BEFORE THE INDIAN CLAIMS COMMISSION

THE CONFEDERATED TRIBES OF THE
COLVILLE RESERVATION, ET AL.,

Petitioners,

v.

THE UNITED STATES OF AMERICA,

Defendant.

Docket No. 161

Decided: February 29, 1956

FINDINGS OF FACT

The Commission makes the following findings of fact:

1. The petition in this case was filed before the Indian Claims Commission on July 3, 1951, by the Confederated Tribes of the Colville Reservation as representative and successor of the Colville, Lakes, Sanpoil, Nespelem, Okanogan and Methow Tribes and by certain individual Indians identified in Finding No. 3 below as the representatives of these tribes. An amended petition was filed on January 3, 1956, in this case for the sole purpose of severing claims not involved in the issues herein.

2. The Confederated Tribes of the Colville Reservation (hereinafter sometimes called the Confederated Tribes) is an organization recognized by the Secretary of the Interior as having authority to represent the Indians enrolled on the Colville Reservation. At the present time the enrolled membership of the Confederated Tribes numbers approximately 3,650 Indians. Of this number, approximately 2,790 are members of the Methow, Okanogan, Sanpoil, Nespelem, Lakes and Colville tribes. Since 1933, the membership rolls of the Confederated Tribes
has not designated the tribal membership of each enrollee. Accordingly, in preparation for the presentation of this case, the Business Council of the Confederated Tribes established a committee to designate the tribe to which each enrolled member of the Confederated Tribes belongs and to prepare a tribal role showing this designation. The report of this committee, approved by a resolution of the Business Council of the Confederated Tribes, shows on the present membership role of the Confederated Tribes 1,382 members of the Colville Tribe, 220 members of the Lakes Tribe, 117 members of the Nespelem Tribe, 352 members of the Sanpoil Tribe, 578 members of the Okanogan Tribe, and 138 members of the Methow Tribe.

3. Each of the individual petitioners named in this paragraph was, at the time of filing the petition in this case, a member of the tribe indicated herein, and each, with the exception of Peter J. Gunn and Eddie Yeracostchin who are deceased, is at the present time a member of the tribe indicated herein:

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<td>Louie Camille</td>
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<td>Florence Quill</td>
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<td>Alex L. Covington</td>
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<td>Alex Nicholson</td>
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<td>Sam Miller</td>
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4. Each of the tribes on whose behalf this action is brought, viz.: The Methow, Okanogan, Sanpoil, Nespelem, Colville, and Lakes (herein-after sometimes called the petitioner tribes) is a tribe, band, or
identifiable group of American Indians residing in the United States; and, from the time of earliest contacts with white men down to the present day, each has been recognized as a tribe, band, or identifiable group of Indians by the officers and agents of the United States dealing with these Indians, by the ethnographers who have studied these Indians, and by the historians who have recounted the history of the country in which these Indians lived.

5. The land originally claimed by the petitioner tribes lies along the upper reaches of the Columbia River and its tributaries in what are now Okanogan, Douglas, Ferry, Lincoln, and Stevens counties in northeast Washington. The United States acquired undisputed sovereignty over this land by Treaty of June 15, 1846, with Great Britain. By Act of August 14, 1848, 9 Stat. 323, the United States included this land within Oregon Territory and by Act of March 2, 1853, 10 Stat. 172, carved this land out of Oregon Territory and included it in Washington Territory. Both these acts provided against impairing the rights of Indians to land in the Territory so long as such rights remained unextinguished by treaty between the United States and such Indians. For a number of years the United States proposed and planned to make a treaty of cession with the petitioner tribes and other neighboring Indians. The United States never concluded any treaty with any of the petitioner tribes for the cession of any part of the land originally occupied by them. Nevertheless, by an executive order dated April 9, 1872 (I Kappler 915-16) a tract of land lying east of the Columbia River was set apart as a reservation for certain named bands of Indians, including the petitioners herein, but by an executive order
dated July 2, 1872 (1 Kapp. 916), the executive order of April 9, 1872, was revoked, the tract of country described therein restored to the public domain, and the following described tract was set apart as a reservation for said Indians:

The country bounded on the east and south by the Columbia river, on the west by the Okanagon river, and on the north by the British possessions.

All Indians except members of the petitioner tribes were established on other reservations provided for them after 1872.

The lands within the boundaries of the Executive order reservation of July 2, 1872, aforesaid, are not included in this petition.

6. At the beginning of the 19th Century, when the white man first came into the area within which this case is concerned, politically autonomous villages constituted the dominant unit of Indian habitation throughout these lands. The inhabitants of each of these villages called themselves by the name of the village that they inhabited. They were governed by the Chief and Assembly of that village. None of the petitioner tribes, except the Lakes, had developed by that time any political chief or governing body larger than these autonomous village units. The Lake Tribe, however, unlike the other petitioner tribes, had developed some central tribal political organization and is reported to have had a tribal chief. For the other petitioner tribes, the political organizations that existed rested specifically and wholly within the villages.

7. Since the advent of the white man into the lands occupied by these Indians, most of these groups have been considered and referred to by the white man, with only rare exceptions, as separate and distinct Indian tribes. The early reports of explorers, fur hunters, and missionaries,
and of the agents of the Hudson Bay Company and the Pacific Fur Company speak of these tribes and locate in a general way the lands of these tribes. The earliest dealings of officers and agents of the United States with the Indians in these lands were conducted with the Colville, Okanogan, and Lakes Tribes. Commencing about the year 1859, the agents of the United States charged with administering the Federal Government's relations with the Indians in this area began to report annually on the Okanogan, Methow, Sanpoil, Nespelem, Colville, and Lakes Tribes, reporting for each the general location of the lands occupied, the estimated population, and in some instances the names of the chiefs. In the course of this continued and increasing intercourse with the white man, each of the petitioner tribes developed a centralized political organization fitted to the demands of this intercourse with the possible exception of the Nespelem who were considered part of the Sanpoil. The white man sought chiefs who could speak for the entire tribe and each of the petitioner tribes produced its chiefs. In the negotiations that occurred from time to time between each of the petitioner tribes on the one hand and the officers and agents of the United States on the other over the years that preceded the establishment of the Colville Reservation in 1872, each of the petitioner tribes was represented by its respective chief or chiefs, and the authority of these chiefs to represent and speak for their respective tribes, and the capacity of each tribe to be so represented by a chief, was not questioned by the United States or the Indians. For years after the Colville Reservation was established and until after the Confederated Tribes of the Colville Reservation was organized in the 1930's, the
agents and officers of the United States continued to deal with and report on each of the petitioner tribes as a distinct and separate tribe having a political entity and assigned as such to the Colville Reservation.

