



WYOMING LEGISLATIVE SERVICE OFFICE

Research Memo

03 RM 001

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Re: History of Land Retention in Wyoming

PURPOSE

Question: What is the legal background of federal retention of land in Wyoming? How did the federal government obtain land that eventually became Wyoming? How did Wyoming obtain control of these lands?

RESULTS IN BRIEF

The United States acquired the land of present day Wyoming through a series of treaties with England, Spain, France, Russia, and Mexico in the 18th and 19th centuries, as well as by the annexation of Texas. Wyoming gained control over these lands by the Organic Act of July 25, 1868, establishing the Territory of Wyoming and through the State's Act of Admission of July 10, 1890.

ACQUISITION OF THE LANDS FROM WHICH WYOMING WAS CARVED

England, Spain, France, and Russia once claimed the lands that now make the State of Wyoming by reason of discovery and exploration. Later, the Republic of Mexico and Texas would lay claims to parts of the region that is now Wyoming.

England based its claims on continental North America on the discoveries of its explorers along the northeast coast near the close of the 16th century. In 1620 England granted to the Plymouth Company the Massachusetts Charter, which included all lands between 40° and 48° north latitude "from sea to sea." This was the first civil division of the region from which Wyoming was carved. In the last half of the 17th

century, Spain and France disregarded these English grants and continued their exploration and discovery.

Spain was the first European nation to lay claim by actual discovery and exploration to the basin west of the Mississippi River. France, in 1682, by the same rights, claimed the great basin, both east and west of the Mississippi River. The claims of these two nations to the lands west of the Mississippi River overlapped for a period of some 80 years, there being no definite boundaries agreed upon until 1763. The Rio Grande River and the watershed of the Rocky Mountains, which formed a natural delineation between the two claims, were generally recognized as the boundaries.

By the Treaty of Paris in 1763, France ceded to Spain all the western portion of the Mississippi River Basin after the French and Indian Wars. This included the territory in present day Wyoming east of the continental divide. In 1800, by secret treaty between France and Spain, all of this territory was ceded back to France. In 1803, through the Louisiana Purchase, the United States acquired from France the whole of this territory. While the Louisiana Purchase was supposed to have included all of this territory, the southwestern boundary was not definitively settled until an 1819 Treaty between the United States and Spain. Parts of modern Carbon and Sweetwater counties were still regarded as part of Spanish Mexico.

The Oregon Country, that part of northwest America drained by the Columbia River and its tributaries, was claimed by Spain, Russia, England, and the United States. Oregon Country extended into modern Wyoming covering parts of modern Sweetwater, Lincoln, Sublette, Teton, and Park counties, as well as the southern part of Yellowstone National Park. By treaty with the United States in 1819, Spain relinquished its claims in the Oregon Country to the United States, establishing its boundary along 42° north latitude from the Pacific Coast to about 106°25' east longitude. Russia gave up its claims to the lands south of 54°40' north latitude by treaty in 1824 with the United States. England's claims in the Oregon Country were relinquished in 1846. By treaty with the United States England fixed its southern boundary line at 49° north latitude from the crest of the Rocky Mountains to the Pacific Ocean.

Texas, a state of the Republic of Mexico seceding from Mexico in 1835, was annexed to the United States in 1845 by treaty. A portion of modern Carbon county was claimed by Texas. The boundary lines of the State of Texas were set after the purchase of the northern part of Texas by the United States in 1850. That part of Texas within Wyoming, east of the Continental Divide, was added to the Indian Country; that part lying west of the Divide was included in Utah Territory.

Mexico belonged to Spain until 1821 when it seceded and became the Republic of Mexico. Mexico claimed the southwest portion of modern Wyoming, including parts of modern Uinta, Lincoln, Sweetwater, and Carbon counties. By treaty of Guadalupe Hidalgo in 1848, Mexico fixed its northern boundary very near the present border between Mexico and the United States. Lands covering modern California, Nevada, and Utah, as well as parts of Arizona, New Mexico, Colorado, and Wyoming were ceded by Mexico to the United States. That portion of Mexico lying within Wyoming remained unorganized until 1850 when the part west of the Continental Divide was included in Utah Territory and the portion east of the Divide was added to the Indian Country.

GOVERNANCE OF THE LAND

From 1803 to 1868, parts of Wyoming were included in the District of Louisiana (which was attached to the Territory of Indiana), the Territory of Louisiana, Territory of Missouri, Unorganized Country, Indian Country, Territory of Nebraska, Dakota Territory, Idaho Territory, Oregon Country, Oregon Territory, Washington Territory, Republic of Texas, Utah Territory, Spanish Mexico, and the Republic of Mexico.

Congress created the Territory of Wyoming on July 25, 1868 by the Organic Act and established the definite boundaries of the new Territory. The Organic Act preserved the Indian lands within Wyoming's borders that were the subject of a treaty between the United States and Native American people. Certain lands were held for the benefit of public schools. Other land rights were undisturbed.

Wyoming's state constitution was adopted on September 30, 1889. In Article XVIII, addressing public lands, Wyoming agreed to accept grants from the United States for educational purposes as well as for public buildings and institutions. On July 10, 1890 Congress admitted the State of Wyoming to the Union as the 44th state. The Act of Admission described the state's boundaries as the same as those of the Territory of Wyoming. It preserved Yellowstone National Park and granted the United States power over it. The Act granted the state indemnity lands for the support of schools and public buildings and institutions. The lands held for schools were described as generally being the 16th and 36th sections in every township. Lands held by the Territory for the University were transferred to the State. Lands selected for public buildings and institutions were selected under the direction of the Secretary of the Interior. The Territorial prison in Laramie was granted to the State by the United States. Again, other land rights were undisturbed.

ADDITIONAL READING

Trenholm, V., ed., *Wyoming Blue Book*, 50th Legislature Centennial Edition, 1990, Vol. I (Cheyenne, WY: Wyoming State Archives, 1974)