BEFORE THE INDIAN CLAIMS COMMISSION

THE PIT RIVER INDIANS
OF CALIFORNIA,

Petitioners,

v.

UNIVERSITY STATES OF AMERICA,

Defendant.

Docket No. 317

Decided: July 29, 1959

FINDINGS OF FACT

The Commission makes the following Findings of Fact:

1. This is an action to recover of the defendant the sum of $22,400,000.00 as the value at $5.00 per acre of a tract containing approximately 7,000 square miles which it is alleged the Pitt River Indians held under original Indian title and which the defendant took without payment of any compensation therefor. Said tract lies in northeastern California between the Sierra Nevada Mountains on the west and the crest of the Warner Mountain Range on the east, the watersheds of Feather River on the south and the Klamath River and Klamath Lake drainage on the north.

2. The petition was timely filed on behalf of The Pitt River Indians of California as a single identifiable tribe by eight members of petitioner organization on August 11, 1951. Prosecution of said action in the name of the organization was duly authorized by its members and officials (Ike Leaf, Trans. p. 45-68). Attorneys were thereafter retained and following approval of their contract as
required by the Act creating this Commission, a First and Supplemental Petition was filed with this Commission on July 2, 1956, wherein it is alleged that the petitioner is composed of the living descendants of members of a tribe, band and/or other identifiable group of Indians who since the advent of the white man have been designated The Pitt River Indians. At the close of petitioner's case in chief, permission was sought to amend said petition and over defendant's objections, after both parties had rested, and on July 31, 1957, permission to amend the petition was granted. As so amended, the petition alleges the petitioner is also known as The Pit River Indians of California and as The Pit River Indians; that it is composed entirely of descendants of members of eleven bands or tribes which are designated "claimant tribes" and that it brings this action in its own behalf and/or as representative of the eleven bands or tribes and/or as representative of the Achomawi and Atsugewi groups of Pitt River Indians.

3. The words "Achomawi" and "Atsugewi" are derivatives of names the Pitt River Indians applied to residents of two separate sections of the claimed region, which names have been used by scientists since 1887 to identify the two similar dialects of the Shasta language which are spoken by and are unique to the Pitt River Indians. Anthropologists and others refer to the Achomawi speaking Indians as "Achomawi" and to those speaking Atsugewi as "Atsugewi" or "Atsuge" and it is in this respect these names are used hereinafter except when they are expressly applied to the small groups or bands bearing those same names.

4. The nine northernmost groupings or bands of the Pitt River Indians spoke Achomawi, the two southern groups or bands spoke
Atsugewi and learned Acomawi, thus establishing communication between them. Geographical or place names, derivative of the Indian names, have been assigned to each band or group of both linguistic divisions. The Acomawi groups are known as Astariwai, Atwamsini, Hamawai, Hewisedawi, Ilmawi, Itsatawi, Kosalektawi, Madesi, and Acomawi. The Atsugewi groups are called Atsuge and Aporige. In official correspondence and records the defendant's agents and representatives have almost consistently referred to these Indians as a collective unit by the name of Pitt River Indians. Such names as Hat Creek or Dixie Valley bands of Pitt River Indians also appear.

Evidence:

5. There are Pitt River Indians who are not members of petitioner organization but there are among its present membership descendants of members of each of the eleven separate groups or bands into which the Pitt Rivers were divided at the time of white contact. The organization has existed for a number of years and is managed by an elected council and a Chairman.

Defendant has never treated with the Pitt River Indians as a unit nor with the several separate groups or bands. Around 1859 a number of these Indians, including Shavehead and his followers from Hat Creek Valley in Atsuge country went on the Round Valley Indian Reservation in California and were for years indiscriminately known as Pitt River Indians. Military correspondence of the same period disclose the remaining Indians within
the claimed area were also called Pitt River Indians. Some recognition of linguistic differences was made during the 1890's after Powers' and Powell's publications called attention to the two dialects, when 641 Pitt River Indians and 132 Apsaraka (Atsugewi) "associated with them" were permitted to select allotments as a result of which 565 allotments were granted to Pitt River Indians (Achomawi) and 110 to Atsugewi. Other tracts have since been set aside for use by Pitt River Indians without regard to linguistic or band differences, and the Department of Interior dealt with them as an unorganized tribe on July 2, 1936, when it negotiated a "Trust Agreement for Relief and Rehabilitation Grant to Unorganized Tribe," which agreement was approved in revised form by the Acting Commissioner of Indian Affairs on November 3, 1939.

Evidence:
Pet. Exs. 0-1 to 0-10; E-3, p. 40, E-8, "Pioneer History" by Fairchild; F-7 to F-16; referring to Pitt River Indians on Round Valley Reservation; Def. Ex. 79, Letter of Asst. Commr. of Indian Affairs to Pitt River Indians on Jan. 3, 1917, re prior allotments; Def. Ex. 78, Letter April 14, 1913, re allotments made to Pitt River Indians and to Apsaraki "associated with them." Pet. Exs. N-7; B-9, p. 7, Macgregor report; Def. Exs. 3, 8, 15; Trans. p. 103, Stewart.

6. The area to which petitioner asserts original Indian title and that such claim is presented on behalf of the descendants of the members of the eleven different bands or groupings of Indians which the white man found within the drainage of the Pit River was apparent from the record and was known to the defendant prior to the reception of evidence in this case. The defendant has been under no handicap throughout this litigation in identifying either the parties in interest or the real estate to which claim of original Indian title is made.
Evidence:
See Amended and Supplemental Petition, p. 5.
Trans. p. 16, Opening Statement by Mr. Phelps: "** * * this case is brought on behalf of the whole tribe, and secondarily on behalf of each of the aboriginal bands or groups which together form the greater unit, the Pit River tribe ** * **."

7. It is estimated that in 1848 the Pitt River Indians numbered 1,500 and that there are now 1,000 persons presently enrolled or entitled to enrollment in petitioner organization as descendants of members of said aboriginal bands or groups of Pitt River Indians.

