52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { EX. DOC. No. 69.

WARM SPRINGS INDIAN RESERVATION, OREGON.

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING,

The report of the Commission appointed under act of August 19, 1890, as to correct location of the northern line of Warm Spring Reservation, Oregon.

JANUARY 11, 1892.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, January 8, 1892.

SIR: I have the honor to transmit herewith, as required by law, a report of the Commission appointed under the provisions of the act of August 19, 1890, as to the correct location of the northern line of the Warm Springs Indian Reservation in the State of Oregon.

The Commission has declared that the north boundary of said reservation is that part of the line run and surveyed by T. B. Hundley in the year 1871, from the initial point up to and including the 26th mile thereof, thence in a due course to the summit of the Cascade Mountains.

I have the honor to be, very respectfully,

JOHN W. NOBLE,
Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 5, 1891.

SIR: The Indian appropriation act, approved August 19, 1890, (26 Stats., 355) contains the following provision:

That the President of the United States is hereby authorized to appoint a Commission, to be composed of three persons, not more than two of whom shall be of the same political party, and not more than one of whom shall be a resident of any one State, whose duty it shall be to visit and thoroughly investigate and determine as to the correct location of the northern line of the Warm Springs Indian Reservation, in the State of Oregon, the same to be located according to the terms of the treaty of June twenty-fifth, eighteen hundred and fifty-five, which Commission shall report their decisions as to the proper location of said line to the Secretary of the Inte-

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rior. * * * And said Commission shall make report of the facts ascertained, and of their conclusions and recommendations upon all matters hereby committed to them, to the Secretary of the Interior. And the Secretary of the Interior is hereby required to report the facts found and the conclusions and recommendations of said Commission and of his action thereon to Congress for ratification.

Messrs. Mark A. Fullerton, of Washington, William H. H. Dufur, of Oregon, and William H. Dill, of Pennsylvania, were duly appointed commissioners for the above purpose. Instructions for their guidance in the discharge of their duties on the Warm Springs Reservation were prepared by this office on the 4th of October, 1890, and duly approved by you. Mr. James F. Payne, of North Carolina, was subsequently appointed a commissioner in place of Mr. Dill. The Commission submitted its report to this office under date of June 8, 1891.

The history of the controversy regarding the proper location of the north boundary of the Warm Springs Indian Reservation as defined in the treaty of June 25, 1855 (12 Stats., 964) is fully set out in Senate Ex. Doc. No. 67, Fifty-first Congress, first session.

The commissioners find the following facts respecting said boundary:

First. They quote the description given in the treaty of June 25, 1855.

Second. That at the time the treaty was made the confederated tribes and bands were encamped some 3 miles south from the Columbia River, and some 50 miles north from the reservation established by said treaty.

Third. That these confederated bands were then at war with the Snakes, and were so encamped as to be under the protection of the United States troops.

Fourth. That in the spring of 1856 one R. R. Thompson, who was then the agent of the Warm Springs Reservation, went with a few of the chiefs and leading men of the tribes from their encampment to the Warm Springs Reservation, for the purpose of selecting and locating a site for the buildings agreed to be erected by the United States under the treaty; that this was their first visit to the newly-formed reservation by any of the confederated bands under Government charge, although the country was then well known to the different individual members of said band.

Fifth. That on said visit it is claimed by the Indians that said Thompson marked or blazed an oak tree as being on the north boundary of the reservation; that said Thompson pointed easterly and westerly therefrom, and informed the Indians that the north boundary line ran in the direction in which he pointed; and that the Indians claim that the north boundary line of the reservation runs from this blazed tree in the directions pointed by Thompson.

Sixth. That the locality of this blazed oak tree, as testified to by the Indians and as pointed out to the commissioners by the Indians on the inspection of the line, is not on the range of highlands extending westerly from the Des Chutes River to the Cascade Mountains; that it is not the summit of any divide so extending, and particularly that it is not on the divide lying westerly from the eastern terminus of a range of highlands known as Mutton Mountains, and that the claim of the Indians for this point as the north boundary line is based wholly upon the circumstance of its being pointed out and marked as alleged by Thompson as the place where said line ran; that the said oak tree was blazed by Agent Thompson, if blazed at all, nearly one year after the treaty was signed and while said treaty was awaiting approval of the Senate, and there is no evidence that said Thompson had any power or authority at that time to change the terms of the treaty or to make or locate any other or new boundary line for said reservation other than that provided for in the treaty.

