

TRIP REPORT

Left Stewart, Nevada 10:00 A.M., October 28, 1962 in route to Elko, Nevada to attend public hearings on the Interstate Defense Highway through the city of Elko.

In route, we stopped at the TCID office in Fallon to inquire as to the character and extent of a road right of way along what they call their "B" line lateral canal. It appears that the "B" line canal parallels the south line of Fallon Allotments 428 and 429 in the southwest corner of the Fallon Reservation. Mr. William Christani of TCID informed us that TCID has a 100-foot right of way for this lateral canal and adjacent maintenance road. We were not able to ascertain the precise location of the right of way in relation to the section line, although it was Mr. Christani's opinion that the right of way extended approximately 85 feet north of the section line. This matter will have to be resolved in order that the appraiser can make an intelligent estimate of value involving a partitionment of Allotment 428 into three parcels, one of which will be affected by the TCID canal. It was Mr. Christani's opinion that the owners of this allotment could use the TCID's maintenance road for ingress and egress, although it was not a public thoroughfare.

We also stopped in Winnemucca and talked with Mr. E. E. Read who is proposing a commercial business lease on the Oryhee Reservation. Mr. Read referred us to his son in Elko in connection with the proposed lease. Mr. Chuck Read of Elko, Nevada felt that if he entered into a long term lease some provision should be made to assure a trader's license authorizing him to do business on the Reservation. We suggested that Mr. Read have his attorney draft and add to the proposed lease a clause to the effect that as long as the lessee was operating in compliance with their contract they would not be denied a trader's license. Mr. Read also went on to explain that they were having difficulty in qualifying for a Small Business Administration loan and that if the lease was executed now they would not be able to perform under the contract. We, therefore, agreed that they would execute the lease subject to their securing adequate financing from the Small Business Administration and that the date of the lease would probably be about the 1st of March, 1963 since they would not now be able to do any construction work because of the coming winter.

We also inspected the Indian Colony at Winnemucca to determine whether or not the California Utilities had constructed a power service line to the tract. When the inspection showed there was no construction, we talked with Mr. Belbert Howard, a member of the Colony who works at the Sewall Grocery in Winnemucca, and he informed us that the right of way was in good order and that California Utilities were waiting for the owners of three homes at the Colony to wire their homes before construction would begin on the service line.

The City Council meeting at Elko was opened at approximately 7:30 P.M. by Mayor Frank Williams. Approximately 28 people were in attendance. Mr. Oren Walker of the State Highway Department explained the general problems of four proposed alignments of the interstate highway through the city of Elko. It developed that the blue line route north of town presented 5% grade problems and this route would traverse the 160-acre tract of Indian land. This route is the most northerly of the four proposed.

The green route is a south modification of the blue route and is closer to the city of Elko. This alignment also affects the south part of the 160-acre tract of Indian land.

The yellow corridor is south of the green alignment and traverses both the city golf course and the Indian Colony.

The red alignment south of the yellow route and the closest to town and the most southerly of the four routes affects the Colony lands but not as much as the yellow route which would practically divide the Indian Colony.

Mr. Walker explained that the meeting was to present to the City Council a revision and modification of several of the four routes because of a subdivision that had been approved on the easterly side of town which affected the eastern approach of the interstate highway to the city of Elko. No formal conclusions were reached as to the most desirable route. A suggestion was made that the location of any route should not be influenced by cost considerations explaining that the highway would be fixed for many years and that it should be fixed initially in the very best location irrespective of cost.

Several suggestions favored an additional route south of town which would necessitate crossing the railroad tracks twice and having the alignment along the river bottom. The State Representative asserted that they could not justify the cost of this route, although it later developed that they agreed to include a study of this route with their studies in connection with design and cost of the four proposed routes to the north of town.

State Senator Warren Morrow summarized the situation by emphasizing that it was necessary that some decisions be reached in order that the freeway could move forward. He pointed out that several hearings had been held and that even at this meeting the City Planning Commission was not represented.

Mr. Walker of the State Highway Department specifically requested recommendations from the City in connection with highway alignments. Mr. Walker agreed with the City on the following sequence of action:

1. The State would make a study on all five routes.
2. Thereafter they would discuss cost and design features of each route with the City.
3. Thereafter the selected proposal would go to the Highway Board for their endorsement.

4. Subsequently the City and the County officials would be asked to subscribe to the Board's selection.
5. From there, the proposal would go to the Bureau of Public Roads for justification as to costs. Mr. Walker pointed out, however, that the Bureau of Public Roads was the controlling body and that they could over rule the State, City and County recommendations and direct that the route be built according to their design and location.

