personally present at the closing.

2. Closing Instructions. The Parties shall formulate joint instructions (the "Closing Instructions") and deliver them to the title company regarding the time and place of closing, representation of the Parties, recording of the Exchange Patent and the Navajo Nation Warranty Deed, and such other matters as the Parties deem necessary for inclusion in Closing Instructions. Unless the Parties mutually agree otherwise, the Closing Instructions shall direct the title company to conduct a "simultaneous closing," whereby the Navajo Nation Exchange Property is conveyed to the Commissioner and the State Trust Land is conveyed to on the same day, as close to the same time as possible.

F. Title Insurance; Title Search; Survey.

1. Title Insurance Commitments. The Navajo Nation shall provide to the Commissioner commitments for a standard owner's title insurance policy for the Navajo Nation Exchange Property (the "title insurance commitment") in a form and from an issuer acceptable to the Commissioner, and sufficiently in advance of the Closing Date to permit thorough review. The Navajo Nation shall also provide to the Commissioner legible copies of all documents creating reservations, servitudes, or conditions upon the Navajo Nation Exchange Property. The Commissioner shall communicate to the title company and to the Navajo Nation's designated representative any issues related to title insurance commitments that must be resolved prior to closing.

2. Title Insurance Policy. At closing, or as soon as thereafter reasonably available, the Navajo Nation shall provide to the Commissioner a standard owner's title insurance policy for the Navajo Nation Exchange Property in accordance with the title insurance policy commitment. As a condition precedent to the Commissioner's obligation to convey the State Trust Land and accept conveyance of the Navajo Nation Exchange Property, the title insurance commitments for the Navajo

Nation Exchange Property shall be updated through the Closing Date showing no liens or other defects in title. Owner's Title Policy standard exceptions (these exceptions will be determined; typically 1, 2, 3, 4, and 5) will be deleted, to the extent each can be deleted or modified pursuant to regulation.

3. Title Search. The Commissioner shall provide a title search of the New Mexico State Land Office's records for the State Trust Land (the "NMSLO title search") together with legible copies of all documents referenced in such search sufficiently in advance of the Closing Date to permit thorough review. A preliminary list of encumbrances shown on the records of the State Land Office will be attached hereto as Exhibit 4. The Navajo Nation is solely responsible for verifying that it has identified all encumbrances on the State Trust Land. The Navajo Nation shall be solely responsible for obtaining, at its cost, any title insurance of the State Trust Land that the Navajo Nation requires.

4. Review and Approval of Title Insurance Commitments, Title Search, Survey, and Legal Descriptions. Each Party shall be responsible for reviewing the title insurance commitment, the NMSLO title search, the Navajo Nation Exchange Property survey, and legal descriptions derived from the Navajo Exchange Property survey or the NMSLO title search to determine their acceptability for that Party's purposes. The Parties shall cooperate to resolve any issues or deficiencies noted in the title insurance commitment, the NMSLO title search, the Navajo Exchange Property survey, or the legal descriptions.

G. Taxes and Levies on the Navajo Exchange Property. At closing, the Navajo Nation will pay or cause to be paid all property taxes and other levies (collectively, "taxes") due on the Navajo Exchange Property, and will pay or cause to be paid such taxes through the calendar year in which the Closing Date falls by either (1) paying the full amount of such taxes directly to the taxing authority(ies) before Closing and presenting evidence of such payment at Closing or (2) at or before Closing depositing with the title company, as escrow agent, a sum sufficient to pay such taxes, which taxes the title company shall thereafter pay to the taxing authority(ies) once statements for the tax year have been tendered.

H. Cultural Properties. Each Party is aware of the possible existence of cultural properties, as defined in NMSA 1978, § 18-6-3(B), on their respective lands. The Commissioner is willing to accept the Navajo Exchange Property, and the Navajo Nation is willing to accept the State Trust Land, with knowledge that thorough inspections may reveal such cultural properties. To the best of each Party's knowledge and belief, there have been no known violations of the Cultural Properties Act (NMSA 1978, §§ 18-6-1 through 18-6-23) or any other state, federal, or local government statute, regulation, or ordinance applicable to their respective lands related to the protection of cultural or historic properties with respect to any sites, objects, artifacts, or human burials (collectively the "cultural properties laws") located on their respective lands. Upon closing, each Party agrees to assume full responsibility for complying at its own expense

with all applicable provisions of the Cultural Properties Act and other cultural properties laws that may affect the use of the land it receives pursuant to this Agreement. The provisions of this paragraph shall survive closing.

