

*Agreement between Dept. of
the Interior & War Assets*

Ft Huachuca, Arizona
August 24, 1949

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Ft Huachuca*

Honorable Dan E. Garvey
Governor of Arizona
Phoenix, Arizona

My dear Governor Garvey:

When you were in my office at Fort Huachuca Saturday morning August 20th you asked that I send you the reference to the agreement between the Department of the Interior and War Assets by which Interior agreed to transfer to the State of Arizona all Public Domain lands included in the War Assets transfers of Fort Huachuca.

This reference is to be found at the top of page 4 of the War Assets memorandum of transfer dated 10 December 1948. A copy of this memorandum was filed by me with your office on my return from Washington last December but its value may have been overlooked I am therefore enclosing an additional copy for your use.

The agreement of 2 August 1948 covered all public domain lands and was intended to include all public domain in the Artillery Range as well as lands within Fort Huachuca Military Reservation if these lands were classified as Public Domain about which there had been a difference of opinion.

Also attached is a copy of the full legal description of lands within Fort Huachuca Military Reservation that were to have been deeded to the State of Arizona pursuant to Public Law 829 but which description was apparently omitted from the deed of 2 March 1949 by clerical error of War Assets Administration.

This memorandum of 10 December 1948 and the receipt signed by you on 15 February 1949 comprise the basic arrangements for transfer of property from the Government to the State. In the memorandum of 10 December no specific statement was made as to property to be transferred other than the descriptions contained on page 2 of the memorandum. All property so described was later included in the documents of transfer.

The complete inventory of buildings, utilities and personal properties transferred free of cost to the State of Arizona was presented to you on 15 February 1949 and was receipted for by you under the conditions set forth which read as follows, "It is understood and agreed that within thirty days from this date, these documents will be checked and War Assets Administration will be given a receipt for all properties found to be in accordance with the inventories presented."

War Assets received no receipt at the end of 30 days nor any statement that the inventory was not satisfactory in any particular. The National Guard later checked the entire inventory and, as far as is known to War Assets, the inventory of all property was accepted by the State. Two items of personalty, a compressor and a saw, not included in the inventory but contained in the original recorded bill of Sale was deleted from the inventory because of shipping documents, bills of lading for which are attached. The shipping agency was the Joint Army Navy Marine Corps Procurement Branch.

The gift of Fort Huachuca, costing the Government \$13,331,000 has been clouded by frequent press statements leading the public to believe that the transfer was not completed as agreed. It would be appreciated if you would confirm the fact that property transfers have been completed according to all the terms of the agreement between Government and the State of Arizona or that transfer of certain properties has not yet been completed in specified particulars.

Very truly yours,



Ralph P. Merritt

4 Incls:

- Incl 1. Copy of Memo
dated 12/10/48
- Incl 2. Copy of Perimeter
Description
- Incl 3. Copy of GBL #N7888049
- Incl 4. " " #N7888053

RPM:bf

10 DEC 1948

PROJECT IDENTIFICATION: Ft. Huachuca (portion)
W-Ariz-48

SUBJECT: Transfer of approximately 40,471.63 acres of land, and certain betterments and personal property located thereon, to the State of Arizona acting by and through the National Guard of the State of Arizona, without reimbursement, pursuant to Public Law 829, 80th Congress.

EXHIBITS

- "1" Application dated October 25, 1948 from Arizona State National Guard.
- "1-A" Program of Utilization with photographs.
- "1-B" Description of land area being requested for transfer, with metes and bound description and maps.
- "1-C" List of buildings requested for transfer.
- "1-D" Description and List of Utilities requested for transfer.
- "2" Copy of certification by the Governor of the State of Arizona, dated October 28, 1948.
- "3" Copy of letter dated November 19, 1948 from Major General A. M. Tuthill, Adjutant General for State of Arizona.
- "4" Copy of Endorsement by Chief of Staff, Sixth Army, dated November 27, 1948
- "5" Copy of letter from Chief, National Guard Bureau, dated December 3, 1948
- "6" Copy of Certification by the Secretary of the Army, dated December 3, 1948.
- "7" Copy of recommendations by Regional Office, dated December 6, 1948
- "8" Copy of certification by the Secretary of the Army, dated December 8, 1948, covering related personal property.

