



# UTE MOUNTAIN UTE TRIBE

P.O. Box 248  
Towaoc, Colorado 81334-0248  
(970) 565-3751

June 29, 2000

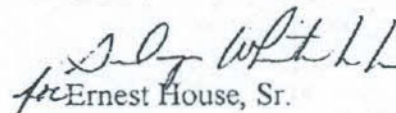
Rebecca Hamner  
Regional Administrator  
U. S. EPA, Region VIII  
999 18<sup>th</sup> St., Suite 500  
Denver, CO 80202-2466

Dear Ms. Hamner:

Enclosed is the application for "Treatment in the Same Manner as a State" for the purpose of adopting and implementing water quality standards for the Ute Mountain Ute Tribe on the Ute Mountain Ute Indian Reservation of Colorado, New Mexico, and Utah.

Subsequent to Tribal Council Resolution No. 99-123, the Tribe has decided to undertake this program to protect the chemical, physical, and biological integrity of the waters on the Ute Mountain Ute Indian Reservation. For more information on the preparation of this document, please contact our Water Quality Specialist, Scott Clow, at (970) 564-5431, or by mail at P.O. Box 448, Towaoc, CO 81334.

Sincerely,

  
for Ernest House, Sr.  
Chairman  
Ute Mountain Ute Tribe

cc: David Liberman, Ute Mountain Ute Justice Dept.  
Sam W. Maynes, Maynes, Bradford, Shipp & Sheftel, LLP  
Donna Jackson, Program Manager, U.S. EPA Region VIII

**Application for**  
**“Treatment in the Same Manner as a State”**  
**for the purpose of administering**  
**Water Quality Standards**  
**on the**  
**Ute Mountain Ute Reservation, Colorado, Utah, New Mexico**



Prepared for  
U.S. Environmental Protection Agency  
Region VIII

Prepared by  
Scott Clow  
Ute Mountain Ute Tribe

June, 2000



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## Section 1

### Federal Recognition, Substantial Duties and Powers

In order to qualify for Clean Water Act Section 106 funding for the development of a water pollution prevention program, the Ute Mountain Ute Tribe had to first document their status as "Federally Recognized" and their substantial duties and powers that would prove the Tribe's ability to run the program.

On October 6, 1989 the U.S. Environmental Protection Agency granted "Treatment as a State" to the Ute Mountain Ute Tribe for the purposes of administering the Clean Water Act Section 106 program. Because the requirements for that eligibility are prerequisite to this process, no further documentation is needed for verification of Federal Recognition and substantial duties and powers.

Three documents are enclosed here to support this section:

1. Treatment as a State eligibility letter, October 6, 1989
2. Constitution and By-laws of the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico, Utah, approved June 6, 1940
3. Ute Mountain Ute Tribal Council Resolution No. 99-123, August 12, 1999, documenting the decision to administer a water quality standards program





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 500  
DENVER, COLORADO 80202-2405

Ref: 8PM-GM

OCT 06 1989

Ernest House, Sr.  
Tribal Chairman  
Ute Mountain Tribal Council  
General Delivery  
Towaoc, Colorado 81344

Re: Water Pollution Control  
Program  
Grant No. 1008545-89

Dear Chairman House:

Pleased be advised that your application for eligibility for treatment as a state under Section 518 of the Water Quality Act of 1987 has been approved for purposes of Section 106. I am pleased to inform you that I have approved your application for FY89 Section 106 monies in the amount of \$10,966.00.

Please sign and date all copies, retain one copy of the Assistance Agreement for your files, and return the remaining copies to our Grants Management Branch within three weeks from receipt.

Sincerely,

Kerrigan G. Clough  
Assistant Regional Administrator  
for Policy and Management

Enclosures:

cc: Priscilla Bancroft, Ute Mountain

RECEIVED OCT 10 1989  
1. cover letter  
2. packet to P. Bancroft  
3. contracts  
4. J. H. H.



APPENDIX E  
UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF INDIAN AFFAIRS  
Constitution and Bylaws  
of the  
Ute Mountain Tribe of The  
Ute Mountain Reservation  
Colorado, New Mexico, Utah

APPROVED JUNE 6, 1940



# CONSTITUTION AND BYLAWS OF THE UTE MOUNTAIN TRIBE OF THE UTE MOUNTAIN RESERVATION IN COLORADO, NEW MEXICO, UTAH

## Preamble

We, the people of the Ute Mountain Tribe, of the Ute Mountain Reservation, in Colorado, New Mexico and Utah, under the jurisdiction of the Consolidated Ute Agency, Ignacio, Colorado, in order to exercise the rights of self-government, to administer our tribal affairs, to preserve, develop and increase our tribal resources, do ordain and establish this Constitution.

## Article I — Jurisdiction

The jurisdiction of the Ute Mountain Ute Tribe of the Ute Mountain Reservation through its General Council, the Ute Mountain Tribal Council, and its Court, shall extend to the lands now included within the Ute Mountain Reservation and to such other lands as may be added thereto.

## Article II — Membership

SECTION 1. The membership of the Ute Mountain Tribe of the Ute Mountain Reservation shall consist of the following:

(a) All persons of Ute Indian blood duly enrolled in the 1939 census of the Ute Mountain Reservation: provided, That within two years from the adoption and approval of this Constitution and Bylaws additions and changes may be made by the Council, subject to the approval of the Secretary of the Interior.

(b) And all children born to any member if such children shall be of one-half or more degree of Ute Indian blood.

SECTION 2. The Council shall have the power to pass ordinances, subject to the approval of the Secretary of the Interior, covering future membership.

## Article III — Governing Body

SECTION 1. The governing body of the Ute Mountain Tribe of the Ute Mountain Reservation, which includes Allen Canyon, shall be known as the "Ute Mountain Tribal Council."

SECTION 2. The Council shall be composed of seven members one of whom shall be elected annually by the members of the Allen Canyon (Utah) community. The Council when it meets after each annual election, shall choose from its membership: chairman, a secretary-custodian, a treasurer, and such other officers and committees as may be deemed necessary.

SECTION 3. The Council shall have the power to restrict the reservation and to apportion representation, subject to a referendum of the people, whenever such action is deemed advisable by the Council.

SECTION 4. Members of the Council shall be at least twenty-five years of age, and permanent residents of the reservation. No person who has been convicted of a felony shall be eligible for membership on the Council.

SECTION 5. The first election of the Council shall be held within sixty days after the adoption and approval of this Constitution; and thereafter, the annual election shall be held on the second Friday in October. The councilmen elected at this first meeting shall serve until the first annual election in 1941.

SECTION 6. At the first annual election after the adoption of this Constitution, the members of the Towaoc Community, shall meet and elect two members of the Council for one year; two members for two years; and two members for three years; thereafter, two members shall be elected annually, by the Towaoc Community for a three-year period. The Allen Canyon Community shall meet and elect their councilman as provided for in Sections 2 and 5 of this Article.

SECTION 7. Any councilman who may resign, die, or be removed from his office, shall be replaced only at a regular election or at a special election called by the Council. Any councilman convicted of a felony or misdemeanor involving dishonesty in a Federal, State or Indian Court may be removed from office by two-thirds vote of the Council.

SECTION 8. Members of the Council shall take office on the first Friday of the first month after their election.

## Article IV — Nominations and Elections

SECTION 1. Any resident member, male or female, 18 years of age or over, and otherwise qualified, shall be entitled to vote at any election.

SECTION 2. All elections shall be announced by the Superintendent or by an officer of the Tribe designated by the Council, through a circular letter to the Ute Mountain Indians at least ten days before the election.

SECTION 3. Candidates for election to the Council shall be nominated at and appear before General Councils to be held at Ute Mountain Sub-Agency and Allen Canyon. They shall then be seated, after which voting shall take place. Voting shall be by secret ballot.

SECTION 4. Notice of special elections shall be given in the same manner as that for general or regular elections.



## Article VII — Land

The reservation land now unallotted shall remain tribal property and shall not be allotted to individuals in severalty, but assignment of land for private use may be made by the Tribal Council in conformity with ordinances which may be adopted on this subject and approved by the Secretary of the Interior.

## Article VIII — Referendum

By a majority vote of the Council, or upon a petition signed by at least 25 percent of the voters of the Ute Mountain Reservation, any proposed or enacted ordinance or resolution of the Tribal Council shall be submitted to an election of the Tribe. A majority of those voting shall determine the validity of such ordinance or resolution. No ordinance or resolution submitted to referendum shall be in effect until approved in the referendum.

## Article IX — Amendments

Amendments to this Constitution may be proposed by a majority vote of the Tribal Council, and may be ratified and approved in the same manner as this Constitution and Bylaws.

## BYLAWS OF THE UTE MOUNTAIN TRIBE OF THE UTE MOUNTAIN RESERVATION — COLORADO, NEW MEXICO, UTAH

### Article I — Meetings of the Tribal Council

SECTION 1. At the first meeting of the Council after a regular election, the Council shall see that its members have a correct and clear understanding of the Constitution and Bylaws, and of the general management of the tribal and reservation affairs as well as of the rules for the conduct of its own business.

SECTION 2. The regular meetings of the Council shall be held on a date decided on at a previous meeting of the Council, but meetings shall be held once a month at the Ute Mountain Sub-Agency, or other designated places.

SECTION 3. Special meetings of the Tribal Council may be called by the Chairman or by request of two or more members of the Council. Notice of such special meeting shall be given to every member of the Council and to the Superintendent or person in charge of the Sub-Agency as promptly as possible.

SECTION 4. Matters of business before the Council shall be decided by a majority vote of the quorum present. Five members of the Tribal Council must be present at any regular or special meeting in order to transact tribal business. In the absence of the chairman, the remaining members of the Council may elect a temporary chairman.

### Article II — Duties of Officers

SECTION 1. The Chairman of the Council shall preside over all meetings of the Council, shall perform the duties of a chairman and exercise any authority given to him by the Council or by a General Council of the Tribe. He shall vote only in case of a tie.

SECTION 2. The Secretary-Custodian shall be chosen by the Council from among its members if there is among them a person able to perform such duties; otherwise the Council may elect a Secretary-Custodian from the outside. If chosen from outside the Council, the Secretary-Custodian shall have no vote. If a Council member is able to perform common secretarial duties but not to conduct more difficult secretarial business, he may have a competent assistant from outside the Council. As long as the Federal Government gives help in health and educational service, a Superintendent, and other advisory officials, it may be represented at the Council meetings by a delegate without vote, and such delegate may be selected by the Council to serve as Secretary. To such a secretary, or other employee of the United States Government, selected by the Council, shall be entrusted for the time heretofore referred to, the safe-keeping of all valuable papers and records of the Council and the Tribe, such papers to be kept in the agency office and be accessible to the Council chairman and other authorized persons.

SECTION 3. The Council Treasurer shall be the custodian of all monies which may come under the jurisdiction or into the control of the Council. He shall pay out money in accordance with the orders and resolutions of the Council. He shall keep account of all receipts and disbursements and shall report the same to the Council at each regular meeting. He shall be bonded in such amount as the Council may by resolution, approved by the Commissioner of Indian Affairs, provide. The books of the Council treasurer shall be subject to audit or inspection at the direction of the Council or the Commissioner of Indian Affairs. Until the Treasurer is bonded, the Council may make such provision for the custody and disbursement of funds as shall guarantee their safety and proper disbursement and use.

### Article III — Adoption of Constitution and Bylaws

This Constitution and Bylaws, when adopted by a majority vote of the qualified voters of the Ute Mountain Tribe of the Ute Mountain Reservation, voting at a special election called by the Secretary of the Interior, in which at least thirty percent of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval and shall be in force from the date of such approval.



AMENDMENT TO THE CONSTITUTION  
AND BYLAWS OF THE  
UTE MOUNTAIN TRIBE OF THE  
UTE MOUNTAIN RESERVATION  
COLORADO, NEW MEXICO, UTAH

AMENDMENT I

Article V, Section 1 (o) of the Constitution of the Ute Mountain Tribe shall be amended to read as follows:

(a) To appropriate available funds of the Tribe for salaries and expenses of tribal officers and for public purposes, including expenses of tribal officers and for public purposes, including relief of members of the Tribe, contributions to charity, and per capita payments to recognized members of the Tribe; Provided, that the amount distributed per capita in any one year shall not exceed one-half of the unreserved accumulated net operating profits from tribal enterprises without prior approval of the Secretary of the Interior.

CERTIFICATION OF ADOPTION

Pursuant to an order approved December 1, 1949, by the Assistant Secretary of the Interior, the attached Amendment I to the Constitution and Bylaws of the Ute Mountain Tribe, Colorado, New Mexico and Utah, was submitted for ratification to the Indians of the Ute Mountain Reservation and was on January 3, 1950, duly adopted by a vote of 69 for, and 0 against, in an election in which over thirty percent of those entitled to vote cast their ballots, in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

GEORGE MILLS,

Chairman, Ute Mountain Tribal Council

MARK D. BOYKO,

Secretary, Ute Mountain Tribal Council

FLOYD E. MacSPADDEN,

Superintendent, Consolidated Ute Agency

APPROVAL

I, William F. Warne, Assistant Secretary of the Interior of the United States of America, by virtue of the authority granted me by the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Amendment I, amending the Constitution of the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico and Utah. Approval recommended: Feb. 6, 1950.

JOHN R. NICHOLS,

Commissioner of Indian Affairs.

WILLIAM E. WARNE,

Assistant Secretary of the Interior

Washington, D.C.



DATE: August 12, 1999

RESOLUTION NO. 99 - 123

**RESOLUTION  
UTE MOUNTAIN UTE TRIBAL COUNCIL**

**REFERENCE:**        **Surface & Ground Water Quality Standards on the  
Ute Mountain Ute Reservation**

WHEREAS, the Constitution and By-Laws of the Ute Mountain Tribe, approved June 6, 1940 and subsequently amended provides in Article III that the governing body of the Ute Mountain Ute Tribe is the Ute Mountain Ute Tribal Council and sets forth in Article V the powers of the Tribal Council exercised in the Resolution; and

WHEREAS, the Ute Mountain Ute Tribal Council is committed to programs and projects that benefit the social, public and economic well being of the Ute Mountain Ute Tribal Members; and

WHEREAS, the U.S. Environmental Protection Agency has the right, with the authority delegated by the Congress of the United States of America in Section 518 of the Federal Water Pollution Control Act, to treat Indian Tribes as States for the purpose of administering water quality standards; and

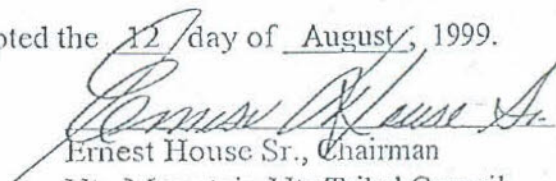
WHEREAS, the Ute Mountain Tribal Council has been advised that it be in the best interest of the health and welfare of Tribal members and the protection and management of the Tribe's water resources to adopt standards for the quality of surface water and ground water on the Ute Mountain Ute Reservation; and

WHEREAS, it is the intention of the Ute Mountain Ute Tribe, through its Environmental Department, specifically Water Pollution Program, to adopt and administer standards for the quality of surface water and ground water on the Ute Mountain Ute Reservation, and these specific standards shall be prepared by the Environmental Programs Department for future review and approval by the Tribal Council; and

NOW, THEREFORE, BE IT RESOLVED, the Ute Mountain Ute Tribal Council agrees that it is also the intention of the Ute Mountain Ute Tribe to apply to the Regional Administrator of the U.S. Environmental Protection Agency for "Treatment as a State" for the purposes of administering a water quality standards program.

BE IT FINALLY RESOLVED, that the Chairman of the Ute Mountain Ute Tribal Council is authorized to sign this Resolution and is further authorized to take such action as may be necessary to carry out the intent of this Resolution.


The foregoing Resolution was duly adopted the 12 day of August, 1999.

  
Ernest House Sr., Chairman  
Ute Mountain Ute Tribal Council

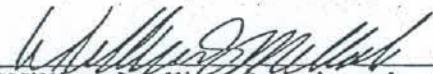


CERTIFICATION

This is to certify that there was a quorum of 6 Tribal Council Members present at the official meeting of the Ute Mountain Tribal Council held on the above mentioned date, that 4 voted for and 1 opposed and 0 abstained the above Resolution, and that the above Resolution was duly adopted.

  
Brenda Hinton, Recording Secretary  
Ute Mountain Tribal Council

Approval:

 (s)  
William Mellick, Superintendent  
Bureau of Indian Affairs,  
Ute Mountain Ute Agency

# **DESCRIPTIVE STATEMENT OF THE UTE MOUNTAIN TRIBE'S AUTHORITY TO REGULATE WATER QUALITY**

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## **I. INTRODUCTION**

This descriptive statement of authority is submitted on behalf of the Ute Mountain Tribe (the "Tribe") as part of its application to administer a water quality standards program as provided for in Sections 303 (c) and 401 of the Federal Water Pollution Control Act, hereafter referred to as the "Clean Water Act" (33 U.S.C. Sections 1251-1387). As required by 40 C.F.R. § 131.8 (b) (3), this statement includes a map and legal description of the area over which the Tribe asserts authority to regulate surface water quality, a statement which describes the basis for the Tribe's assertion of authority and an identification of the surface waters for which the Tribe proposes to establish water quality standards. As described below, the Tribe hereby asserts authority under the Clean Water Act to manage and protect all water resources that are within the boundaries of the Ute Mountain Reservation.

## **II. MAP AND LEGAL DESCRIPTION OF THE UTE MOUNTAIN RESERVATION**

The Ute Mountain Reservation (the "Reservation") is located in the southwestern corner of Colorado, with portions in New Mexico and Utah. The Reservation is approximately 933 square miles, or 597,288 acres. The Colorado and New Mexico portions of the Reservation are one block of contiguous lands that are owned in trust by the United States for the benefit of the Tribe. The Utah portion of the Reservation is non-contiguous with the Colorado and New Mexico portions of the Reservation and includes land that is held in trust for the Tribe and land that has been allotted and is held in trust by the United States for the benefit of individual tribal members. There are no lands within the boundaries of any portion of the Ute Mountain Reservation that are owned in fee by non-Indians.

The boundaries of the contiguous acreage of the Reservation in the States of Colorado and New Mexico and the non-contiguous acreage in the State of Utah are defined in the following federal laws, Executive Orders, and treaties between the Ute Mountain Tribe (or Weeminuche Band of Utes) and the United States of America, copies of which are provided in a separate appendix to this application and made a part hereof:

1. Treaty of October 7, 1863
2. Treaty of March 2, 1868
3. Act of April 29, 1874
4. Executive Order No. 22, 1875



5. Executive Order of February 7, 1879
6. Act of June 15, 1880
7. Act of July 28, 1882
8. Executive Order of August 4, 1882
9. Act of May 14, 1884
10. Act of February 8, 1887
11. Act of February 20, 1895
12. Presidential Proclamation of April 13, 1899
13. Act of June 29, 1906 (38 Stat. 82)
14. Act of March 1, 1907
15. Act of June 30, 1913 (38 Stat. 77, 81-2)
16. Executive Order of November 12, 1915
17. Departmental Order of July 17, 1937, authorized by Act of June 18, 1934 (48 Stat. 984)
18. Order of Restoration of November 13, 1937
19. Act of June 28, 1938
20. Order of September 14, 1938
21. Act of August 12, 1953
22. *Ute Mountain Tribe v. Navajo Tribe*, 409 U.S. 809 (1972)

The land in Utah held by the United States in trust for either the Tribe or tribal members qualifies as land over which the Tribe may assert jurisdiction for purposes of administering a water quality standards program pursuant to the Clean Water Act. Although not within the boundaries of the Tribe's 1895 Reservation, the property in Utah has been subject to tribal jurisdiction and recognized as part of the Reservation. See Constitution and Bylaws of the Ute Mountain Tribe of the Ute Mountain Reservation in Colorado, New Mexico, Utah approved June 6, 1940, and subsequently amended. (underlining added); see also Article II, Section 1 of the Constitution and Bylaws of the Ute Mountain Tribe (providing that "[t]he governing body of the Ute Mountain Tribe of the Ute Mountain Reservation, which includes Allen Canyon, shall be known as the 'Ute Mountain Tribal Council.'" (underlining added).

In addition to the above described land, the Tribe owns nine parcels of fee land, eight located in Colorado and one in Utah, that are not contiguous to the above described Reservation land. Such land is not included in this application.

Included in the appendix provided with this application and made a part hereof is a map showing the Reservation.

### III. THE TRIBE MEETS THE REQUIREMENTS OF SECTION 518 (E) OF THE CLEAN WATER ACT

Section 518 (e) of the CWA, codified at 33 U.S.C. § 1377 (e), provides that:

The Administrator is authorized to treat an Indian tribe as a State for purposes of title II . . . to the degree necessary to carry out the objectives of this section, but only if –

- (1) The Indian tribe has a governing body carrying out substantial governmental duties and powers;
- (2) The functions to be exercised by the Indian tribe pertain to the management and protection of water resources which are held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation; and
- (3) The Indian tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this Act and of all applicable regulations.

Section 518 (h) (1) (codified at 33 U.S.C. § 1377 (h) (1)) then defines "Federal Indian reservation" as:

all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation.

By the information contained in this application, the Tribe has satisfied the requirements necessary for EPA to approve the Tribe's application to administer a water quality standards program. Regarding the second requirement, the Tribe has demonstrated that the water resources to be regulated are all within the borders of the Ute Mountain Reservation. No further demonstration of authority, therefore, should be necessary.

#### **IV. THE UTE MOUNTAIN TRIBE HAS THE AUTHORITY TO REGULATE THE QUALITY OF ALL WATER RESOURCES WITHIN THE BORDERS OF THE RESERVATION**

Even if a demonstration of further authority is required, the Tribe has the authority to regulate the quality of all water resources within the borders of the Reservation. This authority arises out of three sources: the Tribe's inherent sovereign power to protect the integrity of its territory, and to protect the health and welfare of its tribal members; the treaties and federal laws referenced above; and the Constitution and Bylaws of the Ute Mountain Tribe of the Ute Mountain Reservation in Colorado, New Mexico, Utah, approved by the Secretary of the Interior in 1940.



**A. AUTHORITY BASED ON INHERENT TRIBAL POWER.**

Under well-established principles of federal Indian law, the Tribe has the inherent sovereign power to regulate the quality of all waters that cross the Reservation. It has long been held that tribes retain those aspects of sovereignty that have not been specifically divested or which are inconsistent with their dependent status. *Montana v. United States*, 450 U.S. 544 (1981); *Washington v. Confederated Tribes of the Colville Indian Reservation*, 447 U.S. 134 (1980) (tribe has power to tax non-Indians for their on-reservation activities); *Worcester v. Georgia*, 31 U.S. 515 (1832). In *Montana v. EPA*, 137 F.3d 1135 (9<sup>th</sup> Cir. 1998), *cert. denied*, 119 S.Ct. 275 (1998), the United States Court of Appeals for the Ninth Circuit affirmed EPA's grant to a tribe of "treatment as a state" status to promulgate water quality standards that apply to all sources of pollutant emissions within reservation boundaries, including land owned in fee by non-members of the tribe. The basis for EPA's grant was its determination that the tribe possessed inherent authority, even over non-members on fee lands, for purposes of setting water quality standards. In this case, no treaties or federal laws specifically divest the Tribe of its inherent authority to regulate water quality and, therefore, such authority subsists.

**B. AUTHORITY BASED ON TREATIES AND FEDERAL LAWS.**

The treaties that created the Ute Mountain Reservation, by setting land aside for the "absolute and undisturbed use and occupation of the Indians" and "the sole and exclusive use and occupancy of such of said Indians" provides another basis for the Tribe's assertion of authority to administer a water quality standards program. Pursuant to the Treaty with the Ute Indians, 15 Stat. 619 (1868) the Confederated Bands of the Utes were purportedly guaranteed approximately the western third of what is now the State of Colorado -- nearly 15 million acres of land. The land was "set apart for the absolute and undisturbed use and occupation of the Indians. . ." *Id.* at Art. II.

