

Wells

Criminal Programs

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FBI - PHOENIX	

Mr. Dave H. Mahawena  
P.O. Box 66  
Wells, Nevada

Dear Mr. Mahawena:

In your letter of February 9 you gave us information that was furnished to you by the Area Office at Phoenix, Arizona, concerning the use and occupancy of sec. 10, T. 37 N., R. 62 E., S4, Lincoln, Nevada. We also have this information. As you know, the Area Director has conducted an investigation in an effort to determine whether the Shoshone Indians may have established any rights to any of section 10 by adverse possession. The Area Director has reported that this matter is now before the Field Solicitor for his views. After we have received his opinion the question of any rights that the Shoshone Indians have established will be considered by this office and you will be further informed.

In reference to the Treaty of October 1, 1863 (13 Stat. 439), our letter of November 25, 1956 stated that "the United States did agree to pay annually, for a period of 20 years, the sum of \$5,000 in such articles, including cattle for herding or other purposes, as the President of the United States shall deem suitable for their wants and position." No such funds would now be available under this treaty."

Claims of the Western Shoshone Indians based on the treaty of October 1, 1863 were in Motion No. 122 which was filed with the Indian Claims Commission in accord with the act of August 13, 1946 (50 Stat. 1548). This Commission was established as an independent tribunal and is not a part of the Bureau of Indian Affairs or the Department of the Interior.

In accord with an order dated July 5, 1957, issued by the Indian Claims Commission, the claim of the Western Shoshone Indians for a general accounting of lands and property, including funds arising

from provisions of the Treaty of October 4, 1863, was placed in  
Petition No. 325-A. That case has not been settled and it remains  
before the Indian Claims Commission for consideration and deter-  
mination. We do not know when the claim will be settled or if it  
will result in a judgment favorable to the Western Shoshone Indians.

Sincerely yours,

*W. J. ...*

*W. J. ...* Commissioner

cc: Phoenix Area Office  
Superintendent, Nevada Agency  
350

✓ Surname

Prog. Chron.

Mailroom

GLovellal 3/21/60

April 28, 1960

## INDIAN SETTLEMENT AT WELLS, NEVADA

Certain families of Shoshone Indians have inquired about title to, and status of their tenure on, certain lands near Wells, Nevada, located in sec. 10, T. 37 N., R. 21 E., Mount Diablo meridian, on which they are now and for many years have been residing. The  $\frac{1}{2}$  of section 10 was patented to the State of Nevada in 1872 and 1892, and the  $\frac{1}{2}$  to a non-Indian entryman in 1938.

An investigation has been made of the claims of these Indians. As to the  $\frac{1}{2}$  of section 10, the investigation disclosed that this part of section 10 has never been occupied by Indians. The existing Indian camp is located on the  $\frac{1}{2}$  of section 10, which is within that part of the section patented to the State of Nevada. The entry application by the State of Nevada discloses no information that the land was occupied or improved by Indians. The patent dated March 13, 1929, from the State of Nevada to Emanuel Bollschweiler discloses no reservations for Indian use or occupancy. The deeds in the chain of title from Mr. Bollschweiler to V. W. Mitchell, the present owner, contain no reservations for Indian use or occupancy.

Statements have been obtained that indicate Indian use and occupancy began subsequent to the acquisition of this land by the State of Nevada. The statements indicate, however, that the Indians used and occupied a portion of the  $\frac{1}{2}$  of section 10 for a long period of time prior to the acquisition of the property by private owners.

All of the available evidence obtained as a result of the investigation is now before the Field Solicitor for his views as to any rights that the Shoshone Indians may have. After the Bureau receives the Field Solicitor's views, the matter will be given further consideration.

April 28, 1960

United States  
Department of the Interior  
Bureau of Indian Affairs  
Washington 25, D.C.

Kills, Nevada  
July 18, 1960

Dear Gentlemen:

once again wish to know whether or not the field solicitor has conducted an investigation in an effort to determine his legal about the Shoshone Indians use and occupancy of sec. 10, T. 37 N. 1 E., R. 10 W., Nevada.

The Area Director has already conducted an investigation in an effort to determine the Shoshone Indians may have established their right to any of section 10, T. 37, the area Director has reported that matter is now before the field solicitor for his views. and recent inquiry regarding the Indians use and occupancy of above described lands near Kills, Nevada.

