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# RESTORATION OF TULE RIVER INDIAN RESERVATION LANDS

GOVERNMENT

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## HEARING

BEFORE THE

### UNITED STATES SENATE

### SELECT COMMITTEE ON INDIAN AFFAIRS

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

### S. 1998

TO PROVIDE FOR THE UNITED STATES TO HOLD IN TRUST  
FOR THE TULE RIVER INDIAN TRIBE CERTAIN PUBLIC DO-  
MAIN LANDS FORMERLY REMOVED FROM THE TULE RIVER  
INDIAN RESERVATION

1009

FEBRUARY 5, 1980  
WASHINGTON, D.C.

Printed for the use of the Select Committee on Indian Affairs

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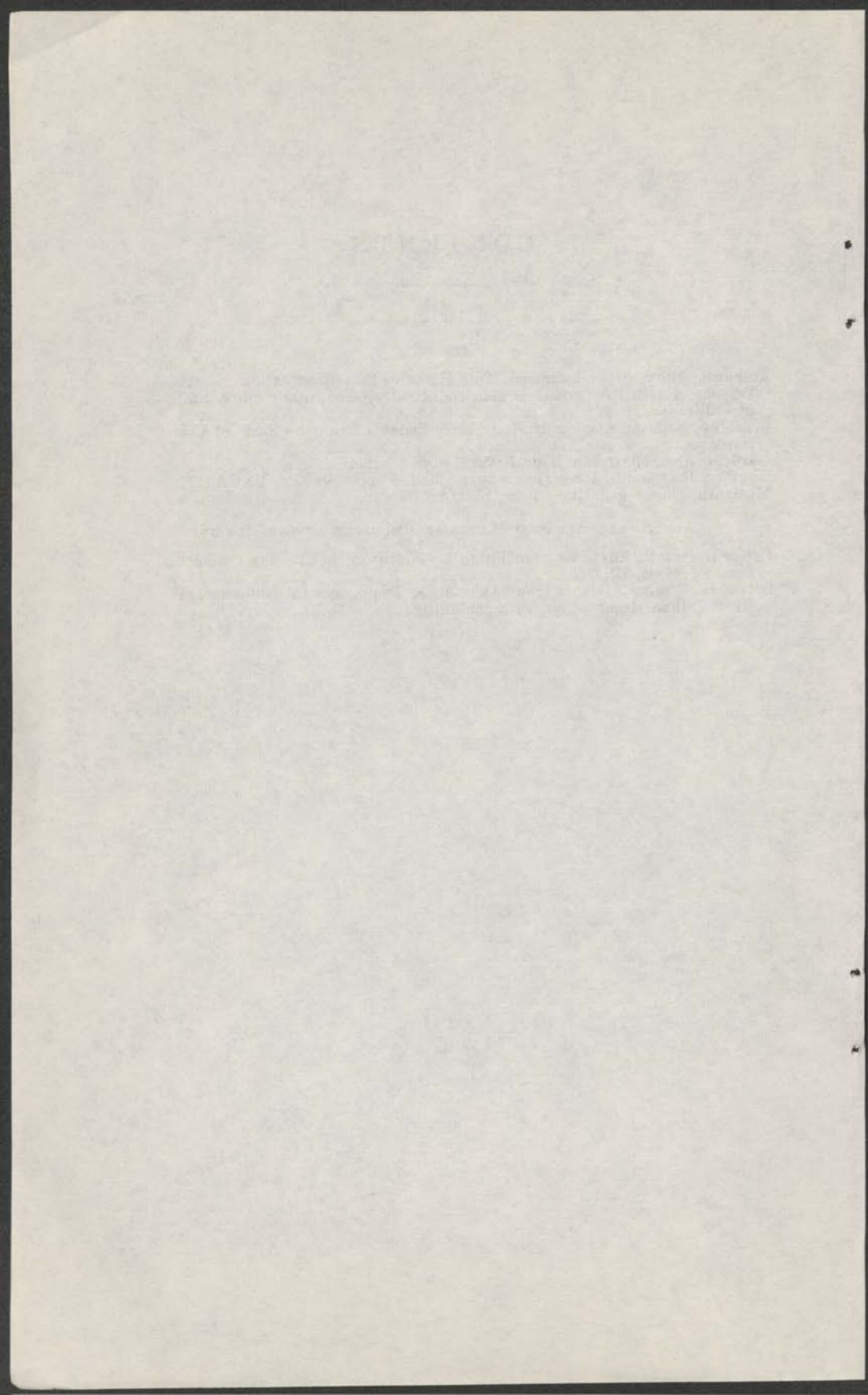
**MAX I. RICHTMAN**, *Staff Director*

(II)

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## RESTORATION OF TULE RIVER INDIAN RESERVATION LANDS

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TUESDAY, FEBRUARY 5, 1980

U.S. SENATE,  
SELECT COMMITTEE ON INDIAN AFFAIRS,  
*Washington, D.C.*

The committee met, pursuant to notice, at 10:05 a.m., in room 5110, Dirksen Senate Office Building, Senator John Melcher (chairman of the committee) presiding.

Present: Senator Melcher.

Staff present: Virginia Boylan, staff attorney; Max Richtman, staff director.

Senator MELCHER. The committee will come to order.

We are meeting this morning on S. 1998, a bill to restore certain lands to the Tule River Tribe.

S. 1998 was introduced by Senator Cranston in November of last year.

This bill would transfer about 1240 acres of land to the Tule River Indian Reservation near Porterville, Calif., to be held in trust as part of that reservation.

The land is now part of the Sequoia National Forest under the jurisdiction of the Forest Service.

The land originally belonged to the Tule River Indian Tribe and was the most valuable part of the reservation set aside for this tribe in 1873 and again in 1878.

The land in question has been the subject of a long and confusing history. The net result is that the tribe has not had use of its land since the late 1880's when the land was patented to non-Indians following an erroneous survey done in 1884.

In 1928, Congress, in effect, ratified the removal of this land by enacting a law that excluded this acreage from the reservation.

The land was then acquired by the Forest Service and in 1942 was made part of the Sequoia National Forest, again by an act of Congress.

Without objection, I will place a copy of S. 1998 into the record, along with a copy of the land description.

[The material follows:]

(1)

96TH CONGRESS  
1ST SESSION

# S. 1998

To provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 9 (legislative day, NOVEMBER 5), 1979

Mr. CRANSTON introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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## A BILL

To provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That all right, title, and interest in lands owned by the  
4       United States and administered by the United States Forest  
5       Service, as described in section 2, which were removed from  
6       the Tule River Indian Reservation pursuant to the Act of  
7       May 17, 1928 (45 Stat. 600-601) are declared to be held in

1 trust by the United States for the Tule River Indian Tribe  
2 and to be part of the Tule River Indian Reservation.

3       SEC. 2. The lands referred to in section 1 are the fol-  
4 lowing:

5               MOUNT DIABLO MERIDIAN, CALIFORNIA

6               Township 21 South, Range 31 East

7       Section 16: that portion lying south of the hydrographic  
8 divide between the South Fork of the Middle Fork of the  
9 Tule River and the South Fork of the Tule River and wester-  
10 ly of a northerly prolongation of the eastern boundary of the  
11 Tule River Indian Reservation.

12       Section 17: that portion lying south of the hydrographic  
13 divide between the South Fork of the Middle Fork of the  
14 Tule River and the South Fork of the Tule River.

15       Section 18: that portion of the northeast quarter, north-  
16 east quarter lying south of the hydrographic divide between  
17 the South Fork of the Middle Fork of the Tule River and the  
18 South Fork of the Tule River. South half northeast quarter,  
19 southeast quarter northwest quarter, east half southeast  
20 quarter.

21       Section 20: north half north half, south half northeast  
22 quarter, southeast quarter northwest quarter.

23       Section 21: northwest quarter northwest quarter.

24       Section 28: tract 48.

1        SEC. 3. (a) Nothing in this Act shall deprive any person  
2 of any valid existing right-of-way, lease, permit, or other  
3 right or interest which such person may have in any of the  
4 lands described in section 2.

5        (b) The transfer under the first section of this Act shall  
6 be subject to such right-of-way through lands in section 16 as  
7 the Secretary of Agriculture considers necessary to provide  
8 access to United States Forest Service lands located east of  
9 section 16. Such right-of-way shall be located and used in  
10 such manner as the Secretary of Agriculture determines to be  
11 appropriate.

12        SEC. 4. The Secretary of the Interior shall promptly  
13 cause to be published in the Federal Register a description of  
14 the lands transferred pursuant to this Act and a description of  
15 the boundaries of the Tule River Indian Reservation, as  
16 modified by the transfer made pursuant to this Act.



## LAND DESCRIPTION

1928 Legislation	Proposed Legislation	Property not returned because of differences in legal description	Property not returned because it is privately owned (i.e., not owned by U.S.F.S.)
Section 7	SW 1/4 of SW 1/4	SW 1/4 SW 1/4	
Section 16	All	<p>That portion lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River in westerly of a northerly prolongation of the eastern boundary of the Tule River Indian Reservation</p> <p>(1) that portion between the easterly boundary of Section 16 and the northerly prolongation of the eastern boundary of the Tule River Indian Reservation;</p> <p>(2) that portion north of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River</p>	
Section 17	All	<p>That portion lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River</p> <p>That portion lying north of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River</p>	
Section 18	E 1/2 of NE 1/4 SW 1/4 of NE 1/4 SE 1/4 of NW 1/4 E 1/2 of SE 1/4	<p>That portion of the NE 1/4 of the NE 1/4 lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River;</p> <p>S 1/2 of NE 1/4 SE 1/4 of NW 1/4 E 1/2 of SE 1/4</p>	E 1/2 of SE 1/4 80 acres

## LAND DESCRIPTION

1928 Legislation	Proposed Legislation	Property not returned because of differences in legal description	Property not returned because it is privately owned (i.e., not owned by U.S.F.S.)
Section 20 E 1/2 of NW 1/4 NW 1/4 of NW 1/4 NE 1/4	N 1/2 of N 1/2 S 1/2 of NE 1/4 SE 1/4 of NW 1/4		E 1/2 of NW 1/4 80 acres NW 1/4 of NW 1/4 40 acres NW 1/4 of NE 1/4 40 acres
Section 21	NW 1/4 of NW 1/4	NW 1/4 of NW 1/4	
Section 28 Tract number 48 in SE 1/4	Tract 48		

Senator MELCHER. Our first witness today is Senator Cranston. Alan, welcome to the committee. We are glad to hear from you.

**STATEMENT OF HON. ALAN CRANSTON, UNITED STATES SENATOR,  
CALIFORNIA**

Senator CRANSTON. Thank you, Mr. Chairman.

John, I appreciate the opportunity to be with you, and you're very good to conduct this hearing, to take the time to do so.

I am here to testify on behalf of my bill, S. 1998, which would declare to be a part of the Tule River Reservation in Tulare County, Calif., about 1,200 acres of land once within the reservation boundaries.

I am sorry that my testimony is a little bit long because this is a long, complicated, and rather sad, sorry story.

Since the Tule River Reservation, like many California reservations, was created by Presidential Executive order, the tribe is denied access to the United States Court of Claims to redress land grievances, and must rely on legislation.

My bill is an attempt to rectify an unjust removal of lands from the boundaries of the reservation through a complex series of Presidential and congressional actions, often in conflict with one another.

The history of this reservation is a 100-year-long tale of administrative indecision, delay, and error in identifying the reservation boundaries.

The Tule River Reservation was first created by Executive order of President Ulysses S. Grant in 1873.

In October of the same year, following a survey approved in September, President Grant ordered the reservation's size doubled in response to a BIA report that the small reservation could not support enough agriculture for the subsistence of the large number of Indian people expected to live there.

In 1878, President Rutherford B. Hayes issued another Executive order reversing Grant's action and reducing the reservation to its original size.

Six years later, in 1884, a local survey was undertaken. The survey placed outside the reservation boundaries 1,400 acres of prime timber on the northeast side of the reservation. Most of this land was then sold by the Federal Government to the surveyors themselves and to their business associates. This group then resold the land at great profit to private timber interests.

In 1910, an investigation of the actions of the surveyors was undertaken. It led to the discovery of what the field examiner at that time called:

Wholesale fraud and falsification of the field notes of the survey of most of the townships adjoining this reservation . . . indulged in by the deputies whose names appear in the contracts covering these surveys. And we may be sure that a fictitious boundary has been substituted and calculated connections given in the field notes, whereby the reservation boundary is thrown far out of its true position.

Still no action to correct the boundary line was taken.

In 1927, President Coolidge—these names come out of our distant past—issued an Executive order to correct part of the erroneous sur-

vey affecting the southern portion of the reservation. He placed this land within the reservation boundary.

This action, however, did not remove from private ownership the northeastern reservation sections erroneously patented following the 1884 survey.

By this time, nearly all the acreage under discussion, with the exception of sparse stands of virgin sequoia redwood, had been clear-cut. About 133 million board feet of timber had been removed.

The non-Indian timbering interests continued to strip most of the land of its remaining trees.

Faced with the inconsistency between the correct reservation boundary, which included the northeastern sections, and the Government-permitted use of that same land by private timbering interests, as a consequence of the erroneous 1884 survey, the Government had a simple choice, as an Interior Department investigator pointed out at the time.

Either the Government could repurchase for the Indians the land it had erroneously patented, or it could recognize the erroneous boundary established by the 1884 survey, excluding the privately owned land from the reservation.

The latter course would deprive the Indians of the land but would save the Government from having to admit error.

Congress in 1928 followed the path of least resistance and passed legislation excluding the privately owned lands patented under the 1884 survey from the reservation.

This action once again excluded from the reservation recognized by President Grant about 1,300 of the 1,440 acres within the disputed area.

In 1934, the Interior Department again investigated the boundary dispute and again concluded that the Indian land had been erroneously patented, resulting in the loss of the sequoia trees from the reservation for the Tule River Indians.

Slightly more than 1,200 acres of the original 1,440 acres excluded from the reservation by the 1884 survey is now back in the public domain, held by the U.S. Forest Service as part of the Sequoia National Forest.

My bill would transfer into trust status for the benefit of the Indians of the Tule River Reservation only those publicly held acres. Three additional parcels of land, totaling 240 acres, are privately owned, including 160 acres currently held by the Boy Scouts of America.

Despite some public concern to the contrary, it is simply not true that any of the privately held land would be affected by this bill. It is not covered by the bill.

Moreover, my understanding is that the tribe does not and will not seek any interest in these additional acres purchased in good faith by their present owners.

Mr. Chairman, although it was never my intent to transfer into trust status the privately held parcels in the erroneously patented area, these parcels were referred to in the property description in Section 2 of S. 1998 when I introduced it as part of the original 1,440 acres erroneously excluded from the reservation.

Continuing to refer to these lands in the bill is not necessary to carry out the intent of the bill, and has caused some consternation and misunderstanding among citizens of Tulare County.

As a result, I am submitting to the committee now an amendment to S. 1998 which I hope will be considered and adopted during markup of this legislation. It will clearly eliminate from the property description in this bill any reference to the privately held lands.

The return of the 1,200 publicly owned acres to the use and benefit of the people of the Tule River Reservation will restore to that reservation the only major resource it has ever had.

Without its timberland, this reservation is extremely poor. Less than 200 acres are suitable for agriculture. The rest is rough and rocky, but could be partly usable for grazing if extensive irrigation facilities were installed.

Time and reforestation efforts of the Forest Service have restored harvestable timber to the 1,200 acres.

Using sustained yield principles, the people of this reservation can establish for the first time a viable, self-sustaining economic base which will enable them to benefit from the timberland and to make more productive the reservation which they now have.

The Tule River Tribal Council in 1978 adopted a forest management plan developed by the U.S. Soil Conservation Service under agreement with the Bureau of Indian Affairs.

That plan was submitted to the Department of the Interior for approval. It is a worthwhile plan which will adequately protect the magnificent stand of giant sequoia trees which, when this legislation is adopted, will be restored as part of the reservation.

That plan cannot be unilaterally altered by the tribe.

So long as these lands are under the trust protection of the Secretary of the Interior, the management plan can only be changed with the approval of the Secretary.

Moreover, the tribe has made it plain by resolution of the Tribal Council that it has no desire or intent to disturb any of the virgin sequoia trees which remain from all the timberage which was once theirs and is now gone. It was not the tribe that clearcut the neighboring area.

This legislation makes provision for the maintenance of existing rights-of-way, and for the Secretary of Agriculture to establish any right-of-way he considers necessary for access to the Forest Service land east of the land which this bill will once again place within the reservation boundary.

The situation at Tule River is unique. It will stand on its own and not be a precedent for other cases. Nor have I ever been convinced that fear of setting a precedent was a persuasive ground on which to deny justice.

This bill will redress a longstanding injustice. I urge the committee to report it favorably with the amendment I have just submitted, and I hope the Senate will adopt it promptly.

I thank you for your attention to this matter.

Senator MELCHER. Alan, who made these comments? Who was the field examiner in 1910? Did he represent a Federal agency?

Senator CRANSTON. His name was Edmundson and he represented the BIA.

Senator MELCHER. I believe we have that document here. It is dated December 12, 1910. I will make that a part of the record immediately following your statement.

How many acres are there on the reservation without this 1,240 acres?

Senator CRANSTON. There are 54,000.

Senator MELCHER. How many members of the tribe reside on the reservation?

Senator CRANSTON. 535.

Senator MELCHER. Thank you very much, Alan. I think it is a clear-cut case of fraud.

Senator CRANSTON. Yes. I agree.

Senator MELCHER. It should be corrected.

Senator CRANSTON. Yes. I am glad that we are in a position to do that and I appreciate your help in achieving the correction.

Senator MELCHER. We are delighted to have the amendment. Thank you very much.

Senator CRANSTON. Thank you very much, John.

[The material follows:]

IN REPLY PLEASE REFER TO NO. 7-53573 "S" A.W.B.  
 J-91815

97916  
 9

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON, December 12, 1910.

ADDRESS ONLY THE  
 DIRECTOR OF THE GENERAL LAND OFFICE

Encroachment on Tule River Indian Reservation.

The Commissioner

Of Indian Affairs.

Sir:

I have received your letter dated December 2, 1910, concerning the case of Pablo H. Ignacio, an Indian of the Tule River Reservation, who advises your office that his house on sec. 25, Tp. 22 S., R. 29 E., has been destroyed by A.E. Anderson, who erected thereon a house for himself.

You request a copy of the survey of said township, by which to ascertain whether the Indians' rights may be protected, as being properly within the reserve. You also ask for information as to "the alleged retracing by an Examiner" of this office, which is referred to in the Register's letter to Supt. Edmonson.

The Register at Visalia is much in error, in implying that the Examiner was sent to investigate a line run by the county surveyor; as he was instructed to retrace the true boundary and report as to encroachments on the territory of the Indians.

The information you seek, on the subject of Examiner Owen's investigation in 1904, will be found fully given by this

office, in a letter "E" dated April 13, 1907, addressed to your Bureau, and another of June 15, 1907.

The purpose of this office at that time, to make a full official resurvey by Mr. Cren, could not be realized owing to lack of competent men to whom the work could be entrusted; and the duty was postponed until a larger force of examiners should be provided. It is hoped that that time has now arrived, under the new system in force.

Your request for a copy of the old erroneous survey of the said township, by which to determine the Indian's right of residence, is not complied with, for the reason that the examiner has asserted in his report that

"Wholesale fraud and falsification of the field-notes of survey of most of the townships adjoining this Reservation, have been indulged in by the deputies whose names appear in the contracts covering these surveys. And we may be sure that a fictitious boundary has been substituted, and calculated connections given in the field notes, whereby the reservation boundary"

(which he retraced and verified as well surveyed by Minto)


"is thrown far out of its true position relative to the public surveys".

With such a report, this office can not offer the plat of lands south of the reserve as evidence for any purpose. Neither is it practicable to offer an opinion as to the rights of Ignacio, on the mere statement that he "built a house on section 25"; for the true boundary, the crest of the ridge, runs through that section, and much depends on whether he is on the north or the south slope of the range of hills.



All the papers heretofore filed on this subject are still before this office, awaiting the necessary adjustment by a valid resurvey; and by reviewing the correspondence in your files, a complete resume of Mr. Owen's report and recommendations, as to all four sides of the reserve, will be found.

Very respectfully,

  
Commissioner.

ECS.

IMPORTANT—Insert short statement of purpose here:

CALENDAR No. \_\_\_\_\_

PRINTED AMENDMENT No. \_\_\_\_\_

UN-PRINTED AMENDMENT No. \_\_\_\_\_

(The above for use of the Office of Secretary of Senate.)

S. \_\_\_\_\_ 1998 \_\_\_\_\_  
 H.R. \_\_\_\_\_

IN THE SENATE OF THE UNITED STATES

Referred to the Committee on Indian Affairs and ordered to be printed.

Ordered to lie on the table and to be printed.

**AMENDMENT**

Intended to be proposed by Mr. CRANSTON

to S. 1998, a bill

(Insert title of bill below)

H.R. \_\_\_\_\_, an Act

viz: On page 2, line \_\_\_\_\_, insert the following:

Section 18: delete ", east half southeast quarter"

Section 20: delete "north half north half" and insert in lieu thereof: "east half northeast quarter, southwest quarter northeast quarter"; delete ", southeast quarter northwest quarter"

Senator MELCHER. Our next witness is Raymond Housley, Associate Deputy Chief, Forest Service.

I have gone through your testimony, Mr. Housley. Much of it parallels and repeats what Senator Cranston has just testified to.

I am going to make your statement a part of the record at this time, and it will appear at the end of your testimony. Are there any specific points that you would like to bring out?

**STATEMENT OF RAYMOND HOUSLEY, ASSOCIATE DEPUTY CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY DAN McGRATH, LEGISLATIVE OFFICER, USDA**

Mr. HOUSLEY. Mr. Chairman, I might just make about five or six quick points which are included within the testimony.

Senator MELCHER. OK.

Mr. HOUSLEY. As Senator Cranston pointed out, the boundary on the east side of the reservation has undergone a long series of changes due to Executive orders, acts of Congress, and surveys.

One of these surveys—incidentally, we feel erroneously—added 4,500 acres to the reservation.

The lands covered by S. 1998 were excluded from the reservation and patented in early years, mostly before 1900. After the area in S. 1998 was added to the Sequoia National Forest in 1942, the United States acquired the private lands in that area, or most of them, by exchange of other national forest lands and some by purchase.

The area includes some significant stands of giant sequoias which are being managed and protected, and are available to the public under national forest administration.

Other lands which were heavily cut over in the area in question before their acquisition by the United States are now in the process of being restored to their former productivity and value for watershed protection.

Finally, we are concerned that the precedent of using national forest lands to satisfy claims which presumably were settled before the expiration of the Indian Claims Commission Act is unacceptable.

Those, I think, are the principal points included in our statement.

Senator MELCHER. Do you think there are a lot of examples of these faulty surveys, where land that would otherwise be within a reservation is in national forest lands? <sup>1</sup>

Mr. HOUSLEY. Do you mean in other locations?

Senator MELCHER. Yes.

Mr. HOUSLEY. I am not specifically aware of a great number.

Senator MELCHER. Well, if they are not, what is such a big precedent about this thing?

Mr. HOUSLEY. Well, our position is that there were previous opportunities to settle this claim prior to the expiration of the Indian Claims Commission Act. It could have been settled at that time. It was not. And now we are faced with the possibility of using national forest land to settle that claim.

Senator MELCHER. It went into the national forest in what year?

<sup>1</sup> See p. 37.

Mr. HOUSLEY. In 1942, sir. Originally, in 1909, that area was added to the national forest, and this was again reaffirmed in 1942.

Senator MELCHER. Your own chronology states that on March 12, 1927, the resurvey of relevant township shows subject lands to be inside the reservation boundary.

Mr. HOUSLEY. That is correct.

Senator MELCHER. Then Congress passed an act in 1928 to exclude it.

So it really comes down to what Senator Cranston's bill puts squarely before us—this proposition. Your chronology shows that a correct survey of the lands indicated that it should be within the reservation boundary, but Congress decided in 1928 to exclude this land from the reservation, I suspect, because it was privately owned.

And then in 1942, it came back into public ownership and was put in the national forest.

It would seem to me that if it had not been privately owned in 1928, there would not have been much argument. The Congress would have said there was a mistaken survey and the land is a part of the reservation instead of saying it was outside the reservation.

It seems to me, unless you know otherwise, that Congress took what Senator Cranston described as the easy path and just excluded it from the reservation. And it seems to me that they did that because it was privately owned and the people that owned it had acquired it in good faith.

But had it been in public ownership at that time, it would have been turned back to the reservation.

Do you think that is perhaps right?

Mr. HOUSLEY. I could not argue with that point.

Senator MELCHER. No; we cannot argue with it. Neither of us knows, but I think, without reviewing what the congressional intent was as demonstrated by Public Law 70-421, that that was probably the case.

Now since it is back in public ownership and has been since 1942, what Senator Cranston's bill poses for us is, do we want to recognize that the survey was faulty and should be corrected to the advantage of the tribe.

It seems to me that the tribe's claim to the land is valid. We will avoid any infringement on private ownership because it is in public ownership.

I don't believe the management of the rest of the national forest would be unduly hampered.

Senator Cranston's bill permits a right-of-way for the Forest Service. What would that entail?

Mr. HOUSLEY. Were this bill to be enacted, we would need access across the area and across the reservation in order for forest users to go from one part of the Sequoia National Forest to the other.

Senator MELCHER. There are no timber sales in the area pending, are there?

Mr. HOUSLEY. Within the area covered by the bill, there are three sales planned within the next 3 years.

Senator MELCHER. Some planned, but none pending?

Mr. HOUSLEY. There are no active sales to my knowledge.

Senator MELCHER. Well, it is a matter of equity and a question for the committee to address on that basis.

Is there any confusion or any disagreement between Federal agencies about this survey? Everybody agrees on the survey now, do they not?

Mr. HOUSLEY. As far as the location on the ground, it is the same one that has been there historically.

I think that there has been a question raised. And we might refer to a map that would illustrate this point.

Senator MELCHER. All right, let's look at your map.

Mr. HOUSLEY. Originally, the intent that we assume, and this is detailed in our statement, was to locate the east boundary of the reservation 10 miles along the ridge line east from the point of beginning, which would, according to our interpretation of the order creating the reservation, have placed it along that blue line. That is a projection. It was never surveyed on the ground.

However, the boundary wound up on the ground as monumented by the surveyor, we think through error, in its present location shown by the dark line on the easternmost side.

That was the error that we referred to in the statement; it was discovered in 1916 at the time of the resurvey.

Senator MELCHER. Was the 1884 boundary survey in error?

Mr. HOUSLEY. We felt that it placed the boundary east of the point which the order creating the reservation intended.

Senator MELCHER. The 1873 Executive order—isn't that the one?

Mr. HOUSLEY. Yes. Actually there were three Executive orders prior to 1884 when the survey was made which affected the reservation boundary. The chronology which you have before you reveals that the first was January 9, 1873. The reservation was nearly doubled in size in another Executive order of October 3, 1873. Then about 5 years later, 1878, the reservation was reduced in size.

Senator MELCHER. You make reference to Solo Peak and North Cold Spring Peak. Neither of those geographic features of those peaks is mentioned in the 1873 or 1878 Executive orders, are they?

Mr. HOUSLEY. No, sir. Terminology in the Executive order had to do with proceeding 10 miles along the ridge line, which indicated that there probably was an intent to put the boundary on natural topographic features.

Senator MELCHER. Were those peaks so identified by those names, Solo Peak and North Cold Spring Peak, in 1878?

Mr. HOUSLEY. I have no idea whether they were or not, Mr. Chairman.

Our only point is that they are the right distance from the starting point on the survey, 10 miles from the west line of the original proclamation.

Senator MELCHER. Maybe the basic question is if Congress finds that the lands were erroneously excluded from the reservation—if Congress makes the decision that they were—wouldn't that mean that the Forest Service would then feel that the lands ought to be restored to the tribes?

Mr. HOUSLEY. We would certainly comply with the—

Senator MELCHER. No, no, I'm just saying if Congress decides that there was an error and the land was erroneously excluded from the res-

ervation, wouldn't the Forest Service then feel that the land ought to be returned?

Mr. HOUSLEY. We feel that if the wrong is to be righted that perhaps the use of national forest lands to correct the mistake may not be the best way.

