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Natural Resource Inventories of Indian Public Domain Trust Allotments in California

GARY NAKAMURA AND RICHARD R. HARRIS

INTRODUCTION

Public domain trust allotments (PD allotments) are parcels of land held in trust by the federal government for specific Indian individuals. It is a class of Indian lands created by the General Allotment Act of 1887 as an ancillary result of the effort to assimilate Indians into the general population by terminating reservations and making Indians homesteaders of private parcels. They were intended for Indians not residing on a reservation or for whose tribe no reservation was created. These "landless" Indians were permitted to make allotment selections from the public domain, including the national forests. PD allotments are not the same as the trust allotments created from Indian reservations that remain within the boundaries of

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a reservation. Both PD allotments and reservation allotments are supposedly entitled to the same services (and obligations or restrictions) conferred by trust status. As a practical matter, allotments within reservation boundaries have received considerably more attention than PD allotments. Reservation allotments are covered by natural resource management plans prepared for reservations and in general have provided greater benefits to their owners than PD allotments.

Until about 1960, PD allotments in California comprised over 300,000 acres. Today, there are only 15,000 acres remaining. The process by which these allotments disappeared from Indian ownership and trust status is not specifically known; presumably it mirrored the process by which millions of acres in the United States passed out of Indian hands due to termination. Over the past few years we have conducted natural resource inventories of these remaining allotments to determine their conditions and needs. This work represents the first-ever attempt to provide trust-related services to the entire group of PD allotments and their owners (estimated at 10,000 heirs). This paper presents some of the results of those surveys and suggests implications for improved management.

HISTORY OF PUBLIC DOMAIN ALLOTMENTS IN CALIFORNIA

The General Allotment Act of 1887, or Dawes Act,¹ authorized the allotment (i.e., subdivision) of Indian reservations and the distribution of parcels to individual Indians. Tribal lands were distributed as follows: 160 acres to each family head, eighty acres to each single person over eighteen, forty acres to each single person under eighteen. Each Indian could supposedly select his own allotment, but in practice many were selected for Indians by federal government agents. Title would be held in federal trust for twenty-five years or longer. At the end of the trust period, U.S. citizenship would be conferred upon allottees who separated themselves from their tribes and took up "the habits of civilized life." Lands within reservations unclaimed by qualified Indian people were declared "surplus" and released for sale or homesteading to the general public.²

We cannot dwell here on the devastating impact that the Dawes Act had on Indian tribes and their lands throughout the United States. In California, many thousands of acres passed

from Indian to private ownership either directly (through sale of "surplus" land) or indirectly (through unscrupulous land deals) until the Indian Reorganization Act of 1934. In California especially, there was a large number of Indian people who did not reside on reservations or who were otherwise landless. The Dawes Act permitted these people to choose allotments from the public domain and the national forests. This provision was essentially an extension of the Homestead Act of 1862 to non-citizen Indians who were ineligible for the Homestead Act. The allotments made from national forests were to be "lands more valuable for agricultural or grazing purposes than for the timber found thereon."³

As with reservation allotments, these PD allotments were to be held in trust for twenty-five years for the Indian owner and for his sole benefit or that of his heirs. At the expiration of the trust period, the allottee would receive the land in fee simple and thereby assimilate into the general society. Extensions of the trust period were routinely granted. In 1934 the Indian Reorganization Act repudiated the policy of allotment and effectively extended trust status indefinitely for both reservation and PD allotments.⁴ Although that Act sought to stop the loss of Indian lands to non-Indian people, it was only effective until the 1950s. At that time, another era of termination was ushered in by Congress. In California this policy resulted in a reduction from a maximum of 2,552 PD allotments, comprising 336,409 acres prior to 1960, to the 211 PD allotments comprising 15,613 acres in 1995. These lands are held in undivided interest by about 10,000 heirs.⁵

The remaining public domain trust allotments are in trust status. This implies that they will be managed by the U.S. Department of the Interior, Bureau of Indian Affairs (BIA) to provide the greatest benefits for their Indian owners, much as the U.S. Department of Agriculture, Forest Service manages national forests held "in trust" for the citizens of the United States. The federal trust responsibility to Indians is one of the most important and least understood concepts in federal-Indian relations. The spirit of the concept of trust responsibility is to ensure the survival and welfare of Indian tribes and people. Trust responsibility is essentially the obligation placed upon the federal government to guarantee the rights and privileges conferred by treaties or other agreements between tribes and the federal government.⁶ An essential characteristic of trust status is the restraint against alienation or the sale or disposal

of the land, ostensibly a safeguard against the Indians being taken advantage of.

