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June 25, 2013

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, DC 20554

Re: AU Docket No. 13-53

Madam Secretary:

On behalf of Smith Bagley, Inc. ("SBI") we write in response to several reply comments filed recently in the above-captioned docket.

Reply Comments of AT&T

AT&T's Reply Comments note that SBI requests the inclusion of many census blocks beyond the roads where it conducted a drive test. According to AT&T, SBI should be required to drive test every one of thousands of census blocks, presumably at the centroid point, to "prove" that there is no service there. In support of its position, AT&T claims that its propagation tool and drive testing demonstrate coverage; however, it submits neither into the record.

If AT&T is to be believed, large portions of the Eastern Agency would be excluded from the Tribal Mobility Fund. As shown on the map included herewith as Attachment A, AT&T's claimed coverage would disqualify approximately one-third of the areas SBI has identified as unserved through its drive tests.[1]

A cursory look at SBI's drive test map,[2] along with some basic understanding of the geography on the Eastern Agency, are all that is required to validate SBI's testing. The map covers all major roads in the region tested. Any census blocks where SBI did not drive through are well beyond the roads, out in the desert.

[1] The areas requested by SBI and in which AT&T claims coverage are shown in red; the remaining SBI areas are shown in grey and the remaining areas in which AT&T claims coverage are shown in purple.
[2] *See* SBI Comments, Exhibit A.

Very few people live, work or play far from the roads. Accordingly, if all of the surrounding roads have no coverage, or unreliable coverage, it is safe to presume that the remote deserts far from the roads do not fare any better. That is, of course, unless AT&T is operating cell sites well beyond the roads, in which case it is free to submit test results from such areas to make its case.

AT&T would have the FCC conclude that even when there is no reliable coverage on rural roads, there is ample reliable coverage out in the desert away from such roads. Any radiofrequency engineer who has designed a commercial mobile wireless network will conclude that if SBI's road testing is accurate in showing no reliable coverage on the roads, then it is extremely unlikely that a commercial operator has built reliable coverage away from the roads.

If service to populations is to be the coverage test for Auction 902, then serving beyond the roads will be an important objective for auction winners. If AT&T has its way, SBI's drive tests would open up only those census blocks along the roads, and a rural citizen beyond that area would need to be fortunate enough to be within that cell site's coverage area. If not, then the chance to acquire new services will be lost because those blocks will be ineligible for support.

AT&T claims to do drive testing every year, providing results superior to those of SBI, and more accurate than Mosaik data. Since it doesn't submit results, the FCC will need to take AT&T's word for it. By contrast, SBI's showing is supported by a declaration. Specific first-hand evidence, supported by a declaration, is preferred over an unsupported statement from an interested party claiming to have superior information.

In response to AT&T's question, SBI can confirm that it did test both 850 MHz and 1900 MHz frequencies, and its test results reflect coverage on both bands. The company used an LG-920 quad-band handset that operates on both the 850/1900 MHz frequencies, and is capable of operating in GSM/GPRS/EDGE/UMTS/HSDPA modes.

In sum, SBI's testers provided evidence that AT&T has inferior coverage throughout large swaths of the Eastern Agency. AT&T's unsupported statements that it may have better coverage at rest stops or in population centers are inconsistent with SBI's findings and should therefore be discounted.

If there is any place in the entire country where the FCC should err on the side of ensuring that the population has access to high-quality mobile voice and broadband services, it is

the Eastern Agency.[3] Without additional investment, the goals set forth in Section 254, including providing service to rural Americans that is reasonably comparable to that which is available in urban areas, cannot be met. Allowing AT&T to block out large areas where it has never shown a desire to provide high-quality service should be unacceptable to the Commission.

