

US EPA ARCHIVE DOCUMENT

character and value, payable from funds on deposit to the credit of the Navajo Indians.

There are between 3000 and 4000 Navajo Indians scattered over the public domain in San Juan and McKinley Counties, New Mexico, south and east of that part of the Navajo Reservation in that state. The interests of these Indians are intimately identified with those of the tribe living within the boundaries of the treaty reservation and Executive Order additions and their rights to share in all the reservation resources is not questioned. However, the records show that they and their ancestors have always lived on the public domain and have not attempted to withdraw within the reservation boundaries. It is a fact that they were there when the reservations were created, but their locations were not covered by any permanent withdrawal of land for their use.

The area of the treaty and Executive Order additions is estimated at between 12,000,000 and 13,000,000 acres, but it includes many thousands of acres absolutely desert country or broken by buttes, canyons and mountains. The latest statistics show the population of about 30,000, and an arbitrary division of the reservation lands would give each Indian approximately 400 acres; but it is a fact that these Navajos on the public domain cannot be forced to go within the reservation boundaries and could not be taken care of within such boundaries.

Approximately 2500 Navajoes have been allotted in severally 160 acres on even numbered sections of the public domain in San Juan and McKinley Counties, New Mexico. Most of these Indians are sheepmen, but the small areas allotted to them does not provide grazing. The odd numbered sections are railroad grant lands and these sections in many of the townships have been leased by the Indians themselves and paid for out of their private funds, or have been leased by the Government on their behalf. The railroad lands should be bought for the Indians as it is the only way to give them permanent relief. There are practically similar conditions in Arizona, south and west of the reservation.

Recently the matter of obtaining additional lands for the Navajoes was presented and urged by one of our representatives in the field, and a part of his report is here given for convenience:

At the last Council meeting held at Fort Defiance by Commissioner Hagerman July 7, 1925, the situation was presented to the council for setting aside a part of the oil royalties for use in making adjustments of range conditions thru purchase of land, lease, and improvements owned by white men and the council was favorable to having 20 per cent of each year's royalties be set aside for this purpose. I should like to have seen them use at least 50 per cent of this money to relieve the public domain situation.

The Indian Office is quite familiar with our situation and the difficulty in securing appropriation from Congress needed in such cases, but it seems that we cannot get much further unless a substantial sum of money is provided, to purchase such improvements, railroad lands, state lands, private interests including fencing wells or reservoirs for the use of the Indians. It is my recommendation that 40 to 50 townships of railroad lands be purchased from the Santa Fe

H. R. Company and from the New Mexico and Arizona Land Company at a price of \$1.00 to \$2.00 per acre and include such land as is now urgent for the Navajoes east of Zuni Reservation; for the Navajoes in Ganonito Country under Southern Pueblo Agency. This will require an appropriation of \$750,000, but in our opinion we are justified in asking for this amount. This appropriation to be asked of Congress and to be made reimbursable to the government and repaid annually from oil sale and lease money now derived by the Navajo tribe from production that now seems to be on the increase and to be repaid at the rate of 20 to 50 per cent of what is annually available from this source and continue until entirely repaid.

Recently a delegation of Navajo Indians was in Washington, accompanied by Superintendents of two Navajo jurisdictions, and urged that an appropriation of \$1,000,000 for the purchase of additional lands be obtained reimbursable from oil royalties and bonuses belonging to the tribe. At this time these Indians have approximately \$200,000 on deposit available for appropriation and a monthly income of about \$25,000 from royalty payments.

This Department is satisfied that the Indians need additional lands for grazing purposes in order to continue one of their main sources of support. In view of this fact, and other statements contained herein, and because no charge or financial obligation will develop upon the Federal Government, the legislation proposed has the approval of this Department. It is therefore recommended that H. R. 16345, or similar legislation be favorably considered by your Committee and the Congress.

X X

8-1142

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
INDIAN FIELD SERVICE

*Land  
Process  
with  
no. 1000  
SOUTHERN NAVAJO AGENCY  
Fort Defiance, Arizona  
November 1937.  
this is not a  
with the  
T. C. Lee  
acc.*

MEMORANDUM

Mr. E. B. Meritt,  
Assistant Commissioner  
of Indian Affairs.

My dear Mr. Meritt:

The present status of the Navajo land extension proposals and the bill introduced by Honorable Carl Hayden to appropriate one million dollars to purchase additional lands held by the Atchison, Topeka and Santa Fe Railroad Company under their grant lying adjacent to the Navajo Reservation, is very discouraging.

Every Navajo jurisdiction desires to purchase land now and I am very much afraid that the amount proposed is so great and unwieldy that it will be a very difficult matter for you to secure legislation which will enable the Office to make the purchase.

Without question, there is full justification for all the different purchases desired, however, the most urgent need as I see it is in the Crown Point and Southern Navajo jurisdictions. Previous to the time that the difficulties started between the Government and Navajo Indians, the Navajos lived all over this country. During the sixties, some seven thousand of them were taken prisoners and kept at Fort Sumner three or four years. When they returned, they returned to their former habitations. Most of the Navajos who lived south of the Southern Navajo jurisdiction

line, have lived there all of their lives. There are some of the people still living who were prisoners at Fort Sumner.

About four months ago, Mr. Grubbs, living at Allantown, Arizona, bought a section of land on which Navajos were residing. There were five hogans on the land he purchased. The first I heard of it was an old Navajo lady about seventy-five years old came to Fort Defiance and pleaded for me to help her retain her land. She told me it had been purchased by the store-keeper and she had lived there all her life and would have to leave her home if something wasn't done. I saw Mr. Grubbs about this matter and he was very nice. He said if they would not disturb him they could live on it. There are a number of such cases. I attach hereto, another sale which is about to take place.

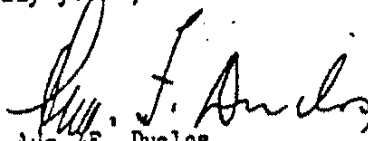
The land owned by the Santa Fe will gradually pass out of their hands as it is for sale, and unless steps are taken to purchase it, the time will come when the Navajos occupying it will have to move off. I have discussed this matter with Chee Dodge and other prominent Indians and we have come to the conclusion, in order to protect our people who are now occupying these lands that we reduce the acreage to the amount of land that we are leasing. In other words, purchase the land we are now leasing from the Santa Fe. We are leasing 200,000 acres. While I have not been able to get any price quoted per acre from the Santa Fe, however, if this plan meets with yours and Mr. Burke's approval, I believe that the Santa Fe will then quote us a price.

The Southern Navajo jurisdiction at the present time has a credit in the fund "Indian Moneys, Proceeds of Labor, Navajo Indians, Southern Navajo (Oil Royalty and Leases), Support, 1927," of \$133,250.89. Chee

Dodge and some of the other head men have attended all the big Indian dances that have taken place in this jurisdiction this fall, and have talked to the Indians about the purchase of this land and Mr. Dodge informs me that the Indians have all agreed to make this purchase before any funds be used for any other purpose, or that this need be placed first. In all probability, the 200,000 acres can be purchased for \$1.00 an acre. \$100,000 now to the credit of the Indians of this jurisdiction can be immediately applied on the purchase and the balance in four-annual payments of \$25,000 each. This would pay for the land in a five year period.

Chee Dodge is very anxious to meet you on your visit here and discuss this matter more fully with you.

Very truly yours,

  
Aug. F. Duclos,  
Superintendent.

AFD:LB  
Enc.

COPY

St. Michaels, Arizona

December 9, 1927.

The Hon. Carl Hayden,  
Washington, D.C.

Hon. and dear Sir:

I am sorry that I did not get to meet you when you passed through Gallup on your way to Washington, because I was very anxious to speak to you concerning our land problem. Since the appropriation for one million dollars for the purchase of lands for the entire tribe did not go through last January, I have concluded that it would be best after all that we work for our own jurisdiction.

The Navajos living off the Fort Defiance jurisdiction to the south, as you perhaps know, have been leasing for many years approximately 200,000 acres from the Santa Fe Railroad and I believe the best plan would be to ask Congress to appropriate annually \$100,000 for the purchase of these lands until the entire 200,000 acres shall have been bought. I am sure too that you understand that we are not asking for more lands; we are only trying to buy with our own money realized from oil, lands which members of our tribe have been occupying and using from time immemorial; the Navajos were living there long before any white man ever came here; then later on, when the Railroad received its extensive land grants in 1872 our people who were living on these very lands, were not at all considered. Now the Railroad Co. is prepared to sell large parcels of these lands to whoever can pay therefor and thus there is great danger that a good deal of the land will slip away from us. For this reason I am convinced that delay or postponement will prove disastrous to us and I must ask you to do what you can for us so that this land problem, which is the most urgent problem confronting our tribe at the present time be solved, and that as soon as possible.

My dear Senator, you have always been a true friend to us Navajos and I know you will be glad to help us in this matter, just as you have done so often before. I especially appreciate your kind and successful efforts in placing Executive Order Reservations on the same basis as Treaty Reservations, and I shall be very thankful to you for whatever assistance you might render towards the successful issue of the plan which I have mentioned above.

Thanking you for your kind interest in our behalf. I am,  
Very sincerely yours,

(Sgd) Chee Dodge.

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FILED BY A. M. G.

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MS

Saint Michaels, Arizona,

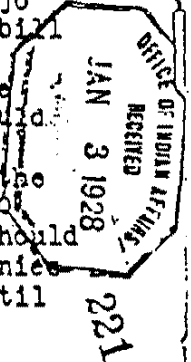
December 10, 1927.

The Hon. Chas. H. Burke,

Washington, D. C.

My dear Mr. Commissioner:-

Last January a delegation of Navajo Indians came to Washington for the purpose of having a bill introduced for the appropriation of one million dollars wherewith to buy railroad and other lands for the entire tribe. After thinking the matter over we believe it would be best to direct our efforts toward the Fort Defiance jurisdiction alone. The Indians living south of this, the Southern Agency, have been leasing approximately 200,000 acres from the Railroad Co for many years past and we should now like to ask Congress to appropriate from our oil monies annually \$100,000.00 for the purchase of these lands until all shall have been bought.



I have always felt that you are a true friend to us Indians, and I want to thank you very much for your kind words in our behalf when you appeared before the Committee and there assisted in placing the Executive Order Reservations on the same basis as the Treaty Reservation. This decision means a great deal to us and we want you to know that we appreciate your assistance.

This land problem is without doubt the most important thing that is worrying us at the present time and I am confident you will again be glad to do whatever you can to help us. The lands that we propose to buy, you will understand, are not more lands but such as our people have been using and occupying long before the white man came to this part of the country and many, many years previous to the coming of the railroad. When the Railroad was built in 1872 what did the Government do? It made vast grants to the Railroad of these very lands without even taking into consideration our people who were actually living there at that time, and therefore I believe our Government owes it to us to assist us in every way to purchase these lands and thus solve our most serious problem. Even granting that we did not exactly need these lands so many years ago, we certainly need them now, and, since the Railroad Co. is willing to sell, we ought to buy; this should be done at once, for if we delay, the white man will get ahead of us; putting this matter off will therefore only make matters worse and will bring us into the condition where we will need more lands. But where shall we find them?

I am writing to Senator Carl Hayden in this connection, also to General Scott, and to Mr. D. M. Riordan, an old time friend of mine who held the position of Agent at Fort Defiance way back in 1882 and asking them to help us in every way possible.

A. M. G.

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Hon. Chas. H. Burke---2

If anything should turn up with reference to this land purchase and you should think that my presence in Washington would be of any benefit, I shall be glad to have you advise me and I shall gladly come to Washington at my own expense, because I want to help our non-Reservation people and am anxious to give whatever information might be necessary to bring the true state of affairs before Congress.