NATURAL RESOURCE SURVEYS OF PUBLIC DOMAIN ALLOTMENTS

Until the present studies, virtually nothing was documented about the natural resources and management possibilities of California's PD allotments. In 1992, a cooperative agreement was developed between the University of California, Cooperative Extension, Forestry and the BIA, Sacramento Area Office to conduct inventories of each allotment. Northern California Agency allotments were inventoried from July to

TABLE 1 ALLOTMENT INVENTORY REPORTS

Allotment name — often a code number.

Allotment occupant — name, mailing address. Probably an owner, but not the sole one.

County —

County recorder's number —

Date of the field survey —

Legal description — township, range, section, baseline and meridian.

U.S. Geological Survey, 7-1/2 minute quadrangle map.⁷

Road log, description of access to the allotment from the agency office.

Fire history — developed from records of the local fire agency. The first responders to a fire on the allotment was determined and their name, address, and phone number recorded.

Current fuel levels — mapped to provide information about fire hazard and treatment opportunities.^{8,9,10}

Stream classification — mapped.¹¹ Flows were estimated when water was present.

Current land use — map of current land use, developments, and rights of way. Cultural features which were observed or locations volunteered by allottee were mapped separately and maintained in a separate file from the resource inventory.

Vegetation types — map¹² of general vegetation types.

Soils — map^{13,14,15} and soil mapping unit descriptions.

Land classification — table showing acres in forest, non-forest; reserved and administratively withdrawn, unreserved; accessible and inaccessible.

December 1992, Central California Agency allotments from February to December 1993, and the Southern California allotments from March to September 1994. A physical, paper file, now residing in agency and area BIA offices, was created for each allotment. The files are available to Indian owners, although for reasons discussed below, access is by no means assured. The natural resource surveys were undertaken as the first step in a process to deliver services to allottees, as required by federal trust status.

Survey Procedures and Results

Survey procedures were developed jointly by university and BIA Forestry staff. Table 1 lists the information to be gathered for each allotment.

Narrative Description of the Allotment

This information was considered the minimum necessary for commencing an analysis of natural resource management needs and opportunities. The survey was designed at a reconnaissance level, permitting the BIA to determine if significant forest and woodland management opportunities existed, including correction of problems like fuels and fire hazard and trespass. It was to provide sufficient information to plan and secure support for more detailed surveys necessary for project level work.

The inventory began with a review of the BIA realty file on each allotment. Copies of the title records were made and placed in the natural resource inventory file being created for each allotment. The realty records provided the names of the owners and the legal description of the allotment necessary to physically locate it. A title search was conducted for each allotment at the appropriate county recorder's office, to confirm the trust status of the allotment and record the plat number. We had estimated that 270 PD allotments required natural resource inventories, but some allotments had fallen out of trust altogether while others retained in trust status for mineral rights only. Two hundred and eleven PD allotments had surface rights, and they received natural resource inventories.

Every allotment was visited on the ground. In most instances the survey team could transect the allotment in two

directions, validating map information and aerial photo interpretation and recording the items in Table 1—current land use, fuel levels, vegetation cover, timber and woodland resources, water development, rights-of-way, and structures. Slide photographs representative of the general appearance of the allotment were taken at relocatable photo points.

Surveyors recorded their observations regarding management needs or concerns for each allotment, for instance, trespass; soil erosion or mass wasting; wildlife presence as indicated by browsing; insect or disease outbreak; and potential for agricultural, grazing, timber, or water development.

Each allotment's acreage was classified according to its commercial forest or woodland capability, accessibility for management, and administrative status, whether it is reserved for environmental, wildlife, or cultural reasons (Table 2).

