March 10, 1903
Land

13384-1903

March 10, 1903. #1

The Honorable

The Secretary of the Interior,

Sir:

This office is in receipt of Department reference for consideration, report and recommendation, of a communication, dated February 24, 1903, from the Commissioner of the General Land Office, wherein he states that by Department letter of May 2, 1899, that office was directed relative to the award of a contract or the issue of special instructions to a competent surveyor providing for the survey, or resurvey, of 10 allotments made to certain Mogul Indians and situated in the Moencopi Wash near Tuba City, Arizona, the work to be executed under the supervision of James McLaughlin, U. S. Indian Inspector.

He states that in compliance with instructions from his office dated May 6, 1899, the U. S. Surveyor General for Arizona with his letter of May 11, 1899, transmitted thereto, special instructions bearing the date last named, in duplicate, issued to Charles von Ermleben, U. S. Deputy Surveyor, authorizing him to execute said allotment surveys under the direction of Inspector McLaughlin; that said instructions were duly

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approved May 20, 1899; that the cost of executing said surveys (when ascertained) was made chargeable to the appropriation of $30,000 for surveys and allotments per Indian appropriation act of July 1, 1898.

Under date of December 11, 1900, the Department referred to the General Land Office a communication, dated December 10, 1900, addressed to the Secretary of the Interior, signed James McLaughlin, U. S. Indian Inspector, relative to certain allotment surveys executed in said Week by said von Erxleben, deputy surveyor under the direction and supervision of the said Indian Inspector and as originally authorized by the Department. The Commissioner of the General Land Office states that accompanying Inspector McLaughlin's communication were field note books and a diagram of allotment surveys and the establishment of the 111th degree of longitude in connection therewith.

In referring to the details as set forth in General Land Office letter to the Department, dated December 21, 1900, with reference to this matter, the Commissioner of that office states that it is therein set forth that said field note books, diagrams, accounts, &c., were forwarded to the U. S. Surveyor General for Arizona, for careful examination and report, where they still remain. It is further set forth that the General Land Office is now in receipt of a letter, dated February 11, 1903, from the U. S. Surveyor General for Arizona, relative to said allotment surveys as executed by Deputy von Erxleben under

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the direction of Inspector McLaughlin. The following quotation is made from the Surveyor General's letter by the Commissioner of the General Land Office:

As these allotments were to be based on a correct township survey in conformity with the [illegible] and under the supervision and direction of Indian Agent McLaughlin, and as the [illegible] partially made by Deputy Rowland [illegible] filed by Rowland in this office), neither of which [illegible] made by Deputy Conlon, I deem it best to advise you of these facts at this time, in order that [illegible] the Department, whether allotting agent might be sent up into locality at the time that the Commissioner [illegible] the field examination.

Deputy Rowland filed returns in this office of the survey of these Indian allotments, a plat of which [illegible] with transmitted, but as they were based on the correct township survey, this office [illegible] the Deputy had made a correct township survey and as before stated, this Deputy [illegible] veys under his contract No. 23, but the same was annulled by making a new survey [illegible] ships to Deputy Philip Conlon, under his contract No. 28.

Commissioner Richards of the General Land Office also that the Surveyor General transmitted his letter of February 11th last, for the consideration of that office with the request that he be duly advised as the subject, if further action is deemed necessary.

The Commissioner requests that the correspondence enclosed with his said letter relative to the subject matter of the same be referred to this office for report and recommendation. He encloses a diagram and a sketch which accompanied the letter of the Surveyor General, and asks that the same be returned to his office.

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It appears from the foregoing statements and the enclosures with the letter of the Commissioner of the General Land Office, that the survey made by Deputy Erxleben under his contract No. 48 was erroneous and that the same was annulled by making a new award of contract for the survey of the townships embracing these Indian allotments to Deputy Philip Contzen under his contract No. 90. The allotments made under the von Erxleben survey fall in sections 2, 3 and 4, T 31 N., R 11 E., and sections 33 and 34, T 32 N., R 11 E.

Under the correct survey these allotments fall according to a plat submitted by the Surveyor General for Arizona, and his letter to the General Land Office, in Townships 32 N., R 11 E., and 31 N., said range. The Surveyor General states that it will be seen by comparing the two plats that the plat made by Deputy von Erxleben differs widely from that made by Deputy Contzen. The allotments are therefore situated nearly a mile from where they should be under the correct survey.

Inspector McLaughlin assisted 16 Indians in making applications under the von Erxleben survey covering lands embraced in the original 18 applications. These allotment applications were scheduled by this office, or rather the special allotting agent on duty here , and transmitted to the Secretary of the Interior on August 23, 1902.

The allotments were approved by the Secretary on August 25, 1902, and instructions given for the issuance of patents

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covering the lands allotted. The patents were issued October 20, 1903, by the General Land Office, and forwarded December 17, 1903, to Superintendent Peacock of the Navajo Training School, for delivery to the respective Indian allottees.

