

The Honorable Arlen Quetawki  
Governor  
The Zuni Tribe  
Testimony  
OVERSIGHT HEARING ON THE DISPOSITION OF LANDS AT THE FORMER  
FORT WINGATE ARMY DEPOT  
Thursday, August 2, 2012

Mr. Chairman and members of the Subcommittee on Indian and Alaska Native Affairs, thank you for this opportunity to testify before you today on an issue of the highest importance to the economic well-being of the Zuni Tribe – the transfer of the 17,000 acres of lands at the former Fort Wingate Army Depot (“Ft. Wingate”) that the Army no longer needs – to the Zuni Tribe and the Navajo Nation. Fort Wingate is located between the Zuni and Navajo Reservations in the northwestern part of New Mexico, 5 miles east of the city of Gallup.

I would like to begin by thanking Congressman Pearce for introducing H.R. 4187. That bill would transfer three of the 25 reuse parcels of land at the former Fort Wingate in New Mexico to the Zuni Tribe and the Navajo Nation, with parcel 1 going to Zuni and parcels 15 and 17 going to Navajo. The Navajo Nation has attacked Congressman Pearce for introducing this legislation on the grounds that it meddles in intertribal matters. I am mystified why Navajo is doing this since, as a document attached to this testimony shows both tribes agreed to the division of these three parcels back in 1997. As a result, H.R. 4187 simply carries out what the two tribes agreed to 15 years ago.

However, the main purpose of my testimony today is to ask Congress to expand H.R. 4187 so it transfers all 25 of the reuse parcels at Fort Wingate to the two tribes on a 50-50 basis. This legislation is needed for two reasons:

First, Congress must authorize the transfer of all of these parcels to the tribes before the Interior Department can put them in trust for us, so legislation addressing all of the parcels will need to be enacted at some point. It makes sense to do it in a single piece of legislation, given how difficult it is to get bills through Congress these days.

But secondly, the Zuni tribe needs to get control over its share of the lands at Fort Wingate as soon as possible,, particularly its share of the parcels that have commercial value so it can

engage in economic development activities that can reduce our 65% unemployment rate and that can help to stop our young educated Zuni tribal members from leaving the reservation because they cannot find decent jobs there.

The Zuni Tribe has spent 15 futile and frustrating years trying to negotiate a fair division of the Fort Wingate parcels with the Navajo Nation. During that period, two Navajo presidents have agreed with us that the only fair division is a 50-50 split and negotiated a good faith agreement that allowed each tribe to get the parcels most important to it. However, the Navajo Nation council killed both of those agreements, variously demanding over the years that Navajo get 100%, 90%, 75%, 65%, all without any justification other than that “we are the big Navajo Nation and we can hold the Zuni Tribe hostage by delaying any resolution until Zuni gets so desperate for land at Fort Wingate that Zuni eventually caves in.

The two tribes disagree on whether Congress should make the call on how the parcels should be divided between them or whether Congress should wait until the two tribes have negotiated a division. Since these are federal lands, and since we have spent a great deal of time and money over the past 15 years futilely trying to reach a fair agreement with the Navajo Nation, the Zuni Tribe believes that it is time for Congress to act. However, the legislation we are asking Congress to enact represents a compromise between our two positions. The bill would give the two tribes six months to negotiate an agreement on how the lands should be divided. If the two tribes cannot reach agreement by the end of this six month period, the bill would divide the parcels between the two tribes on a 50-50 basis, the only fair way to divide the lands. It would do so using the division of the parcels that Navajo president Ben Shelley and I negotiated last year but which the Navajo Nation Council killed in its continuing effort to overreach.

This is not the first time the Navajo Nation has been involved in a land dispute with a smaller neighboring tribe. Those Congressmen who have been around for a while will remember the Navajo-Hopi land dispute, where the Navajo Nation tried to overreach and Congress was forced to step in and impose a fair and equitable resolution. However, that situation took forty years to resolve. For the sake of the Zuni Tribe’s economic future, we ask that Congress not wait that long to resolve the Fort Wingate land dispute.

The Zuni Tribe, with 11,300 members, is culturally rich but economically poor. While we have been successful in preserving our unique culture and language, we suffer from extreme poverty and a 65% unemployment rate. A main reason for this is that our reservation is located in a remote corner of New Mexico away from Interstate highways, rail lines, natural gas pipelines and the kind of electric transmission needed for commercial development. In contrast, the 17,000 plus acres at Ft. Wingate that the Army no longer needs can provide the Zuni Tribe and the Navajo Nation with unparalleled opportunities for economic development because it is on a major interstate highway and rail line and has ample utilities for commercial development that can help us address the very high unemployment and poverty levels faced by both tribes.

In the mid-1990s, the Federal government concluded that upon the closure and remediation of Fort Wingate, the 17,000 acres the Army no longer needed should be returned to their original owners – the Zuni Tribe and the Navajo Nation. The Federal government also offered the tribes the opportunity to sit down and decide how best to divide the lands between them so each could obtain the lands that had the greatest value to them for cultural or economic purposes. In 1997, the then-Navajo President Albert Hale and the Zuni Governor Donald Eriacho entered into an MOU in which each agreed to enter into good faith negotiations. During the subsequent 15 years, two different Navajo presidents have agreed with Zuni that the appropriate resolution is a 50-50 split between the Tribes and we negotiated a very specific agreement that describes which parcels shall go to which tribe.

However, each time the Navajo executive branch has reached agreement with the Zuni Tribe, the Navajo Nation Council killed those agreements by demanding that Navajo receive all or most of the land. At various times it has demanded 90%, 75% and 65% of the available lands and one time said it should get all of the land and it would give Zuni a 99 year lease for some of it. There is no valid reason why either tribe should get more land than the other and the Navajo Council has never sought to justify its demands. Rather, it seems to be saying “we are entitled to more than half because we are Navajo and we can afford to drag this out until Zuni caves in.” In fact we were recently told that the Navajo Council’s present strategy is to drag out the negotiations until Zuni, needing the lands that are valuable for economic development, will become so desperate that it will **to** settle for an unfair agreement that gives Navajo most of the land.

Navajo has also misrepresented to Congress the present status of negotiations. In a July 18, 2012, letter to Congressman Pearce the Navajo Speaker said the best solution is to allow the tribes to continue to negotiate on the grounds “that much progress has been made” and “that an agreement is closer than you imagine”. Zuni was surprised to hear this so called progress, since in fact, the Navajo Nation has not communicated with us once in the five months since the meeting on March 15 ended in complete failure, we are no closer to an agreement today than we were in 1997, and a Navajo Council member on its Fort Wingate team told us that the Council does not consider the issue a priority and has no intention of returning to it until after President Shelley’s term is over in 2015.

Given the poverty faced by both tribes, this delay is unacceptable. When the delay involves using Federal lands to hold Zuni’s economic development opportunities hostage until the Tribe succumbs, it is unconscionable. The delay has also been expensive, requiring the Zuni Tribe to expend large amounts on attorneys, land experts, travel and other expenses – money our Tribe does not have. We have multiple file cabinets filled with correspondence between the two tribes on Fort Wingate – all leading nowhere. After 15 futile years, it is time to recognize reality by declaring the effort at negotiations between the tribes a failure. There is not a single indication that negotiations will be any more successful over the next 15 years than they have been over the past 15 years. It is time for Congress to step in and legislate a resolution.

