



2. The first known white contact with the Coeur d'Alene Tribe was the Lewis and Clark Expedition of 1804-06. <sup>1/</sup> Later, in 1824-25, fur traders reported this tribe as living in the vicinity of Coeur d'Alene Lake, <sup>2/</sup> the same location given for them by Lewis and Clark. <sup>3/</sup> The tribe was located in the same general area when the missionaries established a mission among the Coeur d'Alene in 1842 on the banks of the St. Joe River at the point where it flows into the southern end of the Coeur d'Alene Lake, near St. Maries, Idaho. Father Point, first missionary to reside with the tribe, found them occupying 27 different localities.

3. The name Coeur d'Alene is the name popularly given to the Salish Tribe originally and most commonly known as Skitswish, although often referred to by other names such as "Skeetsomish" and "Skeetshue" and in the anglicized translations as the "pointed hearts," "needle hearts," and similar names. <sup>4/</sup> The Coeur d'Alene were clearly distinguished from neighboring tribes on the basis of language, religion, physical appearance, and geographical location. <sup>5/</sup>

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<sup>1/</sup> Tr. 41-42

<sup>2/</sup> Pet. Ex. 12, p. 247; Pet. Ex. 13, p. 150

<sup>3/</sup> Pet. Ex. 8, pp. 385, 386

<sup>4/</sup> Pet. Exs. 1, 4, 7 (p. 992); 9 (p. 711)

<sup>5/</sup> Pet. Exs. 13, p. 151; Pet. Ex. 29, pp. 508-509;  
Pet. Ex. 17; Pet. Ex. 5, p. 40; Pet. Ex. 33, p. 414

4. In 1854, Governor Isaac Stevens, while on his expedition to locate a railroad from the Mississippi to the west coast reported the Coeur d'Alene as living "on the upper part of the Coeur d'Alene River, above the Spokanes, and around the lake of the same name. They are estimated by Dr. Dart as only two hundred in number, which is believed, however, to be too low an estimate. Father Mengarini \* \* \* gives as his opinion that they reach four hundred and fifty." <sup>6/</sup> Father de Smet who spent much time with the Plateau Tribes in 1858 described "the country which is occupied by this tribal group [Coeur d'Alene] which our fathers are taking care of. \* \* \* From north to south and east to west, the territory where the Coeur d'Alene Indians occupy is about 100 miles. The country is very mountainous." <sup>7/</sup> In a letter written in May, 1859, Father de Smet said: "Taking Coeur-d'Alene Lake as a central point, their country may extend fifty miles to every point of the compass." <sup>8/</sup> In writing of his experiences with the tribe, Father Diomed, to whom fell the task in 1876 of getting the whole tribe to settle at the new mission at Nilgoalko, related: "The Indians of this tribe were now located in camps scattered over a radius of fifty miles. \* \* \*"<sup>9/</sup>

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<sup>6/</sup> Pet. Ex. 33, p. 257

<sup>7/</sup> Pet. Ex. 27, p. 394

<sup>8/</sup> Pet. Ex. 19, p. 142

<sup>9/</sup> Pet. Ex. 22, p. 56

5. In aboriginal times the Coeur d'Alene territory was surrounded by other tribes: the Spokane on the west, the Kalispel on the north, the Flatheads on the east and the Nez Perce on the south and southeast, with the Palouse on the southwest at least in later periods. Each of these tribes recognized in general the territorial boundaries of the Coeur d'Alene.

James A. Teit, one of the early recognized authorities on the Plateau Tribes, in his work on said tribes in 1904, wrote of the Coeur d'Alene as follows:

The country occupied by the Coeur d'Alene was almost entirely within what is now the State of Idaho. A small part extended into Washington. They held all the waters of Spokane River from a little above Spokane Falls to the sources, including Coeur d'Alene Lake and all its tributaries. To the southeast their territory extended across the head of the Clearwater, a tributary of the Snake River. Their eastern boundaries were the Coeur d'Alene and Bitter Root Mountains. Generally speaking, their country is mountainous and more or less heavily forested, with more rain and snowfall than the territories of the surrounding tribes. The western part, around De Smet, Hangman's Creek, Tekoa, Farmington, and toward Spokane Falls, is drier and comparatively flat, open and well grassed. In the central part are many navigable waterways.

