


PERMITTING INDIANS IN CALIFORNIA'S NATIONAL FORESTS

SOCIETY OF CALIFORNIA ARCHIVISTS
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My interest in California Indians started with my job at the National Archives in San Bruno, where I helped researchers using the records of the Bureau of Indian Affairs. But it wasn't until I left NARA that I started this research. That's because I wanted to avoid any appearance of doing my own work on government time. Now going up to San Bruno to do research is one of my biggest treats. It's also the source for most of what I'm talking about today.

Summary of Indian Census.						

Non-reservation Indians of California, 1905-1906.						
County.	Without land.		Owning land.		Mixed bloods.	
	Heads of	Number.	Heads of	Number.	Heads of	Number.
	Families.		Families.		Families.	
Alameda	18	42			1	1
Alpine	28	113	13	42		
Amador	39	130	10	34	4	19
Butte	62	202	26	80	8	44
Calaveras	28	94	1	7		4
Colusa	42	124	1	8		

File 5340-1909-034, California Special, Central Classified Files, RG 75, NARA, WDC  **HOOVER** INSTITUTE Library & Archives

A big document in California Indian history is the first census of non-reservation Indians in Northern California. It was done in 1905-06 by a special agent named C. E. Kelsey to show how many Indians did not have land. The first two pages are a summary by county, as you see here, with a breakdown by land status.

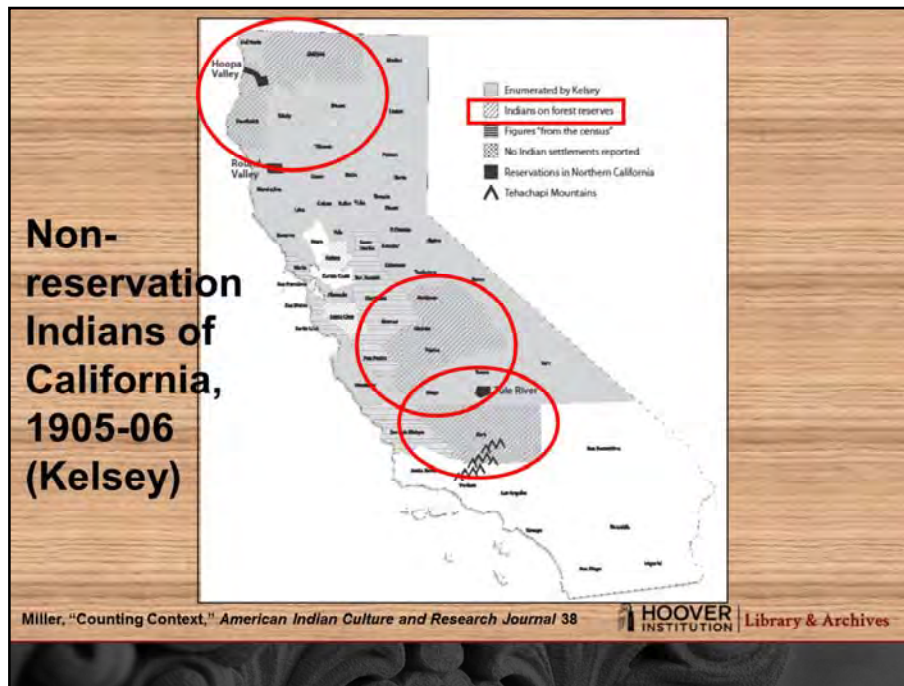
Indians on the Forest Reserves in Northern California.				
Counties.	Indians.		Mixed bloods.	
	Heads of Families.	Number.	Heads of Families.	Number.
Fresno	26	69	3	11
Humboldt	43	188		
Kern	41	169		
Mariposa	14	49		
Madera	64	276	5	12
Siskiyou	118	430	15	102
Totals	306	1181	23	125

File 5340-1909-034, California Special, Central Classified Files, RG 75, NARA, WDC

