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Sen. Chas Vincent
Chair WPIC
By email

26 February 2014

Re: WPIC, March 18, 2014—Proposed CSKT Compact—claims to FIP
Water

Dear Senator Vincent:

Enclosed with this letter are copies of a few seminal documents that illustrate some of the historical legal foundation of fee-land irrigators' claims to own property rights in the water delivered by the Flathead Irrigation Project. These documents are by no means all that provide the foundation for our claims, but I think they will indicate to any reasonable reader that irrigators clearly have solid legal claims to water rights that, under the proposed CSKT Compact, are not protected or respected. Hence, I offer these as a basis for the WPIC's consideration of the points I made in January and those I will make on March 18, as part of my representation of the Flathead Irrigation District (FID), to the effect that certain changes should be made to the proposed Compact so as to both protect these property rights and other rights of individuals who would be directly affected by the Compact and garner broad public support for a Compact.

By providing the committee these documents, FID is obviously not asking that you stand in judgment of its or any stakeholder's legal rights, as if WPIC were a court. Rather, our goal is more limited: simply to illustrate that, in fact, there are two sides to this story, and the irrigators from whom you have heard do, in fact, have sound historical and legal reasons to assert that they or their irrigation representative—the districts—own the water right to irrigation water delivered by the Project, not the Tribes, as is

provided in the proposed Compact. In addition, I have to emphasize the complexity of the legal background, without detracting from the fact, for I believe it is a fact, that the irrigators themselves own the primary property right in the irrigation water. Thus, these documents do not represent the entire universe of applicable statutes, nor do they indicate all the non-frivolous legal theories that exist in support of irrigators' property rights in this water. But they do, I think, indicate irrefutably that irrigators' claims should not be dismissed out of hand, as if they have no footing in the law. Indeed, if anything, the applicable law, viewed objectively, supports the opposite conclusion.

By way of background, and emphasis, I want also to reiterate that the FID is in support of a negotiated settlement that respects the property rights of all involved. The three concerns the FID relayed to the State, United States, and Tribes in September 2013, if addressed in amendments to the proposed Compact, could accomplish this. If the Compact cannot be amended to do this, the FID is opposed to its passage. The FID simply cannot support an agreement between the CSKT and the State that solves their issues and accomplishes their goals by taking rights, including property rights, away from others.

I must also reiterate that the FID, an elected local government under Montana law, is the representative for irrigation matters of the fee owners of 88,000 of the 107,000 fee acres served by the Flathead Project. As such, and in complete contrast to what may have been said or implied to you, the FID represents tribal members and nonmembers alike, equally. As Congress mandated in the Act of May 10, 1926, 44 Stat. 464, the Districts represent all fee landowners, tribal members and nonmembers, without distinction among them.

The documents I submit, with pertinent highlights, are:

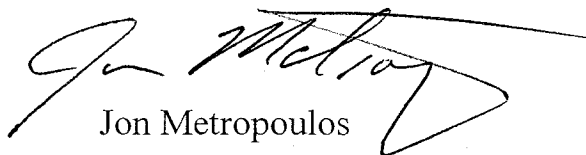
1. A copy of the Flathead Allotment Act (FAA), the Act of April 23, 1904, 33 Stat. 302, which among other things, clearly applied the general Homestead Act to the surplus or unallotted land remaining after allotments were made to tribal members.
2. A copy of the amendment to the FAA Congress enacted in 1908 authorizing the construction of the Flathead Irrigation Project, Act of May 29, 1908, 35 Stat. 448.

3. A copy of a trust patent, indicating an allotment made to a tribal member in 1908 and a fee patent for that same land issued in 1917, demonstrating a documentary basis for an allotment on which successors in interest, today, claim a property interest in water rights for irrigation water delivered by FIP.
4. A copy of a fee patent for surplus, unallotted land also delivered irrigation water by FIP demonstrating a documentary basis for surplus, unallotted land on which successors in interest, today, claim a property interest in water rights for irrigation water delivered by FIP.
5. A copy of three pages from a National Park Service Website that provides basic statistics about homesteading under the Homestead Act generally, and, specifically, showing that approximately 1/3 of Montana, more than 32 million acres, was homesteaded under the same law Congress applied to the Flathead Reservation in the FAA and pursuant to which tens of thousands of acres are now owned in fee and irrigated by FIP water on the Reservation.

Finally, I want to assure you, Mr. Chairman, and the members WPIC, that I have not forgotten the commitment I made to you, and the opportunity you provided me, to submit a written response to the Compact Commission's Report. While I have devoted many hours to that task, its completion has been delayed through the litigation burdens I mentioned in January and other developments in regard to Project operations. I will submit it as soon as possible, and it will be comprehensive. Again, thank you for that opportunity.

Thank you also for your hard work and leadership on this complex issue. I look forward to presenting more information, and to answering questions, on March 18, when the WPIC meets next.

Respectfully,



Jon Metropoulos

FLATHEAD INDIAN RESERVATION.

AN ACT For the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment.