Seventh. That during the examination of the Indian witnesses it was in evidence that the oak tree alleged to have been blazed by Thompson had been destroyed and all traces thereof obliterated. That it was further in evidence on the part of the Indian witnesses testifying with respect thereto that said witnesses were familiar with the spot where said oak tree stood, and that they could if called upon to do so identify said spot; that when the commissioners entered upon the personal inspection of the disputed line they visited the place where the Indians said the tree formerly stood; that the Indians who had testified in relation thereto accompanied the commissioners on said inspection and were called upon to locate the spot where the alleged oak tree stood; that in response the Indians gathered about the spot where they testified the alleged oak formerly stood, and pointed the same out to the commissioners, but that no traces of an oak or any other tree were found; that the next day the Indians stated that they were in error about the location of the oak as previously pointed out, and took the commissioners to another spot some 20 yards off where they then insisted the oak tree had stood; that here the stump of a tree, apparently an oak, was found. The commissioners state that owing to the conflict, uncertainty, and vagueness of the testimony and the statements of the Indians with respect to the matter, they could not locate any point where the alleged oak tree stood, nor could they find as a fact that Thompson had blazed any tree as claimed by the Indians.

Eighth. That there was no evidence offered tending to show that an oak tree had been marked or blazed by Thompson or any other person to indicate the north boundary of the reservation at or about the time of the treaty of 1855.

Ninth. That there was no fraud or collusion used or employed in the making of said Palmer treaty of 1855, and that the terms thereof were well known and fully explained to the Indians before they signed and executed the same; and that it was in evidence that the Indians had full confidence in Joel Palmer, and that he was honest and just to them in all matters concerning the treaty.

Tenth. That the range of highlands usually known as Mutton Mountains, and set forth in the treaty of 1855, is a well-defined range of highlands well known by that name both at the time the treaty was made and since; and that these highlands constitute the highest and most prominent range of mountains anywhere in the vicinity of the line in dispute and form a complete watershed.

Eleventh. That the initial point of the Handley line is located in the middle of the channel of the Des Chutes River, opposite the eastern termination of said highlands, generally known as Mutton Mountains, and that thence it is easily traced westerly to the summit of said range over the divide which is plainly indicated toward the Cascade Mountains.

Twelfth. That the initial point of the McQuinn line is located in the Des Chutes River, opposite the range of "lowlands or hills" called Neena Hills, some 10 or 12 miles north of and down the Des Chutes River from the eastern termination of Mutton Mountains, and that this line does not touch the range of highlands called Mutton Mountains at any point, but runs without reference to the summit or divide, sometimes along and sometimes across the range of lowlands or hills.

They report that upon the facts and evidence adduced on both sides, and after a careful inspection of the disputed lines, the Commission conclude: That the line known as the McQuinn line, as surveyed and run, in no respect conforms to the said treaty of 1855, and is not the line of the northern boundary of the Warm Springs Reservation or any

part thereof. That the line known as the Handley line, as surveyed and run, substantially and practically conforms to the calls of said treaty of 1855 from the initial point of said line up to and including the twenty-sixth mile thereof.

With respect to the claim set up by the Indians that an oak tree was marked by one Thompson, as indicating the north boundary of the Warm Springs Reservation, a year or thereabouts after the treaty of 1855, the Commission is of the opinion, and so states, that said matter is wholly immaterial, and that said claim, if established by evidence, would be incompetent to vary, alter, change, or modify the said treaty of 1855 already agreed upon, signed, and executed by the contracting parties.

It is therefore considered and declared by the Commission that the north boundary of the Warm Springs Indian Reservation, in the State of Oregon, is that part of the line run and surveyed by T. B. Handley, in the year 1871, from the initial point up to and including the 26th mile thereof, thence in a due course to the summit of the Cascade Mountains.

The Commission examined a large number of witnesses, both whites and Indians, the former being represented by counsel.

The Indians rested their claim to the more northern line on the ground that this line was pointed out to them by Agent Thompson, and admitted that the range of highlands usually known as Mutton Mountains are wholly within the reservation, as claimed by them, Wapinitia Ridge not being part of said mountains.

I have prepared duplicate copies of all the papers, and have the honor to recommend that they be transmitted to Congress for the action of that body, as required by the act of August 19, 1890.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

L.] DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., October 4, 1890.

MR. MARK A. FULLERTON, *Colfax, Washington.*
MR. WILLIAM H. H. DUFUR, *Dufur, Oregon.*
MR. WILLIAM H. DILL, *Clearfield, Pa.*

GENTLEMEN: The Indian appropriation act for the current fiscal year, approved August 19, 1890 (Public No. 235), contains the following provision:

"That the President of the United States is hereby authorized to appoint a Commission, to be composed of three persons, not more than two of whom shall be of the same political party, and not more than one of whom shall be a resident of any one State, whose duty it shall be to visit and thoroughly investigate and determine as to the correct location of the northern line of the Warm Springs Indian Reservation, in the State of Oregon, the same to be located according to the terms of the treaty of June twenty-fifth, eighteen hundred and fifty-five, which Commission shall report their conclusions as to the proper location of said line to the Secretary of the Interior. And said Commission shall also visit the Colville Indian Reservation, in the State of Washington, and negotiate with said Colville and other bands of Indians on said reservation for the cession of such portion of said reservation as said Indians may be willing to dispose of, that the same may be opened to white settlement.

