



Indians living principally in the States of Nevada and California, and records of the United States Bureau of Indian Affairs indicate that about three-fourths of the Washoes live in Nevada and one-fourth live in California. Although accurate figures of tribal membership are not maintained, it is indicated that substantially all of this number are members of, or are eligible for membership in, the Washoe Tribe under the provisions of its constitution and by-laws which extend membership to all who are of one-quarter or more Washoe blood, or who are of one-half or more Indian blood and are married to a member of the Tribe.

4. The Washoe Tribe of the States of Nevada and California, a corporate entity, is an identifiable group of American Indians whose membership is composed of descendants of an identifiable group of American Indians known as Washoe Indians whose ancestors exclusively used and occupied certain lands in what are now the States of Nevada and California, which will be more fully described hereinafter. The present organization, The Washoe Tribe of the States of Nevada and California, petitioner herein, has therefore the capacity to maintain the claim of the Washoe Indians under the provisions of the Indian Claims Commission Act, 60 Stat. 1049, for and in behalf of the descendants of the Washoe Indians.

5. Petitioner originally sought to recover for the alleged uncompensated taking, without treaty and without cession, of some 6,318,080 acres of land, located in Nevada and California. Following the hearings, the claim was reduced substantially, by at least one-half, through the filing of petitioner's Exhibit 9-1, amending the petition. The amended description of the claimed area is as follows:

Commencing on the South at Sonora Peak, north of Sonora Pass, Alpine County, California;

Thence northwest along the crest of the Sierra-Nevada Mountains passing over Disaster Peak, Ebbetts Pass, Raymond Peak, Carson Pass, Echo Summit Pass, Donner Pass and Yuba Pass, all in California;

Thence north on the summit west of Sierra Valley, in Sierra and Plumas Counties, California, and crossing the Middle Fork of the Feather River between Portola and Beckwith, California;

Thence north about 4 miles where the line turns almost at right angles due east to the summit of the ridge directly west of Long Valley, California;

Thence along the crest of the said ridge in a northwesterly direction to the southwestern extension of Honey Lake in California;

Thence in a general easterly direction, around the peninsula which is the extension of Long Valley, California;

Thence from the southeasterly arm of said Honey Lake, running in a southeasterly direction to cross the California-Nevada Border at a point about equally distant between Doyle, California and Flanigan, Nevada;

Thence almost south along the crest of the mountains west of Winnemucca Valley, Nevada to cross the Truckee River at a point about 2 miles East of Sparks, Nevada;

Thence about due south, along the ridge of the Washoe Mountains and the Virginia Mountains to cross the Carson River and thence in a general southeasterly direction at a point about 2 miles west of Dayton, Nevada and thence to the top of the Pinenut Mountains, in Nevada;

Thence south along the crest of the Pinenut Mountains to Mount Siegel and thence in a general southerly direction to Leviathan Peak, just across the Nevada-California Border;

Thence nearly due south to Sonora Peak, California, the place of beginning.

6. The Washoe Indians were long believed by anthropologists to form a distinct linguistic family. Washoe culture had strong affinities with that of the California area and also with the culture of the Great Basin area but in general it was somewhat more closely allied to the latter than to the former. In recent years the Washoe have been considered by some authorities to be an aberrant Hokan group, geographically far removed from their linguistic cousins, the Shasta, The Pomo and

others. The separation from the great mass of Hokan-speaking Indians is evidence of their migration east of the Sierra Nevada Mountains at some period in the pre-historic period. As a result, the Washoe are the only people in Nevada who are not members of the great Uto-Aztekan family. The identification of the Washoe culture being closely related to the Basin-Plateau culture results from the contacts of the Washoe Indians on the western margin of the arid Great Basin area with the Northern Paiute Indians to the east.

7. While white men such as Jed Smith, the trapper, in 1825, Captain John C. Fremont, the explorer in 1843, and the disastrous Donner party in 1846 passed through the claimed area it was not until the period following the Treaty of Guadalupe Hidalgo in 1848 with Mexico that the records cast any light upon the location of the Washoe Indians. By the treaty Mexico ceded to the United States California and the vast expanse of the Southwest from which Nevada was later carved. One of the earliest to mention the Washoe Indians was Indian Agent Holeman, of Utah Territory, who in 1852 reported several tribes or bands scattered through the mountains and valleys on and near Carson River. In addition to the "Washawa" Holeman mentioned the "Lokos" (not identified) and a few scattered bands of "White Knives" (Northern Paiute). (Pet. Ex. 3-20). In 1856 Garland Hunt, Indian Agent, reported the Washoes lived mostly in the Sierra Nevada Mountains but also claimed "the Carson" as their land (Pet. Ex. 3-44). On January 4, 1859, Indian Agent J. Dodge, sent in a report to the Superintendent of Indian Affairs for Utah Territory. In this report Dodge stated in part:

The Washo Nation number about 900 souls, and inhabit the country along the base of the Sierra Nevada mountains, from Honey Lake on the north, to the west fork of Walker's River on the south.