Evidence:

8. The claimed area is geographically isolated, high and cold; its topography is rough, forbidding and difficult to traverse. The Indians found there in the nineteenth century were a stream people, maintaining winter homes along the streams and lakes and traveling from food source to food source in the summertime. They were foot Indians, using bows and arrows, wearing animal skins, and having winter dwellings of crude low bark and pole structures erected over shallow excavations. They were not great hunters, vegetal products bulking larger than meat or fish in their diet, and starvation was not unknown. They did not practice agriculture other than by regularly burning the underbrush and weeds in chaparral and forested areas to increase productivity. They hunted elk, deer and bear on the slopes of Mt. Shasta and the Warner range; groundhogs in the lava beds and antelope, sage-hens, rabbits, grasshoppers and crickets in the sagebrush and desert areas; waterfowl and eggs in the swamps. Berries,
acorns, nuts and fruit were gathered on the mountain slopes; clover, tule
rushes and epos roots in the marshes. They preferred the yew wood growing
in limited areas along the Pit river for bows and made arrowheads of stone
or volcanic glass called obsidian, which they procured at Little Glass and
Glass Mountain beside Medicine Lake, at Sugar Hill near Goose Lake and
elsewhere near the Pit river. Canoes and reed rafts were used on Hat
Creek, Fall River, and for limited stretches on the Pit. Supernatural
power was believed to be obtained by visits to "power" places such as Medi-
cine Lake, Eagle Lake, Lassens Peak, Mt. Shasta, Sugar Hill and McDonald
Peak. They had the same culture and exogamy created close ties of friendship.

These Indians were hostile and little contact other than of a defensive
or retaliatory nature was had with them for several decades. The first
attempt to learn something of them was made by Indian Agent E. A. Stevenson
in 1857. He reported to the Commissioner of Indian Affairs on September 30,
1857, that they spoke a new language, but it was not until scientists were
in touch with them years later that it was learned they spoke two separate
Shastan dialects, both distinct from the tongues of neighboring Indians.
Stephen Powers first reported this in 1876 and in Powell's first annual
report of the Bureau of American Ethnology ten years later the names
Achomawi and Atsugewi were applied to those dialects. Most of the available
data concerning the life, culture and religion of these early people results
from 20th century research among them and their neighbors.

Evidence:
Pet. Ex. B-11, Garth's "Emphasis on Industriousness Among the Atsugewi";
Stewart, Trans, p. 335-343 and 179: "The geography itself forced them
together and separated them from their neighbors outside of their area."
9. Each of the eleven separate groups or bands occupied, utilized and controlled the use of certain areas. Others were permitted to share any available excess food supply. Their restriction to these excess foods was recognized, and the hosts were paid by gifts, by leaving a part of the harvest or by invitation to share an abundant food within the other's sector. Group exploitation of the land was organized and directed by leaders selected for that purpose. There was no over-all political unity, and no over-all chief or leader, either among the Pitt River Indians as a whole or among the Atsugewi or Achomawi divisions. The several groupings which have been variously referred to as bands, tribelets, and villages, were autonomous although one headman or leader might serve two or more separate villages if they were close by. In some instances positions of leadership were hereditary. Occasionally enmity existed between some of these groups or bands, but individuals visited back and forth and the customary practice was for two or more bands or groups to unite for defensive action. War and defensive actions were governed by a majority vote taken at a council of the leaders of the bands or groups united in that endeavor. (Trans. p. 461). Some commerce existed between the groups, articles such as tule, arrowheads and yew wood being traded.

These groups or bands, each containing one or more villages, were primarily the land-owning, land-using units.

Evidence:
Trans. p. 171, Omer C. Stewart: "Actually we know from our facts since that the Atsugevi almost universally learned Achomawi and did communicate in Achomawi together. *** Q. So that in that sense the Achomawi branch of it is common to both in the sense that they have learned it, the southern group have learned it? A. The two southern groups of the Pit River Indians learned the speech of the nine northern groups. ***."

Trans. p. 186, Stewart: "There are reports that Indians as far away as the extreme western edge of the territory did travel to the eastern edge to participate in the deer drive *** and they took their products over and left them in exchange for the meats and hides which they carried back with them."

Trans. p. 192, Stewart: "Q. The page number was page 78 of (Pet. Ex. No. B-15) — commencement of the first paragraph and read Q. *** The Achumawi and Atsugevi may be considered as forming one single tribe as far as culture is concerned. *** You would agree with that? A. That is right."

Trans. p. 201-2, Stewart: "*** there was a fairly accepted pattern of local exogamy for marriage purposes, so that frequently an individual from one band married someone from the next band, that there were thus ties of kinship back and forth. ***."

Pet. Ex. No. B-9, p. 2, Macgregor: "Intermarriage was undoubtedly the strongest bond between the different bands."

Pet. Ex. No. B-16, p. 78, DeAngulo: "There are probably four times as many Achumawi as there are Atsugevi. An estimate is very difficult because they intermarry ad libitum."

Trans. p. 290-1, Stewart: "Q. Now, Dr. Stewart, did any other band or tribelet claim as a matter of right the right to use the land of any other band or tribelet or groups other than its own? A. No, not as a band."

Trans. p. 575, Voegelin: "*** if the settlements were close together that two or three settlements might have a headman instead of just a headman for each one of the dispersed settlements *** and at other times when some danger threatened several settlements that the headman from these various contiguous settlements would then come together and decide — this was spoken of in connection with war — that they would decide whether or not to go to war; and they would meet in a general meeting."

Trans. p. 201, Stewart: "*** the yew tree grew along the Pit River at the extreme western end of the Pit River territory and was fairly limited in extent. *** But yew wood was used by the Indians along the south fork of the Pit River and the Indians who hunted and lived around Eagle Lake, in the extreme western section."
10. Anthropometric cephalic and nasal measurements of the Pitt River Indians are distinct from such measurements of all surrounding Indian tribes except the Yana Indians on the southwest.

Evidence:

11. Southwest of the Pitt River Indians were the Yana Indians, to the west were the Wintu or Wintun Indians and to the northwest were Okwanuchu and Shasta Indians, all members of the Shastan linguistic group. North of the Pitt River Indians were the Modoc and Klamath tribes, speaking Lutuamian; to the east were the Shoshonean speaking Northern Paiute, and to the south were the Maidu Indians belonging to the Penutian linguistic group. The Pitt River Indians were usually on friendly terms with the Yana, Wintu, Shasta and Paiute; they intermarried with the Maidu. Occasionally enmity existed between these people and one or more of the Pitt River bands or groups as well as between the Pitt River bands or groups. The Klamath and Modoc were ancient enemies of the Pitt River people, habitually making annual spring slave-taking raids against them, penetrating into Atsugewi territory. No retaliatory action seems to have been taken but the Pitt River Indians did seek defensive assistance from the Paiutes.

(a) The Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians have filed Docket No. 100 with this Commission wherein they assert a claim of original title to a strip along the north end of the area claimed by petitioner, their alleged southern boundary extending from Mt. Shasta northeastward, passing about two miles south of Medicine Lake
and striking Goose Lake at its southernmost point. That part of the claimed area lying north of this line was included in the cession executed by those tribes and that band on October 14, 1864, (16 Stat. 707). (Royce Area 462, Calif. 1 Map, Vol. 18, B.A.E.). In Docket No. 215 on file with this Commission the Yana Indians claim original title to the southwest section of the claimed area, being all that land lying west of Hat Creek and south of the Pit River.