Navajo claims this is an intertribal dispute in which Congress has no role. That is incorrect. These are Federal lands for which Congress has both the authority and responsibility to decide how those lands should be allocated. The Federal government was generous enough to give the two tribes the opportunity to agree between them on a division. This was just an opportunity, not a right. Since the Navajo Nation has failed to negotiate in good faith for 15 years, it has forfeited any moral right to argue this is an intertribal dispute, to ask for more time, or to assert that future negotiations will be productive. Rather, it is now time for Congress to step in and exercise its authority and responsibility to dispose of these Federal lands. If Congress fails to act and instead allows Navajo Nation to continue its stalling tactics, valuable Federal lands will continue to sit idle, providing no benefit to either tribe or the larger New Mexico community.

## **BACKGROUND**

The Zuni people have inhabited the area that is now the southwestern part of the United States since time immemorial. When the Spanish explorer Francisco Coronado came to the Southwest looking for the Seven Cities of Gold in 1507, he found us at our present location, inhabiting an area that included what is now Fort Wingate. Archeological evidence documents that we were using the area that is now Fort Wingate, an area our ancestors named *Anshe K'yan'a*, for over 1000 years. The Navajo people arrived in the Southwest from what is now Alaska sometime after Coronado's visit. According to one Federal Court decision, from all historic evidence it appears that the Navajos entered this area in the last half of the eighteenth century. There is no documented evidence of a Navajo presence in the lands that now are Fort Wingate until the 1860s.

In the mid-1800s, the United States took the lands that now comprise Fort Wingate into the public domain and in 1860 the Army established Fort Wingate on those lands. Significantly, the Army constructed Fort Wingate to prevent the Navajos, who were located to the north, from raiding the Zuni villages and stealing their crops and livestock. Notwithstanding this history, the Zuni Tribe has always tried to be a good neighbor. For example, when Kit Carson was rounding up the Navajo people to move them to Fort Sumner in the 1860s, the Zuni Tribe provided refuge to a large number of Navajos, enabling them to avoid the horrors of the Long Walk and incarceration at Sumner.

While the Navajos were late arrivals to the Fort Wingate area, the Zuni Tribe accepts that the Navajos may also have ties to these lands. (The Indian Claims Commission recognized the lands on which the Fort is located as the ancestral lands of both the Zuni and Navajo tribes.) Based on this recognition of both Tribes' ties to these lands, the Zuni Tribe has always taken the position that the only fair disposition of the Fort Wingate lands is a 50-50 split between the Tribes.

During World War II, Fort Wingate was converted into a munitions depot, where weapons, particularly bombs and artillery shells, were built and tested. After the War, the Fort was used to decommission bombs and shells. Because of these uses, portions of the Fort became highly-contaminated from the chemicals used in the weapons' assembly and decommissioning process, while other portions were littered with unexploded ordinance. In the Base Closure and Realignment Act of 1988, (BRAC 1988), Congress directed that Ft. Wingate be closed, except

for limited uses by the Army, such as the missile launch facility it operates there. While it was recognized that the lands would need substantial remediation because of the contamination, it was also recognized that once they were cleaned up they would have tremendous potential for economic development since the Fort borders on an interstate highway, has rail access to the main cross-country rail line traversing the Southwest, has natural gas, industrial-level electricity supplies, and ample water.

The various local, county and state governments all expressed an interest in obtaining the lands at Fort Wingate. However, the Department of the Interior believed that those lands at Fort Wingate that were no longer needed by the Army should be returned to their original owners, the Zuni Tribe and Navajo Nation, once they were remediated. As a result, the Secretary of the Interior and the Secretary of the Army agreed that upon remediation of the lands at Fort Wingate, they would be offered to the two tribes, pursuant to a division of the lands that the two tribes would negotiate. (Exhibit A) Under the proposed process, the Army would transfer control over the lands to the Interior Department, which in turn would place the lands in trust for the respective tribes pursuant to their agreed-upon division. As discussed below, Interior has since informed the tribes and the New Mexico Congressional delegation, that while it has the authority to take control of the lands from the Army, it lacks the legal authority to transfer the lands to the tribes, such that it will require legislation before it can do so.

## **A. THE IMPORTANCE OF FORT WINGATE TO THE ZUNI TRIBE**

### **1. Economic Development**

The Zuni Tribe is proud of the way that we have retained our language and culture, such that a visitor coming to the Pueblo today will hear the same language and witness the same ceremonies as Coronado saw when he visited us over 600 years ago. However, the Zuni Reservation is located in a remote corner of New Mexico, away from major highways and rail lines. It has no natural gas pipelines and lacks the kind of electrical transmission and internet access that is required for commercial development in these times. By contrast, Fort Wingate has all of these assets. U.S. I-40, the major east-west Interstate in the Southwest passes along Fort Wingate's northern border and has a direct exit into the Fort. Burlington Northern, Santa Fe's major rail line also passes along Fort Wingate's northern border and has a rail spur into the Fort. There is a major natural gas pipeline into the Fort and major electric transmission lines.

For all of these reasons, the land at Fort Wingate offers the Zuni Tribe a window into economic opportunity that it presently lacks. It will make the difference between a vibrant Zuni economy and a continuation of the 65% unemployment rate we have suffered from all of these years. (As discussed below, the Zuni Tribe has offered to divide the lands along the northern border of Fort Wingate equally with the Navajo Nation so both tribes can benefit from these opportunities.)

We are often asked if we intend to use land we obtain at Fort Wingate for a casino. The answer is that while we should have the same ability to do gaming on our land that any other tribe has, gaming is not our first or highest priority for these lands and we have done no planning in that regard. At this point, we believe that commercial development using the rail, water, natural gas and electric power available at the Fort will bring the most value to the Zuni Tribe in terms of good jobs, profits and long-term viability.

## 2. Cultural and Traditional Uses

Fort Wingate is full of important cultural and religious sites for the Zuni people. There are many ruins of old Zuni buildings, some going back 600 years. There are important prayer sites, and sites with medicinal plants and plants used in our age-old ceremonies. Fort Wingate is also crisscrossed with trails that our religious leaders use to use during ceremonies. When we met with the Navajo executive branch to negotiate an equal division of the lands at Fort Wingate, we were able to divide up the lands in a way that enabled both tribes to obtain the sites that have the greatest importance to their culture and traditions.

### **B. THE STATUS OF THE REMEDIATION OF THE LANDS AT FORT WINGATE AND THEIR TRANSFER TO THE DEPARTMENT OF THE INTERIOR**

The remediation of the lands at Fort Wingate are under the jurisdiction and oversight of the New Mexico Environment Department (NMED). NMED imposed the highest standards on the Army's clean-up, requiring that the lands be remediated to the level that would allow them to be used for residential purposes. The Army divided the lands at Fort Wingate into 25 Reuse Parcels for purposes of the remediation. Seven of those parcels have already been certified as remediated by NMED. Of those, three have been transferred to the Interior Department, which in turn granted a 20 year permit for their use to the BIA. Presently, those lands are not being used for any purpose. The 20 year permit expires in 2020. The four other remediated parcels,

including the parcels along the northern border that have the greatest economic potential, are in the process of being transferred by the Army to Interior, though as discussed below, some complications have arisen in regard to those transfers that could benefit from legislation. The Army will remediate the remaining 18 parcels sequentially over the next 20 years. The Army has already spent \$50 million on the remediation effort and estimates it will require an additional \$160 million to complete the job.