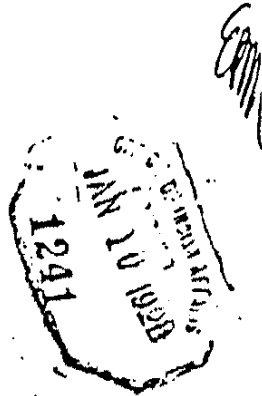
Sincerely thanking you in advance for your valuable assistance, I am

Very truly yours,

*Chas Dodge*

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
INDIAN FIELD SERVICE

Eastern Navaho Agency,  
Crown Point, New Mex.  
Jan. 5, 1928.



The Commissioner Of Indian Affairs,  
Washington, D.C.

Dear Mr. Commissioner:

The Navaho Tribal Council, held here at Crown Point, July 7th and 8th, 1927, went on record favoring a request to Congress for a loan of \$1,000,000. for the purchase of land for the several Navaho jurisdictions and urgently needed by the Indians for their stock and now occupied by them. A year ago a bill was introduced by Mr. Hayden of Arizona but had no chance of becoming a law at that session.

As the success of such a loan is of vital importance to the Public Domain Indians of this jurisdiction, we wish to inquire if a new bill will be introduced at the present session of Congress? Perhaps much opposition will develop against such a bill but if members of Congress once fully understood our predicament and the necessity for constructive protection, they would give aid. Should it be impossible to secure the entire amount at once perhaps the bill could be so worded that \$200,000. per annum could be made available until the \$1,000,000. would be used for this purpose.

Chee Dodge, Chairman of the Navaho Tribal Council was recently here and stated that he felt that each jurisdiction should handle their requirements separately and independent of the needs of neighboring jurisdiction but in my opinion concerted action is necessary along the lines indicated by the Tribal Council. Would be pleased to receive an expression from the Office as to procedure proposed in this very important subject as the future depends very largely upon the success in securing title to more land.

Very truly yours.

*S.F. Stacher*  
S.F. Stacher,  
Superintendent.

FILED BY A. M. G.

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US EPA ARCHIVE DOCUMENT

In the consideration of items of this kind, but we have made the rules and now let us undertake to follow them.

The VICE PRESIDENT. The point of order is sustained. Mr. GLASS. Mr. President, I send to the desk proposed amendment to committee.

The VICE PRESIDENT. The amendment will be stated. The CHIEF CLERK. After the word "for" and the period, in line 21, page 65, it is proposed to insert:

"And the sum of \$5,000 for each a survey and... there is available on the coast of the United States... for a central eastern... corresponding to the one herewith provided for at Hawthorn, Nev."

Mr. WARREN. I have no objection to that amendment. The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. HAYDEN. Mr. President, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated. The CHIEF CLERK. On page 41, line 17, after the word "only," it is proposed to insert the following proviso:

Provided further, That any lands purchased under authority of this act within the State of Arizona shall be subject to the annual payment of an amount equal to the taxes levied by said State, or any county thereof, on lands of similar character and value; and the Secretary of the Treasury is hereby authorized and directed, upon the recommendation of the Secretary of the Interior, to pay such amounts to said State or counties from the fund on deposit in the Treasury to the credit of the Navajo Tribe.

Mr. WARREN. Mr. President, I understand that to be an amendment to a House paragraph. Is that correct?

Mr. HAYDEN. That is correct.

Mr. WARREN. And that the House paragraph contains language that would bring it within the rule. At least I will not object to it.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HAYDEN. I ask leave to insert in the Record a letter from the chief of the Navajo Tribe of Indians relative to this matter.

The VICE PRESIDENT. Without objection, it is so ordered.

The letter is as follows:

ST. MICHAELS, ARIZ., December 9, 1927.

The Hon. CARL HAYDEN, Washington, D. C.

HONORABLE AND DEAR SIR: I am sorry that I did not get to meet you when you passed through Gallup on your way to Washington, because I was very anxious to speak to you concerning our land problem. Since the appropriation for \$1,000,000 for the purchase of lands for the entire tribe did not go through last January, I have concluded that it would be best after all that we work for our own jurisdiction.

The Navajos living off the Fort Defiance jurisdiction to the south, as you perhaps know, have been leasing for many years approximately 200,000 acres from the Santa Fe Railroad, and I believe the best plan would be to ask Congress to appropriate annually \$100,000 for the purchase of these lands until the entire 200,000 acres shall have been bought. I am sure, too, that you understand that we are not asking for more lands; we are only trying to buy, with our own money realized from oil lands which members of our tribe have been occupying and using from time immemorial; the Navajos were living there long before any white man ever came here; then later on, when the railroad received its extensive land grants in 1872, our people who were living on these very lands were not at all considered. Now the railroad company is prepared to sell large parcels of these lands to whoever can pay therefor, and thus there is great danger that a good deal of the land will slip away from us. For this reason I am convinced that delay or postponement will prove disastrous to us and I must ask you to do what you can for us so that this land problem, which is the most urgent problem confronting our tribe at the present time, be solved, and that as soon as possible.

My dear Senator, you have always been a true friend to us Navajos and I know you will be glad to help us in this matter, just as you have done so often before. I especially appreciate your kind and successful efforts in placing Executive order reservations on the same basis as treaty reservations, and I shall be very thankful to you for whatever assistance you might render toward the successful issue of the plan which I have mentioned above.

Thanking you for your kind interest in our behalf, I am Very sincerely yours,

CHAS DOOK

Mr. KING. Mr. President, I have presented to the members of the committee some amendments relating to an item which was under discussion yesterday.

On page 31, line 10, I move to amend by adding, after the word "established" and before the word "shall," the words "as" and after the word "shall" by striking out the words "thereafter."

On page 31, line 18, I move to strike out the words "and the" and insert in lieu thereof the words "and then only such."

And on page 31, line 20, I move to strike out the words "each year."

So that, as amended, it would provide for the State to make the 50 per cent contribution.

Mr. WARREN. Mr. President, I understand that that is the line of reducing expense. Therefore I have no objection to it.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BLAINE. Mr. President, I desire to inquire of the chairman of the committee about pages 65 and 66, the deficiency appropriation for the Marine Corps. The total amount proposed, in round numbers, is \$3,200,000. As I understand, that is about double the amount reported by the Secretary of the Navy when the naval appropriation bill was before Congress at least double the amount that the Secretary reported expended for the marines in Nicaragua.

Mr. HALE. No; I think the figures are just the same. The figures which were given at that time when the bill was in I think they are exactly the same.

I gave the figures in the Senate one day. I do not recall the exact date, but they were exactly the figures that are given now. At that time it was understood what the estimates would be for the deficiency, and I so announced in the Senate.

Mr. BLAINE. Then the cost of maintaining the marines in Nicaragua was \$3,200,000?

Mr. HALE. No; that includes China as well as Nicaragua. The amount for Nicaragua was \$1,365,010, and the amount for China was \$1,852,074.

Mr. BLAINE. Then this \$3,200,000 includes the amount expended for the marines in China and Nicaragua?

Mr. HALE. In China and Nicaragua; that is correct.

Mr. WARREN. Mr. President, may I say to the Senator who makes the inquiry that, of course, this is the House language and comes to us from the House, and I take it for granted that it comes duly certified from the department. The Senator from Maine, who is the chairman of the Naval Affairs Committee, which includes the Marine Corps, may answer the question.

Mr. BLAINE. The point to which I am directing my remarks is that we are spending, over and above the regular appropriation for the United States Marine Corps, \$3,200,000 for the marines in foreign countries. That is my understanding.

Mr. HALE. That is correct.

Mr. BLAINE. So we are paying, in addition to the regular appropriation for the marines, \$3,200,000 to interfere in the affairs of other countries, and particularly Nicaragua.

Mr. BINGHAM. Mr. President, will the Senator yield?

Mr. BLAINE. I yield.

Mr. BINGHAM. The Senator knows that most of these marines are in China. A large part of this expense is in connection with the state of affairs in China. We are not interfering in Chinese domestic affairs at all. No one familiar with the situation can claim that we have several thousand American citizens there, missionaries, business men and officials who need protection at this period of Chinese history, when civil war is going on, and when there are thousands of soldiers badly disciplined, who have repeatedly, by their actions in the Yangtze Valley, in Nanking, and recently in Tsinan, shown their inability to be controlled by their own officers, and their willingness to loot, murder, steal, and do anything to foreigners, no matter of what nationality. Surely the Senator does not begrudge any money that may be spent to protect the lives and property of American citizens very properly resident in China who are endangered by the presence there of this great civil war.

Let me assure the Senator that we are in no way interfering with the affairs of the Chinese, but are merely endeavoring to protect our own nationals in a way which this Government always has done for more than a hundred years.

Mr. BLAINE. Mr. President, I am very happy at this moment to find that the Senator from Connecticut in no way undertakes to excuse the President in sending the marines to Nicaragua.

Mr. BINGHAM. Mr. President, that is a question which we debated before. The Senator's question perfectly well.

US EPA ARCHIVE DOCUMENT

June 4, 1928.

Mr. Samuel F. Stacher,  
Supt., Eastern Navajo Agency,  
Crown Point, New Mexico.

My dear Mr. Stacher:

You will be pleased to learn that we were successful in getting an appropriation for the purchase of lands for the Navajo Indians. The item in the Second Deficiency Act reads as follows:

"For purchase of additional land and water rights for the use and benefit of Indians of the Navajo Tribe (at a total cost not to exceed \$1,200,000, which is hereby authorized), title to which shall be taken in the name of the United States in trust for the Navajo Tribe, fiscal years 1928 and 1929, \$200,000, payable from funds on deposit in the Treasury of the United States to the credit of the Navajo Tribe: Provided, That in purchasing such lands title may be taken, in the discretion of the Secretary of the Interior, for the surface only."

Two hundred thousand dollars is now available for the purchase of lands for the Navajo Indians. You are requested to submit a report at the earliest possible date as to the total number of Indians on the public domain under your jurisdiction for whom we should purchase lands and the estimated acreage needed for their use. You are also requested to report as to the amount of the \$200,000 which you believe should be used in your jurisdiction, the probable cost of the land per acre and any other information that should be furnished the Office so that we will have detailed information on this entire subject.

You will understand, of course, that the entire \$200,000 available is not to be used under one jurisdiction. Each Superintendent is familiar generally with the needs of the Navajo Indians for more land and it is suggested that in your report you include data which would show such purchases that should be made immediately for your particular jurisdiction.

Cordially yours,

Carbon for **FILED BY A. M. G.**  
Indian Office. (SIGNED) E. B. MERRITT.

Assistant Commissioner.

September 5, 1928

PRODUCED AT THE NATIONAL ARCHIVES

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UNITED STATES

DEPARTMENT OF THE INTERIOR

Office of Indian Affairs

Washington

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Manning  
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Merritt  
E. ...  
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SEP - 5 1928

Land Commissioner,  
Santa Fe Pacific Railroad Company,  
Topeka, Kansas.

RECEIVED  
SEP 5 - 1928  
SECT. OF THE INTERIOR  
APPL. - MAIL & TELE.

Sir:

An item in the Second Deficiency Act for 1928, Public No. 563, reads as follows:

"For purchase of additional land and water rights for the use and benefit of Indians of the Navajo Tribe (at a total cost not to exceed \$1,200,000, which is hereby authorized), title to which shall be taken in the name of the United States in trust for the Navajo Tribe, fiscal years 1928 and 1929, \$200,000, payable from funds on deposit in the Treasury of the United States to the credit of the Navajo Tribe: Provided, That in purchasing such lands title may be taken, in the discretion of the Secretary of the Interior, for the surface only."

