

University of Oklahoma College of Law

University of Oklahoma College of Law Digital Commons

American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899

6-29-1894

In the Senate of the United States. Letter from the Secretary of the Interior, in response to the Senate resolution of May 31, 1894, transmitting papers relating to the survey of the Klamath Indian Reservation in Oregon, and showing the lands occupied, settled, or filed upon, by settlers.

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>



Part of the [Indigenous, Indian, and Aboriginal Law Commons](#)

Recommended Citation

S. Exec. Doc. No. 129, 53rd Cong., 2nd Sess. (1894)

This Senate Executive Document is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact Law-LibraryDigitalCommons@ou.edu.

IN THE SENATE OF THE UNITED STATES.

L E T T E R

FROM

THE SECRETARY OF THE INTERIOR,

IN RESPONSE TO

The Senate resolution of May 31, 1894, transmitting papers relating to the survey of the Klamath Indian Reservation in Oregon, and showing the lands occupied, settled, or filed upon, by settlers.

JULY 9, 1894.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, June 29, 1894.

SIR: I have the honor to acknowledge the receipt of the following resolution of the Senate, dated May 31, 1894:

Resolved, That the Secretary of the Interior be, and is hereby, directed to furnish to the Senate copies of all reports, correspondence, and other papers on file or of record in the Department of the Interior, relating to the matter of an alleged erroneous survey made of the Klamath Indian Reservation in Oregon, which reservation was defined and prescribed by a treaty between the United States of America and the Klamath and Modoc tribes and the Yahooskin band of Snake Indians, concluded on the fourteenth day of October, eighteen hundred and sixty-four; also to report whether the lands claimed to have been excluded from said reservation have been occupied, settled, or filed upon by settlers under the land laws of the United States; and to inform the Senate what action the Department has taken in the premises.

In response thereto I transmit herewith copy of a communication of 14th instant from the Commissioner of Indian Affairs, inclosing copies of all correspondence on file in his office relating to this matter and of report of the Commissioner General Land Office, dated 29th instant, showing the lands occupied, settled, or filed upon by settlers.

Very respectfully,

HOKE SMITH,
Secretary.

The PRESIDENT OF THE SENATE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, June 14, 1894.

SIR: I have the honor to acknowledge the receipt, by Department reference for early report, of the following Senate resolution, adopted May 31, 1894:

Resolved, That the Secretary of the Interior be, and is hereby, directed to furnish to the Senate copies of all reports, correspondence, and other papers on file or of record in the Department of the Interior, relating to the matter of an alleged erroneous survey made of the Klamath Indian Reservation in Oregon, which reservation was defined and prescribed by a treaty between the United States of America and the Klamath and Modoc tribes and the Yahooskin band of Snake Indians, concluded on the fourteenth day of October, eighteen hundred and sixty-four; also to report whether the lands claimed to have been excluded from said reservation have been occupied, settled, or filed upon by settlers under the land laws of the United States; and to inform the Senate what action the Department has taken in the premises.

In compliance with said resolution I have the honor to transmit herewith copies of all correspondence on file in this office relating to the alleged erroneous survey of the boundaries of the Klamath Indian reservation in Oregon. The action taken by the Department in this matter, so far as is shown by the records of this office, may be found in Indian Office report of August 3, 1887, the letter of the Secretary of the Interior of August 6, 1887, and a letter from the General Land Office of October 8, 1888, copies of which accompany this report. It is respectfully suggested that the resolution be referred to the Commissioner of the General Land Office for report as to whether the lands claimed to have been excluded from said reservation have been occupied, settled, or filed upon by white settlers under the land laws of the United States.

Very respectfully, your obedient servant,

FRANK C. ARMSTRONG,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., June 29, 1894.

SIR: I have had the honor to receive, by reference from the Department, under date of June 14, 1894, Senate resolution calling for copies of reports, correspondence, and other papers on file in regard to an alleged erroneous survey made of the Klamath Indian Reservation in Oregon. You direct this office to make an "early report as to whether the lands claimed to have been excluded from said reservation have been occupied, settled, or filed upon by settlers under the land laws of the United States."

In reply I have the honor to report that a rough diagram has been prepared in this office, based upon a tracing accompanying copies of correspondence, in relation to said reservation, forwarded to the Department by the Commissioner of Indian Affairs, and purporting to show the limits of the reservation as surveyed, and (in a very indefinite way) the limits claimed by the Indians. Upon said diagram the limits of the reservation are shown in accordance with the latest official survey; also, as near as practicable, the *claimed limits* as shown upon the tracing from the Indian Office.

The black dotted lines, over which red pencil is drawn, show the limits of the reservation as surveyed. The brown dotted lines show the approximate limits claimed by the Indians, following the tracing above referred to.

Between these lines the townships marked with a circle, in red ink, show the lands settled upon under the settlement laws of the United States, and those selected by the State as swamp lands and in lieu of deficiencies in school sections. The townships marked R in red ink indicate the lands selected, under the provisions of the act of July 2, 1864, by the Oregon Central Military Road Company.

The approximate area entered and selected as aforesaid is indicated in figures in each township. The total area so entered and selected is about 120,961 acres.

The said diagram, with a duplicate copy of this report, is herewith inclosed.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, July 5, 1894.

SIR: Referring to Department letter of 29th ultimo, in reply to Senate resolution relative to the alleged erroneous survey of the Klamath Indian Reservation in Oregon, I have the honor to transmit copy of a communication of 3d instant, from the Commissioner of Indian Affairs, forwarding certain extracts from annual reports relating to this matter.

I have the honor to be, very respectfully,

WM. H. SIMS,
Acting Secretary.

The PRESIDENT OF THE SENATE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, July 3, 1894.

SIR: Referring to office report dated June 14, 1894, upon the resolution of the Senate adopted May 31, 1894, directing the Secretary of the Interior to furnish to the Senate copies of all reports, correspondence, and other papers on file in the Department of the Interior relating to the matter of the alleged erroneous survey made of the Klamath Indian Reservation, Oreg., etc., I have the honor to transmit herewith certain extracts from annual reports of the agent in charge of the Klamath Agency and from the reports of the Commissioner of Indian Affairs relating to these subjects.

While these extracts are printed in the annual reports of this office, it is thought that it may be more convenient to the Senate to have them included with the other papers bearing upon this subject.

Very respectfully, your obedient servant,

D. M. BROWNING,
Commissioner.

The SECRETARY OF THE INTERIOR.

[Extract from the annual report of J. H. Rook, agent for the Klamath Indian Agency, Oreg., dated August 22, 1877.]

RELATIONS WITH THE GOVERNMENT.

The state of disquietude among the tribes north of us has not been participated in by the Klamaths. They have their own grievances, which are serious, and a great deal of patience on their part and forbearance is shown. They claim that "There are lands offered for sale and purchased and occupied by white settlers which, in reality belong by treaty to them, and it is injustice to deprive them of these lands." For further particulars on this subject, see special letter to the Indian Department of August 1, 1877. (See Annual Report of Commissioner of Indian Affairs, p. 172.)

[Extract from Report of Commissioner of Indian Affairs, 1881, p. xxvii.]

The agents at the Klamath Agency in Oregon, and the military officers as well, have repeatedly warned the Department of the imminent danger growing out of the disputed boundary question at that agency. Herds of cattle are driven and grazed upon what is no doubt a part of the Klamath Reservation, and the Indians claim that lands acquired by them under solemn treaty stipulations have been sold to white settlers, who are now in full occupation and enjoyment of them. It is admitted by the General Land Office that the treaty lines of the east and south and a portion of the west side of the reservation were not followed by the surveyor who made the survey of the reservation in 1871, but that certain lines of the public survey lying considerably inside of the reservation, as defined by the language of the treaty, were followed instead. Hence, it would appear that the Indians have good grounds for complaint. Agent Nickerson has recently made this matter the subject of a special report to this Bureau, in which he again warns the Government of the danger of further delay in the settlement of this vexed question. He says: "While there is a patient waiting on the part of the Indians for the Government to redress what they believe to be their wrongs, there is also a deep and growing conviction in their minds that nothing will be done unless some complication shall arise that will compel action."

Not to heed these repeated warnings is to assume a responsibility that this office is unwilling to take upon itself.

Tillable lands within the reservations should in all cases be subdivided, where it has not already been done, in order that allotments may be made to individual Indians, and that all such lands may be made available for that purpose, whether remote from the agency or adjacent thereto.

It is hoped that this matter may be pressed upon the attention of Congress at its coming session, in order that the necessary appropriations may be had to relieve the Department of this most serious embarrassment

[Extract from annual report of Agent L. M. Nickerson for 1882. See Indian Office Annual Report for 1882, p. 138.]

They are still waiting for and expecting an adjustment of their boundary difficulties, believing that this Government can not consent to do them an injustice in regard to their lands, and to break the treaty which they themselves have so faithfully kept. I sincerely hope that the agent will, in the next annual report, be able to record the fact of the settlement of this "much-vexed question."

BOUNDARY OF KLAMATH RESERVATION IN OREGON.

In 1871 the outboundaries of this reservation were surveyed, since which time a dispute has existed between the white settlers and cattlemen in the vicinity and the Indians, the latter claiming that the eastern boundary was located too far west, thus depriving them of a large tract of country given them by treaty, and the former claiming that the eastern boundary included a large tract of country properly belonging to the public domain. In October, 1886, this office recommended that the boundary lines of the reservation be surveyed in accordance with the provisions of the treaty of October 14, 1864 (16 Stats., 707).

Subsequently, upon information from the General Land Office that the survey of the eastern boundary would not be satisfactory, either to the Indians or settlers, until its location had been agreed upon by a commission, I directed the agent in charge of the reservation to make a full investigation of the matter and to take the evidence

of all available witnesses. Upon receipt of this report, in view of the vague and indefinite description of the boundaries given in the treaty, and the fact that settlement had been made upon the lands east of the reservation, it was determined to reestablish the eastern boundary in accordance with the survey made in 1871, although the claim of the Indians seemed to be well substantiated. When the line is re-marked the military will be requested to protect the reservation from the encroachments of cattlemen, concerning which the Indians may have many complaints.

It is also my intention to present the claim of the Indians to Congress for an appropriation to compensate them for the lands lost by the location of the boundary line, if, upon further consideration, they appear to be clearly entitled to the same. (*See Annual Report of Commissioner of Indian Affairs for 1887, p. lxxviii.*)

[Extract from annual report of U. S. Indian Agent Joseph Emery for 1887.]

BOUNDARY.

The question of boundary remains still unsettled. Early in the year a resurvey was ordered and proposals invited by the surveyor-general. A serious dispute having arisen between the whites and the Indians as to the true locus of the eastern boundary, the description in the treaty being very indefinite, a stay of proceedings was ordered and the Commissioner of Indian Affairs instructed me to proceed at once to take the evidence, under oath of all persons, Indians and whites, having knowledge of the true eastern boundary as understood when the treaty was concluded. This I did, and in the performance of this duty I traveled over 1,000 miles. I visited in person the disputed points and made observations, taking with me Indian guides who were present when the treaty was made. The evidence obtained, with my report, was forwarded to the Indian Office the 20th of June. Oral evidence taken after the lapse of a quarter of a century I found to be contradictory and unsatisfactory. (*Ibid.*, 188.)

OFFICE KLAMATH AGENCY, August 22, 1877.

DEAR SIR: The Indians of this reservation claim that the white people are settling upon their lands and that others are grazing large herds of sheep and cattle upon the reservation. This is not a new question, but has been presented to the former agents from time to time, ever since the so-called survey of the agency and the opening of lands claimed by the Indians to settlement. Before I came to the agency the Indians were put off by telling them that when the new agent came he would arrange it for them. On my first arrival at the agency the Indians came together to see the new agent and to talk over matters of interest to them. The subject of their boundary lines and the settlement of the lands by the whites was among the first and most important questions, even before I had formally taken charge. Every time the Indians collect to have a talk with the agent, they raise this matter. Finally I promised them that I would go with the head chief and others and investigate their claims. When the time came which was set to go, I was too unwell to go, and I could only satisfy them by sending Mr. Moores, one of the employes. Moores returned strongly of the opinion that the Indians were right, and that the portion of the country in dispute rightly belonged to the Indians.

