

RIGHT OF WAY TO THE CARSON AND COLORADO RAILROAD COMPANY THROUGH WALKER RIVER RESERVATION IN NEVADA.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

Communication from the Secretary of the Interior relative to right of way to Carson and Colorado Railroad Company through Walker River Reservation in Nevada.

DECEMBER 11, 1883.—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 the 3d instant from the Secretary of the Interior, with a draft of a bill "to accept and ratify an agreement made by the Pah-Ute Indians, and granting a right of way to the Carson and Colorado Railroad Company through the Walker River Reservation in Nevada," and accompanying papers in relation to the subject.

The matter is presented for the consideration of the Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, December 10, 1883.

DEPARTMENT OF THE INTERIOR,
Washington, December 3, 1883.

SIR: I have the honor to submit herewith for your consideration a draft of a bill prepared in the Office of Indian Affairs, "to accept and ratify an agreement made by the Pah-Ute Indians, and granting a right of way to the Carson and Colorado Railroad Company through the Walker River Reservation in Nevada," with a copy of letter of 23d of November, 1883, from the Commissioner of Indian Affairs, transmitting the same to the Department and copy of Senate Ex. Doc. No. 7, second session Forty-seventh Congress.

I respectfully recommend that the matter be presented for the consideration and action of the Congress.

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

H. M. TELLER,

Secretary.

The PRESIDENT.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, November 23, 1883.

SIR: I have the honor to submit herewith for transmission to Congress the draft (in duplicate) of a bill to accept and ratify an agreement made by the Pah-Ute Indians on the 9th of August, 1882, and granting a right of way to the Carson and Colorado Railroad Company through the Walker River Reservation in Nevada.

The history of this transaction will be found set out at length in my report to the Department of December 4, 1882, transmitting the draft of a similar bill for the action of the last Congress. (See S. Ex. Doc. No. 7, Forty-seventh Congress, second session, copy herewith.)

At the second session of the Forty-seventh Congress, Senate bill No. 2336, for this purpose, was reported to the Senate Committee on the Judiciary, but owing to the advanced stage of the session no final action was had upon it.

The draft of the bill now submitted is a duplicate of that reported by the committee.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

Hon. the SECRETARY OF THE INTERIOR.

[Senate Ex. Doc. No. 7, Forty-seventh Congress, second session.]

Message from the President of the United States, transmitting a communication from the Secretary of the Interior relating to an agreement made by the Pah-Ute Indians, and granting a right of way to the Carson and Colorado Railroad Company through the Walker River Reservation in Nevada.

DECEMBER 8, 1882.—Read and referred to the Committee on Indian Affairs and ordered to be printed.

To the Senate and House of Representatives:

I transmit herewith a communication from the Secretary of the Interior, with a draft of a bill and accompanying papers, to accept and ratify an agreement made by the Pah-Ute Indians, and granting a right of way to the Carson and Colorado Railroad Company through the Walker River Reservation in Nevada.

The subject is presented for the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, December 8, 1882.

DEPARTMENT OF THE INTERIOR,
Washington, December 6, 1882.

SIR: I have the honor to submit herewith, for your consideration, a draft of a bill prepared in the Office of Indian Affairs, "to accept and ratify an agreement made by the Pah-Ute Indians, and granting a right of way to the Carson and Colorado Railroad Company through the Walker River Reservation in Nevada," together with a copy of the letter of the Commissioner of Indian Affairs transmitting said draft of bill to the Department.

The measure has my approval, and I respectfully request that it may be transmitted for the consideration of Congress.

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

H. M. TELLER,
Secretary.

The PRESIDENT.

AGREEMENT MADE BY THE PAH-UTE INDIANS.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 4, 1882.

SIR: In compliance with the instructions contained in Department letter of the 21st ultimo, I have the honor to submit herewith the draft of a bill to confirm the agreement made with the Pah-Ute Indians on the 9th of August last, and to grant a right of way to the Carson and Colorado Railroad Company through the Walker River Reservation in Nevada.

In submitting this bill it may be convenient, for the information of Congress, to give a brief history of the proceedings anterior to the date of the agreement in question.

