

RESOLUTION OF THE
NAABIK'ÍYÁTI' COMMITTEE OF THE
NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL - Second Year, 2016

AN ACT

RELATING TO RESOURCES AND DEVELOPMENT AND NAABIK'ÍYÁTI'
COMMITTEES; ESTABLISHING THE NAVAJO NATION POSITION WITH REGARDS
TO THE FORT WINGATE DEPOT ACTIVITY LAND DIVISION BETWEEN THE
NAVAJO NATION AND THE ZUNI PUEBLO

WHEREAS:

- A. Pursuant to 2 N.N.C. § 500(A), the Resources and Development Committee is hereby established as a standing committee of the Navajo Nation Council.
- B. Pursuant to 2 N.N.C. §500(C)(1), the Resources and Development Committee shall exercise oversight authority over environment, environmental protection, cultural resources for the purpose to establish Navajo Nation policy with respect to the optimum utilization of all Navajo Nation resources and to protect the rights, interests, sacred sites and freedoms of the Navajo Nation and People to such resources, now and for future generations.
- C. Pursuant to 2 N.N.C. §§ 700(A), 701 (A)(4), the Navajo Nation established the Naabik'íyáti' Committee as a Navajo Nation Council standing committee and gave the Naabik'íyáti' Committee the power to coordinate all federal programs with other standing committees and branches of the Navajo Nation government to provide the most efficient delivery of services to the Navajo Nation.
- D. The Navajo Nation has a government-to-government relationship with the United States government.
- E. The Fort Wingate Military Depot was withdrawn from public domain lands by Executive Order 1870 to establish a military depot and in 1988, the United States Congress enacted the Defense Base Closure and Realignment Act (P.L. 100-526, 102 Stat. 2623) which authorized the closure of certain military facilities.

- F. Previously, the Naabik'íyáti' Committee approved Resolution NABIAP-22-15 withholding support for any Fort Wingate land division unless certain issues were addressed. However, Navajo Nation leaders have recently met with Zuni leaders to further the discussion on the Fort Wingate land division, including a no gaming provision and an agreement on cultural and burial sites.
- G. Congressional legislation, H.R. 1028, has been introduced by Congressman Pearce (NM) and Congressman Young (AK) which proposes to implement the proposed negotiated property division for the Fort Wingate Depot Activity (FWDA) using an informally agreed to map regarding the property division between the Navajo Nation and the Zuni Pueblo with some lands remaining with the U.S. Department of Defense for remediation purposes.
- H. The agreed to map in H.R. 1028 contains several mapping errors which were items discussed by the Navajo Nation and Zuni Pueblo; with the Tribal leaders reaching agreement on several terms including, 1) use of the installation access road as a clear boundary, 2) Zuni's concern regarding access to the frontage road, and 3) correction of mapping errors. See Consensus Map attached as Exhibit A.
- I. The Eastern Navajo Land Commission supports the Naabik'íyáti' Committee's recent directive to the Navajo Nation Speaker to discuss the final terms of the FWDA land division with the Zuni Pueblo leadership and recommends ensuring that federal legislation include: 1) no gaming on FWDA lands, 2) federal funding for complete clean-up of the FWDA lands, 3) a directive to the U.S. Bureau of Land Management to conduct a legal survey of the FWDA lands at the expense of the federal government, 4) recognize the authority of both Tribes to negotiate with the Missile Defense Agency or any other entity that proposes an easement for rights-of-way or leasing of FWDA lands, 5) both Tribes have access to existing paved and gravel roads and rail lines, 6) assuring compliance with the National Historic Preservation Act and the Native American Graves Protection and Repatriation Act to protect historic buildings, cultural properties, both Tribes are of the understanding that this will include burial sites for each Tribe on the FWDA lands, and 7) allow for Congress to authorize the U.S. Secretary of the Interior to approve any further exchanges or sale of the partitioned lands between the Tribes. See Resolution ENLCMA-01-16 attached as Exhibit B.