These dockets, presenting conflicting claims to that of petitioner, are pending trial before the Commission.

12. The first record of positive white passage through the claimed area was made in 1832 by John Work who led a trapping party south along the east shore of Goose Lake and down the North Fork of the Pit River. He was followed by Pierson Reading's trapping party in 1834. Neither Work nor Reading mention in their rather detailed daily journals seeing Indians or signs of Indian occupancy in the country between Alturas, California, and Goose Lake. With the discovery of gold in California in 1848 and the consequential development of public interest in roads and in a railroad route to the coast, trails came into existence and a number of government expeditions and surveys were conducted within this region during the next decade. However, all known journals and reports by persons within the country between Alturas and Goose Lake from 1823 through 1873 fail to identify the Indians seen there or whose presence was indicated.

13. The extreme hostility of the Indians and the rugged and barren topography of this country channeled early traffic along four main trails.
The Old South Road between Nevada and Oregon, marked in 1846, crossed the northeast corner, passing south of Goose Lake and north of Clear and Tule Lakes. Lassens Trail was marked in 1849 along the east side of Goose Lake, down the Middle Fork of the Pit River and along the Pit to and across Horse Creek. It continued south passing east of Lassens Peak and turned southwest slightly south of Lassens Peak to Lassens ranch at the mouth of Deer Creek on the Sacramento River. The 49er Trail branched from Lassens Trail on the Pit river and ran north into Oregon, passing east of Tule Lake. Noble's Pass Road was marked in 1850 across the southern side, running northwest to Susan River and west along that river, then north on the Lassen Trail to a point north of Lassens Peak where it turned west. Most of the winter settlement sites of the Pitt River Indians were along the Pit River near the Lassens Trail.

Evidence:

11. There are four sources of information concerning early Indian occupancy of this area other than government representatives or scientists.

(a) In a manuscript located in the Bancroft Library, University of California, which it is thought one Calvin Hall, a one-time soldier stationed at Fort Crook who later married a Pitt River Indian woman and settled in Fall River basin, dictated while incarcerated about 1873 at Lookout, California, it is said that the Paiute Indians occupy the northern third of Big Hot Springs Valley and that their country "extends north up around and beyond Goose Lake ****," and that the Modoc country begins a few miles
north of the Big Valley, about 15 miles from Lookout, which would place the Pitt River-Modoc boundary some 15 miles south of the claimed boundary.

(b) In his "Life Among the Modocs," "California Diary," and "Memories and Rime," one Joaquin Miller related incidents occurring around 1855-1857 while he resided with a band or tribe of Indians living on the slopes of Mt. Shasta, the headwaters of McCloud River and Squaw Creek Valley. These Indians spoke a dialect differing from that of the Pitt River Indians and were independent of them.

(c) J. Goldsborough Bruff recorded in his journal of a gold-hunting trip through this country about 1855 that he met Pah-Utah (Paiute) Indians at Eagle and Honey Lakes, the latter being about 20 miles southeast of the claimed area. The parties hereto concede that the main valley of Willow Creek, which rises about 2 miles southeast of Eagle Lake and flows into Honey Lake, is Paiute country.

(d) The fourth and most recent source is Edward S. Curtis who spent some time with the Klamath, Pitt River and other California and Oregon Indians. Writing in 1915, he said Medicine Lake was thought to be a "power" place and was visited by Pitt River Indians, Shasta Indians from the northwest, Wintu Indians of the upper Sacramento River and by Modoc and Klamath tribes to the north. These Indians also visited the Glass Mountains on each side of Medicine Lake and the Wintu acknowledged the Medicine-Glass Mountain area as Modoc country. Curtis said the Hewissaitu (Hewisedawi) group or band of Pitt River Indians occupied the Pit River valley from about ten miles west of Alturas to about 20 miles north of Alturas. The Northern limits so assigned to Pitt River country falls slightly north of the south end of Goose Lake and
north of witness Voegelin's line which is based on research among the Modocs.

Evidence:  
Pet. Ex. B-10, p. 235; Voegelin, Trans. 630-9, 888-9; Def. Ex. 37, p. 27, Williamson; Def. Ex. 148, p. 3-4, Hall's "Anonymous Manuscript"; Def. Ex. 25, "Gold Rush" by Bruff.

15. Frequent references to military action and scouting parties within the claimed area occur in the military records. On several occasions Indians were followed into or found within the rough lava country north of Fort Crook. The exact sites where Indians were met with and whether their presence resulted from habitual use of the country by them or was the result of military maneuvers is not clear. Lieutenant E. G. Beckwith, who was assigned the task of locating a railroad route through the claimed area, mentioned seeing Pah-Utahs or Paiute Indians digging for roots in the southeast corner of Big Valley in which the town of Bieber is located. He then commented in his journal of 1851:

This part of the Sacramento has been heretofore termed Pitt River; and these Indians and the bands lower down it are called in California, Pitt River Indians, although they claim to be Pah-Utahs.

Witness Stewart discounted Beckwith's identification because he said the name Paiute is pronounced phonetically similar to that of a Pitt River Indian village in this vicinity. Beckwith also mentioned seeing Indians or following Indian trails along Hat Creek (Canoe Creek), Pit and Fall Rivers and other tributaries of the Pit.

Hostilities sometimes existed between the Pitt River Indians and the easterly Paiute Indians, but official records reflect that they were usually friendly. The Paiutes were hired to help defend the Pitt Rivers from Modoc slave raids; the Paiute Chief, Winnemucca, visited in Pitt River country;
Pitt River Indians were observed fishing at Pyramid Lake east of the Warner range. Colonel Wright listed 300 Paiute Indians at Goose Lake in 1853; Agent Joel Palmer of Oregon said the Mo-e-twas or Paiutes lived south and east of the Modoc. Paiute Indians from Honey Lake were reported warning settlers to leave Willow Creek valley southeast of Eagle Lake and Paiutes from Smoke Creek in Nevada killed a settler on that creek in the 1850's. Paiutes were said to be with the Modoc and Pitt River Indians during the Battle of the Infernal Caverns which occurred near the present town of Bayleys in 1867, that being the final effort of the Pitt River Indians to prevent white settlement in this area.

16. The first contact the Indian Department had with the Pitt River Indians probably occurred during 1851. Commissioners who had been appointed to adjust Indian difficulties in California sent a man into this region to contact the Indians. The official journal discloses that he was unable to find interpreters to talk with them, and could not council with them. Nevertheless, among the 13 treaties negotiated by those Commissioners there are two treaties signed in all by nine named groups or bands which purport to cede the claimed area. (See Royce Areas 294 and 306, Calif. 1 Map, Vol. 18, B.A.E.) None of these treaties were subsequently ratified and the nine groups or bands purportedly ceding this area are not equated with any presently known band or group of Indians.