8. Each of the separate tribes belonged to what is classified as the Interior Salish dialectic group of the Salish speaking people. With the exception of the Methow tribe, the speech of each, though differing, was and is intelligible to members of the other separate tribes. The Methow spoke a classification of Interior Salish spoken by the Chelan and Columbia Tribes.

9. Commencing in 1782 and during the one hundred years that followed, the separate tribes suffered from a series of adversities that depleted their population. Chief among these were the smallpox epidemics of 1782-83, 1830, 1846, and 1852-53, the measles epidemic of 1847, and the disruption of the aboriginal Indian life by the white man's gradual invasion of the country. Dr. Verne Ray has estimated that as of 1780 the Okanogan and Southern Okanogan in the lands that later became the United States, numbered 2,000 or more, the Lakes in the area that later became the United States numbered 800 or more, the Colville, 2,000 or more, the Sanpoil and Nespelem together, 2,500 or more, and the Methow 800 or more. Dr. Ray's estimate of the population as of 1860 puts the Okanogan at 600, the Methow at 400, the Nespelem at 500, the Sanpoil at 800, the Colville at 600, and the Lakes at 200. Since that time, the population of the petitioner bands has remained nearly constant to the present day. Today there are approximately 2,900 enrolled members of the Confederated Tribes who are descendants of members of the separate tribes.
10. As already stated, the dominant unit of habitation for each of the petitioner tribes was a village. These villages were the winter homes of the Indians. They were located at sites which continued to be used with permanence year after year, and generation after generation. They consisted of winter semi-subterranean lodges and mat houses. These houses were rebuilt and moved from time to time, and in this process the precise location of each village would change within the same general area. The village sites were all located along the rivers. They ranged in area occupied from the smallest villages consisting of only two or three lodges to large villages extending for more than a mile along the bench that bordered the river. In population they ranged from as few as twenty-five to thirty persons to as large as four hundred and more persons. In the case of the Lakes, the record contains evidence locating 10 such permanent villages; for the Colville, 7; for the Sanpoil, 13; for the Nespelem, 8; for the Okanogan, almost 40; for the Methow, more than 15.

11. The permanent villages were fully occupied only during the late fall and winter months. During this time, most inhabitants remained indoors to avoid the severity of the weather. Food, collected and dried during the summer months, had been stored in the village. Fuel likewise had been gathered and was stored at the village sites. Except for hunting trips and the customary midwinter festivities, most of the Indians stayed in the villages. Winter was the best season for hunting (mostly deer), and it was at this time that the need for meat to supplement the storage of dried fish from the summer's catch was
most pressing. In the spring the Indians were occupied in root digging which was the task of the women and small game hunting was undertaken by the men. The summer was devoted to fishing and the Indians spent this season at the great salmon fishing grounds along the rivers. In the fall the Indians would move on to fall fishing grounds and some into the mountains to gather fall roots or to hunt.

**Sanpoil and Nespelem**

12. The fur companies representatives were the first known white men to contact the Sanpoil and Nespelem Indians in their habitats along the Columbia River. David Thompson, who represented the Hudson Bay Company and left a journal of his experiences, wrote of spending a night in 1811 in a "Sanpoil" village just below the juncture of the Columbia and Sanpoil Rivers. A few days later he visited a village of "Inspelis" Indians just below the juncture of the Columbia and Nespelem Rivers and the next day he spent a few hours with a village of Methow Indians at the mouth of the Methow River. (Pet. Ex. 502).

Ross Cox, another representative of the Hudson Bay Company in about 1813-1814, wrote that "The Sinpoils * * * occupy a district on the northern bands of the Columbia, between the Spokan and Oaticanagan Rivers. They subsist principally on salmon and camas, and sometimes a small deer. * * * We could never rightly ascertain whether they had a chief. * * *" (Pet. Ex. 454). In 1829-1830 John Work of the same company located the Sanpoil Indians along the Columbia River from about the mouth of the Spokane River downstream to below "a little River falling in from the North which bears their name." (Pet. Ex. 7)
13. In 1849, Governor Lane of Oregon Territory who was also ex-officio superintendent of Indian Affairs, reported that "The Senpoils on the Columbia river near the Kettle Falls are well disposed but very poor. They number about five hundred, have some horses and a few guns. They subsist on fish, roots, etc." (Pet. Ex. 11). In 1854 in his report to the Commissioner of Indian Affairs, Governor Isaac Stevens of Oregon Territory, linked the "N'pockle or Sans Puelles, on the Columbia River," with the Okanagons, but also reported they "are also claimed by the Spokanes." (Pet. Ex. 66). In 1859 Acting Indian Agent Major Lugenbeel who had recently arrived at Colville, Washington Territory, reported that the San Poils resided during the summer at the mouth of Spokane River where they had a fishery and that "During the winter, the whole tribe collects at the mouth of Sans Poils Creek, on the Columbia River. * * *" Indian Agent George A. Paige in his second annual report to the Superintendent of Indian Affairs for Washington Territory in 1866 reported (Pet. Ex. 226) the "San Poeils and other bands" to be residing along the Columbia River from the 118th Meridian to the 120th Meridian and "on the San Poeil" a tributary of the Columbia. In 1867 Paige in reporting on the "San Poeils, Talouse, and other bands" stated: "These reside along the Columbia river. From the 118th to the 120th meridian are several small, detached bands, remnants of once large tribes." (Pet. Ex. 226 and 230). In 1870, Samuel Ross, Superintendent of Indian Affairs, Washington Territory, in his report to the Commissioner of Indian Affairs reported the "Sanpoil and Nespeelum" to number 532 and that their head chief was "Qua-tal-v-kin." (Pet. Ex. 266). Included in Ross's report are extracts
from the report made to Ross by William P. Winans who had been appointed by the Superintendent to investigate the names, locations and numbers of Indians in northeastern Washington Territory. Winans reported "The Sanpoils, which includes the Nes-pee-lum Indians, are located on the Columbia, from the mouth of the Spokane down to Grand Coulee, (on south of the Columbia,) and from a point opposite the mouth of the Spokane down to the mouth of the Okanogan on the north side of the Columbia, including the country drained by the Sanpoil and Nes-pee-lum Creeks." (Pet. Ex. 266). In his second annual report to the Superintendent in 1871, Winans reported (Pet. Ex. 285) "The San poels and Nespelums number five hundred and thirty-eight, and reside on streams of the same name, and on the Columbia River; * * *" that they had never received any presents from the Government and stated they would accept none since they believed by doing so they would give the Government a claim to their lands. Accompanying this report Winans forwarded a map (Pet. Ex. 516 is a copy thereof) showing, according to Winans, "what part of this district is occupied by each tribe under my control." The map has an area designated "San Poels" marked off to include lands both north and south of the Columbia River and on the north appears to include much of the watersheds of the Nespelem and San Poil rivers. The report of the Commissioner of Indian Affairs for 1875 stated that the "Nespelems and San Poels" were confederated tribes numbering 500. (Pet. Ex. 372).