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DESCRIPTION OF PROPERTY:

Land area requested for transfer consists of 40,471.63 acres of land, more or less, being all of the Artillery Range (28,521.58 acres) and approximately 11,950.05 acres of Military Reservation area. A metes and bound description of both contiguous parcels, and maps, are attached as Exhibit "1-B".

Buildings requested for transfer total 1164, as listed in Exhibit "1-C" hereof.

Utilities:

Transfer of the water supply system, including certain springs, reservoirs, pipe lines, wells and servicing units, is requested as described in detail in Exhibit "1-D" hereof.

Also requested for transfer is the electrical system, gas distribution system and sewage disposal system, as described in detail in Exhibit "1-D" hereof.

Mineral Rights :

There is no evidence of any substantial mineral deposits on this property, nor is there any activity connected with minerals being conducted in the nearby vicinity. Therefore all mineral rights are included in the transfer, except for fissionable materials reserved in accordance with the provisions of Executive Order 9908.

Realted Personalty:

Those items of personal related property now located on the property as listed in Exhibit "1-E" hereof shall be included in the transfer. There is no other personalty located on the property.

General Information:

The land area requested for transfer consists of 40,471.63 acres as follows:

(a) Artillery Range consisting of 28,521.58 acres of which:

- (1) 9,588.66 acres were acquired in fee by Declaration of Taking and purchase during 1942 to 1945 inclusive at a cost of \$80,792;
- (2) 14,999.74 acres are state-owned lands, used by the Government under an exchange for similar Public Domain lands. (As of

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the date of declaration of surplus none of the applications as filed by the State for exchange of Public Domain lands had been approved by the Department of the Interior); and

- (3) remaining 3,953.13 acres of Public Domain lands, which were withdrawn for military use by Public Land Order No. 251 dated November 22, 1944 and No. 16, dated July 21, 1942.
- (b) Approximately 11,950.05 acres of the Military Reservation area, being a portion of the area withdrawn from unsurveyed territorial lands of the State of Arizona by Executive Orders No. 35 and No. 36 of President Arthur in 1881 and 1883, respectively, for establishment of Ft Huachuca Military Reservation.

The facility was used during World War II for training of colored infantry, and 92nd and 93rd Divisions.

The installation was declared surplus to the War Assets Administration for Disposal on March 17, 1948.

That portion covered by this transfer was classified as "(07) Non Section 23 Real Property - for Use in Place" and was advertised for disposal to priority holders only on October 14, 1948 in the Bisbee Review, Bisbee, Arizona. The only offer received from priority applicants (Federal, state and local governments, nonprofit institutions) during the priority period, expiring 2 p.m. November 26, 1948 was that made by the Arizona State National Guard.

Prior to advertisement the Arizona State Industrial School had filed letter of intent to acquire approximately 1500 acres of the Military Reservation for relocation of the State School. This offer was withdrawn since State Legislature would not authorize moving of the school.

The total acquisition cost of the property is \$13,694,025.

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SUMMARY: A portion of the land involved in this transfer was formerly public domain lands, on which there are few or no improvements. At a conference on August 2, 1948 between representatives of the Bureau of Land Management and of this Administration, it was mutually agreed that the Department of the Interior would not request the return of any of the former public domain lands that might be needed and transferred to the interested State agencies of the State of Arizona. Therefore, it is deemed that the property is available for disposal as recommended by the San Francisco Regional Office. (See Exhibit "7" hereof.)

Full details as to the transferees proposed utilization program are set forth in the application (Exhibits "1" and "1-A" hereof.)

Decontamination of the area has been completed by the Corps of Engineers as evidenced by Certificates of Clearance dated June 9 and July 26, 1948 on file with WAA. The property is cleared and recommended for any use.

There are no use restrictions or conditions imposed by the Department of the Army, the former "owning agency".

Certain portions of the Artillery Range are now outleased to cattle owners for grazing purposes, and the transfer is being made subject to such permits now in existence. All outlease permits are revocable at will by the agency having custody and jurisdiction of the property. Also the Citizens Utility Company, Greenwich, Connecticut, is now operating the power generating plant located in the Reservation area under a revocable lease.

The Governor of the State of Arizona has certified that the property as requested is suitable for and need for use in training and maintaining the State National Guard. (See Exhibit "2" hereof.) The need and use as outlined is also endorsed by the Sixth Army Chief of Staff. (See Exhibit "4" hereof.)