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, directed to immediately cause to be surveyed all of the Flathead Indian Reservation, situated within the State of Montana, the same being particularly described and set forth in article two of a certain treaty entered into by and between Isaac H. Stevens, governor and superintendent of Indian affairs for the Territory of Washington, on the part of the United States, and the chiefs, headmen, and delegates of the confederated tribes of the Flathead, Kootenai, and Upper Pend d'Oreille Indians, on the sixteenth day of July, eighteen hundred and fifty-five.

SEC. 2. That so soon as all of the lands embraced within said Flathead Indian Reservation shall have been surveyed, the Commissioner of Indian Affairs shall cause allotments of the same to be made to all persons having tribal rights with said confederated tribes of Flatheads, Kootenais, Upper Pend d'Oreille, and such other Indians and persons holding tribal relations as may rightfully belong on said Flathead Indian Reservation, including the Lower Pend d'Oreille or Kalispel Indians now on the reservation, under the provisions of the allotment laws of the United States.

SEC. 3. That upon the final completion of said allotments to said Indians, the President of the United States shall appoint a commission consisting of five persons to inspect, appraise, and value all of the said lands that shall not have been allotted in severalty to said Indians, the said persons so constituting said commission to be as follows: Two of said commissioners so named by the President shall be two persons now holding tribal relations with said Indians—the same may be designated to the President by the chiefs and headmen of said confederated tribes of Indians, two of said commissioners shall be resident citizens of the State of Montana, and one of said commissioners shall be a United States special Indian agent or Indian inspector of the Interior Department.

SEC. 4. That within thirty days after their appointment said commission shall meet at some point within the boundaries of said Flathead Indian Reservation and organize by the election of one of their number as chairman. Said commission is hereby empowered to select a clerk at a salary not to exceed seven dollars per day.

SEC. 5. That said commissioners shall then proceed to personally inspect and classify and appraise, by the smallest legal subdivisions of forty acres each, all of the remaining lands embraced within said reservation. In making such classification and appraisal said lands shall be divided into the following classes: First, agricultural land of the first class; second, agricultural land of the second class; third, timber lands, the same to be lands more valuable for their timber than for any other purpose; fourth, mineral lands; and fifth, grazing lands.

Flathead Indian
Reservation, Mont.
Allotment and sale
of lands in.
Vol. 12, p. 975.

Allotments.

Commission to ap-
praise unallotted
lands.

Composition of.

Organization of
commission.

Clerk.
Classification, etc.,
of lands.

ACTS RELATING TO FLATHEAD INDIAN RESERVATION.

Timber lands.

SEC. 6. That said commission shall in their report of lands of the third class determine as nearly as possible the amount of standing saw timber on legal subdivisions thereof and fix a minimum price for the value thereof, and in determining the amount of merchantable timber growing thereon they shall be empowered to employ a timber cruiser, at a salary of not more than eight dollars per day while so actually employed, with such assistants as may be necessary, at a salary not to exceed six dollars per day while so actually employed. Mineral lands shall not be appraised as to value.

Mineral lands.
Compensation.

SEC. 7. That said commissioners, excepting said special agent and inspector of the Interior Department, shall be paid a salary of not to exceed ten dollars per day each while actually employed in the inspection and classification of said lands; such inspection and classification to be fully completed within one year from date of the organization of said commission.

Time limit.

Disposal of lands.

SEC. 8. That when said commission shall have completed the classification and appraisement of all of said lands and the same shall have been approved by the Secretary of the Interior, the land shall be disposed of under the general provisions of the homestead, mineral, and town-site laws of the United States, except such of said lands as shall have been classified as timber lands, and excepting sections sixteen and thirty-six of each township, which are hereby

Timber and school lands excepted.

Selection of school lands in lieu of lands formerly allotted.

granted to the State of Montana for school purposes. And in case either of said sections or parts thereof is lost to the said State of Montana by reason of allotments thereof to any Indian or Indians now holding the same, or otherwise, the governor of said State, with the approval of the Secretary of the Interior, is hereby authorized, in the tract under consideration, to locate other lands not occupied, not exceeding two sections in any one township, and such selections shall be made prior to the opening of such lands to settlement: *Provided*, That the United States shall pay to said Indians for the lands in said sections sixteen and thirty-six, or the lands selected in lieu thereof, the sum of one dollar and twenty-five cents per acre.

Proviso.
Price to be paid Indians.

Opening to settlement.

SEC. 9. That said lands shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the time when and the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish wars, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes, as amended by the act of March first, nineteen hundred and one, shall not be abridged: *Provided further*, That the price of said lands shall be the appraised value thereof, as fixed by the said commission, but settlers under the homestead law who shall reside upon and cultivate the land entered in good faith for the period required by existing law shall pay one-third of the appraised value in cash at the time of entry, and the remainder in five equal annual installments to be paid one, two, three, four, and five years, respectively, from and after the date of entry, and shall be entitled to a patent for the lands so entered upon the payment to the local land officers of said five annual payments, and in addition thereto the same fees and commissions at the time of commutation or final entry as now provided by law where the price of the land is one dollar and twenty-five cents per acre, and no other and further charge of any kind whatsoever shall be required of such settler to entitle him to a patent for the land covered by his entry: *Provided*, That if any entryman fails to make such payments, or any of them, within the time stated, all rights in and to the land

Provisos.
Existing rights of soldiers and sailors unimpaired.
Vol. 31, p. 847.
R. S., secs. 2204, 2205, p. 422.