It will be observed that \$200,000 of the sum authorized to be appropriated is now available for expenditure during the fiscal year 1929 and that Congress has obligated itself actually to appropriate the entire sum of \$1,200,000. Superintendent S. F. Stacher of the Eastern Navajo Agency, Crown Point, New Mexico, has recommended that we consider the purchase of about 75,000 acres belonging to your company and now leased for the Indians of his jurisdiction. The townships are identified on the enclosure herewith.

Superintendent A. F. Duclos of the Southern Navajo Agency, Fort Defiance, Arizona, has recommended that we consider the purchase of approximately 200,000 acres belonging to your company and now under lease for the Indians of his jurisdiction. The townships in which these lands are located are identified on the enclosed list. It would be impossible for the Government to purchase immediately all the land recommended even if desirable or practicable. There are not sufficient funds immediately available and there are doubtless

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CARBON FOR SECRETARY'S OFFICE

US EPA ARCHIVE DOCUMENT

some townships that we would not want to purchase and some probably that your company would not want to sell. However, it would be appreciated if you will go over the enclosed lists and set a price per acre on the lands you are willing to sell.

As to such lands as you are willing to sell, we would like to have a formal option, giving the Government the privilege to purchase during the current fiscal year a part thereof, and the remainder when additional funds are actually appropriated by Congress. The option should be made subject to acceptance by the Government any time prior to June 30, 1930. In accepting such an option the Government would feel obligated to make the additional purchase when funds are available provided a sufficiently good title is furnished. The difficulty is that there are great needs in other localities for purchases and we do not feel justified in spending the entire amount now available in the immediate purchase of all the land belonging to your company embraced in the leases herein referred to. As title may be acquired for the surface rights only, in the discretion of the Secretary of the Interior, and as your company may desire to reserve the mineral rights, an offer will be considered on that basis.

There is enclosed a blank form "Proposal for Sale of Land", which should be followed in the preparation of any option submitted. A full description of the lands offered should be specifically described by section, township, and range, and the total area in each township furnished. As considerable time will necessarily be required to complete any purchase that may be made and as the time is limited, it is requested that the matter receive prompt consideration and action by you.

Sincerely yours,

  
Commissioner.

S EAB 51-1

Approved: SEP - 7 1928  
(Sgd.) JOHN H. EDWARDS

Assistant Secretary.

LANDS UNDER LEASE IN THE EASTERN NAVAJO JURISDICTION  
(Odd numbered sections)

- T. 15 N. R. 11 W., N. M. P. M., in New Mexico
- T. 15 N. R. 17 W., N. M. P. M., in New Mexico
- T. 16 N. R. 11 W., N. M. P. M., in New Mexico
- T. 17 N., R. 11 W., N. M. P. M., in New Mexico
- T. 17 N. R. 13 W., N. M. P. M., in New Mexico
- T. 18 N. R. 12 W., N. M. P. M., in New Mexico
- T. 19 N. R. 13 W., N. M. P. M., in New Mexico



LANDS UNDER LEASE IN THE SOUTHERN NAVAJO JURISDICTION  
(Odd numbered sections)

✓ T. 22 N. R. 29 E.,	G. & S. R. M.,	in	Arizona
T. 19 N. R. 28 E.,	"	"	"
T. 20 N. R. 28 E.,	"	"	"
✓ T. 23 N. R. 31 E.,	"	"	"
✓ T. 23 N. R. 30 E.,	"	"	"
✓ T. 23 N. R. 29 E.,	"	"	"
T. 19 N. R. 30 E.,	"	"	"
✓ T. 22 N. R. 30 E.,	"	"	"
T. 12 N. R. 20 W.,	N. M. P. M.,	in	New Mexico
T. 11 N. R. 20 W.,	"	"	"
T. 13 N. R. 19 W.,	"	"	"
T. 12 N. R. 19 W.,	"	"	"
T. 11 N. R. 19 W.,	"	"	"
T. 14 N. R. 18 W.,	"	"	"
T. 14 N. R. 17 W.,	"	"	"
- T. 15 N. R. 20 W.,	"	"	"
- T. 13 N. R. 20 W.,	"	"	"
- T. 16 N. R. 18 W.,	"	"	"
T. 14 N. R. 19 W.,	"	"	"
- T. 14 N. R. 20 W.,	"	"	"
T. 13 N. R. 18 W.,	"	"	"

INTERIOR DEPARTMENT  
APPROPRIATION BILL FOR 1930

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HEARING

U.S. CONGRESS. HOUSE.

SUBCOMMITTEE OF HOUSE/COMMITTEE  
ON APPROPRIATIONS/

CONSISTING OF

Messrs. LOUIS C. CRAMTON (CHAIRMAN)  
FRANK MURPHY, BURTON L. FRENCH, EDWARD T.  
TAYLOR, AND WILLIAM W. HASTINGS

IN CHARGE OF

INTERIOR DEPARTMENT  
APPROPRIATION BILL FOR 1930

SEVENTIETH CONGRESS

SECOND SESSION



UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON  
1928

Doctor Scott. Yes, sir; that was not an appropriation. It was simply an authorization, and the Bureau of the Budget and the Interior Department require that we bring it back to you for appropriation.

Mr. CRAMTON. The item in question in the deficiency act provides that the Secretary of the Interior is authorized to enter into a contract or contracts which, including equipment for such dormitories, shall not exceed \$100,000. That, of course, is only an authorization, and now the item before us is an appropriation for \$40,000, in accordance with that authorization. The \$150,000 having been appropriated heretofore.

Doctor Scott. Precisely.  
Mr. CRAMTON. I think that is all we need.

MONDAY, NOVEMBER 19, 1928.

BUREAU OF INDIAN AFFAIRS

STATEMENT OF HONORABLE CHARLES H. BURKE, COMMISSIONER, ACCOMPANIED BY EDGAR B. MERITT, ASSISTANT COMMISSIONER

GENERAL STATEMENT

Mr. CRAMTON. We will start this morning with the hearings for the Indian Service. We appreciate the statement which you have presented, Mr. Commissioner.

Mr. BURKE. The Bureau of Indian Affairs was established on March 11, 1824, and the office of Commissioner of Indian Affairs was created in 1832. The early administration of Indian affairs was performed under the direction of the War Department, but in 1849 Congress, upon the creation of the Department of the Interior, incorporated the Bureau of Indian Affairs in that department, giving to its head the supervisory powers theretofore exercised over Indian affairs by the Secretary of War. Since that time the bureau has been under the Interior Department.

Section 441 of the Revised Statutes provides that "The Secretary of the Interior is charged with the supervision of public business relating to . . . the Indians."

Section 463 of the Revised Statutes provides that—

The Commissioner of Indian Affairs shall, under the direction of the Secretary of the Interior and agreeable to such regulations as the President may prescribe, have the management of all Indian affairs and of all matters arising out of Indian relations.

Since the foundation of our Government and under constitutional authority the United States has treated the Indians as its wards and has acted as guardian of all restricted Indians.

TREATIES WITH INDIANS

The first treaty between the United States and an Indian tribe was made with the Delaware Indians on September 17, 1778 (7 Stat. 13). The act of March 3, 1871, provides in part:

That hereafter no Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty: *Provided further,* That nothing herein contained shall be construed to invalidate or impair the obligation of any treaty heretofore lawfully made and ratified with any such Indian nation or tribe.

Since the passage of this legislation no treaties have been made with Indian tribes, their affairs having been dealt with through legislation by Congress. At the present time, there are on the statute books approximately 370 Indian treaties and more than 2,000 laws relating to Indian affairs.

There are 200 Indian reservations, with 193 different tribes who speak 58 different languages. The Indian country covers an area as large as all of the New England States and the State of New York combined, and the Government maintains 106 jurisdictions, including agency headquarters located on the reservations, and nonreservation boarding schools outside of reservations.

As various treaties were made with Indian tribes lands were set aside as reservations for their use and the act of February 8, 1887 (24 Stat. 388), provided for the allotment of lands in severalty to Indians located upon these reservations. Allotments were made under this law through the issuance of trust patents which contained restrictions upon alienation of the land for a period of 25 years. In many instances where Indians have not yet reached the stage of civilization where they can handle their own affairs, this trust period has been extended by Executive order for additional periods of time.

ALLOTMENT OF LANDS TO INDIANS

Subsequent to the passage of the above-mentioned act, additional legislation has been passed which authorizes the issuance of fee patents to Indians who are competent to handle their own affairs. So long as land is held under a trust patent it is not taxable by the State, but when an Indian receives his patent in fee the land becomes subject to taxation and the Government no longer maintains any jurisdiction over the land.

Allotments have been made to more than 207,000 Indians, covering approximately 40,000,000 acres of land. Unallotted Indian lands at the present time amount to approximately 35,000,000 acres, and it is estimated that there are 118,000 Indians who have not been allotted. Approximately 85 per cent of the Indians of the Five Civilized Tribes are no longer subject to the jurisdiction of the Interior Department, and more than 30,000 Indians outside of the Five Civilized Tribes have received fee patents to their lands and are free to dispose of them as they see fit. In most instances where Indians have received fee patents the lands have passed into white ownership.

INDIAN POPULATION

The Indian population at the present time is 355,001, and the total value of Indian property, including lands, timber, oil, gas, coal and other mineral deposits, funds on deposit in the Treasury, and individual holdings of livestock and other property, is approximately \$1,048,075,274. The State of Oklahoma has the largest Indian population, which totals 119,335. Arizona, South Dakota, and New

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Mr. Merritt. We did not want to complicate the item by going into details. We wanted to get the appropriation for the award first.

Mr. Cramton. But there is \$1,000 for Santo Domingo. It doesn't complicate it any more than Santo Domingo.

Mr. Merritt. We recently got the report of our superintendent on that item.

Mr. Cramton. Suppose you get a report on the Nambe. As long as we are going to appropriate, if this is something which ought to be done, there does not seem to be any good reason to wait. Why not do it? Evidently the superintendent has had some three to six months in which to ascertain the facts and advise your office. I am interested to know why we should defer doing it for a year, if it is something that ought to be done.

Mr. Merritt. We can get the information.

Mr. Cramton. And bring it in with reference to San Felipe and Nambe.

Mr. Merritt. The item requested is as follows:

COMPLETION TO CERTAIN PUEBLOS IN NEW MEXICO

For carrying out the provisions of the act of June 7, 1921 (43 Stat. L. 656), to quiet title in Pueblo Indian lands, New Mexico, and in settlement for damages for lands and water rights lost to the Indians of the Pueblos and as recommended in the respective reports of the Pueblo Lands Board thereon the sum of \$184,381.37, as follows: Santo Domingo, \$13,868.20; Sandia, \$20,950.00; San Felipe, \$20,341.10; Taos, \$48,407; Santa Ana, \$5,035.54; Nambe, \$26,068.63; *Provided*, That \$1,000 of the amount for the Santo Domingo pueblos be used to purchase 12 acres of land and water rights for these Indians; that \$3,578 of the sum for the Nambe pueblos be available to purchase 10.70 acres of land and water rights, and the sum of \$8,500 for irrigating and improving the lands of these pueblos; that all of the sums credited to the Pueblos of Sandia and Taos, respectively, be used for fencing, irrigating, and improving their lands; that \$535.57 of the amount for the San Felipe Pueblos be available for the purchase thereof of 10,889 acres of land and water rights lying west of the Rio Grande, and that \$10,000 of the sum credited to these Indians be available for fencing, irrigating, and improving the land thereof; *Provided further*, That not more than \$18,000 of the funds to the credit of the Tesuque Indians be hereby made available for the purchase of lands and the development of a water supply; all of said sums so to be expended to be immediately available; *And provided further*, That the balance, if any, of the amounts so appropriated for the above Pueblos be placed to their credit on the books of the Treasury Department at 4 per cent interest per annum, and be subject to future appropriation by Congress.