### **C. THE HISTORY OF THE TRIBE'S NEGOTIATIONS WITH THE NAVAJO NATION REGARDING DIVISION OF FORT WINGATE**

Federal law requires that upon closure of Fort Wingate, its lands, as former public domain lands, must revert to the Bureau of Land Management in the Department of the Interior. In the mid-1990s, the Interior Department made the decision that once it re-obtained the lands, it would place them in trust for the Zuni and Navajo Tribes in order to help them promote economic development. In a 1995 letter to the Army from then Interior Secretary Bruce Babbitt, after discussing the clean-up of the lands at Fort Wingate and the steps required for it to be transferred from the Army to the Interior Department, Secretary Babbitt states: "Once Interior has taken the necessary legal steps, the lands will be managed by the Bureau of Indian Affairs to meet its mission in serving the two local tribes, the Navajo Nation and the Pueblo of Zuni." (Copy at Exhibit A) This decision was supported locally. For example, in 1997, the State of New Mexico Legislature adopted a joint memorial supporting the transfer of the Fort Wingate lands to the two tribes. Interior has since determined it needs legislation to put public domain lands into trust status for the tribes.

On February 19, 1997, the President of the Navajo Nation and the Governor of the Zuni Tribe entered into a Memorandum of Understanding (MOU) in which they acknowledged each Tribe's historical ties to the lands at Fort Wingate, agreed that upon remediation those lands should be transferred to the two Tribes, and committed to "...good faith negotiations to determine each Parties' respective interest in said lands in accordance with this Agreement and prior understandings." Those prior understandings were that the two Tribes should divide the lands at Fort Wingate on a 50-50 basis.



The MOU acknowledges that each Tribe has strong and long-standing ties to these lands. It does not try to assert that one tribe has stronger ties or is entitled to more land than the other tribe. Each tribe can come up with arguments on why it should get all or most of the lands. For example, the Zuni people were occupying these lands over 1000 years ago, at a time when the Navajo people were still living in what is now Alaska. However, per the MOU, both tribes have acknowledged the other tribe's ties to the land. The Navajo Nation has a larger population than Zuni, but it also has a larger land base. Zuni has greater poverty than does Navajo. One can go on and on with these kinds of arguments but none is dispositive, such that such arguments will lead to nothing but deadlock. The most important factor is that the Zuni Tribe and the Navajo Nation is each a sovereign nation, such that each is entitled to an equal share of these lands.

Over the past 15 years, the Zuni Tribe and the executive branch of the Navajo Nation have successfully entered into the "good faith negotiations" called for in the 1997 MOU based on the joint premise that the lands should be divided equally between the Tribes. In 2005, Joe Shirley, the then-president of the Navajo Nation, entered into negotiations with the Zuni Tribe on the joint understanding that the lands would be divided equally. However, when the Navajo legislative branch then took over the negotiations from him, it asserted that the Navajo Nation was entitled to 90% of the lands. This position shut down the negotiations for five years.

In late 2010, both the Zuni Tribe and the Navajo Nation elected new leadership. Soon after Navajo President Ben Shelley and I took office in early 2011, we agreed that it was time to reach agreement on the division at Fort Wingate and that the fair solution required a 50-50 split. We directed our staffs to meet. Over a six month period, they hammered out an agreement that divided the parcels in a way that enabled each tribe to receive the areas it considered its highest priorities and each tribe received approximately the same number of acres. Each tribe received some of the commercially valuable land that borders on I-40 and each received land that had the highest cultural importance to it. In July 2011, the Zuni Tribal Council formally adopted the negotiated plan. In August 2011, President Shelley visited Zuni. During that visit, he and I reviewed the proposed agreement. He said it was fair, and promised to bring it before his Council for consideration.

However, once again, the Navajo Nation Council killed the agreement, once again asserting that Navajo was entitled to more than half. In November 2011, the Zuni Tribe learned that the

Navajo Nation Council had declared that it had sole responsibility for negotiating a Fort Wingate agreement and that it rejected the agreement reached by President Shelley. We understand that every government has its own procedures to follow and that the Navajo Council has an absolute right to select its own negotiating approach and to approve any agreement before it becomes legally binding on the tribe. Our problem has been with the manner in which the Navajo Nation Council has acted since then.

From November 2011, until March 2012, the Navajo Nation Council failed to respond to any of our requests for a meeting to discuss Fort Wingate. Finally, as a result of pressure brought by Congressmen Lujan and Pearce, the Navajo Nation Council's Fort Wingate negotiating committee, called the MOU Team, came to Zuni on March 15, 2012. Representatives of the Council informed the Zuni Tribe before the meeting that its MOU Team had no plans to negotiate during the meeting and that it was not bringing any maps or proposals for dividing the land, describing the meeting as a "meet and greet". For the first hour and a half of the meeting, the Navajo representatives focused on their opposition to H.R. 4187 and refused to discuss their own position regarding the division of the lands. The Navajo representatives said there was no rush since they were in office until 2015. Finally, I asked the Speaker of the Navajo Nation Council if his committee supported a 50-50 division of the lands at Fort Wingate between the tribes. His answer was that Navajo was entitled to more than 50%. I then adjourned the meeting.

Since that meeting, Navajo Nation officials have said in articles in the local newspapers and in letters to Congressmen that they have been engaging in constructive dialogue with the Zuni Tribe since the March 15<sup>th</sup> meeting and that much progress has been made. There is simply no truth to those statements. The truth is that since the March 15<sup>th</sup> meeting broke up, the Zuni Tribe has not received a single communication from the Navajo Nation Fort Wingate MOU Team – not a word. A Navajo Nation council member told one of our employees that the Council has no intention of returning to the Fort Wingate issue until after President Shelley's term is up in January 2015, since it sees no urgency in addressing the Fort Wingate situation. Another Navajo official told us that Navajo Nation believes the Zuni Tribe is so desperate to get some of the Fort Wingate lands along I-40 for economic development that that if the Navajo Nation Council stalls the negotiations long enough, the Zuni Tribe, out of desperation, will agree to accept less than 50% of the lands.

The Zuni Tribe agrees that the best solution for resolving the Fort Wingate land division issues would have been for the two tribes to meet and negotiate a settlement. But while the Navajo Nation agreed in the 1997 MOU to enter into “good faith negotiation”, it has failed to negotiate in good faith for 15 years. It has insisted on an unfair division in which Navajo get all or most of the lands, it has failed to put a single proposal for dividing the lands on the table, and it has never sought to explain why it had a greater right to more of these parcels than does Zuni; e.g., that it may have strong cultural ties to many parcels. Rather than negotiating or offering reasoned positions, the Navajo Council is simply seeking to bludgeon the Zuni Tribe into acquiescing to Navajo Nation’s demand for more than half of the lands.