14. Anthropological sources contain many references to the Sanpoil Indians. Swanton (Def. Ex. 7) states their location was on the Sanpoil River and Nespelem Creek and on the Columbia below Big Bend.
Swanton cites the Nespelem as a subdivision of the Sanpoil. Curtis (1917) (Def. Ex. 15) wrote that "The Sanpoil occupied the valley of the stream that bears their name, and the shores of the Columbia between the Spokane and the Sanpoil, its tributaries, * * *. Each spring the Sanpoil crossed the Columbia to camp in the neighborhood of the present Coulee City, Washington, and dig roots; about the first of July they returned to the river to build their fish-weir at the mouth of the Sanpoil." Curtis said that "The Nespelem occupied the valley of that name, which flows into the Columbia about thirty miles west of the Sanpoil, and the adjacent portion of the lands bordering on the Columbia." Mooney (1896) stated the Sanpoil occupied the country on Sanpoil river and the Nespelem on the north bank of the Columbia, "along Nespelem river and down to the junction of the Okinagan, and on the opposite side of the Columbia down to about Grand Coulee." (Def. Ex. 9, p. 21). Mooney's map of the "Distribution of Tribes of the Upper Columbia Region * * *" depicts the territory he assigned to these Indians (Pet. Ex. 469). Mooney limited the Sanpoil to lands north of the Columbia.

15. In 1933 a book entitled "The Sanpoil and Nespelem, Salishan Peoples of Northeastern Washington," by Verne F. Ray was published which contains a thorough study of the ethnography of these Indians. Dr. Ray, who appeared as an expert witness for petitioners in this case, is a recognized authority on the plateau Indians. In this study of the Sanpoil and Nespelem Indians the ethnologist found the exact territory occupied by these Indians to be (Pet. Ex. 478, page 13) as follows:
In northeastern Washington, about 85 miles south of the Canadian boundary, the Columbia river abruptly changes its course from south to westward. This has come to be known as the Big Bend of the Columbia, and the adjacent territory to the south of the river is called locally the Big Bend country. This general area, together with that included within the bend, was originally occupied by the Sanpoil. The confluence of the Sanpoil and the Columbia rivers marked the center of population but the geographical center was somewhat north of this point, near Lake Annun (Buffalo Lake). The southern boundary of the area was approximately a straight line running east and west at about 47° 14' latitude. The eastern boundary intersected this line about 15 miles west of the town of Davenport. From that point it continued in a northeasterly direction to the bend of the river, or just west of the village called Peach. The boundary line then followed the river northward to Hunters, where it veered westward and connected with the Kettle river range of mountains; this range formed the remaining portion of the eastern territorial limit. A line drawn directly eastward from Republic to the Kettle river mountains would represent the northern boundary with fair accuracy. On the west the boundary line proceeded from Republic to Kartaro, then southward across the river toward Coulee City.

All villages were located along the Columbia river; therefore the boundary points on the river were much more clearly defined than in other parts of the territory. The former were determined by the actual extent of the villages, the latter merely by the greatest extent of territory covered during hunting and root gathering expeditions. The area thus recognized as belonging to the Sanpoil comprised about 1600 square miles. Approximately 85 miles of the course of the Columbia were included and both sides of the river were occupied except for the short distance between Miles and Hunters.

The lands bounded as described above were "the exact territory occupied by the Sanpoil," according to Ray's findings and included the Nespelem Indians since the author treated the two groups as a unit. The area is mapped in Ray's book at page 14.

16. Ray in his publication in a footnote to his description of Sanpoil and Nespelem territory stated that "It is somewhat misleading however, to speak of territory belonging to the Sanpoil and to designate
boundaries as definite lines. The nature of boundaries and concepts concerning the territorial ownership are discussed at length in the section on political organization, pages 109." Ray in the section referred to found that "the Sanpoil political unit was the village" and "tribal organization in the ordinary sense was entirely lacking." The author, however, found "a strong feeling of unity among these otherwise independent villages." He stated: (Pet. Ex. 478, page 110)

* * * The Sanpoil, it becomes clear, were much more truly "one people" than might appear from only a cursory examination of their system of political divisions and allegiances.

Moreover, the various villages made use of the same hunting and berrying grounds. These grounds were not considered either village or group property. No concept of real property existed. The use of common territory was a matter of expediency made possible by the friendly relations existing between the villages. The area, fairly definitely bounded, was considered by the Sanpoil as their proper range for food gathering but no effort was made to keep outsiders from making use of it also. Neighboring groups, however, were reasonably considerate and encroachment was slight.

17. The Commission finds based on all the evidence of record, oral and documentary, that although the Sanpoil and Nespelem Indians were aboriginally only a collection of independent villages with no tribal organization they did nevertheless over the years develop because of increasing contact with white men and government officials a tribal organization composing both groups with a head chief authorized to represent them, respecting their lands. (Pet. Exhibits 253, 260, 266, 319). The Commission further finds that the Sanpoil Tribe, which includes the Nespelem, exclusively used and occupied the area of land described in Finding 15 as delineated on Petitioners' Map, Exhibit 532.
THE COLVILLE

18. The first recorded mention of the Colville Indians is contained in the journals of the Lewis and Clark Expedition (1804-1806). Although these famed explorers did not contact these Indians they learned of them from others they did meet who located the Colvilles whom they called "heel-poo at the "Great Falls," now known as Kettle Falls. Ross Cox of the Hudson Bay Company wrote that a small tribe called "Les Chandieres" resided at Kettle Falls and that he visited their village in 1811. Later John Work of the same company in 1829 mentions the Kettle Falls (Whylpie) Indians as being in the Colville district and gives their number as being 341. Work in 1830 wrote that the Kettle Falls Indians consisted of two tribes which he named the Whylpie and Snelamoon and stated they occupied the Columbia from the Little Dalles above Kettle Falls to near the junction of the Spokan River (Pet. Ex. 7). Father de Smet, the famed missionary among the Indians of the Northwest, in 1844 arrived at Fort Colville on the Colville river and tells of baptizing some of the Shuyelpi or Chaudiere tribe (Colville) who resided near the Fort including "the great chief" of the tribe. (Pet. Ex. 456).

