

Land-Allotments
125009--1916
60134--1916
H V C

State selection.

JUN 17 1916

The Honorable,
The Secretary of the Interior.

Sir:

On May 31, 1897, the State of Nevada selected under the Act of June 16, 1880 (21 Stat. L., 287), the NE/4 of NE/4, Section 35, Township 30 N., Range 58 E., M. D. M., Nevada, which tract was certified to the State on January 17, 1898. Subsequently, the tract passed into the hands of one Stanley L. Wines of Ruby Valley, Nevada, who now holds the record title.

It was claimed on behalf of Joe Timoke, an Indian that he was occupying and had improved the land for some time prior to May 31, 1897, the date of filing of the State selection. Mineral Inspector Jensen of the General Land Office investigated the claims of the Indian and submitted a report dated October 1, 1915, to the Honorable Commissioner of the General Land Office, in which the conclusion was reached that the right of the Indian was superior to that of Mr. Wines, inasmuch as his claim was based upon prior occupancy and use of the land, which exempted the tract from the operation of the Act of

INITIALING COPY - FOR FILE.

June 16, 1880, supra. A number of affidavits were submitted by the Mineral Inspector in support of his contention, and he recommended that a hearing be had, and the State of Nevada directed to submit evidence to meet the charge that the land was not vacant and unoccupied at the time of its selection on May 31, 1897, and at the time of the approval of the selection on January 17, 1898. He further recommended that:

"In case the legal questions involved do not permit such action * * * that other appropriate action be taken looking to the revocation of the approval of this State selection in order that it may be set aside as an Indian allotment for the benefit of Joe Tizoka."

Subsequently, the matter was brought to the attention of this Office and the following extracts are taken from a letter dated March 24, 1916, from the Commissioner of the General Land Office:

"The opinion of the Attorney General, referred to in your letter of December 8, 1915, has been carefully considered. On page 7 of the opinion it is stated:

'If the grant in this case had authorized the selection of indemnity school lands 'subject to approval by the Secretary of the Interior . . .,' I should be constrained to hold that the approval of the Secretary passed the title without regard to the Commissioner's certificate and unaffected by Section 2449 of the Revised Statutes.'

"The Act of June 16, 1880, covering the present case, provides for the certification by the Commissioner of the General Land Office, 'approved by the Secretary of the Interior.' Under the Attorney General's opinion, therefore, title has passed from the Govern-

FILED BY M. A. B.

ment and may be restored, if at all, only by suit in the courts or voluntary reconveyance.

"If, as asserted, there was fraud in the acquisition of title in this case and this office could prove that fraud and that it had no notice of it for a period of six years prior to the bringing of suit, we could under the theory of the law of March 3, 1891, as adopted by the Government, nevertheless bring suit in this case, notwithstanding the lapse of time. This Office doubts, however, that the showing of facts warrants such a procedure, and I have the honor to so advise your office."

The Office being satisfied that the facts presented were sufficient to warrant the bringing of suit, presented the question to the Department by letter dated April 11, 1916, in which it was requested that the matter be referred to the Solicitor for the Interior Department. In his decision of June 1, 1916 (D 39878), the Solicitor, after reviewing the facts in the case concluded as follows:

"My view is, after examination of the evidence in hand, that a prima facie showing has been made sufficient to justify the procedure contemplated by the Indian Office."

In view of the facts presented, and the opinion of the Solicitor the Office believes that the case should be submitted to the Department of Justice for appropriate action. A letter has therefore been prepared for your signature, addressed to the Attorney General, and is submitted herewith.

Respectfully,

(Signed) E. B. Meritt

Assistant Commissioner.

IPR-8-8
Encl. 5508

L-80134

- 3 -

Land-Allotments
125909-1915
60134-1916.
H V C

JUN 20 1918

State Selection.

FOR FILE

Dear Mr. Attorney General:

There are enclosed the original and a duplicate copy of a letter from the Indian Office concerning the claim of an Indian, Joe Timoke, to the NE/4 of NE/4 of Section 25, Township 30 N., Range 58 E., W. D. M., Nevada, which was certified to the State of Nevada on January 17, 1898, and subsequently passed into the ownership of one Stanley L. Wines, of Ruby Valley, Nevada.

In view of the conditions reported, it is suggested that the matter be referred to the proper U. S. Attorney for investigation and such further action as the facts disclosed may warrant. Copies of the letter from the Land Office, dated March 24, 1915, and the Solicitor's opinion are submitted in duplicate. In the event that suit is brought for the recovery of the land, the following named persons may be summoned as witnesses for the United States:

Jim Timoke,
Muchacho Timoke,
Bob Timoke,
Lazy Jim,
Billy Long,

To Secretary

JUN 17 1916

For signature

FILED BY M. A. N.

Charlie Joe Billy,
John Carson,
J. F. Short,
Thomas Short,
W. S. Short,

All of Ruby Valley, Nevada, and Albert Myers of Arthur,
California.