Navajo Nation keeps calling this an intertribal matter. However, these are Federal lands, not tribal lands, such that their final disposition rests with Congress not with the tribes. The Federal government generously gave the two tribes an opportunity to agree on a fair division of the lands. But by failing to negotiate in good faith for 15 years, the Navajo Nation has forfeited its moral right to argue that this is an internal matter that must be left to the tribes. After 15 futile years, it is time for Congress to declare the negotiations process to be a failure and time for Congress to step in and exercise its authority and responsibility over these lands by legislating a solution, just as it did in the Hopi-Navajo land dispute.

Legislation will be needed to transfer the lands to the tribes even if they reached agreement, since the Interior Department has informed us that it does not have legal authority to put the Fort Wingate lands into trust status for the tribes or to otherwise transfer title to them. The Zuni Tribe therefore asks Congress to enact legislation that gives the Tribes six months to reach an agreement and that also grants the Federal agencies the necessary authority to transfer the lands to the tribes pursuant to any division the Tribes negotiate during this six month period.

However, the legislation must also provide that if the Tribes are unable to reach agreement in six months, the lands shall be divided between the two Tribes on a 50-50 basis, following the 50-50 division the Navajo President and the Zuni Tribe negotiated in good faith last year. If Congress does not put this kind of time limit on negotiations, we will likely see 15 more years of delay and obfuscation by Navajo Nation while valuable Federal lands go unused. I request that Congress move quickly to enact such legislation so that the Zuni Tribe can start its journey out of poverty and to economic success as soon as possible.

We also ask that the legislation contain the following provisions:

1. Last year Chairman Young introduced legislation that would allow tribes, at their option, to change the legal status of their lands from trust to restricted fee. The Zuni Tribe believes this idea has merit and asks that the Fort Wingate bill give the two Tribes the option of taking the Fort Wingate lands in restricted fee status rather than in trust.
2. The Department of the Interior's Manual requires that the Department carry out its own environmental review before it accepts land from the Army or puts lands into trust status. Because this imposes costs on the Department for which it has not received appropriations, it has caused delays in the Army's ability to transfer remediated lands to Interior. As I indicated, the lands at Fort Wingate are being remediated to the highest standards established by the NMED and the Army will be spending over \$200 million to remediate those lands. In contrast, the reviews by Interior are superficial and thus, of little value. In addition, the Army remains liable for any contamination it caused that is uncovered in the future, so neither the Interior Department nor the Tribes are at risk. For these reasons, we request the bill provide that once NMED has certified that a parcel at Fort Wingate is remediated, no further environmental reviews shall be required in order for the lands to be transferred from the Army to Interior or from Interior to the Tribes (whether in trust or restricted fee status).

A copy of draft legislation incorporating the approach set out in this testimony is attached at Exhibit D of my testimony.

In April of this year, the All-Indian Pueblo Council, representing the 19 Pueblos in New Mexico, adopted a resolution that goes even further than our proposed legislation. It states: "That if the Navajo Nation continues to reject an even distribution of the lands at Fort Wingate between the two tribes, the All-Indian Pueblo Council urges that in lieu of H.R. 4187, Congress enact legislation giving the Zuni Tribe all of the lands at Fort Wingate." A copy of that resolution is attached to my written testimony at Exhibit C.

Thank you for this opportunity to testify. The Zuni Tribe is available to provide any additional supporting documentation the Committee may need on this issue.



United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20340

JUN 28 1995

Mr. Paul W. Johnson  
Deputy Assistant Secretary  
of the Army (Installations &  
Housing)  
OASA (I, L & E)  
110 Army Pentagon  
Washington, D.C. 20310-0110

OPTIONAL FORM NO. 10 (7-93)

FAX TRANSMITTAL

# of pages 2

TO: <i>Paul Johnson</i>	FROM: <i>Marilyn Rodriguez</i>
DATE: <i>7/7/95</i>	PHONE: <i>202-761-7033</i>
FAX: <i>817-978-8480</i>	FAX: <i>202-761-8926</i>

NSN 7540-21-217-7500 5010-101 GENERAL SERVICES ADMINISTRATION

Dear Mr. Johnson:

I am writing to confirm our understanding of the proposed transfer of land at Fort Wingate from the Department of the Army (Army) to the Department of the Interior (Interior), and to set forth Interior's requirements regarding environmental liability and cleanup at Fort Wingate, and transfer of management of the TPL, Inc. (TPL) facilities contract at Fort Wingate.

At a recent briefing for Interior Department personnel by the Army Base Realignment and Closure Office and the Army Environmental Center, it was explained that all Army "military operations" must cease at Fort Wingate by September 30, 1995. This precludes the Army from continuing the TPL facilities contract to its termination date in 1998. If the September 30, 1995 deadline is not met, the Army would have to cancel its demilitarization contract with TPL. As a way to resolve its predicament, the Army has proposed that Interior assume management of the TPL facilities contract.

The Army has informed Interior that the lands subject to the TPL facilities contract are contaminated. Although Interior is willing to assume management of the TPL facilities contract by September 30, 1995, Interior will not assume liability or cleanup responsibility for any of the TPL facility areas within Fort Wingate, nor will Interior assume any liability for the acts or omissions of the military or its contractors. Interior will assume management of the TPL facilities contract only if the Army agrees that it will be responsible and liable for any and all claims relating to the Army's or TPL's demilitarization operations and for the cost of cleaning up all contamination occurring before or after September 30, 1995. Further, if TPL defaults on any of its obligations to the government in connection with TPL's operations at Fort Wingate, the Army must reimburse Interior for any and all costs or losses incurred by Interior. The facilities contract must be amended to take into account Interior's substitution for the Army under the TPL facilities contract.

At the recent briefing, the Army also informed us that for the Army to preserve its demilitarization contract with TPL, the land encumbered by the TPL facilities contract must be transferred to Interior by September 30, 1995. This could only be accomplished if Interior accepts all lands the Army now seeks to relinquish at Fort Wingate.

The Interior Department is prepared to accept administrative jurisdiction of all the Fort Wingate lands that are described in the notice of intent to relinquish dated June 28, 1995, submitted to the Bureau of Land Management, Albuquerque District Office, by the Albuquerque District, U.S. Army Corps of Engineers, provided the Army cooperates fully with Interior in complying with all laws and regulations applicable to the return of the lands. The transfer as to any portion of the Fort Wingate lands will not occur, however, unless and until Interior issues a public land order having that effect. The Bureau of Land Management's acceptance of a relinquishment notice, in and of itself, does not have the effect of transferring jurisdiction of the lands to Interior. Except as discussed above for the TPL facilities, Interior will not accept a transfer of jurisdiction as to any parcel of the Fort Wingate lands until the Army completes its environmental remediation program for that parcel.

In order to implement the foregoing, we propose that a memorandum of agreement be developed between the Army and Interior which defines the roles, relationships and responsibilities of the parties. This agreement must be in effect prior to the transfer of any lands at Fort Wingate. Interior is ready to begin drafting an agreement for your consideration.

Once Interior has taken the necessary legal steps, the lands will be managed by the Bureau of Indian Affairs to meet its mission in serving the two local tribes, the Navajo Nation and the Pueblo of Zuni.

We recommend that the Army Environmental Center and TPL provide briefings of their activities at Fort Wingate to the local offices of the Bureau of Indian Affairs, Bureau of Land Management and other interested parties at the earliest possible date.