In other words, the lands in the area were obtained by exchange of other national forest lands. So, in effect, the claim is being satisfied with national forest lands.

Senator MELCHER. You say the Sequoia National Forest acquired the land on the basis of exchange of other national forest lands?

Mr. HOUSLEY. Yes, sir. When these lands were included within the Sequoia National Forest they were in private ownership.

Following that time, they were acquired in a series of exchanges and, in one case a small purchase, but largely through exchange of national forest land and timber elsewhere within the Sequoia National Forest.

Senator MELCHER. If we make a decision that lands were erroneously left out of the reservation, I don't know that it follows that we are going to make a decision to acquire another 1,240 acres for the Sequoia National Forest. I don't know that we would do that.

On the question of the protection of the giant sequoia groves; I gather from your testimony that there are only safety trails. What's a safety trail? A fire trail?

Mr. HOUSLEY. I think our intent was to say that we only provide such facilities as are necessary for public safety, including trails which are safe to use.

Senator MELCHER. What public access to the grove is there right now? How do I get there if I want to get there?

Mr. HOUSLEY. There is a road that goes nearby; and there are trails that one can use.

Senator MELCHER. Let's see the road. What kind of a road is it?

Mr. HOUSLEY. That is the road that's being pointed out on the map and the big tree grove is right where he's pointing.

Senator MELCHER. What kind of a road is it?

Mr. HOUSLEY. It has been a long time since I've been over the road. There are probably those here who are familiar with its condition.

Senator MELCHER. Who is familiar with it? Is anybody familiar with that road?

Ms. ABINANTI. The road that the Forest Service generally uses is the road here through the reservation [indicating], and they've always been granted an easement.

Senator MELCHER. What kind of a road is it?

Ms. ABINANTI. It is paved to about here [indicating], and then unpaved road, but it is able to take logging trucks.

Senator MELCHER. Can it take a car?

Ms. ABINANTI. It could. I wouldn't recommend it.

Senator MELCHER. Does the public use it?

Ms. ABINANTI. They have. It is a county road.

Senator MELCHER. It is a county road?

Ms. ABINANTI. Yes. People have used it. It isn't like a lot of people going in and out.

Senator MELCHER. Do more logging trucks use it than ordinary citizens?

Ms. ABINANTI. That is difficult to say because it depends on whether a sale is going on. Then, yes, there is a concentration of logging trucks.

Senator MELCHER. Thank you.

You mentioned, Mr. Housley, that the tribe did not file a claim with the Indian Claims Commission. If they filed a claim with the Indian Claims Commission, that would not have returned any land, would it?

Mr. HOUSLEY. That is correct, but there presumably would have been other compensation to correct the mistake under such a claim—financial compensation.

Senator MELCHER. I don't know how many of those claims you have filed, but the ones I have seen filed don't amount to very much for 1,200 acres.

I think the biggest claim—and they had to go to court for it—was for the Sioux in the Black Hills. Adding the interest, it is about \$110 to \$120 million, which is a very small amount considering that is the best gold mine we have ever had in this country.

I don't think a tribe going to the Indian Claims Commission over acquiring land—however many trees there were on it to begin with—would result in getting very much out of it. It would seem to me that acquiring the land itself would be in the long-term interests of the tribe.

We are never going to make any more land. It always goes up in value. They would have to take it at whatever the Claims Commission would recognize as its value in 1873 or 1884, and even adding the interest, it wouldn't be very much for 1,200 acres.

That would not amount to very many dollars. I would think that if the tribe had done that and had signed off on it, their long-term interests would be handicapped compared to owning the land itself.

If, as you say, Mr. Housley, the land were retained in public ownership and there would be benefits accrued to members of the tribe, how is that demonstrated currently? What benefits to the tribe are there with the land in public ownership?

Mr. HOUSLEY. Largely these are the same benefits that all citizens get from ownership of National Forest land.

In addition, there is under examination now the possibility of grazing permits for members of the tribe in the area in question.

Senator MELCHER. That would not amount to very much.

I understand very well the Forest Service's position in not liking to see Forest Service land pass out of public ownership, but you have said you really do not have any knowledge of similar cases.

Mr. HOUSLEY. There are cases, Mr. Chairman, where there are proposals to use National Forest land to settle Indian claims, whatever their source.

Senator MELCHER. I mean on erroneous boundaries.

Mr. HOUSLEY. One example of that kind of a case would be the Salish-Kootenai situation.

Senator MELCHER. I am familiar with that.

Mr. HOUSLEY. Yes; probably more so than I am.

Senator MELCHER. There aren't very many, are there? We have one age-old boundary error between the Northern Cheyenne and Crow tribes. That is between two Indian tribes. It is admittedly an erroneous boundary, but it does not involve the Forest Service.

Mr. HOUSLEY. There are a substantial number of claims which involve the National Forest lands. I'm not certain how many of them are based on survey issues.

Senator MELCHER. The committee will very carefully review your testimony before we take any action.

I think it is fair to say though, that there seems to be a boundary error. The question now is how do we want to correct it if we do want to correct it?

Thank you very much.

Mr. HOUSLEY. Thank you, Mr. Chairman.

[The prepared statement and an accompanying letter follow:]



STATEMENT OF  
RAYMOND M. HOUSLEY, ASSOCIATE DEPUTY CHIEF  
FOREST SERVICE  
U.S. DEPARTMENT OF AGRICULTURE

Before the Select Committee on Indian Affairs  
United States Senate

Concerning S. 1998, a bill providing the return of land formerly  
within the Tule River Indian Reservation

February 5, 1980

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

Thank you for this opportunity to testify on S. 1998, a bill "To provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation."

The Department of Agriculture recommends that S. 1998 not be enacted.

S. 1998 would provide for the United States to hold in trust for the Tule River Indian Tribe about 1,480 acres. These lands which are now within the boundary of the Sequoia National Forest by an Act of Congress in 1942 (P.L. 77-795) would become part of the Tule Indian River Reservation. The bill would provide protection to valid existing private rights and would provide the Secretary of Agriculture access across those lands.

The area of the Tule River Indian Reservation was extended and diminished several times by changes in boundaries resulting from Executive Orders and by Acts of Congress. Enclosed with my statement is a brief

chronological sequence of events relating to the boundaries of the Reservation and the subject lands. The Tule River Indian Reservation was established by Executive Order on January 9, 1873. A map projection of the boundary description contained in that Executive Order results in an area of land containing about 38,780 acres. This figure is close to the 60-square mile area size estimate (38,400 acres) cited in the January 9, 1873, Executive Order. A map projection of that boundary description establishes the east boundary of the Reservation about 3 miles west of the present boundary.

Another interesting feature of this projection is that the northeast corner of the Reservation is Solo Peak, a prominent geographic feature. The southeastern boundary of the Reservation is near North Cold Spring Peak, another prominent geographic feature. This could be an indication that the intent of this original Executive Order was to tie the location of the east boundary to natural geographic features. Most of the lands mentioned in S. 1998 are not within the Reservation boundary described in the Executive Order that first established the Reservation.

The boundary of the Tule River Indian Reservation was changed by another Executive Order dated October 3, 1873. This 1873 Executive Order used a different boundary description from the one used in the earlier Executive Order. It contains a more explicit description of the location of the eastern boundary of the Reservation which, when compared to the earlier Executive Order, moved it about two miles further east. This boundary change almost doubled the size of the original Reservation. About 1,000 of the 1,480 acres described in S. 1998 were included.

All of the lands described in S. 1998 were removed from the public domain and passed into private ownership through patents issued by the United States between 1888 and 1892. These patents were issued based upon a land survey conducted in 1884 which showed the subject lands to be located outside of the boundaries of the Tule River Indian Reservation. By Presidential Proclamation No. 871, dated March 2, 1909, approximately 30,160 acres of land from the east portions of the Tule River Reservation were excluded from the Reservation and included within the boundaries of the Sequoia National Forest. Upon the request of the Secretary of Agriculture, these same lands were returned to and included within the boundaries of the Tule Reservation by Executive Order 1478, dated February 17, 1912.

The boundaries remained relatively stable until a 1927 resurvey of the relevant township. The plat of this resurvey shows the east boundary of the Tule River Indian Reservation to be about one mile further east than the boundary described by the October 3, 1878, Executive Order. This new boundary encompasses approximately 4,500 acres of additional land shown on earlier maps as part of the Sequoia National Forest. (The physical boundary of the Tule River Indian Reservation was established by actual survey and monumentation completed during July 8-17, 1873, and approved on September 13, 1873. A resurvey of the Reservation boundary was conducted in 1916. This resurvey showed that because of errors in measurements in the 1873 survey the northeast corner of the Reservation is actually 10.875 miles instead of 10.0 miles east of the west boundary and that the southeast corner of the Reservation is 10.945 miles instead of 10.0 miles east of the west boundary.) No effort has been made to

correct this error, of approximately 4,500 acres in favor of the Tribe, in the Reservation boundary. In this 1927 resurvey most of the 1,480 acres described in S. 1998 were shown as being within the Reservation boundary, although they remained in private ownership.

On May 17, 1928, the subject 1,480 acres of land were excluded from the Tule Indian Reservation by an Act of Congress, P.L. 70-421 (45 Stat. 600), because they were in private ownership. They were again included within the boundaries of the Sequoia National Forest by Act of Congress on December 9, 1942, P.L. 77-795 (56 Stat. 1044). Therefore, the Congress has already acted twice to place these lands outside the Reservation. Also, there is no indication that the Tule River Indian Tribe made any attempt to file a claim under the Indian Claims Commission Act of 1946 (P.L. 79-726).

Since their inclusion in the Sequoia National Forest in 1942, the Forest Service has pursued an active program of acquiring these and other lands on the Sequoia National Forest. As a result, 1,240 of the 1,480 acres of those private lands were acquired pursuant to Forest Service exchange and purchase authorities for National Forest purposes.

A major portion of these acquired lands were subject to heavy logging prior to acquisition. Because of the past harvesting practices and excessive road construction, considerable rehabilitation will continue to be required to protect the watershed and to return the lands to productive public use and enjoyment.

The 1,240 acres of subject lands acquired by the Forest Service and managed for National Forest purposes contain about 250 acres of giant

sequoia or "Big Trees". Some of these trees have diameters in excess of 20 feet. Because of the limited occurrence of virgin Sierra redwoods and the esthetic values of individual trees and groves of these "specimen" or "museum" trees, the Forest Service has developed a management objective and procedures to preserve the species and individual old growth trees for public enjoyment. The 250 acres have been designated as a Type I Grove which features certain management prescriptions. These groves have their exterior boundaries posted. No major activities such as campground or road construction, or timber cutting, are allowed. Improvements are restricted to foot trails required for public safety, or needed to perpetuate the "specimen" trees and natural conditions of the associated trees or ground cover. Dead and down Sierra redwood are left in place.

By retaining these lands in public ownership, the public is assured of continuous access, use, and enjoyment. In addition, any Indian or other historical or archaeological sites will be protected. The Tule Indian Reservation is not open to general public entry at this time.

We believe the continued management of the lands as part of the Sequoia National Forest is essential to maintaining and enhancing their productivity. The management of those lands as an integral part of the Sequoia National Forest can sustain a much higher yield of goods and services than would be the case otherwise. Members of the Tule River Indian Tribe, along with the general public, will continue to share in the benefits of retaining these lands in public ownership.

We believe transfer of these National Forest System lands to tribal status through the medium of this legislation would be undesirable from the stand-point that it could lead to a reconsideration for relief in similar cases that have been adjudicated through the Indian Claims Commission or otherwise resolved. We recommend that S. 1998 not be enacted.

Mr. Chairmen, and members of the Committee, this concludes my prepared statement. I would be pleased to respond to any questions.

Chronology

January 9, 1873	Tule River Indian Reservation created by E.O.
October 3, 1873	Reservation nearly doubled in size by another E.O.
August 3, 1878	Reservation reduced in size by E.O.
March 6, 1884	Survey Plat of subject township approved showing subject lands outside of the Reservation boundary.
1888-1892	Subject lands patented to private individuals.
February 14, 1893	Area surrounding the Reservation proclaimed as part of the Sierra National Forest.
March 2, 1909	Proclamation reduces the Reservation by including nearly 30,000 acres of it in the Sequoia National Forest.
July 17, 1912	E.O. restores to the Reservation that area removed in 1909.
May-July, 1916	Resurvey of Reservation boundary uncovers survey errors that result in the Reservation being nearly 11 miles wide rather than 10 as intended by E.O.'s.
March 12, 1927	Resurvey of relevant township shows subject lands to be inside the Reservation boundary.
May 17, 1928	P.L. 70-421 excludes the subject privately owned lands from the Reservation.
December 9, 1942	P.L. 77-795 extends the boundary of the Sequoia National Forest to include the subject privately owned lands.



## United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

JAN 25 1980

Honorable John Melcher  
Chairman, Select Committee  
on Indian Affairs  
United States Senate  
Washington, D. C. 20510

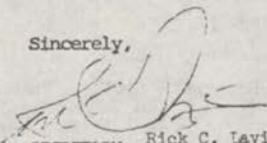
Dear Mr. Chairman:

This responds to your request for our views on S. 1998, a bill "To provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation."

We defer to the views of the Department of Agriculture as to the advisability of the bill's enactment.

- The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

  
Acting Assistant SECRETARY Rick C. Lavis



Senator MELCHER. Our next witness is Rachel Bluestone, American Indian coordinator, the Governor's office, State of California.

**STATEMENT OF RACHEL BLUESTONE, AMERICAN INDIAN COORDINATOR, THE GOVERNOR'S OFFICE, STATE OF CALIFORNIA**

Ms. BLUESTONE. Good morning.

Mr. Chairman, my name is Rachel Bluestone, American Indian coordinator, office of the Governor. We are supporting S. 1998 introduced by Senator Alan Cranston because it will rectify a longstanding dispute over 1,300 acres of land which was removed from the Tule River Indian Reservation in 1928.

The history of the circumstances surrounding the removal clearly confirms the fact that the Tule River Indians have a rightful claim to the removed lands. It is our understanding that these lands were originally intended to be included within the reservation boundaries.

The 1864 Act of Congress which authorized the President to set aside reservation lands and the subsequent 1873 Executive orders establishing and enlarging the boundaries of the Tule River Reservation convey the intent of Congress and the President to reserve to the Tule River Tribe the lands in dispute. The last Executive order signed on August 3, 1878, reaffirmed the original 1864 enacting legislation and the 1873 Executive order to set aside all reservation lands for the exclusive use and enjoyment by the Tule River Tribe.

An erroneous land survey conducted by the U.S. Land Office in 1884 resulted in the disputed lands being patented to non-Indians. The lands were eventually sold to private timber interests who stripped much of the land of its trees. An investigation conducted in 1910 showed that the 1884 survey was an act of fraud by the survey team. In fact, President Coolidge issued an Executive order in 1927 to correct the 1884 survey. However, this order did not remove from private ownership the land erroneously patented to non-Indians.

Congress had a chance to remedy the situation in 1928, but instead chose to recognize the erroneous 1884 survey and passed an act which changed the boundaries of the reservation to exclude the lands patented to non-Indians, lands which were specifically included in all Executive orders.

A 1934 Interior Department investigation of the boundary dispute found that " \* \* \* the only thing of any value on the Tule River Indian Reservation, a fine stand of sequoias in the northeast corner, passed into the hands of a non-Indian lumber company \* \* \*" The investigation also found that the lands in question indeed were erroneously patented to non-Indian interests.

We are all concerned over the long string of injustices which the Federal Government and non-Indian interests have inflicted upon this Nation's Indian population. The Tule River Reservation boundary dispute is another example of such injustice.

The 1853 Act of Congress and all subsequent Executive orders clearly convey an intent to reserve to the Tule River Tribe the lands in dispute.

It was recognized in 1910 and confirmed in 1934 that the land, in fact, was erroneously patented and that the boundaries of the reservation should be changed.

The restoration of the 1,200 acres—land now in the public domain—to the Tule River Tribe will enable the tribe to establish an economic base to make the reservation more productive and self-sustaining.

We urge your support of S. 1998 which would restore to the reservation lands which never should have been removed.

We thank you for your time and for the opportunity to testify on S. 1998.

Senator MELCHER. I don't think I have any questions on your testimony Rachel. Thank you very much.

Ms. BLUESTONE. Mr. Chairman, if I may, as an officer of the National Congress of American Indians, I would like to enter in the record a supporting resolution unanimously passed at the annual convention in Albuquerque, N. Mex. in support of this legislation.

Senator MELCHER. Thank you. We will make that a part of the record. We will also make a part of the record the letter received from the National Tribal Chairmen's Association and an attached resolution from the National Tribal Chairmen's Association and a resolution from the Tule River Tribal Council.

[The material follows:]



## NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

Suite 207 1701 Pennsylvania Avenue, N.W. Washington, D.C. 20006  
202 - 343-9484

RESOLUTION

No. NTCA 5/76 - 5

WHEREAS, the Tule River Tribal Council has requested that National Tribal Chairmen's Association support its struggle to regain land rights the tribe is currently deprived of,

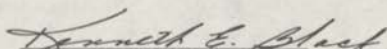
THEREFORE BE IT RESOLVED, that National Tribal Chairmen's Association hereby endorses the attached request.

### CERTIFICATION

It is hereby certified by the undersigned that the foregoing Resolution was adopted by the Board of Directors of the National Tribal Chairmen's Association in a duly constituted meeting on the 13th day of May, 1976, at which meeting there was a quorum present and a majority of the Board members voting.

  
ACTING PRESIDENT

ATTEST:

  
SECRETARY

**TULE RIVER TRIBAL COUNCIL**  
**TULE RIVER INDIAN RESERVATION**

POST OFFICE BOX 229

POSTERVILLE, CALIFORNIA 92257

(209) 781-4271

*Responsible  
M.C.D.*

**R E S O L U T I O N**

NO. 26 75

BE IT RESOLVED BY THE COUNCIL OF THE TULE RIVER TRIBE,

WHEREAS, at its regular monthly meeting on November 4, 1975 that support and aide be requested from the American Indian Policy Review Commission and the National Congress of American Indians for the Tule River Indian Reservation in its struggle to obtain the return of approximately 2,000 acres of land taken from the eastern boundary of the Tule River Indian Reservation without compensation of any kind.

BE IT FURTHER RESOLVED, that since the land in question was part of the Tule River Indian Reservation by Executive Order of President Ulysses S. Grant made on October 3, 1873, and since said land was removed from the reservation by an erroneous survey in 1884, and was immediately patented to non-Indians who removed all timber and took the grazing rights and further that when Congress became aware of the error in 1923 it instituted a study of the situation and when the mistake was confirmed, Congress passed an Act in 1928 to change the reservation boundary to conform to the error, and further that since said land has still not been returned to its rightful owner but is being held by the U.S. Forest Service and compensation for lost revenue from timber and lost grazing rights has never been made we respectfully request the assistance and aide of this body in our righteous struggle to regain our land and rights.

**C E R T I F I C A T I O N**

The foregoing resolution was adopted by the Tule River Tribal Council assembled in a Regular Meeting, duly called, noticed and convened and at which a quorum was present, by a vote of 8 for 0 against on this 4th day of November 1975, by virtue of authority vested under Article VII, Section 2 of the Constitution and Bylaws of the Tule River Tribe, approved January 15, 1936, as amended March 2, 1956.

*Alec Garfield*  
 Alec Garfield, Chairman

*Nancy Porter*  
 Nancy Porter, Secretary  
 Tule River Tribal Council



## NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

Suite 207 1701 Pennsylvania Avenue, N.W. Washington, D.C. 20006  
202 - 343-9484

February 4, 1980

Honorable John Melcher  
Chairman, Senate Select Committee  
on Indian Affairs  
Dirksen Senate Office Building  
Room 6313  
Washington, D. C. 20510

Dear Senator Melcher:

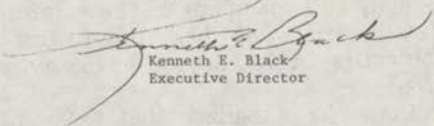
The National Tribal Chairmen's Association supports and endorses Senate Bill 1998 and the desire of the Tule River Tribe to recover land specified in S.B. - 1998.

The Select Committee on Indian Affairs favorable consideration of this Bill will be sincerely appreciated.

If we can be of assistance do not hesitate to call or write our office.

Thank you.

Respectfully,

  
Kenneth E. Black  
Executive Director

KEB:ss

Enclosure: Resolution No. NTCA 5/76 - 5

Senator MELCHER. Alec Garfield, chairman, Tule River Tribal Council?

**STATEMENT OF ALEC GARFIELD, CHAIRMAN, TULE RIVER TRIBAL COUNCIL; ACCOMPANIED BY ABBY ABINANTI, GENERAL COUNSEL, TULE RIVER INDIAN RESERVATION**

Mr. GARFIELD. Thank you, Mr. Chairman and members of the committee.

I am Alec Garfield, tribal chairman of the Tule River Indian Reservation.

On behalf of our tribal membership and our tribal council and its officers, I thank you for this opportunity to present our views and concerns on S. 1998.

With me today is the general counsel for the tribe, Ms. Abby Abinanti. Ms. Abinanti will summarize for the benefit of the committee upon the conclusion of my prepared statement.

The tribe certainly expresses their full support for the enactment of this legislation which would return approximately 1,300 acres of forested timberland to the reservation.

Once this land is transferred back to the reservation trust status, it shall become part of the tribe's Forest Timber Management Plan and the giant sequoia or "Big Trees" in this area would be protected by this plan which reads in part:

To preserve to the extent possible, sequoia trees, especially the large old growth trees and to utilize these trees for wood products only when the trees fall to the ground from natural causes.

This has always been the custom of the tribe and is now a part of our management plan.

Mr. Chairman and members of the committee, this concludes my prepared statement. I would be happy to respond to any questions.

Senator MELCHER. Abby, do you have anything you want to advise the committee?

Ms. ABINANTI. Sir, I believe that we've presented the committee with several documents that outline our position.

Senator MELCHER. Thank you. Without objection, the material will be placed in the record and will appear at the conclusion of the hearing.

Ms. ABINANTI. Perhaps I should respond briefly to the discussion presented by the Forest Service.

We find that their reliance on the erroneous survey, or their wish to rely on it—I'm trying to think of a generous word—but clearly they hope to benefit by a fraud which I think is a position that they got themselves into by a rather inflexible policy approach which does not allow them to review on the merits any matter that would take lands from the National Forest.

I think that that is unfortunate because it does put them in the unenviable position of trying to defend a fraud.

I think that this is a classic example of why the Federal Government instead of the local government has charge over Indian affairs. When it is left to the local government, clearly their own interests do not allow them to make fair decisions, and if left to them, the tribes would suffer.

And I think that is exactly what happened here. They tried to get all of the prime timberland and only got a portion of it. The rest of that 1-mile strip would be all of it basically.

So that was their intent and they just failed to fulfill it entirely. I think that is unfortunate.

We are prepared to answer any questions that the chairman might have.

Senator MELCHER. Alec, you say this would help the tribe. The Forest Service has said that they are looking at three timber sales in this 1,240 acres.

If the bill was passed and signed by the President and the land is restored, how would you get along on your forest management program? Would the tribe harvest some of this timber?

Mr. GARFIELD. I think the tribe would have to—well, it is working with the Bureau of Indian Affairs on our timber management plan at the present time. I believe that if this legislation is passed that the tribe and the BIA would get together and look at this and maybe the plan that the Forest Service now has, the tribe may adopt it as their plan. I'm not sure just how this would happen.

But I think that we have always had a good relationship with the Forest Service and they have always—whenever they asked for easement through this land or any part of the reservation, we have always granted it on a yearly basis.

Senator MELCHER. Your tribe's forest management program is subject to review and approval of the Secretary of the Interior. Is that correct?

Mr. GARFIELD. Yes, sir, that is correct.

Senator MELCHER. And you think you might have the same type plan for harvesting the timber that the Forest Service is planning. Is that it?

Mr. GARFIELD. It is possible.

Senator MELCHER. I was kind of interested in the testimony on harvesting the giant sequoia only when it drops. Is that right?

Mr. GARFIELD. This was never a written policy of the tribe, but it has always been carried out by the members of the tribe that these trees shall not be cut for any reason whatsoever.

Any time that the tribe does go in, which is at the direction of the tribal council, they go in to cut these trees up to use them for fencing on the reservation whether it be on the boundary or fencing off grazing pastures.

Senator MELCHER. Is there much grazing on this 1,200 acres?

Mr. GARFIELD. There is some. Just the exact amount I'm not sure.

Senator MELCHER. Senator Cranston said in his testimony that there might be some irrigation possible there. Is that correct?

Mr. GARFIELD. Again, that could be possible. I know that when Senator Cranston's aides visited the reservation, they were looking at other areas of the reservation.

I think at the present time we have only about 200 acres of land that could be irrigated.

Senator MELCHER. He says:

Less than 200 acres of the 1200 acres are suitable for agriculture. The rest is rough and rocky but could be partly useable for grazing if extensive irrigation facilities were installed.

Does that refer to any of this 1200 acres?

Ms. ABINANTI. I think that it does. I'm trying to get a fix on what extensive would mean. It would be extensive. And because of the extensive nature of it, I don't know how profitable.

Senator MELCHER. Presently there are no tribal plans for such irrigations?

Ms. ABINANTI. No.

The Bureau is about to conduct a management review of water resources. It is, I think, an 8- or 10-year plan and Tule River is slated for year No. 2. And until that is done, we probably won't make any extensive water related plans.

Senator MELCHER. So whatever advantage we're talking about for this 1,200 acres—that is tribal advantage if restored to the tribe—is probably on timber sales, is it not?

Ms. ABINANTI. That is correct.

Senator MELCHER. Thank you very much. I have no further questions.

We will now make a letter from the Department of Interior part of the record immediately following the prepared statement of Mr. Housley of the Forest Service.<sup>1</sup>

That concludes our hearing on the bill.

The meeting is adjourned.

[Whereupon, at 11 a.m., the committee was adjourned.]

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<sup>1</sup> See p. 28.



ADDITIONAL RELATED MATERIAL RECEIVED  
AT THE HEARING

UNITED STATES DEPARTMENT OF AGRICULTURE  
FOREST SERVICE  
P.O. Box 2417  
Washington, D.C. 20013

1510

REC'D FEB 2 1980

FEB 1980



Honorable John Melcher  
Chairman, Senate Select  
Committee on Indian Affairs  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

During the recent hearing on S. 1998, the Tule River Indian Reservation bill, you asked if there were other cases affecting National Forest System lands in which survey errors were the basis for the claim.

We were able to identify several other cases: the Salish-Kootenai Tribe case involving about 10,000 acres of land within the Lolo and Flathead National Forests, the Pueblo de Acoma Tribe claim involving about 253,000 acres of land within the Cibola National Forest in New Mexico, and the Quinalt Tribe claim for about 13,500 acres of land within the Olympic National Forest in Washington. The Salish-Kootenai, Pueblo de Acoma, and Quinalt tribes each had separate monetary resolutions by the Indian Claims Commission.


For added information, both the Warm Springs Tribe and the Yakima Tribe had earlier claims for land involving survey errors. While each tribe received monetary compensation through the Indian Claims Commission, each received land through additional Executive or legislative actions. The Warm Springs Tribe received 61,360 acres within the Mt. Hood National Forest through P.L. 92-427. The Yakima Tribe received 21,000 acres of land within the Gifford Pinchot National Forest through Executive Order 11670.

We appreciated the opportunity to testify for the Administration on the Tule River Indian bill. Please let us know if we can furnish additional information.

Sincerely,

*for Philip Thornton*  
R. MAX PETERSON  
Chief





ABBY ABINANTI  
AMOS TRIPP

ABINANTI & TRIPP  
ATTORNEYS AT LAW  
935 THIRD STREET  
EUREKA, CALIFORNIA 95501  
(707) 443-8027

January 24, 1980

REC'D JAN 28 1980.

The Honorable John Melcher, Chairman  
Senate Select Committee on Indian Affairs  
Immigration Building, Room A702  
Washington, D.C. 20510

Dear Senator Melcher:

We are contacting you in your capacity as a member of the Select Committee on Indian Affairs in order to draw your attention to a bill relating to the Tule River Indian Reservation, located near Porterville, California.

