

BEFORE THE INDIAN CLAIMS COMMISSION

THE HUALAPAI TRIBE OF THE)
 HUALAPAI RESERVATION, ARIZONA,)
)
 Petitioner,)
)
 v.)
)
 THE UNITED STATES OF AMERICA,)
)
 Defendant.)

Docket No. 90

Decided: November 19, 1962

FINDINGS OF FACT

The Commission makes the following findings of fact:

1. Petitioner timely filed this claim pursuant to the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1049). Petitioner, the Hualapai Tribe of the Hualapai Reservation, Arizona, often referred to as the Walapai Tribe of Indians, is organized under the provisions of the 1934 Indian Reorganization Act (48 Stat. 984, 987-988), and is recognized by the Secretary of the Interior as having authority to present this claim. The Commission finds that petitioner has the capacity to maintain this action.
2. In aboriginal times the Hualapai Indians had a loose form of tribal organization. There was no recognized chief of the entire tribe. Each settlement had a head man and certain individuals of aggressiveness extended their influence over neighboring villages within the geographic divisions. Once chieftainship was established it was roughly hereditary. Prowess in battle and oratorical ability were attributes that elevated leaders of the Hualapai Indians to positions as war chief and peace chief

of the tribe. While the political structure of the tribe in early aboriginal times was loose, continued white contact, war, and the government's desire to deal with centralized authority did greatly strengthen the tribal structure. During the historic period prior to extinguishment of their Indian title the Hualapai Tribe was led by war chiefs and peace chiefs who exerted control over the tribe. The most famous of these were Serum, Walapie Charlie and Levi Levi.

3. The Hualapai Tribe, a Yuman speaking people, was an entity known and considered by defendant as a tribe of American Indians at the time of the alleged acquisition in 1883 by the defendant of the tribe's interest in the lands for which claim in this case is made. The Commission finds that The Hualapai Tribe of the Hualapai Reservation, Arizona, petitioner herein, is the successor in interest to the Hualapai Tribe as it existed at the date of extinguishment of said tribe's Indian title in the lands involved herein.

4. The lands which petitioner claims were exclusively used and occupied by the Hualapai Tribe from time immemorial are located in the northwest part of the present state of Arizona bounded and described as follows:

Beginning at a point in the midstream of the Colorado River opposite the mouth of National Canyon; thence south on a line (roughly following the eastern boundary of the present Hualapai Reservation) along the drainage divide between said canyon and Cataract Canyon to the water holes at Wauwila Kwa' in the headwaters of National Canyon; thence southeast to the water hole Ha'Kathskwava east of Rose Well; thence south and southeast from the Rock tank Wauwila Ha' on a line passing east of the water hole Ikisa Ha' and Mount Hope (Whala Kwitkwita) through Round Mountain to Mount Floyd

(Wi Kavaka); thence east and south along the top edge of the plateau escarpment north and east of Ash Fork; thence southwest along the top edge of the plateau escarpment of Black Mesa (Choka Wi) south of Ash Fork; thence south across the Chino Valley to the junction of Walnut Creek and Chino Creek; thence southwest on a line to Camp Wood Mountain; thence south along the north fork of the Santa Maria River and southwest along the Santa Marie River proper to its junction with the Big Sandy River; thence west along Bill Williams Fork beyond the mouth of Mohave Wash to a point (Ookwata Giyo) at the southern end of the Mohave Mountains; thence northwest along the drainage divide (Mohave Mountains) between Bill Williams Fork and the Colorado River to Crossman Peak (Kokame'); thence northwest on a line to The Needles (Wi Kwit Kwit) on the Colorado River; thence northeast on a line across Sacramento Wash to the southern tip of the Black Mountains; thence north along the crest of the Black Mountains to Mount Perkins; thence on a line due west to a point in the midstream of the Colorado River; thence north and east on a line through the middle of the Colorado River (Haitat) to the point and place of beginning.

5. Characteristic of the original Hualapai country, and a determining factor in the life of the Indian inhabitants, was a scarcity of available fresh water supplies. Some springs, water-holes, streams or other usable sources of water, however, were scattered throughout all parts of that territory. Wherever such water supplies existed, Hualapai Indians irrigated fields each year for the purpose of growing various crops, including beans, corn, pumpkins, squash, melons, wheat and peaches. The major pre-conquest Hualapai agricultural sites, of course, were located along watercourses, such as Walnut, Diamond and Truxton Creeks, and the Big Sandy River with its network of feeder streams. In addition, small garden plots were cultivated in the mountains and at springs and water-holes on the plateau, so that almost one-third of the Hualapai diet came from agriculture.

6. During aboriginal times, the Hualapai Indians obtained the greatest portion of their sustenance by gathering various natural food products of the soil. As a result of the great altitude differences in Hualapai country, there was a tremendous variety of plant foods available for use through every season of the year, and the ripening season of any particular product extended over a long period at different elevations. The major plant foods collected and eaten by the Hualapais were mescal, pinyon, cereal grasses, manat or yucca, and mesquite. In their search for these products and other plant foods, members of petitioner tribe engaged in a seasonal round of travel which carried them collectively through every part of their country each year.