Payments.

Patent.

Forfeiture funds.



covered by his or her entry shall at once cease, and any payments theretofore made shall be forfeited, and the entry shall be forfeited and canceled: *And provided*, That nothing in this act shall prevent homestead settlers from commuting their entries under section twenty-three hundred and one, Revised Statutes, by paying for the land entered the price fixed by said commission, receiving credit for payments previously made.

Right to commute entries not affected. R. S., sec. 2301, p. 421.

Sec. 10. That only mineral entry may be made on such of said lands as said commission shall designate and classify as mineral under the general provisions of the mining laws of the United States, and mineral entry may also be made on any of said lands whether designated by said commission as mineral lands or otherwise, such classification by said commission being only prima facie evidence of the mineral or nonmineral character of the same: *Provided*, That no such mineral locations shall be permitted upon any lands allotted in severalty to an Indian.

Mineral-land entries.

Proviso. Exceptions.

Sec. 11. That all of said lands returned and classified by said commission as timber lands shall be sold and disposed of by the Secretary of the Interior under sealed bids to the highest bidder for cash or at public auction, as the Secretary of the Interior may determine, under such rules and regulations as he may prescribe.

Sale of timber lands.

Sec. 12. That the President may reserve and except from said lands not to exceed nine hundred and sixty acres for Catholic mission schools, church, and hospital and such other eleemosynary institutions as may now be maintained by the Catholic Church on said reservation, which lands are hereby granted to those religious organizations of the Catholic Church now occupying the same, known as the Society of Jesus, the Sisters of Charity of Providence, and the Ursuline Nuns, the said lands to be granted in the following amounts, namely, to the Society of Jesus, six hundred and forty acres, to the Sisters of Charity of Providence, one hundred and sixty acres, and to the Ursuline Nuns, one hundred and sixty acres, such lands to be reserved and granted for the uses indicated only so long as the same are maintained and occupied by said organizations for the purposes indicated. The President is also authorized to reserve lands upon the same conditions and for similar purposes for any other missionary or religious societies that may make application therefor within one year after the passage of this act, in such quantity as he may deem proper. The President may also reserve such of said lands as may be convenient or necessary for the occupation and maintenance of any and all agency buildings, substations, mills, and other governmental institutions now in use on said reservation or which may be used or occupied by the Government of the United States.

Reservations. For Catholic religious organizations. Post, p. 1680.

For other religious organizations.

For agency, etc., buildings.

Sec. 13. That all of said lands classified as agricultural lands of the first class and agricultural lands of the second class and grazing lands that shall be opened to settlement under this act remaining undisposed of at the expiration of five years from the taking effect of this act shall be sold and disposed of to the highest bidder for cash, under rules and regulations to be prescribed by the Secretary of the Interior, at not less than their appraised value, and in tracts not to exceed six hundred and forty acres to any one person.

Sale of undisposed lands.

Maximum.

Sec. 14. That the proceeds received from the sale of said lands in conformity with this act shall be paid into the Treasury of the United States, and after deducting the expenses of the commission, of classification and sale of lands, and such other incidental expenses as shall have been necessarily incurred, and expenses of the survey of the lands, shall be expended or paid, as follows: One-half shall be expended from time to time by the Secretary of the Interior as he may deem advisable for the benefit of the said Indians and such persons having tribal rights on the reservation, including the Lower

Disposal of proceeds.

Pend d'Oreille or Kalispel thereon at the time that this act shall take effect, in the construction of irrigation ditches, the purchase of stock cattle, farming implements, or other necessary articles to aid the Indians in farming and stock raising, and in the education and civilization of said Indians, and the remaining half to be paid to the said Indians and such persons having tribal rights on the reservation, including the Lower Pend d'Oreille or Kalispel thereon at the date of the proclamation provided for in section nine hereof, or expended on their account, as they may elect.

Ante, p. 304.

Payment for
lands reserved.
Appropriation.

Sec. 15. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of one hundred thousand dollars, or so much thereof as may be necessary, to pay for the lands granted to the State of Montana and for lands reserved for agency, school, and mission purposes, as provided in sections eight and twelve of this act, at the rate of one dollar and twenty-five cents per acre; also the sum of seventy-five thousand dollars, or so much thereof as may be necessary, the same to be reimbursable out of the funds arising from the sale of said lands to enable the Secretary of the Interior to survey the lands of said reservation as provided in section one of this act.

Ante, pp. 303, 304.

Reimbursement.

Ante, p. 302.

Liability of the
United States lim-
ited.