- J. A *Final Report, Diné Traditional Cultural Property Inventory at Fort Wingate Depot Activity, February 13, 2014*, (Final Report) was prepared for the U.S. Army Corps of Engineers in which it states:

"FWDA as a whole is part of Diné Bikéyah (Navajoland) and is connected to and embedded in Diné sacred geographies. As such, it is part of a Diné traditional cultural landscape and is recommended eligible for inclusion on the NRHP (National Register of Historic Places) as an historic district TCP (Traditional Cultural Property). Three component landscapes at FWDA that also function as contributing elements to this historic district were identified during the TCP Inventory and are additionally recommended eligible for inclusion on the NRHP, as are the known 187 hogans, 107 sweathouses, 203 livestock corrals, 329 Anasazi sites, and six shrines/offering locations. Other contributing elements identified, inventoried, and evaluated for inclusion on the NRHP include culturally and religiously significant water features, historical hunting, agricultural, and herding areas, mineral and plant gathering locations, burial sites, and offering material sites. Because of the historical and cultural significance and integrity of association the Diné have with FWDA lands, their natural and cultural features and resources, it is vital that all future actions and cleanup efforts take into account Diné values, understandings, and beliefs through regular and continual consultation during the FWDA cleanup process."

- K. The Navajo Nation's position is to protect all Navajo sacred, traditional, cultural, and burial sites on all lands in and surrounding the Navajo Nation and supports the shared access by the Navajo Nation and Zuni Pueblo to cultural and religious sites in the FWDA lands.
- L. The Fort Wingate Depot Activity (FDWA) "inventories revealed a prominent Navajo presence at FDWA and resulted in the location of hundreds of associated Navajo resources. The Navajo Nation Archaeology Department completed an in-depth interview process with past and present residents of the FWDA and surrounding communities. In addition, HDR an environmental and cultural resources firm completed an additional study and documented hundreds of Navajo places and TCPs as well. See Resolution ENLCMA-01-16 attached as Exhibit B.

NOW THEREFORE BE IT RESOLVED:


- A. The Navajo Nation hereby establishes its position with regard to the Fort Wingate Depot Activity lands and authorizes the Speaker of the Navajo Nation Council and assigned legislative staff to continue discussion with the Zuni Pueblo leadership on the division of the Fort Wingate Depot Activity lands.
- B. The Navajo Nation supports the proposition that the Tribal Historic Preservation Officer (THPO) negotiate a cultural resources management plan with Zuni's THPO, with both consulting with at least two elder advisors, to protect and manage Navajo cultural resources in a culturally appropriate manner as part of larger negotiations with Zuni.
- C. The Navajo Nation's position with regard to the Fort Wingate Depot Activity lands and the proposed H.R. 1028 bill include:
 - 1) Use of the installation access road as a clear boundary for both Tribes.
 - 2) Address Zuni's concern regarding access to the frontage road.
 - 3) Correction of mapping errors in the map attached to H.R. 1028. See Map, Exhibit A.
- D. The Navajo Nation does not support the amendment to H.R. 1028, section 3(a), regarding the easement, permit rights, and access to utility service providers.
- E. The Navajo Nation requests the original language in H.R. 1028 regarding environmental remediation sections be included. The original sections requested pertain to (b) Liability, (c) Treatment of Claims against Tribes, and (d) Effect of Environmental Certification.
- F. The Navajo Nation directs the Speaker and assigned legislative staff to consider additional terms in discussion with the Zuni leadership:
 - 1) No gaming on FWDA lands;
 - 2) Federal funding for complete clean-up of the FWDA lands.
 - 3) A directive to the U.S. Bureau of Land Management to conduct a legal survey of the FWDA lands at the expense of the federal government;
 - 4) Recognize the authority of both Tribes to negotiate with the Missile Defense Agency or any other entity that

proposes an easement for rights-of-way or leasing of FWDA lands;

- 5) Both Tribes have access to existing paved and gravel roads and rail lines;
- 6) Assuring compliance with the National Historic Preservation Act and the Native American Graves Protection and Repatriation Act to protect historic buildings, cultural properties that include cultural, religious and burial sites for each Tribe on the FWDA lands; and
- 7) Allow for Congress to authorize the U.S. Secretary of the Interior to approve any further exchanges or sale of the partitioned lands between the Tribes.

