

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

2-8-1895

Letter from the Acting Secretary of the Interior, in response to Senate resolution of December 13, 1894, transmitting information concerning the survey of the Klamath Indian Reservation, in Oregon, etc.

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. 62, 53rd Cong., 3rd Sess. (1895)

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.

LETTER

FROM

THE ACTING SECRETARY OF THE INTERIOR,

IN RESPONSE TO

Senate resolution of December 13, 1894, transmitting information concerning the survey of the Klamath Indian Reservation, in Oregon, etc.

FEBRUARY 9, 1895.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,

Washington, February 8, 1895.

SIR: I have the honor to acknowledge the receipt of the following resolution of the Senate, dated December 13 last:

Resolved, That the Secretary of the Interior be, and he is hereby, directed to furnish to the Senate, as soon as possible, a copy of the report of the Commissioner of the General Land Office dated April eighth, eighteen hundred and seventy-eight, to the Secretary of the Interior; a copy of the testimony accompanying report of Agent Joseph Emery, dated June sixth, eighteen hundred and eighty-seven, to the Commissioner of Indian Affairs; and copies of any other reports, papers, or correspondence in the records or files of the Department of the Interior or the Bureaus thereof concerning the accuracy of the survey of the boundary lines of the Klamath Indian Reservation, in the State of Oregon, not furnished with the response made to the resolution of the Senate of May twenty-first, eighteen hundred and ninety-four, contained in Senate Executive Document Numbered One hundred and twenty-nine, Fifty-third Congress, second session; also a careful estimate of the quantity of land lying between the boundaries of the said reservation, as surveyed under the direction of the Commissioner of the General Land Office, and the treaty boundaries thereof as claimed by the Indians and marked upon the tracing or diagram furnished by the Commissioner of Indian Affairs, and now on file in the General Land Office, a copy of which is contained in said Senate executive document.

In response thereto I transmit herewith copy of a report of the Commissioner of Indian Affairs, dated December 24, 1894, and of report dated 5th instant, from the Commissioner of the General Land Office, with accompanying papers.

Very respectfully,

WM. H. SIMS, *Acting Secretary.*

The PRESIDENT OF THE SENATE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 24, 1894.

SIR: I have the honor to acknowledge the receipt, by Department reference for report, of the following resolution of the Senate, adopted December 13, 1894:

Resolved, That the Secretary of the Interior be, and he is hereby, directed to furnish to the Senate, as soon as possible, a copy of the Report of the Commissioner of the General Land Office, dated April eighth, eighteen hundred and seventy-eight, to the Secretary of the Interior; a copy of the testimony accompanying report of Agent Joseph Emery, dated June sixth, eighteen hundred and eighty-seven, to the Commissioner of Indian Affairs, and copies of any other reports, papers, or correspondence in the records or files of the Department of the Interior, or the bureaus thereof, concerning the accuracy of the survey of the boundary lines of the Klamath Indian Reservation, in the State of Oregon, not furnished with the response made to the resolution of the Senate of May twenty-first, eighteen hundred and ninety-four, contained in Senate Executive Document numbered one hundred and twenty-nine, Fifty-third Congress, second session; also a careful estimate of the quantity of land lying between the boundaries of the said reservation, as surveyed under the direction of the Commissioner of the General Land Office, and the treaty boundaries thereof, as claimed by the Indians, and marked upon the tracing or diagram furnished by the Commissioner of Indian Affairs, and now on file in the General Land Office, a copy of which is contained in said Senate Executive Document.

In reporting upon this resolution, I have the honor to state that under date of April 15, 1878, the Secretary of the Interior furnished this office with a copy of the report of the Commissioner of the General Land Office of April 8, 1878, but so far as I can ascertain the original has never been in the possession of this office, and therefore there is no means of verifying said copy.

It is suggested that the Senate should be furnished with a copy made from the original.

The testimony accompanying Agent Emery's report of June 6, 1887, was transmitted to the Department under date of August 3, 1887, and has not been returned.

As it is stated in the Senate resolution that the map from which an estimate of the lands claimed by the Indians is desired is on file in the General Land Office, it is suggested that the resolution be referred to that office for such estimate.

I do not find any further reports, papers, or correspondence in the records or files of this office concerning the accuracy of the survey of the boundary lines of the Klamath Reservation.

Very respectfully, your obedient servant,

D. M. BROWNING, *Commissioner*.

THE SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., February 5, 1895.

SIR: I have the honor to acknowledge the receipt by departmental reference of a resolution of the Senate, dated December 13, 1894, which reads as follows:

Resolved, That the Secretary of the Interior be, and he is hereby, directed to furnish to the Senate as soon as possible a copy of the report of the Commissioner of the General Land Office, dated April eighth, eighteen hundred and seventy-eight, to the Secretary of the Interior; a copy of the testimony accompanying report of Agent Joseph Emery, dated June sixth, eighteen hundred and eighty-seven, to the

Commissioner of Indian Affairs, and copies of any other reports, papers, or correspondence in the records or files of the Department of the Interior, or the bureaus thereof concerning the accuracy of the survey of the boundary lines of the Klamath Indian Reservation, in the State of Oregon, not furnished with the response made to the resolution of the Senate of May twenty-first, eighteen hundred and ninety-four, contained in Senate Executive Document Numbered One hundred and twenty-nine, Fifty-third Congress, second session; also a careful estimate of the quantity of land lying between the boundaries of the said reservation, as surveyed under the direction of the Commissioner of the General Land Office, and the treaty boundaries thereof, as claimed by the Indians, and marked upon the tracing or diagram furnished by the Commissioner of Indian Affairs, and now on file in the General Land Office, a copy of which is contained in said Senate executive document.

In compliance with the requirements of this resolution, I have the honor to inclose a copy of the report of the Commissioner of the General Land Office to the Secretary of the Interior, dated April 8, 1878. The papers enumerated therein were returned to the Department with the report. Also, copy of Department letter, dated August 6, 1887, and its inclosures, consisting of a letter from the Commissioner of Indian Affairs, dated July 30, 1887 (to make the record complete and correct error in date), and copy of "testimony accompanying report of Agent Joseph Emery, dated June 6 (16), 1887," to the Commissioner of Indian Affairs.

Referring to the last clause of the resolution, I have the honor to report that "a careful estimate of the quantity of land lying between the boundaries of the said reservation, as surveyed under the direction of the Commissioner of the General Land Office and the treaty boundaries thereof, as claimed by the Indians and marked upon the tracing or diagram furnished by the Commissioner of Indian Affairs, and now on file in the General Land Office, a copy of which is contained in said Senate Executive Document," results in making said quantity of land 909,990 acres; also, the corresponding area, limited on the north by the red line marked "Take this for the north line," is 724,608 acres.

In this connection, and referring to the last clause of the resolution, quoted above, it seems proper to remark that the diagram therein referred to was compiled from the third and fourth diagrams contained in the Senate executive document, and is a compromise line lying between those shown on said diagrams; that it does not represent any boundary claimed by the Indians, and that no copy thereof is on file in this office.

In separate package is transmitted a tracing (No. 2) from the "Map of the exterior boundaries of the Klamath Indian Reservation," surveyed in 1871, which will be referred to further on.

To supply the information "concerning the accuracy of the survey of the boundary lines of the Klamath Indian Reservation, in the State of Oregon," etc., to correct errors in diagrams, and to present a connected graphical showing of all available and reliable data map No. 1 has been prepared, and is transmitted in separate package.

REMARKS ON MAP NO. 1 AND THE BOUNDARIES.

This map exhibits the reservation boundaries, and data within them in black, traced from the map of survey made in 1887; and, to the tracing thus prepared, have been added the drainage in blue, and the mountain system in black, of some fifty full or fractional townships, compiled and reduced from official township plats, to the scale of the map. The data taken from other reliable sources, such as field notes of public surveys, Klamath and Ashland Sheets of Geological Survey, and Exploring Expedition to Oregon, in 1843, are shown in red.

