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Agreement with Navajo Indians. Letter from the Secretary of the Interior, transmitting, in response to the resolution of inquiry of the 8th of February, 1897, a report from the Commissioner of Indian Affairs relating to a treaty with the Navajo Indians.

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AGREEMENT WITH NAVAJO INDIANS.

L E T T E R

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING,

IN RESPONSE TO THE RESOLUTION OF INQUIRY OF THE 8TH OF FEBRUARY, 1897, A REPORT FROM THE COMMISSIONER OF INDIAN AFFAIRS RELATING TO A TREATY WITH THE NAVAJO INDIANS.

FEBRUARY 23, 1897.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, February 17, 1897.

SIR: I have the honor to acknowledge the receipt of the following resolution of the House of Representatives, dated the 8th instant:

Resolved, That the Secretary of the Interior be, and is hereby, requested to inform the House of Representatives what action is being taken, or has been taken, if any, to enforce the terms of the treaty or agreement with the Navajo Indians, entered into June first, eighteen hundred and sixty-eight, under which treaty or agreement said Indians are required to remain within the limits of their reservation.

In response thereto I transmit herewith copy of a report, dated 16th instant, from the Commissioner of Indian Affairs, giving a history of the tribe, a description of their reservation, etc., as reported at various times to his office, and showing the action taken by the Indian Office and the Department, looking to the removal of the nonreservation Navajos to the reservation created for them by the treaty of June 1, 1868.

Very respectfully,

D. R. FRANCIS,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 16, 1897.

SIR: I have the honor to acknowledge the receipt, by Department reference for report, of the following resolution adopted by the House of Representatives February 8, 1897, to wit:

That the Secretary of the Interior be, and is hereby, requested to inform the House of Representatives what action is being taken, or has been taken, if any, to enforce

the terms of the treaty or agreement with the Navajo Indians, entered into June first, eighteen hundred and sixty-eight, under which treaty or agreement said Indians are required to remain within the limits of their reservation.

In connection with this subject I have the honor to state that the recital of the various actions taken by this office and the Department looking to the removal of nonreservation Navajos to the reservation created for them by treaty of June 1, 1868, will involve a brief history of that tribe, a description of their reservation, the character of its soil, and the resources, or rather the lack of resources, of the reservation, including data and information as to their flocks and herds and the census of the tribe itself, as reported at various times to this office.

Under article 1 of the treaty concluded between these Indians and the United States September 9, 1849, confirmed by the Senate September 9, 1850, and proclaimed by the President September 24, 1850 (9 Stat. L., 974), the said tribe acknowledged that by virtue of a treaty entered into by the United States and the United Mexican States on February 2, 1848, at the city of Guadalupe—Hidalgo, the Navajos were lawfully placed under the exclusive jurisdiction and protection of the United States; that they were then, and would forever remain, under such jurisdiction and protection.

By article 9 of the said treaty of September 9, 1849, it was agreed by the Navajos that the United States should at its earliest convenience designate, settle, and adjust their territorial boundaries and pass and execute in their territory such laws as might be deemed conducive to the prosperity and happiness of said Indians.

It appears that this tribe of Indians then lived in the western portion of the Territory of New Mexico, and claimed a large portion of that section of the country; engaged in the production of corn, wheat, and vegetables (and lived upon the natural products of the soil when these were exhausted), and in the manufacture of various fabrics. They were a powerful and formidable tribe at that time, and in the early sixties became involved in a war with the United States from various causes. Various campaigns were planned against them, and in 1864 they were made captives by the military and taken to the Bosque Redondo Reservation, which had been set apart for the Mescalero Apaches, where they were held for a time as prisoners of war and then turned over to this Department.

During their stay at this reservation they became very much dissatisfied, their discontent being in consequence of scarcity of fuel, unproductiveness of the soil, bad water, unhealthiness, and frequent raids made upon them by the Comanche, Kiowa, and other Indians. They therefore constantly begged to be removed to their old country, where the soil, they claimed, was more productive, where there was an abundance of fuel and timber, and where they would be removed from their old enemies above mentioned.

The treaty of June 1, 1868 (15 Stat. L., 667), was therefore concluded with them, and provided for their removal to their present reservation, west of the Rio Grande, in their old country. On June 18, 1868, steps were taken to remove the whole tribe from the Bosque Redondo Reservation to their new reservation, in pursuance of the said treaty.

The United States Indian agent for the Navajos reported, August 15, 1868, that it was impossible for him to present an exact census of the Navajos in consequence of the fact that many were living with the Apache and Pueblo Indians and running at large; that it was his opinion that from 700 to 1,000 were then living with other Indians, who would probably come to the reservation at some future time. He

submitted an estimate as follows, to wit, 7,300 transferred from the war department at Fort Sumpter, N. Mex.; 700 living with other Indians away from the new reservation, making a total of 8,000 Navajos at that time.

Their present reservation was created, as above indicated, by treaty concluded June 1, 1868, and extended at various times by Executive orders of subsequent date, viz, October 29, 1878; January 6, 1880; May 17, 1884; April 24, 1886; which orders may be found in "Executive Orders relating to Indian Reservations, issued prior to April 1, 1890," pages 56 and 57 (copy herewith). These Executive orders were issued for the purpose of extending the boundaries of the Navajo Reservation so as to include better facilities for grazing and watering their animals and increasing flocks and herds, and to the end that such action might avoid conflict between the Indians and encroaching whites.

It appears that the troubles between the nonreservation Navajos and the white settlers on the borders of the Navajo Reservation, located principally in the Territories of New Mexico and Arizona (including a small strip in the State of Utah), were constantly recurring; and under date of April 6, 1887, this office took occasion to invite the attention of the Department to these troubles, and presented for its consideration a plan of action looking to the ultimate removal and settlement of all of these nonreservation Indians upon the Navajo Reservation.