The discovery of valuable minerals in the San Juan Mountains led to widespread trespass on the Ute tribal lands set apart under the 1868 Treaty. As a result, the United States concluded another agreement with the Utes in 1873 that carved 3.7 million acres out of the middle of the Reservation. Agreement of September 13, 1873, ratified by Act of April 29, 1874, ch. 136, 18 Stat. 36 (1874) ("Brunot Cession"). The Brunot Cession nearly severed the Reservation into two parts and isolated the Northern Ute Bands (Yampa, Grand River, Uintah, and Tabeguache) from the Southern Ute Bands (Weeminuche, Moache, and Capote). The Southern Ute Bands occupied a narrow strip of land 15 miles wide that ran from near the Utah border to the eastern boundary of the reservation near Pagosa Springs -- about 110 miles.

In 1879, a bitter dispute between the Northern Ute Bands and the federal agents in Meeker, Colorado, led to an insurrection in which 12 non-Indians were killed. Outrage over the so-called "Meeker Massacre" spread from coast to coast, and intense political pressure was applied to remove the Utes from Colorado. Under an Agreement dated March 6, 1880, ratified by the Act of June 15, 1880, ch. 223, 21 Stat. 199 ("1880 Act"), the Northern Ute Bands were relocated to Utah. The Southern Ute Bands were to "remove to and settle upon the unoccupied agricultural lands on the La



Plata River, in Colorado . . . ." Following allotment of those lands to individual members of the Southern Ute Bands, the Utes agreed to open the remainder of the 1868 Reservation to non-Indian settlement under trust administered entry and sale for the benefit of the Utes. There was widespread opposition among the Southern Utes to the allotment process, and between 1880 and 1895, the process was only partially completed.

The Act of February 20, 1895, ch. 113, 25 Stat. 133 ("1895 Act") ratified the 1880 Act and directed the Secretary of the Interior to proceed with the allotment of lands to the Southern Ute Bands. The western portion of the reservation, however, together with a tract of adjoining land located in New Mexico was set aside for those band members who did not wish to obtain allotments. Those members favoring allotment were permitted to select tracts from lands on the eastern portion of the Reservation. Today, the Ute Mountain Ute Tribe occupies the western portion of the Reservation and the New Mexico land that was not allotted. Section 3 of the 1895 Act provides:

That for the sole and exclusive use and occupancy of such of said Indians as may not elect or be deemed qualified to take allotments of land in severalty, as provided in the preceding section, there shall be, and is hereby, set apart and reserved all that portion of their present reservation lying west . . . [description of Reservation for Indians not taking allotments].

All of the land within the Ute Mountain Reservation is land that is owned by the United States in trust for the Tribe.

#### **C. AUTHORITY BASED ON TRIBAL CONSTITUTION.**

The jurisdiction of the Tribe is defined in Article I of the Constitution and Bylaws of the Ute Mountain Tribe of the Ute Mountain Reservation in Colorado, New Mexico, Utah, approved by the Secretary of the Interior in 1940 as follows:

The jurisdiction of the Ute Mountain Ute Tribe of the Ute Mountain Reservation through its General Council, the Ute Mountain Tribal Council, and its Court, shall extend to the lands now included within the Ute Mountain Reservation and to such other lands as may be added thereto.

A copy of the Tribe's Constitution and Bylaws is included in the appendix provided with this application and made a part hereof.

#### **V. IDENTIFICATION OF THE SURFACE WATERS FOR WHICH THE TRIBE PROPOSES TO ESTABLISH WATER QUALITY STANDARDS**

The Tribe's application is for the purpose of establishing water quality standards on the



following water bodies and their tributaries that cross or are contained within the Ute Mountain Reservation:

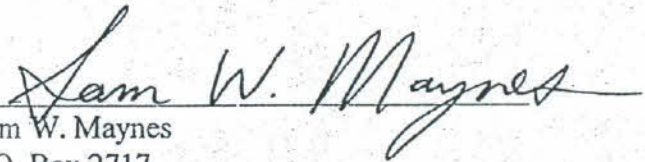
San Juan River;  
Mancos River;  
McElmo Creek;  
Navajo Wash; and  
All Reservoirs.

These water bodies are shown on the map included in the appendix to this application.

## VI. CONCLUSION

For the reasons stated above, the Tribe asserts that under the Clean Water Act the Ute Mountain Tribe has authority to regulate the quality of all water resources within the boundaries of the Ute Mountain Reservation.

MAYNES, BRADFORD, SHIPPS & SHEFTEL

By   
Sam W. Maynes  
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Durango, Colorado 81302  
(970) 247-1755

Attorneys for Ute Mountain Tribe



## Section 2b.

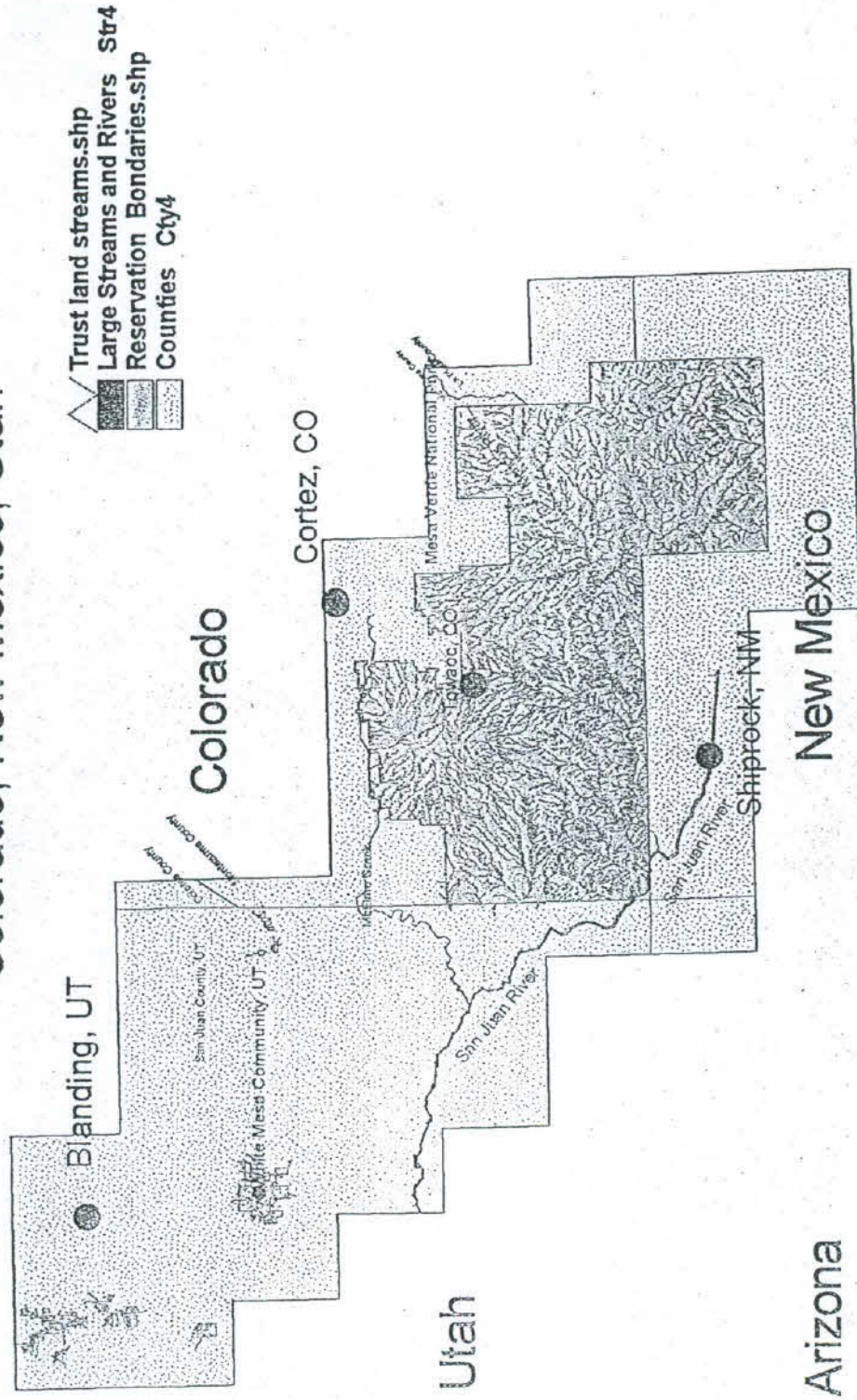
### Ute Mountain Ute Reservation Boundaries

As described in "Descriptive Statement of the Ute Mountain Tribe's Authority to Regulate Water Quality," twenty-two treaties, executive orders, court decisions, and Acts of the Congress of the United States of America have impacted and redefined the boundaries of the Ute Mountain Ute Reservation. Copies of each of those documents are contained within this section in addition to two maps. The first map shows all streams, including ephemeral streams, and their relation to the Reservation boundaries. The second map identifies only the streams that are perennial, those being the four specifically identified in the "Descriptive Statement of the Ute Mountain Tribe's Authority to Regulate Water Quality."



# All Streams Within Exterior Boundaries

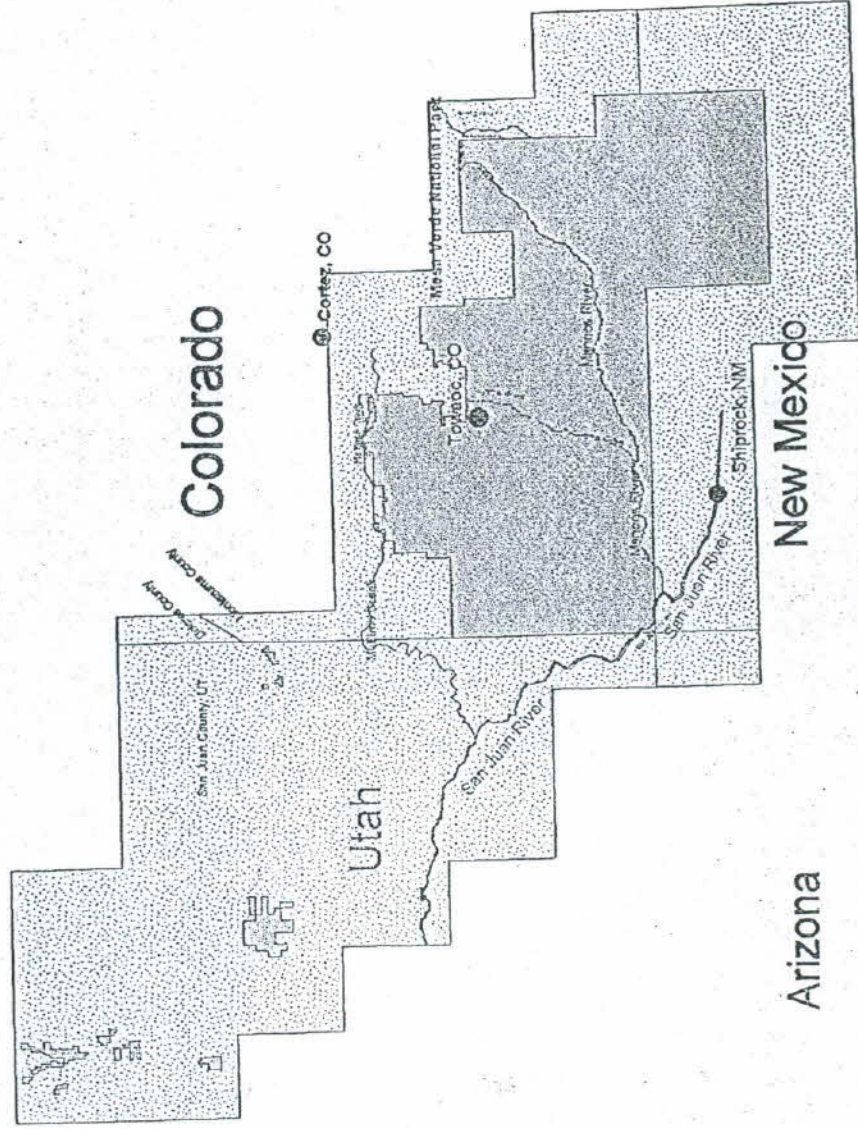
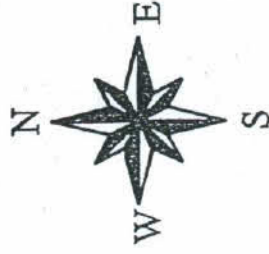
## Ute Mountain Ute Reservation Colorado, New Mexico, Utah



# Perennial Streams Within Exterior Boundaries

## Ute Mountain Ute Indian Reservation: Colorado, New Mexico, Utah

- MI-wr-1.shp
- San Juan R. 3/1 on res.shp
- Strawberry.shp
- Navajo Wash to Highway 160 NW to Hwy 160.shp
- Navajo Wash to USGS gauging station NW-ga.shp
- Navajo Wash to Navajo Springs NW-nr.shp
- Navajo Wash into Mancos River NW-nr.shp
- Mancos River NW to Stalaine MI-wr.shp
- Mancos River upstream of Navajo Wash MI-wr.shp
- Mancos River above USGS gauging station MI-ga1.shp
- Mancos River upstream of Moss Canyon MI-ga1.shp
- Mancos River above Johnson Canyon MI-above Johnson.shp
- Mancos River below Weber Creek MI-wr2.shp
- Weber Creek @ Mancos River Weber.shp
- Mancos River above Weber Creek MI-wr2.shp
- Road
- City





## TREATY WITH THE UTAH—TABEGUACHE BAND, 1863.

Oct. 7, 1863.

13 Stat. 673.  
Ratified Mar. 25,  
1864.  
Proclaimed Dec. 14,  
1864.

Boundaries of land,  
etc.

Whereas the Tabeguache band of Utah Indians claim as against all other Indian tribes an exclusive right to the following-described country as their lands and hunting grounds within the territory of the United States of America, being bounded and described as follows, to wit:

"Beginning on the 37th degree of north latitude, at the eastern base of the Sierra Madre Mountain; running thence northerly with the base of the Rocky Mountains to the forty-first parallel of north latitude; thence west with the line of said forty-first parallel of north latitude to its intersection with the summit of the Snowy range northwest of the North Park; thence with the summit of the Snowy range southerly to the Rabbit-Ear Mountains; thence southerly with the summit of said Rabbit-Ear range of Mountains, west of the Middle Park, to the Grand River; thence with the said Grand River to its confluence with the Gunnison River; thence with the said Gunnison River to the mouth of the Uncompahgre River; thence with the said Uncompahgre River to its source in the summit of the Snowy range, opposite the source of the Rio Grande del Norte; thence in a right line south to the summit of the Sierra La Plata range of mountains, dividing the waters of the San Juan River from those of the Rio Grande del Norte; thence with the summit of said range southeasterly to the thirty-seventh parallel of north latitude; thence with the line of said parallel of latitude to the place of beginning."

The President of the United States of America, by John Evans, governor of Colorado Territory, and *ex-officio* superintendent of Indian affairs for the same; Michael Steck, superintendent of Indian affairs for the Territory of New Mexico; Simeon Whiteley and Lafayette Head, Indian agents, duly authorized and appointed as commissioners for the purpose, of the one part, and the undersigned chiefs and warriors of the Tabeguache band of Utah Indians, of the other part, have made and entered into the following treaty, which, when ratified by the President of the United States, by and with the advice and consent of the Senate, shall be binding on both parties, to wit:

Authority of the  
United States admit-  
ted.

ARTICLE 1. It is admitted by the Tabeguache band of Utah Indians that they reside within the territorial limits of the United States, acknowledging their supremacy, and claim their protection. The said band also admits the right of the United States to regulate all trade and intercourse with them.

Cession of lands.

ARTICLE 2. Said Tabeguache band of Utah Indians hereby cede, convey, and relinquish all of their claims, right, title, and interest in and to any and all lands within the territory of the United States, wherever situated, excepting that which is included within the following boundaries, which are hereby reserved as their hunting-grounds, viz:

Boundary.

Beginning at the mouth of the Uncompahgre River; thence down Gunnison River to its confluence with Bunkara River; thence up the Bunkara River to the Roaring Fork of the same; thence up the Roaring Fork to its source; thence along the summit of the range dividing the waters of the Arkansas from those of the Gunnison River to its intersection with the range dividing the waters of the San Luis Valley from those of the Gunnison's Fork of the Great Colorado River; thence along the summit of said range to the source of the Uncompahgre River; thence from said source and down the main channel of said Uncompahgre River to its mouth, the place of beginning. Nothing contained in this treaty shall be construed or taken to admit on the part of the United States any other or greater title or interest in the lands above excepted and reserved in said tribe or band of Indians than existed in them upon the acquisition of said Territory from Mexico by the laws thereof.



ARTICLE 3. And it is further agreed that the United States shall have the right to establish one or more military posts, with their needful reservations, upon the lands and hunting-grounds not ceded by the Tabeguache band in this treaty; also the right to locate, construct, and maintain railroads and other roads and highways through the same, and along routes of United States mail-lines, at suitable points, to establish and maintain stations.

Military posts may be established on lands not ceded.

Any citizen of the United States may mine, without interference or molestation, in any part of the country hereby reserved to said Indians where gold or other metals or minerals may be found.

Mining.

ARTICLE 4. And the said Tabeguache band hereby gives its consent that the Mohuache band of Utah Indians may also be settled with them upon the lands and hunting-grounds reserved in this treaty.

Mohuache band of Utahs.

ARTICLE 5. And the said Tabeguache band further agrees to give safe-conduct to all persons who may be legally authorized by the United States to pass through their reservation, and to protect in their persons and property all agents or other persons sent by the United States to reside temporarily among them.

Protection to be given to certain persons.

ARTICLE 6. That the friendship which is now established between the United States and the Tabeguache band of Utah Indians should not be interrupted by the misconduct of individuals, it is hereby agreed that for injuries done no private revenge or retaliation shall take place, but, instead thereof, complaint shall be made by the party injured to the superintendent or agent of Indian affairs, or other person appointed by the President. And it shall be the duty of the chiefs of said Tabeguache band, upon complaint being made as aforesaid, to deliver up the person or persons against whom the complaint is made, to the end that he or they may be punished agreeably to the laws of the United States. And in like manner, if any robbery, violence, or murder shall be committed on any Indian or Indians belonging to said band, the person or persons so offending shall be tried, and if found guilty, shall be punished in like manner as if the injury had been done to a white man. And it is agreed that the chiefs of said Tabeguache band shall, to the utmost of their power, exert themselves to recover horses or other property which may be stolen or taken from any citizen or citizens or white residents of the United States by any individual or individuals of said band; and the property so recovered shall be forthwith delivered to the agents or other persons authorized to receive it, that it may be restored to the proper owner. And for such property as any Indian or Indians belonging to said band may have taken from citizens or white residents of the United States which cannot be restored, payment shall be reserved from the annuities which the said band is to receive, upon sufficient proof of the fact. And the United States hereby guarantee to any Indian or Indians of said band a full indemnification for any horses or other property which may be stolen from them by any of their citizens or white residents: *Provided*, That the property so stolen cannot be recovered, and that sufficient proof is produced that it was actually stolen by a citizen or white resident of the United States. And the said Tabeguache band engages, on the requisition or demand of the President of the United States, or of the agents, to deliver up any white man resident among them.

Redress of injuries.

Delivery of offenders.

Recovery of stolen property.

Surrender of white men.

ARTICLE 7. And the chiefs and warriors as aforesaid promise and engage their band will never, by sale, exchange, or as presents, supply any nation or tribe of Indians, not in amity with the United States, with guns, ammunition, or other implements of war.

Munitions of war.

ARTICLE 8. For the period of ten years the said band shall receive, annually, by such distribution as the Secretary of the Interior may direct, ten thousand dollars' worth of goods, and also ten thousand dollars' worth of provisions.

Annuity.



Horses.

ARTICLE 9. For the purpose of improving their breed of horses, the band shall receive five American stallions the first year after the ratification of this treaty.

Donations of stock.

ARTICLE 10. That in case the chiefs of said band shall announce to the agent a willingness and determination on their part, and on the part of their people, to begin and follow agricultural or pastoral pursuits by farming or raising stock, and growing wool upon such lands to be selected and set apart within said reservation, and according to such regulations as the Secretary of the Interior may prescribe, they shall receive the following donations of stock to aid them in their endeavor to gain a livelihood by such new pursuits, viz:

Of cattle, not exceeding one hundred and fifty head annually during five years, beginning with the ratification of this treaty.

Of sheep, not exceeding one thousand head annually during the first two years after the ratification of this treaty, and five hundred head annually during the three years thereafter.

The Secretary of the Interior may also direct that their share of annuity goods and provisions shall be of a character suited to such change of life: *Provided, however,* That such stock shall only be donated as long as such chiefs shall in good faith keep and use the same for the purpose indicated in this article, and provided that the amount expended under this article shall not exceed ten thousand dollars annually.

All the Indians of said band who may adopt and conform to the provisions of this article shall be protected in the quiet and peaceable possession of their said lands and property.

Blacksmith and shop.

The Government also agrees to establish and maintain a blacksmith-shop, and employ a competent blacksmith, for the purpose of repairing the guns and agricultural implements which may be used by said band of Indians.

Signatures.

In testimony whereof, the said commissioners, as aforesaid, and the said chiefs and warriors of the Tabeguache band of Utah Indians, have hereunto set their hands and seals, at the Tabeguache agency, at Conejos, Colorado Territory, on this the seventh day of October, in the year of our Lord one thousand eight hundred and sixty-three.

Jno. Evans, [SEAL.]  
Governor C. T., Superintendent Indian  
Affairs, and Commissioner.

M. Steck, [SEAL.]  
Superintendent Indian Affairs New Mexico  
and Commissioner.

Simeon Whiteley, [SEAL.]  
U. S. Agent to the Grand River and Uintah  
Bands of Utah Indians and Commissioner.

Lafayette Head, [SEAL.]  
U. S. Indian Agent and Commissioner.

Un-cow-ra-gut, or Red Color, his x mark. [SEAL.]

Sha-wa-she-yet, or Blue Flower, his x mark. [SEAL.]

Colorado, his x mark. [SEAL.]

U-ray, or Arrow, his x mark. [SEAL.]

No-va-ve-tu quar-et, or One that Slides under  
the Snow, his x mark. [SEAL.]

Sa-wa-wat-se-wich, or Blue River, his x mark. [SEAL.]

A-ca-mu-che-ne, or Red Wind, his x mark. [SEAL.]

Mu-chu-chop, or Lock of Hair, his x mark. [SEAL.]

Sa-patch, or White Warm, his x mark. [SEAL.]

Cinche, or Left Hand. [SEAL.]



## Witnesses to the treaty:

Jno. G. Nicolay, Secretary to the Commission.

Chas. E. Phillips, Assistant Secretary to Commission.

J. W. Chughton, Colonel First Cavalry of Colorado, Commanding District.

Samuel F. Tappan, Lieutenant-Colonel First Cavalry of Colorado.

Charles Kerber, Captain, First Cavalry of Colorado.

J. P. Benesteel, Captain, First Cavalry of Colorado.

## Interpreters:

Juan V. Valdes.

Bernardo Sanchez, his x mark.

Amador Sanchez, his x mark.

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## TREATY WITH THE UTE, 1868.

Mar. 2, 1868.

15 Stats., 619.  
Ratified, July 25,  
1868.  
Proclaimed, Nov. 6,  
1868.

*Articles of a treaty and agreement made and entered into at Washington City, D. C., on the second day of March, one thousand eight hundred and sixty-eight, by and between Nathaniel G. Taylor, Commissioner of Indian Affairs, Alexander C. Hunt, governor of Colorado Territory and ex-officio superintendent of Indian affairs, and Kit Carson, duly authorized to represent the United States, of the one part, and the representatives of the Tabaguache, Muache, Capote, Weeminuche, Yampa, Grand River, and Uintah bands of Ute Indians, (whose names are hereto subscribed,) duly authorized and empowered to act for the body of the people of said bands, of the other part, witness:*

Certain provisions  
of former treaty re-  
affirmed.