"And said Commission shall make report of the facts ascertained, and of their conclusions and recommendations upon all matters hereby committed to them, to the Secretary of the Interior. And the Secretary of the Interior is hereby required to report the facts found and the conclusions and recommendations of said Commission and of his action thereon to Congress for ratification.

"That each member of said Commission shall be paid not to exceed the sum of ten dollars per day while necessarily engaged in performing the duties of said Commission, and actual expenses of travel and subsistence, the same to be audited by the Secretary of the Interior, and paid by the Treasurer upon proper vouchers. And the sum of six thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the Treasury not otherwise appropriated, for such purpose."

The President having appointed you commissioners for the purpose of carrying into effect the above provisions, the following instructions are given for your guidance in the discharge of your duties:

The Warm Springs Indian Reservation in Oregon was created by the treaty of June 25, 1855 (12 Stats., 964), which defines its boundaries as follows: "Commencing in the middle of the channel of the Des Chutes River opposite the eastern termination of a range of highlands, usually known as the Mutton Mountains; thence westerly to the summit of said range, along the divide to its connection with the Cascade Mountains; thence to the summit of said mountains; thence southerly to Mount Jefferson; thence down the main branch of the Des Chutes River, heading in this peak to its junction with the Des Chutes River, and thence down the middle of the channel of said river to the place of beginning."

Superintendent Joel Palmer, in transmitting the treaty, said that he was not familiar with the topography of the proposed reservation, having been over it but once, but stated that the northern boundary was a high range known as the Mutton Mountains. He also submitted a sketch of the reservation, which, however, throws but little light upon the location or topography of the reservation, it not being drawn from surveys or measurements.

In 1864 Superintendent Huntington submitted a map on which the initial point of the northern boundary of the Warm Springs Reservation is located in the NE. $\frac{1}{4}$ of section 17, tp. 6 N., R. 15 E. This map, however, is manifestly incorrect, as this point in township 6, range 15, is at least 8 miles east of the Des Chutes River, according to the subsequent public surveys. The remarks made at the council held with the Indians at the time the treaty was concluded show that it was intended that the boundaries of the reservation should be natural ones, acting as barriers to the encroachments of the whites.

The north boundary of the reservation was surveyed in 1871 by Deputy Surveyor Handley. In 1885 Agent Gessner reported that in extending the public surveys in the vicinty of the reservation it appeared likely that its boundaries on the north, south, and east had not been properly respected, and that some of the lands belonging to the reservation had been surveyed as public lands.

February 15, 1886, Agent Wheeler, who had succeeded Agent Gessner, reported that the most important question in dispute related to the northern boundary of the reservation, the Indians claiming that the initial point of said boundary was several miles north of where it was located by the survey of 1871. As a result of the recommendations made by this office, the north boundary was relocated by Deputy Surveyor John A. McQuinn, in 1887. At the commencement of his work the Indians threatened to destroy all corners set from the old initial point. This office being so advised, Agent Wheeler was directed by telegraph to consult with the surveyor and see if a satisfactory understanding between him and the Indians could not be reached. As a result of this consultation, Deputy Surveyor McQuinn located the line in accordance with the claims of the Indians. The initial point of this survey was nearly 6 miles farther north than that adopted by Handley. The surveyor-general of Oregon not being satisfied with the survey as made, the matter was investigated by a special agent of the General Land Office in conjunction with a special agent of this office, who, after investigation, expressed the opinion that the line surveyed and established by Handley more nearly conformed to the requirements of the treaty than that established by McQuinn. They, however, recommended a material divergence from Handley's line for a considerable distance. Their report, though, was not entirely satisfactory to the Secretary of the Interior, who directed a further investigation of the matter.

In their second report, made in 1888, the special agents adhered to their former opinion and gave additional reasons therefor. This office, however, in view of the conflicting statements and the seeming impossibility of locating the line in conformity with the treaty so as to have it correspond unquestionably with the topography of the country, and of the fact that the Indians were shown a line before signing the treaty which doubtless corresponded very nearly, at least, with the line surveyed by McQuinn, recommended the approval of his survey. This recommendation was approved by the Department July 19, 1889.

The confusion and dispute regarding the true location of this boundary line arises from the want of knowledge of the topography of the country at the time the treaty was made, and the fact that the description in the treaty may be applied to different lines. The conflicting claims of the Indians, who insist that the line as surveyed by

McQuinn is the one pointed out to them at the time the treaty was made, and of the settlers, who assert that said line is not the correct one as called for in the treaty, are fully set out in office report of May 21, 1889, which may be found in Senate Ex. Doc. No. 67, Fifty-first Congress, first session (copy herewith).