The route of Fremont's exploring party has been laid down from his original map, and the narrative of his journey through this region may be consulted for information in regard to the character of the country, soil, timber, mountains, etc., all of which will be found in his report, Senate Ex. Doc. No. 174, Twenty eighth Congress, second session (p. 203, December 9). Figures in red along the route refer to the dates (December, 1843) on which the camps were made.

The red figures in parentheses on map No. 1 are taken from the Klamath and Ashland sheets of the Geological Survey (copies herewith), and express altitudes above sea level. These surveys are limited on the north and east, respectively, by the parallel of 43° of latitude and 121° of longitude, beyond which the geological surveys have not been extended north and east. The heavy dotted red line running southwardly from the mountain in the northwest quarter of T. 28 S., R. 12 E., to Yamsay Peak, and thence eastwardly to Winter Ridge, marks the ridge or divide from which flow the waters southwesterly through the several channels into Klamath Lake and northeasterly into Paulina or Silver Lake.

ISH-TISH-EA-WAX CREEK.

The mouth of this stream or its junction with the south fork of Sprague River, being referred to in the treaty of 1864 as "the point where Sprague River is intersected by the Ish-tish-ea-wax Creek," the true location of said point is a matter of prime importance.

The deputy surveyor, in 1871, writes in the field notes of his one hundred and fourteenth mile:

At 2.50 chains Sprague River, at the intersection of Ish-tish-ea-wax Creek, 75 links wide, runs west.

At the end of his notes the deputy says:

In making the treaty with the Indians and defining the boundary of the reservation from the best information I can obtain much of the information in regard to the country was either obtained from the Indians or from the top of some mountain, hence the description of the boundary is in many places very imperfect and can not be strictly followed, but running these lines I have endeavored to conform as near as possible to the description as furnished me, and availed myself of the best information to be had in regard to the points named.

Whenever it has been possible to do so without materially changing the line from that described in my instructions I have run the line on the line of the public surveys, thereby avoiding as much as possible making a fractional section.

On Map No. 2 the surveyor-general for Oregon represents the Ish-tish-ea-wax Creek as flowing west southwest into Sprague River on the reservation boundary. The plat of T. 36 S., R. 14 E., which had been five years in his office, is correctly reproduced on a smaller scale on Map No. 1, and exhibits the stream represented on No. 2 as "Ish-tish-ea-wax Creek," named "South Fork of Sprague River." This South Fork and the "Middle Fork of Sprague River" are the only streams named on the official plats of townships in the three ranges adjoining the surveyed east boundary of the reservation south of latitude 43° .

In the field notes of the resurvey of the reservation boundaries, executed in 1887, the deputy does not mention the "Ish-tish-ea-wax Creek" when he crosses Sprague River, which he finds 120 links wide, but in his "General description" writes, in part, as follows:

The Ish-tish-ea-wax Creek, mentioned in the treaty, is about 3 miles farther east, contained no water at the time of the survey, and runs through a low, rolling country.

The stream to which, without authority, the surveyor-general for Oregon attached the name "Ish-tish-ea-wax Creek" flows south and empties into the South Fork of Sprague River on the north side. This erroneous compilation of the plat of T. 36 S., R. 14 E., subdivided in 1886, is retained on the first diagram with Senate Ex. Doc. 129, Fifty-third Congress, second session, and emphasized by making the mouth of said creek (Fritz Creek) a point of the treaty boundary.

Two small streams, designated A and B on map No. 1, rise in the mountains lying southeast, flow northwardly nearly parallel to each other, and enter the South Fork of Sprague River, the former (A) about 3 miles, and the latter (B) about $8\frac{1}{2}$ miles, as the crow flies (probably nearly 10 miles by the river), from the intersection of the surveyed reservation boundary with Sprague River. The comparative size of these and other creeks in this region may be inferred from their widths expressed in links in black figures along the streams (one link is equal to 8 inches, nearly). On the official plats the two streams under consideration are represented as ending a mile or more from the South Fork. Subdivision of the townships was made in the month of September, when water was low. In the spring, water from melting snow in the mountains would be more plentiful and the creeks would probably then run full to their mouths. Their general courses, resulting from the assumed conditions, are indicated by dotted red lines.

Combining all the testimony from official plats, field notes, the Klamath sheet, affidavits of Indians, etc., this office concludes that the stream marked B is the Ish-tish-ea-wax Creek of the treaty, and that the mouth of said creek in section 8, T. 37 S., R. 15 E., is a point in treaty boundary line, for the following reasons:

The mouth of the creek is about 10 miles from the intersection of the surveyed reservation boundary with Sprague River.

Of the two streams A and B, the latter is nearest the base of the mountains.

The mouth of the creek B is just below the point where the military road crosses the South Fork of Sprague River, a definite and fixed point, easily found and identified.

According to the township plat, an Indian trail leads from the reservation to the creek B and ends there, presumably for a purpose.

WINTER RIDGE.

On a map of the Department of the Columbia (second edition, revised, 1885) a range of mountains is represented as crossing in a north-north-east direction the forty-third parallel of latitude at a point $17\frac{1}{2}$ miles west of Bald Butte, and is marked "Winter Ridge." The south point of the ridge embraces Little Yamsay Mountain and the mountains lying 6 miles east of it, and is evidently intended to represent the ridge indicated on Map No. 1 by the heavy dotted red lines extending north from Yamsay Mountain. This office is unable to state any reasons for this erroneous representation. The true Winter Ridge, which lies immediately west of Summer Lake, was named by Fremont more than half a century ago (see his report, p. 207, December 16).

Winter Ridge is the only continuous ridge that extends in a southerly direction to the intersection of the Ish-tish-ea-wax Creek with a tributary of Sprague River.

The ridge running south from Yamsay Peak or Mountain must, as a matter of course, end when it reaches the valley of either Sycan or Sprague River.

BALD BUTTE AND OTHER MOUNTAINS.

Bald Butte, in the southeast quarter of T. 29 S., R. 14 E., and north by east from Sycan Marsh, is referred to and described in the field notes as "a high bald mountain." The Butte, represented on the plat with a base covering nearly 4 square miles, situated in a flat, timbered country, its bare summit is necessarily a prominent and conspicuous landmark. For the above and other reasons "Bald Butte" is here assumed to be identical with the "Ba-Ha" of the Indians.

According to the subdivisinal field notes the mountain in the northwest quarter of T. 28 S., R. 12 E., is elevated about 1,300 feet above the rolling eastern part of the township, and is consequently a prominent landmark. For this reason, and on account of its position relative to other peaks, to Klamath Marsh, and to other topographical features referred to in the testimony of the Indians, the mountain in question is considered identical with the "Tsne-whels-sto-e-los" of the Indians. This mountain is not a sharp peak.

The sharp top mountain "Chok-chok-lisk-se" must be located in Winter Ridge, for reasons already stated; and south of it, in the same ridge, must be located "Woo-tok-sic-los" or "Wol-lok-se-klus." Exactly where this rock is located is a matter of little or no importance, provided it is placed somewhere in Winter Ridge, and between "Chok-chok-lisk-se" and "Ish-tish-ea-wax Creek."

THE TREATY BOUNDARY AS UNDERSTOOD BY THE INDIANS AND LAID DOWN ON MAP No. 1 BY THE GENERAL LAND OFFICE.

For want of observed and recorded directions, from Yainax Butte to the several peaks bearing Indian names, referred to in the testimony, and the absence of all reference to their names and positions on the rude sketches prepared and submitted by Indian agents, the complete identification of said mountains is made almost impossible; but, this office suggests, on Map No. 1, two possible boundaries for consideration by the authority which may interpret the testimony submitted with this report, one of which possibly may be found to represent the Indians' understanding of the treaty.

