

MESCALERO INDIAN RESERVATION.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A communication from the Secretary of the Interior, submitting draft of a bill providing for the payment of improvements made by settlers on the lands of the Mescalero Indian Reservation, in the Territory of New Mexico.

MAY 6, 1886.—Referred to the Committee on Indian Affairs and ordered to be printed.

To the Senate and House of Representatives :

I transmit herewith a communication of 1st instant, from the Secretary of the Interior, submitting a draft of a bill recommended by the Commissioner of Indian Affairs, providing for the payment of improvements made by settlers on the lands of the Mescalero Indian Reservation, in the Territory of New Mexico.

The subject is presented for the consideration and action of Congress.

GROVER CLEVELAND.

EXECUTIVE MANSION, May 5, 1886.

DEPARTMENT OF THE INTERIOR,
Washington, May 4, 1886.

To the PRESIDENT :

I have the honor to submit herewith copy of a communication of the 29th March, 1886, from the Commissioner of Indian Affairs, in relation to the payment of the claims of certain white settlers for improvements made by them upon lands included within the boundaries of the Mescalero Apache Indian Reservation, in New Mexico.

The Commissioner reports that there are several white settlers occupying some very choice farming lands on the said reservation, who went upon said lands, it is believed, prior to the establishment of the reservation, which was created by an Executive order May 29, 1873; that these settlers have made valuable improvements on the lands, and on that account have been suffered to remain in undisturbed possession up to the present time.

A portion of the land thus occupied is required for the use of the Indians for agricultural purposes, being located in the vicinity of the

agency, and of fine quality, and they are reported by the agent as much disappointed at not getting possession of it.

It also appears that an appraisalment was made by a board of Army officers, appointed on recommendation of the Indian Office, of so much of the improvements of certain of the settlers as were located on the lands above mentioned as being required for use of the Indians, and the value of the same was reported as ascertained by said board to be \$5,069. A copy of the report of the board of appraisers is herewith inclosed.

The Commissioner recommends that these improvements be purchased from the settlers at their appraised value for the benefit of the Indians, for which purpose he has caused to be prepared in his office the draft of a bill which he requests may be presented to Congress for the action of that body.

The recommendation of the Commissioner has the concurrence of this Department.

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

L. Q. C. LAMAR,
Secretary.

H. L. M.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 29, 1886.

SIR: I have the honor to invite your attention to the following statement of facts relative to the Mescalero Indian Reservation, in New Mexico.

There are several white settlers occupying some very choice farming lands on said reservation, who went there, as is believed, prior to the establishment of the reservation. They have made valuable improvements on the lands, and on that account have been suffered to remain in undisturbed possession up to the present time.

With the disappearance of game in the country the Indians began to pay more attention to the cultivation of the soil, and it was found after the Jicarillas were removed from the northern part of the Territory and settled with them that there was barely enough land susceptible of irrigation on the entire reservation to meet their wants.

This being the condition of affairs, the agent, about two years ago, asked that a board of Army officers might be appointed to examine and appraise the value of the improvements owned by the white settlers on a portion of the lands occupied by them, with a view to securing them by purchase, so that the Indians could take possession and have the use of the lands.

Accordingly, upon the recommendation of this office, the War Department was asked to appoint a board of Army officers, to meet at the Mescalero Agency, and a board of three officers was in due time appointed and the appraisalment made.

Copies of the report of the proceedings of the Army board were transmitted to the Department by this office, January 17, 1885, together with a draft of an item intended for insertion in one of the appropriation bills, providing for the purchase of the improvements aforesaid.

No final action appears to have been reached thereon by Congress, and the matter rested there.

Under date of February 3, ultimo, the present agent at the Mescalero Agency called the subject up, stating, in substance, that the Indians were sorely disappointed in not getting possession of the lands in question, that they needed them very much, and felt aggrieved at the delay in bringing the matter about.

I have carefully considered the subject, and, in my judgment, the matter should be again presented to Congress.