I. Environmental Hazards. For the purpose of illustration, and without limiting the scope of its meaning, the term “environmental hazards” includes the presence of any hazardous materials as defined below on the Parties respective land. Hazardous materials include without limitation any oil, petroleum products, explosives, PCBs, asbestos, formaldehyde, radioactive materials or waste, or other hazardous, toxic, or contaminated materials, substances or wastes, including any substance, waste or material which is defined or listed as a “hazardous substance,” “hazardous waste,” “hazardous material,” “toxic substance,” “medical waste,” “regulated substance,” or which is otherwise controlled or regulated because of its toxicity, infectiousness, radioactivity, explosiveness, ignitability, corrosiveness or reactivity, under any federal, state, or local government statute, regulations, or ordinances, including but not limited to the federal Clean Water Act, the federal Solid Waste Act, the federal Clean Air Act, the federal Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”) and the New Mexico Environmental Protection Act (collectively, “environmental laws”), relating to landfills, medical waste, industrial hygiene, environmental protection or the manufacture, use, generation, presence, analysis, transportation, handling, storage, treatment, or disposal of any such material, substance, or waste.

Prior to closing, each Party shall represent to the other Party that except as it has no knowledge of, or cause to believe there is, any pollutant or toxic or hazardous material or substance as defined in, or covered by, any environmental law in, on or under that Party’s land, nor is that Party aware of any potential environmental liability concerning, or in any way related to, their respective lands.

J. Possession of the Exchanged Lands. The Commissioner and the Navajo Nation shall be entitled to, and shall have possession of, the exchanged Navajo Nation Exchange Property and the State Trust Land, respectively, upon recording of the Navajo Nation Warranty Deed and the Exchange Patent.

III. ADDITIONAL PROVISIONS

A. Execution in Counterparts. The parties may execute this Agreement in counterparts, and the counterpart signature pages, when appended to the Agreement, shall be deemed to constitute an original signature page. Signatures received by electronic means shall be deemed effective and original.

B. Governing Law. This Agreement shall be governed by, construed, and enforced in accordance with the laws of New Mexico.

C. Assignment of Rights. The rights of each party under this Agreement are personal to that party and may not be assigned or transferred to any other person, firm,

corporation, or other entity without the prior, express and written consent of the other party.

D. Entire Agreement, Merger, Amendment. This Agreement constitutes the entire agreement between and among the Parties. Any prior understanding and representations of any kind preceding the date of this Agreement shall not be binding on any of the parties, except to the extent incorporated in this Agreement.

E. Modification. Any modification of this Agreement or additional obligation assumed by any party in connection with this Agreement shall be binding only if in writing and signed by each party or an authorized representative of each party.

F. Calculation of Time. Any time period in this Agreement referring to "days" means calendar days; provided, however, that if the last day for a given act falls on a Saturday, Sunday, or a holiday as observed by the State of New Mexico, the day for such act shall be first day following that is not a Saturday, Sunday, or such observed holiday.

G. Interpretation. The captions and paragraph headings in the Agreement are for descriptive purposes only and do not limit, define, or enlarge the terms of this Agreement. The Parties were, or had ample opportunity to be represented by counsel regarding this Agreement, and this Agreement shall not be interpreted for or against either Party based on authorship.

H. Further Representations. The Parties make the following additional representations relative to this Agreement:

1. Each Party is duly authorized under law to enter into and perform this Agreement and to make the representations and warranties contained in this Agreement and any related documents that they may sign. The Navajo Nation represents that it has obtained all necessary approvals from its governing body to enter into this Agreement, and that the person signing this Agreement on behalf of the Navajo Nation is authorized to do so.

2. Each Party has conducted all investigations, inspections, and due diligence that it deems necessary to enter into this Agreement.

3. Neither Party has knowledge of any existing violations of applicable law or any pending or threatened litigation that would challenge or effect their ability or authority to perform under this Agreement.