The trip of Mr. Moores increased the necessity for me to go and see the country and learn what I could in regard to the boundary lines. I copied the description of the reservation as given in the revised treaties, and one week ago I started with the intention to ascertain the truth in regard to the disputed boundaries. I also had with me a plat purporting to represent a survey of the reservation. I very soon found that the plat and the description given by the treaty did not agree, and I am forced to the conclusion that there is at least 100,000 acres of land described by the treaty which is thrown out by the plat on the east side, and as much more on the west and north sides, which the Indians say was included in the agreement when the treaty was made. As the Indians claim the lines and boundaries were agreed upon, there are natural and well-defined boundaries, but as represented by the plat and so-called survey, there is not a natural boundary line. Besides, on the southeast corner, on one plat which I have seen, three townships are thrown out, and by another four townships. As this is a square taken out without the least allusion to it by the description given in the treaty, and including the very best part of the reservation, lying between the body of the reservation and the mountains on the east, whatever may be the actions and words of men, there can be but one opinion by those knowing the circumstances, that whole country, between what is called the line by the so-called survey and the mountains on the east, belongs to the Indians by the treaty, and yet it is said to be surveyed and opened for settlement by the Government. Besides all this there is a continuation of marshes and lakes above, or north

of the line as represented by the so-called survey, while the treaty distinctly says the north end of the upper Klamath Lake. Such surveying and such representations of boundaries, giving room for little settlements between the Indians and mountains, will keep up constant restlessness, if it does not result in serious difficulty. I will inclose a plat (roughly drawn) describing the reservation as set forth by the two plats which have come under my observation and also as the Indians claim the boundaries to be. An additional cause for anxiety on the part of the Indians just at this time is that the agent of the Military Wagon Road has been on the reservation for some time past and proposes to lease alternate sections all along the road through the reservation, and he (Mr. G. Strong) notified me yesterday that he was going to advertise for that purpose. I have not time or patience to speak of the road swindle now, but I have only referred to this whole matter for the purpose of asking you what my duty and proper course of action is in regard to this matter.

Yours very truly,

J. H. ROORK,
U. S. Indian Agent.

Hon. J. Q. SMITH.

I now copy, giving date and kind of report and communication. Special communication of August 21, 1877.*

"OFFICE KLAMATH AGENCY, August 21, 1877.

"DEAR SIR: The Indians of this reservation claim that the white people are settling upon their lands, and that others are grazing large bands of sheep and cattle upon the reservation. This is not a new question, but has been presented to the former agents from time to time, ever since the so-called survey of the agency and the opening of lands claimed by the Indians to settlement. Before I came to the agency the Indians were put off by telling them that when the new agent came he would arrange it for them. On my first arrival at the agency the Indians came together to see the new agent and to talk over matters of interest to them. The subject of their boundary lines and the settlement of their lands by the whites was among the first and most important questions, even before I had formally taken charge. Every time the Indians collect to have a talk with the agent they raise this matter. Finally, I promised them that I would go with the head chief and others and investigate their claims. When the time came which was set to go I was unable to go, and I could only satisfy them by sending Mr. Moores, one of the employés. Moores returned strongly of the opinion that the Indians were right, and that the portion of the country in dispute rightly belonged to the Indians. The trip of Mr. Moores increased the necessity for me to go and see the country and learn what I could in regard to the boundary lines. I copied the description of the reservation as given in the revised treaties, and one week ago I started with the intention to ascertain the truth in regard to the disputed boundaries.

"I also had with me a plat purporting to represent a survey of the reservation. I very soon found that the plat and treaty did not agree, and I am forced to the conclusion that there is at least over 100,000 acres of land described by the treaty which is thrown out by the plat on the east side, and as much more on the west and north sides, which the Indians say was included in the agreement when the treaty was made. As the Indians claim the lines and boundaries were agreed upon, there are natural and well-defined boundaries, but as represented by the plat and so-called survey there is not a natural boundary line. Besides, on the southeast corner, on one plat which I have seen, three townships are thrown out, and by another four townships. As this is a square taken out without the least allusion to it by the description given in the treaty, and including the very best part of the reservation, lying between the body of the reservation and the mountains on the east, whatever may be the action and words of men, there can be but one opinion by those knowing the circumstances, that the whole country between what is called the line by the so-called survey and the mountains on the east belongs to the Indians by the treaty, and yet it is said to be surveyed and opened for settlement by the Government. Besides all this there is a continuation of marshes and lakes above on the north of the line, as represented by the so-called survey, while the treaty distinctly says the north end of the upper Klamath Lake. Such surveying and such representations of boundaries, giving room for little settlements between the Indians and the mountains, will keep up constant restlessness, if it does not result in serious difficulty. I will inclose a plat (roughly drawn) describing the reservation as set forth by the two plats which have come under my observation, and also as the Indians claim the boundaries to be. An additional cause for anxiety on the part of the Indians is that

*The first page of this original report is missing. It is dated February 12, 1878.

the agent of the military wagon road has been on the reservation for some time past, and proposes to lease alternate sections all along the road through the reservation, and he (Mr. G. Strong) notified me yesterday that he was going to advertise for that purpose. I have not time or patience to speak of the road swindle now, but I have only referred to this whole subject for the purpose of asking you what my duty and proper course of action is in regard to this matter."

Six days after writing the above I wrote and sent the following:

OFFICE KLAMATH AGENCY, *August 27, 1877.*

DEAR SIR: Since my last communication to you upon the subject of the boundary lines of this reservation, the inclosed letter has come into my hands, which will throw light upon the question. William S. Moore is the employé which I sent to see what the complaint of the Indians was; and D. P. Thompson, the writer of the inclosed letter, is the gentleman who surveyed much of the lands around the reservation. It will require the very best diplomacy to manage this difficulty and maintain friendly relations and good order.

Yours, very truly,

J. H. ROORK,
U. S. Indian Agent.

Hon. J. Q. SMITH.

[Copy of letter to William S. Moores from D. P. Thompson.]

PORTLAND, *August 18, 1877.*

DEAR SIR: Yours of the 12th instant is received. I have to say in reply that the reservation lines are run by the cardinal points and by the section and township lines, rather than by the lines of the reservation described in the treaty. The survey does not appear to conform to the treaty in but one place, and that, on the west side, along the margin of the lake.

Yours, respectfully,

D. P. THOMPSON.

WM. S. MOORE, Esq.

I was informed that Mr. George Mercer had surveyed the reservation and wrote to him as follows:

OFFICE KLAMATH AGENCY, *August 27, 1877.*

DEAR SIR: I write to ask information as to the "survey, field notes, and authority by which Klamath Reservation was surveyed, etc."

Please give me whatever information you can in regard to the matter.

Yours, very truly,

J. H. ROORK,
U. S. Indian Agent.

GEORGE MERCER, Esq.

[Answer.]

CORVALLIS, OREG., *September 3, 1877.*

DEAR SIR: Yours of the 27th ultimo is at hand. The survey of the Klamath Reservation was made under contract with the surveyor-general of Oregon, and paid out of an appropriation for surveying of the different reservations in Oregon. It was at the recommendation, and, I think, to some extent, under the control of the superintendent of Indian Affairs. Siletz, Grand Ronde, and Umatilla reservations were surveyed in the same way. The field notes of the survey are on file in the surveyor-general's office at Portland. I knew nothing of the country or Indians until I went there to work, but became satisfied before I got through that the survey would be of very little use then, as the Indians could make but little use of 20-acre lots of land in that country. In fact I never worked out the full extent of my contract for that reason. The Indians were opposed to the survey and gave a great deal of trouble by destroying the corners. I replaced a great many but presume I did not find all that were destroyed. I hauled stones 5 miles and placed corners, which afterwards I found in their sweat houses or thrown into the river. Any other information that I can give will be cheerfully granted.

Respectfully,

GEORGE MERCER.

J. H. ROORK.

KLAMATH INDIAN RESERVATION.

[Copy of letter to George Mercer, esq.]

OFFICE KLAMATH AGENCY, *October 30, 1877.*

DEAR SIR: Yours of September 3, 1877, was received in due time and served the purpose for which it was intended at that time, but there is one thing more I want to know in regard to the survey of this reservation, and that is whether or not the boundary lines of the reservation were surveyed, and if so by whom and by whose instructions. The reason I make these inquiries is that I must find the boundary lines or have trouble with both the Indians and the citizens.

Yours, truly,

J. H. ROORK,
U. S. Indian Agent.

GEORGE MERCER, Esq.

[Answer.]

CORVALLIS, OREG., *November 5, 1877.*

DEAR SIR: Yours of the 30th ultimo at hand. In reply would say that I surveyed the boundary lines of the reservation under contract and instructions of W. H. Odell, surveyor-general.

Respectfully,

GEORGE MERCER.

Rev. J. H. ROORK.

The following is a copy of a letter written to the Indian Department as a special communication upon the subject under consideration:

OFFICE KLAMATH AGENCY, *September 7, 1877.*

Your circular letter to U. S. Indian agents, dated August 21, 1877 and marked C, is received, and in compliance with the instructions thereof I have to say, that it has been my diligent and constant endeavor to become acquainted with the habits, dispositions, and intentions of the Indians of this reservation, and I think I have succeeded so as to give the information desired.

The Indians of this agency are well disposed toward the Government, and it is shown by the past that it would take almost any amount of abuse and wrongs by individuals and by the Government to cause them to become hostile; but there is a question of several years standing, which was introduced in such a way that the Indians did not understand it, and it has only become understood by them as they have seen from time to time one after another settle upon their lands. When the so-called survey was made, the Indians were told that the white people were only stopping for a while and that they would soon go away. In this way the thing has been managed until at this time there are from 10 to 12 settlers on the lands claimed by the Indians, and which must be theirs, as described by the treaty. Besides all this there are large bands of cattle and sheep grazed upon another portion of their lands each summer. The Indians do not think that the Government is to blame for this wrongdoing, but say that it is some one of the agents or surveyors. This is the only question that is likely to give trouble here. You will see that if my statements in former communications, as well as in this, are true, that this is a question of no small magnitude, and that common honesty requires that it be settled according to the treaty. Permit me to say in this connection that I bring this question up because I can not do otherwise and be true to the trust committed to my charge. It will be seen in the near future that the mistake is that it has not been investigated and settled long ago.

As I have presented this matter it must astonish you—first, that men under oath of office would cause such a survey to be made and thereby lead the Government unwittingly to do such a thing; and secondly, that this thing has not been brought before the Department before this. What can be done?

Yours, very truly,

J. H. ROORK,
U. S. Indian Agent.

Hon. J. Q. SMITH,
Commissioner Indian Affairs.

All the above, except introduction and letters A, B, C, have been sent to your office. It is my hope and desire that the above letters and communications will serve two purposes:

First. Show that I have not depended upon monthly reports, but have presented this subject as heretofore instructed, both in reports and special communications.

Second. That this with the following will serve the purpose of both special report

and communication on this subject. I copy the following from my annual report of August 22, 1877:

"The state of disquiet among the tribes north of us has not been participated in by the Klamaths.

"They have their grievances, which are serious, and a great deal of patience on their part is being exercised and forbearance shown. They claim that there are lands offered for sale and purchased and occupied by white settlers which in reality belong by treaty to them, and it is an injustice to deprive them of their lands. For further particulars on this subject see special letter to the Indian Department, August, 1877."

The following is from the monthly report for August, 1877:

"There has been a strange course of procedure by some one in regard to the lines and boundaries of this reservation. As nearly as I can now judge, at least one-third of the reservation as described by the treaty has been opened to settlement by the Government. The Indians have almost constantly from the time the so-called survey was made presented their claims, and time after time asked the agents to put the white people off from their lands; and as I investigate this matter evidence accumulates and becomes stronger, even from men who were present at the time when the treaty was made and who have been familiar with the service ever since. That there has been a very great wrong perpetrated as above indicated is evident. Notwithstanding all this these Indians have remained strictly loyal, but they are firm and positive that these wrongs must be corrected. As a matter of simple justice, I hope that there will be something done very soon.

"It is only a question of time when something must be done, and the difficulties increase with each succeeding day."

[From monthly report for October, 1877.]

For want of time I had intended to make a short report, but late last night I glanced over the report of the Indian Commissioners for 1876. My attention was called to the noncompliance by the Government with its treaty obligations. I have referred to this subject in connection with this reservation in former reports and special communications, but as these were made previous to your appointment I beg your attention to my letter of August 21, 1877, and to my annual and monthly reports in which I have spoken fully on this subject. As stated in these letters and reports, more than one-third of the country included in the treaty has been opened for settlement and 10 or 12 families have settled upon it.

Yours, truly,

J. H. ROORK,
U. S. Indian Agent.

[From monthly report for December, 1877.]