ARTICLE 1. All of the provisions of the treaty concluded with the Tabeguache band of Utah Indians October seventh, one thousand eight hundred and sixty-three, as amended by the Senate of the United States and proclaimed December fourteenth, one thousand eight hundred and sixty-four, which are not inconsistent with the provisions of this treaty, as hereinafter provided, are hereby re-affirmed and declared to be applicable and to continue in force as well to the other bands, respectively, parties to this treaty, as to the Tabeguache band of Utah Indians.

Reservation.

Boundaries.

ARTICLE 2. The United States agree that the following district of country, to wit: Commencing at that point on the southern boundary-line of the Territory of Colorado where the meridian of longitude 107° west from Greenwich crosses the same; running thence north with said meridian to a point fifteen miles due north of where said meridian intersects the fortieth parallel of north latitude; thence due west to the western boundary-line of said Territory; thence south with said western boundary-line of said Territory to the southern boundary-line of said Territory; thence east with said southern boundary-line to the place of beginning, shall be, and the same is hereby, set apart for the absolute and undisturbed use and occupation of the Indians herein named, and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit among them; and the United States now solemnly agree that no persons, except those herein authorized so to do; and except such officers, agents, and employes of the Government as may be authorized to enter upon Indian reservations in discharge of duties enjoined by law shall ever be permitted to pass over, settle upon, or reside in the Territory described in this article, except as herein otherwise provided.

Only certain persons  
to reside thereon.

Claims to all other  
lands released.

ARTICLE 3. It is further agreed by the Indians, parties hereto, that henceforth they will and do hereby relinquish all claims and rights in and to any portion of the United States or Territories, except such as are embraced in the limits defined in the preceding article.

Two agencies on the  
reservation.

ARTICLE 4. The United States agree to establish two agencies on the reservation provided for in article two; one for the Grand River, Yampa, and Uintah bands, on White River, and the other for the Tabeguache, Muache, Weeminuche, and Capote bands, on the Rio de los Pinos, on the reservation, and at its own proper expense to construct at each of said agencies a warehouse, or store-room, for the use of the agent in storing goods belonging to the Indians, to cost not exceeding fifteen hundred dollars; an agency-building for the residence of the agent, to cost not exceeding three thousand dollars; and four other buildings for a carpenter, farmer, blacksmith, and miller, each to cost not exceeding two thousand dollars; also a school-house or mission-building, so soon as a sufficient number of children can be induced by the agent to attend school, which shall not cost exceeding five thousand dollars.

Warehouse and  
other buildings.

Schoolhouse.

Water-power saw-  
mill.

The United States agree, further, to cause to be erected on said reservation, and near to each agency herein authorized, respectively, a good



water-power saw-mill, with a grist-mill and a shingle-machine attached, the same to cost not exceeding eight thousand dollars each: *Provided*, The same shall not be erected until such time as the Secretary of the Interior may think it necessary to the wants of the Indians.

ARTICLE 5. The United States agree that the agents for said Indians, in the future, shall make their homes at the agency-buildings; that they shall reside among the Indians, and keep an office open at all times for the purpose of prompt and diligent inquiry into such matters of complaint by and against the Indians, as may be presented for investigation under the provisions of their treaty stipulations, as also for the faithful discharge of other duties enjoined on them by law. In all cases of depredation on person or property they shall cause the evidence to be taken in writing and forwarded, together with their finding, to the Commissioner of Indian Affairs, whose decision, subject to the revision of the Secretary of the Interior, shall be binding on the parties to this treaty.

Indian agents to make their homes and reside where.

Depredations.

ARTICLE 6. If bad men among the whites or among other people, subject to the authority of the United States, shall commit any wrong upon the person or property of the Indians, the United States will, upon proof made to the agent and forwarded to the Commissioner of Indian Affairs at Washington City, proceed at once to cause the offender to be arrested and punished according to the laws of the United States, and also re-imburse the injured person for the loss sustained.

Offenders among the whites.

If bad men among the Indians shall commit a wrong or depredation upon the person or property of any one; white, black, or Indian, subject to the authority of the United States and at peace therewith, the tribes herein named solemnly agree that they will, on proof made to their agent and notice to him, deliver up the wrong-doer to the United States, to be tried and punished according to its laws, and in case they wilfully refuse so to do, the person injured shall be re-imbursed for his loss from the annuities or other moneys due or to become due to them under this or other treaties made with the United States.

Wrongdoers among the Indians.

ARTICLE 7. If any individual belonging to said tribe of Indians or legally incorporated with them, being the head of a family, shall desire to commence farming, he shall have the privilege to select, in the presence and with the assistance of the agent then in charge, by metes and bounds, a tract of land within said reservation not exceeding one hundred and sixty acres in extent, which tract, when so selected, certified, and recorded in the land-book, as herein directed, shall cease to be held in common, but the same may be occupied and held in exclusive possession of the person selecting it and his family so long as he or they may continue to cultivate it. Any person over eighteen years of age, not being the head of a family may, in like manner, select and cause to be certified to him or her for purposes of cultivation, a quantity of land not exceeding eighty acres in extent, and thereupon be entitled to the exclusive possession of the same as above directed.

Indians, heads of families, desirous of commencing farming may select lands.

Tract to be recorded and held in exclusive possession.

Persons not heads of families.

For each tract of land so selected a certificate containing a description thereof, and the name of the person selecting it, with a certificate endorsed thereon that the same has been recorded, shall be delivered to the party entitled to it, by the agent, after the same shall have been recorded by him in a book to be kept in his office, subject to inspection, which said book shall be known as the "Ute Land-Book."

Ute Land-Book.

The President may at any time order a survey of the reservation; and when so surveyed Congress shall provide for protecting the rights of such Indian settlers in their improvements, and may fix the character of the title held by each.

Survey, etc.

The United States may pass such laws on the subject of alienation and descent of property, and on all subjects connected with the government of the Indians on said reservation and the internal police thereof as may be thought proper.

Alienation and descent of property.



## Education.

ARTICLE 8. In order to insure the civilization of the bands entering into this treaty, the necessity of education is admitted, especially by such of them as are or may be engaged in either pastoral, agricultural, or other peaceful pursuits of civilized life on said reservation, and they therefore pledge themselves to induce their children, male and female, between the age[s] of seven and eighteen years, to attend school; and it is hereby made the duty of the agent for said Indians to see that this stipulation is complied with to the greatest possible extent; and the United States agree that for every thirty children between said ages who can be induced to attend school a house shall be provided, and a teacher competent to teach the elementary branches of an English education shall be furnished, who will reside among said Indians, and faithfully discharge his or her duties as teacher, the provisions of this article to continue for not less than twenty years.

Children to attend school.

Schoolhouses and teachers.

Seeds and agricultural implements.

ARTICLE 9. When the head of a family or lodge shall have selected lands, and received his certificate as above described, and the agent shall be satisfied that he intends, in good faith, to commence cultivating the soil for a living, he shall be entitled to receive seeds and agricultural implements for the first year, not exceeding in value one hundred dollars, and for each succeeding year he shall continue to farm, for a period of three years more, he shall be entitled to receive seeds and implements as aforesaid, not exceeding in value fifty dollars; and it is further stipulated that such persons as commence farming shall receive instructions from the farmer herein provided for; and it is further stipulated that an additional blacksmith to the one provided for in the treaty of October seventh, one thousand eight hundred and sixty-three, referred to in article one of this treaty, shall be provided with such iron, steel, and other material as may be needed for the Uintah, Yampa, and Grand River agency.

Instructions from farmer. Additional blacksmith.

United States may withdraw farmers, etc.

ARTICLE 10. At any time after ten years from the making of this treaty, the United States shall have the privilege of withdrawing the farmers, blacksmiths, carpenters, and millers herein, and in the treaty of October seventh, one thousand eight hundred and sixty-three, referred to in article one of this treaty, provided for, but in case of such withdrawal, an additional sum thereafter of ten thousand dollars per annum shall be devoted to the education of said Indians, and the Commissioner of Indian Affairs shall, upon careful inquiry into their condition, make such rules and regulations, subject to the approval of the Secretary of the Interior, for the expenditure of said sum as will best promote the educational and moral improvement of said Indians.

Clothing, blankets, etc.

ARTICLE 11. That a sum, sufficient in the discretion of Congress, for the absolute wants of said Indians, but not to exceed thirty thousand dollars per annum, for thirty years, shall be expended, under the direction of the Secretary of the Interior for clothing, blankets, and such other articles of utility as he may think proper and necessary upon full official reports of the condition and wants of said Indians.

Food, meat, and vegetables.

ARTICLE 12. That an additional sum sufficient, in the discretion of Congress, (but not to exceed thirty thousand dollars per annum,) to supply the wants of said Indians for food, shall be annually expended under the direction of the Secretary of the Interior, in supplying said Indians with beef, mutton, wheat, flour, beans, and potatoes, until such time as said Indians shall be found to be capable of sustaining themselves.

Cows and sheep.

ARTICLE 13. That for the purpose of inducing said Indians to adopt habits of civilized life and become self-sustaining, the sum of forty-five thousand dollars, for the first year, shall be expended, under the direction of the Secretary of the Interior, in providing each lodge or head of a family in said confederated bands with one gentle American cow, as distinguished from the ordinary Mexican or Texas breed, and five head of sheep.



ARTICLE 14. The said confederated bands agree that whensoever, in the opinion of the President of the United States, the public interest may require it, that all roads, highways, and railroads, authorized by law, shall have the right of way through the reservations herein designated.

Railways and highways to have right of way.

ARTICLE 15. The United States hereby agree to furnish the Indians the teachers, carpenters, millers, farmers, and blacksmiths, as herein contemplated, and that such appropriations shall be made from time to time, on the estimates of the Secretary of the Interior, as will be sufficient to employ such persons.

Teachers and mechanics and their support.

ARTICLE 16. No treaty for the cession of any portion or part of the reservation herein described, which may be held in common, shall be of any validity or force as against the said Indians, unless executed and signed by at least three-fourths of all the adult male Indians occupying or interested in the same; and no cession by the tribe shall be understood or construed in such manner as to deprive, without his consent, any individual member of the tribe of his right to any tract of land selected by him, as provided in article seven of this treaty.

Cession of reservation not to be valid unless, etc.

ARTICLE 17. All appropriations now made, or to be hereafter made, as well as goods and stock due these Indians under existing treaties, shall apply as if this treaty had not been made, and be divided proportionately among the seven bands named in this treaty, as also shall all annuities and allowances hereafter to be made: *Provided*, That if any chief of either of the confederated bands make war against the people of the United States, or in any manner violate this treaty in any essential part, said chief shall forfeit his position as chief and all rights to any of the benefits of this treaty: *But provided further*, Any Indian of either of these confederated bands who shall remain at peace, and abide by the terms of this treaty in all its essentials, shall be entitled to its benefits and provisions, notwithstanding his particular chief and band may have forfeited their rights thereto.

Appropriations how to apply and be divided.

Forfeitures by making war.

Those at peace.

In testimony whereof, the commissioners as aforesaid on the part of the United States, and the undersigned representatives of the Tabeguache, Muache, Capote, Weeminuche, Yampa, Grand River and Uintah bands of Ute Indians, duly authorized and empowered to act for the body of the people of said bands, have hereunto set their hands and seals, at the place and on the day, month and year first hereinbefore written.

N. G. Taylor, [SEAL.]  
A. C. Hunt, governor, &c., [SEAL.]  
Kit Carson, [SEAL.]

Commissioners on the part of the United States.

U-re, his x mark.  
Ka-ni-ache, his x mark.  
An-ka-tosh, his x mark.  
Jose-Maria, his x mark.  
Ni-ca-a-gat, or Greenleaf, his x mark.  
Guero, his x mark.  
Pa-ant, his x mark.  
Pi-ab, his x mark.  
Su-vi-ap, his x mark.  
Pa-bu-sat, his x mark.

Witnesses:

Daniel C. Oakes, United States Indian agent.  
Lafayette Head, United States Indian agent.  
U. M. Curtis, interpreter.  
H. P. Bennet.  
Albert G. Boone.  
E. H. Kellogg.  
Wm. J. Godfroy.



## TREATY WITH THE UTE, 1868.

We, the chiefs and headmen of the aforesaid named bands of Ute Indians, duly authorized by our people, do hereby assent and agree to the amendment of the Senate, the same having been interpreted to us, and being fully understood by us.

Witness our hands and seals on the days and dates set opposite our names respectively.

Date of signing.	Signatures.	Interpretation of names.	Band.
1868. Aug. 15	Sac-we-och, his x mark. Tah-nach, his x mark. Pah-ah-pitch, his x mark. Tab-y-ou-souck-en, his x mark. Shou-wach-a-wicket, his x mark. Pe-ah, his x mark. Ah-ump, his x mark. An-tro, his x mark. Pah, his x mark. Quir-nauch, his x mark. Yah-mah-na, his x mark.	White Lock of Hair. Granite Rock. Sweet Herb. Sun Rise. Rain Bow. Black Tail Deer. Pine Tree. Rocking. Water. Eagle. Briar.	Grand River Ute Indians.  Uintah Ute Indians.

Signed in the presence of—

A. Sagendorf.  
Uriah M. Curtis, special interpreter.  
E. H. Kellogg, secretary Colorado Indian superintendency.  
Daniel C. Oakes, United States Indian agent.  
Louis O. Howell.

Date of signature.	Signature.	Interpretation of names.	Band.
Sept. 1	Sa-wa-wat-se-witch, his x mark. Colorado, his x mark. Pa-ant, his x mark. Su-ri-ap, his x mark. Nick-a-a-gah, his x mark.	Blue River. Red. (Spanish.) Tall. Lodge Pole's Son. Green Leaf.	Yampas.

Signed in the presence of—

E. H. Kellogg, secretary Indian superintendency Colorado Territory.  
U. M. Curtis, special United States interpreter.  
Daniel C. Oakes, United States Indian agent.  
H. P. Bennet.  
Louis O. Howell.

Date of signing.	Signatures.	Interpretation of names.	Band.
Sept. 14	On-ray, his x mark. Sha-wa-na, his x mark. Guero, his x mark. Tah-be-wah-che-kah, his x mark. Ah-kan-ash, his x mark. Ka-ni-ache, his x mark. An-ka-tosh, his x mark. Sap-po-wan-e-ri, his x mark. Tu-sa-sa-ri-be, his x mark. Na-ca-get, his x mark. Ya-ma-aj, his x mark.	Arrow. Blue Flower. Light Haired. Sun Rise. Red Cloud. One who was taken down. Red. (Ute.)  Son to Tu-sa-sa-ri-be. or George.	Muaches.  Tabaguaches.



Signed in the presence of—

Wm. J. Godfroy.

Daniel C. Oakes, United States Indian agent.

Edward R. Harris, special interpreter.

E. H. Kellogg, secretary Colorado Indian superintendency.

Louis O. Howell.

Uriah M. Curtis, interpreter.

To the other copy of these instruments are signed as witnesses the following names: Juan Martine Martines, (friend of Indians,) Albert H. Pfeiffer, (their old agent,) Manuel Lusero.

Date of signing.	Signature.	Interpretation of names.	Band.
Sept. 24.	So-bo-ta, his x mark. I-si-dro, his x mark. Sow-wa-chi-wiche, his x mark. Ba-bu-zat, his x mark. Sab-ou-ichie, his x mark. Chu-i-wish, his x mark. I-ta-li-uh, his x mark. E-ri-at-ow-up, his x mark. Aa-ca-wa, his x mark. Ac-i-apo-co-ego, his x mark. Martine, his x mark.  Ou-a-chie, his x mark. Tap-ap-o-watie, his x mark. Su-vi-ath, his x mark. Wi-ar-ow, his x mark.	A Big Frock.  A Green Herb. A Crystal Drop Water. Wounded in the Abdomen. Long Tailed Deer.  Water Carrier. Red Eyes. Red Snake. Named after a Mexican friend.  The Swoop of a Bird.	Ca - po - tas Utes.

Signed in the presence of—

Lafayette Head.

Alb. H. Pfeiffer.

Manuel Lusero.

E. H. Kellogg, secretary Colorado Indian superintendency.

Uriah M. Curtis, interpreter.

Daniel C. Oakes, United States Indian agent.

Date of signing.	Signatures.	Interpretation of names.	Band.
Sept. 25.	Pa-ja-cho-pe, his x mark. Pa-no-ar, his x mark. Su-bi-to-au, his x mark. Te-sa-ga-ra-pou-it, his x mark. Sa-po-eu-a-wa, his x mark. Qu-er-a-ta, his x mark.	A Claw. Broad Brow. Ugly Man. White Eyes. Big Belly. A Bear.	We - mi - nu - ches Utes.

Signed in the presence of—

Lafayette Head.

Manuel Lusero.

Alb. H. Pfeiffer.

E. H. Kellogg, secretary Colorado Indian superintendency.

Juan Martine Martines, interpreter and Indian's friend.

Daniel C. Oakes, United States Indian agent.

Uriah M. Curtis, interpreter.

I hereby certify that, pursuant to the order from the Commissioner of Indian Affairs, dated August fourth, one thousand eight hundred and sixty-eight, I visited and held councils with the various bands of



## TREATY WITH THE CHEROKEE, 1868.

Ute Indians, at the times and places named in this instrument; and to all those familiar with the provisions of the treaty referred to have had the Senate amendment fully interpreted to them, and to all those not familiar with the treaty itself I have had the same fully explained and interpreted; and the forty-seven chiefs whose names are hereunto subscribed, placed their names to this instrument with the full knowledge of its contents and likewise with the provisions of the treaty itself.

Given under my hand at Denver, this fourteenth day of October, one thousand eight hundred and sixty-eight.

A. C. Hunt,

Governor, Ex-officio Superintendent Indian Affairs.



CHAP. 136.—An act to ratify an agreement with certain Ute Indians in Colorado, and to make an appropriation for carrying out the same.<sup>a</sup>

Apr. 29, 1874.

18 Stat., 36.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That a certain agreement made by Felix R. Brunot, commissioner on the part of the United States, with certain Ute Indians in Colorado, be, and the same is hereby, ratified and confirmed. Said agreement is in words and figures following, namely:

Agreement with Ute Indians ratified

Articles of convention made and entered into at the Los Pinos agency for the Ute Indians, on the thirteenth day of September, eighteen hundred and seventy-three, by and between Felix R. Brunot, commissioner in behalf of the United States, and the chiefs, headmen, and men of the Tabeguache, Muache, Capote, Weeminuche, Yampa, Grand River, and Uintah bands of Ute Indians, witnesseth:

Title.

That whereas a treaty was made with the confederated bands of the Ute Nation on the second day of March, eighteen hundred and sixty-eight, and proclaimed by the President of the United States on the sixth day of November eighteen hundred and sixty-eight, the second article of which defines by certain lines the limits of a reservation to be owned and occupied by the Ute Indians; and whereas by act of Congress approved April twenty-three, eighteen hundred and seventy-two, the Secretary of the Interior was authorized and empowered to enter into negotiations with the Ute Indians in Colorado for the extinguishment of their right to a certain portion of said reservation, and a commission was appointed on the first day of July, eighteen hundred and seventy-two, to conduct said negotiation; and whereas said negotiation having failed, owing to the refusal of said Indians to relinquish their right to any portion of said reservation, a new commission was appointed by the Secretary of the Interior, by letter of June second, eighteen hundred and seventy-three, to conduct said negotiation:

Preamble.

Now, therefore, Felix R. Brunot, commissioner in behalf of the United States, and the chiefs and people of the Tabeguache, Muache, Capote, Weeminuche, Yampa, Grand River, and Uintah, the confederated bands of the Ute Nation, do enter into the following agreement:

ARTICLE I. The confederated band of the Ute Nation hereby relinquish to the United States all right, title, and claim and interest in and to the following described portion of the reservation heretofore conveyed to them by the United States, viz: Beginning at a point on the eastern boundary of said reservation fifteen miles due north of the southern boundary of the Territory of Colorado, and running thence west on a line parallel to the said southern boundary to a point on said line twenty miles due east of the western boundary of Colorado Territory; thence north by a line parallel with the western boundary to a

Relinquishment of lands.

Bounds.

<sup>a</sup> Ute legislation.—The agreement contained in this act is supplemented by a subsequent agreement contained in the act of June 15, 1880, ch. 223, post, p. 180, amended by the act of March 1, 1883, post, p. 216, abolishing the Ute commission and making other modifications.

By the act of May 1, 1888, ch. 213, 25 Stat., 133, a commission was provided to enter into negotiations with the Ute for a cession of their reservation in Colorado. The agreement proposed by this commission was disapproved by the act of February 20, 1895, ch. 113, post, p. 555, which made other provisions relative to the disposal of the reservation. This act was amended by the act of June 10, 1895, ch. 398, post, p. 599.

A commission to allot lands on the Uintah Reservation in Utah was provided by the act of June 4, 1898, ch. 376, post, p. 642. For provisions relative to Ute allotments see the following legislation: Acts of May 27, 1902, ch. 888, post, p. 753; June 13, 1902, ch. 1080, post, p. 756, and Joint Res., June 19, 1902, No. 31, post, p. 799.

For provisions relative to rights of way through allotted lands of the Southern Ute in Colorado, see the act of May 27, 1902, ch. 888, post, p. 754.



Proviso.  
Uncompahgre Park  
reserved.

Hunting permitted.

Annuity.  
Reaffirmed June 15,  
1880, c. 226, 21 Stat., 201.

Agency to be estab-  
lished.

Provisions of treaty  
of 1888, not altered by  
this treaty, continued.  
Vol. 2, p. 590.

Salary to head chief.

Agreement subject  
to ratification.

point ten miles north of the point where said line intersects the thirty-eighth parallel of north latitude; thence east to the eastern boundary of the Ute Reservation; thence south along said boundary to the place of beginning: *Provided*, That if any part of the Uncompahgre Park shall be found to extend south of the north line of said described country, the same is not intended to be included therein, and is hereby reserved and retained as a portion of the Ute Reservation.

ARTICLE II. The United States shall permit the Ute Indians to hunt upon said lands so long as the game lasts and the Indians are at peace with the white people.

ARTICLE III. The United States agrees to set apart and hold, as a perpetual trust for the Ute Indians, a sum of money, or its equivalent in bonds, which shall be sufficient to produce the sum of twenty-five thousand dollars per annum; which sum of twenty-five thousand dollars per annum shall be disbursed or invested at the discretion of the President, or as he may direct, for the use and benefit of the Ute Indians annually forever.

ARTICLE IV. The United States agrees, so soon as the President may deem it necessary or expedient, to erect proper buildings and establish an agency for the Weeminuche, Muache, and Capote bands of Ute Indians at some suitable point, to be hereafter selected, on the southern part of the Ute Reservation.

ARTICLE V. All the provisions of the treaty of eighteen hundred and sixty-eight not altered by this agreement shall continue in force; and the following words, from article two of said treaty, viz: "The United States now solemnly agrees that no persons, except those herein authorized to do so, and except such officers, agents, and employees of the Government as may be authorized to enter upon Indian reservations in discharge of duties enjoined by law, shall ever be permitted to pass over, settle upon, or reside in the territory described in this article, except as herein otherwise provided," are hereby expressly re-affirmed, except so far as they applied to the country herein relinquished.

ARTICLE VI. In consideration of the services of Ouray, head-chief of the Ute Nation, he shall receive a salary of one thousand dollars per annum for the term of ten years, or so long as he shall remain head-chief of the Utes and at peace with the people of the United States.

ARTICLE VII. This agreement is subject to ratification or rejection by the Congress of the United States and of the President.

[SEAL.]

