RATIFIED TREATY NO. 367

DOCUMENTS RELATING TO THE NEGOTIATION OF THE TREATY OF MARCH 2, 1868, WITH THE TABAQUACHE, MOACHE, CAPOTE, WIMINUCHE, YAMPA, GRAND RIVER, AND UNITA BANDS OF UTE INDIANS

Colorado

1868

Interior Department,

March 13. 1868

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Report

D. I. O. I. A. March 13th 1868

Sir:

I have the honor to enclose herewith Articles of a treaty made and entered into by and between Nathaniel G. Taylor, Commissioner of Indian Affairs, Alexander C. Hunt, Governor of Colorado Territory and Ex Officio Superintendent of Indian Affairs and Kit Carson duly authorized to represent the United States, ~~of the one part~~ and the representatives of the Tabaguache, Muache, Capote, Weeminuche, Yampah, Grand River and Uintah Bands of Ute Indians, duly authorized to act for said bands,

Article 1. provides that the provisions of the treaty of Oct. 7. 1863. with the Tabeguache band of Utah Indians - not inconsistent with the provisions of this treaty - are re-affirmed and declared to be applicable and continue in force as well to the other bands, respectively, parties to this treaty, as to the Tabe-guache band of Utah Indians.

Article 2. defines the boundaries of the reservation to be set apart for the Indians named in the treaty, which shall be for their absolute and undisturbed use and occupation, and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit among them - the United States agreeing that no persons, except

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those herein authorized to do so, and except such officers, agents, and employees of the government as may be authorized to enter upon Indian reservations in discharge of duties enjoined by law, shall ever be permitted to pass over, settle upon, or reside in the territory described in this article, except as otherwise provided in the treaty.

Article 3. provides that the Indians, parties to the treaty, do hereby and henceforth relinquish all claims and rights to any portion of the United States or Territories, except such as are embraced in the limits defined in the preceding article.

Article 4. provides that the United States shall establish two Agencies on the Reservations provided for in article 2., one for the Grand River, Yampah, and Uintah bands, and the other for the Tabeguache, Muache, Weemuache, and Capote bands, both to be located at suitable places on the Reservation, under the directions of the Secretary of the Interior; and likewise at its own proper expense to construct, at each of said Agencies, a Warehouse or Storeroom, for the use of the Agent in storing goods belonging to the Indians, to cost not exceeding $1500; and an Agency building for the residence of the Agent, to cost not exceeding $3000, and four other buildings, for a Carpenter, Farmer, Blacksmith, and Miller, each

to cost not exceeding $2000; also a School house or Mission building, so soon as a sufficient number of children can be induced by the Agent to attend School, which shall not cost exceeding $5000.

The United States agree further to cause to be erected on said reservation, and near to each Agency herein authorized, respectively, a good Water-power Saw-Mill, with a Grist Mill and a shingle Machine attached, the same to cost not exceeding $8000 each: Provided the same shall not be erected until such time as the Secretary of the Interior may think it necessary to the wants of the Indians.

Article 5. the United States agree that Agents for said Indians in the future, shall make their homes at the Agency buildings, and reside among the Indians, keep an office open at all times for the purpose of prompt and diligent inquiry into such matters of complaint, by and against the Indians as may be presented for investigation under treaty stipulations, as also for the faithful discharge of other duties enjoined on them by law.

In all cases of depredation on person or property, they shall cause the evidence to be taken in writing and forwarded, together with their finding to the Commissioner of Indian Affairs, whose

decision, subject to the revision of the Secretary of the Interior, shall be binding on the parties to this treaty.

Article 6. provides that if bad men among the whites or among other people subject to the authority of the United States shall commit any wrong upon the person or property of the Indians, the United States will, upon proof made to the agent and forwarded to the Commissioner of Indian Affairs at Washington, proceed at once to cause the offender to be arrested and punished according to the Laws of the United States, and also re-imburse the injured person for the loss sustained: and if bad men among the Indians shall commit a wrong or depredation upon the person or property of any one, white, black, or Indian, subject to the authority of the United States and at peace therewith, the tribes herein named agree ~~that~~ that they will, on proof made to their agent and notice to him, deliver up the wrong-doer to the United States, to be tried and punished according to its laws, and in case they wilfully refuse so to do, the person injured shall be re-imbursed for his loss from the annuities or other moneys due or to become due to them under this or other treaties made with the United States.

Article 7. provides that any Indian

individual belonging to or legally incorporated with said tribe of Indians, being the head of a family, desiring to commence farming, he shall have the privilege to select, under prescribed conditions, a tract of land on said reservation, not exceeding one hundred and sixty acres, which tract when so selected, certified, and recorded in the Land Book as herein directed, shall cease to be held in common, but the same may be occupied and held in exclusive possession of the person selecting it and his family, so long as he or they may continue to cultivate it. Any person over eighteen years of age, not being the head of a family may, in like manner select and cause to be certified to him or her for purposes of cultivation, a quantity of land not exceeding eighty acres in extent and thereupon be entitled to the exclusive possession of the same as above directed.

For each tract so selected a certificate containing a description thereof and the name of the person selecting it with a certificate endorsed thereon that the same has been recorded, shall be delivered to the party entitled to it by the Agent, after the same shall have been recorded by him in a book to be kept in his office, subject to inspection, which said book shall be known as the "Ute Land Book".

The President may, at any time, order a

survey of the reservation, and when so surveyed, Congress shall provide for protecting the rights of such Indian settlers in their improvements and may fix the character of the title held by each.

The United States may pass such laws on the subject of alienation and descent of property, and on all subjects connected with the government of the Indians on said reservation and the internal police thereof as may be thought proper.