Mayor Williams then called on the Bureau of Indian Affairs to comment on the alignment as they would affect Indian lands. We pointed out that the location of the two tracts of Indian lands and emphasized that four of the proposed routes north of town would affect the Indian properties in one way or another. We also stated that there was no authority for the sale of this Indian land without the consent of the Indian owners and special legislation. We stated, however, that voluntary exchanges of land of equal value could be authorized by the Secretary of the Interior if in his judgment such an exchange would be beneficial to the Indians. We specifically pointed out that in the absence of federal legislation the Elko Indian owners of the 195 acres of federal trust land within the city limits of Elko were exempt from the eminent domain power of the State and its political subdivisions.

Mr. John Gasmick, Vice Mayor of Elko, then digressed from the highway problem to one concerning the blight of the Indian Colony which was retarding orderly growth and development of the City of Elko. Mr. Gasmick dwelt at some length on the City's efforts with their congressional representatives in an effort to cure the slum conditions. We suggested that the discussion be confined to highway problems and that we did not feel the occasion was proper to introduce the social and economic problems of the city. Mr. Gasmick was reminded that the local people were certainly more informed on the situation than we and it would be our recommendation that the City present their recommendations in connection with improving the Colony situation.

Thereafter Mr. Gasmick inquired as to the laws concerning the sale of Indian lands pointing out that he could mention cases around the turn of the century when Indian lands were sold without legislation. We reminded Mr. Gasmick that in 60 years there was bound to be a few changes in the laws, but generally speaking the laws concerning sales in effect in 1900 would require the consent of the Indian beneficiaries and the U. S. Congress. Upon inquiry as to where these cases occurred, he stated that they were in North Dakota and Montana. Finally we reminded the Mayor and the group present that the Bureau would be eager and willing to sit down with the City at some future date to explore the social and economic problems of the Indian Colony in an effort to improve the situation giving consideration to the interests of both the Indians and the City of Elko. Irrespective of the limitations regarding condemnation and sale of Indian lands, we reminded the group that it was possible for the State Highway Department to acquire a right of way in the nature of an easement across Indian lands.

As an aid to the Branch of Roads while in this area, we obtained the signatures of the three County Commissioners and the County Clerk to a document attesting to the County's acceptance of a certain road through the South Fork Reservation. This involved a side trip to Jiggs, Nevada to present the matter to Commissioner Riordan.

We examined the County records at Elko and from the Assessor and County Treasurer determined that Lots 17 through 27 of Block J in the City of Wells are owned by the County of Elko. We questioned the Chairman of the County Commissioners, Archie Dewar, if his group would be inclined to dedicate or donate these properties to the Wells Indians and he rejoined that in his opinion they would be compelled under law to advertise these properties, but suggested that I consult with Mr. Joe McDaniels, District Attorney. The District Attorney advised that he would have to research the matter since he was not certain whether or not the County had the authority to donate land as requested. He offered to forward his findings as soon as his research was complete.

At the specific request of the Area Director and the Superintendent, we investigated a report given to me by the City that they expected a representative from the Phoenix Office to visit them in connection with Indian land problems. Questioning the City Manager, we were informed that Senator Bible had conveyed to the City a report that Commissioner Fryar had told him that someone from the Phoenix Office would consult with the City Council soon. This was over three weeks ago. The results of this investigation were telephoned to the Superintendent at Owyhee on Friday, October 26th, with the suggestion that he visit a few minutes with the City officials and suggest that they submit their recommendations on the Indian land problems to us.

We talked with Mr. L. S. Weathers at his ranch in Star Valley in connection with his affidavit that the Indians had occupied portions of Section 10, T. 37 N., R. 62 E. since 1868. Mr. Weathers affirmed that Dave Faberson had been in and around Wells as long as he could remember and he placed this at approximately 1892 explaining that he was born on his ranch in Star Valley in 1886. He went on to say that some ten or twelve other Indians including Dave Faberson and his father and Johnny Bill Antelope lived in Star Valley during the 1890's just a short distance from the present location of his ranch house. All of these Indians worked on the Weathers Ranch.

Mr. Weathers was unable to state exactly how long or precisely where the Indians had lived in Wells, but had personal knowledge that the Indians camped at Wells and his ranch as long as he could remember. It was his opinion, however, that they lived generally in the same place that they are now located in Section 10, T. 37 N., R. 62 E. He went on to affirm that all of these Indians were good workers, clean and honest and were given to very little drinking. He was of the opinion that the Faberson family probably came from Tshpah.

We also talked with Mr. Triplett of the Wells-Progress newspaper who remarked that he went to school with Miles Wines, an Indian who died about 1930. Mr. Triplett remembers that before Miles passed away a group of Indians were living in the area what is now known as approximately the intersection of 4th and Wells Avenue along the north line of the NE $\frac{1}{4}$, section 9. It was his recollection that there was approximately seven or eight shacks and in his opinion they had probably been there since the turn of the century. After Miles Wines died, Mr. Triplett was of the opinion that the group then moved to their present location in Section 10.

