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REFER IN REPLY TO THE FOLLOWING:

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF INDIAN AFFAIRS  
WASHINGTON

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REPRODUCED AT THE NATIONAL ARCHIVES

Mr. W. B. Collinson,  
Land Commissioner,  
Santa Fe Pacific Railroad Co.,  
Topeka, Kansas.

OCT 18 1928

Dear Sir:

The receipt is acknowledged of your letter of September 27 with further reference to the matter of the proposed purchase of lands for the use and benefit of Indians of the Navajo Tribe.

In Office letter of September 9, 1928, we set out in full the legislation authorizing the purchase of land for the Navajos to be paid for from tribal funds, and emphasized the fact that only \$200,000 was available for expenditure during the current fiscal year. In your letter of September 11 you informed this Office that the matter had been referred to the company officials at Chicago for consideration. Up to the present time we have not been advised of the attitude of the officials regarding the sale of land.

Referring now particularly to your statement relative to certain land owned by the Santa Fe Company, consisting of odd sections embracing 327,402.44 acres located in Arizona under the Leamp jurisdiction, the following conditions are shown by the records here:

The lands in question which are located within an area set aside by Executive Order of November 14, 1901, for the Navajo Indians, were deeded to the United States December 23, 1912, to be used as base lands in effecting an exchange for other public lands under the Act of April 21, 1904 (33 Stat. 211). The deed was accepted by the Government, but this action was later revoked and the railroad company was required to substitute other base lands in order to have its lieu selections approved. Subsequently the question of an exchange was revived and the matter was presented to the Solicitor of the Interior Department for an opinion. In his opinion dated February 9, 1924 (M 6586) the Solicitor held that the said Act of 1904 was not applicable in view of the provisions of the Act of May 25, 1918 (40 Stat. 561-570) and the Act of June 30, 1919 (41 Stat. 3-54). These acts prohibited the enlargement of Indian reservations without the approval

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of Congress. The Solicitor further said:

"Although the former deed was at first virtually accepted by the Department and was recorded, nevertheless, it was finally rejected and the company acquiesced therein by deeding other lands in substitution therefor. That matter may well be considered a closed incident, and I do not believe that any compulsion of action should be predicated upon it."

Following the advice and recommendation of the Solicitor, further legislation was recommended which resulted in the Act of March 3, 1925 (43 Stat. 1115), which may now be invoked in perfecting an exchange with the railroad company, and this Office would welcome action along this line which would result in a consolidation of the railroad holdings within the area set apart for the Indians by Executive Order of November 14, 1901, and also a consolidation of the lands reserved for Indian use.

With respect to the taxability of lands purchased for the Indians, this will advise that under the law title is to be taken in the name of the United States in trust for the Navajo Tribe. There is nothing in the law to warrant the assumption that such lands as may be purchased will be subject to taxation, and inasmuch as no provision is made for the payment of taxes, it seems clear that any land purchased would be nontaxable as other Government owned lands, or lands held in trust for Indians by the Government.

Your statement regarding the practice of your company not to grant options on its lands is noted, but in view of the peculiar conditions under which we are proceeding, and because it is practically impossible for us to make definite plans as to how much money may be expended in any particular district or jurisdiction, it is the hope of this Department that your company will depart from its usual practice in this instance. If, however, after due consideration your company decides that it cannot adopt the suggestions contained in our letter of September 5, 1928, we should like to have the company submit definite offers to sell at a stated price per acre, a specified part of the areas now under lease (and referred to in our letter of September 5), and also a specified part of the area near Puertecita in Socorro County, New Mexico; each tract to be in compact form, and for not to exceed the sum of \$100,000, which is the limit of funds now available for expenditure this fiscal year, over and above the probable cost of lands under other ownership for which we are negotiating. If as a result of these negotiations the latter plan is agreed to and put into effect, it is the intention

of this Department to take up other purchases with your company in the same localities, provided additional funds are actually made available by Congress. It is expected that \$200,000 will be appropriated for expenditure during the fiscal year 1931.

There are enclosed copies of Circulars Nos. 850 and 1012, containing regulations governing the exchange of lands under the provisions of the Act of March 3, 1921 (41 Stat. 1225-1239) and the act of March 3, 1925 (43 Stat. 115). The first mentioned act, it will be observed, applies to lands in San Juan, McKinley and Valencia Counties, New Mexico, and the latter act to lands in Arizona, within the additions to the Navajo Indian Reservation established by Executive Orders of January 8, 1900 and November 14, 1901.

A copy of this letter is being sent to Messrs. Britton and Gray, Washington attorneys for the Santa Fe Railroad Company.

Sincerely yours,  
*E. D. Menth*

Assistant Commissioner.

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APPROVED: OCT 22 1928  
(Sgd.) JOHN H. EDWARDS  
Assistant Secretary.

CARBON <sup>sent</sup> FOR MESSRS BRITTON AND GRAY  
WASHINGTON, D.C. *by J.*