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INDIAN AFFAIRS - Pima

PART 1 - January 17, 1969 ONLY

Shapiro 1/30/69

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Barnes 1-31

January 17, 1969 - 8

M-36770

BOUNDARY OF THE SALT RIVER INDIAN RESERVATION, ARIZONA

IND -

Indian Lands: Generally--Indian Lands: Tribal Lands--Executive Orders and Proclamations--Boundaries

Pima

The south boundary of the Salt River Indian Reservation, established as "up and along the middle of the [Salt] River" by the Executive Order of June 14, 1879, lies in the south channel of the Salt River in T. 1 N., R. 5 E., G. & S. R. M., where the river is separated by a large island into two distinct channels, since the preponderance and weight of evidence indicates that the main channel of the river flows south of the island.

Words and Phrases: "up and along the middle of the * * * river"

When an executive order designates the boundary of an Indian Reservation as "up and along the middle of the * * * river," the boundary lies within the main channel of the river when it is separated by an island into two distinct channels.

Indian Lands: Generally--Boundaries--Surveys of Public Lands: Generally

The holding in Boundary of San Carlos Indian Reservation, 55 I.D.

560, that an Indian Reservation boundary description which has been uniformly interpreted by the Department for many years will be considered controlling, is not applicable when the exact location of the boundary has never been indicated on a map prepared for that purpose or officially surveyed and established upon the ground.

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Sol



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

January 17, 1969

M-36770

Memorandum

To: Secretary of the Interior

From: Solicitor

Subject: Identification and Reestablishment of the South Boundary
of the Salt River Indian Reservation

Informally in January, 1968, and later by your memorandum of October 1, 1968, you requested that this office review the March 5, 1963, memorandum opinion of the Director of the Bureau of Land Management, approved by the Assistant Secretary for Public Land Management on May 6, 1964, concerning the location of the south boundary of the Salt River Indian Reservation within Township 1 North, Range 5 East, Gila and Salt River Meridian, Arizona (Exhibit 1).

The Executive Order of June 14, 1879, which established the Salt River Indian Reservation, described its south boundary as "up and along the middle of the [Salt] river" (Exhibit 2). At the time of the order, the river flowed through T. 1 N., R. 5 E., in two distinct channels, separated by a large island. The question discussed in the March 5, 1963, opinion is what was meant by "the middle of the river" as applied to the Salt River within T. 1 N., R. 5 E., or, more generally, what is the exact location of the south boundary of the Salt River Reservation.

The Director of the Bureau of Land Management concluded that the boundary lay in the channel north of the island. Having reviewed his determination and all available background material, we are of the opinion that the boundary lies in the south, rather than north channel. We therefore recommend that Secretarial approval of the March 5, 1963, decision be withdrawn and that new instructions regarding the boundary be issued.

I. There is no evidence that the north channel was intended as the boundary of the reservation.

In order properly to evaluate the meaning of the phrase "middle of the river" as it was used in the Executive Order of June 14, 1879, the order itself must be put in its historical context, for the events leading up to its issuance provide valuable indices to the intent of its drafters.

The Act of February 28, 1859 (11 Stat. 388, 401), reserved for the Pima and Maricopa Indians the land they occupied on and near the Gila River, just south of the Salt River. There, the Indians constructed irrigation works and successfully raised wheat. The surrounding area, the Salt River Valley, considered the prime agricultural district of the Arizona territory, was extensively cultivated by white settlers, many of whom filed private claims to their land under various federal laws. A struggle for water developed in the mid-1870's which left the settlers in control of the irrigation ditches in the valley and forced the Indians to look elsewhere for farmland. They gradually began leaving their reservation and migrating north to the Salt River.

On January 10, 1879, in response to numerous reports that the Indians were being deprived of water on the Gila Reservation and needed additional land protected from encroachment by white settlers, an executive order was issued setting aside approximately 656,000 additional acres of the Salt River Valley on both sides of the Salt River for the Pimas and Maricopas (Exhibit 3). The order made no mention of the two channels of the Salt River, alluding merely to "the course of the river."

Reaction to the order was immediate and generally adverse. Captain A. R. Chaffee wrote to the Assistant Adjutant General on February 18, 1879, "I am lothe to believe the boundaries described correct" (Exhibit 4), noting that the reservation encompassed an unnecessarily large amount of valuable land and warning that the order was sure to trigger hostilities with the settlers of the region. Chaffee then reiterated a suggestion he had made in November 1878, that a smaller reservation, located in T. 1 N., R. 5 E., and Tps. 2 and 3 N., Rs. 5, 6, and 7 E., be established. [A map dated March 4, 1879, and marked "traced in the Adjutant General's office" indicates the area reserved in the January 10 Executive Order as well as the reservation proposed by Captain Chaffee (Exhibit 5). The south boundary of the latter extends to the south channel of the Salt River, while that of the former lies south of the Gila River.

An early map, simply identified as "traced in Adjutant General's office, January 1879," (Exhibit 6) shows a proposed reservation whose south boundary runs north of the river.

On March 1, 1879, the Governor of Arizona, suggested that the Indians be removed from the Salt River Valley entirely and settled on the Colorado River. This suggestion was unfavorably received by Major General McDowell, Commander of the Military Division of the Pacific, who noted, in a letter dated April 28, 1879, that the Pimas and Maricopas were peaceful Indians who had unjustly been driven from their land once and should not be so treated again (Exhibit 7). He relayed the suggestion of the Army Division Commander, suggesting the establishment of a reservation smaller than that described in

the Executive Order, with a south boundary "along the middle of the Salt River," and added his own proposal for a reservation whose south boundary would be "along the Salt River to the initial point [NE corner, Sec. 15, T. 1 N., R. 4 E.] which is within the bed of the stream."

Because there was apparently some uncertainty as to the exact location of the Indians within the area reserved in the January 10 Executive Order, Inspector J. H. Hammond was sent to Arizona by the Commissioner of Indian Affairs to investigate. In his report, dated March 8, 1879 (Exhibit 8), Inspector Hammond stated that the Indians had left the Gila River Reservation in 1876 and 1877 in search of water, encouraged by white settlers who hoped the Indians would prove helpful in coping with the less friendly Apaches north of the Salt River. The map which accompanied his report entitled "Gila River Reservation and Surroundings, Pima Agency, A.T." (Exhibit 9), indicated where the Indians had settled; the region along the south channel of the Salt River, east of the island, was designated "Pima fields, 375 persons, 47 families."; along the north channel was the notation "Pima settlement, 1300 persons, 240 families." Hammond concluded by suggesting a new reservation to replace that created by the January 10 Executive Order, with boundaries almost identical to those proposed earlier by Captain Chaffee, with the exception of the south boundary, which was to follow the north bank of the Salt River.

Hammond's report was forwarded to the Secretary of the Interior by the Acting Commissioner of Indian Affairs on June 12, 1879, with a letter (Exhibit 10) commenting unfavorably on the plan to remove the Indians to the Colorado River ("It would do peaceful Indians a great injustice"). The Acting Commissioner then recommended that the January 10 Executive Order, which had originally been drafted by his office, be rescinded, and a new reservation set aside in accordance with a draft Executive Order which he had prepared. The south boundary of the new reservation was to run "up and along the middle of the said [the Salt] River," and those lands south of the river owned by Indians were to be temporarily withdrawn until the lands and improvements thereon could be sold to settlers. The proposed Executive Order was signed by President Hayes on June 14, 1879 (Exhibit 2).^{1/}

Thus, the Executive Order of June 14, 1879, was concerned with the protection of the Pima and Maricopa Indians who had settled on both sides of the channels of the Salt River. Prior to its issuance, at least five different persons had presented plans for a reservation. Only one (Inspector Hammond) had suggested that the south boundary of the reservation run along the north bank of the Salt River (since the Executive Order establishing the reservation spoke of the middle of the river, it is apparent that this plan, which would not have included

^{1/} That order was amended by the Executive Orders of March 22, 1911, September 28, 1911, and October 23, 1911. These amendments have no bearing on the boundary question.

any of the river within the reservation, was rejected); two (Commissioner of Indian Affairs and Army Division Commander) had proposed that the south boundary be placed "in the middle of the river"; one (Major General McDowell) had located it "in the bed of the river"; and one (Captain Chaffee) had set it in the south channel of the river. Nowhere was the north channel mentioned.

II. The preponderance of evidence indicates that the south channel is the south boundary of the reservation.

The Executive Order of June 14, 1879, sought to establish the Salt River as the south boundary of the reservation. Its specification that the boundary was to extend up and along the middle of the river, a non-navigable channel, reflected contemporaneous (and current) law on the subject. At common law, a grant bounded by a non-navigable river transferred title to the center thread of the river. Middleton v. Pritchard, 3 Scammon 510, 520. This principle had been held applicable to the United States, St. Paul P. and R. Company v. Schurmeir, 7 Wall 272, 19 L. Ed. 74 (1868); St. Clair County v. Lovington, 23 Wall 46, 23 L. Ed. 59 (1874); and was explicitly recognized by this Department, 6 L.D. 538, 637 (1888), 25 L. D. 413 (1879).

When a non-navigable river has two or more channels, the middle of the river is generally considered synonymous with the thread of the stream, or the middle of the main channel, Buttenuth v. St. Louis Bridge Co., 17 N.E. 439, 443, 123 Ill. 535, 5 Am. St. Rep. 545; see also Bishel v. Faria, 1 Cal. Rptr. 153, 157, 347 P.2d 289, the main channel being the widest and/or deepest channel, Grand Rapids R. Co. v. Butler 158 U.S. 87 (1895).

We are not persuaded by any of the evidence cited by the Director in his March 5, 1963, opinion or reflected in the record that the main channel of the Salt River flowed north rather than south of the island in T. 1 N., R. 5 E. The earliest official survey of the township, completed by W. F. Ingalls and approved on October 22, 1868, merely contained sketches of the channels. They were not meandered (Exhibit 11). In his general description of T. 1 N., R. 5 E., Ingalls characterized them as "of about equal size" but "constantly changing position and size" (Exhibit 12). This general description is contradicted by the actual measurements contained in the body of his field notes, which indicate that the south channel was wider.

Ingalls measured the width of the channels wherever they intersected a surveyed line. His field notes, contained in Arizona Territory Volumes 1 and 2, show the following for T. 1 N., R. 5 E.:

| <u>Surveyed Line</u> | <u>Width of South Channel</u> | <u>Width of North Channel</u> |
|-------------------------|-------------------------------|-------------------------------|
| North between § 3 & 4 | 3.46 chains | 2.63 chains |
| North between § 4 & 5 | | 4.85 chains |
| North between § 8 & 9 | 3.70 chains | |
| East between § 4 & 9 | 7.25 chains | |
| East between § 5 & 8 | | 4.11 chains |
| North between § 7 & 8 | | 3.25 chains |
| North between § 17 & 18 | 4.91 chains | |

These figures indicate that the average width of the south channel in T. 1 N., R. 5 E., was 4.83 chains, while that of the north channel was only 3.71 chains. Ingalls' measurements along the entire length of the channels, through T. 2 N., R. 5 E., as well as T. 1 N., R. 5 E., reflect an overall average width of 4.35 chains for the south channel and 3.96 chains for the north channel. While they are certainly not conclusive, these figures are the only available evidence of the relative size of the two streams prior to the establishment of the reservation; and they suggest that the south channel was the wider.

A map dated July 12, 1879, and entitled "Plat showing lands reserved for Pima and Maricopa Indians by Executive Order of June 14, 1879" (Exhibit 13), was prepared by the Surveyor General at the request of the Commissioner of the General Land Office. It represented both channels of the river by single lines and sketched the south boundary of the reservation slightly north of the north channel. In his opinion, the Director of the Bureau of Land Management cites this map as being both "most pertinent" and "official." We cannot agree that either adjective is appropriate. The map is certainly not an "official plat", its title notwithstanding, since it does not reflect the findings of a duly authorized and approved survey of the land represented. United States v. Morrison, 240 U.S. 192 (1916). In his letter of June 27, 1879, the Commissioner of the General Land Office merely requested preparation of a "diagram" (Exhibit 14); nothing as elaborate as an official survey was indicated. In fact, there is no evidence that the Surveyor General, who prepared the map in Tucson, 125 miles away from the reservation, even inspected the area. Indeed, he was able to complete the map a scant 15 days after the date of the Commissioner's request, which, considering the time then required for transmission of the request, was quite remarkable. More important than its lack of official status, however, is the map's obvious lack of accuracy. It depicts the south boundary of the reservation as north of the river entirely, while the Executive Order which it purports to be illustrating explicitly extends the boundary to the middle of the river. Clearly an instrument containing such a gross error on its face can be accorded little weight.

~~An official survey of the reservation~~ was completed by L. D. Chillson in July 1888. His plats indicate nothing below the north bank of the north channel of the river (Exhibit 15). Although the Director cites this survey to support his conclusion that the north channel was the main stream of the Salt River, in fact the survey does not furnish any evidence at all about location of the boundary. Chillson was instructed to survey the reservation into 40-acre tracts following the rules of the surveyor's manual (Instructions to Surveyors General, 1881). His special instructions, contained in a letter from the Surveyor General dated December 27, 1887 (Exhibit 16), stated:

The southern boundary of this reservation being the Salt River, it will be necessary for you to meander same.

Chillson did precisely what was asked of him -- he meandered the Salt River, limiting his work to the north bank only, since the surveyor's manual directed that non-navigable rivers "will only be meandered on one bank. For the sake of uniformity the surveyor will traverse the right bank when not impracticable." (page 34) Thus, the only information the Chillson survey furnishes with regard to the Salt River is the meander line of its north bank.

A meander line merely determines the sinuosities of a stream and is not a boundary, United States v. Elliott et al., 131 F.2d 720 (10th Cir., 1942); Witaker v. McBride, 197 U.S. 510, 512, 26 S. Ct. 530; Producer's Oil Co. v. Hanzen, 238 U.S. 325, 339, 35 S. Ct. 755; the waters themselves constitute the real boundary, Hardin v. Jordan, 140 U.S. 371, 11 S. Ct. 808 (1891). That Chillson's survey is limited to the north bank of the Salt River thus does not indicate that he thought that it was the south boundary of the reservation or had determined the north channel to be the main thread of the river; it merely reflects his adherence to the instructions pursuant to which the survey was executed. Chillson was not requested to indicate the boundary or to concern himself with the river at all, other than to meander its right bank. That is all he did; no effort was made to gather any information about the river itself, its islands, its channels, its flow, etc. Neither the Surveyor General's instructions nor Chillson's field notes refer to the south boundary of the reservation in any more specific terms than "the Salt River." Thus, the 1888 survey furnishes no real evidence as to the proper location of the south boundary of the reservation.

That the survey was of no help in establishing the boundary is further evidenced by the fact that on October 13, 1891, a little more than two years after Chillson completed his work, the Commissioner of the General Land Office wrote to the Commissioner of Indian Affairs and "being in doubt as to the exact location" of the south boundary, asked his opinion

on the matter (Exhibit 17). In his reply, dated August 18, 1892 (Exhibit 18), the Commissioner of Indian Affairs relayed a report he had received from the Pima Indian Agent on July 8, 1892, in which the agent made no reference to the two channels, merely noting that since the island between them was unoccupied, contained no timber and had sandy soil, it was not advisable that it be claimed for the Indians (Exhibit 19). The Commissioner then stated that whether the island was within the reservation was "a question of fact upon which I am not prepared to express an opinion at this time," but added that "the plat on file in this office indicates that the principal portion or branch of the river runs south of the island, and that what is termed the north channel is a much narrower stream." We have been unable to identify the plat referred to.

The National Reclamation Act, the Act of June 17, 1902 (32 Stat. 388), authorized a survey of, among others, irrigable lands in Arizona. The map prepared pursuant to that act by the United States Geological Survey indicated the south channel of the Salt River as the main stream, while showing the north channel as practically dry (Exhibit 20). The south boundary of the reservation was placed in the center of the south channel.

On December 15, 1910, R. A. Farmer completed a dependent resurvey of the reservation lands within T. 1 N., R. 5 E., for allotment purposes, based upon Chillson's 1888 survey. Like Chillson, Farmer simply meandered the right bank of the river. His plats stopped at the meander line and did not indicate any of the river itself (Exhibit 21). A dotted line was sketched in to indicate the reservation boundary, but it is of little significance since Farmer was not concerned with the boundary and made no effort to ascertain its precise location. Indeed, in his field notes (Exhibit 22), he refers to "the right bank of the Salt River * * * which river is the south boundary of the reservation" (emphasis added), thereby indicating that he had made no determination of the boundary beyond its general location somewhere in the river. Thus, the Farmer survey, like that of Chillson, conveys no information about the relative size of the two channels or the proper location of the south boundary of the reservation.

In November 1914, the United States Indian Service completed a map showing allotments and cultivated land on the Salt River Indian Indian Reservation (Exhibit 23). The south boundary of the reservation was shown in the south channel of the river.

The foregoing indicates that the Director's conclusion that "the preponderance and weight of evidence favors the recognition of the north channel of Salt River as being the south boundary of the reservation" is not borne out by the record.

The July 12, 1879, diagram (Exhibit 13), which located the boundary north of the river entirely, is clearly erroneous on its face. The Chillson Survey (Exhibit 15) furnishes no information on the boundary

question. The plat on file in the Bureau of Indian Affairs referred to by the Commissioner in his letter of August 18, 1892 (Exhibit 18), indicates that the south channel was the principal branch of the river. The 1902-1903 irrigation map (Exhibit 20) shows the south channel as larger than the north and locates the reservation boundary in it. The Farmer survey (Exhibits 21 & 22) merely describes the boundary as "the river" and indicates it by a dotted line sketched beyond the edges of the surveyed area. The 1914 allotment map (Exhibit 23) shows the boundary running in the south channel of the river. The preponderance and weight of evidence favors recognition not of the north, but of the south channel of the river as the south boundary of the reservation.

III. There is nothing to preclude recognition of the south channel as the south boundary of the reservation.

In his March 5, 1963, opinion, the Director asserts:

In the apparent absence of protest or amendment by the Indians to the boundary as shown upon many maps and as officially surveyed and established upon the ground by two official surveys, it must be considered that until recent years the Indians were apparently complacent with the boundary being along the north channel.

and maintains that Departmental policy precludes recognition of the south channel as the boundary, citing Boundary of San Carlos Indian Reservation, 55 I.D. 560 (May 29, 1936).

We note initially that contrary to the Director's assertion, the boundary has not been shown to be along the north channel "upon many maps." Moreover, the boundary has never been "officially surveyed and established on the ground": the Chillson and Farmer surveys, to which we assume the Director is referring, did not purport to locate the boundary; they merely reflected the meanders of the north bank of the Salt River, without any attempt to ascertain or depict the middle of the river. In fact, to the best of our knowledge, the south boundary of the Salt River Indian Reservation has never been indicated on a map prepared for that purpose. Thus, by recognizing the south channel as the reservation boundary, the Secretary would not be reversing a determination of long standing, as the Director implies, but merely resolving a matter which has proven problematic for almost one hundred years.

In light of the confusion which has surrounded the question of the location of the boundary, the situation at hand is hardly comparable to that considered in Boundary of San Carlos Indian Reservation, supra, in which the Acting Secretary of the Interior held that a boundary description which had been uniformly interpreted by the Department for

60 years would be considered controlling. There certainly has been no such uniformity in recognition of the south boundary of the Salt River Indian Reservation. The Pimas and Maricopas can hardly be criticized and certainly should not be penalized for not questioning a Departmental determination which was not definitely made until 1963.

Indeed, the Indians have repeatedly asked for clarification of the location of the south boundary of their reservation. On March 23, 1940, the Salt River Indian Community Council passed a resolution requesting the Commissioner of Indian Affairs to "definitely locate and establish the reservation boundary line in and along the stream bed of the Salt River." (Exhibit 24) The Indians were advised that since no funds were available for a survey, their request could not be acted upon. Subsequent requests have met a similar fate.

IV. Conclusion

Under these circumstances we believe that the south channel of the Salt River should be recognized as the south boundary of the Salt River Indian Reservation. We therefore recommend that Secretarial approval of the March 5, 1963, memorandum opinion of the Director of the Bureau of Land Management be withdrawn and that new instructions regarding the south boundary of the Salt River Indian Reservation be issued.

A status report on the area between the channels furnished by the Bureau of Land Management on January 3, indicates that since the establishment of the reservation, the United States has issued patents to private individuals and granted rights-of-way to the State of Arizona and County of Maricopa involving lands which the survey to be made by the Bureau of Land Management may show to be within the boundaries of the reservation. The Salt River Pima-Maricopa Indian Community has explicitly waived any interest it might have in such lands. However, in order to avoid any cloud upon the title conveyed by the patents involved, all of which appear to have been issued more than 40 years ago, or upon the interests granted by the rights-of-way, we suggest that in the event the survey by the Bureau of Land Management discloses that the United States issued patents to and rights-of-way across lands already reserved for Indian use, remedial legislation be recommended to exclude the patented and rights-of-way areas from the reservation and confirm the titles thereto.

We would add that fairness to persons asserting interests in the lands between the two channels under the mining and other public lands laws will require this Department to promptly request the Department of Justice to commence appropriate actions to obtain judicial determinations of the merits of their claims.

Edward Weinberg

Solicitor

EXHIBITS

1. March 5, 1963, memorandum opinion from the Director of the Bureau of Land Management to the State Director, Arizona
2. Executive Order of June 14, 1879
3. Executive Order of January 10, 1879
4. February 18, 1879, letter from Captain A. R. Chaffee to Assistant Adjutant General
5. Map dated March 4, 1879, "traced in the Adjutant General's office"
6. Map, "traced in Adjutant General's office, January 1879"
7. April 28, 1879, letter from Major General McDowell to Adjutant General
8. March 8, 1879, letter from Inspector J. H. Hammond to Commissioner of Indian Affairs
9. March 8, 1879, map, "Gila River Reservation and Surroundings, Pima Agency, A.T."
10. June 12, 1879, letter from Acting Commissioner of Indian Affairs to Secretary of the Interior
11. Official plats of W. F. Ingalls survey of T. 1 N., R. 5 E., and T. 2 N., R. 5 E., approved October 22, 1868
12. Excerpt from field notes of W. F. Ingalls' survey, Arizona Territory Volume 2
13. July 12, 1879, map, "Plat showing lands reserved for Pima and Maricopa Indians by Executive Order of June 14, 1879"
14. June 27, 1879, letter from Commissioner of the General Land Office to Surveyor General
15. Official plat of L. D. Chillson resurvey of T. 1 N., R. 5 E., approved July 11, 1888
16. December 27, 1887, letter from Surveyor General to L. D. Chilson
17. October 13, 1891, letter from Commissioner of the General Land Office to Commissioner of Indian Affairs
18. August 18, 1892, letter from Commissioner of Indian Affairs to Commissioner of the General Land Office
19. July 8, 1892, letter from Pima Indian Agent to Commissioner of Indian Affairs

20. Map of irrigable lands in Arizona prepared by U.S. Geological Survey, for Salt River Project 1902-03

21. Official plat of R. A. Farmer resurvey of T. 1 N., R. 5 E., approved December 15, 1910

22. Excerpt from field notes of R. A. Farmer resurvey of T. 1 N., R. 5 E.

23. November 1914, United States Indian Service map, allotments and cultivated land on the Salt River Indian Reservation

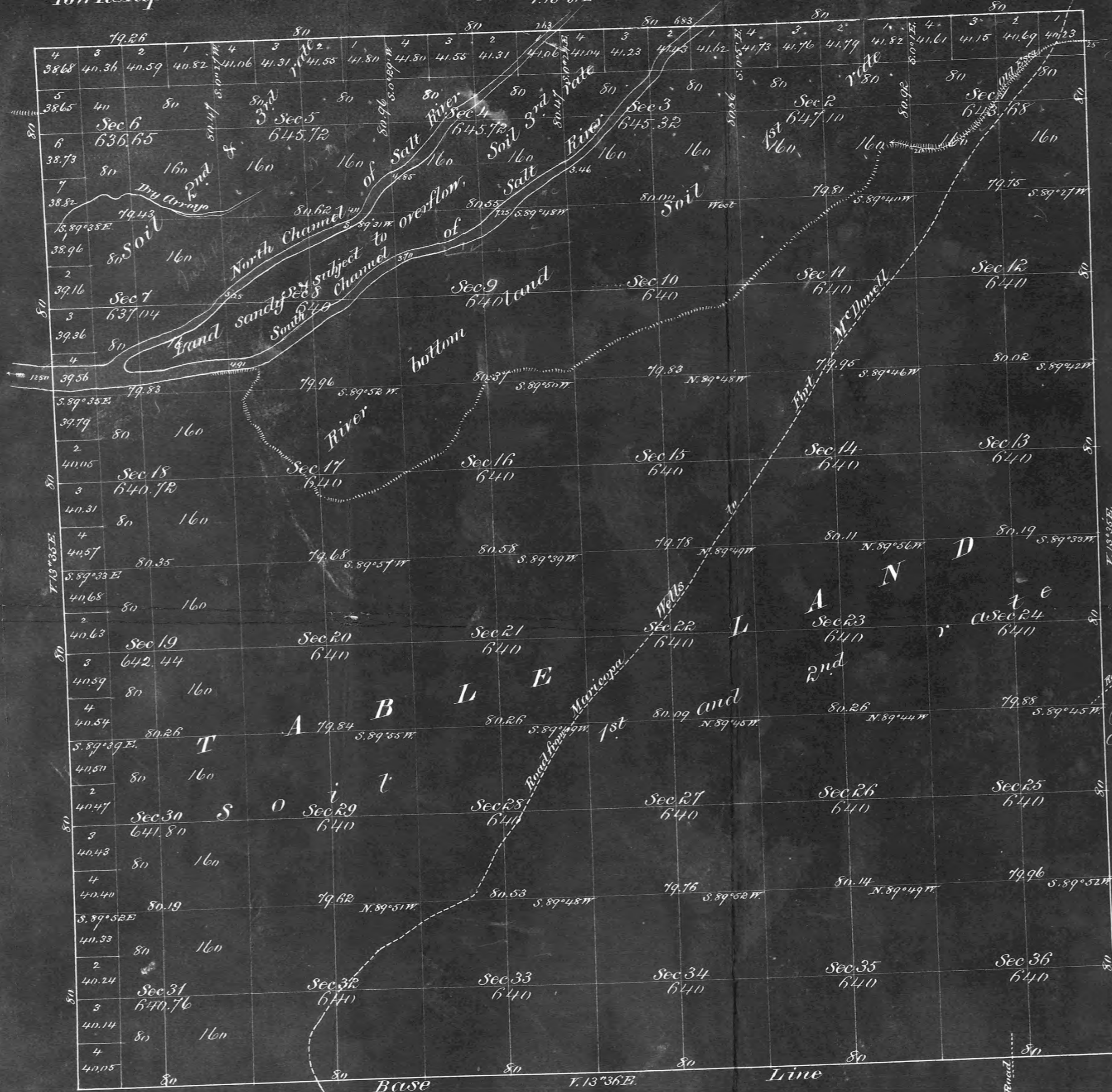
24. March 23, 1940, resolution of the Salt River Indian Community Council

Unnumbered
Map

Township N^o 1 North

Range N^o 5 East
T. 13° 51' E

Gila and Salt River Meridian



Re. with Sur Gen's letter of Dec 3 1868
Survey said per Report No. 10.524, p. 10

By Executive order of January 10, 1879
Lands in this township reserved for the Pima and
Maricopa Indians, and again reserved by
Executive order dated June 14, 1879.

By the order of June 14, 1879, the lands north of Salt
River were added to the permanent reservation,
and the lands in this township south of the
River were temporarily reserved, and the order
of January 10, 1879, was cancelled.

Aggregate Area of Public Land 23,066.95 Acres
Plat filed with Register Dec 2^d 1870
As per Sur Gen's letter of July 31st 1876
Pl 22175

Entered in tract book Vol. 5
July 24, 1872 J. P. Dwyer

Section lines run at a Variation of 13° 35' East

| Surveys Designated | By Whom Surveyed | Date of Contract | Amount of Surveys | When Surveyed |
|----------------------------|------------------|--------------------------------|---|-----------------------------|
| South boundary of Township | Wm. H. Pierce | December 15 th 1866 | | 1867 |
| Rest of Township lines | W. F. Ingalls | February 18 th 1868 | 17 M ^{ts} 79 Chs. 26 T ^{hs} | 1868 |
| Section lines | | | 60. 5. 28. | April 29 th 1865 |

The above Map of Township N^o 1 North, Range N^o 5 East, Gila and Salt River Meridian
is strictly conformable to the field notes of the Surveys thereof on file in this Office,
which have been examined and approved
Surveyor General's Office
San Francisco, California
October 22nd 1868

Sherman Day
Surv. Gen. Cal. and Arizona



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON 25, D. C.

6.05a
Cty 372, Arizona

MAR 5 1963

RECEIVED
STATE OFFICE

MAY 15 1964

BUR. OF LAND MGMT.
PHOENIX ARIZONA



Memorandum

To: SD, Arizona

From: Director

Subject: Consideration and opinion on reestablishment of a portion of the boundary, Salt River Indian Reservation, T. 1 N., R. 5 E., G&SM.

By your memorandum of October 26, 1962, you requested our consideration and opinion on the matter of identifying and reestablishing the boundary of the Salt River Indian Reservation along the Salt River within T. 1 N., R. 5 E., Gila and Salt River Meridian. That memorandum was accompanied by a most comprehensive report on the historical background of the reservation, together with all apparent historical maps of the general area. In response to the request of the Chief, Division of Engineering, dated December 19, 1962, you furnished, by memorandum dated January 28, additional data relating to past stream flow of the Salt River and a 1960 aerial mosaic of the river upon which you have delineated the last vestiges of the river's north channel as determined by an on-the-ground inspection.

The consideration of the position of the southerly boundary of the Salt River Indian Reservation turns around two points: first, the intent of the Executive order by which the reservation was established; and second, the present position of the boundary in consideration of the movements of Salt River since the date of the reservation's establishment.

This Bureau has a prime and direct interest in the determination of the position of this boundary through a continuing public land interest in lands outside the reservation. In general terms, lands and resources north of this boundary inure to the benefit of the Indians while the land and resources south of this line are subject to laws and regulations pertaining to public lands. Of immediate value are the deposits of sand and gravel, which are apparently in great demand, within the old river bed.

You report that there is a conflict between what you believe to be the proper position for the reservation boundary, that is, the so-called

EXHIBIT C

north channel of the river, with that which the Superintendent of the Pima Agency, Bureau of Indian Affairs, believes to be the proper position, that is, the so-called south channel of the river. However, nothing of a documentary nature has been submitted by you, and presumed by the Indians, to support their position with material facts. It is the intent of this memorandum to examine the conflict of interest and to give you our opinion thereon by which you may proceed with the official reestablishment of the controversial boundary.

T. 1 N., R. 5 E., was originally surveyed in 1868 by W. F. Ingalls, Deputy Surveyor, as shown upon the official plat approved October 22, 1868. The field notes and plat depict the presence of Salt River in the northwesterly portion of the township, flowing in a general NW direction, through two distinct and separate channels for almost the entire distance. The channels are labeled respectively, "North Channel of Salt River" and "South Channel of Salt River". The intervening island area is 1/2 to 3/4 mile in width. Upon the plat this island area carries the notation, "Land sandy subject to overflow, Soil 3rd rate." The original survey did not meander or segregate the river channels or island area, and their representation upon the plat is by sketching, coordinated with the recorded section line crossings.

At the time of the original survey, and on the date of Arizona's admission into the Union, Salt River would have to be considered as a non-navigable stream. In those years the stream flow was a variable thing ranging from flash flooding to complete absence of any water. During the spring and early months there was undoubtedly a good flow thereon as runoff from the melting snow in its headwaters. At about the turn of the century and subsequently, retention dams have been constructed on the upper reaches of the Salt River and its major tributary, the Verde River, for irrigation and power purposes. Consequently, the river has ceased flowing except for flash flooding or the release of excess impounded waters. This cessation of flow has practically stabilized the position of the river bed since the time of the dam construction.

By Executive Order dated June 14, 1879, a tract of public lands within T. 1 N., R. 5 E., and Tps. 2 and 3 N., Rs. 5, 6 and 7 E., was set apart in the territory of Arizona as a reservation for the Pima and Maricopa Indians. The portion of the Executive Order pertinent to the boundary question at hand reads:

"Beginning at the point where the range line between Ranges 4 and 5 east crosses the Salt River; thence up and along the middle of said river to a point where the easterly line of Camp McDowell Military Reservation, if prolonged south, would strike said river; * * *"

The E. O. also contains these stipulations:

"It is hereby ordered that so much of townships 1 and 2 north, ranges 5 and 6 east, lying south of the Salt River, as are now occupied and improved by said Indians, be temporarily withdrawn from sale and settlement until such time as they may severally dispose of and receive payment for the improvements made by them on said lands."

This last part of the order can only be interpreted as a termination of Indian rights to any lands south of the river and it can hardly be presumed that any such rights or occupancy of lands in 1879 are now outstanding in either individual Indians or the tribe. The order does not designate whether it was the intent of the boundary to follow the north or the south channel. In reaching an opinion on this question, we must then consider the collateral evidence as to its position as proposed or interpreted by Government officials having general administrative authority over the territorial lands and as shown upon the historical maps which you have submitted. The preponderance of this evidence is in favor of the north channel.

The reserved tract has since become known as the Salt River Indian Reservation.

Executive Orders dated September 28, 1911, and October 23, 1911, added lands within T. 2 N., R. 5 E., to the existing reservation, which additions do not affect the question at hand.

The map identified as, Sketch of a portion of Salt River, traced in Adjutant General's Office, Jan'y. 9, 1879, shows thereon a "Proposed Res'n" whose south boundary is shown as following the north channel.

A map not identified otherwise but containing the notation, Traced in Adjutant General's Office, March 4, 1879, depicts a shaded area, presumably the reservation, as extending to the south channel. This particular map is the only historical map that treats the south channel as the boundary.

The map of Arizona Territory, prepared by the Army in 1879, shows the reservation boundary along the north channel. This map was found here in Washington in the National Archives and is an addition to the maps submitted by you.

The map identified as, Gila River Reservation and Surroundings, Pima Agency, A. T., also being possibly House Document, H. 399-1879, shows the north channel as the reservation line. We have not been able to find, however, this map in the House Documents for the year 1879. The

map is quite material for it was prepared by the Pima Indian Agency and can only be construed as their consideration at that date of the position of the reservation line as between the north and south channels.

Perhaps the most pertinent map is that prepared by the Surveyor General at Tucson, dated July 12, 1879, titled, Flat showing Lands Reserved for Pima and Maricopa Indians by Executive Order of June 14, 1879. The reservation boundary is shown along the north channel. This is an official plat in every sense whose purpose in preparation was to guide the Government in its administration and disposal of lands in the vicinity of the reservation. If it did not properly represent the extent of the reservation, then it would have been incumbent upon the Indian Service to seek an amendment thereof. There is no evidence upon the plat, of any objection or amendment.

In 1888, L. D. Chillson, Deputy Surveyor, executed a resurvey and subdivision of so much of T. 1 N., R. 5 E., into 40-acre tracts as was situated at that time north of the right bank of Salt River. One book of the field note record of this work states on its face, "Meander Lines of Right Bank of Salt River - - - which constitutes the South Boundary of the Salt River Indian Reservation." Those meander lines were of the right bank of the north channel. It is apparent from the record that the surveys were requested and paid for by the Indian Office.

In 1910, R. A. Farmer, Topographer, executed a dependent resurvey and subdivision of sections within T. 1 N., R. 5 E., of reservation lands, based on the Chillson surveys. This work did not reach south of the right bank of the north channel of Salt River. In Mr. Farmer's repeated phrasing, the meandering of the right bank is described as, "Right bank of Salt River which river is S. bdy. of the Salt River Indian Reservation." The immediate record does not reflect that the surveys were made for the benefit of the Indian Service or were paid for by that agency but such conditions must have prevailed as this Bureau had no direct interest in such survey of the reservation lands. The Farmer survey has apparently been employed by the Indians for purposes of issuing allotments and trust patents.

Other maps which you have submitted are only of incidental interest to this vicinity and do not show any historical or collateral evidence of the reservation boundary. The 1912 and 1952 topographic maps published by the Geological Survey each depict a boundary line within the river bed. These lines are generalizations only, representative of office determinations perhaps, without basis of material evidence.

The preponderance and weight of evidence favors the recognition of the north channel of Salt River as being the south boundary of the reservation. In the apparent absence of protest or amendment by the Indians

to the boundary as shown upon many maps and as officially surveyed and established upon the ground by two official surveys, it must be considered that until recent years the Indians were apparently complacent with the boundary being along the north channel. In a similar matter the Solicitor considered the question of the historical position of a portion of the boundary of the San Carlos Indian Reservation (55 I.D. 560). In the syllabus of the opinion, it is said:

In determining the boundaries of an Indian reservation the recognition by the Interior Department of a boundary as such for more than 60 years will be held as controlling.

The case at hand is not unlike the San Carlos situation in age and recognition.

Therefore, it is our opinion and conclusion that the south boundary of the Salt River Indian Reservation within T. 1 N., R. 5 E., is the north channel of Salt River.

It is well established under common law that a riparian owner of lands upon either a navigable or nonnavigable stream follows with his ownership the shifting of the stream, if the change has been gradual (*New Orleans v. United States*, 10 Pet. 662). The movement of a stream can thus result in both a gain of lands through alluvium and a loss of lands by erosion.

Since the Executive Order established the southerly boundary of the reservation as the middle of Salt River, thereby granting to the reservation the stature of a riparian owner, it should be considered that this boundary has shifted as the river has subsequently moved.