In response to instructions to learn all he could about these Indians and the prospect of placing them on reservations, Agent Stevenson entered this country in 1857. His lengthy report reads in part:

There are at least two thousand who speak the same language and are part and parcel of the same tribe. On Hat Creek which empties into Pit River about ten miles from the fort (Fort Crook) there are about five hundred.
On Fall River and the other branches that runs through the Valley below the canyon this side of Big Valley about four hundred. In the Big Valley something about eight hundred and in another valley to the east called Grasshopper Valley about three hundred, making in all about two thousand.

Grasshopper Valley lies between the Madeline Plains and Eagle Lake; a scout through this region in 1868 by Lieutenant Colonel Baker found no Indians in that vicinity.

Evidence:
Trans. p. 686, Madeline Plains discussed.
Trans. p. 610, Wright's 1863 Indian listing; Def. Ex. 16,
Def. Ex. 72, Lt. Weatherlow's report of murder by Smoke Creek Indians.
Trans. p. 893 and Def. Ex. 15, p. 25-6, Feilner reports Paiutes are to assist Pitt River Indians and that they help butcher cattle in West Valley.
Trans. p. 613, Chapman reports Honey Lake Paiutes threaten settlers in Willow Valley.

17. Dr. Omer C. Stewart, Professor of Anthropology at the University of Colorado, and Dr. Erminie Wheeler Voegelin, Professor of History at the University of Indiana and Director of the Great Lakes-Ohio Valley Research Project being conducted there, testified as expert witnesses for petitioner and defendant, respectively. Both are highly qualified anthropologists.

Dr. Stewart has conducted an element culture survey among the Northern Paiutes and a food-source study among the Pitt River Indians. Dr. Voegelin has conducted a limited study among the Pitt River Indians and has done research among the Modoc Indians. Each has collected and studied data
concerning these and neighboring Indians. Much of this data and numerous plats and maps illustrative of it as interpreted by these witnesses are in evidence. Dr. Stewart supervised the work of placing upon a map all Indian village sites within the claimed area, relying upon archeological evidence, reports and Indian informants, but not, however, giving the dates of occupancy. Dr. Voegelin prepared a list of all references to Indians or signs of Indians within this area appearing in data originating between 1823 and 1873 where such locations may be ascertained and the Indians identified with reasonable accuracy. Based upon their respective studies Dr. Stewart testified it was agreed by the Achomawi Indian and his Paiute informants that the summit of the Warner range was the division line between their country, but he had difficulty in placing a boundary about and south of the Madeline Plains. He thought Pitt River Indians used, occupied and held original title to the entire claimed area and he assigned each of the eleven named groups or bands a definite section which he said they controlled. Dr. Voegelin limited the areas of use and occupancy to tracts along the Pit and Fall Rivers, Hat and Burney Creeks, a marshy area about Fort Crook which stood about 7 miles above the mouth of Fall Creek from July 1, 1857, to April 20, 1869, an area near Bear Mountain in the lava flow between Bartle and White Horse, California, and to Goose Valley between the Pit River and Burney Creek. Stewart's village sites appear on Petitioner's Exhibit No. P-3; his band or group areas are outlined on Petitioner's Exhibit A-1A. Voegelin's locations and areas of occupancy are described and appear in Defendant's Exhibits 67, 68 and 68A.

Evidence: See also, Trans. p. 73-96, 522-23, Stewart; and p. 648, Voegelin.
18. A number of anthropologists and other scientists have done field work among the Pitt River Indians and their neighbors. Only C. Hart Merriam in his 1925 publication "Classification and Distribution of the Pit River Indians," Fred B. Kniffen in his 1928 publication "Achomawi Geography," and the witness Omer C. Stewart have designated boundaries between the eleven autonomous Pitt River groupings. Thomas R. Garth in his 1953 "Atsugewi Ethnography" has separately bounded the Aporige and Atsuge. A. L. Kroeber in his 1925-1929 "Handbook of the Indians of California" separated the Achomawi and Atsugewi territories. Merriam's work represents 20 years of research among California Indians as a whole, and reflects field work among the Pitt Rivers. Kniffen did field work during 1938 and 1939 among Pitt River Indians whose ages ranged from 35 to 90-95 years. Stewart relied upon his documentary studies and field work among the Paiutes together with information from one Achomawi. He has in general adopted Kniffen's inner boundaries, extending the lines as necessary to reach his concept of the outer limits of Pitt River country. Kroeber did work intermittently over 17 years with Indians in California.

Several linguistic maps purport to bound Pitt River country. J. W. Powell's 1891 map was reissued in revised form to conform to Roland B. Dixon's 1905-1908 publication which is based upon field work among northern Maidu and Atsugewi Indians. John R. Swanton's 1952 map was prepared to illustrate his "Indian Tribes of North America," Julian H. Steward's map appeared in 1937, Harold C. Diver's in 1953 and Voegelin's in 1941. Linguistic maps are usually drawn to a small scale and with insufficient attention to topographic detail to be of material assistance in arriving at small area boundaries such as concern us in the present instance.
19. The territory claimed to have belonged to the Atsugewi extends from Lassens Peak on the west to an area about Eagle Lake on the east and takes in part of the Pitt River drainage to the north. Garth's concept of Atsugewi country in this region, according to his Atsugewi informants, includes an area west of Lassens Peak, with the west boundary line going almost due north across numerous streams which flow into the Sacramento River, and is in conflict with the conclusions of all other students of this area. He said the Yana owned Montgomery Creek and that Pitt River and Yana Indians jointly exploited the nearby land. Kniffen gave both Montgomery and Hatchet Creek drainage to the Yana. Merriam's acceptance of Montgomery Creek as a Yana-Pitt River boundary is sharply criticized in the 1934 "Notes on the Culture of the Yana," which is an article begun by Dr. Edward Sapir and completed after his death by Leslie Spier from Sapir's notes of field work among the Yana. The Yana claimed the drainage of the Sacramento River and Montgomery Creek, and Spier concluded that the boundary probably laid between Montgomery and Hatchet Creeks, with the area between Hatchet Creek and Pit River to the north a no-man's land.

There is no evidence that Atsugewi used any land west of the Pit and Sacramento drainage divide or on Montgomery Creek. According to Garth's informants they controlled the country from Lassens Peak to within one mile of the present town of Carbon, California, then east to Bald Mountain, and on to Black Mountain. It is evident they hunted on the northern slopes of Lassens Peak but they are not shown to have gone beyond it. Their villages, which Kniffen describes as "clusters of winter houses," were
located along Hat, Burney and Lost Creeks. A line extended from the headwaters of Montgomery Creek to within one mile south of Carbon, passes slightly northward of the most western Atsuge settlement on Burney Creek and leaves to the north the immediate valley of the Pit River where the Achomawi are known to have had village sites.