7. A significant and highly desirable Hualapai food in pre-conquest years was fresh meat. The animals then most frequently hunted were deer, antelope, mountain sheep and rabbits. In their search for wild game, these Indians traversed almost every portion of their territory.

8. The Hualapai Indians in aboriginal times were forced by the very nature of the lands they used and occupied to make extensive, rather than intensive, use of the land and thus, in general, lived thinly distributed over a relatively sizeable area. The pre-conquest Hualapai population numbered about 1000, and the country inhabited could not support any greater population under then existing conditions.

9. Hualapai settlement or village sites in aboriginal times were located where there was available water. Because of environmental limitations upon the size of permanent settlements, the local Hualapai bands

were made up of smaller lineage and family units. Although these smaller groups generally utilized specific areas as the bases for their seasonal rounds, the subsistence ranges of Hualapai families, bands and divisions frequently overlapped, and all Hualapai were free to use, gather food and hunt, and otherwise utilize the natural resources in the tribe's territory. The Hualapai considered themselves to be one people; were peaceful among themselves; intermingled and intermarried; enjoyed a common culture and language and pursued a common economic life. Naturally the distribution of population and villages within Hualapai territory was determined in terms of availability of water, game and edible plants. These concentrations resulted in what may be termed geographic divisions composed of numerous groups or bands. Ethnologists differ as to the number of divisions or groups within the Hualapai Tribe but in any event there were more than forty villages or settlements within the area exclusively used and occupied by the Hualapai Indians. The largest concentration of settlements was located in the north central portion of the area as originally claimed.

10. The first known white contact with the Hualapai Indians in the claimed area was made by the famous Spanish explorer and missionary, Father Francisco Garces, in 1776. The priest's diary tells of visiting a settlement of "Jaguallapais" not too distant from what is now the town of Kingman, Arizona. Within the claimed area Father Garces visited settlements in Truxton Canyon, Diamond Creek Canyon, and near Pine

Springs among others which were inhabited by Indians he called "Yabipais". These Indians were undoubtedly Hualapai. According to Garces the "Yabipais" differed only in name from the "Jaguallapais". Garces' use of the word "Yabipais" is confusing in that it is used to refer to other Indians such as the "Yabipais Tejua" (enemies of the Hualapai and undoubtedly the Yavapai) and the "Jabesua" (the Havasupai, friends of the Hualapai) whose "rancheria" Garces observed was the largest he had seen among the "Yabipais".

11. Following Father Garces' visit to Hualapai country there is little recorded reference to the Hualapai Indians until the period of exploration following the Treaty of Guadalupe Hidalgo of February 2, 1848, 9 Stat. 922, with the Republic of Mexico, whereby sovereignty of the United States attached to the region ceded by Mexico. Lieutenant Ives, in exploring the Colorado River of the west, encountered Hualapai Indians in 1858 just east of the Cerbat Mountains, probably near Truxton Springs, who led him north towards the Grand Canyon and along the way he visited other Hualapai encampments. In 1866, the Superintendent of Indian Affairs for Arizona Territory reported that the Hualapai Tribe "occupies the country back of the Colorado river bottom, to and beyond the meridian of Prescott, ranging north to the Nevada line, and south nearly to the right bank of Williams Fork." Brevet Brigadier General T. C. Deven in 1869 observed that the Hualapai were located chiefly in the Cerbat and Aquarius ranges and on the eastern slope of the Black Mountains and that they ranged through Hualapai, Yampai and Sacramento

Valleys from the Bill Williams Fork on the south to Diamond River on the north.

12. During a period prior to 1864 whites settled upon farming lands, commenced mining operations and grazed cattle on lands formerly exclusively used and occupied by the Hualapai Indians. For a time the Hualapai Tribe maintained peaceful relations with the whites. Settlement of the region caused the United States to seek extinguishment of Indian occupancy and the concentration of the Indians on reservations. In 1864, Arizona Superintendent of Indian Affairs Charles D. Poston sought to induce the Hualapai Tribe, among others, to abandon its lands in exchange for a part of a reservation of 75,000 acres along the Colorado River. The Hualapai Tribe unconditionally refused this offer.

13. Following the killing of a Hualapai chief by a white man in 1865 conflict erupted between the Indians and the white settlers and immigrants and the so-called Hualapai War ensued in which the United States military commenced a campaign to subdue the Hualapai Tribe and other belligerent Indians in Arizona Territory. There followed a long and costly campaign during which the Hualapai Indians and the United States Army suffered numerous casualties. Hualapai settlements were destroyed and the Indians took refuge in their practically inaccessible canyons. By 1870, to avoid total annihilation, all bands of the Hualapai Tribe had surrendered. No treaty or agreement, other than a promise to cease hostilities, was entered into between the tribe and the United States at the time, however. Between 1870 and 1874, most

Hualapai Indians were forcibly detained in temporary camps under military supervision.