The historical mapping evidence reflects that there has been some movement in the north channel of the river in a generally southerly direction since the original surveys of 1868. This movement has had the effect of adding considerable lands to the reservation as originally surveyed. There is no direct evidence that the river's movement has been by means other than by normal erosion and accretion. Movement in the nature of an avulsive action is not apparent although in all likelihood the erosional effect was accelerated during periods of flood when the river was active.

Since Salt River has ceased to carry any continuous flow of water, due to the retention of almost all waters by dams in its upper reaches, it may be considered that the river has reached a stabilized condition and is no longer subject to shifting or movement. Within this concept

then the position of the reservation boundary should be established within the considered position of the north channel, as the river ran at the time of the cessation of flow.

Upon the submitted 1960 aerial mosaic you have identified the last vestiges of this north channel. The channel is so identified upon the mosaic by the yellow coloring.

Therefore, you will accept this particular channel as being the abuttal of the reservation within T. 1 N., R. 5 E., and you will identify, mark and monument its centerline as the limiting northerly boundary of public land areas lying southerly thereof. Corners thereon will be marked in accordance with secs. 278-279 of the Manual.

The movement of the north channel, since the original survey, has been in a southerly direction. The adoption of the present position of the north channel, as described above, would have the effect of adding an estimated area of 200 acres of land to the reservation from that shown upon the 1868 plat. Considering the position of the reservation boundary as established by Farmer in 1910, there will be added an estimated area of 360 acres. In other words, the Indians are not suffering any loss of lands by the reestablishment of the boundary as proposed but are gaining thereby the estimated area of 360 acres. Within T. 1 N., R. 5 E., this is an additional 20 percent of the base lands.

At this time, no sectional subdivision or relotting of the lands added to the reservation will be undertaken. The area between Farmer's record meander line and the new boundary line will be shown upon the plat only as "accretion." See sec. 639 of the Manual.

The resurveys in T. 1 N., R. 5 E., will proceed in accordance with these opinions and directions as expeditiously as possible.

The aerial mosaic is being returned under separate cover. All other submitted material is being retained unless you have an expressed desire for its return.

R. R. Hochstadt
Acting

I concur. MAY - 6 1964

John A. Carver Jr.
(John A. Carver, Jr.)

THE WHITE HOUSE, July 31, 1911.

It is hereby ordered that the following-described lands in Pinal County, Arizona, be, and they are hereby, reserved from settlement, entry, sale, or other disposal, and set aside as an addition to the Gila River Indian Reservation, Arizona, subject to any valid existing rights of any persons thereto:

Township 5 south, range 7 east, Gila and Salt River meridian: Section 1, lots 5, 6, 7, 8, 9, and 10, SW. $\frac{1}{4}$, S. $\frac{1}{2}$ of NW. $\frac{1}{4}$, and the west 160 acres of the SE. $\frac{1}{4}$ of section 1. Section 12, E. $\frac{1}{2}$ of NW. $\frac{1}{4}$, NW. $\frac{1}{4}$ of NW. $\frac{1}{4}$, W. $\frac{1}{2}$ of NE. $\frac{1}{4}$, NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$, and lots 2, 3, 4, and 9.

Township 5 south, range 8 east, Gila and Salt River meridian: Section 6, lots 6 and 7, E. $\frac{1}{2}$ of SW. $\frac{1}{4}$, S. $\frac{1}{2}$ of SE. $\frac{1}{4}$. Section 7, lot 1, NE. $\frac{1}{4}$ of NW. $\frac{1}{4}$ and N. $\frac{1}{2}$ of NE. $\frac{1}{4}$.

WM. H. TAFT.

THE WHITE HOUSE, December 16, 1911.

Under authority of the act of Congress approved June 25, 1910 (36 Stat., 847), and on the recommendation of the Secretary of the Interior, it is hereby ordered that all of township 5 south, range 7 east, Gila and Salt River meridian, Arizona, except such portions thereof as have been heretofore reserved and set aside as an addition to the Gila River Indian Reservation, be temporarily withdrawn from settlement, location, sale, or entry, except as provided in said act, and be reserved for classification.

WM. H. TAFT.

SALT RIVER RESERVATION.

EXECUTIVE MANSION, June 14, 1879.

In lieu of an Executive order dated January 10, 1879, setting apart certain lands in the Territory of Arizona as a reservation for the Pima and Maricopa Indians, which order is hereby canceled, it is hereby ordered that there be withdrawn from sale and settlement, and set apart for the use of said Pima and Maricopa Indians, as an addition to the reservation set apart for said Indians by act of Congress approved February 28, 1859 (11 Stat., 401), the several tracts of country in said Territory of Arizona lying within the following boundaries, viz:

Beginning at the point where the range line between ranges 4 and 5 east crosses the Salt River; thence up and along the middle of said river to a point where the easterly line of Camp McDowell Military Reservation, if prolonged south, would strike said river; thence northerly to the southeast corner of Camp McDowell Reservation; thence west along the southern boundary line of said Camp McDowell Reservation to the southwest corner thereof; thence up and along the west boundary line of said reservation until it intersects the north boundary of the southern tier of sections in township 3 north, range 6 east; thence west along the north boundary of the southern tier of sections in townships 3 north, ranges 5 and 6 east, to the northwest corner of section 31, township 3 north, range 5 east; thence south along the range line between ranges 4 and 5 east to the place of beginning.

Also all the land in said Territory bounded and described as follows, viz:

Beginning at the northwest corner of the old Gila Reservation; thence by a direct line running northwesterly until it strikes Salt River 4 miles east from the intersection of said river with the Gila River; thence down and along the middle of said Salt River to the mouth of the Gila River; thence up and along the middle of said Gila River to its intersection with the northwesterly boundary line of the old Gila Reservation; thence northwesterly along said last-described boundary line to the place of beginning.

It is hereby ordered that so much of townships 1 and 2 north, ranges 5 and 6 east, lying south of the Salt River, as are now occupied and improved by said Indians, be temporarily withdrawn from sale and settlement until such time as they may severally dispose of and receive payment for the improvements made by them on said lands.

R. B. HAYES.

—
THE WHITE HOUSE, *October 20, 1910.*

It is hereby ordered that the following-described lands in the State of Arizona, viz, all of sections 1 and 12 in township 1 north, range 4 east of the Gila and Salt River meridian, be, and the same are hereby, withdrawn from settlement, entry, and sale, and set apart as an addition to the Salt River Indian Reservation: *Provided*, That nothing herein shall affect any existing valid rights of any person to the lands described.

WM. H. TAFT.

—
THE WHITE HOUSE, *March 22, 1911.*

It is hereby ordered that Executive order of June 14, 1879, creating a reservation for use of the "Pima and Maricopa Indians," be, and the same is hereby, amended so as to make said reservation available for use of the Pima and Maricopa Indians, and such other Indians as the Secretary of the Interior may see fit to settle thereon.

WM. H. TAFT.

—
THE WHITE HOUSE, *September 28, 1911.*

Executive order of June 14, 1879, temporarily withdrawing from sale and settlement for Indian uses so much of townships 1 and 2 north, ranges 5 and 6 east, in Arizona, lying south of the Salt River, is hereby amended so as to permanently withdraw from settlement, entry, sale, or other disposition all those tracts lying south of the Salt River in sections 25, 26, 34, and 36, except the SE. $\frac{1}{4}$ of the SE. $\frac{1}{4}$ of section 34, in township 2 north, range 5 east, of the Gila and Salt River meridian, for the use of the Pima and Maricopa Indians, and such other Indians as the Secretary of the Interior may see fit to settle thereon, subject to any existing valid rights of any persons thereto.

WM. H. TAFT.

THE WHITE HOUSE, *May 28, 1912.*

It is hereby ordered that the following-described lands in Pinal County, Arizona, be, and the same hereby are, reserved from settlement, entry, sale, or other disposition and set apart as Indian reservations for the use of the several bands or villages of Papago Indians settled thereon, and such other Indians as the Secretary of the Interior may see fit to settle thereon, as follows:

Maricopa band or village.—S. $\frac{1}{2}$ section 13. All of sections 24, 25, and 36, township 4, range 2. SW. $\frac{1}{4}$ and S. $\frac{1}{2}$ of SE. $\frac{1}{4}$ of section 18. All of sections 19, 29, 30, 31, 32, and 33, township 4, range 3. All of township 5, range 2. All of sections 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 22, 23, 24, 25, 26, and 27, township 5, range 3. All of sections 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, and 30, township 5, range 4.

Chur-chaw band or village.—All of sections 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, township 7, range 5. All of sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, township 8, range 5. All of sections 5, 6, 7, 8, 17, and 18, township 8, range 6.

Cocklebur band or village.—All of township 8, range 4. All of sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36, township 8, range 3.

Tat-mayl-ma-kot band or village.—All of sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, township 9, range 4. All south and east of the Gila and Salt River principal meridian; provided that nothing herein shall affect any valid existing rights of any person.

WM. H. TAFT.

PIMA AND MARICOPA OR GILA RIVER RESERVATION.

EXECUTIVE MANSION, *August 31, 1876.*

It is hereby ordered that the following-described lands in the Territory of Arizona, viz, township 4 south, range 7 east, sections 14, 15, 22, 23, 24, 25, 26, 27, north half of section 35 and section 36; township 5 south, range 7 east, northeast quarter of section 1; township 4 south, range 8 east, southwest quarter of section 19, west half and southeast quarter of section 29, sections 30, 31, 32, and southwest quarter of section 33; township 5 south, range 8 east, southwest quarter of section 3, section 4, north half of section 5, north half of northeast quarter and northwest quarter of section 6, and northwest quarter of section 10, be, and the same are hereby, withdrawn from the public domain and set apart as an addition to the Gila River Reservation in Arizona, for the use and occupancy of the Pima and Maricopa Indians.

U. S. GRANT.

EXECUTIVE MANSION, *January 10, 1879.*

It is hereby ordered that all the public lands embraced within the following boundaries lying within the Territory of Arizona, viz, commencing at the mouth of the Salt River, running thence up the Gila River to the south line of township No. 2 south, Gila and Salt River base line; thence east with said line to the southeast corner of

EXHIBIT #0

EXECUTIVE ORDERS RELATING TO INDIAN RESERVATIONS. 25

township No. 2 south, range 6 east; thence north with said line to a point 2 miles south of the Salt River; thence following the course of said stream in an easterly direction, and 2 miles south of the same, to the west line of the White Mountain Reservation; thence north with the line of said reservation, or the extension of the same, to a point 2 miles north of said river; thence in a westerly direction, following the course of said river, and 2 miles north of the same, to the east line of range 6 east; thence north with said line to the northeast corner of township 2 north, range 6 east; thence west with the north line of said township to the Gila and Salt River meridian line; thence south with said line to the Gila River, and thence by said river to the place of beginning, be, and the same are hereby, withdrawn from sale and set apart for the use of the Pima and Maricopa Indians, in addition to their present reservation in said Territory.

R. B. HAYES.

EXECUTIVE MANSION, *June 14, 1879.*

In lieu of an Executive order dated January 10, 1879, setting apart certain lands in the Territory of Arizona as a reservation for the Pima and Maricopa Indians, which order is hereby canceled, it is hereby ordered that there be withdrawn from sale and settlement, and set apart for the use of said Pima and Maricopa Indians, as an addition to the reservation set apart for said Indians by act of Congress approved February 28, 1859 (11 Stat., 401), the several tracts of country in said Territory of Arizona lying within the following boundaries, viz:

Beginning at the point where the range line between ranges 4 and 5 east crosses the Salt River; thence up and along the middle of said river to a point where the easterly line of Camp McDowell Military Reservation, if prolonged south, would strike said river; thence northerly to the southeast corner of Camp McDowell Reservation; thence west along the southern boundary line of said Camp McDowell Reservation to the southwest corner thereof; thence up and along the west boundary line of said reservation until it intersects the north boundary of the southern tier of sections in township 3 north, range 6 east; thence west along the north boundary of the southern tier of sections in townships 3 north, ranges 5 and 6 east, to the northwest corner of section 31, township 3 north, range 5 east; thence south along the range line between ranges 4 and 5 east to the place of beginning.

Also all the land in said Territory bounded and described as follows, viz:

Beginning at the northwest corner of the old Gila Reservation; thence by a direct line running northwesterly until it strikes Salt River 4 miles east from the intersection of said river with the Gila River; thence down and along the middle of said Salt River to the mouth of the Gila River; thence up and along the middle of said Gila River to its intersection with the northwesterly boundary line of the old Gila Reservation; thence northwesterly along said last-described boundary line to the place of beginning.

It is hereby ordered that so much of townships 1 and 2 north, ranges 5 and 6 east, lying south of the Salt River, as are now oc-

177
1215 Feb. 18. 1849.

| | | |
|-----|---------------|------|
| 77 | INDIAN OFFICE | 1879 |
| 580 | in. cl. No. / | |

President, Feb. 18. 1849.

Commanding General
Mil. Dep. Pac. + Dept. Cal.

Forwards statement of
Capt. A. R. Chaffee, 6th
Cav. concerning China and
Wichita Indian Re-
servation.

Adjutant General's Office
Washington, March 5. '49.

Official Copy:
W. D. Townsend
Adjutant General

For the Honorable
The Secretary of the Interior

Copy

Camp, D.C. ^{Washington}
February 10 1870

to the

Assistant Adjutant General
Adj. Gen. Dept. of War
Prescott Barracks

Sir,

I have the honor to enclose herewith
copies of "East River Herald" of February 10
which contains what, you will, to be a copy
of the President's order withdrawing
sale certain land and declaring the same
to be a Reservation for the Pima and
Maricopa Indians.

Being somewhat acquainted with
private rights affected by the order
am able to advise the boundaries as
concerned, as follows:

Within the boundaries mentioned
in the order lies all the land of the
River Valley that is of value to Indians
or Indians; to wit, a series of lands
surveyed and of this tract boundaries
are marked in the map
attached to which must be added
about 10,000 acres of unsurveyed land
(of no great value) and some
50,000 acres of land owned by the

or 100 acres to each man woman and child

All this if the title remained in white sections is to be extinguished. It is certain that, there must be an all a constant turmoil, will exist between the two races. The Indians will gain nothing, as their sections, rail sections etc of land have been surrounded on every side by white sections.

The land will remain a barren waste, as the whites, now control the ditches that irrigate all the land north of the river. It is not to be supposed that the whites will permit unobstructed, the Indians to trespass on their property as they have done in many ways.

Hence it may be said, that the two races cannot co-exist in the same place and as a consequence will be driven to the other side of the river. It is not to be supposed that the whites will permit the Indians to trespass on their property as they have done in many ways.

and turned over to the small tribes
Indians according to tradition the
couragement - very true but I cannot
not to the extent this report would
them. It must be borne in mind
that this large grant is in addition
to their old reservation on the river
containing many thousand acres, be-
siderably improved, as written with
ing water from the river, upon the
reservation up on which half the
Indians still live.

Small tracts in Salt River valley
are very extensive. The State stated
quantity of land entered at 18 - 18 - 18
The township of North Grove 2400 ac-
cording the lower portion is under culti-
vation as is a considerable quantity
ranges - 5/8 of a cast corner of the

The township of North Grove
is situated the town of North Grove
is a fine place with many
of the most beautiful views
of the river and mountains
in the valley.

In the region the people
are much interested in the
people in attendance in a
meeting.

settling up as is Arizona Territory
the same used to cause and it has
the merit of expelling rather than
hardening of and considerable some
advance in white sections

with an Agent possessing large
and foresight in charge a year or two
would secure to the Indians permanent
water privileges. An Accquia takes
10000 inches of water taken out
would be sufficient for the wants of the
Indians. (This being in addition to the
Accquias they now have) and it would
be a gain against any subsequent water
right on the river

I proposed to cause this water
from the Rio to remain in
present but slightly diminished
Accquias already has above the
river with the river in the
lower proposed as the
there is a considerable
the whole Accquias

The Indians seem to be
some perhaps an increase
for some out of the
that is not because the
wants to have the

set apart for them nor are they such
circular straws in numbers, to be
I warn, indeed, that a petition
or protest against the order in the
President is, unless intended at home

Please find, enclosed, herewith
maps copied from one I received
from the Surgeon General of the
Army and one which I have noted
the boundaries of the new reservation
and of the one recommended in one

Yours respectfully

(Signed) _____

Captain _____

copy

Extract from Salt River Herald July 11 1879

Executive Session

January 10 1880

It is hereby ordered that all lands in
 lands embraced within the following
 boundaries lying within the Territory
 of Arizona by Commencement at
 the mouth of the Salt River thence
 up the Salt River to the south
 line of Township No 2 south, Salt
 and Salt River base line thence
 east with said line to the south
 east corner of Township No 2
 range east thence north with
 said line to a point two miles south
 of East River thence following the
 course of said stream in an easterly
 direction and two miles south of
 said point to the west line of the White
 Pine road with the line of east reservation
 of said reservation as the eastern
 line of said reservation to a point two miles
 north of said river thence in a
 westerly direction following the
 course of said river and two miles
 west of the same to the west line
 of said reservation thence north with
 said line to the north line of
 Township No 2 north range east

west with the north line of said town-
ship to the Gila river. East river means
line thence south with said line
the Gila river and thence along
said river to place of beginning the
line and the same are hereby withdrawn
from sale and set apart for the use
of the Pima and Maricopa Indians
in addition to their present reserva-
tion in said Territory.

Signed R. B. Hayes

The following letter from the Register with
the Land Office at Florence to Gen
Fremont in relation to making out
rolls on Indian reservations seems
to be found interesting.

U S Land Office

Florence Arizona

To his excellency Genl J. W. Fremont
Governor of Arizona Terr.
I transmit for your information
a copy of executive order issued
at this office September 24th 1852
in relation to a reservation
for the Pima and Maricopa Indians
of said Territory

Being in the enclosed

land which you already overtaken by
at the present moment but the grasp
of the calamity to the people of
the Salt River Valley and the
imminent danger it involves
of a conflict between the settlers
and the Indians, will induce
you to sympathize with my
altruistic views.

By comparing the boundaries
of the Reservation with the plat
I find it embraces twenty two
Townships of surveyed land
besides an almost equal quantity
of unsurveyed land.

The townships average about
23,000 acres each and without an
examination of filings I find
as follows:

| | | |
|--------------------|-----|------------------|
| Prescriptions | 43 | quarter sections |
| Embraced within | 22 | " |
| Abandoned | 25 | " |
| Recent filings Act | 126 | " |
| Unsurveyed lands | 150 | " |

A total of 346 quarter sections
or 2,768,000 acres besides a great
quantity of unsurveyed land which
is not included in the above

In 1850 the settlers have contributed something to the Treasury and in the desert land entries twenty four years ago have been based on a contract which the government now repudiates.

By instructions I am authorized to receive additional filings within the reservation or to perfect those already made.

The reservation embraces the best of the agricultural land of the Territory settled by an industrious and thrifty community of good citizens and constitutes the wealth and population of the Territory.

The thrifty town of Phenix is now in the center of an Indian Reservation and the whole population of Salt Lake Valley are disfranchised by an executive order and brought under the control of a governing Indian reservation.

It is a line of 3000 miles with no other outlet for selling products beyond the mountains and the mountains cannot be reached without a narrow gauge iron road. It is a line of 3000 miles with no other outlet for selling products beyond the mountains and the mountains cannot be reached without a narrow gauge iron road.

what malignant influence could have been exercised upon the President to induce the issuance of an execution order leaving such manifest injustice and crushing calamity.

The Territory is smothered with "Reservations"

Two reservations, each eighty miles in width from east to west through the Territory for Railroad companies who have never laid a rail.

The Indian reservations are absurdly large. Then the military reservation and the private land claims leave nothing for the settler besides barren wastes of land.

I believe you will not find in the whole history of the wretchedly managed Indian Bureau a previous instance in which a "reservation" has been extended to embrace a large population of white men, women and children - crowding a community

I can know perhaps well at well to be unobscure for the Indian and white to live in peace upon alternate sections of land

Portionately for the whites than for the

"water rights" which the Indians are bound to respect; and I fancy they will also maintain their right to the lands which they have reclaimed from a desert at immense cost in money and labor.

In the strife for land and water a conflict is certain to ensue soon or later and the consequences - how lamentable for the Indians - it is hardly necessary to predict.

The worst enemy of both the whites and the Indians could scarcely have conceived a plan more prolific of mischief.

The only remedy I can suggest is that the people of Salt River get up a "franklin show" and invite the President and to inspect the situation. He has never declined an invitation of that kind yet.

Your obedient servant

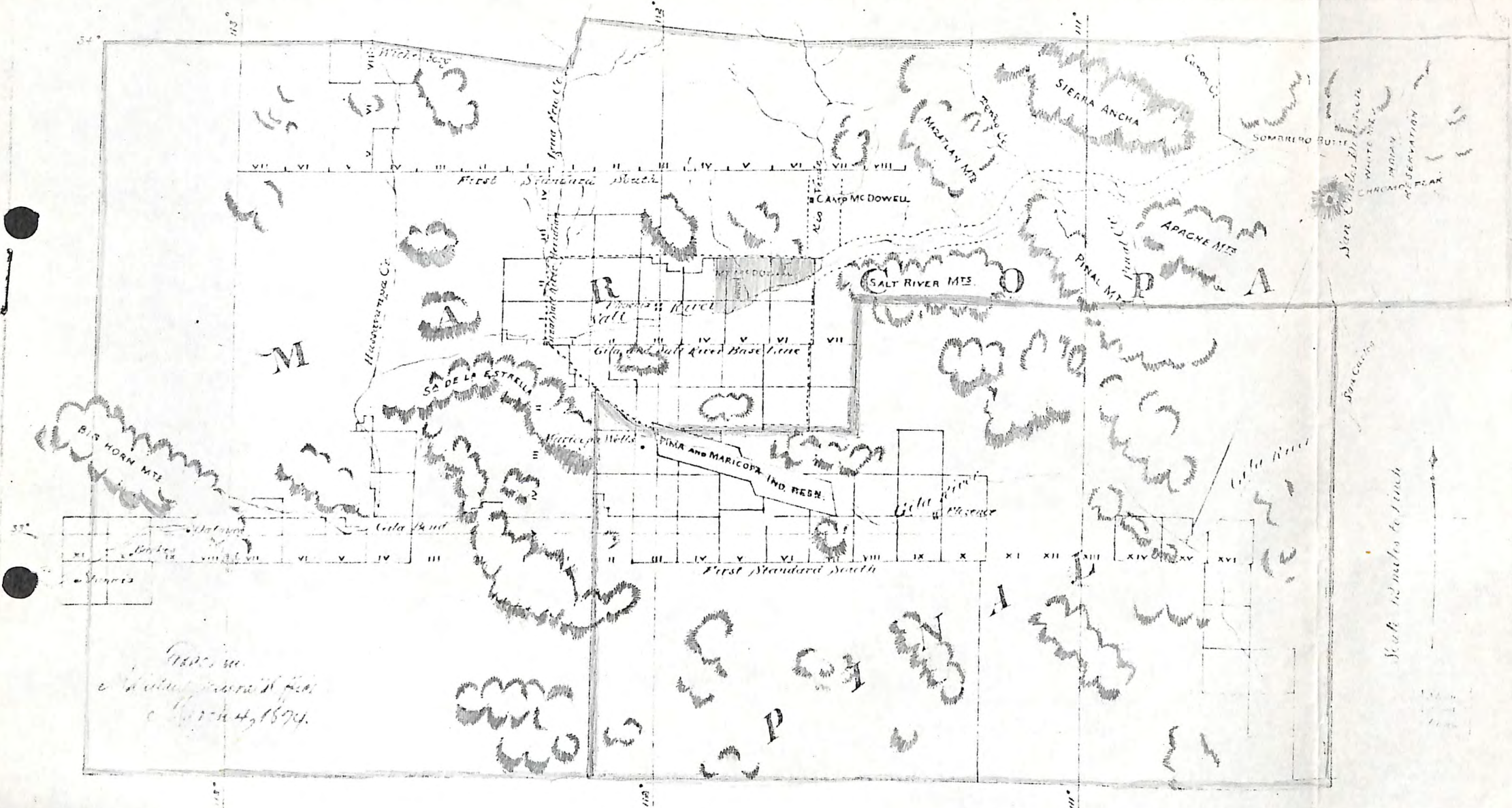
Charles W. Poston

Herewith is a copy of the
President's message to the
Executive Committee forwarded to the
Executive Committee of the Pacific
Association with your letter of the
15th instant for the subject the
of which I have not concerned me

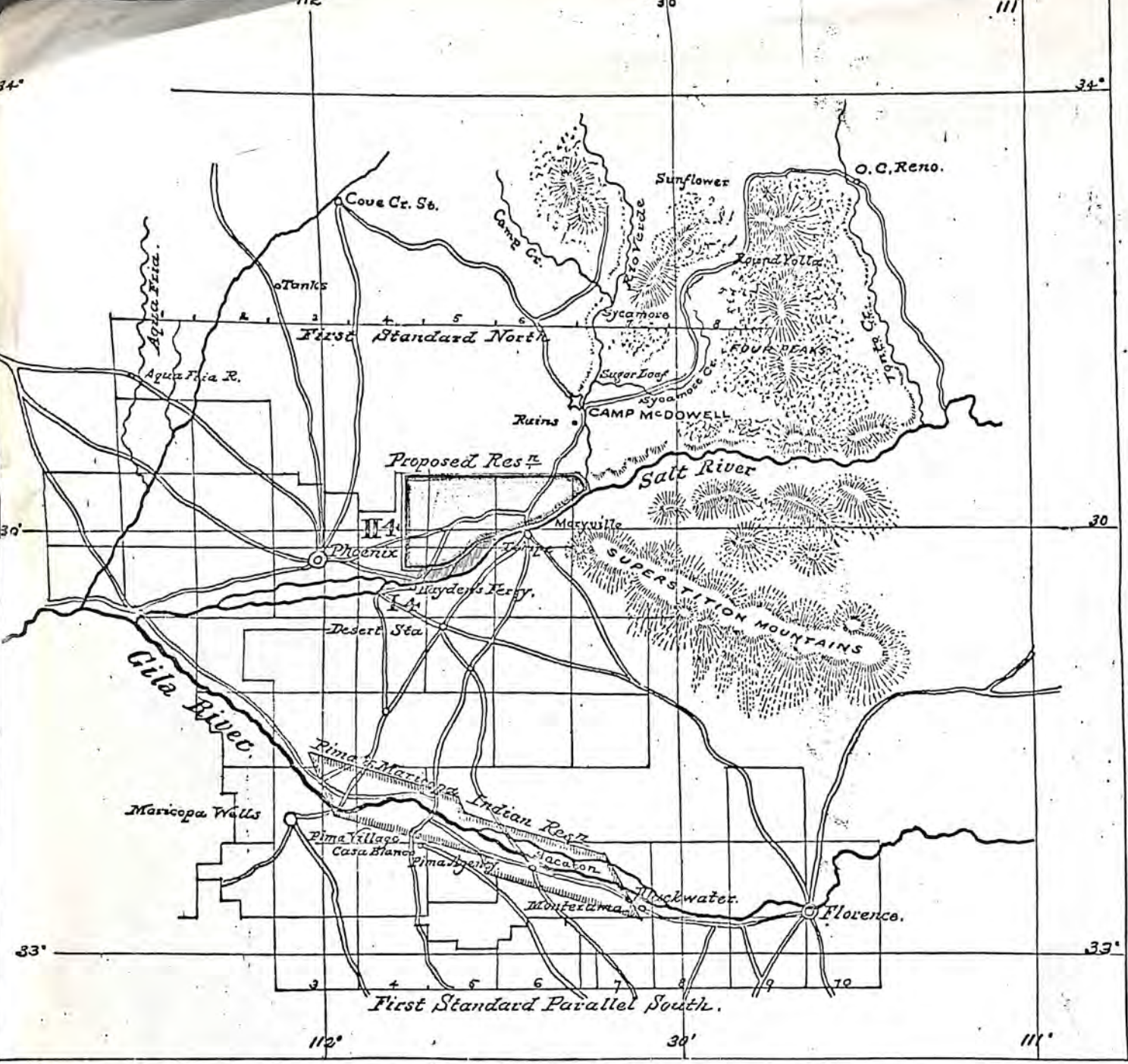
(Signed) G. B. [unclear]
[unclear]
[unclear]
[unclear]

~~President's message~~
read the minutes of the
President of the
Executive Committee forwarded to the
Executive Committee of the
Secretary of the Association
his instructions of [unclear]

(Signed) [unclear]
[unclear]
[unclear]



1880
 & 1881
 1884



Eng Office
 Dept Arizona
 W W Toney
 2d Lt & Cor
 A. E. O.

Traced in
 Adjutant General's Office,
 July 9, 1879.

441.1616, 1879.
The above bearing set
and are correct thereon

Patrol Division
April 28, 1879.
Dear Gen. Mc Donnell.

I submit to report in
relation to a project by the
Genl. of Arizona, approved
by the Department Command.
relative to removal of the
Pima & Maricopa Indians
from the Gila river to a re-
location on the Colorado.
Indians such removal will
be beneficial to the peace
of Arizona & inflict a great
benefit on these Indians

Respectfully transmitted
to the Honorable the
Secretary of the Interior
for his information.

G. M. McHenry
Secretary of War.

War Dept.,
May 14/79

Respectfully transmitted
to the Honorable the
Secretary of the Interior
for his information.

G. M. McHenry
Secretary of War.

War Dept.,
May 14/79

U.S.G.B.
May 16/79

Respectfully transmitted
to the Honorable the
Secretary of the Interior
for his information.

War Dept.,
May 14/79

illegible
248,090,879
1186

War Dept
May 14/79

Refs. report relative
to project by Genl.
of Arizona, relative
to removal of
Pima & Maricopa
Indians

War Dept.,
May 14/79
19
See 1379
1879

enclosed. It is therefore the duty of the Government to either raise the waters of the upper reaches to the Indians or give them other reasonable land. As these Indians have been friendly, law-abiding, self-supporting people who once owned and have long worked and dwelt in the Salt River country, I fully endorse Captain Clarke's recommendation.

They have raised large crops of grain, one year as much as 250,000 bushels, this year about half a million pounds, as near as I can learn.

The question is now, whether we shall make these so plentiful members of the community and valuable contributors to its agricultural resources, or throw them out as vagabonds to starve or migrate.

They have earned their rights to the soil and their claims on a paternal government. To move them to the Indian Territory would do violence to their feelings, and, as they have never made war against us, have we a right to transplant them against their wishes?

I respectfully urge that favorable action be granted, both in the telegram to have all public lands on the Salt River temporarily withdrawn from entry, sale, etc., and on Captain Clarke's report to have well-wooded land in our camp made a part of an Indian Reservation, and that the necessary instructions be given to effect the whole object and purpose in view.

Associate Justice Silent, Prescott, A. T., has rendered the following decision in respect to the water rights in Arizona, in the case of Kelsey vs. McArthur:

The right to use of water, by prior appropriation, by a the public domain of the United States is recognized and acknowledged by the customs and laws of the Territory, and the Acts of Congress protecting such rights, are in force here.

The rules prescribed by the decisions of the courts of California, Nevada and Montana, with reference to water rights by prior appropriation, are adapted to the necessities of this Territory as the rules for the Government of that class of rights.

The prior appropriator of water has the prior right to use to the extent of his appropriation.

The fact that the appropriator does not irrigate all of his arable land during the first years next following the appropriation does not affect his right.

At the request of the General of the Army, upon receiving full information from Arizona, the Division Commander made the following report and recommendations:

First—These Indians have been driven from their lands on the Gila lands which they have been cultivating for generations and to which they are as much entitled as farmers on the Southeast to their farms.

They have been driven off by the Whites, who have taken the water in large irrigations from the river and by them thus rendering the Pima and Maricopa farms sterile.

Second—This act of the Whites is, according to the decisions of the Courts in this Coast and in Arizona, illegal.

The Indians are without money, and have no property, and I am powerless to help them, except to make out boxes and to furnish them with the necessary supplies.

They may work on their farms for this by the permission of the Maricopa Army and Maricopa Army, and for terms for water and other supplies, and the soldiers are forbidden to give them any help, and they cannot get back to their farms and live, and they have the only means of getting a living, for their subsistence, which is, as a matter of fact, they are dead.

There is no question as to the duty of the United States Government to take these Indians, who are in a state of destitution, and to give them all the water they need, and what are not normally out of the water, and to give them the necessary supplies of food, clothing, and other necessities.

The Government is bound to take these Indians, and to give them all the water they need, and to give them all the necessary supplies of food, clothing, and other necessities.

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Jardie Meo

Boundary Description

that were mining, or had settled in the Hualapai country, and that his first plan was to interview them and ascertain their wishes, and represent the case to the Department. This was agreed to, and he withdrew his application for troops. The matter was fully reported at the time through the regular channels to the War Department.

The Hualapai have remained friendly, although many miners and settlers are occupying their country, with whom they are in daily contact. I do not apprehend that this will last, and suggest that some portion of their own country on the northern boundary, remote from the settled portions, be set aside for them as their reservation. In anticipation of a collision, I caused a new company of Indian scouts, in lieu of the Verde scouts discharged, to be organized, and they are now held at Camp Verde in case difficulty should occur.

Shortly after I received a communication from Governor Sedgwick, from the Hualapai's country, who saw the Indians and ascertained from them their wishes and disposition. This letter has been communicated to the War Department. Recently I had a visit from Sedgwick, one of their principal chiefs, who came to procure me of his peaceful disposition, and to ask to be permitted to remain in his own country. I told him he must see Dr. Tonner, the Agent, and arrange with him—that I had nothing to do with the Indians, unless they committed depredations. He desired to know whether he was to go back to the Colorado Reservation, but I could give him no information on that score. I asked him why his people had left. He stated that his people could not live there; that it was very hot; the water was bad, and his people sickened and died; that there was no grass, and their horses had nearly all perished; that whilst they were permitted to remain at La Paz Captain Byrne saw that they got their rations, but when they went up to the Agency they did not get enough to eat, and instead of getting twenty-four pounds per week, his people only got seven. How true these complaints may be, I have no means of ascertaining. He told me, however, that his people would rather die than go back there. There is a widely extended belief among the people of the Territory that these Indians were not properly fed.

PRESCOTT, A. T., May 8, 1875.
Major-General J. M. Schofield, Commanding Division of the Pacific.
San Francisco, Cal.

GENERAL:
The main question of interest I had here is the abandonment of their reservation by the Hualapai Indians. As you are aware, they have left the low, hot valley of the Colorado, to which they were originally taken with reluctance, for their old haunts in the mountains. The situation at first caused some solicitude, but there does not appear to be immediate danger of aggressions on their part. General Kautz has fully informed himself upon the subject of the proper disposition of the case presented, and will report to you the result. After full conference with General K. I am satisfied that his action and recommendations substantially meet the emergency. Precipitate and unwise coercion would result in hostilities. I think the Indian and the Military Departments, as represented here, are agreed that the Indians should not be forced back to so unwholesome a reservation for them as the Colorado, but should be provided with a home in their own country, if possible.

Very respectfully,
JAS. A. HARRIS, Inspector General.

Indorsement on communication, dated Camp Mojave, A. T., February 6, 1875, from Major W. M. Brown, 5th Cavalry, to Colonel Frank Whetton, 21st Infantry, submitting report relative to the Colorado Indian Reservation:

HIGHLY SIB DISTRICT, NORTHERN ARIZONA.
FORT WHEATON, A. T., March 1, 1875.

Respectfully forwarded, on the 20th of December, 1874, I recommended the abandonment of Camp Colorado, leaving twenty men and another to guard the Indian Agent and his party. This has been done by the Department, and I now earnestly recommend to him the importance of the entire abandonment of the Mojave Indian Reservation there by the Interior Department. The Indians do not like it, so the absence of the proposed "dollar" and the majority of the Mojaves per a saying near Fort Mojave, one hundred and twenty miles up the river, where they have lived for years, is remaining near the Colorado Reservation. I am, however, in a great measure, satisfied that the Indians and their people are not so far from the Government as to be in a position to do anything towards the improvement of a really Indian, who are greatly desirous to bring forward the present location of the reservation and the department of the Interior, and to be able to do so. It was at or near Camp Mojave, one hundred and twenty miles up the river, that the Hualapai Indians, who were taken to the Colorado Reservation, were first settled. It was at or near Camp Mojave, one hundred and twenty miles up the river, that the Hualapai Indians, who were taken to the Colorado Reservation, were first settled. It was at or near Camp Mojave, one hundred and twenty miles up the river, that the Hualapai Indians, who were taken to the Colorado Reservation, were first settled.

Very respectfully,
JAS. A. HARRIS, Inspector General.

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JAS. A. HARRIS, Inspector General.

Very respectfully,
JAS. A. HARRIS, Inspector General.

The Governor of Arizona in making the proposition to the Department Commander, and more recently, as stated by telegraphic dispatches to the Secretary of the Interior, to remove the Pimas and Maricopas to the Lower Colorado, could not, I am sure, have fully realized all the hardships he proposed to subject these friendly Indians to, nor could he have been fully informed as to the extent of the fertile bottoms of the Colorado, nor of the engineering difficulties and the expense to be encountered in irrigating them, nor of the rights of others that will be invaded if these Indians are placed on the Lower Colorado. He could not, I am sure, have known, or have fully considered the fact, that very much of the present peace, and consequent prosperity of the Territory, is due to the Indians he now proposes to send to live with their ancient enemies and in an unendurable climate.

The following reports and letters present facts which the Governor could not have known when he allowed this project to take such possession of his mind as to seriously advocate it:

SAN FRANCISCO, March 24th, 1879.

General J. C. Kellom,
 Head Quarters Mil. Div. of the Pacific and Department of Cal.,
 San Francisco.