The Commissioner of Indian Affairs at that time stated in his said report that he had given much time and thought to the consideration of this question and had found it a very difficult and perplexing one to meet; that his own personal observations during a recent visit to the Navajo country only tended to confirm his impressions and increase his apprehensions as to these troubles. He summed up the situation briefly as follows:

There are perhaps seven or eight thousand of these Indians scattered through the country, mostly east, south, and southwest of the reservation. They are natives of that region, and have always lived there. Although a reservation was established for them as long ago as 1868, the Government, presumably from motives of economy, has never compelled them to go upon it, preferring to allow them to make their own living where they were rather than force them upon the reservation, to be fed at the public expense. They have been peaceable, and have tried to give as little offense as possible, and until the advent of the railroad conflicts with the whites were unheard of.

The only habitable portions of the country occupied by them are in the neighborhood of little springs, which afford the only water to be found in all that arid region. These springs, though not very numerous, are indispensable to the Indians in the care of their flocks, and are alike indispensable to the whites, who are over-running the country, demanding possession and calling loudly for the removal of the Indians to their proper reservation. They are in dangerous contact, and frequent fatal collisions between them have been reported.

It is clear that the Indians can not remain where they are in peace, and yet they have nowhere to go, except to the reservation, and it is doubtful if they would find a safe deliverance there for all.

As the result of the correspondence recently had with the Department, to which allusion has just been made, it was decided that a special agent of this office should be sent to visit the Navajos and make a thorough study of their condition, disposition, and surroundings, with a view to devising some plan for the adjustment of their difficulties.

Accordingly, Special Agent Parsons was detailed for the duty, and spent two months or more (1886) in the Navajo country, studying into the condition and needs of the Indians and counseling with them as far as possible.

For convenient reference I inclose herewith House Ex. Doc. No. 263, Forty-ninth Congress, first session, containing office report of May 27, 1886, as well as the report of the investigation made by Special Agent Parsons, to which I respectfully invite your attention.

Upon a thorough examination of the situation Mr. Parsons came to the conclusion that if the Government would construct ditches, dams, and reservoirs for the storage of

water, and sink wells to an extent involving an expense of about \$50,000 for all, the reservation, deficient as it is, could be made to supply the entire Navajo population.

He expressed the opinion that it would be unwise and perhaps dangerous to attempt to put the nonreservation Indians on the reservation before the water works were completed, or at least until they were sufficiently far advanced to remove all doubt as to their being successfully completed.

Following out Mr. Parsons's recommendation, Congress was asked to appropriate \$50,000 for the purpose mentioned. The money asked for was not given, but the sum of \$7,500 was appropriated for the fiscal year ending June 30, 1887, and a similar amount has been provided for the next fiscal year, 1888, so that a good deal can be accomplished, notwithstanding the failure to secure the \$50,000 asked for.

My idea now is that a discreet painstaking officer should be sent to the Navajo country to council with the nonreservation Indians and persuade all the roving Indians to go upon the reservation.

In a recent communication (February 25, 1887) Agent Patterson, of the Navajo Agency, says:

"Some provision should be made, and that immediately, that all the Navajo Indians now residing off the reservation be required to return to it and stay there. I think the time for this action is at hand, in view of the fact that these Territories are being fast settled up with white settlers who have a right to the public domain and are crowding in upon the lines of the Navajo country, and that towns are being built up along the lines of the railroads, and improvements advancing everywhere. * * *

"A feeling of bitter hatred has for some time existed, and is increasing in intensity, between the two peoples, and it only needs some vigorous spark to kindle a great flame which may arise at any time."

He further states that the Indians living along the south and east lines of the reservation are manifesting a willingness to remove to the reservation, and some have declared that they would so remove were it not that they would be obliged to abandon their houses.

He thinks that if an order were issued requiring all nonreservation Indians who have no fixed habitations, but ever roam about from place to place, to go upon the reservation and settle down, giving them a sufficient time, say sixty days, to receive the notice and prepare themselves, they would generally obey the order. He adds, however, that the military should be employed to enforce the same, if necessary, and thinks no trouble would result, as they stand in fear of the Army.

In a still more recent communication (March 21) the acting agent, Mr. Ford (in the absence of Agent Patterson), refers to the frequent disturbances between the nonreservation Indians and whites, and urges the same course in dealing with the question, believing it to be the only practical remedy. He says:

"I learn from a St. Johns (Ariz.) paper that the citizens in general are determined to protect themselves, driving the Indians out by force if necessary, for they claim there is no security whatever so long as the Indians remain among them and are participants in, if not provokers of, these shooting and killing affairs."

It might prove a dangerous experiment to attempt to "round up" seven or eight thousand of these Indians and place them on the reservation with only a few weeks' notice; and aside from the mere question of expediency, it might be unfair and unjust in many cases, as, for example, where Indians have improvements of more or less value, in the enjoyment of which they have lived unmolested perhaps for many years. It would be unjust to overawe any who may be so situated by the presence of troops and compel them to abandon their homes.

Furthermore, until the system of irrigation is further advanced the entire population could not be kept on the reservation, with their almost countless flocks of sheep and goats. It is hoped, however, that in time a sufficient supply of water may be had to meet all their requirements; but such is not the case at present.

It has been suggested that the Indians might reduce the number and improve the quality of their sheep as a means of lessening their difficulties (they own 1,500,000 sheep and goats and 80,000 horses), but they declare that they can do nothing with high-grade sheep. The country is not adapted, they say, to the raising of any better grade than they now have. Some experiments have been made in that direction, but without success. The Indians will not bestow the care upon their flocks that is required in raising the better grades, and they do not like them as well for food.

All things considered, I doubt the wisdom or propriety of issuing a peremptory order requiring all nonreservation Indians to go upon their reservation, at least until the fact is clearly established that they can live there, and that they can not do until the facilities for carrying and storing water are improved.

Still, I think that an effort should be made to induce as many to remove as can be safely provided for.

A few may be in a situation to take advantage either of the homestead laws or the fourth section of the general allotment act, which latter makes provision for Indians residing on the public lands, but it would be impossible to provide for any considerable

number in that way. Ultimately the great body of them must find homes on the reservation, and the sooner they do so the better.