They are divided into three different bands.

'Capt. Jim's' band is located in the vicinity of Carson, Washo, and Eagle Valleys, and Lake Bigler [Lake Tahoe].

This band numbers 145 men, 110 women, and 87 children.  
Total - 342.

I have talked with this band and given them some presents.  
'Capt. Jim' is the head chief of the nation.

'Pos-Larke's' band is located in Little Valley between the east and west forks of Carson River, and numbers about the same as Capt. Jim's band, 340.

'Deer-Dick's' band lives in and claims Long Valley southeast from Honey Lake, and numbers about 300.

Total Washas visited 342

In this letter Dodge was also reporting on the Paiute Indians and among those listed was the "San-Joaquins band" which he stated "stays in Carson Valley at the forks of the River, and numbers 170" and "Had-Sa-poke band" stayed at Gold Canyon on the Carson River. (Pet. Ex. 3-68). Superintendent of Indian Affairs Forney of Utah Territory in his 1859 report to the Commissioner of Indian Affairs stated that the Washoe lived along the base of the Sierra Nevada Mountains from Honey Lake to one of the forks of Walker's river (Pet. Ex. 3-71). Acting Indian Agent Wasson of the Carson Valley agency stated in 1861 that the Washoe lived along Lake Bigler (Tahoe) and the head waters of Carson, Walker and Truckee rivers and in Long and Sierra valleys (Pet. Ex. 3-97). Governor Nye of Nevada Territory reported to the Secretary of the Interior in 1861

that the Washoes roamed over "the Valley of the Carson and Washoes" (Pet. Ex. 3-100). Indian Agent Jacob T. Lockhart in 1864 stated the "Washoe Tribe of Indians inhabit the immediate Eastern slope of the Sierra Nevada Mountains" and that "Carson City is the centre of their country lying North and South." (Pet. Ex. 3-127). In 1866 the Washoes were reported "scattered over an extent of country beginning at or near Lake Washoe, and running thence south along the western border of the State, a distance of about 50 miles, to the California State line." (Pet. Ex. 3-133). The Superintendent of Indian Affairs in 1866 stated that the Washoe Indians spent the winter months about the villages and habitations of the whites while the rest of the year was spent by these Indians in fishing about Washoe and Tahoe Lakes and the streams which flowed "through their country" and that they gathered grass-seed and pine nuts, hunted rabbits, hares and ducks (Pet. Ex. 3-139).

8. Ethnographic material directly pertaining to the Washoe Indians is meager. The earliest study of these Indians was probably made by Stephen Powers for the Bureau of American Ethnology in 1876. Powers wrote that he believed the Washoe migrated eastward over the summit of the Sierra Nevada Mountains, and that later the Paiute expelled them from the lowlands about the sinks of the Truckee and Carson rivers and drove them into the mountains on the upper reaches of these rivers. Powers was of the opinion that:

When the Americans arrived in the country the habitat of the Washo was as follows: The Truckee River down to the Truckee Meadows (Reno). These large and rich meadows, so valuable in this desert country as a resort for game, were

always in dispute between them and the Paiute. In the fishing season, \* \* \*, they were allowed by the Paiute to descend the Truckee to Clark's Station, eighteen miles below the Meadows. They occupied Carson River down to the first large canyon below Carson City. Besides this, they held Lake Tahoe, Sierra Valley, and certain other summit valleys up to the first range south of Honey Lake; though they resorted to these elevated valleys only in the summer, or on hunting excursions in the winter. Within the American period it is said they have never visited Lake Tahoe; they have a superstitious terror of that lake on account of the lightness of its waters and the fact that a man drowning in it never rises to the surface (Pet. Ex. 5-19).