On three sides tribes of the flathead group were neighbors of the Coeur d'Alene - the Spokane to the west, the Kalispel to the north, and the Pend d'Oreilles to the east. On the south their neighbors were the Nez Perce and Palous; but, as the latter are considered comparatively new arrivals, in olden times probably they bordered only on the Nez Perce. It seems likely that there was a narrow strip of neutral country between the two tribes, used to some extent by both in times of peace.  
\* \* \*

Although Teit was not a trained ethnologist, his work was edited by Franz Boas, who became known as "The father of American Anthropology." <sup>10/</sup>

Leslie Spier in his "Tribal Distribution in Washington" (1936), wrote:

Their (Coeur d'Alene) territory was almost wholly in Idaho, only a small part extending into Washington.. We are concerned here only in the definition of the latter segment. \* \* \*

The bands were grouped into three, possibly four, units corresponding to divisions of the tribe. Of these only the Coeur d'Alene Lake - Spokane River division seems to have held territory in Washington. Permanent winter villages are noted on the Spokane River from the Idaho line to a point about twenty miles above Spokane City. "A few miles below [this last point] was the boundary between the Coeur d'Alene and the Spokane. The latter, however, did not reach much above Spokane Falls (or City)." 11/

It seems possible that at one time the narrow strip of Palous country above the mouth of the Palouse was neutral ground, the contiguous tribes of Columbia, Spokane, Coeur d'Alene, and Nez Perce each making use to some extent of the part lying nearest them. This neutral strip, and previous decimation of the Columbia population by disease, would make the expansion of the Yakima or Palous in this direction very easy.

Colfax was considered to be in Palous country, at least, in later days, but was to some extent within both Coeur d'Alene and Nez Perce spheres of influence." 12/

Dr. Verne Ray, petitioner's ethnologist, in his "Native Villages and Groupings of the Columbia Basin" (1936), extracts of which appear in petitioner's Exhibit 119 on page 116, shows the territory of the Coeur d'Alene with the western and northern boundaries as then determined by Dr. Ray, and on page 103 his boundaries for the Coeur d'Alene and other tribes in the Northern Plateau. (Compare with his map on page 386, Pet. Ex. 120).

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11/ See Def. Ex. 13, p. 36; Def. Ex. 6

12/ See Def. Ex. 13, p. 39

6. In 1873, at the direction of the Department of the Interior, three commissioners negotiated an agreement with the Coeur d'Alene Tribe for the purpose of extinguishing the title of said Indians to all lands claimed by the tribe and for the purpose of establishing a reservation. By this agreement made on July 28, 1873, which was never ratified by Congress, the tribe agreed to relinquish to the Government all right and title in and to all lands theretofore claimed by said tribe, lying outside of the proposed reservation, and bounded as follows:

Beginning at the head of the upper Palouse or Mohnasha river in the Territory of Idaho; thence westerly across the ridge to Steptoes Butte; thence northerly to Antoine Plants, on the Spokane river; thence across ridge to the foot of Pend Oreille Lake, thence up said lake to the summit of the Bitter Root Mountains; thence along the summit of the Bitter Root Mountains to the place of beginning. 13/

In reporting the proceedings culminating in this agreement, Agent Monteith, one of the signers of the agreement, wrote that the Coeur d'Alene said that the country so bounded "was their country although I found that a portion of it to be in dispute between them and a half breed Spokan Chief." 14/

7. In 1835, the Coeur d'Alene Tribe, in petitioning the Government to send a commission to treat with them respecting their lands outside of the reservation established for them by executive order in 1873, and on other matters, claimed their boundaries to be as follows:

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13/ Pet. Ex. 94

14/ Pet. Ex. 93

The boundaries of the country owned by your petitioners, and by their forefathers from time immemorial are as follows, to wit: Beginning at a point on the Pelouze River west of a high butte now known and called Steptoe Butte; thence extending northwestwardly to the Spokane River at a point on its north bank formerly resided at by Antoine Plant, a half breed Indian; thence extending to the lower end of the Pend d'Oreille Lake; thence eastwardly to the summit of the Coeur d'Alene Mountains, separating the waters of the Flathead or Missoula River from those of the Coeur d'Alene and Saint Joseph's River; thence southerly along the summit of said mountains to the most southern thereof, whence flows the Pelouze River; thence westwardly along the southern rim of the water-shed of the waters of the Pelouze River to the point of beginning. 15/