The purpose of S. 1998 is to redress a long-standing grievance. In 1928 Congress passed legislation that changed the boundaries and removed approximately 1300 acres from the northeast corner of the reservation. However, this divestment was based on an erroneous 1884 land survey. It was known as early as 1910 that the survey was not only inaccurate, but also deliberately fraudulent in order to deprive the tribe of some choice land. A plat of re-survey was completed in 1927, which correctly identified the reservation boundaries, but since much of the acreage excluded from the reservation by the 1884 survey had already been patented to non-Indians, Congress did not conform the boundaries of the reservation to the 1927 plat of re-survey. Instead, new boundary lines were set.

Since the 1928 legislation was passed, the tribe has been deprived of the use of that land. S. 1998 will redress that grievance, and restore the reservation's boundaries to those described in the executive orders of 1873 and 1878. Please note that the bill has been drafted so that only land owned by the United States and currently administered by the Forest Service would be returned to the tribe. None of the land in the Golden Trout Wilderness would be affected by the proposed legislation. Likewise, the status of privately held land (240 acres) and any appurtenant rights-of-way would not be affected.

Senate Select Committee on Indian Affairs  
 January 24, 1980  
 Page 2

Enclosed for your information are the following documents:

1. Brief history relating to the geographical boundaries.
2. Investigation report of Roy Nash dated March 27, 1934.
3. Letter to Commissioner of Indian Affairs from General Land office dated December 12, 1910.
4. Act of May 17, 1928 and legislative history.
5. Executive Orders of 1873 (two) and 1878.
6. Legal Memorandum by ABINANTI & TRIPP.
7. Report of Acting Deputy Commissioner, Department of the Interior dated October 9, 1979.
8. Report by Superintendent of Central California Agency, Bureau of Indian Affairs, dated June 1, 1978.
9. Statement of Robert A. Wright, Area Forester, Sacramento Office, Bureau of Indian Affairs.
10. Answers for Frank Keel prepared by Darrell Vera of the Tule River Reservation.
11. Introduction of S. 1998 by Senator Cranston reprinted in the Congressional Record dated November 9, 1979. (Also testimony of Senator Cranston before the House Committee on Interior and Insular Affairs.)
12. Detailed history of the tribe's land tenure by Gelya Frank.

A map is also supplied in order to provide you with some perspective.

Since it was a Congressional act that originally deprived the tribe of land clearly within its boundaries, it is appropriate for Congress to redress the grievance. We sincerely hope that you will be able to be present on February 5 when S. 1998 is scheduled for a hearing, and that you will support this legislation to restore the land in question to its rightful possessor.

Thank you for your attention to this matter.

Sincerely,

ABINANTI & TRIPP

By: 

General Counsel  
 Tule River Indian Reservation

AA/AT:bc  
 enclosures

BRIEF HISTORY RELATING TO THE GEOGRAPHICAL BOUNDARIES  
OF THE TULE RIVER INDIAN RESERVATION

- March 3, 1853 Congress authorizes President to make reservations in California for Indian purposes.
- April 8, 1864 Congress authorizes President to set aside a maximum of four tracts of land in California for Indian reservations.
- January 9, 1873 Tule River Indian Reservation boundaries set by executive order of President Grant (approximately 54,000 acres).
- 1873 Deputy Surveyor William Minto completes survey of reservation based on executive order.
- October 3, 1873 President Grant cancels order of January 9, 1873 and in lieu of previous boundaries, sets new (larger) boundaries for Tule River Indian Reservation (approximately 91,000 acres).
- August 3, 1878 President Hayes returns to the public domain all of additional lands set aside by President Grant on October 3, 1873, in effect returning the reservation boundaries to those set by President Grant's January 9, 1873 executive order.
- 1881--1883 Deputy Surveyor G.S. Collins surveys east, south and west boundaries, outside Tule River Reservation, and reports terminating his survey at line previously established by Minto; however, Collins' fraudulent survey shifts the northeast corner lines 1 1/2 miles south and 1/2 mile west of the actual boundary line.
- February 2, 1884 Collins' questionable survey approved by U.S. Government Land Office, allowing land included within the reservation boundaries (pursuant to all three previous executive orders) to be patented to non-Indians.
- 1912--1916 Surveyors Owen and Brown retrace and resurvey all original corners established by Minto in 1873; Collins' survey lines are shown to be incorrect.
- June 1, 1923 President Harding withdraws from any type of disposition certain portions of land bordering the southern boundary line of the reservation, pending a re-survey.

- March 3, 1927 Congressional Act passed prohibiting any changes in boundaries of executive order reservations except by Act of Congress. (25 USCA § 398d)
- March 12, 1927 Plat of Resurvey completed and accurately identifies reservation boundaries.
- May 17, 1928 Congressional Act changes the boundaries of the reservation to exclude privately-owned lands patented pursuant to the erroneous 1884 survey and removes approximately 1300 acres from the reservation.

COMMENTS:

The authority to create Indian reservations in California is statutory, based on the 1853 and 1864 Acts of Congress.

The executive orders by Grant and Hayes set the boundaries for the Tule River Indian Reservation, and although they managed to change the boundaries at three different times, none of those executive orders affected the northeast corner of the current reservation, where the so-called "2000 acre problem" is situated.

The erroneous 1884 survey was deliberate fraud by the surveying party, and this fact was known as early as 1910, evidenced by a letter written on December 12, 1910, to the Commissioner of Indian Affairs from the Commissioner of the General Land Office, Department of the Interior. The letter reads in pertinent part:

"Your request for a copy of the old erroneous survey of the said township, by which to determine the Indian's right of residence, is not complied with, for the reason that the examiner has asserted in his report that

'Wholesale fraud and falsification of the field-notes of survey of most of the townships adjoining this Reservation, have been indulged in by the deputies whose names appear in the contracts covering these surveys. And we may be sure that a fictitious boundary has been substituted, and calculated connections given in the field notes, whereby the reservation boundary... is thrown far out of its true position relative to the public surveys.'

After the plat of resurvey of reservation boundaries had been completed in 1927, the survey of course showed that homesteads patented pursuant to the fraudulent 1884 survey were clearly within reservation boundaries. In order to remedy the situation, there seemed to be only two alternatives available at that time: 1) return the land to the reservation as mandated by the executive orders setting its boundaries; or 2) change the

reservation boundary line in view of the fraudulent survey and deprive the Indians of substantial acreage. By congressional act approved May 17, 1928, the Tule River Indian Reservation was diminished to specifically exclude lands erroneously patented to non-Indians.

In 1934, an investigation of this boundary dispute was conducted by the office of the Chief of Field Division, Department of the Interior. Special Agent Roy Nash filed a report dated March 27, 1934, with the Director of Investigations for the Department of the Interior. The report reads in part as follows:

"For the information of the Commissioner of Indian Affairs I set down the manner in which the only thing of any value on the Tule River Indian Reservation, a fine stand of sequoia in the north-east corner, passed into the hands of a white lumber company which is now urging government to build a road which will enable them to exploit it.... Obviously there were two ways in which this [1884] error could be rectified: (1) Government could repurchase the Indian Land which it had erroneously patented; or (2) Government could change the boundaries of the reservation so as to exclude the land erroneously patented.

Lumber interests bought out the original homesteaders.

Sam Shortridge obligingly introduced a bill to change the Tule River boundaries, which was approved May 17, 1928....

Net result of activities of Senator Shortridge, Assistant Commissioner Meritt, and Congress: the Tule River Indians lost their Big Trees."

Since this unjust taking of their land, the people of Tule River Indian Reservation have consistently fought for its return. Now it seems that the current political climate guarantees that at last the Congress will see fit to redress this inequitable disposition of reservation lands and restore the portions in question to their rightful possessor.

January 29, 1979

UNITED STATES  
 DEPARTMENT OF THE INTERIOR  
 Tule River Indian Reservation,  
 California: Boundary Changes under 45 Stat. L. 600  
 Report by Roy L-sh, Special Agent  
 GENERAL LAND OFFICE  
 OFFICE OF THE CHIEF OF FIELD DIVISION  
 Division of Investigations  
 512 Custom House  
 San Francisco

March 27, 1934

APPROVED:



Special Agent in Charge

Director of Investigations,  
 Department of the Interior,  
 Washington, D.C.

Sir:

For the information of the Commissioner of Indian Affairs I set down the manner in which the only thing of any value on the Tule River Indian Reservation, a fine stand of sequoia in the northwest corner, passed into the hands of a white lumber company which is now urging government to build a road which will enable them to exploit it.

The reservation was set aside by executive order. Back in 1884 the Land Office put out a plat of an erroneous survey, and patented homestead entries which on the plat appeared as Public Domain but which plat of resurvey of March 12, 1927, showed to be within the Indian Reservation.

Obviously there were two ways in which this error could be rectified: (1) Government could repurchase the Indian land which it had erroneously patented; or (2) Government could change the boundaries of the reservation

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NOT FOR PUBLIC INSPECTION

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so as to exclude the land erroneously patented.

Lumber interests bought out the original homesteaders.

Sen Shortridge obligingly introduced a bill to change the Tule River boundaries, which was approved May 17, 1928.

Colonel Dorrington, then superintendent of the Sacramento Agency (correspondence shows) did not hear of it until February, 1929.

Net result of activities of Senator Shortridge, Assistant Commissioner Heritt, and Congress: the Tule River Indians lost their Big Trees.

Respectfully,

*Roy Nash*  
Roy Nash, Special Agent

Inclosures:

- ✓ Copy of 45 Stat. L 600 (S. 1662, 70th Congress)
- " letter Feb. 19, 1929, Supt. Sacramento Agency to Commissioner of Indian Affairs
- " " Feb. 8, 1929, Heritt to Col. Dorrington
- " " Dec. 4, 1930 Acting Supt. Sacramento Agency to Commissioner Indian Affairs
- " " Dec. 5, 1930, same to Ross Ellis
- " " Dec. 16, 1933, Greenwald Company to Bureau of Public Roads.

CONFIDENTIAL

IN REPLY PLEASE REFER TO 7-53575 "S" AND 7-91815

J.W.A.

97916

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

WASHINGTON, December 12, 1910.

ADDRESSEES WILL FIND  
A LIST OF OFFICES OF THE GENERAL LAND OFFICE

Encroachment on Tule River Indian Reservation.

The Commissioner

Of Indian Affairs.

Sir:

I have received your letter dated December 2, 1910, concerning the case of Pablo H. Ignacio, an Indian of the Tule River Reservation, who advises your office that his house on sec. 25, Tp. 22 S., R. 29 E., has been destroyed by A.E. Anderson, who erected thereon a house for himself.

You request a copy of the survey of said township, by which to ascertain whether the Indians' rights may be protected, as being properly within the reserve. You also ask for information as to "the alleged retracing by an Examiner" of this office, which is referred to in the Register's letter to Supt. Edmonson.

The Register at Visalia is much in error, in implying that the Examiner was sent to investigate a line run by the county surveyor; as he was instructed to retrace the true boundary and report as to encroachments on the territory of the Indians.

The information you seek, on the subject of Examiner Owen's investigation in 1904, will be found fully given by this

office, in a letter "E" dated April 13, 1907, addressed to your Bureau, and another of June 15, 1907.

The purpose of this office at that time, to make a full official resurvey by Mr. Owen, could not be realized owing to lack of competent men to whom the work could be entrusted; and the duty was postponed until a larger force of examiners should be provided. It is hoped that that time has now arrived, under the new system in force.

Your request for a copy of the old erroneous survey of the said township, by which to determine the Indian's right of residence, is not complied with, for the reason that the examiner has asserted in his report that

"Wholesale fraud and falsification of the field-notes of survey of most of the townships adjoining this Reservation, have been indulged in by the deputies whose names appear in the contracts covering these surveys. And we may be sure that a fictitious boundary has been substituted, and calculated connections given in the field notes, whereby the reservation boundary"

(which he retraced and verified as well surveyed by Minto)

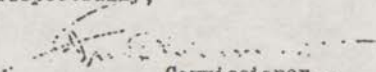
"is thrown far out of its true position relative to the public surveys".

With such a report, this office can not offer the plat of lands south of the reserve as evidence for any purpose. Neither is it practicable to offer an opinion as to the rights of Ignacio, on the mere statement that he "built a house on section 25"; for the true boundary, the crest of the ridge, runs through that section, and much depends on whether he is on the north or the south slope of the range of hills.

-2-

All the papers heretofore filed on this subject are still before this office, awaiting the necessary adjustment by a valid resurvey; and by reviewing the correspondence in your files, a complete resumé of Mr. Owen's report and recommendations, as to all four sides of the reserve, will be found.

Very respectfully,



Commissioner.

EGS.

①

CALENDAR No. 546

70th Congress  
1st Session

SENATE

REPORT  
No. 535

CHANGE THE BOUNDARIES OF THE TULE RIVER INDIAN RESERVATION, CALIF.

March 6 (calendar day, March 13), 1928- Ordered to be printed

MR. FRAZIER, from the Committee on Indian Affairs, submitted the following

## REPORT

(To accompany S. 1662)

The Committee on Indian Affairs, to whom was referred the bill (S. 1662) to change the boundaries of the Tule River Indian Reservation, Calif, having considered the same, report favorably thereon with the recommendation that the bill do pass with the following amendment:

Strike out all of that part of line 12 following the colon after the words "to wit" and all of lines 13 and 14, and insert in lieu thereof the following:

Southwest quarter: southwest quarter section 7; all sections 16 and 17; east half northeast quarter, southwest quarter northeast quarter, southeast quarter northwest quarter, east half southeast quarter section 18; east half northwest quarter, northwest quarter, northeast quarter section 20; northwest quarter northwest quarter section 21; and tract numbered 48 in the southeast quarter section 28, all in township 21 south, range 31 east of the Mount Diablo meridian in California.

This bill has the recommendation of the Secretary of the Interior, as set forth in the following letter, which is appended hereto and made a part of this report.

Department of the Interior  
Washington, February 13, 1928.

Hon. Lynn J. Frazier,  
Chairman Committee on Indian Affairs  
United States Senate.

MY DEAR SENATOR FRAZIER: Further reference is made to your letter of December 19, 1927, transmitting for report copy of S. 1662, a bill to change the boundaries of the Tule River Indian Reservation, Calif. The purpose of the bill is to eliminate certain described lands from

the reservation that were disposed of as non-Indian lands at a time when the records appeared to show that they were outside the reservation boundaries. The plat of survey approved February 2, 1884, of T. 21 S., R. 31 E. of the Mount Diablo meridian, California, shows part of the northern boundary of the Indian reservation in this township as passing in an irregular course east and west through the SW.  $\frac{1}{4}$  of sec. 21, and the S.  $\frac{1}{4}$  of secs. 19 and 20, and the east boundary extending south through part of the SW.  $\frac{1}{4}$  of sec. 21 and E.  $\frac{1}{4}$  of W.  $\frac{1}{4}$  of secs. 28 and 33. It was later discovered that an error had been made in these locations and that the actual boundaries were farther north and east. On March 12, 1927, a plat of resurvey of the same township and range was accepted by the General Land Office, identifying the proper boundary, which actually extended northward approximately  $1\frac{1}{2}$  miles through the north half of secs. 16, 17 and 18 and across the extreme southwest corner of sec. 7, and  $\frac{1}{2}$  mile farther east, passing through part of sec. 16 and the E.  $\frac{1}{4}$  of E.  $\frac{1}{4}$  of secs. 21, 28, and 33.

The area lying between the two surveys being regarded as public domain lands was practically all disposed of between 1888 and 1892 under the timber and stone act of June 3, 1878 (10 Stat. 89). However, these lands were included among others withdrawn on November 5, 1891, for the Tulare Forest, but about one-half of them were later reconveyed to the United States under the act of June 4, 1897 (30 Stat. 36), which authorized the relinquishment or reconveyance to the United States of lands included in national forests. The forest reserve having been subsequently revoked as to that part within the Indian reservation, the tracts reconveyed to the United States were restored to their proper status of Indian reservation lands.

The tracts that are wholly or in part within the intervening area patented under the act mentioned, but not reconveyed to the United States are as follows: SW.  $\frac{1}{4}$  SW.  $\frac{1}{4}$  sec. 7, all of sec. 17; E.  $\frac{1}{4}$  NE.  $\frac{1}{4}$ , SW.  $\frac{1}{4}$  NE.  $\frac{1}{4}$ , SE.  $\frac{1}{4}$  NW.  $\frac{1}{4}$ , E.  $\frac{1}{2}$  sec.  $\frac{1}{4}$  sec. 18; E.  $\frac{1}{4}$  NW.  $\frac{1}{4}$ , NW.  $\frac{1}{4}$  NW.  $\frac{1}{4}$ , NE.  $\frac{1}{4}$  sec. 20; NW.  $\frac{1}{4}$  NW.  $\frac{1}{4}$  sec. 21; and tract No. 48 in the SE.  $\frac{1}{4}$  of sec. 28, T. 21 S., R. 31 E., Mount Diablo meridian, California. Section 16 passed to the State of California under its school grant, and the records show that the State disposed of the land in 1888. Section 27 is shown to be entirely outside the Indian reservation.

As the lands lying within the area in question were regarded as a part of the public domain when the timberland entries were filed, this department will interpose no objection to a change in the boundary of the reservation to exclude therefrom the tracts patented and not reconveyed to the United States, and also section 16 granted to the State of California. Section 27 not being within the Indian reservation this land may be disregarded.

It is therefore suggested that the bill be amended by striking out all of that part of line 12 following the colon after the words "to wit" and all of lines 13 and 14, and insert in lieu thereof the following: "SW.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  sec. 7; all of secs. 16 and 17; E.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$ , SW.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$ , SE.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$ , E.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$  sec. 18; E.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$ , NW.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$ , NE.  $\frac{1}{4}$  sec. 20; NW.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$  sec. 21; and tract no. 48 in the SE.  $\frac{1}{4}$  of sec. 28, all in T. 21 S., R. 31 E. of the Mount Diablo meridian in California" This will take care of all the patented entries not reconveyed to the United

States.

If the bill is amended as suggested above, this department will have no objection to its enactment into law.

Very truly yours,

HUBERT WORK.

Senate Reports on Public Bills, Etc. II  
8830 70th Congress - 1st Session

May 17, 1928.  
(S. 1662)  
(Public, No. 421)

Tule River Indian  
Reservation, Calif.  
Boundaries changed.

CHAP. 614 - An Act to change the boundaries of the Tule River Indian Reservation, Calif.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the boundaries of the Tule River Indian Reservation, California, created by Executive order dated January 9, 1873, are hereby changed so as to exclude from said reservation the following tracts of land, which were shown by the plat of survey approved on the 2nd day of February, 1884, to be a part of the public domain, and were duly patented or granted by the United States as such, but were shown by the plat of resurvey approved on the 12th day of March, 1927, to within the outer boundaries of the said Indian reservation, to wit: Southwest quarter southwest quarter section 7; all sections 16 and 17; east half northeast quarter, southwest quarter northeast quarter, southeast quarter northwest quarter, east half southeast quarter section 18; east half northwest quarter, northwest quarter northwest quarter, northeast quarter section 20; northwest quarter northwest quarter section 21; and tract numbered 48, in the southeast quarter section 28, all in township 21 south, range 31 east, of the Mount Diablo meridian in California.

Approved May 17, 1928

United States Statutes at Large - 70th Congress 1927-29, Vol. 45  
Part I - Public Laws

70th Congress  
1st Session

HOUSE OF REPRESENTATIVES

Report  
No. 1252

BOUNDARIES OF THE TULE RIVER INDIAN RESERVATION  
CALIFORNIA

April 12, 1928 - Referred to the House Calendar and ordered  
to be printed

Mr. Englebright, from the Committee on Indian Affairs, sub-  
mitted the following

REPORT

(To accompany S.1662)

The Committee on Indian Affairs, to whom was referred the bill  
S-1662) to change the boundaries of the Tule River Indian Re-  
servation, Calif., having considered the same, report thereon  
with a recommendation that it do pass without amendment.

The proposal is intended to correct an error in boundary  
locations. Some of the land involved as a result of this error  
have been reconveyed to the United States. About half still  
remain in private ownership. All the lands lying within the area  
in question were regarded as a part of the public domain when the  
timberland entries were filed.

So that the error may be corrected, your committee urges favor-  
able action on the bill.

The Secretary of the Interior expresses his approval of the  
measure in the following statement:

Department of the Interior  
Washington, February 13, 1928.

Hon. Lynn J. Frazier,  
Chairman Committee on Indian Affairs,  
United States Senate

My Dear Senator Frazier: Further reference is made to your letter  
of December 19, 1927, transmitting for report copy of S.1662, a  
bill to change the boundaries of the Tule River Indian Reservation,  
Calif.

The purpose of the bill is to eliminate certain described lands  
from the reservation that were disposed of as non-Indian lands at a  
time when the records appeared to show that they were outside the



reservation boundar. i. The plat of survey approved February 2, 1884, of T. 21 S., R. 31 E., of the Mount Diablo meridian, California shows part of the northern boundary of the Indian reservation in this township as passing in an irregular course east and west through the SW.  $\frac{1}{4}$  of Sec. 21 and the S.  $\frac{1}{4}$  of secs. 19 and 20, and the east boundary extending south through part of the SW.  $\frac{1}{4}$  of Sec. 21 and the E.  $\frac{1}{4}$  of W.  $\frac{1}{4}$  of Secs. 28 and 33. It was later discovered that an error had been made in these locations and that the actual boundaries were farther north and east. On March 12, 1927, a plat of resurvey of the same township and range was accepted by the General Land Office, identifying the proper boundary, which actually extended northward approximately  $1\frac{1}{2}$  miles through the north half of Secs. 16, 17 and 18 and across the extreme southwest corner of Sec. 7 and one-half mile farther east, passing through part of Sec. 16 and the E.  $\frac{1}{4}$  of Secs. 21, 28, and 33.

The area lying between the two surveys being regarded as public-domain lands was practically all disposed of between 1888 and 1892 under the timber and stone act of June 3, 1878 (20 Stat. 89). However these lands were included among others withdrawn on November 5, 1891 for the Tulare Forest, but about one-half of them were later reconveyed to the United States under the act of June 4, 1897 (30 Stat. 36), which authorized the relinquishment or reconveyance to the United States of lands included in national forests. The forest reserve having been subsequently revoked as to that part within the Indian reservation, the tracts reconveyed to the United States were restored to their proper status of Indian reservation lands.

The tracts that are wholly or in part within the intervening area patented under the act mentioned, but not reconveyed to the United States are as follows: SW.  $\frac{1}{4}$  SW.  $\frac{1}{4}$  sec. 7, all of sec. 17; E.  $\frac{1}{4}$  NE.  $\frac{1}{4}$ , SW.  $\frac{1}{4}$  NE.  $\frac{1}{4}$ , SE.  $\frac{1}{4}$  NW.  $\frac{1}{4}$ , E.  $\frac{1}{4}$  SE.  $\frac{1}{4}$  sec. 18; E.  $\frac{1}{4}$  NW.  $\frac{1}{4}$ , NW.  $\frac{1}{4}$  NW.  $\frac{1}{4}$ , NE.  $\frac{1}{4}$  sec. 20; NW.  $\frac{1}{4}$  NW.  $\frac{1}{4}$  sec. 21, and tract No. 48 in the SE.  $\frac{1}{4}$  of sec. 28, T. 21 S., R. 31 E., Mount Diablo meridian, California. Section 16 passed to the State of California under its school grant, and the records show that the State disposed of the land in 1888. Section 27 is shown to be entirely outside the Indian reservation.

As the lands lying within the area in question were regarded as a part of the public domain when the timberland entries were filed, this department will interpose no objection to a change in the boundary of the reservation to exclude therefrom the tracts patented and not reconveyed to the United States, and also section 16 granted to the State of California. Section 27 not being within the Indian reservation, this land may be disregarded.

It is therefore suggested that the bill be amended by striking out all of that part of line 12 following the colon after the words "to wit" and all of lines 13 and 14 and insert in lieu thereof the following: "SW.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  sec. 7; all of secs. 16 and 17; E.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$  SW.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$ , SE.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$ , E.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$  sec. 18; E.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$ , NW.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$ , NE.  $\frac{1}{4}$  sec. 20; NW.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$  sec. 21; and tract No. 48 in the SE.  $\frac{1}{4}$  of sec. 28, all in T. 21 S., R. 31 E. of the Mount Diablo meridian in California." This will take care of all the patented entries not reconveyed to the United States.

If the bill is amended as suggested above, this department will have no objection to its enactment into law.

Very truly yours,

## TULE RIVER RESERVE

(In Mission Tule Agency: occupied by Kawia, Kings River, Monache, Tehon Tule, and Wichumni tribes; area 76 square miles; established by Executive orders)

Department of the Interior  
Washington D.C., January 9, 1873

SIR: I have the honor to submit herewith a letter from the Acting Commissioner of Indian Affairs, dated the 3rd instant, requesting the setting apart for the use of the Tule River, King River, Owen's River, Manche Cajon, and other scattering bands of Indians in California a tract of land described as follows: Commencing on the South Tule River, 4 miles below the Soda Springs on said river running thence north to the ridge of mountains dividing the waters of the South Tule and Middle Tule; thence east on the dividing line 10 miles; thence South to the ridge dividing the waters of South Tule River and Deer Creek; thence west on said ridge 10 miles, thence north to the place of beginning; the said described tract of country being about 10 miles long and 6 miles wide. The request of the Acting Commissioner meets the approval of this Department, and I respectfully recommend that an order be issued by the Executive setting apart the lands referred to for the purpose indicated.

I have the honor to be, your obedient servant,

B.R. Cowen, Acting Secretary

To the President

(Indian Affairs, Laws and Treaties, Vol. 1 R970.S Un 312

Executive Mansion, January 9, 1873

Let the lands described in the within letter be set apart as a reservation for the bands of Indians in California therein named, agreeably to the recommendation of the Acting Secretary of the Interior.

U.S. Grant

Executive Mansion, October 3, 1873

It is hereby ordered that the following tract of country be, and the same is hereby, withheld from sale and set apart as a reservation for the Tule river, King's River, Owen's River, Manche Cajon, and other scattered bands of Indians in the State of California, to be known as the "Tule River Indian Reservation", this being in lieu of the reservation set apart for those Indians by Executive order dated the 9th of January last; which is hereby canceled:

Commencing on the South Fork of the Tule River, 4 miles below the Soda Springs on said river, running thence north to the ridge of the mountains dividing the waters of the North Fork and Middle Fork of the Tule River; thence on said ridge easterly, extended if necessary, to a point from which a line running due south would intersect a line running due east from the place of beginning, and at a distance of 10 miles therefrom. Thence from said point, due south, to the ridge extended if necessary, dividing the waters of the South Fork of Tule River and Deer Creek; thence westerly on said ridge to a point due South of the place of beginning; thence north to the place of beginning as indicated by red lines on above diagram.

U.S. Grant

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Executive Mansion, August 3, 1878

It is hereby ordered that all of that portion of the Tule River Indian Reservation in California lying within the following boundary, vis: Commencing at a place where a line running due north from a point on the South Fork of the Tule River, 4 miles below the Soda Springs on said river, crosses the ridge of mountains dividing the waters of the South Fork and Middle Fork of the Tule River; thence north to the ridge of mountains dividing the waters of the North and Middle Fork of Tule River; thence on said ridge easterly to a point from which a line running due south would intersect a line running due east from the place of beginning, and at a distance of 10 miles therefrom; thence from said point due south to the ridge of mountains dividing the waters of the South Fork and Middle Fork of Tule River; thence westerly on said ridge to the place of beginning, and the same hereby is, restored to the public domain.

R.B. Hayes

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MEMORANDUM

FROM: ABINANTI & TRIPP

RE: Decision to seek congressional action for restoration of land to reservation

DATE: November 30, 1979

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In 1864, Congress passed an Act entitled "An Act to Provide For the Better Organization of Indian Affairs in California" (Act of April 8, 1864, Ch. 48, 13 Stat. 39-41). Pursuant to that Act, the Tule River Reservation was first created by Executive order of President Ulysses S. Grant in 1873. In October of the same year, President Grant doubled its size. Then, four years later, President Rutherford B. Hayes reduced the reservation to its original size.

Between 1881 and 1883, 1,440 acres of land belonging to the reservation were determined to be outside its borders, as a result of an erroneous survey. After U.S. government approval of this survey in 1884, most of this land was then sold by the federal government.

In 1910, the error was uncovered, but no corrective action was immediately undertaken.

In 1927, President Coolidge issued an Executive order to correct the erroneous boundary survey. He placed the land at issue within the reservation boundary. This action, however, did not remove from private ownership the land erroneously patented following the 1884 survey.