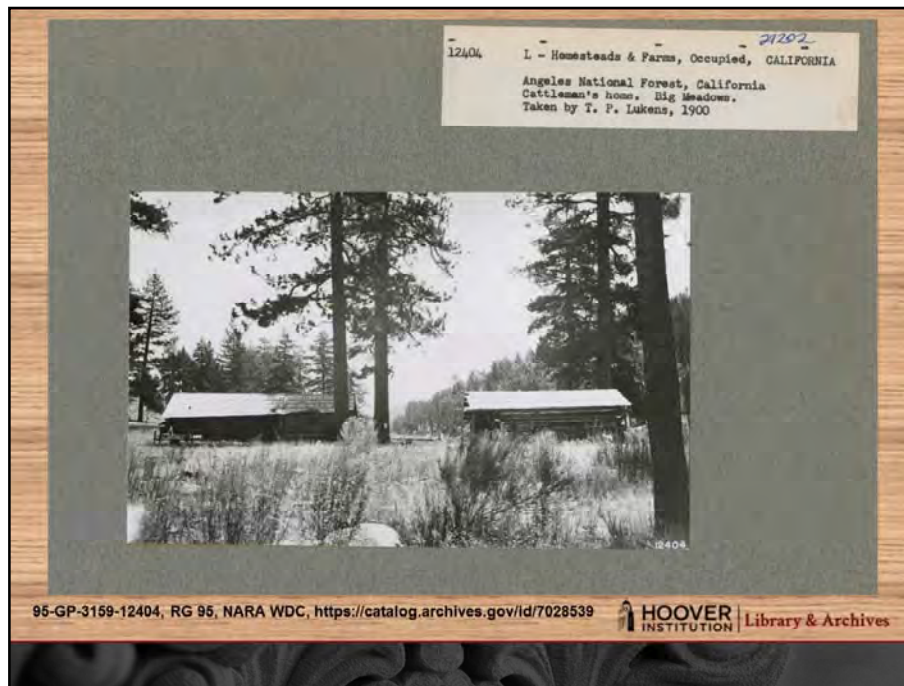


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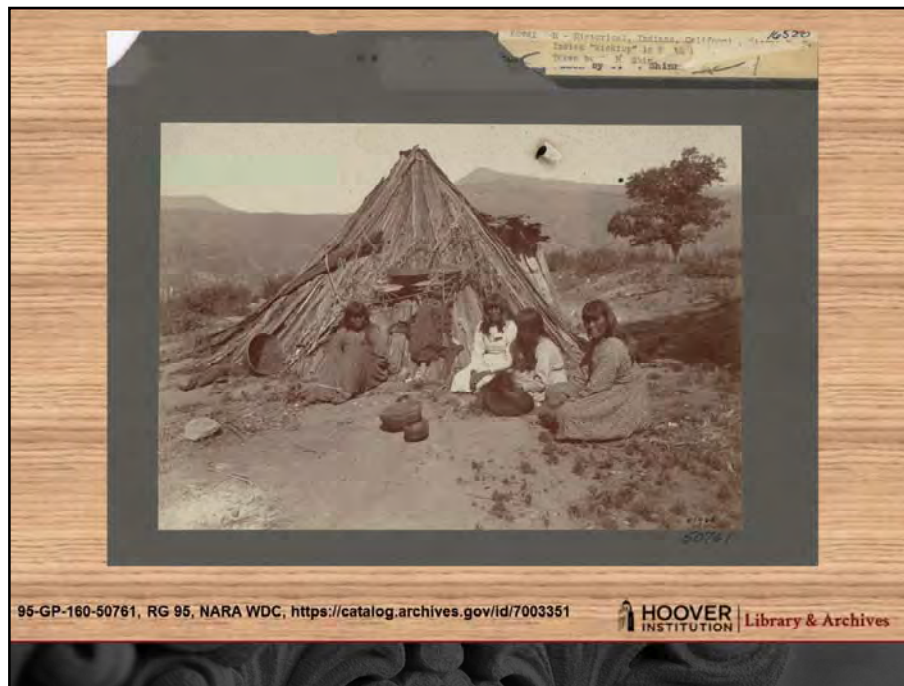
Page three has a summary of Indians in the national forests. There were about 1,200, which was about 10% of the total, in six counties.



Those six counties are in three parts of the state. In the north, Humboldt and Siskiyou counties were home to Klamath and Trinity National Forests. In the center, Madera, Mariposa, and Fresno counties contained Sierra and Sequoia National Forests. Kern County in the south hosted Kern and Santa Barbara National Forests.



Most of these Indians didn't live in deep forests. They lived in small valleys, along streams, in places where they could have a garden, a few fruit trees, and some pasture. I had trouble finding photos of Indian forest homes, so this is a white rancher's home in Angeles National Forest.



This is my only photo of an Indian forest home, in Sierra National Forest. By showing a "wickiup" it may not represent the typical Indian home of this period. So why did Kelsey set up a separate count of forest Indians? I checked the report Kelsey submitted with his census. He said that the Indians did not have title to their land in the national forests. But he felt that these Indians did not need to obtain land--unlike most of the other Indians he counted--because national forest officials did not object to their presence.

