

Wells

Aug 2, 1962

Real Prop. Mgmt.  
Acq. & Disp.  
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Mr. Fredrick M. Naverland  
Area Director, Phoenix, Arizona

Dear Mr. Naverland:

This has further reference to your letter of May 18, 1962, and prior exchange of correspondence which concerned two separate questions with respect to the group of Shoshone Indians in and near Wells, Nevada.

One question related to the rights of this group to lands which they now occupy and the other to what should be done in response to the Indians' desire for public land withdrawal.

The existing record does not support the Indians in their claims to aboriginal or other rights to the NW 1/4 of Sec. 10, T. 37 N., R. 62 E., on which some of them now reside. The confusion existing as a result of the alleged claims of the Indians and of statements regarding the exchange of rights for public lands should be removed. This, of course, would not preclude further investigations by your office and investigation by the Indians themselves to attempt to prove their aboriginal rights to these lands.

With respect to the withdrawal of public lands for these Indians, additional information and recommendations are needed from you. The social problems likely to result from a reservation type withdrawal would seem to dictate against any arrangement that would tend further to isolate these people and would possibly be a step backward so far as economic self-sufficiency is concerned. It would be more realistic to grant land to individual heads of families.

In his letter dated November 6, 1961, Mr. Pahwena stated that city had to tap the Wells City water line which runs through Sec. 15 without payment or compensation to the city. This certainly should be cleared with the city. The need for fire protection, police protection, and other municipal or county services must not be overlooked.

Do Not File  
Return To  
Branch of Realty

In connection with the proposed withdrawal, your recommendations should include the amount of land for each family head and which Indians should receive this land. Available information indicates that only one-third of seventy Indians involved live outside Wells. It would appear undesirable to attract those Indians who are fairly well adjusted in Wells to leave their present domiciles to occupy land grants of questionable value and use.

All problems and responsibilities relative to land ownership should be fully explained to the Indians, i.e., water needs, how housing will be accomplished, whether occupancy is going to be required of all who accept land, whether the city and county are interested in assisting in the platting of the area in view of the future growth of the city of Wells, and in view of the latter point, whether fee title should be given.

If you are satisfied that the rights of these Indians to the presently occupied lands are unsubstantiated and if it may be determined which Indians, or whether any, would gain through receipt of grants of vacant public lands for homesites, proposed legislation should be submitted to this office for consideration. The proposal must include consideration of the costs to the Government of purchasing any grazing leases or other use rights on the public lands in question. The specific tracts found to be most suitable should be identified so this office may initiate action to prevent other disposal of the public lands.

Sincerely yours,

(Sgd) J. C. [unclear]  
Deputy

Commissioner

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Wells

WITHDRAWAL OF LANDS, NEVADA, IN CONNECTION WITH THE  
CLAIMS OF CERTAIN INDIANS TO LANDS THEY NOW OCCUPY AND  
WHICH SHOULD BE DONE IN RESPONSE TO THE INDIANS REQUEST  
FOR PUBLIC LAND WITHDRAWAL  
SEPTEMBER 26, 1962

A group of ten or more adult Shoshone Indians now live in small shacks located within the city of Wells, Nevada, and probably on lands described as the ~~100-1000~~, ~~100-1000~~ sec. 10, T. 21 N., R. 22 E., 100-1000, Nevada, which are privately owned. Most of the seven dwellings are constructed of railroad ties and some are covered with sheets of tin and one is of frame siding. It is reported that the 3 x 12' frame siding house was moved to its present site in 1923 and the remaining shacks were built about 1934.

Some three years ago, an Agency report was prepared attempting to establish the Indians' claim to the land through either adverse possession or by aboriginal rights. These rights were not conclusively established (Note 1) and thereafter it was considered possible to withdraw public lands in or around the city of Wells for Indian use to terminate the trespass on private lands. The owner, Mr. Burdwell, has requested that the Indians be removed from his property (~~100-1000~~ above) which is being prepared for subdivision development.