Sec. 16. That nothing in this act contained shall in any manner bind the United States to purchase any portion of the land herein described, except sections sixteen and thirty-six, or the equivalent, in each township, and the reserved tracts mentioned in section twelve, or to dispose of said land except as provided herein, or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of said lands and to expend and pay over the proceeds received from the sale thereof only as received.

Approved, April 23, 1904. (33 Stat. L., p. 302.)

AN ACT Making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and six, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * *

SEC. 9. That section twelve, chapter fourteen hundred and ninety-five, Statutes of the United States of America, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," be, and the same is hereby, amended so as to read as follows:

Land for Catholic
mission schools, etc.
Ante, p. 304,
amended.

"SEC. 12. That the President may reserve and except from said lands not to exceed one thousand two hundred and eighty acres for Catholic mission schools, church, and hospital, and such other eleemosynary institutions as may now be maintained by the Catholic Church on said reservation, which lands are hereby granted to those religious organizations of the Catholic Church now occupying the same, known as the Society of Jesus, the Sisters of Charity of Providence, and the Ursuline Nuns, the said lands to be granted in the following amounts, namely: To the Society of Jesus, six hundred and forty acres; to the Sisters of Charity of Providence, three hundred and twenty acres; and to the Ursuline Nuns, three hundred and twenty acres, such lands to be reserved and granted for the uses indicated only so long as the same are maintained, used, and occupied by

National Bison
Range, Mont.

NATIONAL BISON RANGE: The President is hereby directed to reserve and except from the unallotted lands now embraced within the Flathead Indian Reservation, in the State of Montana, not to exceed twelve thousand eight hundred acres of said lands, near the confluence of the Pend d'Oreille and Jocko rivers, for a permanent national bison range for the herd of bison to be presented by the American Bison Society. And there is hereby appropriated the sum of thirty thousand dollars, or so much thereof as may be necessary, to enable the Secretary of the Interior to pay the confederated tribes of the Flathead, Kootenai, and Upper Pend d'Oreille, and such other Indians and persons holding tribal relations or may rightfully belong on said Flathead Indian Reservation, the appraised value of said lands as shall be fixed and determined under the provisions of the Act of Congress approved April twenty-third, nineteen hundred and four, entitled "An Act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment." And the Secretary of Agriculture is hereby authorized and directed to inclose said lands with a good and substantial fence and to erect thereon the necessary sheds and buildings for the proper care and maintenance of the said bison; and there is hereby appropriated therefor the sum of ten thousand dollars or so much thereof as may be necessary; in all, forty thousand dollars.

Payment to In-
dians.

Fencing, etc.

* * * * *

Approved, May 23, 1908. (35 Stat. L., p. 267.)

AN ACT To authorize the Secretary of the Interior to issue patents in fee to purchasers of Indian lands under any law now existing or hereafter enacted, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * *

Allotment and sale
of lands in
Vol. 33, p. 204,
amended.

Sec. 15. That section nine, chapter fourteen hundred and ninety-five, Statutes of the United States of America, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," be, and the same is hereby, amended to read as follows:

Lands opened to
settlement.

"SEC. 9. That said lands shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the time when and the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish wars, as defined and prescribed in section twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes, as amended by the act of March first, nineteen hundred and one, shall not be abridged: *Provided further*, That the price of said lands shall be the appraised value thereof, as fixed by the said commission, but settlers under the homestead law who shall reside upon and cultivate the land entered in good faith for the period required by existing law shall pay one-third of the appraised value in cash at the time of entry, and the remainder in five equal annual installments, to be paid one, two, three, four, and five years, respectively, from and after the date of entry, and shall be entitled to a patent for the lands so entered upon the payment to the local land officers of said five annual payments, and in addition thereto the

Proviso.
Soldiers' and sail-
ors' rights not af-
fected.
R. S., secs. 2304,
2305, p. 422.
Vol. 31, p. 847.

Price.

Payments.

same fees and commissions at the time of commutation or final entry as now provided by law where the price of the land is one dollar and twenty-five cents per acre, and no other and further charge of any kind whatsoever shall be required of such settler to entitle him to a patent for the land covered by his entry: *Provided*, That if any entryman fails to make such payments, or any of them, within the time stated, all rights in and to the land covered by his or her entry shall at once cease, and any payments theretofore made shall be forfeited, and the entry shall be forfeited and canceled: *And provided*, That nothing in this act shall prevent homestead settlers from commuting their entries under section twenty-three hundred and one, Revised Statutes, by paying for the land entered the price fixed by said commission, receiving credit for payments previously made: *Provided, however*, That the entryman or owner of any land irrigable by any system hereunder constructed under the provisions of section fourteen of this act shall, in addition to the payment required by section nine of said act, be required to pay for a water right the proportionate cost of the construction of said system in not more than fifteen annual installments, as fixed by the Secretary of the Interior, the same to be paid at the local land office, and the register and receiver shall be allowed the usual commissions on all moneys paid.