I have several times called the attention of the Department to the boundary lines of this reservation, both in monthly reports and special communications. As yet I have received no answer. This is the only question which is likely to give trouble here. I would gladly receive instructions upon this subject.

Yours, truly,

J. H. ROORK,
U. S. Indian Agent.

After going over all that I have written on this subject heretofore and becoming better acquainted with the country, people, and history of the treaty, I have to say that I have underestimated the wrongs done to the Indian by this so-called survey. I have counseled with a number of persons upon this subject (some of whom were present when the treaty was made), military officers and citizens, some of whom owning lands within the bounds of the disputed territory. I have taken pains to have these men compare the plat of the so-called survey with the description of the treaty, and they all agree that there is a great disagreement. If you will read the unambiguous language of the treaty with the plat of the so-called survey before you, it will not be necessary for me to present further evidence to substantiate what I have said. To prevent trouble, I respectfully recommend the appointment of a commission composed of three men—one from the military department, one from the Indian department, and one a citizen. This commission to be invested with full power and authority to send for men and papers, and to investigate this so-called survey, and settle and establish the boundary lines in accordance with the stipulations of the treaty.

Hoping that this subject will receive your early and earnest attention, I will await your instructions.

Very respectfully, your obedient servant,

J. H. ROORK,
U. S. Indian Agent.

Hon. J. Q. SMITH.

KLAMATH INDIAN RESERVATION.

HEADQUARTERS FORT KLAMATH, OREG., *September 1, 1877.*

SIR: I have the honor to report no change in the affairs of this post during the past month.

With regard to the Indians on the reservation, a question has arisen recently relative to the boundaries of the reservation which I deem of sufficient importance to bring to the notice of the department commander.

The California and Oregon Land Company holds a title to nearly 13,000 acres of land in Sprague River Valley, which the Indians claim are within the limits of their reservation as established by the treaty granting them the same; and in the same vicinity, i. e., on the eastern side of the reservation, other portions of land have been filed upon as "swamp lands" and patents obtained, and are now occupied by settlers, and these also are claimed by the Indians. I am not sufficiently acquainted with the merits of the controversy to venture an opinion as to the justness of the Indians' claim. I simply desire in this to lay before the department commander the fact that the accuracy of the eastern boundary of the Klamath Reservation as laid down on the official map is now questioned by the Indians occupying the same, and to suggest the probability of difficulty, unless the matter is satisfactorily adjusted.

Very respectfully, your obedient servant,

H. DE W. MOORE,

First Lieutenant, Twenty-first Infantry, Commanding Post.

The ASSISTANT ADJUTANT-GENERAL, DEPARTMENT OF THE COLUMBIA,
Portland, Oreg.

[Indorsement.]

HEADQUARTERS MILITARY DIVISION PACIFIC
AND DEPARTMENT OF CALIFORNIA,
San Francisco, September 7, 1877.

Respectfully forwarded to the Adjutant-General of the Army, asking early attention to this matter.

IRVIN McDOWELL,

Major-General Commanding Division and Department.

WAR DEPARTMENT,
Washington City, September 29, 1877.

SIR: I have the honor to transmit for your information a copy of a communication from the commanding officer at Fort Klamath, Oreg., reporting that Indians question the accuracy of the boundary of that reservation as shown on official maps, and claim that 13,000 acres held by the California and Oregon Land Company are within reservation limits.

Your attention is respectfully invited to the remarks of General McDowell requesting early attention to this matter.

Very respectfully, your obedient servant,

GEO. W. McCRARY,
Secretary of War.

The SECRETARY OF THE INTERIOR.

OFFICE KLAMATH AGENCY, *August 27, 1877.*

DEAR SIR: Since my last communication to you upon the subject of the boundary lines of the reservation, the inclosed letter has come into my hands, which will throw light upon the question. William S. Moore, esq., is the employé which I sent to see what the complaint of the Indians was, and D. P. Thompson, the writer of the inclosed letter, is a gentleman who surveyed much of the lands around the reservation. It will require the very best diplomacy to manage this difficulty and maintain friendly relations and good order.

Yours, very truly,

J. H. ROORK,
U. S. Indian Agent.

Hon. J. Q. SMITH.

PORTLAND, August 18, 1877.

DEAR SIR: Yours of the 12th instant is received. I have to say in reply that the reservation lines are run by the cardinal points and by the section and township lines rather than by the lines of the reservation described in the treaty. The survey does not appear to conform to the treaty in but one place and that on the west side along the margin of the lake.

Yours, respectfully,
WM S. MOORE, Esq.

D. P. THOMPSON.

OFFICE KLAMATH AGENCY, September 7, 1877.

Hon. J. Q. SMITH,

Commissioner Indian Affairs, Washington, D. C.:

Your circular letter to U. S. Indian agents, dated August 21, 1877, and marked C, is received, and in compliance with the instructions thereof I have to say that it has been my diligent and constant endeavor to become acquainted with the habits, disposition, and intentions of the Indians of this reservation, and I think that I have succeeded so as to be able to give the information desired. The Indians of this agency are well disposed towards the Government, and it is shown by the past that it would take almost any amount of abuse and wrongs by individuals and by the Government to cause them to become hostile; but there is a question of seven years standing, which was introduced in such a way that the Indians did not understand it, and it has only become understood by them as they have seen, from time to time, one after another settle upon their lands. When the so-called survey was made the Indians were told that it was for the purpose of giving each Indian a piece of land, and when the first settlers came on the Indians were told that the white people were only stopping for a while, and that they would soon go away, and in this way the thing has been managed until at this time there are from 10 to 12 settlers on the lands claimed by the Indians, and which must be theirs as described by the treaty. Besides all this, there are large herds of cattle and sheep grazing upon another portion of their lands each summer.

The Indians do not think that the Government is to blame for this wrongdoing, but say that it was some one of the agents or surveyors. This is the only question that is likely to give trouble here. You will see that if my statements in former communications, as well as in this, are true, that this is a question of no small magnitude, and that common honesty requires that it be settled according to the treaty. Permit me to say in this connection that I bring this question up because I could not do otherwise and be true to the trust committed to my charge. It will be seen in the near future that the mistake is that it has not been investigated and settled long ago. As I have presented this matter, it must astonish you, first, that men charged with public business, acting under oath of office, would cause such a survey to be made and thereby lead the Government unwittingly to do such a thing; and, secondly, that this thing has not been brought before the Department before this. What can be done?

Yours, very truly,

J. H. ROORK,
U. S. Indian Agent.

CORVALLIS, OREG., September 8, 1877.

DEAR SIR: Yours of 27th ultimo at hand. The survey of the Klamath Reservation was made under contract with the surveyor-general of Oregon, and paid out of an appropriation for surveys of the different reservations in Oregon. It was at the recommendation, and I think to some extent under the control, of the Superintendent of Indian Affairs.

The Siletz, Grand Ronde, and Umatilla reservations were surveyed in the same way.

The field notes of the survey are on file in the surveyor-general's office at Portland.

I knew nothing of the country or Indians until I went there to work, but became satisfied before I got through that the survey would be of very little use there, as the Indians could make but little use of 20-acre tracts of land in that country; in fact, I never worked out the full extent of my contract for that reason.

The Indians were opposed to the survey and gave a great deal of trouble by destroying the corners. I replaced a great many, but presume I did not find all that were destroyed. I hauled stones 5 miles and placed for corners which afterward I found in their sweat houses or thrown into the river.

Any other information that I give will be cheerfully granted.

Respectfully,
J. H. ROORK.

GEO. MERCER.

Since writing the inclosed communication this letter came to hand.

J. H. ROORK.

OFFICE KLAMATH AGENCY,
Linkville, Lake County, Oreg., February 28, 1878.

SIR: As the citizens are becoming interested in the boundary lines of this reservation, I deem it wise to keep you well posted, as the same interests are at work already which caused the so-called survey.

I inclose a true copy of a letter just received. I will try to be present at the meeting to keep posted and to report to you.

Very respectfully,

J. H. ROORK,
U. S. Indian Agent.

Hon. E. A. HAYT,
Commissioner of Indian Affairs, Washington, D. C.

[Copy of a letter received at the agency February 28, 1878.]

LINKVILLE, OREG., February 27, 1878.

SIR: There will be a meeting of the citizens of this place and vicinity at Linkville March 2, 1878, at 2 o'clock p. m., for the purpose of considering the unsettled question of the eastern and southern boundary of the Klamath Indian Reservation.

As your presence is desired on that occasion you are therefore respectfully requested to attend.

Respectfully,

GEO. NURSE.
D. J. FERRED.
S. B. CRANSTON.
S. WORDEN.

Rev. JNO. ROORK.

OFFICE KLAMATH AGENCY,
Linkville, Lake County, Oreg., March 12, 1878.

SIR: Accompanying this letter you will find a copy of the proceedings of a meeting of the citizens of Lake County, Oreg., to consider the unsettled boundary question connected with Klamath Reservation. I send this in fulfillment of a promise made you in a letter dated February 28, 1878.

The action of the meeting was much more favorable to the cause of justice than I had anticipated. I felt very much pleased and very hopeful of good results. Some two or three days after the meeting was held three copies of the proceedings of the meeting were sent me for my indorsement, with the request that I should endeavor to procure that of Capt. James Jackson, commanding Fort Klamath, Oreg., and then forward one copy to each of the Oregon members of Congress. I had two additional copies made, which were compared and verified by an affidavit, one to be retained in the office here, and one to be sent to your office for the information of the Department. As I was obliged to be absent at Linkville for three or four days I had these five copies all sent to Capt. Jackson for his indorsement, and decided to wait until my return to the agency before indorsing and sending them forward as requested. The captain placed the same indorsement upon all of them that you see upon the one I send you. He also sent a copy with his indorsement to Maj. Gen. O. O. Howard, asking his attention to the matter while at Washington. This was done before I saw him on my return to the agency.

In the meantime some of those who took part in the proceedings of the meeting became dissatisfied with the report of the Secretary, claiming that it did not fully represent the sentiment of the mutiny. On this ground they asked for the return of the three copies of the proceedings sent me, for such modification as they should think best to make. I concluded that it was best to comply with their request, but retained the copies already made by me, of which I send you. I could not recall the one Capt. Jackson was authorized to make and send to Gen. Howard, for it had passed beyond my reach. I will here say that I am fully satisfied that the report of the Secretary is correct and represents the action and sentiments of the meeting as then expressed. I had nothing to do with suggesting or naming the men recommended in the report of the meeting, neither did I take exceptions to them; but as this is a communication from an Indian agent to the Commissioner of Indian Affairs, I feel justified in saying to you that I think Gen. O. O. Howard is the proper person to represent the military department in this commission should one be appointed.

Capt. Jackson expressed to me the same opinion. I am satisfied that the other two men named in the report would be good men to be upon such a commission. I would here simply suggest to the Department whether, should such a commission be appointed, it might not also have authority to investigate and take action with regard to the difficulties growing out of the claims of the military road company for lands upon the reservation.

Yours, respectfully,

J. H. ROORK,
U. S. Indian Agent.

Hon. E. A. HAYT,
Commissioner Indian Affairs.

FORT KLAMATH, OREG., *March 9, 1878.*

DEAR GENERAL: I inclose herewith copy of proceedings of a meeting of the citizens of Linkville, Oreg., which will explain itself. It was referred to me informally for remark, and I send a copy to you as it concerns matters in your Department of which you may be called upon to take cognizance. The matter has only lately been made public. The former agents never mentioned to me or anyone that I know of the serious discrepancy between the boundary as described in the treaty and as surveyed and platted. Mr. Roorck, the present agent, has been over the line in person, with the chiefs of the Klamath tribe, and is positive that the treaty boundary takes in large portions of the Chiwaucau and Summer valleys now being settled. Knowing that you are in Washington and can bring your personal influence to bear upon some measure for a just settlement of this matter as regards the rights of both Indians and settlers, I have taken the liberty of making a copy and sending it to you. I have but one suggestion to offer and that is, the Indians would be much better satisfied to have yourself placed upon the Commission, should one be appointed, than Gen. Wheaton, and that your name would carry more weight both as regards citizens and Indians in a settlement of this affair.

The treaty is sufficiently obscure in parts to require the offices of a good surveyor and a commission of gentlemen who understand something of topography. It is, perhaps, needless to say that they should be impartial and entirely dissociated with Oregon affairs.

I am, general, very respectfully, yours, truly,

JAMES JACKSON,
Captain, First Cavalry.

DEPARTMENT OF THE INTERIOR,
Washington, April 15, 1878.