The Indians should be given to understand that it is the intention of the Government to place them upon their reservation as speedily as practicable, that it is the only way they can be protected, that they are bound by their own pledges (Art. IX, treaty 1868, 15 Stat. L., 667) to remove from the territory now occupied by them outside the reservation boundaries; that the Indian Department will do everything in its power to help them and put their reservation in a condition to supply their wants as regards water, so that they will improve their condition by the change, and that it is the earnest desire of the Department that they should voluntarily remove with their flocks as fast as practicable and take up homes on the reservation.

A discreet officer could do much toward allaying the bitterness which has of late existed between the Indians and settlers, and I am satisfied that a good beginning could be made toward the ultimate removal of the great body of the Indians to the reservation.

The whole subject is respectfully brought to your attention for such suggestions as you may be pleased to make thereon.

On April 9, 1887, the Secretary of the Interior, concurring in the views and suggestions set forth in the above letter, authorized and instructed this office to take the necessary steps to carry the same into effect and to assign to the duty a discreet and judicious special agent of the Indian service.

Accordingly, on June 1, 1887, Special Agent Eugene E. White was directed to proceed, upon the completion of certain duties then assigned him, without unnecessary delay, to the Navajo Agency and enter upon the work indicated. He was instructed that the great object to be attained was the voluntary removal and permanent settlement of the nonreservation Indians within the prescribed limits of their proper reservation, or as many of them as could be safely accommodated there, with their flocks and herds; that this purpose did not include the owners of extensive ranches with valuable improvements, of whom it was understood there were some, unless they preferred it themselves, for the reason that it might be ruinous to such to abandon their present location; and that they should be protected in some other manner.

His attention was called to the fact that this office had been somewhat perplexed to know how best to deal with this question; that if their vast reservation were capable of sustaining their numberless flocks and herds, it might be proper to insist that the Indians should remove to within its limits and remain there; that from reports received from those who had examined into the matter, it was manifest that such was not the case, although it was believed that with the construction of ditches, reservoirs, etc., it would afford ample and safe conditions for all. Furthermore, that the nonreservation Indians were nomadic in their habits, due largely, no doubt, to force of circumstances; that they could not keep their flocks in that arid country without frequently moving from place to place; that for these reasons and on account of the great scarcity of agricultural land no effort had been made to secure to them the benefit of the homestead laws, which otherwise might have furnished at least a partial solution of the difficulties attending their case.

It was suggested that he should confer freely with the military authorities, and, if convenient, with Governor Ross, of New Mexico, who took a deep interest in Indian affairs.

Owing to the fact that Special Agent White was unable to carry out these instructions, on account of other duties assigned him, this office on February 2, 1888, instructed him to turn over his instructions to Special Agent H. S. Welton, of this office, who was directed to examine into the matters covered by the letter of instructions to Special Agent White and to make a careful and painstaking investigation of the same.

Special Agent Welton visited the Navajo Reservation for the purpose of carrying out the instructions given, and in July, 1888, after consultation with the United States Indian agent of the Navajo Agency, called a council of the Navajos for the purpose of laying the matter of returning these Indians to their own country before them, and to allow those of them who desired to remain permanently outside to take up homes under the severalty land act. At this council there were present about 200 chiefs and representative Indians. Their proposition to the agent was that the Government should extend their reservation on the south side reaching to the railroad, 10 miles on the east side, and 10 to 15 miles on the west to the Little Colorado River; and that if such extensions were made, they would be brought within the reservation.

On July 8, 1888, he submitted his report to this office upon the condition and needs of the Navajos, more especially the nonreservation Indians, or others living outside of the reservation limits, numbering them, according to various estimates, from 7,000 to 10,000, and recommending the extension of the reservation as it then existed on the west and south sides.

He suggested in his report that fencing certain portions of the Navajo Reservation might prevent Indians from wandering across the boundary lines thereof with their flocks and herds.

Hon. Herbert Welsh, secretary of the Indian Rights Association, Philadelphia, furnished this office with a letter addressed to him by Thomas V. Keam, recommending the extension of the Navajo Reservation south 5 miles.

At or about this time, this office received a communication from A. M. Swan, secretary of the Gallup (N. Mex.) Board of Trade, protesting against the proposed extension of the reservation south, as being calculated to promote endless strife between the whites and Indians, and work serious hardship and injustice to white settlers, who, as he alleged, in large numbers were then living on the borders of the reservation.

In view of these conflicting opinions as to the extension of the Navajo Reservation, it was deemed best to refer Agent Welton's report to the United States Indian agent of the Navajo Agency for further investigation and report. Accordingly, the agent was instructed February 16, 1889, that the office desired to have his views freely expressed upon the matter referred to him, and especially upon the merits of the several propositions submitted by Agent Welton and Mr. Keam.

On March 1, 1889, United States Indian Agent Vandever, of the said agency, stated in a report to this office that he had given the subject careful consideration; that he did not deem the plan of fencing the southern line of the reservation, as suggested by Agent Welton, feasible or calculated to bring about a solution of the matter; that the cost of fencing the southern line thereof would be immense and of no practicable good for the reason that the fence would be torn down and destroyed soon thereafter; that as to the extension of the reservation he would recommend that an addition of about 10 miles on the south side thereof in Arizona and 5 miles on the west side, from the Moqui Reservation, be made for the reason that there were many Navajo Indians living on the strip indicated who had built houses thereon and otherwise improved the same.

Agent Vandever also stated that the objection to the extension of the reservation, as proposed by Special Agent Welton, was based on the fact that such an extension would entirely surround the Moqui Reservation, which would place the Moqui Indians in a precarious condition

and entirely at the mercy of the Navajos, and be the cause of continuous troubles; that on the west many white settlers had located upon the lands proposed to be embraced in the addition to the reservation by Agent Welton; that many white settlers had located along the Little Colorado River, and had been living there for years, without previous trouble with the Indians; that the extension, as suggested by himself (Vandever), would leave the coal fields and railroad some twenty or twenty-five miles from the reservation, would not in any manner interfere with the citizens of Gallup or any other white settlers, and would embrace the lands of value to the Indians.