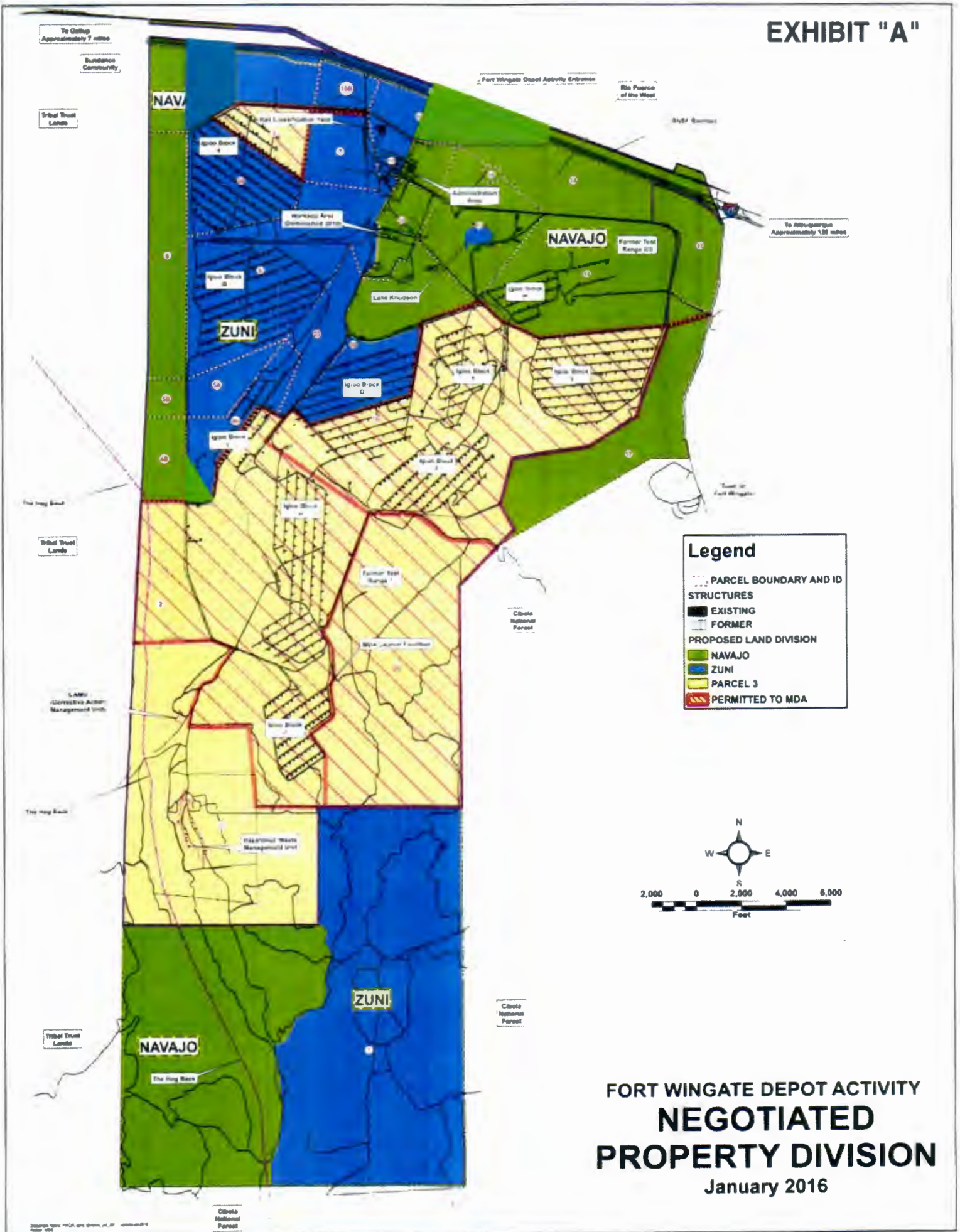
CERTIFICATION

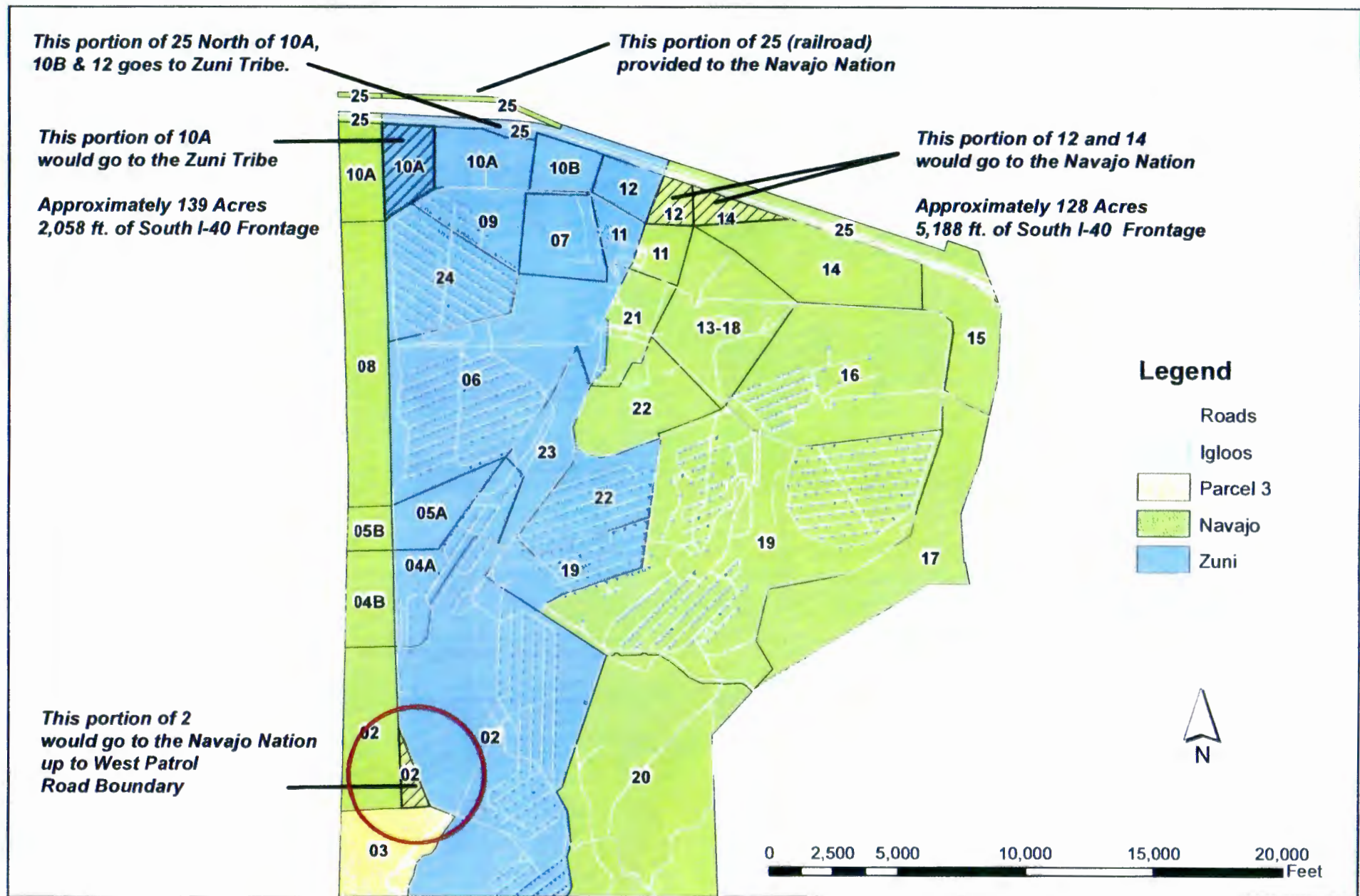
I hereby certify that the foregoing resolution was duly considered by the Naabik'íyáti' Committee of the 23rd Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 07 in favor, 06 oppose, this 7th day of April, 2016.