The Walker River Reservation is a tract of public land withdrawn from sale and set apart for the use of the Pah-Ute Indians by Executive order, dated March 19, 1874. The Indians are mere tenants at will, and possess no permanent rights in the reservation.

At a special counsel of the Pah-Utes, held on the Walker River Reserve April 13, 1880, said Indians resolved, in consideration of \$750 coin paid to their agent by D. O. Mills and associates, with the privilege of free transportation for themselves, their fish, game, &c., over the road, to grant to said Mills and associates a right of way through the Walker River Reserve for a line of railroad in accordance with a survey then in progress. Afterwards D. O. Mills and associates were incorporated under the laws of Nevada as the Carson and Colorado Railroad Company, with power to construct a railroad from the Mound House Station, on the line of the Virginia and Truckee Railroad, in the county of Lyon and State of Nevada, to Candalaria, in the county of Esmeralda and State aforesaid, and proofs of the due organization of said company were duly filed with and accepted by this Department.

January 5, 1881, the said railroad company filed in this Department, under the right-of-way act of March 3, 1875, a map showing the definite location of its line from the Mound House, in Section 31, Township 16 North, Range 21 East, to a point in the Northeast quarter Section 14, Township 8 North, Range 31 East, Monte Diablo Meridian, a distance of 106.882 miles, passing southwardly through the Walker River Reservation for a distance of 45 miles or thereabouts, which said map was duly approved and accepted by your predecessor in office January 29, 1881.

Pending approval by this Department of the action of the Indians in granting the right of way, the Carson and Colorado Railroad Company, believing that it had honestly and in good faith complied with all legal requirements, proceeded to construct its road upon the reservation, and the same has been completed and in active operation for some time past.

Section 5 of the right-of-way act of March 3, 1875 (18 Stats., 482), expressly excepting Indian reservations or other lands specially reserved from sale from the operation of the act, "unless such right of way shall be provided for by treaty stipulations or by act of Congress heretofore passed," and, no such provision being extant in the case of the Walker River Reservation (which, as before stated, was created by Executive order), it appeared to this office that the authority to grant a right of way through the reservation to the Carson and Colorado Railroad Company rested in Congress alone, and on the 19th October, 1881, the question was submitted to the Department for instructions.

By Department letter of March 13 last, this office was instructed to prepare and procure the execution, by the Pah-Ute Indians (with the approval of the Secretary of the Interior) and by the said railroad company, of a formal agreement for a right of way upon the basis of the terms contained in the resolution adopted by the Indians in council, hereinbefore referred to; also to procure a bond from the company in a sum sufficient to insure a compliance with the stipulations contained in such agreement on its part to be fulfilled and kept, and thereafter to prepare and present a draft of the legislation necessary to a ratification of the agreement by Congress.

In pursuance of these instructions the necessary agreement was prepared and executed by the chiefs, headmen, and heads of a majority of families of the Pah-Ute Indians occupying said reservation, and by the duly authorized officers of the railroad company, under its corporate seal, on the 9th day of August last. Under date of October 4 last the company also executed and delivered a bond, with two approved sureties, to the United States for the use and benefit of said Indians, in the penal sum of \$20,000, conditioned for the faithful performance of said agreement. Said agreement and bond, with maps of grounds required for station purposes, &c., were duly approved by you on the 21st ultimo. I have the honor, therefore, to recommend that the accompanying draft of a bill to ratify said agreement and to grant a right of way to said railroad company through the Walker River Reservation be transmitted to Congress for its action.

Duplicate copies of said bill and of this report are herewith inclosed.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

The Hon. the SECRETARY OF THE INTERIOR.