He recommended that all the nonreservation Indians (aggregating then not more than 30 per cent of the reservation Indians) who had not settled upon the public lands with a view to acquiring title thereto, under the land laws of the United States, be ordered to return to the reservation and remain thereon, stating that in his judgment he would experience but little difficulty in getting the Indians to comply with such an order, if issued.

He also stated that there were located, about $1\frac{1}{2}$ miles from the southern line of the reservation, four or five springs which had been taken by the white settlers; that three or four Indian families had built houses and improved homes in the same vicinity; that they were continually fighting about the water; that if the reservation should be extended 10 miles south it would embrace these springs and one large one some 4 miles therefrom; and that there was no water within 10 miles of the line marked on the map indicating his proposed extension to cause white men to settle near thereto, or the Indians to leave the reservation.

Agent Vandever added that he agreed with Mr. Keam in his view of developing a water supply by opening springs and constructing dams at suitable points, and asked that there be sent there a competent engineer to accompany him (Vandever) over the reservation to locate the most suitable places for such purposes and to make a map of each location for the information of this office.

In a letter dated September 6, 1889, Agent Vandever estimated the number of Navajo Indians living off the reservation to be about 10,000, and stated that it had always been his object to try to induce the roving Navajos to return to the reservation, believing that most of them had much better be placed where their movements could be watched and where their actions could be directed when circumstances so required; that many of those who had left the reservation had settled down to farming, and after years of hard work had made for themselves comfortable homes and good farms; that these people were entirely ignorant of the existence of land laws, in consequence of which their lands had not been entered for settlement by them, their only title being that of possession; that without any apparent legal title to their possessions these Indians, when their lands became valuable, were almost constantly annoyed by avaricious white men, who thought that they saw a good opportunity for obtaining valuable property without compensation therefor; that within the month of August, 1889, a dozen Indians, at least, who had lived off the reservation for years visited him and complained of attempts of the white men to dispossess them of their land; that one of these complainants had lived on his land thirteen years, built a house thereon, had the land otherwise improved and well stocked, and that it was frequently the case that the white men tried to dispossess the Indians of their homes by violence, intimidation, or fraud.

This office has earnestly endeavored to keep the Navajo Indians (with the exception of those who have settled upon land outside of their

reservation for the purpose of taking homestead) within the limits of their reservation, and has repeatedly instructed the Navajo agent to try to induce the roving Navajos to return to their reservation.

On February 14, 1890, this office, acting upon the complaints and urgent requests of citizens in the vicinity of the reservation, as well as the recommendation above referred to of Agent Vandever, specially instructed the United States Indian agent of the Navajo Agency to adopt energetic means to keep the Indians, with the exception mentioned, within the limits of their reservation, and to return the roving Navajos to the reservation, and to explain to them that should they fail to return and continue to wander around in the vicinity of the white settlements the Government would regard such conduct as a defiance of its authority and as a rejection by the Indians of the proper measures adopted for their own good and prosperity.

In pursuance of these instructions the agent stated in his annual report, dated August 22, 1890, that he immediately set to work and sent his police to every point where an Indian could be found off the reservation; that all were notified to return at once or report immediately to him why they refused to do so; that in a very short time these nonreservation Indians commenced arriving at the agency in bands numbering from 3 to 50, and entered their protests against coming on the reservation to live; that from time to time no less than 300 Indians called upon him, each one declaring that he had lived upon his land from ten to twenty years; that it was his intention to homestead it whenever the public survey came to be extended over the same and the Government had placed within his reach the means of making an entry; that he fully explained to each Indian that he was entitled to 160 acres of land, and no more, and that he must confine his stock to his own lands. To these regulations the Indians promised to conform.

The agent expressed the opinion that if they would comply with these requirements of the law he believed that the lands on which they were settled should be surveyed immediately, and that they should have the lands allotted to them under the act of February 8, 1887 (24 Stat. L., 388).

He stated that as the matter then stood the cattlemen complained of the Indians and the Indians complained of the cattlemen, and that unless the interests of both the Indians and whites could be harmonized, or the Indians confined to their reservation, trouble would eventually ensue.

The agent further reported that much of the inherited land of the Navajos lies some distance beyond the established Navajo boundary; that these Indians have roamed and lived in these surroundings from time immemorial; that it was almost a matter of impossibility to explain to them our system of restricted land holdings; that wherever grass grows, there they think that they should be allowed to graze their sheep and horses, and that the waters beyond the reservation limits near which they then lived had been used by them for generations.

He (the agent) also reported that he had made great endeavors and all preparatory arrangements possible to bring these families, with their flocks and herds, back to the reservation; that it would require time to undertake and complete a movement of such vital importance to them, otherwise great hardship would result to them and their flocks and herds; and that even if it should be determined to bring them within the reservation, the only practical way in which it could be done would be by extending the reservation line south a sufficient distance to provide them all with lands and water.

Further information having reached this office concerning probable trouble with the Navajos, it again instructed the agent on May 22, 1891, that the nonreservation Navajos who were not bona fide settlers upon the public domain ought to be required to remove to the reservation and remain thereon.

In his annual report, dated August 31, 1891, Agent D. L. Shipley, of the Navajo Agency, stated that the Indians were gradually abandoning their old customs; that there was a marked advancement by them toward civilization; that unless some hidden or unforeseen influence swerved the Navajos from their then course, they would continue to grow better; but that much was to be feared from the encroachments of the white men upon their domain, and that he would not be surprised if in time the Nez Perces and Sioux troubles were repeated on a larger scale with the Navajos, and that it would require the very best management in the future to avoid the impending trouble.

On March 2, 1892, this office made a somewhat lengthy report to the Department upon the condition of affairs among the Navajo Indians, and recommended that a copy of the same be transmitted to the Honorable Secretary of War, in order that he might be informed of the situation of affairs among the Navajos, as viewed by this office, and in case of any serious trouble that he might be ready to furnish such military assistance as might be necessary.

