

INDIAN DEPREDEATION CLAIM OF E. MONTOYA & SONS.

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING

*Papers in the Indian depredation claim of E. Montoya & Sons.*

JANUARY 20, 1890.—Referred to the Committee on Indian Depredation Claims and ordered to be printed.

DEPARTMENT OF THE INTERIOR,  
*Washington, January 17, 1890.*

SIR: I have the honor to transmit herewith copy of a communication of the 30th September, 1889, from the Commissioner of Indian Affairs, inclosing certain papers in the Indian depredation claim of E. Montoya & Sons, No. 1973, which claim was transmitted to Congress in January, 1888. (See Ex. Doc. 34, Fiftieth Congress, first session.)

These papers were returned to the Indian Office from the House of Representatives on 23d September, 1889, and are as follows:

Joint affidavit of the claimants; formal application of E. Montoya & Sons; joint affidavit of Tereso Lopez, Pelagio Armijo, and Ramon Galbave; copy of Indian agent's report, dated June 8, 1880; office letter of April 4, 1881, and Department letter of January 12, 1882.

The Commissioner states that all the above affidavits were executed before a justice of the peace, whose official character is not certified to, but that if this testimony were in legal form it would not justify any change in the conclusions heretofore reached by his office on the case, and, in compliance with his recommendation, the papers are herewith returned with request that they be filed with the above claim.

Very respectfully,

JOHN W. NOBLE,  
*Secretary.*

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
*Washington, September 30, 1889.*

SIR: On November 2, 1887, this office submitted a report on depredation claim No. 1973, of E. Montoya & Sons, amount \$6,770, and

pursuant to Department letter of November 4, 1887, the claim, with all the papers then on file, was transmitted to Congress January, 1888. (Ex. Doc. 34, Fiftieth Congress, first session.)

On the 23d instant the following papers were returned to this office from the House of Representatives:

Joint affidavit of the claimants; formal application of E. Montoya & Sons; joint affidavit of Tereso Lopez, Pelagio Armijo, and Ramon Galbave; copy of Indian agent's report, dated June 8, 1880; office letter of April 4, 1881, and Department letter of January 12, 1882.

All the above affidavits were executed before a justice of the peace, whose official character is not certified to, but if this testimony were in legal form it would not justify any change in the conclusions on the case heretofore reached by this office, and I have the honor to recommend that these papers (which are herewith inclosed) be transmitted to Congress to be filed with above claim.

Very respectfully,

R. V. BELT,  
*Acting Commissioner.*

The SECRETARY OF THE INTERIOR.

*To the Hon. Board of Award of Indian Claims, Washington, D. C.*  
(Through U. S. Indian agent, Mescalero Agency, N. Mex.):

GENTLEMEN: You will find inclosed our account against the Government for stock stolen from our ranch, 8 miles west of this place.

These animals have been stolen by the Mescalero Apache Indians, who belong to the Mescalero Indian Reservation, South Fork, N. Mex. Those of our account stolen on June 7, 1879, were taken from our ranch and were trailed to the above-mentioned reservation, and it is positively certain that the stock were stolen by the above-mentioned Indians.

Since then we have made every effort in our power to recover said mentioned stock, but have failed in so doing.

Those mentioned in our account of date March 12, 1880, were stolen on the night of March 12, 1880, and were also trailed to the same reservation.

We respectfully submit our account and ask that we should be advised, so soon as possible, of any and all necessary steps to be taken in order to recover payment for our stock.

We inclose our sworn statement of the correctness of our claim.

Hoping that this will receive soon and favorable notice, we remain,

Most respectfully,

E. MONTOYA & SONS.

SAN ANTONIO,  
*Socorro County, N. Mex., April 8, 1880.*

*The Government of the United States, Dr., to E. Montoya & Sons, San Antonio, Socorro County, N. Mex.*

June 7, 1879.	To 12 mares, at \$50 each .....	\$600
	To 7 mules, at \$60 each .....	420
Mar. 12, 1880.	To 82 mares (in fold), at \$50 each .....	4,100
	To 6 saddle horses, at \$60 each .....	360
	To 2 mules, at \$60 each .....	120
	To 29 colts (one year old), at \$30 each .....	870
	To 1 stallion (stock horse) .....	300
	Total .....	6,770

E. MONTOYA & SONS.

TERRITORY OF NEW MEXICO, *County of Socorro* :

Personally appeared before me, a justice of the peace in and for the county and Territory aforesaid, Estanislav Montoya and Entimio Montoya, of the firm of E. Montoya & Sons, residents of the town of San Antonio, personally known to me, and who, being duly sworn according to law, do declare and state that the account presented by them against the Government of the United States for stock stolen by the Indians belonging to the Mescalero Indian Reservation is true and correct in number, and also true and correct in valuation, so near as it is in their power to give it.

In testimony thereof I hereby affix my hand and seal this the 8th day of April, A. D. 1880.

LUIS NAYAN,  
*Justice of the Peace, Precinct No. 7,  
Socorro County, N. Mex.*

TERRITORY OF NEW MEXICO, *County of Socorro* :

Personally appeared before me, a justice of the peace in and for the county and Territory aforesaid, Estanislav Montoya, Desiderio S. Montoya, and Entimio Montoya, of the firm of E. Montoya & Sons, residents of San Antonio, of above-named county and Territory, personally known to me, and who, being duly and severally sworn according to law, do declare and state that the account presented by them dated June 7, 1879, and March 12, 1880, against the Government of the United States, for stock stolen by the Apache Indians belonging to the Mescalero Indian Reservation, is true and correct in number, and also true and correct in valuation, so near as it is in their power to give it.