DEAR SIR:

We have learned in a general way, more particularly from a person named O. P. Galloway, who is concerned in some irrigating schemes in that vicinity, that there are tracts of bottom land on the Colorado River that can be cultivated successfully by taking water from the river, which would not be very expensive, and there are many places the soil is of an exceedingly good quality, and capable of producing Cotton, Coffee, Sugar, Tea, Flax, Bananas, Plantains, Oranges, Mulberry Trees, and in fact almost all of the Tropical Fruits.

Some time ago Dr. Wozniak made application to Congress for permission to reclaim the Desert Lands by means of water from the Colorado River. The assertion was then made that these lands with water on them would be very productive, and irrigation would have the effect of settling up that part of the country and increase the taxable property of the state.

Lieut. Wheeler, in charge of the Geographical Surveys west of the 10th Meridian in Cal., Nev., etc., in his report of June 30th, 1876, appendix "C. J." speaks of this subject at length on pages 71, 117, and 119. He is of the opinion that large tracts in many places can be successfully irrigated and cultivated. Possibly by referring to his report you can get in a reliable form, the information you wish. ***

Yours truly,

A. N. TORNER,
 General Supt. Central P. R. R.

FORT YUMA, CAL., March 17, 1879.

The Assistant Adjutant General, Department of Arizona.
 President Barrera's, A. T.

SIR:

I have the honor to acknowledge the receipt, today, from your office of a copy of Governor Fremont's letter to General Wilcox, referred to me "confidentially", for remark. I have the honor to submit the following remarks, which result from a cursory view of the subject, and from a very imperfect consideration of the interests involved.

By the "bottom lands of the lower Colorado" which are "of great extent and great fertility", it is reasonable to suppose that Governor Fremont means the lands bordering that portion of the Colorado river which is to the south of this post. To his scheme of removing the Indians from the Gila and Salt river valleys, to the bottom lands of the Colorado—conceding the correctness of my supposition, which is based on the designation existing here—there seem to be several obstacles of more or less importance.

In the first place—on the Arizona side of the Colorado river the Mexican boundary line is within, at most, fifteen miles of this post, consequently the greater portion of said lands is not the property of the United States.

In the second place—It is claimed by reliable parties in Yuma that the greater and better portion of said bottom lands, which are the property of the United States, is already claimed and reserved under a Mexican grant.

In the third place—The said bottom lands are already occupied, so far as it is true, by Yumas and Chospanas.

In the fourth place—On the California side of the Colorado river the Mexican boundary line appears to even reach south of this post than it does on the Arizona side. The bottom lands on this side, so far as they are within the Territory of the United States, are occupied by a few white settlers, and by almost the whole tribe of Yuma Indians.

Thus much as the latter reserve, neither considerations, nor allowances of any character warrants ever from our Government, being the allies, citizens or subjects of Mexico. It would be manifestly unfair and—what is infinitely more important—in high question—most inequitable to interfere with their peaceful, if thence, occupation of the same.

I imagine moreover that the lands on the California side of the Colorado river should be fully claimed or reserved in this connection. The State of California would in all probability object to the permanent occupation of her soil by Indians and Indians' hermits.

I question very much if in Arizona, and on the Colorado river North of Yuma, a sufficient amount of land capable of cultivation could be found to constitute an adequate reservation, but my knowledge of the topography and resources of that section is too limited and imperfect to admit of my expressing an unqualified opinion.

There is quite an extensive valley, extending up and between the Gila and Colorado river for about twelve miles above the town of Yuma, but this tract, even if suitable for an Indian Reservation, would have to be left out of consideration, inasmuch as the Governor proposes that all the Gila river should be left to the whites.

I have been informed by intelligent citizens of Yuma, that on the present Colorado river Reservation there is an abundance of land, which can be cultivated, for all the agricultural Indians in the territory; but that it would require an expenditure of money to provide works, or facilities for irrigation. An enormous amount has already been in factually expended there for that purpose. There is rather more than a suspicion however that to a great extent it was expended merely on paper. The Indians at present on that Reservation are River Indians, assimilate in habits, and affiliate with those Indians on the Gila and Salt river valleys. There was at one time, and perhaps still is, constant communication and intercourse between them. Should the statement in regard to the capacity of this Reservation be correct, and that could be easily tested, and should it be decided to remove the Indians from the Gila and Salt river valleys, to the Colorado river, it seems to me that on that Reservation is the very place for them. But from what I know of their habits and attachment to their present possessions, I really question very much their ever removing there, from voluntarily, until they are either heavily bribed or decreed to.

Even if this scheme for the removal of these Indians were duly and successfully effected, it would be ridiculous in the light of past events to imagine that the change would be a permanent one.

The history of Indian Reservations, incontrovertibly proves that when the white man wants the lands the Indian occupants must give. Their dispossession has been in every instance a mere question of time, power and influence. This is so well known, and has been so often exemplified as to be a mere truism in our Indian history. * * *

CHARLES PORTER,
Captain 8th Infantry,
Commanding Post.

U. S. ENGINEER OFFICE,

SAN FRANCISCO, CAL., March 21, 1879.

Lieut. Col. J. C. Kellon,
Adjutant General, Division of the Pacific.

COLONEL:

I have the honor to acknowledge the receipt of your letter of the 20th Instant, containing certain inquiries about the arable land in the Colorado River Valley.

Since, during my visit there in December and January last, my attention was fully taken up with the river proper, I am not able to make my answers as certain and precise as I could wish, but must limit myself to general opinions, based more on what I heard than on what I was actually able to see.

1st Question.—What is the extent of these bottom lands and are they reported fertile?

Answer.—From Yuma to Camp Mojave is about 200 miles; of this distance 100 miles is so called Valley, the rest Canon, where the Rocky Mountains or Gravel Mesa come directly to the water's edge. In these Valleys there is a strip of bottom land on one or both sides of the river, narrowing in width as we go north, in all cases confined to that area in which the stream has at various times formed its bed and all liable to overflow in freshets. The soil is of loose sand and clay the one which the river forces its way at will, sometimes shifting its course two or three miles in a single flood; while, at all seasons large areas are being constantly submerged, swept away and reformed elsewhere. Nothing exact is known about the area of this portion.

In the great Colorado Valley which is the widest and continuous for 100 miles, I should estimate the maximum breadth as about six miles and the average only from two to three.

The Mojave Valley, 40 miles long, is narrower yet and nearly all on the east bank, while the Camanche Valley is a mere strip for about 20 miles on the western side.

The land is reported fertile. The Indians raise good crops of Corn, Wheat, Beans and Pumpkins, while the uncultivated parts are thickly grown with Willows, Cotton-wood and Mesquit Trees.

2nd Question.—Does cultivation depend on the annual overflow, or can they be irrigated, and at small or great expense?

Answer.—Cultivation does absolutely depend either on the annual overflow or on a supply of water by irrigation. The best prospect is to be obtained by irrigation, if the valleys are expected to support a large population, and its failure even now sometimes causes much distress among the scanty number of Indians living about the banks.

Two experiments at irrigation have been already made, the first by the Agent, at the Colorado Indian Reservation, the second by a Company at a place about 12 miles above the former. The first experiment was a failure for reasons which were not fully explained to me, but I heard that the soil was too porous for an irrigating ditch and that it would be necessary to build a dike. If this be true, it would make works of this character enormously expensive, since there is no supply of suitable timber on or near the spots.

The Company's dike was nearly finished when I saw it, but had never had water in it, so that neither tests, or benefit from their experiments. I asked the opinion how

ever that irrigation would be very expensive; while it is certain that, even if it could be easily had, its benefits would always be to the last degree precarious and uncertain, until some comprehensive plan had been carried into effect for controlling the whole lower 300 miles of river and preventing the ever present possibility, that by a change in its course, the results of months or years of labor, might be destroyed in a single night.

To conclude by an answer to the last question, I do not believe that, for the whole distance between the points named, there are more than 500 square miles of arable land; it is certain that a good deal of labor and time will be needed to make much of that available; and, while it is of course impossible to say what might not be done with it in the future, I do not think it could soon or easily be made equal to the support of the number mentioned.

Very respectfully,

Your obedient servant,

A. H. PAYSON,
1st Lieut. of Engineers.

NEW YORK, April 17, 1879.

Lt.-Col. J. C. Lelton,

*A. A. General, U. S. A., Mil. Div. of the Pacific,
San Francisco, Cal.*

SIR:

* * * The bottom lands are fertile and when they are not overflowed require irrigation; I cannot say as to their extent, my impression is, there is a tract of land bordering on the river between William's Fork and Fort Mojave, called the Mojave Valley, that would accommodate a large number of Indians. The character of the soil suitable for ditches for irrigating I cannot say, my impression is, that it is of the same character as that about Yuma, on the Gila and Colorado rivers. In that event a ditch is impossible for irrigation as the clay runs in strata imbedded in the sand; unless some means are employed to prevent the water, seeping through it.—Climate on the Colorado and Gila rivers between Yuma and Mojave and Yuma and the Maricopa Wells about the same, perhaps at certain seasons a little colder in the direction towards Mojave.

Your obedient servant

GEORGE F. HOOPEN.

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



Maj.-Gen., Comdg. Mil. Div. Pac. & Dept. Cal.

5/8/1879 report of Inspector Hammond, accompanied by map entitled "Gila River Reservation and Surroundings, Pima Agency, A. T." Referred to xxxxx in BLM memo of 4/11/1964 (marked #5).

Arizona

OFFICE OF
PIMA AGENT
MAR 22 1879
Hammond I.H.

INSPECTOR'S
NO 35

INDIAN VII

JUNE 1879

N of Gila River
Phoenix A.T.

March 8th 1879

Reports on the Pima

& Maricopa Reser-
vation & Encloses Map

marked, showing

localities involved

see file 659
see file 1106 & 1379

No map enclosed where
it will be found in
Phoenix

Phoenix Arizona Ter.

EXHIBIT 8

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Grinnon
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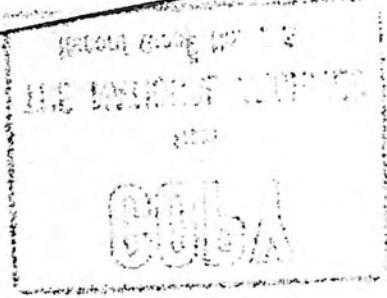
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leaf water letter
to Ben Grinnon
Room 14 Box 57
Brewster St



4399-1879

Phoenix Arizona Ter.
March 8th 1879

Hon Comm^r Indian Affairs
Washington D.C

Sir

I have the honor to report that the Pima & Maricopa Reservations, see accompanying map, marked A. contains about 65000 acres. of which about Eleven thousand can be irrigated & cultivated. about Eight thousand have been worked. producing in good years Three Million pounds of wheat, besides barley & corn. The Indian wheat being cleaner sells for more than white settlers wheat.

They commenced leaving their Reservation in 1873. induced by whites who wanted their help against Apaches, & by the better market for their wheat & Barley at Phoenix & Haydens Mill, & by cheaper goods at white settlements than at the Agency Traders. Whites were few. The Indians were not in the way & were encouraged to leave the Reserve by Traders & Millers wanting their custom & wheat.

It is not true that they "originally" left their Reserve on account of the failure of water in the Gila. Near Sacaton, Red Rock sinks so that sand fills the River bed, a short distance above Morgans Red Rock rises near the surface.

In ordinary years the Gila fills the sand bed, & affords enough water; But in 1876 & 1877 Drought.

prevailed. Scarcity was added to, made worse by use of water at Florence & by farmers up the River, not by miners:

The River went out of sight in the sand bed & did not flow again until the Bedrock near Morgans pushed it to the surface. From this point it again became a stream. Above about Blackwater there is enough for irrigation every year.

Migration which commenced for reasons already mentioned, continued from dire necessity, from hunger. No objections at first were made by the few Citizens then in the valley. many of whom employed Indians who work well. The result is that the Indians left their Reserve and are located at points indicated & cultivate the acres marked

B 1300 persons, 230 families, 1200 acres.

C 300 persons 45 families 400 acres

D 1360 persons, 240 families 1000 acres

E 375 persons 47 families 400 acres.

G. Maiicopas who intend to return to Gila Reserve where there is now enough water.

Many Indians are returning to the old Reserve from localities indicated.

This shows 3000 & more people off the Reserve & only 1000 to 1500 thereon. The absentees cultivate 3000 or more acres. & have built good water ditches & made improvements without help.

at E the Indians made the ditch & use the water

privilege under direction of a Mormon named Jones. As they are among whites separated from their own Race, on the South side of the River; they should be removed to the North side, & whoever takes their land & improvements should pay for labor done, by assessment of damages. The average settler may be trusted to assess against Mormon settlers.

I have visited all the settlements indicated except B & C below Morgans Ferry. Figures given are correct as possible: but vary by reason of constant wandering.

The question of Reservation should be settled at once & the Indians confined to their ~~Reservations~~ ~~places~~ ~~of~~ ~~around~~ ~~villages~~ ~~gambling~~, ~~drinking~~ & doing small jobs of work: while demoralization of women around towns & stage stations & results to the tribes is frightful. These things can be to some extent prevented by confining them to their own limits.

Eccleston acty. Agt. Pima Agcy. Sup. Indian police cannot be enlisted for the pay. Indians talk differently to me. Police & cooperation with civil authorities are both needed to effect the desired result.

White population Maricopa Co. Estimated 4000 to 6000 - and increasing very rapidly

Citizens generally will be satisfied with Reserve added to Gila Reserve as follows -

commencing at the point where Range line between Ranges 4 & 5. East, meets the north Bank of Salt River. Thence following the north Bank to the mouth of Verde River. Thence westerly along the west Bank of Verde to the southern boundary of Camp McC Donnell Military Reserve. Thence along the southern boundary to the S. W. Cor of the Mil' Reserve. Thence north westerly to the point where the north boundary of the southern Tier of sections in Township 3. North Range 6. East intersects the western boundary of the Mil Reserve. Thence west along the north line of south Tier of sections in Township 3. N. Ranges 5 & 6 East to N W Cor of sec 31 Tp. 3 N. R 5. East. Thence south along Range line between Ranges 4 & 5. East to place of beginning

To this I recommend adding
First — The land on North Bank of Salt River between Verde River on the W. Mil Reserve on the North & East Boundary line Mil Reserve prolonged south. marked H on map. There is a little good land therein, which is being taken by Mexicans, who are demoralizing. Thence East to San Carlos Reservation, the River runs through a Rocky country: good only for pasture Range.

Second. Extend The Boundary of the Old Gila Reservation. same distance from the River as at present to Salt River near the mouth. This includes Indian Settlements marked B & C. which are out of the line of white occupation, but will be traversed by the Road from Phoenix to the New Rail Road Station near Maricopa Wells.

There is very little Agricultural Land in Arizona. Much of it is in Salt River Valley. Government may expect trouble & finally that an effort will be made to push the Indians to the Colorado River which is out of the way, but would involve great expense for Water Ditches.

Present troubles will be smoothed over by confining them to Reservations herein named. I take this occasion to invite attention to the quiet industrious character of the Pimas & Maricopas & to say that Congress should be urged to appropriate for Boarding Schools among them - & for horse & ploughs. They now plough with forked sticks.

It is also a sad thing, that they are without religious instructions. Their Agent living at Tucson far away from them, leaves them practically to their own ways & hauch customs as they are likely to acquire around villages & Stage Stations.

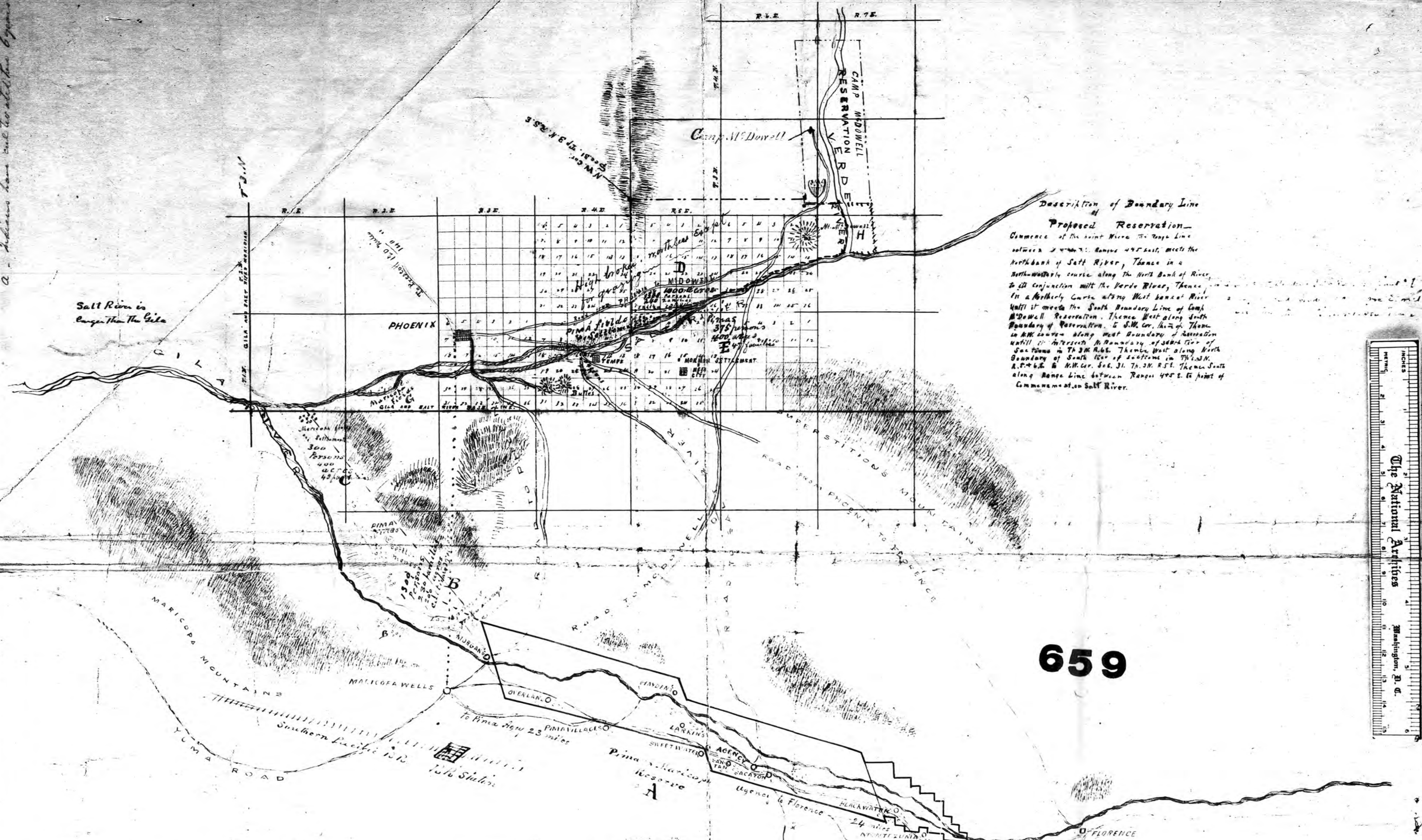
Very Respectfully
Your Servant

J. H. Hammond

Indian Inspector

EXHIBIT 9.

A - Indians have not yet been bygone



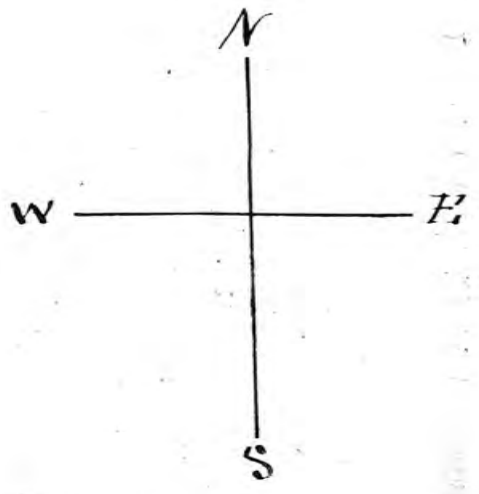
Description of Boundary Line of Proposed Reservation
 Commence at the point where the Range Line between Ranges 495 east, meets the north bank of Salt River, thence in a north-westerly course along the north bank of River to its junction with the Verde River, thence in a northerly curve along West bank of River until it meets the South Boundary Line of Camp McDowell Reservation, thence West along South Boundary of Reservation to S.M. Co. line, thence in N.W. corner along West Boundary of Reservation until it intersects N. Boundary of 30th Tier of Sections in T. 33 N. R. 6 E. thence West along North Boundary of South tier of sections in T. 33 N. R. 6 E. to N.W. cor. Sec. 31. Thence South along Range Line between Ranges 495 E. to point of Commencement on Salt River.



659

Arizona, A. 399-1879.
(with Hammond's Report, Feb. 8, 79)

GILA RIVER RESERVATION
 and
SURROUNDINGS
PIMA AGENCY, A.T.



- Phoenix to Maricopa RR Station, new road 35 miles
- " " Camp McDowell 30 "
- " " Pima Agency 42 "
- " " Florence via Pima Agency 66 "
- " " " Stage Road 82 "
- " Prescott one road 120 other 140 "

R.E.

It is also hereby ordered that so much of Townships one and two north, Ranges five and six east, lying south of the Salt River, as are now occupied and improved by said Indians, be temporarily withdrawn from sale and settlement, until such time as they may severally dispose of and receive payment for the improvements made by them on said lands.

Notation on record: Presumably referred by the
 Secretary of the President June 14, 1879
 Executive Order dated June 14, 1879
 Letter to Indian Affairs June 20, 1879

44
440

Arizona

76-399-1579.

June 12th
1879

The Honorable
The Secretary
of the Interior.

Sir:

The fact having been brought to the attention of this office, by two communications from the Honorable Secretary of War, dated the 12th and 24th of December last, (referred by the Department) that the Indians on the Pima and Maricopa reservation in Arizona, had been deprived of the water of the Gila river used by them for irrigating purposes, being appropriated by white settlers about the

Exhib

EXHIBIT

vation - reference being had in said
 communications to the setting aside
 of an additional reservation on the Salt
 River for their use - this office made a
 full report upon the subject, under date
 of January 7, 1849, accompanied
 with a draft of an Executive Order
 setting apart a tract of country in ad-
 dition to the Gila reservation sufficient to
 protect these Indians in their rights in
 the future, which Executive Order was
 approved by the President January 10.
 1849.

In view of the uncertainty as to the
 location of the Indians on this new res-
 ervation and the fact that large settle-
 ments have been made under the
 various acts for the disposal of the public
 lands, upon portions of the lands set

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their improvements, and have been self sustaining for several years, and are now threatened with expulsion by the inroads of the whites. The main cause of their removal arose from the fact that the bed rock in the river sinks at the eastern line of the reservation, and does not rise again until it reaches its western boundary, so that the depleted flow of water remaining, after supplying the inhabitants of Florence, a town on the river above the reserve, and the farmers in that vicinity, who have settled there since the reservation was created, is absorbed by the sand in the river bed, and no water remains to supply the necessary wants of the Indians. In the meantime the public lands north of the

reservation, and upon which these Indians had made their settlements and improvements, were surveyed, but they knowing nothing of the public laws and surveys, failed to avail themselves of their benefits by securing title to the lands they had reclaimed, and are now being overrun by the whites, who are locating upon their farms, taking away their improvements and arraying them as trespassers.

I also submit herewith, a letter from the Hon. Secretary of War dated the 12th and referred by the Department, on the 16th ultimo, upon this same subject, in which will be found the boundaries of a reservation as recommended by the commanding officer of Camp Mc Dowell, and in

which reference is had to a plan devised by the Governor of Arizona, to remove these Indians to the inhospitable and arid region of the Colorado River.

Such a removal would, as it appears from data in this office inflict a great wrong on a peaceful and most friendly, hard working, self supporting people, and, therefore, must be opposed against this proposition.

After a careful review of the whole subject and having regard to the established policy of the Department in protecting and encouraging Indians in their progress towards civilization, and in order that no retrograde movement may occur, I have the honor to recommend, that the

Executive Order of January 10. 1879, be
 rescinded, and that a new reservation,
 be set apart for these Indians in ad-
 dition to their reservation ^{set apart} by act of Congress
 approved February 20th 1859, embracing
 that tract of country recommended by Ch-
 -specter Hammond, and as set forth in the
 draft of an Executive Order herewith sub-
 -mitted.

Many of these Indians having moved
 upon and made valuable improvements on
 lands immediately south of Salt River in
 Townships one and two, North Range five
 and six East where they have since then
 been surrounded by white settlers, who
 have made filings and entries to a con-
 -siderable extent, and in order to protect
 these Indians in their improvements, I
 have embodied in said draft of an

executive order, a temporary withdrawal of the lands upon which they have settled, until such time as they can dispose of their said improvements. This should be done as soon as practicable, under the supervision of the Agent, who should see that the Indians are properly compensated for their improvements.

The enclosures, herewith, belong to the files of this office, and their return is respectfully requested.

Very Respectfully,
Your Obedt. Servt.
E. Brooks
Acting Commissioner.

Patterson.

Executive Mansion.

June. 14. 1879.

On the basis of an Executive Order, dated January 10th 1879, setting apart certain lands in the Territory of Arizona, as a reservation for the Pima and Maricopa Indians, which order is hereby cancelled, it is hereby ordered, that these be withdrawn from sale and settlement, and set apart for the use of said Pima and Maricopa Indians, as an addition to the reservation set apart for said Indians, by Act of Congress approved February 28, 1859, (11 Stat. 401.) the several tracts of country in said Territory of Arizona lying within the following boundaries, viz: Beginning at the point where the range line between ranges four and

five East, crosses the Salt River; thence
 up and along the middle of said river
 to a point where the easterly line of
 Camp Mc Dowell Military Reservation,
 if prolonged south, would strike said
 river; thence northerly to the south east
 corner of Camp Mc Dowell Reservation;
 thence west along the southern boundary
 line of said Camp Mc Dowell Reservation
 to the south west corner thereof; thence
 up and along the west boundary of
 said reservation until it intersects the
 north boundary of the Southern tier of
 sections in Township three North, Range
 six East; thence west along the North bound-
 ary of the Southern tier of sections in Town-
 ships three North Range five and
 six East, to the north west corner of
 Section thirty one, Township three North

Range five Cash; thence south along the Range line between Ranges four and five Cash, to the place of beginning.

Also, all the land in said Territory, bounded and described as follows: viz:

Beginning at the northwest corner of the old Gila reservation; thence by a direct line, running north westerly until it strikes Salt River four miles east from the intersection of said river with the Gila river; thence down and along the middle of said Salt River to the mouth of the Gila river; thence up and along the middle of said Gila river to its intersection with the north westerly boundary line of the old Gila reservation; thence north westerly along said last described boundary line to the place of beginning.

Exhibit - 11

General Description T^h 1st Range 5^E

The soil in this T^h is generally of the 1st & 2nd rates - sandy. Land except the extensive bottoms on South side of Salt river in sec^s 2, 3, 4, 8, 9, 10, 16 & 17 level mesa. There is considerable grass on the mesa or replands and in the river bottoms is quite luxuriant - especially during the months of January, February, March and April. The bottom lands can be easily irrigated with water from Salt river and will doubtless produce the grain or vegetables adapted to the climate. This land resembles that which the Maricopa and Pima Indians have under cultivation near the Gila river at what is called the Maricopa or Pima villages - upon which land they raise barley, wheat, corn etc to a considerable extent. The mesa can be irrigated but only with much more expense than would be the case with the bottom lands as it lies 25 or 30 feet above the bottoms.

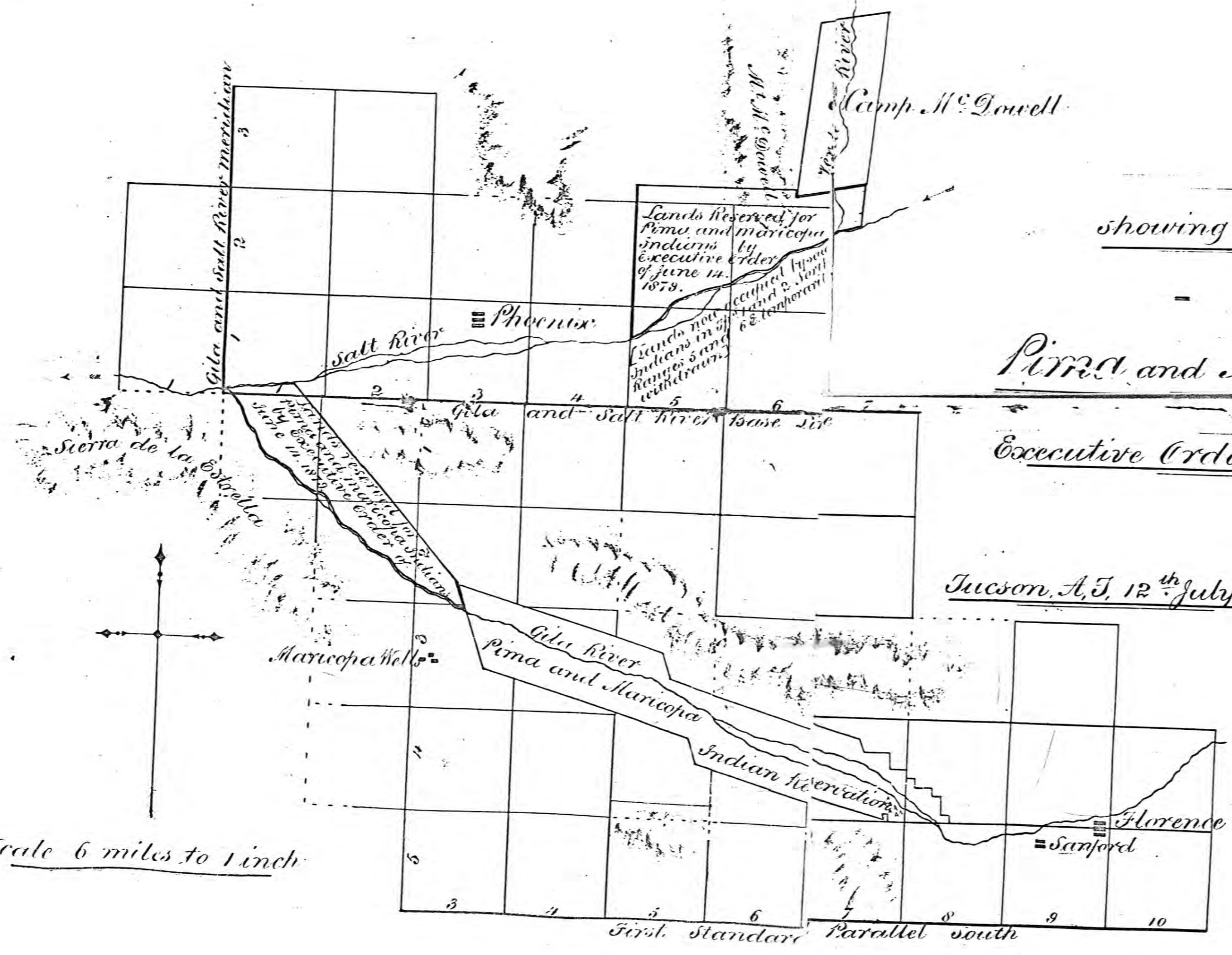
Dumber Cottonwood along the banks of Salt river with greasewood and sage brush on mesa and arrowweed in bottoms.

The north & south channels of Salt river are now of about equal size - but as they run through sandy soil are constantly changing position and size

13
EXHIBIT ~~D~~.

July 12/1879
Wasson
Sur't Gen'l

Rec^d with Sur Genl's letter of July 12/1879.



Plot
showing Lands Reserved

for
Pima and Maricopa Indians
by
Executive Order of June 14th 1879.

Tucson, A.T., 12th July 1879.

John Wasson,
Sur't Gen'l

Scale 6 miles to 1 inch

Plot showing Lands Reserved for Pima and Maricopa Indians by Executive Order of June 14, 1879. Approved by Section of 7/12/1879.

General
Washington, D.C. June 27. 1879

John Wasson Esq,
U. S. Surveyor General
Tucson, Arizona

Sir:

I transmit, herewith inclosed copy of the President's order dated June 24. 1879, canceling his order dated January 10. 1879, withdrawing certain lands for the Pima and Maricopa Indians in Arizona, and declaring a permanent reservation for said Indians with other described boundaries; also temporarily withdrawing certain other lands from sale and settlement until such time as the Indians may dispose of and receive payment for their improvements on the lands so temporarily withdrawn.

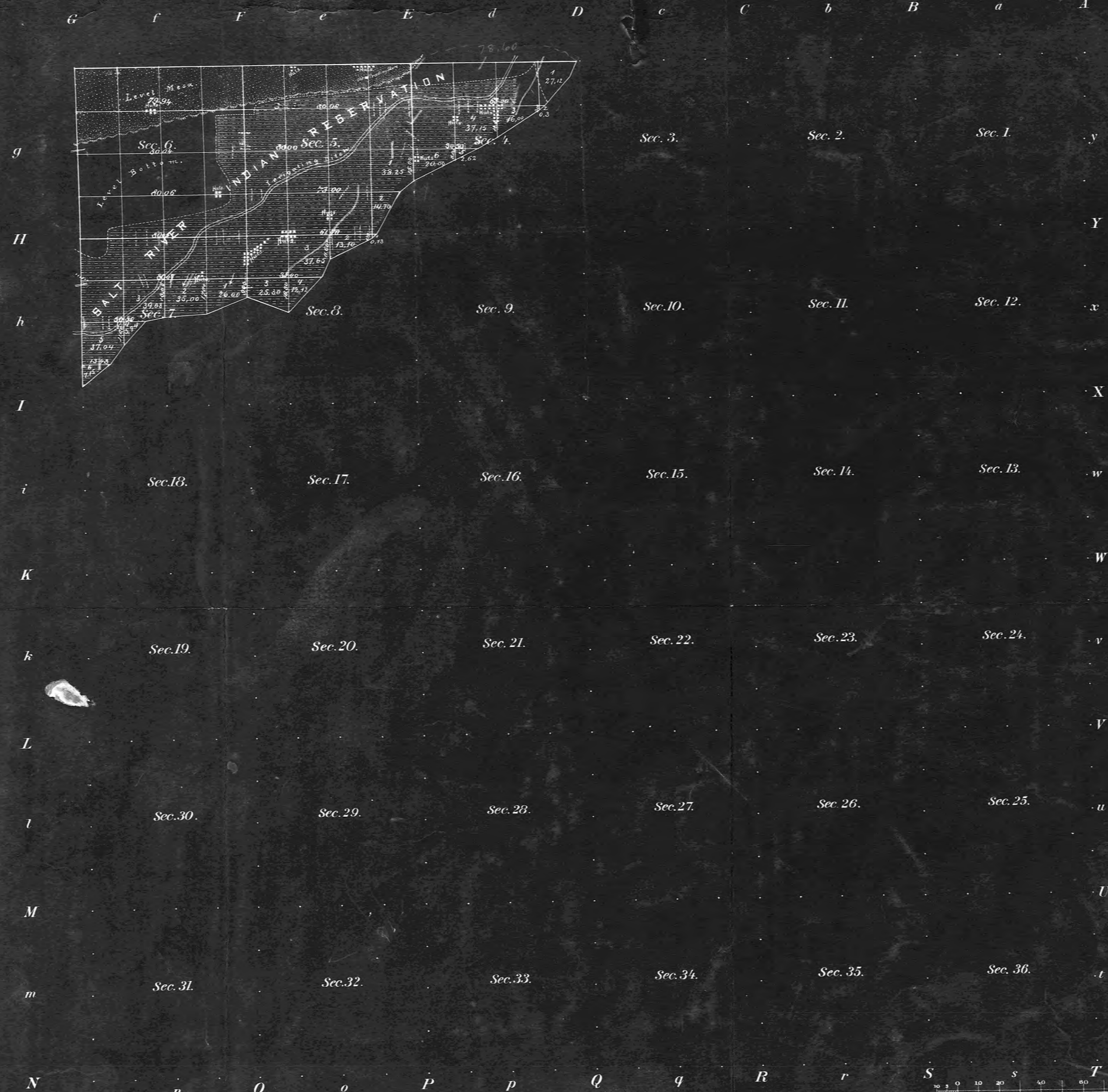
You are requested to have prepared a diagram showing the limits of the reservation by the last Executive order, and furnish to this office, and the local land office a copy of the diagram, and to the local office a copy of the President's order.

12.1879

Very respectfully
J. A. Williamson
Commissioner

Exhibit - 15

Township No 1 North Range No 5 East, Gila & Salt River Meridian



170712
17070
RECEIVED WITH
SUR. GEN'L'S LETTER
JUL 11 1888
*Aect sent to Indian office
mch 15, 1887.*

Meanders of right Bank of Salt River. Begin at Post No 66.

| Posts | Courses | Ch ² Lk ² | Posts | Courses | Ch ² Lk ² | Posts | Courses | Ch ² Lk ² |
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| 67 | S 37° W | 7.20 | | | | | | |
| 68 | S 48° W | 18.60 | | | | | | |
| 69 | S 56° W | 8.61 | | | | | | |
| 70 | S 55° W | 23.08 | | | | | | |
| 71 | S 57° W | 11.22 | | | | | | |
| 72 | S 64° W | 11.41 | | | | | | |
| 73 | S 63° W | 22.28 | | | | | | |
| 74 | S 54° W | 8.39 | | | | | | |
| 75 | S 29° W | 22.95 | | | | | | |
| 76 | S 48° W | 2.26 | | | | | | |
| 77 | S 63° W | 22.37 | | | | | | |
| 78 | S 40° W | 30.50 | | | | | | |
| 79 | N 70° W | 21.28 | | | | | | |
| 80 | S 65° W | 21.51 | | | | | | |
| 81 | S 87° W | 20.03 | | | | | | |
| 82 | S 77° W | 9.41 | | | | | | |
| 83 | S 44° W | 15.69 | | | | | | |
| 84 | S 36° W | 11.13 | | | | | | |
| 85 | S 51° W | 17.12 | | | | | | |

Total number of Acres 1994.75

| Surveys Designated | By Whom Surveyed | Date of Contract | Amount of Surveys M. Ch ² Lk ² | When Surveyed | Var. |
|--------------------|------------------|-----------------------------|---|--|---------|
| Township lines | L. D. Chilson | Nov. 30 th 1887. | 4 69 25 | Mar. 9 th 21 st 1888 | 13° 10' |
| Subdivisions | do | do | 14 8 2 | Mar. 22-26 th 1888 | 13° 08' |
| Meander lines | do | do | 3 64 50 | Mar. 20 th 1888 | 13° 09' |

The above Map of Township No 1 North, of Range No 5 East, Gila & Salt River Meridian, Arizona, is strictly conformable to the field notes of the survey thereof on file in this Office, which have been examined and approved.