Your duty is to thoroughly investigate and determine as to the correct location of this northern boundary according to the terms of the treaty of June 25, 1855. In order to determine this matter you will take such testimony as may be offered or as you can obtain that will throw any light upon the subject. Full opportunity should be given all parties to submit their evidence and to be heard in the matter. You should thoroughly examine the ground, particularly the topography of the initial point, and the point on the McQuinn line where it is alleged by the Indians the location of the said boundary was pointed out to them at or about the time the treaty was concluded. The evidence taken should be reduced to writing and submitted with your report. If found necessary, you are authorized to employ a competent surveyor and the necessary assistants in connection with your duties.

The report of Special Agents Martin and Gordon may be found in Senate Ex. Doc. No. 70, Fiftieth Congress, first session (copy inclosed), which also contains a map showing the location of the boundary as surveyed by Handley and McQuinn, and also as proposed by Special Agents Martin and Gordon. I also inclose copies of the maps of Superintendents Palmer and Huntington, before referred to, which you will return with your report.

As the meaning of the treaty with these Indians appears to be involved in so much obscurity, it is deemed proper to call your attention to the following decisions of the courts laying down certain rules for the construction of Indian treaties:

In Worcester *vs.* The State of Georgia (6 Peters, 515) the United States Supreme Court held that—

"The language used in treaties with the Indians should never be construed to their prejudice. * * * How the words of the treaty were understood by these unlettered people, rather than their critical meaning, should form the rule of construction."

In United States *vs.* Kagama (118 U. S., 375), the court said:

"These Indian tribes are the wards of the United States; they are communities, dependent on the United States; dependent largely for their daily food; dependent for their political rights. * * * From their very weakness and helplessness so largely due to the course of dealing of the Federal Government with them, and the treaties in which it has been promised, there arises a duty of protection and with it the power. This has always been recognized by the Executive and by courts and by this court whenever the question has arisen."

In the case of the Kansas Indians (5th Wallace, 737) the court declared that "rules of interpretation favorable to the Indian tribes are to be adopted in construing our treaties with them."

You will each be allowed a compensation of $10 per diem while actually and necessarily engaged in the performance of your duties, in addition to your necessary expenses of travel and subsistence, your salaries to commence on the day you take the oath of office and enter upon your work.

Your compensation and expenses in connection with this matter, and in connection with your duties on the Colville Reservation, must not exceed the sum appropriated therefor—$6,000. Care should therefore be taken not to expend so large an amount at the Warm Springs Reservation as to leave an insufficient amount to defray your compensation and expenses in the discharge of your duties on the Colville Reservation.

Mr. Dufur has been designated as disbursing officer of the Commission, and will be required to give bond in the penal sum of $5,000. When he shall have filed his bond as disbursing officer, special instructions will be given him for his guidance in preparing and rendering his accounts in order that they may conform strictly to the regulations of the Department governing such matters.

Upon the completion of your labors you will submit full report thereof to this office, and minutes of the proceedings of all councils held with the Indians, with such recommendations as you may see fit to make.

Separate instructions will be given you for your guidance in carrying out the duties imposed upon you in regard to the Colville Reservation in Washington.

Very respectfully,

R. V. BELT,
Acting Commissioner.

Approved:
JOHN W. NOBLE,
Secretary of the Interior.

OFFICE OF THE WARM SPRINGS AND
COLVILLE INDIAN COMMISSION,
Colfax, Wash., June 8, 1891.

SIR: The Commission appointed under the act of Congress approved August 19, 1890 (Indian appropriation act), "to visit, thoroughly investigate, and determine as to the correct location of the northern line of the Warm Springs Indian Reservation in the State of Oregon," having completed their duties as contemplated in said act, beg leave to submit the following report:

The Commission find the following facts with respect to the northern boundary of said Warm Springs Reservation:

(1) That on June 25, 1855, a treaty was made between the United States, represented by Joel Palmer, then superintendent of Indian affairs of Oregon Territory, and the confederated tribes and bands of Indians in middle Oregon, in which the boundaries of the Indian reservation now called the Warm Springs Reservation were defined and set forth as follows:

> Commencing in the middle of the channel of the Des Chutes River, opposite the eastern termination of a range of high lands usually known as the Mutton Mountains; thence westerly to the summit of said range, along the divide to its connection with the Cascade Mountains; thence to the summit of said mountains; thence southerly to Mount Jefferson; thence down the main branch of the Dechutes River, heading in the peak to its junction with the Des Chutes River; and thence down the middle of the channel of said river to the place of beginning.

(2) That at the time said treaty was made the confederated tribes and bands of Indians were encamped on a small creek, called "Three Mile," some 3 miles south from the Columbia River and some 50 miles north from the then formed reservation.

(3) That these confederated bands of Indians were then at war with certain other bands of Indians, particularly the tribe called "The Snakes," and were encamped on the said Three Mile Creek so as to be under the protection of the United States troops.

(4) That in the spring of 1856 one R. R. Thompson, who was then agent of the Warm Springs Indian Reservation, went with a few of the chiefs and leading men of the said confederated tribes from their encampment on Three Mile Creek to said Warm Springs Reservation for the purpose of selecting and locating a site for the buildings agreed to be erected by the United States under the treaty aforesaid. That this was the first visit made to the newly formed reservation by any of the confederated bands under Government charge, although the country was then well known to the different individual members of said bands.