PURCHASE OF LANDS AND WATER RIGHTS FOR NAVAJO INDIANS

Mr. Cramton. The next item is:

For purchase of additional land and water rights for the use and benefit of Indians of the Navajo Tribe, title to which shall be taken in the name of the United States in trust for the Navajo Tribe, \$200,000, payable from funds on deposit in the Treasury of the United States to the credit of the Navajo Tribe; *Provided*, That in purchasing such lands title may be taken, in the discretion of the Secretary of the Interior, for the surface only.

Mr. Merritt. The Indian population of the Navajo country in Arizona and New Mexico is about 40,000. About 4,000 of these Indians reside on the public domain adjacent to the reservation established for the Navajo generally. A large percentage of these Indians are located in San Juan and McKinley Counties, N. Mex., and the others are scattered throughout the area from Crownpoint, N. Mex.,

on the east to north of Flagstaff, Ariz., on the west. About 3,500 of the public domain Navajos in Arizona and New Mexico have received individual allotments of 160 acres each. These lands are being used by the Indians for grazing purposes and where possible vacant public lands are used; but the entire acreage thus available is not sufficient to graze the large number of livestock owned by them which consists of sheep, goats, horses, cattle, and burros. Hence it is necessary to lease from the railroad company odd-numbered sections in certain townships for the use and benefit of these Indians.

Reports on file indicate that additional lands needed for the Navajos can probably be purchased at prices ranging from \$1 to \$1 per acre. It has been estimated that about 800,000 acres will be needed to satisfy the needs of the Indians which at an average price of \$1.50 per acre would require \$1,200,000. Based on these estimates an item was included in the deficiency act for 1928 (act of May 20, 1928, vol. 45, p. —), authorizing an appropriation of \$1,200,000, \$100,000 of which was made available for expenditure during the fiscal years 1928-29 "payable from funds on deposit in the Treasury of the United States to the credit of the Navajo Tribe."

Preliminary reports are on file recommending the urgent need for the purchase of 75,000 acres of railroad-owned land in New Mexico under the Eastern Navajo jurisdiction and about 200,000 acres in Arizona and New Mexico under the Southern Navajo jurisdiction, and negotiations are under way to acquire title to these lands (which the Indians are now using under lease) provided satisfactory offers can be obtained from the owner. There is also under consideration the proposed purchase of approximately 31,000 acres of privately owned land in Coconino County in Arizona under the Western Navajo jurisdiction at Tuba City. In this case it is proposed to purchase a part of these lands with funds already appropriated for use during the current fiscal year and the balance when additional funds become available. Negotiations are now under way with a view to consummating this purchase and it is anticipated that the entire amount authorized for expenditure during the current fiscal year, namely, \$200,000, will be expended. In addition to these proposed purchases recommendations have been made to purchase certain privately owned lands approximating 12,000 acres for the use of Navajos residing on the public domain under the Leupp jurisdiction, and tentative offers to sell have been submitted. However, no definite action has been taken because of more urgent needs in the other localities previously mentioned.

In order to proceed with the plans already made and carry out the intentions of Congress for the relief of the Navajo Indians a further authorization for the use of tribal funds in the purchase of lands is necessary to carry on the work during the fiscal year 1930.

Mr. Cramton. The last deficiency bill carried this language:

Purchase of land for Navajo Indians: For the purchase of additional lands and water right for the use and benefit of Indians of the Navajo Tribe at a total cost of not to exceed \$1,200,000, the title to which shall be taken in the United States in trust for the Navajo Tribe, for the fiscal years 1928 and 1929, \$200,000, payable from funds on deposit in the Treasury of the United States to the credit of the Navajo Tribe, provided that in purchasing such lands title may be taken in the Secretary of the Interior for survey only.

You propose an additional \$200,000 for 1930.

Mr. MERITT. Yes, sir.

Mr. CRAMTON. Negotiations are under way. Do you expect that during this fiscal year you will spend that \$200,000?

Mr. MERITT. Yes, sir.

Mr. CRAMTON. Are you going to be worried and allow yourself to be held up in order to get it in this year?

Mr. MERITT. No, sir.

Mr. CRAMTON. It would not be helpful to reappropriate the unexpended balance?

Mr. MERITT. If there should be an unexpended balance we would like to have it available.

Mr. CRAMTON. The committee had in mind, when this item was put in, in the course of your negotiations somebody may think they can hold you up if they know you have to spend the money before the end of the fiscal year.

Mr. MERITT. I think it would be desirable to make arrangements for that.

Mr. CRAMTON. We do not like to make appropriations available until expended, but I think the committee would like to have you feel that when you are not able to spend the money to good advantage during the year for which it was appropriated the committee would always consider very favorably a request for reappropriation.

Mr. MERITT. It would be helpful to have the appropriation in that form.

Mr. CRAMTON. How much money have they?

Mr. MERITT. Speaking from memory, between \$300,000 and \$400,000.

Mr. CRAMTON. Are you able to adjust that to the satisfaction of the different sections of the Navajo Reservation?

Mr. MERITT. There is more or less jealousy among the Indians as well as among the superintendents, and each superintendent is trying to get as much as possible for his Indians.

Mr. CRAMTON. Are you able to work it out fairly satisfactorily?

Mr. MERITT. Yes, sir.

Mr. CRAMTON. I suppose you have discussed this matter with them?

Mr. MERITT. Yes, sir. That is one of the subjects that was discussed. I also discussed it with the superintendents outside of the council.

Mr. CRAMTON. Are they sympathetic with that program?

Mr. MERITT. Very much so, and very much pleased with the opportunity. They think it is remarkable that we were able to get the appropriation.

Mr. CRAMTON. The policy this committee started on last year was to find the land and secure the water supply and use the funds. Do that meet with their approval?

Mr. MERITT. Yes, sir.

Mr. CRAMTON. In both cases?

Mr. MERITT. Yes, sir.

Mr. CRAMTON. How much is their annual income?

Mr. MERITT. Their income from oil last year was nearly \$80,000 that has been increased a little bit at this time.

Mr. CRAMTON. Have they some other income?

Mr. MERITT. They have some other income from the sale of timber.

Mr. CRAMTON. Does it reach \$200,000 a year?

Mr. MERITT. Not at this time.

Mr. CRAMTON. So they may not be able to continue this appropriation on that basis?

Mr. MERITT. No, sir. You could make it reimbursable.

Mr. CRAMTON. We will not consider that just now.

Mr. MERITT. There will be no question about their having money, because we have under contract for sale a million and a half dollars worth of timber.

Mr. CRAMTON. That will probably come in in time to save the appropriation. They have \$400,000 now, and get about \$100,000 a year. That will run along three or four years?

Mr. MERITT. Yes, sir.

RELIEF OF DISPOSSESSED NISQUALLY INDIANS, WASHINGTON

Mr. CRAMTON. The next item is:

The unexpended balance of \$6,124.25 of the appropriation of \$85,000 for the relief of the Nisqually Indians contained in the act of December 5, 1924 (43 Stat. p. 684), which unexpended balance was continued available during the fiscal year 1927 by the act of March 3, 1926 (44 Stat. p. 174), is hereby made available during the fiscal year 1930 for the purpose of removing the bodies of deceased Indians from the old Nisqually cemetery to a new location.

Mr. MERITT. The act of December 5, 1924 (43 Stat. L. 684), appropriated \$85,000 as additional compensation for the Nisqually Indians in the State of Washington whose land was taken by the Government during the war for military purposes. The land taken included the tribal cemetery.

The sum of \$78,875.75 was paid to individual allottees leaving a balance of \$6,124.25 which it was the intention to utilize for the removal of bodies from the original graves to a new cemetery. Accordingly, the act of March 3, 1926 (44 Stat. L. 174), reappropriated this amount, which had lapsed, for the fiscal year 1927. However, the selection and purchase of a new site required considerable time, and this was not accomplished until after June 30, 1927, when the money again reverted to the Treasury.

Under the circumstances, therefore, it is desired that this balance be made available for the original purpose during the fiscal year 1930 so that the removal of the bodies can be effected without further delay.

Mr. CRAMTON. That was to complete the proposition of removing the graves?

Mr. MERITT. Yes, sir.

Mr. CRAMTON. Have they concluded to have the graves removed?

Mr. MERITT. It is satisfactory to have it done.

EXPENSES IN CLOSING AFFAIRS OF EASTERN CHEROKEES, NORTH CAROLINA

Mr. CRAMTON. The next item is:

For carrying out the provisions of the act entitled "An act providing for the final disposition of the affairs of the Eastern Band of Cherokee Indians in North Carolina," approved June 4, 1924, \$15,000, or so much thereof as may be necessary.

June 17, 1929

This is to Certify. That at a regular meeting of the Board of Directors of the Santa Fe Pacific Railroad Company, held on June 27th, 1922, a quorum being present and voting, the following action was taken, as appears from the records of the said meeting:

Resolved, That the President of the Santa Fe Pacific Railroad Company or E. J. Engel, Vice-President of said Company, be and each of them hereby is authorized and empowered to execute in the name of this Company any and all deeds, relinquishments or conveyances to the United States of America, or to others, transferring, releasing or conveying all right, title and interest in and to any land owned or earned by or enuring to this Company as successor in interest to the Atlantic and Pacific Railroad Company, or any right, title and interest in and to any land which enures to this Company in the way of lieu selections or otherwise, independently of the Grant of July 27, 1866, to the Atlantic and Pacific Railroad Company.

Resolved Further, That the Secretary or Assistant Secretary of this Company be and he hereby is authorized and directed to attest the execution of any such deed, relinquishment or conveyance, and to affix thereto the corporate seal.

A TRUE COPY.

Attest:  
*E. J. Engel*  
Assistant Secretary.

Dated Topeka, June 17th, 1929.

OFFICE OF PUBLIC AFFAIRS  
RECEIVED  
JUN 25 1929  
32325

385152

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THIS INDENTURE, Made this fourteenth day of May, one thousand, nine hundred and twenty-nine, by and between the SANTA FE PACIFIC RAILROAD COMPANY, a corporation, duly incorporated by Act of Congress approved March 3, 1897, party of the first part, and hereinafter designated the first party, and the UNITED STATES OF AMERICA, IN TRUST FOR THE NAVAJO TRIBE, party of the second part, and hereinafter designated the second party.

RECEIVED  
JUN 25 1929  
32385

WITNESSETH, That the said first party for and in consideration of the sum of forty-two thousand, ninety-nine and 71/100 dollars, (\$42,099.71), to it in hand paid by the second party, the receipt whereof is hereby acknowledged, hath granted, bargained and sold, and by these presents doth grant, bargain, sell and convey, subject to the reservations and conditions hereinafter contained, unto the said second party, its successors and assigns, that certain real property situated in the County of McKinley and State of New Mexico, and more particularly described as follows, to wit:

NEW MEXICO MERIDIAN, NEW MEXICO.

Township seventeen north, range fourteen west.

Lots one, two, three, four of section one, containing two and two hundredths acres; lots one, two, three, four of section thirteen, containing seven and thirty-two hundredths acres; lots one, two, three, four of section twenty-five, containing eleven and fifty-eight hundredths acres; lots one, two, three, four, south half of the south half of section thirty-one, containing three

hundred twenty-one and sixty hundredths acres; lots one, two, three, four, south half of the south half of section thirty-three, containing three hundred seventeen and seventy-six hundredths acres; and lots one, two, three, four, south half of the south half of section thirty-five, containing three hundred eighteen and twenty hundredths acres.

Township seventeen north, range fifteen west. ✓

Lots one, two, three, four, south half of the south half of section thirty-one, containing three hundred fifteen and twenty hundredths acres; lots one, two, three, four, south half of the south half of section thirty-three, containing three hundred seventeen and ninety-eight hundredths acres; and lots one, two, three, four, south half of the south half of section thirty-five, containing three hundred fifteen and twenty hundredths acres.