FELIX R. BRUNOT,  
*Commissioner.*

Attest:

THOMAS K. CREE, *Secretary.*  
JAMES PHILLIPS, M. D.,  
JOHN LAWRENCE,  
*Interpreters.*

[Here follows the signature of Ouray, principal chief, and others.]

Bonds to be issued  
and held by Secretary  
of Treasury in trust.

Interest, how paid.

Payment to Ouray.

SEC. 2. That the Secretary of the Treasury shall issue, set apart, and hold, as a perpetual fund, in trust for the Ute Indians, a sufficient amount of five-per-centum bonds of the United States, the interest on which shall be twenty-five thousand dollars per annum; which interest shall be paid annually, as the President of the United States may direct, for the benefit of said Indians.

SEC. 3. That the Secretary of the Treasury shall cause to be paid to Ouray one thousand dollars, as the first installment due him annually, so long as he shall be chief of said Ute Indians; and there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, one thousand dollars for that purpose.

Approved, April 29, 1874.



CHAP. 176.—An Act giving the assent of Congress for the improvement of the Wolf River across the Menomonee Indian reservation, in the State of Wisconsin.

May 15, 1874.

18 Stat., 46.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the assent of Congress be, and hereby is, given to the Keshena Improvement Company, a corporation organized under the laws of the State of Wisconsin, to improve the Wolf River, so as to run logs down said river, across the Menomonee Indian reservation, in accordance with the laws of said State: *Provided*, That any damages which may be caused on account of such improvements shall be awarded as in all other cases under the laws of the State of Wisconsin; and the amount be paid into the Treasury of the United States for the benefit of said Indians; and said Indians and all other persons shall be permitted to use said river for the purpose of running logs, as contemplated by this act; and the charges for said privilege shall be regulated by the legislature of the State of Wisconsin: *Provided, further*, That all privileges under this act may be altered or revoked by Congress.

Assent of Congress to improvement of Wolf River so as to run logs across Menomonee Indian reservation in Wisconsin. See 1871, ch. 33, ante, p. 123.

Proviso.

Damages, how awarded.

River may be used by Indians for logging.

Privileges may be altered or revoked.

Approved, May 15, 1874.



CONFEDERATED UTE RESERVATION.

EXECUTIVE MANSION, *November 22, 1875.*

It is hereby ordered that the tract of country in the Territory of Colorado lying within the following-described boundaries, viz, commencing at the northeast corner of the present Ute Indian Reservation, as defined in the treaty of March 2, 1868 (Stat. L., vol. 15. p. 619); thence running north on the one hundred and seventh degree of longitude to the first standard parallel north; thence west on said first standard parallel to the boundary line between Colorado and Utah; thence south with said boundary to the northwest corner of the Ute Indian Reservation; thence east with the north boundary of the said reservation to the place of beginning, be, and the same hereby is, withdrawn from sale and set apart for the use of the several tribes of Ute Indians as an addition to the present reservation in said Territory.

U. S. GRANT.



SOUTHERN UTE RESERVATION.

EXECUTIVE MANSION, *February 7, 1879.*

It is hereby ordered that the following-described tract of country in the State of Colorado, to wit: Commencing at the intersection of the thirty-seventh parallel of north latitude with the one hundred and seventh degree of west longitude; thence east along said parallel to the ridge described in Hayden's Geographical and Geological Survey of said State as the "National Divide" of the San Juan Mountains; thence following said divide in a general northerly and northwesterly direction to longitude  $107^{\circ}$  and  $23'$  west; thence due south to latitude  $37^{\circ}$  and  $17'$  north; thence due east to the one hundred and seventh meridian of west longitude; thence south with said meridian to the place of beginning, be, and the same is hereby, withdrawn from sale and settlement and set apart as a reservation for the Munche, Capote, and Weeminuchee Bands of Ute Indians.

R. B. HAYES.



June 15, 1880.

21 Stat., 199.

CHAP. 223.—An act to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado, for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same.

Preamble.

See note to 1874, ch. 136, ante, p. 151.

See 1895, ch. 113, post, p. 565.

Ute Indians in Colorado.

Proviso.

Agreement for sale of lands.

Amended and ratified.

Proviso.

Schools.

Payment annually for twenty years to certain persons.

Whereas certain of the chiefs and headmen of the confederated bands of the Ute tribe of Indians, now present in the city of Washington, have agreed upon and submitted to the Secretary of the Interior an agreement for the sale to the United States of their present reservation in the State of Colorado, their settlement upon lands in severalty, and for other purposes; and

Whereas the President of the United States has submitted said agreement, with his approval of the same, to the Congress of the United States for acceptance and ratification, and for the necessary legislation to carry the same into effect: Therefore

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That said agreement be, and the same is hereby, accepted, ratified, and confirmed: *Provided,* That the said agreement shall be amended by adding to the first clause thereof, after the words "guilty parties", the words following, to wit: "Until such surrender or apprehension, or until the President shall be satisfied that the guilty parties are no longer living or have fled beyond the limits of the United States, the proportion of the money, hereinafter provided, coming to that portion of the Ute Indians known as the White River Utes, except for removal and settlement, shall not be paid"; and by adding to the third express condition of said agreement after the word "forever", the words following, to wit: "*Provided,* That the President of the United States may, in his discretion, appropriate an amount thereof, not exceeding ten thousand dollars, for the education in schools established within or beyond the limits of the lands selected, of such youths of both sexes as in his judgment may be best qualified to make proficiency in practical industries and pursuits necessary for their self-support, and out of the portion of said moneys coming to the White River Utes, the United States shall pay annually to the following-named persons, during the period of twenty years, if they shall live so long, the following sums respectively: To Mrs. Ari-



vella D. Meeker, five hundred dollars; to Miss Josephine Meeker, five hundred dollars; to Mrs. Sophronia Price, five hundred dollars; to Mrs. Maggie Gordon, five hundred dollars; to George Dresser, two hundred dollars; to Mrs. Sarah M. Post, five hundred dollars; to Mrs. Eaton, mother of George Eaton, two hundred dollars; to the parents of Arthur L. Thompson, two hundred dollars; to the father of Fred Shepard, two hundred dollars; to the parents of Wilmer Eskridge, two hundred dollars"; and by adding to the fifth express condition of said agreement after word "reaffirmed", the words following to wit: "This sum, together with the annuity of fifty thousand dollars hereinafter provided, may, in the discretion of Congress, at the end of twenty-five years, be capitalized, and the principal sum be paid to said Indians per capita in lieu of said annuities": *And provided also*, That three-fourths of the adult male members of said confederated bands shall agree to and sign said agreement, upon presentation of the same to them, in open council, in the manner hereinafter provided: *Provided further*, That nothing in this act contained, or in the agreement herein set forth, or in the amendments herein proposed to said agreement, shall be so construed as to compel any Ute Indian to remove from any lands that he or she claims in severalty. Said agreement is in words and figures as follows, namely:

The chiefs and headmen of the confederate bands of the Utes now present in Washington, hereby promise and agree to procure the surrender, to the United States, for trial and punishment, if found guilty, of those members of their nation, not yet in the custody of the United States, who were implicated in the murder of the United States Indian Agent N. C. Meeker and the murder of and outrages upon the employees at the White River Agency on the twenty-ninth day of September, eighteen hundred and seventy-nine, and in case they do not themselves succeed in apprehending the said parties, presumably guilty of the above-mentioned crime, that they will not in any manner obstruct, but faithfully aid any officers of the United States, directed by the proper authorities, to apprehend such presumably guilty parties.

The said chiefs and headmen of the confederated bands of Utes also agree and promise to use their best endeavors with their people to procure their consent to cede to the United States all the territory of the present Ute Reservation in Colorado, except as hereinafter provided for their settlement.

The Southern Utes agree to remove to and settle upon the unoccupied agricultural lands on the La Plata River, in Colorado; and if there should not be a sufficiency of such lands on the La Plata River and in its vicinity in Colorado, then upon such other unoccupied agricultural lands as may be found on the La Plata River or in its vicinity in New Mexico.

The Uncompahgre Utes agree to remove to and settle upon agricultural lands on Grand River, near the mouth of the Gunnison River, in Colorado, if a sufficient quantity of agricultural land shall be found there, if not then upon such other unoccupied agricultural lands as may be found in that vicinity and in the Territory of Utah.

The White River Utes agree to remove to and settle upon agricultural lands on the Uintah Reservation in Utah.

Allotments in severalty of said lands shall be made as follows:

To each head of a family one-quarter of a section, with an additional quantity of grazing land not exceeding one-quarter of a section.

To each single person over eighteen years of age one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section.

Agreement further amended.

Proviso.

[21 Stat., 200.]

Proviso.

Agreement.

Murderers, etc., to be surrendered for trial and punishment.

Amended by Congress.

Southern Ute to remove and settle upon lands on the La Plata River, Colorado.

Uncompahgre Ute to remove to Grand River, etc.

White River Ute to remove to Uintah Reserve.

Allotments to be made.

How made.



To each orphan child under eighteen years of age one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section; and to each other person, under eighteen years, now living, or who may be born prior to said allotments, one-eighth of a section, with a like quantity of grazing land.

Made with the advice of a commission.

All allotments to be made with the advice of the commission (a) hereinafter provided, upon the selection of the Indians, heads of families selecting for their minor children, and the agents making the allotment for each orphan child.

Chiefs and headmen not to interfere with travel, etc.

The said chiefs and headmen of the confederated bands of Utes further promise that they will not obstruct or in anywise interfere with travel upon any of the highways now open or hereafter to be opened by lawful authority in or upon any of the lands to be set apart for their use by virtue of this agreement.

Conditions of agreement.

The said chiefs and headmen of the confederated bands of Utes promise to obtain the consent of their people to the cession of the territory of their reservation as above on the following express conditions:

Lands to be surveyed and allotted.  
[21 Stat. 201.]

First. That the Government of the United States cause the lands so set apart to be properly surveyed and to be divided among the said Indians in severalty in the proportion hereinbefore mentioned, and to issue patents in fee simple to them respectively therefor, so soon as the necessary laws are passed by Congress. The title to be acquired by the Indians shall not be subject to alienation, lease, or incumbrance, either by voluntary conveyance of the grantee or by the judgment, order, or decree of any court, or subject to taxation of any character, but shall be and remain inalienable and not subject to taxation for the period of twenty-five years, and until such time thereafter as the President of the United States may see fit to remove the restriction, which shall be incorporated in the patents when issued, and any contract made prior to the removal of such restriction shall be void.

Patents to issue, title acquired.

Not subject to alienation or tax.

Annuity, when distributed.

Second. That so soon as the consent of the several tribes of the Ute Nation shall have been obtained to the provisions of this agreement, the President of the United States shall cause to be distributed among them in cash the sum of sixty thousand dollars of annuities now due and provided for, and so much more as Congress may appropriate for that purpose; and that a commission (a) shall be sent to superintend the removal and settlement of the Utes, and to see that they are well provided with agricultural and pastoral lands sufficient for their future support, and upon such settlement being duly effected, that they are furnished with houses, wagons, agricultural implements, and stock cattle sufficient for their reasonable wants, and also such saw and grist mills as may be necessary to enable them to commence farming operations, and that the money to be appropriated by Congress for that purpose shall be apportioned among the different bands of Utes in the following manner: One-third to those who settle on the La Plata River and vicinity, one-half to those settling on Grand River and vicinity, and one-sixth to those settling on the Uintah Reservation.

Commission for removal.

Distribution of appropriation.

One-third to those on La Plata River, one-half to those on Grand River, one-sixth to those on Uintah Reserve.

Perpetual trust fund, in consideration of cession of lands.

Third. That in consideration of the cession of territory to be made by the said confederated bands of the Ute Nation, the United States, in addition to the annuities and sums for provisions and clothing stipulated and provided for in existing treaties and laws, agrees to set apart and hold, as a perpetual trust for the said Ute Indians, a sum of money, or its equivalent in bonds of the United States, which shall be sufficient to produce the sum of fifty thousand dollars per annum, which sum of fifty thousand dollars shall be distributed per capita to them annually forever.

Removal of agencies of Uncompahgre and Southern Ute.

Fourth. That as soon as the President of the United States may deem it necessary or expedient, the agencies for the Uncompahgres

<sup>a</sup> Report of Ute Commission, January 20, 1881. (See Annual Report for 1881, p. 201.) Report of November 21, 1881. (See Annual Report for 1881, p. 325.) See Senate Executive Document No. 31, Forty-sixth Congress, third session.



and Southern Utes be removed to and established at suitable points, to be hereafter selected, upon the lands to be set apart, and to aid in the support of the said Utes until such time as they shall be able to support themselves, and that in the mean time the United States Government will establish and maintain schools in the settlements of the Utes, and make all necessary provision for the education of their children.

Schools to be established.

Fifth. All provisions of the treaty of March second, eighteen hundred and sixty-eight, and the act of Congress approved April twenty-ninth, eighteen hundred and seventy-four, not altered by this agreement, shall continue in force, and the following words from article three of said act, namely, "The United States agrees to set apart and hold, as a perpetual trust for the Ute Indians, a sum of money or its equivalent in bonds, which shall be sufficient to produce the sum of twenty-five thousand dollars per annum, which sum of twenty-five thousand dollars per annum shall be disbursed or invested at the discretion of the President, or as he may direct, for the use and benefit of the Ute Indians forever", are hereby expressly reaffirmed.

Provisions for perpetual annuity in treaty of Mar. 2, 1868, vol. 2, p. 765, and act of 1874, c. 136, ante, p. 151, reaffirmed.

Sixth. That the commissioners above mentioned shall ascertain what improvements have been made by any member or members of the Ute Nation upon any part of the reservation in Colorado to be ceded to the United States as above, and that payment in cash shall be made to the individuals having made and owning such improvements, upon a fair and liberal valuation of the same by the said commission, taking into consideration the labor bestowed upon the land.

Commissioners to ascertain what improvements have been made, by Indians.

Payment therefor.

Done at the city of Washington this sixth day of March anno Domini eighteen hundred and eighty.

[21 Stat., 202.]

Signed

CHAVANAUX	his X mark
IGNATIO	his X mark
ALHANDRA	his X mark
VERATZITZ	his X mark
GALOTA	his X mark
JOCKNICK	his X mark
WASS	his X mark
SAWAWICK	his X mark
OURAY	

Witnesses:

WILL F. BURNS, Interpreter.  
W. H. BERRY, Interpreter.  
OTTO MEARS, Interpreter.  
HENRY PAGE, United States Indian Agent, Southern Utes.  
CHARLES ADAMS, Special Agent.

SEC. 2. That the President of the United States be, and he is hereby, authorized and empowered to appoint, by and with the advice and consent of the Senate, five commissioners, who shall receive compensation for their services at the rate of ten dollars per diem while actually engaged, in addition to their actual traveling and other necessary expenses; and said commissioners shall, under such instructions as the Secretary of the Interior may give them, present said agreement to

Commissioners appointed, compensation, expenses.



Clerk's salary, bond,  
duties.

To report.  
Census of Indians.

Particulars of cen-  
sus.

(21 Stat., 203.)  
Lands allotted in  
severalty.

Commissioners to  
make full report.

Map of survey.

Further report of  
acres allotted.

Agencies located.

Estimate of school-  
houses and school  
children.

the confederated bands of the Ute Indians in open council for ratification, as provided in the first section of this act; and said commissioners shall have a clerk, at a salary of two hundred dollars per month, in addition to his actual traveling and other necessary expenses, and who shall give bond in an amount to be fixed by the Secretary of the Interior, and shall act also as disbursing-officer for said commissioners. And upon the ratification of said agreement by said tribe as herein provided, said commissioners shall, under the direction of the Secretary of the Interior, appraise the improvements belonging to said Ute Indians upon the lands surrendered by them as provided in said agreement, and report the same to the Secretary of the Interior for settlement. It shall be their duty to take a careful census of said Indians, separating them under said census as follows:

First. Those known in the agreement above referred to as Southern Utes.

Second. Those known as Uncompaggre Utes.

Third. Those known as White River Utes.

Said census shall also show separately the name of each head of a family, and the number of persons in such family, distinguishing those over eighteen years of age from those under eighteen years of age, and giving the names of each separately; also, said census shall show separately the orphan children in each of said classes of Utes described in the foregoing agreement, and they shall make an accurate register of the names, ages, occupations, and general condition of each of the above classes as aforesaid, specifying particularly the number and names of said Indians incapable by reason of orphanage, minority, or other disability of managing their own affairs, and they shall also select lands and allot them in severalty to said Indians, as herein provided, and superintend the removal, location, and settlement of the Indians thereon, and do and perform such other services as the Secretary of the Interior may consider necessary for them to do in the execution of the provisions of this act.

And after the said commissioners shall have performed the duties specifically assigned to them by this act, and such other duties as the Secretary of the Interior may require of them, they shall make a full report of their proceedings to the Secretary of the Interior, which shall set forth, among other things, the name of each person to whom they may have apportioned and allotted lands as herein provided for, with the name and condition of such person, showing who, upon proofs, are considered incompetent to take charge of their property, either as orphans, minors, or for other causes; and shall also exhibit the quantity of land assigned to each person, with the metes and bounds of such allotments. And said commissioners shall make an accurate map of the whole survey and proceeding, showing the partition and division aforesaid, a copy of which map shall be filed with said report; and the Secretary of the Interior shall cause a copy to be filed in the General Land Office, and copies shall also be filed in the office of the surveyors-general of Utah, Colorado and New Mexico, and also in the office of the register and receiver of the land district in which such lands or any portion of them may be situate. Said commissioners shall further report the total number of acres allotted and set apart as provided by the foregoing agreement, the amount of such land tillable without irrigation, the amount of irrigation required, and the probable cost thereof. They shall also locate the agencies for the Southern Utes and the Uncompaggre Utes, shall furnish an estimate of the number of houses required, the cost of each, the number of school-houses required and the number of teachers, and the number of children of school age, and such other data as the secretary of the Interior may require to enable him to make judicious



expenditure of the money appropriated in section nine of this act; and said commissioners shall exercise direct supervision and control of all expenditures under this act during the time they remain in the Ute country, under the general direction of the Secretary of the Interior; and they shall render a full and detailed account of such expenditure, with the vouchers therefor, as now provided by law.

SEC. 3. That the Secretary of the Interior be, and he is hereby, authorized to cause to be surveyed, under the direction of said commissioners, a sufficient quantity of land in the vicinities named in said agreement, to secure the settlement in severalty of said Indians as therein provided. And upon the completion of said survey and enumeration herein required, the said commissioners shall cause allotments of lands to be made to each and all of the said Indians, in quantity and character as set forth in the agreement above mentioned, and whenever the report and proceedings of said commissioners, as required by this act, are approved by the President of the United States, he shall cause patents to issue to each and every allottee for the lands so allotted, with the same conditions, restrictions, and limitations mentioned therein as are provided in said agreement; and all the lands not so allotted, the title to which is, by the said agreement of the confederated bands of the Ute Indians, and this acceptance by the United States, released and conveyed to the United States, shall be held and deemed to be public lands of the United States and subject to disposal under the laws providing for the disposal of the public lands, at the same price and on the same terms as other lands of like character, except as provided in this act: *Provided*, That none of said lands, whether mineral or otherwise, shall be liable to entry and settlement under the provisions of the homestead law; but shall be subject to cash entry only in accordance with existing law; and when sold the proceeds of said sale shall be first sacredly applied to reimbursing the United States for all sums paid out or set apart under this act by the Government for the benefit of said Indians, and then to be applied in payment for the lands at one dollar and twenty-five cents per acre which may be ceded to them by the United States outside of their reservation, in pursuance of this agreement. And the remainder, if any, shall be deposited in the Treasury as now provided by law for the benefit of the said Indians, in the proportion hereinbefore stated, and the interest thereon shall be distributed annually to them in the same manner as the funds provided for in this act: *Provided further*, That the subdivisions upon which are located improvements to be appraised, as provided for in section two of this act, shall be offered to the highest bidder at public sale, after published notice of at least thirty days by the Secretary of the Interior, and the same shall be absolutely reserved from occupation or claim until so sold.

SEC. 4. That upon the completion of said allotments and the patenting of the lands to said allottees, each and every of the said Indians shall be subject to the provisions of section nineteen hundred and seventy-seven of the Revised Statutes and to the laws, both civil and criminal, of the State or Territory in which they may reside, with the right to sue and be sued in the courts thereof: *Provided*, That their lands and personal property shall not be subject to taxation or execution upon the judgment, order, or decree of any court obtained on any cause of action which may arise during the period named in the above recited agreement.

SEC. 5. That the Secretary of the Treasury shall, out of any moneys in the Treasury not otherwise appropriated, set apart, and hold as a perpetual trust-fund for said Ute Indians, an amount of money sufficient at four per centum to produce annually fifty thousand dollars, which interest shall be paid to them per capita in cash, annually, as provided in said agreement.

To supervise and control expenditures and render accounts and vouchers.

Survey of land for the settlement in severalty of Indians.

Allotment of land in severalty.

Patents issued to allottees.

Lands not allotted, released, and conveyed to United States.

To be held and disposed of as other public lands.

Not subject to homestead entry.

Proceeds of sales, distribution of.

[21 Stat., 204.]

Remainder deposited in Treasury in trust for Indians.

Proviso.

Lands with improvements thereon sold at public sale.

R. S., 1977.

Indians subjected to provisions of.

Allotments not subject to tax, etc.

Perpetual trust-fund, interest \$50,000 paid per capita annually.



Salaries to Ute continued ten years longer than stipulated in treaties.  
\$1,000 per annum to be distributed by the President.

SEC. 6. That all salaries paid to any member or members of the Ute tribe under existing treaty stipulations shall be continued for the term of ten years beyond the time fixed in said treaties. And the sum of four thousand dollars per annum for the term of ten years shall be distributed by the President at his discretion to such of said Indians as distinguished themselves by good sense, energy, and perseverance in the pursuit of civilized life, and in the promotion of a good understanding between the Indians and the Government and people of the United States, and there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, four thousand dollars as the first installment for such purpose.

R. S., title 28, extended to lands allotted to Indians.

SEC. 7. That the provisions of title twenty-eight of the Revised Statutes shall extend over and be applicable to every allotment of land provided for in the foregoing agreement, and to the administration of the affairs of said Indians, so far as said provisions can be made applicable thereto.

SEC. 8. [*Repealed by 1884, ch. 50, post, p. 217.*]

Appropriations.

SEC. 9. That for the purpose of carrying the provisions of this act into effect, the following sums, or so much thereof as may be necessary; be, and they are hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Interior as follows, namely:

Expenses of commissioners.

For the payment of the expenses of the commissioners herein provided, the sum of twenty-five thousand dollars.

Removal, etc., Ute.

For the cost of removal and settlement of the Utes, surveying their lands, building houses, establishing schools, building mills and agency buildings, purchasing stock, agricultural implements, and so forth, as provided in said agreement and in this act, the sum of three hundred and fifty thousand dollars.

Per capita to Utes.

For the sum to be paid to said Ute Indians, per capita, in addition to the sixty thousand dollars now due and provided for, the sum of fifteen thousand dollars.

Individual improvements.

For the payment of the appraised value of individual improvements as provided herein, the sum of twenty thousand dollars.

Support of Ute in Colorado current fiscal year.

For the care and support of the Ute Indians in Colorado for the balance of the current fiscal year, the sum of twelve thousand dollars: *Provided*, That with the exception of the appropriation for expenses of the commissioners, the above appropriations shall become available only upon the ratification of said agreement by three-fourths of the male adult members of the Ute Indians as provided in this act, and the certification of such fact to the Secretary of the Treasury by the Secretary of the Interior.

Proviso.

Time limited for ratification of amended agreement by three-fourths of male adult Utes.

SEC. 10. If the agreement as amended in this act is not ratified by three-fourths of the adult male Indians of the Ute tribes within four months from the approval of this act the same shall cease to be of effect after that day.

Approved June 15, 1880.