(5) That on said visit it is claimed by the Indians that said Thompson marked or blazed an oak tree as being on the north boundary of said reservation; that said Thompson pointed easterly and westerly therefrom and informed the Indians that the north boundary line ran in the direction in which he pointed. The Indians claim that the north boundary line of the reservation runs from this blazed oak tree in the directions pointed by Thompson.

(6) That the locality of this blazed oak tree, as testified to by the Indians and as pointed out to the Commission by the Indians on inspection of the lines, is not on a range of highlands extending westerly from the Dechutes River to the Cascade Mountains, nor is it on the summit of any divide so extending, and particularly it is not on a divide lying westerly from the eastern termination of a range of highlands known as Mutton Mountains. The claim of the Indians for this point as the north boundary line is based wholly upon the circumstance of its being

pointed out and marked, as alleged, by Thompson as the place where said line ran.

That said oak tree was blazed by Agent Thompson, if blazed at all, nearly one year after the aforesaid treaty was signed and while said treaty was awaiting the approval of the Congress of the United States, and there is no evidence that the said Thompson had any power or authority at that time to change the terms at the calls of said treaty or make or locate any other or new boundary line for said Warm Springs Reservation other than that provided for in said treaty.

(7) That during the examination of the Indian witnesses it was in evidence that the oak tree alleged to have been blazed by Thompson had been destroyed and all traces thereof obliterated, and it was further in evidence on the part of the Indian witnesses testifying with respect thereto that said witnesses were familiar with the spot where the said oak is said to have stood, and that they could, if called upon so to do, identify said spot. That when commissioners entered upon the personal inspection of the disputed lines they visited the place where the Indians claimed said oak tree formerly stood. The Indians who had testified in relation thereto accompanied commissioners on said inspection and were called upon to locate the spot where the alleged oak stood. In response said Indians gathered about a spot where they had testified that the alleged oak formerly stood and pointed the same out to the commissioners. At this place no traces of an oak or any other tree were found, and a careful excavation of the earth failed to indicate any traces of a stump. This spot was remote from any public road and was not often frequented. On the next day after the said occurrence and examination of the said spot the Indians who had testified as aforesaid stated that they were in error about the location of said oak as previously pointed out, and they took commissioners to another spot, some 20 yards off, where they then insisted the oak tree had stood. Here the stump of a tree, apparently an oak, was found. Owing to the conflict, uncertainty, and vagueness of the testimony and statement of the Indians with respect to this matter, the Commission could not locate any point where the alleged oak tree stood which is claimed by the Indians to have been marked by Thompson as the north boundary of said reservation, nor could the Commission find as a fact that Thompson had blazed any tree as claimed by the Indians.

(8) That there was no evidence offered tending to show that the said oak tree was marked or blazed by Thompson or any other person to indicate the north boundary of said reservation at or about the time of the treaty of 1855.

(9) That there was no fraud or collusion used or employed in the making of said Palmer treaty of 1855, and that the terms thereof were well known and fully explained to the Indians before they signed and executed the same. It was in evidence that the Indians had full confidence in Joel Palmer, and that he was honest and just to them in all matters concerning said treaty.

(10) That the range of highlands usually known as Mutton Mountains and called for in the description set forth in the treaty of 1855, indicating the boundaries of the Warm Springs Indian Reservation, is a well-defined range of mountains well known by that name both at the time the said treaty was made and since. These highlands constitute the highest and most prominent range of mountains anywhere in the vicinity of the lines in dispute, and form a complete watershed.

(11) The initial point of the Handley line is located in the middle of the channel of the Dechutes River opposite the eastern termination of

the said highlands generally known as Mutton Mountains, thence it is easily traced westerly to the summit of said range along the divide which is plainly indicated toward the Cascade Mountains.

(12) The initial point of the McQuinn line is located in the Dechutes River opposite a range of low lands or hills called "Neena Hills," some 10 or 12 miles north of and down the Dechutes River from the eastern termination of Mutton Mountains. This line does not touch the range of highlands known as Mutton Mountains at any point, and runs without reference to summit or divide, sometimes along and sometimes across a range of lowlands or hills.

Upon the facts found and upon the evidence adduced on both sides, and after a close inspection and examination of the disputed lines, the Commission concludes and so finds:

That the line known as the McQuinn line, as surveyed and run, in no respect conforms to the said treaty of 1855, and is not the line of the northern boundary of the Warm Springs Reservation or of any part thereof. That the line known as the Handley line, as surveyed and run, substantially and practically conforms to the calls of the said treaty of 1855 from the initial point of said line up to and including the twenty-sixth mile thereof.

With respect to the claim set up by the Indians that an oak tree was marked by one Thompson as a point indicating the north boundary of said reservation a year or thereabouts *after* the treaty of 1885, the Commission is of the opinion that such matter is wholly immaterial, and that such claim if established by evidence would be incompetent to vary, alter, change, or modify the said treaty of 1885, already agreed upon, signed, and executed by the contracting parties.

