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MEMORANDUM OF UNDERSTANDING

Between

THE DEPARTMENT OF THE INTERIOR

and

THE DEPARTMENT OF THE ARMY

To Provide For

CO-USE GRAZING ON THE McGREGOR RANGE IN NEW MEXICO

WHEREAS Public Land Order No. 1470 of August 21, 1957 withdrew public lands in McGregor Range for use by the Department of the Army as a missile testing range and whereas Section 4(e) of said Public Land Order provided that grazing use of the lands, if determined by the Commanding Officer in charge to be compatible with their use for military purposes, shall be administered by the Department of the Interior, Bureau of Land Management, hereinafter referred to as BLM, under the provisions of the Taylor Grazing Act of June 29, 1934 (48 Stat. 1269, 43 U.S.C. 315, et. seq.), as amended. Whereas there are intermingled with the withdrawn public domain lands tracts of lands acquired by the Department of the Army aggregating approximately 52,000 acres which are subject to the provisions of law and policy governing the Secretary of the Army leasing within military reservations, and

WHEREAS the Secretary of the Army has determined that grazing use can be allowed on McGregor Range, provided such grazing use is authorized subject to certain provisions as set forth in this Memorandum of Understanding and

and the Department of the Interior, BLM, has indicated its willingness to assume responsibility for administration of such grazing use subject to such revisions.

WHEREAS the law and policy which governs the administration for grazing purposes of lands acquired within military areas contemplates that such lands will be offered for use by competitive bid leasing at not less than fair value in reasonably economical tracts or areas and for periods and under conditions which will assure the ready availability of such lands for required military purposes.

It is agreed that the grazing program to be administered hereunder by the Bureau of Land Management will be consistent insofar as practicable with the Army leasing laws and policies. To this end the grazing procedure to be prescribed by the BLM will be submitted to the C. I. of Engineers, Department of the Army, for prior concurrence and major changes therein found necessary in the public interest, including special rules of the Department of the Interior will be likewise coordinated.

Therefore, it is mutually agreed that:

SECTION A. The Department of the Army agrees to the following:

- (1) Subject to special stipulations expressed herein, the BLM will license grazing use on lands withdrawn by Public Land Order 1470, excluding lands in the Lincoln National Forest and lands in the southern part of McGregor Range generally referred to as the former Maple, Marcell, Davis, Remonds and Gray allotments, but including the aforesaid Army acquired lands.

(1) The Department of the Army will continue fire control rights, responsibilities in accordance with Section 4(f) of Public Law Order 167.

(2) All grazing fees collected by the BLM will be subject to BLM accountability. A division of grazing funds receipts from the BLM administration of the McGregor lands will be made on the basis of the proportion which the "acquired" Army lands in the Range bear to the "withdrawn public domain lands" in the area. This agreement presently includes approximately 52,000 acres of "acquired land" out of the total of 515,000 acres covered by the agreement. The portion of such funds represented by Army acquired lands will be transferred by the BLM to the U. S. Army District Engineer, Albuquerque, in accordance with established fiscal procedures on an annual basis.

(3) The Department of the Army will allow 6 days following written notice or agreement for the removal of any range improvement placed on the lands by any grazing licensee pursuant to a range improvement permit issued by the BLM for such range improvement.

(4) The Department of the Army acting through the United States Army Air Defense Center, hereinafter referred to as the Center, in cooperation with the BLM, will retain and exercise complete control over distribution and use of water which flows through pipelines from the Sacramento River and Carrizo Springs.

(5) The Center will upon request furnish firing schedules in order that grazing licensees authorized to use lands in McGregor Range for grazing can be timely advised when entry to the Range is allowed or denied.

(1) BLM agrees it is responsible for control and action relative to all stock trespass; however, that the Center will be responsible for the control of trespass committed by any person into the area.

SECTION E. The BLM agrees to the following conditions for licensing grazing use on lands in McGregor Range:

(1) Personnel of the Center, in pursuit of their official functions or other authorized purposes, will continue to have unlimited access to the land covered by this agreement. Said personnel may open gates, and, if necessary, lower fences in order to accomplish their assigned missions or duties. The Center will require said personnel to leave gates as found (open or closed) and to re-position any fences lowered. However, the Center assumes no responsibility should gates not be left as found or should fences not be re-positioned.

(2) Each grazing license which authorizes grazing use of lands in McGregor Range shall contain and be subject to the stipulations listed below in Section C.

(3) Grazing use of lands in McGregor Range will be limited to cattle and horses, and the numbers of these animals will also be so limited as to assure proper use of the land. No one will be authorized to graze sheep and/or goats on any land in McGregor Range.

(4) Range improvements will include but not be limited to:

(a) The construction and maintenance by the BLM of a livestock control fence on those parts of the McGregor Range boundary which enclose land covered by grazing licenses. Prior to the construction of livestock control fences, the BLM will submit the construction plans and specifications

to the Commanding General of the Center for his approval. Authorization for placing fence along practical fence lines shall be written and will be issued in writing by the BLM and the Center.

(b) The construction and maintenance by the BLM of firebreaks on those parts of McGregor Range boundary which enclose land upon which grazing use will be authorized and at such other locations as may be determined to be necessary by the Center. Prior to the construction of firebreaks, the BLM will submit the construction plans and specifications to the Commanding General of the Center for his approval. Firebreaks will usually be constructed contiguous with perimeter fences.

(c) The maintenance and improvement by the BLM of the pipelines which bring water from the Sacramento River and Carrizo Springs to McGregor Range. The BLM will also construct, maintain and improve from such grazing revenues as can possibly be made available, tanks, tubs, wells, windmills, etc., necessary to provide water for range management. Prior to new construction or making any major improvement or change that affects water resources on McGregor Range, the BLM will submit the construction plans and specifications to the Commanding General of the Center for his approval.