*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all of that portion of the Ute Indian Reservation in the State of Colorado lately occupied by the Uncompahgre and White River Utes be, and the same is hereby, declared to be public land of the United States, and subject to disposal from and after the passage of this act, in accordance with the provisions and under the restrictions and limitations of section three of the act of Congress approved June fifteenth, eighteen hundred and eighty, chapter two hundred and twenty-three, except as hereinafter provided, under regulations to be prescribed by the Secretary of the Interior in accordance with the provisions of this act.

Land in Colorado lately occupied by the Uncompahgre and White River Ute Indians declared public land, etc.

1880, c. 223, ante, p. 180.

SEC. 2. That the Secretary of the Interior shall, at the earliest practicable day, ascertain and establish the line<sup>a</sup> between the land mentioned in section one of this act and that now or lately occupied by the Southern Utes in said State; and for that purpose there is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, the sum of five hundred dollars.

Boundary line, etc., to be established.

Appropriation.

SEC. 3. That all entries, settlements, or locations heretofore made, under any law of the United States, by duly-qualified persons, upon a strip of land extending northerly and southerly, not exceeding ten miles in width, within that part of the Ute Indian Reservation in the State of Colorado lately occupied by the Uncompahgre and White River Ute Indians, and bounded on the east by the one hundred and seventh meridian of longitude west from Greenwich, shall legally date from the time they were respectively made; and the rights of said persons shall be in all respects the same as if the lands had been legally subject to their claims when the same were initiated: *Provided, however,* That if homestead entries have been made on said strip, the lands so entered shall be paid for in cash, after proof which would be satisfactory under the pre-emption laws: *And provided further,* That none of said lands shall be disposed of for any consideration other than cash, nor for a less price than one dollar and twenty-five cents per acre.

Prior entries, settlements, etc., to date from time they were made, respectively.

Provisos.

Approved, July 28, 1882.

<sup>a</sup> For description of line see Annual Report of the General Land Office for 1882, p. 41.



EXECUTIVE MANSION, August 4, 1882.

It is hereby ordered that the following-described tract of country in Colorado, viz, commencing at the northeast corner of the present Ute Indian Reservation, as defined in the treaty of March 2, 1868 (Stat. L., vol. 15, p. 619); thence running north on the one hundred and seventh degree of longitude to the first standard parallel north; thence west on said first standard parallel to the boundary line between Colorado and Utah; thence south with said boundary to the northwest corner of the Ute Indian Reservation; thence east with the north boundary of the said reservation to the place of beginning, withdrawn from sale and set apart for the use of the several tribes of Ute Indians by Executive order dated November 22, 1875, be, and the same hereby is, restored to the public domain.

It is hereby further ordered that the following-described tract of country in Colorado, viz: Commencing at the intersection of the thirty-seventh parallel of north latitude with the one hundred and seventh degree of west longitude; thence east along said parallel to the ridge described in Hayden's Geographical and Geological Survey of said State as the "National Divide" of the San Juan Mountains; thence following said divide in a general northerly and northwesterly direction to longitude 107° and 23' west; thence due south to latitude 37° and 17' north; thence due east to the one hundred and seventh meridian of west longitude; thence south with said meridian to the place of beginning, withdrawn from sale and settlement and set apart as a reservation for the Muncie, Capote, and Weeminuchee Bands of Ute Indians by Executive order dated February 7, 1870, be, and the same is hereby, restored to the public domain.

CHESTER A. ARTHUR.

(See act of Congress approved February 20, 1895, for change of location. 28 Stat. L., p. 677.)



CHAP. 50.—An act to repeal section eight of an act entitled "An act to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same," approved June fifteenth, eighteen hundred and eighty.

May 14, 1884.

23 Stat., 22.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section eight of an act entitled "An act to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same," approved June fifteenth, eighteen hundred and eighty, be, and the same is hereby, repealed; and that the lands referred to in said section are hereby restored to the public domain.

Restoration of lands, etc., on Ute Indian reservation, Colorado, to public domain. 1880, c. 223, ante, p. 188.

Approved, May 14, 1884.



Remedy by existing law not impaired.

SEC. 2. That nothing in this act contained shall prevent, lessen, impeach, or avoid any remedy at law or in equity which any owner of letters patent for a design, aggrieved by the infringement of the same, might have had if this act had not been passed; but such owner shall not twice recover the profit made from the infringement.

Approved, February 4, 1887.

Feb. 8, 1887.

CHAP. 119.—An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes.

President authorized to allot land in severalty to Indians on reservations.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in all cases where any tribe or band of Indians has been, or shall hereafter be, located upon any reservation created for their use, either by treaty stipulation or by virtue of an act of Congress or executive order setting apart the same for their use, the President of the United States be, and he hereby is, authorized, whenever in his opinion any reservation or any part thereof of such Indians is advantageous for agricultural and grazing purposes, to cause said reservation, or any part thereof, to be surveyed, or resurveyed if necessary, and to allot the lands in said reservation in severalty to any Indian located thereon in quantities as follows:

Distribution.

To each head of a family, one-quarter of a section;

To each single person over eighteen years of age, one-eighth of a section;

To each orphan child under eighteen years of age, one-eighth of a section; and

To each other single person under eighteen years now living, or who may be born prior to the date of the order of the President directing an allotment of the lands embraced in any reservation, one-sixteenth of a section: *Provided*, That in case there is not sufficient land in any of said reservations to allot lands to each individual of the classes above named in quantities as above provided, the lands embraced in such reservation or reservations shall be allotted to each individual of each of said classes pro rata in accordance with the provisions of this act: *And provided further*, That where the treaty or act of Congress setting apart such reservation provides for the allotment of lands in severalty in quantities in excess of those herein provided, the President, in making allotments upon such reservation, shall allot the lands to each individual Indian belonging thereon in quantity as specified in such treaty or act: *And provided further*, That when the lands allotted are only valuable for grazing purposes, an additional allotment of such grazing lands, in quantities as above provided, shall be made to each individual.

*Provisos.*  
Allotment pro rata if lands insufficient.

Allotment by treaty or act not reduced.

Additional allotment of lands fit for grazing only.

Selection of allotments.

Improvements.

*Proviso.*  
On failure to select in four years, Secretary of the Interior may direct selection.

SEC. 3. That all allotments set apart under the provisions of this act shall be selected by the Indians, heads of families selecting for their minor children, and the agents shall select for each orphan child, and in such manner as to embrace the improvements of the Indians making the selection. Where the improvements of two or more Indians have been made on the same legal subdivision of land, unless they shall otherwise agree, a provisional line may be run dividing said lands between them, and the amount to which each is entitled shall be equalized in the assignment of the remainder of the land to which they are entitled under this act: *Provided*, That if any one entitled to an allotment shall fail to make a selection within four years after the President shall direct that allotments may be made on a particular reservation, the Secretary of the Interior may direct the agent of such tribe or band, if such there be, and if there be no agent, then a special agent appointed for that purpose, to make a selection for such Indian, which election shall be allotted as in cases where selections are made by the Indians, and patents shall issue in like manner.



SEC. 3. That the allotments provided for in this act shall be made by special agents appointed by the President for such purpose, and the agents in charge of the respective reservations on which the allotments are directed to be made, under such rules and regulations as the Secretary of the Interior may from time to time prescribe, and shall be certified by such agents to the Commissioner of Indian Affairs, in duplicate, one copy to be retained in the Indian Office and the other to be transmitted to the Secretary of the Interior for his action, and to be deposited in the General Land Office.

Allotments to be made by special agents and Indian agents.

Certificates.

SEC. 4. That where any Indian not residing upon a reservation, or for whose tribe no reservation has been provided by treaty, act of Congress, or executive order, shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled, upon application to the local land-office for the district in which the lands are located, to have the same allotted to him or her, and to his or her children, in quantities and manner as provided in this act for Indians residing upon reservations; and when such settlement is made upon unsurveyed lands, the grant to such Indians shall be adjusted upon the survey of the lands so as to conform thereto; and patents shall be issued to them for such lands in the manner and with the restrictions as herein provided. And the fees to which the officers of such local land-office would have been entitled had such lands been entered under the general laws for the disposition of the public lands shall be paid to them, from any moneys in the Treasury of the United States not otherwise appropriated, upon a statement of an account in their behalf for such fees by the Commissioner of the General Land Office, and a certification of such account to the Secretary of the Treasury by the Secretary of the Interior.

Indians not on reservations, etc., may make selection of public lands.

Fees to be paid from the Treasury.

SEC. 5. That upon the approval of the allotments provided for in this act by the Secretary of the Interior, he shall cause patents to issue therefor in the name of the allottees, which patents shall be of the legal effect, and declare that the United States does and will hold the land thus allotted, for the period of twenty-five years, in trust for the sole use and benefit of the Indian to whom such allotment shall have been made, or, in case of his decease, of his heirs according to the laws of the State or Territory where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian, or his heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever: *Provided*, That the President of the United States may in any case in his discretion extend the period. And if any conveyance shall be made of the lands set apart and allotted as herein provided, or any contract made touching the same, before the expiration of the time above mentioned, such conveyance or contract shall be absolutely null and void: *Provided*, That the law of descent and partition in force in the State or Territory where such lands are situate shall apply thereto after patents therefor have been executed and delivered, except as herein otherwise provided; and the laws of the State of Kansas regulating the descent and partition of real estate shall, so far as practicable, apply to all lands in the Indian Territory which may be allotted in severalty under the provisions of this act: *And provided further*, That at any time after lands have been allotted to all the Indians of any tribe as herein provided, or sooner if in the opinion of the President it shall be for the best interests of said tribe, it shall be lawful for the Secretary of the Interior to negotiate with such Indian tribe for the purchase and release by said tribe, in conformity with the treaty or statute under which such reservation is held, of such portions of its reservation not allotted as such tribe shall, from time to time, consent to sell, on such terms and conditions as shall be considered just and equitable between the United States and said tribe of Indians, which purchase shall not be complete until ratified by Congress, and the form and manner of executing such release shall also be

Patent to issue.

To be held in trust.

Conveyance in fee after 25 years.

*Prerisos.*

Period may be extended.

Laws of descent and partition.

Negotiations for purchase of lands not allotted.



Lands so bought to be held for actual settlers if arable.

Patent to issue only to person taking as homestead.

Purchase money to be held in trust for Indians.

Religious organizations.

Indians selecting lands to be preferred for police, etc.

Citizenship to be accorded to allottees and Indians adopting civilized life.

Secretary of the Interior to prescribe rules for use of waters for irrigation.

prescribed by Congress: *Provided however*, That all lands adapted to agriculture, with or without irrigation so sold or released to the United States by any Indian tribe shall be held by the United States for the sole purpose of securing homes to actual settlers and shall be disposed of by the United States to actual and bona fide settlers only in tracts not exceeding one hundred and sixty acres to any one person, on such terms as Congress shall prescribe, subject to grants which Congress may make in aid of education: *And provided further*, That no patents shall issue therefor except to the person so taking the same as and for a homestead, or his heirs, and after the expiration of five years occupancy thereof as such homestead; and any conveyance of said lands so taken as a homestead, or any contract touching the same, or lien thereon, created prior to the date of such patent, shall be null and void. And the sums agreed to be paid by the United States as purchase money for any portion of any such reservation shall be held in the Treasury of the United States for the sole use of the tribe or tribes of Indians; to whom such reservations belonged; and the same, with interest thereon at three per cent per annum, shall be at all times subject to appropriation by Congress for the education and civilization of such tribe or tribes of Indians or the members thereof. The patents aforesaid shall be recorded in the General Land Office, and afterward delivered, free of charge, to the allottee entitled thereto. And if any religious society or other organization is now occupying any of the public lands to which this act is applicable, for religious or educational work among the Indians, the Secretary of the Interior is hereby authorized to confirm such occupation to such society or organization, in quantity not exceeding one hundred and sixty acres in any one tract, so long as the same shall be so occupied, on such terms as he shall deem just; but nothing herein contained shall change or alter any claim of such society for religious or educational purposes heretofore granted by law. And hereafter in the employment of Indian police, or any other employes in the public service among any of the Indian tribes or bands affected by this act, and where Indians can perform the duties required, those Indians who have availed themselves of the provisions of this act and become citizens of the United States shall be preferred.

SEC. 6. That upon the completion of said allotments and the patenting of the lands to said allottees, each and every member of the respective bands or tribes of Indians to whom allotments have been made shall have the benefit of and be subject to the laws, both civil and criminal, of the State or Territory in which they may reside; and no Territory shall pass or enforce any law denying any such Indian within its jurisdiction the equal protection of the law. And every Indian born within the territorial limits of the United States to whom allotments shall have been made under the provisions of this act, or under any law or treaty, and every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, his residence separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property.

SEC. 7. That in cases where the use of water for irrigation is necessary to render the lands within any Indian reservation available for agricultural purposes, the Secretary of the Interior be, and he is hereby, authorized to prescribe such rules and regulations as he may deem necessary to secure a just and equal distribution thereof among the Indians residing upon any such reservations; and no other appropriation or grant of water by any riparian proprietor shall be authorized or permitted to the damage of any other riparian proprietor.



SEC. 8. That the provision of this act shall not extend to the territory occupied by the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, and Osage, Miamies and Peorias, and Sacs and Foxes, in the Indian Territory, nor to any of the reservations of the Seneca Nation of New York Indians in the State of New York, nor to that strip of territory in the State of Nebraska adjoining the Sioux Nation on the south added by executive order.

Lands excepted.

SEC. 9. That for the purpose of making the surveys and resurveys mentioned in section two of this act, there be, and hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of one hundred thousand dollars, to be repaid proportionately out of the proceeds of the sales of such land as may be acquired from the Indians under the provisions of this act.

Appropriation for surveys.

SEC. 10. That nothing in this act contained shall be so construed as to affect the right and power of Congress to grant the right of way through any lands granted to an Indian, or a tribe of Indians, for railroads or other highways, or telegraph lines, for the public use, or to condemn such lands to public uses, upon making just compensation.

Rights of way not affected.

SEC. 11. That nothing in this act shall be so construed as to prevent the removal of the Southern Ute Indians from their present reservation in Southwestern Colorado to a new reservation by and with the consent of a majority of the adult male members of said tribe.

Southern Utes may be removed to new reservation.

Approved, February 8, 1887.

CHAP. 120.—An act to declare a forfeiture of lands granted to the New Orleans, Baton Rouge and Vicksburg Railroad Company, to confirm title to certain lands, and for other purposes.

Feb. 8, 1887.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the lands granted to the New Orleans, Baton Rouge and Vicksburg Railroad Company by the act entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved March third, eighteen hundred and seventy-one, are hereby declared to be forfeited to the United States of America in all that part of said grant which is situate on the east side of the Mississippi River, and also in all that part of said grant on the west of the Mississippi River which is opposite to and coterminous with the part of the New Orleans Pacific Railroad Company which was completed on the fifth day of January, eighteen hundred and eighty-one; and said lands are restored to the public domain of the United States.

Certain lands granted to New Orleans, Baton Rouge and Vicksburg R. Co. forfeited. Vol. 16, p. 579.

SEC. 2. That the title of the United States and of the original grantee to the lands granted by said act of Congress of March third, eighteen hundred and seventy-one, to said grantee, the New Orleans, Baton Rouge and Vicksburg Railroad Company, not herein declared forfeited, is relinquished, granted, conveyed, and confirmed to the New Orleans Pacific Railroad Company, as the assignee of the New Orleans, Baton Rouge and Vicksburg Railroad Company, said lands to be located in accordance with the map filed by said New Orleans Pacific Railway Company in the Department of the Interior October twenty-seventh, eighteen hundred and eighty-one and November seventeenth, eighteen hundred and eighty-two, which indicate the definite location of said road: *Provided*, That all said lands occupied by actual settlers at the date of the definite location of said road and still remaining in their possession or in possession of their heirs or assigns shall be held and deemed excepted from said grant and shall be subject to entry under the public land laws of the United States.

Certain lands confirmed to New Orleans Pacific R. Co., assignee of New Orleans, Baton Rouge and Vicksburg R. Co.

*Proviso.* Lands of actual settlers at the time excepted.

SEC. 3. That the relinquishment of the lands and the confirmation of the grant provided for in the second sections of this act are made and shall take effect whenever the Secretary of the Interior is notified that

When grant to be in effect.



15  
CHAP. 113.—An act to disapprove the treaty heretofore made with the Southern Ute Indians to be removed to the Territory of Utah, and providing for settling them down in severalty where they may so elect and are qualified, and to settle all those not electing to take lands in severalty on the west forty miles of present reservation and in portions of New Mexico, and for other purposes, and to carry out the provisions of the treaty with said Indians June fifteenth, eighteen hundred and eighty.

Feb. 20, 1895.

23 Stat., 677.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the agreement made by J. Montgomery Smith, Thomas S. Childs, and R. B. Weaver, commissioners on the part of the United States, with the Southern Ute Indians of Colorado, bearing date November thirteenth, eighteen hundred and

Southern Ute Indians, Colorado.  
Lands in severalty to, etc.

25 Stat., 133.



Ante, p. 180.

See note to 1874, ch.  
136, ante, p. 151.

Allotment to In-  
dians.

Post, p. 994.

Ante, p. 180.

Proviso.  
Tribal rights.

Reservation for In-  
dians not taking allot-  
ments.

Agency.

Surplus lands open  
to settlement.

Provisos.  
Appraisals, etc., of  
improvements.

Maximum.

Proceeds.

Disposal of receipts  
from sales.

eighty-eight, be, and the same is hereby, annulled, and the treaty made with said Indians June fifteenth, eighteen hundred and eighty, be carried out as herein provided, and as further provided by general law for settling Indians in severalty.

SEC. 2. That within six months after the passage of this Act the Secretary of the Interior shall cause allotment of land, in severalty, to be made to such of the Southern Ute Indians in Colorado as may elect and be considered by him qualified to take the same out of the agricultural lands embraced in their present reservation in Colorado, such allotments to be made in accordance with the provisions of the Act of Congress approved June fifteenth, eighteen hundred and eighty, entitled "An act to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same," and the amendments thereto, as far as applicable hereto, and the treaties heretofore made with said Indians: *Provided*, That Indians taking allotments as herein provided shall retain their interest in all tribal property.

SEC. 3. That for the sole and exclusive use and occupancy of such of said Indians as may not elect or be deemed qualified to take allotments of land in severalty, as provided in the preceding section, there shall be, and is hereby, set apart and reserved all that portion of their present reservation lying west of the range line between ranges thirteen and fourteen west of the New Mexico principal meridian, and also all of townships thirty-one and thirty-two of ranges fourteen, fifteen, and sixteen west of the New Mexico principal meridian and lying in the Territory of New Mexico, subject, however, to the right of the Government to erect and maintain agency buildings thereon and to grant rights of way through the same for railroads, irrigation ditches, highways, and other necessary purposes; and the Government shall maintain an agency at some suitable place on said lands so reserved.

SEC. 4. That at the expiration of six months from the passage of this Act the President of the United States shall issue his proclamation declaring the lands embraced within the present reservation of said Indians except such portions as may have been allotted or reserved under the provisions of the preceding sections of this Act, open to occupancy and settlement, and thereupon said lands shall be and become a part of the public domain of the United States, and shall be subject to entry under the desert, homestead, and town-site laws and the laws governing the disposal of coal, mineral, stone, and timber lands; but no homestead settler shall receive a title to any portion of such lands at less than one dollar and twenty-five cents per acre, and shall be required to make a cash payment of fifty cents per acre at the time filing is made upon any of said lands: *Provided*, That before said lands shall be open to public settlement the Secretary of the Interior shall cause the improvements belonging to the Indians on the lands now occupied by them to be appraised and sold at public sale to the highest bidder, except improvements on lands allotted to the Indians in accordance with the provisions of this Act. No sale of such improvements shall be made for less than the appraised value, and the several purchasers of said improvements shall, for thirty days after the issuance of the President's proclamation, have the preference right of entry of the lands upon which the improvements purchased by him are situated: *Provided further*, That the said purchase shall not exceed one hundred and sixty acres: *And provided further*, That the proceeds of the sale of such improvements shall be paid to the Indians owning the same.

SEC. 5. That out of the moneys first realized from the sale of said lands so opened up to public settlement there shall be paid to said Indians the sum of fifty thousand dollars, as follows: Five thousand dollars annually for ten years, and, when paid, the money to be equally



divided among all of said Indians per capita, irrespective of age or sex; also the sum of twenty thousand dollars of said proceeds shall be paid to the Secretary of the Interior, who shall invest the same in sheep and divide the said sheep among the said Indians per capita equally, irrespective of age or sex; also to Ignacio, head chief; to Buckskin Charlie, as chief of the Moaches, and Mariano, as chief of the Weeminuches, the sum of five hundred dollars each; also to Tapucke and Tabewatch, as chiefs of the Capotes, the sum of two hundred and fifty dollars each; that the balance of the money realized from the sale of lands, after deducting expenses of sale and survey, shall be held in the Treasury of the United States in trust for the sole use and benefit of said Southern Ute Indians. That nothing herein provided shall in any manner be construed to change or interfere with the rights of said Indians under any other existing treaty regarding any annuities or trust funds or the interest thereon.

SEC. 6. That the foregoing provisions of this Act shall take effect only upon the acceptance thereof and consent thereto by a majority of all the male adult Indians now located or residing upon the reservation, which acceptance shall be at once obtained under such regulations as the Secretary of the Interior may prescribe.

Approved, February 20, 1895.

Per capita.

Sheep.

Chiefs.

Balance to be held  
in trust.

Consent of Indians.

Feb. 20, 1895.

28 Stat., 679.



## PROCLAMATIONS.

[No. 1.]

BY THE PRESIDENT OF THE UNITED STATES.

March 29, 1899.

### A PROCLAMATION.

Whereas, it is deemed necessary in the public interests that certain lands lying to the eastward of the city of San Juan, in Puerto Rico, be immediately reserved for naval purposes; Puerto Rico. Reservation of land for naval purposes.

Now, therefore, I, William McKinley, President of the United States, by virtue of the authority in me vested, do hereby declare, proclaim, and make known that the following-described lands be and the same are hereby reserved for naval purposes until such time as the Congress of the United States shall otherwise direct, to wit:

1st. The public land, natural, reclaimed, partly reclaimed, or which may be reclaimed, lying south of the Caguas Road, shown on the U. S. Hydrographic Map No. 1745 of July, 1898, and for 250 feet north of said Caguas Road, to be bounded on the west by a true north and south line passing through the eastern corner of the railway station shown on said map, on the south by the shore of the harbor, and to extend east 2400 feet, more or less, to include 80 acres.

2nd. The entire island lying to the southward of the above-described land, and described on the U. S. Hydrographic Map No. 1745, of July, 1898, as Isla Grande, or Manglar.

The Military Governor of the Island of Puerto Rico will make this transfer through the representative of the Navy, the Commandant of the United States Naval Station, San Juan, Puerto Rico, who will present this proclamation.

WILLIAM MCKINLEY.

March 29 1899.

By the President:

JOHN HAY

*Secretary of State.*

[No. 2.]

BY THE PRESIDENT OF THE UNITED STATES.

April 13, 1899.