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT PRIVATE LANDS **General Land Office Records**

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 County: Any County

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 Middle Name:
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 Meridian: Any Meridian
 Section #:

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Miscellaneous
 Land Office: Any Land Office Issue Date: to
 Document #:
 Indian Allot. #:
 Survey #:
 Authority: Indian Allotment in Nat. Forest [Jun 25, 1918] (36 Stat. 855)

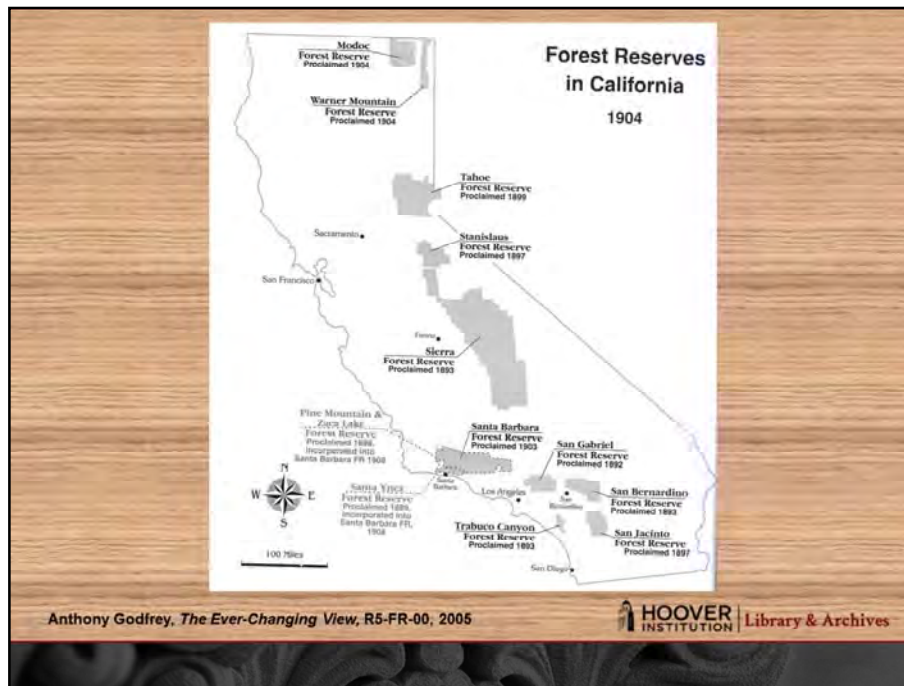
<http://glorerecords.blm.gov/search> **HOOVER** INSTITUTE Library & Archives

I also found that a law was passed in 1910 to allot land to Indians in national forests, which reversed Kelsey's assessment in 1906. Then I went to the BLM land records database and did a search for Indians in California who got land in the national forests using that 1910 law.



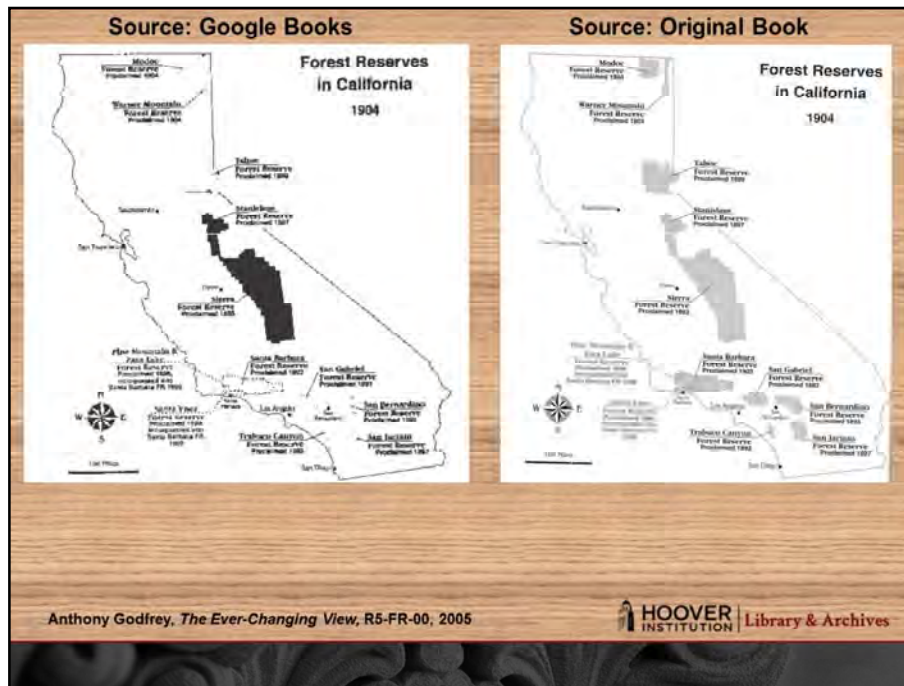
I only got one hit. So Kelsey counted 1200 Indians in the national forests in 1906, but only one got land under the 1910 law. It didn't make sense, and I wanted to find out what happened.