I. Notices; Contact Persons.

1. Notices. Any notice provided for or considering this Agreement shall be in writing and deemed sufficiently given when sent by certified or registered mail, if sent to the respective address of each party as set forth herein:

To the Commissioner:

Commissioner of Public Lands
State Land Office
P.O. Box 1148
Santa Fe, NM 87504
(505) 827-5760

With copy to:

Office of the General Counsel
State Land Office
P.O. Box 1148
Santa Fe, NM 87504
(505) 827-5713

To:

_____, NM 87072

Tel: _____

With copy to:

Tel: _____

Attorney for

2. Contact Persons. Each Party may designate a contact person to coordinate communication for ordinary activities carried out to complete the transaction contemplated by this Agreement. The contact persons shall be:

For the Commissioner:

Name:

Phone:

Fax:

E-mail:

For:

Name:
Phone:
Fax:
E-mail:

J. Survival. Those provisions of this Agreement necessary to effectuate its intent and purposes shall survive Closing and such provisions shall remain binding on and inure to the benefit of the Parties and their respective successors and assigns. Excepting those paragraphs that expressly survive under this paragraph, this Agreement shall terminate on the recording of the Exchange Patent.

IN WITNESS WHEREOF, the undersigned Parties have executed this Agreement as of the Effective Date.

By: _____

Date: _____

Name: _____

COMMISSIONER OF PUBLIC LANDS
FOR THE STATE OF NEW MEXICO

By: _____
Aubrey Dunn

Date: _____

2017 Proposed Land Exchange between the State of New Mexico and the Navajo Nation

Site No.	Section	Acres	Location	County	District	Occupants Name	Description(s)
7N 14W	Secs 2, 16, NESW of 18 & 36	1,960	Pinehill	Cibola	23		
7N 15W	All of Sec's 2 & 16	1,280	Pinehill	Cibola	23		
7N 16W	All of Sec's 2 & 16	1,273	Pinehill	Cibola	23		
8N 14W	Sec's 2, 16, 32 & 36	2,558	Pinehill	Cibola	23		
8N 15W	Sec's 16, 32 & 36	1,920	Pinehill	Cibola	23		
10N 16W	SWNW of Sec 36	40	Pinehill	Cibola	23		
11N 19W	SE, NWNW of Sec 14 & E2 of Sec 18 (?)	520	Chilchitah	McKinley	16	Vacant	Teener/James/Saunders
11N 20W	S2SE, SW of Sec 2 & All of Sec 18	876	Chilchitah	McKinley	16	Bee/Antenio Family	Multiple Houses
11N 21W	Sec's 2 & All of Sec's 13, 14 & 15	2,317	Chilchitah	McKinley	16	Fence line	No Access within RU
12N 12W		640	Baca/Prewitt	McKinley	16	Scattered Homes	Yazzie/Ashley/Begay
12N 18W	All of Sec. 16	640	Vanderwagen	McKinley	16	John/Sharon Murphy	Leased Land
12N 20W	2, 16, 32 & W2NW of Sec. 36	1,836	Jonas Ranch	McKinley	16	Sylvia Skeet/Debouse	Old Ceremonial Site/Windmill
12N 21W	All of Sec. 36	640	Chilchitah	McKinley	16	Annie Begay	Hogan/Frame House
13N 12W	All of Sec. 16	640	Baca/Prewitt	McKinley	16	Scattered Homes	Tonya Rafael/Lucille Loretto
13N 17W	N2, W2SESW & NESE of Sec. 32	480	Pinehaven	McKinley	16	Vacant	Timber Lake Subdivision
13N 18W	All of Sec. 36	640	Pinehaven	McKinley	16	Vacant	Timber Lake Subdivision
13N 20W	All of Sec. 36	640	Jonas Ranch	McKinley	16	Vacant	Dismantled Log Hogan
14N 17W	E2NW, W2NE & SWSE of Sec. 32	200	Breadsprings	McKinley	16	Betty Hoskie/Alice Tom (D)	Multiple Houses (JLvgton)
14N 18W	NWNE, W2NW & S2 of Sec. 36	480	Breadsprings	McKinley	16	Vacant	No Access
14N 19W	NE, W2 of Sec. 16	480	Twin Buttes	McKinley	16	Frank Mellinger	Hogan w/addition and Shed
14N 21W	All of Sec. 2	643	Manuelito	McKinley	16	Vacant	No Access
15N 11W	Sec's 2 & 16	1,274	Casamero Lake	McKinley	15	Mobile Home	Jodie Garcia
15N 16W	All of Sec. 2	640	Pinedale	McKinley	16	Vacant	No Access
15N 20W	NWNE & NW of Sec. 36	200	Manuelito	McKinley	16	Eleanor Smith/CT Smith	Multiple Houses
15N 21W	All of Sec. 36	640	Manuelito	McKinley	16	Vacant	Hunter Point Road
16N 11W	NESE of Sec. 32 & NW, S2 of Sec. 36	520	Borrego Pass	McKinley	15	Cemetery site/Old houses	Edison Brown
16N 12W	NENE of Sec. 16	40	Crownpoint	McKinley	15	Vacant	Access Road
16N 15W	All of Sec. 32	640	Pinedale	McKinley	16	See attached listing	Multiple Houses
16N 16W	All of Sec's 16 & All of Sec. 36	1,280	Pinedale	McKinley	16	See attached listing	Multiple Houses
16N 19W	All of Sec. 16	640	Rock Springs	McKinley	16	Shirley Wilson	Private Ranch
17N 13W	SW of Sec. 2	160	Crownpoint	McKinley	15	Vacant	Fence/Trash Dump
17N 19W	S2 of Sec. 36	294	Yah Ta Hey	McKinley	16	Henry/Zane Watchman	House/Storage Shed
18N 5W	All of Sec. 36	640	Torreon	McKinley	15		
18N 9W	Sec. 36	640	Hospah	McKinley	15		