14. On April 16, 1874, civil and military officials of the United States, at the instigation of the Department of the Interior and with the approval of the Department of War, forcibly removed as many members of the Hualapai Tribe as could be found to the Colorado River Reservation at La Paz. The reservation proved to be completely unsuited to the needs, habits and characteristics of these mountain Indians. Frequent deaths from starvation, disease and excessive heat among the Hualapai Indians on the reservation brought renewed protests against the removal and finally in April 1875 the tribe itself took action and fled northward to its own country. When the Hualapai Indians were found in their old haunts peaceably disposed, the civil and military officers of the United States urged their superiors that it would not be either advisable or just to force their return to the reservation. The President of the United States directed that the Hualapai Indians be permitted to remain so long as they continued peaceable. There, in the country they formerly exclusively used and occupied, destitution was to be the plight of the Hualapai Indians for a number of years. Over the years, and in particular since 1870, white ranchers, miners and settlers had pre-empted all of the best water sites, and most of the best farming, grazing, mining lands in the area, had destroyed or appropriated most of the areas of natural vegetation relied on by the Indians for subsistence, and had killed or driven off much of the game

once present. By 1881, the Hualapai Indians had become utterly destitute and dependent upon the temporary issue of military rations to remain alive.

15. Immediately upon the return of the Hualapai Tribe to its own country in 1875 from the Colorado River Reservation, agitation by the settlers and government officials once again commenced to confine the tribe upon another reservation. The Hualapai Indians feared to accept rations believing such action would lead to their confinement on a reservation. Realizing the inevitable, and desiring a home of their own in the area before the lands and water were completely taken up by settlers, the Hualapai Indians in July 1881 finally appealed to the United States to provide them with a reservation at a council of the tribe with Lt. Colonel Price of the United States Army.

16. On July 8, 1881, Brevet Major General Willcox, acting on Lt. Col. Price's recommendation and subject to the approval of the President, set apart the following described area "for the subsistence and better control of the Hualapai Indians":

Beginning at a point on the Colorado River, five (5) miles eastward of Tinnakah Spring; thence south twenty (20) miles to crest of high mesa; thence south 40° east twenty-five (25) miles to a point of Music Mountains; thence east fifteen (15) miles; thence north 50° east thirty-five (35) miles; thence north thirty (30) miles to the Colorado River; thence along said river to the place of beginning; the southern boundary being at least two (2) miles south of Peach Spring, and the eastern boundary at least two (2) miles east of Pine Spring.

On January 4, 1883, President Chester A. Arthur ordered this tract "set aside and reserved for the use and occupancy of the Hualapai Indians."

17. The Commission based upon the foregoing findings of fact and the record as a whole finds that the Hualapai Tribe exclusively used and occupied the following described tract of land:

Commencing at a point on the southern shore of the Colorado River marked by extending a line projected northward from the northernmost tip of the plateau ridge between Prospect Valley and Mohawk Canyon; thence southward along the crest of said ridge (or the top edge of the western rim of Mohawk Canyon) to the top edge of the Aubry Cliff escarpment; thence along said escarpment's top edge to its southern end in T 23 N, R 6W (see solid red line on petitioner's map, Pet. Ex. 116); thence southeast to Picacho Peak; thence south to Indian Peak (Kulchi Pawo); thence southwest to Camp Wood Mountain; thence in a direct line southwest to Signal, Arizona; thence in a direct line northwestwardly to Crossman Peak (Kokame); thence north to the Buck Mountains; thence northwestwardly to the southern tip of the Black Mountains; thence generally northward along the crest of said Black Mountains to Mount Wilson; thence in a direct northeastwardly line to the southern shoreline of the Colorado River; thence in a general eastwardly direction along said southern shoreline of the Colorado River to the place of beginning.

18. The Commission finds that the Indian title to the Hualapai Tribe to the lands described in Finding of Fact No. 17, outside of the Hualapai Reservation, was extinguished by the United States on January 4, 1883, when the President of the United States by Executive Order set aside and reserved for the Hualapai Indians and the Hualapai Tribe accepted the reservation described in Finding of Fact No. 16. The Commission also finds that the Indian title of the Hualapai Tribe in said lands outside the reservation boundaries was extinguished by the United States without payment of compensation therefor to the Hualapai Tribe.

19. The Commission finds that the petitioner is entitled to recover of and from the defendant the fair market value of the lands described in Finding of Fact No. 17 (less the lands encompassed in the Hualapai Reservation) as of January 4, 1883, less such offsets, if any, which defendant may be entitled to under the provisions of the Indian Claims Commission Act (60 Stat. 1049).

Arthur V. Watkins
Chief Commissioner

Wm. M. Holt
Associate Commissioner

T. Harold Scott
Associate Commissioner