The value of the improvements, as appraised by the Army board, is as follows:

Improvements of J. H. Blazer.....	\$1,237
Improvements of Z. Hedges.....	3,225
Improvements of David M. Easten.....	507
Total.....	5,069

The lands upon which these improvements are situated are on the Rio Tulerosa, in close proximity to the agency, and embrace about 200 acres. The soil is excellent, and there is but little land elsewhere in the vicinity of the agency that could be easily irrigated; and a like quantity could not be reclaimed anywhere on the reservation for the money required to purchase the improvements.

The lands do not belong to the occupants, and they have no legal title in the soil. Admitting that they may have settled on the lands before they were reserved for Indian purposes, they were not subject to entry at the date of such settlement; they could acquire no title, and certainly they could not after the lands were set apart for Indian purposes. (9 Wall., p. 187; *ib.*, 15, p. 77.)

The Mescalero Reservation was originally established by executive order of May 29, 1873, and although subsequent orders have changed the boundaries, either enlarging or reducing its area, the lands upon which the improvements in question are situated have not been affected thereby. They have been included in the reservation from the beginning.

It ought, perhaps, to be stated that the improvements it is intended to purchase do not include all the improvements on the reservation owned by settlers.

Dr. J. H. Blazer is the owner of a valuable saw-mill on the Rio Tulerosa, within the boundaries of the reservation. The mill was erected prior to the establishment of the reservation, and most of the lumber used in construction and repairs at Forts Davis and Bliss, in Texas, Forts Selden and Stanton, in New Mexico, and the Mescalero Agency, near which it stands, has been manufactured at this mill. The property was held by the owners to be worth not less than \$20,000 when the reservation was created, and they had about 300 acres of land in a high state of cultivation.

The mill has been in operation all along, and is running at the present time under permission of the Department contained in letter to this office dated March 26, 1884.

It is not the intention to purchase this mill, nor is it included in the appraisal made by the Army board. What is wanted is to get possession of about 200 acres of the land now occupied by the settlers, and in order to do that it is proposed to purchase all the improvements on the 200 acres lying nearest the agency—the tract wanted.

I have had prepared and herewith transmit a draft of a bill (in duplicate) authorizing the Secretary of the Interior to purchase the improvements herein referred to at their appraised value, and appropriating a

sufficient sum of money for that purpose, and I respectfully recommend that the same be transmitted to Congress for the action of that body.

Two copies of the appraisement are also inclosed, together with two copies of this report.

Very respectfully, your obedient servant,

J. D. C. ATKINS,
Commissioner.

The SECRETARY OF THE INTERIOR.

A BILL authorizing the Secretary of the Interior to purchase certain improvements belonging to white settlers on the Mescalero Indian Reservation, in New Mexico, and appropriating a sum of money therefor.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized to purchase certain improvements owned by J. H. Blazer, Z Hedges, and David M. Easten, respectively, within the Mescalero Indian Reservation, in New Mexico, at the appraised value thereof, as fixed by the board of Army officers appointed by Special Order No. 229, headquarters Department of the Missouri, dated November 28, 1884, and the sum of \$5,069 is hereby appropriated for the purpose, out of any money in the Treasury not otherwise appropriated.

Copy of indorsement of 5520, A. G. O., 1884, request from Interior Department that three officers of the Army located in military District of New Mexico be directed to proceed to Mescalero Indian Reservation and appraise the value of lands held by Dr. J. H. Blazer and Z. Hedges, and report thereon, with copy of proceedings of a board of officers convened by Special Order No. 229, headquarters Department of the Missouri, dated November 28, 1884, for that purpose.

[First indorsement.]

HEADQUARTERS OF THE ARMY, ADJUTANT-GENERAL'S OFFICE,
Washington, November 18, 1884.

Official copy respectfully referred, through headquarters Division of the Missouri, to the commanding general, Department of the Missouri, who will make a detail of suitable officers for the board herein requested, and report the action taken by him under these instructions to this office through the proper channels.

By command of Lieutenant-General Sheridan.

R. C. DRUM,
Adjutant-General.

[Second indorsement.]

HEADQUARTERS DIVISION OF THE MISSOURI,
ASSISTANT ADJUTANT-GENERAL'S OFFICE,
Chicago, November 24, 1884.

Respectfully transmitted to the commanding general, Department of the Missouri. By command of Major-General Schofield.

