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1940 Internal Report on Ute Hunting Rights Within Dinosaur National Monument

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UNITED STATES
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WASHINGTON

ROUTING
Mr. Tolson 2/18
Mr. Christman 2/19
Mr. Douglas 2/20
Mr. McDonald
Mr. Johnson
February 12, 1940.
Mr. McCole
CC - Supt Mesa Verde

ADDRESS ONLY
THE DIRECTOR, NATIONAL PARK SERVICE

Memorandum for the Superintendent,
Rocky Mountain National Park:

Reference is made to your memorandum of February 5, requesting an investigation of a report that the Ute Indians from the Utah Reservation have certain hunting rights within Dinosaur National Monument, by reason of provisions in treaties between the United States and the Indians.

We have examined all treaties between the United States and the several bands of Ute Indians, and we find no language to justify the report made to Park Naturalist Gregg.

Aside from the treaty of 1849, which was a general treaty of submission and amity, there were two treaties with the Utes. The first was executed October 7, 1863, and proclaimed December 14, 1864 (13 Stat. 673). The second was executed March 2, 1868, and ratified with amendments September 14, 1868, and proclaimed November 6, 1868 (15 Stat. 619). Chief Ouray (whose name appears under various spellings, as U-re, U-ray, and Ouray), signed both treaties on behalf of the Tabeguache band of Utes. The first treaty described the area which should be reserved as the hunting grounds of the Utes. We have not traced the boundary on the map, but it obviously does not lie in the area now within Dinosaur National Monument. By the second treaty, the Ute country was redesignated so as to be bounded by the western boundary of Colorado, the southern boundary of Colorado, the 107th meridian, and a line 15 miles north of the 40th parallel. Whether any hunting rights still subsisted under the treaty of 1863 may be doubted, but that seems immaterial, since neither the area established under the treaty of 1863 nor that established under the treaty of 1868 includes any land now within Dinosaur National Monument.

These references to the treaties are interesting, but they no longer have any legal significance, since Congress provided, by the Act of June 28, 1938 (52 Stat. 1209), that all lands and rights at any time belonging to the Utes shall be considered as taken under eminent domain, and that the Court of Claims shall have jurisdiction to award compensation to any band of Utes whose lands or rights may heretofore have been taken without just compensation. If the Indians ever had any hunting rights in the lands which are now within Dinosaur National Monument, such rights have been extinguished, and the Indians have been relegated to their remedy in the Court of Claims under the above-cited act of June 28, 1938.

Section 6 of the above-cited act provides for an addition to the existing Southern Ute Indian Reservation of lands to be held in tribal ownership. The added area includes Yucca House National Monument, established by proclamation dated December 19, 1919 (41 Stat. 1781). It is our opinion that the addition to the Southern Ute reservation in no way affects the status of lands within Yucca House National Monument.

(SGD) G. A. Moskey

Chief Counsel.

cc: Regional Director, Region II
Acting Reg. Dir., Region III ✓
Mr. Tolson
Supt., Southwestern National Monuments
Dr. Russell
Mr. Wirth
Mr. Sanders
Mr. Barton

Mr. Mc Colm: - *Ym*

Suggest the sending
of copy of this to
Supt Frank. for his
info ref. the Treaties
etc.

Later today you will
receive copy of my
memo. to Director
ref. # 2 a forthcoming
suit by the Weminchee
band for compensation
for 10,080 acres of
lands now incorporated
in M.V. N. F. -

Mulvaney.

*Disposal
708-06
mjs
P*

February 23, 1940.

Memorandum for Superintendent Franke,
Mesa Verde National Park:

Mr. Nusbaum has suggested that a copy of the enclosed memorandum of February 12 be submitted to you for your information.

Encl. 1898112.

Milton J. McCole
Acting Regional Director.

mjm:de