

FEB 27 1929

Burke

The Comptroller General
of the United States.

My dear Mr. Comptroller General:

This is in reply to your letter of January 30, 1929 (A-20698), referring to the claim of Louis Alpers for \$3,000, representing the consideration for 70 acres of land he has deeded to the United States for use by landless Indians of California.

This purchase is being made under authority contained in the Act of May 10, 1926 (44 Stat. 481). During the early part of the year 1927, it was brought to the attention of this Department that there were twenty or more Indians living on land owned by Mr. Alpers, who claimed that they and their ancestors had made their homes thereon for more than a hundred years. Investigation disclosed that it was to the interest of this small band of Indians to acquire for them the only land which they have ever recognized as home, and they are clearly of the class of landless California Indians for whose relief Congress has been making small appropriations annually.

There are enclosed for your information, copies of reports from the Superintendent of the Sacramento Indian Agency, Sacramento, California, relating to occupancy of the land by the said Indians and advisability of purchasing the tract for their use. We also wish to mention that during the two years that this purchase has been under consideration Mr. Alpers has gone to considerable expense to clear the title and furnish policy of title insurance.

With respect to the fact that minerals do not accompany the land, it may be said that in so far as the Indians are concerned, they are interested in the surface alone; while the reports from the Superintendent, copies herewith, disclose that the prospects of mining operations under the area being purchased for the Indians are very remote. The fact that the mineral lessees have had another lease executed in their favor, operating from December 1st, 1928, cannot be accepted as being especially applicable to the 70 acres in question.

*Copy of this letter +
copy of Comptroller's
favorable opinion to
Sacramento 3/11/29
mab*

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because attempts were made to mine this land some time ago, but owing to the presence of water, and mineral of a paying quantity was not found, operations were abandoned.

It is realized that the foregoing is particularly a statement of the reasons for making the purchase, however, it is believed that with such facts before you it might be concluded that purchase of this land without the minerals is justified.

It is clearly understood from your decision of December 19, 1928, in the matter of purchasing land for the Alabama and Coushatta Indians of Texas, that in the absence of legislation to the contrary, purchase of land in fee by the United States must include also the timber and all minerals. If, in view of the facts recited above and the long standing of this case, your Department should see fit to give Mr. Alpers' claim favorable consideration, such action will be recognized as being strictly for the purpose of meeting the exigencies in this particular case, and shall not be accepted as authority for departure in the future from the rule contained in your decision of December 19, 1928, supra.

Should it be decided that the claim cannot be accepted for settlement in its present form, as it is clearly to the interest of the Indians to purchase this land for them, and as Mr. Alpers' deed has already been recorded upon the records of the county in which the land is located and the land therefore stands of record as being the property of the United States, it will be necessary to ask Congress for authority to complete the purchase exclusive of the mineral contents of the land.

Very truly yours,

(Sgd) JOHN H. EDWARDS

Assistant Secretary.