Reply Comments of CommNet Wireless LLC

CommNet seeks to exclude 1,822 census blocks that were either identified as potentially eligible by the FCC or were included in SBI's submission of areas that should be made eligible. Like AT&T, CommNet proffers a propagation tool as opposed to a drive test, and posits that perhaps SBI did not include CommNet coverage in its drive test.[4]

CommNet is correct that SBI did not test CommNet's network. And for good reason. To the best of SBI's understanding, CommNet's mobile broadband network is not operational. SBI personnel could not find a retail store, or any other evidence that CommNet is operating a commercial mobile network in the Eastern Agency. SBI's personnel could not locate a phone and on information and belief, state that CommNet does not offer commercial mobile service on the Eastern Agency.

A search of the Internet does not reveal any service offering from CommNet or its retail name, Choice Wireless. Moreover, SBI's personnel are in the Eastern Agency and the company knows its competition firsthand. As of the date of SBI's filing, although SBI understands that CommNet is deploying a fixed wireless service, no company representative has ever seen or heard of a CommNet mobile broadband service offering on the Eastern Agency.

CommNet claims to operate an EVDO/3G network. However, SBI is not aware of CommNet operating such a network on 850/1900 MHz spectrum on the Eastern Agency. On CommNet's 700 MHz spectrum, there are no CDMA or GSM devices on the market that are engineered to provide mobile voice and broadband. The only feasible solution would be to run Voice over LTE ("VoLTE"), which would allow for VOIP calling via an LTE data network. Yet SBI is unable to locate any commercial market-ready devices with the functionality, or specifications to support such a solution.

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[3] *See, Smith Bagley, Inc., Petition for Waiver of Section 54.400(e) of the Commission's Rules,* Memorandum Opinion and Order, 20 FCC Rcd 7701, 7706 (2005) (concluding, in the Lifeline context, that specific action was needed "to address the impediments to subscribership and infrastructure development in the Eastern Navajo Agency[.]").

[4] A map showing SBI's requested areas and CommNet's claimed coverage areas is included herewith as Attachment B.

It may be that CommNet has an operating 3G/4G mobile broadband network on the Eastern Agency. However, in the absence of specific information describing where and how services are being provided, the Commission should reject CommNet's claims and make funding available for an eligible carrier to deliver high-quality mobile broadband service to areas that are clearly unserved and underserved.

As stated with respect to AT&T's comments above, SBI's drive test results and personal experience on the Eastern Agency are more probative than propagation tools and unsupported claims. SBI demonstrated that not only are downlink speeds insufficient in many areas, but uplink connectivity is far slower than what is needed to provide citizens with high-quality service. CommNet does not provide any probative evidence that its actual coverage would meet the FCC's coverage threshold for carriers bidding in Auction 902. Therefore, the 1,822 census blocks that it identifies should remain eligible for the auction.

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Conclusion

SBI notes that the Navajo Nation Telecommunications Regulatory Commission ("NNTRC") filed reply comments asserting that there is a lack of service in the Eastern Agency and requesting the FCC to open up more areas to bidding. NNTRC's view is supported by SBI's direct experience and information it receives from tribal members.

SBI respectfully requests the Commission to assess demographic data as well as the drive test results submitted by SBI into the record of this proceeding.[5] Failing to make substantial portions of the Eastern Agency eligible for Auction 902 would significantly prejudice tribal citizens and further harm their ability to have the same kinds of health, safety and economic development benefits as are available in our nation's urban areas.

