

## Lisa Schreckengost

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**From:** Patterson, Mark C CIV (US) <mark.c.patterson.civ@mail.mil>  
**Sent:** Monday, August 07, 2017 9:36 AM  
**To:** Stockwell, Dennis S CIV USARMY USAG (US); Judd, Anita A CIV USARMY (US)  
**Subject:** FW: Ft. Wingate LOT Executed (UNCLASSIFIED)  
**Attachments:** Hon Zinke Ltr--FWDA.PDF

Dennis, Anita,

I case you were not notified, the 9 parcels were returned to DOI effective Aug 3, 2017. See email below from Bob Uhrich with HQDA ASA IEE. Please forward as needed.

Mark Patterson

FWDA BEC

(330) 358-7312

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**From:** Lederle, Thomas E CIV USARMY HQDA ACSIM (US)  
**Sent:** Friday, August 04, 2017 8:15 AM  
**To:** Patterson, Mark C CIV (US); Cruz, Richard S CIV (US); Albrecht, Ricky J CIV (US)  
**Subject:** FW: Ft. Wingate LOT Executed (UNCLASSIFIED)

Guys,

The conveyance of 2,496 acres of Fort Wingate to DOI was effective yesterday. Just wanted to let you know. Thanks for what you do out there.

Tom

-----Original Message-----

**From:** Uhrich, Robert K CIV USARMY HQDA ASA IEE (US)  
**Sent:** Thursday, August 03, 2017 4:23 PM  
**To:** Thomas, Ian M CIV USARMY HQDA ACSIM (US) <ian.m.thomas2.civ@mail.mil>; Key, William F III CIV USARMY CESWD (US) <William.F.Key@usace.army.mil>; Lederle, Thomas E CIV USARMY HQDA ACSIM (US) <thomas.e.lederle.civ@mail.mil>; Wright, Robert E CIV CEHQ NCR2 (US) <Robert.E.Wright@usace.army.mil>  
**Cc:** Wilson, Creighton H CIV USARMY HQDA OGC (US) <creighton.h.wilson.civ@mail.mil>; Ramsdell, Richard C CIV USARMY HQDA ASA IEE (US) <richard.c.ramsdell2.civ@mail.mil>  
**Subject:** Ft. Wingate LOT Executed (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

Team,

Attached is a copy of the Wingate LOT, signed, sealed and delivered to DOI today. It has been overnight mailed to Secretary Zinke's office, and I sent a pdf copy with all enclosures to the DOI solicitor's office.

After consultation with DOI solicitor's office yesterday, we decided to modify the previous draft by making the transfer effective as of the date of the letter, eliminated the Acknowledgement and instead just requested that DOI send us a separate acknowledgement of receipt, and proceeded to sign and send today. Therefore, the transfer is effective today. As of this date, DOI has custody and control of the 9 parcels, subject to the terms of the letter. Pls make sure WSMR is aware.

I didn't want to choke all of your email inboxes by attaching the enclosures since most of you have them already. I can provide separately as needed.

Thanks to all for the efforts to pull all of the pieces of this together over the past months, and pls share those thanks with the many others not on this email who contributed.

There will probably be questions in the coming days as DOI and the Navajo and Zuni review the letter, so appreciate in advance your continuing efforts to assist in responding as needed.

Bob U.

Robert Uhrich  
703-693-5210

CLASSIFICATION: UNCLASSIFIED



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY  
INSTALLATIONS, ENERGY AND ENVIRONMENT  
110 ARMY PENTAGON  
WASHINGTON DC 20310-0110

AUG 03 2017

The Honorable Ryan Zinke  
Secretary  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington, DC 20240

Dear Mr. Secretary:

The former Fort Wingate Depot Activity (FWDA), New Mexico occupied public land that was withdrawn and reserved for military purposes by Executive Orders dated February 18, 1870 and March 26, 1881. Pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act of 1988 (Pub. L. 100-526, title II), the 1988 Base Realignment and Closure (BRAC) Commission recommended closure of FWDA. That closure was completed in 1993. At the time of its closure, FWDA occupied approximately 21,125 acres. In 1995, under applicable BRAC regulations for the Department of Defense, the Office of the Secretary of Defense authorized continued Army retention and use of a portion of the former FWDA property for certain other military purposes. The Fort Wingate Launch Complex (FWLC), as managed by the White Sands Missile Range (WSMR), now occupies that retained area, currently approximately 6,456 acres. In 2000 and 2001, the Department of the Interior (DOI) published Public Land Orders 7457 and 7495 which modified the 1870 and 1881 Executive Orders by reassigning federal jurisdiction over 5,429 acres (determined by later Bureau of Land Management (BLM) administrative survey to be approximately 5,855 acres) of the former FWDA from the Army to the Bureau of Indian Affairs.