SIR: Referring to your letter of the 25th ultimo, in relation to correspondence upon the subject of the Klamath Reserve in the State of Oregon, and the necessity for ascertaining definitely the boundaries of said reserve, inclosing certain papers with the recommendation that the matter be referred to the Commissioner of the General Land Office, for a copy of the plat and field notes of survey and an expression of opinion upon the sufficiency of said survey, your attention is respectfully invited to the inclosed copy of letter dated the 8th instant from the Commissioner of the General Land Office together with the copy of plat and field notes of survey of the Klamath Reserve in the State of Oregon therein noted.

Very respectfully,

C. SCHURZ,
Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, March 25, 1878.

SIR: I have the honor to submit herewith a communication from U. S. Indian Agent, J. H. Roorck, dated February 12, 1878, reciting the fact that white people are settling upon the Klamath Indian Reservation in Oregon, and that large herds of sheep and cattle are grazing upon the same, that the Indians are restless on account of said encroachments, which if not checked, may lead to serious consequences.

From this and former communications from said agency there seems to be a wide difference of opinion as to the definite location of the outboundaries of this reserva-

tion; and upon the accuracy of the survey of its outboundaries depends the future peace of the Indians of this reservation.

I submit in this connection a letter from the War Department of the 27th of September last, inclosing a copy of a communication from the commanding officer at Fort Klamath, calling attention to the fact that the Indians question the accuracy of the survey and complain of the encroachments by whites, and suggesting the probability of difficulty, unless the matter is satisfactorily adjusted. Maj. Gen. McDowell, in forwarding the same, asks early attention to this matter.

As the survey of the outboundaries and subdivision of portions of the same has been made under the jurisdiction of the General Land Office, I have the honor to recommend that the Commissioner of the General Land Office be requested to furnish this office with a copy of the plat and field notes of the survey of the outboundaries of said reservation, with his views as to the accuracy of that survey in determining the location of the outboundaries as defined in the treaty of October 14, 1864, with the Klamath Indians (16 Stats., p. 708).

The Indian agent should have a copy of the plat and field notes of the survey of the exterior limits of his reservation, to show the Indians where their lines extend, and the views of the General Land Office are requested, that proper instructions may issue from this office to the Indian agent for his guidance in the management of the subject in question.

The return of letters from the War Department and Agent Rook is respectfully requested.

I have the honor to be, very respectfully, your obedient servant,

E. A. HAYT,
Commissioner.

The SECRETARY OF THE INTERIOR.

Report of proceedings of a meeting held at Linkville, Lake County, Oreg., March 2, 1878.

At a meeting held in Linkville, Lake County, Oreg., March 2, 1878, called for the purpose of devising means to procure the settlement of the disputed boundary of the Klamath Indian Reservation, Hon. S. B. Cranston was chosen chairman and W. S. Moore secretary. The chairman stated the object of the meeting, when Hon. J. H. Rook, U. S. Indian agent, being called upon stated in a few pertinent remarks what he knew bearing upon the question and what steps he had taken toward procuring a settlement of the same. Said he had suggested to the Commissioner of Indian Affairs the appointment of a commission to consist of three men—one to be chosen from the military, one from the Indian Department, and one from civil life, with power to send for persons and papers.

Remarks were made by Hon. L. S. Dyer, ex-Indian agent; Joan Applegate, esq., Hon. S. B. Cranston, and others, when the following preamble and resolution were unanimously adopted:

“Whereas, a dispute having existed between the Klamath Indians and white settlers in regard to the boundary line of the Indian Reservation, the Indians claiming that the line as surveyed does not correspond with the boundary as described in the treaty made with them by the Government, and as these disputed lands are being occupied by white settlers, it is very necessary that the dispute be settled, or it may lead to serious results: Therefore, be it

“Resolved, That we citizens of Lake County, realizing the importance of an early settlement of the existing dispute in regard to the boundary of the Klamath Indian Reservation, for the peace and prosperity of this section of our State, desire to ask the earnest attention of our delegation in Congress to this matter, and respectfully ask them to confer with the Commissioner of Indian Affairs, and use their influence to secure the appointment of a commission with power to send for persons and papers and the decision of the commission to be final; and further we would respectfully suggest in accordance with Agent Rook’s suggestion to the Commissioner of Indian Affairs, the following gentlemen as men of large experience and eminently qualified to act as such commissioners should such commission be decided upon, to wit: Gen. Wheaton, of the Military Department; Gen. William Vandever, of the Indian Department; Rev. E. R. Geary.”

On motion meeting adjourned.

S. B. CRANSTON, *Chairman*,
W. S. MOORE, *Secretary*.

[Indorsements.]

KLAMATH AGENCY, LAKE COUNTY, OREG., *March 7, 1878.*

Respectfully referred to the commanding officer, Fort Klamath, for remarks.

J. H. ROORK,

*U. S. Indian Agent, Klamath Agency.*HEADQUARTERS FORT KLAMATH, OREG., *March 7, 1878.*

Respectfully returned to U. S. Indian Agent J. H. Rook, Klamath Agency.

The facts in this case, as represented to me by the Indian agent who has traced the line of survey in person, indicated wide discrepancy between the boundary as surveyed and the boundary as described in the treaty. The Indians of the reservation and settlers of the Chuwaucan and Summer valleys have spoken of this matter to me as a source of future trouble, and it is very desirable that the line should be determined accurately in accordance with the treaty, the terms of which are sufficiently obscure in parts referring to known landmarks to make it desirable that a commission of judicious and impartial persons, accompanied by a competent surveyor, be selected to examine and fix the boundary as described in the treaty.

JAMES JACKSON,

Captain, First Cavalry, Commanding Post.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,

Washington, July 15, 1878.

SIR: Referring to report from this office, dated March 25 last, upon the subject of the boundary lines of the Klamath Indian Reservation in Oregon, and the reply of the Department thereto, dated April 15 last, with inclosures, I have the honor to submit the whole subject for your consideration and action.

I had the honor in said report to request a copy of the plat and field notes of the survey of said reservation, as executed in the year 1871, under authority of the General Land Office, together with the opinion of that office as to the conformity, or otherwise, of said survey, to the provisions of the treaty of October 14, 1864 (16 Statutes, p. 758), creating the reservation.

With your said communication of April 15 last you inclosed copy of the plat and field notes as requested, and also copy of report, dated April 8 last, from the Commissioner of the General Land Office, giving his opinion as to the accuracy of the survey in question.

The treaty of 1864 defines the boundaries of said reservation as follows:

"Beginning upon the eastern shore of the middle of Klamath Lake, at the Point of Rocks, about twelve miles below the mouth of Williamsons River; thence following up said eastern shore to the mouth of Wood River; thence up Wood River to a point one mile north of the bridge at Fort Klamath; thence due east to the summit of the ridge which divides the upper and middle Klamath Lakes; thence along said ridge to a point due east" (west) "of the north end of the upper lake; thence due east, passing the said north end of the upper lake, to the summit of the mountains on the east side of the lake; thence along said mountain to the point where Sprague River is intersected by the Ish tish ea wax Creek; thence in a northerly direction to the summit of the mountain the extremity of which forms the Point of Rocks; thence along said mountain to the place of beginning."

It will be seen from the foregoing that the treaty describes the outboundaries of the reservation almost entirely by reference to permanent and very prominent natural objects, and consequently careful attention to the provisions and to the topography of the country could hardly have failed to result in a survey in accordance therewith. Instead, however, of pursuing this most natural and obvious course, the surveyor seems to have ignored the topographical features in question, and to have run his lines by and with reference to existing surveys of what were considered public lands.

In his said report to the Department of the 8th April last, the Commissioner of the General Land Office declares that said survey does not follow the treaty lines, but that by reason of imperfect information relative to the situation of the mountains described in the treaty as constituting portions of the boundaries of the reservation, he is unable to determine the extent of the deviation therefrom.

That such deviation is very considerable is shown by the statement of Agent Rook, who seems to have made diligent personal examination of the subject upon the ground, in the light of the treaty and plat of survey and aided by information derived from whites and Indians long conversant therewith. After such research he gave it as his opinion that over 100,000 acres of land rightfully belonging to the

reservation under the treaty were thrown out by said survey, on the east side thereof, and as much more on the north and west sides.

To the Indians, who thoroughly understand the topography of their reservation and its well-defined natural boundaries, their deprivation, without consent or compensation, of these large bodies of land, presents itself as an ever present outrage of the most inexcusable and flagrant character, and naturally creates bitter feelings among them, more especially as this land of which they consider themselves to have been robbed is filling up with settlers, many of whom are aggressive, unjust, and violent.

This feeling of dissatisfaction is intensified by the further fact that their reservation, as they understood its limits, included the whole of the arable portion of the Sprague River Valley, whereas by the survey a large portion of its very best lands were excluded, and of what was left, the greater part was taken by the Oregon Central Military Wagon Road.

From the plat and field notes as compared with the treaty, the opinion of the Commissioner of the General Land Office, the statements of Agent Rook, and all the other information in my possession, I have no doubt that said survey was flagrantly erroneous and that gross injustice was thereby done to said Indians.

I have the honor to say further in this connection, that for this wrong no culpability or responsibility attaches to the Indian service, inasmuch as it had no jurisdiction or control over the execution of said survey.

Another very serious grievance of said Indians consists in the grant and approval to the State of Oregon under act of Congress of July 2, 1864 (13 Statutes, p. 355), of other large tracts of the best land within the reservation, for the construction of the "Oregon Central Military Wagon Road."

This road crosses the reservation diagonally, passing through the most valuable and fertile portion thereof, including said Sprague River Valley.

Upon said grant lands have been approved for said wagon road within said reservation as follows:

	Acres.
April 21, 1871	51, 248.56
December 8, 1871.....	37, 414.51
April 2, 1873	4, 487.34

making a total of 93,150.41 acres of the choicest agricultural and grazing lands of the Indians and including almost their entire resource for winter pasturage.

Said Wagon Road Company has also taken measures to lease or sell to actual settlers all its lands within the reservation, the result of which, if permitted, will be the introduction into the very heart of said Indian country of restless, aggressive, and hostile white communities, in violation of good faith, and to the imminent peril of the public peace.

The proper solution of these grave problems is of the highest possible moment, and deserves the most prompt and earnest consideration.

I have the honor to recommend that the Department instruct the General Land Office to immediately withdraw from sale or other disposal, until further instructed, all lands lying within the limits of said reservation as fixed by the treaty or claimed by the Indians, and that a new survey of the outboundaries of said reservation be directed, the same to be executed in strict conformity to the provisions of said treaty.

I have the honor further to recommend that all sales or leases of, or settlements upon, lands approved to or claimed by said Oregon Central Military Wagon Road Company, or the State of Oregon in its behalf, be prohibited until a careful investigation can be had of the rights of said company in the premises.

The treaty creating said reservation was concluded October 14, 1864, ratifications advised, with amendments, July 2, 1866, amendments accepted by the Indians December 10, 1869, and treaty finally ratified and proclaimed February 17, 1870. The withdrawal of lands for said military wagon road within the townships including the reservation was dated May 18, 1870, three months after the final ratification of said treaty, and no approvals were made thereunder until the year 1871. Consequently the reservation was legally perfect before any rights of said military wagon road within the same could have attached, and the title of the Indians under the treaty seems paramount in this regard.

I have the honor to recommend that an inspector or some other discreet and judicious person in the Indian service be sent to said reservation to fully investigate the subject and devise a suitable plan for the equitable adjustment of the questions involved, and that he be further instructed to examine and report upon the feasibility of consolidating all the Indians belonging to the Klamath and Malheur reservations upon one reservation, and to ascertain the best locality for such new reservation, taking into consideration wood, water, arable and healthfulness of climate, remoteness from organized white settlements, and all other requisites of a successful Indian community.

I have the honor to inclose herewith said copy of the plat and field notes of the survey in question; letters dated respectively February 12 and March 12, 1878, from Agent Rork; communication dated September 29, 1877, from War Department to the honorable Secretary of the Interior, and referred by the latter to this office, and letter dated March 9, 1878, from Capt. Jackson, First Cavalry, referred to this office by Gen. Howard, to whom it was addressed, and respectfully request the return of said inclosures with your instructions.

Very respectfully, your obedient servant,

WM. M. LEEDS,
Acting Commissioner.

THE SECRETARY OF THE INTERIOR.

OFFICE KLAMATH AGENCY,
Lake County, Oreg., July 2, 1879.

SIR: I have the honor to herewith make my report for the month of June.