We appreciate the close working relationship we have had with your staff. We look forward to your prompt written assent and approval to the foregoing so that we can begin working toward a smooth transition.

Regards,

*B. Cohen*  
Bonnie Cohen  
Assistant Secretary  
Policy, Management and Budget

Exhibit B

UNITED STATES GOVERNMENT

# memorandum

NOV 18 1997

DATE: NOV 18 1997

REPLY TO: Acting  
ATTN OF: Area Director, Navajo Area Office  
Area Director, Albuquerque Area Office

SUBJECT: Summary of October 22, 1997 Meetings: Fort Wingate Base Closure

TO: Assistant Secretary for Land and Water Resources  
Attention: Dwight Hempel, Bureau of Land Management

This memorandum is a follow up to the October 22, 1997 meetings among the Department of the Interior (DOI), Bureau of Land Management (BLM), Bureau of Indian Affairs (BIA), the Tribal Leaders from the Pueblo of Zuni and the Navajo Nation, Department of the Army (DOA), and the Corps of Engineers (COE), regarding transfer of Fort Wingate Depot Activity (FWDA).

We will begin by restating our united (BIA, the Pueblo of Zuni, and the Navajo Nation) position, addressed in the forefront of the meeting, that the authority utilized for FWDA disposal should be a land transfer rather than the Base Realignment and Closure Act (BRAC) of 1988.

Other issues and action items are as follows:

■ You agreed to draft a letter for the signature of the Assistant Secretary, DOI to treat FWDA as a land transfer.

■ You will initiate a letter to the DOA requesting expedited clean up of the FWDA and that DOI will have oversight responsibility to insure cleaning of the hazardous materials area(s).

■ You will seek funds from DOA, BLM, and BIA for the BLM cadastral survey of the exterior and interior boundaries of FWDA.

■ BLM will contract for and fund a Level One Survey on FWDA. The tribes and the BIA will participate in this survey.

■ The southern 6,000 acres will be transferred to BIA for the benefit of the Pueblo of Zuni with the concurrence of the Navajo Nation. The remaining northern acreage, less the 1,300 acres, to be retained by DOA in perpetuity will be transferred to BIA for the benefit of the Navajo Nation with the concurrence of the Pueblo of Zuni. Currently, there may be portions of the northern

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MAY 1962 EDITION  
GSA FPMR (41 CFR) 101-11.6

region of FWDA that may be environmentally clean and ready for transfer to the Navajo Nation.

■ A verbal statement was made that DOI will adopt the Navajo Nation and Pueblo of Zuni Reuse Plans as the official plans for purposes of remediation. You were going to follow-up with a written confirmation letter to that effect.

■ BIA Area Directors, the Pueblo of Zuni and the Navajo Nation will develop and execute a document stating that the Pueblo of Zuni and the Navajo Nation will be the authorities on the clean up of FWDA in accordance with their joint reuse plans.

■ DOA has already cleaned some portions of FWDA to industrial standards because they contend they lacked the reuse plans required under BRAC. DOA agreed to work with the Pueblo of Zuni and the Navajo Nation for remediation under the joint reuse plans.

■ BIA will participate as team members with the FWDA Base Closure Team at the next meeting scheduled for December 3, 1997.

■ The Pueblo of Zuni and the Navajo Nation unanimously opposed the New Mexico Police Academy request for use of the firing range and subsequent transfer to the State of New Mexico. All other parties (DOI, DOA, ELM, BIA, etc.) agreed to deny the request.

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■ The Pueblo of Zuni and the Navajo Nation are not opposed to the current TPL demilitarization and facilities contracts. Upon formal transfer of the property, the future operations of TPL will be subject to negotiations with and between the two tribal Governments.

■ You are to follow-up on your verbal request to COE for FWDA real property records. The records should include existing rights-of-way or service line agreements for utilities, roadways, railways, etc.

We agree with and support the above decisions and desires of the Pueblo of Zuni and the Navajo Nation. We intend to pursue the immediate transfer of the 6,000 acres to the BIA for the beneficial use of the Pueblo of Zuni. We will also continue to work with the Federal agencies involved and the tribes to identify clean areas and transfer those portion(s) of the northern part of FWDA to the Navajo Nation.

We will continue to seek remediation of FWDA to a level consistent with the tribes' joint reuse plans.

Communications have not always been direct and timely, and we may have missed various meetings and other activities as a result. We would appreciate your providing any information you receive on FWDA.

The main contacts for Albuquerque Area Office are Mike Hackett, Zuni Agency Superintendent, and June Gray, Area Realty Specialist. Mr. Hackett can be reached at (505) 782-5591 in Zuni, New Mexico. Ms. Gray can be reached at (505) 766-3170 in Albuquerque, New Mexico. For the Navajo Area Office, the primary contact person is Gerald Curley, Area Realty Specialist, who will coordinate all issues. Mr. Curley can be reached at (505) 863-8243 in Gallup, New Mexico.

If you have any questions, or if we can assist you with any part of this transfer initiative, please contact us directly. The Navajo Area and Albuquerque Area Directors can be reached at (505) 863-8314 and (505) 766-3171, respectively.



Area Director  
Navajo Area

\_\_\_\_\_  
Area Director  
Albuquerque Area





**ALL INDIAN PUEBLO COUNCIL** Office of the Chairman

Chairman Chandler Sanchez Vice Chairman Charlie Dowame Secretary/Treasurer Leroy Arjona

**ALL INDIAN PUEBLO COUNCIL  
RESOLUTION NO. 2012-02**

**TITLE: SUPPORTING H.R. 4187 AND AN EQUITABLE DIVISION OF THE  
LANDS AT FORMER FORT WINGATE BETWEEN THE ZUNI TRIBE AND  
THE NAVAJO NATION**

**WHEREAS**, the All Indian Pueblo Council (AIPC) is comprised of the nineteen Sovereign Pueblos of New Mexico including the Pueblos of Acoma, Cochiti, Isleta, Jemez, Laguna, Nambé, Ojita, Owingeh, Picuris, Pojoneque, San Felipe, San Ildefonso, Sandia, Santa Ana, Santa Clara, Santo Domingo, Taos, Tesuque, Zia and Zuni; and

**WHEREAS**, the 19 Pueblos possess inherent government authority and sovereignty over our lands and which include the protection of our language, culture and tradition; and

**WHEREAS**, the lands that comprise the former Ft. Wingate were lands of the Zuni Tribe since time immemorial. In the 1840's, the United States took approximately 50,000 acres of those for the creation of Ft. Wingate; and

**WHEREAS**, in 1928, Congress transferred 9000 acres of those lands, comprising what is now the Church Rock Chapter area, to the Navajo Nation. In 1950, Congress transferred an additional 13,000 acres of Ft. Wingate land to the BIA Navajo Area for the Ft. Wingate Boarding School; and

**WHEREAS**, in 1993, after the Army closed Ft. Wingate, the New Mexico Congressional delegation instructed the Army to remediate the lands and then transfer all lands not needed by the Army, approximately 21,812 acres of land, to the Zuni and Navajo Tribes pursuant to an equitable agreement negotiated between the two tribes; and

**WHEREAS**, The Navajo Nation has not yet agreed to an even division of the lands at Ft. Wingate, such that the two tribes have not yet entered into an agreement; and

**WHEREAS**, Three of the 25 parcels at Ft. Wingate have been remediated and are ready to be transferred to the two Tribes; and

**WHEREAS**, Congressman Steve Pearce of New Mexico has introduced a bill, H.R. 4187, that would transfer two of those three parcels to the Navajo Nation and one of the parcels to the Zuni Tribe, with the understanding that this is just a first step in transferring all the lands at Ft. Wingate to tribal ownership;

**NOW THEREFORE BE IT RESOLVED**, that the All Indian Pueblo Council, through this AIPC Resolution, declares its support for H.R. 4187 and urges Congress to enact it into law expeditiously.