Surveyor General's Office,
July 11th 1888.

John Aise
Sur. Gen.

W. H. ...
Tucson, Arizona,

December 27, 1887.

Mr. L. D. Chillson,

U. S. Deputy Surveyor,

Tucson, Arizona,

Sir: -

The Hon. Commissioner of the General Land Office having approved your contract No. 8 of date November 30th, 1887, for the survey and re-survey of the exterior boundaries and subdivision of the San Xavier (Papago) Indian Reservation into 40 acre tracts, and the extension of the Tp. lines, and subdivision of the agricultural lands of the Salt River (Pima and Maricopa) Indian Reservation into 40 acre tracts, you will proceed with the execution of the work, observing the rules of the manual and the following special instructions.

----- San Xavier. -----

You will first establish the exterior boundaries of the Reservation in the following manner:

Commencing at the N.E. corner of section 9 T. 15 S. R. 13 E. thence West 1-2 mile to the 1-4 section corner; thence South three miles to the section line between sections 21 & 23 of same Township; thence West along the North boundary of sections 28, 29 & 30 up to the N.W. corner of section 30, same Township, continuing thence due west nine miles to a point; thence south seven miles to a point; thence east three miles to the south west corner of section 30, Tp. 16 S. R. 12 E.; thence East along the south boundary of sections 30, 29, 28, 27, 26, & 25, Tp. 16 S. R. 12 E., & sections 30, 29, 28, 27, 26 & 25, Tp. 16 S. R. 13 E. to the south east corner of section

16
~~16~~
Exhibit No

corners at every 20, 40, & 60 chains and correct back establishing permanent I-4 and I-16 corner monuments; thence you will run North 20 chains where you will establish the corner to sections 23, 24, 25 & 26. You will then continue the survey of this and the other Townships within this Reservation, in the same manner as described above. You will close on the exterior limits of each Township when it is full, and the Reservation line when fractional.

-----Salt River-----

You will first survey the exterior boundaries of this Reservation as follows; Beginning at the point where the Range line between Ranges 4 & 5 East crosses the Salt river, thence up and along the middle of said river to a point where the easterly line of Camp McDowell Military Reservation, if prolonged south, would strike said river, thence northerly to the south east corner of Camp McDowell Reservation, thence along the southern boundary line of said Camp McDowell Reservation to the south west corner thereof; thence up and along the west boundary of said Reservation until it intersects North boundary of the Southern tier of sections in Tp. 3 N. R. 6 E.; thence west along the North boundary of the Southern tier of sections in Tp. 3 N. R. 6 E., to the N.W. corner of section 31, T. 3 N. R. 5 E.; thence South along the Range line between Ranges 4 & 5 E. to the place of beginning. (Extract from Executive order June 14th., 1879.)

The southern boundary of this Reservation being the center of Salt River, it will be necessary for you to meander same.

You will then subdivide the agricultural lands, following

the instructions given you for the survey of the Papago Reservation wherever the same is applicable. You will run all T₆ lines within this Reservation, subdividing however only agricultural lands into 40 acre tracts.

No payment in excess of the estimated liability of the contract will be allowed.

You will designate in both your field notes and plat the location of each and every settlement within the Reservation, also carefully delineate all lands occupied by Indians, the extent of their improvements, and any other enclosures that you may observe in the execution of your work.

You will return a preliminary plat of each of the Reservations.

Before proceeding with your work you will bring your instruments to this office for examination.

You will bear in mind the importance of adhering strictly to the rules of the manual.

Trusting that you will give every detail of the work your most careful attention you are hereby authorized to proceed with the same.

Very respectfully,

John Hise
U. S. Surveyor General.

Rec'd with Surveyor General's
Letter of Dec 5, 1887.

Special instructions
issued to Lorenzo D.
Chilson, U.S. deputy
Surveyor under Contract
and Stand No. 8, dated
Nov. 27, 1887, for
Survey of Tepeayo
and San Mateo de
Indian Reservations,

17 104715 - 2 / 888 - 277 - 1
85-8407-1

6.
m
Surveying Division,
General Land Office,
Washington, D.C. Feb, 28. 1889.

Fletcher Johnston, Esqr.

Chief of Div'n "M" G.L.O.

Sir:

I transmit herewith

1 diagram of Exteriors,

1 Township Plat

and 4 Books of transcript Field Notes of the Survey
of the Salt River Indian Reservation, executed by L.D.
Chilson, under his contract No. 8, dated November 30. 1887.

I also return official copy of the above named contract.
The survey has this day been accepted by the Commissioner.

Very respectfully,

J. H. Parsons

Principal Clerk of Surveys.

36991

"g"

6WD
ECS

Adt.
ECS

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C.,

October 13, 1891.

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE.

Hon. Thomas J. Morgan,

Commissioner of Indian Affairs.

Sir:

Your attention is called to the reservation for the Pima and Maricopa Indians in the Territory of Arizona, created by Executive order of June 14, 1879, embracing the several tracts of country in said Territory lying within the following boundaries, viz:

Beginning at the point where the range line between ranges 4° and 5 east crosses the Salt River; thence up and along the middle of said river to a point where the easterly line of Camp McDowell military reservation, if prolonged south would strike said river.

It will be observed that the southern boundary of this reservation is an imaginary line running through the middle of the Salt River in township 1 North of range 5 East. The plat approved in 1868, ^{see} that the river is divided into two channels, the north and south channel, by a bar of sand, long and about a half mile wide. The condition of affairs exist in township 2 North of range 5 East.

see plat

17
EXHIBIT 19

BUREAU OF INDIAN AFFAIRS
RECEIVED
JUL 31 1963
64-1134
Washington, D. C.

9/2/63

Being in doubt as to the exact location of said boundary I desire your opinion on the following questions, viz:

Does the reserve include any of said island, or does the reservation extend only to the middle of the north channel of said river ?

Very respectfully,

Wm. Stone
Commissioner.



36991

OFFICE OF
INDIAN AFFAIRS,
OCT 14 1891

M.C. Deh

Genl Land Office

Oct. 13, 1891

Wants information concerning the boundary line of Res. for P. near S. D. near Salt River

Genl Land Office

Oct 13, 1891.

Wants information concerning the boundary line of Res. for P. near Salt River

L.D. Johnson

Nov 30/91

Comm. Sec. 10.

for Mar 21/91

The above part can be found with reference to the map in file 10. C. 10.

J. Agans (Ind)

Nov 24/91

Edg. L. D. Conty. 18/92

E.B. 24/91

24/96

L-26991-1891
25546-1892

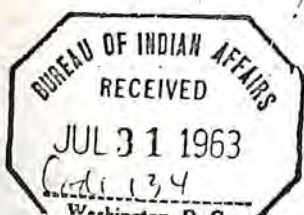
Department of the Interior
OFFICE OF THE COMMISSIONER
WASHINGTON, D. C.

277
10

Aug. 18 1892

The Commissioner
Of the General Land Office
Sir:

I have your letter of October 13th 1891, stating that a portion of the South boundary of the Pima and Maricopa Indian reservation in Arizona, as defined by Executive Order of June 14, 1879, is an imaginary line running through the middle of Salt river, and that in Township 1 North of range 5 East, the plat approved October 22, 1865 shows that the river is divided into what is called the north and south channel, by an island several miles long and about a half mile wide, and that the same condition of affairs exist



18
EXHIBIT 20

in township 2 north of range
5 East.

In reply to your request for
the opinion of this office as to
whether the reservation includes any
part of said island or whether it
extends only to the middle of the
north channel of said river, I have
to state that by letter dated July 5,
1892, U.S. Indian Agent Bronce,
Pima Agency, reported substance
as follows: That the Indians do not
now and never did occupy the island
in question; that the soil is very sandy
throughout; that there is no timber on it
except a few cotton woods; that it
is not inhabited by any person, and
that in his judgment it is not advisable
that the island or any part of it

be claimed for the Indians as they now have more land than they can ever use.

It thus appears that the Indians themselves make no claim to the island and that it is not needed for them. Whether or not the island or any part of it belongs to the reservation under the provision of the Executive Order referred to, that the line shall be thence up and along the middle of said river, appears to be a question of fact upon which I am not prepared to express an opinion at this time.

The designation of the middle of the river as the line is thought to mean an equal distance from bank to bank without reference to channel.

8
4.

nels, and that if all or a por-
tion of the island should be found
to lie north of such middle line
it would appear to belong to the
Reservation.

The plat on file in this office
indicates that the principal
portion or branch of the river runs
south of the island, and that
what is termed the north channel
is a much narrower stream.

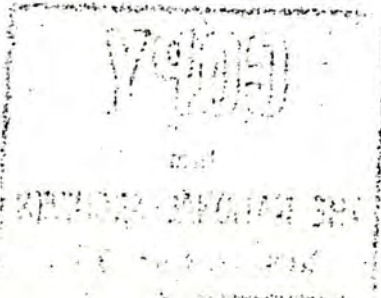
It will thus be seen that the
question presented by you is one
of fact as above stated, and while
I do not express a positive opinion
upon it, I have given you such
information respecting the needs of
the Indians in that direction as
may indicate to you the steps

151

necessary to fix the status of
the island.

Very respectfully
J. Morgan
Commissioner.

(Howard)



Department of the Interior
Land.
36901-1391

Department of the Interior

OFFICE OF INDIAN AFFAIRS,

WASHINGTON, November 11, 1891.

[Handwritten signature]

C.W.Crouse, Esq.,
U.S. Indian Agent,
Pima Agency,
Sacaton, Arizona.

Sir:

I am in receipt of a letter dated October 13th last,
from the Commissioner of the General Land Office, stating that
the southern boundary of the Pima and Maricopa reservation as
defined by Executive Order of June 14, 1879 is an imaginary
line running through the middle of the Salt

[Faint handwritten marks]

Land.
28901-1391

Department of the Interior

OFFICE OF INDIAN AFFAIRS,

WASHINGTON, November 11, 1891.

C.W. Crouse, Esq.,

U.S. Indian Agent,

Pima Agency,

Sacaton, Arizona.

Sir:

I am in receipt of a letter dated October 13th last, from the Commissioner of the General Land Office, stating that the southern boundary of the Pima and Maricopa reservation as defined by Executive Order of June 14, 1879 is an imaginary line running through the middle of the Salt river; that in Townships 1 and 2 North of 5, the plat approved October 22, 1868 shows that the river is divided into what is called the north and south channel, by an island several miles long and about a half mile wide, and information is desired as to whether the reservation includes any part of said island.

I desire you to investigate this matter at once and report as follows: Whether the Indians of the Pima and Maricopa reservation are now occupying this island, and if so, how long and in what numbers; the character of the soil and to what extent it is timbered, - Whether or not it is populated by whites and if so to what extent, and whether or not the

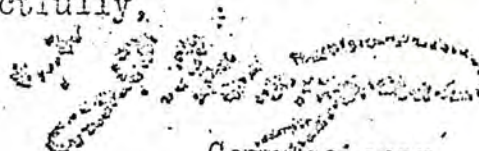


2.

needs and requirements of the Indians render it advisable that the island in question or any part thereof be claimed for them.

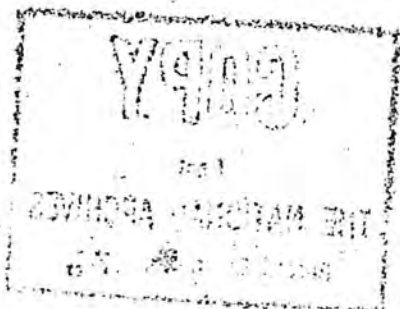
In addition to the specific information called for as above, you will report generally any further facts within your knowledge that will tend to give this office a full understanding of the matter.

Very respectfully,



Commissioner.

(Holland)



8855

W.B. M. ad
J.M.
C.B.

Refer in reply to
this initial:
"6"

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,

WASHINGTON, D. C., March 7, 1892

ADDRESS ONLY THE
COMMISSIONER OF THE GENERAL LAND OFFICE.

Hon. Thomas J. Morgan.
Commissioner of Indian Affairs.

Sir:

By proclamation of June 14, 1879, changing
the boundaries of the Pima and Maricopa or Gila
River Indian Reserves, the following lands are made
a part of said Reservations: Beginning at the north
west corner of the old Gila Reservation, thence by a
direct line running north westerly until it strikes
Salt River four miles east from the intersection
of said River, with the Gila River, thence down and
along the middle of said Salt River to the mouth
of the Gila River, thence up and along the middle
of said Gila River to its intersection with the north-
westerly boundary line of the old Gila Reservation,
thence north westerly along the last said described
boundary line to the place of beginning.

This concern's addition to order 7/31/63
V. M. D. L. V. M. G. M.

BUREAU OF INDIAN AFFAIRS
RECEIVED
JUL 31 1963
Post 134
Washington, D. C.

Is this Salt River Reservation?
Tada 7/13/23

It will be observed, that a portion of the boundary extends down and along the middle of Salt River in the Township 1 N. 5 E. The plats of survey on file in this office show that there are two channels of the said Salt River, an island $\frac{1}{2}$ a mile wide and several miles long separating them, and that the surveys have been extended over the island, said River not being meandered.

Will you please inform me which channel of the Salt River is considered by your office the boundary of said reservation. Entries are being made along the river, and this office should know whether the island referred to is a part of the reservation or not.

Very respectfully,

Wm Stone
Acting Commissioner.

8885

28-546-1672

Handwritten

Aug. 18, 1892

Land Office
Mex 71892

In relation to the
boundaries of the Pima
and Maricopa Indian Res.

This question occurs
to have been assumed
by section of Aug.
18, 1892, of G.O.C.

Aug. 24, 1893

File

Handwritten

UNITED STATES INDIAN SERVICE,

Pima Agency.

Sacaton, Ariz., July 8, 1892.

The Honorable
Commissioner of Indian Affairs,
Washington, D.C.,

Sir:

I am now able to give you the information called for in
letter Nov. 11, '91, Land 36991-2 31, more fully:

I.- The Indians are not occupying the island; neither have they
ever occupied it.

II.- The soil is very sandy throughout the entire island.

III.- There is no timber of any kind except a few cotton-woods.

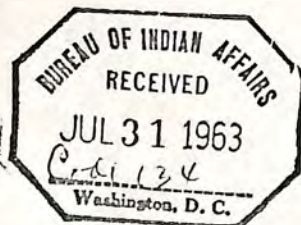
V.- It is not inhabited by any person.

VI.- In my judgment it is not advisable that the needs and re-
quirements of the Indians demand that the island or any part of
it be claimed for them. At present, the island in question is
of no benefit to any one. When land becomes scarce and more val-
uable in the vicinity, the island may be made valuable. To make
it of any value for agricultural purposes it will be necessary to
make a diverting dam in Salt river; and, in my opinion, this will cost
cost all the land would be worth. These Indians who live near
have all the land they can ever use and a great deal more.

Very respectfully yours,

C. W. Crouse

U.S. Indian Agent.



19
EXHIBIT 21.

25546
97998

From Agency Aug.
July 8, 1892.

Report concerning
an island in Salt
River near Tempe

Aug. — O. W. Crouse,
U.S. Insul. Agt.

John L. D.

Aug 18/92
SB 243/H

Academy

Exhibit 20

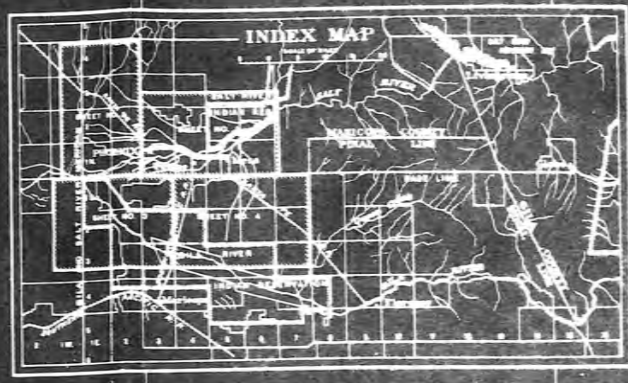
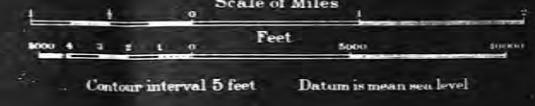
UNITED STATES GEOLOGICAL SURVEY
Charles D. Walcott, Director
RECLAMATION SERVICE
F. H. Newell, Chief Engineer

SALT RIVER PROJECT

SALT RIVER VALLEY ARIZONA

TOPOGRAPHIC AND IRRIGATION MAP

A. P. Davis, Supervising Engineer Robert Muldrow, Engineer in Charge of Topography
SURVEYED IN 1902-3



| EXPLANATION | |
|---|---|
| RAILROADS | — |
| WAGON ROADS | — |
| TELEGRAPH, TELEPHONE AND ELECTRIC POWER LINES | — |
| INDIAN RESERVATION BOUNDARY | — |
| IRRIGATION CANALS | — |
| LATERAL DITCHES | — |
| WELLS | — |
| FLOOD PLAIN - SANDY RIVER BED | — |

U.S. GEOLOGICAL SURVEY
LIBRARY

Exhibit - 21

Resurvey of Fract. Township No. 1 North Range No. 5 East of the Gila and Salt River Meridian, Arizona.

SALT RIVER INDIAN RESERVATION.

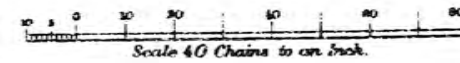


Contour interval 50 feet

Note: Curved lines or contours, are lines of equal elevation, and represent approximately the form of the earth's surface and the altitude above sea level

Total number of Acres 1957.27

| Surveys Designated | By Whom Surveyed | When Surveyed |
|--------------------|------------------|-------------------|
| Standard lines | R.A. Farmer | Dec. 6, 7, 1910. |
| Township | " | Dec. 12-14, 1910. |
| Subdivision | " | Dec. 15, 1910. |
| Meander | " | Dec. 6, 1910. |
| Boundary | " | |



The above Map, of Township No. 1 North, of Range No. 5 East, of the Gila and Salt River Meridian, Arizona, is strictly conformable to the field notes of the survey thereof on file in this Office, which have been examined and approved.

U. S. GENERAL LAND OFFICE
Washington, D. C.

Fred Bennett
Commissioner

March 29, 1913

A. F. DUNNINGTON,
Topographer in charge.
Instructions October 11, 1910.

Chains

Cottonwood, 20 ins. in diam., brs. N. 29 1/2° E., 210
lks. dist., mkd. 1/16 S 6 B T

70.50 Middle of slough, 100 lks. wide, brs. NE. and SW.

Enter brush, brs. NE. and SW.

72.66 Dry wash, course SW.

75.00 Road brs. NE. and SW.

80.00 Set an iron post for cor. of secs. 5, 6, 7, and 8, with
brass cap stamped

T 1 N S 5 in NE. quadrant
R 5 E S 8 " SE. " "
S 7 " SW. " "
S 6 " NW. " "
1910 " S.

5 notches on the S. and 5 on the E. edge.

From which -

Cottonwood, 36 ins. in diam., brs. N. 85 1/2° W., 134
lks. dist., mkd. T 1 N R 5 E S 6 B T

Cottonwood, 30 ins. in diam., brs. N. 13° 25' E., 64
lks. dist., mkd. T 1 N R 5 E S 5 B T

No other B.T.'s available.

Dig pits 18x18x12 ins. in each sec. 5 1/2 ft. dist., and raise
mound of earth 4 ft. base, 2 ft. high, W. of cor.

After diligent search, find no trace of old cors. on this
line.

Land, flat, cultivated, 63.75 chs. Soil, 2nd rate.
Cottonwood timber along canals. Mesquite, arrow weed and
sage brush, 16.25 chs.

From the cor. of secs. 5, 6, 7 and 8, I run

East on a true line bet. secs. 5 and 8,

Over flat land, through brush and scattered trees.

5.60 Road brs. NW. and SE.

13.50 Dry slough, brs. NE. and SW.

19.40 Middle of dry wash, course SW.

20.00 Set an iron post for 1/16 sec. cor. No. 2 bet. secs. 5
and 8, W 1/2, with brass cap stamped

No 2 1/16 S 5 in N.
S 8 1910 " S.

From which -

Cottonwood, 12 ins. in diam., brs. N. 85° 40' W., 136
lks. dist., mks. 1/16 S 5 B T

Cottonwood, 6 ins. in diam., brs. S. 37° 25' W., 115
lks. dist., mkd. 1/16 S 8 B T

40.00 Set an iron post for 1/4 sec. cor. bet. secs. 5 and 8,
with brass cap stamped

Chains

1/4 S 5 in N.
S 8 1910 in S.

From which -

Cottonwood, 12 ins. in diam., brs. S. 12° 30' E.,
217 lks. dist., mkd. 1/4 S 8 B T
Mesquite, 2 ins. in diam., brs. S. 35° 48' E., 113
lks. dist., mkd. 1/4 S 8 B T

- 40.05 Middle of road, brs. N. and S.
- 40.90 Old irrigation ditch, 10 lks. wide, course SW.
- 49.20 Road brs. N. and S.
- 59.00 Intersect right bank of Salt River, 20 ft. high, ^{which river is} the S. _{bdy. of salt River Indian Reservation.}
get an iron post for M. C. bet. secs. 5 and 8, with brass
cap stamped

M C in E. S R I R in W.
1910 in S.
R 5 E S 5 in NW. quadrant
T 1 N S 8 " SW. "
5 notches on the S. edge.

From which -

Cottonwood, 8 ins. in diam., brs. S. 39 1/2° W., 87 lks.
dist., mkd. T 1 N R 5 E S 8 M C B T
Cottonwood, 6 ins. in diam., brs. S. 54° W., 104 lks.
dist., mkd. T 1 N R 5 E S 8 M C B T

Thence over sand bar.

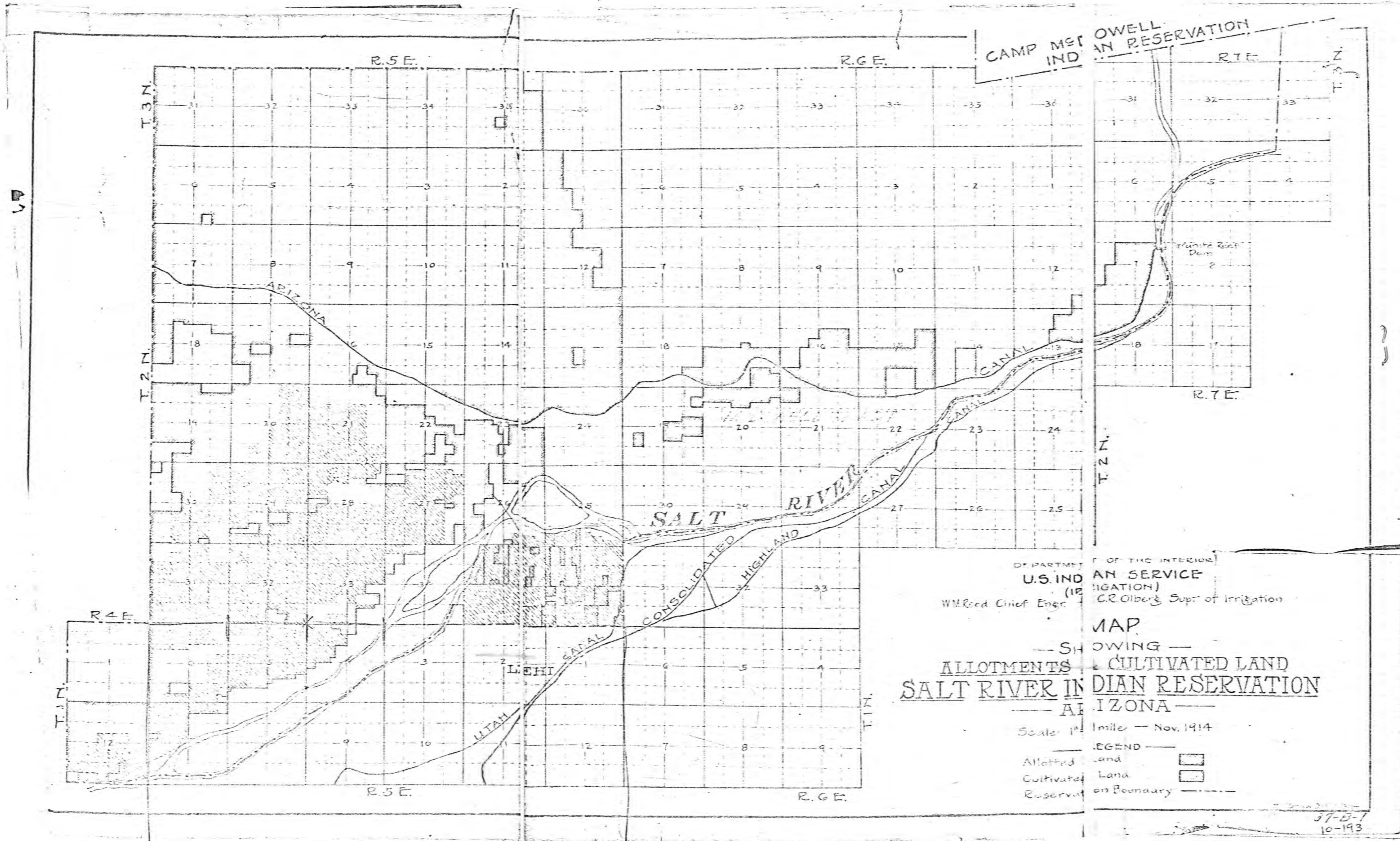
- 66.00 Edge of water.
- Land, flat. At one time cultivated, now grown up with
brush.
- Soil, 2nd rate.
- Timber, cottonwood along canals and edge of river.
- Mesquite and sage brush.

~~From the cor. of secs. 5, 6, 7 and 8, a line
parallel to W. bdy. of the tp.,
N. 0° 25' E. on a true line bet. secs. 5 and 6
Over flat land,~~

~~Along ditches and Mesquite brush.~~

- ~~1.40 Road brs. E. and W.~~
- ~~5.10 Middle of slough, 1 ch. wide, 2 ft. deep, no current,
brs. NE. and SW.~~
- ~~10.03 Wire fence brs. E. and W. Brush along fence.
Enter field.~~

637



CAMP MEADOW
INDIAN RESERVATION

DEPARTMENT OF THE INTERIOR
U.S. INDIAN SERVICE
(IRRIGATION)
W. Reed Chief Engineer
C. R. Olberg Supr. of Irrigation

MAP
SHOWING
ALLOTMENTS & CULTIVATED LAND
SALT RIVER INDIAN RESERVATION
ARIZONA

Scale 1" = 1 mile — Nov. 1914

LEGEND
 Allotted Land
 Cultivated Land
 Reservation Boundary

37-E-1
10-1913

Land Division
Acq.
5332-41

Mr. A. E. Robinson,
Supt., Pima Agency.

MAY 29 1941

*Whelan
see index*

My dear Mr. Robinson:

Reference is made to your letter of January 22, enclosing a resolution from the Salt River Pima-Maricopa Indian Community Council requesting that a survey be made to establish the boundary of the Salt River Indian Reservation in and along the Salt River.

Congress does not provide funds especially for the purpose of making surveys on Indian reservations. Therefore, such work must be paid for from other applicable funds that can be spared from other activities. Owing to the present condition of our money, the request of the Council cannot be given favorable consideration. Until such time as funds can be spared for this purpose there is nothing that we can do to aid you in this matter.

Sincerely yours,

(Signed) E. J. ARMSTRONG
FOR THE Commissioner

RCC:mj
5-26-41

CC Indian Organization.




mab
CARBON FOR INDIAN OFFICE

5332-1941-Pima-304.3

24
EXHIBIT ~~26~~

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
FIELD SERVICE

Pima Indian Agency
Sacaton, Arizona
January 22, 1941



Commissioner of Indian Affairs
Washington, D. C.

Sir:

There is transmitted herewith resolution by the Salt River Pima-Maricopa Indian Community Council, requesting survey to be made establishing the boundary of the Salt River Indian Reservation in and along the Salt River.

There are no funds in our allotments available for making this survey. The establishment of the boundary line in and along the Salt River as stated in their resolution would enable this office to take action against trespassers removing sand and gravel from reservation lands, likewise against refuse being dumped in the river bed.

If funds can be made available, the survey should be made.

A. E. Robinson
Respectfully,
Yours,

A. E. Robinson,
Superintendent

ACP:vcv

Enc.



5332-1941-Pima-3013

RESOLUTION

by the

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY COUNCIL
REQUESTING SURVEY TO BE MADE ESTABLISHING THE BOUNDARY
of the
SALT RIVER INDIAN RESERVATION IN AND ALONG THE SALT RIVER

WHEREAS, The Executive Order of June 14, 1879 (in lieu of Executive Order dated June 10, 1879) established the south boundary of the Salt River Indian Reservation beginning at a point where the range line between Range 4 and 5 East crosses the Salt River; thence, up and along the middle of the said river to a point where the easterly line of the Camp McDowell Military reservation, if prolonged south, would strike the said river.

OFFICE OF INDIAN AFFAIRS
RECEIVED
JAN 28 1941

WHEREAS, The storage dams now in the Salt and Verde Rivers above the reservation has eliminated flood waters from areas below these dams that will leave the present stream bed permanently established.

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WHEREAS, There are deposits of sand, gravel, and rock boulders along portions of the areas in the river bed that are valuable assets belonging to the reservation.

WHEREAS, Portions of the river bed are being used for dumping trash; and areas are being littered with worn-out automobiles, tin cans, wire, paper boxes, vegetable refuse, and other refuse.

WHEREAS, The middle of the river established as the boundary of the reservation is not definitely located from corners established by the General Land Office. Therefore, action cannot be taken against trespassers on the reservation lands who are removing sand, gravel, and rock boulders and those who are dumping refuse in the river bed.

NOW, THEREFORE, be it resolved by the Salt River Pima-Maricopa Indian Community Council that this resolution be transmitted to the Commissioner of Indian Affairs requesting a meander survey in the areas along the Salt River be made by the General Land Office in order to definitely locate and establish the reservation boundary line in and along the stream bed of the Salt River.

DONE At a regular meeting of the Salt River Pima-Mari-
copa Indian Community Council assembled at the Salt River
Day School, December 20. 1940.

THIS RESOLUTION received a vote of 5 for, and a vote
of 0 against and is therefore APPROVED - REJECTED.

The _____ President presiding.

William Hayes
Secretary of the Salt River
Pima-Maricopa Indian
Community Council

Approved:

Burges Burke
President of the Salt River
Pima-Maricopa Indian
Community Council

Date: 12/23 - 1940

Approved:

A. E. Robinson
A. E. Robinson, Superintendent

Date: 12/23 = 40





UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

FILE COPY
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Surname:

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| Shapiro, I. I. |
| Taliaferro, J. |
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JAN 17 1969

Memorandum

To: Secretary of the Interior

From: Solicitor

Subject: Identification and Reestablishment of the South Boundary of the Salt River Indian Reservation

IND
-Pima

Informally in January, 1968, and later by your memorandum of October 1, 1968, you requested that this office review the March 5, 1963, memorandum opinion of the Director of the Bureau of Land Management, approved by the Assistant Secretary for Public Land Management on May 6, 1964, concerning the location of the south boundary of the Salt River Indian Reservation within Township 1 North, Range 5 East, Gila and Salt River Meridian, Arizona (Exhibit 1).

The Executive Order of June 14, 1879, which established the Salt River Indian Reservation, described its south boundary as "up and along the middle of the [Salt] river" (Exhibit 2). At the time of the order, the river flowed through T. 1 N., R. 5 E., in two distinct channels, separated by a large island. The question discussed in the March 5, 1963, opinion is what was meant by "the middle of the river" as applied to the Salt River within T. 1 N., R. 5 E., or, more generally, what is the exact location of the south boundary of the Salt River Reservation.

The Director of the Bureau of Land Management concluded that the boundary lay in the channel north of the island. Having reviewed his determination and all available background material, we are of the opinion that the boundary lies in the south, rather than north channel. We therefore recommend that Secretarial approval of the March 5, 1963, decision be withdrawn and that new instructions regarding the boundary be issued.

I. There is no evidence that the north channel was intended as the boundary of the reservation.

In order properly to evaluate the meaning of the phrase "middle of the river" as it was used in the Executive Order of June 14, 1879, the order itself must be put in its historical context, for the events leading up to its issuance provide valuable indices to the intent of its drafters.

Exhibits filed in Pocket

The Act of February 28, 1859 (11 Stat. 388, 401), reserved for the Pima and Maricopa Indians the land they occupied on and near the Gila River, just south of the Salt River. There, the Indians constructed irrigation works and successfully raised wheat. The surrounding area, the Salt River Valley, considered the prime agricultural district of the Arizona territory, was extensively cultivated by white settlers, many of whom filed private claims to their land under various federal laws. A struggle for water developed in the mid-1870's which left the settlers in control of the irrigation ditches in the valley and forced the Indians to look elsewhere for farmland. They gradually began leaving their reservation and migrating north to the Salt River.

On January 10, 1879, in response to numerous reports that the Indians were being deprived of water on the Gila Reservation and needed additional land protected from encroachment by white settlers, an executive order was issued setting aside approximately 656,000 additional acres of the Salt River Valley on both sides of the Salt River for the Pimas and Maricopas (Exhibit 3). The order made no mention of the two channels of the Salt River, alluding merely to "the course of the river".

Reaction to the order was immediate and generally adverse. Captain A. R. Chaffee wrote to the Assistant Adjutant General on February 18, 1879, "I am lothe to believe the boundaries described correct" (Exhibit 4), noting that the reservation encompassed an unnecessarily large amount of valuable land and warning that the order was sure to trigger hostilities with the settlers of the region. Chaffee then reiterated a suggestion he had made in November 1878, that a smaller reservation, located in T. 1 N., R. 5 E., and Tps. 2 and 3 N., Rs. 5, 6, and 7 E., be established. A map dated March 4, 1879, and marked "traced in the Adjutant General's office" indicates the area reserved in the January 10 Executive Order as well as the reservation proposed by Captain Chaffee (Exhibit 5). The south boundary of the latter extends to the south channel of the Salt River, while that of the former lies south of the Gila River.

An early map, simply identified as "traced in Adjutant General's office, January 1879," (Exhibit 6) shows a proposed reservation whose south boundary runs north of the river.

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proposal for a reservation whose south boundary would be "along the Salt River to the initial point [NE corner, Sec. 15, T. 1 N., R. 4 E.] which is within the bed of the stream".

Because there was apparently some uncertainty as to the exact location of the Indians within the area reserved in the January 10 Executive Order, Inspector J. H. Hammond was sent to Arizona by the Commissioner of Indian Affairs to investigate. In his report, dated March 8, 1879 (Exhibit 8), Inspector Hammond stated that the Indians had left the Gila River Reservation in 1876 and 1877 in search of water, encouraged by white settlers who hoped the Indians would prove helpful in coping with the less friendly Apaches north of the Salt River. The map which accompanied his report entitled "Gila River Reservation and Surroundings, Pima Agency, A. T." (Exhibit 9), indicated where the Indians had settled: the region along the south channel of the Salt River, east of the island, was designated "Pima fields, 375 persons, 47 families."; along the north channel was the notation "Pima settlement, 1300 persons, 240 families." Hammond concluded by suggesting a new reservation to replace that created by the January 10 Executive Order, with boundaries almost identical to those proposed earlier by Captain Chaffee, with the exception of the south boundary, which was to follow the north bank of the Salt River.

Hammond's report was forwarded to the Secretary of the Interior by the Acting Commissioner of Indian Affairs on June 12, 1879, with a letter (Exhibit 10) commenting unfavorably on the plan to remove the Indians to the Colorado River ("It would do peaceful Indians a great injustice"). The Acting Commissioner then recommended that the January 10 Executive Order, which had originally been drafted by his office, be rescinded, and a new reservation set aside in accordance with a draft Executive Order which he had prepared. The south boundary of the new reservation was to run "up and along the middle of the said [the Salt] River," and those lands south of the river owned by Indians were to be temporarily withdrawn until the lands and improvements thereon could be sold to settlers. The proposed Executive Order was signed by President Hayes on June 14, 1879 (Exhibit 2).^{1/}

Thus, the Executive Order of June 14, 1879, was concerned with the protection of the Pima and Maricopa Indians who had settled on both sides of the channels of the Salt River. Prior to its issuance, at least five different persons had presented plans for a reservation. Only one (Inspector Hammond) had suggested that the south boundary of the reservation run along the north bank of the Salt River (since the Executive Order establishing the reservation spoke of the middle of the river, it is apparent that this plan, which would not have included

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any of the river within the reservation, was rejected); two (Commissioner of Indian Affairs and Army Division Commander) had proposed that the south boundary be placed "in the middle of the river"; one (Major General McDowell) had located it "in the bed of the river"; and one (Captain Chaffee) had set it in the south channel of the river. Nowhere was the north channel mentioned.