S. A. Barrett's ethnographic study of the Washoe Indians was published in 1917. Barrett stated that the western limit of Washoe territory could in general be stated as the crest of the Sierra Nevada range while the eastern limit was, generally speaking, the low range between the Carson river and the Walker river drainages. Barrett wrote that the Washoe occupied "a very small territory in the Sierra Nevada, bordering Lake Tahoe, and on the upper courses of the Carson and Truckee rivers." A map prepared by Barrett confines the Washoe territory in the north to the Truckee Valley. (Pet. Ex. 5-2)

9. Doctor Alfred L. Kroeber in 1907 wrote that the territory of the Washoes was situated both in California and Nevada in the vicinity of Lake Tahoe and the lower Carson valley, east of the Sierra Nevada (Pet. Ex. 5-10). In Kroeber's "Handbook of the Indians of California" (1925) the author wrote that "The Washo have been unduly neglected by students of the Indian. What little is on record concerning them makes it difficult to place them." With respect to territory, Kroeber wrote (Pet. Ex. 5-11):

The Washo territory is the upper and more fertile drainage

of the Truckee and Carson Rivers \* \* \*. How far down they ranged on these rivers has not been ascertained with accuracy. It seems to have been but a little below Reno and Carson City. Long Valley Creek, which drains northwestward into Honey Lake, a California stream, was also in their possession. West of the crest of the Sierra they had no settlements, but the Miwok acknowledged their hunting rights on the upper Stanislaus nearly as far down as the Calaveras Big Trees. They may have enjoyed similar privileges elsewhere. Where there are not winter villages, information is often conflicting; boundaries may have been in dispute, or amicably crossed. If the Washo hunted on the North Stanislaus they may have come down the Middle Fork also, or frequented the Calaveras, Cosumnes, or American. Sierra Valley has been assigned both to them and the northeastern Maidu. The deep snows prevented more than temporary occupation. Honey Lake, too, may have been more largely Washo than the map (Pl. 46) shows, or entirely forbidden to them.

Lake Tahoe is central to Washo territory, and was and is still resorted to in summer, but its shores are scarcely habitable in the season of snow.

Kroeber in his Handbook in writing of the Maidu Indians wrote as follows with respect to Honey Lake and Long Valley:

\* \* \* Honey Lake was not far from where Maidu, Paiute, and Washo met. It seems not to have had permanent villages, and may have been visited by all three of the tribes in question. On the map the problem has been compromised by extending all territories to its shores. Long Valley Creek was most likely Washo. Any maidu claims to this stretch are likely to have been counterbalanced by rights or visits of the Washo to Sierra Valley on the Maidu side of the Sierras. Long Valley was probably habitable throughout the year, at least in places: Sierra Valley could be occupied only in summer. Its winter snows are unusually deep.

10. According to Robert H. Lowie's "Ethnographic Notes of the Washo", 1939, (Pet. Ex. 5-13), the Washoe consisted of three distinct groups, (a) the ha'nalet'i, located about Woodfords, California and in Antelope Valley, (b) the p'a'walu, near Minden and Gardnerville, Nevada, and (c) the Reno Washo-welmelti. Lowie reported the



ranged about Lake Tahoe and that Carson City, Reno, Minden, and Gardnerville, Nevada, fell within ancient Washoe Territory, as did Truckee, Tallae, and Woodfords, California. The Washoe did not consider Antelope Valley as ancient Washoe territory according to Lowie's informant.

These three divisions of the Washoe are also noted by Siskin (Pet. Ex. 5-15) who contacted the p'auwalu (Valley Dwellers) and the la'nalet'i (Southerners) on a field trip in 1937. The third division "welme't'i" are called "Northerners" by Siskin. According to this ethnologist the boundaries of the contiguous Valley and Southern Washo groups were:

"on the east, the Pine Nut Range running south to Antelope Valley (West Walker River drainage); on the south, Coleville, California and the territory bounded by a line running gradually northwest as far as the southern end of the Lake Valley; and on the west, Lake Valley (Upper Truckee River drainage) and the crest of the Sierra Nevadas. The northern limit of the Valley Washo is in the vicinity of Carson City, Nevada (northern end of Carson Valley). The present California-Nevada border at Woodford Canyon (Woodfords, California) divides the Valley Dwellers from the Southerners." Siskin stated that "the only certain data regarding Northern Washo boundaries is that Long Valley, south of Honey Lake, marks the northernmost limit." Siskin's map of Washo territory limits the Washo territory in the north as did Barrett (Fdg. 8). In the text of his article Siskin seems to agree with Kroeber that the Washo were in possession of Long Valley Creek and disagreed with Roland E. Dixon (Pet. Ex. 5-28). A note to Siskin's map states "The northern boundary of Washo territory should be at Long Valley, south of Honey Lake, accord-

ing to new information." According to Siskin "At best, however, inter-tribal boundaries were vague, inexact, with marginal areas equally available to tribes living in geographic contiguity." Roland B. Dixon in his "Northern Maidu" (1905) reported that Sierra Valley seems to have been regarded as distinctly Maidu territory to which the Washo occasionally sent strong hunting-parties (Pet. Ex. 5-28).

