



UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

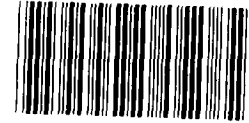
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PROCUREMENT, LOGISTICS,  
AND READINESS DIVISION

B-181236

JANUARY 14, 1983

The Honorable William V. Roth, Jr.  
Chairman, Committee on Governmental  
Affairs  
United States Senate



120323

Dear Mr. Chairman:

Subject: Acquisition of Properties and Settling of  
Claims on White Sands Missile Range, New Mexico  
(GAO/PLRD-83-31)

In your letter of October 6, 1982, you requested that we review the Department of Defense's (DOD's) actions in acquiring properties and settling ranchers' claims on the White Sands Missile Range in New Mexico. Specifically, you asked us to see whether (1) DOD is complying with the law concerning compensation for condemned property, (2) DOD is providing fair assessments of property values, including the value of any improvements, and (3) the Government or DOD is liable for breach of contract because of the manner in which lease and suspension agreements have been terminated.

BACKGROUND

The main part of the White Sands Missile Range is approximately 100 miles in length and 40 miles in width. The range initially consisted of about 1.5 million acres of Federal public domain land, 342,000 acres of State land, and 72,000 acres of privately owned lands. At the time the Federal Government began to use the land in 1942, most of the land was divided into ranching units that were generally a combination of privately owned land, State-owned land leased by ranchers from New Mexico, and public domain land being used by ranchers under grazing permits or licenses issued by the Bureau of Land Management, pursuant to the Taylor Grazing Act (43 U.S.C. 315 et seq.).

Over the years, the Federal Government has withdrawn the public domain land from public use, terminated the grazing permits or licenses issued ranchers under the Taylor Grazing Act, and acquired the privately owned and State-owned properties. These actions were taken because the Federal Government needed the lands for national defense purposes.

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The Army Corps of Engineers is responsible for managing the acquisition of properties on the White Sands Missile Range. We made inquiries at the Corps' headquarters and its Albuquerque District regarding the compensation and termination of agreements issues.

Albuquerque District officials told us that initially there were about 96 landowners who had claims for one or more property interests. Except for claims by about seven landowners, these claims have been settled. Currently, 23 court cases are pending and 1 is in process. These include condemnation cases for privately owned land and mining and mineral rights.

#### INFORMATION DEVELOPED

In summary, regarding the compensation issues, we learned that the ranchers made claims for compensation which have, for the most part, been settled either through voluntary agreements or through condemnation court cases. However, some claims are still pending, or in process, before the courts. With respect to the Army's termination of suspension agreements without further payments to ranchers, the United States Court of Claims concurred with the Army's action.

#### Termination of lease and suspension agreements

Until 1970, the Government paid compensation to the ranchers under lease and suspension agreements. The leases applied to the private and State-lease lands, and the suspension agreements applied to the termination or non-use of the grazing permits or licenses issued under the Taylor Grazing Act. The public domain land was withdrawn from public use before the suspension agreements expired in 1970. These agreements were not renewed. The Army contended that the holders of Taylor Grazing Act permits were fully compensated for cancellation of the permits by payments on the suspension agreements.

The United States Court of Claims case concurred with the Army's position on the grazing permits. <sup>1/</sup> In that case, the Court said that the compensation was not inadequate and that the plaintiffs were not in any way led to believe that they would receive additional sums for cancellation of the permits.

#### Compensation for private property

The Army initiated negotiations in 1970 for leasing the private and State lands for another 10 years. Some ranchers

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<sup>1/</sup>See D.I.Z. Livestock Co. et al. v. United States, 210 Ct. Cl. 708 (1976).

entered into voluntary leases. However, the Army obtained leasehold interests in the remaining ranching units through condemnation for a term of 1 year beginning July 1970 and ending June 1971, renewable for yearly terms until June 1980.

Fiscal year 1974 Military Construction and Reserve Forces Facilities Authorization Acts (Public Law 93-166, Nov. 29, 1973) and Military Construction Appropriation Act (Public Law 93-194, Dec. 20, 1973) provided the Army with the authority and funds to acquire the title to privately owned lands. Additional funds were provided to the Army by the fiscal year 1980 Military Construction Appropriation Act (Public Law 96-130, Nov. 30, 1979) to complete the acquisition of privately owned land and the discharge of mining claims. The Army acquired about 72,000 acres through voluntary agreements with the owners or through condemnation cases. Currently, there are still nine condemnation court cases pending disposition in the United States District Court.

#### Compensation for State property

Concerning the State-owned lands under lease to the ranchers, a suit was filed on March 12, 1979, in the United States Court of Claims by the Commissioner of Public Lands, New Mexico, and other plaintiffs who constituted the majority of the ranchers with State grazing leases. <sup>1/</sup> In that case, the Court of Claims found that the United States had acquired about 270,000 acres of State land by inverse condemnation but remanded the case for further testimony to determine the date when the Government took the land. The Court said if this occurred before March 12, 1973, the suit is barred by virtue of the 6-year statute of limitations for filing such claims. As of December 1982, the date of taking has not yet been determined.

Another 72,000 acres of State land was not included in the Court of Claims case, and three grazing leases exist for a portion of this State land. The Army has leases with the grazing lessees and the State for this land.

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Since the questions you raised primarily involve legal matters and have been or are being addressed by the courts, it would not be appropriate for us to evaluate and reach conclusions on the same issues. Moreover, we do not wish to prejudice the Government's case in future court actions.

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<sup>1/</sup>See Alex J. Armijo, et al. v. The United States, 663 F. 2d 90 (1981).

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We did not obtain Army comments. However, we did discuss the report with Albuquerque District officials whose comments have been considered in finalizing the report.

We are sending copies of this report to the Secretaries of Defense and the Army. Copies will be available to others upon request.

Sincerely yours,

A handwritten signature in cursive script that reads "Donald J. Horan". The signature is written in dark ink and is positioned above the typed name.

Donald J. Horan  
Director