II. The preponderance of evidence indicates that the south channel is the south boundary of the reservation.

The Executive Order of June 14, 1879, sought to establish the Salt River as the south boundary of the reservation. Its specification that the boundary was to extend up and along the middle of the river, a non-navigable channel, reflected contemporaneous (and current) law on the subject. At common law, a grant bounded by a non-navigable river transferred title to the center thread of the river. Middleton v. Pritchard, 3 Scammon 510, 520. This principle had been held applicable to the United States, St. Paul P. and R. Company v. Schurmeir, 7 Wall 272, 19 L. Ed. 74 (1868); St. Clair County v. Lovington, 23 Wall 46, 23 L. Ed. 59 (1874); and was explicitly recognized by this Department, 6 L. D. 538, 637 (1888), 25 L. D. 413 (1879).

When a non-navigable river has two or more channels, the middle of the river is generally considered synonymous with the thread of the stream, or the middle of the main channel, Buttenuth v. St. Louis Bridge Co., 17 N. E. 439, 443, 123 Ill. 535, 5 Am. St. Rep. 545; see also Bishel v. Faria, 1 Cal. Rptr. 153, 157, 347 P.2d 289, the main channel being the widest and or deepest channel, Grand Rapids R. Co. v. Butler 158 U.S. 87 (1895).

We are not persuaded by any of the evidence cited by the Director in his March 5, 1963, opinion or reflected in the record that the main channel of the Salt River flowed north rather than south of the island in T. 1 N., R. 5 E. The earliest official survey of the township, completed by W. F. Ingalls and approved on October 22, 1868, merely contained sketches of the channels. They were not meandered (Exhibit 11). In his general description of T. 1 N., R. 5 E., Ingalls characterized them as "of about equal size" but "constantly changing position and size" (Exhibit 12). This general description is contradicted by the actual measurements contained in the body of his field notes, which indicate that the south channel was wider.

Ingalls measured the width of the channels wherever they intersected a surveyed line. His field notes, contained in Arizona Territory Volumes 1 and 2, show the following for T. 1 N., R. 5 E.:

An official survey of the reservation was completed by L. D. Chillson in July 1888. His plats indicate nothing below the north bank of the north channel of the river (Exhibit 15). Although the Director cites this survey to support his conclusion that the north channel was the main stream of the Salt River, in fact the survey does not furnish any evidence at all about location of the boundary. Chillson was instructed to survey the reservation into 40-acre tracts following the rules of the surveyor's manual (Instructions to Surveyors General, 1881). His special instructions, contained in a letter from the Surveyor General dated December 27, 1887 (Exhibit 16), stated:

The southern boundary of this reservation being the Salt River, it will be necessary for you to meander same.

Chillson did precisely what was asked of him -- he meandered the Salt River, limiting his work to the north bank only, since the surveyor's manual directed that non-navigable rivers "will only be meandered on one bank. For the sake of uniformity the surveyor will traverse the right bank when not impracticable." (page 34) Thus, the only information the Chillson survey furnishes with regard to the Salt River is the meander line of its north bank.

A meander line merely determines the sinuosities of a stream and is not a boundary, United States v. Elliott et al., 131 F.2d 720 (10th Cir., 1942); Witaker v. McBride, 197 U.S. 510, 512, 25 S. Ct. 530; Producer's Oil Co. v. Hanzen, 238 U.S. 325, 339, 35 S. Ct. 755; the waters themselves constitute the real boundary, Hardin v. Jordan, 140 U.S. 371, 11 S. Ct. 808 (1891). That Chillson's survey is limited to the north bank of the Salt River thus does not indicate that he thought that it was the south boundary of the reservation or had determined the north channel to be the main thread of the river; it merely reflects his adherence to the instructions pursuant to which the survey was executed. Chillson was not requested to indicate the boundary or to concern himself with the river at all, other than to meander its right bank. That is all he did; no effort was made to gather any information about the river itself, its islands, its channels, its flow, etc. Neither the Surveyor General's instructions nor Chillson's field notes refer to the south boundary of the reservation in any more specific terms than "the Salt River." Thus, the 1888 survey furnishes no real evidence as to the proper location of the south boundary of the reservation.

That the survey was of no help in establishing the boundary is further evidenced by the fact that on October 13, 1891, a little more than two years after Chillson completed his work, the Commissioner of the General Land Office wrote to the Commissioner of Indian Affairs and "being in doubt as to the exact location" of the south boundary, asked his opinion

on the matter (Exhibit 17). In his reply, dated August 18, 1892, (Exhibit 18), the Commissioner of Indian Affairs relayed a report he had received from the Pima Indian Agent on July 8, 1892, in which the agent made no reference to the two channels, merely noting that since the island between them was unoccupied, contained no timber and had sandy soil, it was not advisable that it be claimed for the Indians (Exhibit 19). The Commissioner then stated that whether the island was within the reservation was "a question of fact upon which I am not prepared to express an opinion at this time," but added that "the plat on file in this office indicates that the principal portion or branch of the river runs south of the island, and that what is termed the north channel is a much narrower stream." We have been unable to identify the plat referred to.

The National Reclamation Act, the Act of June 17, 1902 (32 Stat. 388), authorized a survey of, among others, irrigable lands in Arizona. The map prepared pursuant to that act by the United States Geological Survey indicated the south channel of the Salt River as the main stream, while showing the north channel as practically dry (Exhibit 20). The south boundary of the reservation was placed in the center of the south channel.

On December 15, 1910, R. A. Farmer completed a dependent resurvey of the reservation lands within T. 1 N., R. 5 E., for allotment purposes, based upon Chillson's 1888 survey. Like Chillson, Farmer simply meandered the right bank of the river. His plats stopped at the meander line and did not indicate any of the river itself (Exhibit 21). A dotted line was sketched in to indicate the reservation boundary, but it is of little significance since Farmer was not concerned with the boundary and made no effort to ascertain its precise location. Indeed, in his field notes (Exhibit 22), he refers to "the right bank of the Salt River * * * which river is the south boundary of the reservation" (emphasis added), thereby indicating that he had made no determination of the boundary beyond its general location somewhere in the river. Thus, the Farmer survey, like that of Chillson, conveys no information about the relative size of the two channels or the proper location of the south boundary of the reservation.

In November 1914, the United States Indian Service completed a map showing allotments and cultivated land on the Salt River Indian Reservation (Exhibit 23). The south boundary of the reservation was shown in the south channel of the river.

The foregoing indicates that the Director's conclusion that "the preponderance and weight of evidence favors the recognition of the north channel of Salt River as being the south boundary of the reservation" is not borne out by the record.

The July 12, 1879, diagram (Exhibit 13), which located the boundary north of the river entirely, is clearly erroneous on its face. The Chillson Survey (Exhibit 15) furnishes no information on the boundary question. The plat

on file in the Bureau of Indian Affairs referred to by the Commissioner in his letter of August 18, 1892 (Exhibit 18), indicates that the south channel was the principal branch of the river. The 1902-1903 irrigation map (Exhibit 20) shows the south channel as larger than the north and locates the reservation boundary in it. The Farmer survey (Exhibits 21 & 22) merely describes the boundary as "the river" and indicates it by a dotted line sketched beyond the edges of the surveyed area. The 1914 allotment map (Exhibit 23) shows the boundary running in the south channel of the river. The preponderance and weight of evidence favors recognition not of the north, but of the south channel of the river as the south boundary of the reservation.

III. There is nothing to preclude recognition of the south channel as the south boundary of the reservation.

In his March 5, 1963, opinion, the Director asserts:

In the apparent absence of protest or amendment by the Indians to the boundary as shown upon many maps and as officially surveyed and established upon the ground by two official surveys, it must be considered that until recent years the Indians were apparently complacent with the boundary being along the north channel.

and maintains that Departmental policy precludes recognition of the south channel as the boundary, citing Boundary of San Carlos Indian Reservation, 55 I.D. 560. (May 29, 1936).

We note initially that contrary to the Director's assertion, the boundary has not been shown to be along the north channel "upon many maps." Moreover, the boundary has never been "officially surveyed and established on the ground": the Chillson and Farmer surveys, to which we assume the Director is referring, did not purport to locate the boundary; they merely reflected the meanders of the north bank of the Salt River, without any attempt to ascertain or depict the middle of the river. In fact, to the best of our knowledge, the south boundary of the Salt River Indian Reservation has never been indicated on a map prepared for that purpose. Thus, by recognizing the south channel as the reservation boundary, the Secretary would not be reversing a determination of long standing, as the Director implies, but merely resolving a matter which has proven problematic for almost one hundred years.

In light of the confusion which has surrounded the question of the location of the boundary, the situation at hand is hardly comparable to that considered in Boundary of San Carlos Indian Reservation, supra, in which the Acting Secretary of the Interior held that a boundary description which had been uniformly interpreted by the Department for 60 years would be

considered controlling. There certainly has been no such uniformity in recognition of the south boundary of the Salt River Indian Reservation. The Pimas and Maricopas can hardly be criticized and certainly should not be penalized for not questioning a Departmental determination which was not definitively made until 1963.

Indeed, the Indians have repeatedly asked for clarification of the location of the south boundary of their reservation. On March 23, 1940, the Salt River Indian Community Council passed a resolution requesting the Commissioner of Indian Affairs to "definitely locate and establish the reservation boundary line in and along the stream bed of the Salt River." (Exhibit 24) The Indians were advised that since no funds were available for a survey, their request could not be acted upon. Subsequent requests have met a similar fate.

IV. Conclusion

Under these circumstances we believe that the south channel of the Salt River should be recognized as the south boundary of the Salt River Indian Reservation. We therefore recommend that Secretarial approval of the March 5, 1963, memorandum opinion of the Director of the Bureau of Land Management be withdrawn and that new instructions regarding the south boundary of the Salt River Indian Reservation be issued.

A status report on the area between the channels furnished by the Bureau of Land Management on January 3, indicates that since the establishment of the reservation, the United States has issued patents to private individuals and granted rights-of-way to the State of Arizona and County of Maricopa involving lands which the survey to be made by the Bureau of Land Management may show to be within the boundaries of the reservation. The Salt River Pima-Maricopa Indian Community has explicitly waived any interest it might have in such lands. However, in order to avoid any cloud upon the titles conveyed by the patents involved, all of which appear to have been issued more than 40 years ago, or upon the interests granted by the rights-of-way, we suggest that in the event the survey by the Bureau of Land Management discloses that the United States issued patents to and rights-of-way across lands already reserved for Indian use, remedial legislation be recommended to exclude the patented and rights-of-way areas from the reservation and confirm the titles thereto.

We would add that fairness to persons asserting interests in the lands between the two channels under the mining and other public land laws will require this Department to promptly request the Department of Justice to commence appropriate actions to obtain judicial determinations of the merits of their claims.

Edward Weinberg

Solicitor

cc:

Secretary's Files

Solicitor's Files w/c attachments

Mr. James E. Officer (replaces 12/23/68 memor. previously distributed
and recalled. Attachments should be placed on this new memo.)

Mr. C. A. Carson, III, Phoenix (detached)

Commissioner of Indian Affairs w/c attachments

BIA, Br. of Real Property

BIA, Area Director, Phoenix

Director, Bureau of Land Management w/c attachments (detached)

Associate Solicitor, Div. Public Lands w/c attachments

(Attachments retained previously)

LHShapiro, A&L w/c attachments

Asst. Sol., IIA

Associate Solicitor, Indian Affairs

Division of Indian Affairs

LHShapiro:ah 11/20/68

Reqritten: HBTaliaferro:mcs: 1/16/69

EXHIBITS

1. March 5, 1963, memorandum opinion from the Director of the Bureau of Land Management to the State Director, Arizona
2. Executive Order of June 14, 1879
3. Executive Order of January 10, 1879
4. February 18, 1879, letter from Captain A. R. Chaffee to Assistant Adjutant General
5. Map dated March 4, 1879, "traced in the Adjutant General's office"
6. Map, "traced in Adjutant General's office, January 1879"
7. April 28, 1879, letter from Major General McDowell to Adjutant General
8. March 8, 1879, letter from Inspector J. H. Hammond to Commissioner of Indian Affairs
9. March 8, 1879, map, "Gila River Reservation and Surroundings, Pima Agency, A. T."
10. June 12, 1879, letter from Acting Commissioner of Indian Affairs to Secretary of the Interior
11. Official plats of W. F. Ingalls survey of T. 1 N., R. 5 E., and T. 2 N., R. 5 E., approved October 22, 1868
12. Exerpt from field notes of W. F. Ingalls' survey, Arizona Territory Volume 2
13. July 12, 1879, map, "Plat showing lands reserved for Pima and Maricopa Indians by Executive Order of June 14, 1879"
14. June 27, 1879, letter from Commissioner of the General Land Office to Surveyor General
15. Official plat of L. D. Chillson resurvey of T. 1 N., R. 5 E., approved July 11, 1888
16. December 27, 1887, letter from Surveyor General to L. D. Chillson

17. October 13, 1891, letter from Commissioner of the General Land Office to Commissioner of Indian Affairs
18. August 18, 1892, letter from Commissioner of Indian Affairs to Commissioner of the General Land Office
19. July 8, 1892, letter from Pima Indian Agent to Commissioner of Indian Affairs
20. Map of irrigable lands in Arizona prepared by U.S. Geological Survey, for Salt River Project 1902-03
21. Official plat of R. A. Farmer resurvey of T. 1 N., R. 5 E., approved December 15, 1910
22. Excerpt from field notes of R. A. Farmer resurvey of T. 1 N., R. 5 E.
23. November 1914, United States Indian Service map, allotments and cultivated land on the Salt River Indian Reservation
24. March 23, 1940, resolution of the Salt River Indian Community Council

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON

Dec 24, 1968

Note to Jim Officer:

Subj: South Boundary of the Salt
River Indian Reservation.

You will note that I have surnamed the proposed memorandum from the Secretary to the Bureau of Land Management on the above subject as "noted only as this appears to be a legal determination."

Considering the BLM's involvement and past history, I do suggest that the subject be discussed with that agency in order that they may be informed of the proposed action.


Harry R. Anderson

11
Dec 24



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

JAN 17 1969

Memorandum

To: Secretary of the Interior

From: Solicitor

Subject: Identification and Reestablishment of the South Boundary of the Salt River Indian Reservation

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Thus, the Executive Order of June 14, 1879, was concerned with the protection of the Pima and Maricopa Indians who had settled on both sides of the channels of the Salt River. Prior to its issuance, at least five different persons had presented plans for a reservation. Only one (Inspector Hammond) had suggested that the south boundary of the reservation run along the north bank of the Salt River (since the Executive Order establishing the reservation spoke of the middle of the river, it is apparent that this plan, which would not have included

^{1/} That order was amended by the Executive Orders of March 22, 1911, September 28, 1911, and October 23, 1911. These amendments have no bearing on the boundary question.

any of the river within the reservation, was rejected); two (Commissioner of Indian Affairs and Army Division Commander) had proposed that the south boundary be placed "in the middle of the river"; one (Major General McDowell) had located it "in the bed of the river"; and one (Captain Chaffee) had set it in the south channel of the river. Nowhere was the north channel mentioned.

II. The preponderance of evidence indicates that the south channel is the south boundary of the reservation.

The Executive Order of June 14, 1879, sought to establish the Salt River as the south boundary of the reservation. Its specification that the boundary was to extend up and along the middle of the river, a non-navigable channel, reflected contemporaneous (and current) law on the subject. At common law, a grant bounded by a non-navigable river transferred title to the center thread of the river. Middleton v. Pritchard, 3 Scammon 510, 520. This principle had been held applicable to the United States, St. Paul P. and R. Company v. Schurmeir, 7 Wall 272, 19 L. Ed. 74 (1868); St. Clair County v. Lovington, 23 Wall 46, 23 L. Ed. 59 (1874); and was explicitly recognized by this Department, 6 L. D. 538, 637 (1888), 25 L. D. 413 (1879).

When a non-navigable river has two or more channels, the middle of the river is generally considered synonymous with the thread of the stream, or the middle of the main channel, Buttenuth v. St. Louis Bridge Co., 17 N. E. 439, 443, 123 Ill. 535, 5 Am. St. Rep. 545; see also Bishel v. Faria, 1 Cal. Rptr. 153, 157, 347 P.2d 289, the main channel being the widest and or deepest channel, Grand Rapids R. Co. v. Butler 158 U.S. 87 (1895).

We are not persuaded by any of the evidence cited by the Director in his March 5, 1963, opinion or reflected in the record that the main channel of the Salt River flowed north rather than south of the island in T. 1 N., R. 5 E. The earliest official survey of the township, completed by W. F. Ingalls and approved on October 22, 1868, merely contained sketches of the channels. They were not meandered (Exhibit 11). In his general description of T. 1 N., R. 5 E., Ingalls characterized them as "of about equal size" but "constantly changing position and size" (Exhibit 12). This general description is contradicted by the actual measurements contained in the body of his field notes, which indicate that the south channel was wider.

Ingalls measured the width of the channels wherever they intersected a surveyed line. His field notes, contained in Arizona Territory Volumes 1 and 2, show the following for T. 1 N., R. 5 E.:

| <u>Surveyed Line</u> | <u>Width of South Channel</u> | <u>Width of North Channel</u> |
|-------------------------|-----------------------------------|-----------------------------------|
| North between § 3 & 4 | 3.46 chains | 2.63 chains |
| North between § 4 & 5 | | 4.85 chains |
| North between § 8 & 9 | 3.70 chains | |
| East between § 4 & 9 | 7.25 chains | |
| East between § 5 & 8 | | 4.11 chains |
| North between § 7 & 8 | | 3.25 chains |
| North between § 17 & 18 | 4.91 chains | |

These figures indicate that the average width of the south channel in T. 1 N., R. 5 E., was 4.83 chains, while that of the north channel was only 3.71 chains. Ingalls' measurements along the entire length of the channels, through T. 2 N., R. 5 E., as well as T. 1 N., R. 5 E., reflect an overall average width of 4.35 chains for the south channel and 3.96 chains for the north channel. While they are certainly not conclusive, these figures are the only available evidence of the relative size of the two streams prior to the establishment of the reservation; and they suggest that the south channel was the wider.

A map dated July 12, 1879, and entitled "Plat showing lands reserved for Pima and Maricopa Indians by Executive Order of June 14, 1879" (Exhibit 13), was prepared by the Surveyor General at the request of the Commissioner of the General Land Office. It represented both channels of the river by single lines and sketched the south boundary of the reservation slightly north of the north channel. In his opinion, the Director of the Bureau of Land Management cites this map as being both "most pertinent" and "official." We cannot agree that either adjective is appropriate. The map is certainly not an "official plat", its title notwithstanding, since it does not reflect the findings of a duly authorized and approved survey of the land represented. United States v. Morrison, 240 U.S. 192 (1916). In his letter of June 27, 1879, the Commissioner of the General Land Office merely requested preparation of a "diagram" (Exhibit 14); nothing as elaborate as an official survey was indicated. In fact, there is no evidence that the Surveyor General, who prepared the map in Tucson, 125 miles away from the reservation, even inspected the area. Indeed, he was able to complete the map a scant 15 days after the date of the Commissioner's request, which, considering the time then required for transmission of the request, was quite remarkable. More important than its lack of official status, however, is the map's obvious lack of accuracy. It depicts the south boundary of the reservation as north of the river entirely, while the Executive Order which it purports to be illustrating explicitly extends the boundary to the middle of the river. Clearly an instrument containing such a gross error on its face can be accorded little weight.

An official survey of the reservation was completed by L. D. Chillson in July 1888. His plats indicate nothing below the north bank of the north channel of the river (Exhibit 15). Although the Director cites this survey to support his conclusion that the north channel was the main stream of the Salt River, in fact the survey does not furnish any evidence at all about location of the boundary. Chillson was instructed to survey the reservation into 40-acre tracts following the rules of the surveyor's manual (Instructions to Surveyors General, 1881). His special instructions, contained in a letter from the Surveyor General dated December 27, 1887 (Exhibit 16), stated:

The southern boundary of this reservation being the Salt River, it will be necessary for you to meander same.

Chillson did precisely what was asked of him -- he meandered the Salt River, limiting his work to the north bank only, since the surveyor's manual directed that non-navigable rivers "will only be meandered on one bank. For the sake of uniformity the surveyor will traverse the right bank when not impracticable." (page 34) Thus, the only information the Chillson survey furnishes with regard to the Salt River is the meander line of its north bank.

A meander line merely determines the sinuosities of a stream and is not a boundary, United States v. Elliott et al., 131 F.2d 720 (10th Cir., 1942); Witaker v. McBride, 197 U.S. 510, 512, 25 S. Ct. 530; Producer's Oil Co. v. Hanzen, 238 U.S. 325, 339, 35 S. Ct. 755; the waters themselves constitute the real boundary, Hardin v. Jordan, 140 U.S. 371, 11 S. Ct. 808 (1891). That Chillson's survey is limited to the north bank of the Salt River thus does not indicate that he thought that it was the south boundary of the reservation or had determined the north channel to be the main thread of the river; it merely reflects his adherence to the instructions pursuant to which the survey was executed. Chillson was not requested to indicate the boundary or to concern himself with the river at all, other than to meander its right bank. That is all he did; no effort was made to gather any information about the river itself, its islands, its channels, its flow, etc. Neither the Surveyor General's instructions nor Chillson's field notes refer to the south boundary of the reservation in any more specific terms than "the Salt River." Thus, the 1888 survey furnishes no real evidence as to the proper location of the south boundary of the reservation.

That the survey was of no help in establishing the boundary is further evidenced by the fact that on October 13, 1891, a little more than two years after Chillson completed his work, the Commissioner of the General Land Office wrote to the Commissioner of Indian Affairs and "being in doubt as to the exact location" of the south boundary, asked his opinion

on the matter (Exhibit 17). In his reply, dated August 18, 1892, (Exhibit 18), the Commissioner of Indian Affairs relayed a report he had received from the Pima Indian Agent on July 8, 1892, in which the agent made no reference to the two channels, merely noting that since the island between them was unoccupied, contained no timber and had sandy soil, it was not advisable that it be claimed for the Indians (Exhibit 19). The Commissioner then stated that whether the island was within the reservation was "a question of fact upon which I am not prepared to express an opinion at this time," but added that "the plat on file in this office indicates that the principal portion or branch of the river runs south of the island, and that what is termed the north channel is a much narrower stream." We have been unable to identify the plat referred to.

The National Reclamation Act, the Act of June 17, 1902 (32 Stat. 388), authorized a survey of, among others, irrigable lands in Arizona. The map prepared pursuant to that act by the United States Geological Survey indicated the south channel of the Salt River as the main stream, while showing the north channel as practically dry (Exhibit 20). The south boundary of the reservation was placed in the center of the south channel.

On December 15, 1910, R. A. Farmer completed a dependent resurvey of the reservation lands within T. 1 N., R. 5 E., for allotment purposes, based upon Chillson's 1888 survey. Like Chillson, Farmer simply meandered the right bank of the river. His plats stopped at the meander line and did not indicate any of the river itself (Exhibit 21). A dotted line was sketched in to indicate the reservation boundary, but it is of little significance since Farmer was not concerned with the boundary and made no effort to ascertain its precise location. Indeed, in his field notes (Exhibit 22), he refers to "the right bank of the Salt River * * * which river is the south boundary of the reservation" (emphasis added), thereby indicating that he had made no determination of the boundary beyond its general location somewhere in the river. Thus, the Farmer survey, like that of Chillson, conveys no information about the relative size of the two channels or the proper location of the south boundary of the reservation.

In November 1914, the United States Indian Service completed a map showing allotments and cultivated land on the Salt River Indian Reservation (Exhibit 23). The south boundary of the reservation was shown in the south channel of the river.

The foregoing indicates that the Director's conclusion that "the preponderance and weight of evidence favors the recognition of the north channel of Salt River as being the south boundary of the reservation" is not borne out by the record.

The July 12, 1879, diagram (Exhibit 13), which located the boundary north of the river entirely, is clearly erroneous on its face. The Chillson Survey (Exhibit 15) furnishes no information on the boundary question. The plat

on file in the Bureau of Indian Affairs referred to by the Commissioner in his letter of August 18, 1892 (Exhibit 18), indicates that the south channel was the principal branch of the river. The 1902-1903 irrigation map (Exhibit 20) shows the south channel as larger than the north and locates the reservation boundary in it. The Farmer survey (Exhibits 21 & 22) merely describes the boundary as "the river" and indicates it by a dotted line sketched beyond the edges of the surveyed area. The 1914 allotment map (Exhibit 23) shows the boundary running in the south channel of the river. The preponderance and weight of evidence favors recognition not of the north, but of the south channel of the river as the south boundary of the reservation.

III. There is nothing to preclude recognition of the south channel as the south boundary of the reservation.

In his March 5, 1963, opinion, the Director asserts:

In the apparent absence of protest or amendment by the Indians to the boundary as shown upon many maps and as officially surveyed and established upon the ground by two official surveys, it must be considered that until recent years the Indians were apparently complacent with the boundary being along the north channel.

and maintains that Departmental policy precludes recognition of the south channel as the boundary, citing Boundary of San Carlos Indian Reservation, 55 I.D. 560 (May 29, 1936).

We note initially that contrary to the Director's assertion, the boundary has not been shown to be along the north channel "upon many maps." Moreover, the boundary has never been "officially surveyed and established on the ground": the Chillson and Farmer surveys, to which we assume the Director is referring, did not purport to locate the boundary; they merely reflected the meanders of the north bank of the Salt River, without any attempt to ascertain or depict the middle of the river. In fact, to the best of our knowledge, the south boundary of the Salt River Indian Reservation has never been indicated on a map prepared for that purpose. Thus, by recognizing the south channel as the reservation boundary, the Secretary would not be reversing a determination of long standing, as the Director implies, but merely resolving a matter which has proven problematic for almost one hundred years.

In light of the confusion which has surrounded the question of the location of the boundary, the situation at hand is hardly comparable to that considered in Boundary of San Carlos Indian Reservation, *supra*, in which the Acting Secretary of the Interior held that a boundary description which had been uniformly interpreted by the Department for 60 years would be

considered controlling. There certainly has been no such uniformity in recognition of the south boundary of the Salt River Indian Reservation. The Pimas and Maricopas can hardly be criticized and certainly should not be penalized for not questioning a Departmental determination which was not definitively made until 1963.

Indeed, the Indians have repeatedly asked for clarification of the location of the south boundary of their reservation. On March 23, 1940, the Salt River Indian Community Council passed a resolution requesting the Commissioner of Indian Affairs to "definitely locate and establish the reservation boundary line in and along the stream bed of the Salt River." (Exhibit 24) The Indians were advised that since no funds were available for a survey, their request could not be acted upon. Subsequent requests have met a similar fate.

IV. Conclusion

Under these circumstances we believe that the south channel of the Salt River should be recognized as the south boundary of the Salt River Indian Reservation. We therefore recommend that Secretarial approval of the March 5, 1963, memorandum opinion of the Director of the Bureau of Land Management be withdrawn and that new instructions regarding the south boundary of the Salt River Indian Reservation be issued.

A status report on the area between the channels furnished by the Bureau of Land Management on January 3, indicates that since the establishment of the reservation, the United States has issued patents to private individuals and granted rights-of-way to the State of Arizona and County of Maricopa involving lands which the survey to be made by the Bureau of Land Management may show to be within the boundaries of the reservation. The Salt River Pima-Maricopa Indian Community has explicitly waived any interest it might have in such lands. However, in order to avoid any cloud upon the titles conveyed by the patents involved, all of which appear to have been issued more than 40 years ago, or upon the interests granted by the rights-of-way, we suggest that in the event the survey by the Bureau of Land Management discloses that the United States issued patents to and rights-of-way across lands already reserved for Indian use, remedial legislation be recommended to exclude the patented and rights-of-way areas from the reservation and confirm the titles thereto.

We would add that fairness to persons asserting interests in the lands between the two channels under the mining and other public land laws will require this Department to promptly request the Department of Justice to commence appropriate actions to obtain judicial determinations of the merits of their claims.


Solicitor

17. October 13, 1891, letter from Commissioner of the General Land Office to Commissioner of Indian Affairs
18. August 18, 1892, letter from Commissioner of Indian Affairs to Commissioner of the General Land Office
19. July 8, 1892, letter from Pima Indian Agent to Commissioner of Indian Affairs
20. Map of irrigable lands in Arizona prepared by U.S. Geological Survey, for Salt River Project 1902-03
21. Official plat of R. A. Farmer resurvey of T. 1 N., R. 5 E., approved December 15, 1910
22. Excerpt from field notes of R. A. Farmer resurvey of T. 1 N., R. 5 E.
23. November 1914, United States Indian Service map, allotments and cultivated land on the Salt River Indian Reservation
24. March 23, 1940, resolution of the Salt River Indian Community Council



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

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Surname:
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JAN 17 1969

Memorandum

To: Director, Bureau of Land Management
Through: Assistant Secretary, Public Land Management

From: Secretary of the Interior

Subject: South Boundary of the Salt River Indian Reservation

For some years there has been disagreement concerning the location of the South boundary of the Salt River Indian Reservation. Informally, in January 1968, and later by memorandum of October 1, 1968, I asked the Solicitor to review the matter. Attached is a copy of a letter to G. A. Carson, III, attorney for Arizona Sand and Rock Company reciting the history of negotiations between the Salt River Community Council and that company which arose from the boundary dispute.

This day I received from the Solicitor his memorandum advising me that the March 5, 1963 memorandum opinion of the Director of the Bureau of Land Management, approved by the Assistant Secretary for Public Land Management on May 6, 1964, is erroneous. A copy of the Solicitor's memorandum is attached hereto.

I therefore determine that the southern boundary of the Salt River Indian Reservation in T. 1 N., R. 5 E., G&SRM, Arizona, is in the southern channel of the Salt River. Please note the official records accordingly and notify all persons asserting any interests in the lands between the two channels under the mining or other public land laws of this determination.

(sgd) Stewart L. Udall

Secretary of the Interior

Attachments

- cc: Secretary's Files
- Secretary's Reading Files (2)
- Solicitor's Files
- ~~DPL~~ DPL Reading File
- Mr. Freedman - SOL
- Assoc. Sol. IA

HBTaliaferro, Jr.:mcs:1-3-69

FROM, SOLICITOR

JAN 17 1969

FOR SIGNATURE



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

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JAN 17 1969

Dear Mr. Carson:

As you are well aware, there has been disagreement for many years concerning the location of the south boundary of the Salt River Indian Reservation in Township 1 North, Range 5 East, G&SRM, Arizona. In the disputed area, the Salt River, the center of which is the reservation boundary, runs in two channels around a small island upon which are located gravel deposits of some value. Prior to 1955, several gravel companies in the Phoenix area, mostly notably your client, Arizona Sand and Rock, located mining claims on this island.

IND
Pima

In May 1964, Assistant Secretary Carver concurred in a memorandum opinion of the Acting Director of the BLM holding that the boundary of the reservation lay in the middle of the north channel of the river. This opinion was adverse to the Indian interests and they protested immediately that it was also contrary to the facts. After reviewing additional information presented by the Indians, Secretary Carver suspended survey operations in December 1964, to give the Indians and Arizona Sand and Rock an opportunity to try to reach an amicable settlement concerning the boundary which might later be confirmed by legislation. Negotiations between the two parties have continued since that time, but at a very slow pace. No agreement has been reached thus far.

In January 1968, I asked the Solicitor to review the 1964 boundary opinion of the Director of the Bureau of Land Management and to advise me informally concerning his view of the soundness of this opinion, especially in the light of additional information which had been supplied to the Department by both the Bureau of Indian Affairs and the attorney for the Salt River Community. I felt that if new evidence were to show conclusively that the boundary should be located in the south channel I would be derelict in my duty as Trustee for the Indians to insist that they continue negotiating with Arizona Sand and Rock. I am, of course, aware of the fact that Arizona Sand and Rock and the Indians have been negotiating in good faith since 1964, at our suggestion; and that in the early 1960's the company paid approximately \$5400 to the Bureau of Land Management to conduct a survey of the south boundary of the reservation, only later to learn that the survey could not be approved by the Department.

FROM SOLICITOR

JAN 17 1969

FOR SIGNATURE

The Solicitor has completed his review of this matter. I have received his memorandum advising me that the March 5, 1963, memorandum opinion of the Director, approved by the Assistant Secretary for Public Land Management on May 6, 1964, is erroneous. A copy of the Solicitor's memorandum is enclosed. In accordance therewith I have determined that the southern boundary of the Salt River Indian Reservation in T. 1 N., R. 5 E., G&SRM, Arizona, is in the southern channel of the Salt River. The official records have been noted accordingly and the Director of the Bureau of Land Management has been asked to notify all persons asserting any interests in the land between the two channels under the mining or other public land laws of this determination.

In order that your client, Arizona Sand and Rock, and other parties claiming interests in the affected lands may have a forum in which to assert their interests and fully present evidence bearing thereon, I have asked the Solicitor to call upon the Department of Justice forthwith to commence actions to quiet title in favor of the Indians to the land lying between the two channels.

Sincerely yours,

(sgd) David S. Black

Under Secretary of the Interior

Mr. C. A. Carson, III
Carson, Messinger, Elliott,
Laughlin and Ragan
1400 United Bank Building
3550 North Central Avenue
Phoenix, Arizona 85012

Enclosure

cc: Secretary's Files
Secretary's Reading Files (2)
Solicitor's Files
Mr. Freedman
DPL Reading File
Associate Solicitor, IA

HB Taliaferro:mcs:1-2-69
HB Taliaferro:mch:1-10-69:rewritten

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON

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JAN 17 1969

Dear Mr. Carlos:

In my letter of July 28, 1968, I stated that we would notify you of the results of our review of the location of the south boundary of the Salt River Indian Reservation in Township 1 North, Range 5 East, Gila and Salt River Meridian, Arizona. That review is now complete as detailed in an opinion of the Solicitor, a copy of which is enclosed. Acting on that advice, I have determined that the boundary lies in the southern channel of the Salt River.

*TWO
Pina*

Today, I sent to the Director of the Bureau of Land Management a memorandum advising him of my determination and instructing him to note the official records accordingly. A copy of that memorandum is enclosed, together with a copy of my letter of this date to the attorney for Arizona Sand and Rock Company.

Sincerely yours,

(sgd) Stewart

Secretary of the Interior

Mr. Filmore Carlos
President
Salt River Pima-Maricopa
Indian Community Council
Scottsdale, Arizona

3 Enclosures

- cc: ~~Secretary's Files~~
- Secretary's Reading Files (2)
- Solicitor's Files
- Mr. Freedman--SOL
- DPL Reading Files
- LHShapiro, w/encls.
- BIA (2)
- Associate Solicitor, IA
- Assistant Solicitor, A&L

LHShapiro:ah:1/13/69

FROM SOLICITOR

JAN 17 1969

FGS SIGNATURE

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
CENTRAL FILES SECTION

This folder is an
official record of the Fed-
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without official authoriza-
tion.

Part 2



United States Department of the Interior

OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

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Mr. Floyd L. France
Chief, General Litigation Section
Land and Natural Resources Division
Department of Justice
Washington, D. C. 20530

DEC 6 1972

Dear Mr. France:

This is with reference to the case entitled Salt River Pima Maricopa Indian Community v. Arizona Sand and Rock et al., U.S.D.C., Arizona, Civil No. 72-376 PHX-WEC.

*IND-
Pima*

Our Field Solicitor's Office in Phoenix, Arizona, has advised that counsel for some of the litigants in the referenced litigation have requested an opportunity to review the various exhibits to Solicitor's Opinion M-36770, dated January 17, 1969, which relates to the south boundary of the reservation. Since Mr. Lindskold of your staff has also indicated that he would like to review the exhibits, we are enclosing the 24 exhibits to the opinion together with an index thereto. Some of the exhibits are difficult to xerox and we have therefore sent you the exhibits we have in our file and request that the same be returned to us when they are no longer needed in the litigation.

Sincerely yours,

William A. Gershuny

William A. Gershuny
Associate Solicitor
Division of Indian Affairs

Enclosure

Copyto: Regional Solicitor, Sacramento
Field Solicitor, Phoenix
BIA Attention: Real Estate Services
BIA Area Director, Phoenix

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Secretary's Files
Solicitor's Files
WJMoses (2)
DIA Reading File
DIA - WPC File

WJMoses/pas/12/5/72



United States Department of the Interior

OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

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By Messenger

Honorable Kent Frizzell
Assistant Attorney General
Land and Natural Resources Division
Department of Justice
Washington, D. C. 20530

SEP 19 1972

Dear Mr. Frizzell:

This is with reference to an action entitled Salt River Pima-Maricopa Indian Community v. Arizona Sand and Rock Company, et al., Civil No. 72-376 PHX WEC U.S.D.C., Arizona.

IND-Pima

INTERIOR DEPT.

SEP 5 1972

ASSISTANT SECRETARY P.L.M.

A copy of the summons and complaint was served upon Secretary of the Interior, Rogers C. B. Morton, by the United States marshal by certified mail on July 24, 1972. The Secretary of the Interior is named as a defendant in the action together with the Attorney General and the United States Attorney for the District of Arizona.

We note that the complaint sets forth two causes of action or claims for relief, the first of which is directed against all of the named defendants except the Secretary of the Interior, the Attorney General, and United States Attorney, and the second of which is directed solely at the latter three defendants. With respect to the first cause of action or first claim for relief, we note that what the plaintiff has apparently done is to plead as a single claim for relief in the nature of ejection and damages for trespass what are essentially six separate instances of alleged trespass by various defendants. The six separate matters are specified in paragraph IV. Since plaintiff seeks no affirmative relief with regard to this first cause of action against the named federal defendants, it does not appear necessary to set forth the Department's views regarding this cause of action at this time.

The second cause of action or claim for relief seeks to compel the Attorney General, the Secretary of the Interior, and the United States Attorney for the District of Arizona to prosecute on behalf of the plaintiff the claims alleged against the other named defendants in the first claim for relief. Although not specifically alleged in the

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second claim for relief, we assume that the plaintiff is seeking something in the nature of a mandatory injunction under the theory of the recent unreported decision of Joint Tribal Council of the Passamaquoddy Tribe, et al. v. Rogers C. B. Morton, et al., Civil No. 1960, U.S.D.C., Maine.

