

Second six months, up to date.

January 20	401	940.38	377,092
February 4	198	959	189,878
February 13	251	1,012.80	254,207
March 19	270	1,028.70	277,749

The letter of the contract has not, as thus appears, been complied with at either agency, and the commission supposes that the contractor is liable for damages for non-compliance.

The mind of the commission, under these circumstances, is expressed in a letter of Agent Howard of March 26, and their indorsement of it given herewith, as follows.

Whether the contractor will accept this compromise, the commission are not informed

" WHETSTONE AGENCY, DAKOTA TERRITORY,

" March 26, 1874.

" SIR: I had the honor in my letter of the 16th instant to refer to the question of the future supply of beef for this agency.

" I desire herein further to state that in consequence of the unsettled state of the country hereabout, it is difficult to get beef cattle here of the proper description to accord with the original terms of the contract for this season.

" Since receiving Department letter of February 13, I have received one lot for issue which does not weigh up to the requirements of that letter.

" The contractor states that they were driven here from a distance of 80 miles with only one night's rest, thereby losing much of their weight, and that his herds having of late been frequently disturbed they have materially fallen off in weight.

" He has delivered at this agency, from July 1, 1873, to February 13, 1874, inclusive, 5,397 head, weighing 5,419,746 pounds, averaging 1,004.21 pounds, and therefore he has exceeded the average weight actually required by the contract.

" I respectfully ask permission to receive and receipt for cattle weighing a less average than 1,050 pounds, which I think he should be allowed to deliver.

" On 19th March, he delivered here 270 head, weighing 277,749 pounds, averaging 1,029 pounds, which I request permission to receipt for at that weight.

" Very respectfully, your obedient servant,

" E. A. HOWARD,

" United States Indian Agent.

" Hon. COMMISSIONER OF INDIAN AFFAIRS,

" Washington, D. C."

" WHETSTONE AGENCY, DAKOTA TERRITORY,

" March 26, 1874.

" SIR: By the contract the average weight of cattle, during the first six months of the fiscal year, was to be at least 800 pounds. Evidence is abundant that the average was far in excess of this, say 1,000.

" We think this fact a justification of leniency to the contractor if he is not able to furnish cattle quite up to the average required during the last six months of the fiscal year.

" The evidence is sufficient that during the disturbances the contractor, by advice of General Ord, removed his cattle to the Platte, and in consequence had to drive his cattle, at the time of the last issue, 80 miles without sufficient food and water. Their loss in weight under these circumstances must have been very considerable. We believe that, but for the late disturbance, the cattle furnished March 19 would have averaged 1,050 pounds.

" We indorse the statement of the foregoing letter of Agent Howard, and recommend that the shortness of average weight during January, February, and March be overlooked, provided the contractor will furnish beef required for Whetstone and Red Cloud agencies over and above amount required by contract, at contract prices. We also recommend that the average weight of cattle to be furnished after this date shall be not less than 900 pounds.

" Very respectfully,

" WILLIAM H. HARE.

" FRANCIS H. SMITH.

" J. D. BEVIER.

" SAMUEL D. HINMAN.

" Hon. COMMISSIONER INDIAN AFFAIRS."