Article 8. provides that "in order to insure the civilization of the bands entering into this treaty the necessity of education is admitted, especially by such of them as are or may be engaged in either pastoral agriculture or other peaceful pursuits of civilized life on said reservation, and they pledge themselves to induce their children, male and female, between the ages of seven and eighteen years to attend school, and it is made the duty of the agent for said Indians to see that this stipulation is complied with to the greatest possible extent, and the United States agrees that for every thirty children between said ages, who can be induced to attend school, a house shall be provided and a teacher, competent to teach the elementary branches of an English education, shall be furnished, who shall reside among said Indians and faithfully

discharge his or her duties as teacher – the provisions of this article to continue for not less than twenty years.

Article 9. provides that when the head of a family or lodge shall have selected lands and received his certificate as before described and the Agent shall be satisfied that he, intends, in good faith, to commence cultivating the soil for a living, he shall be entitled to receive seeds and agricultural implements for the first year, not exceeding in value $100. and for each succeeding year he shall continue to farm, for a period of three years more, he shall be entitled to receive seeds and implements as aforesaid not exceeding in value $50.: and it is further provided that such persons as commence farming shall receive instructions from the farmer herein provided for: and further, that an additional Blacksmith to the one provided for in the Treaty of Oct. 7. 1863, shall be provided with such iron, steel, and other material as may be needed, for the Uintah, Yampah, and Grand River Agency.

Article 10. provides that the United States, at any time after ten years from the making of this treaty shall have the privilege of withdrawing the Farmers, Blacksmiths, Carpenters, and Millers herein, and in the treaty of Oct. 7. 1863 provided for, but in case of such withdrawal, an additional

sum thereafter of $10.00000 per annum shall be devoted to the education of said Indians, and the Commissioner of Indian Affairs shall, upon careful inquiry into their condition, make such rules and regulations, subject to the approval of the Secretary of the Interior, for the expenditure of said sum as will best promote the educational and moral improvement of said Indians.

Article 11. provides that a sum sufficient, in the discretion of Congress, for the absolute wants of said Indians, but not to exceed $30.00000 per annum, for thirty years, shall be expended under the direction of the Secretary of the Interior, for clothing, blankets, and such other articles of utility as he may think proper and necessary, upon full official reports of the condition and wants of said Indians.

Article 12. provides that an additional sum sufficient, in the discretion of Congress, - not to exceed $30.00000 per annum - to supply the wants of said Indians for food, shall be annually expended under the direction of the Secretary of the Interior, in supplying said Indians with beef, mutton, wheat, flour, beans, and potatoes, until such time as said Indians shall be found to be capable of sustaining themselves.

Article 13. provides that for the purpose of inducing said Indians to adopt habits

of civilized life and become self-sustaining, the sum of $45.000 for the first year, shall be expended under the direction of the Secretary of the Interior, in providing each Lodge or head of a family in said confederated bands with one gentle american cow, as distinguished from the ordinary Mexicans or Texas breed, and five head of sheep, also one good bull for every twenty five head of ~~sheep~~ cows, and such further sums annually, in the discretion of Congress, as may be necessary, not to exceed $45.000 per annum, and not for a longer period than four years, shall be expended as aforesaid to every Lodge or head of a family that shows a disposition to preserve said stock for increase.

Article 14. provides that the said confederated bands agree that whenever, in the opinion of the President of the United States the public interest may require it, that all roads, highways, and railroads, authorized by law, shall have the right of away through the reservation herein designated.

Article 15. provides that the United States shall furnish the Indians the Teachers, Carpenters, Millers, Farmers, and Blacksmiths as herein contemplated,

and that such appropriations shall be made from time to time, on the estimates of the Secretary of the Interior, as will be sufficient to employ such persons.

Article 16. provides that no treaty for the cession of any portion or part of the reservation herein described, which may be held in common, shall be of any validity or force as against the said Indians, unless executed and signed by at least three fourths of all the adult male Indians occupying or interested in the same, and no cession by the tribe shall be understood or construed in such manner as to deprive, without his consent, any individual member of the tribe of his right to any tract of land selected by him as provided in article seven of this treaty.

Article 17. provides that all appropriations now made, or to be hereafter made, as well as goods and stock due these Indians under existing treaties, shall apply as if this treaty had not been made, and be divided proportionately among the seven bands named in this treaty, as also shall all annuities and allowances

hereafter to be made: Provided, that if any chief of either of the confederated bands make war against the people of the United States, or in any manner violate this treaty and chief shall forfeit his position as chief and all right to any of the benefits of this treaty: But, provided further that any Indian of either of these bands who shall remain at peace, and abide by the terms of this treaty shall be entitled to its benefits and provisions, notwithstanding his particular chief and band may have forfeited their rights thereto.

It is proper to ~~say~~ state that the bands of Indians embraced in the treaty concluded August 29, 1866, ~~between Alexander Cummings, Governor of Colorado Territory and ex officio Superintendent of Indian Affairs, Wm A. G. Wood, and D. C. Oakes United States Indian Agent, duly authorized and appointed as Commissioners for the purpose~~, with the Chiefs and warriors of the Uintah and Sanpah, or Grand River bands of Utah Indians - ~~which treaty~~ is now before the Senate for its constitutional action thereon - are embraced in the present treaty; consequently, if this treaty shall be ratified by the Senate, no action is desired upon that treaty.

I respectfully recommend, if it meet with your approbation, that the enclosed treaty be sent to the President, to be by him submitted to the Senate for its constitutional action thereon.

I also transmit herewith a communication from Governor Hunt, Agent Head and others, citizens of Colorado Territory, stating why the present treaty is proper and necessary, with suggestions and remarks in regard to said Indians, which letter I respectfully recommend accompany said treaty.

Very respectfully,
Your obt. Servant.
A. G. Taylor
Commissioner

Hon. O. H. Browning,
Secretary of the Interior.