The withdrawal notice was recommended by Superintendent ~~100-1000~~, endorsed by the Indians and accepted by the City who offered to the Indians the right to buy the city water main crossing a parcel of the selected lands. In our letter of ~~100-1000~~, 1958, we requested suggestions from the Area Office as to the treatment of Mr. Burdwell's request to remove the Indian people from his land. His request was published upon a letter of October 10, 1961 from the Central Office wherein they commented as follows on the plan for land withdrawal: "His matter will be considered in relation to our policy governing such proposals, and as soon as a decision has been reached it will be communicated to you." Hereafter, we received a letter of August 2, 1962 from the Central Office requesting additional information and recommendations in connection with the proposed withdrawal action.

We discussed the situation with both Mr. Burdwell, upon whose lands some of the Indian houses are allegedly located, and with Mr. Russell, Mayor of Wells. Both the Mayor and Mr. Burdwell are anxious that the Indians and their belongings be removed as soon as possible so that the proposed development can proceed in an orderly manner. The Mayor reaffirmed the City's position that the Indians would be allowed to keep any water pipes over line which crosses certain public lands in sections 10, T. 21 N., R. 22 E., 100-1000, Nevada. Both Mr. Burdwell and the Mayor were of the opinion that the trespass issue was a matter that the Bureau of Indian Affairs should correct.

Note: 1 - Mr. William Brewster's letter of August 21, 1960 in connection with adverse possession and Washington Office letter of August 2, 1961 (esp. to ~~100-1000~~ and ~~100-1000~~ signed by Carl C. Crow, Central Office) in connection with the existing record of claims as to aboriginal or other rights.

We made an on-site inspection of the Indian homes and other buildings with Mr. Birdsell, who stated that his property was undergoing a land survey and he was not able at the time to indicate his precise boundaries. Mr. Birdsell did arrange to take pictures of some of the shacks and they are part of this report. Also enclosed is a rough plot showing the general location of each dwelling in relation to each other and the reported owners.

In connection with this phase of the investigation, a roster of the Wells Indians was prepared from information furnished by Mr. Dave Jabovena showing the family status, age, degree of Indian blood and whether or not they were receiving Welfare aid. The roster is also a part of this report.

Thereafter, we discussed with Mr. Dave Jabovena and his wife, Etoile, the purpose of our investigation. We made a point of explaining to Mr. Jabovena that his reference to an exchange of land the Indians were now occupying for other land was not correct since the record failed to show any ownership by the Indians. We explained that our investigation was to establish whether or not the Indians could claim any land in or around the Wells area predicated upon aboriginal rights. Mr. Jabovena was furnished with the name and address of Superintendent Bullock and a tentative schedule for an additional meeting with the Wells Indian group was scheduled for November 1962. We felt that this time would allow the Superintendent to evaluate facts at hand and would represent a time when many of the Indian people who were working in the harvest in Idaho and Utah would return to the Indian community at Wells.

During a later phase of the investigation, Mayor Eugene Youngally asserted that the Central Pacific Railroad which is now the Southern Pacific entered the City of Wells in 1889. The City of Wells was incorporated on March 24, 1927. The Mayor was unable to state definitely on whose lands the Indians were presently located. He agreed, however, that our showing of the general location on a city map was approximately correct. Mayor Youngally was of the opinion that if the Indians could be located in the NE $\frac{1}{4}$  of section 3 within the city limits that sewer and water facilities could be provided at the Indians' cost from the termini of the city facilities in NE $\frac{1}{4}$  sec. 20. Bureau of Land Management records show this land as vacant Federal reserves. This location would require approximately 1/4 mile of water and sewer lines and would need additional studies as to whether or not sewage facilities could be incorporated in such a plan, since that area in section 3 might be too far to provide sewage service.

The Mayor also felt that problems the County could provide land in the SW $\frac{1}{4}$  sec. 3 since the record showed that Blaine County owned eight (8) 35 x 100' lots with available utilities.

We suggested and Mr. Youngally agreed that the City of Wells take a study of the Indian relocation problem and submit their recommendations. We explained to the Mayor that we were the listener for the management of Indian real properties, but in the instant case, there was a question as to our jurisdiction since the Indians could not evidence ownership to any real property in the city of Wells.