Subsequently this office received, by Department reference, a report dated June 16, 1892, from United States Indian Inspector Arthur M. Tinker, wherein he stated that in pursuance of instructions contained in departmental communications of January 6, March 19, and March 25, 1892, he ascertained, among other things, that the Navajo Indians found some fault with Agent Shipley, for the reason that he had talked too much with them about returning to their reservation to live; that these people would not return to and live upon the Navajo Indian Reservation until they were forced to do so; that a large number of them had never lived upon the reservation; that they were then living where they had lived for years—upon the public domain; that they had been advised by former agents, special agents, and inspectors that they could live where they were located so long as they desired to do so, as the lands which they occupied were unsurveyed Government lands, their rights being equal, under the land laws of the United States, to those of other settlers.

Inspector Tinker also stated that from the best and most reliable information he was able to obtain he was of the opinion that from 15 to 20 per cent of the Navajo Indians lived off the reservation all the time; that during a portion of the year, it was alleged, fully one-half of the reservation Indians left the same; and that as regards the keeping of these Indians on their reservation all the time, he desired to call attention to the following facts, viz:

At this time the Navajos are self-supporting; they are all, or nearly all, herders who own large herds and flocks, and their stock is increasing all the time. I had a number of talks with several of the leading men of this tribe, regarding their return to and living upon their reservation, in which they give the following reasons why they do not remain on the reservation all the time: "A greater part of the reservation is located in the mountains which furnish good summer range in places where sufficient water can be obtained, but a very large portion of it has no water, as this reservation is poorly watered; in the winter it is very cold, and the snow falls to such a great depth that the stock can not obtain either feed or water, and they are obliged to drive their stock to the low altitude, which is generally off the reservation, as if they remain in the winter where they have been during the summer their flocks would perish from cold and lack of feed. The Indians that do not live on the reservation all the time, when the warmer weather and grass come, return, and remain until the snow drives them again to the places off the reservation."

He further stated that the water question was at that time causing all, or nearly all, the trouble between the Indians and the white cattlemen, and would continue to cause trouble until that vexed question was settled. That the Indians had been driven from many of the springs they once held by the white cattlemen under various pretexts, until at that time they did not have the amount of water they formerly had; that these Indians needed, especially if they were to be kept on their reservation, more winter range and a greater water supply; that he had advised that there was a section of country lying south and west of the reservation where there were but few, if any, white men located; that if this, upon proper investigation, should prove to be true, he would recommend that the limits of this reservation be extended as follows:

Beginning at the southern line of the present reservation at Bonita Creek; running south along Bonita Creek as far as Pueblo Grande; thence west to the Little Colorado River, following the river until it empties into the Colorado River; thence up the Colorado River until it reaches the present line of the reservation—

with the statement that this extension would give the Indians a good winter range with plenty of water and a water boundary to a portion of their reservation; and that with these additional facilities for water and range, he is of the opinion that the Navajo Indians would not leave their reservation.

The inspector stated that Agent Shipley was then of the opinion that the reservation was not large enough to accommodate the Navajos with their vast and increasing herds and flocks; that he, the agent, had at various times held councils with the nonreservation Navajos to try and induce them to return to and live upon their reservation; that Mr. Frank Walker, agency interpreter, was also of the opinion that the Indians could not live and maintain their flocks in the winter upon their reservation.

The inspector said that he knew from his own observation that the Navajos were making advances in civilization; that he could see an improvement among them since he was at the reservation in 1890; that more of them were wearing citizens' clothes than formerly; that they were rapidly discarding the old "hogan" and were building good, comfortable houses of wood and stone, making for themselves permanent homes; that during his stay at the Navajo Agency a great many Indians asked for and received from Agent Shipley lumber, doors, windows, and all kinds of building material; that they were then building between thirty and forty new houses, at different points on the reservation, and from indications many more would be erected before the season was over; that those who had houses purchased in most cases proper household furniture; that they were more provident and did not purchase so many useless articles as formerly with the money received from the sale of their wool; that quite a large number were fencing in tracts of land where water could be obtained; that they were constructing ditches and cultivating the soil; that those who had secured good locations did not move about with their stock as in the past, but were improving their location, and, like the white man, objected to other Indians trespassing upon their improvements; that as regards the Navajos going on the warpath he was inclined to think there was no immediate danger in that direction; that they certainly would not unless forced to do so by the white cattlemen and settlers; that they were well aware that they could not afford to become involved in war, as their large herds and other property would in that event be lost; that there were some renegade Indians who lived off the reservation

addicted to drinking, gambling, and stealing anything that they could find; but that the great mass of the Navajos were quiet, honest, and peaceably inclined, and would never make any trouble unless they were compelled to do so to protect their rights and property.

THE NAVAJO INDIAN RESERVATION.

The Navajo Indian Reservation embraces, as before stated, the north, eastern corner of Arizona, the adjoining northwest corner of New Mexico, and a strip of the State of Utah lying south of the San Juan River, and contains about 8,205,440 acres of land, or about 12,821 square miles.

In his annual report dated August 31, 1891, Agent D. L. Shipley, of the Navajo Agency, stated that from a careful census just then completed by the Census Bureau, the number of Navajos was found to be 16,102; of whom 9,241 were then living off the reservation, and that together they owned 9,188 head of cattle, 118,798 horses, and 1,583,754 sheep.

It thus appears that above one-half of the Navajos were then off the reservation, the reason assigned by Agent Shipley and others, as above indicated, being that there was not sufficient grass and water on the reservation to supply their numerous flocks and herds, the exact number of which was somewhat difficult to determine, for the reason that they were widely scattered.