Township fifteen north, range sixteen west. ✓

Section one, containing six hundred thirty-nine and fifty-two hundredths acres; section three, containing six hundred forty-one and ninety hundredths acres; section five, containing six hundred thirty-eight and eighty-two hundredths acres; section seven, containing six hundred sixteen and eighteen hundredths acres; section nine, containing six hundred forty acres; section eleven, containing six hundred forty acres; lots one, two, three, four of section thirteen, containing one hundred ninety-five and sixty hundredths acres; lots one, two, three, four section fifteen, containing one hundred eighty-five and twenty-eight hundredths acres; and lots one, two, three, four of section seventeen, containing one hundred seventy-four and sixteen hundredths acres.

Township sixteen north, range sixteen west. ✓

Section one, containing five hundred ninety-five and twenty hundredths acres; section three, containing six hundred one and eighty hundredths acres; section five, containing six hundred six and eighty-eight hundredths acres; section seven, containing five hundred ninety-five and ninety-two hundredths acres; section nine, containing six hundred forty acres; section eleven, containing six hundred forty acres; section thirteen, containing six hundred forty acres; section fifteen, containing six hundred forty acres; section seventeen, containing six hundred forty acres; section nineteen, containing six hundred two and fifty-two hundredths acres; section twenty-one, containing six hundred forty acres; section twenty-three, containing six hundred forty acres, section twenty-five, containing



six hundred forty acres; section twenty-seven, containing six hundred forty acres; section twenty-nine, containing six hundred forty acres; section thirty-one, containing six hundred eleven and twelve hundredths acres; section thirty-three, containing six hundred forty acres; and section thirty-five, containing six hundred forty acres.

Township seventeen north, range sixteen west. ✓

Lots one, two, three, four, south half of the south half of section thirty-one, containing three hundred five and twenty-eight hundredths acres; lots one, two, three, four, south half of the south half of section thirty-three, containing three hundred eight and twenty-one hundredths acres; and lots one, two, three, four, south half of the south half of section thirty-five, containing three hundred ten and seventy-eight hundredths acres.

Township fourteen north, range seventeen west. ✓

Lots one, two, three, four, five, southwest quarter of the northwest quarter, west half of the southwest quarter of section three, containing two hundred thirty-five and fifty-six hundredths acres; section five, containing six hundred thirty-eight and eighty-eight hundredths acres; section seven, containing six hundred thirty-eight and twelve hundredths acres; section nine, containing six hundred forty acres; lots one, two, three, four, west half of the west half of section fifteen, containing two hundred thirty-six and eighty-eight hundredths acres; section seventeen, containing six hundred forty acres; section nineteen, containing six hundred forty and eighty-eight hundredths acres; section twenty-one, containing six hundred forty acres; lots one, two, three, four, west half of the west half of section twenty-seven, containing two hundred thirty-nine and ninety-two hundredths acres; north half, and southwest quarter of section twenty-nine, containing four hundred eighty acres; and south half of section thirty-three, containing three hundred twenty acres.

Township fifteen north, range seventeen west. ✓

Section one, containing six hundred eighty-nine and eighty-four hundredths acres; section three, containing six hundred forty and forty-two hundredths acres; section five, containing six hundred thirty-nine and ninety-two hundredths acres; section seven, containing six hundred thirty-nine and ninety-four hundredths acres; northeast quarter and south half of section nine, containing four hundred eighty acres; lots one, two, three, four of section thirteen, containing one hundred sixty-four and forty-eight hundredths acres; lots one, two, three, four, five, six, west half

of the west half of section fifteen, reserving and excepting therefrom all that part of said section included between lines parallel with and two hundred feet each side of the center line of the original main track of The Atchison, Topeka and Santa Fe Railway Company, containing an area of twenty-four and twenty-four hundredths acres, more or less; said original main track being the present eastbound main track, containing three hundred and thirty-seven hundredths acres; lots one, two, east half, east half of the northwest quarter of section nineteen, containing four hundred eighty-one and nine hundredths acres; east half, west half of the northwest quarter, south half of the southwest quarter of section twenty-one, containing four hundred eighty acres; west half of the southwest quarter of section twenty-seven, containing eighty acres; section twenty-nine, containing six hundred forty acres; and section thirty-one, containing six hundred thirty-eight and eighty-four hundredths acres.

Township sixteen north, range seventeen west. ✓

Section one, containing six hundred fourteen and forty hundredths acres; section three, containing six hundred twenty-two and four hundredths acres; section five, containing six hundred twenty-four and fifty-two hundredths acres; section seven, containing six hundred thirty-two and fifty-two hundredths acres; section nine, containing six hundred forty acres; section eleven, containing six hundred forty acres; section thirteen, containing six hundred forty acres; section fifteen, containing six hundred forty acres; section seventeen, containing six hundred forty acres; section nineteen, containing six hundred thirty-six and forty-four hundredths acres; section twenty-one, containing six hundred forty acres; section twenty-three, containing six hundred forty acres; section twenty-five, containing six hundred forty acres; section twenty-seven, containing six hundred forty acres; section twenty-nine, containing six hundred forty acres; section thirty-one, containing six hundred thirty-seven and forty-four hundredths acres; section thirty-three, containing six hundred forty acres; and section thirty-five, containing six hundred forty acres.

Township seventeen north, range seventeen west. ✓

Lots one, two, three, four, south half of the south half of section thirty-one, containing two hundred ninety-seven and thirty-eight hundredths acres; lots one, two, three, four, south half of the south half of section thirty-three, containing three hundred seven and seventy-eight hundredths acres; and lots one, two, three, four, south half of the south half of section thirty-five, containing three hundred six and two hundredths acres.

Containing in the aggregate forty-two thousand, ninety-nine and seventy-one hundredths acres.

excepting and reserving to the grantor, its successors and assigns all oil, gas, coal and minerals whatsoever, already found or which may hereafter be found, upon or under said lands with the right to prospect for, mine and remove the same and to use so much of the surface of said lands as shall be necessary and convenient for shafts, wells, tanks, pipe lines, rights of way, railroad tracks, storage purposes and other and different structures and purposes necessary and convenient for the digging, drilling, and working of any mines or wells which may be operated on said lands. The grantor, its successors or assigns, will pay to the grantee, its successors or assigns the fair value of the surface of all lands with improvements thereon appropriated under this exception and reservation. If the parties cannot agree on such value it shall be fixed by three appraisers, of whom each party shall appoint one and the two so appointed shall appoint the third.

Reserving and excepting, however, from the said real property above described, and from the operation of this deed, any portion or portions of the said property above described, if any such there be, which are situated within two lines drawn parallel to and distant from each other two hundred feet, and each distant one hundred feet from the center line of the railroad of The Atchison, Topeka and Santa Fe Railway Company, as now constructed, and including in addition thereto all existing grounds now used for stations, workshops, depots, machine shops, switches, side-tracks, turn-tables or water stations; also reserving and excepting any portion or portions of such property as are now used, occupied or enjoyed by The Atchison, Topeka and Santa Fe Railway Company for other railroad purpose or purposes incidental thereto, or in any manner or degree devoted to such purposes; and excepting and reserving also such portions of said real property as may have

been appropriated or dedicated or otherwise acquired for public roads and highways, or other public uses.

TO HAVE AND TO HOLD the said real property above described, and its appurtenances, unto the said second party, its successors and assigns forever, subject always, however, to the reservations, exceptions, covenants and conditions above contained and hereinafter set forth.

And the said first party doth hereby covenant with the said second party, its successors and assigns, that it is lawfully seized of the aforesaid real property, and that the same is free and clear of all incumbrances whatsoever, and that it will forever warrant and defend the title to the said real property unto the said second party, its successors and assigns, against all persons lawfully claiming or to claim the same, except taxes that may be levied after December 31st, 1929, provided, however, that it is expressly understood and agreed between the parties hereto that in case the title to any of such land intended hereby to be conveyed should fail, or the second party should be evicted therefrom, or from any portion thereof, by any person or persons holding title paramount to the title so intended hereby to be conveyed, that then and in such event, the measure of damages on account thereof, as well as for the breach of any covenant of warranty contained in this deed, whether expressed or implied, shall be such sum, and no more, as will be produced by multiplying the number of acres

to which such title shall have failed by the average price per acre paid by the second party to the first party for the whole of said real property; and in no event shall the amount of damages which the second party shall be entitled to receive or recover from the first party, on account of any breach or breaches in the covenant or covenants contained in this deed, whether expressed or implied, exceed the said amount above expressed as the consideration hereof, to wit, the sum of forty-two thousand, ninety-nine and 71/100 dollars (\$42,099.71), and interest on such amount from the date of the payment thereof at the rate of six per cent per annum.

IN WITNESS WHEREOF, The said SANTA FE PACIFIC RAILROAD COMPANY, the first party, has caused this deed to be signed by its <sup>VICE</sup> President and attested by its Assistant Secretary, and its seal to be duly affixed, the day and year first above written.

SANTA FE PACIFIC RAILROAD COMPANY,

By

*E. Stengel*  
VICE President.

Attest:

*E. Hopland*  
Assistant Secretary.

State of Illinois, )  
                          : ss.  
County of Cook.    )

On this 14<sup>th</sup> day of JUNE 1929, before  
me appeared <sup>E. J. ENGEL</sup> ~~W. B. STORREY~~, to me personally known, who, being  
by me duly sworn, did say that he is the <sup>Vice</sup> President of the SANTA  
FE PACIFIC RAILROAD COMPANY, a corporation organized and exist-  
ing under and by virtue of an Act of Congress approved March 3,  
1897, and that the seal affixed to said instrument is the cor-  
porate seal of said corporation, and that said instrument was  
signed and sealed in behalf of said corporation by authority of  
its board of directors, and said <sup>E. J. ENGEL</sup> ~~W. B. STORREY~~, acknowledged said  
instrument to be the free act and deed of said corporation.

WITNESS my hand and seal notarial this 14<sup>th</sup> day of  
JUNE, A. D. 1929.

*Rudolph G. Rydman*  
Notary Public.

My commission expires SEPTEMBER 19, 1930.

SEPTEMBER 13, 1929

REPRODUCED AT THE NATIONAL ARCHIVES

M. 25205.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SOLICITOR  
WASHINGTON

SEP 13 1929

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M. 25205  
L. J. Patterson

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The Honorable  
The Secretary of the Interior.

Dear Mr. Secretary:

At the suggestion of the Commissioner of Indian Affairs, my opinion has been requested as to the quality of title and sufficiency of two deeds to the United States in trust for the Navajo Indians, both executed under date of May 14, 1929, by the Santa Fe Pacific Railroad Company, a corporation, one conveying 52,133.37 acres in Coconino County, Arizona, and the other 42,079.71 acres in McKinley County, New Mexico, more particularly described in the deeds.

The consideration is \$1 an acre, a total of \$94,213.08, and is to be paid from tribal funds belonging to the Navajo Indians pursuant to an appropriation carried by the act of May 9, 1928 (45 Stat. 883, 899-900).

By the act of July 27, 1866 (14 Stat. 292), Congress, in aid of the construction of a railroad, made a grant to the Atlantic and Pacific Railroad Company of all the odd-

US EPA ARCHIVE DOCUMENT

M. 25203.

numbered sections of public land within prescribed place limits on either side of the road with certain exceptions not here material. All of the lands here involved appear to have been included within this grant and upon examination of abstracts of title prepared by the recorders of the respective counties in which the lands are located, I find that a number of mortgages or deeds of trust were executed, all of which, however, have been released either voluntarily or in virtue of foreclosure proceedings had in the District Court for the Second Judicial District of the Territory of New Mexico, pursuant to which the lands were sold and duly conveyed by Owen N. Marron, special master et al. to Aldace F. Walker, R. Somers Hayes and Victor Morawetz under date of June 2, 1897. Subsequently, on June 24, 1897, the grantees just mentioned conveyed to the Santa Fe Pacific Railroad Company. May 30, 1903, the railroad company conveyed to the Santa Fe Pacific Development Company and the latter company re-conveyed to the railroad company on March 11, 1904.