The boundary, starting from the initial point on the eastern shore of Klamath Lake, 12 miles below the mouth of Williamson River, thence following the natural boundary to the point 1 mile north of the bridge at Fort Klamath, presents no difficulty. The proper location of the northwest corner of the reservation is now the important question. From the point 1 mile north of the bridge the line runs east to highest point of the ridge; thence up the ridge to Dutton Point, near the southern shore of Crater Lake; thence along the high ridges of a spur of the Cascade Mountains to Cowhorn Mountain. Nothing is known of the physical character of this mountain with absolute certainty. From the fact that Fremont mentions beds of pumice stone on the line of his march, and field notes of the public surveys 7 or 8 miles east of the mountain describe corners of basalt stone and mentions lava, all volcanic products, it is inferred that the mountain is an extinct volcano, which stands in an unsurveyed and even unexplored region. The position on the map is located approximately by triangulation from the surveyed reservation boundary; and, situated as the mountain is, nearly due west from the mountain in T. 28 S., R. 12 E., Cowhorn Mountain is assumed to be the "Bal-la-wisk-se" of the Indians; thence the boundary runs as marked by the heavy full red line to "Chok-chok-lisk-se," the northeast corner of the reservation; then turning "south and a little

east" it follows Winter Ridge, east of the headwaters of all streams flowing into Sprague River, and down the ridge to "Ish-tish-ea-wax Creek;" thence to We-lye and along the well-defined continuous ridge forming the south boundary of the reservation to Kal-wal, the initial point (see Klamath sheet).

The area between the boundary thus defined and the surveyed boundary of the reservation is 682,240 acres.

In case the testimony is not deemed sufficiently definite to identify Cowhorn Mountain as the northwest corner of the reservation and the "Bal-la-wisk-se" of the Indians, consider Dutton Point, which is a high peak "near Mount Scott" (about $3\frac{1}{2}$ miles distant), and "a mountain with deep canyons and dry;" and, consequently, answers well to the description of "Bal-la-wisk-se."

Looking east from this elevated station Yamsay Peak, or "Tsne-whels-sto-e-los (?)" (which, with the exception of Mount Scott, is the highest peak within the reservation), would be seen looming up east and elevated nearly 3,700 feet above Klamath Marsh; the round butte, "Ba-ha (?)," northeast of and full 1,200 feet above Sycan Marsh, would appear just to the right of Yamsay Peak, while in the distance, and nearly in line, the sharp peak of "Chok-chok-lisk-se" might be seen in Winter Ridge, marking the northeast corner of the reservation.

The four mountain peaks last mentioned, all conspicuous landmarks, may be regarded as marking the north boundary of the reservation, which is represented on map No. 1 by a fine red dotted line to Yamsay Peak or Mountain. The line runs east nearly to Klamath Marsh, thence northeasterly to the north point of the marsh, thence on a straight line, regardless of drainage and ridges, to the summit of Yamsay Peak, and, thence with the main ridge or divide to the northeast corner in Winter Ridge. From said northeast corner the boundary runs nearly south and follows the full red line to Dutton Point. This boundary would seem to satisfy the claims of the Indians.

The area between the boundary thus determined and the surveyed reservation boundary is 159,520 acres.

If, according to the wording of the treaty, the west boundary is continued north from top of ridge near Fort Klamath (D), the northwest corner would fall at E; thence it could run east to F, and thence on the ridge or divide herein described.

The foregoing describes and map No. 1 illustrates the first attempt made to lay down the reservation boundary on paper in a systematic manner and in accordance with treaty stipulations.

A schedule of the papers forwarded with this report is inclosed, and Senate resolution adopted December 13, 1894, and the accompanying papers are herewith returned.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

The SECRETARY OF THE INTERIOR.

A.

Schedule of papers transmitted with letter of Commissioner of the General Land Office, dated February 5, 1895, reporting upon Senate resolution adopted December 13, 1894.

A.—This schedule.

B.—Copy of letter from Commissioner of Indian Affairs, dated February 16, 1871; recommends survey of the Klamath Indian Reservation.

C.—Copy of letter from Secretary of the Interior, dated February 18, 1871, transmitting report of Commissioner of Indian Affairs relative to survey of Klamath Indian Reservation.

- D.—Copy of letter from Commissioner of the General Land Office, dated February 27, 1871; directs surveyor-general to make surveys of Klamath Indian Reservation.
- E.—Copy of letter from the Commissioner of the General Land Office, dated May 19, 1871; gives directions for surveys, etc.
- F.—Copy of letter from Commissioner of the General Land Office, dated May 25, 1871; approves contract No. 140, etc.
- G.—Copy of letter from surveyor-general for Oregon, dated May 31, 1871; transmits instructions for contract No. 145, states he will make instructions for Klamath surveys to the same effect. The latter instructions can not be found.
- H.—Copy of letter from Secretary, dated October 16, 1886; transmits letter of Commissioner of Indian Affairs, dated October 15, 1886.
- I.—Copy of report of Commissioner (G. L. O.), dated April 8, 1878.
- J.—Copy of letter from Commissioner of Indian Affairs, dated October 15, 1886.
- 1.—Copy of letter from Secretary, dated August 6, 1887; incloses copy of letter from Commissioner of Indian Affairs, etc., and directs recommendations therein be carried into effect.
- 2.—Copy of letter from Commissioner of Indian Affairs dated July 30, 1887, transmitting Agent Emery's report and testimony, numbered and enumerated as follows:
 (Agent Emery's report not with these papers. See copy in Senate Ex. Doc. 129, Fifty-third Congress, second session.)
- 4.—Testimony of Charles Preston.
- 5.—Superintendent Huntington's sketch.
- 6.—Agent Emery's sketch.
- 7.—Testimony of Allen David, chief, and one of the signers of the treaty.
- 8.—Testimony of George Mercer, surveyor of 1871.
- 9.—Testimony of L. B. Applegate.
- 10.—Testimony of Mo-ghen-kas-kit, one of the signers of the treaty.
- 11.—Testimony of Hon. R. P. Earhart.
- 12.—Testimony of O. C. Applegate.
- 13.—Supplemental testimony of Charles Preston.
- 14.—Testimony of I. D. Applegate.
- 15.—Testimony of J. M. McCall.
- 16.—Testimony of Henry Blow, chief, and one of the signers of the treaty.
- 17.—Testimony of Lindsay Applegate, agent from 1886 to 1889.
- Map No. 1, of Klamath Indian Reservation and adjoining region.
- Map No. 2, of first survey of reservation boundaries.
- Geological Survey maps; Klamath and Ashland sheets, Oregon.

B.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
 Washington, D. C., February 16, 1871.

SIR: I have the honor to recommend that the Commissioner of the General Land Office be directed to have the following surveys of Indian reservations in Oregon made to the extent of the amount mentioned in each case, to be paid out of the \$444,480 set apart by the Indian appropriation bill approved July 15, 1870, for surveying Indian reservations, viz:

"Klamath Reservation, as per sixth article of the treaty concluded October 14, 1864 (proclaimed February 17, 1870), with the Klamath and Modoc tribes and Yahooskin band of Snake Indians, \$4,000; total, \$13,000."

These surveys are recommended by the superintendent of Indian affairs for Oregon, and are believed to be necessary to secure the Indians in the possession of the land cultivated by them.

Should you approve said surveys I respectfully request that the Commissioner of the General Land Office be instructed to direct the surveyors to survey such lands as the Indian agent in charge may designate, and that this office be informed of such approval in order that the proper instructions may be given to the agents.

Very respectfully, your obedient servant,

E. S. PARKER, *Commissioner.*

HON. C. DELANO,
Secretary of the Interior.

C.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., February 18, 1871.