Cordially yours,
(Signed) Bo Sweeney.

IPP-2-19

Assistant Secretary.

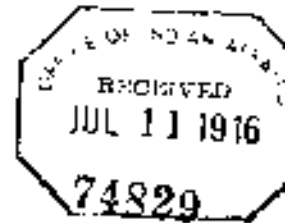
The Honorable,
The Attorney General.

Encls. 11001

K.K.

181648-1

July 6, 1916.



The Secretary of the Interior.

Sir:

I have the honor to acknowledge the receipt of the Assistant Secretary's letter of the 20th ultimo, relative to the claim of Joe Timoke to the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 25, T. 30 N., R. 59 E., M.D.M., Nevada.

It appears from statements in the correspondence accompanying said letter that the land was surveyed in 1868; that prior to 1868 it was occupied about seven years by L. H. Head, who was a squatter and farmed the land; that Head sold his squatter's right to M. P. Freeman, who sold to Stanley L. Wines in 1875; and that Wines purchased the land from the State in 1897. It appears, also, that the land has been occupied for more than forty years by certain Indians, one of whom is Timoke.

The Assistant Secretary suggests that the matter be referred to the proper United States Attorney for investigation and such further action as the facts disclosed may warrant.

None of the papers submitted states whether the Indians occupied the land prior to the commencement of its occupancy by L. H. Head, nor whether their possession thereof was with the consent of Head and his assignees or adversely to their claims. Neither is there anything to indicate whether Vices or those through whom he claimed made any attempt to secure legal title to the land from the United States.

I should be pleased to receive from you such further information as you may be able to furnish with regard to these and any other matters having any relation to the rights of the Indian and white claimants in said land.

Very respectfully,

For the Attorney General,

Assistant Attorney General.

Land-Allotments.
74829-16.
H V C

M
JUL 25 1916

Dear Mr. Attorney General:

FOR FILE

Receipt is acknowledged of Assistant Attorney General Drake's letter of July 8, 1916, (E. H. C. D. E. 181043-1) concerning the claim of Joe Tiroko, an Indian, to certain described lands located in the State of Nevada, which was the subject of a letter from this Department dated June 20, 1916.

In complying with the request contained in said letter, there are inclosed copy of a letter from the General Land Office dated October 29, 1915, copy of a report of a mineral inspector of that office dated October 1916, and copies of the several affidavits referred to by the inspector, all of which are submitted in duplicate. It is believed that the inclosed papers cover the several points raised by the Assistant Attorney General, and they comprise, with data previously submitted, all the information regarding this case on file in this Department.

Cordially yours,

Andrius B. Johnson
First Assistant Secretary.

To Secretary 7-FEB-15.

JUL 22 1916 Inclosure 8870

For signature The Honorable,

The Attorney General.

FOR FILE

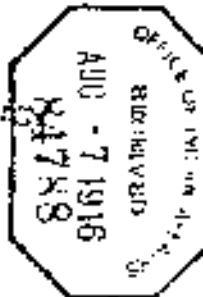
DEPARTMENT OF THE INTERIOR

Land, Nevada Indians.

UNITED STATES INDIAN SERVICE

Fort Washoe, Wyoming

Aug. 2, 1916.



The Commissioner of Indian Affairs,
Washington, D. C.

125909/15

Sir:

I am enclosing herewith a letter from Stanley L. Wines of Ruby Valley, Nevada. This is the final letter of the correspondence relating to some land filed on and otherwise acquired by Mr. Wines and his associates.

The question of land in that locality has been the subject of considerable correspondence and some controversy. Mr. Wines sometime ago submitted a proposal that if the Government would issue them script for the land that they had, paying for their improvements, they would accept such script and take land elsewhere. I wrote him that I knew of no way whereby we could secure such script, except that he went into the market and bought it. Further, that their improvements would probably be worth more than any amount that is available at the present time.

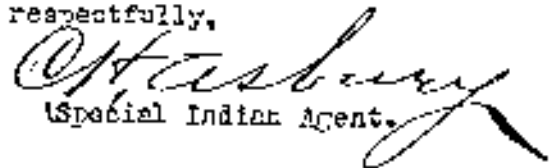
Handwritten initials

I asked for a specific price on some small tracts that have been in controversy between him and the Indians, intending if his offer was reasonable to recommend the purchase of such tracts to remove that friction. He later wrote me that he had been informed by good authority that such script was available. I wrote him that I was glad to learn that and would appreciate it if he would tell me where I could get such information, as I

still believed there was no possibility of such script, except it might be issued by special Act of Congress.

I personally do not believe there is anything that we can do with that situation, unless it would be to buy the particular small tracts mentioned above, but not having the record of the whole case here, I just submit this for such consideration as the Office may care to give it.

Very respectfully,


Special Indian Agent.

CHL/Orp.