"The entryman of lands to be irrigated by said system shall, in addition to compliance with the homestead laws, reclaim at least one-half of the total irrigable area of his entry for agricultural purposes, and before receiving patent for the lands covered by his entry shall pay the charges apportioned against such tract. No right to the use of water shall be disposed of for a tract exceeding one hundred and sixty acres to any one person, and the Secretary of the Interior may limit the areas to be entered at not less than forty nor more than one hundred and sixty acres each.

"A failure to make any two payments when due shall render the entry and water-right application subject to cancellation, with the forfeiture of all rights under this act, as well as of any moneys paid thereon. The funds arising hereunder shall be paid into the Treasury of the United States and be added to the proceeds derived from the sale of the lands. No right to the use of water for lands in private ownership shall be sold to any landowner unless he be an actual bona fide resident on such land or occupant thereof residing in the neighborhood of such land, and no such right shall permanently attach until all payments therefor are made.

"All applicants for water rights under the systems constructed in pursuance of this act shall be required to pay such annual charges for operation and maintenance as shall be fixed by the Secretary of the Interior, and the failure to pay such charges when due shall render the water-right application and the entry subject to cancellation, with the forfeiture of all rights under this act as well as of any moneys already paid thereon.

"The Secretary of the Interior is hereby authorized to fix the time for the beginning of such payments and to provide such rules and regulations in regard thereto as he may deem proper. Upon the cancellation of any entry or water-right application, as herein provided, such lands or water rights may be disposed of under the terms of this act and at such price and on such conditions as the Secretary of the Interior may determine, but not less than the cost originally fixed.

"The land irrigable under the systems herein provided, which has been allotted to Indians in severally, shall be deemed to have a right to so much water as may be required to irrigate such lands without cost to the Indians for construction of such irrigation systems. The purchaser of any Indian allotment, purchased prior to the expiration of the trust period thereon, shall be exempt from any and all charge

Forfeiture.

Commutation.
R. S., sec. 2301,
p. 421.

← *Amd.*

Irrigable lands,
Vol. 33, p. 304,
amended.

Water rights. ★

Payments for.

Reclamation
of part of irrigable
lands.

Restriction.

Cancellation and
forfeiture.

Disposal of pro-
ceeds. ★

Payment of an-
nual charges.

Forfeiture.

Regulations.

Disposal of can-
celed entries, etc.

Water rights free
to Indians.

Exemptions.

for construction of the irrigation system incurred up to the time of such purchase. All lands allotted to Indians shall bear their pro rata share of the cost of the operation and maintenance of the system under which they lie.

Pro rata share of cost.

Unallotted irrigable lands. Maintenance by owners.

“When the payments required by this act have been made for the major part of the unallotted lands irrigable under any system and subject to charges for such construction thereof, the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense under such form of organization and under such rules and regulations as may be acceptable to the Secretary of the Interior.

Regulations.

“The Secretary of the Interior is hereby authorized to perform any and all acts to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this act into full force and effect.”

That section fourteen of said act be, and the same is hereby, amended to read as follows:

Disposal of proceeds. Vol. 33, p. 305, amended.

Payment of expenses.

Use of remaining funds.

Proviso. Payment of assessed charges.

“SEC. 14. That the proceeds received from the sale of said lands in conformity with this act shall be paid into the Treasury of the United States, and after deducting the expenses of the commission, of classification and sale of lands, and such other incidental expenses as shall have been necessarily incurred, and expenses of the survey of the land, shall be expended or paid, as follows: So much thereof as the Secretary of the Interior may deem advisable in the construction of irrigation systems, for the irrigation of the irrigable lands embraced within the limits of said reservation; one half of the money remaining after the construction of said irrigation systems to be expended by the Secretary of the Interior as he may deem advisable for the benefit of said Indians in the purchase of live stock, farming implements, or the necessary articles to aid said Indians in farming and stock raising and in the education and civilization of said Indians, and the remaining half of said money to be paid to said Indians and persons holding tribal rights on said reservation, semi-annually as the same shall become available, share and share alike: *Provided*, That the Secretary of the Interior may withhold from any Indian a sufficient amount of his pro rata share to pay any charge assessed against land held in trust for him for operation and maintenance of irrigation system.”

* * * * *

Approved, May 29, 1908. (35 Stat. L., p. 448.)

AN ACT Making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the year ending June thirtieth, nineteen hundred and ten.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * *

Irrigation. Vol. 33, p. 305.

Reimbursement.

For construction of irrigation systems to irrigate the allotted lands of the Indians of the Flathead Reservation in Montana and the unallotted irrigable lands to be disposed of under the act of April twenty-third, nineteen hundred and four, entitled “An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation in the State of Montana, and the sale and disposal of all surplus lands after allotment,” including the necessary surveys, plans, and estimates, two hundred and fifty thousand dollars, one hundred thousand dollars thereof to be immediately available, the cost of said entire work to be reimbursed from

119392-08

5426-08 I. 0

The United States of America,

To all to whom these presents shall come, Greeting:

825.