Public Law 114-328, the National Defense Authorization Act for Fiscal Year 2017 (2017 NDAA), at section 2829F, established procedures by which the Department of the Army and DOI shall carry out future transfers of the remaining former FWDA property. The purpose of this letter is to transfer federal administrative jurisdiction over certain parcels at the former FWDA to the Secretary of the Interior following the procedures specified by the 2017 NDAA. This letter supercedes and rescinds prior Army notices of intent to relinquish the specified parcels. All enclosures referenced herein are copied electronically on the enclosed compact disc.

Pursuant to the 2017 NDAA section 2829F(a)(3)(A), I hereby notify DOI that remediation of the following parcels, comprising approximately 2,496 acres, at the former FWDA has been completed consistent with 2017 NDAA section 2829F(c): parcels 4B, 5A, 5B, 8, 10A, 10B, 12, 14 and 25. Evidence of the concurrence by the New Mexico Environment Department is at **Enclosure (1)**.



Pursuant to the 2017 NDAA section 2829F(a)(3)(A), I hereby transfer to the administrative jurisdiction of the Secretary of the Interior the following parcels, comprising approximately 2,496 acres: 4B, 5A, 5B, 8, 10A, 10B, 12, 14 and 25, as depicted on the map referenced in the 2017 NDAA section 2829F(a)(1) (see **Enclosure (2)**) and described in the BLM administrative survey at **Enclosure (3)**, hereinafter collectively referred to as the 'Property'. The Property includes all of the improvements, interests, rights, permits, licenses, related personal property, and appurtenances thereon and is transferred in an 'as is, where is' condition, subject to the following responsibilities, covenants, restrictions and conditions as set forth herein in Articles 1 through 9.

**Article 1. Consideration:** This transfer is made without reimbursement or transfer of funds pursuant to the 2017 NDAA, section 2829F.

**Article 2. Effective Date of the Transfer:** This Letter of Transfer shall be effective upon the date of this letter.

**Article 3. Possession and Accountability:** DOI shall have possession, custody and accountability for the Property, and the Property will be available for occupancy, as of the effective date of this transfer.

**Article 4. Existing Easements, Permit Rights, and Rights-of-Way:** Pursuant to 2017 NDAA section 2829F(b)(1)(A), the Army hereby provides notice that there are existing easements, permit rights, and rights-of-way on the Property, and applications pending for existing facilities, as depicted and listed on **Enclosure (4)**. The U.S. Army Corps of Engineers will provide complete documentation related to these interests.

**Article 5. Environmental Conditions.**

a. The letters from the New Mexico Environment Department at **Enclosure (1)** provide concurrence that no further Resource Conservation and Recovery Act (RCRA) related action is required on the Property. The Property has been removed from the RCRA permit for the former FWDA. There are no restrictions or conditions on future use of the Property related to environmental conditions, except as noted in paragraph 5b. Further information supporting these determinations is available upon request.

b. **Notice of the Potential Presence of Munitions and Explosives of Concern (MEC)**

DOI, its successors, and assigns, are hereby notified that due to the former use of the Property as a military installation, the Property may contain munitions and

explosives of concern (MEC). The term MEC means specific categories of military munitions that may pose unique explosives safety risks and includes: (1) Unexploded Ordnance (UXO), as defined in 10 U.S.C. §101(e)(5); (2) Discarded military munitions (DMM), as defined in 10 U.S.C. §2710(e)(2); or (3) Munitions constituents (e.g., TNT, RDX), as defined in 10 U.S.C. §2710(e)(3), present in high enough concentrations to pose an explosive hazard.