A BILL to accept and ratify an agreement made by the Pah-Ute Indians, and granting a right of way to the Carson and Colorado Railroad Company through the Walker River Reservation in Nevada.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a certain agreement now on file in the Department of the Interior, bearing date the 9th day of August, 1882, made between the Pah-Ute In-

dians, occupying the Walker River Reservation, in the State of Nevada, acting under the supervision and by and with the approval of the Secretary of the Interior, of the one part, and the Carson and Colorado Railroad Company, a corporation organized under the laws of the State of Nevada, of the other part, be, and the same is hereby, ratified and confirmed; and that a right of way, not exceeding 60 feet in width, through said reservation, with ground for stations, &c., according to the approved plans of route and survey now on file in the Department of the Interior, be, and the same is hereby, granted to the said Carson and Colorado Railroad Company, its successors and assigns. Said agreement is executed by the chiefs, headmen, and heads of a majority of families of the Pah-Ute tribe of Indians, resident upon said reservation, and by the said Carson and Colorado Railroad Company, under its corporate seal, and is in the words and figures following, that is to say:

"Whereas, by an Executive Order dated March 19, 1874, a certain reservation situate on Walker River, Nevada, as surveyed by Eugene Monroe, December, 1864, and indicated by red lines on the diagram thereof (on file in the office of Commissioner of Indian Affairs), in accordance with the fifteen courses and distances thereon given, was withdrawn from public sale or other disposition, and set apart for the use of the Pah-Ute Indians residing thereon;

"And whereas, at a special council of the Pah-Ute Indians held at the Walker River Reservation on the 13th day of April, 1880, it was resolved that in consideration of the sum of seven hundred and fifty dollars (\$750) in coin paid into the hands of the United States Indian agent, acting in behalf of said Indians, by D. O. Mills and associates, together with the privilege of free transportation of the persons, fish, game, &c., of said Indians over said railroad, said Indians grant forever unto said D. O. Mills and associates a right of way over and across the Walker River Reservation, for a line of railroad in accordance with a survey then being made and to be made by said D. O. Mills and associates;

"And whereas the said D. O. Mills and associates have since been incorporated under the laws of the State of Nevada, under the name and title of the Carson and Colorado Railroad Company, with power to construct a railroad from the Mound House Station, on the line of the Virginia and Truckee Railroad, in the county of Lyon and State of Nevada, to Candalaria, in the county of Esmeralda, and State aforesaid, and proofs of the due organization of said company have been duly filed with and accepted by the Department of the Interior;

"And whereas the said Carson and Colorado Railroad Company, some time since, applied to the Secretary of the Interior for authority to continue the work of construction of said railroad over and through the Walker River Reservation, and did, on the 5th day of January, 1881, file in said Department a map showing the definite location of its line of road from the Mound House, in Section 31, Township 16 North, Range 21 East, to a point in the Northeast quarter of Section 14, Township 8 North, Range 31 East, Monte Diablo Meridian, a distance of 106.882 miles, passing southwardly through said reservation for a distance of forty-five (45) miles or thereabouts, which said map was duly approved and accepted by the Secretary of the Interior, on the 29th day of January, 1881;

"And whereas, pending approval by the Secretary of the Interior of the action of said Indians, the said Carson and Colorado Railroad Company, believing that it had honestly and in good faith complied with all legal requirements, proceeded to construct its road through said reservation, and the same is now completed and in active operation:

"Now, therefore, for the purpose of carrying into effect said resolution of the Indians, and for the more effectually securing and confirming to the said Carson and Colorado Railroad Company a right of way through said reservation,

"This agreement, made this 9th day of August, A. D. 1862, by and between the chiefs, headmen, and heads of a majority of families of the Pah-Ute tribe of Indians, occupying the Walker River Reservation, in the State of Nevada, acting under the supervision and by and with the approval of the Secretary of the Interior, of the one part, and the Carson and Colorado Railroad Company, a corporation of the State of Nevada, of the other part, witnesseth as follows:

"That for and in consideration of the sum of seven hundred and fifty dollars coin (\$750), paid by the Carson and Colorado Railroad Company to the United States Indian agent for the use and benefit of said Indians, parties hereto (the receipt whereof is hereby acknowledged), they, the said Indians, do hereby grant unto the said Carson and Colorado Railroad Company, its successors and assigns, the right to use and occupy a strip of land not exceeding sixty feet (60) in width on the main line of road as now constructed by the said Carson and Colorado Railroad Company extending over and across the Walker River Reservation, in Nevada, as the same is more particularly delineated upon the map of definite location hereinbefore referred to, an official copy whereof, marked with the letter A, is now produced and shown said Indians, and is intended to form a part of this agreement, said strip of land to be used by said Carson and Colorado Railroad Company as a right of way and road-bed, and for no other purpose.