The westernmost Aporige village was on Beaver creek. Another on Horse creek controlled an area about 12 miles in width extending south to the Bogard Butte, adjoining Atsuge land on the west, with the Atsuge-Aporige line extending south to Snag Lake, according to Garth. Merriam is in general agreement with Garth's Atsuge-Aporige line running east of the headwaters of Montgomery creek, his line extending with more exactitude 4-1/4 miles north of the Burney postoffice, and striking the "lava mountains" on the south 12 miles east of Lassens Peak, which is the approximate location of Snag Lake.

Evidence:

Garth, Pet. Ex. B-3, p. 130, where Atsuge holdings are said to extend from the western rim of Burney Valley to the tableland east of Hat Creek, south to Snag Lake, including the north half of Lassens Peak, and north to about a mile below Cassel, California. Also (p. 116-117) the Lumgista village is said to control the land from Tamarack Peak to and including the west half of Blacks mountain; Atspagini village is said to have controlled the land along Rising River from a mile south of Carbon to Bald Mountain; the Wumici village (Kniffen's Neya site) is located 1/2 mile north of Burney.

Sapir, Pet. Ex. C-12, p. 240-243: "*** we may surmise that the area of Hatchet creek and northward to Pit River was a no-man's land ***. Montgomery Creek *** by our evidence seems to have been clearly regarded by the Northern Yana as their home."

Kniffen, Def. Ex. 8, p. 303: "They (the Atsuge) occupied the southwestern portion of the territory; the valley of Hat Creek, Dixie valley, and the region about Eagle Lake. The two Atsugevi groups *** were on friendly terms, though the boundaries between them were strictly respected."
Merriam, Pet. Ex. B-7, p. 36 and attached map. The boundary is said to start at the southwest corner of Goose Valley, run to Lookout Mountain, then east between Bald Mountain and a hill immediately north, then southeast to the east side of Grass Valley, southwest through Poison Lake to the lava mountains 12 miles east of Lassens Peak. The Atsuge's western boundary is fixed along the Sacramento-Pit river divide.

20. The area around Eagle Lake was described by Dr. Voegelin as a transition area wherein conflicting claims of the Maidu, Pitt River and Paiute Indians and ownership or usage rights had not crystalized before the white man's influence intervened. About ten miles east of Eagle Lake is Horse Lake. The Fredonyer Mountains run north and south between them. Within two miles of each lake branches of Willow Creek rise and flow into Honey Lake, some 25 miles southeast of Eagle Lake. Honey Lake also receives the flow of Susan River which rises about 15 miles east of Lassens Peak. Pine Creek, which flows into Eagle Lake, heads immediately north of and within a few miles of the head of Susan River. Northeast of Eagle Lake and about 20 miles away is McDonald Peak, with the desert area known as the Madeline Plains immediately west of it. Southeast of the Plains and about four miles north of Eagle Lake is a barren alkali flat known as Grasshopper Valley. The claimed boundary line, which is Stewart's line, runs from McDonald Peak south, crosses Willow Creek about midway between Eagle and Honey Lakes and then runs west along the north rim of Susan River drainage.

There is little first-person documentary evidence of Indian occupancy of this region. Paiute Indians lived around Honey Lake and with others from Smoke Creek to the north, laid claim to Willow Creek valley. Both Pitt River and Paiute Indians raided in the vicinity of Honey Lake.
about 1860. Eruff found Paiutes at Eagle Lake in 1850. Garth said an
almost deserted Pitt River village stood in Grasshopper Valley in 1883
but no survivors were known to exist. He did not visit this site but is
supported in its existence by Kniffen who depicted a large settlement
near what appears to be the north side of the Valley, probably relying
upon Stevenson's report in 1857 of a large Indian settlement there.

However, Lieutenant E. G. Beckwith made several scouts through this region
in 1854 without encountering Indians about Butte Creek, Pine Creek, Eagle
or Horse Lakes or Grasshopper Valley.

(a) After spending three summers doing field work with the Haidu
Indians during 1902-5, Dixon was convinced they owned the small lakes,
cinder-cone and lava-flow country east of Lassens Peak, and the Susan
River Valley; that their hunting parties continually visited Pine Creek
and Eagle Lake but did not venture beyond Willow Creek east of the lake.

He thought the Fredonyer Mountains was the eastern limit of Haidu country.

Merriam considered the main peak of these mountains, Fredonyer Mountain,
an identifying boundary object, but as between Paiute and Aporige rather
than the Paiute and Haidu. Dr. Kroeber, whose writings indicate he had
Pitt River informants, described this region as offering difficulty to a
cartographer but he thought that the Atsugewi "probably" used it and all
the country south to Feather River drainage for hunting and gathering
purposes. At one time he placed the Paiute-Aporige boundary east of
Horse Lake, at another time he located it west of that lake and again
his line bisected Horse Lake. Kroeber is now in accord with witness
Stewart, according to his testimony before this Commission in 1956.
In explanation of his boundaries, Dr. Kroeber said in his "Handbook of American Indians":

**The back country was visited and owned, but not settled. A solid color on the maps accordingly gives a one-sided impression of the relation of many California tribes to their habitat.

This is particularly true of the Achomawi, all of whose territory is high and comparatively barren as soon as the streams are left behind, while a large part of it, particularly to the north of Pit River, is pure waste lava.

For this reason the boundaries of Achomawi land are of little significance compared with an understanding of the narrow tracts actually dwelt in.

And again he said:

**A full third of the State (of California) is thorough desert, substantially desert, high mountains, bare lava flow, or dense timber. In all these environments the population is of the slenderest. Generally such regions were not even inhabited except in oasis-like spots; and that the maps in the present and other volumes show continuous territories rather than these significant oases is not because the areas have been thought to be inhabited, but because ignorance of precise conditions of habitation has rendered other delineation impracticable for most of the State. Everything east of the Sierra, its entire upper portion ***, most of the northeastern angle of the State, *** belong to these thinly populated regions, ***.

Kniffen described the Madeline Plains as a "great, treeless, dry bolson," a "sort of no-man's land, only the moister margin being visited in summer for the gathering of roots." His boundary line is platted southeast from McDonald Peak to Snowstorm Mountain which is east of Horse Lake and then across Willow Creek about midway between Eagle and Honey Lakes.