WHEREAS, There has been deposited in the General Land Office of the United States a schedule of allotments approved by the Secretary of the Interior

June 20, 1908, whereby it appears that

MARY MCCLURE, an Indian of the

Flathead tribe or band, has been allotted

the following-described land:

The west half of the southeast quarter of Section twenty-nine in Township nineteen north of Range nineteen west of the Montana Meridian, Montana, containing eighty acres:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, has allotted, and by these presents does allot, unto the said

Mary McClure

the land above described, and hereby declares that it does and will hold the land thus allotted (subject to all statutory provisions and restrictions) for the period of twenty-five years, in trust for the sole use and benefit of the said Indian, and at the expiration of said period the United States will convey the same by patent to said Indian, in fee, discharged of said trust and free from all charge and incumbrance whatsoever, if said Indian does not die before the expiration of the said trust period; but in the event said Indian does die before the expiration of said trust period, the Secretary of the Interior shall ascertain the legal heirs of said Indian and either issue to them in their names a patent in fee for said land, or cause said land to be sold for the benefit of said heirs as provided by law. **And there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.**

IN TESTIMONY WHEREOF, I, **Theodore Roosevelt**, President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the

.....**eight**..... day of **October**....., in the year

of our Lord one thousand nine hundred and **eight**.....,

and of the Independence of the United States the one hundred

and **thirty-third**.....

By the President: *Theodore Roosevelt*

By *M. W. Young*, Secretary.

H. W. Sampson,
Recorder of the General Land Office.

Recorded Patent No.

Doc. 3.

736381

78926-17. I.O.

4-1061-B.

825

The United States of America,

To all to whom these presents shall come, Greeting:

WHEREAS, an Order of the Secretary of the Interior has been deposited in the General Land Office, directing that a fee simple patent issue to the claimant **Mary McClure, a Flathead Indian**, for the west half of the southeast quarter of Section twenty-nine in Township nineteen north of Range nineteen west of the Montana Meridian, Montana, containing eighty acres:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT, unto the said claimant and to the heirs of the said claimant the Land above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said claimant and to the heirs and assigns of the said claimant forever: and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States. The lands hereby conveyed are subject to a lien, prior and superior to all other liens, for the amount of costs and charges due to the United States for and on account of construction of the irrigation system or acquisition of water rights by which said lands have been or are to be reclaimed, as provided and prescribed by the act of Congress of May 18, 1916 (39 Stat., 123) and the lien so created is hereby expressly reserved.

IN TESTIMONY WHEREOF, I, **Woodrow Wilson**

President of the United States of America, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the **FIFTH**

(SEAL)

day of **NOVEMBER** in the year of our Lord one thousand

nine hundred and **SEVENTEEN** and of the Independence of the

United States the one hundred and **FOURTY-SECOND**.

By the President: *Woodrow Wilson*

By *M. O. Roy* Secretary,

E. J. Samuels

Recorder of the General Land Office.

606273

RECORD OF PATENTS: Patent Number

THE UNITED STATES OF AMERICA,

-to-

Ora Kvale

P A T E N T

Dated November 15th, 1915
Filed Jan. 21, 1916 at Billings
Recorded Book 45 Feels Pg. 177
Records of Lake County, Montana

To all to Whom These Presents Shall Come, Greeting:

WHEREAS, the Act of Congress approved August 9, 1912, entitled "An Act providing for patents on reclamation entries, and for other purposes." provides--as extended by the Act of July 17, 1914 (38 Stat. 510):

"That every patent and water-right certificate issued under this Act shall expressly reserve to the United States a prior lien on the land patented or for which water right is certified, together with all water rights appurtenant or belonging thereto, superior to all other liens, claims or demands whatsoever for the payment of all sums due or to become due to the United States or its successors in control of the irrigation project in connection with such lands and water rights."

And it is further provided:

"That no person shall at any one time or in any manner, except as hereinafter otherwise provided, acquire, own or hold irrigable land for which entry or water-right application shall have been made under the said reclamation Act of June 17th, 1902, and Acts supplementary thereto and amendatory thereof, before final payment in full of all installments of building and betterment charges shall have been made on account of such land in excess of one farm unit as fixed by the Secretary of the Interior as the limit of area per entry of public land or per single ownership of private land for which a water right may be purchased respectively, nor in any case in excess of one hundred and sixty acres, nor shall water be furnished under said Acts nor a water right sold or recognized for such excess; but any such excess land acquired at any time in good faith by descent, by will, or by foreclosure of any lien may be held for two years and no longer after its acquisition; and every excess holding prohibited as aforesaid shall be forfeited to the United States by proceedings instituted by the Attorney General for that purpose in any court of competent jurisdiction; and this proviso shall be recited in every patent and water-right certificate issued by the United States under the provisions of this Act."

And WHEREAS, it appears from a Certificate of the Land Office at Billings, Montana, that Ora Kvale, assignee by mesne conveyance of Evelyn Aldrich, is under the provisions of said Act, entitled to a patent for

Patent, continued

the Farm Unit "K", according to the Farm Unit Plat, or the following described land:

Principal Meridian, Montana. T. 20 N., R. 21 W.,
Sec. 32, NE $\frac{1}{4}$ SW $\frac{1}{4}$

The area described contains 40 acres, according to the Official Plat of the Survey of the said Land, on file in the Bureau of Land Management.