19. Officers and agents of the United States also found the Colville Indians in the same general locality mentioned by the fur traders and missionaries. Governor Lane of Oregon Territory in 1849 wrote that "The Kettle Falls or Colville Indians live between the Cailaspelm tribe and Fort Colville above the small Lakes; are divided into two bands, their total number amounting to eigh hundred--one hundred of whom are warriors." (Pet. Exhibits 11 and 12). In 1854
Governor Isaac Stevens reported that "Fort Colville is the principal ground of the Schmo-yel-pi or Kettle Falls tribe, one of the largest of the Selish. * * * They number from five to six hundred. They do not obtain many furs, the greater part of those taken at this post coming from the Upper Columbia. * * * They have no head chief of note, and there were present on the occasion only Kle-kah-ka-hi, the chief at the falls, Kwilt-Kwilt-louis, a sub-chief, and Eli-mihl-ka, the son of a former chief at this place. * * * They learned that but few of the original Schmo-yel-pi stock remained. They had gradually become extinct, and their places were filled by people from the adjoining bands." (Pet. Ex. 66). In July 1859 Major Lugeneel of the United States Army who had but recently arrived in Colville Valley wrote that the Colville Tribe occupied the country "watered by Mill Creek, on the east side of Columbia river, and by the Colville River, coming in from the west." (Pet. Ex. 161). In 1865 Indian Agent George A. Paige in charge of the Colville and Spokane Indians reported the Colville Indians "inhabit the Colville valley and that of the Columbia river, from Kettle Falls to a point thirty miles below, and number about 500." In 1866 he reported they "inhabit the country bordering on the Columbia River from the 48 to 49 parallel North Latitude and number about 380 souls."

20. In 1870, Samuel Ross, Superintendent of Indian Affairs for Washington Territory, reported to the Commissioner of Indian Affairs with respect to the investigation made by William P. Winans of the names and locations of Indians living in the northeastern part of Washington Territory. Ross stated that Winans reported the Colvilles
as being located in the Colville valley, on the Kettle River, and on both sides of the Columbia River from Kettle Falls down to the mouth of the Spokane. (Pet. Ex. 266). In his 1871 report Winans stated that the "Colvilles, numbering six hundred and thirty-one and residing on the Columbia, Kettle, and Columbia [sic] Rivers, have thirty-five farms; * * *." (Pet. Ex. 285). Winans prepared a map (Pet. Ex. 516 is a copy) to show what part of his district was occupied by each tribe under his control and forwarded the map with his report. This map includes much more land as Colville Territory than now claimed by the petitioner tribe. It extends Colville Territory on the north to the Canadian border to include much of the lands now claimed by the Lakes, and on the east the area designated as Colville is larger than now claimed and includes land now claimed by the Lakes. On the south Winans' map also shows the Colville's lands as including a small part now claimed by the Sanpoil.

21. Ethnological sources of record with respect to the Colville Indians are not as complete as they were for the Sanpoil. Ray in his "Native Villages and Groupings" (1936) (Pet. Ex. 482, pp. 103, 118) locates the Colville villages and maps the territorial boundaries of the Colville. These boundary lines are also shown on Petitioners' Exhibit 532. Curtis (1911) wrote that the "Colvilles lived in the valley of Colville river and along both sides of the Columbia from Kettle Falls to the mouth of the Spokane." Spier in his "Tribal Distribution in Washington" (1936) reviews former ethnological and historical matter pertaining to the Colville territory as follows:
Adequate information on Colville territory is not at hand. The best statement appears to that of Paige in 1865: [See Finding 19]. This agrees with Ray's map and list of villages. Teit's brief notes are in accord:

"A leading band of Tlkwts located at Kettle Falls or near the mouth of Kettle River. ...The Colville are said to have had several very large camps along the Columbia and on the lower Colville River."

Other writers (Curtis and Winans) assign additional territory on the Kettle River and particularly on the Columbia quite to the mouth of the Spokane River. But the latter was without much doubt within the territory of the Lower Spokan. * * * Mooney is much too generous. "They originally occupied the country on Colville and Kettle rivers and on both sides of the Columbia from Kettle Falls down to Spok'ne river, in Washington, and extending north into British territory to about the lower Arrow Lake." His map belies this, assigning Kettle River and the Columbia above the mouth of that tributary to the Lake tribe.

Chalfant, defendant's ethnologist, states (Def. Ex. 9, page 17) that

"in reviewing the historical and anthropological sources * * * it becomes clear that the Colville did actually occupy the lower Colville River valley, particularly in the vicinity of old Fort Colville, and the Columbia River valley from Kettle Falls at least as far down as Inchelium, Washington. * * *"

22. Although village autonomy undoubtedly prevailed among the Colville aboriginally (see Ray, Pet. Ex. 473) constant contact with the whites tended to bring about a loose tribal organization with whom agents and officers of the United States dealt with over a number of years. (Pet. Ex. 337, p. 9; Pet. Ex. 383, p. 3; Pet. Ex. 318, p. 3; Pet. Ex. 266).

23. The Commission finds based on all the evidence of record that the Colville Tribe of Indians has established Indian title to that area of land which is depicted on Petitioner's Exhibit 532 and which
is generally located on both sides of the Columbia River from just above Kettle Falls on the north to near Hunters, Washington, on the south with the northeastern boundary line of the Sanpoil, as previously found in Finding 15, being the western boundary line of the Colville.

THE LAKES

24. Historical data of record with respect to the Lakes is not as complete as it has been shown to be for the Sanpoil, Nespelem and Colville. In 1827 J. W. Dease of the Hudson Bay Company wrote (Pet. Ex. 3) "Number of Indians distinguishing Tribes. The Columbia Lake Indians 34. Kettle Fall Indians 54. Grand Rapids Indians 62. San Poils 91. These Tribes inhabit the Country from above Colb Lakes to St. Poil River below what is called Spokan Forks." In 1830, J. W. Work of the same company reported "The Lake Indians inhabit the Columbia from or above the Athabasca portage to the White goat river or little Falls not far above Kettle Falls, and the small streams that fall into it." (Pet. Ex. 7). Father de Smet reported a visit to the Lake Tribe in 1846, mentions Gregory as their chief and stated that these Indians were a part of the Kettle Falls nation. (Pet. Ex. 155). The reports of the officers and agents of the United States are strangely silent with respect to the Lakes Indians during the early years of contact with the tribes on the Upper Columbia. Major Lugenbeel in 1859 shortly after arriving in Colville Valley, however, reported "This tribe (lakes) reside on Columbia River, about the parallel 49° N. They number some 59 warriors--***. When the boundary between the United States & British Columbia shall be ascertained, I think those Indians will be found to be north of the line. They however come to Colville during the fishing
season & claim to be an offshoot of the Colvilles, with whom they have a constant intercourse." (Pet. Ex. 161). Agent Paige in his reports for 1865-1867 does not mention the Lakes. In 1866 and 1867 Paige reported the Colville Indians as inhabiting the country bordering on the Columbia River from the 48th to the 49th parallel of North Latitude. (Pet. Exhibits 226-227). Winans in 1870 visited the Lakes and reported they had never before been visited by an Agent. (Pet. Ex. 263). He reported the Lake Tribe to number 229 individuals; that Kis-a-wee-likh was their head chief; that their tribal name was Sen-i-jex-tee; and that they were located on both sides of the Columbia River from Kettle Falls north to British Columbia. (Pet. Exhibits 266, 285). Winans' map (Pet. Ex. 516), prepared in 1871, on which he outlined the country occupied by the petitioner tribes depicts but a small area of land east of Kettle River from Kettle Falls north along the Columbia River to the international boundary as being occupied by the Lake Indians. The remaining portion of the area now claimed by the Lake Tribe Winans indicates to be Colville Territory for the most part.