(d) The Center, in cooperation with the BLM, will retain and exercise complete control of distribution and use of water which flows through pipelines from the Sacramento River and Carrizo Springs. *water*

(e) Any range improvement constructed with Government funds will remain on the property.

(7) No grazing license issued under this agreement will in any way affect the existing agreement between the Center and the Department of Fish and Game, State of New Mexico, concerning the control, conservation and maintenance of wildlife on McGregor Range. Each grazing licensee is bound by all terms and conditions of said agreement to the same extent that the Center is bound. BLM will establish grazing capacity limits annually to determine numbers of domestic livestock to be grazed on the range and will reserve adequate forage for wildlife, especially big game animals now on the range or subsequently to be released on the range. Therefore, Center will cooperate with the BLM for development and maintenance of wildlife habitat on the McGregor Range, including the determination of specific areas, if any, on which domestic livestock grazing will be excluded in favor of wildlife.

(8) The District Manager, BLM, will keep the Commanding General of the Center currently informed as to the name and address of each grazing licensee.

SECTION C. STIPULATIONS: The following stipulations will be attached to and made a part of each grazing license issued by the BLM to authorize grazing use of lands in McGregor Range under this co-use agreement between the Department of the Army and the Department of the Interior:

(1) Prior to entry upon McGregor Range for any reason, such licensee, his family, agents, or guests must obtain permission from the Commanding General, United States Army Air Defense Center, or his designated agent. Such persons may remain on McGregor Range only during the hours and/or days during which permission to enter has been so granted. Permission to

Center McGregor Range will be granted when firing is not being conducted or scheduled; however, under no circumstances will the licensee, his family, agents, or guests be granted permission to enter or remain on McGregor Range during periods when firing is being conducted, or scheduled, even should they be willing to assume any and all risks inherent in such activities.

(2) Should security or safety considerations or the assignment of any particular mission require such action, the Center reserves the right to deny access to McGregor Range to licensee, his family, agents, or guests for extended periods of time. The Center may exercise this right without prior notice to licensee.

(3) Personnel of the Center, in pursuit of their official functions or other authorized purposes, will have unlimited access to the land covered by this license. Said personnel may open gates, and, if necessary, lower fences in order to accomplish their assigned mission or duty. The Center will require said personnel to leave gates as found (opened or closed) and to re-position fences lowered. However, the Center assumes no responsibility should gates not be left as found or should fences not be re-positioned.

(4) The Center is responsible for fire control as set forth in Section 4(f) of Public Land Order 1470, and will suppress fires after completion of the daily or other scheduled firing program. Grazing licensee waives any and all rights of action which might accrue due to damage to persons or property if said damages are directly or indirectly cause by fire resulting from military operations or other causes on McGregor Range.

(5) The United States will not be responsible for damage to any improvement or for any injury to persons or livestock caused directly, or indirectly by impact or fallout of missiles, targets or components thereof.

(6) Licensee, his family, agents, or guests are prohibited from touching, tampering with, or disturbing any shell, shell casing, missile, target, or components thereof which may be found upon the lands covered by this license. Upon discovery of any of the items mentioned in the preceding sentence, licensee will report said discovery to the Commanding General, United States Army Air Defense Center, or his designated agent.

(7) This grazing license may be terminated after thirty (30) days written notice should the United States Army Air Defense Center be assigned new, additional, or different missions which, in the opinion of the Commanding General, United States Army Air Defense Center, cannot be accomplished while such grazing license is in effect.

(8) This grazing license may be summarily terminated should the licensee breach any of the terms or conditions stated herein.

(9) This grazing license is subject to all New Mexico State Game laws and regulations.

(10) Complete control of distribution and use of water which flows through pipelines from the Sacramento River and Carrizo Springs is retained and exercised by the United States Army Air Defense Center, in cooperation with the Bureau of Land Management.

(11) Grazing licensee may construct temporary range improvements necessary for the proper care and management of livestock for which this

license is issued, after approval of the United States Army Air Defense Center and subsequent to the issuance of an improvement permit by the Bureau of Land Management. Such temporary range improvements must be removed by licensee within 60 days after his grazing license has expired and has not been renewed or within 60 days of the written notice that the license has been cancelled for other cause.

(12) This grazing license will in no way prevent the United States Army Air Defense Center from establishing launching sites, erecting fire towers, radar sites, and other similar construction and fencing of same, when required by military necessity.

(13) This grazing license will in no way affect the existing right of the Secretary of the Army to grant permits for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity upon land subject to this license. The licensee, his family, agents, or guests will refrain from the excavation of archaeological sites and gathering of objects of antiquity upon lands subject to this license. Discovery of any such sites or items will be reported to Commanding General, U. S. Army Air Defense Center, or his designated agent.

SECTION 5. GENERAL. This Memorandum of Understanding shall remain in full force and effect until terminated by mutual agreement between the parties hereto, or upon ninety-day written notice served by either party on the other.

If terminated by mutual agreement, the then current and existing grazing licenses will be allowed to extend to expiration of existing bidding period shown on such existing grazing licenses.

This Memorandum of Understanding is subject to immediate termination if, in the opinion of the Commanding General of the Center, military operations make such termination imperative. *Wykumka* ✓

If amendments are needed to this agreement, a meeting may be called by either party, preferably 60 days or more prior to expiration date of grazing licenses in effect, so that necessary changes can be incorporated in any new offers for grazing licenses.

In witness whereof I have hereunto set my hand by direction of the Assistant Secretary of the Army (IAS) this 18 day of March, 1966.

B. D. M.
Sherry B. Myers
Staff Asst (Real Property)
Mil Const and Real
Property, CASA(IAS)

Approved:

George L. Johnson
Director
Bureau of Land Management

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