The Secretary of the Army has certified that the property as requested is both suitable for and needed by the State of Arizona for use in training of the Arizona National Guard. (See Exhibits "6" and "8" hereof.)

The transferee has agreed to pay all external administrative expenses as determined by this Administration to apply in this transaction. (See Exhibit "1" hereof.)

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None of the property herein requested for transfer has been appraised by this Administration. Therefore, the fair value of the property involved is not known.

RECOMMENDATIONS: It is recommended that the transfer of the property as set forth herein under "Description of Property" be made to the State of Arizona for the Arizona State National Guard, without reimbursement, subject to all terms and conditions as set forth in Public Law 829 and Section 617.10 of Real Property Disposal Manual W4-2, added 10-1-48, and such additional terms and conditions set forth below:

1. The period of restrictions enumerated in Section 617.10 (a) shall extend for a period of twenty (20) years.
2. There shall be no reservation of oil, gas, and mineral rights, except for fissionable materials in accordance with the provisions of Executive Order 9908.
3. Transfer is made subject to the State National Guard permitting the Arizona Game and Fish Commission to use 18 buildings (not included in this transfer) in place, on land herein transferred, for such period of time as use is required by said Game and Fish Commission, together with necessary rights of ingress and egress to such buildings; and shall further provide necessary utility services to such buildings on the basis of an agreed fixed fee basis, except for water supplied on the ranges for wildlife shall be without cost.
4. The Arizona State National Guard shall provide fire protection for the State Game and Fish Commission on adjacent property at Fort Huachuca as required, upon payment by the State Game and Fish Commission of an agreed share of the costs of such fire protective services.
5. The Arizona State Game and Fish Commission shall have rights of ingress and egress through the main East gate located on the National Guard area of the Military Reservation.

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6. There is reserved from this conveyance two school buildings, Nos. T-1018 (174-A) and T-4093 (59) which were not declared surplus and are the property of the Federal Works Agency, but located on the land being herein transferred, together with rights of ingress and egress on the part of Federal Works Agency in order to consummate disposal of its property.
7. The Arizona State National Guard shall have the right to outlease the Artillery Range for livestock grazing purposes, for limited periods of time within each year if such outleasing is not inconsistent with the need of any civilian component of the Armed Forces for such areas for training purposes, and provided that any revenues received therefrom shall be paid into the State National Guard fund to be used only for maintenance and operation of the property herein transferred.
8. The Arizona State National Guard shall have the right to enter into operational contracts covering the utility systems consisting of electrical, water and gas distribution systems, on condition that any revenues received therefrom shall be paid into the State National Guard fund and be used only for maintenance and operation of the property transferred herein.
9. In areas numbered 1 to 6 inclusive, and in area 18 of the Military Reservation area, the Arizona State National Guard shall have the right, subject to the terms and conditions of transfer herein, and consistent with the needs of any civilian component of the Armed Forces to outlease buildings and other betterments providing any revenues received therefrom shall be paid into the State National Guard fund and be used only for the maintenance and operation of the property transferred herein.
10. The transferee shall have the right to relocate any and all utility lines as deemed necessary to provide maximum efficiency in the operation of utility services and shall have the right to dispose of obsolete surpluses resulting therefrom. Any revenues obtained from sale of such surpluses shall be paid into the State National Guard fund and be used only for maintenance and operation of the property transferred herein.
11. Transfer is made subject to an existing outlease to the Citizens Utility Company, Greenwich, Connecticut, for operation of the power generating plant located on the land transferred herein, and subject to all

other existing outleases for grazing and other purposes involved on the property herein conveyed. All of the above referred to outlease are revocable at will by the agency having custody and jurisdiction of the property and will be terminated by the transferee if inconsistent with the needs of any civilian component of the Armed Forces for such areas for training purposes.

12. Any other terms and conditions deemed necessary by the Office of General Counsel for Real Property.

	T. L. PEYTON Director, Nonindustrial Division Office of Real Property Disposal
Negotiations reviewed by:	Floyd E. Welsh, Chief Operations Branch No. 3 Nonindustrial Division Office of Real Property Disposal
Negotiations handled by:	F. P. Smith Operations Branch Nonindustrial Division Office of Real Property Disposal
Approved as to legal requirements:	John J. Hurley, Chief General Service Branch Real Property Division General Counsel for Real Property
Disposal approved by <u>/s/ M. L. Godman</u> Deputy Administrator, PD	on <u>12-10-48</u> (Date)

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