25. Anthropological sources locate the Lake Tribe in the same general area mentioned by historical documents. Curtis found that the Lake Indians formerly held the Kettle river valley and that of the Columbia from Kettle Falls to Lower Arrow Lake, in Washington and British Columbia. (Def. Ex. 15). Spier (1936) wrote that the territory of the "Lake Salish or Sinojextee lay principally in Canada along the Columbia River and Arrow Lakes from the vicinity of Revelstoke southward to the border." Spier then quotes the following
from Teit: "There appear to have been about eight villages on the Columbia [in Washington], all very populous" which Spier states extended as far south as Marcus, opposite the mouth of Kettle River. (Pet. Ex. 492). Mooney stated that the Lakes "owned the country on both sides of the Columbia in Washington, from about Kettle Falls northward into British Columbia. * * *" (Pet. Ex. 469). Spier also states that Mooney's map (Pet. Ex. 469) "carries their southern boundary westward from a point north of Kettle Falls, thence northwest of the Kettle River (much as on Ray's map)." Dr. Ray in his "Native Villages and Groupings" (Pet. Ex. 482, pages 114, 124, 125, 128, published 1936) locates 11 Lake Indian villages in northeastern Washington. Of their territory he wrote:

* * * The somewhat unusual shape of Lakes territory grows out of geographical conditions. With but a single short portage it was possible to make circuits of hundreds of miles by canoe. The shape of the territory conformed to these routes of travel. The southern lobe of Lakes territory is the least definitely established. Its projection is based upon the recording by Mr. William Elmendorf of a single Lakes village site at Addy, Washington. [Ray's village number 43, page 114] The information was furnished by Mrs. Nancy Wyncoop, a Lakes informant now living on the Spokane reservation.

Ray's map in this publication of Lakes territory and villages is almost identical with the Lakes area on petitioners' map, Exhibit 532, outlining the claims of the petitioner tribes, except that the village numbered 43 at Addy, Washington, does not appear on the map in evidence. Ray denotes indefiniteness of the boundary line at this point on his map in Exhibit 482 at page 114. Chalfant, defendant's ethnologist, in his report (Def. Ex. 9, page 7) writes "it may be noted
that the Lake Indians are shown to have occupied the region in Washington on both sides of the Columbia from at least Marcus north into Canada, and also the lower part of Kettle River. * * * The mountainous hunting grounds in the upper Kettle River region west of Marcus, Washington, although within the area mapped for Lake Indians by Spier, are said to have been used by other Colville groups."

26. The Commission finds that the Lake Tribe has by substantial evidence established Indian title to the area of land as delineated on petitioners' map (Exhibit 532) for the "Lakes" except for the lands within the area called the "southern lobe" by Ray. This excluded area was found by Ray to be the "least definitely established" portion of Lake Territory and admittedly was based on the recording of a single Lakes village site (which does not appear on petitioners' map, exhibit 532) at Addy, Washington. Findings 18-21 inclusive, previously made herein, show use of part of this "southern lobe" by the Colville Indians. Mooney's (Pet. Ex. 469) mapping of Lake territory exclude the Lakes from this "southern lobe;" Spier's map (Pet. Ex. 492, page 43) shows this "southern lobe" as Colville territory; and Winans designates this southern area together with a great part of other territory claimed by the Lakes to the Colville. The Lake Tribe's southern boundary as delineated on Petitioners' Exhibit 532 as it runs from just north of Republic to the Columbia should be extended directly east to intersect the eastern boundary line, thus excluding from the area claimed by Lakes and shown on said Exhibit 532, all lands thereof lying south of such line.
THE OKANOGAN

27. One of the first recorded contacts with the Okanogan Indians is contained in the report made by John MacLeod of the Hudson Bay Company. He wrote that: "This nation is very numerous say 250 to 300 men * * *. They inhabit the whole of the Banks of the Okanogan River from the Columbia river to the Great Ok Lake, and thence to Thompsons River, a distance computed to be about 400 miles, * *." (Pet. Ex. 2).

Earlier, Ross Cox of the company visited Fort Okanogan and wrote that "The natives of Okanogan are an honest, quiet tribe. They do not muster more than two hundred warriors; * * Their principal occupation is catching and curing salmon and occasionally hunting for deer and beaver, neither of which abounds in their lands. The chief is an old man, who apparently possesses but little power." (Pet. Ex. 454). During the same period of time, Ross Cox, a fur trader, also came in contact with the Okanogans. He wrote that Red Fox "was head chief of the Okanagan nation" in earlier times and mentioned meeting "Ye-whell-come-teta, the principal Okanogan chief." In 1844 Father de Smet left Fort Colville and after a journey of three days arrived at a "Okinakane encampment," which was probably near what is now called Bonaparte Lake. (Pet. Ex. 456).

28. Governor Isaac Stevens in 1854 in a letter to the Commissioner of Indian Affairs quotes George Gibbs' report on the Okanogans. Gibbs had reported the "Okin-akanes" comprised the bands lying on the Okanogan River "as far north as the foot of the great lake," and that there were six bands, the Te-kur-a-tum, at the mouth of the river; Kone-konep, on the creek of the same name; the Kluck-hait-kwee, at the falls; the
Kin-a-kanes, near the forks; and Mil-a-ket-kun on the west fork. Gibbs wrote that "the two bands on the forks are more nearly connected with the Schwoyelpi; Colville than with the ones first named." With the Okanogan, Gibbs also connected the Sanpoil "though these are also claimed by the Spokanes." Ethnologists have listed the last three Okanogan bands listed by Gibbs as properly belonging to the Northern Okanogan Tribe. (See Finding 34). Steven’s 1854 map (Pet. Ex. 510) based upon Indian names and boundaries reported by Gibbs locates the Okanogan in a general manner in the country north of the Columbia between the Methow River on the west and the Colville Indians on the east. A map prepared by Stevens in 1856 (Pet. Ex. 511) located the Okanogan in the same general area including the Methow, Okanogan, Nespelem and Sanpoil River drainage areas, except that the lands at the mouth of the Sanpoil River and along the Columbia River from approximately the present town of Hunters to near the mouth of the Nespelem were included by Stevens with the lands of the Spokane Indians. This mapping is apparently also based upon Gibbs’ information which is set forth above. Major Lugenbeel in 1859 reported to the Superintendent of Indian Affairs that the Okanogan tribe of about 200 warriors was divided into two bands, one residing on the Columbia River and the other near the forks of the Okanogan River. In 1859, Agent Lansdale, of the Yakima Indian Agency visited the Okanogan and reported "Although some of the Okanakane Indians, or such as were through that part of the country, are jointly chargeable with hostile demonstrations last Summer, I have no question as to the friendly disposition of Too-nas-cut, the present head chief of the nation, he having been constituted chief by the whites, * * *."
Lansdale was of the opinion that the Okanogan tribe numbered about 300 souls. (Pet. Ex. 168).

