

Report Ruby
Valley Evidence.

Reno, Nevada, Oct. 24, 1917.

Col. L. A. Dorrington,
Special Indian Agent,
Reno, Nevada.

My dear Mr. Dorrington:

I take pleasure in reporting progress
in the Ruby Valley controversy.

On the evening of Oct. 7th, 1917, after
learning that Mr. B. C. McBride was in Carson with the
State Engineer and had called on me at our office on
the day previous, I arranged a meeting at our office
with him for the purpose of learning from him direct
just what he and his associates had to offer as a basis
for settling the controversy over the Tomon lands and
water matters in Ruby Valley. Mr. McBride brought with
him Mr. Broili, formerly connected with the State Engineer's
office. Just why he brought Mr. Broili I do not know, as
he is not now connected with the State Engineer's office.
Mr. Broili took considerable part in the conversation.

I could get nothing definite from Mr. McBride
but both he and Mr. Broili put in about three solid hours
apparently trying to convince me that we had no case and
endeavoring to justify all their course since they began
their reclamation work in Ruby Valley. The interview closed

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just about where it began, as far as Mr. McBride committing himself or his associates to anything definite.

During the next day Mr. H. T. Johnson, assistant irrigation engineer, Indian Service, now at Pyramid Lake Reservation, called me up and stated that his chief, Mr. E. W. Dietz, of Salt Lake City, was there. I at once arranged for him and Mr. Johnson to come to Reno for the purpose of meeting Mr. McBride, whom I called up at Carson and completed the engagement, arranging for a meeting at our office the same evening. I felt that a record of the conversation might be very valuable later on, either if a settlement should be agreed upon or in the event of the case going into court, and arranged to have Mrs. Dow on hand to take notes of the conference, as the conversation proceeded. I met Messrs. Dietz and Johnson early in the evening, and informed them of my unsuccessful attempt to get anything definite from Mr. McBride the previous night and thus prepared them for the interview.

All that as per agreement in our office and a complete report of what was said, which was taken down by Mrs. Dow, is submitted herewith. This report will show that this interview was about as successful as the one I had the previous evening, as far as getting anything definite out of Mr. McBride is concerned. However, the irrigation side of the controversy was pretty thoroughly aired out

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and may be of a good deal of value to Mr. Woodburn and others in conducting the case.

Next morning I met Messrs. Diets and Johnson at their hotel and we discussed the whole situation and the result of the evening's interview with Mr. McBride. We unanimately agreed that settlement out of court was impossible and that our decision should be presented to District Attorney William Woodburn at once and thus allow him to proceed with the case. I undertook to bring about a meeting of ourselves with Mr. Woodburn, but Mr. Diets was obliged to catch a train before Mr. Woodburn arrived at his office. However, Mr. Johnson and I met him, briefly described the interview we had with Mr. McBride and announced our decision, which was followed by considerable discussion of the case, especially from its incipitation aspects. Mr. Woodburn stated that he would begin a suit in a few days, as he was then engaged with business connected with the draft. I informed him that I would go to Ruby Valley at once and collect all the additional evidence possible. I left Reno on the morning of the 13th inst. for Elko and Ruby Valley. The Office instructions to collect and secure evidence in this case appeared to give us a great deal of leeway, and leave us free to use any reasonable means necessary to accomplish the purpose. I considered its instructions issued in this form to be sufficient

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justification for me to use an interpreter without getting a special authority for the same. There was only one whom I could trust to give proper and intelligent interpretation sufficient for information to be used as evidence.

Captain Dave Munana, Pain's chief, of Pyramid Lake Reservation, an old and valued friend of mine, is expert in the use of the Shoshone tongue, as well as his native dialect. He is now eighty-eight years of age and I hesitated very much before inviting him to make the long and arduous journey into Ruby Valley, which is eighty miles from the railroad. After explaining carefully why I needed him, he readily consented to go. I was extremely anxious all through the trip, as we had to ride on a rough truck and it was an all day and part of a night trip. When we arrived at the Ruby Valley postoffice it was very dark and the Indian who had been waiting for us had left, thinking we were not coming. There was no place for us to sleep at the postoffice, so we started for the Tomoe cabins, about three-quarters of a mile distant. I knew the location, having made one visit to this place and started for them without any lights to guide our footsteps. About one-third of the way Captain Dave became exhausted and suggested that I go ahead and locate the cabin and call to him and he would follow. I left him and finally reached the cabin, found a door open but no one at home, but evidences of recent occupation were visible. I fortunately

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had matches in my pocket, found a lamp, lighted it and started on the back track to find Captain Dave. I failed to find him for some time but after searching for awhile discovered that he had left the road or trail for some distance and was lying down on a bed of sand in the wash of a ditch, which was fortunately dry. I had considerable difficulty in rousing him, as he was very tired and sleepy. He begged earnestly for me to lie down and spend the night there with him, but I encouraged him by pointing to the light and told him we could easily make it by my helping him. He finally got up courage enough to make the effort. We reached the cabin, where I made a fire, and told him I would go out and endeavor to find some of the Indians, as I saw a light a considerable distance away, where I knew there were some cabins. He was rather unwilling for me to go for fear the light might go out. I encouraged him by telling him that there was considerable oil in the lamp and I would make all the speed I could and felt sure that I could bring some of the Indians back with me. I finally reached the camp and got some coffee of the Indians and several came to the cabin with me. I had provided myself with some crackers and canned meat, so I soon cooked a rather substantial supper which braced the Captain up in good shape. After a short talk with the Indians, arranging for a meeting on the morrow, we laid down on the bare floor and passed the night. I slept but

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little, but the Captain appeared to sleep quite soundly and in the morning was practically his old self. I got something for breakfast and the Indians soon came and we began the preliminary visit which was protracted for the remainder of the day before the subject of our mission was broached.