We talked with Mr. Jackson of the First National Bank at Wells about the possibility of the bank loaning money to the Indians for the construction of homes. Mr. Jackson confirmed our concept of normal loaning practices in that they would loan money to anyone who could show that they had the ability to repay and collateral to guarantee the loan. He emphasized that elderly people, 60 years of age or more, would not be considered eligible for a bank loan. He did feel, however, that depending on the amount of the loan and the type of collateral available that in some instances pensioners might qualify for a home loan. Mr. Jackson volunteered the information that several Indians of the Wells area had loans with his bank, but generally speaking, the Indians at the Wells Colony in his best judgment would not qualify for loans.

Mr. Fabarsena commenting on the absence of the other Indians stated that they were either at a meeting in Tapan, Utah on the Goshute Reservation or were working in the harvests. We did, however, spend some time with Gladys Adams, a member of the community, and explained to her the limits of our jurisdiction and that we would expect the Indians to establish a competent claim of aboriginal rights to the lands on which they were presently located. We specifically requested that she inform the rest of the Indian group about the substance of our talk.

We pointed her that it would require an Act of Congress to acquire a reservation for the Indians. We further explained that we did not feel that this was an answer to their problem since this would isolate them from community life. We made a special reference to community facilities at Wells now available such as fire and police protection, utilities, shopping facilities and schools. Mrs. Adams agreed that she would not desire an isolated location since her three children went to the local schools and she depended on her livelihood from domestic employment in the homes of the people of Wells. We went on to explain that Mr. Fabarsena had requested agriculture land be set aside for Indian use. We informed Mrs. Adams that in our judgment this was not the answer to the problem either since those requesting the land were elderly and would not be able to operate the land. In addition, we pointed out that water for irrigated purposes would be expensive to develop.

Upon questioning as to the location of the three (3) referenced camps in the area of Wells, we could only glean information that her grandmother had told her that the Indian camp had been in its present location for years and before that it was north toward the railroad tracks.

1886  
While Fabarsena was one of the Indians who signed an affidavit attesting that Indians had occupied and used a portion of section 10, T. 37 N., S. 22 E., 100, Nevada since 1866. Upon questioning, Mrs. Adams stated that she did not know Billie Fabarsena. Our copy of the affidavit is illegible and it could be signed by Louise Fabarsena (age 70), the wife of James Fabarsena, a Wells resident, age 75, who was married at Carlyle when he was 16. Neither Mr. or Mrs. James Fabarsena were available for questioning.

He asked Mr. Birdsell when he expected to develop the land presently in the process of subdivision and he stated "as soon as possible." He also admitted that Mr. Vaughn was not only his attorney, but he was also the City Attorney. He asked Mr. Birdsell to furnish our office with the results of the land survey of his property so that we could ascertain definitely which, if any, of the Indian dwellings were encroaching on his land.

We drove to Clover Valley and visited Mr. R. E. Steele, age 39, who we were given to understand was the first white child born in the area. Mr. Steele admitted knowing some of the older Indians such as Goe Nyed Jack, Mustang Jim, Old Post, Silcock, Soldier Charley and Medicine Man. He affirmed that all of these Indians lived below the Shoer Ranch in Clover Valley and raised gardens. He asserted that the land they used was owned by the railroad which the company held for the Indians. He explained that several ranchers had attempted to buy the land from the railroad, but that they would not sell as long as the Indians were using the property.

1880  
Upon a request to explain the several camps in and around the area of Wells, he stated that the first camp was north of Wells where they had an annual Powwow to receive the benefits of the Ruby Valley Treaty including cash, clothing and, in some instances, wagons. This he estimated to be around 1880. The Indians who did not join in the traveling segment of the band established their new camp thereafter in the general present location. From there, they moved towards the Western Pacific tracks which are west of the present town of Wells. Following that the Indian group moved back to the present site in section 10.

Mr. Steele went on to explain that the Indians were migratory in their habits and they moved from place to place in search of temporary work in the gathering of wood and the harvesting of pine nuts. It was his opinion the transient habits of the Indians were also due to their search for game and the fact that if one of the members died in any camp then the entire group moved elsewhere.

To the best of his knowledge, Dave Roberson and his wife Bebie migrated to the Wells area from Star Valley, Nevada. Albert Stanton probably moved into the Wells area from Cherry Creek in White Pine County. James Roberson also possibly moved in from Star Valley and Clyde Adams came from the Ely area. He was not familiar with Johnny Bill Antelope's origin as was the case of Jim and Nellie Charley and James Bird. Mr. Steele was of the opinion that it would not be possible to pin down the location of the Indian camps because of the passage of time and because of the wandering habits of the bands and individuals before the turn of the century.

