

BEFORE THE INDIAN CLAIMS COMMISSION

THE YAKIMA TRIBE, for and on)
 behalf of the WISHRAM BAND)
 OF YAKIMA INDIANS,)
)
 Petitioner,)
)
 v.)
)
 THE UNITED STATES,)
)
 Defendant.)

Docket No. 165

ORDER DISMISSING PETITION

This case involves a claim presented by the Yakima Tribe on behalf of the Wish-ham or Wishram Band of Indians in a petition filed on July 24, 1951. The Wishham Band was one of the fourteen separate bands confederated under the name of the Yakima Nation by the treaty of June 9, 1855 (12 Stat. 951) and made a cession of their aboriginal lands in the State of Washington. The petition alleges that after said treaty was executed the Indians were told the United States did not intend to pay for the lands ceded, and believing these representations the petitioner went to war with defendant; that the Wishham Band remained friendly to the United States and, under an order of the Indian Agent, reported to Major Haller in command at Fort Dalles where he had the Wishham Indians turn over to him all their weapons, knives, guns, etc., to be returned to them after the war; that in October, 1855, said Wishham Indians while encamped near Fort Dalles, were mistakenly attacked by United States troops as hostile Indians and their tepees, houses, buildings and personal belongings were destroyed; and, that upon being advised of said mistake the Officers of the United States promised the Wishham Indians the United States would pay them for their losses but that no payment was ever made nor their weapons returned to them. An accounting is asked in the petition for the total number of guns, knives and other weapons surrendered by the Wishham Indians, and for the alleged wrongful destruction of their tepees, houses, clothing and other personal property, and for judgment for the value of same.

On October 17, 1951, the defendant served written interrogatories on petitioner requesting the name of the Indian agent and the official names or unit numbers of the United States troops and of the officers referred to in the petition; and whether the property alleged to have been lost or destroyed was the property of the Wishham Band or the property of the individual members of said band. The interrogatories were never answered by petitioner, and on April 15, 1963 the defendant filed a motion for an order dismissing the petition for the failure of petitioner to prosecute said

action. On April 26, 1963, petitioner filed objections to defendant's motion, stating that petitioner's attorney had been unable to find evidence of the extent of the damages suffered by the Wishham and would have to do further research to secure the necessary evidence to support the claim, giving this reason why the interrogatories had not been answered. By order of May 10, 1963, the Commission denied the defendant's motion to dismiss and granted the petitioner six months from date of the order to answer the defendant's interrogatories.

The case was set for trial on the merits on June 15, 1965, at which time counsel for the petitioner conceded that the claim was based on a traditional story told him by an elderly Wishram Indian. Counsel stated that he had made a thorough search of all public records but had been unable to find any evidence to sustain the claim and suggested that the petition be dismissed. Counsel for defendant stated that he had also made a thorough search of the public records and had found nothing relating to the incident alleged in this case.

Since no evidence has been found to support the alleged claims, the Commission finds that said petition should be dismissed.

IT IS THEREFORE ORDERED that the petition in Docket No. 165 be, and the same is hereby dismissed.

Dated at Washington, D. C., this 19th day of July, 1965.

Arthur V. Watkins
Chief Commissioner

Wm. M. Holt
Associate Commissioner

T. Harold Scott
Associate Commissioner