### A PROCLAMATION.

Whereas, by the provisions of an act approved February 20, 1895, entitled "An act to disapprove the treaty heretofore made with the Southern Ute Indians to be removed to the Territory of Utah, and providing for settling them down in severalty where they may so elect and are qualified and to settle all those not electing to take lands in severalty, on the west forty miles of present reservation and in por-

Southern Ute Indian Reservation, Colorado. Preamble. Vol. 28, p. 677.



tions of New Mexico, and for other purposes, and to carry out the provisions of the treaty with said Indians June fifteenth, eighteen hundred and eighty," the agreement made by the commissioners on the part of the United States with the Southern Ute Indians of Colorado bearing date November thirteenth, eighteen hundred and eighty-eight, was annulled and the treaty made with said Indians June fifteenth, eighteen hundred and eighty, was directed to be carried out as therein provided and as further provided by general law for settling Indians in severalty: and

Whereas, it was further provided by said act that within six months after the passage thereof, the Secretary of the Interior should cause allotment of land, in severalty, to be made to such of the Southern Ute Indians in Colorado, as might elect and be considered by him qualified to take the same out of the agricultural lands embraced in their present reservation in Colorado such allotments to be made in accordance with the provisions of the act of Congress approved June fifteenth, eighteen hundred and eighty, entitled "An act to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado for the sale of their reservation in said State and for other purposes, and to make the necessary appropriations for carrying out the same," and the amendments thereto, as far as applicable, and the treaties theretofore made with said Indians: and

Whereas, it was further provided that for the sole and exclusive use of such of said Indians as might not elect or be deemed qualified to take allotments in severalty as provided, there should be set apart and reserved all that portion of their reservation lying west of the range line between ranges thirteen and fourteen west of the New Mexico Principal Meridian, and also all of townships thirty-one and thirty-two of ranges fourteen, fifteen, and sixteen west of the New Mexico Principal Meridian and lying in the Territory of New Mexico, subject to the right of the Government to erect and maintain agency buildings thereon, and to grant rights of way through the same for railroads, irrigation ditches, highways and other necessary purposes; and

Whereas, under the provisions of section four of said act it was made the duty of the President of the United States to issue his proclamation declaring the lands within the reservation of said Indians except such portions as might have been allotted or reserved under the provisions of the preceding sections of said act, open to occupancy and settlement, said unallotted and unreserved lands to be and become a part of the public domain of the United States and to become subject to entry, under the desert, homestead, and townsite laws and the laws governing the disposal of coal, mineral, stone and timber lands, but providing that no homestead settler should receive a title to any portion of such lands at less than one dollar and twenty-five cents per acre, and such settlers should be required to make a cash payment of fifty cents per acre at the time filing is made upon any of said lands; and providing that before said lands should be open to public settlement the Secretary of the Interior should cause the improvements belonging to the Indians on the lands then occupied by them to be appraised and sold at public sale to the highest bidder, except improvements on lands allotted to the Indians in accordance with this act; and providing that no sale of such improvements should be made for less than the appraised value and that the several purchasers of said improvements should, for thirty days after the issuance of the President's proclamation have the preference right of entry of the lands upon which the improvements purchased by them should be situated, but that the said purchase should not exceed one hundred and sixty acres and that the proceeds of such improvements should be paid to the Indians owning the same; and

Whereas, it is further provided that the provisions of said act should take effect only upon the acceptance thereof and consent thereto by

Vol. 21, p. 200.

Vol. 21, p. 201.



a majority of all the male adult Indians then located or residing upon the reservation, which acceptance should be at once obtained under such regulations as the Secretary of the Interior might prescribe; and

Whereas, allotments have been made as provided for in said act, and all the other terms and considerations as required therein have been complied with, precedent to opening the unallotted and unreserved lands in said reservation to settlement and entry, except the sale of improvements on the NE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , S  $\frac{1}{4}$  NW  $\frac{1}{4}$  and NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  Sec. 1, T. 33 N., R. 9 W., belonging to Ignacio, an Indian, but said sale will be immediately ordered and the rights of the purchaser thereof will be protected for thirty days from date of this proclamation, as provided by the act, by instructions to the register and receiver of the local land office having jurisdiction over the same, and as this exception is not considered a bar to the opening of the unallotted and unreserved lands to settlement; and

Whereas, I issued a proclamation on the 29th day of March, last, intended to open the lands to settlement and entry as authorized in said act, but as some question has arisen as to the boundaries proclaimed being sufficiently definite to cover the lands intended to be opened.

Now, Therefore, I, William McKinley, President of the United States, for the purpose of removing any doubt and making the boundaries of said lands more definite, by virtue of the power in me vested by said act, do hereby issue this, my second proclamation, and do hereby declare and make known that all of the lands embraced in said reservation, saving and excepting the lands reserved for and allotted to said Indians, and the lands reserved for other purposes in pursuance of the provisions of said act, will, at and after the hour of twelve o'clock noon (mountain standard time) on the 4th day of May A. D., eighteen hundred and ninety-nine, and not before, be open to settlement and entry under the terms of and subject to all the conditions, limitations, reservations, and restrictions contained in said act, and the laws of the United States applicable thereto.

The lands to be opened to settlement and entry are described as lying within the following boundaries: Beginning at the point established by S. S. Gannett, Special Indian Agent, in June, 1897, at the intersection of the 107th meridian and the 37th parallel of latitude; thence north 15 miles along the eastern boundary of the reservation; thence westerly along the north boundary of the Southern Ute Indian Reservation to its intersection with the range line between ranges thirteen and fourteen west of the New Mexico Principal Meridian; thence south fifteen miles on said range line to the south boundary of the State of Colorado; thence easterly along the south boundary of the State of Colorado to the place of beginning.

The survey of the east boundary of the above tract through townships 32, 33, and 34 N., R. 1 W., and of that part of the north boundary in Tps. 34 N., Rs. 1 and 2 W., being in process of correction owing to errors found in said survey, notice is hereby given to all parties who may elect to make entries of lands adjoining the boundary lines subject to correction, that their entries will be at their own risk, and subject to such changes as to the boundaries of the several tracts so entered as may be found necessary in the progress of the correction of the erroneous survey, and that without recourse to the United States for any damage that may arise as the result of the correction survey.

The lands allotted to the Indians are for greater convenience particularly described in the accompanying schedule entitled "Schedule of lands within the Southern Ute Indian Reservation allotted to the Indians and withheld from settlement and entry by proclamation of the President dated April 13, 1899," and which schedule is made a part thereof.

An error having been made in 1873 in the survey and location of the

Lands opened for settlement.

Boundaries, etc.



eastern boundary of the reservation hereby opened to settlement and entry whereby certain lands constituting a part of the reservation were erroneously identified as being outside of the reservation, by reason of which several persons in good faith settled upon said lands under the belief that the same were unappropriated public lands open to settlement, and have since improved and cultivated, and are now residing upon the same with a view to the entry thereof under the public land laws, notice is hereby given that in so far as said persons possess the qualifications required by law, and maintain their said settlement and residence up to the time of the opening herein provided for, they will be considered and treated as having initiated and established a lawful settlement at the very instant at which the lands become open, and as having the superior right and claim to enter said lands, which right must be exercised within three months from the time of said opening.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this 13th day of April in the year of our Lord one thousand, eight hundred and ninety-nine, and of the Independence of the United States the one hundred and twenty-third.

[SEAL.]

WILLIAM MCKINLEY

By the President

JOHN HAY

*Secretary of State.*

Schedule.

SCHEDULE OF LANDS WITHIN THE SOUTHERN UTE INDIAN RESERVATION ALLOTTED TO THE INDIANS AND WITHHELD FROM SETTLEMENT AND ENTRY BY PROCLAMATION OF THE PRESIDENT DATED APRIL 13, 1899.

*In Township 32 North, Range 3 West.*

Southwest quarter of southwest quarter of section 4; south half of southeast quarter and southeast quarter of southwest quarter of section 5; north half of northeast quarter, east half of northwest quarter, east half of southwest quarter and southwest quarter of southwest quarter of section 8; north half of northwest quarter and southeast quarter of northwest quarter of section 9; southeast quarter of southwest quarter and south half of southeast quarter of section 10; southwest quarter of southwest quarter of section 11; northwest quarter of northwest quarter of section 13; north half of northeast quarter and north half of northwest quarter of section 14; northeast quarter of northeast quarter of section 15; northwest quarter of northwest quarter of section 17; and northeast quarter of northeast quarter of section 18.

*In Township 33 North, Range 3 West.*

East half of section 8; northeast quarter, south half of northwest quarter and west half of southwest quarter of section 10; south half of southeast quarter and south half of southwest quarter of section 19; east half of northeast quarter, southeast quarter, east half of southwest quarter and southwest quarter of southwest quarter of section 20; northwest quarter and north half of southwest quarter of section 21; west half of northwest quarter of section 28; east half, east half of northwest quarter and northwest quarter of northwest quarter of section 29; north half of northeast quarter and north half of northwest quarter of section 30; and northeast quarter of section 32.

*In Township 34 North, Range 3 West.*

Southwest quarter of southwest quarter of section 22; northwest quarter of northwest quarter, south half of northwest quarter and southwest quarter of section 27; and north half of northwest quarter, southeast quarter of northwest quarter, southwest quarter of northeast quarter and southeast quarter of section 34.

*In Township 32 North, Range 4 West.*

Southwest quarter of southeast quarter of Section 10; southwest quarter of southwest quarter of section 13; south half of southeast quarter, south half of southwest quarter and northwest quarter of southwest quarter of section 14; west half of northeast quarter, south half of northwest quarter, west half of southeast quarter and southwest quarter of section 15; south half of section 16; south half of northeast



quarter, south half of northwest quarter, north half of southeast quarter and north half of southwest quarter of section 17; south half of northeast quarter, north half of southeast quarter, southeast quarter of northwest quarter and northeast quarter of southwest quarter of section 18; north half and north half of southeast quarter of section 21; north half, north half of southeast quarter and north half of southwest quarter of section 22; north half, north half of southeast quarter and north half of southwest quarter of section 23; and west half of northwest quarter and northwest quarter of southwest quarter of section 24.

*In Township 33 North, Range 4 West.*

South half of northeast quarter, northwest quarter, north half of southeast quarter, southeast quarter of southeast quarter and northeast quarter of southwest quarter of section 23; south half of section 24; and north half of northeast quarter of section 25.

*In Township 34 North, Range 4 West.*

All of section 7; all of section 8; north half of section 9; all of section 10; north half, southwest quarter, north half of southeast quarter and southwest quarter of southeast quarter of section 11; northwest quarter and northwest quarter of southwest quarter of section 12; west half of northwest quarter and northwest quarter of southwest quarter of section 13; all of section 14; east half, east half of northwest quarter, and southwest quarter of section 15; south half of southeast quarter of section 16; north half of northeast quarter, north half of northwest quarter, southwest quarter of northwest quarter, and southwest quarter of section 18; west half of section 19; east half of southeast quarter of section 20; east half, east half of northwest quarter, and southwest quarter of section 21; north half of northeast quarter, north half of northwest quarter, southwest quarter of northwest quarter and northwest quarter of southwest quarter of section 22; north half of the northwest quarter of section 28; and northeast quarter of northeast quarter of section 29.

*In Township 32 North, Range 5 West.*

South half, south half of northeast quarter and south half of northwest quarter of section 9; south half of northwest quarter, and southwest quarter of section 10; west half of northwest quarter and west half of southwest quarter of section 14; all of section 15; east half, northwest quarter and north half of southwest quarter of section 16; northeast quarter of southeast quarter of section 19; north half of southeast quarter and north half of southwest quarter of section 20; and northeast quarter, south half of northwest quarter, northwest quarter of southeast quarter and north half of southwest quarter of section 21.

*In Township 33 North, Range 5 West.*

West half of northeast quarter, northwest quarter and northwest quarter of southwest quarter of section 1; east half, east half of northwest quarter, and southwest quarter of section 2; east half of southeast quarter and southwest quarter of southeast quarter of section 3; east half of southeast quarter and southwest quarter of southeast quarter of section 9; northeast quarter, east half of northwest quarter, southwest quarter of northwest quarter, northwest quarter of southeast quarter, and southwest quarter of section 10; northwest quarter of northeast quarter, and northwest quarter of section 11; west half of northwest quarter and west half of southwest quarter of section 15; east half, east half of northwest quarter and east half of southwest quarter of section 16; north half, north half of southeast quarter and north half of southwest quarter of section 21; west half of section 28; east half of section 29; north half of northeast quarter of section 32; and north half of northwest quarter of section 33.

*In Township 34 North, Range 5 West.*

East half, east half of northwest quarter and south half of southwest quarter of section 12; east half of northeast quarter, northwest quarter of northeast quarter and west half of northwest quarter of section 13; east half of northeast quarter of section 14; west half of section 25; south half of northeast quarter, southeast quarter and east half of southwest quarter of section 26; and east half of section 35.

*In Township 32 North, Range 7 West.*

West half of northwest quarter, west half of southeast quarter, and southwest quarter of section 3; all of section 4; east half of northeast quarter and east half of southeast quarter of section 5; east half of northeast quarter and east half of southeast quarter of section 8; all of section 9; west half, west half of northeast quarter, and southeast quarter of section 10; west half, west half of northeast quarter and west half of southeast quarter of section 15; east half, east half of northwest quarter, northwest quarter of northwest quarter and east half of southwest quarter of section 16; northeast quarter of northeast quarter of section 17; northeast quarter of section 21; and northwest quarter of section 22.



*In Township 33 North, Range 7 West.*

South half of northeast quarter, south half of northwest quarter, and south half of section 1; south half of northeast quarter, and southeast quarter of section 2; north west quarter of northeast quarter, and northwest quarter of section 4; all of section 6; north half and northeast quarter of southeast quarter of section 7; all of section 8; west half of northeast quarter, west half of southeast quarter, and west half of section 9; east half of section 11; all of section 12; all of section 13; east half of section 14; southwest quarter of southwest quarter of section 15; southeast quarter of northeast quarter, west half of northeast quarter, northwest quarter and south half of section 16; north half, southeast quarter, north half of southwest quarter and south east quarter of southwest quarter of section 17; east half of northeast quarter, south west quarter of northeast quarter and north half of southeast quarter of section 18; northeast quarter, and east half of northwest quarter of section 20; north half, south east quarter, east half of southwest quarter and northwest quarter of southwest quarter of section 21; west half of northwest quarter, and southwest quarter of section 22; east half of section 23; all of section 24; all of section 25; northeast quarter of section 26; west half of section 27; east half, east half of northwest quarter, southwest quarter of northwest quarter, and southwest quarter of section 28; south half of northeast quarter, and southeast quarter of section 29; east half of northeast quarter and east half of southeast quarter of section 32; west half of northeast quarter, west half of southeast quarter, and west half of section 33; south half of northeast quarter, and southeast quarter of section 35; and all of section 36.

*In Township 34 North, Range 7 West.*

All of section 10; all of section 11; west half of northeast quarter, west half of southeast quarter, and west half of section 12; north half and southwest quarter of section 13; all of section 14; all of section 15; north half, southeast quarter, and east half of southwest quarter of section 21; all of section 22; all of section 23; north half and southwest quarter of section 24; northwest quarter of section 25; north half, west half of southeast quarter, and southwest quarter of section 26; all of section 27; northeast quarter, east half of northwest quarter, east half of southeast quarter, southwest quarter of southeast quarter and northeast quarter of southwest quarter of section 28; east half, and south half of southwest quarter of section 32; all of section 33; north half of northeast quarter, southwest quarter of northeast quarter, northwest quarter and south half of section 34; and west half of northeast quarter, northwest quarter, and west half of southwest quarter of section 35.

*In Township 34 North, Range 8 West.*

East half, east half of northwest quarter and east half of southwest quarter of section 7; west half and southeast quarter of section 8; west half of section 17; east half of section 18; east half and southwest quarter of section 19; west half of section 20; northwest quarter and south half of section 25; south half of section 26; west half of section 29; east half, east half of northwest quarter and east half of southwest quarter of section 30; all of section 31; west half of northwest quarter and west half of southwest quarter of section 32; north half and southeast quarter of section 35; and all of section 36.

*In Township 33 North, Range 9 West.*

Southwest quarter of northeast quarter, south half of northwest quarter, southeast quarter, east half of southwest quarter and northwest quarter of southwest quarter of section 2; south half of northeast quarter, southeast quarter of northwest quarter, north half of southeast quarter, southwest quarter of southeast quarter, and southwest quarter of section 3; southeast quarter and south half of southwest quarter of section 4; east half and southwest quarter of section 8; north half of northwest quarter of section 9; west half of southeast quarter, and west half of section 17; east half of southeast quarter, and southwest quarter of section 18; east half of northeast quarter, northwest quarter, and southwest quarter of southwest quarter of section 19; northwest quarter, and east half of southwest quarter of section 20; west half of section 29; east half, south half of northwest quarter, northwest quarter of northwest quarter, and southwest quarter of section 30; east half, east half of northwest quarter, and southwest quarter of section 31; and west half of northwest quarter of section 32.

*In Township 34 North, Range 9 West.*

All of sections 12, 13, 24, 25 and 33.

*In Township 33 North, Range 10 West.*

All of section 1; west half of section 12; west half and southeast quarter of section 13; east half of section 24; and east half of section 25.



PROCLAMATIONS. Nos. 2, 3.

1953

*In Township 34 North, Range 10 West.*

South half of section 13, and all of sections 24, 25 and 33.

*In Township 34 North, Range 11 West.*

East half of northeast quarter, and southeast quarter of section 7; north half, southeast quarter and east half of southwest quarter of section 8; west half of northwest quarter and west half of southwest quarter of section 9; west half of northeast quarter and east half of northwest quarter of section 17; and west half of section 18.

*In Township 33 North, Range 12 West.*

West half of northwest quarter, south half of southwest quarter and northwest quarter of southwest quarter of section 4; east half, east half of southwest quarter and southwest quarter of southwest quarter of section 5; northeast quarter, south half of northwest quarter and north half of southwest quarter of section 7; north half of northeast quarter and north half of northwest quarter of section 8; south half of northwest quarter and west half of southwest quarter of section 18; east half and northwest quarter of section 19; east half of section 30; and east half of section 31.

*In Township 34 North, Range 12 West.*

Southeast quarter and east half of southwest quarter of section 13; southeast quarter of southeast quarter of section 22; east half of northeast quarter, southwest quarter of northeast quarter, southeast quarter of northwest quarter, and south half of section 23; north half, west half of southeast quarter, and southwest quarter of section 24; northwest quarter of northeast quarter and north half of northwest quarter of section 25; north half of northeast quarter, north half of northwest quarter and southwest quarter of northwest quarter of section 26; east half, south half of northwest quarter, and southwest quarter of section 27; southeast quarter of section 28; all of section 33; and north half of northeast quarter, southwest quarter of northeast quarter, northwest quarter, and north half of southwest quarter of section 34.

*In Township 33 North, Range 13 West.*

Southeast quarter of northeast quarter and east half of southeast quarter of section 12; and east half of northeast quarter, southwest quarter of northeast quarter and east half of southeast quarter of section 13.

[No. 3.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

April 13, 1890.

A PROCLAMATION.

Whereas, it is provided by section twenty-four of the Act of Congress, approved March third, eighteen hundred and ninety-one, entitled, "An act to repeal timber-culture laws, and for other purposes", "That the President of the United States may, from time to time, set apart and reserve, in any State or Territory having public land bearing forests, in any part of the public lands wholly or in part covered with timber or undergrowth, whether of commercial value or not, as public reservations, and the President shall, by public proclamation, declare the establishment of such reservations and the limits thereof";

And whereas, the public lands in the State of California, within the limits hereinafter described, are in part covered with timber, and it appears that the public good would be promoted by setting apart and reserving said lands as a public reservation;

Now, therefore, I, William McKinley, President of the United States, by virtue of the power in me vested by section twenty-four of the aforesaid Act of Congress, do hereby make known and proclaim that there is hereby reserved from entry or settlement and set apart as a Public Reservation all those certain tracts, pieces or parcels of

Preamble.  
Vol. 26, p. 1103.

Forest reservation,  
California.



June 29, 1906.  
[H. R. 130.]

[Public, No. 332.]

District of Colum-  
bia.  
Kalorama road.  
Condemnation of  
land for extension of.  
Act, p. 151.

Appropriation for  
expenses.

Payment of awards,  
etc.

CHAP. 3606.—An Act Authorizing the extension of Kalorama road northwest.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.* That, under and in accordance with the provisions of sections four hundred and ninety-one a to four hundred and ninety-one n, both inclusive, of subchapter one of chapter fifteen of the Code of Law for the District of Columbia, within thirty days after the passage of this Act, the Commissioners of the District of Columbia be, and they are hereby, authorized and directed to institute in the supreme court of the District of Columbia, a proceeding in rem to condemn the land that may be necessary for the extension of Kalorama road from Eighteenth street to Champlain street with a width of fifty feet.

SEC. 2. That the sum of three hundred dollars, or so much thereof as may be necessary, is hereby appropriated out of the revenues of the District of Columbia to provide the necessary funds for the costs and expenses of the condemnation proceedings taken pursuant hereto, to be repaid to the District of Columbia from the assessment for benefits when the same are collected, and a sufficient sum to pay the amounts of all judgments and awards is hereby appropriated out of the revenues of the District of Columbia.

Approved, June 29, 1906.

June 29, 1906.  
[H. R. 5998.]

[Public, No. 333.]

Mesa Verde National  
Park, Colo.  
Establishment of.

Description.

CHAP. 3607.—An Act Creating the Mesa Verde National Park.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.* That there is hereby reserved from settlement, entry, sale, or other disposal, and set apart as a public reservation, all those certain tracts, pieces, and parcels of land lying and being situate in the State of Colorado, and within the boundaries particularly described as follows: Beginning at the northwest corner of section twenty-seven, township thirty-five north, range sixteen west, New Mexico principal meridian; thence easterly along the section lines to the southwest corner of the southeast quarter of section twenty, township thirty-five north, range fifteen west; thence northerly to the northwest corner of the southeast quarter of said section; thence easterly to the northeast corner of the southeast quarter of said section; thence northerly to the northwest corner of the southeast quarter of section twenty-one, said township; thence easterly to the northeast corner of the northwest quarter of said section; thence northerly to the northwest corner of the southeast quarter of section sixteen, said township; thence easterly to the northeast corner of the southeast quarter of section fifteen, said township; thence southerly to the southeast corner of said section; thence easterly to the southwest corner of section thirteen, said township; thence northerly to the northwest corner of the southwest quarter of said section; thence easterly to the northeast corner of the southwest quarter of said section; thence northerly to the northwest corner of the northeast quarter of said section; thence easterly to the northeast corner of said section; thence northerly to the northwest corner of the southwest quarter of section seven, township thirty-five north, range fourteen west; thence easterly to the northeast corner of the southwest quarter of said section; thence northerly to the northwest corner of the southeast quarter of section six, said township; thence easterly to the northeast corner of the southwest quarter of section four, said township; thence southerly to the northwest corner of the southeast quarter of section nine, said township; thence easterly to the northeast corner of



the southeast quarter of said section: thence southerly to the northwest corner of section twenty-two, said township: thence easterly to the northeast corner of the northwest quarter of said section: thence southerly to the northwest corner of the southeast quarter of said section: thence easterly to the northeast corner of the southeast quarter of said section: thence southerly to the northwest quarter of section twenty-six, said township: thence easterly to the northeast corner of the northwest quarter of said section: thence southerly to the southeast corner of the southwest quarter of section thirty-five, said township: thence easterly to the northeast corner of section two, township thirty-four north, range fourteen west: thence southerly along the section line between sections one and two and between sections eleven and twelve to the northern boundary of the southern Ute Indian Reservation: thence westerly along the northern boundary of said reservation to the center of section nine, township thirty-four north, range sixteen west: thence northerly along the quarter-section lines to the northwest corner of the southeast quarter of section twenty-eight, township thirty-five north, range sixteen west: thence easterly to the northeast corner of the southeast quarter of said section: thence northerly to the northwest corner of section twenty-seven, said township, the place of beginning.

SEC. 2. That said public park shall be known as the Mesa Verde National Park, and shall be under the exclusive control of the Secretary of the Interior, whose duty it shall be to prescribe such rules and regulations and establish such service as he may deem necessary for the care and management of the same. Such regulations shall provide specifically for the preservation from injury or spoliation of the ruins and other works and relics of prehistoric or primitive man within said park: *Provided*, That all prehistoric ruins that are situated within five miles of the boundaries of said park, as herein described, on Indian lands and not on lands alienated by patent from the ownership of the United States, are hereby placed under the custodianship of the Secretary of the Interior, and shall be administered by the same service that is established for the custodianship of the park.