29. Agent George Paige, in charge of the Colville and Spokane Indians, wrote to the Superintendent of Indian Affairs for Washington Territory in 1865, that the Okanogan Tribe was composed of several small bands residing along the Okanogan river and that a majority of the tribe lived north of the Canadian boundary line. He estimated that about 500 of the Indians lived south of the boundary. Paige reported it was exceedingly difficult to distinguish with respect to the Indians of the tribe living near the boundary between those entitled to benefit "from our government and those of British Columbia, as they are migratory in habit, and the line may be said to cut the tribe in two. My opinion is that only those who winter on this side can properly be considered as coming under our supervision; or, do those who cultivate on this side during the summer belong to us?" In his 1866 report, Paige stated the Okanogan resided near the British line in the vicinity of Lake Okanogan and on the Okanogan river, and in 1867 his report located them as "inhabiting the country along the British boundary line and the Okinakane river and lake."

30. William P. Winans, in writing of the Indians under his supervision in 1871 reported that the Okanogan number 340 and that they resided on the Okanogan river and its tributaries. (Pet. Ex. 285). Winans's map which he prepared to show what parts of the district the tribes under his supervision occupied, delineates an area north of the Columbia on both sides of the Okanogan River to the Canadian border as being occupied by the Okanogan. (Pet. Ex. 516). Winans in 1870 had reported To-was-kut as being the head chief of the Okanogan. (Pet. Ex. 266).
31. Ethnological studies supply more pertinent information respecting the Okanogan than do historical sources. Curtis (Def. Ex. 15) located these Indians on the Okanogan from its confluence with the Columbia to its source north of the Canadian boundary. "Strictly speaking," he wrote, "the Okanogan were only one of several bands residing along this stream, but because of its numerical strength its name was used to designate the entire group. About the middle of the nineteenth century, Hustas-sumshaikin, Walking Grizzly-bear, chief of the Sinstupitsah, a band at Oma Lake, was influential among all the Okanogan bands." Spier (Pet. Ex. 492) states that older writers did not distinguish between the Sinkaiet'k, or the Southern Okanogan, (see Finding 33), and the Canadian (or northern) Okanogan. Spier writes that the major distribution of the Northern Okanogan, or the Okanogan proper, lies within British Columbia and that they entered the now State of Washington only along the lower Similkameen River, and that section of the Okanogan River from the Canadian border south to Tonasket.

32. Teit's study of the Okanogan (Pet. Ex. 497) deals chiefly with the Canadian Okanogan. He found the Okanogan had at least two recognized divisions: (1) The Upper of Lake Okanogan around Okanogan Lake, Long Lake and Dog Lake in Canada, and (2) the Lower Okanogan, or River Okanogan in the country along the river below the former division. The Similkameen of the river of that name, he wrote, might be considered another division. "The Okanogan below the Falls," according to Teit, "did not constitute a separate division." With this observation by Teit, Spier differs and states: "Teit, who denies the separability of Northern Okanogan and Sinkaiet'k, nevertheless makes some contradictory statements. According to the head chief of the Canadian
Okanogan, 'the old dividing line between the Okanagon and Sanpoil people was about Okanogan Falls. From there north the real Okanagon dialect was spoken.' Unless Sanpoil-Nespelen were accustomed to visit the Okanagon River near the boundary, which is quite possible, the reason for mentioning them as the adjoining group is obscure. But the significance of this passage * * * lies in the final statement, namely, that 'the real Okanagon dialect' was spoken only in the north. This suggests that the Canadian Okanagon recognized a distinction between themselves and those who dwelt down the river, the Sin'kiet'." Spier's map of Tribal Distribution in Washington (Pet. Ex. 192, pages 122-13) sets a boundary between the Northern Okanagon and the Sin'kiet, or Southern Okanagon.

Rav's "Native Villages and Groupings," contains a map (Pet. Ex. 482, page 103) of native territorial distribution which shows a boundary line separating the "Okanogan" from the "Southern Okanogan" with the territory of the former extending into the United States across the Canadian border. (See also map, page 118 of same exhibit).

33. The most thorough study of the Okanogan which appears of record is "The Sin'kiet or Southern Okanogan of Washington" by Cline and others, edited by Leslie Spier, and published in 1938. In the preface to the work, Dr. Spier wrote: (Pet. Ex. 452)

The Okanagon are a Salish speaking people of north central Washington and adjacent British Columbia. Their territory comprised the drainage system of the Okanogan River and the upper Methow River, both northern tributaries of the Columbia River, from Okanogan Lake and the Similkameen valley in British Columbia, southward to the mouth of the Methow.

The subject of the present paper is the culture of those Okanagon Bands which occupied the southern half of this territory, from the Methow northward to Osoyoos Lake immediately north of
the Canadian boundary. Two tribal units may be distinguished among these bands: the Sin'caietk or Southern Okanagon, occupying the lower Okanogan River valley, and the southern bands of Okanagon proper or, as we prefer to call them, the Northern Okanagon, situated above and below the international boundary.

Spier wrote that the Southern Okanogan "now live on and about the western part of the Colville Indian Reservation" and estimated their population to be about 250 to 300. In this connection, too, Teit reported that with respect to his Lower Okanogan group in which he included the Okanagan along the river in Canada and below the falls that "These people are nearly all on the Colville Reservation in Washington, where they have received allotments." (Pet. Ex. 497).

34. The study of the Southern Okanogan cited in Finding 33 contains a section on the social structure of these Indians prepared by Miss L. V. W. Walters. The author of this section based upon her research wrote:

The Sin'caietk /Southern Okanogan/ have only band chiefs and deny that any man was ever head chief over their entire tribe. Taking into consideration that each band is autonomous, it is not possible to speak of the Sin'caietk as a tribe, if tribe be interpreted to mean a group functioning as a unified political whole. Any unity that the Sin'caietk possess may be explained as due to dialectic identity, close geographical associations, similar customs and friendly relations which have been maintained by constant intermarriage.