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, HAS GIVEN AND GRANTED and by these presents DOES GIVE AND GRANT, unto the said Ora Kvale

and to his heirs, the tract above described, together with the right to the use of water from the reclamation project in which the tract is situated, as an appurtenance to the irrigable lands in said tract; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said

Ora Kvale and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; but excepting, nevertheless, and reserving unto the United States, rights-of-way over, across, and through said lands for canals and ditches constructed, or to be constructed, by its authority, all in the manner prescribed and directed by the Act of Congress approved August 30, 1890 (26 Stat., 391). To secure payment to the United States, or its successors in the ownership or control of the works constituting and appertaining to the said reclamation project, of all sums due or to become due the United States or its successors in control of said reclamation project in connection with said land and water rights, a lien prior and superior to all other liens, claims, or demands whatsoever upon the lands herein and hereby described and conveyed, upon all water rights thereto appurtenant and upon the right to receive and use water from the reservoirs and canals of said reclamation project, is expressly reserved.

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat., 476), has, in the name of the United States, caused these letters to be made patent, and the Seal of the Bureau to be hereunto affixed.

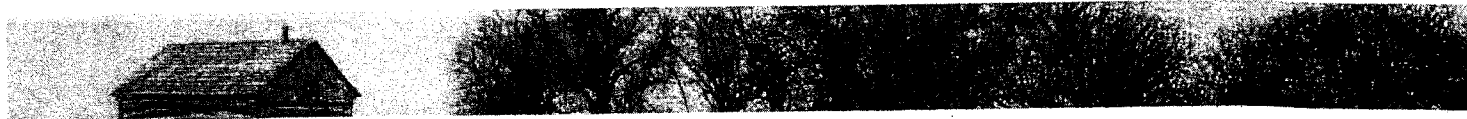
(SEAL)

Patent No. 1147970

(S B A L)

For the Director, Bureau of Land
Management

By S. C. Nichols
Chief, Patents Unit



Homestead

National Monument of America
Nebraska

Explore This Park

Homesteading by the Numbers

Compiled by Homestead National Monument of America Historian Todd Arrington, April 24, 2007

1: Number of National Park Service sites dedicated to the commemoration and interpretation of the Homestead Act of 1862 and the many changes it initiated in the United States and the world.

→ 10: Percentage of U.S. land given away under the Homestead Act.

24: Presidential administrations during which the Homestead Act was in effect (Lincoln to Reagan).

→ 30: Number of states in which homestead lands were located.

→ 40: Percentage of homesteaders that "proved up" on their claims and earned the deed from the federal government.

45: Percentage of Nebraska's acres distributed under the Homestead Act [Largest percentage of any state].

123: Years the Homestead Act was in effect (1863-1986).

160: Number of acres in a typical homestead claim.

4,000,000: Approximate number of claims made under the Homestead Act.

11,000,000: Acres claimed in 1913, the peak year of homestead claims.

→ 93,000,000: Estimated number of homesteader descendants alive today.

→ 270,000,000: Total number of acres distributed by the Homestead Act.

Go to [State by State Numbers](#)

Go to graph of Total Number of [Acres](#) that were Successfully Homesteaded in Each State

Go to graph of Total Number of [Claims](#) that were Successfully Homesteaded in Each State

Go to graph of [Percentage](#) of Total Acres in Each State that were Successfully Homesteaded

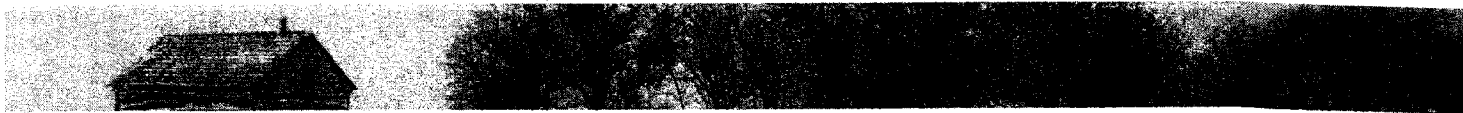
Go to graph Showing [Number](#) of Successful Homesteaders Decade by Decade

Go to graph Showing Number of Acres Successfully [Transferred](#) to Homesteaders

Back to [History and Culture](#) Page

Doc. 5.