SEC. 3. That the Secretary of the Interior be, and he is hereby, authorized to permit examinations, excavations, and other gathering of objects of interest within said park by any person or persons whom he may deem properly qualified to conduct such examinations, excavations, or gatherings, subject to such rules and regulations as he may prescribe: *Provided always*, That the examinations, excavations, and gatherings are undertaken only for the benefit of some reputable museum, university, college, or other recognized scientific or educational institution, with a view to increasing the knowledge of such objects and aiding the general advancement of archaeological science.

SEC. 4. That any person or persons who may otherwise in any manner willfully remove, disturb, destroy, or molest any of the ruins, mounds, buildings, graves, relics, or other evidences of an ancient civilization or other property from said park shall be deemed guilty of a misdemeanor, and upon conviction before any court having jurisdiction of such offenses shall be fined not more than one thousand dollars or imprisoned not more than twelve months, or such person or persons may be fined and imprisoned, at the discretion of the judge, and shall be required to restore the property disturbed, if possible.

Approved, June 20, 1906.

Name.

Regulations.

*Proviso.*  
Prehistoric ruins.

Excavations, etc.

*Proviso.*  
Restriction.

Penalty for destroying ruins, etc.



Selection in lieu of  
relinquished lands.

Relinquished lands  
restored to public do-  
main.

March 1, 1907.  
[H. R. 24134.]  
[Public No. 161.]

Colorado.  
Granted desert  
lands in Southern Ute  
Reservation.  
Vol. 23, p. 422.

northwest quarter; south half of northeast quarter; northeast quarter of northeast quarter, section eight, township fifty-one north, range one hundred and three west; northwest quarter of southwest quarter; southeast quarter of southwest quarter; south half of northwest quarter; lot three of section two, township fifty-one north, range one hundred and three west; north half of south half of section twelve, township fifty-one north, range one hundred and three west; south half of southeast quarter of section twenty-five, township fifty-two north, range one hundred and three west; northwest quarter of northeast quarter, section twenty-four, township fifty-one north, range one hundred and four west; east half of northwest quarter, section eleven, township fifty-one north, range one hundred and three west; State charitable, educational, penal, and reform lands, approved list numbered fourteen, June third, eighteen hundred and ninety-eight, Lander district; southeast quarter section eight, township fifty-one north, range one hundred and three west; all of sections nine, three, and one, township fifty-one north, range one hundred and three west; east half section four, township fifty-one north, range one hundred and three west; northeast quarter; southeast quarter section two, township fifty-one north, range one hundred and three west; north half section twelve, township fifty-one north, range one hundred and three west; northeast quarter section eleven, township fifty-one north, range one hundred and three west; southeast quarter section thirty-five, township fifty-two north, range one hundred and three west; southwest quarter section thirty, township fifty-two north, range one hundred and two west; east half section thirteen, township fifty-one north, range one hundred and four west; all of sections thirty-one and thirty-two, township fifty-two north, range one hundred and two west; Agricultural College lands, approved list numbered nine, March ninth, eighteen hundred and ninety-nine, Lander district; south half of south half northeast quarter of southeast quarter section twenty-nine, township fifty-two north, range one hundred and two west; southwest quarter; west half of east half section twenty-eight, township fifty-two north, range one hundred and two west; west half of southeast quarter section twenty-four, township fifty-one north, range one hundred and four west; west half of northeast quarter; northwest quarter section twenty-five, township fifty-one north, range one hundred and four west; south half of south half of northeast quarter; northeast quarter of northeast quarter section twenty-six, township fifty-one north, range one hundred and four west; miscellaneous State library lands, approved list numbered fourteen, June third, eighteen hundred and ninety-eight, Lander district. The said State shall be authorized and permitted to select an equal number of acres from the unappropriated public lands of the United States in said State in the same manner, for the same purposes, and subject to the same conditions and limitations under which the lands so reconveyed were selected and held.

SEC. 2. That the lands so reconveyed shall be restored to and become a part of the public domain and be subject to disposal by the Government in the same manner in which other public lands of a like character are disposed of.

Approved, March 1, 1907.

CHAP. 2292.—An Act Providing for the granting and patenting to the State of Colorado, desert lands formerly in the Southern Ute Indian Reservation in Colorado.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.* That the provisions of section four of "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes," approved August



eighteenth, eighteen hundred and ninety-four, and the Acts amendatory thereof, approved June eleventh, eighteen hundred and ninety-six, and March third, nineteen hundred and one, respectively, be, and are hereby, extended over and shall apply to the desert lands included within the limits of the former Southern Ute Indian Reservation in Colorado not included in any forest reservation: *Provided*, That before a patent shall issue for any of the lands aforesaid under the terms of the said Act approved August eighteenth, eighteen hundred and ninety-four, and amendments thereto, the State of Colorado shall pay into the Treasury of the United States the sum of one dollar and twenty-five cents per acre for the lands so patented, and the money so paid shall be subject to the provisions of section three of the Act of June fifteenth, eighteen hundred and eighty, entitled "An Act to accept and ratify the agreements submitted by the confederated bands of Ute Indians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriation for carrying out same."

SEC. 2. That no lands shall be included in any tract to be segregated under the provisions of this Act on which the United States Government has valuable improvements or which have been reserved for Indian schools or farm purposes.

Approved, March 1, 1907.

Vol. 29, p. 434.

Vol. 31, p. 1188.

*Proviso.*  
Payment.

In trust for Indians.  
Vol. 21, p. 203.

Lands reserved.

CHAP. 2293.—An Act Extending the time for making final proof in certain desert-land entries.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all desert-land entrymen, under the Benton Water Company's canal, in Benton County, State of Washington, who would be required under existing law to make final proof during the year nineteen hundred and seven, are hereby given an additional year in which to make such final proof: *Provided*, That each entryman claiming the benefits of this Act shall, within ninety days after its passage and approval, file in the local land office of the district in which the lands embraced in his entry are located, an affidavit describing his lands and stating that he expects to irrigate the same with water from the canal of said company.

Approved, March 1, 1907.

March 1, 1907.  
[H. R. 25513.]

[Public, No. 162.]

Benton Water Company's canal, Wash.  
Time extended for entries under.

*Proviso.*  
Affidavit required.

CHAP. 2504.—An Act Authorizing the President to appoint James Carroll a surgeon, with the rank of major, in the United States Army.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President be, and he is hereby, authorized to nominate and, by and with the advice and consent of the Senate, appoint James Carroll, lieutenant-surgeon, United States Army, and curator of the Army and Navy Museum, a surgeon, with the rank of major, in the Medical Corps of the Army, and that the number of officers in the Medical Corps be increased by one, with the rank of major, for this purpose.

Approved, March 2, 1907.

March 2, 1907.  
[S. 5885.]

[Public, No. 163.]

Army.  
James Carroll may be appointed surgeon.



Agreement with  
Wiminuche Band of  
Southern Ute Indians,  
Colo.

That an agreement, made at the Navajo Springs Indian Agency, in the State of Colorado, on the tenth day of May, in the year of our Lord nineteen hundred and eleven, with the Wiminuche Band of Southern Ute Indians, belonging to the jurisdiction of the Navajo Springs Indian Agency, be, and the same is hereby, modified and amended to read as follows:

"ARTICLE I.

Lands relinquished.

"The said Wiminuche Band of Southern Ute Indians hereby agrees to relinquish and surrender to the United States of America all its right, title, and interest in and to that portion of its reservation described as follows:

"Beginning at a point on the north boundary of the Southern Ute Indian Reservation in southwestern Colorado where the north quarter corner of unsurveyed fractional section two (2), township thirty-four (34) north, range fifteen (15) west, 'south of the Ute boundary,' intersects the same; thence south to the south quarter corner of unsurveyed section twenty-six (26), said township; thence west to the southwest corner of unsurveyed section twenty-five (25), township thirty-four (34) north, range sixteen (16) west; thence north to the northwest corner of unsurveyed fractional section one (1), said township; thence east to the north quarter corner of unsurveyed fractional section two (2), township thirty-four (34) north, range fifteen (15) west, 'south of the Ute boundary,' the place of beginning; fourteen thousand five hundred and twenty (14,520) acres more or less, lying and being in Montezuma County, State of Colorado.

"ARTICLE II.

Lands to be conveyed in exchange.

"In consideration for the lands relinquished and surrendered as aforesaid the United States hereby agrees to convey to said Wiminuche Band of Southern Ute Indians in exchange therefor lands lying within the present boundaries of the Mesa Verde National Park and from the public domain, said lands to become a part of the reservation of said Wiminuche Band of Southern Ute Indians and to take on the same character and title as the rest of the land of the said reservation, of which they become a part by virtue of this agreement, and described as follows:

"Sections one (1), two (2), three (3), four (4), five (5), fractional sections eight (8), nine (9), ten (10), eleven (11), twelve (12), in township thirty-four (34) north, range sixteen (16), west, 'north of the Ute boundary'; also sections twenty-five (25), twenty-six (26), twenty-seven (27), southeast quarter section twenty-eight (28), sections thirty-two (32), thirty-three (33), thirty-four (34), thirty-five (35), and thirty-six (36), township thirty-five (35) north, range sixteen (16) west, containing ten thousand and eighty (10,080) acres, more or less.

38 Stat., 82.

"Also sections five (5) and six (6) and fractional sections seven (7) and eight (8) (unsurveyed) in township thirty-four (34) north, range seventeen (17) west, 'north of the Ute boundary,' and sections one (1), two (2), three (3), four (4), five (5), and fractional sections eight (8), nine (9), ten (10), eleven (11), and twelve (12) (unsurveyed), in township thirty-four (34) north, range eighteen (18) west, 'north of the Ute boundary,' and sections nineteen (19), twenty (20), twenty-nine (29), thirty (30), thirty-one (31), and thirty-two (32), in township thirty-five (35) north, range seventeen (17) west, and sections twenty (20), twenty-one (21), twenty-two (22), twenty-three (23), twenty-four (24), twenty-five (25), twenty-six (26), twenty-seven (27), twenty-eight (28), twenty-nine (29), thirty-two (32), thirty-



three (33), thirty-four (34), thirty-five (35), and thirty-six (36) in township thirty-five (35) north, range eighteen (18) west, New Mexico principal meridian, containing twenty thousand one hundred and sixty (20,160) acres, more or less. 33 Stat., 83.

"And in case it be found that any portion of the lands herein described have been entered or patented under any of the land laws of the United States, then, and in that event, it is stipulated and agreed that public lands of an equal amount and like character and lying adjacent to the lands herein described be substituted and given to said Wiminuche Band of Southern Ute Indians, to make the total area of lands to be given in amount equal to the above-described lands, the total area in said western tract to contain twenty thousand one hundred and sixty (20,160) acres. Additional.

### "ARTICLE III.

"Nothing in this agreement shall be construed to deprive the Indians parties hereto of any annuities or benefits to which they are entitled under existing laws and treaties. Annuities, etc., not impaired.

### "ARTICLE IV.

"This agreement shall become effective and binding on the parties hereto when ratified by the Congress of the United States." Ratification required.

That the said agreement be, and the same is hereby, accepted, ratified, and confirmed as herein amended. Agreement confirmed.

That the Secretary of the Interior is hereby authorized to add to the area conveyed to the Indians in exchange for the lands relinquished any tracts of unappropriated public land adjoining thereto which may be necessary to make the total area of the acreage ceded to the Indians in lieu of that lost to them by any prior existing valid rights attaching thereto. Additional lands to be conveyed.

That the boundary of the Mesa Verde National Park, created by the act of Congress approved June twenty-ninth, nineteen hundred and six (Thirty-fourth Statutes at Large, page six hundred and sixteen), is hereby extended on the south so as to include the land relinquished by the Indians in the foregoing agreement as herein provided and the boundaries of said park shall hereafter be defined as follows: Mesa Verde National Park. Boundaries extended. 34 Stat., 616.

Beginning at a point on the north boundary of the Southern Ute Indian Reservation in southwestern Colorado where the north quarter corner of unsurveyed fractional section two (2), township thirty-four (34) north, range fifteen (15) west, "south of the Ute boundary," intersects the same; thence south to the south quarter corner of unsurveyed section twenty-six (26), said township; thence west to the southwest corner of unsurveyed section twenty-five (25), township thirty-four (34) north, range sixteen (16) west; thence north to the northwest corner of unsurveyed fractional section one (1), said township and range; thence west to the southeast corner of fractional section twelve (12), township thirty-four (34) north, range sixteen (16) west, "north of the Ute boundary"; thence north to the northwest corner of section nineteen (19), township thirty-five (35) north, range fifteen (15) west; thence east to the southwest corner of the southeast quarter of section sixteen (16), said township; thence north to the northwest corner of the southeast quarter of said section; thence east to the southwest corner of the northeast quarter of section thirteen (13), said township; thence north to the northwest corner of the northeast quarter of said section; thence east to the southwest corner of section seven (7), township thirty-five (35) north, range fourteen (14) west; thence north to the northwest corner of said section; thence east to the southwest corner of section five (5), said Description.



township; thence north to the northwest corner of said section; thence east to the northeast corner of said section; thence south to the southeast corner of the northeast quarter of said section; thence east to the northeast corner of the southwest quarter of section four (4), said township; thence south to the northwest corner of the southeast quarter of section sixteen (16), said township; thence east to the northeast corner of the southeast quarter of said section; thence south to the northwest corner of section twenty-two (22), said township; thence east to the northeast corner of said section; thence south to the northwest corner of section twenty-six (26), said township; thence east along the north section line of section twenty-six (26) to the east bank of the Rio Mancos; thence in a southeasterly direction along the east bank of the Rio Mancos to its intersection with the northern boundary line of the Southern Ute Indian Reservation; thence west along said Indian reservation boundary to its intersection with the range line between ranges fourteen (14) and fifteen (15) west, the place of beginning;

And the provisions of the act of June twenty-ninth, eighteen hundred and ninety-six, creating the park, are hereby extended over the same.

Included in Park control, etc.  
Custody of adjoining prehistoric ruins repealed.  
31 Stat., 617.

So much of the act of June twenty-ninth, nineteen hundred and six, as provides that the custodianship of the Secretary of the Interior shall extend over all prehistoric ruins situated within five miles of the eastern, western, and northern boundaries of the park, as described in said act; not on lands alienated by patent from the ownership of the United States, is hereby repealed.



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COLORADO.

UTE.

It is hereby ordered that the NW.  $\frac{1}{4}$  and lots 1 and 2 of section 9, township 34 north, range 17 west of the New Mexico meridian, containing 190.88 acres, in Colorado, be, and the same are hereby, withdrawn from all forms of settlement, location, entry, sale, or other disposition and set aside as an addition to the Ute Indian Reservation, subject to any prior valid existing rights of any person or persons.

WOODROW WILSON.

THE WHITE HOUSE, 12 November, 1915.

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IDAHO.



## ORDER OF RESTORATION

July 17, 1937

## Southern Ute Indian Reservation, Colorado

WHEREAS, Pursuant to the provisions of an agreement accepted and ratified by the Act of June 15, 1880 (21 Stat. L., 199), the Confederated Bands of the Ute Tribe of Indians ceded to the United States a large area of their reservation in the State of Colorado, which area was then held and deemed to be public land of the United States and subject to disposal under the laws providing for the disposal of public lands, except as provided in the said Act of June 15, 1880, supra, and

WHEREAS, There is now remaining undisposed of within the ceded area a considerable acreage of such ceded lands, certain of which are urgently required as grazing land for the use of the Ute Mountain Band of Ute Indians, and which have been found to be primarily of value for Indian purposes as an addition to the existing Southern Ute Indian Reservation, and

WHEREAS, By relinquishment and cancellation of homestead entries within this area a limited additional acreage of similar land may be included within the class of undisposed of ceded land, and

WHEREAS, The Commissioner of Indian Affairs, after having caused thorough examination of the area to be made by well qualified field employees, has recommended restoration to



tribal ownership of all said vacant undisposed of ceded lands within the following described boundaries:

Beginning at a point on the western boundary line of the State of Colorado, being the northwest corner of the existing Southern Ute Indian Reservation; thence north to the township line separating townships 34 and 35 north, range 20 west; thence east along said township line to the southwest corner of section 35, township 35 north, range 19 west; thence north to the northwest corner of section 2, township 35 north, range 19 west; thence east to the northeast corner of section 1, township 35 north, range 18 west; thence north to the northwest corner of section 31, township 36 north, range 17 west; thence east to the northeast corner of section 35, township 36 north, range 17 west; thence south to the north boundary of the existing Southern Ute Indian Reservation; thence west along the north boundary of the said reservation to the west line of section 9, township 34 north, range 17 west; thence north to the northwest corner of section 21, township 35 north, range 17 west; thence west to the southwest corner of section 17, township 35 north, range 17 west; thence south to the southeast corner of the northeast quarter of the northeast quarter of section 19, township 35 north, range 17 west; thence west to the southwest corner of the northeast quarter of the northwest quarter of said section 19; thence north to the north line of said section 19;



thence west to the southwest corner of section 17, township 35 north, range 18 west; thence south to the north boundary of the Southern Ute Indian Reservation in section 7, township 34 north, range 18, all west of the New Mexico principal meridian; thence west along the said north boundary to the point of beginning.

NOW, THEREFORE, By virtue of the authority vested in the Secretary of the Interior by sections 3 and 7 of the Act of June 18, 1934 (48 Stat. L., 964), I hereby find that restoration to tribal ownership of all lands which are now, or may hereafter be, classified as undisposed of ceded Ute Indian lands lying within the above described boundaries in Colorado, will be in the public interest, and said lands are hereby restored to tribal ownership for the use and benefit of the Ute Mountain band of Ute Indians of the Southern Ute Indian Reservation in Colorado, and are added to and made a part of the existing Southern Ute Indian Reservation, subject to any valid existing rights.

(Signed)

CHARLES WEST

Acting Secretary of the Interior,



ORDER OF RESTORATION

NOV 13 1937

Confederated Bands of the Ute Tribe of Indians,  
Colorado.

WHEREAS, Pursuant to the provisions of an agreement accepted and ratified by the Act of June 15, 1880 (21 Stat. L., 199), the Confederated Bands of the Ute Tribe of Indians in Colorado ceded to the United States a large area of their reservation in the State of Colorado, which area was then held and deemed to be public land of the United States, subject to disposal under the laws providing for the disposal of public lands, except as provided in the said Act of June 15, 1880, supra, and

WHEREAS, There are now remaining undisposed of within the said ceded area certain tracts which, if now restored, would prove beneficial to the Confederated Bands of the Ute Tribe of Indians, because of their value for grazing purposes and mineral content, and

WHEREAS, By relinquishment and cancellation of unperfected homestead entries within this area a limited additional acreage of land of similar character may be included within the class of undisposed of ceded land, and

WHEREAS, The Commissioner of Indian Affairs has recommended restoration to tribal ownership of all said vacant undisposed of ceded lands within the following described boundaries:

Beginning at the southeast corner of section 36, township 47 north, range 1 $\frac{1}{2}$  west of the New Mexico principal meridian in Colorado; thence west on the section lines to the southeast corner of section 35, township 47 north, range

S. H. C.



2 west; thence north to the northeast corner of the said section 35; thence west to the center section line of section 33; thence south to the south line of said section 33; thence east to the northwest corner of section 3, township 46 north, range 2 west; thence south to the southwest corner of section 3; thence east to the northwest corner of section 11; thence south to the southwest corner of section 14; thence east to the southeast corner of section 13, township 46 north, range 1 1/2 west; thence north along the township line to the place of beginning.

NOW, THEREFORE, By virtue of the authority vested in the Secretary of the Interior by sections 3 and 7 of the Act of June 18, 1934 (48 Stat. L., 984), I hereby find that restoration to tribal ownership of all lands which are now, or may hereafter be, classified as undisposed of ceded Ute Indian lands lying within the above described boundaries in Colorado which shall include mineral and other rights not acquired by entrymen within any entries perfected where the surface right only was acquired by such entrymen, will be in the public interest, and said lands are hereby restored to tribal ownership for the use and benefit of the Confederate Bands of the Ute Tribe of Indians, Colorado, subject to any valid existing rights.

/s/ Harold L. Ickes

Secretary of the Interior.



[CHAPTER 776]

AN ACT

Conferring jurisdiction upon the United States Court of Claims to hear, examine, adjudicate, and render judgment on any and all claims which the Ute Indians or any Tribe or Band thereof may have against the United States, and for other purposes.

June 23, 1913  
[H. R. 3162]  
[Public, No. 764]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That jurisdiction is hereby conferred on the United States Court of Claims to hear, determine, and render final judgment on all legal and equitable claims of whatsoever nature which the Ute Indians or any tribe or band or any constituent<sup>1</sup> band thereof, may have against the United States, including, but without limiting the generality of the foregoing, claims arising under or growing out of any treaty or agreement of the United States, law of Congress, Executive order, or by reason of any lands taken from them, without compensation, or for the failure or refusal of the United States to protect the interest of any of said bands in lands (as to which any of said bands had the possessory right of use and occupancy), or because of any mismanagement or wrongful handling of any of the funds, land, property, or business enterprises belonging to or held in trust for any of said bands by the United States, or any misfeasance or nonfeasance on the part of the United States with respect thereto, or otherwise.

Ute Indians.  
Jurisdiction con-  
ferred on Court of  
Claims to hear, etc.,  
claims of.

Sec. 2. Suit or suits under this Act may be instituted by any of the aforesaid bands of Indians (each band to have the right to sue for constituent bands comprising said band), either separately or jointly, as party or parties plaintiff against the United States as party defendant, by filing within five years of the enactment of this Act its or their petition or petitions in the Court of Claims and serving with respect to each suit, a copy thereof on the Attorney General of the United States who, either in person or by some attorney from the Department of Justice to be designated by him, shall appear and defend the interests of the United States. Such petition or petitions shall set forth the facts on which the claim or claims for recovery is or are based and shall be verified by the attorney or attorneys employed by said band or bands of Ute Indians, under contracts approved in accordance with existing law, to prosecute said claims, which may be made upon information and belief, and no other verification shall be necessary. The petition or petitions shall be subject to amendment at any time prior to final submission of the case to the Court of Claims. Such petition or petitions may, in addition to alleg-

Presentation of  
claims.

Time limitation for  
filing petition.  
Service on Attorney  
General.

Amendments to  
petition.

Audit of accounts.

<sup>1</sup> So in original.



ing specific claims, demand a general accounting of all funds and property expended or used by the United States for it or their account, in which event the General Accounting Office or its successor shall within a reasonable time from the time of filing said petition make a complete audit of said accounts and, in addition to the usual copies for the Attorney General, shall deliver a copy thereof to the Secretary of the Interior, and the court, after full hearing, shall state the account, and render judgment in accordance therewith.

Principles of law applicable.

Sec. 3. At the trial of any suit instituted hereunder the court shall apply as respects the United States the same principles of law as would be applied to an ordinary fiduciary and shall settle and determine the rights therein, both legal and equitable, of said bands of Ute Indians against the United States, notwithstanding lapse of time or statutes of limitation. In the determination of the validity of any claim asserted or defense interposed hereunder, the Court shall have the full power and authority of a court of equity.

Joining of other Indians to suit.

Sec. 4. The court shall have authority, by proper orders and process, to make parties to any suit or suits instituted hereunder any other tribe, band, or group of Indians deemed by it necessary or proper to a final determination of the matters in controversy.

Set-offs, etc.

Sec. 5. No payment or payments which have been made by the United States upon or in satisfaction of any claim or claims asserted in any suit brought hereunder or expended for any of the aforesaid bands of Ute Indians or members thereof shall apply as an estoppel against any suit brought hereunder, but there shall be set off against any recovery obtained by any band of said Indians hereunder, any payment made by the United States on any claim asserted by said band and such gratuity expenditures made by the United States for the benefit of said band as are directed to be set off by the Second Deficiency Appropriation Act, fiscal year 1935 (Public, Numbered 270<sup>1</sup>, Seventy-fourth Congress).

