

# Alienation of Land in the 1836 Ceded Area

by

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# I. Introduction

In 2002, I was contacted by attorneys of the State of Michigan and asked to carry out research that would describe how the federal government conveyed title to lands in the area ceded under the 1836 Treaty of Washington (Figure 1). In particular, I was asked (1) to describe and explain the process through which the federal government surveyed the land in the ceded area and then disposed of its ownership interests in that land, and (2) to describe and explain the data in a database constructed by Litigation Abstract, Inc., (LAI) showing the manner in which each parcel of land in the ceded area left the public domain. My research demonstrates that the federal government conveyed title to approximately 13.6 million acres in the 1836 ceded area to individuals and to the State of Michigan (see Section V below).<sup>1</sup> The State of Michigan subsequently transferred the title it acquired to individuals and corporations.

I hold a Ph.D. in Geography from the University of Durham in the United Kingdom. (My c.v. is attached as Appendix C.) Currently, I am Associate Professor of Geography at the University of Minnesota. I have published a number of papers and have made a number of oral presentations on the history of American land policy and the history of the public land surveys. In my research, I have made extensive use of tract books and township plats, which are the types of records LAI used to construct the database. My primary geographical focus is the Northwest Territory, now generally called the Midwest, with an emphasis on Minnesota. I began looking at the way in which the federal government created landowners in Michigan, by surveying the land and then conveyed title to it, when I was hired by the State of Michigan in 2002. The process is very similar to the process in Minnesota and in other parts of the Northwest Territory.

My major opinions are:

1. Settlement of the area ceded in the 1836 treaty was the outcome of a process through which the United States first extinguished the aboriginal title in the area, then surveyed the land, and finally conveyed title to the surveyed land not only to individuals but also to the State of Michigan. (See Section II.)

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<sup>1</sup> According to the Indian Claims Commission, the ceded area comprises 12,044,934 acres. *Indian Claims Commission Decisions* (Boulder, Colo.: Native American Rights Fund, 1968) vol. 20, 176a. The total acreage in the database is higher than that reported by the Indian Claims Commission because of duplicate and conflicting entries in tract books created and maintained by the State of Michigan. The tract books include some cases in which several individuals attempted to acquire the same parcel of land and some cases in which an application to acquire land was subsequently cancelled. Therefore, a given parcel might appear more than once in the tract books. Because the data were transcribed verbatim from the tract books, any parcel duplicated in the tract books was also duplicated in the database. As a result, the database inflates the total amount of land in the ceded area. Determining precisely the amount of land in the ceded area was not part of my charge.

2. The procedures involved in surveying the land in the ceded area, and subsequently conveying title to it, were part of well established land policy described in a number of federal statutes. (See Section III.)
3. Surveying the land in the ceded area was carried out, under contract, by surveyors who traveled throughout the area, leaving visible evidence of their work – marked trees along the lines that they ran and marked posts that were set in the ground – at regular intervals. (See Section IV.)
4. Title to these surveyed lands was conveyed by federal employees under various federal statutes at several land district offices established in the ceded area. (See Section V.)
5. Through this well-regulated and very visible processes, title to virtually all of the land in the ceded area left federal ownership and control. (See Section V.)