The records at the National Archives in San Bruno include correspondence of (1) Forest Service officers in the national forests of California, (2) Forest Service staff in the district office in San Francisco, and (3) Indian agents who worked in California. This includes their communications with headquarters in Washington. The letters show what was happening on the ground and the policies coming from central office. These are my main sources.

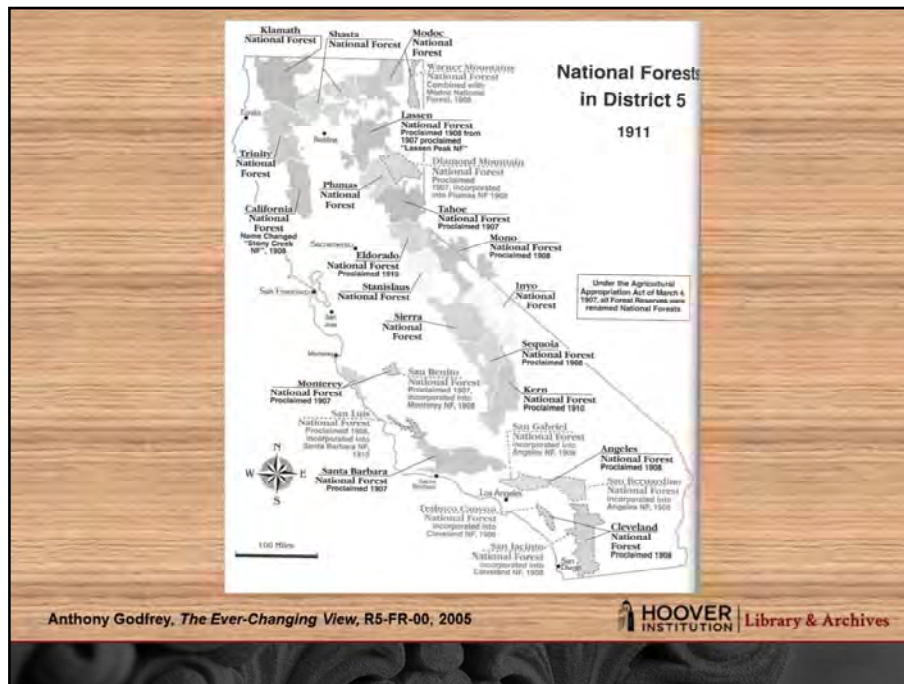


Right after Kelsey submitted his report, a new bill threatened to upend his "no action" proposal for the national forest Indians. The bill opened the national forests for homesteading by citizens--but not Indians.

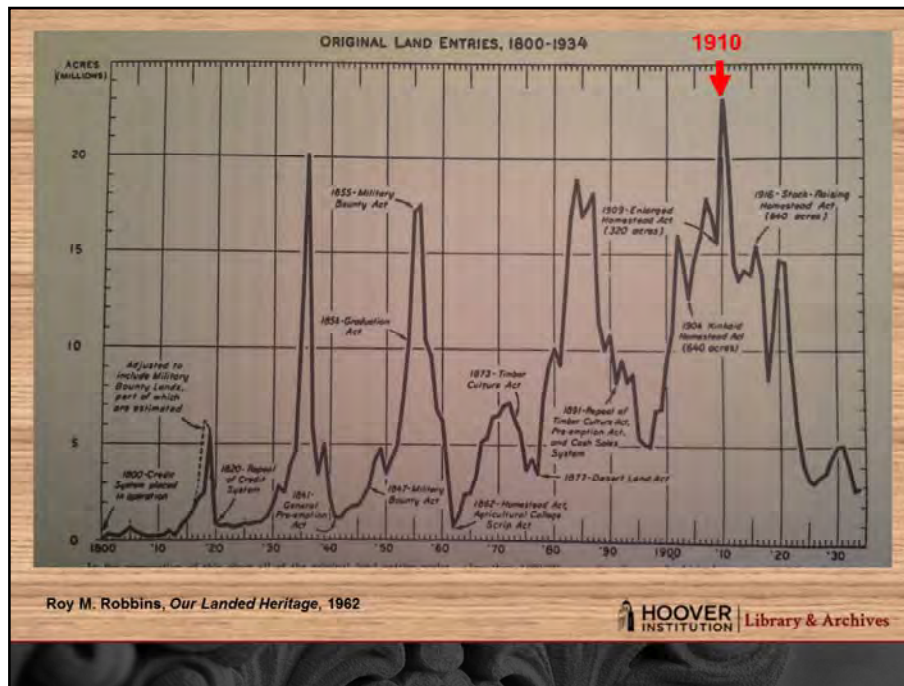
Some quick history--national forests were first established in the 1890s but really grew fast under Theodore Roosevelt. Here's where the national forests were in 1904--about 9% of the state, which is fairly sizable.