EXHIBIT
FOA
AGREEMENT
#1

2017 Proposed Land Exchange between the State of New Mexico and the Navajo Nation

Site No.	Section	Acres	Location	County	District	Occupants Name	Description(s)
20N 11W	All of Sec. 2	642	IK Westbrook	McKinley	15	Vacant	Boundary Fence
20N 12W	All of Sec. 2	643	IK Westbrook	McKinley	15		
21N 9W	All of Sec. 16 & All of Sec. 32	1,280	Sargent Ranch	San Juan	15		
21N 10W	NE; S2 of Sec. 2 & All of 32	1,119	Chaco Canyon	San Juan	15	Houses/Junk Vehicle	Wilson Yazie/Fence Line
21N 11W	SE; N2 of Sec. 32 & All of Sec. 36	1,120	Chaco Canyon	San Juan	15	Vacant	Boundary/ Pasture Fence
21N 12W	All of Sec. 16 & All of Sec. 36	1,280	Chaco Canyon	San Juan	15	Stone House/shed	Ben Yazzie/Ben Chee
21N 13W	All of Sec. 16	640	Lake Valley	San Juan	15	Frame House	Nancy Brown
22N 6W	N2NW of Sec. 16	80	Counselor	San Juan	19		
22N 9W	NE of Sec. 2	161	Nageezi	San Juan	19		
22N 10W	All of Sec. 36	640	Chaco Canyon	San Juan	15		
22N 12W	All of Sec. 36	640	Lake Valley	San Juan	15		
22N 13W	NESE of Sec. 16 & NESE; S2NE of Sec. 36		Lake Valley	San Juan	15	Vacant	More Acreage Added
23N 7W	All of Sec. 36	640	Lybrook	Rio Arriba	19		
23N 9W	N2 & SW of Sec. 36	480	Nageezi	San Juan	19		
25N 11W	SWNE of Sec. 32	40	Huerfano	San Juan	19		
	TOTAL:	37,716					
	Revised: 10/17/2017						
	++						

Exhibit 2
PRELIMINARY LIST OF ENCUMBRANCES ON
THE STATE TRUST LAND

NOTE: the Navajo Nation is RESPONSIBLE FOR PERFORMING ITS OWN DUE DILIGENCE. The State Land Office provides this list of encumbrances for informational purposes only. Interested persons are responsible for verifying encumbrances in the records of the New Mexico State Land Office and the effect thereof on the Land. No search has been made of any records other than those of the State Land Office. Interested persons are responsible for searching other records which might contain relevant information, including those relating to real property, personal property, tax records, Uniform Commercial Code filings, etc., in relevant city, county, state, and federal agencies files.

SURFACE ENCUMBRANCES:

MINERAL ENCUMBRANCES:

OIL & GAS ENCUMBRANCES:

Exhibit 3
FORM OF EXCHANGE PATENT
AND LEGAL DESCRIPTION
FOR STATE TRUST LANDS TO BE EXCHANGED
STATE OF NEW MEXICO
EXCHANGE PATENT

No. _____

For consideration paid, the receipt and sufficiency of which is hereby acknowledged by the State of New Mexico, Commissioner of Public Lands, Trustee for the Enabling Act Trust created by Act of June 20, 1910, 36 Stat. 557, Ch. 310 ("State"), grants to the Navajo Nation, a sovereign nation, whose address is _____, NM 87____, the tract of land located in _____, New Mexico described as follows:

Township , Range

Section

Lot

Section

SUBJECT TO and excepting [list of known encumbrances].