By this time, nearly all the acreage under discussion--with the exception of sparse stands of virgin redwood--had been clearcut. About 133 million board feet of timber had been removed.

Despite President Coolidge's order, the non-Indian timbering interests continued to strip most of the land of its remaining trees.

Faced with the inconsistency between the reservation boundary reestablished by President Coolidge's executive order and the timber interest ownership of land within that boundary as a consequence of the erroneous 1884 survey, the government had two ways to rectify the situation, as an Interior Department investigator pointed out in 1934.

The government could either repurchase for the Indians the land it had erroneously patented, or it could recognize the erroneous boundary established by the 1884 survey, depriving the tribe of its land.

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Congress in 1928 passed legislation excluding the privately owned lands patented under the 1884 survey from the reservation. This action removed from the reservation as recognized by President Coolidge about 1,300 of the 1,440 acres within the disputed area.

The 1928 Act provided:

"That the boundaries of the Tule River Indian Reservation, California, created by Executive order dated January 9, 1873, are hereby changed so as to exclude from said reservation the following tracts of land, which were shown by the plat of survey approved on the 21 day of February, 1884, to be a part of the public domain, and were duly patented or granted by the United States as such, but were shown by the plat of resurvey approved on the 12th day of March, 1927, to be within the outer boundaries of the said Indian reservation, to wit:...(land description omitted)."

Under the 1928 Act, no compensation was paid for the taking of the land from the Tule River Indian Reservation by the changes in the boundary of the northeastern portion of the Reservation.

The Tule River Tribe has remained consistent throughout the years in their desire to have the land restored to Reservation status, rather than attempting to obtain monetary compensation for the taking of the land. Prior to seeking the introduction of a bill before Congress in 1979, the Tribe reviewed their decision, evaluating the status of the land "taking" by the 1928 Act, to determine whether the taking was legal; if it was compensable; and if a court could restore the land in question to reservation status.

Each of these issues will be discussed separately to show the reasons behind the decision to seek congressional action to restore the land to the reservation.

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1) Did Congress have the power to remove land from the reservation?

The Tule River Indian Reservation was set aside by Executive Orders, issued pursuant to Congressional authorization, during the 1870's. After the first executive order in 1873 established the original boundaries of the reservation, a subsequent executive order in 1873 doubled the size of the reservation. Four years later, by another executive order, the reservation was reduced to its original size. Therefore, within a short period, three executive orders were issued establishing and changing the boundaries of the reservation.

In 1927, Congress passed an Act prohibiting any changes in the boundaries of reservations created by executive order, unless such changes were made by Act of Congress (Act of March 3, 1927, Ch. 299, § 4, 44 Stat. 1347, 25 USCA § 398 d). In 1928, Congress followed this method of changing the boundaries by passing an Act entitled "An Act to change the boundaries of the Tule River Indian Reservation, California." This action by Congress is consistent with an earlier U.S. Supreme Court decision which states that "when Congress has once established a reservation, all tracts included within it remain a part of the reservation until separated therefrom by Congress." (U.S. v. Celestine, 215 U.S. 278, 285 (1909).

This exercise of power would be upheld as an exercise of the broad, plenary power of Congress over Indian affairs. This congressional power is based primarily upon the commerce clause of the Constitution which states:

"The Congress shall have Power...To regulate commerce with foreign Nations, and among the several States, and with the Indian Tribes"  
(Art. I, Section 8, cl.3).

This constitutionally-granted power has been held in a long line of U.S. Supreme Court decisions beginning in 1832 with Worcester v. Georgia, 31 U.S. 515. This congressional plenary power over Indian affairs has been interpreted to allow Congress the authority to legislate for the Indian tribes in all matters, and the Supreme Court has, time and again, upheld the sweeping power of Congress over Indian matters.

Even though Congress has broad, unique powers with respect to Indian tribes and affairs, there is one important limitation on the exercise of that power: While those powers may be plenary, the exercise may not be arbitrary. For example, Congress may not

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take Indian property without just compensation.

Therefore, while Congress, in an exercise of its plenary power, could change the boundaries of the reservation, just compensation should have been provided if the taking was compensable.

2) Should just compensation have been made for the land removed from the reservation?

In the 1928 Act, Congress stated the boundaries of the Tule River Indian Reservation were created by executive order. That statement was very important for it tends to show that Congress dealt with the reservation as an executive order reservation, rather than a treaty or statutorily created reservation.

If the Tule River Indian Reservation is an executive order reservation, there are other factors to consider. An executive order reservation does not necessarily create tribal property rights which are compensable, unless such rights are recognized by Congress.

The Supreme Court has held that Congress delegated to the President the power to reserve public lands from disposition under the public land laws for Indians or for other purposes by long-continued acquiescence in the exercise of that power. The courts have held that as long as an executive order creating a reservation remains in effect, the Indian title to the reservation lands deserves the same protection as the Indian title to reservations created by treaty or statute.

One distinguishing feature of Indian rights in executive order reservations has appeared, however. Before Congress prohibited future changes in Indian reservations by executive order, it was common practice for the President to terminate or reduce in size executive order reservations without payment of compensation. The legality of this practice was finally settled when the Supreme Court held that although Congress had delegated to the President the power to create reservations, it had never delegated the power to confer compensable property interests in the Indians. (*Sioux Tribe of Indians v. United States*, 316 U.S. 317, 325-26, [1942]). There the Court found no congressional recognition of the existence of compensable tribal property interests in a reservation created by executive order in 1875 and terminated in 1884. It therefore held that no right to compensation existed upon the termination of such a reservation.

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Thus, the status of executive order reservations can be summarized as follows: the Indians have the exclusive right to possession but titled to the lands remains with the United States. Congress has plenary authority to control use, grant adverse interests or extinguish the Indian title. In these respects, executive order reservations do not differ from treaty or statutory reservations. The one difference is that so long as Congress has not recognized compensable interests in the Indians, executive order reservations may be terminated by Congress or the Executive without payment of compensation.

Therefore, in order to establish that the taking of tribal property by the 1928 Act should have been compensated, the Tribe would have to prevail upon an argument proving that the taking was of a recognized, compensable, tribal property interest. Reviewing the history of the creation of the reservation, this would be a very difficult, if not impossible, position to prevail upon. The Tribe, having considered this approach and it's attendant difficulties, rejected this approach as not likely to be successful.

3) Could a court order the restoration of the land taken by the 1928 Act?

In the previous section, the question of establishing liability for the taking of land pursuant to the 1928 Act was discussed. However, the question of restoration of the land goes beyond liability for the taking, but instead would more properly turn on the question of legality of the taking.

The land was taken by an Act of Congress, in an exercise of its plenary power over Indian affairs. The taking followed the procedures set forth by federal law. In order to attack the legality of the taking, it would be necessary to establish that the Act was in excess of Congress' plenary power. However, the failure to pay compensation would not make the taking illegal, but would instead be limited to establishing liability for the taking.

The question of jurisdiction for the restoration of land has been considered by other Indian tribes, especially as it applies to the Indian Claims Commission. In cases in which a return of land was sought, the Tribes have gone to Congress for the restoration (see generally, "American Indian Land Claims: Land Versus Money as a Remedy," 25 U. Fla. L.R. 308 (Winter, 1973); see also, "An Act to declare that certain federally owned lands shall be held by the United States in trust for the Hualapai Indian Tribe of the Hualapai Reservation, Arizona, and for other purposes," Act of December 30, 1974, P.L. 93-560, 88 Stat. 1820).



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Therefore, even if a court had the jurisdiction to return the land in question, it would not do so unless the taking was illegal, i.e., beyond the scope of the plenary power of Congress (an unlikely conclusion considering the scope of Congress' plenary power). An attempt to obtain judicial return of the land would run the risk of limiting any judicial remedy to money damages only, and thereby further decrease any chance of obtaining a return of the land.

#### CONCLUSION

The Tule River Indian Tribe has remained steadfast in their efforts to seek a return of the land taken by the 1928 Act. This interest in the return of the land has been their primary goal, even before seeking compensation for the taking.

The Tribe has considered the various alternatives available to seek a restoration of the land to tribal status and has decided the best method is to request Congress to act to restore this land.

In summary, the taking by the 1928 Act was within the scope of the plenary power of Congress over Indian affairs. At most, a court could only grant an order for just compensation for the taking, but could not order the restoration of the land. Any award of compensation for the taking would probably jeopardize any tribal request to seek a congressional return of the land. Even if compensation was obtained for the taking, the Tribe would still have to request Congress to restore the land, since only Congress has authority to make such a restoration of lands to tribal status.

## Memorandum

To: Legislative Counsel

Through: Assistant Secretary - Indian Affairs

From: Acting Deputy Commissioner

Subject: H.R. 4124 - A Bill "To provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation."

Analysis

Section 1 of the subject bill would declare all right, title and interest in certain federally owned lands administered by the U.S. Forest Service, as described in Section 2, which were removed from the Tule River Indian Reservation pursuant to the Act of May 17, 1928 (45 Stat. 600-601, 16 U.S.C. 486a), to be held in trust by the U.S. for the Tule River Indian Tribe and to be part of the Tule River Indian Reservation.

Section 2 gives the legal description of lands referred to in Section 1. Sections described are: 16, 17, 18, 20, 21, and 28.

Section 3(a) would provide that nothing in this bill would deprive any person of any valid existing right of way, lease, permit, or other right or interest in the lands described in Section 2.

Section 3(b) states that the lands transferred under section 1 shall be subject to such right-of-way through lands in section 16 as the Secretary of Agriculture considers necessary to provide access to U.S. Forest Service lands located east of section 16.

Section 4 would direct the Secretary of the Interior to publish in

the Federal Register a description of the lands transferred pursuant to section 1 and a description of the boundaries of the Tule River Indian Reservation as modified by such transfers.

#### Background

The Tule River Indian Reservation was first created in January 9, 1873, by Executive Order, as authorized by the Act of April 8, 1864 (13 Stat. 39). An Executive Order of October 3, 1873, cancelled the Order of January 9, 1873 and reestablished the reservation with slightly larger boundaries.

An Executive Order of August 3, 1878, removed a portion of the Tule River Indian Reservation and restored it to the public domain, in effect restoring the reservation boundaries to those of the 1873 Executive Order.

In 1884, the U.S. Land Office authorized a survey of the reservation. It has been alleged that the notes and bounds of the survey were, for some reason, deliberately falsified. The result was that reservation lands which had been included in each of the three earlier Executive Orders were excluded from the reservation. Those lands were then patented to non-Indians.

In 1923, President Harding withdrew from any type of disposition certain portions of land bordering the southern boundary line of the reservation, pending a re-survey. Then in 1927, the re-survey was completed and reservation boundaries were accurately identified.

Finally, by the Act of May 17, 1928 (45 Stat. 600), the boundaries of the reservation were further altered to exclude land allegedly in the public domain by the 1884 survey, but shown by the 1927 re-survey to be within the boundaries of the Tule River Indian Reservation. The Act returned the reservation to the boundaries described in the Executive Order of January 9, 1873. Approximately 1,300 acres were removed by the 1928 Act.

The return of approximately 1,300 acres to the Tule River Indian Reservation would be of great benefit to the tribe. It would provide additional rangeland and grazing acreage for the tribe's livestock program, additional tribal resources for the tribe's new logging operation, and additional land for the housing development program. It would also increase the tribe's potential for developing a recreation industry, add to the amount of irrigable land available for agricultural use, and of course,

increase the real property assets of the tribe. The United States currently holds 54,116 acres in trust for the Tule River Indian Tribe.

Too, the lands would include water resources which would be essential for the establishment of a fish hatchery and processing plant on the reservation. A 1978 feasibility study determined that such an operation could be set up on the reservation, thereby creating over 30 jobs. The jobs and revenue generated by this project could only serve to enhance the tribe's financial position.

Another equally important consideration is a religious one --- The lands to be returned would include sites formerly used for tribal funeral ceremonies.

Because of the number of advantages for tribe which could result from this legislation, we recommend enactment of the subject bill.

Adv. CC. Lyder CLC

CC: A.D. Sacramento

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10/9/79 x

Area Director, Sacramento Area Office

JUN 1 1978

Superintendent, Central California Agency

Real Property Management  
308 - Tule River

Request for Legislative Information, H.R. 8416, "To Convey Rights to Certain Lands Removed From the Tule River Indian Reservation":

Information was requested sometime ago to assist Congressman William M. Ketchum, in drafting a proposed bill to convey certain lands to the Tule River Indian Reservation. The lands were removed from the Reservation by the Act of May 27, 1928, due to an erroneous survey in 1854. The following items with supportive material are provided as requested by your memorandum of September 21, 1977:

1. An Accurate Land Description

The land description is based on the proposed draft provided by memorandum from the Director, Congressional & Legislative Affairs, which is supported by the Tule River Tribal Council's letter dated August 30, 1977, and Tribal Resolution No. 19-33-77, adopted on September 14, 1977.

SW $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 7;  
All Section 16;  
All Section 17;  
E $\frac{1}{2}$ NE $\frac{1}{4}$  & SW $\frac{1}{2}$ NE $\frac{1}{4}$  & SE $\frac{1}{2}$ NE $\frac{1}{4}$ , Section 18;  
NE $\frac{1}{4}$ , Section 20;  
NW $\frac{1}{2}$ NW $\frac{1}{4}$ , Section 21;  
Tract No. 48, Section 28, All in Township 21 South, Range 31 East,  
Mount Diablo Base & Meridian, CA., containing 1,720.00 acres,  
more or less.

(Three tracts of individually-owned fee lands were excluded from the proposed draft)

SEE EXHIBIT A

2. A Map of the Area Indicating Any Improvements

- A. General Land Office Map showing subject area surveyed from 1873 to 1882, which survey was approved on February 2, 1884.

- B. General Land Office Map showing subject area surveyed from August 7, 1922 to June 27, 1923, which survey was approved on August 18, 1925.
- W. Plat provided Real Property Management, Central California Agency, showing proposed land return in red, the individually-owned fee lands in blue, and existing reservation lands in green.

SEE EXHIBIT B

3. A Formal Appraisal or Approximate Valuation (Surface and Subsurface)

No appraisal was obtained, formal or otherwise.

4. Date The Property Was Acquired, Authority For the Acquisition, And The Source of Funds Used For The Acquisition,

The Act of April 4, 1864 (13 Stat. 39-40, c. 48) authorized the establishment of Indian Reservations in California. Executive Order of January 9, 1873, established the Tule River Reservation consisting of approximately 56,096.00 acres. Executive Order of October 3, 1877, cancelled the Executive Order of January 9, 1873, and re-established the Tule River Indian Reservation. Congress became aware of the error of a survey performed in 1884 and passed the Act of May 27, 1928 (45 Stat. 600601, c. 614), excluding approximately 2000.00 acres from the northeast corner of the reservation.

SEE EXHIBIT C

5. Past, present, and proposed future use, plus a good justification for the Tribe acquiring the land in trust.

Based on the erroneous survey of 1884, the lands were removed from the reservation and immediately patented to private individuals who have logged, grazed, and mined the subject lands. At present, there is a Boy Scouts of America Campground at a site which was formerly known as the Patty Smith Sawmill. Tree planting has been performed on much of the lands in question by the Forest Service and some portions have been leased to cattle ranchers for grazing privileges.

Proposed future use would be to continue tree planting operations as most of the lands in question have been previously logged. Lands adequate for grazing purposes will be incorporated into the Tribe's Grazing and Livestock Program.

The Tule River Tribe feels that the primary justification lies in the circumstances and subsequent action taken to remove the lands from the

reservation and the progress and profit that has been denied the tribe. The knowledge and sophistication the tribe members have acquired through education and the degree of management of their natural resources will be in the best interest of the land and the Tule River Tribe.

SEE EXHIBIT D

6. Ownership of adjacent lands.

As stated in Item No. 1, there are three (3) tracts of land owned in fee by individuals, within the area described in Item No. 1, as follows:

1. NE/4NE/4, Sec. 19., T. 21 S., R. 31 E., containing 40.00 acres, more or less, owned by Emilye B. Recktor;
2. SE/4NE/4, Sec. 19, T. 21 S., R. 31 E., containing 40.00 acres, more or less, owned by Marietta Buckley and Doris De Pali.
3. E/2NW/4 & NW/4NW/4, Sec. 20, T. 21 S., R. 31 E., containing 120.00 acres, more or less, owned by the Boy Scouts of America.

7. Current Tribal Resolution requesting the property.

Tribal Resolution No. 19-33-77, adopted on September 14, 1977, is enclosed.

SEE EXHIBIT E

8. If the Tribe has a land consolidation program, the effect, if any, of the proposed on that program.

The Tule River Tribe does not have a land consolidation program, therefore, the proposal will be of no effect. The Tule River Tribe is organized under the Indian Reorganization Act, having its Constitution and Bylaws approved on January 15, 1936, has land acquisition authority available for its use in land acquisition and consolidation.

The Superintendent, fully supports the proposed legislation action and recommends position consideration in effecting the conveyance of the lands to the Tule River Indian Reservation in trust. The return of the lands will greatly enhance the resources of the Tribe. The Tule River Tribe is an active body striving toward development and utilization of its landholdings, yet mindful of its care and preservation.

/SGD/ Richard H. Burcell  
Superintendent

Attachments

JWOLF, JR:lg 5-31-78



RE: H.R. 4124

## TULE RIVER RESOURCE MANAGEMENT

The Tule River commercial forest area was inventoried by the Bureau in 1972 following a period of harvesting for a sawmill that was located on the reservation. In 1977 the Bureau contracted with Hammon, Jensen, Wallen and Associates, Forestry Consultants, to develop the inventory into a full management and development plan with emphasis on forest development and harvesting designed to bring the forest to optimum stocking.

At the same time, the Soil Conservation Service, under agreement with the Bureau, developed a comprehensive Range Improvement Program coordinated with the forest management program. The two management plans were then adopted by the tribal council in 1978 and formulated into an Indian Self Determination (P. L. 93-638) contract for the tribe to accomplish the recommended project work, and to administer the range permits, wood permits, and timber sales.

The Soil Conservation Service continues to provide technical assistance by agreement with the Bureau for range management services, and the tribe has contracted with Hammon, Jensen, Wallen and Associates to provide forest management services within guidelines that provide for accomplishment of the Bureau's trust responsibility for the resources of the reservation and achievement of tribal goals.

The total resource management package, incorporated in a P. L. 93-638 contract, has provided the means for the tribe to properly manage their resources, and to assure development according to their desires. The resource management system as it is now operating is up to date and effective. The tribe is to be complimented upon the initiative they have shown

and the responsibility they have been willing to accept in managing their resources.

Discussions are now underway with the tribe that will enable them to hire their own Natural Resource (Forestry) employee to accomplish the programs currently under contract to consultants and the Soil Conservation Service.

Addition of the land included in H.R. 4124 will require a thorough inventory of resources and development of a management plan for the area. This can be easily accomplished within the provisions of the tribe's management systems and P. L. 93-638 contract. Much of the information is available from the U. S. Forest Service and could be easily incorporated in the tribal plans. Grazing regulations and forest management policies, especially those relating to the Giant Sequoia, would automatically be applied under both Bureau of Indian Affairs and tribal management systems.

Robert A. Wright, Area Forester  
BIA, SAO

Questions and Answers for Congressional Staff--Frank Keel--  
working on Bill H.R. 4124, Reservation Disputed Boundary.

How is the return of the Disputed Boundary Land going to  
benefit the Tribe?

A. It will:

1. provide additional rangeland and grazing acreage
2. increase recreational potential
3. increase opportunities for housing development
4. increase timber resources
5. increase the supply of irrigable land for agriculture
6. return land that once was used for ceremonial and cultural purposes--through prayers (cultural) and deaths (ceremonial)
7. encompass additional water sources and uses
8. provide additional potential for industrial development
9. increase the real property value of Tribal assets.

B. What Reservation industries are available that will benefit  
by the return of the land?

1. The Tribal Council is currently implementing a Timber Management and Reforestation Plan which was adopted two years ago in October 1977. Within the plan are scheduled timber sales. The first timber sale has been sold and logging will begin this summer, in the near future. The plan covers a ten (10) year scope of Timber Management for the Tribe and is administered by the Tribe with technical assistance from the BIA.
2. In June 1978, an Economic Feasibility Study for establishing a Fish Hatchery and Processing Plant on the Reservation was completed. The Hatchery and Processing Plant were determined feasible. A viable and suitable water source and site location is needed prior to initial development and implementation by the Tribe so that funding may be secured for the various phases. The report also indicated that when the Hatchery reached full scale operation, 31 positions would become available plus revenue would be generated to the Tribe.
3. The Tribe received in July 1979 word from the Department of Interior, Bureau of Indian Affairs, Washington, D.C. (Martin Seneca, Jr.) that a Technical Assistance Grant of \$25,000.00, was approved for a Comprehensive Economic Development Study of the Reservation. This could provide a significant impact to the Reservation if the study could include the lands presently in question for return to the Tribe.

-2-

- C. Are there any ceremonial sites on these properties that are of interest to the Tribe?
1. Yes.
  2. Although ceremonial sites are not marked in this area, there is knowledge of ceremonies being held here years ago. Some of the Tribe's elders and spiritual leaders of the Reservation have recalled or spoken about ceremonies happening there. They say that Tribal members who died were taken to Reservation mountain peaks or nearby "tubs" (flat basins in high elevations of the mountains on the Reservation Boundary) to be burned. Ceremonies consisted of various language that requested the burned person not to return to the earth after death; that they should be happy and go in peace to the sky, or heaven. Proof would be difficult to find unless bones, remnants of jewelry, or other known Tribal artifacts could be found in the area. However, it is not entirely hopeless that these could not be found.
- D. How many acres are expected to be returned?
1. The exact acreage amount is not known. All boundary correspondence the Tribal Administration has available, including copies of Senate reports and Congressional Acts or Executive Orders indicating a return or taking away of those lands from the Tribe, refers to "approximately 2,000 acres."



# Congressional Record

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WASHINGTON, FRIDAY, NOVEMBER 9, 1979

No. 158

## Senate

FRIDAY, NOVEMBER 9, 1979

(Legislative day of Monday, November 5, 1979)

By Mr. CRANSTON:  
S. 1598. A bill to provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation; to the Select Committee on Indian Affairs.

Mr. CRANSTON. Mr. President, I am today introducing a bill to declare as a part of the Tule River Reservation in California lands which once were within the reservation boundaries. These lands were removed from the reservation under a complex series of Presidential and congressional actions, often in conflict with one another. My bill is identical with H.R. 4124, introduced by Representative William M. Thomas of California earlier this year. The history of this reservation is a long tale of administrative indecision, delay, and error in setting the reservation boundaries.

The Tule River Reservation was first created by Executive order of President Thomas G. Grant in 1873. In October of the same year, President Grant cancelled the site. Then, 4 years later, President Rutherford B. Hayes reduced the reservation to its original size.

Between 1858 and 1892, 1,440 acres of land belonging to the reservation were surveyed as outside its borders. Most of this land was then sold by the Federal Government to the surveyors themselves and to their business associates. This group then resold the land at great profit to private timber interests.

In 1910, the error was uncovered, but no corrective action was immediately undertaken.

In 1927, President Coolidge issued an Executive order to correct the erroneous boundary survey. He placed the land at issue within the reservation boundary. This action, however, did not remove from private ownership the land erroneously patented following the 1854 survey.

By this time, nearly all the acreage under discussion—with the exception of sparse stands of virgin redwood—had been cleared. About 123 million board feet of timber had been removed.

Despite President Coolidge's order, the non-Indian timbering interests continued to strip most of the land of its remaining trees.

Faced with the inconsistency between the reservation boundary reestablished by President Coolidge's Executive order and the private ownership of land within that boundary by timbering interests as a consequence of the erroneous 1854 survey, the Government had two ways to rectify the situation, as an Interior Department investigator pointed out at the time.

The Government could either repurchase for the Indians the land it had erroneously patented, or it could recognize the erroneous boundary established by the 1854 survey, excluding the privately owned land.

Congress in 1928 passed legislation excluding the privately owned lands patented under the 1854 survey from the reservation. This action removed from the reservation as recognized by President Coolidge about 1,500 of the 1,410 acres within the disputed area.

In 1934, the Interior Department investigated the boundary dispute and concluded that the Indian land had been erroneously patented resulting in the loss of the trees to the Tule River Indians.

Mr. President, 1,200 acres of the original 1,410 acres excluded from the reservation by the 1928 survey is now in the public domain. It is held by the U.S. Forest Service as part of the Sequoia National Forest. My bill would transfer into trust status for the benefit of the Indians of the Tule River Reservation these 1,200 acres. Three additional parcels of land, totaling 216 acres, are also in the public domain, including 160 acres held by the Boy Scouts of America. My understanding is that the tribe does not seek any interest in these additional 216 acres—which were obtained in good faith by their present owners. The status of this acreage would not be affected by my bill.

Moreover, by resolution the tribe had indicated it has no desire to disturb any of the virgin redwood trees which remain from all the timberage which was once there, and is now gone.

The return of these 1,200 acres to the use and benefit of the people of the Tule River Reservation will restore to that reservation the only major resource it has ever had. Without its timberland, this reservation is extremely impoverished. Less than 200 acres are suitable for agriculture. The rest is rough and rocky, but could be partly usable for grazing were extensive irrigation facilities installed.

Time and the reforestation efforts of the Forest Service have restored harvestable timber to the 1,200 acres. Using sustained yield principles, the people of this reservation can establish for the first time a viable, self-sustaining economic base which will enable them not only to benefit from the timberland, but also to make more productive the reservation which they now have.

My legislation also makes provision for the maintenance of existing right-of-way, and for the Secretary of Agriculture to establish such right-of-way as he considers necessary to provide access to the Forest Service land east of the land which this bill will once again place within the reservation boundary.

Mr. President, this bill will redress a long-standing injustice. I urge its early adoption.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

§ 1598

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest in lands owned by the United States and administered by the United States Forest Service, as described in section 2, which were removed from the Tule River Indian Reservation pursuant to the Act of May 31, 1928 (45 Stat. 407-411) are ordered to be held in trust by the United States for the Tule River Indian Tribe and to be part of the Tule River Indian Reservation.

Sec. 2. The lands referred to in section 1 are the following:  
HIGHT BUSH SEQUOIA, CALIFORNIA TOWNSHIP  
21 SOUTH, RANGE 21 EAST

Section 16:  
That portion lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River and westerly of a northerly prolongation of the eastern boundary of the Tule River Indian Reservation.

Section 17:  
That portion lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River.

Section 18:  
That portion of the northeast quarter northeast quarter lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River.

Section 19:  
South half northeast quarter, Southeast quarter northeast quarter, East half southeast quarter.

Section 20:  
North half north half, South half northeast quarter.

Section 21:  
Southwest quarter northwest quarter, Northwest quarter northwest quarter.

Section 22:  
Tract 48.

Sec. 3. (a) Nothing in this Act shall deprive any person of any valid existing right-of-way, lease, permit, or other right or interest which such person may have in any of the lands described in section 2.

(b) The transfer under the first section of this Act shall be subject to such right-of-way through lands in section 16 as the Secretary of Agriculture considers necessary to provide access to United States Forest Service lands located east of section 16.

Such right-of-way shall be located and used in such manner as the Secretary of Agriculture determines to be appropriate.

Sec. 4. The Secretary of the Interior shall promptly cause to be published in the Federal Register a description of the lands transferred pursuant to this Act and a description of the boundaries of the Tule River Indian Reservation, as modified by the transfer made pursuant to this Act.

S16156

The Honorable Members of the Committee on the Interior, House of Representatives, 96th Congress, 1st Session:

It is a great pleasure as well as an honor to be able to offer testimony to the House Interior Committee on behalf of the Tule River Indian Tribe regarding H.R. 4124, a bill that if enacted will restore to the Tule River Indian Reservation lands that were removed by Congress in 1928 on the basis of an erroneous survey.

The significance of restoring the property on the northeast corner of the Tule River Reservation can be most fully appreciated in light of the Tribe's history of land tenure. Therefore a brief historical and legal review precedes an account of the northeast boundary error with which the bill before this Committee is concerned.

#### Traditional Land Holdings of the Tule River Tribe

Prior to Spanish exploration and American settlement of the San Joaquin Valley, the tribes from which the present Tule River Indians are descended were entirely self-sufficient hunters and gatherers.<sup>1</sup> Ranging freely down to the valley floor in winter and up to the mountains in summer, each of the 50 Yokuts-speaking tribes of this locale owned,<sup>2</sup> in a sense analogous to ours, tracts of land upon particular rivers and creeks.