The employés have all been very diligently employed in their various departments of labor. The superintendent of farming has spent most of the time in the harness shop and has thoroughly repaired nearly all the harness belonging to the Indians.

The quarter for which he was obtained being out, we will now have no one to look after this kind of labor. The sawyer and the miller, aided by one of the interpreters, have cut and drawn about 100 logs that will make, when sawed into lumber, about 50,000 feet of lumber. About 20,000 feet of lumber have been sawed into lumber for the purpose of rebuilding about 500 feet in length of the saw-mill flume. This has been framed by the mill carpenter and is nearly ready to be put up. The repairing of the breakage in the saw-mill flume, which I reported to you by letter of the 12th of June, hindered very much the progress of the work for which the mill carpenter was hired. When this new and enlarged flume shall have been completed and the new and larger water wheel shall have come and have been put on, it will nearly double the capacity of the saw-mill to cut lumber. The Indians have also cut several hundred logs. The carpenter and blacksmith have been crowded with work, mostly in repairing wagons and other farming implements for the haying season.

Agriculture.—Not more than 50 acres of grain were sown last fall and spring. Not over half of that will pay for the seed sown. The results of the garden seeds sown will be better in some localities. The hay crop promises to be good. The season has been quite cold, and there has been on an average a frost every other night during the month.

The school.—From the fact that our supplies had given out, I was obliged, on the 14th of June, to discontinue the school until I had authority to buy police supplies to repay what I had, by your authority, borrowed from the school supplies. Such authority has not yet come. I have made all diligent effort to get it, but have from some cause failed. It is quite likely that the authority granted has been lost in transit. The school continued to flourish until the close, having 40 pupils in attendance.

The boundary question.—Unless something is done to settle this much-vexed question, I can not vouch that trouble will not arise upon the eastern line of the reservation. There has grown up a very unpleasant feeling between the settlers upon the disputed territory and the Indians. It has heretofore required the exercise of a great deal of wisdom to prevent serious difficulties. It does seem that something should be done. This matter has been referred to so often by my predecessor and myself that I am ashamed to write more, and to answer the oft-repeated inquiries of the Indians concerning this matter.

Police force.—Having been obliged to dismiss this force the 1st day of May for want of supplies, the resumption of their duties, though very desirable, will depend upon the fact whether I have authority to purchase supplies or whether my action in purchasing supplies is approved by the Department and such approval reaches me.

Yours, respectfully,

LINUS M. NICKERSON,
U. S. Indian Agent.

Hon. E. A. HAYT,
Commissioner Indian Affairs, Washington, D. C.

[Extract from Report of Inspection of Fort Klamath, Oregon, made May 21, 1873, by Maj. Edwin C. Mason, Twenty-first Infantry, A. A. Inspector-General, Department of the Columbia.]

* * * * *

BOUNDARY.

The post commander desires to invite the attention of the commanding general to the fact that the northern and eastern line of the Indian reservation is unsettled.

The facts are fully set forth in a communication which was forwarded some time ago to the adjutant-general of the department. The Indians are manifesting much interest on this subject, and unless the matter is settled to their satisfaction it may become the source of future trouble.

* * * * *

HEADQUARTERS MILITARY DIVISION OF THE PACIFIC AND
DEPARTMENT OF CALIFORNIA,
Presidio, San Francisco, Cal., September 16, 1878.

Official extract copy respectfully forwarded to the Adjutant-General of the Army, for the information of the General of the Army and Secretary of the Interior.

IRVIN MCDOWELL,
Major-General, Commanding Division and Department.

DEPARTMENT OF THE INTERIOR,
Washington, September 12, 1878.

SIR: I have the honor to acknowledge the receipt of your letters dated respectively July 15 and August 13, 1878, in relation to the present status of the Klamath Indian Reservation, in the State of Oregon.

In your letter of July 15 you recommend:

First. "That a new survey may be made of the out-boundaries of said reservation."

Second. "That the Department instruct the General Land Office to withdraw from sale or other disposal all lands lying within said reservation."

Third. "That all sales or leases of, or settlement upon, lands approved or claimed by the Oregon Central Military Road Company or the State of Oregon in its behalf be prohibited until an investigation can be had of the rights of said company."

Fourth. "That one of the inspectors of the Indian service be sent to the Klamath Reservation to investigate the whole matter, to consider the feasibility of consolidating all the Indians on one reservation, and also to ascertain the locality for such a reservation."

From the public records it appears that the first official survey made of this reservation was approved by the General Land Office in December, 1871. That the surveyor employed by the Government to make said survey, instead of following the natural boundaries as prescribed by the treaty in running the lines of the out-boundaries of the reservation, followed certain lines established by the public surveys. The Commissioner of the General Land Office in his letter to the Department of April 8, 1878, states that his office has not sufficient data to enable it to show how much the survey varies from the treaty boundaries. To arrive at the correct limits of the reservation as it should be, in accordance with the natural boundaries as described in the treaty, would necessitate that a new survey be had by the Government.

It is not within the power of the Department to perform this act at the present time. Section 2115 R. S. prescribes "that Indian reservations shall be surveyed under the direction and control of the General Land Office, and as nearly as may be in conformity to the rules and regulations under which other public lands are surveyed." There does not at present appear to be any public funds available for the accomplishment of this work; besides, the survey approved by the Department in 1871 was then published to the world as showing the metes and bounds of the Klamath Indian Reservation. In the meantime, in view of this official act of the Land Department, settlers have located upon the desirable portions of the disputed territory and their claims have been recognized by the General Land Office.

Under the floating grant made by Congress July 2, 1864 (13 S., 355), to the State of Oregon of lands from the public domain for the purpose of constructing a military wagon road from Eugene City to the eastern boundary of the State a portion of the lands situated within the Klamath Indian Reservation were conferred by the State upon the Oregon Central Military Road Company by the act of the State legislature of October 24, 1864.

Said road was definitely located through the Klamath Indian Reservation October 1, 1865, and on April 2, 1871, and December 8, 1871, this Department certified and allowed to the State of Oregon, in place within the boundaries of the Klamath Indian Reservation, 102,313.19 acres and in the indemnity limits there was certified and allowed to the State, 5,897.08 acres—in all, 108,210.27.

Although this allowance was made by the Department after the treaty made with the Indians October 14, 1864 (16 S., 708), making provision for their reservation by natural boundaries had been proclaimed by the President February 17, 1870, and become a law upon the statute book, there does not appear to be any power reposed in this Department by which it can annul or set aside the allowances of lands situated in the Klamath Indian Reservation which were made to the State of Oregon in 1871.

The act of July 2, 1864 (13 S., 355), amended by the act of December 26, 1866 (14 S., 374), granting lands from the public domain to the State of Oregon, to aid in the construction of the military wagon road in question, did not require that patents should be issued therefor. In accordance with the provisions of section 2449 R. S. the lands certified by the Commissioner of the General Land Office to the State of Oregon, in 1871, and located within the boundaries of the Klamath Indian Reservation, were, by his official act and the approval of the Department, conveyed in fee simple to the said State.

In the case of Clifton H. Moore *et al.*, plaintiffs in error, *v.* Rufus H. Robbins, No. 256, October term, 1877, the Supreme Court of the United States decided: "That a patent for any part of the public lands when issued by the Land Department, acting within the scope of its authority, carries with it when delivered and accepted by the grantees the legal title to the land, and with it passes all control of the Executive Department of the Government over the title. If any lawful reason exists why the patent should be canceled or rescinded, the appropriate and only remedy is by a bill in chancery in a court of competent jurisdiction, brought by the Government, and there exists no power in the Secretary of the Interior, or any other officer of the Government, to reconsider the facts on which the patent issued and to recall or rescind or to issue another for the same lands."

I am of the opinion that the Government is not now in the position to bring a suit in a Court of competent jurisdiction in order to test the validity of the title to the lands allowed and certified to the State of Oregon under the act of Congress for the use of the Oregon Central Military Road Company and its successors and assigns.

By House bill 4193, second session Forty-third Congress, and House bill 1316, first session Forty-fourth Congress, attempts were made for an adjustment of the claims of the alleged owners of lands that had been located within the limits of the Klamath Indian Reservation, either by allowing the said owners to locate in lieu of their lands embraced in the Klamath Reservation an equal number of acres of any Government lands elsewhere, or to satisfy said claims by the issue of floating scrip to be located in the same manner. But Congress declined to act upon either of these propositions, although the first had received the approval of the Department.

In view of the existing state of affairs, in relation to the conflicting claims of title to lands situated within and without the boundaries of the Klamath Indian Reservation as defined by the Government survey, approved December, 1871, I am of the opinion that your fourth proposition will be the only feasible solution of the whole matter—that an inspector of your Department be requested to visit the Indians located upon the Klamath Reservation, in the State of Oregon, and ascertain as to whether negotiations can not be entered into, either for the removal of said Indians to a new reservation, the locality of which to be hereafter determined, or of consolidating them with some other Indian tribes already located upon an existing reservation.

The papers which accompanied your letter of July 15 and August 13, 1878, are herewith returned.

Very respectfully,

C. SCHURZ,
Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

WAR DEPARTMENT,
Washington City, September 28, 1878.

SIR: I have the honor herewith to transmit for your information, extract from the report of an inspection made May 21, 1878, of Fort Klamath, Oreg., inviting attention to the fact that the northern and eastern line of the Indian Reservation is unsettled.

Very respectfully, your obedient servant,

GEO. W. McCRARY,
Secretary of War.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, August 23, 1879.

SIR: Referring to that portion of your letter of the 2nd ultimo, which alludes to the much-vexed question of the boundary line on the eastern side of the Klamath Reservation, and the urgent necessity of a final settlement thereof, I have to inform you that this matter has engaged the attention of this office for some time past and has been made the subject of frequent communications to the Department. From the public records it appears that the first official survey made of this reservation was approved by the General Land Office in December, 1871; that the surveyor employed by the Government to make said survey, instead of following the natural boundaries, as prescribed by the treaty, in running the lines of the out boundaries of the reservation followed certain lines established by the public surveys.

In a letter to the Department under date of April 8, 1878, the Commissioner of the General Land Office states that his office has not sufficient data to enable it to show how much the survey varies from the treaty boundaries and that to arrive at the correct limits of the reservation as it should be, in accordance with the natural boundaries, as described in the treaty, a new survey would be necessary.

Section 2115, Revised Statutes, provides that "Indian reservations shall be surveyed under the direction and control of the General Land Office, and as nearly as may be in conformity to the rules and regulations under which other public lands are surveyed."

At present there are no funds available for a resurvey of this reservation, and until these are provided no action can be taken in the matter.

Very respectfully,

E. J. BROOKS,
Acting Commissioner.

LINUS M. NICKERSON, Esq.,
U. S. Indian Agent, Klamath Agency, Linkville, Lake County, Oreg.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, January 11, 1887.

SIR: In report of October 15, 1886, this office recommended that the boundary lines of the Klamath Reservation be run in accordance with the provisions of the treaty of October 14, 1864, and properly marked at every half mile, except where the lakes and streams form a natural boundary.

I am informally advised by the General Land Office that the surveyor-general has invited proposals for the resurvey of said out boundaries, but that from present indications the survey of the eastern boundary will not be satisfactory to the Indians and the settlers until the *locus* of the boundary shall have been agreed upon by a commission, as a misunderstanding exists as to which range of mountains constitutes the eastern boundary as defined by the treaty; also as to the mouth of Ish-tish-ea-wax Creek, which is specified in the treaty in connection with said boundary.

The white settlers claim that the range of mountains lying between Klamath Marsh and Sycan Valley, and known as "Winter Ridge," is the true boundary as defined by the treaty of 1864, and that said creek is that portion of Sprague River situate *above* the North Fork.

The Indians claim that the range of mountains mentioned in the treaty is that lying between the Sycan Valley and Summer Lake, and that they were to have possession of the whole Sycan and Sprague River valleys.

It further appears that the surveyor who originally, in 1871, located the present eastern boundary, extended the same through the middle of Sycan Valley, between ranges 13 and 14 east, and thus placed the line midway between the conflicting claims of the Indians and settlers.

There is no authority for the appointment of the commission above suggested, but it is desired that a full investigation be made in order to determine the precise location of the points referred to in the treaty, that the eastern boundary may be run precisely in accordance with the stipulations of the treaty.