An attempt to contact Mr. Russell Weeks of Clover Valley was unsuccessful. We received information that he was at the World's Fair in Seattle. Mr. Russell Weeks was reported to be an elderly citizen who might contribute to the investigation.

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We stopped at the Charles Shear Ranch in Clover Valley and no one was at home, however, the facts as recited by Mr. Steele above in connection with the Indians raising a plot of railroad land places doubt on the Indians' allegation that the land belonged to them. The County records at Reno show that Charles Shear sold lands described as the S $\frac{1}{2}$  of sec. 17, S $\frac{1}{2}$  sec. 23, N $\frac{1}{2}$  sec. 29, T. 35 N., S. 62 E., 12TH, Nevada, to Deana Hooks. No lands of record for Mr. Shear were found in T. 35 N., S. 62 E. This pertains to a separate investigation in connection with claims of the Wells Indians that they owned lands in Clover Valley.

We approached the District Attorney, Mr. Joe Falkenstein, in Reno in connection with the Wells investigation and it was his opinion that he had no jurisdiction unless it resulted in a welfare situation.

We also discussed the situation with Mr. Robert Vaughn, Wells City Attorney of Wells, Nevada, who is also legal counsel for Mr. Birdzell of Wells, Nevada on whose lands the Indians allegedly trespass. We explained to Mr. Vaughn that there was some question as to our jurisdiction in the matter since the records did not yet show Indian ownership of land in the Wells area. We informed Mr. Vaughn that we had suggested that the city of Wells submit a representation as to possible methods of correcting the encroachment of the Indian houses on Mr. Birdzell's property and as City Attorney, he enforced such an approach.

Mr. Vaughn was rather surprised that Mr. Birdzell was pressing the issue stating that he felt Mr. Birdzell intended to work the problem out gradually and systematically over an extended period of time. We could only repeat Mr. Birdzell's communication by letter and orally that he intended to subdivide the property and it was necessary that the trespass be corrected as soon as possible. Mr. Vaughn agreed to recommend to the Wells City Council that they prepare some suggestions regarding a program to relocate the Indian people.

1868  
We were unsuccessful in contacting Mr. Orville Bailey and A. S. Leathers of Clover Valley. We were given to understand at Wells that both of these persons were old timers in the area and might be able to shed some light on the occupancy of the Wells Indians in this area. Mr. Leathers has previously advised by affidavit that the Indians had occupied sec. 29, T. 37 N., S. 62 E., since about 1861 when the railroad was built.

In our final judgment, the aboriginal rights of the Indians at Wells, Nevada cannot be mistakable. In our discussion with Mr. Dave Lawrence and Gladys Jones of the Wells Community we ascertained that we could find no evidence of Indian ownership rights on the lands on which they are residing and that statements regarding the occupancy of their alleged claims or rights to these areas for public lands was not correct. We urged that they continue their own investigations to prove their aboriginal rights to lands in and around Wells, Nevada.

in concert with the Washington Office that the social and economic problems involved in the withdrawal of public lands outside the city of Wells would most likely result in a reservation type situation that would not be to the best interests of the Indian group particularly since municipal benefits would not be available to the Indian people. The investigation shows that the majority are elderly pensioners and that there are several children attending local schools. Moving these people to an isolated area would make it difficult for the elderly people to purchase food and for the children to attend school. Neither would it be realistic to grant land to elderly individuals since they would not be able to use the lands for agricultural purposes.

We feel that there is some merit in the possibility of withdrawing land for lease sites for the Wells Indians, but if the land is conveyed in fee then the problem of developing utilities arises. The land should be taken in fee, however, since the Bureau is unable to adequately service trust obligations in this area. On the other hand, if the land is withdrawn and held in trust, it is possible that the United States Public Health Service may construct water and sanitation facilities for these people, but only as funds are available and as progressed along with many other situations in Nevada which need this type of improvement.