**BE IT FINALLY RESOLVED**, That if the Navajo Nation continues to reject an even division of the lands at Ft. Wingate between the two tribes, the All Indian Pueblo Council urges that, in lieu of H.R. 4187, Congress to enact legislation giving the Zuni Tribe all of the lands at Ft. Wingate.

**CERTIFICATION:**

I hereby certify that the foregoing Resolution No. 2012-02 was considered and adopted at a duly called council meeting held on the 28<sup>th</sup> day of April 2012, and at which time a quorum was present and the same was approved by a vote of 11 in favor, \_\_\_\_\_ opposed, 0 abstained and 0 absent.

ALL INDIAN PUEBLO COUNCIL  
*Chandler Sanchez*  
Chandler Sanchez, Chairman

ATTEST:

*Leroy Arjona*  
Leroy Arjona, Secretary/Treasurer

Final 1/17/12

**EXHIBIT D –PROPOSED DRAFT OF REVISIONS TO H.R. 4187**

HR\_\_\_\_\_ IH

112th CONGRESS  
2d Session  
**H. R.**

To direct the Secretary of the Interior to place certain lands in trust for the Zuni Tribe and Navajo Nation and for other purposes.

**IN THE HOUSE OF REPRESENTATIVES**

\_\_\_\_\_ introduced the following bill; which was referred to the Committee on Natural Resources

---

**A BILL**

To direct the Secretary of the Interior to place certain lands in trust for the Zuni Tribe and Navajo Nation and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**SECTION 1. SHORT TITLE.**

This Act may be cited as the `Return of Certain Lands At Fort Wingate to The Original Inhabitants Act'.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) Findings- Congress finds the following:

(1) In January 1993, the active mission of the former Fort Wingate Depot Activity (referred to in this Act as the `FWDA') in New Mexico ceased and the installation was closed pursuant 1to the Defense Authorization Amendments and Base Closure and Realignment Act of 1988.

(2) The lands occupied by the FWDA were originally the ancestral lands of the Zuni Tribe and Navajo Nation, as indicated by the large number of archeological and cultural sites identified on such lands.

(3) Because of the long-term operation of the FWDA for the receipt, storage, and shipment of munitions, and the disposal of obsolete or deteriorated explosives and military munitions, the lands occupied by the FWDA required substantial environmental remediation before they could be transferred from control by the Department of the Army and used for other purposes. The New Mexico Environmental Department has jurisdiction over the remediation activities by the Department of the Army and has established the standards for remediation that the Department must achieve for the lands to be certified as remediated.

(4) For purposes of scheduling the remediation and future use of the lands, the Department of the Army divided the FWDA installation into 25 reuse parcels.

(5) Reuse parcels 1, 15, and 17, totaling 5,854 acres, have been remediated to the standards established by the New Mexico Environment Department and transferred to the Secretary of the Interior. Certain other parcels have been remediated to the standards established by the New Mexico Environment Department and presently remain under the control of the Department of the Army. The remaining parcels no longer needed by the Department of the Army are scheduled to be remediated over the next 20 years.

(6) The Department of the Interior and the Department of the Army, with the support of the two Indian tribes and other concerned parties, determined that, upon completion of the remediation effort, control over those lands no longer needed by the Department of the Army should be, pursuant to a plan for the division of said lands agreed to by the two tribes, either transferred to the Secretary of the Interior and held in trust by the United States for the benefit of the Zuni Tribe of the Zuni Reservation and the Navajo Nation or, in the alternative, title should be transferred to the two tribes in restricted fee status.

(7) While it is Congress' preference that the parcels no longer needed by the Department of the Army are divided between the two tribes pursuant to a plan agreed to by them, these are Federal lands such that, if the tribes are unable to reach such an agreement in a reasonable time period;

(a) it is Congress' responsibility to insure the lands are used productively, and

(b) that absent an agreement between the tribes, the lands no longer needed by the Department of the Army should be divided between the two tribes in a manner that provides each tribe with approximately equal acreage.

(b) Purpose- The purpose of this Act is to implement the objective of returning to the Zuni Tribe and the Navajo Nation certain lands formerly occupied by the FWDA by --

(1) declaring that the three reuse parcels that have been remediated and transferred to the Secretary of the Interior are to be held in trust

for the Zuni Tribe and Navajo Nation and returning the use of these parcels to those Indian tribes, and  
(2) providing for the transfer of the remaining parcels no longer needed by the Department of the Army either to the Secretary of the Interior to be held in trust for the Zuni Tribe and Navajo Nation, or, at the option of each tribe, to the tribe in restricted fee status, and returning use of these parcels to those Indian tribes once they have been remediated.

### **SEC. 3. CONVEYANCE.**

(a) Zuni Tribe of the Zuni Reservation- Subject to existing rights and to easements reserved under section 4, all right, title, and interest in the lands referred to as Reuse Parcel 1 of the FWDA that are owned by the United States are hereby declared to be held by the Secretary of the Interior in trust for the Zuni Tribe of the Zuni Reservation.

(b) Navajo Nation- Subject to existing rights and to easements reserved under section 4, all right, title, and interest in the lands referred to as Reuse Parcels 15 and 17 of the FWDA that are owned by the United States are hereby declared to be held by the Secretary of the Interior in trust for the Navajo Nation.

### **SEC. 4. EASEMENTS.**

The lands to be held in trust or restricted fee status pursuant to this Act shall be held subject to reservation to the United States of such easements as are required for access to the Fort Wingate Launch Complex and for administrative and environmental remediation purposes.

### ***SEC. 5. FUTURE TRANSFERS OF REMAINING PARCELS UPON REMEDIATION***

If, within 180 days from the date of enactment of this Act, the Zuni Tribe and the Navajo Nation have entered into an Agreement regarding the division between them of the remaining parcels of the FWDA no longer needed by the Department of the Army, that Department, upon remediation of each parcel to the standards established by the New Mexico Environmental Department, shall, at the option of the tribe to whom the parcel is allocated under said Agreement, either:

- (a) transfer control of said parcel to the Secretary of the Interior, who shall, pursuant to the same terms and conditions as are provided for in Section 4 of this Act for Parcels 1, 15 and 17, place and hold such parcel in trust for said tribe; or

- (b) transfer ownership of said parcel, pursuant to the same terms and conditions as are provided for Section 4 of in this Act for Parcels 1, 15 and 17, to said tribe, to be held by the tribe in restricted fee status.