Sincerely yours,

Dean H. Pabaw  
P. O. Box 464  
Kills, Nevada



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Wells

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SOLICITOR  
PHOENIX AREA OFFICE  
P.O. BOX 7007  
PHOENIX, ARIZONA

August 11, 1980

Memorandum

To : Area Realty Officer

From: Field Solicitor

Subj: Indian occupancy of private lands near Wells, Nevada

Superintendent laid in his report of December 29, 1959 to the Area Director stated:

"The eastern one-half of Sec. 10, T87N., R52E., 10N., Nevada, was patented to J. W. Birdsell on September 23, 1938. An investigation shows that this portion of Sec. 10 has never been occupied by Indians."

The same letter indicates that as to the west one-half of Sec. 10, Indian use and occupancy was subsequent to the acquisition of these lands by the State of Nevada.

These conclusions, arrived at by the Superintendent, based upon an investigation made under his direction, indicates that Cramer v. United States would have no application.

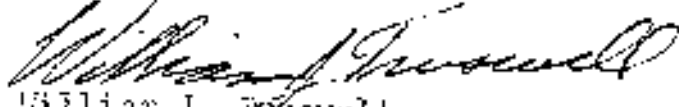
As to adverse possession, Nevada Revised Statutes provide as follows:

"§11.140. What constitutes adverse possession under claim of title not founded on written instrument. For the purpose of constituting an adverse possession, by a person claiming title, not founded upon a written instrument, judgment or decree, land shall be deemed to have been possessed and occupied in the following cases only:

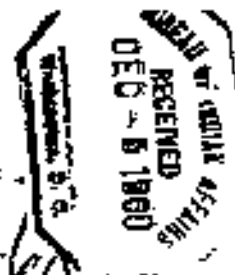
1. Where it has been protected by a substantial enclosure.
2. Where it has been usually cultivated or improved.

"§11.150. Additional requirements for adverse possession: Occupation continuously for 5 years; payment of taxes. In no case shall adverse possession be considered established unless it be shown, in addition to the requirements of §§ 11.120 or 11.140, that the land has been occupied and claimed for the period of 5 years, continuously, and that the party or persons, their predecessors and grantors have paid all taxes, state, county and municipal, which may have been levied and assessed against the land for the period mentioned, or have tendered payment thereof."

If the Indians wish to assert a claim to lands in Nevada based upon adverse possession, it will be necessary to show not only that they have occupied and claimed the land in question for the statutory 5 year period but that they also have paid or tendered payment of taxes on such land.

  
William J. Russell  
Field Solicitor

Wells, Nevada  
December 1-1960



United States  
Department of the Interior  
Bureau of Indian Affairs  
Washington 25, D. C.  
Dear gentleman:

897-60

39) This will acknowledge receipt of your letter of November 9-1960, we have received the field solicitor opinion concerning the property rights of the Indians at Wells, Nevada relative to lands in section 10, T.37 N., R.62 E., M. Nevada.

and writing to you our views concerning the Shoshone Indians residing in vicinity they has been living on or using this lands through by tradition, in section 10, T.37, they has been living on this tract over hundred and fifty past by now.

It was before the states was established to recognized here in this territory, before the white man enter into this Valley, also before any railway construct through this region.

also the, Indians was here first owned or preoccupy this region before the for peoples come on their lands. and My grandfather tell me all about this.

which already authorized the President of the United States to set aside land for a reservation for the Shoshone Indians who were parties to that treaty, and the lands and transactions therein other than money have been in exclusive possession under the Ruby Valley treaty of October 1, 1863 (18 Stat. 689) 2 Kappler 851.

United States did agree to provided the implement of husbandry and for encourage useful and artificers to reside in our Village, and rendered all Indian goods now in the United States to be delivered immediately to the undersigned tribal leaders for use of their tribe, and now on, from time to time furnish gratuitously. This is great white father order.