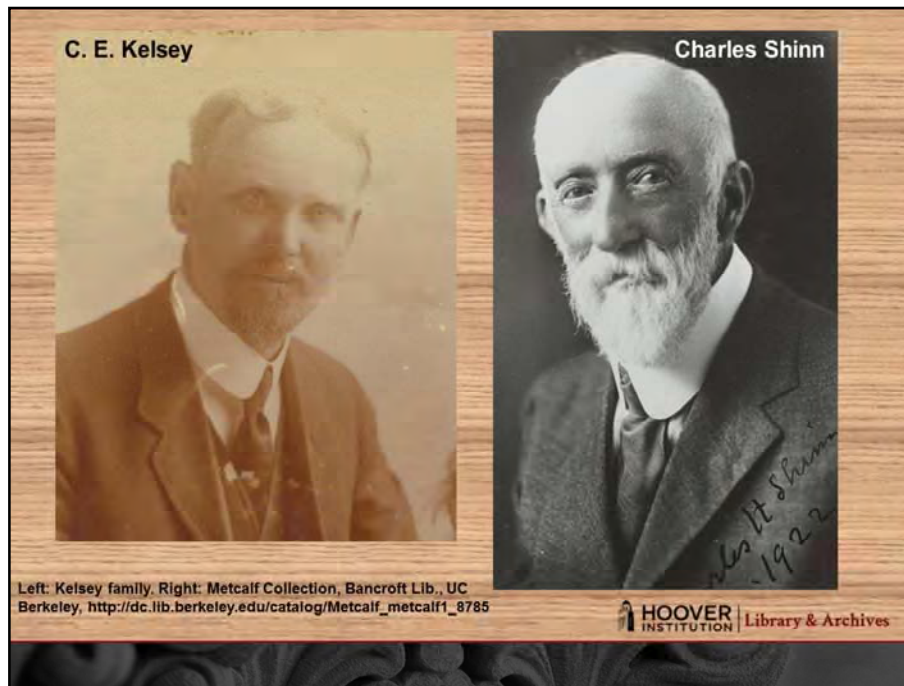
I can't resist showing two versions of this map. I wanted to use this one on the left from Google Books, but you can see that whole forest areas are missing from it. This might be an issue of scanning in bitonal vs. grayscale. So I had to go to the actual book.



But back to the story--by 1911 the national forests had tripled in size. They covered about a quarter of the state. Farmers and city dwellers in California welcomed the forests because they protected water supplies, but most westerners hated the forests.



National forests were still a new concept. They ate up the public domain and locked out western users just as the frontier was closing. This period saw the final surge of homesteading. As measured by acreage in this chart, which runs from 1800 to 1935, you can see that applications for public lands, including homestead and other land laws, peaked in 1910. The forest homestead law was a small part of this land rush. It was also a big attack on the national forests.



The forest homestead law passed on June 11, 1906, and the Forest Service was swamped with homestead applications. The district office in San Francisco got more than 150 applications a month from what are known as "June 11th" settlers. So things were very fluid. National forests were expanding rapidly and engulfing ever more Indian homes. White settlers were eagerly moving into the forests. Kelsey and Charles Shinn, who managed Sierra National Forest, pushed their agencies to protect the Indians. They feared that white homesteaders would force the Indians out of their forest homes, as in so many other places.

The agencies agreed that the Indians needed help, but they disagreed on what to do. The Indian Office wanted to use the Dawes Act of 1887 to allot land to the Indians in the forests. The Forest Service wanted to issue special use permits to the Indians, which was probably Shinn's idea. Allotments under the Dawes Act would give the Indian title to the land, but the title would be held in trust by the government for 25 years. Permits meant the Indians would not get any title, but the integrity of the forests would be preserved.