AND FURTHER SUBJECT TO all other valid and existing rights, restrictions, reservations, covenants, conditions, rights-of-way, leases and easements affecting the granted lands, including but not limited to matters on file in the records of the New Mexico State Land Office.

AND YET FURTHER SUBJECT TO a reservation by the State of geothermal resources and, except as otherwise provided in this paragraph, all minerals of whatsoever kind in, under or upon the Land, including but not limited to, oil and natural gas, helium, carbon dioxide, coal and lignite, uranium, brine, salt, copper, iron, lead, talc, barite, precious and semi-precious stones and jewels, caliche, building stones, shale, clay, sand, gravel, and all commercially valuable rock; all of the foregoing whether or not now known to exist or to have value, of whatever form or type, at whatever depth, in whatever nature of deposit, whether solid, semi-solid, liquid, or gaseous, whether similar or dissimilar to any of those minerals enumerated, and regardless of the method of extraction, whether by wells (including input wells), mining (including by subterranean, open-pit, or strip mines), surface or subsurface leaching or dissolution, or any other means now or hereafter known or employed; provided, however, that this reservation does not include gold, silver, and quicksilver, which are reserved to the United States.

AND YET FURTHER SUBJECT TO a reservation by the State of all water necessary for oil and gas and other mineral development. The Navajo Nation agrees to act reasonably and in good faith in drilling, developing, appropriation, transporting and accessing water from the State Trust Land that could impact the production of oil and

gas or other minerals belonging to the trust. The State will in accordance with NMSA §19-10-26 assure that before any lessee of oil and gas or minerals shall commence development or operations on the State Trust Land such lessee shall execute and file with the commissioner a good and sufficient bond to secure the payment to the Navajo Nation for any damages done to livestock, water, crops, or improvements on the land.

To have and to hold the same, together with all the rights, privileges, immunities and appurtenances thereunto belonging.

Executed under seal this _____
day of _____, 201_.

STATE OF NEW MEXICO

By: _____
AUBREY DUNN
COMMISSIONER OF PUBLIC LANDS

OWNERS POLICY

Schedule A

Agent's
Reference No.: 7224 Socorro bnf
27 36

Number	Amount of Insurance	Date of Policy
58 OWNERS 0 033861	67 74 \$ 2,464,000.00	82 68 August 29, 1986 at 1:40 P.M.

1. Name of Insured:

NAVAJO TRIBE OF INDIANS.

2. Title to the estate or interest covered by this policy at the date hereof is vested in the insured. by virtue of that certain Warranty Deed from B. L. Henderson, a/k/a Barty L. Henderson, and Rachel E. Henderson, his wife, filed for record in the office of the County Clerk of Socorro County, New Mexico, on August 29, 1986 at 1:40 P.M. in Book 406 at Pages 987-988.

3. The estate or interest in the land described or referred to in this Schedule covered by this policy is Fee Simple.

4 The land referred to in this policy is located in the County of Socorro
State of New Mexico and described as follows:

See Exhibit A attached hereto bearing the SEAL of Security Title Abstract Company, Inc., consisting of one (1) page.

Schedule B

Policy No.
O 033861 7224 Socorro brf

This policy does not insure against loss or damage by reason of the following:

GENERAL EXCEPTIONS:

- (1) Rights or claims of parties in possession not shown by the public records.
- (2) Easements, or claims of easements, not shown by the public records.
- (3) Encroachments, overlaps, conflicts in boundary lines, shortages in area, or other matters which would be disclosed by an accurate survey and inspection of the premises.
- (4) Any lien, claim or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
- (5) Community property, dower, curtesy, survivorship, or homestead rights, if any, of any spouse of the insured.
- (6) Any titles or rights asserted by anyone including, but not limited to, persons, corporations, governments, or other entities, to lands comprising the shores or bottoms of navigable streams, lakes, or land beyond the line of the harbor or bulkhead lines established or changed by the United States Government.
- (7) Unpatented mining claims; reservations or exceptions in patents or in acts authorizing the issuance thereof; water rights, claims or title to water.
- (8) Taxes or assessments which are not shown as existing liens by the public records.