"And for the considerations aforesaid, the said Indians do hereby further grant unto the said Carson and Colorado Railroad Company, their successors and assigns, the right to use and occupy for the purposes of section house, stations, siding, water tanks, &c., the several plots or parcels of land situate along and adjoining the said right of way as the same are delineated upon the four (4) several official plats thereof, marked respectively with the letters B, C, D, E, now produced and shown to said Indians and intended also to form a part of this agreement, said plots of land containing, respectively, the following areas, that is to say—

	Acres.
"(B) Rio Vista	22.956
"(C) Schurz	3.445
"(D) Gillis	22.956
"(E) Sunrise	22.956

"And the said Carson and Colorado Railroad Company agrees that it will at all times hereafter so long as the right of way and lands the use and occupancy whereof is hereby granted shall be included within the boundaries of the Walker River Reservation, furnish the Indians resident thereon with free transportation for themselves, their fish, game, and products to and from all points on the road operated by said company.

"Also, that it will at all times hereafter during the continuance of the Walker River Reservation for Indian purposes transport all Government supplies destined for the Walker River Agency, to an extent not exceeding two thousand (2,000) pounds in each year, over said road free of charge to the United States.

"Also, that it will promptly pay to the person or persons entitled thereto all losses and damages which they, the said Indians, individually or in their tribal capacity, or any other Indians lawfully occupying said reservation, may sustain by reason of the killing or maiming of their stock by the trains of said railroad company, through fires started by locomotives or other agency of said company, or in any other manner by reason of the operation of said railroad upon the reservation; such losses or damages, in case the parties in interest fail to agree between themselves, to be ascertained and appraised by a board of arbitrators, composed of the United States agent for said Indians for the time being, the superintendent of said railroad company, and a third person to be mutually selected by them, and who shall be paid by said company; the decision of said arbitrators or any two of them, when approved by the Commissioner of Indian Affairs, to be conclusive and binding in the premises.

"And the said Carson and Colorado Railroad Company further agrees that it will not at any time give any license, permission, or countenance to any person to keep, sell, barter, dispose of, or give away any spirituous, vinous, fermented, or intoxicating liquors of any kind, or any of its right-of-way or station grounds within the boundaries of said reservation; but, on the contrary, will use its influence and authority to prevent any such use or traffic in any of said liquors. And further, that it will at all times observe, aid, and assist in the enforcement of the Indian intercourse laws, and the rules and regulations prescribed or to be prescribed from time to time by the Secretary of the Interior for the benefit and protection of said Indians.

"The said company further agrees that it will immediately upon the execution of this agreement make and execute unto the United States, for the use of said Indians, a bond with two good and sufficient sureties to be approved by the Secretary of the Interior, in the penal sum of twenty thousand dollars (\$20,000), conditioned for the faithful performance of the several covenants, conditions, agreements, and stipulations contained in this agreement, and which on the part of said railroad company should be performed and fulfilled.

"And the said Indians, parties hereto, promise and agree that they will at all times protect the said Carson and Colorado Railroad Company and its employes and property in the peaceful construction, repair, and operation of said railroad through the Walker River Reservation.

"It is agreed and understood that the foregoing grants, stipulations, and agreements shall include and be binding upon the successor and assigns of the said railroad company as fully as though previously named herein.

"This agreement is made subject to final ratification thereof by Congress."

SEC. 2. That whenever the lands the use and occupancy whereof is hereby granted shall cease to be used for the purposes of the said railroad company, its successors or assigns, the same shall revert to the United States.