R. WILLIAMS,
Assistant Adjutant-General.

[Third indorsement.]

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
Fort Leavenworth, Kans., November 29, 1884.

Respectfully referred by the commanding general to Maj. J. J. Van Horn, Thirteenth Infantry, for the information of the board of officers appointed by par. 4, S. O. 229, C. S., these headquarters (copy inclosed).

This paper to be returned, through district New Mexico, with the report of the board.

J. P. MARTIN,
Assistant Adjutant-General.

[Fourth indorsement.]

FORT STANTON, N. MEX., *December 18, 1884.*

Respectfully returned, through headquarters District of New Mexico, Santa Fé, N. Mex., proceedings of the board herewith inclosed.

J. J. VAN HORN,
*Major Thirteenth Infantry, Commanding,
President of Board.*

Proceedings of a board of officers convened at South Fork, N. Mex. (Mescalero Indian Reservation in New Mexico), by virtue of the following order, viz:

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
FORT LEAVENWORTH, KANS., November 28, 1884.

[Special Orders No. 229.—Extract.]

IV. A board of officers, to consist of Maj. J. J. Van Horn, Thirteenth Infantry; Maj. H. S. Hawkins, Tenth Infantry; Capt. B. H. Rogers, Thirteenth Infantry, is appointed to meet at the Mescalero Indian Reservation, in New Mexico, at 10 a. m. on Thursday, the 11th proximo, or as soon thereafter as practicable, to examine into, appraise, and report upon the value of the improvements on certain farming lands held by Dr. J. H. Blazer and Z. Hedges, within said reservation.

The travel enjoined is necessary for the public service.

By order of Brigadier-General Augur.

J. P. MARTIN,
Assistant Adjutant-General.

SOUTH FORK, NEW MEXICO,
Mescalero Indian Reservation, December 12, 1884.

The board met pursuant to the foregoing orders at 10 o'clock a. m. Present all the members. The board then proceeded to examine the land held by Dr. J. H. Blazer, and which was pointed out by Indian Agent W. H. H. Llewellyn as the land which they desired to have turned over to the Indians with improvements.

The tract consisted of about 90 acres, 35 of which are now under cultivation. The board found that the following improvements have been made on the land, viz:

One mile of wire fence, cedar posts 15 feet apart, 3 wires, good condition; 1,122 yards of board fence, with cedar posts 6 feet apart, 2 boards, good condition; 1 acequia on south side of tract, 1,485 yards long, 5 feet wide, and 2 feet deep; 1 acequia on north side of tract, 750 yards long, 2 feet wide, and 1 foot deep; 1 acequia in center of tract, 759 yards long, 3 feet wide, and 1½ feet deep; several cross acequias, 330 yards in all in length, 3 feet wide, and 1 foot deep; 2 small adobe houses, 2 rooms each, old and in rather poor condition.

The board, after a careful examination of the improvements, noting condition, &c., appraised their value as follows:

1,760 yards of wire fence	\$163
1,122 yards of board fence	206
South acequia, 1,485 yards long, 5 by 2 feet	297
North acequia, 750 yards long, 2 by 1 foot	30
Center acequia, 759 yards long, 3 by 1½ feet	76
Cross acequias, 350 yards long, 3 by 1 foot	20
2 adobe houses, \$100 each	200
Breaking up and reclaiming 35 acres of land, at \$7 per acre	245

Total value of improvements..... 1,237

This land is a heavy marsh land, and has to be drained two or three years before it can be broken up. Part of it could not be broken with a plow on account of the heavy grass roots (Saccatone grass), and had to be grubbed with a hoe. Limestone formations had to be removed in various places, but where this was accomplished the land was most excellent for farming purposes, being inexhaustible in its richness.

The board then proceeded to examine the land held by Z. Hedges, and which was pointed out by Indian Agent W. H. H. Llewellyn as the land which they desired to have turned over to the Indians with improvements. The tract consisted of about 100 acres, all of which is under cultivation.