11. (a) As is evident from the preceding findings exclusive use and occupancy in at least two areas of the territory claimed is questionable based on the historical records and ethnographic studies of the Washoe and other Indians. These areas are Long Valley and Sierra Valley in the northern part of the territory claimed by petitioner. Agent Dodge reported Washoes living in and claiming Long Valley although his report was based on information apparently received from the Washoes living in the vicinity of Carson (Fdg. 7). Acting Indian Agent Wasson in 1861 also reported Washoes living in Long Valley as well as Sierra Valley (Pet. Ex. 3-97). Other substantial evidence of Washoe occupation of Long or Sierra Valleys is lacking. Ethnographic studies of the Washoes and other tribes are conflicting with respect to Washoe use and occupation of Long Valley. Powers stated that the Washoe held certain summit valleys up to the first range south of Honey Lake; Curtis extended their territory to Honey Lake (Pet. Ex. 5-4) as did Bancroft (Pet. Ex. 5-1); Barrett did not include Long Valley; Kroeber's description of Washoe territory in 1907 apparently did not include Long Valley but in 1925 he stated Long Valley Creek was in Washoe possession; Kroeber's discussion of Maidu territory (Pet. Ex. 5-11) casts some doubt in his designation

of Long Valley as Washoe territory. Lowie does not include Long Valley; Omer Stewart (petitioner's witness) stated the Washoe territory extended to the southwestern shore of Honey Lake (Pet. Ex. 5-22).

(b) The only historical document placing the Washoe in Sierra Valley is the report of Acting Indian Agent Wasson in 1861 (Pet. Ex. 3-97). Of the ethnologists who have studied the area Dixon, Barrett and Lowie do not include the Sierra Valley as Washoe territory. Merriam confine the Washoe to the eastern part of this valley and states the west belonged to the "Midoo"; Kroeber states this valley has been assigned to both the Washo and northeastern Maidu and indicates apparently that both groups used the area (Pet. Ex. 5-11). Powers included Sierra Valley as Washoe. Dixon while stating Sierra Valley was distinctly Maidu territory also reports Washoe occasionally sent strong hunting-parties there (Pet. Ex. 5-28). Most other ethnological studies are too general in describing Washo territory to indicate whether Sierra Valley was included in the territory of these Indians. Omer Stewart, petitioner's witness, states he assigned Sierra Valley to the Washoe because his informants in 1936 told him it was Washoe territory and because Agent Wasson in 1861 reported Washoes lived in the valley and Powers in 1875 reported it to be Washoe country.

12. Doctor Omer C. Stewart, Professor of Anthropology at the University of Colorado, a qualified anthropologist, appeared as petitioner's expert witness before the Commission. This anthropologist testified that his contact with the Washoe began on field trips in 1936, and 1938, 1939.

Doctor Stewart's research of the Northern Paiute Indians, who were eastern neighbors of the Washoe, involved a study of the relationship between these Indians. Petitioner's witness was of the opinion that the Washoe Indians exclusively used and occupied the area of land delineated on petitioner's exhibit 7-13 which is described in petitioner's exhibit 9-1 and in Finding of Fact Number 5. Doctor Stewart was of the opinion that the Washoes were a tribe (Tr. 125) and had a chief "who was attributed authority over the entire group" (Tr. 125) but he said "whether the band or the tribelet should be defined as the landowning unit, or whether the Washoe tribe should be defined as the landowning unit, is unclear." The witness said he felt safe in saying that the Washoes in their three bands "had a tribelet organization which appeared definitely developing into or had many characteristics of a national unity among the Washoe" (Tr. 134, 135).

13. Appearing as expert witness for defendant was Doctor Julian H. Steward, Graduate Research Professor at the University of Illinois, a qualified anthropologist. Doctor Steward did not do field work with the Washoe Indians but expressed his opinion based upon published material of others and his knowledge of Indians to the east of the Washoe such as the Northern Paiute and the Shoshoni. Steward testified (Tr. 224-233) that he found it extremely difficult to say there was an overall political organization of Washoe Indians. Defendant's witness stated he did not see how in a "subsistence society" as found in the Washoes "there could have been any idea of actual ownership of the soil itself, the subsoil, everything on the soil." (Tr. 238). This witness believed that the Washoes

rights were concerned reference is to certain special resources (Tr. 286) such as pine-nut patches by certain individual families or possibly to fish (Tr. 238; and see Tr. 305, 306).

14. While Dodge referred to three Washoe "bands" and other officials wrote of the "Washo" Tribe, the Washoe Indians did not constitute aboriginally a tribe nor did the three divisions compose separate bands in the orthodox sense or use of the words "tribe" or "bands". Barrett's ethnography of the Washoe Indians states (Pet. Ex. 5-2):

The social organization of the Washo is primarily based upon the family unit. The village community is the largest division and each village is entirely distinct from all others. Apparently there is no approach to a tribal organization, though this exists among the tribes immediately to the east.