DOI, its successors, and assigns, acknowledge that there is a possibility that MEC may exist on the Property. If the DOI, any subsequent owner, or any other person should encounter or suspect they have encountered any MEC on the Property, they shall not touch, move or disturb it, but shall immediately stop any intrusive or ground-disturbing work in the area or any adjacent areas and notify the Local Police Department (911) so that appropriate explosive ordnance disposal personnel can be dispatched to address such MEC as required under applicable law and regulations.

**Article 6. Access for Environmental Response Actions:** Pursuant to the 2017 NDAA section 2829F(b)(2), portions of the Property held in trust or conveyed in restricted fee status by DOI shall be subject to the following reserved access rights by the United States.

a. The United States retains and reserves a perpetual and assignable easement and right of access on, over, and through the Property, to enter upon the Property in any case in which an environmental response or corrective action is found to be necessary on the part of the United States, without regard to whether such environmental response or corrective action is on the Property or on adjoining or nearby lands. Such easement and right of access includes, without limitation, the right to perform any environmental investigation, survey, monitoring, sampling, testing, drilling, boring, coring, testpitting, installing monitoring or pumping wells or other treatment facilities, response action, corrective action, or any other action necessary for the United States to meet its responsibilities under applicable laws and as provided for in this instrument. Such easement and right of access shall be binding on the Grantee and its successors and assigns and shall run with the land.

b. In exercising such easement and right of access, the United States shall provide the Grantee or its successors or assigns, as the case may be, with reasonable notice of its intent to enter upon the Property and exercise its rights under this clause, which notice may be severely curtailed or even eliminated in emergency situations. The United States shall use reasonable means to avoid and to minimize interference with the Grantee's and the Grantee's successors' and assigns' quiet enjoyment of the Property. At the completion of work, the work site shall be reasonably restored. Such easement and right of access includes the right to obtain and use utility services, including but not limited to water, gas, electricity, sewer, and communications services



available on the Property at a reasonable charge to the United States. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the Grantee, nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the United States.

c. In exercising such easement and right of access, neither the Grantee nor its successors and assigns, as the case may be, shall have any claim at law or equity against the United States or any officer, employee, agent, contractor of any tier, or servant of the United States based on actions taken by the United States or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this clause: Provided, however, that nothing in this paragraph shall be considered as a waiver by the Grantee and its successors and assigns of any remedy available to them under the Federal Tort Claims Act.

**Article 7. Compatibility with Defense Activities:** Pursuant to the 2017 NDAA section 2829F(b)(5), the Department of the Army hereby reserves the following interests on the Property for FWLC administration, test operations, and launch operation purposes.

a. **Utilities.** The Army reserves perpetual easements for exclusive use operation, upgrade/maintenance of, and access to all existing Army-owned utilities that are located on the Property. These utilities are further identified on the map titled "DOA White Sands Missile Range Easements / Reservations Needed for Utilities at Fort Wingate", dated February 15, 2017 (**Enclosure 5**).

b. **Rights-of-Way.** The Army reserves unrestricted access across the Property as shown on the map titled "DOA White Sands Missile Range Easements / Reservations Needed for Access at Fort Wingate", dated February 16, 2017 (**Enclosure 6**).

c. **Launch Hazard Area and Evacuation.**

(1) For public safety, DOI shall comply with restrictions on the Property for lands within the Launch Hazard Area (LHA) as depicted on the map titled "White Sands Missile Range Existing Launch Hazard Area at Fort Wingate July 26, 2017" (**Enclosure 7**). These restrictions will give Army the right to access and evacuate the Property within the LHA, and control the underlying ground space, subject to the following terms and conditions:

- a) The Army shall provide the DOI/BIA a minimum of seventy-two (72) hours advanced notice of the evacuation.
- b) Any single evacuation period shall not exceed twelve (12) hours.