It is therefore considered and declared by the Commission that the northern boundary of the Warm Springs Indian Reservation, in the State of Oregon, is that part of the line run and surveyed by T. B. Handley in the year 1871 from the initial point up to and including the twenty-sixth mile thereof, thence in a due west course to the summit of the Cascade Mountains.

Full minutes of the proceedings of the Warm Springs Commission were kept, and are herewith as accompanying documents, as also the evidence taken on both sides, all of which is respectfully submitted.

MARK A. FULLERTON,
WILLIAM H. H. DUFUR,
JAMES F. PAYNE,
Commissioners.

The SECRETARY OF THE INTERIOR,
Washington, D. C.

THE DALLES, OREGON, *January 20, 1891:*

Pursuant to notice by Hon. John W. Noble, Secretary of the Interior, the Commission appointed under the act of Congress approved August 19, 1890, by the President to visit Warm Springs Indian Reservation, in the State of Oregon, and the Colville Reservation, in the State of Washington, met at the Umatilla House, in the town of The Dalles, at 10 a. m. on the 20th January, 1891; aforesaid. Present and presiding, Messrs. Mark A. Fullerton, chairman; William H. H. Dufur, disbursing agent of said Commission, and J. F. Payne, commissioner, who was elected clerk of said Commission.

Upon motion, it was ordered that a telegram be sent forthwith to Secretary of Interior by Wm. H. H. Dufur, disbursing agent of this com-

mission, informing the Secretary of the Interior that the Commission had met pursuant to call, but that the disbursing agent was without funds to pay the expenses of the Commission, as well as without any instructions from the Department in relation thereto, and instructions as to this matter were asked for by the Commission.

Upon further motion, the Commission adjourned until 3 p. m. On motion, the disbursing agent was directed to purchase for Commission supplies of legal cap paper and other stationery needed.

JANUARY 20, 1891—3 P. M.

Commission met pursuant to adjournment, and no answer having been received from Secretary of Interior, the Commission, on motion, adjourned until to-morrow morning at 10 a. m.

Approved:

J. F. PAYNE, *Clerk.*
MARK A. FULLERTON, *Chairman.*

THE DALLES, OREGON, *January 21, 1891.*

Commission met according to adjournment. Documents relating to duties of Commission at Warm Springs Reservation were read and discussed. No answer having been received from telegram to Secretary of Interior, on motion Commission adjourned to 3 p. m. to await reply from Department.

J. F. PAYNE, *Clerk.*

Approved:

MARK A. FULLERTON,
Chairman.

JANUARY 21, 1891—3 P. M.

Telegram from Secretary of Interior received and filed, and upon motion the Commission adjourned to to-morrow morning at 10 a. m. on account of sickness in family of Mr. Fullerton. He was granted leave of absence till such time as he could return.

J. F. PAYNE, *Secretary, etc.*

Approved:

MARK A. FULLERTON,
Chairman.

THE DALLES, OREGON, *January 22, 1891.*

The Commission met at 10 a. m. according to adjournment, and took a recess until 3 p. m. to await the arrival of funds from the Department.

J. F. PAYNE, *Secretary.*

Approved:

MARK A. FULLERTON,
Chairman.

JANUARY 22, 1891—3 P. M.

Commission met at above hour and no funds from Department having been as yet received, an adjournment until to-morrow morning at 10 a. m. was taken.

J. F. PAYNE,
Secretary.

Approved:

MARK A. FULLERTON,
Chairman.

JANUARY 23, 1891.

The Commission met pursuant to adjournment, and no funds having been received from Department as promised by telegram and by letter of instructions, and the same being needed to enable commissioners to perform their duties under the law, on motion it was ordered that a telegram be sent by the disbursing agent of the Commission to Secretary of the Interior informing that officer that no funds had arrived and desiring to know cause of delay (see copy of telegram sent and herewith filed), and upon further motion the Commission adjourned until to-morrow morning at 10 a. m., unless sooner convened upon call of chairman.

J. F. PAYNE,
Secretary.

Approved:

MARK A. FULLERTON,
Chairman.

JANUARY 24, 1891.

The Commission met pursuant to adjournment at 10 a. m., and no information or instructions having been received from the Department with respect to funds required by this Commission to prosecute its work, upon motion, the Commission adjourned until the 26th instant at 10 a. m., unless sooner convened upon call of chairman.

J. F. PAYNE,
Secretary.

Approved:

MARK A. FULLERTON,
Chairman.

JANUARY 26, 1891.

Commission met pursuant to adjournment. The day was spent in investigating files and records of Land Office at The Dalles for the purpose of ascertaining what entries had been made upon the land in dispute or any part thereof. Commission adjourned until to-morrow morning at 10 a. m.