Respectfully submitted,

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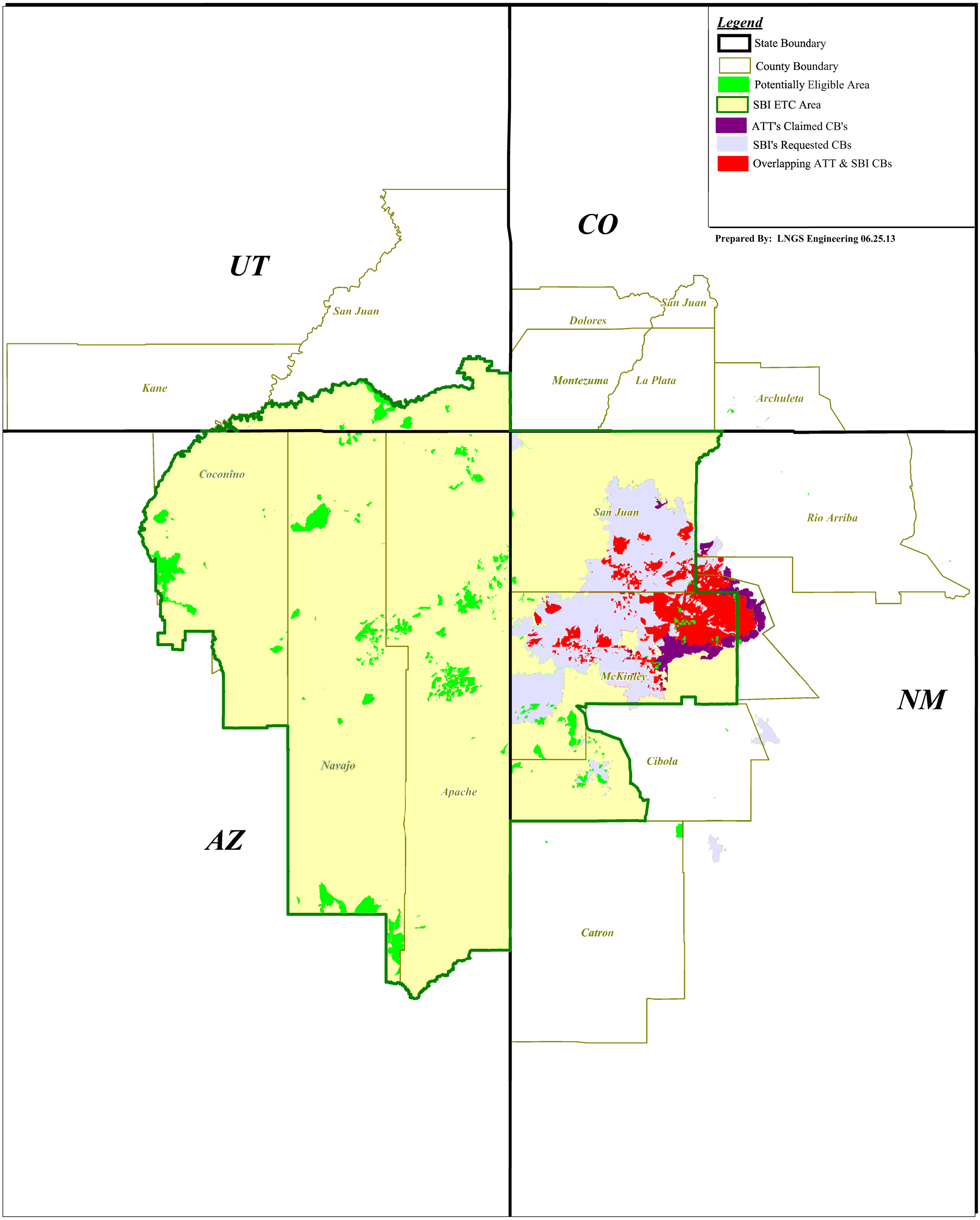
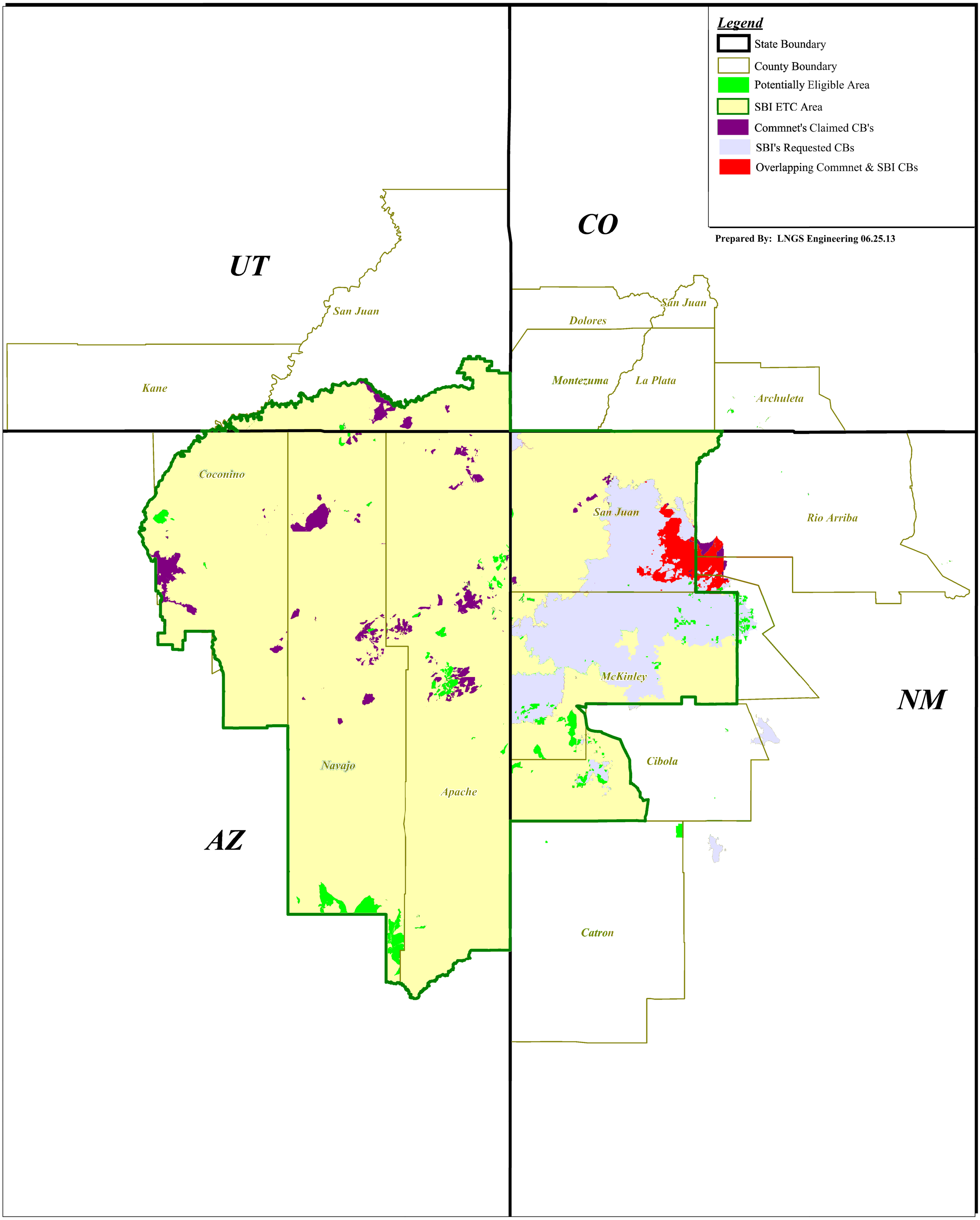
[5] *See, e.g.*, SBI Petition for Waiver, WC Dockets No. 11-42 et al. (filed June 26, 2012); SBI ex parte notice, WC Dockets No. 11-42 and 03-109 (filed Dec. 15, 2011); SBI ex parte notice, WC Docket No. 10-90 et al. (filed Oct. 19, 2011); SBI ex parte notice, WC Docket No. 10-90 et al. (filed Sept. 13, 2011); SBI Reply Comments, WC Docket No. 10-90 et al. (filed Sept. 6, 2011); SBI ex parte notice, WC Docket Nos. 08-71 and 05-337 (filed Oct. 29, 2010); SBI Reply Comments, WC Docket No. 05-337 et al. (filed Aug. 11, 2010). SBI requests that the Commission incorporate the aforementioned filings in the record of the present docket.

Attachment A

Tribal Mobility Fund Phase I
Potentially Eligible Areas in SBI Licensed Areas



Attachment B

Tribal Mobility Fund Phase I
Potentially Eligible Areas in SBI Licensed Areas