## **Sec. 6. DIVISION OF REMAINING PARCELS IF THE TRIBES FAIL TO REACH AGREEMENT**

If, within 180 days from the date of enactment of this Act, the Zuni Tribe and the Navajo Nation fail to enter into an Agreement regarding the division of the remaining remediated parcels of the FWDA no longer needed by the Department of the Army, in order to accomplish an approximately equal division of said parcels between the tribes, the following shall occur:

- (a) ZUNI TRIBE --As each of the respective reuse parcels at FWDA referred to as Reuse Parcels 2(a), 4, 5, 6, 7, 8, 9, 10, 11, 12, 23, 24, and 25 is remediated to the standards established by the New Mexico Environment Department, the Department of the Army shall, at the option of the Zuni Tribe, either;
  - (i) transfer control of said parcel to the Secretary of the Interior, who shall, pursuant to the same terms and conditions as are provided for in Section 4 of this Act for Parcels 1, 15 and 17, place and hold said parcel in trust for the Zuni Tribe; or
  - (ii) transfer ownership of said parcel, pursuant to the same terms and conditions as are provided for in Section 4 of this Act for Parcels 1, 15 and 17, to the Zuni Tribe, to be owned by the Zuni Tribe in restricted fee status.
- (b) (b) NAVAJO NATION – As each of the respective reuse parcels at FWDA referred to as Reuse Parcels 2(b), 13, 14, 16, 18, 19, 20, 21, and 22 is remediated to the standards established by the New Mexico Environment Department, the Department of the Army shall, at the option of the Navajo Nation, either;

- (i) transfer control of said parcel to the Secretary of the Interior, who shall, pursuant to the same terms and conditions as are provided for in Section 4 of this Act for Parcels 1, 15 and 17, place and hold said parcel in trust for the Navajo Nation; or
- (ii) transfer ownership of said parcel, pursuant to the same terms and conditions as are provided for in Section 4 of this Act for Parcels 1, 15 and 17, to the Navajo Nation, to be owned by the Navajo Nation in restricted fee status.

## **Sec. 7 – ENVIRONMENTAL REVIEWS**

Upon certification by the New Mexico Environment Department that a parcel whose transfer is provided for in Sections 3, 5 or 6 of this Act has been remediated, no additional environmental reviews shall be required or conducted by a Federal agency to effectuate any of the transfers of parcels provided for in this Act.

## **Sec 8 – RESERVATION STATUS**

Each parcel placed in trust for a tribe or transferred to a tribe pursuant to this Act shall become part of the reservation of that tribe.

Exhibit A

01/23/98 FRI 16:51 FAX 202 761 8926 REAL ESTATE BRAC OFFICE  
CESUR-RE SEP 06 '96 6:58 No. 001 P.02  
05/28/98 16:14 DIRECTOR, BIA 002/000

01/23/98 FRI 16:51 FAX 202 761 8926 REAL ESTATE BRAC OFFICE  
CESUR-RE SEP 06 '96 6:59 No. 001  
05/28/98 16:14 DIRECTOR, BIA



United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

JUN 28 1995

Mr. Paul W. Johnson  
Deputy Assistant Secretary  
of the Army (Installations &  
Housing)  
OASA (I, L & E)  
110 Army Pentagon  
Washington, D.C. 20310-0110

OPTIONAL FORM 99 (7-90)  
FAX TRANSMITTAL  
To: *Paul Johnson*  
From: *Marilyn Rodriguez*  
Date: *702-761-7033*  
Fax: *802-761-8926*  
NSN 740-01-317-7986 5099-101  
GENERAL SERVICES ADMINISTRATION

Dear Mr. Johnson:

I am writing to confirm our understanding of the proposed transfer of land at Fort Wingate from the Department of the Army (Army) to the Department of the Interior (Interior), and to set forth Interior's requirements regarding environmental liability and cleanup at Fort Wingate, and transfer of management of the TPL, Inc. (TPL) facilities contract at Fort Wingate.

At a recent briefing for Interior Department personnel by the Army Base Realignment and Closure Office and the Army Environmental Center, it was explained that all Army "military operations" must cease at Fort Wingate by September 30, 1995. This precludes the Army from continuing the TPL facilities contract to its termination date in 1998. If the September 30, 1995 deadline is not met, the Army would have to cancel its demilitarization contract with TPL. As a way to resolve its predicament, the Army has proposed that Interior assume management of the TPL facilities contract.

The Army has informed Interior that the lands subject to the TPL facilities contract are contaminated. Although Interior is willing to assume management of the TPL facilities contract by September 30, 1995, Interior will not assume liability or cleanup responsibility for any of the TPL facility areas within Fort Wingate, nor will Interior assume any liability for the acts or omissions of the military or its contractors. Interior will assume management of the TPL facilities contract only if the Army agrees that it will be responsible and liable for any and all claims relating to the Army's or TPL's demilitarization operations and for the cost of cleaning up all contamination occurring before or after September 30, 1995. Further, if TPL defaults on any of its obligations to the government in connection with TPL's operations at Fort Wingate, the Army must reimburse Interior for any and all costs or losses incurred by Interior. The facilities contract must be amended to take into account Interior's substitution for the Army under the TPL facilities contract.

At the recent briefing, the Army also informed us that for the Army to preserve its demilitarization contract with TPL, the land encumbered by the TPL facilities contract must be transferred to Interior by September 30, 1995. This could only be accomplished if Interior accepts all lands the Army now seeks to relinquish at Fort Wingate.

The Interior Department is prepared to accept administrative jurisdiction of all the Fort Wingate lands that are described in the notice of intent to relinquish dated June 28, 1995, submitted to the Bureau of Land Management, Albuquerque District Office, by the Albuquerque District, U.S. Army Corps of Engineers, provided the Army cooperates fully with Interior in complying with all laws and regulations applicable to the return of the lands. The transfer as to any portion of the Fort Wingate lands will not occur, however, unless and until Interior issues a public land order having that effect. The Bureau of Land Management's acceptance of a relinquishment notice, in and of itself, does not have the effect of transferring jurisdiction of the lands to Interior. Except as discussed above for the TPL facilities, Interior will not accept a transfer of jurisdiction as to any parcel of the Fort Wingate lands until the Army completes its environmental remediation program for that parcel.

In order to implement the foregoing, we propose that a memorandum of agreement be developed between the Army and Interior which defines the roles, relationships and responsibilities of the parties. This agreement must be in effect prior to the transfer of any lands at Fort Wingate. Interior is ready to begin drafting an agreement for your consideration.

Once Interior has taken the necessary legal steps, the lands will be managed by the Bureau of Indian Affairs to meet its mission in serving the two local tribes, the Navajo Nation and the Pueblo of Zuni.

We recommend that the Army Environmental Center and TPL provide briefings of their activities at Fort Wingate to the local offices of the Bureau of Indian Affairs, Bureau of Land Management and other interested parties at the earliest possible date.

We appreciate the close working relationship we have had with your staff. We look forward to your prompt written assent and approval to the foregoing so that we can begin working toward a smooth transition.