The Santa Fe Pacific Railroad Company thus succeeded to and became possessed of all the rights granted by the act of 1866, supra, to the Atlantic and Pacific Railroad

App. 71



M. 25205.

Company and all of the lands involved in one of the deeds herewith, that is those situated in McKinley County, New Mexico, were patented in fee simple to the railroad company, said patents being numbered 15, 30 and 69, dated respectively April 27, 1909, February 14, 1917, and January 18, 1924.

The lands embraced in the remaining deed located in Coconino County, Arizona, do not appear to have been patented to the railroad company for the reason apparently that none of such lands have as yet been officially surveyed. But inasmuch as the grant made by the act of 1868 was one in praesenti, taking effect by relation as of the date of the statute when maps of definite location were filed and approved (United States v. Southern Pacific R.R. Co., 146 U. S. 57; Southern Pacific R. R. Co. v. United States, 168 U. S. 1), the patents when issued are but confirmatory of a title already passed and hence their nonexistence is not considered material and may be disregarded. At this point, it may be observed that the deed affecting these lands is quitclaim in form describing the lands according to protractors made by the Commissioner of the General Land Office and from existing plats of

App. 72

M. 25205.

survey along the Colorado River and the instrument expressly states that its purpose is "to convey all the right, title and interest of the Santa Fe Railroad Company in and to said lands, whether described as herein, or according to an actual survey made by the United States."

It further appears from the abstracts that all of the lands under consideration were included in a deed dated December 17, 1912, by which the Santa Fe Pacific Railroad Company conveyed to the United States an extensive area of land in Arizona and New Mexico. In explanation of this conveyance, it may be said that by Executive orders of January 8, 1900 and November 14, 1901, considerable areas of public lands in the then Territory of Arizona were withdrawn for the benefit of the Navajo Indians and added to their reservation. A large part of the area so withdrawn also fell within the limits of the grant to the Atlantic and Pacific Railroad Company under the act of 1868. Ownership by the railroad company of the odd-numbered sections and ownership by the Government for the Indians of the even-numbered sections thus presented a "checkerboard" arrangement very unsatisfactory

App. 73

M. 25205.

from an administrative viewpoint and, pursuant to an effort to effect an exchange of lands under the act of April 21, 1904 (33 Stat. 211), the conveyance of 1912 to the Government was executed by the railroad company. For reasons unnecessary here to discuss, the proposed exchange was not completed and the deed never became effective. See in this connection Solicitor's opinion of February 9, 1924 (M. 6536).

Appropriate certificates are appended to the abstracts to the effect that they contain a full, true, and correct statement of all instruments filed or recorded in the offices of the recorders of the respective counties; that there are no suits pending, judgments, liens, or encumbrances of any nature whatsoever on file or of record in either the office of the clerk of the Superior Court of Coconino County, Arizona, or of the office of the clerk of the District Court of McKinley County, New Mexico, and that all taxes levied and assessed against the lands have been paid including the taxes for the year 1929.

The deeds, upon examination, appear to be properly executed in accordance with the laws of the States of

App. 74

M. 25205.

Arizona and New Mexico and I see no reason why they may not be accepted by you as conveying good title to the United States providing the abstracts are brought down to date showing that nothing has transpired affecting the title since the dates of the last certificates to the present abstracts.

Respectfully,

(Sgd.) E. C. FINNEY

Solicitor.

Approved: SEP 13 1929

(Signed) John H. Edwards.

Assistant Secretary.

FROMULGATION SEP 13 1929

Original and copy filed.

2 copies to Chief Clerk of Dept.

6 copies, with record, to *Indian Sec - 123*

November 8, 1929



REPRODUCED AT THE NATIONAL ARCHIVES

COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON

INTERIOR DEPT.  
RECEIVED  
NOV 9 - 1929  
OFFICE OF  
THE SECRETARY

NOV 8 1929

The Honorable  
The Secretary of the Interior.

Sir:

There has been approved for allowance the claim of the Santa Fe Pacific Railroad Company for \$94,233.08 representing the purchase price of 52,133.37 acres, more or less, or land in Coconino County, Arizona, and 42,099.71 acres, more or less, of land in McKinley County, New Mexico, to be conveyed to the United States in trust for the Navajo Tribe of Indians.

In connection with the final disposition of the case there are forwarded herewith abstracts of title and deeds dated May 14, 1929, pertaining to the above-described property. The Treasurer of the United States will transmit to you a check drawn to the order of the Santa Fe Pacific Railroad Company in the sum of \$94,233.08 to be delivered to the claimant upon the vesting in the United States of a valid fee simple title to the land referred to, free of all encumbrances.

Respectfully,

*J. M. Lane*  
Comptroller General  
of the United States.

FILED BY A. M. G.

GENERAL ACCOUNTING OFFICE  
Form 40

NOV 11 11 11 29

NOTICE OF SETTLEMENT  
REPRODUCED AT THE NATIONAL ARCHIVES

In reply refer to  
Certificate No. 0217555

Ind. Settlements and  
Claims

GENERAL ACCOUNTING OFFICE

Bookkeeping SECRETARY'S Division  
NOV 3 1929

Claim No. 061497(2)

Washington, D. C., \_\_\_\_\_, 192

Santa Fe Pacific Railroad Co.,  
c/o The Secretary of the Interior,  
Washington, D.C.

(See note below)

Your claim(s) for payment in full upon the conveyance to the United States of 52,133.37 acres, more or less, of land in Coconino County, Arizona, and 42,099.71 acres, more or less, of land in McKinley County, New Mexico, more fully described in deeds dated May 14, 1929 (Indian Claim No. 385152)

has (have) been settled and the sum of ninety-four thousand two hundred thirty- three dollars and eight cents, has been allowed per above certificate number, payable from the appropriation(s)

57300 Indian Moneys, Proceeds of Labor, Trust Fund.  
(Navajo Indians, Oil, Royalties & Leases,  
Lands and Water Rights, 1928-29)

(Check to be delivered in care of the Secretary of the Interior, delivery by him to the claimant when a valid fee simple title to the land herein referred to is vested in the United States)

OFFICE OF INDIAN AFFAIRS  
RECEIVED  
NOV 14 1929  
55307

Treasurer's Check No. \_\_\_\_\_  
claim(s) ..

inclosed herewith, is in settlement of said

J. R. McCARL,  
Comptroller General,

\$ 94,233.08 FILED BY

By W. A. Grant

Note.—If a claimant desires a review of this settlement, or any item thereof, he should not accept payment of the amount allowed as to such item. An application for a review of the whole or any item of this settlement should be filed, with a statement of the reasons therefor, within one year from the date hereof, in the Division of the General Accounting Office issuing the settlement certificate, and same will be transmitted to the Law Division, Office of Comptroller General, for review. The inclosed check should not be cashed if its amount includes any item as to which review is applied for, but uninclosed should accompany the application for review.

303881

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L-4  
55307-24  
H Y O

November 15, 1929

*Mrs. C. J. Rhodes*  
*Hauke*

Mr. E. L. Copeland,  
Treasurer, Santa Fe Pacific Railroad Co.,  
Topeka, Kansas.

NOV 15 1929

Dear Sir:

There is enclosed treasurer's check No. 28,897 issued on  
Indian's warrant No. 1467, certificate of settlement No. 0217555,  
payable in the amount of \$94,233.08 to the Santa Fe Pacific Rail-  
road Company as payment in full for 52,133.37 acres of land in  
Coconino County, Arizona, and 42,099.71 acres of land in McKinley  
County, New Mexico, more fully described in deeds dated May 14, 1929.

Kindly acknowledge receipt of the enclosed check by making  
appropriate indorsement on this letter of transmittal and returning  
it to this Office to complete our record.

Sincerely yours,

*(Signed) C. J. Rhodes*

Commissioner

11 EMB 14

Copy to Eastern Navajo Agency

" " Western Navajo Agency

" " Messrs. Britton & Gray,  
Washington, D.C.

App. 78

FILED BY A. M. G.

INITIALING COPY - FOR FILE

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# Santa Fe Pacific Railroad Company

OFFICE OF THE TREASURER AND ASSISTANT SECRETARY

E. L. COPELAND,  
Treasurer and Asst. Secretary

In Reply Please Refer to  
File No.

7-686 Cashier

Check in payment of land.

Topoka, Kans., Nov. 23, 1929.

Mr. E. S. Rhodes, Commissioner,  
United States Department of the Interior,  
Office of Indian Affairs,  
Washington, D. C.

RECEIVED  
NOV 25 1929  
57212

Dear Sir:

This will acknowledge receipt of your letter of November 15, and thank you for United States Treasurers check in the amount of \$94233.08 in payment of 52133.37 acres of land in Coconino County, Arizona, and 42099.71 in McKinley County, New Mexico, and advise that thru our cash of November 18, this amount was placed to the credit of United States Department of Interior.

As your letter was addressed to this office I am sorry I cannot comply with your request by returning the letter to you with an appropriate indorsement acknowledging receipt of the check. If this acknowledgement is not sufficient I shall be glad to furnish whatever document you desire for your files, and shall be pleased to give you copies of your letter showing receipt of the warrant in question.

Yours truly,

*E. L. Copeland*  
TREASURER.

JT:AM

*No ans*  
*File*  
*38847-76*  
*(310)*



UNITED STATES  
DEPARTMENT OF THE INTERIOR

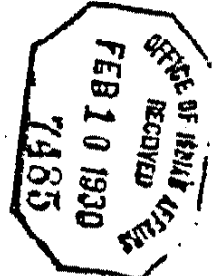
INDIAN FIELD SERVICE  
Eastern Navajo Agency,

Crownpoint, N. Mex.;  
February 3, 1930.

Commissioner of Indian Affairs,  
Washington, D. C.

Dear Mr. Commissioner:

*No ans necessary  
File*



On November 18, 1929, above reference, the Office sent me a photostatic copy of a deed made by the Santa Fe Pacific Railroad Company to the United States of America in trust for the Navajo tribe, covering 42,099.71 acres which is adjacent to the Fort Wingate military reserve to the west and north. The primary purchase of this land was to secure control of that area for the exclusive benefit of those Indians within the several townships which were purchased.

I wish to suggest and urge that steps be taken to effect regulations which will withdraw the Government sections within these townships from all forms of entry or settlement, and the same regulations to apply to Government land within any township, or part of townships, which might be acquired in the future for the benefit of the Indians. This is extremely urgent if we are to keep out undesirable traders or other people who might wish to locate on some of the Government sections with expectations of causing annoyance and eventually selling out what they may acquire to the Government, and in this way have in mind the making of some easy money. Perhaps this could be included in the modification of the regulations of September 19, 1922, which should also be modified and simplified so that this modification could take care of this item with respect to withdrawal of Government sections as above mentioned.