The size of the San Joaquin Valley indicates the extent of aboriginal holdings. The valley runs between Bakersfield and Stockton, a north-south distance of 250 miles, with an east-west span of up to 90 miles between the Coast Range and the Sierra Nevadas (Map, Attachment 1). The area is roughly one-ninth of the State of California.

The attached map showing Southern and Central Yokuts' designations for their traditional grounds<sup>3</sup> is sufficient to demonstrate their firm tenure throughout the part of the state in which the present Tule River Reservation was established (Attachment 2).

Since each tribe contained between 300 and 500 members, it is not unreasonable to estimate that the local tribes whose remnants formed the majority of inhabitants on the Tule River Reservation--the Koyeti, the Yaudanchi, the Yavelmani, the Wukchamni, the Bankalachi, the Bokninuwad, the Chunut, and the Homtinin--originally numbered together in the thousands. Depredations by settlers and the military and the ravages of hunger and disease account for the combined tribes' greatly diminished numbers mentioned throughout the early reports to one Commissioner of Indian Affairs from this agency.

### The Reservation Period

Upon California's statehood in 1850, following the territory's cession by Mexico in 1848, a set of 18 treaties were signed by a United States Commission and the Indians of this state. A battalion was organized in 1851 to forcibly bring the Indians of the San Joaquin Valley to the negotiations.<sup>4</sup>

The treaties of 1851-1852 were never ratified by Congress, yet they promised the Indians protection and assistance on several tracts of considerable extent in return for the rest of their lands. The four treaties signed by those from whom the present Tule River Indians are descended are attached (Attachment 3), along with a map<sup>5</sup> of the holdings promised them (Attachment 4). The unratified treaties were kept secret upon the request of Congress. It was 1905 before they were discovered and submitted to public scrutiny.

A reservation attached to Fort Tejon, at the southern end of the San Joaquin Valley was set up in 1853 on Yauelmani territory (see map, Attachment 2). The flavor of life at Tejon is suggested by the California Superintendent's report in 1854 that "the chiefs at their own request, have been permitted to exercise police authority over their respective tribes, and are held responsible for the proper quota of labor from each tribe."<sup>6</sup>

The Tule River Agency was designated in 1856, at the site of a Koyeti village three miles east of the settlement at Porterville. The government took possession of this tract of about 1300 acres, with the homes of the Indians upon it, yet neglected to survey the property and withdraw it from entry (map, Attachments 5 and 2).

As a result an Indian Service employee named Thomas Madden entered and obtained title to the land with school warrants in 1857 and 1858. Until 1876, this traditional Koyeti village site was annually rented by the government from Madden. The exorbitant sum of the rental provoked every subsequent agent to recommend that the reservation be re-established elsewhere.

The Tule River Indian Reservation was established at its present site, 15 miles east of Porterville at the base of the Sierras, by the Executive Order of January 9, 1873 of President U.S. Grant (Attachment 6) acting on the authority granted by the Act of Congress of April 8, 1864 to set aside four tracts of land in California for Indian reservations. (See map, Attachment 5.)

The Executive Order of January 9, 1873 call for the Reservation's northern boundary to fall on the ridge dividing the South Tule

from the Middle Tule River.

Commencing on the South Tule River four miles below the Soda Spring on said river, running thence north to the ridge of mountains dividing the waters of the South Tule and the Middle Tule: thence east on the dividing line 10 miles: thence south to the ridge dividing the waters of the South Tule River and Deer Creek: thence west on said ridge ten miles: thence north to the place of beginning: the said described tract of country being about 10 miles long and six miles wide.

The very general language in which this tract is described in the Executive Order of January 9, 1873 indicates that no survey had yet been undertaken. Later in 1873 a survey was made<sup>7</sup> by William Minto,<sup>8</sup> but the grid system of notation by township and range was not yet in use. Landmarks, however, were set at the corners of the reservation and at points along the boundary (map, Attachment 7).

The new reservation of then-estimated 48,500 acres was found to have insufficient arable land to support the Tule River Indians (numbering now between 250-300 individuals), who had by this time adapted themselves to the agricultural way of life imposed upon them at the Agency. It was clear that they could not immediately subsist on the new Reservation. An evaluation of the land's suitability for farming and other uses determined that "by far the most valuable part of the reserve" is the timber land in the mountains near the eastern boundary:

Among all its 48,551 acres, there is no first-rate tillable land, and only about 200 acres of such as might be termed passably good for agricultural purposes, and that not lying in one body. By far the most valuable part of the reserve is upon the mountains in the extreme eastern portion, where there are extensive forests of pine, available for the production of lumber, which would find a ready market among the settlers on the plains below. Some 15,000 acres, consisting of smooth hills, might be made moderately productive as grazing-lands for sheep. The remainder, which is nearly two-thirds of the entire tract, appears in no other light to me than utterly valueless, it consisting of rough, rocky mountains. Of the arable lands, not one acre was enclosed, and only about 40 acres could be made use of the coming season.<sup>9</sup>

The Indians at the Madden Farm were reluctant to move. It was 1877 before the new Reservation could be made to accommodate



the Indians and before the last of them could be made to quit their old homes at the Madden Farm. The agent remarked: "It is not strange...that a few families should hesitate to leave the place once promised them as a home, and to which they have, by long years of residence, become so warmly attached."<sup>10</sup> Only 180 Indians could be induced to accept the rocky and barren Reservation as a permanent home.

In view of the inadequacy of the original Reservation, its size was doubled to a then-estimated 91,837 acres by the Executive Order of October 3, 1873, in which President Grant moved the northern boundary to the ridge between the Middle Tule and North Tule Rivers (map, Attachments 8 and 5).

In 1876 to 1877, certain lands within the new boundaries were reported to have passed into private ownership. The Office of Indian Affairs declined the Agent's recommendation to ask Congress for an appropriation to buy these lands but indicated instead to plan to have them excluded from the Reservation.<sup>11</sup> Note that these circumstances parallel the situation addressed by H.R. 4124; where it is also the case that rather than make an expenditure to secure disputed acreage for the Tule River Tribe, their land was relinquished.

In an Executive Order of August 3, 1878, President Hayes returned to the public domain all of the additional lands set aside by President Grant on October 3, 1873, reducing the Reservation by half and returning to the boundaries set by President Grant's January 9, 1873 Executive Order. (Attachment 6.)

It is clear from all the records available that the economic interests of the settlers in the late 1870's were seen to be at almost all times and in almost every way more urgent than the protection of Indian lands. In 1879 the Agent at the Tule River Reservation himself recommended divesting the Reservation of its prime forests in a four mile strip along the eastern boundary so that the "citizens would have their just rights and the timber be taken where Providence evidently designed it should be."<sup>12</sup>

The acquisition of lands adjacent to the Tule River Reservation reached a pitch in the 1880's. This is the climate in which the erroneous 1884 survey was made, resulting in the patenting of Reservation lands on the northeastern boundary.

#### The Disputed Northeast Boundary

The disputed area with which H.R. 4124 is concerned is an area of approximately 1300 acres of prime timberland on the northeast boundary of the present Tule River Reservation. The entire

disputed area is part of the Reservation as established by the Executive Orders of January 9, 1873, October 3, 1873, and August 3, 1878.

This land was patented out to private owners Between 1888-1890 (pursuant to the Timber and Stone Act of June 3, 1878, which permitted settlement upon National Forest land), on the basis of an erroneous local survey approved by the General Land Office in 1884.

The reasons for suggesting that the General Land Office did not conduct its own survey in 1884 are the following:

1. No mention is made of a survey in the Tule River Agency's Annual Report to the Commissioner of Indian Affairs of August 12, 1884 or August 20, 1885 or after; the old rough figures continued in usage: "an area of more than 75 square miles (1884); "There are nearly 50,000 acres within the bounds of the Reservation" (1885); "over 40,000 acres" (1886). In fact, the Reservation contains 54,116 acres, not including the disputed area.<sup>13</sup>
2. The uncompleted survey of 1910-1916 by the General Land Office, discussed at length below, was held by and the Agency to be the only survey of the area to be undertaken by the Department of the Interior. This survey was requested urgently both by the Tribe and its Agent because of settlement on Reservation lands that could not be contested until a survey was available.
3. The absence of a reliable survey by the General Land Office for the entire territory surrounding the Tule River Reservation is indicated by President Harding's Executive Order of June 1, 1923, (Attachment 9) which withdrew public lands adjacent to the Reservation on its southern and eastern boundaries "from settlement, location, sale, entry and all forms of appropriation pending a resurvey of the lands."

Thoroughness dictates mention of two further boundary changes, although the first was cancelled by the second, restoring the Reservation's original configuration: The Sequoia National Forest having been brought into existence out of portions of the Sierra National Forest by Executive Order of July 2, 1908, President Roosevelt's Proclamation of March 3, 1909 (Attachment 10) declared that Indian rights to sections of the Tule River Reservation's timberland mistakenly included within the Sequoia National Forest should be extinguished after 25 years. This action was reversed by President Taft's Executive Order of February 17, 1912, (Attachment 11) restoring the boundaries established by the Executive Orders of January 9, 1873 and August 3, 1878.

The General Land Office survey of the Tule River Reservation, approved by the Department of the Interior on March 12, 1927 confirmed that numerous parcels amounting to about 1300 acres of Indian land had been patented to private owners. A joint Senate-House bill was prepared and reviewed by the (joint) Committee on Indian Affairs which proposed the exclusion of the patented lands from the Reservation. After the Secretary of the Interior stated no objection to its enactment into law (Attachment 12), the bill was passed on May 17, 1928.

The Indians and Agent at the Tule River Reservation were informed neither of the bill nor its enactment until nearly a year after the Tribe was divested of this land.

The Roy Nash File: A 1934 Investigation

On March 27, 1934, Special Agent Roy Nash for the Division of Investigations, Department of the Interior, documented what he found to be the gross injustice of the events by which the Tule River Tribe lost the northeast corner of their Reservation. This entire brief file is appended (Attachments 13-21).

The cover letter to this file, from Nash to the Director of Investigation (Attachment 15) reads:

Sir:

For the information of the Commissioner of Indian Affairs I set down the manner in which the only thing of any value on the Tule River Indian Reservation, a fine stand of sequoia in the northeast corner, passed into the hands of white lumber company which is now urging government to build a road which will enable them to exploit it.

The reservation was set aside by executive order. Back in 1884 the Land Office put out a plat of an erroneous survey, and patented homestead entries which on the plat appeared as Public Domain but which plat of resurvey of March 12, 1927, showed to be within the Indian Reservation.

Obviously there were two ways in which this error could be rectified: (1) Government could repurchase the Indian land which it had erroneously patented; or (2) Government could change the boundaries of the reservation so as to exclude the land erroneously patented.

Lumber interests bought out the original homesteaders.

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Sam Shortridge obligingly introduced a bill to change the Tule River boundaries, which was approved May 17, 1928.

Colonel Dorrington, then superintendent of the Sacramento Agency (correspondence shows) did not hear of it until February, 1929.

Net result of activities of Senator Shortridge, Assistant Commissioner Merritt, and Congress: the Tule River Indians lost their Big Trees.

Respectfully,

Roy Nash, Special Agent

Subsequent to the Act of Congress of May 17, 1928, Sacramento Indian Agency Superintendent Dorrington, in charge of Tule River, states in a letter of February 19, 1929 to the Commissioner of Indian Affairs (Attachment 17) that he has only just received a copy of the bill to change the Tule River Reservation boundaries. He is advised in a reply by Assistant Commissioner Merritt (Attachment 18) that a copy of the law had been forwarded to the Sacramento Agency on June 4, 1928--two weeks after its enactment.

In 1930 members of the Tule River Tribe themselves wrote to the Commissioner of Indian Affairs complaining about intruders on the northeast boundary. Acting Superintendent Swengel, accompanied by leaders of the tribe, inspected the disputed area and found the place "where the white men had cut the fine redwood timber for posts. The location of the post camp is nearly a half mile within the general boundary line of the reservation," but discovered that it belonged now to the area excluded by the Act of May 17, 1928 (Attachments 16 and 20). His letter of December 5, 1930 (Attachment 19) to Ross Ellis summarily states:

Our records show that in 1928 there was an act passed by the Congress of the United States and approved May 17, 1928 excluding certain lands from the reservation. A copy of this act is attached to this letter, also plat showing the land excluded which is all patented land except Sec. 16, which is a school section.

We trust this matter is fully explained.

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Finally, the Nash file contains a letter dated December 16, 1933 (Attachment 21), from the lumber company that had acquired the disputed lands to the Bureau of Public Roads, requesting government assistance in gaining access to the trees.

These documents are eloquent testimony in themselves but the Division of Investigations declined to "approve" the file "because there does not seem to be anything that can be done in connection with the matters to which he [Nash] calls attention." The file was stamped "CONFIDENTIAL: Not For Public Inspection," and only came to light in 1974 at the National Archives and Records Center.

In support of his investigation, it may be useful to mention that Roy Nash moved on to become the Superintendent of the Sacramento Agency under the New Deal administration of Commissioner of Indian Affairs John Collier. Nash is the author of six publications<sup>13</sup> on Indian affairs in the Americas listed in the National Union Catalog, including a scholarly work on the conquest of Brazil.

Actions By The Tule River Agency To Protect the Northeast Boundary Prior to the Act of May 17, 1928

While there is, to the credit of the Tule River Tribe, no record of illegal retaliations against white settlers on their lands, they did make urgent and continuous attempts to acquire a survey from the General Land Office in order to justify their claims.

The inability of the Tule River Tribe to prevent their best lands from being taken piece by piece is explained by the persistence of encroachment by the settlers and by the failure of the Indian Service to at all times perceive and protect the Tribe's economic interests.

As early as April 6, 1877, a visiting Inspector to the agency discusses the value of the timber in the northeast corner and predicts that the Indians would not be able to use it to their own advantage. However, the Indians' need to build improvements for themselves since their removal that year to the new and barren Reservation leads him to recommend that a settler be permitted to run his sawmill illegally located there since 1876 and to keep 95% of the lumber cut from the Reservation in return for supplying the Indians with the remaining 5%.<sup>15</sup>

Between 1888 and 1900, private persons gained title to lands in the north eastern corner of the Reservation. An exact description from the Land Office at Visalia of their titles was obtained on July 12, 1911 by Agent Edmonson<sup>16</sup> (Attachment 22). Certain of these parcels, it is shown, were reconveyed to the United States in 1900 and 1901.

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In addition, other encroachments occurred. A boundary dispute erupted at the southwest boundary between a Tule River Indian and a former agency employee who had acquired a tract adjacent to the Reservation. The Indian personally petitioned the Commissioner for a survey in May 21, 1908<sup>17</sup> (Attachment 23).

In response to queries from the Indian Office, Commissioner of the General Land Office Dennett replied on December 12, 1910 that in 1904 U.S. Surveyor W.O. Owen was sent to Tule River "to retrace the true boundary and report as to encroachments on the territory of the Indians." However the survey was dropped and postponed because the lack of competent personnel. The Commissioner of Indian Affairs' request for a copy of "the old erroneous survey" was not met because Examiner Owen had reported:

"Wholesale fraud and falsification of the field-notes of survey of most of the townships adjoining this Reservation, have been indulged in by the deputies whose names appear in the contracts covering these surveys. And we may be sure that a fictitious boundary has been substituted, and calculated connections given in the field notes, whereby the reservation boundary" (which he retraced and verified as well-surveyed by Minto)

"is thrown far out of its true position relative to the public surveys."<sup>18</sup> (Attachment 24)

Urgent requests for a survey continued from the Agency. On April 22, 1911, Superintendent Edmonson again wrote regarding "intruders on valuable timber lands in the North East corner of the Tule River Indian Reservation:"

I am informed that free use permits have been issued white men by the forest service to cut timber on this disputed land, and that it is the intention of various parties to cut and dispose of a large quantity of redwood timber the coming season.

Therefore I respectfully request that an investigation, of decision of the land office be given determining the title to these sections of land in question.<sup>19</sup>

On September 2, 1912, the request for a survey repeated:

The Tule River Indians are very much dissatisfied on account of the undecided state of the boundaries of their reservation, stock intruding on their ranges and we not knowing definitely where the lines are, so we can fence against this intrusion. Valuable timber going to waste that could be disposed of providing the lines were justly established

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and the wrong that was done them by allowing white men to take about four sections of their most valuable timber lands under the timber and stone act.<sup>20</sup>

In August 23, 1915, the Superintendent requested authority to hire a local surveyor to run the line;<sup>21</sup> besides the trespass on timber and grazing lands, there are now unauthorized prospectors mining the reservation.<sup>22</sup> (Attachment 27)

A year later, Chief Clerk Hauke for the Indian Office replied that a directive had been issued from the General Land Office to complete the boundary survey.<sup>23</sup> But it was not until 1927 that the survey was approved. The consequence of that survey was the Act of Congress of May 17, 1928, removing the disputed area from the Reservation in favor of the non-Indian patentees.

Present Economic Importance for the Tule River Tribe of the Land Described in H.R. 4124

In 1970, termination of a 25-year lease with the Mt. Whitney Lumber Company to operate a mill on the Tule River Indian Reservation, producing rough lumber from timber logged on tribal lands, resulted in an economic crisis: for the Tribe and its members. Timber sales provided an average of 67% of the Tribal income from 1960 through 1970, and had accounted for the self-sufficiency in those years of the Tule River Tribe.

Tribal income has averaged \$139,000 per year over the 1960 to 1971 period. Income in 1971 dropped to \$56,388, the lowest in the 12 years, and since then the loss of the lumber industry and its income has created a crisis situation where it is imperative that new sources of Tribal income be created.<sup>24</sup>

Personal income also dropped sharply. Closing the mill "eliminated the majority of jobs for men on the Reservation." In 1972, out of a labor force of 114 persons, 28% were unemployed. In 1973, as a result of the final cessation of logging activities, 15 jobs were lost, raising unemployment to 41%.<sup>25</sup>

The impact of the termination of the Mt. Whitney lease in 1970 was compounded by the discovery that Bureau of Indian Affairs reforestation standards had been inadequately met by the lessees, rendering many stands of timber too immature to harvest for some years into the future.

On the average, tribal population (435 members) has increased 30% each decade since 1940, and soon is expected to double, creating a predominantly young community. Tribal operations

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at present--including some employment of members and essential services--are run on a deficit budget.

The 1974 Comprehensive Plan adopted by Tribal Council resolution states emphatically that new sources of income must be found:

An inadequate and diminishing economic base is the central problem facing the Tribe today, resulting in low Tribal and low personal income. Human resources have not been developed to the sophistication of the surrounding communities. Education levels and job skills, and the opportunities to use them, need to be developed on the Reservation.<sup>26</sup>

#### The Cultural Importance of the Land Base

It must be pointed out that an Indian tribe on its own reservation, such as the Tule River Tribe, is unlike any other community that exists in the United States. It is different from an ethnic neighborhood, a traditional American small town, or a self-contained religious community such as the Amish or Hutterites. The difference is this: The people of the Tule River Reservation are all related by blood and by marriage and they each own in common with the rest a territory, with its own laws and boundaries, that may not be divided or sold by individual members or the tribe as a whole.

Indian culture at the Tule River Reservation is very much alive today. It does not, as a former Executive Director of the National Congress of American Indians pointed out,<sup>27</sup> consist of baskets, beads, feathers, and other museum artifacts. It consists of peoples' warm relations with kin, a spiritual relationship with the universe, traditional ways of making a living by logging or driving cattle on the range, a shared history rehearsed daily in conversations, rituals both sacred and secular such as the recently revived sweats and the San Juan's day rodeo, and in jokes that are rich with inside humor and innuendo.

A first-hand observation may evoke a clearer picture. On a late summer day in 1973 the writer visited with a group of mothers and their young children at the swimming hole at Painted Rocks, an ancient ceremonial site. Along the shore of the Tule River there are holes ground in the rocks where generations of women wielding stone mortars returned year after year to grind acorns into flour in pleasant company with each other.

On this particular day the wind suddenly shifted, and the warm day turned cold. One of the women sighed and said, "Oh, my mother used to make us acorn soup on mornings like this. Mmmm, was it good." And the other women nodded, recalling the savor



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of acorn soup, and began making plans to go to North Fork in the fall where acorn soup is still served.

The children of these women, like other Americans, drink Coke and in playing pretend to be Charlie's Angels or the Incredible Hulk, yet they also swim at Painted Rocks and know that the pictographs indicate their special history. Their mother's attitudes toward their Indian heritage is not a stereotype. It is real. And the Children absorb this.

The Wheeler-Howard Act ("Indian Reorganization Act" of June 18, 1934) created the legal entity of the Tule River Tribe as the corporation which exists today and prohibited allotment to individuals of land held in common. A people who must remain together, if they are to survive and flourish, needs a viable land base on which they can be self-sufficient.

#### Concluding Remarks

As early as 1856, the Superintendent for the California Indian Agency espoused the wardship theory for the Indians of this State:

Indians should be treated as wards, and their government should act as their guardian, judging for them at all times of their real wants, and providing for them accordingly. This has been the policy pursued in the California superintendency.<sup>28</sup>

Whether this policy was adequately applied with regard to the Tule River Indians, it is in the power of the House Interior Committee to decide, based on the documents in this report. In view of the diminishing economic base of the Tule River Reservation, its rapidly expanding population of predominantly young people, the historical ownership by their ancestral tribes of the entire San Joaquin Valley, and depredations against them by military force, disease, private greed, and at critical moments in their history, bureaucratic neglect, it appears to this writer most appropriate for the Congress of the United States to rectify the disputed northeast boundary of the Tule River Reservation and to restore to the Tule River Tribe lands which the historical record indicates are rightfully theirs.

## FOOTNOTES

1. A.L. Kroeber, Handbook of the Indians of California. Bulletin 78. Bureau of American Ethnology of the Smithsonian Institute, 1925. Pp. 474-519. See also A.H. Gayton, Yokuts and Western Mono Ethnography, I and II. Anthropological Records V. 10, No. 1. Berkeley: University of California Press. 1948, and F.F. Latta, Handbook of Yokuts Indians. Oildale, CA.: Bear State Books, 1949.
2. Kroeber, 1925, p. 474.
3. Kroeber, 1925.
4. Robert F. Heizer, Eighteen Unratified Treaties of 1851-1852 Between the California Indians and the United States Government. Berkeley: University of California, Archaeological Research Facility, 1972.
5. "The Unratified Indian Treaties of 1851," Los Tulares, No. 34, March 1958.
6. Thomas P. Henley, California Superintendent, Report to the Commissioner of Indian Affairs, August 28, 1954.
7. Charles Maltby, Agent, Tule River Indian Agency, Report to the Commissioner of Indian Affairs, September 10, 1873.
8. Ina Stiner, "Historical Marker to Designate Site of Old Tule River Indian Reservation Here," Porterville Evening Recorder, September 26, 1949.
9. C.G. Belknap, Agent, Tule River Agency, Report to the Commissioner of Indian Affairs, September 9, 1874.
10. C.G. Belknap, Agent, Tule River Indian Agency, Report to the Commissioner of Indian Affairs, August 20, 1877.
11. C.G. Belknap, Report to the Commissioner of Indian Affairs, August 20, 1877.
12. C.G. Belknap, Report to the Commissioner of Indian Affairs, August 11, 1879.
13. Environmental Concern, Inc., Consultants, Comprehensive Development Plan, Tule River Indian Reservation. Spokane, WA: December 1973.
14. Among the publications by Roy Nash are "The American Indian Today, His Economic Life," San Francisco: Community Chest of San Francisco. Radio Address, February 18, 1934, and

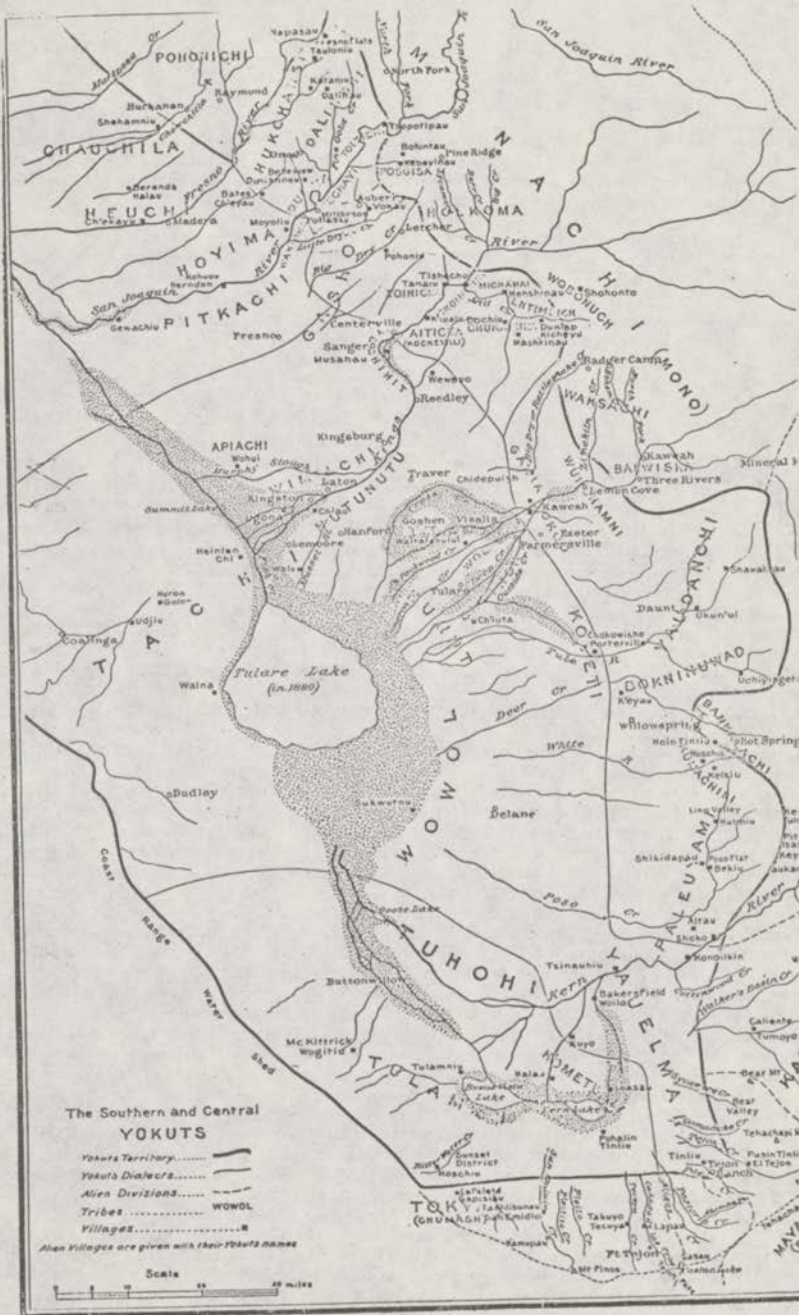
## FOOTNOTES (continued)

- "The Government Service Program, Its Objectives," Galilee, Lake Tahoe, Nevada: Address to the Western Regional Conference of the National Fellowship of Indian Workers, August 14, 1940. (Written while Nash was Superintendent of the Sacramento Agency.)
15. E.C. Watkins, U.S. Indian Inspector. Report on the management of the Tule River Agency, the condition of the Indians, and the extent, and value of the reservation, as home for the Indians. April 6, 1877 Inspectors file No. 1831. Record Group 48, National Archives and Records Service.
  16. A.P. Edmonson, Superintendent, Tule River Agency to Commissioner of Indian Affairs, August 24, 1911.
  17. Justo Miguel Ignacio to Honorable Francis Leupp, Commissioner of Indian Affairs May 21, 1908.
  18. Fred Dennett, Commissioner, Department of the Interior, to Commissioner of Indian Affairs. Re: Encroachment on Tule River Indian Reservation. December 12, 1910.
  19. A.P. Edmonson, Superintendent, to Commissioner of Indian Affairs. April 22, 1911.
  20. A.P. Edmonson, Superintendent, to Commissioner of Indian Affairs, September 2, 1912.
  21. Frank A. Virtue, Superintendent, Tule River Agency, to Commissioner of Indian Affairs, August 23, 1915.
  22. Telegram. Frank A. Virtue to Commissioner of Indian Affairs, May 17, 1916.
  23. C.F. Hauke, Chief Clerk, to Frank A. Virtue. June 3, 1916.
  24. Tule River Comprehensive Plan, December 1974. p. 2.2(1).
  25. Ibid, p. 21(5).
  26. Ibid, p. 21(4).
  27. Vine Deloria, Jr. Custer Died for Your Sins. New York: Avon Books, 1970.
  28. Thomas P. Henley, California Superintendent, Report to the Commissioner of Indian Affairs, September 4, 1856.