The board found that the following improvements have been made on the land, viz: 1 mile board fence, 3 boards, cedar posts every 5 feet; 1 quarter mile wire fence, 3 wires, cedar posts every 5 feet; 600 yards of cedar picket fence; 300 yards of log and brush fence; 700 feet of board-picket fence; 1 acequia on south side of tract, 1,760 yards long, 3 feet wide and 2 feet deep; 1 acequia on north side of tract, 1,760 yards long, 2 feet wide, and 1½ feet deep; 1 acequia on east side of tract, 440 yards

long, 2 feet wide, and $1\frac{1}{2}$ feet deep; 1 acequia in center of tract, 840 yards long, $1\frac{1}{2}$ feet wide, and 1 foot deep; 1 dwelling house, adobe, 28 feet by 35 feet; 1 small house, adobe, 14 feet by 24 feet; 2 root-houses, 1 stable with corrals, 1 chicken-house with inclosure.

The board, after a careful examination of the improvements, noting condition, &c., appraise their value as follows, viz:

1,760 yards of board fence	\$405
440 yards of wire fence	60
300 yards of log and brush fence	35
600 yards of cedar picket fence	210
700 feet of board picket fence	82
South side acequia, 1,760 yards, 3 feet by 2 feet	210
North side acequia, 1,760 yards, 2 feet by $1\frac{1}{2}$ feet	105
East side acequia, 440 yards, 2 feet by $1\frac{1}{2}$ feet	22
Center acequia, 840 yards, $1\frac{1}{2}$ feet by 1 foot	26
Breaking up and reclaiming 100 acres of land, at \$7	700
One dwelling house, adobe, 28 by 35; one small house, adobe, 14 by 24; two root houses, one stable and corrals, one chicken-house	1,470
Total value of improvements	3,325

The same remarks apply to this tract of land as to that of Dr. Blazer, before mentioned, as regards the breaking up and reclaiming.

The Indian agent, W. H. H. Llewellyn, then pointed out a tract of land held by David M. Easten of about 40 acres, of which about 25 is under cultivation. This tract Agent Llewellyn said was desired to be turned over to the Indians with improvements, but that he had forgotten to mention it in his letter to the Indian Commissioner.

The board having no orders to act upon this tract, at the request of Agent Llewellyn, thought it advisable to appraise the value of the improvements on said land. This tract joins onto the lower end of Hedges' land and extends to the west line of the Indian reservation. The board found the following improvements, viz, 874 yards of acequia, 3 feet by 2 feet; 738 yards of wire fence, 3 wires, cedar posts every 20 feet; 100 yards stake-and-rider fence; 501 yards board fence, 2 boards, cedar posts.

The board, after a careful examination of the improvements, noting condition, &c., appraises their value as follows, viz:

874 yards acequia, 3 feet by 2 feet	\$105
736 yards wire fence	99
100 yards stake-and-rider fence	15
501 yards of board fence	113
Breaking up and reclaiming 25 acres of land, at \$7 per acre	175
Total value of improvements	507

None of the land has been surveyed, and the board, in appraising amount of reclaimed land, has given a liberal interpretation to the estimates of the occupants.

There being no further business before it, the board then adjourned *sine die*.

J. J. VAN HORN, Major Thirteenth Infantry,
President.

H. S. HAWKINS, Major Tenth Infantry.

B. H. ROGERS, Captain Thirteenth Infantry,
Recorder.

[Fifth indorsement.]

HEADQUARTERS DISTRICT OF NEW MEXICO,
Santa Fé, N. Mex., December 22, 1884.

Respectfully forwarded to the adjutant-general Department of the Missouri.
In the absence and by order of Colonel Swaim,

JAMES FORNANCE,
First Lieutenant and Adjutant Thirteenth Infantry,
Acting Assistant Adjutant-General.

MESCALERO INDIAN RESERVATION.

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[Sixth indorsement.]

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
Fort Leavenworth, Kans., December 27, 1884.

Respectfully forwarded to the Adjutant-General of the Army (through headquarters Division of the Missouri), inviting attention to the report of the board inclosed to the fourth indorsement.

C. C. AUGUR,
Brigadier-General, Commanding.

[Seventh indorsement.]

HEADQUARTERS DIVISION OF THE MISSOURI,
Chicago, December 29, 1884.

Respectfully forwarded to the Adjutant-General of the Army.

J. M. SCHOFIELD,
Major-General, Commanding.

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