J. F. PAYNE,
Secretary.

Approved:

MARK A. FULLERTON,
Chairman.

JANUARY 27, 1891.

Commission met pursuant to adjournment. The day was spent in further examination of records in Land Office at The Dalles with respect to entries laid on land in controversy at Warm Springs Reservation. Commission adjourned until to-morrow morning at 10 a. m.

J. F. PAYNE,
Secretary.

Approved:

MARK A. FULLERTON,
Chairman.

JANUARY 28, 1891.

Commission met pursuant to adjournment. No special instructions received from Department with respect to duties of the disbursing agent as telegraphed for but sufficient information was this morning

received by letter from First National Bank, Portland, Oregon, (U. S. Treasury depository) to enable disbursing officer of Commission to perform his duties for the present. In order to avoid further delay, on motion, it was ordered that the Commission proceed to-morrow to the Warm Springs Reservation to begin work on the north boundary thereof.

J. F. PAYNE,
Secretary.

Approved:

MARK A. FULLERTON,
Chairman.

JANUARY 29, 1891.

Commission engaged in travelling; reached Dufur, Oregon, and spent night.

J. F. PAYNE,
Secretary.

Approved:

MARK A. FULLERTON,
Chairman.

JANUARY 30, 1891.

Time of Commission employed this day in traveling; reached Tygh Valley and spent night.

J. F. PAYNE,
Secretary.

Approved:

MARK A. FULLERTON,
Chairman.

JANUARY 31, 1891.

Commission engaged in traveling. Country very rough and mountainous, progress slow. Reached Wapinitia, Oregon, and spent night.

J. F. PAYNE,
Secretary.

Approved:

MARK A. FULLERTON,
Chairman.

FEBRUARY 2, 1891.

Time of Commission spent in traveling; reached Warm Springs (Agency) late in day. Yesterday, February 1, was a very stormy day, and Commission after traveling short distance in snowstorm were compelled to lie over.

J. F. PAYNE,
Secretary.

Approved:

MARK A. FULLERTON,
Chairman.

WARM SPRINGS, OREGON, *February* 3, 1891.

Commission assembled pursuant to call; upon motion it was ordered that notice be sent by secretary of Commission to J. F. Moore, attorney, Pineville, Oregon, informing him that Commission would on Monday next, 9th instant, at Warm Springs proceed to hear and take

evidence on both sides with respect to the disputed north boundary of reservation. Upon further motion it was ordered that the Indians upon the reservation be invited to meet the Commission in council to-morrow (Wednesday) at 10 a. m. in order that the scope of duties of Commission be made known, etc.

J. F. PAYNE,
Secretary.

Approved:

MARK A. FULLERTON,
Chairman.

FEBRUARY 4, 1891.

Commission according to arrangement met with the Indians on the reservation in council. The President's commissions to members were read and duties of Commission under the act of Congress were fully explained to Indians. Several speeches were made by Indian chiefs present and the utmost good feeling prevailed. Charlie Pitt served as interpreter. Indians Pianoose, Johnson, and Quah-Pummo acted as chiefs or leaders for the tribes. There was a large attendance of Indians. Notice was given that taking of evidence would begin February 9, 1891, at 10 a. m.

J. F. PAYNE,
Secretary.

Approved:

MARK A. FULLERTON,
Chairman.

The Commission spent the following days, to wit, the 5th, 6th, and 7th of February, 1891, in writing up papers of disbursing agent pursuant to instructions just received from the Department and in preparing for taking evidence as to disputed boundary next week.

J. F. PAYNE,
Secretary.

Approved:

MARK A. FULLERTON,
Chairman.

Pursuant to notice given to all parties the Commission met at 10 a. m., February 9, 1891, at Warm Springs to hear evidence touching the dispute with respect to the northern boundary of Warm Springs Reservation. Much time was taken up with speeches by Indian chief Pianoose and others, the same being interpreted by Charlie Pitt, Indian interpreter at the reservation. At the urgent request of the Indians, the Commission consented not to proceed with the evidence to-day in order to enable the Indians to examine a witness first whose presence could not be procured to-day. Upon motion Commission adjourned until to-morrow morning at 10 a. m. with notice to Indians that their witnesses must be in attendance punctually to-morrow.

J. F. PAYNE,
Secretary.

Approved:

MARK A. FULLERTON,
Chairman.

WARM SPRINGS, OREGON, *February 10 to 20, 1891.*

Commission met pursuant to adjournment. Parties having announced their readiness to proceed, Charlie Pitt, Indian interpreter was duly sworn, faithfully and truly to discharge his duties as interpreter. "Johnson" an Indian, was chosen leader and lawyer in behalf of the Indians to propound to witnesses such questions as were desired by Indians. Pat Mitchell was the first witness offered by Indians; he was duly sworn and his evidence is on file. The Commission were engaged in taking evidence of Indians at Warm Springs during the following days: February 10, 11, 12, 13, 14, 16, 17, 18, 19, and 20, adjournment having been taken from day to day. On the 20th instant the evidence of one D. W. Butler, a witness for the whites, was taken at Warm Springs in presence of the Indians and interpreter after due notice given. The evidence of all witnesses so taken is on file. Due notice was given to Indians that the taking of evidence of the whites would begin at Wapinitia, Oregon, on Monday, 23d instant, at 10 a. m., where they were invited to appear and cross-examine. Upon motion Commission adjourned to meet at Wapinitia, Oregon, on 23d inst.