The Sin'caietk deny identity with the Northern Okanogan on the basis of political differences, although they speak an identical dialect. * * *

Miss Walters stated that the territory which the Sin'caietk formerly occupied included the entire territory "from about six miles east of Condon's Ferry on the Columbia River to Tonasket." According to this authority, the Sinkaiekt consisted of four autonomous groups, (1) the Tukoratum, (2) Kon-Konelp, (3) Kartar, and (4) Tonasket Bands. The Tukoratum band had winter
sites from Condon's Ferry on the mouth of the Columbia River to the mouth of the Okanogan River and up the Okanogan to about four miles above Monse, Washington. The Kartsar band had winter sites from the foot of Lake Omak to the Columbia River. Winter sites were located for the Konkonelp band from about three miles above Malott to the turn of the Okanogan River at Omak, whereas, the Tonasket band occupied the territory from Riverside upstream to Tonasket. Miss Walters states that the territory of the Inkamip band of Northern Okanogan was directly north of that of the Tonasket band and that they wintered at the head of and on the eastern shore of Lake Osouyoos in British Columbia. This band, according to the writer, numbered about 200 people in 1870. The village sites for these bands, both Southern and Northern Okanogan, are located on a map in this publication. (Pet. Ex. 452, page 85).

35. Another section of the publication with respect to the Southern Okanogan by Cline and others concerns "The Subsistence Quest" of these Indians and was prepared by Richard H. Post. Their seasonal round in the quest for food was similar to that related previously for all the Indians in the area. (See Finding 11). Specifically, Post found that in the spring the Southern Okanogan fished at the falls twenty miles below Oroville, Washington, and at Keller, Washington, on the Sanpoil River. From these points they would go to Oroville (Northern Okanogan territory) to the summer salmon camps where they remained in these camps or temporarily at the berry and root grounds from June to October while the salmon were running and the bulk of the roots and berries ripened along the river. Post states the band wintering above Omak hunted about Moses Mountain and Omak Lake, and the band which wintered near Monse went into the Twisp country (area now claimed by
the Methow) for summer hunting. Trips were also made, according to Post, to Wenatchi territory for camas and rabbits and to Waterville-Coulee City area (claimed by the Columbia Indians) south of the Columbia river for antelope. Berries were gathered near Moses Mountain and on the hills west of Twisp (country claimed by the Methow). Bitterroot was gathered (1) in the hills seven miles north of Pateros on the south side of the river; (2) in the hills on either side of the Methow River from Twisp to Winthrop (country claimed by the Methow); (3) around Duley Lake, twelve miles east of Monse; (4) in the hills east of Waterville; (5) at the south end of Lake Omak; (6) and near Kartaro; and (7) in Northern Okanogan territory. Very little camas grew in the Okanogan valley but some was gathered on the upper Methow River and in Tumwater Basin east of the town of Okanogan. The bulk of the camas obtained by these Indians was gathered beyond the Columbia River in the hills north of Wenatchee. Wild carrots were dug in the areas (1) from Twisp to Winthrop, (2) around Duley Lake, (3) in the Waterville area and (4) in the Bridgeport area, south of the Columbia River. Tiger lily bulbs were dug near Twisp in September and pine nuts were gathered at the same time of year at the head of the Twisp River. Other roots were dug near Oroville and between Pateros and Brewster. (Pet. Ex. 452, pp. 11-29). (Tr. 240-241).

36. Ethnologists, who have studied the Sinkaietk, state that the tribe was composed of four autonomous groups or bands and had only band chiefs. These Indians, according to Walters, deny that any one was ever chief of the entire tribe. Historical references to the Okanogan on occasion made reference to a "head chief" or "principal chief" of the Okanogan. (Findings 27, 28 and 30). The Indian most prominently mentioned
in historical records by Government agents as being head chief, was one Tonasket. According to Walters, however, Tonasket was head chief of only his own band. (Pet. Ex. 452, page 84). The Government agents, however, did report him to be the Okanogan head chief and at a council in 1870, Tonaskut stated "From the time I saw Capt Archer in 1859 I was made the Head Chief of the Okanagons, and am so to this day, and by doing what is right to the whites and treating them as my friends I am never afraid of being driven out of my country, * * *." (Pet. Ex. 260). Agent Winans' census in 1870 reported the Okanogans to number 340 and that Tonaskut was their head chief. (Pet. Ex. 266). In 1877, Tonaskut was again reported to be an Okanogan chief present at a council with representatives of the Government. (Pet. Ex. 383). He was still mentioned as Chief of the Okanogans in a report of agents of the defendant in 1888. (Pet. Ex. 417). Although the Sinkaietik deny Tonaskut was their head chief, it is evident that he was recognized by Government officials as head chief and spokesman for the Okanogan, or at least a part of the Okanogan. This recognition was undoubtedly due to the policy of the Government to attempt to organize the detached bands and groups of Indians in order that they might be dealt with more conveniently. (See Pet. Ex. 59, page 2; Pet. Ex. 491, page 412). It was undoubtedly the increasing contact with the whites that tended to develop in these Indians a tribal organization -- weak, though apparent.

37. The Commission finds, based on the evidence of record, that the Okanogan Indians exclusively used and occupied the area as delineated for the Southern Okanogan on petitioners' Exhibit 532. The evidence with respect to the exclusive use and occupancy of the large area delineated on said map for the Okanogan lying between the Canadian border and the
northern boundary of the Southern Okanogan is not as substantial. To recover for this area not only must there be proof of exclusive use and occupancy but also substantial evidence that the Okanogan Tribe had such use and occupancy. Petitioners' proof does not sustain finding that such an entity had this exclusive use and occupancy. It does show the existence of two distinguishable groups — the Okanogan proper of Canada and the Sinkaletk (Southern Okanogan), a group of Indians within the United States. The Southern Okanogan denied "identity with the Northern Okanogan on the basis of political differences" according to Walters. The location of Okanogan villages on petitioners' map, Exhibit 532, fails to show any sites within the area on the map designated "Okanogan." The map prepared for publication in "The Sinkaletk or Southern Okanogan of Washington" by Cline and others (Pet. Ex. 452, p. 65) locates no village sites within the area in question but does locate six sites along Lake Osoyoos in Canada for the Northern Okanogan. Spier wrote that the major distribution of the Northern Okanogan was in British Columbia and that they entered what is now the State of Washington only along the lower Similkameen River and that section of the Okanogan River from the Canadian border south to Tonasket. Walters stated that "The Inkanip Lgar Osoyoos] band of Northern Okanogan winter at the head of and on the eastern shore of Lake Osoyoos in British Columbia. Their territory is directly north of that of the Tonasket band of Sinkaletk." Although Tait, who was concerned principally with the Canadian Okanogan, wrote that he had collected no list of old villages from the Lower Okanogan, (this division of Tait's would include Okanogan in both Canada and the United States) he names five old village sites near the mouth of the
Similkameen River in the United States (Pet. Ex. 497, pages 207 and 208). This group of villages, Spier writes, is the "second band of Northern Okanogan within the state * * (the Lower Similkameen), a recent (?) division of the northern people." (Pet. Ex. 492, page 11). There is no evidence of record to show that these bands of Northern Okanogans had any greater interest in the lands within the United States than did the other Northern Okanogan bands such as Teit's Lake Okanogans. (Tr. 171). The record also shows that the Southern Okanogans made use of part of the area in question such as at the salmon camps at Oroville, Washington. (Finding 35). There is no other specific mention made of other use and occupancy of this large area by either group of Okanogan. The record is silent as to when, if ever, these northern bands of Okanogans merged with the Sinkaietk to form what petitioners call the Okanogan Tribe. Teit states that the Lower Okanogan, which undoubtedly included these bands, are on the Colville Reservation, but Teit also gives population figures for the "Nkamip" and Lower Similkameen bands as being on Canadian reservations in 1905. (Pet. Ex. 497, pages 207 and 212). A study of the population figures for the Okanogan indicates that at some period Canadian Okanogans, possibly from the Lake Osoyoos region, came to be included in the American figures. Just prior to the establishment of the reservation, Winan's census reported 3140 Okanogans (Pet. Ex. 287). The reports of officials for years thereafter remained approximately the same (Pet. Ex. 530). Teit's figures based on the reports of the Department of Interior for 1905 show 692 Okanogan on the Colville Reservation. Walters wrote that the Southern Okanogan "never much exceeded three hundred since the fur traders came into the country." This
is significant when compared with Winans' census. The Commission finds that petitioner, the Okanogan Tribe, has failed to prove exclusive use and occupancy to the area on petitioners' map, Exhibit 532, designated as "Okanogan" territory.