Indians of the Wells, Nevada need to know more about the regular game permits issued by Government authorizing tribal members to hunt and fishing, but they shall

the right to hunt on the unoccupied land of the United States so long as game may be found thereon, and so long as peace subsists among the whites and Indians on the boundaries of the hunting districts without disruption?

our views concerning the section 17, was selected by the Western Pacific railroad under authority of the acts of July 1, 1862, (12 U.S. 489) and July 2, 1864, (13 U.S. 356), a patent being issued to the railroad on February 14, 1877.

the Shoshone tribe of Indians with respect to which Negotiation of a treaty was authorized by act of July 5, 1862, (12 Stat. 512, 529), and with which Ruby Valley were Negotiated of October 1, 1863, (18 Stat. 689) 2 Kappeler 851:

that this section 17, is no longer treaty lands within the country described by former Shoshone Indian leaders during the conclusion of this treaty done at Ruby Valley of October 1, 1863?

the Shoshone Indians were farming this two section of lands and they builded fence around them, and our grandfathers they did done lot of working to improve this two section of lands, the railroad did not improved the land, but this section of land was lay idle for many years past up to 1906, than Western Pacific railroad constructed through the Shoshone country without the compensation?

Shoshone Indians held, owned or occupied this land the lands set forth in the treaty of Ruby Valley of October 1, 1863, (18 Stat. 689) 2 Kappeler 851:

with kindest personal regards

Sincerely yours,

Dave H. Pavaeva

P. O. Box 404

Wells, Nevada



1275-60

FILE COPY  
SURNAME

*Buffer 12-1*  
*12/15*  
*12/17*

Mr. Dave H. Pabawena  
P. O. Box 404  
Wells, Nevada

Dear Mr. Pabawena:

Copies of your letter of December 1 have been forwarded to our Area Director at Phoenix, Arizona, and the Superintendent of the Nevada Agency for their information. Your correspondence will also be made a part of our files and will be considered at the time further study is given to the Indians' claim to land included in sec. 10, T. 37 N., R. 62 E., Mount Diablo meridian, Nevada.

Regarding sec. 17, T. 36 N., R. 62 E., Mount Diablo meridian, as you were informed in our letter of September 1, 1959, this section was selected by the Western Pacific Railroad under authority of the Acts of July 1, 1862 (12 Stat. 499), and July 2, 1864 (13 Stat. 356), with a patent being issued to the railroad on February 14, 1877. Since that time the Government has had no jurisdiction over this land or any disposition made of it by the railroad. For these reasons, we are unable to assist you regarding your claim to land located in section 17.

With respect to your request for information on Indian hunting and fishing permits, there is no treaty or statute of general application with respect to the hunting and fishing rights of all Indians. Members of some Indian tribes reserved to themselves in treaties with the United States the right to hunt and fish. In some instances these treaties reserved rights to hunt and fish "at usual and accustomed places" that might include lands outside their reservations, and in other instances they reserved the right to hunt and fish either on their reservations or on "open and unclaimed" lands of the United States. As a general rule, however, Indians may hunt and fish on their trust or restricted lands within their reservations without observing the requirements of State laws on the subject. Ordinarily, Indians who hunt or fish outside their reservations are, like non-Indians, subject to and must comply with the provisions of State laws. Membership in a tribe to which such rights are reserved, therefore, rather than possession of a specified degree of Indian blood, is a necessary factor in the exercise of hunting and fishing rights by Indians. This Bureau has no authority to issue hunting and fishing permits to Indians.

Sincerely yours,

*John V. Logan*

*File*

cc: Area Director, Phoenix  
Supt., Nevada Agency

AGONG

Commissioner

By *[Signature]* File  
Return To  
Branch of Real

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Bureau of Indian Affairs  
Nativity Central Office  
Washington 25, D. C.

Wells

Hattie Nevada  
Feb 9 - 1961



377  
Dear gentlemen. I acknowledge your letter of Dec 14, 1960, we have not received the opinion of the area director at Phoenix, Arizona, that the Indians to claim would be predicated upon aboriginal use and occupancy.

These Shoshone Indians they has been living on or using this lands through by tradition, in section 16, T. 37, they has been living on this tract over hundred and fifty years past. Now, this was long ago our forefathers inhabited much of the state and that present-day Indians are justified in recovering for all Nevada, state, and this means that Indians whose title was recognized by treaty will be required to establish as a fact.