Very respectfully,

*S. F. Stacher*

S. F. Stacher,  
Superintendent.

2-S/P-3

*Note:  
Action proposed not in  
line with policy of Dept  
Cir #850 amended 2/6/30*

US EPA ARCHIVE DOCUMENT

INTERIOR DEPARTMENT APPROPRIATION BILL, 1932

K37  
A516  
11:3  
A

HEARINGS  
U. S. CONGRESS HOUSE BEFORE  
SUBCOMMITTEE OF HOUSE COMMITTEE  
ON APPROPRIATIONS

CONSISTING OF

Messrs. LOUIS C. CRANTON (CHAIRMAN)  
FRANK MURPHY, BURTON L. FRENCH, EDWARD T.  
TAYLOR, AND WILLIAM W. HASTINGS

IN CHARGE OF

INTERIOR DEPARTMENT APPROPRIATION BILL FOR 1932

SEVENTY-FIRST CONGRESS  
THIRD SESSION

Bureau of Reclamation  
Washington Office Engineering Files.

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MONDAY, NOVEMBER 17, 1930.

## BUREAU OF INDIAN AFFAIRS

STATEMENTS OF CHARLES J. RHOADS, COMMISSIONER OF INDIAN AFFAIRS, J. HENRY SCATTERGOOD, ASSISTANT COMMISSIONER, AND SAMUEL M. DOOD, JR., BUDGET OFFICER

Mr. CRAMTON. We will now take up the items for the Bureau of Indian Affairs and will be glad to have a general statement from the commissioner, Mr. Rhoads.

## GENERAL STATEMENT

Mr. RHOADS. When the War Department was created by the act of Congress of August 7, 1780, the duties assigned to it included those relating to Indian affairs. A Bureau of Indian Affairs was organized in that department on March 11, 1824, and there was assigned to it the administration of the fund "Civilization of Indians" under regulations established by the department, examination of claims arising out of laws, regulations, intercourse with Indian tribes, and ordinary correspondence with superintendents, agents and subagents. Later, by the act of July 9, 1832 the office of Commissioner of Indian Affairs was created. Subject to the Secretary of War and the President this official was given the direction and management of all Indian affairs and all matters arising out of Indian relations. About two years later an act was passed to provide for the organization of the Department of Indian Affairs, and under this enactment certain agencies were established, others were abolished, and provision was made for subagents, interpreters and other employees, payment of annuities and purchase and distribution of supplies. This may be regarded as the organic law for the Indian Service. The act of March 3, 1849, created the Department of the Interior and the Bureau of Indian Affairs was placed under the jurisdiction of that department, thus passing from military to civil control.

Section 441 of the Revised Statutes provides that—

The Secretary of the Interior is charged with the supervision of public business relating to \* \* \* the Indians.

Section 463 of the Revised Statutes reads:

The Commissioner of Indian Affairs shall under the direction of the Secretary of the Interior and agreeable to such regulations as the President may prescribe have the management of all Indian affairs and of all matters arising out of Indian relations.

## ADMINISTRATION OF INDIAN AFFAIRS

The administration of Indian affairs presents a most involved problem. No two Indian groups are alike either in inheritance or environment and the service must meet the problem as it applies to Indians scattered through 28 States and divided into more than 200 separate bands or tribes. Many acts of Congress and treaty stipulations apply to the Indians and in the administration of these laws great care must be exercised. Every effort is made to present to the Congress the needs and conditions

for legislation are based. The Indian has a different conception of property and ownership from the white man, has little understanding of individual property rights in land, and his interests are in doing things which his forefathers have done. While the Indian inevitably must develop interests that will enable him to become a competent part of our organized civilization and be self-sustaining, we would not destroy the best of his own traditions, arts, crafts and associations, but rather encourage their development and survival, and in doing this we must build on his own inherited good traits. Our task is the practical problem of preparation which will enable the Indian through his own and acquired resources to become an independent, self-supporting, self-respecting member of the communities which now surround him.

When we appeared before your committee in connection with our appropriations for the present year we had been in office only a short time and were not entirely familiar with the many intricate details associated with Indian administration. This committee was most helpful in its consideration of our needs as outlined last year, and in the course of the year much progress has been made in the betterment of the service as a whole.

## REORGANIZATION, DECENTRALIZATION AND NEW PERSONNEL

In order to relieve the Washington office of many details and by doing increase the efficiency of the service, more responsibility has been thrown upon the field force. Especially is this true in the Southwest where many field details are cleared through a special commissioner to negotiate with Indians with headquarters at Santa Fe, N. Mex. Changes in personnel in the local office have been made and others are in contemplation with the view of securing better administration and the use of the full abilities of each person in the service.

In the field of Indian education, substantial additions have been made. Dr. W. Carson Ryan, jr. has been appointed as director of this important activity and has an assistant director with special preparation and experience in educational administration and vocational guidance. Two additional supervisory positions in the field of home economics, where some of the most conspicuous advances in Indian education have been made, were established in the fall of 1929. A supervisor of elementary education with university training and successful State experience has been added to the staff. For secondary education a field supervisor having superior preparation and valuable experience in the school of education of a western State and university was detailed to the local office to assist in the organization and development of junior and senior high schools. A position of supervisor of trade and industrial training has been established and a qualified specialist in vocational education with long State experience under the Federal Board for Vocational Education has been assigned. A well-qualified specialist has been appointed supervisor of livestock, and this employee will advise as to the dairy herds at boarding schools. In the field of agricultural extension, the aid of the Department of Agriculture was sought and one of their important workers has been transferred to the Indian Service to direct its industrial

**PURCHASE OF LAND AND WATER RIGHTS FOR NAVAJO INDIANS**

Mr. CHAMTON. The next item is—

For purchase, or lease pending purchase, of additional land and water rights for the use and benefit of Indians of the Navajo Tribe, title to which shall be taken in the name of the United States in trust for the Navajo Tribe, as authorized to be acquired by the act of May 29, 1928 (45 Stat., p. 899), \$125,000, payable from Navajo tribal funds, and the unexpended balances of the appropriations made by the acts of May 29, 1928, and March 4, 1929, for this purpose are hereby continued available until June 30, 1932: *Provided*, That in purchasing such lands title may be taken, in the discretion of the Secretary of the Interior, for the surface only.

Mr. DONN. The acts of May 29, 1928 (45 Stat. L., 899), March 4, 1929 (45 Stat. L., 1569), and May 14, 1930 (46 Stat. L., 286), contained authority to expend not to exceed \$400,000 of Navajo funds for the purchase of land. A total of \$218,230.17 has been expended and the appropriation act for 1931 authorizes the use of the unexpended balance during that fiscal year.

The following table shows the name of the grantor, area, consideration, and location of the several tracts heretofore purchased:

Grantor	Area	Consideration	Location
Babbitt Bros. Lands (Inc.)	29,198.93	\$69,507.00	Cocconino County, Ariz.
Vogl Mirep Co. (McKinley Co., 4,700 acres; Valencia Co., 3,200 acres)	8,900	72,500.00	McKinley and Valencia Counties, N. Mex.
W. D. Bailey	147	7,000.00	Navajo County, Ariz.
Santa Fe Pacific Railroad Co. (Cocconino Co., 52,133.37 acres; McKinley Co., 4,099.71 acres)	94,233.08	\$4,211.08	Cocconino Co., Ariz., and McKinley Co., N. Mex.
Ely N. Murty	10,210	21,000.00	Navajo County, Ariz.
	134,779.11	\$108,218.17	

The following table shows proposed purchases in which offers have been received from the owners except in one case:

Owner	Area	Consideration	Location
Babbitt Bros. Lands (Inc.)	11,185.20	\$11,488.00	Cocconino County, Ariz.
M. E. Power	5,730.84	Do	Do
Santa Fe Pacific R. R. Co	275,000.00	\$275,000.00	Do
Edith Sandoval	701.61	2,185.64	Bernalillo County, N. Mex.
Santa Fe Pacific R. R. Co	74,900	74,900.00	Socorro County, N. Mex.
Jose Chavez y Diaz	1,400	\$10,000.00	Do
Geo. E. Drexler Lumber Co	10,877.50	24,454.00	Valencia County, N. Mex.
	378,211.35	\$372,655.64	

\* No offer received.  
 † Approved.  
 ‡ Including valuable improvements.

We have agreed, in the case of the Babbitt Bros. lands and the Santa Fe Pacific Railroad Co. lands, in Cocconino County, Ariz., to buy these tracts if and when funds become available, but no deeds have been submitted or called for because of lack of funds. In the Sandoval case, embracing about 701 acres in Bernalillo County, N. Mex., a deed has been submitted but final action not yet taken.

App. 83

Negotiations are also under way for the purchase of 16,491.37 acres from the New Mexico & Arizona Land Co. at \$2 per acre, or \$32,982.74 for the tract.

It is uncertain at this time whether the purchases now pending or others that may hereafter be authorized will be completed during the present year, and the estimate is worded so that the unexpended balances will be continued until June 30, 1932.

The original plan for the purchase of land for these Indians contemplated an annual expenditure about equal to the anticipated income of the tribe. However, disappointment has been experienced through decreasing oil revenues, and later through the deferring of timber sales work because of poor market conditions. The aggregate income to the Navajo tribe from oil and gas and other sources in 1930 was \$175,759.34, and present conditions indicate, from the following tabulation, that there will be considerably less than \$200,000 available in 1932:

Resources:	
Balance on deposit in Treasury June 30, 1930	\$77,434.21
Estimated receipts—	
July 1, 1930-June 30, 1931	140,000.00
July 1, 1931-June 30, 1932	130,000.00
Total estimated resources, 1931 and 1932	363,434.21
Obligations:	
Appropriation for support, 1931	\$50,000.00
Unexpended balance prior land appropriation	181,709.83
Total obligations	231,709.83
Estimated amount available for land use, 1932	121,664.38

It is probable that there may be some accruals from repayments on individual reimbursable accounts but the aggregate of such income would be small. There is the further probability of increases from oil and gas, or from timber sales, should there be an improvement in the lumber trade.

Language change: By reason of the dwindling tribal receipts and the urgent appeal by the Indians for early consummation of the proposed land purchases, we have found it necessary to ask for gratuity appropriations for general support purposes at the several Navajo jurisdictions. The first step in this direction was taken in the 1931 act when \$60,000 was transferred to the gratuity support item. In this budget it is proposed to transfer the remaining \$50,000 to the same gratuity appropriation. Heretofore, we have leased large areas for grazing purposes and financed such leases through appropriated tribal support funds. We do not consider it appropriate that the Federal Government should finance these leases through gratuity appropriations, and the words "or lease pending purchase" and "to be acquired," proposed to be inserted in the text, will grant authority to lease lands which we contemplate purchasing when funds are available. In recent years between \$15,000 and \$20,000 annually has been used for financing these leases. The addition of the words "payable from Navajo tribal funds" is necessary because the estimate under consideration has an amount stated, while the item for the present year merely continued the unexpended balance of prior appropriations.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105-3901

Greg Lind.  
OKC

41

Mail Code WTR-9

December 18, 1996

Mr. Mark S. Pelizza  
Environmental Manager  
Hydro Resources, Inc.  
12750 Merit Drive  
Suite 1210, LB 12  
Dallas, Texas

Re: Hydro Resources, Inc. (HRI) Proposed Facilities at Unit  
1, Crownpoint, and Churchrock, New Mexico

Dear Mr. Pelizza:

I wanted to update you on several matters concerning HRI's proposed solution mining projects. EPA recently completed a reorganization of the Region IX office, creating the Office of Ground Water. As the Ground Water Office (GWO) Chief, I wanted to notify you that the GWO will be responsible for processing applications for the Underground Injection Control (UIC) permits under the Safe Drinking Water Act (SDWA), including any permits for injection wells located in Navajo Indian country. UIC permit applications and related correspondence should be addressed to me, or Jim Walker of my staff.

We received HRI's application for a UIC Class III and V permit to conduct solution mining at the Unit 1 site, and are reviewing the application for completeness. When we complete the administrative review, we will inform you of any deficiencies in the application. Our technical review will commence when the application is considered complete.