Almost half the acres inventoried are classified as non-forested, probably range or agricultural land, and about a third of the acres inventoried are classified as woodland (Table 2), probably hardwood rangeland, which is consistent with the stricture that the public domain and national forest lands offered for allotment were to be "lands more valuable for agricultural or grazing purposes than for the timber found thereon."

This land classification emphasizes forest and woodland resources and management opportunities, but the inventories contain information useful for other purposes. For example, although many of the allotments had riparian and/or developed water, the inventory did not delve into water rights. In

TABLE 2
SUMMARY OF THE LAND CLASSIFICATION INFORMATION¹⁶

Agency (no.)	Total ac (%)	Non-forested	Forested Commercial	Forested Non-comm	Woodland Commercial	Woodland Non-comm
Northern (111)	7084 (100)	3061 (43)	1985 (28)	0	1620 (23)	418 (6)
Central (86)	6727 (100)	2837 (42)	511 (8)	0	3013 (45)	366 (5)
South (14)	1505 (100)	1151 (76)	0	0	136 (9)	218 (14)
Total (211)	15,316	7049 (46)	2496 (16)	0	4769 (31)	1002 (7)

Southern California, one allotment was undeveloped and unmanaged, but for that reason was cited as "the last remaining undeveloped wildlife corridor in the area between the San Luis Rey River system (1/4 mile to the east) and the interior mountainous region."

POTENTIAL APPLICATION OF THE NATURAL RESOURCE SURVEYS

BIA Natural Resource Management Services

Availability of the natural resource inventories provides a valuable first step in improving the services to a historically overlooked class of Indian owners. Since the surveys were initiated by the Forestry Branch of BIA, that would be the first program investigated as a source of funds and technical assistance for management. At the present time, earmarked Forest Improvement funds are available to plan, thin, and release trees; prepare sites and plant; and otherwise improve the condition and productivity of allotments with classified forest and woodland types. Other BIA programs are available for water, wildlife, recreation, agricultural development, and fisheries. The natural resource inventories serve to identify allotments that warrant further study to develop plans and projects for BIA program funds.

Ironically, after many years of neglect, the allotment surveys have been completed at a time when major budget cuts and reductions in staffing are expected for the BIA. These cuts in the traditional service provider to Indian owners will have a disproportionate impact upon the public domain allotments because the owners are not organized and therefore at a disadvantage in competing with recognized, organized tribes on reservations for services and funds.

In addition to limited funds and programs, the BIA faces a number of other logistic problems in seeking to serve PD allotments and their Indian owners. These are not unique to California¹⁷ but are nevertheless serious obstacles:

1. There are at least some, and perhaps many, allotments that have clouded title or unclear rights of access. Legal and realty services sufficient to address these problems are lacking.

2. Some allotments are isolated and landlocked, without legal right-of-way or access, complicating management activities like timber harvest.
3. The large number of heirs with undivided interests for some allotments makes obtaining consensus on management difficult. Allotment owners often have different visions and goals from each other and yet 51 percent must agree upon any management decision. Simply notifying allotment owners of management opportunities can be a monumental task, with an average of thirty-four owners for every allotment,¹⁸ let alone obtaining majority consent. This is exacerbated by the continual division of ownership as new heirs come into ownership.
4. Indian owners may be confused or unclear about the BIA trust responsibility, especially when it is formatted as bureaucratic procedures (e.g., timber sale planning). There may be general distrust of the BIA due to the history of allotments in California and the possible role of the BIA in facilitating termination. Accusations have been lodged that in the past Indian owners were tricked into selling land with timber, that moneys were being inappropriately allocated, and that sales were below value. There may be differences between the management objectives of the BIA and Indian owners.¹⁹
5. The underfunding and understaffing noted for Indian forestry throughout the country²⁰ affects California PD allotments disproportionately because management is more complex and expensive for the geographically scattered and multiple ownership allotments.