It is the position of this Department that the court simply lacks jurisdiction to provide plaintiff the relief requested, and that a motion to dismiss should be filed on behalf of three named Federal defendants. In this regard, we note that in the case of Phoebe Wilson Dillon v. Rogers C. B. Morton, et al., Civil No. 1061, U.S.D.C., Montana, Billings Division, the court denied an individual Indian plaintiff the type of mandatory injunctive relief the plaintiff is seeking in this action.

Although as indicated above, it is our recommendation that a motion to dismiss be filed, a brief summary of the factual background of this litigation would undoubtedly be helpful. On June 28, 1972, the Acting Deputy Commissioner of Indian Affairs, Ernest L. Stevens, transmitted to this Department a memorandum from the Bureau's Area Director, Phoenix, dated June 27, 1972, which contained seven summary litigation reports regarding areas of alleged trespass on the Salt River Indian Reservation, Arizona. The Acting Deputy Commissioner requested that the cases be referred to your Department for the filing of appropriate litigation prior to the expiration of the statute of limitations provisions of 28 U.S.C. §§ 2415 and 2416. It is our understanding that on the same day that the seven summary litigation reports were hand-carried to this Department by the employees of the Bureau of Indian Affairs, a tribal representative and one of the tribal attorneys, the same group met with yourself and members of your staff and presented you with the same seven summary litigation reports this Department received.

In the process of reviewing the seven matters it was ascertained that two of the matters involved areas included within government patents, two of the matters involved areas included within Bureau of Reclamation or Bureau of Land Management withdrawals, and the remaining three matters included areas covered by mining claims, although at least as to one of these areas there was some information indicating gravel operations outside the mining claim area.

We also noted in our review of these seven matters that all seven areas appear to be located in a strip of land which, until fairly recently, was considered to be public land outside the boundaries of the reservation. This fact naturally raised the question of the possible

applicability of 28 U.S.C. § 2416(c). Furthermore, the strip of land in which the seven areas are located is in an area of the south boundary of the reservation in which that boundary has been staked on the ground by the Bureau of Land Management but with respect to which boundary the survey of the Bureau of Land Management is not yet final. In addition, we noted that one of the matters involved the City of Mesa, Arizona, and an area of land covered by Government patent No. 405842, which was one of the patents specifically listed in a tribal resolution of the Salt River Pima-Maricopa Indian Community dated January 16, 1969, in which the community purported to waive any interest it might have in the lands covered by the listed patents.

In order to permit you to more fully appreciate the problems relating to the actual location of the south boundary of the reservation, we are attaching hereto copies of Solicitor's Opinion M-36770 dated January 17, 1969, a copy of a Secretarial order dated January 17, 1969, a memorandum dated November 17, 1971, from Assistant Secretary for Public Land Management Harrison Loesch to the Director, Bureau of Land Management, and a copy of the aforementioned tribal resolution dated January 16, 1969.

On July 5, 1972, Assistant Secretary for Public Land Management, Harrison Loesch, sent a telegram to the tribal attorney, Mr. Royal Marks, indicating the Department's position with regard to the proposed litigation. A copy of that telegram is also attached for your information. On July 7, 1972, the Vice President for the Salt River Pima-Maricopa Indian Community sent a telegram to the White House regarding this matter and Assistant Secretary Loesch was requested to respond to that telegram which he did in a telegram dated July 14, 1972, a copy of which is also attached. We trust that the enclosed documents will provide you with a sufficient background regarding this matter to permit a motion to dismiss to be filed.

Future correspondence regarding this litigation may be directed to Associate Solicitor for Indian Affairs, William A. Gershuny, who is authorized to act for the Department in this matter.

Sincerely yours,

Raymond C. Coulter

DEPUTY
Solicitor

Enclosures

Copy to: Secretary's Files
Solicitor's Files
BIA (2) Attn: Real Est. Servs.
Reg. Sol., Sacramento
Field Sol., Phoenix
Asst. Sec. PIM
Attn: Newt Edwards

WJMoses
WJMoses' Reading File
DIA Reading File
WJMoses/pap/8/3/72



United States Department of the Interior

OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

INTERIOR DEPT.

AUG 25 1972

SOLICITOR

Mr. R. J. McMullin,
General Manager
Salt River Valley Water
Users' Association
P. O. Box 1980
Phoenix, Arizona 85001

AUG 28 1972

Dear Mr. McMullin:

Reply to your June 21, 1972, inquiry relative to claims of the Salt River-Pima-Maricopa Indian Community to certain withdrawn lands in Section 3, T. 1 N., R. 5 E., G&SRM, Arizona, presently used by the Salt River Project was deferred pending a review of the position advanced by the Indian Community.

This Department had taken the position that an administrative resolution of the use and occupancy problem involved would be desirable and that we would not recommend that the Department of Justice file suits for ejectment and damage with respect to the lands. Subsequently on July 17, 1972, the Indian Community filed an action in the United States District Court for Arizona (Civil 72-376 Phx.) asserting claims in ejectment and for damages against several defendants including the Salt River Valley Water Users' Association.

This case will be closely monitored by the Solicitor's Office as the Department has responsibilities both with respect to the interests of the Indians and with respect to administration of the contracts of the United States mentioned in your June 21 letter. The filing of this action by the Indians could result in a judicial determination of the ultimate question of the location of the Reservation boundary. Please be assured of this Department's continuing efforts in developing and presenting facts of the case in order to effect a thorough judicial review and an equitable settlement for all parties.

Sincerely,

Raymond C. Coulter

Prep.-Reg. Dir., Boulder City ^{DEPUTY}
rev. - ECDavis:ros 8-24-72

Solicitor

FILE COPY

Surname:

| | |
|---------|------|
| Davis | 8/24 |
| Johnson | 8/24 |
| Langley | 8-24 |
| Stamm | 8/24 |
| AMMONG | 8/24 |
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| | |
| | |

IND
-Pima

cc: Commissioner of Reclamation (w/or. faxogram)
Associate Solicitor, Indian Affairs
Regional Director, Boulder City, Nevada
Field Solicitor, Phoenix

cc:

5254

BUREAU OF RECLAMATION
COMMERCIAL FILE COPY

FAXOGRAM - 1

IN REPLY
REFER TO: LC-420

640.00
SALT RIVER

AUG 10 1972

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| 115L | | |
| RECLAMATION FILES | | |

To: Commissioner, WBR, Washington, D. C.
Attention: 400

From: ~~ASUNG~~ Regional Director, WBR, Boulder City, Nevada

Subject: Inquiry of June 21, 1972 from General Manager R. J. McMullin, Salt River Valley Water Users' Association, to Secretary of the Interior Rogers C. B. Morton Regarding Boundary of Salt River Indian Reservation through Section 3, T. 1 N., R. 5 E., G4SRM, Arizona

Enclosed as discussed between members of our staffs is a proposed draft reply for signature of the Secretary in reply to Mr. McMullin's letter.

Inclosure

8/8-10

Mr. R. J. McMullin,
General Manager
Salt River Valley Water
Users' Association
P. O. Box 1980
Phoenix, Arizona 85001

*BOULDER CITY DRAFT
AUGUST 9, 1972*

Dear Mr. McMullin:

Reply to your June 21, 1972, inquiry relative to claims of the Salt River-Pima-Maricopa Indian Community to certain withdrawn lands in Section 3, T. 1 N., R. 5 E., G&SRM, Arizona, presently used by the Salt River Project was deferred pending a review of the position advanced by the Indian Community.

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Sincerely,

~~Secretary of the Interior~~
Solicitor

bc:

Commissioner of Reclamation, Washington, D. C.
Regional Director, Boulder City, Nevada
Field Solicitor, Phoenix, Arizona

Associate Solicitor, Indian Affairs

INTERIOR DEPT.

SALT RIVER PROJECT

P. O. BOX 1980

PHOENIX, ARIZONA 85001

(602) 273-5900



SOLICITOR

June 21, 1972

68237.5227

KARL F. ABEL, PRESIDENT
JOHN R. LASSEN, VICE PRESIDENT
R. J. McMULLIN, GENERAL MANAGER

Action Office 501
For info only W&FR
LIA

Honorable Rogers C. B. Morton
Secretary of the Interior
U. S. Department of the Interior
Washington, D. C. 20240

Dear Mr. Secretary:

The Salt River Federal Reclamation Project located in portions of Gila, Pinal and Maricopa Counties, Arizona, was the first reclamation project constructed under the Reclamation Act (the Hansbrough Newlands Act signed by President Theodore Roosevelt on June 17, 1902). The initial features of the Reclamation Project were constructed pursuant to a contract between the United States of America and the Salt River Valley Water Users' Association, a corporation organized under the laws of the Territory of Arizona, dated June 25, 1904. A copy of this contract is enclosed.

The lands on which the initial features of the Reclamation Project were located, and which are the subject of this letter, were withdrawn from entry in 1902 for use in construction, care, operation and maintenance of the Salt River Federal Reclamation Project.

Construction of the initial features of the Reclamation Project were commenced in 1905 and completed in 1911. The Reclamation Project was operated by the Reclamation Service from 1911 to 1917. On September 6, 1917, the Salt River Valley Water Users' Association and the United States entered into a contract by which the Reclamation Project was turned over to the Association, but for which legal title remains vested in the United States pursuant to the Reclamation Act.

The 1917 contract provides in part as follows:

" ... the United States agrees to and will as soon after the signature of this agreement as may be practicable, turn over to and vest in the said Association, the care, operation and maintenance of the irrigation works known as the Salt River Project, situate in the counties of Gila, Pinal and Maricopa, consisting generally of the Roosevelt

| To | Init. | Date |
|----------|-------|---------|
| Carroll | EW | 8/2/72 |
| Quintan | | 8/4/72 |
| Sol-W&FR | R.S. | 6/25/72 |
| Docket | | |

5-40402

Dam, the Granite Reef Dam, irrigation canals, laterals and ditches, and other conduits, gates, pipes, power plants, power houses, buildings and other structures of every kind, transmission, telegraph and telephone lines, wires, pumps, machinery, tools and appliances and all property of whatsoever kind, real, personal or mixed, appurtenant to or used, or constructed or otherwise acquired to be used, in connection with the said Salt River Project, wheresoever said property may be situated, and as well, all water rights and franchises, and rights to the storage, diversion and use of water for irrigation or other purposes, water power, electric power and power privileges, with such right of possession of all thereof, as shall be necessary or convenient for the care, operation and maintenance of said project by said Association, as hereinafter provided."

On March 22, 1937, the Salt River Valley Water Users' Association entered into a contract with the Salt River Project Agricultural Improvement and Power District whereby the Association's rights, titles and interests to all properties were vested in the Power District. This contract was approved by the Secretary of the Interior. Subsequent amendments dated February 28, 1944 and September 12, 1949 were also approved by the Secretary. Pursuant to the contract of 1937, as amended, the Association, as agent for the Power District, cares for, operates and maintains the irrigation works of the Reclamation Project.

Included in the property and property rights turned over to the Association and subsequently vested in the Power District, were lands withdrawn for the Reclamation Project. For many years we have used certain lands in Section 3, T1N, R5E, of the Gila and Salt River Base and Meridian, Arizona, for sand and gravel sources and other Reclamation Project purposes. In April, 1972, the Salt River Agency of the Bureau of Indian Affairs in Scottsdale, Arizona, served notice that these reclamation withdrawn lands belong to the Salt River Indian Community and that we are in trespass. In May, 1972, the Bureau of Indian Affairs constructed a barricade across our access roadway and have since denied us entrance to the lands withdrawn in 1902 and under our care and operation since 1917.

The Bureau of Indian Affairs representative advised us

Honorable Rogers C. B. Morton

Page 3
June 21, 1972

that the Secretary of the Interior had authorized the Salt River Indian Community to occupy and claim the withdrawn lands. The records of the Phoenix Office of the Bureau of Land Management indicate that the lands are, in fact, under reclamation withdrawal for the Salt River Reclamation Project. The Arizona Projects Office of the Bureau of Reclamation has advised us that a survey is being made to re-establish the south boundary of the Salt River Indian Reservation by authority of a memorandum from the Secretary of the Interior dated January 17, 1969 wherein the Secretary determined that the southern boundary of the Reservation in T1N, R5E, of the Gila and Salt River Base and Meridian, Arizona, is the southern channel of the Salt River.

It is our position that the care, operation and maintenance of all reclamation lands withdrawn for the Salt River Project prior to 1917 vested in the Salt River Valley Water Users' Association by the terms of the 1917 contract and that any attempt to include reclamation withdrawn land in the Salt River Indian Reservation without our prior approval is in breach of the 1917 contract.

It is respectfully requested that the Secretary of the Interior honor the terms, conditions and covenants of the 1917 contract and protect the interests of the Salt River Reclamation Project reclamation withdrawn lands which have been previously committed for its care, operation and maintenance and are not available for inclusion within the Salt River Indian Reservation boundaries.

Enclosed are copies of Bureau of Indian Affairs correspondence dated April 28, 1972 and May 15, 1972 concerning the lands in question. Also enclosed is a copy of the 1917 contract between the Salt River Valley Water Users' Association and the United States of America.

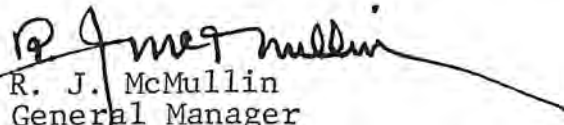
Your immediate attention to this matter will be greatly appreciated.

Very truly yours,

SALT RIVER VALLEY WATER USERS'
ASSOCIATION

SALT RIVER PROJECT AGRICULTURAL
IMPROVEMENT AND POWER DISTRICT

kmf
Enclosures


R. J. McMullin
General Manager

Honorable Rogers C. B. Morton

Page 4
June 21, 1972

cc: Hon. Raymond C. Coulter
Deputy Solicitor
U. S. Department of the Interior
Washington, D. C. 20240

Commissioner Ellis L. Armstrong
Bureau of Reclamation
U. S. Department of the Interior
Washington, D. C. 20240

Mr. Edward A. Lundberg
Regional Director, Region #3
U. S. Bureau of Reclamation
P. O. Box 427
Boulder City, Nevada 89005

(all with enclosures)



IN REPLY REFER TO:

Real Prop. Mgmt.
Trespass - 308.1

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

SALT RIVER AGENCY
ROUTE 1, BOX 407/ 117
SCOTTSDALE, ARIZONA 85257

April 28, 1972

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Salt River Project AIPD
P. O. Box 1980
Phoenix, Arizona 85001

Attention: Mr. Donald Weesner

Gentlemen:

This is to confirm our telephone conversation on Thursday, April 27, 1972. Mr. Beardall and I followed a truck driven by your employee Roger Gifford onto lands in Section 3, T1N, R5E, G&SRM, Arizona, belonging to the Salt River Indian Community. While we were leaving, your truck #5014 entered the same area; both trucks were carrying dirt, concrete and rubbish, and both trucks dumped the material within the Salt River Indian Community.

The past damage from dumping is extensive. This letter is your notice to desist from encroachment, dumping, and other abuse of Community land. This letter is also your notice to account for the tons of material dumped on the reservation over the course of the last several years.

Your immediate reply would be appreciated. Unless we have had compliance within ten days of the date of your receipt of this letter, we will proceed to take legal action.

Sincerely yours,

Lawrence E. Hanline
Programs Coordinator



UNITED STATES
 DEPARTMENT OF THE INTERIOR
 BUREAU OF INDIAN AFFAIRS
 SALT RIVER AGENCY
 ROUTE 1, BOX ~~502K~~ 117
 SCOTTSDALE, ARIZONA 85257 6

May 15, 1972

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Ted Walker
 Salt River Project
 P.O. Box 1980
 Phoenix, Arizona 85001

Dear Mr. Walker:

It is our understanding that you deny encroachment on lands of the Salt River Indian Community in Section 3 T1N R52 G&SRB&M, Arizona.

To protect the rights of the Salt River Indian Community, by copy of this letter we are asking Mr. Beardall and Mr. Jones to supply the Solicitor with the documentation necessary to proceed with legal action.

Sincerely yours,

Lawrence E. Hanline
 Program Coordinator, Salt River Agency

cc:

W. Lavell, Solicitor
 R. Marks, SR Attorney
 R. Jackson, PAO
 J. Jones, PAO
 O. Adair
 B. Hayes, Sr.
 L. Beardall
 P. Smith
 G. Gates
 R. Carufel

RECEIVED

MAY 16 1972

LAND MGT. DEPT.

AGREEMENT
BETWEEN
UNITED STATES OF AMERICA
AND
SALT RIVER VALLEY WATER USERS' ASSOCIATION

DATED JUNE 25, 1904

THESE ARTICLES OF AGREEMENT,

Made and entered into this 25th day of June, one thousand nine hundred and four (1904), by and between the United States of America, acting in this behalf by Ethan A. Hitchcock, Secretary of the Interior, PARTY OF THE FIRST PART, and the Salt River Valley Water Users' Association, a Corporation duly organized and existing under the laws of the Territory of Arizona, PARTY OF THE SECOND PART, their successors and assigns,

WITNESSETH,

That Whereas the Salt River Valley Water Users' Association is a corporation organized and existing under the laws of the Territory of Arizona for the purpose mentioned in its Articles of Incorporation, a copy of which is appended to this memorandum (which is marked "Articles of Incorporation referred to in the attached memorandum, and attested by the signature of the Honorable the Secretary of the Interior of the United States of America, and of the President of the Salt River Valley Water Users' Association, for the purpose of identification") and are for every purpose of the interpretation, construction and consideration of this memorandum, and of the rights of the parties hereunder, to be deemed, held, read and considered as if fully written out or printed herein, and deemed a part hereof.

And whereas the lands embraced within the district of lands described in Section three (3) of Article IV of said Articles of Incorporation are naturally desert and arid and incapable of proper cultivation without irrigation, and unless the waters of the Salt and Verde Rivers in Arizona and their tributaries be impounded and the flow thereof otherwise regulated and controlled will, to a greater or less extent, remain unreclaimed, unfit for habitation and uncultivated, in which condition they, or a great part thereof, are now.

And whereas the Secretary of the Interior of the United States of America contemplates the construction of certain irrigation works under the provisions of an Act of Congress entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June 17, 1902, in and across Salt River at a point about 32 miles up the course of said Salt River above the confluence of the Verde River and said Salt River, said point being near the mouth of Tonto Creek, for the purpose of there impounding the waters of said Salt River and otherwise regulating and controlling the flow of water therein, and works necessarily or conveniently incident thereto, for the use of said waters for the reclamation of arid lands along the course of said Salt River; and

Whereas the incorporators of said Salt River Valley Water Users' Association and its shareholders are, and under the provisions of its Articles of Incorporation must be, owners and occupants of lands and the appropriators of water from said Salt River and said Verde River and their respective tributaries for the irrigation thereof, and in addition thereto such incorporators, shareholders and constituents and their assigns or successors must initiate rights to the use of water from the said proposed irrigation works, to be constructed by the said Secretary of the Interior, as soon as such rights may be initiated, and thereafter complete the acquisition thereof in the manner and upon the terms and conditions to be prescribed therefor by the Secretary of the Interior, which rights shall be, and thereafter continue to be, forever appurtenant to designated lands owned by such shareholders and constituent members; and

Whereas neither the relative priority and extent of the individual appropriations of such water heretofore made by said incorporators, shareholders and constituent members, nor the proportion of the entire waters of said water courses that has been in the aggregate appropriated by them, and which are now vested rights have been ascertained or determined, but said incorporators, shareholders and constituent members of said Association have agreed, amongst themselves, by the terms and provisions of said articles of incorporation, upon the rules and principles by and upon which the relative priority and the extent of their several appropriations and vested rights to the use of such waters shall be determined.

1. Now, therefore, if the said Secretary of the Interior shall authorize and shall cause the construction of said irrigation works, then in the determination of the relative rights of the shareholders of said Association, and of their

respective rights to the use of water acquired from the Government under said act of Congress, the rules and principles set out in said articles of incorporation, for such determination, shall be deemed the established rules and principles for that purpose.

2. That only those who are, or who may become, members of said Association, under the provisions of its articles of incorporation, shall be accepted as entryman or applicants for rights to the use of water impounded, developed, or the supply of which is or may be regulated or controlled by said proposed irrigation works.

3. That the aggregate amount of such rights to be issued shall, in no event, exceed the number of acres of land capable of irrigation by the total amount of water available for the purpose, being (1) the amount now appropriated by the shareholders of said Association; and (2) the amount to be impounded and developed in excess of the water now appropriated. The Secretary of the Interior shall determine the number of acres so capable of such irrigation as aforesaid, his determination to be made upon due and expert consideration of all available data, and to be based upon and measured and limited by the beneficial use of water.

4. That the payments for the reservoir rights to be issued to the shareholders of said Association, under the provisions of said Act of Congress, shall be divided into not less than ten equal annual payments, the first whereof shall be payable at the time of the completion of said proposed reservoir, or within a reasonable time thereafter, and after due notice thereof by the Secretary of the Interior to the Association. The cost of said proposed irrigation works shall be apportioned equally per acre among those acquiring such rights.

5. The said Salt River Valley Water Users' Association agrees that it will promptly collect or require prompt payment in such manner as the Secretary of the Interior may direct, and hereby guarantees the payments, for that part of the Interior to its shareholders, and promptly pay the sums collected by it to the Receiver of the local land office for the district in which said lands are situate; that it will promptly employ the means provided and authorized by the said Articles of Incorporation for the enforcement of such collections and will not change, alter or amend its Articles of Incorporation in any manner whereby such means of collection, or the lien given to it by the shareholders to secure the payment thereof or of any assessments contemplated or authorized thereby, shall be impaired, diminished, or rendered less effective, without the consent of the Secretary of the Interior.

6. The United States shall in no manner be responsible for the sums collected by said Association until they have been paid into the hands of the receiver of the local land office, as provided by the law, and in accordance with such regulations as may be prescribed by the Secretary of the Interior.

7. That for the purpose of enforcing said collections, the Association will adopt and enforce proper By-Laws, subject to the approval of the Secretary of the Interior, and not change them so as to in anywise impair their efficiency for said purpose, and will otherwise do any and all things it is authorized and empowered to do in the premises.

8. That the Association will adopt and enforce such rules and regulations as it is authorized by its Articles of Incorporation to adopt and enforce, concerning the use of water by its shareholders and concerning the administration of the affairs of the Association, to effectually carry out and promote the purposes of its organization, within the provisions of said Articles of Incorporation, which rules and regulations shall be subject to the approval of the Secretary of the Interior. That if the Association fail to make and adopt such rules and regulations then the Secretary of the Interior may prescribe them; but in such event it is understood that the Secretary of the Interior shall impose no rule or regulation interfering with any vested right of the shareholders of the Association as defined or modified by said Articles of Incorporation.

9. Persons who are not now members of the Association but who may be the owners or occupants of land within the Reservoir District described in section 3 of Article IV, or of added lands provided for in that section and to whom rights to the use of water, from the proposed reservoir or irrigation works, may be issued, may, at the designation of the Secretary of the Interior, become members of the Association by subscribing to the stock thereof, and upon the compliance with the other conditions prescribed for such membership.

10. It is understood that in all the relations between the Government and this Association and the members of the Association, the rights of the members of the Association are to be defined and determined and enjoyed by and under the provisions of the said Act of Congress and of other Acts of Congress on the subject of the acquisition and enjoyment of the rights to use water, and by the laws of Arizona where not inconsistent therewith, where such rights have vested, modified, if modified at all, by the provisions of the Articles of Incorporation of said Association.

11. Nothing contained in this memorandum, or to be implied from the fact of its execution, shall be construed, held, or deemed to be an approval by the

Secretary of the Interior, nor an adoption by him, of the Articles of Incorporation of said Association, in all their details as the form of organization of water users contemplated and authorized by Section 6 of the said Act of Congress of June 17th, 1902; but such approval and adoption is expressly reserved until the conditions authorizing such approval and adoption prescribed in said act shall have arisen. And when the Secretary of the Interior shall make, approve, and promulgate rules and regulations for the administration of the water to be supplied from said proposed irrigation works, such rules and regulations, and such modifications thereof as the Secretary may, from time to time, approve and promulgate, shall be deemed and held to be obligatory upon this Association as fully and completely, and to every intent and purpose, as if they were now made, approved, promulgated and written out in full in this memorandum, and are to be read and construed as if so done.

In witness whereof, the undersigned have herunto subscribed their names and affixed their seals the day and year first herein written.

(Sgd) ETHAN A. HITCHCOCK,
Secretary of the Interior,
for and on behalf of the United States
of America
PARTY OF THE FIRST PART

Witness:

(Sgd.) W. SCOTT SMITH

(Seal)

S.R.V.W.U. Ass'n.

SALT RIVER VALLEY WATER
USERS' ASSOCIATION
PARTY OF THE SECOND PART

By (Sgd) B. A. Fowler,

President

(Sgd) Frank H. Parker

Secretary

Witness:

(Sgd) Joseph H. Kibbey

(Sgd) C. G. Williams

Territory of Arizona)
County of Maricopa,)

Before me, Susie Schermerhorn, a Notary Public in and for the County of Maricopa, Territory of Arizona, on this day personally appeared B. A. Fowler, President of the Salt River Valley Water Users' Association, and Frank H. Parker, Secretary of the Salt River Valley Water Users' Association, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged the execution of such instrument as the free act and deed of the said Salt River Valley Water Users' Association, by each of them voluntarily executed.

Given under my hand and seal of office this 25th day of June, one thousand nine hundred and four.

(Sgd) SUSIE SCHERMERHORN

Notary Public.

(Seal)

My commission expires the 13th day of February, 1907.

CONTRACT
BETWEEN
United States of America
AND
Salt River Valley Water Users' Association

DATED SEPTEMBER 6, 1917

THIS MEMORANDUM OF AN AGREEMENT, made by and between the UNITED STATES OF AMERICA, acting in this behalf by the Secretary of the Interior under the provisions of the act of June 17, 1902 (32 Stat., 388), and of acts amendatory thereof and supplementary thereto, together constituting the reclamation law, of the first part, and the SALT RIVER VALLEY WATER USERS' ASSOCIATION, a corporation, duly organized and doing business under the laws of the Territory (now State) of Arizona, of the second part and hereinafter for the sake of brevity of expression designated as the "Association" WITNESSETH:

FIRST: This agreement is to be held and deemed supplementary to the agreement made by and between the same parties, the memorandum whereof is dated June 25th, 1904, and it is understood and agreed that that agreement shall not be held or deemed in any wise to be affected, modified, changed or abrogated, in whole or in part, by this agreement, except as it may be done by the express terms of this agreement, or by reason of irreconcilable inconsistencies between the terms of the said agreement of June 25th, 1904, and the terms of this present agreement, and then only in those particular provisions so expressly hereby affected, modified, changed or abrogated, or between which there is such irreconcilable inconsistency manifested, in which case and so far only, the provisions of this agreement shall prevail over and to that extent affect, modify, change or abrogate the provisions of said agreement of June 25th, 1904.

Second: In consideration of the doing of the things, and of the full and prompt performance by the Association of all the covenants and agreements hereinafter contained, which it hereby agrees that it shall do, perform and observe, and subject to all the conditions, terms, limitations and obligations hereinafter imposed upon it by the provisions of this agreement, the United States agrees to and will as soon after the signature of this agreement as may be practicable, turn over to and vest in the said Association, the care, operation and maintenance of the irrigations works known as the Salt River Project, situate in the counties of Gila, Pinal

and Maricopa, consisting generally of the Roosevelt Dam, the Granite Reef Dam, irrigation canals, laterals and ditches, and other conduits, gates, pipes, power plants, power houses, buildings and other structures of every kind, transmission, telegraph and telephone lines, wires, pumps, machinery, tools and appliances and all property of whatsoever kind, real, personal or mixed, appurtenant to or used, or constructed or otherwise acquired to be used, in connection with the said Salt River Project, wheresoever said property may be situated, and as well, all water rights and franchises, and rights to the storage, diversion and use of water for irrigation or other purposes, water power, electric power and power privileges, with such right of possession of all thereof, as shall be necessary or convenient for the care, operation and maintenance of said project by said Association, as hereinafter provided. And said Association shall from the time of the taking over of the care, operation and maintenance of said project thenceforward have and receive to its own use and benefit, all the rents, issues, profits, revenue and income, including all income from power and power privileges growing out of or arising from the operation and maintenance of the project and every part thereof by it.

Third: The Association agrees to accept the transfer to it of the care, operation and maintenance of said project, and that it will care for, operate and maintain the same and every essential part thereof in full compliance with law and the provisions of this agreement, during all the time it shall have such charge of the same under the provisions of this agreement, in such manner that the same and every part thereof shall remain in as good and efficient condition, and of equal capacity for the storage, development, diversion and distribution of irrigation water, and for the service of electric energy as the same is now, as its own cost and without cost to the United States, provided that said Association shall not be required to maintain the capacity of the Roosevelt Reservoir so far as that may be diminished naturally by the deposit of silt therein by the Salt River, Tonto Creek and other tributaries there-

to; and provided further that the Association shall not be required to make any replacements, renewals or repairs which may be made necessary by injury to or destruction of said works or an essential part thereof by public enemies of the United States or by the United States itself as a war measure.

That it will promptly pay all such cost of the care, operation and maintenance of the project as it is incurred. That it will make no substantial change in any of said works, without first having obtained the consent thereto, to be expressed in writing, of the Secretary of the Interior. It may, however, construct additional works at its own cost without the necessity of procuring the assent of the Secretary of the Interior of the United States, provided that such additional works shall not in any wise impair or diminish the present efficiency or adequacy of the project for the purposes for which it has been designed, constructed and acquired.

Fourth: The Association shall repay to the United States the cost of the construction, and acquisition otherwise, of said project promptly and without default.

Such cost shall be computed on the basis of a net balance due the Government on that account on the 1st day of January, 1917, of \$10,279,190.98. To this there shall be added any sums expended by the United States, or the cost of which it shall have incurred, on account of the construction, care, operation and maintenance of said project during the time elapsing between said 1st day of January, 1917, and the date upon which the Association shall take over the care, operation and maintenance there of, under the provisions of this agreement. If the expenditures for operation and maintenance of the irrigation system shall be greater or less than the receipts from rentals up to the time when the project is turned over to the Association, the difference shall be paid to the United States by the Association in case of a deficit, or the difference shall be credited on the first installment in case of a surplus. Such adjustment to be made December 1, 1917.

The exact amount of the balance of such construction cost shall be computed to the date of the taking over by the Association of the care, operation and maintenance of said project, and then stated in writing by the Secretary of the Interior to the Association, and the amount so stated shall be deemed to be the net cost of said project which the Association agrees to pay to the United States.

Such payments shall be made in annual installments as follows:

| | | |
|----------------------|--|------|
| | Two per cent thereof on or before December 1st, 1917 | |
| " " " " " " " " | " " " " " " " " | 1918 |
| " " " " " " " " | " " " " " " " " | 1919 |
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| Four " " " " " " " " | " " " " " " " " | 1921 |
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| Six " " " " " " " " | " " " " " " " " | 1923 |
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All without interest.

The Association shall pay all penalties which may be prescribed by the reclamation law for individual delinquencies.

The United States will and does reserve the means given to it by reclamation laws to enforce payments of installments of construction costs, and will at its option, in case of individual default, adopt, practice, and enforce them, as occasion may require, notwithstanding the undertaking of the Association to pay them.

Fifth: The Association will use its powers and resources, cumulatively, if necessary, including the power to withhold the delivery of water, to enforce the rules and regulations made by the Secretary of the Interior under the provisions of law, or by the Association under its Articles of Association and by-laws, for the proper care, operation and maintenance of the project and for carrying out the provisions of this agreement. If the enforcing of any such rules and regulations shall require the collection of any charges, penalties or interest from persons holding land the title of which has not passed out of the United States, the Association shall report such cases to the Secretary of the Interior who will aid the Association in enforcing such collections by the cancellation of entries and water right applications or by any other means authorized by law. But failure on the part of the Secretary of the Interior to enforce such collections in such cases shall not relieve the Association from the obligations assumed by it under this agreement.

Sixth: The Association shall use all practical methods to insure the economical and beneficial use of ir-

rigation water. It shall also hold the United States harmless as to any damages which may accrue to other land or property either within or without the reservoir district growing out of the care, operation and maintenance of the project by the Association.

Seventh: The project and all its works and those connected with it may be inspected from time to time under the direction of the Secretary of the Interior when he shall deem it necessary to ascertain if the provisions of this agreement are being carried out and observed by the Association in the care, operation and maintenance of the project. The cost of such inspections shall be charged to the Association and become due to the United States on March 1st of each year for expenditures on that account during the preceding year.

Eighth: The Association shall maintain all the works turned over to it under the provisions of this agreement in proper operating condition and make proper delivery of irrigating water to each farm entitled thereto, or at least as near to the farm as the United States is now delivering such water.

Ninth: This Agreement may be cancelled or terminated by the Association on March 1st of any year upon not less than one year's written notice thereof to the Secretary of the Interior. It may be amended at any time, such amendment to be ratified by a vote of the members of the Association in the same manner as the original agreement, and all amendments must be approved by the Secretary of the Interior before becoming effective. This agreement may be terminated by the United States acting in that behalf by the Secretary of the Interior, at any time, by written notice from the Secretary of the Interior in case the Association fails to carry out the provisions of law relating thereto, or of this agreement, in their true intent and meaning, or if the Secretary of the Interior shall reasonably believe that the security of the United States for the payment to it of said construction cost, is being impaired by the failure or neglect of the Association to properly care for and maintain the project. Upon the termination of this agreement, the Secretary of the Interior shall have the right to exercise all the powers in regard to the project which are vested in him by law, he may also at any time, after the execution of this agreement, take such action as he may deem proper, either by his own officers or through the Association, for the collection of any charges with the penalties and interest due the United States, which may be unpaid.

Tenth: The Association will keep reasonably accurate records of water deliveries and of crops raised under the project and as well such other records as

are appropriate to the interests of the project as a whole. The forms to be used shall be subject to the approval of the Secretary of the Interior.

Eleventh: The performance and discharge of all valid and subsisting obligations and contracts affecting the care, operation and maintenance of the project now in effect between the United States and other parties, shall be and are hereby assumed by the Association, and shall be faithfully discharged, performed and carried out by it as long as the Association shall have the care, operation and maintenance of the project under the provisions of this agreement. The Association however reserves and the United States accords to it the right to any legal objections or defense to the validity of any obligations which the United States itself might have if this agreement had not been made, it being understood that the general assumption by the Association of the obligations of the United States in relation to the care, operation and maintenance of the project shall not impart to such obligations any degree of validity which they did not possess before this agreement was made. The Association agrees that all contracts which it may seek to execute for the sale or lease of power or power privileges covering a period of more than one year shall be subject to the approval of the Secretary of the Interior.

Twelfth: The proper officers or agents of the Association shall have full and free access at all reasonable times to the project books and official records of the United States relating to the construction, acquisition, care, operation and maintenance of the project, with the right at any time during office hours, to make copies of and from the same or any of them. The proper representatives of the United States shall have similar rights in respect to the books and records of the Association relating to the project and its care, operation and maintenance.

Thirteenth: The Secretary of the Interior reserves, and shall have the right, so far as the purport thereof may be consistent with the provisions of this agreement to make reasonable rules and regulations, and to add to or modify them, as may be proper and necessary to carry out the true intent and meaning of the law and this agreement.

Fourteenth: Nothing in this agreement shall be construed as affecting or interfering with the right or authority of the Secretary of the Interior to withhold delivery of water to the project to an extent corresponding to the area for which construction or building charges, with penalties and interest, have not been paid to the United States, as may be required by law and by the terms of this agreement and the Association

shall upon direction of the Secretary of the Interior withhold delivery of water in such cases.

Fifteenth: The Association will in every practicable way cooperate with the Secretary of the Interior in carrying out the provisions of Section 2 of the act of Congress of May 19, 1916 (39 Stat., 130), providing for water rights for 631 Salt River Indian allotments of 10 acres each, and will cause to be performed such work as may be deemed necessary by the Secretary of the Interior to carry into effect the provisions of said law. The expense of such work will be met by the United States.

Sixteenth: If at any time before the full repayment to the United States of the cost of said project, said project or any essential part thereof shall be injured or destroyed by public enemies of the United States, or if said project or any essential part thereof, should as a war measure be injured, destroyed or rendered useless by orders of the United States or its officers, then further repayment of such construction cost shall be suspended and postponed until such time as said project shall have been restored to its state of efficiency and capacity just prior to such injury or destruction.

If by reason of invasion or occupation by enemies to the United States of territory of the United States, the water users (the constituent members of the Association), shall be prevented from the use of said project, or an essential part thereof, then during any period of such prevention of use, the repayment to the United States of construction cost under the provisions of this agreement, shall be suspended and postponed until such time as such use can be safely and uninterruptedly resumed.

Seventeenth: All agreements made, or that may hereafter be made by any of the members of the Association under the "Public Notice" heretofore issued relating to said project to repay to the United States the cost of said project at a different rate per acre or otherwise, than that to be fixed by the Secretary of the In-

terior under the provisions of this agreement, are to be deemed to be and they each and all, are hereby modified so that the cost of the construction agreed thereby to be repaid shall conform to that fixed by the Secretary of the Interior under the terms of this agreement.

Eighteenth: No member of or delegate to Congress or resident Commissioner after his election or appointment or either before or after he has qualified or during his continuance in office, shall be admitted to any share or part of this contract or agreement, or to any benefit to arise thereupon. Nothing however herein contained shall be construed to extend to any incorporated company, where such contract or agreement is made for the general benefit of such incorporation or company, as provided in section 116 of the act of Congress approved March 4, 1909 (35 Stat., 1109.)