SPECIAL EXCEPTIONS:

- (9) Taxes for the year 19 86, and thereafter.
- (10) Ingress, egress; all oil, gas and other minerals in, on or under or which may be produced and all rights pertinent thereto; mining claims, water and ditch rights; easements; restrictive covenants; and the rights and liens of any assessing water or utility district, body or unit.
- (11) In no event is this policy to cover any mobile home located on the premises.
- (12) Subject to the terms and conditions of that certain Deed from the Santa Fe Pacific Railroad Company to Drew Henderson, filed for record in the office of the Socorro County Clerk, New Mexico, in Book 238 at Page 179.
- (13) Subject to the terms and conditions of that certain Deed from the Santa Fe Railroad Company to Top Belvins, filed for record in the office of the Socorro County Clerk, New Mexico, in Book 157 at Page 167.
- (14) Subject to that certain Easement for Erection and Maintenance of Power Line from Bartee Henderson and Rachel Henderson, filed for record in the office of the Socorro County Clerk, New Mexico, in Book 364 at Page 246, to the Socorro Electric Cooperative, Inc.

PHONE 808 838-1440
CATRON COUNTY PHONE
808 833-6309
SIERRA COUNTY PHONE
808 894-6578

P. O. BOX 1398

SECURITY TITLE ABSTRACT COMPANY
ABSTRACTS, ESCROWS AND TITLE INSURANCE IN SOCORRO, CATRON AND SIERRA COUNTIES
SOCORRO, NEW MEXICO 87801

September 8, 1986

Ninibah M. Cahn, Supervisor
Title, Records & Appraisal Section
Navajo Land Development
P. O. Box 308
Window Rock, AZ. 86515

Re: 7224 Socorro

Enclosed you will find the following documents:

Recorded In:

	FROM	TO	Book	Page	County
(x)	Deed	B. L. Henderson, et ux	Navajo Tribe of Indians	406	987-988 Socorro
()	Mortgage				
()	Release				
()	Real Estate Contract				
()	Patent				
(x)	TICOR Title Insurance Policy No.	0 033861			
()					
()					



Thank you for the opportunity of handling this matter for you. Please call us if we may be of assistance to you in the future.

Yours very truly,

SECURITY TITLE ABSTRACT COMPANY, INC.

By Barli

No. _____

WARRANTY DEED

B.L. HENDERSON, (also known as Barty L. Henderson) and RACHEL E. HENDERSON,
his wife, for consideration paid, grant to the NAVAJO TRIBE OF INDIANS, Window
Rock, Arizona, 86515, the following described real estate in Socorro County,
New Mexico:

<u>TOWNSHIP ONE (1) NORTH, RANGE SEVEN (7) WEST, NMPM</u>		<u>Acres</u>
Section 14:	S $\frac{1}{2}$, NE $\frac{1}{4}$; -----	480.00
Section 23:	All -----	640.00
Section 24:	All -----	640.00
Section 25:	All -----	640.00
Section 36:	All -----	640.00

<u>TOWNSHIP ONE (1) NORTH, RANGE SIX (6) WEST, NMPM</u>		
Section 18:	All (Lots 1-4, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$) -----	639.04
Section 19:	All (Lots 1-4, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$) -----	639.71
Section 20:	All -----	640.00
Section 21:	All -----	640.00
Section 22:	All -----	640.00
Section 23:	All that portion lying WEST of State Road 52 (Magdalena-Alamo) -----	At least 320.00
Section 26:	All that portion lying WEST of State Road 52 (Magdalena-Alamo) -----	At least 320.00
Section 27:	All (Lots 1, 2, N $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$, and Dove Springs Lode Mining Claim) -----	640.00
Section 28:	All -----	640.00
Section 29:	All -----	640.00
Section 30:	All (Lots 1, 2, 3, 4, E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$) -----	640.72
Section 31:	All (Lots 1, 2, 3, 4, E $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$) -----	640.64
Section 32:	All -----	640.00
Section 33:	All -----	640.00
Section 34:	All -----	640.00
Section 35:	All that portion lying WEST of State Road 52 (Magdalena-Alamo) -----	At least 320.00

Total Acreage ----At least 12,320.11

TOGETHER WITH all improvements thereon, and any and all water rights
in anywise appertaining thereto, but RESERVING UNTO THE GRANTORS an
undivided one-half (1/2) interest in and to the oil, gas, mineral,
and geothermal rights thereto.

with warranty covenants.