49 Stat. 631.

If court finds lands taken without compensation.

Sec. 6. If the court shall find that any lands formerly belonging to the said bands of Ute Indians or any of them, have been taken by the United States without compensation therefor and set apart and reserved as national reservations or for other public uses or otherwise classified, reserved, or withdrawn from entry and sale under the public land laws or disposed of in any manner whereby the said Indians have been deprived of the use or benefits of such lands and the natural resources thereof, it is hereby declared that such action shall be sufficient grounds for equitable relief and the court shall render judgment in favor of said Indians, and shall award to them, as for a taking under the power of eminent domain, compensation for all such lands and natural resources, anything in any other Acts of Congress to the contrary notwithstanding, no lands in Colorado north of and including range 35 formerly owned or claimed by the Ute Indians or any band thereof shall be restored to tribal ownership under the provisions of section 3 of the Act of June 18, 1931 (48 Stat. 931), and said lands to the extent that they have not been disposed of by the United States are hereby declared to be the absolute property of the United States: Provided, That there is hereby added to the existing Southern Ute Indian Reservation in tribal ownership of the vacant, undisposed of ceded lands within the following described boundaries:

Certain lands in Colorado not to be restored to tribal ownership.

48 Stat. 931.

Proviso. Additions to Southern Ute Reservation.

Description.

Beginning at a point on the western boundary line of the State of Colorado, being the northwest corner of the existing Southern Ute Indian Reservation; thence north to the township line separating townships 34 and 35 north, range 20 west; thence east along said township line to the southwest corner of section 35, township 35

<sup>1</sup> So in original.



north, range 19 west; thence north to the northwest corner of section 2, township 35 north, range 19 west; thence east to the northeast corner of section 1, township 35 north, range 18 west; thence north to the northwest corner of section 31, township 36 north, range 17 west; thence east to the northeast corner of section 35, township 36 north, range 17 west; thence south to the north boundary of the existing Southern Ute Indian Reservation; thence west along the north boundary of the said reservation to the west line of section 9, township 34 north, range 17 west; thence north to the northwest corner of section 21, township 35 north, range 17 west; thence west to the southwest corner of section 17, township 35 north, range 17 west; thence south to the southeast corner of the northeast quarter of the northeast quarter of section 19, township 35 north, range 17 west; thence west to the southwest corner of the northeast quarter of the northwest quarter of said section 19; thence north to the north line of said section 19; thence west to the southwest corner of section 17, township 35 north, range 18 west; thence south to the north boundary of the Southern Ute Indian Reservation in section 7, township 34 north, range 18, all west of the New Mexico principal meridian; thence west along the said north boundary to the point of beginning: *Provided further*, That any orders restoring or attempting to restore to tribal ownership any portion of the lands in Colorado north of range 35 are hereby rescinded and annulled.

SEC. 7. In any suit instituted hereunder, any letter, paper, document, map, or record in the possession of any officer or department of the United States (or certified copy thereof) may be used in evidence, and the departments of the Government of the United States shall give full and free access to the attorneys for any of said bands of Indians to such letters, papers, documents, or records as may be useful to said attorney or attorneys in the preparation for trial or trials of such suits and shall afford facilities for the examination of the same.

SEC. 8. Upon the final determination of any suit, cause, or action instituted hereunder, whether by judgment, compromise, or otherwise, the Court of Claims, in the event of success by any plaintiff, or in the event any claim asserted by any of said bands of Indians shall be compromised or settled without the institution of any suit hereunder, the Secretary of the Interior, shall decree that there shall be paid to the attorney or attorneys employed therein by said plaintiff under contracts negotiated or entered into as provided by existing law, such fees as, based upon a quantum meruit, it or he shall find reasonable, and in addition such actual and necessary expenses incurred by the attorney or attorneys in preparation and prosecution of said claims. In no case shall the fees decreed by said Court of Claims and/or by the Secretary of the Interior be in excess of the amount stipulated in the contracts approved by the Commissioner of Indian Affairs and the Secretary of the Interior, and in no event to exceed 10 per centum of the amount of the recovery, and shall be paid upon money being appropriated for the benefit of any bands of Ute Indians pursuant to any judgment or settlement hereunder whether distributable thereto or not.

SEC. 9. The net amount of any judgment recovered shall be placed in the Treasury of the United States to the credit of said Indians and shall draw interest at the rate of 4 per centum per annum from date of judgment or settlement and shall, thereafter, be subject to appropriation by Congress for the benefit of said Indians, including the purchase of lands and building homes, and no part of said judgment, without further legislation, shall be paid out in per-capita payments to said Indians.

Approved, June 28, 1938.

Orders restoring,  
etc., certain Colorado  
lands rescinded.

Admissible evi-  
dence.

Attorneys' fees.

Limitation.

Deposit of amounts  
recovered to credit of  
Indians; interest, use,  
etc.



## ORDER OF RESTORATION

SEP 14 1938

Southern Ute Indian Reservation, Colorado.

WHEREAS, pursuant to the provisions of the Act of February 20, 1895 (28 Stat. L., 677), the Southern Ute Band of Indians in Colorado ceded to the United States a large area of their reservation in the State of Colorado established expressly for their benefit under the treaty of June 15, 1880 (21 Stat. L., 199), and

WHEREAS, There is now remaining undisposed of within the said ceded area approximately 200,000 acres of such ceded land, most of which is urgently required as grazing land for the use of the Southern Ute Band of Indians, and which has been found to be primarily of value for Indian purposes as an addition to the existing Southern Ute Indian Reservation, and

WHEREAS, by relinquishment and cancellation of homestead entries within this area a limited additional acreage of land of similar character may later be included within this class of undisposed-of ceded land, and

WHEREAS, the Tribal Council, the Superintendent of the Consolidated Ute Indian Agency, and the Commissioner of Indian Affairs have recommended restoration to tribal ownership of all such undisposed-of ceded land within the following described boundaries:

Townships 32, 33 and 34 North, Ranges 12 to 13 West, inclusive, of the N.M.P.M., in Colorado, being that area lying between the north boundary of the old Southern Ute Reservation and the south boundary of the State of Colorado and extending west from the 107th Meridian to the east boundary of the present Southern Ute Reservation.



NOW, THEREFORE, by virtue of the authority vested in the Secretary of the Interior by Sections 3 and 7 of the Act of June 18, 1934 (48 Stat. L., 984), I hereby find that restoration to tribal ownership of all land which is now, or may hereafter be, classified as undisposed-of ceded Ute Indian land lying within the above described boundaries in Colorado, will be in the public interest, and the said land is hereby restored to tribal ownership for the use and benefit of the Southern Ute Tribe of Indians of the Southern Ute Indian Reservation in Colorado, and is added to and made a part of the existing Southern Ute Reservation, subject to any valid existing rights.

(sgd) E. K. Burlew

Acting Secretary of the Interior



60 Stat. 762.  
42 USC 1805.

SEC. 3. The rights under any mining claim given force and effect by this Act shall also be subject to the reservation to the United States specified in section 5 (b) (7) of the Atomic Energy Act of 1946, as amended, and, in addition, any reservation or reservations required by any other provision or provisions of law; and any patent issued for such mining claim shall contain such reservations.

SEC. 4. Except as this Act provides for (a) validation of certain mining claims located on lands described in section 1 of this Act, and (b) the modification and amendment of certain withdrawals or reservations of land, nothing in this Act shall affect any power or authority duly vested in the Atomic Energy Commission or any other agency, department or officer of the United States to make leases, withdrawals, reservations or other arrangements with respect to source materials as defined in section 5 (b) (1) of the Atomic Energy Act of 1946, as amended.

48 USC 432-452.  
30 USC 22-263  
passim, 271-276,  
281-284.

SEC. 5. As used in this Act "mineral leasing laws" shall mean the Act of October 20, 1914 (38 Stat. 741); the Act of February 25, 1920 (41 Stat. 437); the Act of April 17, 1926 (44 Stat. 301); the Act of February 7, 1927 (44 Stat. 1057) and all Acts heretofore or hereafter enacted which are amendatory of or supplementary to any of the foregoing Acts.

Approved August 12, 1953.

## Public Law 251

## CHAPTER 406

### AN ACT

August 12, 1953  
[H. R. 5328]

To provide for the use of the tribal funds of the Ute Mountain Tribe of the Ute Mountain Reservation, to authorize a per capita payment out of such funds, and for other purposes.

Ute Mountain  
Tribe.  
Per capita pay-  
ment.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding any other provisions of existing laws, the tribal funds now on deposit or hereafter deposited in the United States Treasury to the credit of the Ute Mountain Tribe of the Ute Mountain Reservation, may be expended or advanced for such purposes and in a manner, including per capita payments, the purchase of land or any interests therein or improvements thereon and water rights, as may be designated by the Ute Mountain Tribal Council and approved by the Secretary of the Interior: *Provided*, That the purchase of taxable lands under this authority shall not operate to remove such lands from the tax rolls: *Provided further*, That neither the transfer to the tribe of tribal funds, nor the distribution thereof to individual members of the tribe, as provided herein, from those funds consisting of compensation for lands acquired by the United States Government, shall be subject to Federal tax: *And provided further*, That any funds advanced for loans by the tribe to individual Indians or associations of Indians shall be subject to regulations established for the making of loans from the revolving loan fund authorized by the Act of June 18, 1934 (25 U. S. C., sec. 410).

48 Stat. 986.  
Restriction.

SEC. 2. No part of the funds authorized to be expended or advanced pursuant to section 1 shall be paid or disbursed to or received by any agent or attorney on account of any contract for services rendered or to be rendered or expenses in the preparation of any suit against the United States.

Approved August 12, 1953.



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93 S.Ct. 68 (Mem)

34 L.Ed.2d 70

(Cite as: 409 U.S. 809, 93 S.Ct. 68)

The UTE MOUNTAIN TRIBE OF  
INDIANS, appellant,  
v.  
The NAVAJO TRIBE OF INDIANS.

No. 72-46.

Supreme Court of the United  
States

October 10, 1972

Appeal from the United  
States District Court for the  
District of New Mexico.

Judgment affirmed.

Mr. Justice DOUGLAS would  
note probable jurisdiction and  
set case for oral argument.

END OF DOCUMENT



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KeyCite

Date of Printing: FEB 03,2000

KEYCITE

CITATION: Ute Moutain Tribe of Indians v. Navajo Tribe of  
Indians, 409 U.S. 809, 93 S.Ct. 68, 34 L.Ed.2d 70  
(U.S.N.M., Oct 10, 1972) (NO. 72-46)

History

=> 1 Ute Moutain Tribe of Indians v. Navajo Tribe of  
Indians, 409 U.S. 809, 93 S.Ct. 68, 34 L.Ed.2d 70  
(U.S.N.M. Oct 10, 1972) (NO. 72-46)



Section 2c.  
Staff

The Ute Mountain Ute Water Pollution Prevention Program is a division of the Ute Mountain Ute Tribe's Environmental Programs Department, as approved by the Ute Mountain Ute Tribal Council and the United States Environmental Protection Agency. The Water Pollution Prevention Program was founded and developed under the guidelines of the Clean Water Act, Section 106.

Following is an organizational chart of administrative and personnel positions:

<b>Ute Mountain Ute Indian Tribe Environmental Programs Department Administrative Organizational Chart</b>
<b>June, 2000</b>
<b>Tribal Council</b>
<b>Executive Director</b>
<b>Environmental Programs Department Director</b>
<b>Water Quality Specialist</b>
<b>Water Quality Analyst</b>
<b>Water Quality Technician</b>

Within the Water Pollution Prevention Program the *Water Quality Specialist* is the primary administrator, and he also supervises the *Analyst*, and *Technicians*. Since the beginning of the program, the staff has consisted of the *Specialist* and one or two seasonal *Technicians*. The *Water Quality Analyst* is responsible for monitoring and analysis activities for the program, including the training of *Technicians* and scheduling of day to day laboratory work and field work. The *Water Quality Specialist* focuses his time on compliance issues, quality assurance, data management, and program development such as water quality standards, nonpoint source pollution, wetlands and other Clean Water Act programs.

The current *Environmental Programs Director*, Cindy Crist, was hired in May of 1998. Cindy has professional experience in Safe Drinking Water Act compliance as a water treatment plant operator and wastewater management experience as a wastewater treatment plant operator and laboratory technician. Before coming to the Ute Mountain Ute Indian Tribe, she worked for the Southern Ute Indian Tribe as the Water Quality Specialist for their Clean Water Act Section 106 program. Her accomplishments there are indicative of her ability to assist with the Water Quality Standards implementation process on the Ute Mountain Ute Reservation. She supervised a water quality monitoring



staff, performed field monitoring activities, wrote the Southern Ute Water Quality Standards and 'Treatment as a State' application, held a public comment period as required by 40 CFR, Part 131. The EPA issues discharge permits based on the Southern Ute Water Quality Standards. Her experience in this field is a valuable asset to the Ute Mountain Ute Tribe's Environmental Programs Department.

The current *Water Quality Specialist*, Scott Clow, was hired in May of 1996. Scott has professional experience in laboratory management, gas chromatography, ion chromatography, EPA-certification for laboratory compliance analyses, organic contaminant extraction techniques, and quality assurance and quality control procedures. Before working for the Ute Mountain Ute Tribe, Scott worked for *WaterTest Corporation*, gaining experience in the laboratory analyses of synthetic and volatile organic contaminants in drinking water. Among his other roles at *WaterTest* were *Temporary Laboratory Director*, back-up analyst for the inorganics and metals analysis departments, and waste management coordinator for a laboratory closing procedure. His role as Water Quality Specialist for the Ute Mountain Ute Tribe has been to conduct and supervise monitoring and analysis procedures, review quality control and quality assurance procedures, develop a computer database, provide information to tribal departments with water quality concerns, write grants, and administer the program according to the requirements of the Clean Water Act and the EPA Region 8 Tribal Assistance Program.

The current *Water Quality Analyst*, Audrey Cooper, was hired in April of 1999. She has experience in forestry data collection, fish hatchery operations, and environmental sampling. Her role in the Water Pollution Prevention Program is to collect water samples and field measurement data, analyze samples by the procedures available at our laboratory, ship samples to our contract laboratories, and enter data into the computer database.



## Section 2d.

### Management Experience of Water Quality Standards Implementation Staff

#### Clean Water Act Section 106 Water Pollution Prevention Management:

##### Program History:

In 1988 the Ute Mountain Ute Indian Tribe (the Tribe) applied for "Treatment as a State" (TAS) for the purpose of administering a water quality monitoring program to research and protect its surface and ground water resources. After the original TAS was granted in October of 1989, the Tribe received its first Clean Water Act Section 106 Water Pollution Prevention funding from the U.S. Environmental Protection Agency (EPA) for FY 1990-91. The Tribe hired consultants locally and through the *Council of Energy Resource Tribes* to write the initial work plans and grant proposals. The Tribe was awarded funding for the program, and the primary accomplishment of FY1991-92 was the hiring of the first *Water Quality Specialist* by the Tribe. The main goal and accomplishment of FY 1992-93 was the preparation and submission to the EPA of a Quality Assurance Project Plan (QAPP) for the monitoring program.

In 1993, a new Water Quality Specialist was hired and actual water quality monitoring began. In coordination with the Bureau of Reclamation, under a 638 contract, the Water Quality Specialist began collecting samples to be analyzed by a laboratory contracted by the Bureau of Reclamation. The purchase of laboratory equipment and field measurement equipment was initiated in FY 1993-94. A small laboratory in the Tribal Office Complex was equipped for "wet chemistry" and gravimetric analyses. Some limited work was done in the Ute Mountain Ute laboratory, but most of the monitoring analyses were being performed by the Bureau of Reclamation contracted laboratory. The Water Quality Specialist continued to collect samples for analysis at the Ute Mountain Ute laboratory and the contracted facility. This sampling was conducted periodically throughout FY 1994-95 and most of FY 1995-96, as outlined by the 638 contract with the Bureau of Reclamation. A part-time, temporary intern was employed to assist the Water Quality Specialist in 1995.

Other accomplishments during FY 1994-95 and FY 1995-96 included the compilation of Standard Operating Procedures for laboratory and field work, and these have since been submitted to EPA. Program documentation improved during these two years, under the second Water Quality Specialist, and midyear and year-end reports were provided to the EPA Region 8 administrators.

In May of 1996, the third Water Quality Specialist was hired. The 638 contract continued until fall of that year, and the Ute Mountain Ute laboratory was run at full operating capacity. The first *Water Quality Technician* was hired in 1996 and worked



with the program until December of 1996. Monitoring activities were continued throughout FY 1996-97, FY 1997-98 and most of FY 1998-99.

In 1996, monitoring activities were begun on and around the Ute Mountain Ute Farm and Ranch Enterprise, including groundwater monitoring on wells installed by the Bureau of Reclamation. The ultimate goal of this endeavor is to develop a relationship with the operators of the Farm and Ranch Enterprise that will foster best management of the water resources on their farm. Issues that are being addressed include optimizing irrigation water application rates in order to prevent surface run-off and sediment erosion control; sub-surface drainage management; pesticide management, and diversion of surface water run-off from sensitive drainage basins. These projects are ongoing, and will continue as long as the Farm and Ranch Enterprise requires nonpoint source pollution monitoring.

In 1997, a technical training workshop was hosted by the Ute Mountain Ute Tribe. It was organized and presented by the Ute Mountain Ute Water Pollution Prevention Program staff. Approximately twenty participants from tribal programs in EPA Regions 6 and 8 attended the "Basic Laboratory and Sampling Techniques Training" workshop, which provided hands-on experience with monitoring and analysis techniques for water quality monitoring personnel. Topics presented included clean sample collection techniques, flow estimates and field measurements, titrations, gravimetric analyses, basic statistics, and quality control and quality assurance. Other agencies and organization that provided assistance for the workshop were the Bureau of Reclamation and the Southern Ute Indian Tribe.

The Ute Mountain Ute Water Pollution Prevention Program's QAPP was revised in 1998, and approved again by EPA Region 8 Quality Assurance Officers. The revision included sampling protocols for ground water monitoring; a revision of data quality requirements; and updates on several aspects of the program that changed since the first QAPP was written. Proper program documentation continued, according to the requirements of Section 106 of the Clean Water Act and any further requirements of the EPA Region 8 Tribal Assistance Program.

In response to the Administration's *Clean Water Action Plan* initiative, the Ute Mountain Ute Water Pollution Prevention Program provided a watershed assessment to the U.S. EPA for each watershed on the Reservation. That assessment was incorporated into a *unified watershed assessment* that combined the efforts of the Tribe, the State of Colorado, the State of Utah, the State of New Mexico, the U.S.D.A. Natural Resources Conservation Service, the U.S. Geological Survey, U.S. Fish and Wildlife Service, the National Park Service, and other agencies and organizations.

A CWA Section 106 Special Project grant was awarded to the Tribe in 1998 for the purpose of plugging a well that has been adding saline water to the San Juan River watershed for 10-20 years. This project was an interagency effort between the Tribe, the



EPA, Dept. of Interior Bureau of Indian Affairs, and correspondence with and data from the Bureau of Land Management, Fish and Wildlife Service, and U.S. Geologic Survey in writing the grant proposal. The project was completed in February of 1999.

#### Present and Future of the Water Pollution Prevention Program:

The current staff of the Ute Mountain Ute Tribe's Water Pollution Prevention Program has proven to be capable of managing the monitoring and analysis of surface and ground water quality on the Ute Mountain Ute Reservation. It has provided technical training to share its knowledge with other similar tribal programs. It has managed significant grant funds appropriately to insure the future of the program, including required documentation and correspondence through the EPA Region 8 Tribal Assistance Program. And it has maintained a cooperative approach to interagency and inter-governmental issues. The implementation of a water quality standards program for the Ute Mountain Ute Reservation will require the experience and oversight of *the Water Quality Specialist and Environmental Programs Director*.

By implementing, monitoring for and enforcing water quality standards, a baseline will be drawn for water quality on the Ute Mountain Ute Indian Reservation. That baseline will lead the Ute Mountain Ute Water Pollution Prevention Program into the issues of point source discharge permitting and compliance, calculation of total maximum daily loads, nonpoint source pollution management, wetland protection, and stream restoration. These programs, in conjunction with water quality standards, will insure that the chemical, physical, and biological integrity of the waters of the Ute Mountain Ute Reservation will be protected for future generations.

#### General Assistance Program Management:

In FY 1995-96, the Ute Mountain Ute Tribe was awarded a General Assistance Program (GAP) grant by the EPA. Since its inception at the Ute Mountain Ute Tribe, GAP has been managed by tribally employed staff. Programs developed and implemented under GAP (some with assistance from other programs) include the construction of a solid waste transfer station and beginning an ongoing recycling program. Underground storage tank compliance and monitoring has been implemented on the Reservation. Safe Drinking Water Act compliance for the White Mesa, Utah community of Ute Mountain Utes as well as the Towaoc, CO community has been overseen by the Environmental Programs staff. Oil and natural gas extraction-related issues have been addressed in regards to agency jurisdiction, environmental impacts, and lease compliance. Environmental assessments and environmental impact statements have been reviewed by the Environmental Programs Director. The Environmental Programs Department staff works cooperatively with the Indian Health Service, the Bureau of Land Management, and the Bureau of Indian Affairs. The staff is currently working with the



Indian Health Service and the EPA on a joint project to upgrade the municipal water system in White Mesa, UT.

In September of 1998, the Environmental Programs Department hosted an EPA hazardous materials *First Responder Awareness and Operations Level Training* course. This was one part of the emergency response plan that the Environmental Programs Director is helping to prepare for the Tribe. Another GAP project that is being undertaken is an air quality management program. Further details of the air program are described below.

These tasks and accomplishments, among others by the General Assistance Program, have been undertaken in a manner to protect the Ute Mountain Ute Tribe's jurisdiction on lands within the exterior Reservation boundaries while complying with federal regulations, as promulgated by the EPA and other natural resource-related agencies.

#### Solid Waste Grant Management:

As described above, solid waste is a major issue addressed by the Ute Mountain Ute Environmental Programs Department. A grant was awarded to the Tribe to undertake a community awareness program regarding the changes in solid waste management on the Reservation. A temporary *Solid Waste Outreach Coordinator* was hired to visit with Towaoc and White Mesa community members about changes in waste management, namely that their open dump was to be closed after a transfer station was built. Each household is equipped with trash bins for curbside pickup, and the Tribe's Housing Authority conducts the curbside program. A full-time attendant was hired by the Housing Authority to oversee operation of the transfer station. A recycling trailer that is located at the transfer station was purchased for collecting glass, aluminum, and newspaper.

The Ute Mountain Housing Authority is now the primary administrator of the solid waste program, but this would not have been possible without the efforts of the former and current Environmental Programs Directors, the Outreach Coordinator, and the U.S. Environmental Protection Agency. A new full-time employee with the Environmental Programs Department will also promote and coordinate recycling issues and solid waste education as well as other programs in the future.

Another solid waste program has been conducted for the last two years, the 1<sup>st</sup> and 2<sup>nd</sup> Annual Earth Day Spring Cleanup. This was initiated by the Environmental Programs Director, and organized by her, the Environmental Programs Technician, and the Environmental Education Coordinator. It was supported by the efforts of several tribal departments. Orders were placed by community residents in Towaoc, CO and White Mesa, UT to have items hauled away that present a nuisance or hazard on their



property that could not or were not disposed of at the transfer facilities. Road-side cleanup was also part of the Spring Cleanup activities in Towaoc.

#### Air Quality Management:

The Tribe is currently preparing a TAS application for an air quality assessment and management program under the Tribal Authority Rule. A consultant completed an air emissions inventory in 1999, and an air-quality monitoring program may be implemented on the Reservation. Additional personnel will be hired to conduct the actual monitoring. The Environmental Programs Director will supervise this program until an *Air Quality Specialist* is hired, and an *Air Quality Technician* will help to initiate and run the monitoring program.