Jonathan L. Hale, Pro Tem Chairperson
Naabik'íyáti' Committee

Motion: Honorable Davis Filfred
Second: Honorable Seth Damon

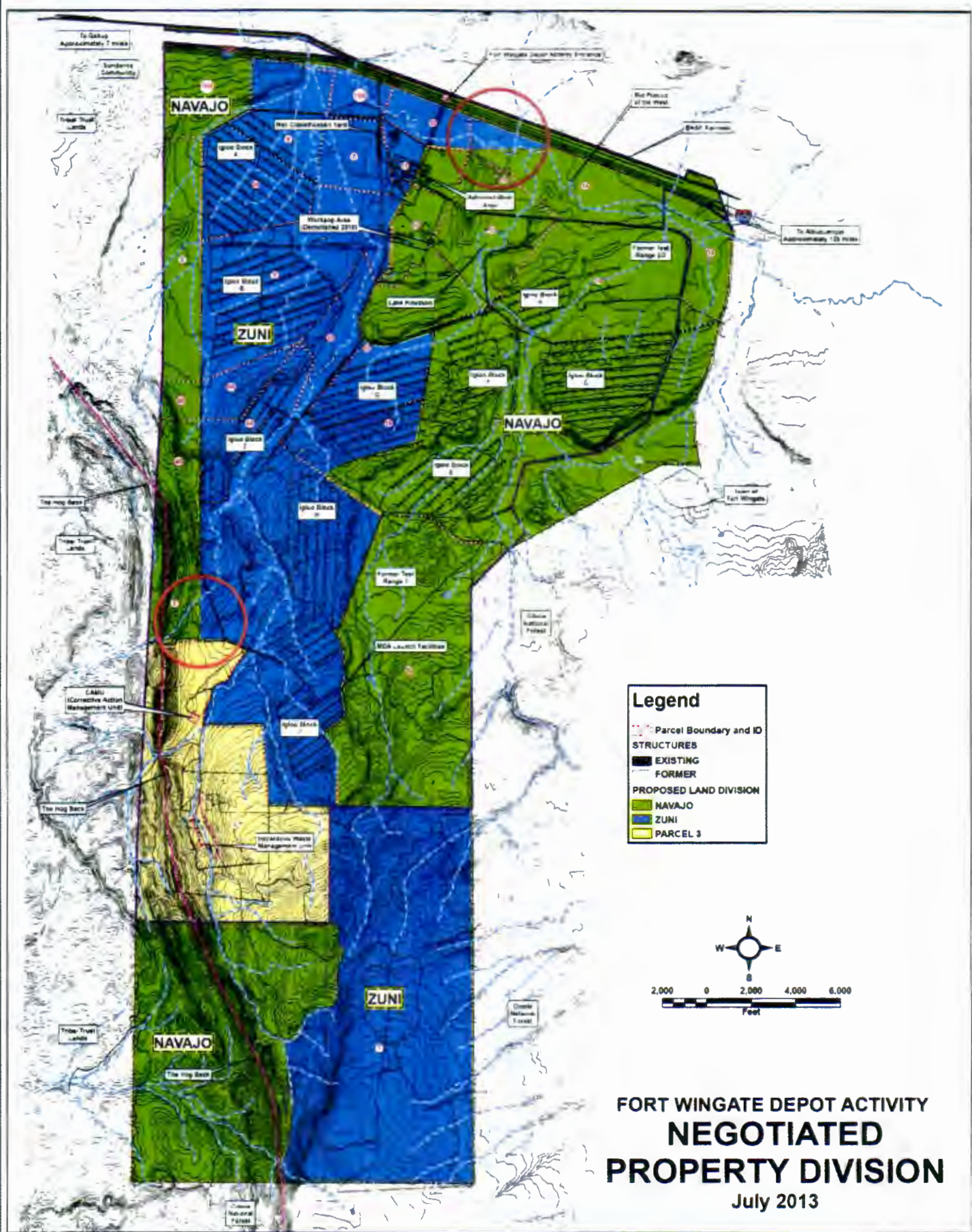
EXHIBIT "A"





Proposed I-40 Frontage Parcel Exchange and Shared Access Road Boundaries

Navajo Nation receiving East Access Road Boundary and Zuni Tribe Receiving West Access Road Boundary



RESOLUTION OF THE
EASTERN NAVAJO LAND COMMISSION

Approving of and Providing Support to Naa'bik'i'yáti' Committee's Directive to the Speaker of the Navajo Nation Council to Effectuate Progress with the Zuni Governor in Negotiating Final Adjustments to the Fort Wingate Army Depot Land Division