The Navajo Reservation is an arid region of broken table-lands and sandy valleys, with a general altitude of from 6,000 to 7,000 feet, there being along the borders of Arizona and New Mexico ridges of lofty pine-covered mountains, with occasional peaks from 10,000 to 11,000 feet in height; rivers flowing through deep impassable gorges, into which the occasional summer rains are quickly carried by large channels. With the exception of the San Juan River and two or three insignificant creeks, the reservation contains no flowing stream, and of all that vast tract of country not more than one-third is available for sheep pasture because of the scarcity of water, there being, according to late Agent Vendever, "only one watering place within 100 square miles." This, he observes, is the principal reason why so many members of the Navajo tribe have left the reservation and made their homes on the Government lands adjacent to the same.

THE NONRESERVATION NAVAJOS.

The situation of the nonreservation Navajos is a peculiar one. Many of them have been forced, by a lack of grazing facilities and water supply, to leave their reservation, while others have, from choice, settled upon the public domain and endeavored to establish permanent homes thereon for themselves and families, and some, perhaps, are pursuing a nomadic life by reason of race proclivities.

The policy of the Government has tended to encourage the Indians to settle upon the public lands and acquire title to their homes under the provisions of the homestead laws, the benefits of which were first extended to them in 1875.

Under the provisions of section 15 of the act approved March 3, 1875 (18 Stat. L., p. 420), any Indian born in the United States, or who is the head of a family, or who has arrived at the age of 21 years, and has abandoned, or may hereafter abandon, his tribal relations, will, upon giving satisfactory proof of the same, be entitled, under the rules prescribed by this Department, to the benefits of the homestead act

approved May 20, 1862 (12 Stat. L., 392), and the amendments thereto, except as to the provisions of its eighth section.

By act of July 4, 1884 (23 Stat. L., 96), it was provided that any Indians then located on the public domain, or who should thereafter so locate, might avail themselves of the privileges of the homestead laws as fully and to the same extent as citizens of the United States.

Under the fourth section of the general allotment act, approved February 8, 1887 (24 Stat. L., 388), as amended by act of February 28, 1891 (26 Stat. L., 794), nonreservation Indians are entitled to make application for allotment on the surveyed or unsurveyed lands of the United States, not otherwise appropriated, under certain restrictions and conditions therein set forth.

As further showing the policy of the Government to encourage the Indians to settle upon public lands, I have to say that under the provisions of section 13 of the Sioux act, approved March 2, 1889 (25 Stat. L., 888), any Indian of the Sioux tribe possessing certain qualifications and residing upon any portion of the Sioux ceded lands when the Sioux act took effect is entitled to an allotment thereon under certain conditions, restrictions, and limitations therein named.

In this manner it is sought to break up the tribal relations of the Indians, scatter them upon the public domain, give them homes thereon and title to the lands covered thereby, merge them into our great and growing population, and thereby make them good and peaceable citizens.

The nonreservation Navajos have knowledge of the privileges afforded them under the provisions of the public land laws of the United States. Many of them have made permanent homes and locations near springs and watering places, but it appears that white settlers are crowding upon them, cutting off their ranges for pasture, and in some instances compelling them to abandon their homes.

Under existing land laws of the United States they certainly have rights upon the public domain when they have settled thereon. It is true that settlement upon unsurveyed public lands does not give the settler thereon any title as against the Government; but his right thereto is paramount to that of a subsequent settler, and he has the prior right to make entry thereof.

It would seem, therefore, to be an injustice to the bona fide Indian settler upon the public land to remove him *vi et armis* from his home and the improvements thereon to the reservation, without making suitable provision first for his needs and wants, and especially for the reason that the aggressive white man in encroaching upon his possessions.

By article 9 of the said treaty the Navajo Indians agreed to relinquish all right to occupy any territory outside of their reservation as defined by said treaty, retaining, however, the right to hunt on any contiguous unoccupied lands as long as wild game should range thereon in such numbers as to justify the chase; and by article 13 the said Indians agreed to make the reservation their permanent home, and that they would not, as a tribe, make any permanent settlement elsewhere; with the further provision and understanding that if any individual Indian or Indians should leave the reservation therein described to settle elsewhere he or they would forfeit all the rights, privileges, and annuities conferred by the terms of the said treaty of June 1, 1868 (15 Stat. L., 667).

Under a strict construction of the last-named article it would appear that the Navajo Indians who have individually left the reservation, with a view to making their homes elsewhere, have forfeited their rights and privileges thereto.

Should the bona fide Indian settler be allowed to remain upon the

public domain in that section of the country, it is questionable whether it would be good policy to make allotments of 160 acres of land to him, inasmuch as no considerable amount of stock could exist upon that quantity of land there; and this is a reason why no definite action has been taken looking to allotments in severalty to the nonreservation Navajos.

The question as to whether it would not be better, looking to the promotion of peace and harmony between the Indians and the whites and for the better government of the Indians themselves, to confine all the Navajos within a certain boundary where encroachments of the whites would be entirely prohibited, was raised and discussed in report to the Department on July 21, 1892, with the statement that the plan might be accomplished in one of two ways:

First. By extending the southern and western boundary of the reservation so as to embrace grazing facilities and water privileges adequate to the needs of all the Navajos, both reservation and nonreservation.

Second. By establishing a system of irrigation, a water supply for stock within the reservation as it then existed, sufficient for the needs of all the Indians of the tribe, including the nonreservation portion thereof.

The matter of extension and irrigation was discussed in that report by the Commissioner, as follows:

EXTENSION.

In view of the present policy of the Government to reduce rather than enlarge Indian reservations, I am decidedly opposed to any extension of the reservation whatever, except as a last resort, and then only when the necessity for such action shall have been clearly demonstrated and no other course is likely to succeed.

To further extend the reservation boundaries, already of vast proportions, would tend to encourage and perpetuate the nomadic habits of a certain portion of the tribe.

The sooner these people attach themselves permanently to some locality where they can reasonably hope to remain undisturbed in the rapid settlement of the country by the whites, the better it will be for their welfare and happiness.

Further extension of the reservation, as recommended by Inspector Tinker, would embrace therein, no doubt, many white settlers who have acquired equitable rights to their homes and who would have to be removed therefrom at, perhaps, much expense and trouble to the Government, in order to secure peace upon the reservation.