**(b) Existing data does not permit the fixing of occupancy dates for the village site Kniffen located at the mouth of Pine Creek on Eagle Lake, on Willow Creek at the perimeter of the claimed area or for the
Garth-Kniffen site north of Grasshopper Valley other than that the latter was occupied about 1888, but no survivors existed in 1953. The Pine Creek settlement was abandoned at "an early date," and while Garth's informants in 1953 recalled the Willow Creek settlement, it may well have been established long after the alleged time of taking complained of. Colonel Baker found no Indians in this area on a scout through it in 1868. The nearest Maidu villages appear to have been around Susanville on the Susan River some 15 miles south of Eagle Lake.

Evidence:

21. Petitioner has included within the claimed area the slopes of Mt. Shasta which are drained by the McCloud and Sacramento rivers and the headwaters of those rivers. Dr. Stewart acknowledged that this section was occupied by "speech relatives" of the Pitt Rivers. The defendant contends they were a separate entity and their presence there is inconsistent with petitioner's claim of aboriginal title to this region. The evidence establishes conclusively that these people were known as Okwanuchu; that they occupied the upper reaches of the Sacramento and McCloud Rivers and Squaw Creek valley; that they hunted on the adjacent slopes of Mt. Shasta. Joaquin Miller lived with them between 1855 and 1857 and wrote of them in his "Memories and Rime," "California Diary," and "Life Among the Kdokc." Their existence was recognized by Powers, Dixon, Kroeber, Swanton,
Merriam, and by Cora DuBois in her report during 1953 of research among the Wintu group. They were a separate and independent people according to DuBois as late as 1872, when the Modoc are reported to have extinguished them.

22. According to Kniffen's informants many of the separate divisions of the Achomawi hunted westward "to Mt. Shasta," obtained obsidian at the Glass Mountains and visited Medicine Lake. For this reason he did not extend his inner boundary lines in this region out to the outer line depicting the Pitt River northern limits. Stewart extended Kniffen's lines to the perimeter of the claimed area. Documentary evidence of Pitt River Indians encountered in this region does not identify their group or band affiliation. Dixon's informants said the Achomawi were "pretty closely restricted to the valley of the Pit river," but that they hunted west as far as "the head of the McCloud and Mt. Shasta, north to Medicine Lake." Kroeber thought it was "likely" they hunted west to Mt. Shasta but said their northern territorial limits were "particularly vague and immaterial." According to Merriam's informants the Pitt Rivers owned the country east of a line running north on the divide between Bartle, California, and Bear Mountain up to a point 16 miles north-northeast of Bartle on a line extending between Mt. Shasta and Goose Lake opposite the mouth of Fandango Valley. Their limits followed along this line, up Fandango Valley to the crest of the Warnefs and south along the crest. They claimed to fight the Modocs near Medicine Lake. Conflict in that area is further supported by Gatchet's report that the "Shasti, Modoc and Trinity River Indians" battled for possession of an obsidian quarry north of Mt.
Shasta and the fact that the Wintu, who also visited the lake, understood it was in Modoc territory. It lies within the Klamath and Modoc tribes and Yahooskin Snake cession of 1864, and Kniffen thought the only point in the Pitt Rivers claiming so far north "beyond the limits of utilization" was their use of Glass Mountain obsidian. Much of the country he bounded as Pitt River land he said was "never reached because it *** afforded nothing they could use." Dixon also referred to "the southern edge of the lava flows" as their northern limits. Merriam reported the eastern autonomous Acomawi hunted westward to Mt. Shasta, thus passing north of the village sites of their more western neighbors.

(a) Control of the Goose Lake region is also much disputed. The five Acomawi village sites reported near it bear no occupancy date and their existence in this outlying and exposed region prior to the white man's arrival is suspect because of the Modoc raiding parties which passed nearby on their way to procure slaves. Travelers in this region between 1853 and 1873 failed to identify the Indians north of Alturas. Calvin Hall placed the Modoc-Pitt River boundary 15 miles north of Lookout and said the Paiutes occupied the northern third of Big Valley and all Goose Lake country; Curtis gave the Pitt Rivers a northern limit 20 miles north of Alturas. Paiute interest in the region is confirmed by Gatchet's 1890 report that Goose Lake was the principal resort of Snake and Pitt Rivers and by Isabel Kelly who, after research among the Northern Paiute in Oregon said that the Paiute hunted west of the Warner range although they claimed no land there. She described the Sugar Hill east of the south end of Goose lake, as "indisputably Acomawi." Kroeber's division of the
Goose lake between Modoc, Paiute and Pitt River Indians is admittedly a "compromise" line. The Modoc claimed the country to about five miles south of the lake according to witness Voegelin and her 1941 line shown on Petitioner's Exhibit P-7 is based on research among them.

(b) The Warner Range. Dixon confined the Pitt River Indians to the drainages of the Pit and its tributaries; Merriam considered the division line between Pitt River and Paiute country followed the crest of the Warner range to Buckhorn Mountain near Mosquito Creek. Kniffen wrote:

To the east lies the Warner range, certainly not a great barrier, but a climatic and cultural line and a convenient boundary. It is an area of little importance from the viewpoint of subsistence and probably was not regularly visited.

Witness Stewart adopted Merriam's expressed views.

There are undated village sites reported west of Bald Mountain at the north end of the Warner range and south of Alturas. Another site is on the South Fork of the Pit River east of West Valley and another on Cedar Creek which flows into the South Fork from the south. Yet another is north of McDonald Peak where the Pit River Indians visited during "power" quests.

Numerous linguists and other scientists have drawn or described other Pitt River boundaries, particularly along the Warner range. It must be borne in mind that all such boundaries are fixed with a broad view of territorial division and do not take into consideration those elements of exclusive use, occupancy and control which it is required that petitioners establish in order to prove a claim of original title.
Evidence:
Albert Gatchet, Def. Ex. 26, p. 1, lix;
Dixon, Def. Exs. 7, 50, 51 and plat; Pet. Ex. B-12;
Merriam, Pet. Ex. B-7 and Def. Ex. 52;
Kniffen, Def. Ex. 8, p. 301-318, Pet. Ex. B-2;
Isabel Kelly, Ethnology of Surprise Valley Paiutes, Pet. Ex. A-18, C-3; Trans. p. 672, 379;

23. (a) **Itsatawi**. A group of about 150 people living in Goose valley and lower Burney creek valley in the bend of the Pit river were called Itsatawi by Kniffen but considered a part of a group called To-mah-lin-che-moi by Merriam. Within less than a mile northward were Nadesi villages and Ilmawi village sites were but little farther northeast. Atsuge bounded them on the south. Itsatawi fished for salmon in the Pit, hunted toward Mt. Shasta and obtained obsidian at Glass Mountain near Medicine Lake. They were particularly friendly with the Nadesi, intermarrying with them and exchanging hunting, fishing and other privileges.