According to the Mayor of Wells, the County of Elko owns eight (8) 25' x 100' lots which might be considered in the program of relocation. The fact remains, however, that even if lands are withdrawn or if the land is dedicated by the county to the Indians, the matter of constructing homes remains a permanent issue. The present homes cannot be moved to another location and because of this the Indians cannot retain them with their own resources and it is not likely they could qualify for outside financing.

In our opinion, the only solution to this social-economic problem is for the city, state or federal government or a combination of such agencies to acquire lands within the city of Wells and purchase or construct homes for the permanent residents of the Indians now in the present colony. This would include the inclusion of itinerant Indian workers or those Indians who are presently adjusted in Wells or elsewhere.

Ed. Buckell  
Land Program Officer



MEMBERS OF  
WELLS HOLLOW COUNTRY

| NAME                    | RELATION        | AGE | RESIDENCE | OWN HOUSE | PROPERTY      | REMARKS  |
|-------------------------|-----------------|-----|-----------|-----------|---------------|--|
| 1. Dave Fehervens       | H               | 70  | Shoshone  | Yes       | A. to E. \$35 | Does not work.   |
| 2. Rosie Fehervens      | W               | 75  | "         | Yes       |               | " " "  |
| 3. Albert Stanton       | H<br>(Widower)  | 67  | "         | Yes       | Sec. Soc.     | Works as ranch hand. All children grown & married & live elsewhere.                                      |
| 4. Johnny Bill Antelope | H               | 85  | "         | Yes       | Yes           | Wife dead. Lives with Grand-daughter in Idaho.   |
| 5. James Fehervens      | H               | 85  | "         | Yes       | Yes           | Does not work.   |
| 6. Rosale Fehervens     | W               | 70  | "         | Yes       | 1             | " " "  |
| 7. Gladys Adams         | H<br>(Divorced) | 34  | "         | Yes       | ADC           | Occasionally does housework and farming.<br>Children: Marvin - Age 13<br>Berenny - " 11<br>Barbara - " 9 |
| 8. Charles Jim          | H               | 30  | "         | Yes       | Yes           | Works on ranch hand. Son, Glenn (27), lives with James Fehervens.  |
| 9. Nellie Jim           | W               | 52  | "         | Yes       | No            | Mr. Jim is the brother of Gladys Adams.  |
| 10. James Bird          | W<br>(Widower)  | 34  | "         | Yes       | No            |  |

In addition to those above, Dave Fehervens states the following are also members of the Wells Hollow Country:

11. Albert Stanton, Sr. (Dec'd.)

Gen of Albert Stanton, \$3 above.  
Now divorced from 1st wife - 2  
boys 15 & 27, living with aunt,  
Laura Stanton in Elgin, Nev. And  
also living in Snow Valley - 2  
boys, ages 11 & 9, and 1 girl,  
age 6.

12. Willie Porter H 69 Coquille ?  
Mrs. Carter W 60 " " ?  
" " " " ?  
" " " " ?  
" " " " ?  
" " " " ?

MEMBERS OF  
HELLS INDIAN COUNCIL (Cont.)

| <u>NAME</u>                             | <u>RACE</u> | <u>AGE</u> | <u>HAIR</u> | <u>COMPLEXION</u> | <u>RESIDENCE</u>  |
|---|-------------|------------|-------------|-------------------|---|
| 13. Isobel Murphy<br>Dad Murphy         | W           | 23<br>25   |             |                   | Live at Twin Falls, Ida. where<br>husband works on ranch near<br>small village. Granddaughter of<br>Johnnie Bill Antelope #4 above. |
| 14. Martin Johnnie<br>Married to Navajo | W           | 20<br>30   |             |                   | Lives at Parley, Ida. where husband<br>works on ranch near Nevada is<br>sister of Isobel Murphy.                                    |
| 15. Wilford Johnnie                     | W           | 28         |             |                   | Married to Fort Hall girl. Lives<br>at American Falls, Ida. where he<br>works on ranch near<br>Ranch near.                          |
| 16. Isaac Jim                           | W           | 30         |             |                   |   |

In addition, the following persons signed a petition dated 11/6/62 as Hells Indians requesting that withdrawal.

17. Johnny Stanton
18. Alfred Stanton
19. Frederick Stanton
20. Mary Stanton
21. Jack Joel
22. Glenn G. Bivd (Age 17 - see #10)
23. Steven Johnnie
24. Gerry Johnnie