IRRIGATION AND STOCK WATER.

It would seem that instead of enlarging the now extensive reservation, the construction and maintenance of a thorough system of irrigation and the development of springs and other sources of water supply on the present reservation, and the settlement of the roving Navajos thereon and such of the bona fide settlers as may be induced to return thereto, would be the most practical solution of the question under consideration. I am satisfied, however, that it would be a difficult matter to force them upon the reservation and keep them there, even with the aid of the military, and that to do so before a proper supply of water is obtained would entail great hardships and result in the loss of much of their stock.

In his annual report dated August 9, 1889, the then Navajo agent stated that there were many valleys on the reservation where storage reservoirs could be constructed which would hold a sufficient quantity of water to thoroughly irrigate all the tillable lands in the neighborhood; that should an irrigation system be constructed the reservation should be divided into four districts for irrigating purposes, each being placed in charge of a competent farmer whose duty it should be to instruct and assist the Indians in farming; that until such a plan as this is adopted and followed irrigation on that reservation will be a failure, and that such a system in a few years would enable the Indians to take care of themselves and become independent of any assistance from the whites.

In this connection it may be proper to state that Lieutenant Stotsenburg, U. S. A., made, at the request of this office, in 1889, a reconnoissance of the Navajo Reservation, in Arizona, Utah, and New Mexico for the purpose of locating suitable and

available places for ditches and reservoirs on that reservation. His report, submitted at different times during the year 1889, contemplates the construction of or the repairing of ditches at some nine or ten points on the reservation. He submitted estimates for five points in Arizona, including the agency at Fort Defiance, and one place in New Mexico.

The agent in reporting upon these plans and estimates, under date of February 8, 1890, concurred in the recommendation of Lieutenant Stotsenburg, except as to the expenditure of \$6,934.65 for a supply of water at the agency headquarters, stating that he believed the money could be spent to a better advantage in providing a never-failing supply of water for irrigation purposes and for the watering of stock during the dry season. He (the agent) also estimated for an expenditure of \$300 at a spring 30 miles east of Keams Canyon, apparently undiscovered by Lieutenant Stotsenburg.

There was then available for the purpose of constructing irrigating ditches, building dams and storage reservoirs, walling up and inclosing springs, purchasing and erecting pumps, windmills, etc., about \$20,000, to which reference will hereinafter be made.

I deem it proper here to refer to the statement and recommendation of Brig. Gen. A. McD. McCook, U. S. A., then commanding the Department of Arizona, as pertinent to this matter.

On June 16, 1892, General McCook addressed a letter to this office in reference to the condition of affairs at the Navajo Reservation, and submitted for the consideration of this office recommendations based upon what he deemed an immediate necessity, with a view to settling the difference between the Navajos and the whites upon the western, southern, and eastern borders of said reservation, with the statement that it was reported by the Navajo agent that 9,000 of these Indians were without the limits of the reservation from necessity; that they had large herds and flocks; that there was no water or grass within the official limits of the reservation to maintain them and give sufficient water even for limited agriculture to the 18,000 Indians said to constitute the Navajo Nation.

The general's recommendation for a quick solution of this question was a division of the Navajo Reservation into six or eight districts; that as many engineering parties should be sent into the reservation, each party being assigned to a district, to make a survey and a contour map of the district of country assigned to it, and to make an early report to this office as to where artesian wells might be placed, where bore wells worked by windmills might be placed, or where points in canyons or mountains might be selected with a view of constructing storage reservoirs for this purpose; that if this surveying and mapping could not be done otherwise, if approved by the War Department, it would afford him great pleasure to detail young and efficient officers in the Army to take charge of these different surveys, each survey being conducted on the same scale, so that a proper and correct map could be made of the 12,000 square miles which constitute the Navajo Reservation; and that if this method were not approved by the Departments of the Interior and War, the reservation line should be extended westward to the Little Colorado River and continue along that river to the Utah line.

The General added that it would, in his judgment, be inhumane to drive the Navajo Indians with their large flocks back to the Navajo Reservation as it was then; that should the results of these surveys warrant the same, with slight expense wells could be bored and water developed to such an extent on this reservation as to justify this Department in requiring the Navajos, then living outside on the public lands, to confine themselves and their flocks and herds within the limits of the reservation then possessed by them.

The Commissioner of Indian Affairs, Hon. T. J. Morgan, visited the Navajo Reservation in the fall of 1890 and had a conference with these people at Fort Defiance, at which the leading men among them plead with him most earnestly for an extension of the limits of their reservation, for the reason, as they asserted, that their reservation did not furnish food and water for their herds and flocks. The Commissioner was of the opinion that the testimony of all parties acquainted with the situation was agreed on this point, so that it should be accepted as established and that it constituted the pivotal point in this entire matter.

In a report to the Department upon the Navajo situation, under date of July 21, 1892, General Morgan, then Commissioner of Indian Affairs, made the following statements, among other things:

The Navajos must live, and they must be allowed the use of such land as will furnish them a support. They are now self-supporting, and nothing should be done which will take from them their means of livelihood and reduce them to the necessity of being supported by the Government. The most practical scheme that presents itself to my mind for relieving the situation is the development of water by means of common wells, artesian wells, storage reservoirs, and irrigating ditches. There seems to be a general opinion on the part of those who have traversed the reservation that this is a feasible scheme; it appeared so to me from what I saw on my journey across from Gallup to Keams Canyon and back. * * * Such a system of water development will necessarily be somewhat expensive, and should be undertaken only after careful deliberation and upon the most trustworthy and scientific information. * * *

General McCook said to me that he would be very glad, both by reason of his interest in the Navajo Indians and his desire to promote their prosperity and to induce them to return and remain permanently upon their reservation and thus preserve the peace between them and their white neighbors, as well as for the purpose of detailing young officers and giving them an opportunity of doing good work, and also for the purpose of making a display to the Navajos on all parts of their reservation of a military force that he would be glad to district the Navajo country into suitable portions, and to detail from that portion of the work under his control proper officers with suitable accompaniments to thoroughly inspect the entire region, make a contour of it, and submit a detailed report, touching on those questions which are essential before entering upon any scheme for the development of water for supplying their flocks and herds.