IN WITNESS WHEREOF, The undersigned have hereunto subscribed their names and affixed their seals this 6th day of September, 1917.

WITNESS:

E. C. Bradley (Sgd)

E. C. Finney (Sgd)

(Seal)

WITNESS:

Adah C. Troutman (Sgd)

A. B. Landreene (Sgd)

(Sgd) Alexander T. Vogelsang

Acting Secretary of the Interior for and on behalf of the United States of America PARTY OF THE FIRST PART.

SALT RIVER VALLEY WATER USERS' ASSOCIATION

John P. Orme (Sgd)

President

Chas. A. Vanderveer (Sgd)

Secretary

July 14, 1972

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| NAME OF AGENCY Department of the Interior Office of the Secretary | | PRECEDENCE | SECURITY CLASSIFICATION |
| ACCOUNTING CLASSIFICATION | | ACTION: INFO: TYPE OF MESSAGE <input checked="" type="checkbox"/> SINGLE <input type="checkbox"/> BOOK <input type="checkbox"/> MULTI-ADDRESS | |
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| MESSAGE TO BE TRANSMITTED (Use double spacing and all capital letters) | | | TELEGRAPHIC MESSAGE OFFICIAL BUSINESS U. S. GOVERNMENT |

STANDARD FORM 14 REV. MARCH 15, 1957
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TELEGRAPHIC MESSAGE
OFFICIAL BUSINESS
U. S. GOVERNMENT

MESSAGE TO BE TRANSMITTED (Use double spacing and all capital letters)

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MR. GARNET L. GATES
VICE PRESIDENT, SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY
ROUTE 1 BOX 120
SCOTTSDALE, ARIZONA 85256

THE PRESIDENT HAS REQUESTED ME TO RESPOND TO YOUR
TELEGRAM OF JULY 7, 1972, RELATING TO SEVEN CASES
INVOLVING ALLEGED TRESPASS ON SALT RIVER RESERVATION. AS
YOU KNOW, THE SEVEN CASES ALL INVOLVE LAND LOCATED IN AN
AREA WHICH, UNTIL JANUARY 17, 1969, HAD BEEN CONSIDERED
AS BEING OUTSIDE THE RESERVATION AND WHICH HAD BEEN
ADMINISTERED BY THIS DEPARTMENT AS PUBLIC LANDS. FOR
SEVERAL YEARS THERE HAD BEEN DISAGREEMENT AS TO LOCATION
OF A PORTION OF SOUTHERN BOUNDARY OF RESERVATION. ON
JANUARY 17, 1969, THE SECRETARY OF INTERIOR DETERMINED
THAT SOUTHERN BOUNDARY OF RESERVATION WAS IN FACT IN
SOUTHERN CHANNEL OF SALT RIVER. BECAUSE OF FURTHER
QUESTIONS REGARDING THE PRECISE LOCATION OF SOUTHERN
BOUNDARY I REVIEWED THIS MATTER AND FURTHER FOUND ON
NOVEMBER 17, 1971, THAT THE SOUTH BOUNDARY OF THE

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THIS COL. FOR AGENCY USE

RESERVATION SHOULD BE ACCEPTED AS BEING IN THE SOUTH CHANNEL OF THE RIVER AS IT EXISTED DURING THE 1965 - 1966 FLOODS. DURING THE MANY YEARS WHEN THE AREA INVOLVED WAS CONSIDERED BY THIS DEPARTMENT AS PUBLIC LANDS OUTSIDE RESERVATION, PATENTS WERE ISSUED, WITHDRAWALS WERE MADE, RIGHTS-OF-WAY GRANTED, PERMITS ISSUED, AND MINING CLAIMS LOCATED, ALL ON THE ASSUMPTION THAT LANDS WERE PUBLIC LANDS. THE SEVEN CASES YOU REFERRED TO INCLUDED AREAS COVERED BY TWO GOVERNMENT PATENTS, AT LEAST TWO WITHDRAWALS, AND AT LEAST THREE MINING CLAIMS. ON JANUARY 16, 1969, YOUR TRIBAL COUNCIL IN RESOLUTION NO. SR-673-69 ACKNOWLEDGED THE EXISTENCE OF NINE PATENTS AND THREE RIGHTS-OF-WAY IN THE GENERAL AREA IN QUESTION AND STATED AS FOLLOWS: "WHEREAS, THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY HAS NO DESIRE TO CHALLENGE THE TITLES CONVEYED IN SUCH PATENTS OR THE INTERESTS GRANTED IN SUCH RIGHTS-OF-WAY. NOW THEREFORE, BE IT RESOLVED THAT THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY

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HEREBY WAIVES ANY INTEREST IT MIGHT HAVE IN THOSE LANDS COVERED BY THE PATENTS AND RIGHTS-OF-WAY DESCRIBED ABOVE, AND WHICH MAY BE FOUND TO BE LOCATED WITHIN THE BOUNDARIES OF THE SALT RIVER INDIAN RESERVATION." ONE OF THE CASES REGARDING WHICH YOU HAVE REQUESTED THIS DEPARTMENT TO HAVE THE DEPARTMENT OF JUSTICE INSTITUTE AN ACTION FOR DAMAGES INVOLVES A GOVERNMENT PATENT LISTED IN THAT RESOLUTION, NAMELY, PATENT 40⁵4842, ISSUED MAY 5, 1914. AS TO THE REMAINING SIX CASES, ONE OF WHICH ALSO INVOLVES A GOVERNMENT PATENT NOT LISTED IN THE TRIBAL RESOLUTION, NAMELY PATENT 554, ISSUED JUNE 13, 1891, THE OPINION OF A FORMER SOLICITOR OF THIS DEPARTMENT UPON WHICH THE SECRETARIAL DETERMINATION OF JANUARY 17, 1969, WAS BASED, SOLICITOR'S OPINION M-36770 OF JANUARY 17, 1969, SUGGESTS THE POSSIBILITY OF REMEDIAL LEGISLATION TO EXCLUDE PATENTED AND RIGHTS-OF-WAY AREAS FROM THE RESERVATION AND CONFIRM THE TITLES THERETO, AND ALSO SUGGESTS THAT FAIRNESS TO PERSONS ASSERTING INTERESTS IN THE LAND

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THIS COL. FOR AGENCY USE

BETWEEN THE TWO CHANNELS OF THE RIVER UNDER THE MINING AND OTHER PUBLIC LAND LAWS WOULD REQUIRE THIS DEPARTMENT TO PROMPTLY REQUEST THE DEPARTMENT OF JUSTICE TO COMMENCE APPROPRIATE ACTIONS TO OBTAIN JUDICIAL DETERMINATIONS OF THE MERITS OF SUCH CLAIMS. BY LETTER OF APRIL 4, 1969, I ADVISED ONE OF YOUR ATTORNEYS, MR. ARTHUR LAZARUS, THAT THE VALIDITY OF THE CLAIMS OF PERSONS OTHER THAN THOSE LISTED IN YOUR TRIBAL RESOLUTION OF JANUARY 16, 1969, WILL PROBABLY HAVE TO BE JUDICIALLY DETERMINED. BY LETTER OF APRIL 18, 1969, I ADVISED THE ATTORNEY FOR ONE OF THE PARTIES HAVING MINING CLAIMS IN THE AREA THAT THIS DEPARTMENT EXPECTED TO CALL UPON THE DEPARTMENT OF JUSTICE TO COMMENCE ACTIONS TO QUIET TITLE TO THE LANDS IN CONTROVERSY AS SOON AS A SURVEY OF THE BOUNDARY CAN BE COMPLETED AND APPROVED. AS YOU ARE AWARE, AT THE PRESENT TIME ALTHOUGH THE BUREAU OF LAND MANAGEMENT HAS STAKED ON THE GROUND THE LOCATION OF THE SOUTH BOUNDARY IN THE AREA IN QUESTION, THE SURVEY IS NOT YET FINAL AND THE PROTEST PERIOD HAS NOT EXPIRED. I REITERATE MY

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STATEMENT IN MY TELEGRAM OF JULY 5, 1972, TO YOUR TRIBAL ATTORNEY, MR. ROYAL MARKS, THAT I WILL ADMINISTRATIVELY SUPPORT THE POSITION THAT TITLE TO THE LAND INVOLVED IS IN THE UNITED STATES IN TRUST AND WILL ATTEMPT TO RESOLVE THE PROBLEM ADMINISTRATIVELY. AT SUCH TIME AS THE SURVEY OF THE SOUTH BOUNDARY HAS BECOME FINAL, IF PROBLEMS OF TITLE TO THE LAND HAVE NOT BEEN ADMINISTRATIVELY RESOLVED I WILL REQUEST THE SOLICITOR OF THIS DEPARTMENT TO REFER TO THE DEPARTMENT OF JUSTICE FOR APPROPRIATE QUIET TITLE ACTIONS ALL CASES INVOLVING LANDS OTHER THAN THOSE INVOLVING PATENTS OR THOSE LISTED IN YOUR JANUARY 16, 1969, RESOLUTION AS YOU KNOW, NO STATUTE OF LIMITATIONS PROBLEM IS INVOLVED WITH QUIET TITLE ACTIONS. AS FAR AS SEEKING DAMAGES FROM PERSONS WHOSE USE AND OCCUPANCY IS DERIVED FROM THIS DEPARTMENT AND WHICH RESULTS FROM A MISTAKEN ASSUMPTION OVER THE YEARS IN THIS DEPARTMENT THAT THE LANDS INVOLVED WERE PUBLIC LANDS, WHICH ASSUMPTION ONLY PROVED TO BE MISTAKEN ON JANUARY 17, 1969, BY VIRTUE OF THE SECRETARIAL DETERMINATION OF THE BOUNDARY, I CANNOT IN

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GOOD FAITH REQUEST THE DEPARTMENT OF JUSTICE TO SEEK DAMAGES FROM SUCH PERSONS. I MUST AGREE THAT AS FAR AS THE QUESTION OF SEEKING DAMAGES FROM THIRD PARTIES ULTIMATELY RESULTING FROM A MISTAKEN FACTUAL ASSUMPTION THAT EXISTED IN THIS DEPARTMENT FOR DECADES IS CONCERNED, THIS SITUATION APPEARS TO PRESENT A CLASSIC EXAMPLE OF THE CONFLICT OF INTEREST WITH WHICH THIS DEPARTMENT IS OFTEN FACED AND CAN ONLY NOTE THAT THE INDIAN TRUST COUNSEL AUTHORITY LEGISLATION WHICH HAS BEEN SO STRONGLY SUPPORTED BY THIS ADMINISTRATION WOULD RESOLVE SOME OF THESE BASIC CONFLICTS OF INTEREST IN WHICH THIS DEPARTMENT SO OFTEN FINDS ITSELF.

DO NOT TYPE MESSAGE BEYOND THIS LINE

(Sgd.) Harrison Loesch

HARRISON LOESCH
ASSISTANT SECRETARY FOR PUBLIC LAND MANAGEMENT
DEPARTMENT OF THE INTERIOR

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MR. ROYAL MARKS
MARKS & MARKS
ATTORNEYS-AT-LAW
TITLE & TRUST BUILDING
PHOENIX, ARIZONA 85003

JUL 5 1972

REGARDING SEVEN CASES REFERRED TO DEPARTMENT OF INTERIOR INVOLVING ALLEGED TRESPASS ON SALT RIVER RESERVATION. THIS DEPARTMENT WILL NOT REQUEST DEPARTMENT OF JUSTICE TO FILE SUIT AGAINST ANY PARTIES IN POSSESSION BY VIRTUE OF GOVERNMENT PATENTS. AS TO OTHER PARTIES WHOSE USE AND OCCUPANCY MAY TO SOME EXTENT BE DERIVED FROM THIS DEPARTMENT THROUGH WITHDRAWALS, PERMITS, MINING CLAIMS OR THE LIKE, THE DEPARTMENT WILL ADMINISTRATIVELY SUPPORT THE POSITION THAT TITLE TO LAND IS IN THE UNITED STATES IN TRUST FOR THE INDIAN COMMUNITY AND WILL ATTEMPT TO RESOLVE THE PROBLEM ADMINISTRATIVELY BUT WILL NOT REQUEST DEPARTMENT OF JUSTICE TO FILE SUITS FOR EJECTMENT AND DAMAGES WITH RESPECT TO LANDS ENCOMPASSED WITHIN APPLICABLE MINING CLAIM, PERMIT OR WITHDRAWAL. DEPARTMENT IS WILLING TO REQUEST JUSTICE TO FILE SUITS FOR EJECTMENT AND DAMAGES AGAINST ANY PARTIES WHO ARE IN FACT USING AND OCCUPYING AREAS WITHIN RESERVATION THAT ARE OUTSIDE AREA COVERED BY APPLICABLE WITHDRAWAL, PERMIT OR MINING CLAIM. SINCE SUCH LITIGATION WOULD NOT SEEK DAMAGES OR EJECTMENT AS TO AREA COVERED BY WITHDRAWAL, PERMIT OR MINING CLAIM, YOU MAY

PREFER NOT HAVING DEPARTMENT REQUEST JUSTICE TO FILE SUCH SUITS
AND FILE ALL SUITS YOURSELF ON BEHALF OF YOUR CLIENT. IF YOU WISH
DEPARTMENT TO PROCEED WITH LIMITED ACTIONS, ADVISE BY TELEPHONE
NOT LATER THAN JULY 11, 1972.

(sgd.) Harrison Loesch

HARRISON LOESCH
ASSISTANT SECRETARY, PUBLIC LAND MANAGEMENT
DEPARTMENT OF THE INTERIOR



DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

United States Department of the Interior

FILE COPY
Surname:

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

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JUL 5 1972

MR. ROYAL MARKS
~~MARKS & MARKS~~
~~ATTORNEYS-AT-LAW~~
TITLE & TRUST BUILDING
PHOENIX, ARIZONA 85003

REGARDING SEVEN CASES REFERRED TO DEPARTMENT OF INTERIOR INVOLVING
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 THE DEPARTMENT WILL ADMINISTRATIVELY SUPPORT THE POSITION THAT TITLE
 TO LAND IS IN THE UNITED STATES IN TRUST FOR THE INDIAN COMMUNITY AND
 WILL ATTEMPT TO RESOLVE THE PROBLEM ADMINISTRATIVELY BUT WILL NOT
 REQUEST DEPARTMENT OF JUSTICE TO FILE SUITS FOR EJECTMENT AND
 DAMAGES WITH RESPECT TO LANDS ENCOMPASSED WITHIN APPLICABLE MINING
 CLAIM, PERMIT OR WITHDRAWAL. DEPARTMENT IS WILLING TO REQUEST
 JUSTICE TO FILE SUITS FOR EJECTMENT AND DAMAGES AGAINST ANY PARTIES
 WHO ARE IN FACT USING AND OCCUPYING AREAS WITHIN RESERVATION THAT
 ARE OUTSIDE AREA COVERED BY APPLICABLE WITHDRAWAL, PERMIT OR MINING
 CLAIM. SINCE SUCH LITIGATION WOULD NOT SEEK DAMAGES OR EJECTMENT
 AS TO AREA COVERED BY WITHDRAWAL, PERMIT OR MINING CLAIM, YOU MAY

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WILLIAM J. MOSES, SENIOR ATTORNEY

5135

7-5-72

3:55 p.m.

PREFER NOT HAVING DEPARTMENT REQUEST JUSTICE TO FILE SUCH SUITS
AND FILE ALL SUITS YOURSELF ON BEHALF OF YOUR CLIENT. IF YOU WISH
DEPARTMENT TO PROCEED WITH LIMITED ACTIONS, ADVISE BY TELEPHONE
NOT LATER THAN JULY 11, 1972.

(sgd.) Harrison Loesch

HARRISON LOESCH
ASSISTANT SECRETARY, PUBLIC LAND MANAGEMENT
DEPARTMENT OF THE INTERIOR

cc:

Secretary's Surname
Secretary's Reading File (2)
Solicitor's Files
Reg. Sol., Los Angeles
Field Solicitor, Phoenix
Area Director, Phoenix
Commissioner of Indian Affairs Attn: Mr. Little
Assistant Secy. PLM - Attn: Mr. Edwards
WJMoses (2)
DIA Reading File
Branch of Administration

SOL/WJMoses:fm 7-5-72

WILLIAM J. MOSES, SENIOR ATTORNEY

5135

7-5-72 3:55 p.m.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

FILE COPY
Surname:

NOV 22 1971

Dear Mr. Manuel:

Enclosed is a copy of a Memorandum to the Director, Bureau of Land Management, in which I conclude that the south boundary of the Salt River Indian Reservation should be accepted as being in the south channel as it existed during the 1965-66 floods.

Sincerely yours,

(Sgd.) Harrison Loesch

Assistant Secretary of the Interior

Mr. Edmund Manuel
President, Salt River
Pima-Maricopa Tribal Council
Route 1, Box 936
Scottsdale, Arizona 85256

Enclosure

cc:

Secretary's File
Secretary's RF (2)
LM
LM-Mr. Rogers
LM-Mr. Edwards
Commissioner, Bureau of Indian Affairs
Director, Bureau of Land Management

NEdwards:af:11/17/71

Edwards 11/17

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IND-Pima



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

NOV 17 1971

Memorandum

To: Director, Bureau of Land Management

From: Assistant Secretary--Public Land Management

Subject: Location of the South Boundary of
Salt River Indian Reservation

For some time prior to January 17, 1969, there was uncertainty as to the location of the south boundary of the Salt River Indian Reservation in T. 1 N., R. 5 E., G&SRM. On that date the then Secretary of the Interior determined that the southerly channel of the Salt River in that township was the southern boundary of the Reservation.

Based on the Secretary's decision, the Bureau of Land Management has completed the ground survey where the River is the boundary in T. 1 N., R. 5 E., except in section 3. As I understand it, in this section there presently is only one functioning channel which is in the former north channel. There is, however, evidence that the bed of a functioning south channel in the 1940's has been altered considerably by sand and gravel removal operations and possibly by attempts to prevent the use of the south channel by the construction of dikes to prevent the flow of water into the south channel.

Of particular significance to me is the fact that as a result of the floods of 1965 and 1966 and release of impoundment from upstream dams, the former south channel again functioned as a flowing channel for a period. The Salt River in this vicinity is for practical purposes dry except during heavy local rainfall because of upstream diversions and impoundments. The use of this channel during the flood is persuasive to me that under normal conditions it could be considered the south channel.

From the above evidence I conclude that the south boundary of the Salt River Indian Reservation should be accepted as being in the south channel as it existed during the 1965-66 floods.

Harrison Loesch

Harrison Loesch



United States Department of the Interior

OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

FILE COPY
Surname:

50418
Barnes 11-17

DRW:HOS
90-2-10-462

NOV 17 1971

List

Mr. Edmund B. Clark
Chief, Appellate Section
Land and Natural Resources Division
Department of Justice
Washington, D. C. 20530

*Ind-
Comp*

Re: United States v. Tempe Equipment and Contracting Company
(formerly Cyr and Evans Contracting Company) Civ. 69-317-
PHX-WCF, United States District Court for the District of
Arizona

Dear Mr. Clark:

We have reviewed the judgment entered in favor of the defendant in the above entitled case and now have the benefit of the views of our Phoenix Field Solicitor's Office which has consulted with the Salt River Indian Community and their tribal counsel.

Although the tribe still desires an appeal to be prosecuted, we find no basis for such an appeal, other than to attack the court's findings. We do not believe an appeal on this basis is warranted.

Sincerely yours,

William A. Gershuny
Acting Associate Solicitor
Division of Indian Affairs

DRBarnes/gah/11/17/71

- cc: Secretary's Files
- Solicitor's Files
- BIA (2) Attn: Real Property Management *w/c Inc. cases.*
- Regional Solicitor, Los Angeles
- Field Solicitor, Phoenix
- DRBarnes
- DRBarnes Reading File
- DIA Reading File



United States Department of the Interior

FILE COPY
Surname:

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

NOV 17 1971

Edwards 11/16
James 11/16
Johnson 11/16

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| App'd. Sol. Dir. |
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Memorandum

NOV 16 1971

To: Director, Bureau of Land Management

From: Assistant Secretary--Public Land Management

Subject: Location of the South Boundary of Salt River Indian Reservation

SOLICITOR

53506

4354

IND - Puma

For some time prior to January 17, 1969, there was uncertainty as to the location of the south boundary of the Salt River Indian Reservation in T. 1 N., R. 5 E., G&SRM. On that date the then Secretary of the Interior determined that the southerly channel of the Salt River in that township was the southern boundary of the Reservation.

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Of particular significance to me is the fact that as a result of the floods of 1965 and 1966 and release of impoundment from upstream dams, the former south channel again functioned as a flowing channel for a period. The Salt River in this vicinity is for practical purposes dry except during heavy local rainfall because of upstream diversions and impoundments. The use of this channel during the flood is persuasive to me that under normal conditions it could be considered the south channel.

From the above evidence I conclude that the south boundary of the Salt River Indian Reservation should be accepted as being in the south channel as it existed during the 1965-66 floods.

(Sgd.) Harrison Loesch

Harrison Loesch

FROM SOLICITOR
NOV 17 1971
FOR SIGNATURE

Bureau of Indian Affairs
Bureau of Land Management -
Clark Gumm

Secretary's File
Secretary's RF (2)
LM-Mr. Edwards
LM-Mr. Rogers

cc:



IN REPLY REFER TO:

UNITED STATES
DEPARTMENT OF THE INTERIORSpecial Projects-Phx.
SRIR/South BoundaryBUREAU OF INDIAN AFFAIRS
Phoenix Area Office
P.O. Box 7007
Phoenix, Arizona 85011

October 29, 1971

Memorandum

To: Secretary of the Interior
Attention: Newt Edwards
Through: Commissioner of Indian Affairs

From: Area Director

Subject: South Boundary of the Salt River Indian Reservation, Arizona.

In response to your telephone request to Mr. Jones of this office, we are transmitting a copy of the narrative report of July 21, 1971, and data in regard to Patented Lands in relation to the South Boundary of the Salt River Indian Reservation, Arizona, as defined by the Secretarial Order of January 17, 1969, and the Opinion of the Solicitor of the same date.

These areas, as shown on the attached map in green are described as follows:

| <u>SECTION</u> | <u>TOWNSHIP - RANGE</u> | <u>PATENT NUMBER</u> | <u>DATE OF ISSUE</u> |
|----------------|--|---------------------------------|--|
| 3 | T.1 N., R.5 E. NE $\frac{1}{2}$ NE $\frac{1}{2}$ SW $\frac{1}{2}$ NE $\frac{1}{2}$ SE $\frac{1}{2}$ NW $\frac{1}{2}$ NW $\frac{1}{2}$ SW $\frac{1}{2}$ | 1036 554 405842 728752 | 08/02/1895 06/13/1891 05/05/1914 01/20/1920 |
| 4 | SW $\frac{1}{2}$ SE $\frac{1}{2}$ | 1108 | 10/23/1901 |
| 7 | SE $\frac{1}{2}$ SE $\frac{1}{2}$ SW $\frac{1}{2}$ SE $\frac{1}{2}$ | 602972 1062899 | 10/18/1917 04/17/1933 |
| 8 | SE $\frac{1}{2}$ NE $\frac{1}{2}$ NW $\frac{1}{2}$ SE $\frac{1}{2}$ SE $\frac{1}{2}$ SW $\frac{1}{2}$ SW $\frac{1}{2}$ SW $\frac{1}{2}$ | 981 873498 160 1146 | 02/14/1900 07/21/1922 07/21/1890 04/23/1896 |
| 9 | NE $\frac{1}{2}$ NW $\frac{1}{2}$ | 418 | 11/06/1895 |
| 18 | NE $\frac{1}{2}$ NE $\frac{1}{2}$ NW $\frac{1}{2}$ NE $\frac{1}{2}$ NW $\frac{1}{2}$ | 935 1064960 518079 | 06/25/1892 07/06/1933 03/09/1916 |

We are also enclosing a copy of the legal opinion of the Solicitor, dated January 17, 1969, and the Order of the Secretary of the Interior, which determines that the Southern Boundary of the Salt River Indian Reservation is in the Southern Channel of the Salt River. Resolution of the location of that South Channel is, we believe, a factual problem, rather than a legal one.

Albert Lasciver

ACTING Area Director

Enclosures:



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

Maynard
Heard
Hick
Rodriguez
4/15/69 *J. [unclear]*

R. P. [unclear]

JAN 17 1969

2-300
3.350

Memorandum

To: Director, Bureau of Land Management
Through: Assistant Secretary, Public Land Management *[initials]*

From: Secretary of the Interior

Subject: South Boundary of the Salt River Indian Reservation

For some years there has been disagreement concerning the location of the South boundary of the Salt River Indian Reservation. Informally in January 1968, and later by memorandum of October 1, 1968, I asked the Solicitor to review the matter. Attached is a copy of a letter to C. A. Carson, III, attorney for Arizona Sand and Rock Company reciting the history of negotiations between the Salt River Community Council and that company which arose from the boundary dispute.

This day I received from the Solicitor his memorandum advising me that the March 5, 1963 memorandum opinion of the Director of the Bureau of Land Management, approved by the Assistant Secretary for Public Land Management on May 6, 1964, is erroneous. A copy of the Solicitor's memorandum is attached hereto.

I therefore determine that the southern boundary of the Salt River Indian Reservation in T. 1 N., R. 5 E., G&SRM, Arizona, is in the southern channel of the Salt River. Please note the official records accordingly and notify all persons asserting any interests in the lands between the two channels under the mining or other public land laws of this determination.

Stanley [unclear]
Secretary of the Interior

Attachments

Rec'd Pac 1-3



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

Real Property

J-68-1021,4164

JAN 17 1969

RECEIVED

JAN 20 1969

PHOENIX

Memorandum

To: Secretary of the Interior
From: Solicitor
Subject: Identification and Reestablishment of the South Boundary of the Salt River Indian Reservation

Informally in January, 1968, and later by your memorandum of October 1, 1968, you requested that this office review the March 5, 1963, memorandum opinion of the Director of the Bureau of Land Management, approved by the Assistant Secretary for Public Land Management on May 6, 1964, concerning the location of the south boundary of the Salt River Indian Reservation within Township 1 North, Range 5 East, Gila and Salt River Meridian, Arizona (Exhibit 1).

The Executive Order of June 14, 1879, which established the Salt River Indian Reservation, described its south boundary as "up and along the middle of the [Salt] river" (Exhibit 2). At the time of the order, the river flowed through T. 1 N., R. 5 E., in two distinct channels, separated by a large island. The question discussed in the March 5, 1963, opinion is what was meant by "the middle of the river" as applied to the Salt River within T. 1 N., R. 5 E., or, more generally, what is the exact location of the south boundary of the Salt River Reservation.

The Director of the Bureau of Land Management concluded that the boundary lay in the channel north of the island. Having reviewed his determination and all available background material, we are of the opinion that the boundary lies in the south, rather than north channel. We therefore recommend that Secretarial approval of the March 5, 1963, decision be withdrawn and that new instructions regarding the boundary be issued.

I. There is no evidence that the north channel was intended as the boundary of the reservation.

In order properly to evaluate the meaning of the phrase "middle of the river" as it was used in the Executive Order of June 14, 1879, the order itself must be put in its historical context, for the events leading up to its issuance provide valuable indices to the intent of its drafters.

RECEIVED
BUREAU OF LAND MGMT.
JAN 20 1969

The Act of February 28, 1859 (11 Stat. 388, 401), reserved for the Pima and Maricopa Indians the land they occupied on and near the Gila River, just south of the Salt River. There, the Indians constructed irrigation works and successfully raised wheat. The surrounding area, the Salt River Valley, considered the prime agricultural district of the Arizona territory, was extensively cultivated by white settlers, many of whom filed private claims to their land under various federal laws. A struggle for water developed in the mid-1870's which left the settlers in control of the irrigation ditches in the valley and forced the Indians to look elsewhere for farmland. They gradually began leaving their reservation and migrating north to the Salt River.

On January 10, 1879, in response to numerous reports that the Indians were being deprived of water on the Gila Reservation and needed additional land protected from encroachment by white settlers, an executive order was issued setting aside approximately 656,000 additional acres of the Salt River Valley on both sides of the Salt River for the Pimas and Maricopas (Exhibit 3). The order made no mention of the two channels of the Salt River, alluding merely to "the course of the river".

Reaction to the order was immediate and generally adverse. Captain A. R. Chaffee wrote to the Assistant Adjutant General on February 18, 1879, "I am lothe to believe the boundaries, described correct" (Exhibit 4), noting that the reservation encompassed an unnecessarily large amount of valuable land and warning that the order was sure to trigger hostilities with the settlers of the region. Chaffee then reiterated a suggestion he had made in November 1878, that a smaller reservation, located in T. 1 N., R. 5 E., and Tps. 2 and 3 N., Rs. 5, 6, and 7 E., be established. A map dated March 4, 1879, and marked "traced in the Adjutant General's office" indicates the area reserved in the January 10 Executive Order as well as the reservation proposed by Captain Chaffee (Exhibit 5). The south boundary of the latter extends to the south channel of the Salt River, while that of the former lies south of the Gila River.

An early map, simply identified as "traced in Adjutant General's office, January 1879," (Exhibit 6) shows a proposed reservation whose south boundary runs north of the river.

On March 1, 1879, The Governor of Arizona, suggested that the Indians be removed from the Salt River Valley entirely and settled on the Colorado River. This suggestion was unfavorably received by Major General McDowell, Commander of the Military Division of the Pacific, who noted, in a letter dated April 28, 1879, that the Pimas and Maricopas were peaceful Indians who had unjustly been driven from their land once and should not be so treated again (Exhibit 7). He relayed the suggestion of the Army Division Commander, suggesting the establishment of a reservation smaller than that described in the Executive Order, with a south boundary "along the middle of the Salt River," and added his own

proposal for a reservation whose south boundary would be "along the Salt River to the initial point [NE corner, Sec. 15, T. 1 N., R. 4 E.] which is within the bed of the stream".

Because there was apparently some uncertainty as to the exact location of the Indians within the area reserved in the January 10 Executive Order, Inspector J. H. Hammond was sent to Arizona by the Commissioner of Indian Affairs to investigate. In his report, dated March 8, 1879 (Exhibit 8), Inspector Hammond stated that the Indians had left the Gila River Reservation in 1876 and 1877 in search of water, encouraged by white settlers who hoped the Indians would prove helpful in coping with the less friendly Apaches north of the Salt River. The map which accompanied his report entitled "Gila River Reservation and Surroundings, Pima Agency, A. T." (Exhibit 9), indicated where the Indians had settled: the region along the south channel of the Salt River, east of the island, was designated "Pima fields, 375 persons, 47 families."; along the north channel was the notation "Pima settlement, 1300 persons, 240 families." Hammond concluded by suggesting a new reservation to replace that created by the January 10 Executive Order, with boundaries almost identical to those proposed earlier by Captain Chaffee, with the exception of the south boundary, which was to follow the north bank of the Salt River.

Hammond's report was forwarded to the Secretary of the Interior by the Acting Commissioner of Indian Affairs on June 12, 1879, with a letter (Exhibit 10) commenting unfavorably on the plan to remove the Indians to the Colorado River ("It would do peaceful Indians a great injustice"). The Acting Commissioner then recommended that the January 10 Executive Order, which had originally been drafted by his office, be rescinded, and a new reservation set aside in accordance with a draft Executive Order which he had prepared. The south boundary of the new reservation was to run "up and along the middle of the said [the Salt] River," and those lands south of the river owned by Indians were to be temporarily withdrawn until the lands and improvements thereon could be sold to settlers. The proposed Executive Order was signed by President Hayes on June 14, 1879 (Exhibit 2).^{1/}

Thus, the Executive Order of June 14, 1879, was concerned with the protection of the Pima and Maricopa Indians who had settled on both sides of the channels of the Salt River. Prior to its issuance, at least five different persons had presented plans for a reservation. Only one (Inspector Hammond) had suggested that the south boundary of the reservation run along the north bank of the Salt River (since the Executive Order establishing the reservation spoke of the middle of the river, it is apparent that this plan, which would not have included

^{1/} That order was amended by the Executive Orders of March 22, 1911, September 28, 1911, and October 23, 1911. These amendments have no bearing on the boundary question.

any of the river within the reservation, was rejected); two (Commissioner of Indian Affairs and Army Division Commander) had proposed that the south boundary be placed "in the middle of the river"; one (Major General McDowell) had located it "in the bed of the river"; and one (Captain Chaffee) had set it in the south channel of the river. Nowhere was the north channel mentioned.

II. The preponderance of evidence indicates that the south channel is the south boundary of the reservation.

The Executive Order of June 14, 1879, sought to establish the Salt River as the south boundary of the reservation. Its specification that the boundary was to extend up and along the middle of the river, a non-navigable channel, reflected contemporaneous (and current) law on the subject. At common law, a grant bounded by a non-navigable river transferred title to the center thread of the river. Middleton v. Pritchard, 3 Scammon 510, 520. This principle had been held applicable to the United States, St. Paul P. and R. Company v. Schurmeir, 7 Wall 272, 19 L. Ed. 74 (1868); St. Clair County v. Lovington, 23 Wall 46, 23 L. Ed. 59 (1874); and was explicitly recognized by this Department, 6 L. D. 538, 637 (1888), 25 L. D. 413 (1879).

When a non-navigable river has two or more channels, the middle of the river is generally considered synonymous with the thread of the stream, or the middle of the main channel, Buttenuth v. St. Louis Bridge Co., 17 N. E. 439, 443, 123 Ill. 535, 5 Am. St. Rep. 545; see also Bishel v. Faria, 1 Cal. Rptr. 153, 157, 347 P.2d 289, the main channel being the widest and or deepest channel, Grand Rapids R. Co. v. Butler 158 U.S. 87 (1895).

We are not persuaded by any of the evidence cited by the Director in his March 5, 1963, opinion or reflected in the record that the main channel of the Salt River flowed north rather than south of the island in T. 1 N., R. 5 E. The earliest official survey of the township, completed by W. F. Ingalls and approved on October 22, 1868, merely contained sketches of the channels. They were not meandered (Exhibit 11). In his general description of T. 1 N., R. 5 E., Ingalls characterized them as "of about equal size" but "constantly changing position and size" (Exhibit 12). This general description is contradicted by the actual measurements contained in the body of his field notes, which indicate that the south channel was wider.

Ingalls measured the width of the channels wherever they intersected a surveyed line. His field notes, contained in Arizona Territory Volumes 1 and 2, show the following for T. 1 N., R. 5 E.:

| <u>Surveyed Line</u> | <u>Width of South Channel</u> | <u>Width of North Channel</u> |
|-------------------------|-------------------------------|-------------------------------|
| North between § 3 & 4 | 3.46 chains | 2.63 chains |
| North between § 4 & 5 | | 4.85 chains |
| North between § 8 & 9 | 3.70 chains | |
| East between § 4 & 9 | 7.25 chains | |
| East between § 5 & 8 | | 4.11 chains |
| North between § 7 & 8 | | 3.25 chains |
| North between § 17 & 18 | 4.91 chains | |

These figures indicate that the average width of the south channel in T. 1 N., R. 5 E., was 4.83 chains, while that of the north channel was only 3.71 chains. Ingalls' measurements along the entire length of the channels, through T. 2 N., R. 5 E., as well as T. 1 N., R. 5 E., reflect an overall average width of 4.35 chains for the south channel and 3.96 chains for the north channel. While they are certainly not conclusive, these figures are the only available evidence of the relative size of the two streams prior to the establishment of the reservation; and they suggest that the south channel was the wider.

A map dated July 12, 1879, and entitled "Plat showing lands reserved for Pima and Maricopa Indians by Executive Order of June 14, 1879" (Exhibit 13), was prepared by the Surveyor General at the request of the Commissioner of the General Land Office. It represented both channels of the river by single lines and sketched the south boundary of the reservation slightly north of the north channel. In his opinion, the Director of the Bureau of Land Management cites this map as being both "most pertinent" and "official." We cannot agree that either adjective is appropriate. The map is certainly not an "official plat", its title notwithstanding, since it does not reflect the findings of a duly authorized and approved survey of the land represented. United States v. Morrison, 240 U.S. 192 (1916). In his letter of June 27, 1879, the Commissioner of the General Land Office merely requested preparation of a "diagram" (Exhibit 14); nothing as elaborate as an official survey was indicated. In fact, there is no evidence that the Surveyor General, who prepared the map in Tucson, 125 miles away from the reservation, even inspected the area. Indeed, he was able to complete the map a scant 15 days after the date of the Commissioner's request, which, considering the time then required for transmission of the request, was quite remarkable. More important than its lack of official status, however, is the map's obvious lack of accuracy. It depicts the south boundary of the reservation as north of the river entirely, while the Executive Order which it purports to be illustrating explicitly extends the boundary to the middle of the river. Clearly an instrument containing such a gross error on its face can be accorded little weight.

An official survey of the reservation was completed by L. D. Chillson in July 1888. His plats indicate nothing below the north bank of the north channel of the river (Exhibit 15). Although the Director cites this survey to support his conclusion that the north channel was the main stream of the Salt River, in fact the survey does not furnish any evidence at all about location of the boundary. Chillson was instructed to survey the reservation into 40-acre tracts following the rules of the surveyor's manual (Instructions to Surveyors General, 1881). His special instructions, contained in a letter from the Surveyor General dated December 27, 1887 (Exhibit 16), stated:

The southern boundary of this reservation being the Salt River, it will be necessary for you to meander same.

Chillson did precisely what was asked of him -- he meandered the Salt River, limiting his work to the north bank only, since the surveyor's manual directed that non-navigable rivers "will only be meandered on one bank. For the sake of uniformity the surveyor will traverse the right bank when not impracticable." (page 34) Thus, the only information the Chillson survey furnishes with regard to the Salt River is the meander line of its north bank.