SIR: I transmit herewith a report dated the 16th instant, from the Commissioner of Indian Affairs, recommending the survey of certain Indian reservations in Oregon, in accordance with treaty stipulations therein indicated, and you are hereby directed to cause said surveys to be made to the extent proposed by the Commissioner, and inform that officer of the action taken by you in the premises.

I have the honor to be, very respectfully, etc.,

C. DELANO, *Secretary.*

The COMMISSIONER OF THE GENERAL LAND OFFICE.

D.

DEPARTMENT OF THE INTERIOR,
General Land Office, February 27, 1871.

SIR: By direction of the honorable Secretary of the Interior, dated the 18th instant, that I cause the following surveys of Indian reservations in Oregon to be made, payable out of the \$444,480 appropriated by Congress July 15, 1870, "for surveying Indian reservations, etc.," I have to instruct you to have them surveyed to the extent of the amounts hereinafter mentioned in each case, to wit:

* * * * *

"(4) Klamath Reservation, as per sixth article of the treaty concluded October 14, 1864 (proclaimed February 17, 1870), with the Klamath and Moadoc tribes and Yahooskin band of Snake Indians, \$4,000."

The foregoing surveys are deemed necessary to secure the respective Indians in the possession of the lands cultivated by them. You are, therefore, hereby directed to have the same surveyed, or such lands as the Indian agents in charge may designate, in accordance with special instructions from the Commissioner of Indian Affairs, who has this day been requested to cause the respective agents to furnish you the necessary data to enable you to enter into contracts for the special service at the per mileage allowed by law for the survey of the public lands in the State of Oregon.

You are requested to acknowledge the receipt of this at your earliest convenience.

I am, very respectfully, your obedient servant,

WILLIS DRUMMOND, *Commissioner.*

WM. H. ODELL, Esq.,
Surveyor-General, Eugene City, Oreg.

E.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., May 19, 1871.

SIR: I am in receipt of your letter of the 1st instant, transmitting contract and bond No. 145, dated April 23, 1871, made with Zenas F. Moody, deputy surveyor for the survey of a portion of the Umatilla Indian Reservation in Oregon, accompanied by special instructions to the deputy and copy of a letter addressed to you by the superintendent of Indian affairs for Oregon, stating that the agent at the reservation had been instructed to furnish to the deputy any desired information in regard to the reservation.

The said contract does not provide for the survey of the outboundaries of the reservation, which this office deems essential in order to properly segregate the reserved lands from the public lands, and to prevent any encroachments by settlers.

You are therefore hereby directed to instruct the contracting deputy to survey and mark with conspicuous mile posts the outboundaries of the said Umatilla Reservation, in accordance with the description thereof in the first article of the treaty of June 9, 1855 (Stat., vol. 12, p. 946), in case the superintendent of Indian affairs deems the same necessary, and thereafter the residue of the sum set apart for said survey may be applied to the subdivision of such portions of the reservation as the Indian agent may deem most needed.

The compensation of the deputy for surveying and marking said outboundaries will be at the rate of \$15 per mile.

In this connection I have to call your attention to our letter to your predecessor dated May 28, 1867, relative to the limits to the above-mentioned reservation and correction of fractional lots adjoining Wild Horse Creek.

You will forward a copy of the additional instructions to this office for approval. The said contract having been found otherwise unobjectionable, has this day been approved and placed on the files of this office.

Very respectfully,

W. W. CURTIS, *Acting Commissioner.*

WM. H. ODELL, Esq.,
Surveyor-General, Eugene City, Oreg.

F.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., May 25, 1871.

SIR: I am in receipt of your letter of the 8th instant, transmitting contract and bond No. 146, dated May 2, 1871, made with George Mercer, deputy surveyor, for the survey of a portion of the Klamath Indian Reservation in Oregon, payable out of the appropriation of \$444,480, per act of July 15, 1870.

The said contract, having been found unobjectionable, has this day been approved and placed on the files of this office.

In regard to the survey of the outboundaries of the Klamath Reservation, you will be governed by our letter of the 19th instant approving the contract for the survey of the Umatilla Reservation.

Very respectfully,

W. W. CURTIS, *Acting Commissioner.*

W. H. ODELL, Esq.,
Surveyor-General, Eugene City, Oreg.

G.

SURVEYOR-GENERAL'S OFFICE, OREGON,
Eugene City, May 31, 1871.

SIR: I herewith transmit copy of special instructions to Z. F. Moody, esq., deputy surveyor, under contract No. 145, dated April 23, 1871, made in pursuance of instructions received this day from your office under date of May 19, 1871.

In this connection I will say that in the survey of Warm Springs and Klamath reservations I shall make special instructions to the same effect, and for the Grand Round Reservation so far as the east boundary is concerned—the remaining portion of Grand Round Reservation and the Siletz Reservation I think it would not be necessary, since no conflict of boundary is likely to occur.

Very respectfully, your obedient servant,

W. H. ODELL, *Surveyor-General.*

HON. WILLIS DRUMMOND,
Commissioner General Land Office, Washington City, D. C.

H.

DEPARTMENT OF THE INTERIOR,
Washington, October 16, 1886.

SIR: I transmit herewith copy of a letter of 15th instant, addressed to this Department by the Commissioner of Indian Affairs, upon the subject of the required survey and subdivision of Indian reservations and of lands to be allotted to Indians, etc., provision for which was made in the sum of \$25,000 in the act of May 15, 1886 (Public, No. 49).

The Commissioner indicates in his communication certain Indian reservations, the outboundaries of which require to be partially surveyed, and invites attention to the necessity of plainly defining the lines of survey with substantial and durable marks, as suggested by him, in order that no difficulty may be experienced by anyone in ascertaining the location of the boundaries of Indian reservations.

In accordance with his recommendations you are hereby authorized and directed to enter into contracts for the survey, in the proper manner, of the following-noted

reservation-boundary lines, etc., upon the most reasonable terms, not to exceed in cost the amounts severally named for the various surveys and as more particularly indicated in his letter, viz:

* * * * *

Klamath Reservation in Oregon, the outboundaries, \$2,400.

* * * * *

The contracts for these surveys should require that the boundary lines of reservations shall be plainly and substantially marked, so that an ordinary observer may have no difficulty in ascertaining the location of the lines.

The larger portion of the outboundaries of these reservations have heretofore been surveyed, but it is found that the monuments and marks have so far disappeared and become obliterated that it is not possible to determine the location thereof.

The Commissioner very properly remarks that "A survey that will not remain plainly marked for years is worthless, and the expenditure of money merely to run the lines is wasteful extravagance."

* * * * *

Very respectfully,

H. L. MULDROW, *Acting Secretary.*

The COMMISSIONER OF THE GENERAL LAND OFFICE.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., April 8, 1878.

SIR: I have the honor to acknowledge the receipt of a letter from the Department, dated the 1st instant, with the following inclosures in reference to the Klamath Indian Reservation in Oregon, viz:

Letter from Commissioner of Indian Affairs to Department, dated March 25, 1878.

Letter from United States Indian Agent Rook to Commissioner of Indian Affairs, dated February 11, 1878, with rough diagram of said reservation.

Letter from Secretary of War to Interior Department, dated September 29, 1877, with inclosure from General McDowell.

From the correspondence in the case it appears that the Indians are dissatisfied with the boundaries of their reservation as surveyed, which they allege are not according to limits defined by treaty, and request is made that copy of the plat and notes of survey of the boundary be furnished for use of the Indian service, and that this office give an expression of its views as to the accuracy and sufficiency of said survey.

In compliance with request contained in letter from the Department, I transmit, herewith inclosed, copy of the plat and field notes of said survey.

By letter dated February 18, 1871, the honorable Secretary of the Interior directed the survey to be made of said reservation, and George Mercer, under contract with the surveyor-general of Oregon, dated May 2, 1871, and subsequent special instructions, made the survey which was approved, and returns thereof reached this office in December, 1871.