In addition to finding the attitude of the Indians on all subjects connected with the controversy and securing evidence, I had in mind that the last resort to be reached in convincing these Indians that the government had fulfilled all promises made by its commissioners in the treaty of 1863 and the impossibility of their ever having a reservation in Ruby Valley, must be through the medium of Captain Dave. Fortunately by some means I had secured a copy of Kapler's Laws and Treaties. I know that Meseach Tomoquo had received a personal letter from the Commissioner of Indian Affairs, signed by Mr. Sells himself, covering all the subject Tomoquo had presented to the Office in Washington during December and January. Quite a number of the Indians were present at the informal talk we were holding. I read the Commissioner's letter, paragraph by paragraph, and it was fully explained to all the Indians by Captain Dave in the Shoshone tongue. Immediately afterwards the old treaty of 1863 was read article by

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article and carefully interpreted in the Shoshone tongue and discussed and commented on by both Captain Dava and the Indians. Joe Tomoqua was absent in the north end of the Valley. Masach Tomoqua was only with us a short time, as he is employed as foreman on one of the valley ranches. One Frank All took a leading part as spokesman for the others. He refused to accept the statements made by the Commissioner in his letters as final and denied that the terms of the treaty had been fulfilled. It was useless to argue further with him, so I told him that the best thing the Indians could do would be to forget their claim of a reservation six miles square which they insist should be restored to them, and that it was located near and around the mouth of Overland Creek. I informed him and the other Indians through Captain Dava that our mission at present was to make a strong fight to hold the forty acres in dispute, with the water right appurtenant thereto, for a home for the Indians without land, and also to secure title to as much water as possible for the allotments made to individual Indians, lying adjacent thereto. That we wanted to collect all the evidence possible to strengthen our case, both from Indians and Whites, which would soon be tried before the United States Court at Carson City.

Captain Dava was thoroughly acquainted with the

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conditions, climate and value of the land on the Duck Valley Reservation, having visited it several times. He was very enthusiastic over its possibilities, with the prospect of additional irrigation being provided for it through storage reservoirs. He urged the Indians who had no landed interests not to go in a body but to send a delegation of two to four men to take up the matter of their being allotted on the reservation, after making a thorough investigation of the land and the conditions. He urged them to go at once while the weather was fine.

Frank All was outspoken in the opinion that a reservation should be provided for them in Ruby Valley and that money was still due them from the government. Captain Lavo impressed it thoroughly upon their minds that the hundred thousand dollars mentioned in the agreement and referred to in the Commissioner's letters, while it was expressed in dollars, meant that the value would be given in merchandise, services, etc., as was the custom of the Department in issues to Indians, and not to pay money unless there was an express stipulation that cash should be paid. All this seemed to have no effect. I informed them that all we could do was to fight for the forty acres and water for the land they had taken up from the Public Domain, which I felt was as far as the Department ever could go. This was extremely unsatisfactory to them and we were counted

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"no good". As I stated before, I consider explanations of conditions through an interpreter of the character of Captain Lane is the last word in attempting to convince these Indians that the Department has gone to the limit in fighting their cause and explaining past and present conditions. I see no use in further argument. After the title to the land is settled and their water rights adjudicated as suggested by Mr. Niets in the stenographic report of the conversation referred to above, I feel that nothing else can be done except to allow any future troubles to be settled by the state and county authorities, should any further friction arise between them and their white neighbors, as they are absolutely unreasonable, that is, the younger class. The old Indians are honest, simple-minded and tractable.

Should the title to this forty acres be secured for the Indians, I would suggest that it be thoroughly understood that it is for a home for any of the soldiers mentioned affiliating with this band and not be given as a reward or allotment to any individual Indian, but that the title remain in the United States.

As to the evidence secured, I am pleased to say that whatever the outcome may be, I feel sure that it is sufficient to establish the occupancy of the Indians previous to its being selected by the state, antedating such selection an indefinite term of years.

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First: Joe Tomoqne, Masach Tomoqne and Lazy Jim should be summoned for Indian witnesses. They insist that the Indians have resided there for an indefinite period of time. Lazy Jim states that they sowed wheat, barley and oats on this particular place, indicating a spot within the conceded boundaries of this forty acres as surveyed by the whites claiming it. He states that they obtained their first seed by gleaming the fields of some white people, possibly referring to the grain fields of the Overland Stage Company, which were planted near the mouth of Overland Creek. Immediately after this, Colonel Head, who appears to have been agent in charge, issued grain and furnished oxen and plows to plant quite a considerable area within the conceded boundaries of this particular tract. Colonel Head was in charge about 1867. The Land books show that this township 50 North, Range 13 East was surveyed in 1870.

Just what Masach Tomoqne and Joe Tomoqne will testify to in addition to claiming indefinite occupancy, I do not know, as Masach was very uncommunicative and I did not see Joe.

Lazy Jim states that when he began to dig the first ditch there was no concerted action under any particular leadership, but all the Indians turned in and helped him, until they had opened up sufficient ditch to