(b) **Nadesi**. Pitt River Indians living around the big bend of the Pit River occupied the southwest corner of the Achomawi territory. They were called Nadesi by Kniffen and Nodesse by Merriam who suggested the possible existence of two southern sub-bands called A-me-che and E-poo-de. Spier has since identified all these people as Nadesi. Each village site was owned by an individual who permitted communal hunts under his leadership.

The Nadesi obtained salmon in the Pit, hunted toward Mt. Shasta and on the waters of Kosh and Nelson creeks. They visited Glass Mountain. The Okwanuchu and Wintu adjoined them on the west; the Yana, Itsatawi and Atsuge on the south.
(c) **Ilmawi.** East of the Madesi and primarily occupying Clayton Valley were the Ilmawi. Merriam doubtfully extended their country north to Bear Mountain, and divided it between Ilmawi and Tomahlinchemoi, but if distinction once existed between these people they have not otherwise been recognized. Kniffen made no attempt to fix northern territorial limits. Merriam said their country was reported to reach Bear Mountain. The Ilmawi hunted toward Mt. Shasta, deer being plentiful in the northern part of the claimed territory assigned to them. They obtained salmon from the Pit River and visited the Medicine Lake country.

(d) **Achomawi.** The Achomawi proper inhabited the country east of the Ilmawi. Their village sites were along the Pit and Fall Rivers and the eastern side of the lava flow which protrudes into their country from the north. They also hunted toward Mt. Shasta and visited Glass Mountain and Medicine Lake, and fished for salmon in the Pit.

(e) **Atwamsini.** East of the Achomawi were the Atwamsini whose village sites were principally in the desert area called Big Valley north of Bieber, California. They hunted deer on the mesa north of the Pit, approached Mt. Shasta on elk hunts, and obtained obsidian at the Glass Mountain.

(f) **Astariwawi.** Northeast of the Atwamsini were the Astariwawi. Kniffen found they did not exceed 200 in number, occupying three villages along the Pit River and one about eight miles west of Alturas. They visited Glass Mountain and Sugar Hill for obsidian and shared hunting and gathering sites belonging to other groups, although deer and small game were plentiful in the mesa north of their villages. Fishing was important to them.
(g) Howisedawi. The Howisedawi, estimated by Kniffen at 175 souls, occupied the country northeast of the Astariwai. They hunted on the slopes of the Warner range and several of the undated village sites assigned to them are about Goose lake. They considered Sugar Hill a sacred spot, and Herrian reports battles with the Paiutes occurred in adjacent Fandango valley. Their principal rancheria was some six or eight miles north of Alturas, California.

(h) Kosalektawi. The Kosalektawi were centered about the junction of the North and South Forks of the Pit River, where fishing was particularly good. Fishing privileges were exchanged with others for right to gather food in other areas.

(i) Hammawi. The Hammawi were centered about the South Fork of the Pit River. They and the Kosalektawi and Hewisedawi each used the foothills of the Warner range. Their main settlements were about the present town of likely and in the flat-bottomed swampy fault valleys of Jess and West. Cora DuBois located an undated village site a short distance north of McDonald Peak.

Evidence:
Merriam, Pet. Ex. B-7; Kniffen, Def. Ex. 8;

24. Except for the area near Muck Valley which lies north of the Pit and opposite the mouth of Horse Creek, the Atsugewi were excluded from the Pit River. Kniffen, Herrian and Stewart are in fair accord as to the division line between Atsugewi and Achomawi people and between the two Atsugewi groups or bands. Kroeber found California Indians
customarily used outstanding peaks for boundary markers. Both Merriam
and Kniffen found Lassens Peak marked the southwest corner of Atsuge
country, included Grasshopper Valley in Aporige territory and found
Hayden Hill marked the Aporige-Atwamsini boundary.

(a) The Atsuge occupied the entire drainage of Lost, Hat and
Burney creeks except for a few miles near the mouths of the latter two.
They passed through Ilmawi country to obtain obsidian at Glass Mountain.

(b) The Aporige or Dixie Valley people had villages over a widely
spread area. Fishing was of minor importance to them. They carried on
an extensive interchange of commodities with their neighbors. They were
the eastern division of the Atsugewi.

evidence:
Kniffen, Def. Ex. 8, and accompanying plat.
a southeasterly course along the low divide between Dry Valley and
Grasshopper Valley and continues in the same general direction to
the Fredonyer Mountains between Eagle Lake and Horse Lake ***."  
Kroeber, Def. Ex. 9, p. 306: "It was customary for greater peaks to
be regarded by Californian peoples as the starting point of their
several boundaries."

25. From a consideration of all the evidence, including the cultural
status of the Pitt River Indians and the topography of their country, and
applying a common sense approach to the determination of boundaries for
those areas wherein the eleven autonomous bands or groups dwelt and held
the land under such exclusive use, occupancy and control as to create
original title thereto, and having recourse both to natural objects and
modern survey lines for the purpose of more accurately bounding the areas
referred to, the Commission finds that the respective tracts held by said eleven autonomous groups or bands of Pitt River Indians under original Indian title are described as set out below following the name of each respective group, to-wit:

(1) **Atsuge**. Beginning at the summit of Lassens Peak and thence northwest along the divide between the drainage of the Sacramento and Pit Rivers to the easternmost point on the headwaters of Montgomery Creek; thence northeast to a point 1½ miles north of Burney, California; thence to a point 1 mile south of Carbon, California; thence southeast to Bald Mountain and to Black Mountain; thence southwest to Snag Lake, and then straight to Lassens Peak, the point of beginning.

(2) **Aporgie**. Beginning at the summit of Bald Mountain and running thence northeast across the Pit River to Mug Hill, then eastward north of Muck Valley in the bend of the Pit River to and across said river; thence around the drainage of Horse Creek to Hayden Hill; thence southeast to the southwest corner of Section 3, Township 34 North, Range 12 East; thence south along the section line between Sections 9 and 10, extended, to the township line between Townships 33 and 34; then west on said township line to its intersection with the range line between Ranges 10 and 11; then southwest to Snag Lake and north along the east boundary of Atsuge country to the point of beginning.

(3) **Itsatawi**. Beginning on the Atsuge boundary line at the eastern limit of Montgomery creek drainage and running thence northward over Bunch Grass Mountain to the Pit river; thence up said river to a point west of Burney Spring Mountain; thence east and across said mountain to the drainage divide between Hat and Burney creeks; thence southward over Brush Mountain to a point on the Atsuge north boundary line 5 miles west of Fall River; thence along the Atsuge boundary line west and south to the point of beginning.