From an examination of the field notes of survey in connection with the limits described in the treaty, it appears that the treaty lines on 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, in running said lines, followed certain lines of the public surveys.

Owing to the fact that the public surveys in that region of country have not progressed sufficiently to show the topography of the country around the reservation as surveyed, this office has no information as to where the mountains described in the treaty are situated, or as to how far north the Upper Klamath Lake or Marsh extends. The extent of this marsh determines the north reservation line.

The deputy, in establishing the northwest corner of the reservation on the sixty-sixth mile, describes it as at a "point at the west of the head of Klamath Lake," then runs east across the lake or marsh to the summit of the mountains on the east of the lake at the end of the ninety-second mile. He then runs south to another mountain summit, and turning eastwardly runs a few miles until he reaches a point due north of what he terms the intersection of Ish-tish-ea-wax Creek with Sprague's River, which intersection is mentioned in treaty as on the eastern line, when he runs due south along the line of public surveys instead of following the mountains. The public surveys designate this creek as the Middle Fork of Spragues River, and the name Ish-tish-ea-wax does not appear upon any plats of survey in that region.

On the south the surveyor mentions the summit of mountains on the one hundred and fiftieth mile, near the southeast corner of the reservation, and high mountains

in several places along the line (see one hundred and seventy-fourth, one hundred and seventy-eighth, and one hundred and seventy-ninth miles), but he ran along the line of public surveys instead of along natural boundaries.

In the general description attached to the field notes (see p. 43) the surveyor states that it was impossible to mark a line exactly according to the description in treaty.

From the foregoing it appears that the lines surveyed are not strictly in accordance with the boundaries mentioned in the treaty, but this office has not sufficient data to enable it to show how much the survey varies from the boundaries.

In this connection I have to state that prior to the ratification of the treaty the public surveys had progressed to some extent over that part of the country both within and without the lines of the reservation as surveyed, and certain of the lands have been approved to the Oregon Central Military Road Company under act of Congress approved July 2, 1864.

For more particular information on the subject of the disposal of said lands, see report of this office dated November 4, 1874, to the Commissioner of Indian Affairs, and report dated February 20, 1875, to the Department, both reports from Division F, General Land Office.

The inclosures received with letter from Department are herewith returned.

Very respectfully, your obedient servant,

J. A. WILLIAMSON, *Commissioner.*

Hon. C. SCHURZ, *Secretary of the Interior.*

J.

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 therefor, 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 outboundary 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 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 mountains to the point where Spragues 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.

In recommending the foregoing surveys I desire to call special attention to the great importance of having the boundary line plainly and substantially marked, so that an ordinary observer may have no difficulty in ascertaining the location of the lines.

A survey that will not remain plainly marked for years is worthless, and the expenditure of money merely to run the lines is wasteful extravagance.

I inclose a copy of this report.

Very respectfully, your obedient servant, _____, *Acting Commissioner.*

The SECRETARY OF THE INTERIOR.

1.

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

SIR: Under date of October 16, 1886, your office was instructed by letter of this Department to enter into contract for the survey of the outboundaries of the Klamath Indian Reservation in Oregon, on recommendation of the Commissioner of Indian Affairs, a copy of whose letter of the 15th of October, 1886, upon the subject of this and other surveys was inclosed.

This Department is now in receipt of a further communication from the Office of Indian Affairs upon the subject, in which it is stated that subsequent to the recommendation presented in the communication of October 15, 1886, that office "was informally advised by the General Land Office to the effect that the surveyor-general of Oregon was of the opinion that the survey of the eastern boundary" (of said reservation) would not be satisfactory to the Indians and the settlers until the locus of the boundary should be agreed upon by a commission, etc.

In the absence of any authority to so settle the question the agent of the Klamath Agency was instructed by the Commissioner of Indian Affairs to make a full investigation and report thereon, a copy of which report, with accompanying papers, is herewith inclosed.

The Commissioner of Indian Affairs, after consideration of all the papers in the case, recommends as follows:

"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."

This Department concurs in the views and recommendations of the Commissioner as set forth in his report, and the instructions contained in Department letter of October 16, 1886, relative to the survey of the boundary lines of the Klamath Reservation, if not yet complied with by your office, will be carried into effect. The sum set aside at that time for defraying the expenses of such survey is informally reported as yet applicable by the Indian Office.

Very respectfully,

H. L. MULDROW,
Acting Secretary.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

2.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, July 30, 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 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 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 Spragues 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 Spragues 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 north-eastern 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 Yam-se 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 claim 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; thence 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."

General 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 head waters 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.)

General 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 Superintendent 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 Superintendent 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 General 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 line.

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 encroachment of the cattlemen, will greatly lessen the danger apprehended.

If the views herein expressed with reference to the resurvey meet with your con-

currence 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 Superintendent 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.

4.

TESTIMONY OF CHARLES PRESTON.

CHARLES PRESTON being sworn, testifies as follows:

I was interpreter at the time the treaty was made by the United States with the Klamath, Modoc, and Snake tribes of Indians. I was present when Mr. Huntington pointed out to the chiefs the boundary lines of the reservation, and named the natural boundary lines, as agreed with the Indians, as follows: From the summit of the mountain east of Fort Klamath the line runs north along the ridge to a point near Mount Scott, called Bal-lasal-wisk-se (meaning a mountain with deep canyons, and dry), from thence east, running north of Upper Klamath Lake to Chok-chok-lisk-se, thence to Yian-Dal-wis, a mountain peak northeast of Sycan Valley; from thence, continuing east to the sharp mountain peak northeast of Sycan Valley, went south to the mountain called Wol-lok-se-klus and south along that mountain ridge to the south base of said mountain, where is Ish-tish-ea-wax Creek, and where it empties into Sprague River. The mountain line pointed out to me by Mr. Huntington lies east of Sycan Valley and also east of Sprague River Valley.

From the mouth of Ish-tish-ea-wax the line runs south to the next mountain; hence along the ridge to Wal-pe, and hence west along the mountain ridge to the Klamath Lake, passing through the Captain Ferer place, to a point of rocks named Kal-wal. Ish-tish-ea-wax is named from the fact that small red-lined suckers are caught there in large numbers in the spring of the year. I never heard any Indians call the North Branch of Sprague River Ish-tish-ea-wax. I have never heard any Indians call the South Branch of Sprague River Ish-tish-ea-wax. I do not know of any range of mountains west of Sycan Valley known as Winter Ridge. I have never heard of that name.

his
CHARLES X PRESTON.
mark.

Witnesses:

WILLIAM T. SEEKE.
OLIVER C. MCFARLAND.

Subscribed and sworn to before me this 17th day of February, A. D. 1887.

7.

TESTIMONY OF ALLEN DAVID.