ATTACHMENT 1



ATTACHMENT 2



## ATTACHMENT 3

## TREATY WITH THE TACHES, CAH-WAI, ETC., 1851.

TREATY MADE AND CONCLUDED AT CAMP BELT, ON KING'S RIVER, IN THE STATE OF CALIFORNIA, MAY 13, 1851, BETWEEN GEORGE W. BARBOUR, COMMISSIONER ON THE PART OF THE UNITED STATES, AND THE CHIEFS, CAPTAINS, AND HEAD MEN OF THE TACHES, CAH-WAI, ETC., ETC., TRIBES OF INDIANS.

A treaty of peace and friendship made and entered into at Camp Belt, on King's river, in the State of California, on the thirteenth day of May, eighteen hundred and fifty-one, between George W. Barbour, one of the commissioners appointed by the President of the United States to make treaties with the various Indian tribes in the State of California, and having full authority to do so, of the first part, and the chiefs, captains, and head men of the following tribes of Indians, to wit: the Ta-ches, Cah-wai, Yo-kol, Ta-lum-ne, Wic-chum-ne, Hol-cu-ma, To-c-neche, Tu-huc-mach, In-im-peach, Choi-nuck, We-mil-ches, and Mo-ton-toes, of the second part.

ARTICLE 1. The said tribes of Indians jointly and severally acknowledge themselves to be under the exclusive jurisdiction, control, and management of the government of the United States, and undertake and promise on their part to live on terms of peace and friendship with the government of the United States and the citizens thereof, with each other, and with all Indian tribes.

ART. 2. It is agreed between the contracting parties that for any wrong or injury done by individuals of either party to the person or property of those of the other, no personal or individual retaliation shall be attempted, but in all such cases the party aggrieved shall apply to the proper civil authorities for a redress of such wrong or injury; and to enable the civil authorities more effectively to suppress crime and punish guilty offenders, the said Indian tribes jointly and severally promise to aid and assist in bringing to justice any person or persons that may be found at any time among them, and who shall be charged with the commission of any crime or misdemeanor.

ART. 3. It is agreed between the parties that a district of country between the Cah-wai river, or the first of the four creeks, and the Chou-chille river, to be laid off as follows, to wit: beginning at the point in the Cah-wai river where the southwestern line of the lands set apart for the Indians at the treaty made and concluded at Camp Barbour on the San Joaquin river, leaves said river for the Chou-chillo river; running thence down the middle of the Cah-wai river to the Tulare or Tache lake; thence along the same in the direction of and to the mouth of King's river; thence up said river to a point six miles below where the said southwestern line of the lands set apart for the Indians at the treaty made at Camp Barbour on the San Joaquin river as aforesaid, crosses said King's river; thence a line to the Chou-chillo river to be run parallel to the aforesaid line crossing the San Joaquin and Fresno rivers, and intersecting the Chou-chille at the distance of six miles from said southwestern line; thence up the Chou-chille to said line and with it to the beginning on the Cah-wai river, shall be set apart and forever held for the sole use and occupancy of said tribes of Indians; in consideration of which, and the further consideration of permitting said tribes to hunt wild game and gather wild fruit, nuts, &c., in the hills and mountains between the Cah-wai and Chou-chille rivers, the said tribes hereby forever quit claim to the government of the United States to any and all lands to which they or either of them may ever have had any claim or title.

ART. 4. In further consideration of the premises, and for the purpose of aiding in the subsistence of said tribes of Indians during the years eighteen hundred and fifty-one and two, it is agreed by the party of the first part to furnish said tribes jointly (to be distributed in proper proportions among them), with six hundred head of beef-cattle, to average five hundred pounds each, and five hundred sacks of flour, to average one hundred pounds each, for each year.

ART. 5. It is further agreed, that as soon after the ratification of this treaty by the President and Senate of the United States as may be practicable and convenient, the said tribes shall be furnished jointly and free of charge with the following articles, to wit: fifty brood mares and two stallions, sixty cows and five bulls, twenty-four ploughs, twelve sets of harness complete, twenty-four work mules or horses,

twenty-four yoke of California oxen, two hundred axes, two hundred hoes, one hundred spades or shovels, one hundred picks, all the necessary seeds for sowing and planting for one year, three thousand pounds of iron and six hundred pounds of steel, two thousand blankets, two flannel shirts and two pairs of coarse pants for each man and boy over fifteen years of age, three thousand yards of lindsey cloth and the same quantity of cotton cloth, and the same of coarse calico for clothing for the women and children, fifty pounds of thread, five thousand needles, five hundred thimbles, and twelve dozen pairs of scissors, and one dozen good grindstones.

ART. 6. The United States agree further to furnish a man skilled in the business of farming, to instruct said tribes and such others as may be placed under him, in the business of farming, one blacksmith, and one skilled in working in wood, (wagon maker or rough carpenter,) one superior and such assistant school teachers as may be necessary, all to live among and work for, and teach said tribes and such others as they may be required to work for and teach; said farmer, blacksmith, worker in wood, and teachers to be supplied to said tribes and continued only so long as the President of the United States shall deem advisable; a school-house, and all other buildings necessary for the persons mentioned in this article to be furnished by the government, and for that purpose the government of the United States hereby retains and reserves to herself in the lands herein set apart for the Indians, not only the right to erect said buildings, but also the right to erect any military post or posts, houses for agents, officers, and others in the service or employment of the government, and the right of way over any portion of said territory.

This treaty to be binding on the contracting parties when ratified and confirmed by the President and Senate of the United States of America.

In testimony whereof, the contracting parties have hereto signed their names and affixed their seals this thirtieth day of May, anno Domini eighteen hundred and fifty-one.

G. W. BARBOUR. [SEAL.]

Taches:

QUINTIN, his x mark, chief. [SEAL.]  
 JOSE ANTONIO, his x mark. [SEAL.]  
 SU-LIO, his x mark. [SEAL.]  
 ELARION, his x mark. [SEAL.]  
 GREGORIOR, his x mark. [SEAL.]

Notontors:

MANUEL, his x mark, chief. [SEAL.]  
 SANTIAGO, his x mark. [SEAL.]  
 INOCENTE, his x mark. [SEAL.]  
 ESTANISLAN, his x mark. [SEAL.]  
 JOSE QUINTIN, his x mark. [SEAL.]  
 JUAN, his x mark. [SEAL.]

We-mil-ches:

JULIANO, his x mark, chief. [SEAL.]  
 JOSE MARTIN, his x mark. [SEAL.]  
 PEDRO, his x mark. [SEAL.]  
 JOSE ANTONIO NICOLAS, his x mark. [SEAL.]

Choi-nues:

VALENTINE, his x mark. [SEAL.]  
 JOSE, his mark. [SEAL.]  
 EBON, his x mark. [SEAL.]  
 FRANCISCO, his x mark. [SEAL.]  
 SATRONINE, his x mark. [SEAL.]

Intimpeaches:

ANTONIO, his x mark, chief. [SEAL.]  
 SISTO, his x mark. [SEAL.]

Tu-huc-maches:

SYLVESTER, his x mark, chief. [SEAL.]  
 CERVANTES, his x mark. [SEAL.]

Tor-neches:	CASTRO, his x mark, chief	[SEAL.]
	JOSE ANTONIO, his x mark.	[SEAL.]
Holcumas:	HAMUCHI, his x mark, chief.	[SEAL.]
	TOMAS, his x mark.	[SEAL.]
Wic-chum-nos:	EAHAL, his x mark.	[SEAL.]
	MANUEL, his x mark.	[SEAL.]
	IGNACIO, his x mark.	[SEAL.]
	CHILO, his x mark.	[SEAL.]
To-lum-nos:	TO-HIL-NA, his x mark.	[SEAL.]
	JOAQUIN, his x mark.	[SEAL.]
Cah-wais:	FRANCISCO, his x mark.	[SEAL.]
	BAUTISTA, his x mark.	[SEAL.]
	RAFAEL, his x mark.	[SEAL.]
Yo-kols:	ECHA, his x mark.	[SEAL.]
	JUAN TAMATO, his x mark.	[SEAL.]
	JOSE MARIA, his x mark.	[SEAL.]

Signed and sealed in duplicate, after being read and explained, in the presence of—

H. S. BURTON, *Interpreter.*  
 N. H. McLEAN, *Secretary.*  
 W. S. KING, *Assistant surgeon, U. S. Army.*  
 T. MOORE, *Second lieutenant 2d infantry.*  
 H. G. J. GIBSON, *Second lieutenant 3d artillery.*

#### TREATY WITH THE KO-YA-TE, WO-A-SI, ETC., 1851.

TREATY MADE AND CONCLUDED AT CAMP KEYES, ON THE CAH-WAI RIVER, IN THE STATE OF CALIFORNIA, MAY 30, 1851, BETWEEN GEORGE W. BARBOUR, UNITED STATES COMMISSIONER, AND THE CHIEFS, CAPTAINS AND HEAD MEN OF THE KO-YA-TE, WO-A-SI, ETC., TRIBES OF INDIANS.

A treaty of peace and friendship made and entered into at Camp Keyes, on May 30, 1851, — the Cahwai river, in the State of California, on the thirtieth day of May, eighteen hundred and fifty-one, between George W. Barbour, one of the commissioners appointed by the President of the United States to make treaties with the various Indian tribes in the State of California, and having full authority to do so, of the first part, and the chiefs, captains and head men of the following tribes of Indians, to wit: Ko-ya-te, Wo-la-si, Nu-chow-wo, Wack-sa-cho, Pal-wisha, Po-kon-wollo, and Ya-wil-chino, of the second part.

ARTICLE 1. The said tribes of Indians, jointly and severally acknowledge themselves to be under the exclusive jurisdiction, control, and management of the United States, and undertake, and promise on their part, to live on terms of peace and friendship with the government of the United States, and the citizens thereof, with each other, and with all Indian tribes.

ART. 2. It is agreed between the contracting parties, that for any wrong or injury done by individuals of either party, to the person or property of those of the other, no personal or individual retaliation shall be attempted, but in all such cases, the party aggrieved shall apply to the proper civil authorities for a redress of such



wrong or injury; and to enable the civil authorities more effectually to suppress crime, and punish guilty offenders, the said Indian tribes, jointly and severally, promise to aid and assist in bringing to justice any person or persons that may be found at any time among them, and who shall be charged with the commission of any crime or misdemeanor.

Art. 3. It is agreed between the parties that the following districts of country be set apart and forever held for the sole use and occupancy of said tribes of Indians, to wit: beginning on the Cahwai river, where the northeastern line of the lands set apart for the Indians, at the treaty concluded at Camp Barbour, on the San Joaquin river, intersects said Cahwai river, thence up the middle of the said river to the two ponds, or small lakes, at the head of said river, thence a straight line to the nearest point on King's river, thence down said river to where said northeastern line aforesaid crosses said river thence with said line to the beginning. The other tract to commence at the northwestern terminus of Tulare or Tache lake, near the mouth of King's river, thence a straight line to the San Joaquin river, so as to intersect said river at the mouth of the slough that empties into said river on the south side, at or near what is known as the big bend of said river, thence up the middle of said river to where the southwestern line of the lands, set apart for the Indians at the treaty made and concluded at Camp Belt, on King's river, crosses the San Joaquin, thence with said line to King's river, and down said King's river to the lake, and to the beginning, reserving to the government of the United States the right of way, and the right to erect any military post or posts, houses for agents, officers, and others in the service or employment of the government, in each of said territories.

Art. 4. In consideration of which the said tribes of Indians, jointly and severally, forever quit claim to the government of the United States to any and all lands to which they, or either of them now have, or may ever have had any claim or title whatsoever.

Art. 5. In further consideration of the premises, and for the purpose of aiding in the subsistence of said tribes of Indians during the years eighteen hundred and fifty-one and eighteen hundred and fifty-two, it is agreed by the party of the first part, to furnish said tribes jointly, (to be distributed in proper proportions among them) with two hundred beef-cattle, to average five hundred pounds each, and two hundred sacks of flour, of one hundred pounds each, for each year.

Art. 6. It is further agreed, that as soon after the ratification of this treaty by the President and Senate of the United States, as may be practicable and convenient, the said tribes shall be furnished jointly, and free of charge, with the following articles of property, to wit: ten brood mares and one stallion, twenty cows and a bull, five large ploughs and five small ones, ten sets of harness complete, ten work mules or horses, ten yoke of California oxen, fifty axes, one hundred hoes, fifty spades or shovels, fifty picks or mattocks, all necessary seeds for sowing and planting for one year, one thousand pounds of iron, two hundred pounds of steel, five hundred blankets, two pairs of coarse pants and two flannel shirts for each man and boy over fifteen years old, one thousand yards of linsey cloth, the same of cotton, and the same of coarse calico for clothing for the women and children, twenty pounds of thread, two thousand needles, two hundred thimbles, five dozen pairs of scissors, and seven grindstones.

Art. 7. The United States agrees further to furnish a man skilled in the business of farming, to instruct said tribes and such others as may be placed under him, in the business of farming; one blacksmith, and one skilled in working in wood, (wagon maker or rough carpenter,) one superior and such assistant school teachers as may be necessary, all to live among, work for, and teach said tribes and such others as they may be required to work for and teach; said farmer, blacksmith, worker in wood, and teachers, to be supplied by said tribe, and continued only so long as the President of the United States shall deem advisable; a school-house and other buildings necessary for the persons mentioned in this article to be erected by the government of the United States.

This treaty to be binding on the contracting parties when ratified and confirmed by the President and Senate of the United States of America.

In testimony whereof, the parties have hereto signed their names and affixed their seals, this day and year first written.

Ku ya tai	G. W. BARBOUR, [SEAL.]
	PEDRO, his x mark. [SEAL.]
	JOSE ANTONIO, his x mark. [SEAL.]
	JOSE, his x mark. [SEAL.]
	SANTIAGO, his x mark. [SEAL.]
Nu-chow-we:	CHIULOGIUS, his x mark. [SEAL.]
	CARLOS, his x mark. [SEAL.]
	PABLO, his x mark. [SEAL.]
Wo-las-si:	IGNACIA, his x mark. [SEAL.]
	ALEJO, his x mark. [SEAL.]
	MARIANO, his x mark. [SEAL.]
Wack-sa-che:	CHIO-O-PO, his x mark. [SEAL.]
	JUAN, his x mark. [SEAL.]
	JOSE ANTONIO, his x mark. [SEAL.]
Pal-wish-a:	TU-TROP, his x mark. [SEAL.]
	GUADELUPE, his x mark. [SEAL.]
	JUAN ANTONIO, his x mark. [SEAL.]
Po-kow-wollo:	BO-CA, his x mark. [SEAL.]
	IGNORIO, his x mark. [SEAL.]
	ILARION, his x mark. [SEAL.]
Ya-wil-chi-ne:	ANTONIO, his x mark. [SEAL.]
	JOAQUIN, his x mark. [SEAL.]
	JOSE, his x mark. [SEAL.]

Signed and sealed in duplicate, after being read and explained, in the presence of—

H. S. BURTON, *Interpreter,*  
 KIT BARBOUR, *Secretary,*  
 E. D. KEYS, *Captain third artillery,*  
 J. C. FREMONT,  
 J. H. LENDRUM, *Brevet captain, third artillery.*

#### TREATY WITH THE IOU-OL-UMNES, WETHILLAS, ETC., 1851.

TREATY MADE AND CONCLUDED AT DENT & VANTINE'S CROSSINGS, MAY 28, 1851, BETWEEN O. M. WOZENCRAFT, UNITED STATES COMMISSIONER, AND THE CHIEFS AND HEAD MEN OF IOU-OL-UMNES, WETHILLAS, &C. TRIBES OF INDIANS.

A treaty of peace and friendship, made and concluded at Dent & Vantine's Crossings, on the Stanislaus river, California between the commissioner plenipotentiary of the United States of America, of the one part, and the chiefs, captains and head men of the Iou-ol-umne, We-chilla, Su-caah, Co-to-planemis, Chap-pah-sims and Sage-wom-nes tribes, of the other part.

ARTICLE 1. The several tribes or bands above mentioned do acknowledge the United States to be the sole and absolute sovereign of all the soil and territory ceded to them by a treaty of peace made between them and the republic of Mexico.

ART. 2. The said tribes or bands acknowledge themselves, jointly and severally, under the exclusive jurisdiction, authority and protection of the United States, and hereby bind themselves hereafter to refrain from the commission of all acts of hostility and aggression towards the government or citizens thereof, and to live on terms

May 28, 1851.  
 Unratified.

For and in behalf of the Sago-wom-nes:

YO-MIL-LO, his x mark. [SEAL.]

Signed, sealed and delivered, after being fully explained, in presence of—

E. S. LITTLE, Secretary

A. LAWRENCE, Agent.

F. BELCHER,

JOHN C. DENT,

S. DENT.

TREATY WITH THE CHU-NUTE, WO-WOL, ETC., 1851.

TREATY MADE AND CONCLUDED AT CAMP BURTON, ON PAINT CREEK, STATE OF CALIFORNIA, JUNE 3, 1851, BETWEEN GEORGE W. BARBOUR, UNITED STATES COMMISSIONER, AND THE CHIEFS, CAPTAINS AND HEAD MEN OF THE CHU-NUTE, WO-WOL, &C., TRIBES OF INDIANS.

A treaty of peace and friendship, formed and concluded at Camp Burton, on Paint Creek, in the State of California, on the third day of June, <sup>June 3, 1851.</sup> eighteen hundred and fifty-one, between George W. Barbour, one of the commissioners appointed by the President of the United States, <sup>Unratified.</sup> to make treaties with the various Indian tribes in the State of California, and having full authority to act, of the first part, and the chiefs, captains and head men of the following tribes of Indians, to wit: Chu-nute, Wo-wol, Yo-lum-ne, Co-ye-tie, of the second part.

ARTICLE 1. The said tribes of Indians jointly and severally acknowledge themselves to be under the exclusive jurisdiction, control and management of the government of the United States, and undertake and promise on their part, to live on terms of peace and friendship with the government of the United States and the citizens thereof, with each other, and with all Indian tribes at peace with the United States.

ART. 2. It is agreed between the contracting parties, that for any wrong or injury done by individuals of either party to the person or property of those of the other, no personal or individual retaliation shall be attempted, but in all such cases the party aggrieved shall apply to the proper civil authorities for a redress of such wrong or injury; and to enable the civil authorities more effectively to suppress crime and punish guilty offenders, the said Indian tribes jointly and severally promise to aid and assist in bringing to justice any person or persons that may be found at any time among them, and who shall be charged with the commission of any crime or misdemeanor.

ART. 3. It is agreed between the parties that the following districts of country be set apart and forever held for the sole use and occupancy of said tribes of Indians, to wit: To the Chu-nute and Wo-wol tribes, all that district of country lying between the head of the Tulare or Tache lake and Kern or Buena Vista lake; to the Ya-lum-ne and Co-ye-tie tribes, all that district of country lying between the Tule River and Paint Creek, and between the Emigrant road (being the same over which the military escort accompanying the said commissioner passed to this camp) and the Sierra Nevada, running the lines from the head of Tule river and Paint Creek in the same general direction of said streams to the nearest points of the Sierra Nevada, reserving to the government of the United States and to the State of California the right of way over said territories and the right to erect any military post or posts, houses for agents, officers, and others in the service or employment of the government in each of said territories. In consideration of the foregoing, the said tribes of Indians jointly and severally forever quit claims to the government of the United States to any and all lands to which they or either of them now or may ever have had any claim or title whatsoever.

ART. 4. In further consideration of the premises, and for the purpose of aiding in the subsistence of said tribes of Indians, for the period of two years from this date, it is agreed by the party of the first part to furnish said tribes jointly (to be distributed in proper proportions among them) with two hundred beef cattle to average five

hundred pounds each, for each year. It is further agreed, that as soon after the ratification of this treaty by the President and Senate of the United States as may be practicable and convenient, the said tribes shall be furnished jointly (to be distributed as aforesaid) and free of charge, with the following articles of property, to wit: thirty cows and two bulls, six large and six small ploughs, twelve sets of harness complete, twelve work mules or horses, twelve yoke of California oxen, fifty axes, one hundred hoes, fifty spades or shovels, fifty mattocks or picks, all necessary seeds for sowing and planting for one year, one thousand pounds of iron, two hundred pounds of steel, five hundred blankets, two pairs of coarse pantaloons and two flannel shirts for each man and boy over fifteen years old, one thousand yards of liney cloth, same of cotton cloth, and the same of coarse calico, for clothing for the women and children, twenty-five pounds of thread, two thousand needles, two hundred thimbles, six dozen pairs of scissors, and six grindstones.

Art. 5. The United States agree further to furnish to each of said districts, a man skilled in the business of farming, to instruct said tribes and such others as may be placed under him, in the business of farming; one blacksmith, and one man skilled in working in wood (wagon maker or rough carpenter); one supervisor and such assistant school-teachers as may be necessary, all to live among, work for, and teach said tribes and such others as they may be required to work for and teach; said farmer, blacksmith, worker in wood, and teachers, to be supplied to said tribes and continued only so long as the President of the United States shall deem advisable; a school-house and other buildings necessary for the persons mentioned in this article to be erected at the cost of the government of the United States.

This treaty to be binding on the contracting parties when ratified and confirmed by the President and Senate of the United States of America.

In testimony whereof, the parties have hereto signed their names and affixed their seals, this the day and year first written.

Chu-nuto:	G. W. BARBOUR.	[SEAL.]
	JUAN, his x mark, chief.	[SEAL.]
	CALISTRO, his x mark.	[SEAL.]
	GASPER, his x mark.	[SEAL.]
	NICOLAS, his x mark.	[SEAL.]
Ya-lum-ne:	JOAQUIN, his x mark, chief.	[SEAL.]
	JOSE MARIA, his x mark.	[SEAL.]
	JUAN ANTONIO, his x mark.	[SEAL.]
Ka-ye-te:	JOSE ANTONIO, his x mark, chief.	[SEAL.]
	JUAN MARIA, his x mark.	[SEAL.]
	MANUEL, his x mark.	[SEAL.]
Wo-wol:	ANTONIO, his x mark, chief.	[SEAL.]
	BI-TAR, his x mark.	[SEAL.]
	ZA-CA-RI-AH, his x mark.	[SEAL.]
	CO-MI-TES, his x mark, chief.	[SEAL.]

Signed and sealed in duplicate, after having been read and fully explained, in presence of—

H. S. BURTON, *Interpreter.*

KIT BARBOUR, *Secretary.*

E. D. KEYES, *Captain third artillery.*

J. C. FREMONT.

W. S. KING, *Assistant surgeon, U. S. Army.*

I. H. LENDAUM, *Brevet captain, U. S. Army.*

J. HAMILTON, *Lieutenant 3d artillery.*

H. G. J. GIBSON, *Second Lieutenant 3d artillery.*

## TREATY WITH THE CASTAKE, TEXON, ETC., 1851.

TREATY MADE AND CONCLUDED AT CAMP PERSIFER F. SMITH, AT THE TEXAN PASS, STATE OF CALIFORNIA, JUNE 10, 1851, BETWEEN GEORGE W. BARBOUR UNITED STATES COMMISSIONER, AND THE CHIEFS, CAPTAINS AND HEAD MEN OF THE "CASTAKE," "TEXON," &C., TRIBES OF INDIANS.

A treaty of peace and friendship made and entered into at Camp Persifer F. Smith at the Texon pass, in the State of California, on the tenth day of June, eighteen hundred and fifty-one, between George W. Barbour, one of the commissioners appointed by the President of the United States to make treaties with the various Indian tribes in the State of California, and having full authority to act, of the first part, and the chiefs, captains and head men of the following tribes of Indians, to wit: Castake, Texon, San Imirio, Uvas, Carises, Buena Vista, Sena-hu-ow, Holo-cla-mo, Soho-nuts, To-ci-a, and Hol-mi-uh, of the second part.

ARTICLE 1. The said tribes of Indians jointly and severally acknowledge themselves to be under the exclusive jurisdiction, control, and management of the government of the United States, and undertake and promise on their part, to live on terms of peace and friendship with the government of the United States and the citizens thereof, with each other, and with all Indian tribes at peace with the United States.

ART. 2. It is agreed between the contracting parties, that for any wrong or injury done individuals of either party, to the person or property of those of the other, no personal or individual retaliation shall be attempted, but in all such cases the party aggrieved shall apply to the proper civil authorities for a redress of such wrong or injury; and to enable the civil authorities more effectively to suppress crime and punish guilty offenders, the said Indian tribes jointly and severally promise to aid and assist in bringing to justice any person or persons that may be found at any time among them, and who shall be charged with the commission of any crime or misdemeanor.

ART. 3. It is agreed between the parties that the following district of country be set apart and forever held for the sole use and occupancy of said tribes of Indians, to wit: beginning at the first forks of Kern river, above the Tar springs, near which the road travelled by the military escort, accompanying said commissioner to this camp crosses said river, thence down the middle of said river to the Carises lake, thence to Buena Vista lake, thence a straight line from the most westerly point of said Buena Vista lake to the nearest point of the Coast range of mountains, thence along the base of said range to the mouth or westerly terminus of the Texon pass or Canon, and from thence a straight line to the beginning; reserving to the government of the United States and to the State of California, the right of way over said territory, and the right to erect any military post or posts, houses for agents, officers and others in the service or employment of the government of said territory. In consideration of the foregoing, the said tribes of Indians, jointly and severally, forever quit claim to the government of the United States to any and all other lands to which they or either of them now have or may ever had any claim or title whatsoever.

ART. 4. In further consideration of the premises and for the purpose of aiding in the subsistence of said tribes of Indians for the period of two years from this date, it is agreed by the party of the first part to furnish said tribes jointly, (to be distributed in proper proportions among them,) with one hundred and fifty head cattle, or average five hundred pounds each, for each year. It is further agreed that as soon after the ratification of this treaty by the President and Senate of the United States, as may be practicable and convenient, the said tribes shall be furnished jointly (to be distributed as aforesaid) and free of charge, with the following articles of property, to wit: six large and six small ploughs, twelve sets of harness complete, twelve work mules or horses, twelve yoke of California oxen, fifty axes, one hundred hoes, fifty spades or shovels, fifty mattocks or picks, all necessary seeds for sowing and planting for one year, one thousand pounds of iron, two hundred pounds of steel, five hundred blankets, two pairs of coarse pantaloons and two flannel shirts for each man and boy over fifteen years old, one thousand yards of linsey cloth, same of cotton

cloth, and the same of coarse calico, for clothing for the women and children, twenty-five pounds of thread, three thousand needles, two hundred thimbles, six dozen pairs of scissors, and six grindstones.

Art. 5. The United States agree further to furnish a man skilled in the business of farming, to instruct said tribes and such others as may be placed under him, in the business of farming; one blacksmith, and one man skilled in working wood, (wagon maker or rough carpenter;) one superior and such assistant school-teachers as may be necessary; all to live among, work for, and teach said tribes and such others as they may be required to work for and teach. Said farmer, blacksmith, worker in wood and teachers to be supplied to said tribes, and continued only so long as the President of the United States shall deem advisable; a school house and other buildings necessary for the persons mentioned in this article, to be erected at the cost of the government of the United States.

This treaty to be binding on the contracting parties when ratified and confirmed by the President and Senate of the United States of America.

In testimony whereof, the parties have hereto signed their names, and affixed their seals, this the day and year first written.