A BILL to accept and ratify an agreement made by the Pah-Ute Indians, and granting a right of way to the Carson and Colorado Railroad Company through the Walker River Reservation, in Nevada.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a certain agreement now on file in the Department of the Interior, bearing date the ninth day of August, eighteen hundred and eighty-two,

made between the Pah-Ute Indians, occupying the Walker River Reservation in the State of Nevada, acting under the supervision and by and with the approval of the Secretary of the Interior, of the one part, and the Carson and Colorado Railroad Company, a corporation organized under the laws of the State of Nevada, of the other part, be, and the same is hereby, ratified and confirmed; and that a right of way, not exceeding sixty feet in width, through said reservation, with ground for stations, and so forth, according to the approved plans of route and survey now on file in the Department of the Interior, be, and the same is hereby, granted to the said Carson and Colorado Railroad Company, its successors and assigns. Said agreement is executed by the chiefs, headmen, and heads of a majority of families of the Pah-Ute tribe of Indians resident upon said reservation, and by the said Carson and Colorado Railroad Company, under its corporate seal, and is in the words and figures following, that is to say:

"Whereas by an Executive order dated March 19, 1874, a certain reservation situate on Walker River, Nevada, as surveyed by Eugene Monroe, December, 1864, and indicated by red lines on the diagram thereof (on file in the office of Commissioner of Indian Affairs), in accordance with the fifteen courses and distances thereon given, was withdrawn from public sale or other disposition, and set apart for the use of the Pah-Ute Indians residing thereon;

"And whereas, at a special council of the Pah-Ute Indians held at the Walker River Reservation on the 13th day of April, 1880, it was resolved that in consideration of the sum of seven hundred and fifty dollars in coin paid into the hands of the United States Indian agent, acting in behalf of said Indians, by D. O. Mills and associates, together with the privilege of free transportation of the persons, fish, game, &c., of said Indians over said railroad, said Indians grant forever unto said D. O. Mills and associates a right of way over and across the Walker River Reservation for a line of railroad in accordance with a survey then being made and to be made by D. O. Mills and associates.

"And whereas the said D. O. Mills and associates have since been incorporated under the laws of the State of Nevada under the name and title of the Carson and Colorado Railroad Company, with power to construct a railroad from the Mound House station, on the line of the Virginia and Truckee Railroad, in the county of Lyon and State of Nevada, to Candalaria, in the county of Esmeralda and State aforesaid, and proofs of the due organization of said company have been duly filed with and accepted by the Department of the Interior;

"And whereas the said Carson and Colorado Railroad Company, some time since, applied to the Secretary of the Interior for authority to continue the work of construction of said railroad over and through the Walker River Reservation, and did on the fifth day of January, 1881, file in said Department a map showing the definite location of its line of road from the Mound House, in Section 31, Township 16 North, Range 21 East, to a point in the NE. $\frac{1}{4}$ of Section 14, Township 8 North, Range 31 East, Monte Diablo meridian, a distance of 106.882 miles, passing southwardly through said reservation for a distance of forty-five miles or thereabouts, which said map was duly approved and accepted by the Secretary of the Interior on the 29th day of January, 1881;

"And whereas, pending approval by the Secretary of the Interior of the action of said Indians, the said Carson and Colorado Railroad Company, believing that it had honestly and in good faith complied with all legal requirements, proceeded to construct its road through said reservation, and the same is now completed and in active operation:

"Now, therefore, for the purpose of carrying into effect said resolution of the Indians, and for the more effectually securing and confirming to the said Carson and Colorado Railroad Company a right of way through said reservation—

"This agreement, made this ninth day of August, A. D. 1882, by and between the chiefs, headmen, and heads of a majority of families of the Pah-Ute tribe of Indians, occupying the Walker River Reservation, in the State of Nevada, acting under the supervision and by and with the approval of the Secretary of the Interior, of the one part, and the Carson and Colorado Railroad Company, a corporation of the State of Nevada, of the other part, witnesseth as follows:

"That for and in consideration of the sum of seven hundred and fifty-dollars coin, paid by the Carson and Colorado Railroad Company to the United States Indian agent, for the use and benefit of said Indians, parties hereto (the receipt whereof is hereby acknowledged, they, the said Indians, do hereby grant unto the said Carson and Colorado Railroad Company, its successors and assigns, the right to use and occupy a strip of land, not exceeding sixty feet in width, on the main line of road as now constructed by the said Carson and Colorado Railroad Company, extending over and across the Walker River Reservation in Nevada, as the same is more particularly delineated upon the map of definite location hereinbefore referred to, an official copy whereof, marked with the letter A, is now produced and shown said Indians, and is intended, to form a part of this agreement, said strip of land to be used by said Carson and Colorado Railroad Company as a right of way and road-bed and for no other purpose.