Form 107
UNITED STATES DEPARTMENT OF AGRICULTURE
BUREAU OF LAND MANAGEMENT
WASHINGTON, D. C.
APPROVED BY
DATE
RECEIVED
MAR 12 1906

FOREST SERVICE
APPLICATION UNDER ACT OF JUNE 11, 1906.
FOR THE LAND ALLOTMENT
FOR THE LAND ALLOTMENT
FOR THE LAND ALLOTMENT

THE FORTY-FIVE
WASHINGTON, D. C.
I hereby make application for the examination
following-described lands in the
of the act is accepted, given such application, and to the
of the act is accepted, given such application, and to the
of the act is accepted, given such application, and to the

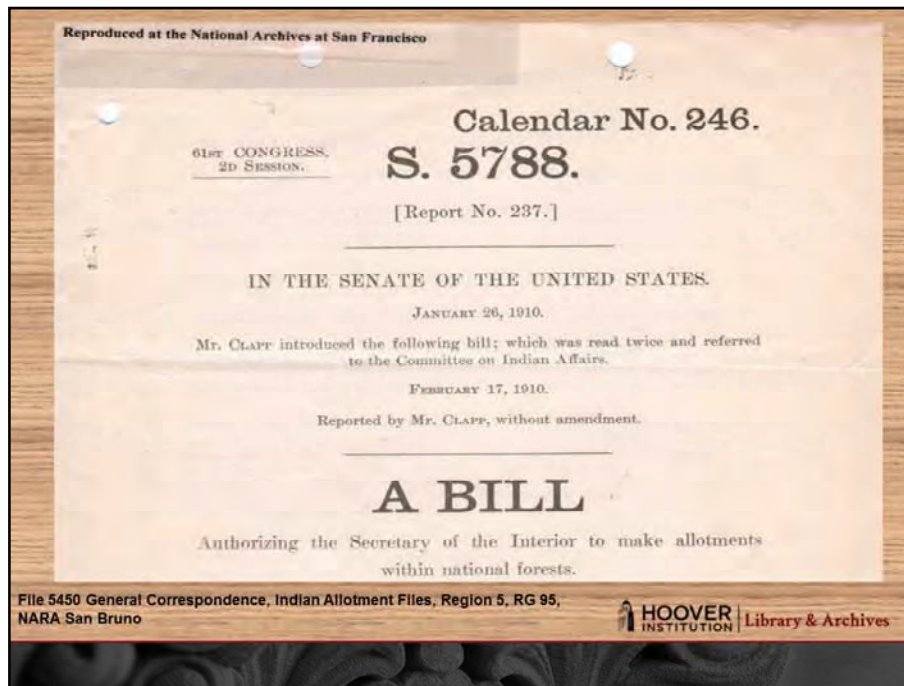
I am entitled to make every under the
upon the land above described and believe it
upon it for examination the
WASHINGTON, D. C.
I make application for the examination and allotment under the Act of June 11, 1906, of the
scribed lands in the
National Forest,
My present address is
Applicant

79 Trinity

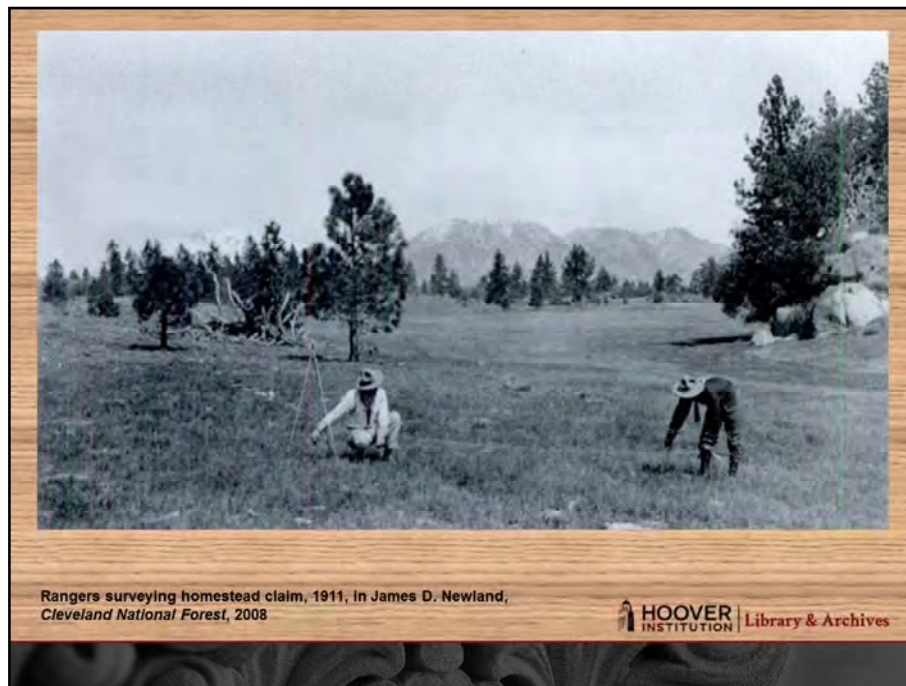
File 5450 TRI General, Indian Allotment Files, Region 5,
RG 95, NARA San Bruno

