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THE BOISE CLAIM

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In a belated effort to correct injustices arising during the acquisition of Indian lands, Congress established an Indian Claims Commission in 1946. This agency has been reviewing cases involving Indian lands for more than a quarter century. Complaints that the Indians had been dealt with unfairly had reached Congress for many years. Treaty payments for Indian lands often had failed to approach values normally paid by whites. Since the Indians generally did not buy or sell land at all, until they were forced to sell to the whites, bargaining over land values had made little or no sense to them. While they generally might have preferred to have their lands back, the Indians have been busy since 1946 in bringing actions to recover the amounts they should have been paid a century or more ago when their lands were taken from them. The entire operation has been decidedly unusual. But to satisfy awards determined by the Indian Claims Commission, Congress has voted millions of dollars to rectify inadequate treaty payments made long ago.

In the case of the Boise and the Bruneau Shoshoni, the United States never got around to paying anything at all for the Indian lands of southwestern Idaho. In the treaty of Fort Boise, October 10, 1864, the Boise Shoshoni agreed to relinquish Boise Valley, Boise Basin, and some adjacent lands for an undetermined sum. Governor Caleb Lyon of Lyonsdale, a newcomer to Idaho who did not pretend to know how much Congress might be willing to pay, signed the treaty with the understanding that some knowledgeable official in Washington, D. C. would fill in an appropriate amount. So far, no one has bothered to figure out the amount, and the United States Senate never has managed to ratify the treaty. Because of these delinquencies, no payment has been made on some of the most valuable of Idaho's Indian lands. So far as the record shows, they still belong to the Indians.

Caleb Lyon also signed a treaty with the Bruneau Shoshoni, April 12, 1866, in order to obtain the important Owyhee mining region around Silver City. Much of the extensive Bruneau holdings were designated for a reservation. But some of their lands near Snake River also were to be ceded to the whites. When Governor Lyon returned to Boise with his Bruneau treaty, he found that he had been dismissed from office because of his unpopular Indian policy. His successor, David W. Ballard, had no way of finding out the terms of Lyon's treaties, and the Senate never considered ratifying the Bruneau treaty either.

Under substantial pressure to get the Boise Shoshoni removed to a reservation--hopefully as far away as possible--Governor Ballard did not attempt to negotiate any more treaties. He arranged instead to have President Andrew Johnson establish a reservation at Fort Hall for the Boise Shoshoni, July 14, 1867. A large area there was set aside as the Fort Hall reservation, and

in a conference at Long Tom, August 26, 1867, Governor Ballard reached a formal agreement with Tagi and the Bannock (and presumably the Fort Hall Shoshoni) that they would settle on the new Fort Hall reservation by June 1, 1868.

An independent effort on the part of the Indian Peace Commission to deal with the Eastern Shoshoni, as well as with the Fort Hall Shoshoni and Bannock, threatened to upset Ballard's arrangement with Tagi and his associates. Responding to a request from the Peace Commission, Tagi and 800 of his people assembled at Fort Bridger on May 15, 1868, for another conference. After a long delay, representatives for the United States discussed the reservation issue with the Indians. The eastern Shoshoni, quite reasonably, wanted their reservation on Wind River east of the continental divide. At this point, the Bannock and Fort Hall Shoshoni were asked to settle on Wind River also. Since a perfectly good reservation already had been established for the Boise Shoshoni around Fort Hall--the homeland of the Bannock and Fort Hall Shoshoni--Tagi refused this stupid suggestion. He already had agreed to remain at Fort Hall on a reservation where he belonged. Sending the Boise Shoshoni to Fort Hall and the Fort Hall Shoshoni and Bannock to Wind River made no sense at all. Finally Tagi and his people were allowed, by the treaty of Fort Bridger, July 3, 1868, to arrange to stay on the Fort Hall reservation. The Bannock reservation, in addition to lands around Fort Hall, was to include a reasonable part of Camas Prairie. Payment was made for lands relinquished by the Fort Bridger signatories, and after the Fort Hall agency was opened for the Boise Shoshoni who arrived there April 13, 1869, President Grant designated that agency as the reservation for Tagi's people under the treaty of Fort Bridger. The final result of all these arrangements confirmed Governor Ballard's Indian policy over the proposal advanced by the Indian Peace Commission. The Boise Shoshoni, Bruneau Shoshoni, Fort Hall Shoshoni, and Tagi's Bannock all wound up at Fort Hall, exactly as Ballard and his advisors had planned. Camas Prairie was omitted from the reservation, exactly as Ballard had planned. On this point, the Indian Peace Commission's Fort Bridger treaty was ignored. Ballard's policy prevailed, and the Bannock and Fort Hall Shoshoni got payment (later judged less than adequate) for their lands. But the Boise and Bruneau Shoshoni received no consideration. Eventually their unceded lands were known as the Boise claim.

For nearly a century, the Boise claim went largely unnoticed. Some of the Indians knew something had gone wrong. But who paid any attention to them? When the Fort Hall agreements were revised, the old claims were ignored. Then when the Indian Claims Commission offered a channel for a hearing, the Boise claim got tangled in a disastrous confusion. Actually, the Boise claim should have been among those most eligible for consideration. To establish a legitimate claim, the Indians generally are required to show the original treaties provided grossly inadequate payments. Since the Boise claim involved no payment at all, this qualification could be met with no difficulty. Through an unfortunate mix-up, however, the claim got filed for the wrong Indians. By the time the Commission recognized the error, the deadline for filing new claims had passed. These slip-ups cannot really be blamed on the Indians. As errors of misinformed whites who were trying to help the Indians, the mistakes that made it impossible to straighten out the Boise claim followed the white tradition that originally created the unpaid claim. In spite of some good intentions to avoid unnecessary trouble a century ago, and some more good intentions to rectify such unfortunate situations

during the past few years, the United States still has not managed to buy Boise Valley, or any of southwestern Idaho, from the Indians. In each case, the appropriate authorities stumbled into a situation in which their own rules and procedures prevented action that was supposed to take care of the Boise claim. An unanticipated final result turns this entire episode into such an obvious example of unintentional, yet dishonorable, dealing as to establish the foundation for a new claim. In order to conclude a settlement of \$15,700,000 for the Fort Bridger claim—which included lands east of the Boise claim--the Fort Hall plaintiffs and their tribal council were put under heavy pressure in 1967 to trade the Boise claim for the Bridger settlement. Some of the plaintiffs and other Indians were willing; others resisted. Complications presented by this offer, which was perfectly reasonable to the whites, but which appeared to be outrageous to many of the Indians, created a great deal of tension at Fort Hall. As usual, the whites managed to prevail. Payment of the Fort Bridger claim has been made. But, if the legal situation which demanded such a settlement be overlooked, the Indians still might wonder about the justice of abandoning their most valuable land claim in return for settling another one that ought to have been settled anyway.