In reply refer to: AGD
Fort Huachuca Military
Reservation and Fort
Huachuca Artillery Range
Arizona

SEP 2 1949

Honorable Louis A. Johnson
Secretary of Defense
Washington 25, D. C.

Dear Mr. Johnson:

Reference is made to the certification by the Secretary of the Army, dated December 3, 1949, by which it was certified that portions of Fort Huachuca Military Reservation and Fort Huachuca Artillery Range, Arizona, are suitable and necessary for the training and maintaining of civilian components of the Armed Forces, which certification was made in pursuance of the provisions of Public Law 829, 80th Congress.

Pursuant to the authority contained in Surplus Property Act of 1944, as amended, more particularly by Public Law 829, 80th Congress, the War Assets Administration conveyed to the State of Arizona for the purposes of maintaining and training civilian components of the Armed Forces, portions of the above named installations by quitclaim deed dated March 2, 1949.

It now appears that included in the perimeter description of the lands comprising the Artillery Range were certain lands owned in fee by the State of Arizona, but with respect to which the Department of the Army had a right of use and occupation in accordance with an oral understanding previously made with the Governor of the State. It was this right of possession which the Army had previously declared to War Assets Administration and which, by the above-mentioned deed, was intended to be quitclaimed to the State of Arizona.

However, the deed as drawn, is ambiguous in that it fails to express such intent. It further appears that in connection with a portion of the Military Reservation which was intended to be conveyed, some errors in the description occurred with the result that no portion of the lands within the Military Reservation was effectively conveyed to the State of Arizona.

By Correction Declaration dated August 14, 1949, the Department of the Army furnished this Administration with a Revised Certificate of Decontamination by which it appears that portions of the property involved is contaminated and is recommended by the Office of the Chief of Engineers as safe for surface use only. It appears necessary, therefore, that a correction deed be executed, delivered to the State of Arizona and recorded which will correct the above-mentioned defects.

By section 203 (k) (2) (D) of Public Law 152, 81st Congress, the Secretary of Defense is authorized and directed, in the case of property

transferred pursuant to the above-mentioned laws and for the purposes hereinbefore indicated, "to reform, correct or amend any such instrument by the execution of a corrective, reformative or amendatory instrument where necessary to correct such instrument or to conform such transfer to the requirements of applicable law." Accordingly, it is our opinion that such correction deed as is necessary in the instant matter must be executed by you.

We have prepared for execution a proposed deed which we believe will be adequate to correct the deficiencies above noted, and we recommend that it be so executed. The original and three copies thereof are enclosed herewith.

For your further information, you are advised that a representative of the San Francisco Regional Office of War Assets conferred with the Governor, the Attorney General and the Land Commissioner of the State of Arizona, and they have indicated their desire to accept a correction deed substantially in accord with the enclosed instrument.

Senator Carl Hayden of Arizona has exhibited a personal interest in effecting a correction to the above-mentioned deed of March 2, 1949, and a copy of this letter is being furnished him for his information.

We shall be very happy to furnish you with any and all information you may require in order that the execution of the attached correction deed may be expedited.

Sincerely yours,

(Signed) JESS LARSON

JESS LARSON
Administrator

Enclosures
As above
noted

USFH-00001621