E. MONTOYA. [SEAL.]  
D. S. MONTOYA. [SEAL.]  
ENTIMIO MONTOYA. [SEAL.]

Sworn and subscribed to before me this 4th day of December, A. D. 1880, and I certify that I know the affiants to be credible persons, and that I am not interested in this claim in any manner whatever.

RUFEL BALUSURLEE,  
*Justice of the Peace, Precinct No. 7.*

TERRITORY OF NEW MEXICO, *County of Socorro, ss* :

On this 8th day of April, A. D. 1880, personally appeared before me Tereso Lopez, Pelagio Armijo, and Ramon Galban, residents of Socorro County, Territory aforesaid, who, being duly and severally sworn according to law, declare and say that they are immediate neighbors of Estanislav Montoya, Desiderio S. Montoya, and Entimio Montoya, of the firm of E. Montoya & Sons, who subscribed to the accompanying affidavit in their presence; that they have read said affidavit and know its contents to be true from the fact they were eye-witnesses to said robberies by said Indians. They further declare and say that they know the animals stolen from the fact that they were herders of same stock at the stock ranch of said E. Montoya & Sons, and that they know the animals were worth full the amount mentioned in announced account; that they know that E. Montoya & Sons have never sought private satisfaction or revenge from said Indians; and that they have no interest whatever in this claim; and that they have never borne arms against the United States.

TERESO LOPEZ. [SEAL.]  
PELAGIO ARMIJO. [SEAL.]  
RAMON (his x mark) GALBAN. [SEAL.]

Witness :

JUAN A. GONSALES.  
JULIAN JARAMILLO.  
INOCENTE OLVIDO.

Sworn and subscribed to before me this the 8th day of April, A. D. 1880, and I certify that I know the affiants to be credible persons, and that I am not interested in this claim in any manner whatever.

LUIS NAYAN,  
*Justice of the Peace, Precinct No. 7, County of Socorro.*

U. S. INDIAN SERVICE,  
*Mescalero Agency, South Fork, N. Mex., June 8, 1880.*

SIR: I have the honor to forward herewith the claim of E. E. Montoya & Sons for depredations said to have been committed by the Apache Indians.

I have submitted these claims to the Mescalero Indians, now at this agency, assembled in council. They deny all knowledge of these animals having been stolen by their people, and assert positively that they do not believe they were. That if taken by the Indians it was Warm Spring Indians and not Mescaleros. That San

Antonio is nearer where the Warm Spring (Victoria's band) Indians live and in their line of travel.

The residence of the Mr. Montoyas is San Antonio, is near, not quite 150 miles from this agency. It has been impossible for me to learn anything about them or their witnesses without going there. If in such cases it is your wish that I visit the different localities I will try and do so, although it may be laborious and expensive.

Very respectfully, your obedient servant,

S. A. RUSSELL,  
U. S. Indian Agent.

HON. COMMISSIONER OF INDIAN AFFAIRS,  
Washington, D. C.

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
Washington, April 4, 1881.

SIR: I have the honor to submit herewith the claim of E. Montoyo & Sons, filed in this office June 17, 1880, amounting to \$6,770, on account of deprecations alleged to have been committed by Mescalero Apache Indians in 1879 and 1880.

The claimants in their sworn declarations of April 8 and December 4, 1880, state that on the 7th of June, 1879, Mescalero Apache Indians stole from their ranch horses and mules valued at \$1,020; also on the night of March 12, 1880, horses and mules valued at \$5,750; that since the alleged stealing they have made every effort in their power to recover said stock, but failed in so doing.

In support of their claim claimants file the joint affidavit of Tereso Lopez, Pelagio Armijo, and Ramon Galban, dated April 8, 1880, who state that they are residents of Socorro County, Territory of New Mexico, and immediate neighbors of Estanislao Montoyo, Desiderio S. Montoyo, and Eutinio Montoyo, of the firm of E. Montoyo & Sons; that they have read said declaration and know its contents to be true, from the fact that they were eye witnesses to said robberies; that they knew the animals, and that they were herders of the stock; that the animals were worth the amounts mentioned, and that they have no interest whatever in this claim.

Under date of June 8, 1880, the agent at the Mescalero agency reports that the Indians in council deny all knowledge of these animals having been stolen by their people, and positively assert that they do not believe they were

After considering the facts in this case I find:

First. That the evidence presented is insufficient and unsatisfactory.

Second. That the witnesses (claimants' herders) fail to give any evidence showing that they endeavored to prevent the Indians from taking said stock.

Third. The claimants fail to show that at the time the deprecation was committed the property was being properly guarded and cared for, and that the loss thereof was not occasioned by the negligence or carelessness of themselves or employes.

I am of the opinion, therefore, that claimants are not entitled to indemnity for their losses.

Very respectfully, your obedient servant,

E. M. MARBLE,  
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,  
Washington City, January 12, 1882.

SIR: In compliance with the terms of the seventh section of the act approved May 29, 1872, entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1873, and for other purposes," I have the honor to transmit herewith the claim of E. Montoyo & Sons, amounting to \$6,770, for compensation on account of deprecations committed by Mescalero Apache Indians.

A letter dated the 4th day of April, 1881, from the Commissioner of Indian Affairs, reporting the nature, character, and amount of said claim, is accompanied by the evidence presented in support thereof, and shows the action taken by that officer, under the rules and regulations prescribed by this Department for the investigation of such claims; all which is respectfully submitted for the consideration of Congress, as contemplated by said seventh section of the act aforesaid.

Very respectfully, your obedient servant,

S. J. KIRKWOOD,  
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.