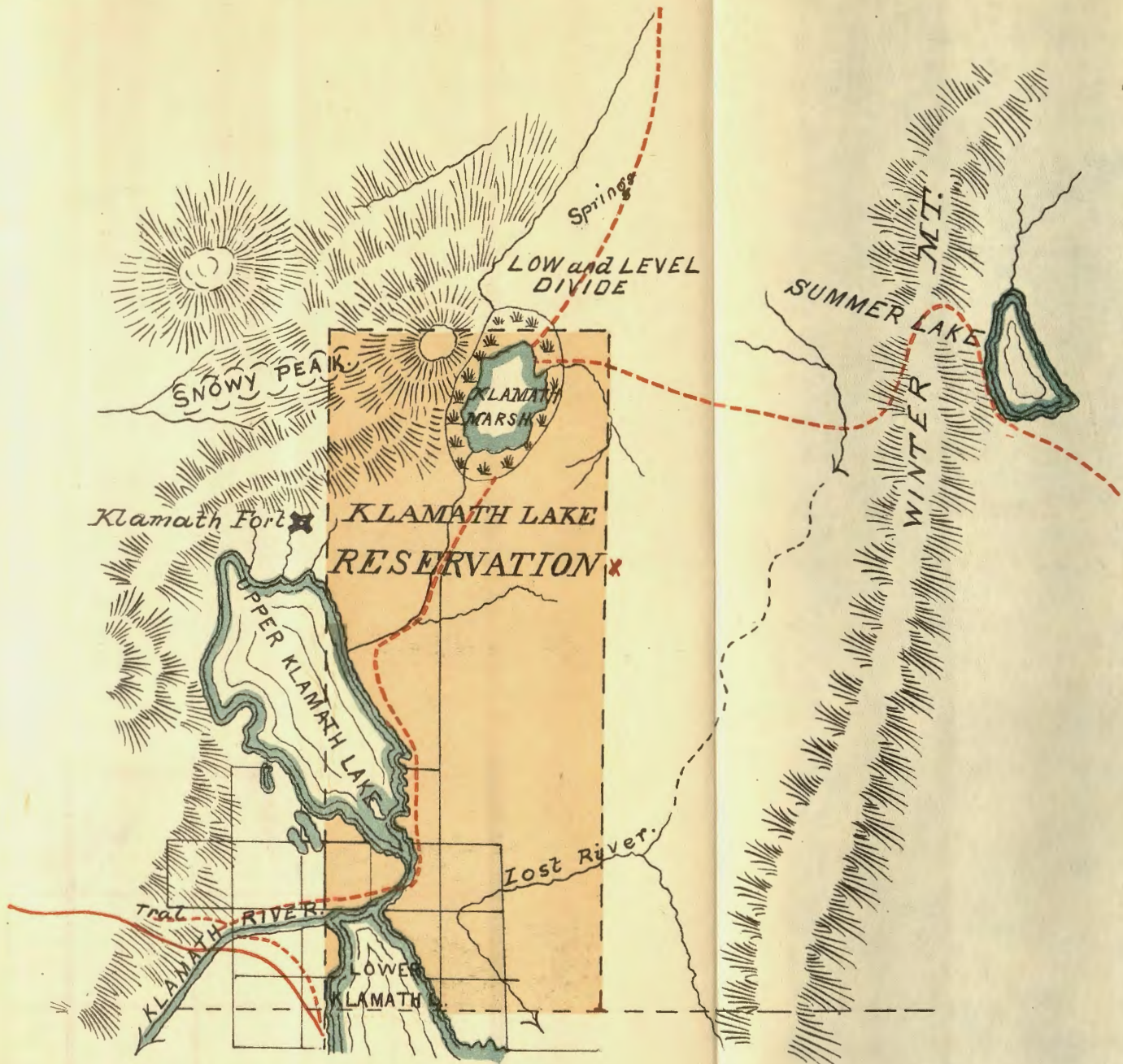
Allen David, Boo ki yu (chief), being sworn, declared and said that the west point of the northern line of the reservation begins on the top of a mountain called Bal-la-wis-kse, and runs right north of Upper Klamath Lake to a high mountain called Tsné-whels-sto-e-Ios, and east to another mountain, Ba-ha; from this mountain east and a little south to a high mountain, called Chok-chok-lisk-se, meaning sharp top, the east point of north line; then south and a little east along the mountains east of Sycan Valley to big rock, Woo-lo-kisk-los, and from this rock to Ish-tish-ea-wax Creek; then a little southwest to the top of a mountain called We-lege; from this mountain to Wal-pe Mountain; then west along the mountain range to the point on the lake called Kal-wal, a point of rocks on the south side of Mr. Dyer's house, now owned by Mr. McLean.

Ish-tish-ea-wax is east of Blye, and means a place where little fish are killed. No other place on the reservation is called by this name. The mouth of North Sprague River is called Wok-se.

his
ALLEN X DAVID.
mark.

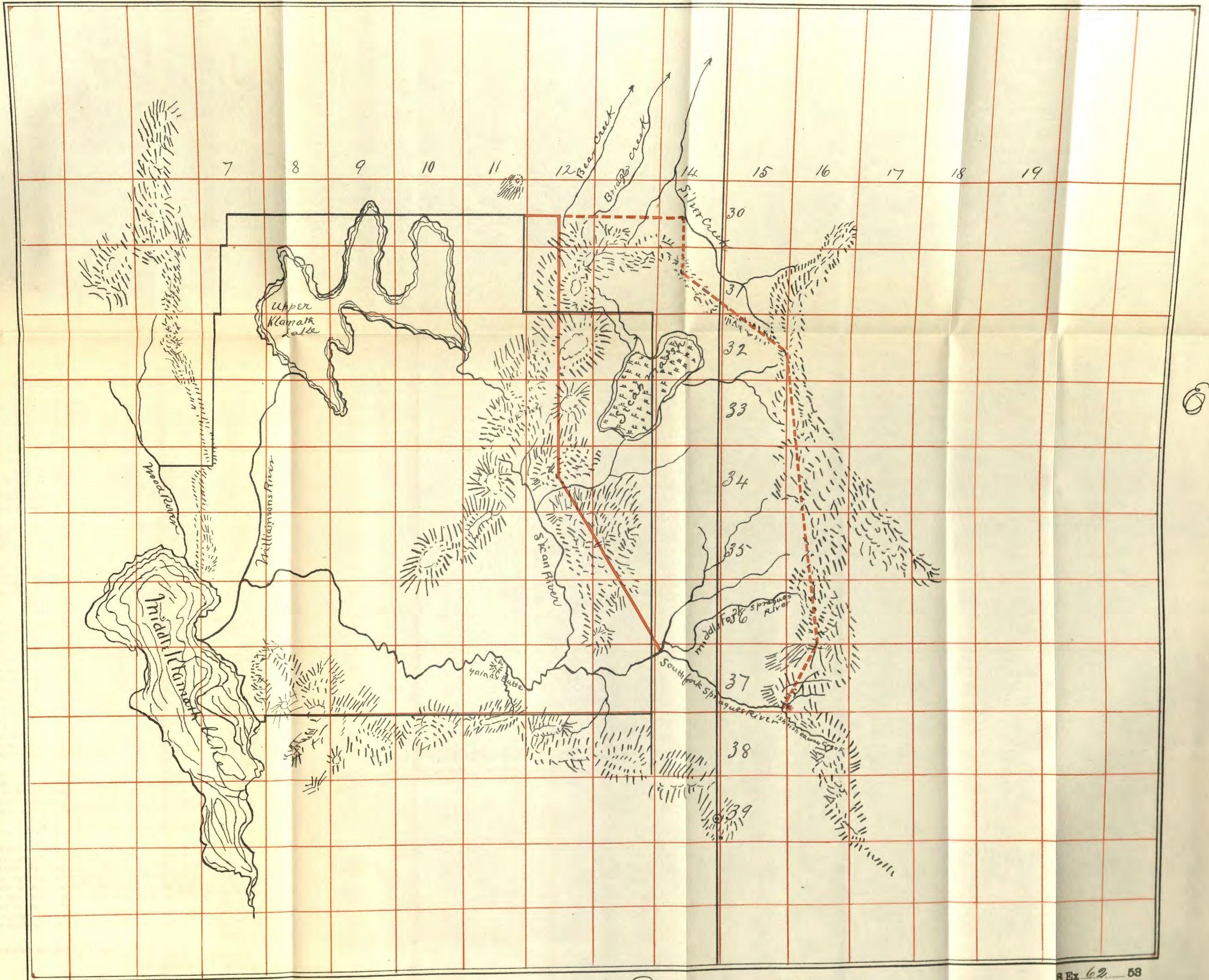
Witnesses:

SAMUEL CHAMBERS.
JAS. C. CRUICKSHANK.