We spoke to Mr. C. M. Mannini, Wells City Councilman, and outlined the high-points of our investigation and suggested that he urge the City to make recommendations to improve the social and economic conditions of the Wells Indians. He mentioned that the subject had been discussed at their last meeting and that he would bring the matter up at the next meeting scheduled two weeks hence.

We also talked to Mr. Virgil Birdzell on whose lands the Indians purportedly now reside and requested that he furnish us a copy of a proposed survey. He advised that the survey had not yet been completed and that he was pressing his surveyor to finish the job. We also urged that Mr. Birdzell request the City to make recommendations in connection with the Indian social and economic situation. We reminded Mr. Birdzell that we would be back sometime after Thanksgiving to talk to the Indian people and we were hopeful that we could get his survey findings at that time.

We contacted Mr. Albert Stanton and Dave Fabavens at the Wells Indian Colony explaining that we wanted to set up a November meeting with their group and the Superintendent and asked permission to take some pictures of the area.

Immediately Albert Stanton accused all white men of treaty breakers, abrogators of contracts, cheaters and believers of lies. All of this unabashedly and with much conviction. He was informed that we were there to help them help themselves prove their claim of ownership of lands in the Wells area. Our purpose was to gather information and report our facts to the Washington Office who would make a final decision based in part on our reports.

Mr. Stanton referred us to a pamphlet we observed as being published by Craig, 2103 Victoria Avenue, Los Angeles 16, California. He quoted at some length from this source showing that the white men had broken the Ruby Valley Treaty.

Dave Fabavens stated that they had met with their people and had decided against accepting land across the tracks in Section 3. We reminded Dave Fabavens that we had previously mentioned to him that there was public domain land available in that area which could be withdrawn or given to the Indians for homesteads. Dave Fabavens insisted that the Indians wanted 160-acre homesteads and referred to John Crow's letter of August 9, 1962, a copy of which was furnished to the Superintendent, Nevada Agency.

Mr. Faberens insisted that the land they lived on belonged to the Indians since they were there before the railroad and even during the time of the pioneer wagon trains. In fact, where the Gobal Ranch north of town is now located, the Indians harvested meadow grass seed for the making of cereal. The pioneers took over the meadows for horse pasture. Both Mr. Faberens and Mr. Stanton asked how the land could belong to anyone except the Indians if they were there first. They showed a recent newspaper account in the Salt Lake Tribune of October 16, 1962 (?) reciting that the Western Shoshone Indians were entitled to indemnification from lands that had been taken from them without their consent including all of the City of Wells and the central part of Nevada.

We arranged with Mr. Faberens and Mr. Stanton that we would notify their group of a meeting with the Superintendent tentatively called for after Thanksgiving and probably the 28th, 29th or 30th of November. We agreed that we would give advance notice by letter so that they could arrange to have as many people present as wanted to attend.

Attached to this report is a copy of two letters from Albert Stanton and Jim Charley, Indians of Wells, Nevada, which were printed by Craig, c/o Thomas Banyawca, Independent Hopi Nation, Box 112, Oraibi, Arizona. There is also enclosed a letter of October 26, 1962 from Dave Faberens which was handed to me on that date at Wells, Nevada. No reply will be made since our scheduled meeting in November 1962 will cover the matter.

Ned Mitchell
Real Property Officer

Wells, Nevada

1962

this related to your letter of October 2, 1962 in connection with the rights of my group to lands we occupy.

first of all, you know and we know, there is original, our grandfathers who signed the Ruby Valley treaty of October 1, 1863 they has been living on this area for long time and the descendants has been living on same area for many years past, and we built cabins on the area that would be improve the lands in this area, we occupy this

basis on treaty of 1863 (U.S. Stat. 657) there is standing points, which already authorized the President of the United States to set aside lands for reservation for the Shoshone Indians, who were parties to that treaty of October 1, 1863 (U.S. Stat. 657, 12 Kapp)

article 5, of this treaty, has permitted our grandfathers to share in the proceeds of, or to acquire a share in portion of said lands by the treaty thereof, the language are still available:

we rather have the vacant public lands for our use, and for hermits and agriculture purposes, kind of the Indians wants, and this language has not done yet by Indian service, they has been contrary to the evidence.