A meander line merely determines the sinuosities of a stream and is not a boundary, United States v. Elliott et al., 131 F.2d 720 (10th Cir., 1942); Witaker v. McBride, 197 U.S. 510, 512, 25 S. Ct. 530; Producer's Oil Co. v. Hanzen, 238 U.S. 325, 339, 35 S. Ct. 755; the waters themselves constitute the real boundary, Hardin v. Jordan, 140 U.S. 371, 11 S. Ct. 808 (1891). That Chillson's survey is limited to the north bank of the Salt River thus does not indicate that he thought that it was the south boundary of the reservation or had determined the north channel to be the main thread of the river; it merely reflects his adherence to the instructions pursuant to which the survey was executed. Chillson was not requested to indicate the boundary or to concern himself with the river at all, other than to meander its right bank. That is all he did; no effort was made to gather any information about the river itself, its islands, its channels, its flow, etc. Neither the Surveyor General's instructions nor Chillson's field notes refer to the south boundary of the reservation in any more specific terms than "the Salt River." Thus, the 1888 survey furnishes no real evidence as to the proper location of the south boundary of the reservation.

That the survey was of no help in establishing the boundary is further evidenced by the fact that on October 13, 1891, a little more than two years after Chillson completed his work, the Commissioner of the General Land Office wrote to the Commissioner of Indian Affairs and "being in doubt as to the exact location" of the south boundary, asked his opinion

on the matter (Exhibit 17). In his reply, dated August 18, 1892, (Exhibit 18), the Commissioner of Indian Affairs relayed a report he had received from the Pima Indian Agent on July 8, 1892, in which the agent made no reference to the two channels, merely noting that since the island between them was unoccupied, contained no timber and had sandy soil, it was not advisable that it be claimed for the Indians (Exhibit 19). The Commissioner then stated that whether the island was within the reservation was "a question of fact upon which I am not prepared to express an opinion at this time," but added that "the plat on file in this office indicates that the principal portion or branch of the river runs south of the island, and that what is termed the north channel is a much narrower stream." We have been unable to identify the plat referred to.

The National Reclamation Act, the Act of June 17, 1902 (32 Stat. 388), authorized a survey of, among others, irrigable lands in Arizona. The map prepared pursuant to that act by the United States Geological Survey indicated the south channel of the Salt River as the main stream, while showing the north channel as practically dry (Exhibit 20). The south boundary of the reservation was placed in the center of the south channel.

On December 15, 1910, R. A. Farmer completed a dependent resurvey of the reservation lands within T. 1 N., R. 5 E., for allotment purposes, based upon Chillson's 1888 survey. Like Chillson, Farmer simply meandered the right bank of the river. His plats stopped at the meander line and did not indicate any of the river itself (Exhibit 21). A dotted line was sketched in to indicate the reservation boundary, but it is of little significance since Farmer was not concerned with the boundary and made no effort to ascertain its precise location. Indeed, in his field notes (Exhibit 22), he refers to "the right bank of the Salt River * * * which river is the south boundary of the reservation" (emphasis added), thereby indicating that he had made no determination of the boundary beyond its general location somewhere in the river. Thus, the Farmer survey, like that of Chillson, conveys no information about the relative size of the two channels or the proper location of the south boundary of the reservation.

In November 1914, the United States Indian Service completed a map showing allotments and cultivated land on the Salt River Indian Reservation (Exhibit 23). The south boundary of the reservation was shown in the south channel of the river.

The foregoing indicates that the Director's conclusion that "the preponderance and weight of evidence favors the recognition of the north channel of Salt River as being the south boundary of the reservation" is not borne out by the record.

The July 12, 1879, diagram (Exhibit 13), which located the boundary north of the river entirely, is clearly erroneous on its face. The Chillson Survey (Exhibit 15) furnishes no information on the boundary question. The plat

on file in the Bureau of Indian Affairs referred to by the Commissioner in his letter of August 18, 1892 (Exhibit 18); indicates that the south channel was the principal branch of the river. The 1902-1903 irrigation map (Exhibit 20) shows the south channel as larger than the north and locates the reservation boundary in it. The Farmer survey (Exhibits 21 & 22) merely describes the boundary as "the river" and indicates it by a dotted line sketched beyond the edges of the surveyed area. The 1914 allotment map (Exhibit 23) shows the boundary running in the south channel of the river. The preponderance and weight of evidence favors recognition not of the north, but of the south channel of the river as the south boundary of the reservation.

III. There is nothing to preclude recognition of the south channel as the south boundary of the reservation.

In his March 5, 1963, opinion, the Director asserts:

In the apparent absence of protest or amendment by the Indians to the boundary as shown upon many maps and as officially surveyed and established upon the ground by two official surveys, it must be considered that until recent years the Indians were apparently complacent with the boundary being along the north channel.

and maintains that Departmental policy precludes recognition of the south channel as the boundary, citing Boundary of San Carlos Indian Reservation, 55 I.D. 560 (May 29, 1936).

We note initially that contrary to the Director's assertion, the boundary has not been shown to be along the north channel "upon many maps." Moreover, the boundary has never been "officially surveyed and established on the ground": the Chillson and Farmer surveys, to which we assume the Director is referring, did not purport to locate the boundary; they merely reflected the meanders of the north bank of the Salt River, without any attempt to ascertain or depict the middle of the river. In fact, to the best of our knowledge, the south boundary of the Salt River Indian Reservation has never been indicated on a map prepared for that purpose. Thus, by recognizing the south channel as the reservation boundary, the Secretary would not be reversing a determination of long standing, as the Director implies, but merely resolving a matter which has proven problematic for almost one hundred years.

In light of the confusion which has surrounded the question of the location of the boundary, the situation at hand is hardly comparable to that considered in Boundary of San Carlos Indian Reservation, supra, in which the Acting Secretary of the Interior held that a boundary description which had been uniformly interpreted by the Department for 60 years would be

considered controlling. There certainly has been no such uniformity in recognition of the south boundary of the Salt River Indian Reservation. The Pimas and Maricopas can hardly be criticized and certainly should not be penalized for not questioning a Departmental determination which was not definitively made until 1963.

Indeed, the Indians have repeatedly asked for clarification of the location of the south boundary of their reservation. On March 23, 1940, the Salt River Indian Community Council passed a resolution requesting the Commissioner of Indian Affairs to "definitely locate and establish the reservation boundary line in and along the stream bed of the Salt River." (Exhibit 24) The Indians were advised that since no funds were available for a survey, their request could not be acted upon. Subsequent requests have met a similar fate.

IV. Conclusion

Under these circumstances we believe that the south channel of the Salt River should be recognized as the south boundary of the Salt River Indian Reservation. We therefore recommend that Secretarial approval of the March 5, 1963, memorandum opinion of the Director of the Bureau of Land Management be withdrawn and that new instructions regarding the south boundary of the Salt River Indian Reservation be issued.

A status report on the area between the channels furnished by the Bureau of Land Management on January 3, indicates that since the establishment of the reservation, the United States has issued patents to private individuals and granted rights-of-way to the State of Arizona and County of Maricopa involving lands which the survey to be made by the Bureau of Land Management may show to be within the boundaries of the reservation. The Salt River Pima-Maricopa Indian Community has explicitly waived any interest it might have in such lands. However, in order to avoid any cloud upon the titles conveyed by the patents involved, all of which appear to have been issued more than 40 years ago, or upon the interests granted by the rights-of-way, we suggest that in the event the survey by the Bureau of Land Management discloses that the United States issued patents to and rights-of-way across lands already reserved for Indian use, remedial legislation be recommended to exclude the patented and rights-of-way areas from the reservation and confirm the titles thereto.

We would add that fairness to persons asserting interests in the lands between the two channels under the mining and other public land laws will require this Department to promptly request the Department of Justice to commence appropriate actions to obtain judicial determinations of the merits of their claims.

[Handwritten Signature]
Solicitor

cc: Commissioner of Indian Affairs w/c attachments
LL, Br. of Real Property
DIA, Area Director, Phoenix
Director, Bureau of Land Management w/c attachments (detached)

EXHIBITS

1. March 5, 1963, memorandum opinion from the Director of the Bureau of Land Management to the State Director, Arizona
2. Executive Order of June 14, 1879
3. Executive Order of January 10, 1879
4. February 18, 1879, letter from Captain A. R. Chaffee to Assistant Adjutant General
5. Map dated March 4, 1879, "traced in the Adjutant General's office"
6. Map, "traced in Adjutant General's office, January 1879"
7. April 28, 1879, letter from Major General McDowell to Adjutant General
8. March 8, 1879, letter from Inspector J. H. Hammond to Commissioner of Indian Affairs
9. March 8, 1879, map, "Gila River Reservation and Surroundings, Pima Agency, A. T."
10. June 12, 1879, letter from Acting Commissioner of Indian Affairs to Secretary of the Interior
11. Official plats of W. F. Ingalls survey of T. 1 N., R. 5 E., and T. 2 N., R. 5 E., approved October 22, 1868
12. Exerpt from field notes of W. F. Ingalls' survey, Arizona Territory Volume 2
13. July 12, 1879, map, "Plat showing lands reserved for Pima and Maricopa Indians by Executive Order of June 14, 1879"
14. June 27, 1879, letter from Commissioner of the General Land Office to Surveyor General
15. Official plat of L. D. Chillson resurvey of T. 1 N., R. 5 E., approved July 11, 1888
16. December 27, 1887, letter from Surveyor General to L. D. Chillson

17. October 13, 1891, letter from Commissioner of the General Land Office to Commissioner of Indian Affairs
18. August 18, 1892, letter from Commissioner of Indian Affairs to Commissioner of the General Land Office
19. July 8, 1892, letter from Pima Indian Agent to Commissioner of Indian Affairs
20. Map of irrigable lands in Arizona prepared by U.S. Geological Survey, for Salt River Project 1902-03
21. Official plat of R. A. Farmer resurvey of T. 1 N., R. 5 E., approved December 15, 1910
22. Excerpt from field notes of R. A. Farmer resurvey of T. 1 N., R. 5 E.
23. November 1914, United States Indian Service map, allotments and cultivated land on the Salt River Indian Reservation
24. March 23, 1940, resolution of the Salt River Indian Community Council



UNITED STATES
DEPARTMENT OF THE INTERIOR

Special Projects-Ph.
SRIR So. Boundary

BUREAU OF INDIAN AFFAIRS

Phoenix Area Office

P.O. Box 7007

Phoenix, Arizona 85011

7/21/70

MEMORANDUM

To : Commissioner of Indian Affairs

From : Area Director

Subject: South Boundary Salt River Indian Reservation

During the past year a number of meetings have been held with the Office of the Secretary of the Interior and with Mr. Gumm, Chief Cadastral Engineer, Bureau of Land Management, Washington, in relation to the South Boundary of the Salt River Indian Reservation, Arizona.

Following the January 17, 1969 Secretarial Order that the South Boundary of the Salt River Indian Reservation is the middle of the South Channel of the Salt River, the Bureau of Land Management on June 2, 1970 presented the Salt River Tribe, and this Bureau with their determination of the location of that boundary based on 1968 aerial photography.

Review of this location, in relation to maps and aerial photographs, available at that time, indicated that for that portion of the South Boundary between McKellips Road, Southwesterly to Pima Road (the Range line between Ranges 4 and 5 East) there was substantial agreement with the line as located.

For that portion of the Bureau of Land Management's line location Northeasterly from the McKellips Road crossing through Sections 3 and 4, T. 1 N., R. 5 E., there was, and is, serious disagreement. Analysis of available data indicates that there is still evidence of an existing South Channel of the Salt River. January 1966 Aerial Photographs indicate there have been recent flows thru that South Channel inspite of the long history of works of man that tend to block or restrict flow in this channel.

Meetings were held with Assistant Secretary Harrison Loesch and later with Engineers of the Bureau of Land Management, Washington, on July 7, 1970.

At the meetings, materials were presented to Mr. Gumm and Mr. Voorhees, Bureau of Land Management, Washington, with open discussions regarding the claims of the Bureau of Land Management and counter-claims of the Bureau of Indian Affairs. It was Mr. Gumm's opinion that there was only one channel, the main channel, as identified by the Bureau of Land Management, and that it had moved from the South Channel position, to its present location by natural accretive movements. He took the further stated position that any flows in the old south channel area must have been from local surface run-off, buttressing his argument, that since the South Channel did not carry any flows in the April 1965 flood, that it did not carry any flows in the December 1965-January 1966 floods.

Mr. Gumm made the further determination that the problem was essentially a "legal problem" and not a question of fact, as maintained by the Salt River Tribe and this Bureau. On July 30, 1970 Mr. Gumm referred this question to the Associate Solicitor, Division of Public Lands, succinctly posing the question in his last paragraph ".....if the former South Channel has ceased to exist in Section 3, does this former and no longer functioning channel remain the South Boundary of the Salt River Indian Reservation?" (see memorandum signed by John O. Crow, July 30, 1970).

Based on data at hand at that time it was our position that, the South Channel if it had ceased to exist as alleged by Mr. Gumm, had done so because of works of man that have tended to block that South Channel since as early as 1879. This was documented in Special Projects-Phoenix Report dated September 29, 1970, which supported our argument that if changes had occurred in the South Channel, these changes were avulsive in nature, and as such could have no impact on Indian Title.

Early in January of 1971 a meeting was held in Phoenix with Mr. Orme Lewis, Jr., for the purpose of explaining data collected by this office. Mr. Lewis indicated favorable consideration of the material presented at that time, and suggested that another meeting should be scheduled with Mr. Gumm.

A subsequent meeting was held at the Salt River Indian Community Building on January 21, 1971. This was attended by Mr. Gumm, and Mr. Hanson for the Bureau of Land Management, members of the Salt River Tribal Council and representatives of the Bureau, Agency and Area staff. Data was presented to Mr. Gumm, and an aerial reconnaissance was

made of the area of dispute. Mr. Gumm maintained his previous stand, that while the data we had been able to collect, and our analysis of it was interesting he felt that the matter was still largely a "legal question", and not, generally a factual one. He indicated that he would consider any additional data we cared to provide.

In doing research for litigation in the U.S. v. Tempe Equipment Co., case, Sec. 12, T. 1 N., R. 4 E., (Trial date 7/8-9/71) additional evidence was found which clearly defined flows in the Salt River both as to areal extent, and as to quantity of flows at specific times. These are as follows:

1. Landis Aerial Photography, flown December 31, 1971.
2. Salt River Irrigation Project Hydrographic Data.
3. U.S. Geological Survey Water-Supply Paper No. 1850-C, Plate 5.
4. Aerial Photographs flown January 6, 1966.

For ease in analysis all map and photographic material was reduced to a common scale, and representative overlays prepared.

On the basis of this new evidence it is our opinion that there was a channel of the Salt River in this area as early as 1879, that there was, and is, continuously to this date a clearly defined functioning South Channel of the Salt River in Sections 3 and 4, T. 1 N., R. 5 E.

This position is we realize some what contrary to Bureau of Land Management's arguments that (a) The South Channel no longer functioned, (b) The South Channel ceased to exist, and (c) The South Channel had moved to its present position by natural accretion and to our own stand that the South Channel if it ceased to exist, was closed by works of man, and therefore avulsive in nature.

That this South Channel is still a functioning channel is clearly shown by examination of aerial photography flown December 31, 1965, and Plate 5 of Water-Supply Paper No. 1850-C which defines, within the area of dispute, a South Channel, a Middle Channel, and a North Channel, all functioning as shown on that map.

Presentation and review of all previous material and the new material cited above were made to Mr. Gumm in Washington on July 2, 1971. Others who attended the conference were, Mr. Harold R. Schurz, representing the Salt River Tribe, Mr. Art Lazarus, Attorney representing the Tribe, and Mr. LaFollette Butler and Mr. James Jones, representing this Bureau.

In this review we went to each document, using comparative overlays and explaining our reasoning for identity of the present existing South Channel.

In response Mr. Gumm first advised us that the memorandum of July 30, 1970 to the Associate Solicitor had been withdrawn by his department, though he still believed that these were legal problems involved in this matter, secondly, Mr. Gumm stated that he would give this matter his early consideration.

Continued development in the Metropolitan Area of Maricopa County makes it increasingly important that the South Boundary of the Salt River Indian Reservation should be correctly located and surveyed at the earliest possible time.

We would appreciate it if inquiry, on behalf of the Salt River Tribe, could be made to Mr. Gumm as to when we might anticipate a decision from his office in this matter, and for the return of the original materials left with him on July 2, 1971.

(Sgnd.) LaFollette R. Butler

Assistant Area Director
to

Nov. 17, 1971

Memo. Div. Bur. of Lt. Mgt.

from. asst. Sec. - Public Lt. Mgt.

Subject - Location of the South
Boundary of Salt River
Indian Reservation.

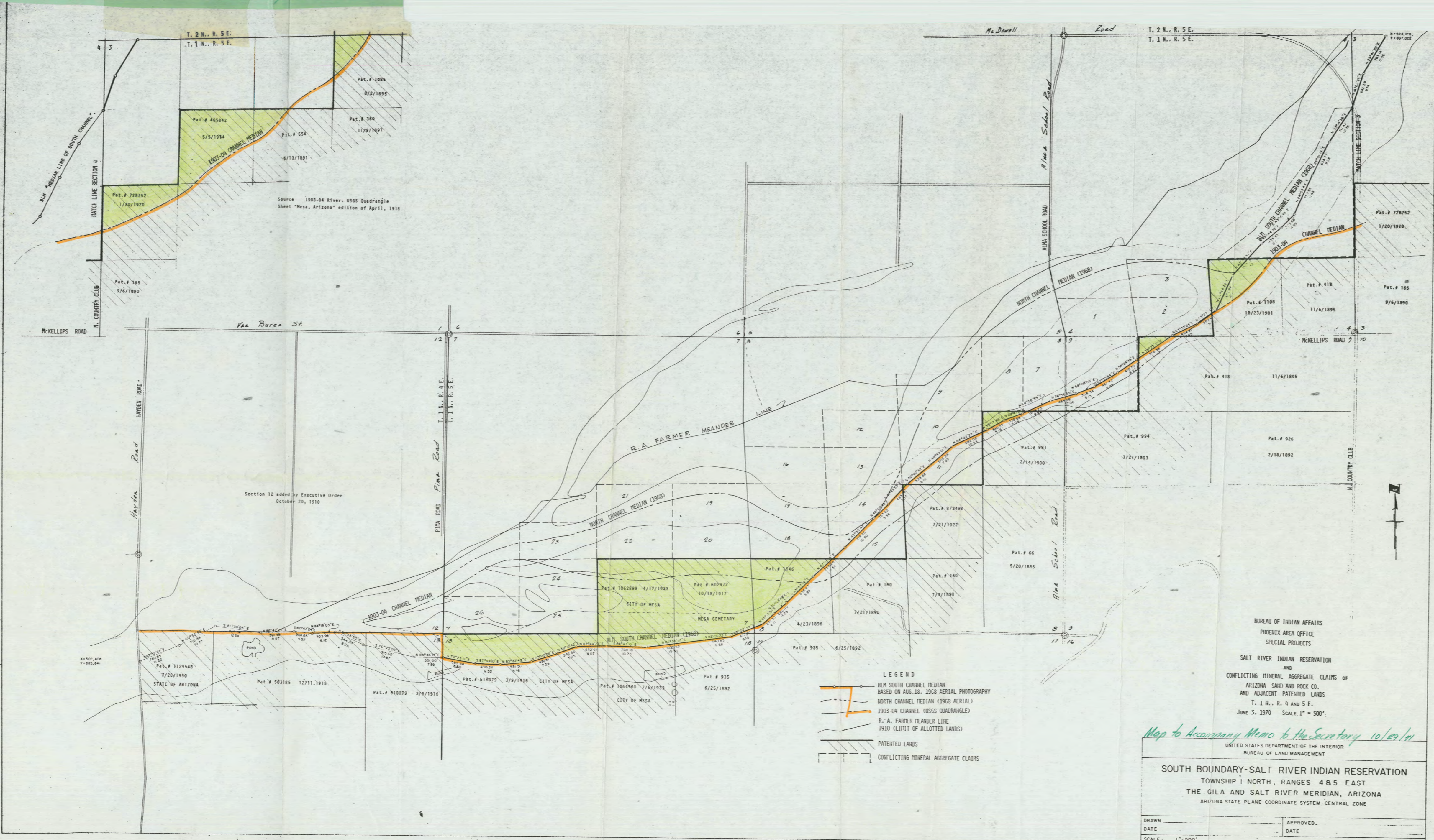
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11/17/71

memo -
Dir of Land mgt.

IND -
PIMA

*This copy for the
Mesa City Office*



BUREAU OF INDIAN AFFAIRS
PHOENIX AREA OFFICE
SPECIAL PROJECTS
SALT RIVER INDIAN RESERVATION
AND
CONFLICTING MINERAL AGGREGATE CLAIMS OF
ARIZONA SAND AND ROCK CO.
AND ADJACENT PATENTED LANDS
T. 1 N., R. 4 AND 5 E.
JUNE 3, 1970 SCALE 1" = 500'

Map to Accompany Memo to the Secretary 10/29/71

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
SOUTH BOUNDARY-SALT RIVER INDIAN RESERVATION
TOWNSHIP 1 NORTH, RANGES 4 & 5 EAST
THE GILA AND SALT RIVER MERIDIAN, ARIZONA
ARIZONA STATE PLANE COORDINATE SYSTEM-CENTRAL ZONE

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| DRAWN | APPROVED |
| DATE | DATE |
| SCALE 1" = 500' | |



Salt River

PIMA-MARICOPA INDIAN COMMUNITY COUNCIL

ROUTE 1, BOX 120 / SCOTTSDALE, ARIZONA 85257 / PHONE 261-4925

August 17, 1971

Mr. Orme Lewis, Jr.
c/o Office of the Secretary
of the Interior
Washington, D. C.

Dear Mr. Lewis:

Last July 2, 1971, Mr. James H. Jones, Jr., Coordinator of Special Projects, Phoenix Area Office and Mr. Harold R. Schurz, Acting Business Manager for the Salt River Pima-Maricopa Indian Community, met with Mr. Clark Gumm of the Bureau of Land Management to discuss additional material concerning the Southern Boundary of the Salt River Indian Community.

Material presented at this meeting included data you reviewed with the Tribal Council in Phoenix in December 1970, and additional material in the form of Aerial Photography flown December 31, 1965, showing water flowing through the South Channel. There was also a map from the United States Geological Survey Water-Supply Paper No. 1850-C, which clearly defines the South as well as the Middle and North Channels of the Salt River in Sections 3 and 4, T. 1 N., R. 5 E.

With this additional material more evidence was submitted on behalf of the Salt River Community as to the establishment of the Salt River Channel.

With the evidence that has been submitted during the past few years and with the additional information submitted July 2, 1971, it was hoped that a decision would be made.

As of this date, no decision has been rendered by Mr. Gumm or any one else in the Bureau of Land Management.

Mr. Orme Lewis, Jr.
August 17, 1971
Page 2

We respectfully request that you look into this matter to see if a decision can be determined.

On behalf of the Salt River Community and Council I would like to thank you for the interest and help you have given this community on the Southern Boundary issue.

If there is anything I can do, please feel free to call me.

Sincerely,

SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY COUNCIL



Paul J. Smith, President

PJS/va

cc: G. Gates, Vice President
L. Hanline, SR Program Coordinator
R. D. Marks, Tribal Attorney



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

FEB 10 1971

*to files
2/16/71
Moore*

INTERIOR DEPT.
FEB 11 1971
**ASSISTANT
SECRETARY
BLM**

Memorandum

To: Deputy Assistant Secretary -- Public Land Management
From: Associate Solicitor, Division of Public Lands
Subject: Salt River Indian Reservation Boundary

In your memorandum of December 9, 1970, to the heads of the agencies under your jurisdiction concerning issues and briefing for the Secretary, you stated with respect to the above subject, that "this matter is again before the Solicitor as to the location of that part of the boundary where there is not now a functioning south channel." We have discussed this matter with you previously, and it is our understanding that this matter was to be recalled by the Bureau of Land Management to see if an amicable agreement can be reached among BLM, the Bureau of Indian Affairs, the Tribe and the private parties concerned. Because the matter is to be recalled, we are not taking any action with respect to it. For your information, the Bureau has not yet requested us to forward the file to them, as we understood they were to do.

David E. Lindgren
David E. Lindgren



just

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

FILE COPY

Your Surname: Reference:

DRW: HOS

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ACTING /

Barnes - 2

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APR 3 1970

Honorable Shiro Kashiwa
Assistant Attorney General
Land and Natural Resources Division
Department of Justice
Washington, D. C. 20530

Dear Mr. Kashiwa:

Re: United States v. Tempe Equipment and Contracting Co.
(formerly Cyr and Evans Contracting Co.), No. CIV069-317,
United States District Court Arizona

FIND - Barnes

Since receiving your letter dated March 10, 1970, we have discussed with our Field Solicitor's office in Phoenix the progress which has been made in developing evidence to support the claim against the defendant for damages caused by its allegedly diverting water onto the Salt River Indian Reservation.

We are advised that in the past several weeks extensive work has been done by the Phoenix Area Office of the Bureau of Indian Affairs and the Field Solicitor's office to assist the United States Attorney's office in preparing this case for trial. It is our understanding that as a result of this work, the United States Attorney's office may now believe it has a case which it can try.

In view of the nature of this case we recommend that it proceed to trial even though chances for success may not seem as high as in the usual trespass action brought by the United States.

Future correspondence with this office concerning this case may be addressed to the Associate Solicitor, Indian Affairs, who is authorized to take any further action required of this Department in the litigation.

Sincerely yours,

Raymond C. Coulter

DEPUTY Solicitor

cc:

Secretary Files ✓

Solicitor Files

BIA (2) Attn: Real Prop. Mgmt. (w/c incom letter)

Regional Solicitor, Los Angeles (w/c incom. letter)

Field Solicitor, Phoenix, Ariz. (w/c incom. letter)

D.R. Barnes, A&L

Asst. Solicitor, A&L

Associate Solicitor, IA

D.R. Barnes: jh:4/3/70

Replied



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

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NOV 6 1969

Memorandum

To: Commissioner of Indian Affairs
Attention: Branch of Real Property Management

From: Assistant Solicitor, Appeals and Litigation

Subject: United States v. Tempe Equipment and Contracting Co.
(formerly Cyr and Evans Contracting Co.), No. CIV-69-317,
United States District Court Arizona

There are attached for your information copies of our memorandum of this date to the Field Solicitor, Phoenix, together with copies of the attachments thereto.

(Sgd.) Duard R. Barnes

Duard R. Barnes

Attachments

cc: Secretary's Files
Solicitor's Files
DRBarnes, A&L
Asst. Solicitor, A&L
Assoc. Solicitor, IA

DRBarnes:ekg 11-5-69



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

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OCT 10 1969

Your reference:
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90-2-10-462

Honorable Shiro Kashiwa
Assistant Attorney General
Land and Natural Resources Division
Department of Justice
Washington, D.C. 20530

IND
-Pima

Dear Mr. Kashiwa:

This replies to your letter of September 22 concerning the case entitled United States v. Tempe Equipment and Contracting Co. (formerly Cyr and Evans Contracting Co.), No. CIV-69-317, in the United States District Court for the District of Arizona.

We have conferred with representatives of the Bureau of Indian Affairs to determine if possible when the further evidence which has been requested from the Phoenix Area Office of the Bureau will be available. Although we are assured that the Bureau will be able to furnish sufficient evidence to maintain the burden of proof in this case, it appears it may still be some weeks before the field report is received. We have asked the Bureau to furnish the report to us as soon as possible and we will forward it to you upon its receipt.

Sincerely yours,

(Sgd.) Duard R. Barnes

Duard R. Barnes
Assistant Solicitor
Appeals and Litigation

- cc: Secretary's Files
- Solicitor's Files
- BIA (2), Attn: Real Prop. Mgmt., w/c incoming
- Regional Solicitor, Los Angeles, w/c incoming
- Field Solicitor, Phoenix, w/c incoming
- DRBarnes, A&L
- Asst. Solicitor, A&L
- Assoc. Solicitor, IA

DRBarnes:ekg 10-10-69

Listed



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON 25, D. C.

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Shapiro & K

[Handwritten signature]

AUG 18 1969

Honorable Shiro Kashiwa
Assistant Attorney General
Land and Natural Resources Division
Department of Justice
Washington, D.C. 20530

*IND.
- Pima*

Dear Mr. Kashiwa:

Your letter of August 8 requests our recommendation as to whether the case entitled United States v. Tempe Equipment and Contracting Company (formerly Cyr and Evans Contracting Co.), No. CIV-69-317, United States District Court for the District of Arizona, should proceed to trial.

We are consulting with the Bureau of Indian Affairs on this matter and will advise you of our views as soon as possible.

Sincerely yours,

Duard R. Barnes

Duard R. Barnes
Assistant Solicitor
Appeals and Litigation

- cc: Secretary's Files
Solicitor's Files
BIA (2) Attn: Real Prop. Mgmt.
LHShapiro, A&L
Asst. Sol., A&L
Assoc. Sol., IA

"Listed"

LHShapiro:ah:8/15/69

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UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON 25, D. C.

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Enc. no. 3/18

AUG 18 1969

Memorandum

To: Bureau of Indian Affairs
Attn: Real Property Management

From: Assistant Solicitor, Appeals and Litigation

Subject: United States v. Tempe Equipment and Contracting Company (formerly
Cyr and Evans Contracting Co.), No. CIV-69-317, United States
District Court for the District of Arizona

Attached is a copy of the complaint filed in the above action, as well as a copy of an August 8 letter from the Department of Justice requesting our recommendation as to whether the case should proceed to trial.

We understand your Phoenix Area Director is currently preparing to submit additional evidence. Please review this matter and furnish us with your comments and recommendations as soon as possible, so that we may advise the Department of Justice of our views on the necessity of a trial.

Duard R. Barnes
Duard R. Barnes

Attachments

- cc: Secretary's Files
- Solicitor's Files
- LHShapiro, A&L
- Asst.Sol., A&L
- Assoc.Sol., IA

LHShapiro:ah:8/15/69



UNITED STATES
DEPARTMENT OF THE INTERIOR

OFFICE OF THE SECRETARY INDIAN

WASHINGTON, D.C. 20540

Real Prop. Mgmt.

Acq. & Disp.

BCCO 8281

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MAY 22 1969

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| Tyler 5/2 |
| Commissioner |
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| Holley |

Dear Mr. Rhodes:

As indicated in our letter of March 7 to you in reference to correspondence from Mr. C. A. Carson III about the south boundary of the Salt River Indian Reservation, we enclose a copy of our letter of April 18 to Mr. Carson covering the same matter.

Please note that the Arizona Sand and Rock Company and others will have an opportunity to assert their interests and fully present evidence bearing on the controversy through a quiet title action which we expect to recommend be brought by the Department of Justice as soon as a survey of the south boundary is completed and approved.

Sincerely yours,

(Sgd.) Harrison Loesch

Assistant Secretary of the Interior

Hon. John J. Rhodes
House of Representatives
Washington, D. C. 20515

Enclosure

Secretary's Surname
Secretary's Reading File (2)
PLM
BIA Surname
Commissioner's Reading File
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Mailroom
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INTERIOR DEPT.

MAY - 5 1969

ASSISTANT
SECRETARY
P. L. M.

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SECRETARY'S
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UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

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| Shapno 3/27 |
| Barnes 3-27 |
| Whitely 3-28 |
| Chilton 4/4 |
| Glavin 4/4 |
| 4/18 |
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APR 18 1969

Dear Mr. Carson:

INTERIOR DEPT.
SECRETARY'S
MAIL CENTER

APR - 7 1969

LM

Your letter of February 19 requests an opportunity for your client, Arizona Sand and Rock Company, to submit material and arguments concerning the location of the south boundary of the Salt River Indian Reservation within Township 1 North, Range 5 East, Gila and Salt River Base Meridian, Maricopa County, Arizona, in light of the January 17 determination of former Under Secretary David S. Black that that boundary lies in the south channel of the Salt River.

IND
-Pima

APR - 8 1969

ASSISTANT
SECRETARY
B.L.M.

As you are aware, the January 17 determination was the second Departmental decision on the boundary question, the first being a memorandum opinion of the Bureau of Land Management approved by Assistant Secretary Carver on May 6, 1964. Prior to both decisions, Arizona Sand and Rock had been negotiating with the Salt River Pima-Maricopa Indian Community regarding the boundary issue, since the location of the boundary had a direct bearing upon certain of its mining claims. Those negotiations were, of course, carried on with the knowledge and consent of this Department; however they in no way precluded administrative action on the problem. As early as 1940, we had been asked to identify the boundary, and, in the ensuing years, took steps to do so. The January 17 determination was, in effect, merely the result of a Secretarial review of an earlier administrative decision, i.e., that of May 1964. Such decisions may be reopened and reviewed by the Secretary where deemed necessary. Lane v. United States ex rel. Mickadiet and Tiebault, 241 U.S. 201 (1916).

Under

As you were advised by Secretary Black, we expect to call upon the Department of Justice to commence actions to quiet title to the lands in controversy as soon as a survey of the boundary can be completed and approved. Such will furnish Arizona Sand and Rock, as well as other parties claiming interest in the affected land, with a forum in which to assert their interests and fully present evidence bearing thereon. Consequently, we do not believe it would be appropriate to entertain further arguments on the boundary question at this time.

FROM SOLICITOR

169

FOR SIGNATURE

INTERIOR DEPT.
SECRETARY'S
MAIL CENTER

APR - 9 1969

NO. 8000

S-31454

We were sorry to hear of your recent illness and trust you are enjoying a speedy recovery.

Sincerely yours,

(Sgd.) Harrison Loesch

Assistant Secretary of the Interior

Mr. C. A. Carson, III
Carson, Messinger, Elliott,
Laughlin & Ragan
1400 United Bank Building
3550 N. Central Avenue
Phoenix, Arizona 85012

cc: Secretary's Files
Secretary's Reading Files (2)
Mr. Arthur Lazarus (w/c inc.)
BIA Surname
Commissioner's Reading File
Area Director, Phoenix
Asst. Sec., PLM
BCCO
BIA Chrony
BIA Mailroom
BIA 300
BIA 352
D.E. Maynard, BIA
LH Shapiro, A&L, SOL.
Bureau of Land Management
DE Maynard: Hubley: lbr 3/10/69
Rewritten: LH Shapiro: 3/26/69: ah

UNDER SECRETARY
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DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

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| Shapiro 3/19 |
| Dalle 3/19/69 |
| Barnes 3-19 |
| Chilton 3/24 |
| Edwards 3/25 |
| For April 1969 |
| Pub. Land Regt. |
| Decco 3/25 |

**INTERIOR DEPT.
SECRETARY'S
MAIL CENTER**

MAR 24 1969

Dear Mr. Lazarus:

APR 4 - 1969

INTERIOR DEPT.

MAR 25 1969

**ASSISTANT
SECRETARY
P. L. M.**

I have read with interest your letter of March 12 to Representative John J. Rhodes concerning former Secretary Udall's approval on January 17 of Solicitor's Opinion No. M-36770, which dealt with the identification and reestablishment of the south boundary of the Salt River Indian Reservation.

Citing the concluding paragraphs of that opinion, you state that it reports that the Salt River Pima-Maricopa Indian Community has waived any interest it might have in lands to which the Arizona Sand and Rock Company has good title. An examination of the paragraphs concerned will indicate, however, that the waiver was described as applicable only to certain patents granted to private individuals. The waiver itself, contained in a resolution enacted on January 16, was specifically limited to lands covered by nine designated patents, none of which are held by Arizona Sand and Rock. As noted in the Solicitor's Opinion, the validity of the claims of persons other than those nine patentees will probably have to be judicially determined.

I thank you for furnishing me with a copy of your comments and trust the foregoing will eliminate any misunderstanding concerning the scope of the Indians' waiver.

Sincerely yours,

(Sgd.) Harrison Loesch

Assistant Secretary of the Interior

Mr. Arthur Lazarus, Jr.
Strasser, Spiegelberg, Fried,
Frank & Kampelman
1700 K Street, N.W.
Washington, D.C. 20006

- cc: Secretary's Surname
- Secretary's R. F. (2)
- Solicitor's Files
- BIA (2), Attn: B. King
- Filmore Carlos, President, Salt River Pima-Maricopa Indian Community Council, Scottsdale, Arizona 85251 (w/c inc. 1tr)
- LHShapiro, A&L
- Asst. Solicitor, A&L
- Assoc. Solicitor, IA
- LHShapiro:ekg 3-19-69

COPY FOR THE SECRETARY'S OFFICE

**FROM SOLICITOR
MAR 24 1969
FOR SIGNATURE**

IND - PIMA



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

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| Taliferos 2-13 |
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[Handwritten signature]

Honorable Glen E. Taylor
Acting Assistant Attorney General
Land and Natural Resources Division
Department of Justice
Washington, D.C. 20530

FEB 14 1969

Dear Mr. Taylor:

We enclose for your information two copies of a Solicitor's opinion, dated January 17, regarding the identification and reestablishment of the south boundary of the Salt River Indian Reservation. Also enclosed are copies of a memorandum of the same date from the Secretary of the Interior determining that the boundary is located in the south channel of the Salt River within T. 1 N., R. 5 E., G&SRM, Arizona.

IND
-Pima

In the near future, it will probably be necessary for us to request that you commence appropriate legal actions to obtain judicial determinations of the merits of claims asserted under the mining or other public land laws in the area involved.

Sincerely yours,

Richard E. Allen
Deputy Solicitor

2 Enclosures

- cc: Secretary's Files
- Solicitor's Files
- BIA (2), Attn: Br. of Real Property Mgmt.
- LHShapiro, A&L
- Asst. Solicitor, A&L
- Assoc. Solicitor, IA

LHShapiro:ekg 2-12-69

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