G. W. BARBOUR. [SEAL.]

Texon:	VINCENTE, his x mark, chief.	[SEAL.]
	CHICO, his x mark, chief.	[SEAL.]
	PABLO, his x mark.	[SEAL.]
	JOSE ANTONIO, his x mark.	[SEAL.]
	MARTIN, his x mark.	[SEAL.]
	FRANCISCO, his x mark.	[SEAL.]
Castake:	RAFAEL, his x mark, chief.	[SEAL.]
	FRANCISCO, his x mark.	[SEAL.]
	MANUEL, his x mark.	[SEAL.]
San Imirio:	JOSE MARIA, his x mark, chief.	[SEAL.]
	FRANCISCO, his x mark.	[SEAL.]
Uvas:	ANTONIO, his x mark.	[SEAL.]
Carises:	RAYMUNDO, his x mark, chief.	[SEAL.]
	JUAN, his x mark.	[SEAL.]
	JUAN DE DIOS, his x mark.	[SEAL.]
Buena Vista:	APOLONIO, his x mark, chief.	[SEAL.]
Scna-hu-ow:	JOAQUIN, his x mark, chief.	[SEAL.]
	EMITERIO, his x mark, chief.	[SEAL.]
	NICOLAS, his x mark.	[SEAL.]
	BENANCIO, his x mark.	[SEAL.]
Holo-cla-me:	URBANO, his x mark, chief.	[SEAL.]
	OLORICO, his x mark.	[SEAL.]
Soho-nuts:	JOSE, his x mark, chief.	[SEAL.]
	MARIANO, his x mark.	[SEAL.]
To-ci-a:	FELIPPE, his x mark, chief.	[SEAL.]
	PEDRO, his x mark.	[SEAL.]
	URBANO, his x mark.	[SEAL.]
Hol-mi-uh:	FRANCISCO, his x mark, chief.	[SEAL.]
	TOMAS, his x mark.	[SEAL.]

## ATTACHMENT 4



This map shows some of the reservations proposed by the Indian treaties of 1851. Those in the center of the map concern Tulare County. Numbers 275, 276, 277, 278, 282 and 283 were to be reservations. These contained over three million acres, largely valley land. In consideration the Indians ceded to the United States all their rights in the areas numbered 279 and 284.

The U. S. Senate rejected the eighteen treaties, largely because of the vigorous objection of the California Legislature, which reflected the feeling of the whites in the state.

The treaties remained secret until 1905. In 1928 Congress authorized a suit in the Court of Claims to determine compensation to California Indians for their losses.

## THE UNRATIFIED INDIAN TREATIES OF 1851

This is a subject about which few of our members know very much and discussion could become involved, long, dry and dreary. This article will attempt to be brief in its general view and be somewhat detailed only in the phases that are of local application. Because there is likely to be a major change in the Indian service in the next few years it is well that all citizens have some background to understand what is going on.

Before the white man came California was occupied by one or two hundred thousand Indians who lived a rather peaceful life. Tribal organization was simple and there were more groups of Indians with different—and even unrelated—languages than in any equal area in the world. There was not very much agriculture but tribes and even individuals had established rights to acorn bearing lands, hunting and fishing areas and such. Occupancy was pretty well recognized as giving a right to the land. There was some seasonal moving but generally California Indians were not nomads.

Even though the Spanish missions interrupted the simple life of the Indian and moved many of them into the regimented life of the mission compound, the legal theory was that the land was being held in trust for the Indians. When originally established it was planned that the missions would be secularized after a few years and the land divided among the Indians. The mission churches would then become parish churches. When Mexico became independent the same legal theory was continued and when secularization was actually carried out in 1823-25 some of the land was divided among the Indians. However the plan generally failed because the Indians had not been prepared for the responsibility that land ownership involved. Not all the blame should be placed on the mission system, however. Politics and selfishness were undoubtedly greater factors and practically all mission lands passed into white ownership.

With the Treaty of Guadalupe Hidalgo, California became a part of the United States. The United States agreed to recognize the rights of the Indians. Since the birth of the republic the Federal government had recognized the right of Indians to occupancy of their home lands. When the pressure from whites became great enough a treaty would be made by which, for a consideration, the Indians would cede a part of their lands to the Federal government. Of course in many cases the Indians

acted under duress and didn't have much choice.

In California the same policy was to be followed. However just a week before the Treaty of Guadalupe Hidalgo was signed a "very momentous" event occurred. Gold was discovered at Sutter's Mill and within a few months the rush had started. People from all over the world came to California. First they searched for gold but soon witnessed their activities and any Indian who may have stood in the way received scant consideration. It was impossible to carefully work out any plan to provide for the Indians' welfare. There were only a few instances in which the Indians made any effective resistance. One was in Mariposa County, which in 1850 included all of the present Tulare county.

At this point we must stop to fit James D. Savage into our story. Savage came to California in 1846, having lived on the western frontier. He joined Fremont's Battalion, he worked for Sutter for a time but with the discovery of gold he apparently moved south and engaged in mining ventures in the Sierra Nevada area. He used Indians and became a leader of a number of tribes. He married several Indian girls. He established trading posts in the Mariposa-Coarse Gold districts and probably had a large amount of gold at one time. Apparently Savage did not mistreat the Indians with whom he traded but other whites were less considerate and all suffered the consequences. Savage's trading posts were attacked and destroyed. The Indians were better organized and more powerful than the whites expected and real trouble was brewing.

The Mariposa Battalion was organized in February, 1851 to cope with the situation. Savage was elected major, in command of the three companies. It was while pursuing a band of Indians that Yosemite Valley was discovered. As the trouble was in progress, the Treaty Commission, which had been sent from Washington to treat with the Indians, arrived. Savage was asked to act as an interpreter. Consequently one of the functions of the Battalion was to round up Indians in Central California and bring them before the Commissioners. The three commissioners, Reelick McKee, George W. Harbour and Oliver M. Wooster, acted separately. The four treaties which concern us now were negotiated by Harbour.

On April 29, 1851, representatives of the How-eh-ee, Chook-eh-ee, Choo-chill-lee, Po-hu-nee-chee, Nook-choo, Pit-tot-chee

1851-52, Toom-na, Tall-in-chee, Pas-ke-za, Wa-cha-et, I-tach-  
le, Cho-e-tem-na, Cho-zi-mou-a, We-mal-ic and No-to-no-to  
tribes met at Camp Harbour (on the San Joaquin River) and  
signed a treaty. Reference to the map will show the territory  
affected. Although most of these Indians were north of Kings  
River a reservation was set up extending from Chowchilla to  
Tulare and about twenty miles wide (number 275 on the map).

Two weeks later, on May 12, 1851 at Camp Belt on Kings  
River, a treaty was made with the Tache, Cah-wal, Yo-kol, To-  
lum-ne, We-chum-ne, Hoi-cu-ma, To-e-ne-chi, Tu-huc-mach,  
In-im-parr, Choi-nuck, We-mil-che, and No-to-no-to. Many  
of these tribes were located on the Kaweah. By this treaty a  
reservation about five miles wide was set up just west of the  
one mentioned above (number 276 on the map).

On May 30 1851, Barber met at Camp Keyes on Cah-wal  
(Kaweah) River with representatives of Ko-ya-te, Wo-la-si,  
New-chu-ne, Wack-se-eh, Pal-sis-ha, Tu-ken-wall and Ya-  
wil-chine tribes. It would be interesting to know just where  
Camp Keyes was located on the Kaweah. It was probably north  
of the present fish hatchery on Mineral King highway. The  
Indians were from the Kaweah and Tule watersheds. Two res-  
ervations were set up, one east of those mentioned above extend-  
ing from the Kaweah river to the Kings river and high into the  
mountains (number 277) and another west of them and north of  
Tulare Lake (number 278).

In exchange for these reservations the Indians by these  
three treaties ceded to the United States their rights to the bal-  
ance of the land between the Owens River and the Pacific Ocean,  
from San Jose and Mariposa south to the south end of Tulare  
Lake (number 279 on the map).

On June 3, 1851, another treaty was negotiated on Paint  
Creek (Deer Creek) setting up a reservation for the Co-yu-ne  
and Wo-wol, south of Tulare Lake (number 282) and another  
for the Co-ya-te and Yo-lum-ne on the upper Tule River (num-  
ber 283). In exchange the Indians ceded another vast area  
extending across the state (number 284).

In addition to describing the proposed reservations the treat-  
ies provided for the distribution of food for a period of two  
years. The United States was to furnish beef stock, agricultural  
tools, clothes, etc. It would provide blacksmiths, carpenters,  
teachers and schools.

The eighteen treaties which had been negotiated with about  
half of the Indians of California were submitted to the U. S.  
Senate by President Fillmore on June 1, 1852. His message was  
read on June 7 and the next day the Senate, by separate resolu-  
tion, rejected each one of them. The treaties had been refer-  
red to the Committee on Indian Affairs and "ordered to be  
printed in confidence for the use of the Senate." They were  
pigeon-holed and the injunction of secrecy was not removed un-  
til January 18, 1905.

Why were the treaties so summarily rejected?

The white newcomers in California, especially the miners  
and the few farmers in the reservation areas, prevailed upon the  
California legislature to pass a resolution asking the U. S. Senate  
to reject the treaties. The discussion was bitter and the mid-  
dles, such as J. J. Warner, who asked, if the treaties were too  
liberal toward the Indians, that they be amended, accomplished  
nothing.

Since the Indians did not appear before the Board of Land  
Commission which was examining private land titles, the courts  
later held that these almost wholly illiterate people were de-  
barred from later establishing any interest in California lands.

Although reservations were later established and consid-  
erable help was given, California Indians have led a rather pitiful  
existence, at least until recent years. In the 1850's and 60's no  
doubt many died from starvation and disease because they were  
forced from their home lands and unable to obtain food and  
shelter. Even where opportunity permitted they found it diffi-  
cult to adjust themselves to the white man's civilization.

After the unratified treaties became public in 1905 sympathy  
for the Indians began to build up. Studies by the Common-  
wealth Club of California were effective. After many years the  
California Legislature authorized the attorney general to repre-  
sent the Indians in a suit if Congress approved. In 1928, Con-  
gress authorized a suit which might determine the value of the  
land, services, etc., which the Indians did not get because the  
treaties were not ratified. The value of the land was set  
by Congress at \$1.25 per acre and judgment was to be "off-set"  
by any expenditures that had been made for the benefit of the  
Indians. The final result was a net of \$5,002,000.00 for the In-  
dians. Although it was not intended, originally, that any money  
be distributed to individual Indians, a good portion of the five  
million was divided among the descendants of the treaty In-  
dians, amounting to \$150.00 per capita. (A "Roll of California

\*The names of the tribes are given as they are spelled in the treaties.  
Obviously they had not yet become standardized. Later when names are given  
in heading the proposed reservations, modern names are used. No towns ex-  
isted in the valley south of Mariposa.

Indians" started in 1928 and completed in 1955 listed those elige-  
ble to receive a payment. Many are one-third, second or one  
sixty-fourth Indian blood.

The whole matter is not closed, however. What about the  
Indians not covered by the treaties? All Indians are citizens now  
and the stigma of being an Indian is passing. Those with in-  
dian blood are leaving the reservations and it is quite likely that  
many reservations will be liquidated in the relatively near future.  
There are organizations that are pressing for a "fair deal"  
for the Indians. It is certainly very questionable if any generosity  
now can compensate for an injustice done in 1852. And we all  
have sense enough to know that the Indians could never have  
maintained possession of the vast reservations set up in the  
treaties if they had been ratified! But the invaders could have  
been more generous than they were.

Occasionally there is an item in the newspapers dealing with  
the current Indian picture. Most of them are hard to evaluate  
in relation to the whole. For instance there is some half million  
dollars in the tribal fund of the Tule River Reservation. What  
is the fair disposition? The Indian problem isn't all history yet.

NOTE—There is no one book which covers this subject ade-  
quately. The following, except the last which gives the text of  
the treaties, are available in libraries:

Charles C. Royce, Indian Land Cessions in the United States  
in 18th Annual Report of the Bureau of American Ethnology,  
1896-97, Part 2. This lists all the cessions and reservations es-  
tablished from the organization of the federal government to  
1894. Also discussion of land policies of various countries.

Robert W. Kenny, History and Proposed Settlement, Claims  
of California Indians 1914. A good summary of the case up to  
date of publication.

W. W. Robinson, Land in California, 1948. Interesting dis-  
cussion of land rights in California.

Annie R. Mitchell, Jim Savage and the Tulareno Indians,  
1937. A good discussion. All interested in Tulare County his-  
tory should read this book.

C. Gregory Crampton, The Mariposa Indian War 1850-51,  
1957. A very readable supplement to Annie Mitchell's book.  
Largely the diary of a member of the Mariposa Battalion.

U. S. Treaties 1850-53. Probably available only in large re-  
ference libraries.

## NEWS NOTES

Mr. A. E. Redstone, of San Luis Obispo, has sent a scan book  
of clippings collected by his sister dealing with the "Caveat  
Colony. Although most of the clippings are not labeled as to  
source or date, some are, and they seem to be from many dif-  
ferent papers. They represent different points of view and  
definitely are not clippings from colony news sheets. The clip-  
pings give a contemporary account of affairs of the Colony in  
1890 and 91.

The book will be placed in the historical reference section  
of the County Library.

Prehistoric Rock Basins in the Sierra Nevada of California.  
In the July-September, 1923, issue of American Anthropologist  
an article was published under the above title describing the  
unique basins found at a number of places and speculating about  
how they may have been formed. The ones at Balch Park are  
called "Indian Bath Tubs."

Many additional basins have been found since George Ste-  
wart wrote his article and perhaps some work done by other sci-  
entists would develop a theory about their origin. Officials of the  
Mt. Home State Forest have indicated interest in such a project.  
Probably the National Park Service would cooperate. Are any  
of our members geologists—or do they know any who would en-  
joy a vacation in our mountains next summer?

## HELP WANTED!

During the grain boom days G. W. McNear operated ware-  
houses throughout California. He had a number in Tulare Coun-  
ty. A story is in preparation on these warehouses but more in-  
formation is needed. Did McNear ever come to Tulare County?  
Who was his principal agent here? Who would be best source of  
information about such matters? Who has pictures showing  
various warehouses, grain being unloaded, and piles of sacked  
grain outside warehouses?

The Register received on Monday the Mountain View  
(North Springville)—editorial along some fine specimens of oats  
and barley pulled from the fields of Mr. J. H. Hubbs on Tule  
River, in the Tulare orange belt. The grain was well headed  
and from five to six feet high. In order to put it where it would  
do the most good it was sent to Los Angeles, by Mr. Jas. Morton,  
to be placed in Tulare County's exhibit.—Tulare Register, 1927.





ATTACHMENT 6**TULE RIVER RESERVE.****DEPARTMENT OF THE INTERIOR,***Washington, D. C., January 9, 1873.*

Sir: I have the honor to submit herewith a letter from the Acting Commissioner of Indian Affairs, dated the 31 instant, requesting the setting apart for the use of the Tule River, Kings River, Owens River, Manche Cajon, and other scattering bands of Indians in California, a tract of land described as follows: Commencing on the South Tule River 4 miles below the Soda Springs on said river, running thence north to the ridge of mountains dividing the waters of the South Tule and Middle Tule; thence east on the dividing line 10 miles; thence south to the ridge dividing the waters of South Tule River and Deer Creek; thence west on said ridge 10 miles; thence north to the place of beginning, the said described tract of country being about 10 miles long and 6 miles wide. The request of the Acting Commissioner meets the approval of this Department, and I respectfully recommend that an order be issued by the Executive setting apart the lands referred to for the purpose indicated.

I have the honor to be, your obedient servant,

**W. H. COWEN, Acting Secretary.**

**The President.**

**EXECUTIVE MANSION, January 9, 1873.**

Let the lands described in the within letter be set apart as a reservation for the bands of Indians in California therein named, agreeably to the recommendation of the Acting Secretary of the Interior.

**U. S. GRANT.**

**EXECUTIVE MANSION, October 3, 1873.**

It is hereby ordered that the following tract of country be, and the same is hereby, withheld from sale and set apart as a reservation for the Tule River, Kings River, Owens River, Manche Cajon, and other scattered bands of Indians in the State of California; to be known as the "Tule River Indian Reservation," this being in lieu of the reservation set apart by Executive order, dated the 9th of January last, which is hereby canceled:

Commencing on the South Fork of Tule River, 4 miles below the Soda Springs on said river, running thence north to the ridge of mountains dividing the waters of the South Fork and Middle Fork of Tule River; thence on said ridge easterly, extended if necessary, to a point from which a line running due south would intersect a line running due east from the place of beginning, and at a distance of 10 miles therefrom; thence from said point, due south, to the ridge, extended if necessary, dividing the waters of the South Fork of Tule River and Deer Creek; thence westerly on said ridge to a point due south of the place of beginning; thence north to the place of beginning, as indicated by red lines on above diagram.

**U. S. GRANT.**

**EXECUTIVE MANSION, August 3, 1878.**

It is hereby ordered that all of that portion of the Tule River Indian Reservation in California lying within the following boundary, viz, commencing at a place where a line running due north from a point on the South Fork of the Tule River, 4 miles below the Soda Springs on said river, crosses the ridge of mountains dividing the waters of the South Fork and Middle Fork of Tule River; thence north to the ridge of mountains dividing the waters of the North Fork and Middle Fork of Tule River; thence on said ridge easterly to a point from which a line running due south would intersect a line running due east from the place of beginning, and at a distance of 10 miles therefrom; thence from said point due south to the ridge of mountains dividing the waters of the South Fork and Middle Fork of Tule River; thence westerly on said ridge to the place of beginning, be, and the same hereby is, restored to the public domain.

**H. R. HAYES.**

## ATTACHMENT 7

important advancement has been made in the matter of personal cleanliness, so that the scholars are better prepared for study. Our efforts are greatly crippled in this direction by the necessity of the children being in the camps with their parents and friends, and the fact that several of them are orphans who have no real home. Many of these difficulties could be obviated, had we a boarding and manual labor school for them. The average attendance is almost equal to that of last year, when a larger number was borne on the roll.

## MISSIONARY LABOR.

Earnest effort has been made the past year to bring this people under the influence of the truth, but little visible advancement has been made. Most of those whose Christian life survived the defection which succeeded the revival that took place here some five years since, are proving the power of the gospel of Christ in a regenerate life. The same difficulty is met here that is found among other people, viz: When the religion that they espouse fails of meeting their expectations (either through its own want of vitality, or from their own failure to reach its vitalizing power), they sink back into skepticism concerning the truth of that religion, are apt to become worse in morals than before, and are far harder to reach with the truth.

By the above, we are surrounded by a class of men who "neither fear God nor regard man," but corrupt the minds and debase the morals of our people with the very purpose of thwarting all our efforts to lead them to a higher and Christian civilization; the avowed purpose being to scatter the Indians and break up this reservation.

## CIVILIZATION.

A steady, healthy growth is being made in this direction, evidenced in the increasing desire to adopt "white man's ways," viz, to have good houses, to have in these houses bedsteads, chairs or benches, tables, cooking and eating utensils, as well as in dress. No blankets are used for clothing, but all dress in the habit of civilized life.

Respectfully submitted,

H. B. SHELTON,  
United States Indian Agent.

The Commissioner of Indian Affairs.

TELE RIVER INDIAN AGENCY, CALIFORNIA,  
August 11, 1879.

SIR: I have the honor of submitting my fourth annual report of this agency. This reservation contains about 40,000 acres of land. The most of it is very rough and mountainous, so that very little of it can be utilized, except for grazing purposes. Half of the first tract is too rough and rocky for any purpose whatever, except as a lair for coyotes. Two hundred acres will comprise all the land susceptible of cultivation within the boundaries of the reserve.

The eastern portion of the reservation contains quite an amount of good sawing timber, but so situated that it can never be of any benefit to the Indians. A vast amount of capital would be required in the construction of roads to make any of the pines available for lumbering purposes. I would therefore recommend the restoration to the public domain a strip four miles wide along the entire eastern boundary of the reservation. This would enable the people living in the plain country to open up roads to this timber and supply themselves with lumber at much more reasonable rates than it is possible at the present time. The government would also realize a profit, if not directly in the sale of this timber, indirectly in the improvement of large tracts of land contiguous to it. Justice would then be meted out to all parties, and every pretext for complaint of the Indian service removed. Citizens would have their just rights and the timber be taken where Providence evidently designed it should. It would also be of great advantage to these Indians in furnishing them a market for their surplus produce and making it possible for them easily to supply themselves with lumber. I do not wish to make any plea for citizens that would in the least injure these Indians. Having been connected with this agency nearly four years, and knowing that it will be utterly impossible for these Indians ever to utilize these pines, I make this recommendation fully believing that it would be for the best interests of all concerned. I do not expect action upon this recommendation, but would call your attention to the question in this public manner that you may be prepared to give it consideration when properly presented.

I now report 160 Indians on this reservation who are acting in full accord with the government.



## AGRICULTURE.

The Indians have produced on their small farms during the past year 250 bushels wheat, 250 bushels corn, 25 tons hay, 10 tons melons, 10 tons pumpkins, and about ten bushels beans; 25 tons of hay have been raised on the agency farm. These amounts seem small, but considering the fact that nothing has been produced except where we had irrigating facilities, the result is all that could have been expected.

## EDUCATION.

A day school has been taught eight months during the year, with an average attendance during the time of sixteen. There has been some improvement, but not satisfactory or in proportion to the labor bestowed. My teacher has been very efficient, but has become discouraged in teaching a day school among these Indians.

Nothing but a boarding-school connected with manual labor, in my judgment, will be at all satisfactory. I am glad to be able to state that a school of this character has been authorized by the department for the present fiscal year, and I shall enter upon the work with increased zeal and confidence.

## MISSIONARY WORK.

Everybody knows that religious education with Indians is a slow process. All of the Indians on this reservation would have joined the church ere this had I urged them. I know they are ignorant and superstitious beyond expression, and while some of them are perhaps living up to the light they possess, I deem it the safer course to impress upon their minds that the requisition for church membership is at least a very honest purpose, if not an absolutely correct life. Religious services have been held every Sabbath, consisting of Scripture reading, catechetical and such admonitory exercises as seemed adapted to the congregation and circumstances.

## INDIAN INDUSTRY.

There is evident improvement in this direction, with a growing conviction upon the minds of the Indians that they will soon be required to take care of themselves. They are settling down to more steady habits, evince a growing interest in their small farms, and are laboring with more system than ever before. I have given them to understand that they have received their last appropriation in the shape of subsistence; that now all that the government will do for them will be to assist them this year in the purchase of some more farming implements. They fully understand this, and say if the government will help them a little in this way and educate their children they will do the rest.

## SANITARY.

The sanitary condition of the Indians is much better than ever before. There have been seven deaths during the year. Two of these, however, were violent; one was killed by another Indian; the other was hanged for murder; so that the natural deaths exceed the births only by one.

## CIVILIZATION.

Civilization, like Christianization, with these Indians requires the work of years. There is, however, marked improvement in this regard, and an effort is manifested by almost every Indian, especially among the younger ones, to imitate the example of the whites. They are more observant and inquiring, and in their general deportment will convince an unprejudiced mind that they merit the protection and fostering care of the government.

I am, sir, very respectfully, your obedient servant,

C. G. BELKNAP,  
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS.

MISSION AGENCY, SAN BERNARDINO, CAL.,  
August 28, 1879.

Sir: I have the honor to submit the following as my first annual report of the condition of things at this agency:

The Indians under my charge, known as the *Mission Indians*, are composed of the following-named tribes, viz: Seranos, Digenos, San Luis Rey, and Coachillax and Ovangos. Their settlements are scattered over portions of San Bernardino and San Diego Counties, and chiefly in the mountain and desert districts embraced in a range hundreds of miles in extent. Here and there lands have been reserved for them, but their character is such that very little of it is of any practical use, and very few comparatively are living on the lands so reserved.

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Sketch of  
 the Indian Reservation  
 within the lines



Executive Mansion

October 3<sup>rd</sup> 1873.

It is hereby ordered that the following tract of country be, and  
 same is hereby withheld from sale and set apart as a reservation for the Lakeview Mining  
 Town and South Lake, in the County of Plumas, in the State of California,  
 known as the Lakeview Mining Reservation, this being in line with reservation set ap-  
 part by the State in 1852, in the right of James G. Smith, which is hereby confirmed.  
 The said reservation is bounded on the north by the State of Plumas and on the south by the  
 State of California, and on the east by the State of Plumas and on the west by the State of California.



## Executive Mansion,

October 3rd 1873.

It is hereby ordered that the following tract of country be and the same be surveyed and returned as a reservation for the Indians of California, to-wit: the Indian Reservation in the State of California, known as the "Tule River Indian Reservation" - this being in lieu of the reservation at a place known as the "Tule River Indian Reservation" - which is hereby cancelled.

Commencing on the <sup>North</sup> side of the river four miles below the Tule River Indian Reservation and to the ridge of mountains dividing the waters of the Tule River from those of the Green Creek - extending from which a line running due South would intersect the ridge of mountains at a distance of ten miles thence from said ridge to the ridge of mountains - dividing the waters of the Tule River and Deer Creek, to-wit: on said ridge - a point due South of the same, beginning, thence North to the place of intersection by a line on a true bearing.

M. A. Brewster.



## Department of the Interior.

Washington, D.C. October 4<sup>th</sup> 1873.

Sir:

I transmit herewith, the President's order of 3<sup>d</sup> instant setting apart certain lands in the State of California as an Indian reservation, known as the Tule River Indian Reservation, as recommended in your letter to the Department of 20<sup>th</sup> ultimo.

You are hereby instructed to give the Commissioner of the General Land Office the necessary notification in the premises.

Very respectfully

Yours obt. servt.

C. Adams

Secretary

The Commissioner  
of Indian Affairs

Department of Interior  
Oct 4. 1873

Secretary transmits order of  
the President. To wit report  
lands in California for  
Indian Reservation, known  
as the Lake River Reservation,  
and to give the Commissioner of  
Land Office due notification.

See Report to Oct 8. 1873  
Inspector in Report Meeting  
Oct 9 1873.

(Spec. File 'C')

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ATTACHMENT 9

## EXECUTIVE ORDER

California

Under authority contained in the Act of Congress approved June 25, 1910 (36 Stat., 847), as amended by the Act of August 24, 1912 (37 Stat., 497), and subject to the conditions, provisions and limitations of said Acts, it is hereby ordered that the public lands in T. 23 S., R. 31 E., and Secs. 10, 11, 12, 13, 14 and 24, T. 23 S., R. 30 E., M. D. M., California, be, and the same are hereby withdrawn from settlement, location, sale, entry and all forms of appropriation, pending a resurvey of the lands under authority of the Act of Congress approved March 3, 1909 (35 Stat., 845), this withdrawal to remain in full force and effect from the date hereof until the resurvey is duly approved and accepted and the plats thereof are officially filed in the proper U. S. local land office, unless another date be fixed by the Commissioner of the General Land Office, whereupon this withdrawal will become of no effect.

WARREN G HARDING

THE WHITE HOUSE,  
June 1, 1923

(No. 3858)

ATTACHMENT 10

✓  
 SEQUOIA NATIONAL FOREST  
 CALIFORNIA

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BY THE PRESIDENT OF THE UNITED STATES OF AMERICA  
 ✓  
 A PROCLAMATION

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WHEREAS, an Executive Order signed July second, nineteen hundred and eight, established the Sequoia National Forest out of portions of the Sierra National Forest;

And whereas, it appears that the public good will be promoted by including in the Sequoia National Forest certain lands within the State of California, shown on the diagram hereto attached and forming a part hereof, which are in part covered with timber, and which constitute a part of the Tule River Indian Reservation, established by Executive Order dated October third, eighteen hundred and seventy-three, and modified by Executive Order dated August third, eighteen hundred and seventy-eight;

Now, therefore, I, Theodore Roosevelt, President of the United States of America, by virtue of the power in me vested by the Act of Congress, approved June fourth, eighteen hundred and ninety-seven, entitled, "An Act Making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-eight and for other purposes," do proclaim that

the said lands are hereby added to the Sequoia National Forest and that the boundaries of said National Forest are now as shown on the said diagram, and such National Forest so enlarged shall, except as hereinafter provided, be subject to all the laws affecting National Forests including the mineral land laws of the United States; Provided, that, nothing herein shall, for the term of 25 years from the date hereof, operate to terminate or abridge the rights of the Secretary of the Interior and of the Commissioner of Indian Affairs, under existing laws, to allot to individual Indians any of such of the above described lands as were included in said Tule River Indian Reservation by the said Executive Order, modified as aforesaid; to use any of such lands or the timber thereon for Agency, school, or other tribal purposes; to permit the use of any of such lands for grazing purposes; to permit the free use by individual Indians of timber and stone from any of said lands necessary for domestic use upon their allotments; to dispose of the proceeds arising from grazing as provided for by law for other Indian funds; and to dispose of the dead timber standing or fallen upon such lands; Provided further, that said powers and rights of the Secretary of the Interior and Commissioner of Indian Affairs or permittees under or through them or either of them, and of individual Indians, except as to allotments to such Indians, shall be subject to such rules and regulations as the Secretary of Agriculture may from time to time prescribe for the protection of the National Forest; and

said powers and rights shall not be construed to apply to any land except such parts of said Tule River Indian Reservation as are included in the Forest by this proclamation, and all said powers and rights except the rights of individual Indians and their heirs to hold and enjoy their allotments, shall cease and determine twenty-five years after the date hereof, and thereafter the occupancy and use of the unallotted parts of said lands shall in all respects be subject to the laws governing National Forests.