8. The Northwest Indian Commission, on March 26, 1887, concluded an agreement with the Coeur d'Alene Tribe at De Smet Mission on the Coeur d'Alene reservation, Territory of Idaho. The pertinent articles are as follows:

Article 1. Whereas said Coeur d'Alene Indians were formerly possessed of a large and valuable tract of land lying in the Territories of Washington, Idaho, and Montana, and whereas said Indians have never ceded the same to the United States, but the same, with the exception of the present Coeur d'Alene Reservation, is held by the United States and settlers and owners deriving title from the United States, and whereas said Indians have received no compensation for said land from the United States: Therefore,

Article 2. For the consideration hereinafter stated the said Coeur d'Alene Indians hereby cede, grant, relinquish, and quitclaim to the United States all right, title, and claim which they now have, or ever had, to all lands in said territories and elsewhere, except the portion of land within the boundaries of their present reservation in the territory of Idaho known as the Coeur d'Alene Reservation.

Article 14. This agreement shall not be binding on either party until ratified by Congress.

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15/ Pet. Ex. 109, p.40

The consideration agreed to be paid by the United States under the terms of the agreement was \$150,000 (Article 6). The agreement was not ratified by Congress until the Act of March 3, 1891 (26 Stat. 989, 1 Kapp. 419). In this act the agreement was referred to as dated March 26, 1889. This was without doubt a typographical error, for the text of the March 26, 1887 agreement (Ex. 105; see also Ex. 106, p. 56) is identical to that set out in the act except as to the year. Moreover, the later agreement of September 9, 1889, which was also ratified by the same act, in article 4 expressly refers to the former agreement by its correct date, March 26, 1887. The reservation as established in 1873 contained 598,500 acres of land.

Although the above agreement does not state the boundaries of the lands ceded by the tribe, the Northwest Indian Commission was cognizant of the lands claimed by the tribe. In reporting its negotiations with the tribe, the Commission had this to say:

The lands which they claimed, and held by occupancy, contained about 4,000,000 of acres. They had the same title to it which other Indians had, that is, the fee in the United States, and the occupancy, with all its incidental rights, in the Indians. The right of the Indians to their occupancy is as sacred as that of the United States to the fee.

On page 9 of this document [Sen. Ex. Doc. No. 122, 49th Cong., 1st Sess.] will be found the petition [Pdg. 7] of the Coeur d'Alene Indians, addressed to the President of the United States, setting forth their claim and the boundaries of the land in question. This country, as the petition alleges, "is one of the most valuable in Washington Territory, dotted by numerous and valuable wheat farms, valuable forests of timber, saw-mills, gold, silver, and lead mines, the military post of Coeur d'Alene, and numerous thriving towns and villages. The Northern Pacific Railroad runs directly through it, and much of the land owned by that corporation was the land of these Indians.

\* \* \*



At De Smit Mission we were furnished with the original agreement [unratified] made and concluded on the 28th day of July, 1873, \* \* \*.

\* \* \* By reference to the copy of the agreement, it will be observed provision was made for a reservation for the Coeur d'Alenes out of a portion of these lands, and the tribe relinquished to the Government all lands heretofore claimed by them lying and being outside of said described reservation. The boundaries are then given in detail, and it will be found that they substantially agree with the boundaries given in the petition of the Indians. 16/

9. Following the execution of the Agreement of 1887, and prior to its ratification, the Secretary of the Interior was directed by a Senate Resolution in 1888 to report whether it was advisable to throw open any portion of the Coeur d'Alene Reservation to occupation and settlement under the mineral laws of the United States. The Commissioner of Indian Affairs, in advising the Secretary of the Interior that he believed a cession of part of the reservation for such a purpose could be obtained once the 1887 agreement was ratified, said:

In conclusion I will state that in my opinion these Indians have all the original Indian rights in the soil they occupy. They claimed the country long before the lines of the reservation were defined by executive order of 1873, and the present reservation embraces only a portion of the lands to which they laid claim. This claim has been recognized in various ways and at sundry times, and the last Congress authorized the Secretary of the Interior to negotiate with them "for the cession of their lands outside the limits of the present Coeur d'Alene Reservation to the United States!" \* \* \* 17/

Thus, it appears that the Congress of the United States and the officials of the Department of the Interior recognized that the Coeur d'Alene Tribe had Indian title to lands outside of the boundaries of the

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16/ Pet. Ex. 106, pp. 38 and 39

17/ Pet. Ex. 109, p. 24

reservation established by the Executive Order of 1873 (I Kapp. 837). While the boundaries of the lands claimed by petitioner were not expressly recognized, it is plain that the Congress and officials of the Interior Department dealing with Indian Affairs in considering the Coeur d'Alene land claims outside their reservation recognized the boundaries described in the 1873 unratified agreement (Ex. 94) and the 1885 petition of the Indians (Ex. 109, p. 40) which were boundaries consistently claimed by the Coeur d'Alene and which are substantially the same as those described in Finding 11 hereof, although we found an overlapping of areas claimed in cases pending before us by the Nez Perce on the south and the Kalispel on the north, which have been adjusted by the Coeur d'Alene in changing the boundaries claimed by them. (See amendment to their proposed findings filed herein on August 11, 1955).

10. The Coeur d'Alene Indians at all times pertinent to the period involved had a tribal organization capable of using and occupying an area of land. <sup>18/</sup> The tribe consisted of three divisions or bands, i. e., (1) Coeur d'Alene Lake, (2) Coeur d'Alene River, and (3) the St. Joseph River bands or divisions. <sup>19/</sup> The tribe was semi-sedentary, always returning to permanent villages which remained fairly static and have been located generally in the same places by those who have studied the tribe,

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<sup>18/</sup> See Ray, Pet. Ex. 121, and extracts from Ray in Def. Ex. 13, pp. 135, 136

<sup>19/</sup> Teit, Pet. Ex. 5

i. e., Teit, <sup>20/</sup>, Ray, <sup>21/</sup>, and Chalfant, <sup>22/</sup> along the Coeur d'Alene, Spokane and St. Joe Rivers, and on the borders of Coeur d'Alene and Hayden Lakes. There were also camps to which the Indians went in season for berry picking, camas root digging, fishing and hunting. In all, some 34 permanent or temporary camp sites have been located by the ethnologists. There is no record of any migrations of this tribe and according to tradition the tribe has always been in the area where they were first contacted by the whites. <sup>23/</sup> It is the same region from which the Coeur d'Alene reportedly excluded the Hudson Bay Company when the latter attempted to enter their territory. <sup>24/</sup>

11. The Commission finds from the evidence that at and long prior to the agreement of March 26, 1887, ratified by the Act of March 3, 1891, 26 Stat. 989, the petitioner had aboriginal Indian title, and that such title was recognized by defendant, to the lands situate in Idaho and Washington within the following boundaries:

Beginning at Steptoe Butte, thence northerly to the Spokane River at a point on its north bank where Antoine Plant formerly resided and operated a ferry; thence northeastwardly, including Rathdrum Prairie, to the most southerly tip of Pend d'Oreille Lake; thence eastwardly to the summit of the Coeur d'Alene or Bitterroot Mountains; thence southerly along the summit of said

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<sup>20/</sup> Ibid.

<sup>21/</sup> Pet. Ex. 119, pp. 116, 130-133

<sup>22/</sup> Def. Ex. 13-A

<sup>23/</sup> Teit, Pet. Ex. 5, p. 40

<sup>24/</sup> Pet. Ex. 31, p. 37; Pet. Ex. 22, p. 53; Pet. Ex. 13

mountains to the divide separating the watersheds of the North Fork of the Clearwater River and the St. Joe River; thence westerly along said divide to a point separating the headwaters of the St. Maries River from the headwaters of Potlatch River; thence in a direct westerly line to the place of beginning.

Edgar E. Witt  
Chief Commissioner

Louis J. O'Marr  
Associate Commissioner

Wm. M. Holt  
Associate Commissioner