ADDRESS REPLY TO
THE ATTORNEY GENERAL
AND REFER TO
IN FILE AND NUMBER

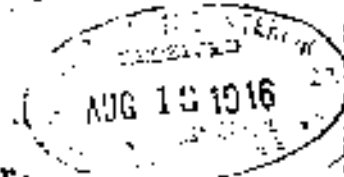
DEPARTMENT OF JUSTICE,
WASHINGTON, D. C.

CEE-AEB

E. E. *OS*

181648-2

August 15, 1916.



The Secretary of the Interior.

Sir:

Receipt is acknowledged of your letter of July 25, 1916, together with its inclosure No. 2570, consisting of additional data requested by this Department on July 6, 1916, concerning the claim of Joe Timoke, an Indian, to certain described land in the District of Nevada which was certified to the State of Nevada and subsequently passed into the ownership of Stanley L. Wines.

The United States Attorney for said district has today been instructed to request said Wines to execute a deed for the land in favor of Timoke, and in the event of his refusal to do this, to institute suit to cancel the patent issued to Ira D. Wines and the deed executed by him in favor of Stanley L. Wines.

Very respectfully,

For the Attorney General,

Amos T. Warner

Assistant Attorney General.

AMT

Pal

X

ADDRESS REPLY TO
THE ATTORNEY GENERAL
AND REFER TO
INITIALS AND NUMBER

DEPARTMENT OF JUSTICE,
WASHINGTON, D. C.

AUS-AEB

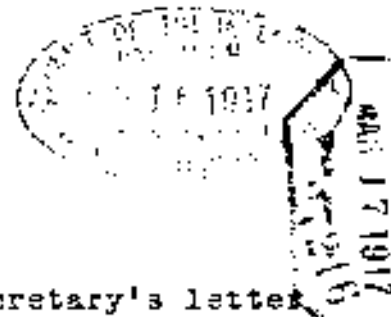
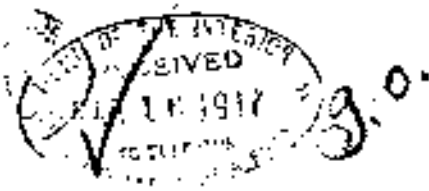
CSE. J.

K. A. S.

18164B-4

March 13, 1917.

In re L. A.
50134-16 HVC



The Secretary of the Interior.

Sir:

Reference is made to the Assistant Secretary's letter of June 20, 1916, relative to the claim of Joe Timcke to the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 25, T 30 N, R 58 E, M.D.M., Nevada.

*175909
1915*

Upon a further investigation of this matter, the United States Attorney reports that the State of Nevada, to which the tract was listed, has not as yet divested itself of its title, but has simply executed a contract to purchase in favor of Ira D. Wines, and that only one-fifth of the purchase money has been paid. As a precautionary measure in view of the facts set forth, it is requested that the General Land Office be instructed without delay to inform the State Land Register of the Government's views as to the improper certification of the lands, and to ask that no sale be made until the rights of the Government can be judicially determined. Your attention is invited in this connection to the case of United States v. Williams, 138 U.S. 514.

Very respectfully,

Filed by Mr. [unclear]

For the Attorney General,

[Signature]
Assistant Attorney General.

Land-Allot.
125909-15
27216-17
HVC

FOR FILE

MAR 20 1917

The Commissioner
Of the General Land Office.

Dear Mr. Tallman:

Attention is invited to your letter of March 24, 1916, addressed to the Commissioner of Indian Affairs (558966 "FS" SHC), concerning the ownership of the NE/4 of NE/4 of Sec. 25, T. 30 N., R. 58 E., N. D. M., Nevada, claimed by Joe Timoke, an Indian, which tract was selected by the State of Nevada under the Act of June 16, 1880 (21 Stat. L., 287), and certified by letter "G" of your office January 28, 1898. It was stated in your letter that the said tract was purchased by Ira D. Wines in 1897, who subsequently deeded it to his son, Stanley L. Kines.

558956

This matter was subsequently presented to the Department of Justice upon a showing submitted on behalf of the Indian claimant, and there is now enclosed a copy of a letter dated March 13, 1917, from the Department of Justice, from which it appears that the State of Nevada has not as yet divested itself of its title, but has simply executed a contract to purchase in favor of Ira D. Wines, and that only one-fifth of the purchase money has been paid.

MAR 24 1917
For signature

BY M. L. A.

INITIALING COPY - FOR FILE

In view of these facts, and upon the suggestion of the Attorney General, you are directed to inform the State Land Register of the views of the Government as to the improper certification of these lands, and to ask that no sale thereof be made until the rights of the Government can be judicially determined. In this connection, attention is invited to the fact that it is claimed on behalf of the Indian, Joe Timoke, that he was occupying and had improved the land prior to the selection of the State, and for this reason the said land was not subject to selection or certification under the Act of June 16, 1880 (21 Stat. L., 287), under which Act said State selection was filed. Please take prompt action hereon and keep this Department advised in the premises.

Cordially yours,

Signed by _____
Assistant Secretary.

Inc. 14666