The withdrawal made by this proclamation shall, as to all lands which are at this date legally appropriated under the public land laws or reserved or used for Indian Agency, school, or church purposes, or reserved for any public purpose other than for Indian occupancy and use under such Executive Orders, be subject to, and shall not interfere with, or defeat legal rights under such appropriation, or prevent the use for such public purpose of lands so reserved, so long as such appropriation is legally maintained, or such reservation remains in force.

This proclamation shall not prevent the settlement and entry of any lands heretofore opened to settlement and entry under the Act of Congress approved June eleventh, nineteen hundred and six, entitled, "An Act to provide for the entry of Agricultural lands within Forest reserves," and Acts amendatory thereof.

( 2122 , 1909 )

ATTACHMENT 11SEQUOIA NATIONAL FOREST  
CALIFORNIA

Under authority of the Act of Congress of June 4, 1897 (30 Stat., 11 at 34 and 36), and upon the recommendation of the Secretary of Agriculture, it is hereby ordered that on and after March 1, 1912, the boundaries of the Sequoia National Forest, California, as proclaimed March 2, 1909, and modified by subsequent Proclamation of July 1, 1910, be further modified by excluding therefrom all that part of the Tule River Indian Reservation included in said Sequoia National Forest by said Proclamation of March 2, 1909.

The purpose of this exclusion is to restore the Tule River Indian Reservation in all respects to the status existing prior to the said Proclamation of March 2, 1909, as though the inclusion of the lands within the Sequoia National Forest had not been ordered, and said Indian Reservation is hereby fully recreated and restored to that status.

WM H TAFT

THE WHITE HOUSE,

*Feby. 17th, 1912.*

[No. 1478.]

## ATTACHMENT 12

L-1

1946-78

✓ MAP

 FEB 13 1928  
*W. H. ...*  
*R. ...*

Hon. Wm. J. Franklin,  
 Chairman, Committee on Indian Affairs,  
 United States Senate.

My dear Senator Franklin:

Further reference is made to your letter of December 19, 1927, transmitting for report copy of Senate Bill, "A Bill to change the boundaries of the Tule River Indian Reservation, California."

The purpose of the bill is to eliminate certain described lands from the reservation that were disposed of as non-Indian lands at a time when the records appeared to show that they were outside the reservation boundaries. The plat of survey approved February 2, 1866, of T. 21 S., R. 31 E. of the N. D. M., California, shows part of the northern boundary of the Indian reservation in this township as passing in an irregular course east and west through the SW/4 of Sec. 21, and the S/2 of 1866, 19 and 20, and the east boundary extending south through part of the SW/4 of Sec. 21 and E/2 of W/2 of Secs. 28 and 29. It was later discovered that an error had been made in these locations and that the actual boundaries were farther north and east. On March 12, 1867, a plat of resurvey of the same township and range was accepted by the General Land Office, identifying the proper boundary which actually extended northward approximately one and one-half miles through the north half of Secs. 16, 17 and 18 and across the extreme southeast corner of Sec. 7, and one-half mile farther east, passing through part of Sec. 16 and the E/2 of E/2 of Secs. 21, 28 and 29.

The area lying between the two surveys being regarded as public domain lands was practically all disposed of between 1868 and 1892 under the timber and stone act of June 3, 1870 (20 Stat. 69). However these lands were included among others withdrawn on November 6, 1891, for the Tule River forest, but about one-half of them were later conveyed to the United States under the act of June 4, 1897 (29 Stat. 56), which authorized the relinquishment or reconveyance to the United States of lands included in national forests. The forest records having been subsequently revealed as to that part within the Indian reservation, the tracts reconveyed to the United States were restored to their proper status of Indian reservation lands.

INITIALED COPY FOR FILE



The tracts that are wholly or in part within the intervening area patented under the act mentioned, but not reconveyed to the United States are as follows: SW/4 SE/4 Sec. 7; all of Sec. 17; E/2 NE/4, SW/4 NE/4, SE/4 NW/4, E/2 SE/4 Sec. 18; E/2 NW/4, NW/4 NW/4, NE/4 Sec. 20; NW/4 NE/4 Sec. 21 and tract No. 49 in the SE/4 of Sec. 28, T. 21 S., R. 21 E., N. D. Co., California. Section 16 passed to the State of California under its school grant, and the records show that the State disposed of the land in 1850. Section 27 is shown to be entirely outside the Indian reservation.

As the lands lying within the area in question were regarded as a part of the public domain when the timber land entries were filed, this Department will interpose no objection to a change in the boundary of the reservation to exclude therefrom the tracts patented and not reconveyed to the United States, and also Section 16 granted to the State of California. Section 27 not being within the Indian reservation this land may be disregarded.

It is therefore suggested that the bill be amended by striking out all of that part of line 12 following the colon after the words "to wit" and all of lines 13 and 14, and insert in lieu thereof the following: SW/4 of SW/4 Sec. 7; all of Secs. 16 and 17; E/2 of NE/4, SW/4 of NE/4, SE/4 of NW/4, E/2 of SE/4 Sec. 18; E/2 of NW/4, NW/4 of NW/4, NE/4 Sec. 20; NW/4 of NW/4 Sec. 21; and tract No. 49 in the SE/4 of Sec. 28, all in T. 21 S., R. 21 E., of the N.M.P. in California. This will take care of all the patented entries not reconveyed to the United States.

If the bill is amended as suggested above, this Department will have no objection to its enactment into law.

Very truly yours,

(Sgd.) HUBERT WORK.

ATTACHMENT 13C O P Y

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
Division of Investigations  
Office of Special Agent in Charge.

512 Custom House,  
San Francisco, Calif.  
May 11th, 1934.

Mr. Louis B. Glavis  
Director of Investigations,  
Interior Dept.,  
Washington, D. C.



Dear Mr. Glavis:

Enclosed is a letter by Special Agent Nash concerning certain matters in connection with the Tule River Indian Reservation.

I have not approved the letter because there does not seem to be anything that can be done in connection with the matters to which he calls attention.

Very truly yours,

(Signed) J. H. Favorite

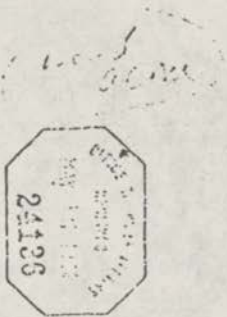
Special Agent in Charge.

JHF:CM

Enc.

ATTACHMENT 14

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
DIRECTOR OF INVESTIGATIONS  
WASHINGTON  
May 16, 1934.



MEMORANDUM for Commissioner of Indian Affairs:

I transmit herewith copy of a letter dated May 11,  
by Special Agent in Charge Favorite, submitting a letter,  
hereto attached, by Special Agent Nash concerning the  
Tule River Indian Reservation. You will note the statement  
of the Special Agent in Charge that he did not approve the  
letter.

*F. W. ...*  
Director

Attachment

*Admission of ...*  
*read ...*  
*...*  
... for use of Division of  
Investigation.

ATTACHMENT 15

Tule River Indian  
 Reservation,  
 California: Boundary  
 Changes under 45 Stat.  
 L. 600  
 Report by Roy H. Sh,  
 Special Agent

UNITED STATES  
 DEPARTMENT OF THE INTERIOR  
 GENERAL LAND OFFICE  
 OFFICE OF THE CHIEF OF FIELD DIVISION  
 Division of Investigations  
 512 Custom House  
 San Francisco

March 27, 1934

APPROVED:

Special Agent in Charge

Director of Investigations,  
 Department of the Interior,  
 Washington, D.C.

Sir:

For the information of the Commissioner of Indian  
 Affairs I set down the manner in which the only thing of  
 any value on the Tule River Indian Reservation, a fine  
 stand of sequoia in the northeast corner, passed into the  
 hands of a white lumber company which is now urging govern-  
 ment to build a road which will enable them to exploit it/.

The reservation was set aside by executive order.  
 Back in 1864 the Land Office put out a plat of an erroneous  
 survey, and patented homestead entries which on the plat  
 appeared as Public Domain but which plat of resurvey of  
 March 12, 1927, showed to be within the Indian Reservation.

Obviously there were two ways in which this error  
 could be rectified: (1) Government could repurchase the  
 Indian land which it had erroneously patented; or (2)  
 Government could change the boundaries of the reservation

**CONFIDENTIAL**  
 NOT FOR PUBLIC INSPECTION



so as to exclude the land erroneously patented.

Lumber interests bought out the original homesteaders.

Sen Shortridge obligingly introduced a bill to change the Tule River boundaries, which was approved May 17, 1928.

Colonel Dorrington, then superintendent of the Sacramento Agency (correspondence shows) did not hear of it until February, 1929.

Net result of activities of Senator Shortridge, Assistant Commissioner Meritt, and Congress: the Tule River Indians lost their Big Trees.

Respectfully,

*Roy Nash*  
Roy Nash, Special Agent

Inclosures:

Copy of 45 Stat. L 600 (S. 1662, 70th Congress)  
" letter Feb. 19, 1929, Supt. Sacramento Agency to  
Commissioner of Indian Affairs  
" " Feb. 8, 1929, Meritt to Col. Dorrington  
" " Dec. 4, 1930 Acting Supt. Sacramento Agency  
to Commissioner Indian Affairs  
" " Dec. 5, 1930, same to Rose Ellis  
" " Dec. 16, 1933, Greenwald Company to  
Bureau of Public Roads.

CONFIDENTIAL

ATTACHMENT 16

PUBLIC - No. 421- 70th CONGRESS

(S.1662)

AN ACT to change the boundaries of the Tule River  
Indian Reservation, California.

Be it enacted by the Senate and House of Representatives  
of the United States of America in Congress assembled,

THAT the boundaries of the Tule River Indian Reservation, California, created by Executive order dated January 9, 1873, are hereby changed so as to include from said reservation the following tracts of land, which were shown by the plat of survey approved on the 21 day of February, 1884, to be a part of the public domain, and were duly patented or granted by the United States as such, but were shown by the plat of resurvey approved on the 12th day of March, 1927, to be within the outer boundaries of the said Indian reservation, to wit:

Southwest quarter southwest quarter section 7;  
all sections 16 and 17;  
east half northeast quarter, southwest quarter northeast  
quarter, southeast quarter northwest quarter, east half  
southeast quarter section 18;  
east half northwest quarter, northwest quarter northwest  
quarter, northeast quarter section 20;  
northwest quarter northwest quarter section 21;  
and tract numbered 48 in the southwest quarter section 21,  
all in township 21 south, range 31 east, of the Mount  
Diablo meridian in California.

Approved, May 17, 1928.

ATTACHMENT 17

C  
C  
P  
Y

Sacramento Indian Agency  
Sacramento, California



Feb. 19, 1929

Commissioner of Indian Affairs  
Washington, D. C.

My dear Mr. Commissioner:

We have just had handed us a copy of Senate bill 1000 of the 70th Congress, 1st Session which was introduced by Senator Shortridge of California relative to the changing of the boundaries of the Tule River Reservation.

It would, therefore, be appreciated if the Office would advise whether or not this bill was passed and if so to be furnished a map of the Tule River Reservation as it now stands.

Very sincerely,

L. A. Dorrington,  
Superintendent.

EHH:FD

ATTACHMENT 18

207815

C  
O  
P  
YL-3  
9702-2PUNITED STATES  
Department of the Interior  
Office of Indian Affairs  
Washington

March 3, 1933

Mr. L. A. Dorrington,  
Supt. Sacramento Agency.

My dear Mr. Dorrington:

Reply is made to your letter of February 16, referring to the Act of May 17, 1931 (46 Stat.L., 600) changing the boundaries of the Tule River Indian Reservation.

Our records show that a copy of the said act containing description of the lands eliminated from the reservation was forwarded to you June 4, 1932. All of the lands covered by this Act are located in T. 21 S., R. 31 E., N.D.M. in California. There is enclosed copy of plat of survey of the boundary with the reservation in red the area covered by the Act of May 17, 1931. Another copy of act is inclosed.

Very truly yours,

(signed) E. B. Meritt  
Assistant Commissioner.



ATTACHMENT 19

Sacramento Indian Agency  
Sacramento, California

Dec. 5, 1930

Mr. Ross Ellis  
Fosterville  
California

Dear Mr. Ellis:

Referring to your letter of Sept. 13, 1930, relative to the white men who are cutting timber near the north eastern boundary line of the Tule River Indian Reservation, will state upon my return to the office from my trip to your reservation I looked up the records relative to the land in question and find that the post camp which we visited was not upon reservation land.

Our records show that in 1823 there was an act passed by the Congress of the United States and approved May 19, 1823, excluding certain lands from the reservation. A copy of this act is attached to this letter, also plan showing the land excluded which is all patented land except Sec. 13, which is a school section.

You will remember that the post camp was located about a half mile from the general reservation line therefore it would easily come within the excluded territory.

I do not know whether the map which George Silvas has has these plots marked. However, the attached plat is taken from the map in our office and corresponds to description given in the act as mentioned.

We suggest that you attach this letter, plat and copy of act to the map so that you will have it for future reference.

We believe it would be well for George Silvas or some one else to visit this portion of the reservation occasionally to see that these post makers do not overstep their bounds.

We trust this matter is fully explained.

Very truly yours,

Edward Swengel,  
Acting Supt.

ES:FG

ATTACHMENT 20

Sacramento Indian Agency  
Sacramento, California

Dec. 4, 1930

Act. Director of Indian Affairs  
Washington, D. C.

Dear Mr. Commissioner:

Referring to the inclosed letter from the Indians of the Tule River Reservation which you sent to us will state that I went to the Tule River Reservation and personally investigated this case. Accompanied by C. C. Shepard, Teacher, George Silva, Indian Forester, and Ross Ellis, I went to the North East corner of the reservation, 14:15 from the Day School over a very mountainous road. We found the surveyors' stakes indicating the boundary line of the reservation. We found where the white man had cut the fine redwood timber for posts. The location of the post camp is nearly a half mile within the general boundary line of the reservation.

Referring to our copy on file in our office, also to the Act of Congress to change the boundaries of the Tule River Reservation passed May 17, 1888 which excludes certain tracts, we find that the land upon which this post camp is located has been excluded from the reservation. We are inclosing herewith a copy of this bill and a plat showing the land excluded and have marked thereon the approximate location of the camp.

I am writing Mr. Ross Ellis relative to this, also sending him a plat, and a copy of the law. They have a map of the reservation but I do not know whether it is marked to indicate the land in question. We hope that we can make the matter clear to them.

-2-

Commissioner

The land in question is very mountainous but covered with very fine redwood timber. Many trees are from 10 to 15 feet in diameter. It is difficult to follow the lines on account of this uneven surface. We will instruct our Indian Forester, Mr. George Sibley to visit this locality occasionally to see that the white men do not go beyond their bounds.

Very truly yours,

Edward Swengel,  
Acting Superintendent.

ES:FC

ATTACHMENT 21

Greenwald Company  
 Alaska Commercial Bldg  
 310 Sansome Street  
 San Francisco, California

December 16th, 1955.

Mr. H.S. Tolen,  
 Bureau of Public Roads,  
 San Francisco, California.

Dear Sir:-

We understand that you are investigating the feasibility and practicability of a road in the Tule Indian Reservation in Tulare County, California. We own some of approximately 1400 acres of land bordering on this reservation, and would respectfully ask that if there are funds available for the construction of a road, that it receive your very serious consideration. The Tule Reservation has a very large section of mammoth redwood trees and is a property admired by all who see it. The reservation is traveled quite extensively freely by campers during the summer and in the fall by the hunters. A road through this district will we think add considerably to the convenience of travel, and moreover a road through this area will mean that the fire hazard will be lessened, and in case of a fire the fire fighters can get into the district without any delay.

Yours very truly,  
 GREENWALD COMPANY,

(Signed) E.K. Pedler  
 Assistant Secretary.

EXP:APG

## ATTACHMENT 22

DEPARTMENT OF THE INTERIOR  
UNITED STATES INDIAN SERVICE

Tule River Agency, Nov. 20, 1911.

Tule River Reservation.

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

Sir:-

I have the honor to attach hereto a true copy of transcript of the record of the Land Office at Visalia Cal. which I obtained July 12 1911, by calling at the land Office.

It appears that these patented lands are described to be in sections 17, 18, 19 and 20 of T. 21<sup>S</sup> R. 31<sup>E</sup> N. D. M. and, comparing The Official plat of Tule River Indian Reservation with Official township map of Tulare County, I find that these numbers of patented lands call for lands wholly North of the Reservation Boundary line, but patentees have settled, occupied and hold lands in sections 30 and 29 and the South 1/2 of 19 and 20 of T 21 S, R 31 E, N DM, which from the plat of reservation lies wholly within the reservation limits.

The plat shows the north boundary line to be the dividing ridge between the Middle and South Tule Rivers; these patentees are on lands wholly south of that line while their patents call for lands North of it.

I have heard nothing from Mr. Owen, the surveyor who you informed me was to make a survey of the reservation.

Very respectfully,

*A. P. Edmonson*  
Superintendent.

Page 41.

DEPARTMENT OF THE INTERIOR  
UNITED STATES INDIAN SERVICE



Timber & Stone Entries, Sec. 17, T-21 S. R. 21 N., T. 1 N.

N W 1/4, David Campbell, June 10, 1887. Patented Oct. 30, 1888.

S E 1/4 of N. E. 1/4 William B. West, June 10, 1887.  
Patented Oct. 30, 1888.

E 1/2 of N W 1/4 & W 1/2 of N E 1/4, John W. Clark,  
June 10, 1887. Patented Oct. 30, 1888.

S E 1/4, Barney Springer, June 10, 1887.  
Patented Oct. 30, 1888.

W 1/2 of N W 1/4 / Joseph J. Mitchell, March 15, 1888.  
Patented Feb. 28, 1890.

Am. recd. \$1600.

DEPARTMENT OF THE INTERIOR  
UNITED STATES INDIAN SERVICE

Patent Entries in Sec. 19,  
T. 21, S. R. 21 N. W. 22.



N E 1/4 of S E 1/4- Thomas B. Henderson June 10 1887.  
Patented Oct. 30 1888.

S E 1/4 of S W 1/4 & S W 1/4 of N E 1/4- Horace Telling  
June 10 1887. Patented Oct. 30 1888.

E 1/2 of S E 1/4 & E 1/2 of S W 1/4, Robert James, Aug. 4, 1887.  
Patented Dec. 11, 1888.

S E 1/4 of S E 1/4 James Gonwell Oct. 11 1887.  
Patented March 20, 1889.

E 1/2 of N E 1/4, Joseph J. Mitchell- March 15 1888.  
Patented February 28, 1890.

N W 1/4 of N E 1/4, N e-1/4 of N w 1/4 & W 1/2 of N W 1/4  
James M. Dutton- Oct 30 1888. Patented Nov. 21, 1890.

E 1/2 of S W 1/4, N W 1/4 of S E 1/4 & N 1/2 of S W 1/4 of S E 1/4  
Reconveyed to U S Feby. 26 1900.

S 1/2 of S W 1/4 of S E 1/4,  
Reconveyed to U S. March 12, 1900.

Am. Received \$1399.60.

1917 - 5. DEPARTMENT OF THE INTERIOR  
UNITED STATES INDIAN SERVICE

Edward C. Stone (Patrice in Dec. 29, T 21 S 3 R 21 E 1/4)

76364

WARRANT

N  $\frac{1}{4}$  of T 21 S 3 R 21 E 1/4 John Winkmann, Dec. 8 1887.  
Patented Feb. 28 1900.

N E 1/4 of N.W. 1/4 A.W. 1/2 of N.W. 1/4, John S. Perry  
Feb. 5, 1888. Patented Feb. 28, 1890

N W 1/4 of N.E. 1/4, Reconveyed to U S, Oct. 17, 1901.

N E 1/4 of N W 1/4 Reconveyed to U S, Apr. 19, 1900.

Amt. Received \$585. 70.



DEPARTMENT OF THE INTERIOR  
UNITED STATES INDIAN SERVICE



1887

Timber and Stone Entries in Sec. 23.

T 21 S , R 51 E , N D M.

N 1/2 of N W 1/4, S E 1/4 of N W 1/4 & E W 1/4 of N E 1/4.

Delinda Campbell , June 10, 1887. Patented Oct 20, 1890.

S 1/2 of N. E. 1/4 & E 1/4 of N E 1/4, Alfred Wilson,  
Aug. 29, 1887.

Ant. Red. 3700.

(See official survey, T 21 S. R 51 E , N D M . in  
G. S. C.) .

*from R. G. Zimmerman's map of 1887.*

## ATTACHMENT 23

U.S. Marshall, Delaware County Co.

May 2

V  
Hon. Francis Leupp,

Commissioner of Indian

Affairs, Washington D.C. I will

write you in which I will request

you whether Jesse Hinkle the

farmer who was employed here

at this Tule River Agency, at that

time. <sup>Hinkle</sup> Sent a letter to you telling

you that he gave me a place

to live in here at this Reservation

on section 26 on the Reservation

I built a house there and it was

maliciously burned by someone, and

at the same time the paper he

gave me was burned too. And

all the things that I had was consumed

by the fire. Sent me a duplicate

of the letter which Hinkle sent to you.

WASHINGTON,

OFFICE OF INDIAN AFFAIRS,

G. of by

Justo Miguel J. Garcia

## ATTACHMENT 24

IN REPLY PLEASE REFER TO W-7-53575 "B" - AVB.  
10-91815

A.V.B.

91815

## DEPARTMENT OF THE INTERIOR

## GENERAL LAND OFFICE

WASHINGTON, December 12, 1910.

ADDRESS ONLY THE  
COMMISSIONER OF THE GENERAL LAND OFFICE

## Encroachment on Tule River Indian Reservation.

The Commissioner

Of Indian Affairs.

Sir:

I have received your letter dated December 2, 1910, concerning the case of Pablo M. Ignacio, an Indian of the Tule River Reservation, who advises your office that his house on sec. 25, Tp. 22 S., R. 29 E., has been destroyed by A.E. Anderson, who erected thereon a house for himself.

You request a copy of the survey of said township, by which to ascertain whether the Indians rights may be protected, as being properly within the reserve. You also ask for information as to "the alleged retracing by an Examiner" of this office, which is referred to in the Register's letter to Supt. Edmonson.

The Register at Visalia is much in error, in implying that the Examiner was sent to investigate a line run by the county surveyor; as he was instructed to retrace the true boundary and report as to encroachments on the territory of the Indians.

The information you seek, on the subject of Examiner Owen's investigation in 1904, will be found fully given by this

office, in a letter "B" dated April 13, 1907, addressed to your Bureau, and another of June 15, 1907.

The purpose of this office at that time, to make a full official resurvey by Mr. Owen, could not be realized owing to lack of competent men to whom the work could be entrusted; and the duty was postponed until a larger force of examiners should be provided. It is hoped that that time has now arrived, under the new system in force.

Your request for a copy of the old erroneous survey of the said township, by which to determine the Indian's right of residence, is not complied with, for the reason that the examiner has asserted in his report that

"Wholesale fraud and falsification of the field-notes of survey of most of the townships adjoining this Reservation, have been indulged in by the deputies whose names appear in the contracts covering these surveys. And we may be sure that a fictitious boundary has been substituted, and calculated connections given in the field notes, whereby the reservation boundary"

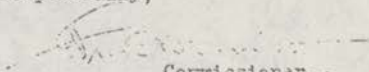
(which he retraced and verified as well surveyed by Minto)

"is thrown far out of its true position relative to the public surveys".

With such a report, this office can not offer the plat of lands south of the reserve as evidence for any purpose. Neither is it practicable to offer an opinion as to the rights of Ignacio, on the mere statement that he "built a house on section 25"; for the true boundary, the crest of the ridge, runs through that section, and much depends on whether he is on the north or the south slope of the range of hills.

All the papers heretofore filed on this subject are still before this office, awaiting the necessary adjustment by a valid resurvey; and by reviewing the correspondence in your files, a complete resumé of Mr. Owen's report and recommendations, as to all four sides of the reserve, will be found.

Very respectfully,

  
Commissioner.

ECS.

ATTACHMENT 25

Tule  
 Reservation  
 3318-1311.  
 T A M  
 Blue print.

Tule River School, Forterville, Cal.  
 Apr. 23, 1911.

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

Sir:-

Referring to yours of Apr. 11, 1911, in which it is stated  
 that surveys will be made during the coming season as may be necessary  
 to definitely settle the boundaries of Tule River Reservation, and  
 4th paragraph of my letter of Nov. 12, 1911 regarding intruders on  
 valuable timber lands in the North East corner of the Tule River Indian  
 Reservation, as shown by your blue print and also by plat on file in  
 this office; I have the honor to inform you, that I am informed that  
 free use permits have been issued white men by the forest service to  
 cut timber on this disputed land, and that it is the intention of various  
 parties to cut and dispose of a large quantity of redwood timber the  
 coming season.

Therefore I respectfully request that an investigation, or  
 decision of the land Office be given determining the title to these  
 sections of land in question.

Very respectfully,

*A. P. Edmonson*

Superintendent.

## ATTACHMENT 26

Field Survey  
 Complaints of  
 Indians.

DEPARTMENT OF THE INTERIOR  
 UNITED STATES INDIAN SERVICE

Tule River Indian School  
 Porterville, Cal. Sept. 2, 1912.

SEP 11 1912  
 100000

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

Sir:-

I have the honor to state that:- the Tule River Indians are very much dissatisfied on account of the undefined state of the boundaries of their reservation, stock intruding on their ranges and we not knowing definitely where the lines are, so we can fence against this intrusion, Valuable timber going to waste that could be disposed of provided the lines were justly established, and the wrong that was done them by allowing white men to take up about four sections of their most valuable timber lands under the timber and stone act.

In a letter from the land office I was informed that the field notes had been falsified and a resurvey would be made, we have been waiting for that survey two years, ~~XXXXXXXXXXXX~~ and a decision from the land office is earnestly desired, in regard to the lands that were in the original grant, but afterward patented with all the evidence of fraud.

7. The Indians are importuning me at all times as to when the survey will be made and their rights to lands established.

Very respectfully,

*A. P. Edmonson*

Superintendent.





GELYA FRANK is a cultural anthropologist who since 1972 has acted as historian for the Tule River Indian Tribe at the request of its Tribal Council. In this capacity, supported by a Regents Fellowship at the University of California, Los Angeles, she lived at the Tule River Reservation for a period of nine months in 1972-1973. During that time she acquired first-hand familiarity with the land, the people, their social organization, their own accounts of their past, all phases of the Tribe's present and past administration, its past and present economic conditions, all business referred to in Tribal Council Minutes from 1926 to date, and correspondence having to do with water rights, timber and mining leases, and boundary claims.

In 1974, funded jointly by a Regents Fellowship and the Tule River Tribal Council, Ms. Frank searched out documents relevant to these concerns at the National Archives and Records Center in Washington, D.C. An extensive file was accumulated in those two months from which most of this testimony was taken. Since that time, Ms. Frank has served as occasional consultant to the Tribal Council and to individual members on such matters as the Tribe's cultural display at Painted Rocks, plans for a tribal museum, the current Oral History project coordinated with the Tulare County Library system, the correctness of entries on the official Tribal Roll, and plans for an accredited wilderness school on the reservation.

Gelya Frank was graduated in 1973 with a B.A. in Anthropology, *Summa Cum Laude*, from the University of California, Los Angeles. She was elected to Phi Beta Kappa in 1974. Her M.A. based on an analysis of range management at the Tule River Indian Reservation at the turn of the century and its relationship to the current grazing program, was awarded in 1975 by the Department of Anthropology at UCLA. She is presently a Doctoral Candidate at that department. Since 1976, Ms. Frank has been employed as a research anthropologist at the Socio-Behavioral Group, Mental Retardation Research Center, Neuropsychiatric Institute, UCLA and is Editorial Associate for *Ethos: The Journal of the Society for Psychological Anthropology*. Her membership in professional organizations includes the Society for Psychological Anthropology and the American Anthropological Association.