THE METHOW

38. Historical references to the Methow are fragmentary. David Thompson of the Hudson Bay Company reported he visited one of their villages at the mouth of the Methow River in 1811. (Pet. Ex. 500, pages 53-54). Gibbs, in 1854, reported that the country of the Pisquouse was immediately north of the Yakima and "under this appellation" he included the Indians "on the Columbia between Priest's and Ross Rapids, on the Pisquouse or Winatshapam river, the En-te-at-kwu, Chelan Lake, and the Methow or Barrier river." Winans in 1870 reported the "Mithouic" to total 301 and named En-e-moo-sat-sa as their head chief. He stated the "Mithouies" were located on the west side of the Columbia River, from the mouth of the Okanogan River down to the "Wo-nat-chee, and includes the country drained by the Mithouie, Lake, Chelan, and En-tee-at-ook Rivers." In 1871, Winans reported the Methow residing on the river of the same name. In his map showing the location of the tribes in his district, Winans locates the Methow west of the Okanogan on the Methow River watershed and clear to the Canadian border. (Pet. Exs. 266, 235, 516).

39. Ethnographic sources are also fragmentary with respect to the Methow Indians. Mooney, like Winans, locates them on the west side of the Columbia, including the basins of the Methow, Lake Chelan, and Entiatock rivers. (Pet. Ex. 469). Curtis, however, states the Methow lived on the
Methow River and that "By some informants their name is applied as well to the tribes on the western side of the Columbia as far down as Entiat creek; but others include these under the term Wenatchee, which demonstrates the lack of any real organization among these Salishan groups." (Def. Ex. 15); Teit considered the Methow as a Wenatchi band and located them on the Methow River and surrounding country. (Pet. Ex. 498, page 95). Spier writes (Pet. Ex. 492) that he prefers "Curtis' recognition of Methow individuality" in that he places them on Methow River only.

Walters, (Pet. Ex. 452, pages 86 and 87) states that a group of Methow wintered on the Okanogan River between Sand Point and Malott, Washington, wedged in between two Southern Okanogan bands. The Southern Okanogans considered them members of another tribe because they spoke a dialect of the Okanogan language more similar to the Chelan than the Sinkaitk; Walters' villages for this group are the same as those numbered 48 through 52 on petitioners' map, Exhibit 532. Ray, in his "Native Villages and Groupings" (Pet. Ex. 482), does not list the Methow villages. He does, however, list a Chelan village "on the south side of the Methow river just south of the present town of Pateros." This village, Ray states, "was the home of a renegade band of Chelan numbering fifty or 100. Formerly, this was doubtless the site of a Methow * * * village, but was left unoccupied with the early dwindling of that people." Petitioners' Exhibit 531, however, consists of a list of Methow villages prepared by Dr. Ray and includes villages and camps numbered 55 through 74 on petitioners' map, Exhibit 532.

40. There is no ethnological study of the Methow Indians pertaining to their subsistence pattern of record. There is substantial evidence
of record, however, that at least the Southern Okanogan made consistent use of the Upper Methow River drainage from about Twisp on upstream, including much of the lands now claimed by the Methow. This use pattern by the Southern Okanogan is set forth fully in Finding 35. The Commission finds, therefore, that the Methow Indians exclusively used and occupied only that part of the Methow River watershed as delineated on petitioners' Exhibit 532, from the mouth of said river to the town of Twisp. It is considered that for the purpose of defining the northern boundary of this tract an east-west line extending between the east and west boundary lines through the town of Twisp, shown on petitioners' Exhibit 532, will, for the purposes of this finding, fairly show the area occupied aboriginally and to July 2, 1872, by the Methow Tribe.

41. In describing in the above findings the tracts of the several petitioners it has been necessary, because of the manner in which the proof has been offered, to consider them in connection with the boundary lines shown on petitioners' Exhibit No. 532, but wherever the boundaries of any tract encloses a part of the area of the reservation established by the Executive Order of July 2, 1872, which is described in Finding 5 hereof, such part of the reservation shall be excluded from the tracts herein determined to have been aboriginally occupied by the respective petitioners.

42. Prior to 1872, white squatters had occupied, with the knowledge of defendant, substantial areas of the lands heretofore found to be held by the petitioners. Most of these settlements were made east of the Columbia River within the confines of the boundaries of the original reservation (that of April 9, 1872). In this area it is shown that 500
to 600 settlers with improved farms occupied the land and had occupied it from 10 to 20 years. It was this white occupation that had a bearing upon the change in the location of the reservation from the east to the west side of the Columbia River.

Following the creation of the Colville Reservation on July 2, 1872, the defendant proceeded to locate thereon the several tribes for which the reservation was established. The removal of the Indians from locations outside the reservation to within the reservation took many years. Some of the original groups were removed to other reservations, leaving the petitioner groups remaining on the reserve. During the period of relocating the Indians on the reservation whites were pouring into the area outside the reserve and occupying lands originally occupied by the petitioner group without any opposition by the Government. The record as a whole fairly shows that defendant never considered the aboriginal rights of the petitioners to their non-reservation lands and beginning on July 2, 1872, when the reservation was created, assumed definite control over the non-reservation areas and excluded the petitioner tribes from the use thereof and confined them within the reservation. In this manner, and as of that date, the lands aboriginally occupied by the petitioner tribes, outside the reserve, were taken from them without their consent and without compensating them for such lands.