Regards,

*B. Cohen*  
Bonnie Cohen  
Assistant Secretary

Policy, Management and Budget

Exhibit B

UNITED STATES DEPARTMENT OF THE INTERIOR

# memorandum

NOV 18 1997

DATE:

REPLY TO: Acting  
ATTN OF: Area Director, Navajo Area Office  
Area Director, Albuquerque Area Office

SUBJECT: Summary of October 22, 1997 Meetings: Fort Wingate Base Closure

TO: Assistant Secretary for Land and Water Resources  
Attention: Dwight Hempel, Bureau of Land Management

This memorandum is a follow up to the October 22, 1997 meetings among the Department of the Interior (DOI), Bureau of Land Management (BLM), Bureau of Indian Affairs (BIA), the Tribal Leaders from the Pueblo of Zuni and the Navajo Nation, Department of the Army (DOA), and the Corps of Engineers (COE), regarding transfer of Fort Wingate Depot Activity (FWDA).

We will begin by restating our united (BIA, the Pueblo of Zuni, and the Navajo Nation) position, addressed in the forefront of the meeting, that the authority utilized for FWDA disposal should be a land transfer rather than the Base Realignment and Closure Act (BRAC) of 1988.

Other issues and action items are as follows:

■ You agreed to draft a letter for the signature of the Assistant Secretary, DOI to treat FWDA as a land transfer.

■ You will initiate a letter to the DOA requesting expedited clean up of the FWDA and that DOI will have oversight responsibility to insure cleaning of the hazardous materials area(s).

■ You will seek funds from DOA, BLM, and BIA for the BLM cadastral survey of the exterior and interior boundaries of FWDA.

■ BLM will contract for and fund a Level One Survey on FWDA. The tribes and the BIA will participate in this survey.

■ The southern 6,000 acres will be transferred to BIA for the benefit of the Pueblo of Zuni with the concurrence of the Navajo Nation. The remaining northern acreage, less the 1,300 acres, to be retained by DOA in perpetuity will be transferred to BIA for the benefit of the Navajo Nation with the concurrence of the Pueblo of Zuni. Currently, there may be portions of the northern

OPTIONAL FORM NO. 10  
GSA  
MAY 1962  
5010-108  
GPO



region of FWDA that may be environmentally clean and ready for transfer to the Navajo Nation.

■ A verbal statement was made that DOI will adopt the Navajo Nation and Pueblo of Zuni Reuse Plans as the official plans for purposes of remediation. You were going to follow-up with a written confirmation letter to that effect.

■ BIA Area Directors, the Pueblo of Zuni and the Navajo Nation will develop and execute a document stating that the Pueblo of Zuni and the Navajo Nation will be the authorities on the clean up of FWDA in accordance with their joint reuse plans.

■ DOA has already cleaned some portions of FWDA to industrial standards because they contend they lacked the reuse plans required under BRAC. DOA agreed to work with the Pueblo of Zuni and the Navajo Nation for remediation under the joint reuse plans.

■ BIA will participate as team members with the FWDA Base Closure Team at the next meeting scheduled for December 3, 1997.

■ The Pueblo of Zuni and the Navajo Nation unanimously opposed the New Mexico Police Academy request for use of the firing range and subsequent transfer to the State of New Mexico. All other parties (DOI, DOA, ELM, BIA, etc.) agreed to deny the request.

■ The Pueblo of Zuni and the Navajo Nation agreed not to approve any requests to lease or permit any portion of FWDA.

■ The Pueblo of Zuni and the Navajo Nation are not opposed to the current TPL demilitarization and facilities contracts. Upon formal transfer of the property, the future operations of TPL will be subject to negotiations with and between the two tribal Governments.

■ You are to follow-up on your verbal request to COE for FWDA real property records. The records should include existing rights-of-way or service line agreements for utilities, roadways, railways, etc.

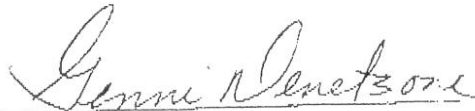
We agree with and support the above decisions and desires of the Pueblo of Zuni and the Navajo Nation. We intend to pursue the immediate transfer of the 6,000 acres to the BIA for the beneficial use of the Pueblo of Zuni. We will also continue to work with the Federal agencies involved and the tribes to identify clean areas and transfer those portion(s) of the northern part of FWDA to the Navajo Nation.

We will continue to seek remediation of FWDA to a level consistent with the tribes' joint reuse plans.

Communications have not always been direct and timely, and we may have missed various meetings and other activities as a result. We would appreciate your providing any information you receive on FWDA.

The main contacts for Albuquerque Area Office are Mike Hackett, Zuni Agency Superintendent, and June Gray, Area Realty Specialist. Mr. Hackett can be reached at (505) 782-5591 in Zuni, New Mexico. Ms. Gray can be reached at (505) 766-3170 in Albuquerque, New Mexico. For the Navajo Area Office, the primary contact person is Gerald Curley, Area Realty Specialist, who will coordinate all issues. Mr. Curley can be reached at (505) 863-8243 in Gallup, New Mexico.

If you have any questions, or if we can assist you with any part of this transfer initiative, please contact us directly. The Navajo Area and Albuquerque Area Directors can be reached at (505) 863-8314 and (505) 766-3171, respectively.



Area Director  
Navajo Area

\_\_\_\_\_  
Area Director  
Albuquerque Area

Exhibit C



**ALL INDIAN PUEBLO COUNCIL Office of the Chairman**

Chairman Chandler Sanchez Vice Chairman Charlie Doranne Secretary/Treasurer Leroy Arquero

**ALL INDIAN PUEBLO COUNCIL  
RESOLUTION NO. 2012-02**

**TITLE: SUPPORTING H.R. 4187 AND AN EQUITABLE DIVISION OF THE  
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**WHEREAS**, the 19 Pueblos possess inherent government authority and sovereignty over our lands and which include the protection of our language, culture and tradition; and

**WHEREAS**, the lands that comprise the former Ft. Wingate were lands of the Zuni Tribe since time immemorial. In the 1840's, the United States took approximately 50,000 acres of those for the creation of Ft. Wingate; and

**WHEREAS**, in 1928, Congress transferred 9000 acres of those lands, comprising what is now the Church Rock Chapter area, to the Navajo Nation. In 1950, Congress transferred an additional 13,000 acres of Ft. Wingate land to the BIA Navajo Area for the Ft. Wingate Boarding School; and

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**WHEREAS**, Congressman Steve Pearce of New Mexico has introduced a bill, H.R. 4187, that would transfer two of those three parcels to the Navajo Nation and one of the parcels to the Zuni Tribe, with the understanding that this is just a first step in transferring all the lands at Ft. Wingate to tribal ownership;

**NOW THEREFORE BE IT RESOLVED**, that the All Indian Pueblo Council, through this AIPC Resolution, declares its support for H.R. 4187 and urges Congress to enact it into law expeditiously.

**BE IT FINALLY RESOLVED**, That if the Navajo Nation continues to reject an even division of the lands at Ft. Wingate between the two tribes, the All Indian Pueblo Council urges that, in lieu of H.R. 4187, Congress to enact legislation giving the Zuni Tribe all of the lands at Ft. Wingate.

**CERTIFICATION:**

I hereby certify that the foregoing Resolution No. 2012-02, was considered and adopted at a duly called council meeting held on the 18 day of April 2012, and at which time a quorum was present and the same was approved by a vote of 11 in favor, \_\_\_\_\_ opposed, 0 abstained and 0 absent.

**ALL INDIAN PUEBLO COUNCIL**  
  
Chandler Sanchez, Chairman

ATTEST:

  
Leroy Arquero, Secretary/Treasurer