(4) **Madesi**. Beginning at the corner of Atsuge and Itsatawi territories on the headwaters of Montgomery creek and running thence north and west along said drainage and the divide between Montgomery and Hatchet creeks to and across the Pit river to the divide between the Pit river and Squaw creek; thence northward along said last divide to Grizzly peak; thence northeast to Bartle, California; thence southeast to Curtis Lake at the head of Kosh creek; thence in a straight line to Burney Spring Mountain south of the Pit river; thence along the northern Atsuge boundary line to the point of beginning.
(5) Achnawi. Beginning at the northeast corner of Hadesi country at Bartle, California, and running thence southeast by way of direct lines from Soldier to Saddle Mountains to Bald Mountain at the junction of Atsuge and Aporige country; thence westward along the Atsuge boundary to the southeast corner of Itsatawi country; thence along the boundaries of Itsatawi and Hadesi countries, west and north, to the place of beginning.

(6) Achnawi. Beginning at Bartle, California, and running thence northeast to a point 16 miles north-northeast of Bartle on a line drawn between Mt. Shasta and the west shore of Goose lake opposite the mouth of Fandango creek; thence east on a line drawn from said 16-mile point to a point 15 miles north of the town of Lookout located in Township 39 North, Range 6 East, to where a line running south from Glass Mountain (east of Medicine lake) over Round Mountain bisects said line; thence southeast to Taylor Mountain in a divide between White Horse Valley and Egg lake; and thence to and along the summit of Big Valley Mountains; and south from the southern extreme of said Mountains to the north boundary of Aporige country at a point 2 miles east of the Pit river northwest of Huck Valley; thence west along the northern Aporige boundary to Ilmawi country and northward along the eastern boundary of Ilmawi country to the point of beginning.

(7) Atnamsini. Commencing at the northeast corner of Achnawi territory on a line extended between a point 16 miles north-northeast of Bartle, California, and a point 15 miles north of Lookout, California, located in Township 60 North, Range 6 East, Lassen County, California, and continuing on said line to said 15-mile point; thence southeast to the mouth of Pothole Cully on the Pit river; thence east to Shaeffer Mountain and by direct lines to Crouse Mountain, Mazanita Lookout, and a point designated Fleming's Sheep Camp on Petitioner's Exhibit No. P-9-A; then south around Spooner reservoir and southwest to Hayden Hill; thence along Aporige and Achnawi boundaries west and north to the point of beginning.

(8) Astariwawi. Commencing at the northeast corner of Atnamsini country 15 miles north of Lookout, California; thence along a straight line to the intersection of the west shore of Goose lake and the 9th Standard Parallel north to a point where said line intersects the range line between Ranges 9 and 10 North, Modoc County, California; thence to the southwest corner of Township 43 North, Range 11 East, in said County; thence east 3 miles; thence south to the Pit river and down said river to the east boundary of Township 41 North, Range 10 East; thence southwest to Shaeffer Mountain; then along the Atnamsini boundary north and west to the point of beginning.
(9) Hewisedawi. Commencing at the northeast corner of Astariwawi country and running thence northeast along a line between a point 15 miles north of Lookout, California, and the intersection of the west shore of Goose lake with the 9th Standard Parallel North, to said point of intersection on the west shore of Goose lake; thence along said parallel to the east shore of Goose lake; thence southeast to Bald Mountain in the Warner range; thence west to the site of Surprise Station; then to the Astariwawi boundary 3 miles east of the southwest corner of Township 43 North, Range 11 East, Lassen County; thence west and north along the Astariwawi boundary to the point of beginning.

(10) Kosalektawi. The Kosalektawi were bounded by the Astariwawi on the west, and the Hewisedawi on the north. Their eastern boundary ran from Bald Mountain south to Cedar Mountain and Warren Peak and the south boundary extended west from Warren Peak to the South Fork of the Pit river four miles above the mouth of Fitzhugh creek; thence along a direct line over Ophahah Butte to the southeast boundary of Astariwawi country.

(11) Hammawi. The Hammawi were bounded on the west by the Atuamsini, on the northwest by the Astariwawi and on the north by the Kosalektawi. The east and southeast boundary extended from Warren Peak south by straight lines to Eagle Peak, South Emerson lake, the western base of Emerson Peak, Buck Mountain near Mosquito creek and then southwest over McDonald Peak and to the southwest corner of Section 3, Township 34 North, Range 12 East, Lassen County, California.

26. Physical possession of the several tracts held by the Pitt River Indians was taken from said Indians by a gradual process. Disruption of their usage may be said to have commenced with the arrival of the white man; concentrated military action against them began with the establishment of Fort Crook in the central portion of their country in 1857, but their resistance to subjugation by the whites did not cease until the Battle of the Infernal Caverns near the present town of Bayleys, California, on September 26-28, 1867, in which battle the Pit River, Modoc, and Paiute Indians sustained such severe losses that further effort to prevent control of their country by the whites was impossible.
The entire area here involved lies within the territory acquired of Mexico in the Treaty of Guadalupe Hidalgo during 1848. The State of California was admitted to the Union on September 9, 1850 (9 Stat. 452). On March 3, 1851, Congress passed the Private Land Claims Act (9 Stat. 631) requiring registration of all land claims within a two-year period thereafter. On March 3, 1853, Congress passed an "Act to Provide for the survey of the Public Lands of California and the Granting of Pre-emption Rights to Settlers" (10 Stat. 244). It has been previously held that by this latter Act the defendant took such action toward the vesting in others of the fee title to Indian land within California as was possible only by it becoming a part of the public domain and by extinguishment of Indian title. That date is, therefore, the date upon which Indian title to the land here involved may be said to have been taken by defendant. Mohave Tribe v. United States, 7 Ind. Clms. Comm. 219, Dkt. 295, and Washo Indians v. United States, 7 Ind. Clms. Comm. 266, 280, Dkt. 288.

Evidence:

27. From the entire record and the Findings of Fact hereinabove set forth, the Commission finds that the Pitt River Indians are an identifiable group of American Indians within the meaning of the Indian Claims Commission Act; that the petitioner is qualified to present and the Commission has jurisdiction to determine this representative action; that each of the eleven separate tracts described
in Finding No. 25 hereinabove were held under aboriginal Indian title by one of the eleven separate autonomous bands or groups into which the Pitt River Indians were divided, as set out in said Finding No. 25, and that on March 3, 1853, the defendant acquired Indian title from each of said groups or bands without payment of compensation therefor.

The defendant's motion for dismissal of the amended First and Supplemental Petition will be overruled and the parties will proceed to the presentation of evidence respecting the acreage and value as of March 3, 1853, of each of the eleven tracts described in our Finding No. 25.

Edgar E. Witt
Chief Commissioner

Wm. M. Holt
Associate Commissioner