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J. H. Huachuca

For Game Refuge

File

August 28, 1947

Honorable J. A. Krug
Secretary of the Interior
Washington, D. C.

Dear Sir:

The State of Arizona has, for several months, been aggressively interested in acquiring the lands of Ft. Huachuca, Arizona upon its disposition by the War Department.

The lands concerned appears to be composed of two parcels, one of which, approximately 28,500 acres in size was acquired during the recent war and is known as the Artillery Range. The other consists of 44,760 acres, withdrawn from the public domain in 1881 and 1883 by Executive Order for military use.

Active request to and negotiations with the War Department and War Assets Administration have, to date, failed to offer assurance that the State's desire may be realized. In fact it has become increasingly apparent to us that the 44,760 acre public domain withdrawal might most logically revert to the Department of Interior rather than be subject to disposition by laws applicable to surplus war facility lands acquired by other than public domain withdrawal.

This possibility is strongly supported by statements and opinions in the 1910 publication of the Government Printing Office entitled, "United States Military Reservations, National Cemeteries and Military Parks." This revised edition by Lewis W. Call, Chief Clerk and Solicitor in the office of the Judge-Advocate-General of the Army, on page 14, describes Ft. Huachuca as follows: "This reservation contains an area of 70 square miles and is situated in Townships 21, 22 and 23 South, Ranges 19 and 20 (extended), Cochise County. Title is as follows: Public lands of the United States reserved for military purposes by Executive Orders of October 29, 1881, and May 14, 1883."

On page 459 of the same authority, the Federal Government's right of eminent domain is construed to continue on certain areas after statehood is granted to a territory, a fact which might be pertinent in considering Ft. Huachuca.

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Finally, on page 492, the publication states that the subsequent disposal of such withdrawals is prescribed by Acts of Congress, one of which is quoted as follows, " 'That whenever, in the opinion of the President of the United States, the lands, or any portion of them, included within the limits of any military reservation heretofore or hereafter declared, have become or shall become useless for military purposes, he shall cause the same or so much thereof as he may designate, to be placed under the control of the Secretary of the Interior for disposition as hereinafter provided, and shall cause to be filed with the Secretary of the Interior a notice thereof.' (Act of July 5, 1884; 23 Stats., p. 103.)"

If neither the original executive orders or the above authority have been superseded by subsequent legislation, it appears to us that the disposition of the subject 44,760 acre withdrawal is clearly prescribed.

In the event that this area is returned to the jurisdiction of your Department, the State of Arizona respectfully requests the aid of your office in acquiring ownership or the control of its use by whatever method may be most expedient.

If State ownership cannot be realized it is urged that the efforts of your office be directed toward the designation of lands as a National Wildlife Refuge under the jurisdiction of the U. S. Fish and Wildlife Service to be administered by the Arizona Game and Fish Commission on a non-fee basis.

Our plea for this action is based upon a sincere belief that no higher use can be found for the area and on the fact that the unanimous opinion of all Arizonans (including the organized cattlemen) who have expressed themselves at all, have opposed the possibility of its being devoted to commercial grazing by private interests.

Attached hereto are copies of (our) letters to the War Assets Administration outlining the advantages of the area for the proposed use, and to the Fish and Wildlife Service proposing a National Wildlife Range and to Arizona's Congressmen requesting their support.

Your sympathetic interest is urged, and an expression both of your opinion relative to the possibility of the lands being returned to your Department, as well as your reaction to this National Wildlife Refuge proposal in such event will be awaited with keen interest.

Sincerely yours,



H. L. REID
State Game & Fish Director

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