According to Lowie's informant settlements were minute with none containing as many as ten huts, usually being two to four. Apparently the Washoe on occasions would gather for communal deer or rabbit hunts or for social purposes when "chiefs" or "bosses" would lead in the activity. Lowie found that individual rights in clumps of pine-nut trees were maintained by the Washoe (Pet. Ex. 5-13). The Washoe from all accounts had no horses. The pine-nut was one of their main sources of food supplemented with fish, deer, antelope, small game and fowl, and grass seed. Whether the Washoe villages were permanent is not shown by the evidence nor does the record satisfactorily locate the situs of any of these villages or settlements.

15. The three divisions of the Washoe Indians, that is the "Southerners", the "Valley Dwellers" and the "Northerners" lived on lands that were contiguous. These divisions together formed a distinct linguistic

family and shared a common culture. The lands in the vicinity of any of the divisions appear to have been used by all Washoe Indians. The Washoes were distinguishable from neighboring Indians. While there was a tendency after white contact toward political organization within the three divisions their mode of life and the fact that the United States agents and officials apparently deemed it unnecessary to deal with the Washoes concerning their lands or apparently for very few other reasons deterred the development of this identifiable group of Indians into an orthodox tribe in the usual sense of the word.

16. The Commission based on the foregoing findings of fact and the record as a whole, and cognizant of the fact that "intertribal boundaries were vague, inexact, with marginal areas equally available to tribes living in geographic continuity" in the region within which the claimed lands were situated, finds that the Washoe Indians, petitioner's predecessors in interest, aboriginally exclusively used and occupied in customary Indian fashion the following described lands:

Commencing in the north at Adams Peak, thence south along the summit of the ridge between Long Creek and the Feather River drainage across Beckwourth Pass east of Vinton; thence in a westerly direction on the summit of the ridge between the drainages of the Little Truckee and the Feather River to the crest of the Sierra Nevada Mountains just west of Webber Lake; thence in a southeasterly direction along the crest of the Sierra Nevada Mountains passing over Donner Pass and Echo Summit Pass to Raymond Peak; thence in a northeasterly direction to Leviathon Peak; thence (as depicted on Pet. Ex. 7-13) northeasterly to Mount Siegal; thence northerly along the summit of the Pine Nut Mountains to Lyons Peak; thence northwesterly, crossing the Carson River, to a point two miles west of Dayton, Nevada, the same being latitude thirty-nine degrees fourteen and one-quarter minutes north (Lat.  $39^{\circ} 14\frac{1}{4}'$  North) and longitude one hundred nineteen degrees thirty-seven and three-quarters minutes west (Long.  $119^{\circ} 37\frac{3}{4}'$  West); thence north, northwesterly to Mount Davidson; thence following the

summit of the Virginia Range, northerly, to its intersection with latitude thirty-nine degrees twenty-eight and one-quarter minutes North (Lat.  $39^{\circ} 28\frac{1}{4}$ " North); thence north, northwesterly along a line running towards a point at latitude forty degrees six minutes north (Lat.  $40^{\circ} 06$ " North) and longitude one hundred nineteen degrees fifty-two minutes west (Long.  $119^{\circ} 52$ " West) to a point directly east of Adams Peak; thence west in a direct line to the place of beginning."

17. (a) The Washoe Indians from time immemorial exclusively used and occupied the lands in Nevada in the tract of land described in Finding 16 until by gradual encroachment by whites, settlers and others, and the acquisition, disposition or taking of their land by the United States for its own use and benefit, or the use and benefit of its citizens the way of life of these Indians was disrupted and the Washoes were deprived of their lands. In view of the gradual encroachment the date of acquisition of these lands of the Washoe Indians by the United States may not now be definitely set by this Commission. The Commission, however, finds that the United States, without payment of compensation, acquired, controlled, or treated the lands of the Washoe Indians as public lands from date or dates long prior to this action to be hereinafter determined upon further proof unless the parties may agree upon a date.

(b) The date of acquisition of the lands described in Finding 16, which are located in the State of California, by the United States from the Washoe Indians may now be definitely determined by the Commission. California was admitted to the Union by the Act of September 9, 1850 (9 Stat. 452). On March 3, 1851, Congress passed (9 Stat. 631) "An Act to Ascertain and Settle the Private Land Claims in the State of California." Under the provisions of this act all claims to land had to be presented to commissioners within two years for confirmation and at the end of that