WITNESS our hands and seals this 30th day of July, 1986.

STATE OF NEW MEXICO
COUNTY OF SOCORRO
FILED FOR RECORD

B. L. Henderson (Seal)
B. L. Henderson

1986 AUG 29 PM 1:40
BK 406 981-98
May 20 Clerk CLERK
Rachel E. Henderson (Seal)
Rachel E. Henderson

Carmen B. Bagley DEPUTY

State of New Mexico)
 : ss.
County of Socorro)

The foregoing instrument was acknowledged before me this 30th
day of July, 1986, by B. L. HENDERSON and RACHEL E. HENDERSON, his wife.



Edwin J. Seew
Notary Public

My Commission Expires:

May 25, 1990

RN

EXHIBIT E

When recorded, mail to:

Steven J. Bloxham, Esq.
Department of Justice
P.O. Drawer 2010
Window Rock, Arizona 86515

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That Berry Land & Cattle, Limited, a New Mexico limited partnership (hereinafter called GRANTOR), for good and valuable consideration to Grantor in hand paid and delivered by THE NAVAJO NATION, a Sovereign Nation (hereinafter called GRANTEE), the receipt and sufficiency of which is hereby acknowledged, has granted, sold and conveyed, and by these presents does grant, sell and convey unto Grantee, its successors and assigns, all the following real property situated in the Counties of Socorro and Cibola, State of New Mexico,

TO WIT all that certain real property being more particularly described on Exhibit "A" attached hereto and incorporated by reference herein and containing twenty-nine thousand four hundred eighty-three and .68 tenths (29,483.68) acres, more or less.

Together with all buildings, structures, pipelines, permanent watering troughs, installed tanks, wells, dams, reservoirs, water systems, interior fences, and Grantor's interest in boundary fences, stationary equipment, corrals, and other improvements of every nature and description located upon or in anyway appertaining to the lands to be conveyed in fee hereunder.

TO HAVE AND TO HOLD all and singular the said lands and premises, together with the improvements aforesaid, and the rights and appurtenances thereunto in anyway belonging, unto the said Grantee, its successors and assigns, forever; subject to prior conveyances and reservations of the minerals in, on and under the described lands as shown of record, patent reservations, easements and rights-of-way of record, with warranty covenants.

Grantor does hereby covenant and agree to and with Grantee, its successors and assigns, to warrant and defend the title to the above described real property, unto Grantee, its successors and assigns, against all persons lawfully claiming or attempting to claim the same or any part thereof.

IT WITNESS WHEREOF, Grantor has caused these presents to be executed on this 3rd day of June, 19 94.

BERRY LAND & CATTLE, LIMITED

By: Homer C. Berry
Homer C. Berry, General Partner

By: John O. Berry
John O. Berry, General Partner

By: James W. Berry
James W. Berry, General Partner

STATE OF NEW MEXICO)
COUNTY OF Socorro) ss.

On June 3, 1994, before me, the undersigned, a Notary Public in and for said State, personally appeared Homer C. Berry, John O. Berry and James W. Berry personally known to me to be the persons who executed the within instrument as general partners and on behalf of Berry Land & Cattle, Limited, the limited partnership therein named, and acknowledged to me that they executed it pursuant to such limited partnership's partnership agreement.

WITNESS my hand and official seal.

Barbara R. Jordan
Notary Public

My Commission Expires:

May 19, 1996

DEED BOOK 5
PAGE 845

EXHIBIT A
TO ASSIGNMENT OF WATER RIGHT

DEEDED LAND

TOWNSHIP TWO (2) NORTH, RANGE FOUR (4) WEST, N.M.P.M.

SECTION	6: E/2SW1/4, W1/2SE1/4;	160.00 Acres
SECTION	8: All;	640.00 Acres
SECTION	18: Lots 1,3,4,5, E1/2NW1/4, NE1/4SW1/4, E1/2, SE1/4SW1/4;	637.32 Acres
SECTION	19: Lots 1,2,3,4, N1/2NE1/4, SE1/4NE1/4, NE1/4NW1/4;	263.12 Acres

TOWNSHIP TWO (2) NORTH, RANGE FIVE (5) WEST, N.M.P.M.