"And for the considerations aforesaid, the said Indians do hereby further grant unto the said Carson and Colorado Railroad Company, their successors and assigns, the right to use and occupy for the purposes of section-house, stations, siding, water-tanks, &c., the several plots or parcels of land situate along and adjoining the said right of way as the same are delineated upon the four several official plats thereof, marked respectively with the letters B, C, D, E, now produced and shown to said Indians and intended also to form a part of this agreement, said plots of land containing, respectively, the following areas, that is to say:

"(B) Rio Vista, 22,956 acres.

"(C) Schurz, 3,445 acres.

"(D) Gillis, 22,956 acres.

"(E) Sunrise, 22,956 acres.

"And the said Carson and Colorado Railroad Company agrees that it will at all times hereafter, so long as the right of way and land the use and occupancy whereof is hereby granted shall be included within the boundaries of the Walker River Reservation, furnish the Indians resident thereon with free transportation for themselves, their fish, game, and products to and from all points on the road operated by said company.

"Also, that it will at all times hereafter, during the continuance of the Walker River Reservation for Indian purposes, transport all Government supplies destined for the Walker River agency, to an extent not exceeding two thousand pounds in each year, over said road free of charge to the United States.

"Also, that it will promptly pay to the person or persons entitled thereto all losses and damages which they, the said Indians, individually, or in their tribal capacity, or any other Indians lawfully occupying said reservation, may sustain by reason of the killing or maiming of their stock by the trains of said railroad company, through fires started by locomotives or other agency of said company, or in any other manner by reason of the operation of said railroad upon the reservation; such loss or damages, in case the parties in interest fail to agree between themselves, to be ascertained and appraised by a board of arbitrators, composed of the United States agent for said Indians for the time being, the superintendent of said railroad company, and a third person to be mutually selected by them, and who shall be paid by said company; the decision of said arbitrators, or any two of them, when approved by the Commissioner of Indian Affairs to be conclusive and binding in the premises.

"And the said Carson and Colorado Railroad Company further agrees that it will not at any time give any license, permission, or countenance to any person to keep, sell, barter, dispose of, or give away any spirituous, vinous, fermented, or intoxicating liquors of any kind on any of its right-of-way or station grounds within the boundaries of said reservation; but, on the contrary, will use its influence and authority to prevent any such use or traffic in any of said liquors. And further, that it will at all times observe, aid, and assist in the enforcement of the Indian intercourse laws, and the rules and regulations prescribed or to be prescribed from time to time by the Secretary of the Interior for the benefit and protection of said Indians.

"The said company further agrees that it will immediately upon the execution of this agreement make and execute unto the United States, for the use of said Indians, a bond with two good and sufficient sureties, to be approved by the Secretary of the Interior, in the penal sum of twenty thousand dollars, conditioned for the faithful performance of the several covenants, conditions, agreements, and stipulations contained in this agreement, and which, on the part of said railroad company, should be performed and fulfilled.

"And the said Indians, parties hereto, promise and agree that they will at all times protect the said Carson and Colorado Railroad Company and its employes and property in the peaceful construction, repair, and operation of said railroad through the Walker River Reservation.

"It is agreed and understood that the foregoing grants, stipulations, and agreements shall include and be binding upon the successors and assigns of the said railroad company as fully as though previously named herein.

"This agreement is made subject to final ratification thereof by Congress."

SEC. 2. That whenever the lands, the use and occupancy whereof is hereby granted, shall cease to be used for the purposes of the said railroad company, its successors or assigns, the same shall revert to the United States.