The boundaries of the reservation are defined in the treaty of 1864, as follows:
"Beginning upon the eastern shore of the middle Klamath Lake, at the Point of Rocks, about twelve miles below the mouth of Williamson's River; thence following up said eastern shore to the mouth of Wood River; thence up Wood River to a point one mile north of the bridge at Fort Klamath; thence due east to the summit of the ridge which divides the upper and middle Klamath lakes; thence along said ridge to a point due east (west) of the north end of the upper lake to the summit of the mountains on the east side of the lake; thence along said mountains to the point where Sprague's River is intersected by the Ish tish ea wax Creek; thence in a

northerly direction to the summit of the mountain, the extremity of which forms the Point of Rocks; thence along said mountain to the place of beginning."

The two principal points in dispute appear to be "the mountains west of the lake" and "Ish tish ea wax Creek."

You will at once proceed to take the evidence, under oath, of all persons, both Indians and whites, having knowledge of the true location of these points, and of the true eastern boundary *as understood at the time the treaty was concluded.*

It is probable that some of the older Indians, and especially Chief Schonchin, can give important testimony upon the subject. The signification of the Indian word Ish tish ea wax in English should be ascertained, and the identity of the stream established if possible.

You will exhaust every source of information likely to throw light upon the true location of the boundary without regard to its effect upon settlers or Indians. The testimony should be reduced to writing and forwarded with your report.

I enclose report from late Agent J. H. Rook, dated February 12, 1878, with rough plat showing boundaries as understood by him. You will return these papers with your report.

It may be added that Ish tish ea wax Creek, as laid down upon the plat of the Mercer survey of 1871, is identical with Middle Fork as shown on the public maps of Oregon.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

JOSEPH EMERY, Esq.,
U. S. Indian Agent, Klamath Agency, Oreg.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, April 8, 1887.

SIR: Referring to your communication, dated March 23, 1887, I have to direct you to proceed, as soon as practicable, to Ashland and Portland, Oreg., for the purpose of taking evidence as to the boundary of the reservation.

You will submit proper vouchers and subvouchers for your expenses, which should be as low as possible, when authority for their payment will be obtained.

Very respectfully,

A. B. UPSHAW,
Acting Commissioner.

JOSEPH EMERY, Esq.,
U. S. Indian Agent, Klamath Agency, Oreg.

FORT KLAMATH, OREG., *December 1, 1886.*

[Extract.]

MAJOR: * * * The Indians on the Klamath Reservation seem to have been attentive to their own business undisturbed by outsiders during the month. There has been one minor exception. Four scamps from Lonkville sold whisky to a few "Cooper Indians." By the efforts of the agent and some well-behaved Indians these were apprehended and taken to Portland, where I understand they are now held for trial. The agent conferred with me in this matter.

Mr. Emory, the agent, informs me that \$2,400 of the \$2,500 he estimated for has been set apart by the Interior Department to be expended for a resurvey of the Klamath Reservation. The Surveyor-General of Oregon has advertised for proposals for this work to include placing monuments each one-half mile along the lines.

I am informed by the agent that the original survey which is platted upon all our maps, which was made in 1872, was really never approved by the Interior Department and was, in fact, rejected for the reason that it did not conform to the boundary set forth in the treaty. The treaty boundary on the east side runs along the summit of the mountains and would include the whole Sycan Valley. The platted survey bisects the Sycan marsh and valley instead of following the mountain ridge. The Indians understood the whole Sycan should be within their lines. They have, however, been very forbearing, for portions have been occupied by whites a long time. It was in this valley, and from controversy concerning this boundary line, the difficulties occurred, resulting in the killing of one Indian last spring. The agent, Mr. Emory, does not know what instructions the Surveyor-General of Oregon

may have as to the establishment of these lines. Are they to be merely a resurvey along the old platted lines, or are they to follow the terms of the treaty? I have no means of knowing whether the full import of this is appreciated or not by the Interior Department. I endeavored in conversation with Mr. Emory to impress him concerning it, that he might make representations in the proper quarter. I thought he had some hesitancy about doing so. Some whites have vested rights, improvements, it is said, even holding patents for lands on this disputed territory. The Indians think this is and should be theirs by the terms of the treaty and natural boundary.

For the avoidance of future complications, it is of lasting importance that before a contractor runs the lines, the place where should be determined by mutual concord, or some determinate authority.

So impressed, I submit this as a matter of importance.

Very respectfully, your obedient servant,

G. S. CARPENTER,
Captain, Fourteenth Infantry, Commanding Post.

ASSISTANT ADJUTANT GENERAL, DEPARTMENT OF THE COLUMBIA,
Vancouver Barracks, Wash.

[First Indorsement.]

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
Vancouver Barracks, Wash., December 8, 1886.

Respectfully forwarded to the assistant adjutant-general, Division of the Pacific, inviting special attention to the matter of the boundary of the reservation.

JOHN GIBBON,
Brigadier-General, Commanding.

[Second Indorsement.]

HEADQUARTERS DIVISION OF THE PACIFIC,
INSPECTOR-GENERAL'S OFFICE.
San Francisco, Cal., December 21, 1886.

Respectfully returned to the assistant adjutant-general, Division of the Pacific. Contents noted.

R. P. HUGHES,
Lieutenant-Colonel, Inspector-General.

[Third Indorsement.]

HEADQUARTERS DIVISION OF THE PACIFIC,
San Francisco, Cal., December 22, 1886.

Respectfully forwarded to the Adjutant-General of the Army. Attention invited to the matter of survey of the boundary of the Indian Reservation.

O. O. HOWARD,
Major-General, Commanding.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, October 15, 1886.

SIR: The act of Congress approved May 15, 1886 (Public No. 49), contains an appropriation of \$25,000 "For survey and subdivision of Indian reservations and of lands to be allotted to Indians, and to make allotments in severalty to be expended under the direction of the Secretary of the Interior."

On the 20th and 21st of August last circular letters were addressed to the several Indian agents, directing them to report what surveys were required on the reservations under their charge during the coming year, the reasons why such surveys were necessary, and the probable cost of the same.

From their reports it appears that the following surveys are necessary, and I accordingly have the honor to recommend that contracts be entered into therefore, payable out of the appropriation referred to above.

* * * * *

KLAMATH, OREG.

Outboundaries.

In a report, dated September 10, 1886, Agent Emery states that it is of the utmost importance to the future peace between the Indians and the whites who are taking lands along the borders of the reservation, that there be an early survey of its out-boundary lines; that all marks of any former survey have been so obliterated that it has become a matter of grave dispute between whites and Indians where these lines run; and that from this cause serious trouble nearly arose in Sycan Valley last July.

The boundaries of this reservation are defined in the treaty of October 14, 1864 (16 Stats., 707), as follows:

"Beginning upon the eastern shore of the middle Klamath Lake at the Point of Rocks, about twelve miles below the mouth of Williamson's River; thence following up said eastern shore to the mouth of Wood River; thence up Wood River to a point one mile north of the bridge at Fort Klamath; thence due east to the summit of the ridge which divides the upper and middle Klamath lakes; thence along said ridge to a point due east (west?) of the north end of the upper lake; thence due east, passing the said north end of the upper lake, to the summit of the mountains on the east side of the lake; thence along said mountains to the point where Sprague River is intersected by the Ish-tish-ea-wax Creek; thence in a southerly direction to the summit of the mountain, the extremity of which forms the Point of Rocks; thence along said mountain to the place of beginning."

It is understood that the boundaries of the reservation were surveyed in 1871, but I am unable to find that any plat of the survey was ever received in this office.

I recommend that the boundary lines be run in accordance with the treaty, and properly marked every half mile, except where the lakes and streams form a natural boundary.

The length of the lines is estimated at 150 miles and the cost should not exceed \$16 per mile.

* * * * *

I inclose a copy of this report.

Very respectfully, your obedient servant,

A. B. UPSHAW,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

U. S. INDIAN SERVICE,
Klamath Agency, March 5, 1881.

SIR: After careful consideration and consultation with Col. S. G. Whipple, commandant at Fort Klamath, Oreg., and also with several citizens of Lake County, I have decided to present for the consideration of the Interior Department, a special communication upon the disputed boundary lines of this (Klamath) reservation. Several communications have heretofore been presented, but do not seem to have received the required action. The most lengthy ones were sent by my predecessor, Mr. John H. Roork. One was dated August 28, 1878, another of August 27, 1878, and still another of February 11, 1878. This last communication is so full that I do not deem it necessary to review the ground covered by it.

I have myself, both in my annual and monthly reports, alluded to this unsettled boundary question as one that may lead to serious trouble in the future. While there is a patient waiting on the part of the Indians for the Government to redress what they believe to be their wrongs, there is also a deep and growing conviction in their minds that nothing will be done unless some complication arises that will compel action, and a settlement in some way of this much vexed question. Mr. L. S. Dyar, a former agent, said to me a short time since that he had expected ere this serious trouble to have resulted from this dispute, and that he had no doubt unless something was done by the Government it would yet come.

In order that a settlement may be reached as speedily and as wisely as possible, I would respectfully recommend that the following course be pursued:

(1) That a commission of 5 men be appointed by your office to make an examination of the treaty and of the survey or boundary lines heretofore established, in order to ascertain whether the survey was made in accordance with the treaty.

(2) That this commission, after having made their examination, shall report to your office their conclusion and make such recommendation as in their judgment they shall deem wise and just toward all parties concerned. I would also recommend that this commission consist of 2 men from the War Department, 2 from civil life, and 1 from the Interior Department; that the 2 citizens be allowed each \$5 per day for their services, and that the necessary subsistence for themselves and their horses be allowed all the members of the commission, and that 1 servant be allowed for the purpose of caring for the camp and horses, who shall be paid \$2 per day for his services.

I am of the opinion that it would take about twenty days' time to complete the entire work that would be required of them.

The entire expense of such a commission would not be far from \$400.

In consequence of the fact that most of this work would be done in the mountains, there could be nothing done before about the 1st of July next, and possibly not till August following.

This, however, would be early enough to lay this matter before Congress at its next session should it be found best to do so.

I would suggest that the appointment of Gen. Wheaton, commanding the Department of the Columbia, as chairman of such commission would be eminently fitting, he having formerly resided at Fort Klamath and being well known by this people.

I would also recommend the appointment of Col. S. G. Whipple, commanding at Fort Klamath, as another member. Col. Whipple is highly esteemed by our Indians and would make an excellent chairman in case Gen. Wheaton could not act as one of the committee.

In that case I would name Maj. James Jackson, now at Walla Walla, but for many years in command at Fort Klamath.

Maj. Jackson was here at or soon after the survey was made, and gave this boundary question considerable attention. He is highly esteemed by the Indians. I would recommend as very suitable persons to be appointed from civil life Mr. Sikes Worden and Capt. O. C. Applegate. These men were both employes on this reservation for, from six to eight years each, and are highly esteemed by all who know them. Unless your office has some one from the Interior Department to appoint, I would suggest that the four members representing the War and Interior Departments be allowed to select the fifth member of such commission. As all such commissions need to be managed with discretion in order not to excite the minds of the Indians, I have named men with whom they are well acquainted and in whom they have great confidence.

Hoping for favorable action upon this communication, I remain,

Yours, respectfully,

LINUS M. NICKERSON,
U. S. Indian Agent.

HON. R. E. TROWBRIDGE,
Commissioner of Indian Affairs, Washington, D. C.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, July 19, 1881.

SIR: I am in receipt of your letter of March 5 last, relative to the disputed boundary lines of the Klamath Indian Reservation, in Oregon, in which you refer to previous correspondence of your predecessor and yourself upon the subject, and ask for a commission of five persons whose duty it shall be to examine into and report upon the question in dispute.

You state that "While there is a patient waiting on the part of the Indians for the Government to redress what they believe to be their wrongs, there is also a deep and growing conviction in their minds that nothing will be done unless some complication arise that will compel action and a settlement in some way of this much mixed question."

In reply, I have to say that this office shares with you the solicitude you feel in the matter as expressed in your letter, but I regret to say the way is not clear at present to remedy the evil complained of.

There are no funds available for the payment of the expenses of such a commission as you propose, and, inasmuch as it has been admitted by the General Land Office that the treaty lines of the east and south and a portion of the west side of the reservation, described as mountains or ridge of mountains, were not followed by the surveyor who made the survey of the reservation in 1871, but that certain lines of the public survey were followed instead, it is not deemed necessary to institute further inquiry to establish the fact.