As the original survey of the townships in which these allotments are situated is erroneous, and not accepted and approved by the General Land Office, and as a new survey has been made of the same under a different law applicable thereto and by a different U. S. Deputy Surveyor, it is necessary to have the allotments adjusted to the new survey. It is therefore respectfully recommended that Inspector McLaughlin who has heretofore had this work in hand, be sent at the convenient time to Tuba City, Arizona, for the purpose of making the adjustment indicated.

For his use a transcript of the allotments in question, 16 in number, is herewith enclosed, giving the names of the allottees and a description of the respective tracts of land allotted to them. It is suggested that he obtain a relinquishment, executed upon the back of the patents, from the respective allottees to whom patents have issued, signed by the patentee and executed otherwise in proper form and manner. He should be instructed to explain to the Indian allottees why this relinquishment is asked for and that new patents will issue to them as soon thereafter as they can properly describing the lands to which they are entitled under the new and correct

survey. I enclose herewith blank form of schedules suitable for making these allotments. They should be made in duplicate and both schedules returned to this office when the Inspector shall have completed the work proposed.

Upon informal conference with him, he expressed the opinion that he would need the services of a surveyor for not less than six days to aid him in this work. He has been upon the ground and is familiar with the situation and realizes the necessity of having such assistance as indicated. He thinks he should be allowed to pay for the services of the surveyor, and his subsistence; the services being at the rate of $[illegible] per day and $3 being allowed for subsistence. He is of the opinion that it will require six days to perform this work, including the time of the surveyor in going to and from the same from Flagstaff, Arizona, the nearest point at which a surveyor is available for the purpose indicated. The expense of a survey not exceeding say $[illegible], can be paid from funds for allotments and surveys applicable, and authority is so recommended.

In case the patents covering the lands involved are relinquished and transmitted to this office, steps can then be taken to cancel the allotment schedules now on file in this office, and the duplicates thereof on file in the General Land Office embracing the lands in question. Upon their cancellation the new schedules will be subject to approval and new patents can be issued for the lands properly and correctly

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allotted.

On December 4, 1902, this office submitted to the Department 21 deeds for lands and improvements purchased from settlers at Tuba City, within the addition to the Navaho reservation, created by Executive order of January 6, 1900. These deeds were approved by the Department December [illegible], 1902, [illegible] ored lands near and in [illegible] in question. Certain lands [illegible] for a school site [illegible]

Inspector McLaughlin, [illegible] settlers, [illegible] reserving the [illegible] site and school farm, [illegible] arable land under [illegible] Indians. He thought that [illegible] the Moquis and the [illegible] the opinion that [illegible] 600 acres would [illegible] lines; that by properly [illegible] of Reservoir [illegible] be had for each of [illegible] brought under [illegible] the recent purchases from settlers.

Superintendent [illegible] has been advised of the views expressed by Inspector McLaughlin with respect to the location

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of Indian families on five acre tracts of land and directed to make a report of the practicability of so locating the Indians. It is suggested that Inspector McLaughlin, while on his visit to Tuba City and Moonoogi Wash (the places being in the immediate vicinity of each other) be instructed, with the assistance of Superintendent Needham of the Navaho Training School, to settle and locate, if possible, Navaho and Moqui Indians in the ratio indicated, upon five acre tracts of land embracing the 600 acres above referred to; that upon such assignment of these lands a list of the same be made, indicating the head of the family and the members thereof, to whom such assignment has been made, also the quantity, description of the land, &c.

It is known to the officers of the Department, that recently there has been much complaint made as to the condition of the Navahoes, their lack of food and water. Effort is being made to construct some irrigation ditches leading from the San Juan River into fertile valleys lying within the Navaho reservation. If this work is successful and numerous families can be located on lands subject to irrigation from these ditches, and 600 families can be located upon irrigable lands in the vicinity of Tuba City, some relief will be brought to the Navahoes. Many of them will at least be put in position to support themselves and their families.

It may be added for the information of the Department that

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the Indian allottees, 16 in number, above referred to, initiated their rights to the lands involved prior to the issuance of the Executive order, dated January 8, 1900. The white settlers were encroaching upon their claims, the Indians therefore made application for the lands occupied and used by them in order that they might save them as homes. Although the lands are now embraced within an addition to the reservation, it seems to be fair and just to these allottees to have their lands described, allotted and patented according to the new and correct survey. Unless this action is taken, trouble will surely follow in the future.

With these remarks I return herewith the General Land Office letter with its enclosures, and enclose a copy of this report for use in replying to that office.

I enclose copy of this report for the use of Inspector McLaughlin in case the recommendations herein made are concurred in by the Department.

Very respectfully,

Commissioner.

J.H.R.(B)

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