Superintendent
Huntington.
Jan. 1st 1864.

North



W

Q

S

* ish-fish-ea wax

DEPOSITION OF GEORGE MERCER, OF CORVALLIS, OREG.

The terms of the treaty are very indefinite.

In running the reservation boundary, I complied with a request of Surveyor-General Odell to make the line conform to the township subdivision surveys, where the same could be done without injury to the claims of the reservation, thus avoiding any fractional surveys in closing to the reservation line.

There is probably no dispute or doubt in regard to the west boundary of the reservation, as that line is well defined.

Then, in running east from a point one mile north from the bridge of Fort Klamath, the summit spoken of as "the ridge that divides the Upper and Middle Klamath lakes," the ridge is not well defined; and then following north there is no well-defined ridge, the country being rolling and cut up by streams running in different directions. In fact, there is a good-sized river and several smaller streams crossed by that line.

That line I extended, to a point due west of the north end of Upper Klamath Lake. I then ran east to the north end of said upper lake. There might be some little question raised as to the extreme north end, owing to the fact that as the waters in the lake rises and falls it overflows more land, and then again it recedes, leaving what was at other times a portion of the lake as dry land.

Then, in regard to the summit of the ridge east of the north end of the lake, there is a well defined summit, but there is no ridge running from that summit to Sprague River at the mouth of "Ish-tish-ea-wax" Creek. And should the line be run from that summit to the mouth of "Ish-tish-ea-wax" Creek, it would throw out a large portion of the reservation.

And considering the indefiniteness of the terms of the treaty, and feeling satisfied that it was not the intention to establish the line there, I continued my course to a point due north of the mouth of "Ish-tish-ea-wax" Creek.

Then, in running south, the line runs through Sycan Valley. I would say in regard to this line that it does not intersect precisely at the mouth of said creek, but runs about 100 yards west of said point. This was not at the time considered a serious deviation, as the distance was so small. I preferred to let it remain so, as the line as I ran it conformed to the range line of surveys.

The line was continued south to the summit of the ridge, the western extremity of which forms the point of rocks, being the place of beginning of survey, then continued westerly to the place of beginning.

This ridge is pretty well defined.

When I entered upon the survey of the Klamath Reservation I knew nothing of the country or the Indians, so I made every effort to get all the information that I could, not only as to the points named in the treaty, but also the manner in which the treaty was conducted.

From the best information that I could get, both from white settlers and the Indians, I am of the opinion that the terms of the treaty were agreed upon all the summit of Council Butte, an isolated mountain near Yainax Agency.

And it is held a reasonable conclusion that observations taken from one single point of a country 50 miles square would be rather vague as to dividing ridges and streams.

I think the Indians misunderstood the import of questions put to them by the commissioners.

In regard to the Sican Valley, all with whom I conversed, both whites and Indians, agree in stating that the understanding was that the Indians were to have that valley.

It might be possible that the ridge still east of the Sican Valley might be the ridge referred to in the treaty as running to the mouth of "Ish-tish-ea-wax" Creek, but at that time I had no doubt in my own mind in regard to the line which I ran, in fact I considered that the line that I established was very much farther east than the line imperfectly defined in the treaty.

In regard to "Ish-tish-ea-wax" Creek, I never heard but one opinion expressed, either among the whites or Indians, but what it was the creek intended in the treaty.

GEO. MERCER.

Subscribed and sworn to before me this 16th day of May, A. D. 1887.

JOSEPH EMERY,
United States Indian Agent.

CORVALLIS, OREG.

9.

TESTIMONY OF L. B. APPLGATE.

I, L. B. Applegate, of Linkville, Oreg., make the following statement relative to the controversy in regard to the boundary line of the Klamath Indian Reservation:

I was an employee at Klamath Agency for a period in the spring of 1866 and subsequently in 1868-69. I always understood the stream flowing westerly through Upper Sprague River Valley to a junction with North Sprague River to be the Ish-tish-ea-wax Creek mentioned in the Klamath and Modoc treaty of 1864. During my service I always understood that the proper point for the eastern boundary line of the reservation to cross Sprague River Valley was at the junction of this stream with Sprague River, the point where the Mercer survey crosses. I heard no expression of dissatisfaction from the Indians as to the selection of this point as the eastern limit of the reservation during the time I was employed on the agency.

L. B. APPLGATE.

Subscribed and sworn to before me this 2d day of June, 1887.
Dairy, Oreg.

JOSEPH EMERY,
United States Indian Agent.

10.

TESTIMONY OF MO GHEN KAS KIT.

Mo ghen kas kit, being sworn, deposed as follows:

From a mountain called Bal-la-wisk-se (Full of Cares) the line of the reservation runs east, including Upper Klamath Lake, or Marsh, to Ba-ha Mountain; then to Chok-chok-lisk-se, a sharp-top mountain. From this mountain along the mountain east of Sycan Valley, following this mountain range to Woo-tok-sik-los, east of Sprague Valley, and from this mountain to Ish-tish-as-wax; then southwest to the top of the mountain called We-lye; from this mountain to Wal-pe Mountain, then west along the mountains to Kal-wal, on the Klamath Lake, a point of rocks south of the Dyer house.

Ish-tish-ea-wax means a place where little fish are caught.

Ish-tish-ea-wax Creek rises in the mountains east of Sprague River Valley. It is called Ish-tish-ea-wax Creek by the Indians, just where they catch the little fish called Ish-tish, meaning little suckers. The Indian name of the creek below Ish-tish-ea-wax is Ho-bots. The white men call this creek Sprague River.

The smallest stream is called Ish-tish-ea-wax, in which we caught the ish-tish. It flows into the large creek a short distance below where Indians catch ish-tish, as far as the office to the agent's old house (about 200 feet). I went with Agent Emery and pointed out to him Ish-tish-ea-wax.

Mr. Huntington told the Indians that all of Sycan Valley would be in the reservation, where the Indians could go and gather camas, and all of Sprague River Valley would be in the reservation and that Indians could go there and gather roots without a pass. Sycan Valley and Sprague River Valley are inside of the line that I pointed out to Agent Emery.

MO GHEN KAS KIT, his x mark.

Witnesses:

CALVIN K. SMITH.

JOSEPH KIRK, *Interpreter.*

Subscribed and sworn before me this 10th day of June, 1887, at Klamath Agency, Oreg.

JOSEPH EMERY,
United States Indian Agent.

11.

TESTIMONY OF HON. R. P. EARHART.

I, R. P. Earhart, of Salem, Oreg., being first duly sworn, depose and say:

That I was the secretary of the commissioners appointed by the United States Government in 1864 to make treaty with the Klamath and Modoc Indians in Oregon.

That I was present at the council and at the signing of the treaty on the 14th day of October, 1864, and witnessed the same.

That at this distant time I have not sufficiently clear recollection of the boundary lines of the reservation agreed upon at said council and treaty to make a definite statement as to the whole of the boundaries of said reservation. That I do, however, clearly remember the place described as the starting point of the boundary line as being a point of rocks (or bluff of rocks) on the shore of Middle Klamath Lake below the mouth of Williamson River, where the Indian trail passed around such point or bluff, near the bluff and close to the water of the lake.

That as the country adjacent to and about the proposed reservation and so-called Klamath country was, at the time the treaty was made with the Klamath and Modoc Indians, occupied as a roaming and hunting ground by hostile Indians and by the United States troops pursuing such hostile Indians, particular care was taken by the commissioners at such treaty to have the boundary lines of the reservation of a distinctly marked character, well defined and fully and clearly explained and understood by the Klamath and Modoc Indians, and that each topographical feature of such reservation boundary as given in the treaty of October 14, 1864, was fully understood by them before signing the treaty.

R. P. EARHART.

Subscribed and sworn before me this 18th day of May, 1887.
Salem, Oreg.