It appears to me that what is wanted is a correct survey of the reservation, establishing and marking out the boundary lines according to the terms of the treaty, and it is the intention of this office to ask Congress at its next session to provide, by ample appropriations, for the survey of certain Indian reservations, and it is hoped that the means will be thus afforded for the settlement of this much vexed question. In the meantime you will counsel the Indians to be patient, at the same time assuring them of the good will of the Department and the earnest desire it feels for the early settlement of their difficulties.

Very respectfully,

H. PRICE,
Commissioner.

L. M. NICKERSON, Esq.,
U. S. Indian Agent, Klamath Agency, Lake County, Oregon.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, June 9, 1887.

SIR: Referring to office report of October 15, 1887, transmitted through the Department, in which the survey of the outboundaries of the Klamath Reservation, in Oregon, was requested, and in which case, after an informal conference with your office, the agent was directed to take testimony regarding the true location of the boundary, I have to request that the contract for said survey be let during the present month, if practicable, in order that the appropriation for the current fiscal year may be utilized, the work not to commence until the report of the agent, which has been unavoidably delayed, shall have been received and acted upon.

Very respectfully,

J. D. C. ATKINS,
Commissioner.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

U. S. INDIAN SERVICE,
Klamath Agency, Oreg., June 16, 1887.

SIR: I have the honor herewith to submit my report with the testimony obtained as to the boundary of Klamath Agency.

I have according to instructions, as far as possible, "exhausted every source of information likely to throw light on the true location of the boundary." If the testimony is meager and unsatisfactory, I beg you to remember that twenty-three years have elapsed since the treaty was made, and it is difficult for men to recall, with sufficient accuracy to swear to them, events so long past.

It will be noticed that the testimony of the whites and Indians conflicts as to the intersection of the Ish tish ea wax Creek with Sprague River.

The Indians whose testimony I have taken are the most reliable on the reservation, and were all present when the treaty was made, their names appearing on the treaty.

Seonchin is the chief of the Modoc band that remained loyal during the Modoc war. Charles Preston was one of the interpreters at the council held in 1864, when the treaty, was made, also at the council of 1865, with the Snakes, and stood with Supt. Huntington on Yainax butte when he pointed out the natural boundaries of the reservation as far as they could be seen from this mountain. Mo ghen kas kit is a subchief of the Modocs. Allen David and Henry Blow are both chiefs of the Klamaths.

I used every precaution to prevent collusion in taking their testimony.

They all agree in this that the treaty made with Supt. Huntington gave them all of Sican and Sprague River valleys.

The testimony of the whites places the "intersection of the Ish tish ea wax Creek with Sprague River two hundred yards east of the Mercer survey, at the junction of the middle fork and the south fork of Sprague River" (see accompanying map); this south branch is claimed to be the Irh tish ea wax of the treaty.

Mr. I. D. Applegate testifies that in 1868 Supt. Huntington visited the above-named point with him, and designated it as the place where "the eastern boundary line would cross the valley."

The testimony of the Indians places the intersection of Ish tish ea wax Creek with Sprague River 10 miles farther east, at the base of the mountains.

Here a small stream flows from the southeast and empties into what the white settlers call South Sprague River, just below the point where the military wagon road crosses.

In this little stream the Indians have caught—probably for centuries—in the early spring, the Ish tish, a little fish, hence the name of the stream. A rocky barrier made by the Indians prevents these fish from ascending this stream more than one hundred yards.

In company with Prof. W. T. Leeke, taking with me as guides Charlie Preston and Mo ghen kas kit, I visited these disputed points and made personal observations.

See supplemental statements of Charlie Preston and Mo ghen kas kit.

I also visited the northern and northeastern part of the reservation, taking with me Indian guides. I traveled the whole extent of the Upper Klamath Lake or marsh to its eastern extremity, and then ascended Yam se, southeast of the upper lake, from whose summit I could trace the entire northern and eastern boundaries.

I found east and a little south of the upper lake a well-defined ridge and broken mountain range, of which Yam se is the highest peak. To reach this ridge and range it is necessary to run south several miles. No summit of mountains mentioned in description of boundary in treaty can be reached by extending the line north of the upper lake due east. Ex-Agent Roork's rough outline is misleading and incorrect. Then by following this broken chain of mountains, indicated by heavy red line,

crossing the Sican River and continuing along the eastern spur to its base; thence southeast to the junction of South Sprague River with the middle fork, a little east of the Mercer survey, we reach "the point where the Ish tish ea wax Creek intersects Sprague River," according to the testimony of the whites.

Again extending the line running north of the upper lake, still farther east, as indicated by a dotted red line, then south, we reach a broken ridge which divides the Sican Valley from the Silver Lake country, thence along this ridge to the mountains east of Sican Valley; thence along these mountains to "the point where Sprague River is intersected by the Ish tish ea wax Creek," according to the testimony of the Indians.

From personal observation and the sworn testimony of the Indians I believe this to be the true point where "Sprague River is intersected by the Ish tish ea wax Creek."

Yet to reach the mountains following, which terminate at this point, it becomes necessary to extend the northern boundary line still farther east at least 12 miles, not along mountains, but through a low country; then south half as many miles to the ridge separating the waters of the Silver Lake country from those of the Sican Valley; thence along the ridge to the said mountains east of the Sican Valley.

It will be for the proper authorities to determine whether the language of the treaty will warrant the extension of the line so far east.

If from the testimony it is decided that the place where Sprague River is intersected by the Ish tish ea wax Creek is identical with the junction of the middle fork and South Sprague River then the line would run west of Sican Valley as indicated on the map.

If a resurvey of the reservation is determined upon, I would recommend that the northern line be run so as to include all of Upper Klamath Lake, about 2 miles north of present line; also, that the eastern line be extended to the summit of the mountains, and that the southern line follow the well-defined range to the point of rocks. At present the line cuts off a portion of the Whisky Creek and Spring Creek valleys, which clearly belongs to the reservation.

In view of the conflicting testimony of the whites and the Indians, a reestablishment of the Mercer survey, with permanent monuments, might be desirable.

Another solution of this question would be to give these Indians lands in severalty, there being sufficient lands within present boundaries for this purpose.

I will transmit the testimony of Dr. McKey, which will reach me in a few days.

Very respectfully,

JOSEPH EMERY,
U. S. Indian Agent.

Hon. J. D. C. ATKINS,
Commissioner of Indian Affairs, Washington, D. C.

P. S.—I send herewith a hastily drawn but tolerably accurate map of Klamath Reservation, with important points and lines noted.

J. E.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, August 3, 1887.

SIR: In report of October 15, 1886, this office recommended that the boundary lines of the Klamath Indian Reservation, in Oregon, be run in accordance with the provisions of the treaty of October 14, 1864 (16 Stats., 707), and properly marked.

Subsequently, the office was informally advised by the General Land Office that the surveyor-general of Oregon was of the opinion that the survey of the eastern boundary would not be satisfactory to the Indians and the settlers until the locus of the boundary should be agreed upon by a commission, as a misunderstanding existed as to which range of mountains constituted the eastern boundary as defined by the treaty.

There being no authority of law for the appointment of a commission, Agent Emery was instructed, under date of January 11, 1887, to make a full investigation with the view of ascertaining, if possible, the location of the boundaries described in the treaty, and for this purpose to take the evidence of all persons, both Indians and whites, having knowledge of the true location of the points named in the treaty, and of the true eastern boundary as understood at the time the treaty was concluded.

His report, with the evidence taken, was submitted on the 16th of June, 1887.

The treaty of 1864 defines the boundaries of the reservation as follows:

"Beginning upon the eastern shore of the middle Klamath Lake, at the Point of Rocks, about twelve miles below the mouth of Williamson's River; thence following up said eastern shore to the mouth of Wood River; thence up Wood River to a point

one mile north of the bridge at Fort Klamath; thence due east to the summit of the ridge which divides the upper and middle Klamath lakes; thence along said ridge to a point due east (west) of the north end of the up lake; thence due east, passing the said north end of the upper lake to the summit of the mountains on the east side of the lake; thence along said mountains to the point where Sprague's River is intersected by the Ish tish ea wax Creek; thence in a northerly direction to the summit of the mountain, the extremity of which forms the Point of Rocks; thence along said mountain to the place of beginning."

The two principal points in dispute are "the mountains east of the lake" and "Ish tish ea wax Creek."

The white settlers claim that the range of mountains lying between Klamath Marsh and Sycan Valley, and known as "Winter Ridge," is the true boundary as defined by the treaty, and that Ish tish ea wax Creek is that portion of Sprague River situate above the North Fork.

The Indians claim that the range of mountains mentioned in the treaty is that lying between the Sycan Valley and Summer Lake, and that they were to have possession of the whole of Sycan and Sprague River valleys.

(On the map of Oregon, Middle Klamath Lake of the treaty is designated as "Upper Klamath Lake" and Upper Klamath Lake of the treaty, as "Klamath Marsh.")

The line as surveyed in 1871 was located through the middle of Sycan Valley, midway between the conflicting claims of the Indians and settlers.

As to this survey, the surveyor, George Mercer, testifies (May 16, 1887), that in running the boundary he complied with the request of the surveyor-general to make the line conform to the lines of the public survey as far as possible.

As to the north boundary, he states that there might be some question raised as to the extreme north end of Klamath Marsh, owing to the fact that as the water in the lake rises and falls it overflows more land, and then again recedes, leaving what was at one time a portion of the lake as dry land.

As to the eastern boundary he says there is a well-defined summit east of the north end of the lake, but no ridge running from that summit to Sprague River at the mouth of Ish tish ea wax Creek, and that he continued his course east to a point due north of Ish tish ea wax Creek conforming to the range line.

He thinks that the Indians understood that they were to have the Sycan Valley, but agrees with the white settlers as to the location of Ish tish ea wax Creek,

Agent Emery submits a rough map of the reservation, showing the east boundary of the reservation as claimed by the settlers and Indians, respectively.

In his report, dated June 16, 1887, he states that he visited the northern and northeastern part of the reservation; that he found east and a little south of the upper lake a well defined ridge and broken mountain range, of which Yamse is the highest peak; and that to reach this ridge it is necessary to run south several miles; that no summit of mountains mentioned in description of boundary in the treaty can be reached by extending the line north of the upper lake due east.

He then describes the lines on the map as claimed by the whites and Indians, respectively.

From personal observation, as well as the testimony of the Indians, he believes their claims as to the location of Ish tish ea wax Creek to be correct, but yet, he says, "to reach the mountains following which terminate at this point it becomes necessary to extend the northern boundary line still farther east at least 12 miles—not along mountains, but through a low country—then south half as many miles to the ridge separating the waters of the Silver Lake country from those of the Sycan Valley, thence along this ridge to the said mountains east of the Sycan Valley."

Gen. Fremont, in his expedition of 1843, crossed the upper portion of Klamath Marsh, and, after leaving the marsh, continued up a hollow formed by a small affluent to the lake and immediately entered an open pine forest on the mountain.

He then traveled in an easterly direction through the forest for about four hours, crossed a stream 30 feet wide (longitude $121^{\circ} 20' 42''$), from which the road was over a broad mountain, and after seven hours came upon the headwaters of another stream. Still proceeding east, the mountain gradually rose. Toward noon on the fourth day after leaving Klamath Marsh he found himself on the verge of a vertical and rocky wall of the mountain. More than a thousand feet below was a green prairie country in which a beautiful lake was spread at the foot of the mountain, and all was like summer or spring. "Shivering on snow 3 feet deep, and stiffening in a cold north wind, we exclaimed at once that the names of Summer Lake and Winter Ridge should be applied to these two proximate places of such sudden and violent contrast." (Fremont's *Memoirs of My Life*, p. 301.)

Gen. Fremont's narrative establishes the fact that "Winter Ridge" is immediately west of Summer Lake and not at the northeast corner of the Klamath Reservation, as laid down on the present map of Oregon.

Taking Winter Ridge as the summit of the mountains east of Klamath Lake, and

following the mountains, would give nearly the eastern boundary claimed by the Indians, as shown by Agent Emery's sketch.

There is on file in the General Land Office a map of Indian reservations in Oregon, prepared by Supt. Huntington, in 1864, which shows the northern boundary of the Klamath Reservation to be about 21 miles in length; from the northeast corner the line was west of south some 33 miles; then southwest about 13 miles to the point of beginning on Klamath Lake.

The line crosses the Sprague River at the junction of the two forks, but continues for some miles in a straight line, and there is no indication of any creek at the point where the line turns to the southwest. The shape, as well as the size of the reservation, is entirely different from the reservation as surveyed, or as claimed by either Indians or whites; and in fact, taking into consideration the topography of the country as now known, it can not be reconciled with either the boundary as described in the treaty or as surveyed in 1871.