Services Available to Allotments from Sources Other than the BIA

While the BIA has been the principal agency fulfilling trust responsibilities to Indian landholders, other state and federal agencies and programs also have a trust responsibility to these lands. Indeed, many programs explicitly cite "Indian tribes and authorized tribal organizations" as eligible for assistance. Those agencies with programs and assistance for private lands also have an obligation to PD allotments. In California, Indian public domain allotments, and reservations for that matter,

have gone largely unrecognized and ignored by most federal, state, and local programs because they have been considered the sole responsibility of the BIA and specific Indian programs.²¹ Recognizing our trust responsibility as a federal land-grant university program, the University of California Cooperative Extension Service has initiated steps to make government agencies with natural resource cost-share and assistance programs aware of their responsibilities to Indian people. In 1995 to 1996, a series of workshops co-sponsored by the California Department of Forestry and Fire Protection were held to inform both Indian owners and agencies of these responsibilities and opportunities. For example, the following programs cite Indian forest and woodlands as eligible:²²

1. Forest Stewardship Program, administered by the California Department of Forestry and Fire Protection
2. Rural Community Assistance Program (the President's Northwest Forest Plan), administered by various agencies
3. Fish and Wildlife Management Assistance, California Department of Fish and Game
4. California Forestry Improvement Program, California Department of Forestry and Fire Protection
5. Deer Herd Management Improvement Program, California Department of Fish and Game
6. Fisheries Restoration Grant Program, California Department of Fish and Game
7. Watershed Projects, USDA Natural Resources Conservation Service (formerly SCS)
8. Ecosystem Restoration, U.S. Army Corps of Engineers
9. Water and Waste Disposal Loans and Grants, USDA Consolidated Farms Services Agency (formerly Farmers Home Administration)
10. Hazard Mitigation Grants Program, Federal Emergency Management Agency (FEMA)

Although some California reservations and rancherias have taken advantage of these and other programs, there has been a notable lack of participation by Indian allotment owners possibly

due to many of the reasons cited above. Participation in state and federal programs must be approved by the BIA.

CONCLUSIONS

In 1990, the National Indian Forest Resources Management Act (NIFRMA), Title III, Public Law 101-630, directed the Secretary of the Interior to obtain an independent assessment of the status of Indian forest resources and their management throughout the nation. The resulting Indian Forest Management Assessment Team (IFMAT) report produced a number of findings and recommendations regarding Indian forestry in general and forested allotments in particular. The IFMAT report summarizes well the opportunities for Indian forest management, not only for Indian forests but all forests in the United States:

There is a striking potential for managed Indian forests to serve as models of sustainability. Reservations are permanent homelands where Indians live intimately with the environmental and economic consequences of forest-management actions. Indians want their forests for a complex mix of uses—timber harvest, livestock grazing, hunting, plant gathering, firewood, fishing, scenic beauty, spiritual sanctuary—and have a compelling need to balance competing interests. They have a well-recognized commitment to protect the resources that are both their heritage and legacy.²³

...We believe that considerable management flexibility still exists on Indian forestlands, where many innovative approaches are already being tried. Further, we believe that others have much to learn from Indian forestry and the holistic Indian view of forests and people. But, it is urgent that more attention and resources be directed soon to Indian forests by Congress. Otherwise, options will be irretrievably lost and, with them, a major opportunity to bring Indian forests up to management standards of federal lands such as the National Forests and to provide widely useful examples of integrated forest management."²⁴

IFMAT's points apply to PD allotments in California. Undertaking natural resource surveys on this formerly unknown land base has been an important first step to improved use for the benefit of Indian owners. There are however, substantial logistic and financial obstacles to improved management. These cannot be overcome by reliance on the BIA

alone. They must be met by innovative programs, outreach to Indian owners and increased visibility of this neglected ownership class.

Note: This paper was originally presented at the Eleventh Annual California Indian Conference, October 6-7, 1995, University of California, Los Angeles.

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NOTES

1. U.S. Congress, *General Allotment Act*. 49th Congress, 2nd Sess. Chap. 119, February 8, 1887. An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes. Also known as the Dawes Act.

2. Lynn Huntsinger, Sarah McCaffrey, Laura Watt, and Michelle Lee, A report prepared for BIA Sacramento Area, *Yurok Forest History* (Berkeley, CA: University of California Dept. of ESPM, 1994). For example, on the Lower Klamath Reservation, 10,000 of 25,000 acres were allotted around the turn of the century. Of those 10,000 acres, about 566 acres remained in trust allotments in 1993.