If, therefore, this scheme is feasible and desirable to you, I would respectfully recommend that the plan suggested by General McCook be carried into execution, and that the matter be laid before the President with a request that he give the necessary orders therefor.

I beg leave to ask your attention to the fact that the Senate, by resolution, has instructed its Committee on Indian Affairs to investigate Indian matters and to visit such Indian agencies as they may think best. I would be glad if the statements here made regarding the Navajos could be laid before the Senate committee, for the information of its members, thinking that possibly with this statement of facts before them they might think it worth while to send at least a subcommittee to the Navajo Reservation to make such inquiry as would enable them to have a personal knowledge of the situation. Nothing, of course, can be done in the matter finally without Congressional action appropriating a sufficient amount of money to carry out whatever scheme may be finally recommended by this office. A personal knowledge of the situation by members of the Senate committee would undoubtedly facilitate the legislation which will be necessary in the future.

This office made the following recommendations pertaining to the Navajo Reservation to the Department July 30, 1890, and suggested that the President give the necessary instructions to carry the same into effect:

First. That the Navajo Reservation be divided, under the direction of the general commanding the Department of Arizona, into as many districts as he may in his judgment deem expedient, for the purpose of making a survey and contour map thereof, with a view to establishing a system of irrigation and developing a water supply thereon sufficient for the needs of all the Navajos, together with their flocks and herds.

Second. That as many officers of proper rank, the number to be designated by the

commanding general, be detailed from the Army, and one assigned to each of such districts, to make a preliminary topographical survey thereof, and to prepare from the results of such survey a contour or topographical map, all upon the same scale and of similar character, so that a proper and correct map can be made of that large reservation.

Third. That the survey be made also with a view to establishing and maintaining a system of irrigation and developing a stock water supply sufficient for the Navajo Indians, in all, some 16,000 or 18,000, and that the irrigating ditches, or canals, dams, laterals, etc., necessary for irrigation purposes, and the lands to be irrigated therefrom, be indicated on the proposed maps, together with the available and suitable places for artesian wells, bore wells to be worked by windmills, points in canyons or mountains where storage reservoirs may be constructed, or where springs or other sources of water supply may be developed.

Fourth. That an estimate of the cost of constructing the proposed ditches, dams, laterals, flumes, etc., necessary for irrigation purposes be submitted in detail; that an estimate of the annual cost of maintaining and repairing the same be also submitted; and that the estimate of the cost of each artesian well, storage reservoir, etc., including machinery and appliances, be also submitted.

Fifth. That a full and complete report be made upon the question of the feasibility of constructing and maintaining a proper system of irrigation upon the Navajo Reservation, and of providing a suitable supply of water to meet the wants of all the Navajos now there and of those to be removed thither, the report to contain, also, any other information or plans necessary to put into successful operation the system proposed.

December 20, 1892, the War Department informed this Department that the surveys had been made as recommended, and transmitted the original reports of the Army officers detailed for the work. The matter was referred to this office for its consideration and report. February 10, 1893, this office recommended to the Department that Congress be asked to appropriate \$64,000 for the purpose of developing a water supply and a system of irrigation on the Navajo Reservation sufficient to meet the actual and immediate needs and wants of the Navajo Indians, upon the general plan submitted by the military officers. February 14, 1893, said office report, together with the reports of the officers referred to and accompanying documents and maps, was transmitted by the President to Congress. (See Senate Ex. Doc. No. 68, Fifty-second Congress, second session.)

Congress appropriated, by a clause contained in the Indian appropriation act approved March 3, 1893 (27 Stat. L., 612), \$40,000 for the construction of irrigating ditches and the development of a water supply for agricultural, stock, and domestic purposes on the Navajo Reservation. This sum, together with the amount—about \$20,000—then available on the books of this office, appropriated at various times by Congress for the same purpose, would, it was thought, enable the Department to develop a sufficient water supply and establish a system of irrigation on that reservation which would warrant the return thereto of roving Navajos and the restraining of those who are in the habit of going beyond its limits to secure water and grass for their flocks and herds. This alone seemed to be the proper solution of the vexed Navajo question.

Recommendation was soon made to the Department for the appointment of some suitable and competent man to superintend the work proposed.

On March 10, 1894, a superintendent of irrigation on the Navajo Reservation was appointed, and on the 21st of that month instructions for his guidance were issued. He soon thereafter entered upon the discharge of the duties assigned him. The work has been in progress since that date, but not at all times with the success and economy desired. It has not as yet reached that stage or degree of completion to determine whether or not there is water sufficient upon the reservation to justify the return of the nonreservation Navajos thereto.

CONCLUSION.

From the foregoing recital it will be seen that the Navajo situation is one of difficulty and perplexity, and that it stands ever threatening the public peace. The tribe is a powerful one, owning numerous flocks of sheep and goats and herds of horses. To remove them to the reservation would require the aid of the military and its continued presence to keep them thereon; and to force them and their stock upon the reservation without sufficient water and grass for the latter would be cruel, unjust, and inhuman. Their stock would perish for want of food and water, and the Indians themselves, who are now self-supporting, would be reduced to want and suffering and to the necessity of support at public expense to save them from starvation.

I deem it wise and best to continue the present plan of developing a water supply and constructing irrigating ditches until it can be determined whether water enough can be had to supply their needs and the reservation rendered capable of sustaining these Indians and their stock. To continue the prosecution of this plan will require further appropriation by Congress, and the sum should be sufficient to enable the Department to enlarge and extend the present system, say, not less than \$25,000 for the next fiscal year.

With this recital and discussion of the matter, I return herewith the said resolution, and inclose a copy of this report.

Very respectfully, your obedient servant,

THOS. P. SMITH,
Acting Commissioner.

The Honorable the SECRETARY OF THE INTERIOR.