SECTION	2: Lots 1,2,3,4, E1/2SW1/4, W1/2SE1/4, S1/2N1/2, W1/2SW1/4, E1/2SE1/4 ;	641.40 Acres
SECTION	3: All;	641.08 Acres
SECTION	4: All;	641.36 Acres
SECTION	5: All;	641.28 Acres
SECTION	8: NE1/4;	160.00 Acres
SECTION	9: All;	640.00 Acres
SECTION	10: All;	640.00 Acres
SECTION	12: N1/2SW1/4, S1/2NW1/4, E1/2SE1/4, SE1/4NE1/4, N1/2SW1/4NE1/4, S1/2SW1/4, W1/2SE1/4, S1/2SW1/4NE1/4;	480.00 Acres
SECTION	13: Lots 1,2,3,4,5,6,7, N1/2, N1/2S1/2, SE1/4SE1/4;	690.78 Acres
SECTION	14: All;	695.39 Acres
SECTION	15: Lots 1,2,3,4,5,6,7, N1/2NE1/4, NE1/4SE1/4, W1/2;	590.32 Acres
SECTION	16: All;	640.00 Acres
SECTION	17: All;	640.00 Acres

TOWNSHIP THREE (3) NORTH, RANGE FIVE (5) WEST, N.M.P.M.

SECTION	3: All;	638.80 Acres
SECTION	4: S1/2NE1/4, N1/2SE1/4, SW1/4;	320.00 Acres
SECTION	5: All;	640.56 Acres
SECTION	6: Lots 1,2,3,4,5,6,7, SE1/4NW1/4, E1/2SW1/4, S1/2NE1/4, SE1/4;	636.23 Acres
SECTION	8: All;	640.00 Acres
SECTION	10: N1/2;	320.00 Acres
SECTION	14: W1/2;	320.00 Acres
SECTION	18: Lots 1,2,3,4, E1/2W1/2, E1/2;	633.38 Acres
SECTION	26: All;	640.00 Acres
SECTION	27: S1/2, NW1/4, S1/2NE1/4;	560.00 Acres
SECTION	28: All;	640.00 Acres
SECTION	30: Lots 1,2,3,4, E1/2W1/2, E1/2;	631.60 Acres
SECTION	34: N1/2N1/2;	160.00 Acres
SECTION	35: All;	640.00 Acres

TOWNSHIP FOUR (4), NORTH, RANGE FIVE (5) WEST, N.M.P.M.

SECTION 1: All;	681.84 Acres
SECTION 3: All;	678.00 Acres
SECTION 5: All;	673.64 Acres
SECTION 7: All;	636.48 Acres
SECTION 9: All;	640.00 Acres
SECTION 10: All;	640.00 Acres
SECTION 11: All;	640.00 Acres
SECTION 13: All;	640.00 Acres
SECTION 15: All;	640.00 Acres
SECTION 17: All;	640.00 Acres
SECTION 18: SE1/4SE1/4;	40.00 Acres
SECTION 19: All;	634.38 Acres
SECTION 21: All;	640.00 Acres
SECTION 23: All;	640.00 Acres
SECTION 25: All;	640.00 Acres
SECTION 27: All;	640.00 Acres
SECTION 28: E1/2;	320.00 Acres
SECTION 29: All;	640.00 Acres
SECTION 31: All;	636.72 Acres
SECTION 33: All;	640.00 Acres
SECTION 35: All;	640.00 Acres

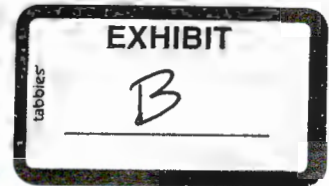
Total Deeded

29,483.68 Acres (more or less)



NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

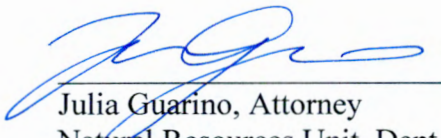
ETHEL B. BRANCH
ATTORNEY GENERAL



RODGERICK T. BEGAY
DEPUTY ATTORNEY GENERAL

MEMORANDUM

TO: Ed McCool, Principal Attorney
Legislative Counsel

FROM: 
Julia Guarino, Attorney
Natural Resources Unit, Dept. of Justice

DATE: October 24, 2017

SUBJECT: **New Mexico Land Exchange Agreement**

This memorandum is to confirm that I have reviewed the attached land exchange agreement. I was a member of the Navajo Nation team that negotiated the agreement with the New Mexico State Land Commission office. I am satisfied that the final agreement is legally sufficient.