- c) The minimum time between the start times of two consecutive evacuations shall not be less than forty-eight (48) hours.
- d) The Army may evacuate the Property no more than five (5) times in any one (1) calendar month.
- e) The operational costs to provide initial notices/warnings to establish roadblocks and conduct sweeps to ensure the LHA is clear shall be an Army expense and shall not be transferrable to DOI/BIA. Should Army require use of non-Army personnel to assist with an Army evacuation sweep of the LHA, a separate agreement shall be negotiated to arrange any required reimbursement to the non-Army personnel by Army. Any cost incurred by users or individuals who must evacuate from the LHA shall not be the responsibility of the Army.
- f) The Army's right to require evacuation of the LHA shall take precedence over any other utilization of the LHA, to include scheduled or unscheduled DOI, BIA, Pueblo of Zuni, or Navajo Nation events.
- g) After an announced evacuation, individuals who do not evacuate from the LHA will bear sole responsibility for any personal injury incurred resulting from a missile launch operation and the Army shall not be liable for any injuries or damages.
- h) The Army or its agents may enter upon or pass through the Property within the LHA after launch firings to search for, guard, and remove missile elements, fragments thereof, or other debris which may have fallen on the Property within the LHA.
- i) The Army is responsible for clean-up of debris, environmental compliance requirements, and rehabilitation/restoration of damage to property and natural resources, including fire damage, resulting from Army launch activities.
- j) The DOI/BIA shall provide the WSMR a twelve (12) month schedule of events describing utilization, including Pueblo of Zuni and Navajo Nation scheduled events, of the Property within the LHA. The schedule shall be updated every 90 days and provided to WSMR. The schedule should be sent to the Commander, U.S. Army White Sands Missile Range, White Sands, New Mexico 88002.
- k) Although Army program requirements are the controlling factor in determining evacuation dates, the Army shall take all reasonable efforts to harmonize its launch schedule with DOI/BIA, Pueblo of Zuni, and Navajo Nation scheduled events. The Army will ensure that the coordination of launch schedules involves the following offices:
  - 1) DOI



- 2) Director, Navajo Region
  - 3) Zuni Agency Superintendent
  - 4) Director, BIA Southwest Region
  - 5) Superintendent of BIA, Eastern Navajo Agency
- Copies of documentation concerning the coordination efforts in paragraph (k) shall be provided to the following offices:

- 1) Navajo Nation Division of Economic Development
  - 2) Pueblo of Zuni Office of Planning and Development/EDA
- Changes in the contact information and/or address information shown in the paragraphs above shall immediately be provided to the addresses in paragraphs above, as appropriate.

(2) The Army hereby gives notice that it may seek future changes to the Launch Hazard Area dimensions and restrictions affecting the Property set forth in paragraph (1), above, to assure continuing public safety in conjunction with future decisions regarding test missions conducted at FWLC.

d. **Parcel 5A Construction Restriction:** In order to prevent interference with the line-of-site radar, telemetry, and communications links between FWLC Parcel A and FWLC Parcels B and C, the DOI shall prohibit any temporary or permanent vertical construction on Parcel 5A, as depicted and described on **Enclosures (2) and (3)**, without the prior written concurrence of the Army.

**Article 8. Waiver of Reporting Requirement:** The transfer of this Property is not subject to the requirements of 10 U.S.C. §2662, in accordance with Section 205 of the 1988 Base Closure Law.

**Article 9. Type of Jurisdiction:** The United States exercises exclusive legislative jurisdiction over the Property.

**THEREFORE, IN SUMMARY,** please have an authorized DOI official provide a response letter to the undersigned within 30 days which acknowledges receipt of this letter. In addition, please have an authorized DOI official sign a copy of the enclosed Department of Defense (DD) Forms 1354, Transfer and Acknowledgement of DoD Real Property (**Enclosure 8**), and furnish one original copy to the U.S. Army Engineer District, Fort Worth, Attention: CESWF-RE-M (Mrs. Christine Schneider), 819 Taylor, Room 2A06, Fort Worth, Texas 76102.

The Army's obligation to pay or reimburse any money under this transfer is subject to the availability of funds appropriated for such purpose. Nothing with respect to this transfer shall be interpreted to require obligations or payments by the Department of the Army in violation of the Anti-Deficiency Act (31 U.S.C. §1341).



**NOW, THEREFORE,** I hereby approve and deliver this Letter of Transfer in consideration of the foregoing premises and cause all administrative jurisdiction and control of the Property described herein to be transferred to the Department of the Interior.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul D. Cramer", with a long horizontal flourish extending to the right.

**Paul D. Cramer**  
Deputy Assistant Secretary of the Army  
(Installations, Housing & Partnerships)

Enclosures