You be sure setting apart a suitable portion of the vacant public lands upon which may be concentrated and so provided for that they need, in order to sustain this Indians in Wells area.

if you Indian service, has failing to do so, and we will found other proper authority developed this vacant public lands or by homestead allotment, for the use and benefit of this Indians in the Wells area.

on July 17, 1962 Mrs. Virgil Lindzell said, that Indian cabins was not on the Virgil Lindzell land, but that Indian cabins was on the south west corner, not on the Mr. Bindzell property she stated, and nothing against this Indians they can stay all they want, for this

Indians said, they cannot move out from the place because they have a first right to occupy any lands within the country described, which is tranquility of the United States.

obtained any lands within the country described, which is tranquility of the United States.

obtained any lands within the country described, which is tranquility of the United States.

obtained any lands within the country described, which is tranquility of the United States.

obtained any lands within the country described, which is tranquility of the United States.

October 26-196

on sept 12, 1962 Mr. Mitchell was visit in Kells area, and he point out that two
mile north from the S.P. railroad, Bureau welfare establish homesite there for this
in the alkali area there.

and we discussed about that homesite, and we decided to refuse that, so we do not ac-
his offer, it is not regards as legal, said the Indians. the treaties law of land
the Indians in every state, shall be bound thereby, to preserve, protect and defend
Constitution of the United States.

the Indian service should recognize right of shoshone Indians or citizen to lands, life
liberty, as solemnized in the treaties of 1863. (18 stat. 689.) said Indians, of their pos-
right to all the agricultural and mineral lands in said territory within the follow-
boundaries said treaty of October 1, 1863. (18 stat 689.) & Keppler 851:

Indian service shall have authority to remove from the Indian country all person found
therein contrary to law, or to land grabber and removal of non-Indian for violation
such laws. white peoples are not interested in any land herein, within the
described, of course, they are coming from foreign country than they are still fore-
peoples were, in fact.

it is true that many individual white peoples dealt with the Indians, pretty much
they please, not constituting fair and cheating or robbed the Indians of their
and by brute force. in order to eliminate this, by Indian service their duty,
me the correct answer following question.

Sincerely yours
Dave H. Reber

Oct 17 1962

Mr. W. Wade Head

Area Director, Phoenix, Arizona

Dear Mr. Head:

Enclosed is a field inspection report on the socio-economic problems of the landless Indians at Wells, Nevada. We are tentatively scheduling a meeting with this Indian group during the latter part of November of this year to explain the implications of our study.

In our present thinking, it would not be judicious to set these people apart on withdrawn land outside the city of Wells, Nevada. The public domain land available for withdrawal is rolling, sage-covered high-desert land not particularly suited for agricultural use and without any known supply of water for irrigation purposes. Even though the Indians have applied for agricultural lands, the Census included in the report shows that it would not be practicable to allot this type of land to persons, who in the most part are elderly pensioners without children to manage and operate a farm as a going concern, much less an operation requiring extensive pioneering.

It is also our judgment that any program which would set these people apart would only encourage them to live in the present manner as indicated in the report pictures. We believe these people should be assimilated by the community of Wells, Nevada, where municipal services will be available including schools, shopping and public utilities.

If anything is done for these people, we recommend that the County donate the city lots mentioned in the report and the Federal government finance homes on a basis most advantageous to the Indians.

Two copies of a map of the city of Wells are enclosed together with copies of our letters of October 19, 1962 to the City of Wells and Mr. V. Kirkell.

Sincerely yours,

Superintendent

Enclosures



UNITED STATES
DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS
Phoenix Area Office
P. O. Box 7007
Phoenix 11, Arizona

Real Prop. Mgmt.
Acq. & Disp.
307.3 - Wells

Your reference:
Real Prop. Mgmt.
Acq. & Disp.
3581-62

OCT 31 1962



Commissioner, Bureau of Indian Affairs

Washington 25, D.C.

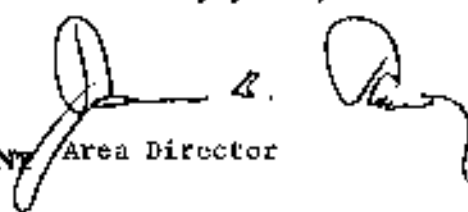
Sir:

In response to Office request of August 9, above file reference, further investigation was made of the lands occupied by the Indian people at Wells, Nevada. We are enclosing a copy of the Acting Superintendent's letter of October 22 as well as a copy of a memorandum from Mr. Ned Mitchell, Real Property Officer at the Nevada Agency, and other documents relating to this problem. Apparently Mr. Mitchell has made considerable research into the matter in order to determine as many of the facts as possible. We are in accord with Mr. Mitchell's memorandum and the Superintendent's letter, and although further investigation will be made, we hope that a program might be worked out whereby the people could be relocated within the community rather than withdrawing of public domain lands. Any further information received will be forwarded immediately.

Mr. Dave Pabawana has written a great many letters to the Office in regard to this matter. We suggest Mr. Pabawana be informed through the Superintendent of any conclusions which may be reached as a result of this investigation.

Sincerely yours,

3572


ASSISTANT Area Director

Enclosures 5