Indians of the Wells, Nevada, need to know more about the white man took their lands without just compensation, Indians say, Now they intend to get paid for it, and we have a shameful feeling about the white man, by deceit and brute force drove the Indians from their homes without compensation, it is true that many individual white settlers dealt with the Indians pretty much as they please.

The Shoshone Indians asked five million dollars compensate for the hides of all the antelope, deer and deer slain on this land and small game and upland birds slain by the white man in the years between 1880 and 1960:

The United States did agree to pay annually, for a period of 20 years, the sum of five thousand dollars in such articles, including other purposes thereto, as the President of United States shall deem suitable for their wants and conditions, that same were denied and unpaid by United States.

The Shoshone Indians said, they could not obtain none of this treaty funds, for the reason the Indians said they still inhabited much of the Nevada state, the Shoshone Indians said that they have received from said commission provisions and clothing amounting to five thousand dollars, at the conclusion of this treaty done at Ruby Valley in the year of 1863, (19 Stat 689) 2. The paper 851, art 5:

10/2/41

... ( ) ... ( )  
... Government has failed to account for its management, handling and disposition of said moneys and properties together with interest thereon, which may show on the records to be owing to Western bonds upon a proper accounting, in accordance with the fiduciary duties and the liabilities herein set forth, wish to know whether or not, when the United States settle their liabilities, it is long waiting for such action to determine this matter.

I shall appreciate it if you will give me the benefit of your opinions on these issues by following questions and returning the answer to me as soon as possible.

with kindest personal regards.

Sincerely Yours  
Walter H. Taberna  
P O Box 464  
Nelle, Nevada

Wells

Wells, Nevada

June 4 - 1961

Dear gentleman;

once again we are seeking your views on this matters and in your effort to give us faithful service, who has working federal Government in this area.

We, the undersigned the Members of the Western Band of the Shoshone Nation of Indians of Nevada, and individual Members thereof.

we have been informed by the field officials, that they said check this lands and exchange it, we understood, which is now occupied by Shoshone Indians residing in Wells, Nevada.

During certain matters which we have discussed with the John Crow Commission of Indian affairs, he has a favorable to exchange this lands, in favor of the Indians, which we informed that this lands is in section 10. T. 57, on the April 14, 1961, during the regional conference at Reno, Nevada.

said group, that they are all agree to exchange this for suitable lands that their wanted, and they have accepted this offer, the lands is being used now on by the Western Band of Shoshone Indians of Wells, Nevada. Now we waiting for the field officials they promise us check this lands and exchange it, the field officials never show up yet, we still waiting for them.

Shoshone Indians of Wells, Nevada said that they has a treaty to provided the same reserve in their own homelands, Not in other Indian reservation outside the Country claimed, it is not regarded as legal.

this is long ago our forefathers inhabited much of this territory before the white man come in this traditional homelands. Now today the white people farming part of this land, and by brute force trying to drove us

out from our homelands, it is unfair do this kind of work without the permission, the lands was set forth in treaty of 1863, (18 stat. 689, 2 Kappeler 85), these Indians occupied this lands through by act of 1863, were described, because Indians claim this lands, the woods, the water, and the grass are theirs, and white men have not paid the Indians for these things. and without the consent of the Shoshone Indians, by United States for railroad, and schools, forest reserves, homesteads, and other purposes, the United States has not paid the Shoshone Indians for any of said lands, from time to time vast areas of the Shoshone Indians area were placed in National forest reserves, without the compensation, these Shoshone Indians of Wells, Nevada that they have required for to develop some of this forest reserves, for their hunting grounds? Said Shoshone Indians, that they could not obtain none of this Government promise, for that reason Indians said, that they are still inhabited much of this state, and the reason of the failure of the United States. Said Western Band of the Shoshone Indians, that they have received from said Commission provisions and clothing only amounting to five thousand dollars, at the conclusion of this treaty done at Ruby Valley in the year of 1863, (18 stat. 689, 2 Kappeler 85), act 8, has been the subject of considerable correspondence with the leaders of the 12 group of the Shoshone Indians in this area of country, I writing for all Shoshone Indians please let me know right way. with kindest personal regards.

Sincerely yours

Dave H. Pabawera  
P.O. Box 404  
Wells Nevada