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DEPARTMENT OF THE INTERIOR

WASHINGTON

JAN 22 1913

Allotments,
Navajo tribe.

Hon. Henry F. Ashurst,
United States Senate.

Sir:

I have the honor to acknowledge the receipt of your letter of December 28, 1912, transmitting a petition received by you, signed by a number of cattle men in northern Arizona, protesting against the approval of the allotments on the public domain to some 115 members of the Navajo tribe in the "Cocconino Basin" between the Little Colorado River and the Tusayan Forest Reserve. Your petitioners have suggested that Matthew M. Murphy, Supervisor of Farming, be directed to investigate local conditions with a view of returning the Indians to the Navajo Reservation proper.

The Indian Office advises me that the applications referred to by you were filed in behalf of some 115 Navajo Indians for allotments on the public domain under the provisions of the 4th Section of the General Allotment Act of February 8, 1887, as amended; the applications having been filed at the local land office at Phoenix, Arizona, and by that office transmitted to the General Land Office. The

applications have not been approved, however, the Indian Office not being fully satisfied that sufficient settlement had been maintained by the Indians to justify recommending the approval of the allotments and the issuance of patents thereon to the applicants. On the other hand it cannot be said, with information now at hand, that the applicants are not entitled to the lands applied for. Former Supervisor Bascom Johnson investigated these allotments, under directions from the Indian Office, and submitted a report thereon under date of January 1, 1912. In his report, in speaking of the Indians in the Coconino Basin, Mr. Johnson says in part:

I took the testimony of all the leading men of both of these bands on the ground and many others besides, a condensation of which is attached hereto as exhibit E. The substance of this testimony is that these Indians have resided in the country west of the Little Colorado River for twenty miles and south of the Grand Canyon for an equal distance since they were born and their parents before them with the exception of ten or fifteen years after their roundup by Kit Carson in 1863, and his transfer of them to Bosque Ridendo in New Mexico, from which they gradually drifted westward back to their present locations about the time when the first white men began to come into this country. This history is, I believe, trustworthy and entirely consistent with the sincere belief of the whites that these Indians drifted off of the reservation, as they apparently did. * * * * * The Indians state that owing to the encroachment of the white stockmen they have been gradually pressed back to the lands they are now occupying, and that their grazing habits have been as they now are for several generations; namely, to occupy the highlands where there is good range and plenty of wood to keep them warm in winter and to descend into the valley to the east and southeast along the Little Colorado River during the spring and summer where they remain until August and September.

The last sentence will disclose fully the difficulty connected with these allotments. Possibly you are familiar with local conditions in this district to the extent of realizing that the chief industry, occupation and means of livelihood of these Indians is stock raising. During the winter season they seek the higher ranges and sheltered timber areas for protection, fuel and forage. In the spring and summer the lower valley regions are used, the Indians returning each season practically to the same lands occupied during prior years. While in the valleys they cultivate a limited number of acres for truck and garden purposes to augment their food supply.

With the foregoing in view we come to the necessity of determining whether sufficient settlement has been, will be, or can be made by these Indians on specific tracts to justify approving allotments to them under the 4th Section of the General Allotment Act. It will be seen by a reference to this act that allotments are authorized to Indians who "make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated". No degree of settlement or length of time of occupancy of specific tracts is imposed by the statute. This virtually places the duty on the Department of determining in each specific case whether sufficient compliance with the law has been made in order to

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entitle the applicants to the rights sought. In considering applications under this statute, the Department, as an evidence of good faith, has required a substantial compliance with the law at least to the extent of showing that applications were made in good faith.

If these Indians are entitled to the lands applied for, the Department is not in a position to deny their rights granted them by Congress and can not at this time state that that these applications will be eventually rejected. With regard to the suggestion that Mr. Matthew M. Murphy be directed to visit this locality and investigate local conditions, the Indian Office informs me that the services of this field man are urgently required elsewhere in the Southwest at this time and that he can not be spared for this purpose. The Indian Office expects, however, to investigate these allotments, and will not act until more fully advised. In passing on the matter, the statements in the petition transmitted with your letter will be given appropriate consideration.

Respectfully,

Signed) Walter L. Fisher.

Secretary.

entitle the applicants to the rights sought. In considering applications under this statute, the Department, as an evidence of good faith, has required a substantial compliance with the law at least to the extent of showing that applications were made in good faith. ~~The same degree of settlement required of a white man under the homestead laws has not been applied to Indians seeking allotment on the public domain under the 4th Section of the General Allotment Act. There is no requirement in the law demanding this, and in considering applications of this kind regard has been given to the character of the applicants, who being Indians could hardly be expected to manifest and maintain the same spirit of industry, intelligence, and rigid adherence to the requirements of the homestead laws as white persons seeking homes on the public domain could be expected to do.~~

If these Indians are entitled to the lands applied for, the Department is not in a position to deny their rights granted them by Congress and cannot at this time state that these applications will be eventually rejected. With regard to your suggestion that Mr. Matthew M. Murphy be directed to visit this locality and investigate local conditions, the Indian Office informs me that the services of this field man are urgently required elsewhere in the Southwest

at this time and that he cannot be spared for this purpose.

The Indian Office expects to investigate these allotments ^{however,} and will not act unless more ~~more fully with the view of determining the right of the~~ ^{fully advised. In passing on the matter} applicants to the lands applied for and if any are found ~~the statements in the petition transmitted~~ entitled under the law to the lands covered by their applications, ^{with your letter will be given appropriate} suitable action with a view of issuing patents to ~~them for the lands selected will be taken.~~ ^{for all consideration}

~~The petition transmitted with your letter is returned herewith.~~

Respectfully,

1-VAR-11

First Assistant Secretary.