3. F. Cohen, *Handbook of Federal Indian Law*, Chapter 11, Section B2 (Charlottesville, VA: The Michie Company, 1982), 615.
4. *Ibid.*, *Handbook*, Section B4a, 619. Discussion of extension of federal trust.
5. USDI-Bureau of Indian Affairs, Sacramento Area Office, *Public Domain Allotments; Homesteads and National Forest Allotments* (Sacramento, CA: USDI-BIA files, February 17, 1960).
6. American Indian Policy Review Commission (AIPRC), *Final Report of the American Indian Policy Review Commission. Submitted to Congress, May 17, 1977*, Chapter 4 (Washington, DC: U.S. Government Printing Office, 1977), 121-138.
7. U.S. Geological Survey (USGS), 7-1/2 minute quadrangle maps. Available from Menlo Park-Earth Science Information Center, U.S. Geological Survey, Menlo Park, CA.
8. K.S. Blonski and J.C. Schramel, *Photo Series for Quantifying Natural Forest Residues: Southern Cascades, Northern Sierra Nevada*. General Technical Report PSW-56 (Albany, CA: USDA-Forest Service, Pacific Southwest Forest and Range Experiment Station, October 1981).
9. W.G. Maxwell and F.R. Ward, *Photo Series for Quantifying Forest Residues in the Sierra Mixed Conifer Type, Sierra True Fir Type*. General Technical Report PNW-95 (Portland, OR: USDA-Forest Service, Pacific Northwest Forest and Range Experiment Station, October 1979).
10. Hal E. Anderson, *Aids to determining fuel models for estimating fire behavior*. General Technical Report INT-122 (Odgen, UT: USDA-Forest Service, Intermountain Forest and Range Experiment Station, 1982).
11. California Department of Forestry and Fire Protection, *Guidebook to Board of Forestry Watercourse and Lake Protection Rules* (Sacramento, CA, 1983).
12. California Department of Forestry and Fire Protection, *California's Forests and Rangelands: Growing Conflict Over Changing Uses* (FRRAP Report). Vegetation cover types. Appendix A (Sacramento, CA, 1988).
13. California Soil-Vegetation Survey, *Soil-Vegetation Surveys*. 7-1/2 minute quadrangle maps of soils and vegetation for selected private and non-federal public forestland. Maps are out of print but usually available for reference at libraries, USDA Natural Resource Conservation Service, and University of California Cooperative Extension Service offices.
14. USDA Natural Resources Conservation Service (formerly Soil Conservation Service), *General Soils Maps and Reports*. Available for most California counties. Sometimes incorporates Soil-Vegetation Survey (see note 13) areas.
15. USDA Forest Service and Natural Resources Conservation Service, *Soil Surveys of National Forests*. Available for most national forests in California.

16. USDI-BIA, *Public Domain Allotment Land Classification Summaries, California Agencies* (Sacramento, CA, 1995). Definitions:

Non-forested. Land that has never supported forest growth and land formerly forested but since cleared for cropland, residential areas, parks, roads, etc.

Forested – Commercial. Forest land that is producing or capable of producing crops of industrial wood and is administratively available for intensive management for timber production.

Forested – Non-commercial. Forest land that is available for extensive management, but is incapable of producing industrial wood.

Woodland – Commercial. Forest land stocked, or capable of being stocked, with tree species of such form and size as to be generally marketable for products.

Woodland – Non-commercial. Forest land unstocked, or incapable of being stocked, with tree species of such form and size as to be generally marketable for products.

17. Indian Forest Management Assessment Team (IFMAT), *An Assessment of Indian Forests and Forest Management in the United States* (Portland, OR: Intertribal Timber Council, 1993).

18. *Ibid.*, V-46, Table 25.

19. *Ibid.*, ES-4.

20. *Ibid.*, V-45.

21. *Ibid.*, *Final Report of the American Indian Policy Review Committee*, 429.

22. University of California Cooperative Extension Service, *Cost-share and Assistance Programs for Individual California Landowners and Indian Tribes*. A summary of cost-share and assistance programs available from federal and state agencies, listing program goals, services provided, agency, eligibility, limitations, contact person (Berkeley, CA, 1995).

23. *Ibid.*, *An Assessment of Indian Forests*, ES-14.

24. *Ibid.*, ES-21.