I also wanted to provide you with an update on the discussions between EPA Region 9, the Navajo Nation Environmental Protection Agency (NNEPA), and the New Mexico Environment Department (NMED) concerning HRI's proposed project at Churchrock. While our discussions have focused on permitting under the SDWA for the Section 17 portion of the Churchrock project, the Navajo Nation has recently raised significant issues regarding the jurisdictional status of Section 8. (See the attached letter from the Navajo Nation.)

Section 17

Despite our best efforts, to date EPA, NMED and NNEPA have not been able to resolve the dispute over permitting for Section 17 under the SDWA. The three agencies have explored the options of

joint permitting or dual permitting for HRI's project on Section 17. However, one of the prerequisites for pursuing these options was that all three agencies would support the same approach. As you now know, the Navajo Nation believes that any kind of state permitting for Section 17 is inappropriate and that only the federal government should issue the SDWA permit for your project. At this time, therefore, the joint or dual permitting options are not feasible, given the Navajo Nation's position.

Regardless of the ongoing legal dispute, the three agencies did agree that our first priority is to ensure protection of human health and the environment and that the jurisdictional dispute should not unnecessarily interfere with HRI's proposed project. In addition, EPA is committed to working with NNEPA and NMED, as well as HRI, on technical issues involved in your project so that all permits are as compatible as possible. As we have explained in previous correspondence, submission of an application and supporting documentation for Section 17 at this time would allow us to proceed expeditiously.

#### Section 8

As described in the enclosed letter, the Navajo Nation has now raised significant issues regarding the jurisdictional status of Section 8. The Navajo Nation Department of Justice believes that Section 8 is within a dependent Indian community (and therefore within Indian country) and subject to federal permitting under the SDWA. The Navajo Nation also believes that NMED lacks authority to issue any permits for HRI's proposed project at Churchrock. You should note that in its letter the Navajo Nation states that the same analysis applies to the Crownpoint portion of HRI's proposed mining operations, and therefore, EPA should issue all SDWA permits for that portion of HRI's proposed project as well.

Currently, EPA is asking for more information on the jurisdictional status of Section 8 from both the Navajo Nation and NMED. Depending on the outcome of our evaluation, EPA (Region 9) may have exclusive jurisdiction to issue any SDWA permits (and any aquifer exemptions) under the federal UIC program for Navajo Indian country found at 40 CFR Part 147, subpart HHH. Of course, if Section 8 is not within Indian country, NMED would have authority to issue the required SDWA permits pursuant to its grant of primacy under the statute.

Once EPA has had a chance to review the information submitted by NNEPA and NMED, the Agency will inform all parties of EPA's position on which agency has the authority to issue the SDWA permit for HRI's project on Section 8 as soon as possible. EPA will also contact all of the parties in the near future about the jurisdictional status of HRI's proposed operation at Crownpoint.

If you have any questions, or need any additional information, please contact Jim Walker at (415) 744-1833, or contact Greg Lind of the Office of Regional Counsel at (415) 744-1376.

Sincerely,

*Laura Bose*

Laura Bose  
Chief, Ground Water Office

Enclosure

cc: Bennie Cohoe,  
Director, Navajo Nation EPA

Ritt Bellis,  
Navajo DOJ

Ken Williams,  
Acting Chief, UIC/GW Section  
EPA Region 6

Dale Doremus,  
Program Manager, Groundwater Section  
NMED

Jep Hill,  
Attorney for HRI

45

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TARADASH & FRYE, LLP

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LESTER K. TAYLOR  
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*Reply to Washington, D.C. Office*

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February 28, 1997

Mr. Gregory Lind  
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75 Hawthorne Street  
San Francisco, CA 94105

Re: **Permitting of HRI Uranium Solution Mining Project**

Dear Greg:

This letter is in response to your letter of February 5, 1997 to Mr. Bellis, regarding the jurisdictional status of Section 8.

As we set forth in our October 21, 1996 letter to Felicia Marcus and the materials enclosed with that letter, it is the Navajo Nation's position that Section 8 is within a "dependent Indian community" under 18 U.S.C. § 1151, and so is "Indian country." Under § 1451 of the Safe Drinking Water Act, 42 U.S.C. § 300j-11, and 40 C.F.R. §§ 147.1603, 144.3, HRI therefore must apply to EPA Region IX for any permit under the Safe Drinking Water Act. Moreover, even if EPA does not make a final determination that Section 8 is Indian country, but finds that there is a dispute regarding its jurisdictional status, Region IX would still have the exclusive authority to issue any permit under the Safe Drinking Water Act. See 53 Fed. Reg. 43096, 43097 (October 25, 1988) ("In order to ensure regulation of injection wells and minimize any disruption, pending the resolution of jurisdictional disputes, EPA will implement the Federal UIC program for disputed lands").

In our October 21, 1996 letter we enclosed a copy of our comments on HRI's Proposed Discharge Plan 558, which discussed how Section 8 is within a "dependent Indian community" under 18 U.S.C. § 1151(b), based on the Tenth Circuit's test in Pittsburg and Midway Coal Mining Co. v. Watchman, 52 F.3d 1531, 1545 (1995). We noted that

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although the southeast quarter of Section 8 is owned by HRI, the remainder of the section is public domain land on which Navajo people graze their livestock, pursuant to leases issued by the BLM to the Navajo Nation. We also noted that, under Pittsburg and Midway, the "community of reference" is not the mine site itself but the surrounding community, namely, the Church Rock Chapter, which consists almost entirely of tribal trust and allotted land, with some scattered sections of public domain and state land; where almost 95% of the residents are Indians; and where the Navajo Nation and the United States provide the bulk of the services to the community. The southeast quarter of Section 8, as part of that larger dependent Indian community, is therefore within Indian country. See Cohen, Handbook of Federal Indian Law (1982 ed.) at 39 ("patented parcels of land . . . within Indian communities should also be within Indian country," citing United States v. Martine, 442 F.2d 1022 (10th Cir. 1971)).

In support of our statements as to the jurisdictional status of the area in question, we enclosed land status maps of all of the sections of land containing or surrounding HRI's mineral leases, which included sections 8 and 17 in the Church Rock Chapter as well as various tracts of land within the Crownpoint Chapter. We also included a map showing the Navajo ownership of the grazing permits issued for Section 8. Finally, we referred to a document containing 1990 Census figures in support of our claims as to the Navajo population of the area and we cited a Navajo document entitled Chapter Images (1992 ed.) with regard to the government services that are provided, but we did not include copies of these documents.

Copies of these documents are enclosed with this letter. You also have asked us for a map of the Church Rock Chapter, with corresponding land ownership. I have included a map which shows the boundaries of the chapter but contains some mistakes as to land status (notably, it does not show that a quarter of Section 8 is private fee land). I will attempt to have a corrected map sent to you in the near future.

In addition, you have asked for:

- 1) a more detailed description of the land use in the area of HRI's proposed project;
- 2) a discussion of the ownership history of Section 8; and
- 3) a more detailed discussion of the relationship of the federal, tribal and state governments to the Church Rock area, and specifically, a description of the services that each government provides to the area.

With regard to item 3, the services provided to the area by the Navajo Nation are listed on the enclosed fact sheet for Church Rock. They include various social services,

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health services, utilities, and law enforcement. The Church Rock Chapter itself functions as a unit of the Navajo Nation government, *see* 2 N.N.C. § 4021, and, like other Navajo Chapters in the Eastern Navajo Agency, "performs similar functions with respect to the health and welfare of its residents as those performed by a county or municipality in the state government system." *Thriftway Marketing Corp. v. New Mexico*, 11 N.M. 763, 766, 810 P.2d 349, 352 (Ct. App. 1990). The federal government, through the BIA Eastern Agency, provides road construction and maintenance, education (through BIA schools), numerous social services, law enforcement and real estate services, and health services through the Indian Health Service.

In contrast, the state provides limited road service on the state highway, and limited law enforcement on the state highway and the interstates. The state also provides public school education, but since this is provided throughout the state, including for areas within the formal reservation boundaries, it should have no bearing on the status of Church Rock as a dependent Indian community.

As for the remainder of the information you have requested, I will be travelling to Window Rock on March 4, and hope to obtain at least some of this information for you then.

Finally, you have raised concerns about the consistency of the Navajo Nation's position with regard to the jurisdictional status of Section 8. The case you referenced, *United Nuclear Corp. v. Turney*, No. 16,968, McKinley CV 92-72 (NM Ct. App. 1996), involved UNC's application to transfer water rights associated with the HRI mine site. A history of the proceedings is contained in the docketing statement, enclosed with this letter, that the Navajo Nation submitted on December 14, 1995 to the New Mexico Court of Appeals. Essentially, the New Mexico State Engineer denied UNC's application to transfer the water rights, finding that UNC had insufficient water rights to support the transfer application. UNC appealed to the McKinley County District Court, and the district court dismissed the appeal, ultimately agreeing with the State Engineer's finding of insufficient water rights. I believe that the water in question was to have been used for HRI's solution mining project, and I do not know if HRI has a replacement source for that water. The district court also found that Sections 8 and 17 were not Indian country, supporting the court's jurisdiction. The Navajo Nation then appealed the district court's jurisdictional finding, but only with regard to Section 17. UNC cross-appealed the decision on the merits, but then voluntarily dismissed its cross appeal. The appellate court then dismissed the Navajo Nation's appeal on the grounds of mootness, since the district court had dismissed the case and UNC had withdrawn its challenge to the dismissal. The appellate court therefore did not rule on the jurisdictional issue.

Your concern appears to be that a state court found that Sections 8 and 17 were not

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Indian country, and that the Navajo Nation did not appeal the finding as to Section 8 but only as to Section 17. First of all, the state court dismissed the case before it on the merits, and its finding as to jurisdiction therefore could not be appealed; it is therefore questionable whether its decision has any precedential weight. Moreover, its decision was so clearly wrong with regard to Section 17, which is tribal trust land and so by definition Indian country, that it is hard to see how any reliance can be placed on its decision with regard to Section 8 either.

Secondly, the fact that the Navajo Nation did not raise the jurisdiction of Section 8 in an appeal of an administrative proceeding involving a transfer of water rights does not mean that the Nation waived jurisdiction over that section for purposes of regulation under the Safe Drinking Water Act. In Montana v. United States, 450 U.S. 544, 566 (1981), the Supreme Court held that a tribe "retain[s] inherent power to exercise civil authority over the conduct of non-Indians on fee lands within its reservation when that conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe." The underground injection of water that has been circulated through uranium, which is at issue here, certainly has a "direct effect . . . on the health or welfare of the tribe." However, the administration of water rights associated with private fee land, which was at issue in the United Nuclear litigation, may not, depending on the precise circumstances involved. The existence of tribal jurisdiction for some purposes and state jurisdiction for others is not uncommon; for example, it arises in the areas of criminal jurisdiction and taxation.

This distinction could also explain why a lawyer for the Navajo Nation stated in a letter to counsel for the state and HRI that the Nation did not dispute the State Engineer's jurisdiction to adjudicate water rights in Section 8. Such a statement certainly does not concede tribal regulatory jurisdiction under the Safe Drinking Water Act. More importantly, this letter was part of a settlement proposal (which, incidentally, was rejected by the state), and therefore should not have been produced in this proceeding, let alone relied upon by the state.

In any event, the fact that the Navajo Nation did not raise the jurisdiction of Section 8 before the appellate court does not mean that the Nation conceded that the section was not Indian country. Nor does it estop the Nation from claiming now that Section 8 is Indian country, since there was no reliance placed on the district court's finding. Moreover, the EPA was not a party to the proceeding, and thus is not bound by the court's jurisdictional finding.

Finally, as pointed out in our October 21 letter and attachments, almost all of the land on which HRI's project is proposed to be located (encompassing at least 12 sections in