This map is the only thing discovered that throws any doubt upon the claim of the Indians as to the eastern boundary.

As a further evidence of the incorrectness of the map referred to, and as a point in favor of the claim of the Indians, attention is invited to a map on file in this office, prepared by Supt. Huntington, in January of the same year, which shows "Winter Range" immediately west of Summer Lake, and upon which map no other range of mountains is shown between Summer Lake and Upper Klamath Lake or Klamath Marsh.

This corroborates the description of the country given by Gen. Fremont.

Agent Emery recommends that if a resurvey be determined upon the north line be run so as to include all of the upper lake or marsh, about 2 miles north of the present line; also that the eastern line be extended to the summit of the mountains, and that the southern line follow the well-defined range to the point of rocks, the present line cutting off a portion of Whisky Creek and Spring Creek valleys which clearly belong to the reservation.

He also suggests that in view of the conflicting testimony the reestablishment of the Mercer survey with permanent monuments might be advisable.

As the eastern line was established some sixteen years ago, and settlements have been made upon surveyed lands within the limits claimed by the Indians, I am inclined to the opinion that the reestablishment of the eastern boundary as surveyed by Mercer will be the easiest way out of the difficulty, the north and south boundaries to be surveyed as recommended by Agent Emery.

The claim of the Indians to the country east of the Mercer survey can be hereafter considered and referred to Congress if deemed just.

In this connection I have the honor to acknowledge the receipt, by Department reference, of a communication from the Secretary of War dated June 24, 1887, with which he transmits for such action as may be thought proper, a copy of an extract from an inspection report by the commanding officer of Fort Klamath, relative to the encroachments by owners of cattle upon the reservation, resulting from a lack of understanding in regard to the eastern boundary, and the difficulties and possible conflict between Indians and cowboys, that may at any time grow out of this state of affairs unless steps are taken to compel the intruders to recede, which seems to become more difficult as their herds increase in number.

The Secretary of War calls special attention to the indorsement of the commanding general of the Department of the Columbia, who shares the views of the post commander, and states that the prospect of trouble is very much increased as long as the uncertainty exists as to the location of the boundary lines.

As to this I have the honor to recommend that the Secretary of War be requested to cause the necessary steps to be taken to secure the presence of a sufficient military force upon the reservation to keep off all intruders and stock from the reservation as at present defined and as it may hereafter be surveyed.

It is believed that the permanent establishment of the lines as hereinbefore recommended, and the protection of the reservation from the encroachments of the cattlemen, will greatly lessen the danger apprehended.

If the views herein expressed with reference to the resurvey meet with your concurrence the Commissioner of the General Land Office should be instructed accordingly.

I inclose two copies of this report, copy of Agent Emery's report, with the evidence submitted by him, and return the letter of the Secretary of War.

I also inclose the map prepared by Supt. Huntington, which belongs to the files of the General Land Office.

Very respectfully, your obedient servant,

A. B. UPSHAW,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, August 6, 1887.

SIR: Referring to your letter of the 3d instant in relation to the survey of the out-boundaries of the Klamath Reservation in Oregon, and also concerning cattle trespass thereon, with apprehended difficulties between the cowboys and Indians, as reported by the honorable Secretary of War, under date of June 24 last, you are respectfully informed that the honorable Secretary of War has been this day furnished with a copy of your letter and requested to furnish a sufficient military force to remove the said trespassers.

A letter has also been addressed to the Commissioner of the General Land Office concurring with your recommendations in the case, and directing that the survey of the out-boundaries of the Klamath Reservation be executed.

Very respectfully,

H. L. MULDROW,
Acting Secretary.

The COMMISSIONER OF INDIAN AFFAIRS.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., October 8, 1888.

SIR: I have the honor to inform you that I have this day accepted the survey of the boundary lines of the Klamath Indian Reservation, executed by William Thiel, U. S. deputy surveyor, under special contract dated June 14, 1887.

In his report upon the examination of the survey in the field, Mr. Martin, special agent, says:

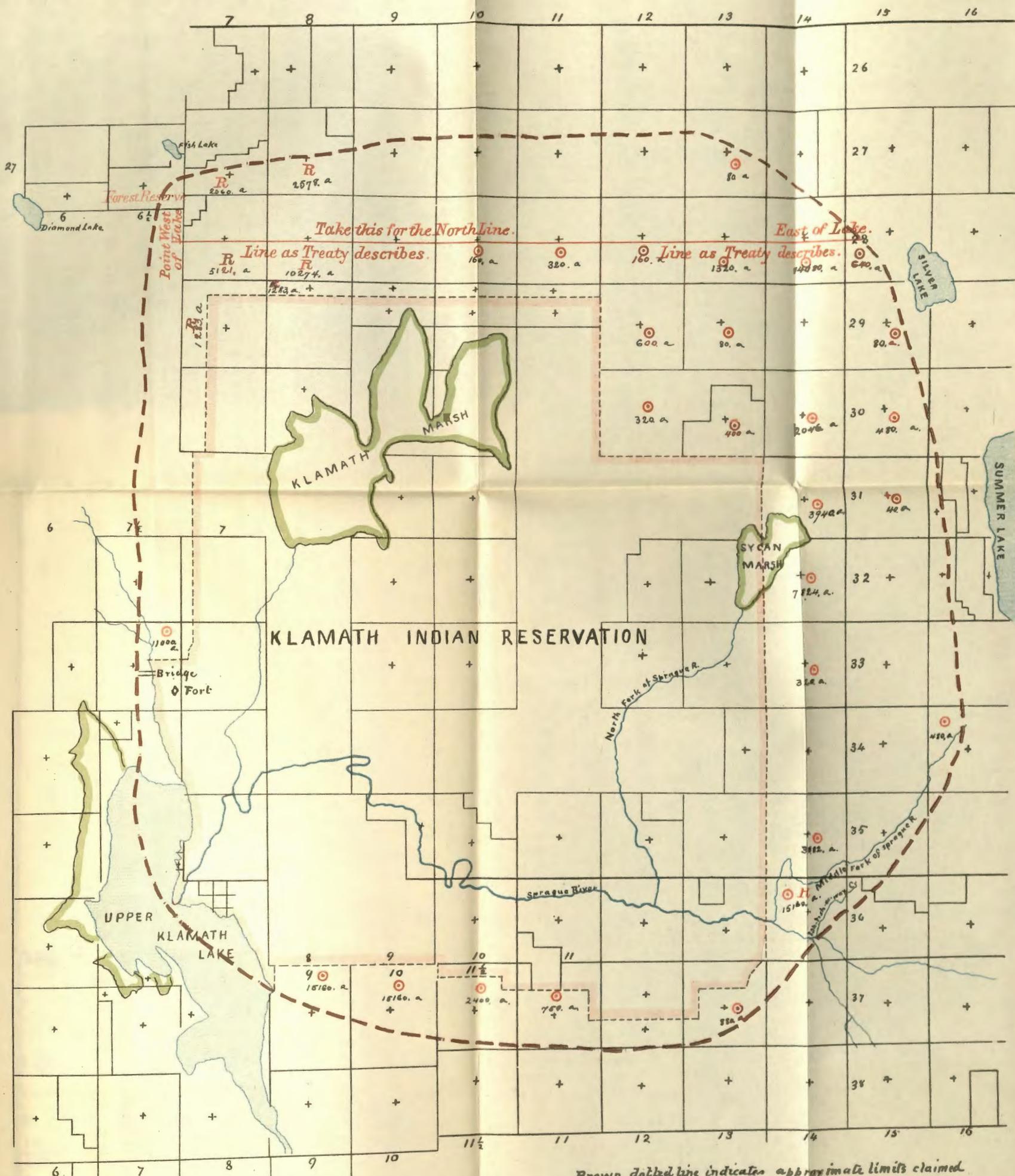
"Upon that part of the Sycan Marsh situate within the reservation, near where the east boundary crosses Sprague River, and at other points, I observed large numbers of cattle and horses, the property of white men, trespassing on the lands of the Indians."

Very respectfully,

T. J. ANDERSON,
Acting Commissioner.

The COMMISSIONER OF INDIAN AFFAIRS.

○



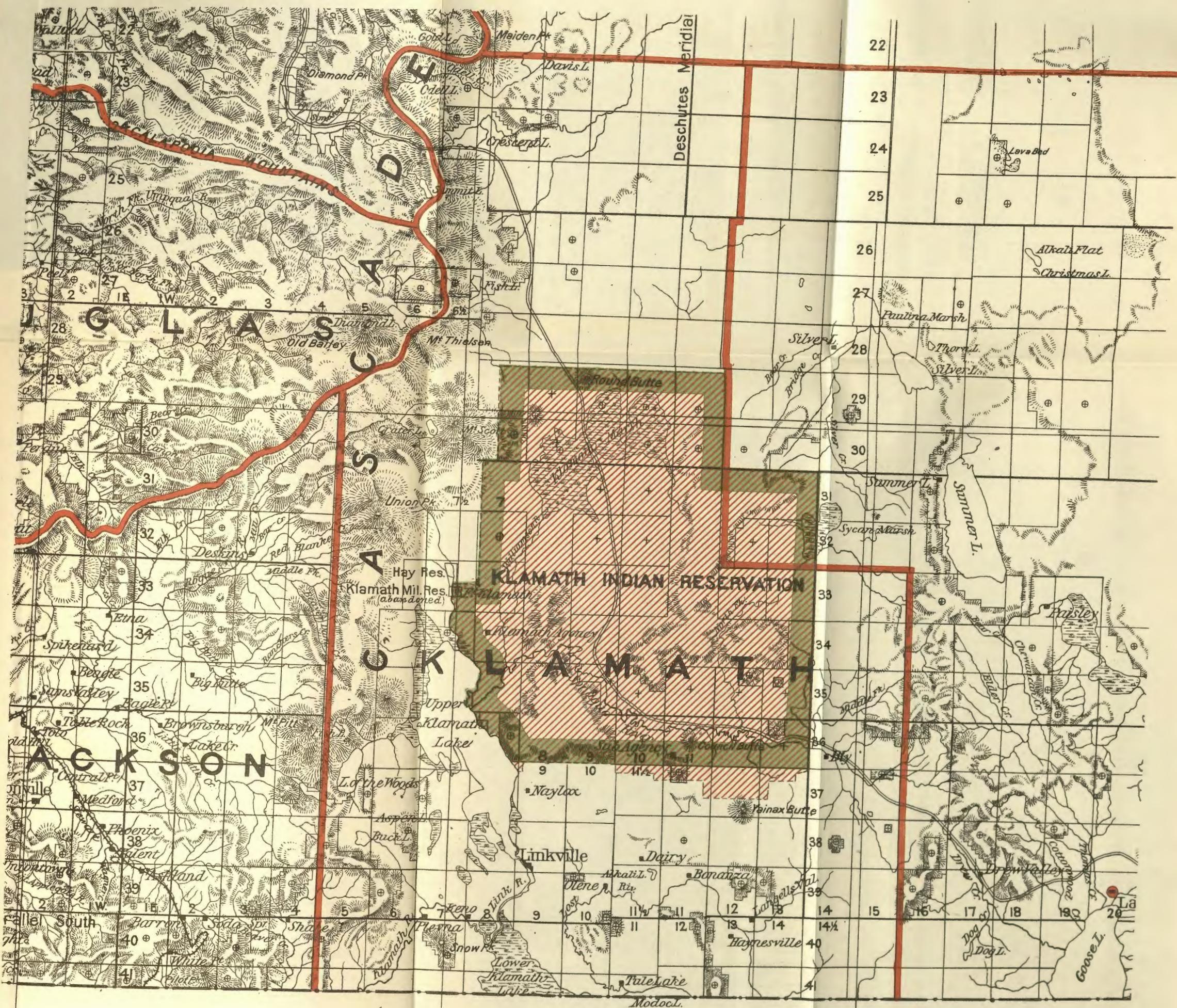
Townships marked \odot indicate lands entered under settlement laws of U.S. and State selections, the approximate areas entered and selected being given in figures.

Townships marked **R** indicate lands selected by O. C. Military Road Company.

Brown dotted line indicates approximate limits claimed by Indians as shown on tracing accompanying copies of correspondence furnished by Indian Office to the Department

Townships marked with a cross are subdivided

The red ink line through townships 28 north and annotations thereon are taken from the tracing furnished by the Indian Office referred to in above note



(+) Townships marked with a cross are subdivided

L I F O R N I A

45°

44° Longitude West from Washington