JOSEPH EMERY, *United States Indian Agent.*

12.

TESTIMONY OF O. C. APPLGATE.

I, O. C. Applegate, of Olene, Klamath County, Oreg., make the following statement relative to the controversy in regard to the Klamath Reservation boundary line.

I was not present when the treaty of October, 1864, was made, but entered the service as interpreter a year later as the first employee of the Department appointed for the reservation. My service was almost continuous from that date until June 30, 1873, and I have subsequently served considerable time under agency authority.

During several months of my service prior to June 30, 1873, I was commissary in charge of Yainax Station.

I was clerking both under John Meacham, commissary in charge of Klamath Agency, and I. D. Applegate, commissary at Yainax, when George Mercer made the boundary-line survey in 1871. I do not remember that the Indians ever expressed to me or in my presence any dissatisfaction with the boundary line as located by Mr. Mercer, except that subsequently, when white men began to drive cattle into the Sycan Valley, many of them claimed that the valley properly belonged to the reservation.

The stream flowing westerly through Upper Sprague River Valley to a junction with the Middle or North Fork of Sprague River, I had always understood to be the Ish-tish-ea-wax Creek mentioned in the treaty, and the line located near its mouth by George Mercer, as the eastern limit of the reservation, was apparently recognized by both whites and Indians for several years as the actual and proper boundary. I heard nothing of a claim of the Indians that the line should have crossed the above-mentioned stream some miles above its mouth, until some years after the survey was made, although I was in almost continuous and always cordial communication with them.

O. C. APPLGATE.

Subscribed and sworn before me this 2d day of June, 1887.

JOSEPH EMERY, *United States Indian Agent.*

Olene Lost River, Oreg.

13.

SUPPLEMENTAL TESTIMONY OF CHARLES PRESTON.

Charles Preston, being duly sworn, says: I went as guide and interpreter with Agent Emery the 1st day of June, 1887, to the base of the mountain east of Bly, and pointed out to him the place where the Indians catch "Ish-tish," little fish, every year—in the spring and early summer—in a small stream called Ish-tish-ea-wax. This

little stream empties into a large creek called by the whites South Sprague River, a short distance below where the Indians catch the "Ish-tish," which means little fish.

his
CHARLES X PRESTON.
mark.

Witnesses:

JOSEPH P. LEE.
SAMUEL CHAMBERS.

Subscribed and sworn before me this 18th. day of June, 1887.
Klamath Agency, Oreg.

JOSEPH EMERY, *United States Indian Agent.*

14.

TESTIMONY OF I. D. APPLGATE.

In the summer of 1868 I was, by J. W. Perit Huntington, Superintendent of Indian Affairs, appointed special commissary, with instructions to locate and take charge of the Snake Indians to be brought on the Klamath Reservation.

In November of the same year I accompanied Superintendent Huntington to Camp Warner, passing through Sprague River Valley. From Yaimax Butte, the point where the treaty of 1864 was finally agreed to, Superintendent Huntington pointed out the range of mountains said to lie east of the north end of Klamath Marsh, saying that from the summit of this mountain, the boundary line will follow along those mountains in a southerly direction to where Ish-tish-el-wax Creek empties into Sprague River. Going east through the "gap or narrows," we came to where the east or middle branch and the one coming from southeast unite. Here the Superintendent said the eastern boundary line would cross the valley. After the death of Superintendent Huntington I was continued in charge of Yaimax Agency by Superintendent A. B. Meacham. In 1871 I was informed by letter that Surveyor Mercer and party were en route to survey Klamath Reservation. I was also instructed to render whatever assistance, and give any information that might be required.

Mr. Mercer called upon me at Yainax in company with quite a number of Indians. There was but one question raised on the boundary; that was as to the mouth of "Ish-tish-el-wax" Creek, some saying there was no stream or river from the head of the valley down to the east fork; that it was a lake or marsh, called "Hobosh"; that the "Ish-tish-el-wax" Creek emptied into this marsh. On investigation it was made plain that there was a well-defined creek running through the valley and emptying into Sprague River. All parties, including the Indians, were so well satisfied and convinced that the line should cross here that Mr. Mercer returned and continued the survey, I not deeming it necessary to visit the place at that time; and it is my recollection that not a single objection was raised after the matter was explained.

I. D. APPLGATE.

Subscribed and sworn before me this 2d day of June, 1887.
Dairy, Oreg.

JOSEPH EMERY, *United States Indian Agent.*

15.

TESTIMONY OF J. M. M'CALL.

I, J. M. McCall, being duly sworn, depose and say:
My home is Ashland, Oreg.; age, 62.

I was present at Yainax in the fall of 1865 as first lieutenant of the First Oregon Cavalry, with my command, at the time J. W. P. Huntington, Superintendent of Indian Affairs, was holding a council and treating with the Snake Indians.

I acted as commissary at Fort Klamath from September, 1865, to June, 1866, and aided in the issues made to the Indians. My understanding was that the treaty with the Klamaths, Modocs, and Snakes by Mr. Huntington included all of Upper Klamath Lake, known by the Indians as Klamath Marsh.

I remember nothing as to the eastern boundary of the reservation.

J. M. M'CALL.

ASHLAND, OREG., *May 5, 1887.*

Subscribed and sworn before me this 5th day of May, 1887.

JOSEPH EMERY,
United States Indian Agent.

TESTIMONY OF HENRY BLOW.

Henry Blow, chief, being sworn, testified as follows as to the boundary of Klamath Reservation:

The north line of the reservation running toward the rising sun took in all of Upper Klamath Lake and ended at a mountain called Chok-chok-lisks-se (Sharp Mountain); then turned south and a little east along the mountains east of Sycan Valley to the mouth of Ish-tish-ea-wax Creek, and then nearly south to the top of the mountain; then west to a mountain called Wal-pe, and from Wal-pe toward the setting sun along a range of mountains to Rattlesnake Point, on the lake called Kal-wal. This point of rocks is south of the house where Mr. McLean now lives.

Agent Dyer once lived there.

Ish-tish-ea-wax is near the mountain on the east side of Sprague River valley. Ish-tish-ea-wax means where they kill little fish—"suckers."

I never heard Indians call the mouth of the North Branch of Sprague River Ish-tish-ea-wax.

I signed treaty Mr. Huntington made with Indians, and he agreed with us where the boundary of the reservation should be. I remember what he say. I was with Mr. Huntington at Yainax when he point out to the Indians the high mountains on the east of the reservation. Charlie Preston was interpreter.

his
HENRY X BLOW, Chief.
mark

Witnesses:

JAS. C. CRUICKSHANK.

SAMUEL CHAMBERS.

Sworn before me this 25th day of February, A. D. 1887.

JOSEPH EMERY,
United States Indian Agent.

17.

TESTIMONY OF LINDSEY APPLGATE.

I, Lindsey Applegate, being duly sworn, depose:

My home is Ashland, Oreg.; my age is 79 years.

I was appointed United States Indian agent in 1865; was agent for four years, and in the Indian Service for twelve years.

The treaty boundary of the Klamath Reservation began at Modoc Point, a little northwest of what is now known as the Captain Ferer place; then followed the margin of the lake to the mouth of Wood River, and up Wood River to the bridge above Fort Klamath; then north to a point from which a line running east would include all of Upper Klamath Lake.

Ish-tish-ea-wax Creek was considered by all the Indians to be on the eastern boundary of the reservation.

The point where the above-named creek empties into Sprague River is about 20 miles east of Yainax.

My understanding was that the eastern boundary line followed the summit of the mountain range terminating at Ish-tish-ea-wax Creek.

LINDSEY APPLGATE.

Subscribed and sworn before me this 5th day of May, 1887.

Ashland, Oreg.

JOSEPH EMERY, *United States Indian Agent.*