WHEREAS:

- 1) Pursuant to 2 NNC § 861 (B) (3), the Eastern Navajo Land Commission ("Commission") is established for the purpose of coordinating efforts of resolving land-related issues with Federal, State, County, and other local authorities and private interests throughout the Eastern Navajo Agency of the Navajo Nation; and
- 2) At the March 02, 2016 meeting, the Naa'bik'i'yáti' Committee gave a directive to the Speaker of the Navajo Nation Council (as chairman of the Naa'bik'i'yáti' Committee) to engage in additional talks with the Zuni Governor in making final adjustments to the land division plan between the Navajo Nation and Zuni Pueblo of the Fort Wingate Army Depot lands; and
- 3) Congressman Stevan Pearce has been persistent in introducing bills to assure of the division of the military lands to both tribes. In the latest legislation, HR 1028, Congressman Pearce proposes to have the Missile Defense Agency (MDA) retain Parcels 2, 9, 19 and 20 as indicated in Exhibit "A" and the same will not, in the meantime, be partitioned to the two tribes; and
- 4) The U.S. Department of Defense has contracted ethnographic, archaeological, and cultural studies throughout the 21,123 acres of the depot land identifying locations of cultural property sites and occurrences. Both tribes were collaborators of these studies. The February 2013 "Dine' Traditional Cultural Property Inventory at Fort Wingate Depot Activity" report involved only Navajo--a separate similar study was conducted with the Pueblo of Zuni. The Navajo study inventoried 187 hogans, 107 sweathouses, 203 livestock corrals, 329 Anasazi sites, and six shrines/offering locations. Both the Navajo Archeology Department and the Pueblo of Zuni were involved in the 2004 "Assessment of Sacred Sites and Properties of Traditional Religious and Cultural Importance with the Open Burn/Open Detonation Area at Fort Wingate Depot Activity, New Mexico" study; and
- 5) During the course of the Navajo Speaker-Zuni Governor dialogue, an understanding was reached and agreed to that no gaming, i.e., Casino establishments, would be placed on either part of the lands partitioned to Navajo and Zuni; and
- 6) In addition, the Speaker and Governor met on occasions or conversed by telecomm regarding concerns of mapping errors contained in the July 08, 2013, negotiated map and other matters as: use of the installation access road as a clear boundary; Zuni concerns regarding adjacency to the frontage road, I-40, and the railroad. These matters of concern have been resolved as shown in the attached map (Exhibit "A") which the Commission acknowledges as an improvement over the July 08, 2013 map.

NOW, THEREFORE BE IT RESOLVED THAT:

The Eastern Navajo Land Commission hereby approves of and provides support to the Naa'bik'i'yáti' Committee's Directive to the Speaker of the Navajo Nation Council to effectuate progress with the Zuni Governor in negotiating final adjustments to the Fort Wingate Army Depot land division; and

Further, the Commission recommends to the Naa'bik'i'yáti' Committee to ensure that the federal legislation include, but not be limited to: 1) no gaming on the partitioned lands; 2) federal funding for complete clean-up of the subject lands; 3) a directive to BLM to conduct a legal survey of the partitioned lands to the two tribes at the expense of the federal government; 4) recognize the authorities of both tribes to negotiate with the Missile Defense Agency or any other entity that proposes easements for Rights-of-Way or leasing of the partitioned lands; 5) both tribes have equal access to existing paved and graveled roads, and rail lines; and 6) assuring compliance with Nation Historic Preservation Act (NHPA) and the Native American Graves Protections and Repatriation Act (NAGPRA) to protect historic buildings, cultural properties that includes burial sites on both sides of the partitioned lands.

CERTIFICATION

I hereby certify that the forgoing resolution was duly considered by the Eastern Navajo Land Commission at a duly called meeting in Window Rock, AZ at which a quorum was present, and the same was passed by a vote of 4 in favor, 2 opposed, this 16th day of March, 2016.



Leonard Tsosie, Chairperson
EASTERN NAVAJO LAND COMMISSION

Motion : Danny Simpson
Second : Norman M. Begay