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Indians were stuck in the middle of this standoff. Some tried every means possible to get title to their land. Augustus Russ, a member of the Redwood band, applied for land in Klamath National Forest by jury-rigging this application form meant for "June 11th" settlers. It was rejected. For years he and many other Indians just got the runaround from both agencies.



In 1909 the agencies finally decided to ask Congress for a law authorizing Indian allotments in the forests. It was passed in 1910, and then the agencies had to agree on how to implement it.



Rangers surveying homestead claim, 1911, in James D. Newland,
Cleveland National Forest, 2008

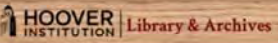
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The law specified several things: (1) the Indian had to meet certain eligibility rules, (2) the land must be primarily agricultural, and (3) improvements like fences and buildings were required. The tract also had to be surveyed, as rangers are doing here. All this took staff time in the field, often in remote places.

INDIAN OFFICE VS. FOREST SERVICE

- Old, centralized, patronage-based Indian Office vs. new, decentralized, progressive, Forest Service
- Dept. of Interior vs. Dept. of Agriculture
- Taft dismisses Forest Service's Gifford Pinchot for publicly criticizing Interior Secretary Ballinger (January 1910)
- Both compete over admin of public lands

These were competing agencies with vastly different cultures. The Forest Service was brand new as of 1905. It was known for its professionalism and esprit de corps. The Indian Office was 85 years old, highly centralized, and steeped in political patronage. Emphasizing these differences, the Forest Service was in the Department of Agriculture, but the Indian Office and most public land agencies were part of Interior. When President Taft fired Gifford Pinchot, the head of the Forest Service, in 1910, it unleashed the competitive forces between the agencies.

CALIFORNIA	WASHINGTON, D.C.
1. Indian fills out application	
2. Forest Service or Indian Office certifies application and returns it to Indian	
3. Indian submits application to national forest, which evaluates land, then sends to headquarters	4. Secretary of Agriculture reviews, returns application to Indian
5. Indian files application at land office, which records and sends to headquarters	6. General Land Office (GLO) receives application, forwards to Indian Office
	7. Indian Office reviews, sends to Secretary of Interior
	8. Secretary of Interior reviews, sends to GLO
	9. GLO issues trust patent
	

Regulations to implement the Indian forest homestead law came out in 1911. They were long and convoluted. The application went through 9 steps in 3 agencies in 2 departments, and bounced between California and Washington. After the Indian filled out an application, either agency could certify it. Then the Forest Service evaluated the land and improvements, shown here in the green band. Then it sent the application back to the Indian. The Indian then submitted it to a second workflow through the Interior Department (in the red band). The two departments did not directly interact. That first step by the government--step 2--was the catch. Certifying the application could fall to either agency, which allowed both to defer to the other and do nothing.

U.S. DEPARTMENT OF THE INTERIOR
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Patents

Image	Accession	Names	Date	Doc. #	State	Herdlan	Trwp - Rng	Alquots	Sec. #	County
	18200319	NELSON, ROBERT CHARLES	10/17/1928	1313836	CA	San Bernardino	0105 - 001E	Lot/Trct 100	26	San Diego