While plowing 1 acre of ground, the homesteader walked 10 miles. So to plow the required 10 acres for his homestead, the homesteader had to walk a minimum of 100 miles. -- Homestead National Monument of America



Homestead

National Monument of America
Established 1909

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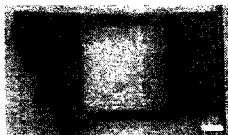
FAQ

Accessibility

Privacy Policy

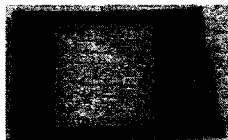
Terms of Use

State by State Numbers



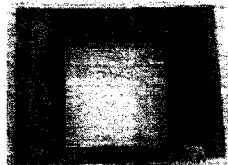
Montana

Montana (151,600 homesteads):
Total acreage: 93,155,840
Total homestead acreage: 32,050,480
Total percentage: 34%



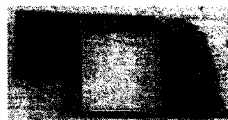
North Dakota

North Dakota (118,472 homesteads):
Total acreage: 44,156,160
Total homestead acreage: 17,417,466
Total percentage: 39%



Colorado

Colorado (107,618 homesteads):
Total acreage: 66,386,560
Total homestead acreage: 22,146,400
Total percentage: 33%



Nebraska

Nebraska (104,260 homesteads):
Total acreage: 49,201,920
Total homestead acreage: 22,253,314
Total percentage: 45%



Oklahoma

Oklahoma (99,557 homesteads):
Total acreage: 43,954,560
Total homestead acreage: 14,865,912
Total percentage: 34%

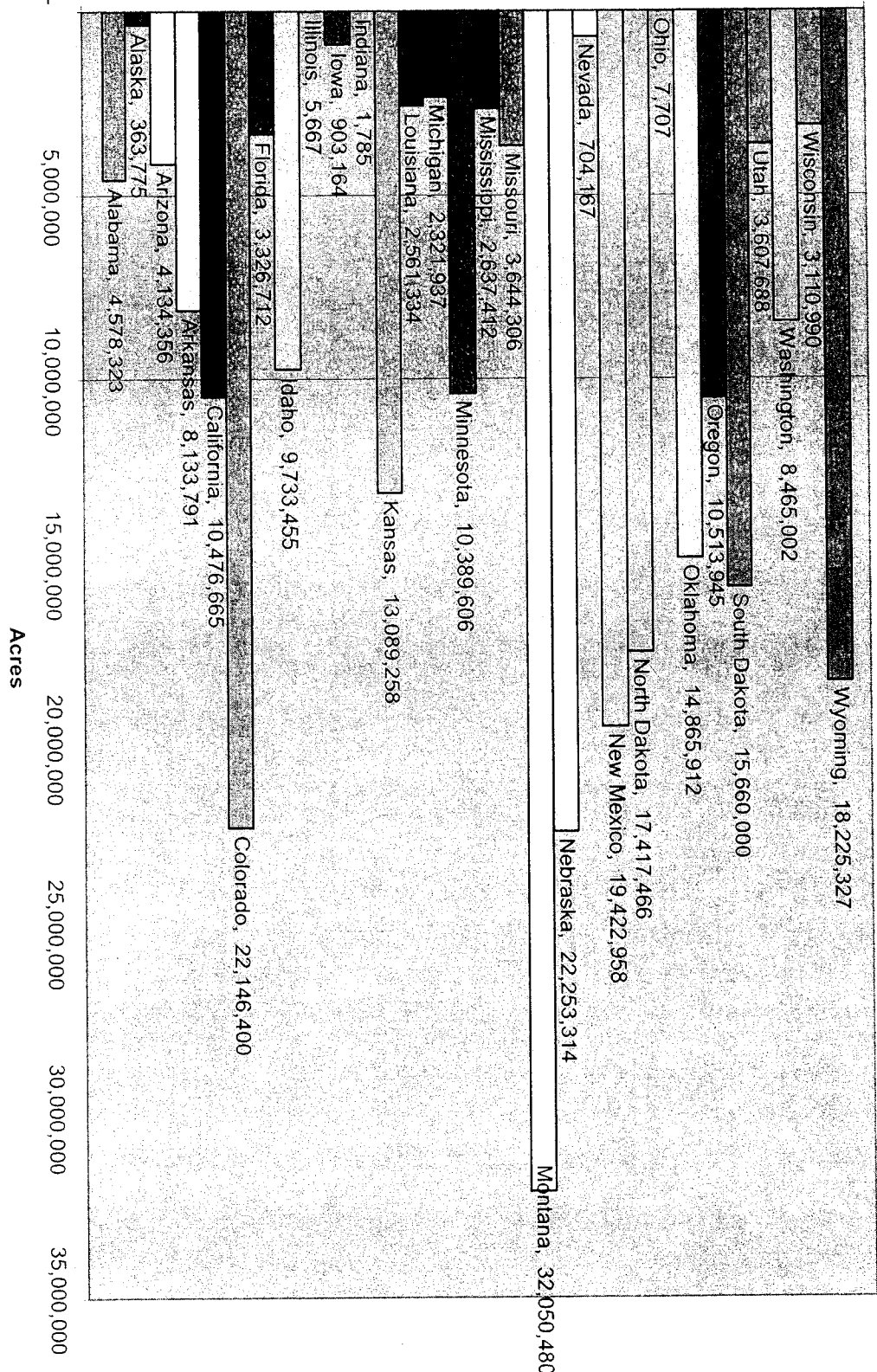


South Dakota (97,197 homesteads):
Total acreage: 48,573,440
Total homestead acreage: 15,660,000
Total percentage: 32%

Total Amount of Acres Successfully Homesteaded in State

States

1



★