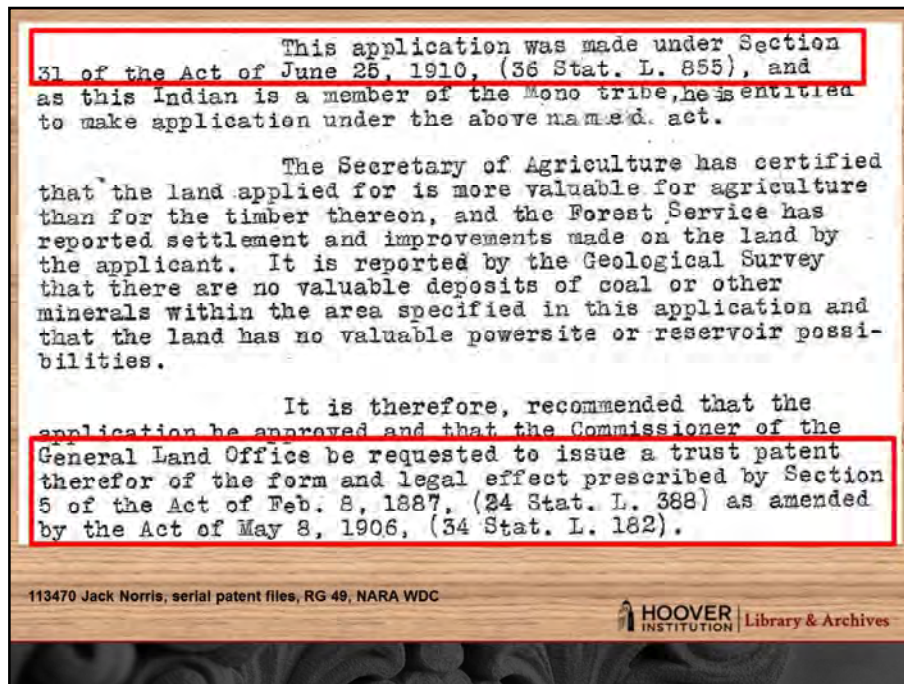
Summary of All Indian Allotments Acted upon by the Forest Service District 5 office as of February 1, 1916

National Forest	Number of Applications	Acres applied for
California	1	80.00
Cleveland	3	319.62
Inyo	6	616.54
Klamath	32	459.34
Modoc	1	80.00
Mono	4	400.00
Plumas	10	711.00
Sequoia	5	559.52
Shasta	1	160.00
Sierra	68	5,938.13
Tahoe	1	18.37
Trinity	5	559.61
Total	137	9,902.13

File 5450 General Correspondence, Indian Allotment Files, Region 5, RG 95, NARA San Bruno

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So it took another two years before the process finally got moving. From 1913 to 1916 most of the Indians who qualified under the law were allotted and 137 Indian allotments were made in California's national forests. Only a few allotments were made after 1916. So what about the BLM database that listed just one Indian forest homestead?



At San Bruno I looked at many land transaction case files for Indians. Most used language like this from the land patent file for Jack Norris's allotment in Sierra National Forest. His application was made under the Indian forest homestead law of 1910. But it also says that the Land Office should issue a trust patent to Norris under the authority of the Dawes Act of 1887. So these two laws go together like a pair of socks. The 1910 law extended the provisions of the Dawes Act to the national forests. So the Dawes Act remained the authority for Indian allotments everywhere, including the national forests. The BLM database is simply misleading by including the 1910 law.

8-214. RECEIPT FOR PATENT.
(DUPLICATE.)

File No. _____

Alotment No. 38
(08715 Sacramento) School.

JAN 2 1917
Northfork, California, 191...

RECEIVED of C.H. Asbury, Special Indian Agent, Reno, Nevada, Superintendent U. S. Indian School

Patent No. 552782, Issued November 2, 1916, in the

name of Julia Capp, an Mono

Indian, for E/2 E/2 E/4 Section 19 and W/2 NW/4 SW/4 and W/2 SW/4 SW/4
Section 20, Tp. 8 S., R. 23 E. MDM, containing eighty acres.

Witness:
Alexander Hood, Julia Capp, Patentee.
Helen H. Hood, mark

SAC-38, Land Transaction Case Records, Sac Area Ofc, RG 75, NARA San Bruno


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But I haven't solved the bigger mystery. Why did so few Indians get a trust patent for homes in the national forests? Julia Capp, a Mono Indian in Sierra National Forest, was one of just 137 forest allottees by 1916. Kelsey reported 1200 Indians in the forests in 1906 and his count grew over time as the forests grew in size. The Forest Service counted about 2,000 Indians in the forests in 1909. There are probably multiple factors. One is the bureaucratic foot-dragging that I've described. Another may be that Indians ran into many of the same problems as white homesteaders in the national forests. Despite the land rush, most whites couldn't make it in the forests and they abandoned their claims. Perhaps as Indians were forced to adjust to the white economy and society, it was just as hard for them as for white settlers to make a go of it in the national forests, so they chose to leave.

Forthcoming in 2017:

Larisa K. Miller, "Permitting Indians in California's National Forests," *Forest History Today*

lkmiller@stanford.edu

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If you'd like to know more, watch for my article later this year in *Forest History Today*.
Thank you.