J. F. PAYNE,
Secretary.

Approved:

MARK A. FULLERTON,
Chairman.

FEBRUARY 21, 1891.

This day Commission was employed in traveling from Warm Springs to Wapinitia, Oregon; distance, 32 miles.

J. F. PAYNE,
Secretary.

Approved:

MARK A. FULLERTON,
Chairman.

WAPINITIA, Oregon, *February* 23, 1891.

Commission met pursuant to adjournment. Owing to heavy snowstorm prevailing the attendance of witnesses was impossible, and on motion it was ordered that taking of evidence be postponed until tomorrow at 10 a. m. if the same be then practicable. The day was spent in reading to whites assembled the evidence of the Indians taken at Warm Springs. Adjourned to February 24, 1891, 10 a. m.

J. F. PAYNE,
Secretary.

Approved:

MARK A. FULLERTON,
Chairman.

WAPINITIA, Oregon, *February* 24 to *March* 4, 1891, *inclusive.*

Commission met February 24, 1891, pursuant to adjournment at 10 a. m. Mr. J. F. Moore this day entered his appearance as counsel for whites and announced his readiness to proceed. Frank Gabel was the first witness offered for whites who, after being first duly sworn, testified as appears in his evidence on file. The Commission was engaged at Wapinitia in taking evidence of whites during the following days, to wit: February 24, 25, 26, 27, and 28; also during March 2, 3, and 4. Adjournments were regularly taken from day to day. Evidence of witnesses so taken is on file.

On March 4, 1891, J. F. Moore, counsel for whites, offered the following evidence:

(1) Report of A. P. Dennison, Indian agent, Warm Springs Reservation, to Superintendent Indian Affairs, dated April 24, 1858, filed in letter book of Agency, pages 85 and 86. Transcript thereof filed, marked Exhibit A.

(2) Report of A. P. Dennison, Indian agent aforesaid, to Superintendent Indian Affairs, dated August 1, 1858, filed in letter book of Warm Springs Agency, pages 102–110. Transcript thereof filed marked Exhibit B.

(3) Report of William Logan, Indian agent of Warm Springs Reservation, to Superintendent Indian Affairs, dated August 3, 1863, filed in letter book of said agency, pages 236–239. Transcript thereof filed, marked Exhibit C.

(4) Letter to Superintendent Indian Affairs by John Smith, Indian agent at said reservation, dated February 11, 1867, filed in letter book aforesaid, page 309. Transcript filed marked Exhibit D.

(5) Telegram from Commissioner Indian Affairs, Washington, D. C., to Jason Wheeler, Indian agent, at said agency, dated Washington, June 7, 1887. Transcript filed marked Exhibit E.

(6) Affidavit of Robert Mays taken before B. S. Huntington, notary public, February 27, 1891. Notice of taking same was duly given and approved.

(7) Plat and field notes of Surveyor Handley and plat of Joel Palmer with respect to north boundary reservation.

(8) Affidavit of W. C. McKay, taken March 7, 1891, before Lee Moorhouse, Indian agent. This affidavit was not filed before Commission, or opened until March 12, 1891. It had been agreed by both sides and ordered by Commission that affidavits of persons residing on reservations might be taken before Indian agents. The handwriting of Lee Moorhouse Indian agent, and witness W. C. McKay were admitted to be genuine. It was in evidence that the documents of which Exhibits A, B, C, D, and E are transcripts, were made by proper officials in the line of duty to officers of the United States entitled to receive the same; that same were kept and filed in letter books in accordance with requirements of law; that said letter books were genuine, and that same are records of Warm Springs Indian Agency, of which S. A. Lester is clerk.

Mr. Moore, counsel for whites, announced that he had no further evidence to offer on their behalf, and at his request, leave was granted to file affidavit of W. C. McKay when received. It was ordered by Commission that Thursday, the 12th March, be set for taking such other and further evidence as the Indians desired to offer and that Warm Springs Agency be the place and 10 a. m., March 12, 1891, the time for taking the same. Due notice thereof was sent to Indians and their agent, J. C. Luckey. It was further ordered that the intervening time be spent by Commission at Wapinitia in viewing and inspecting so much of the McQuinn line in this vicinity as could be reached. Commission then adjourned to meet at Warm Springs March 12, 1891.

J. F. PAYNE,
Secretary.

Approved:

MARK A. FULLERTON,
Chairman.

WARM SPRINGS, OREGON, *March 12, 1891.*

Commission met pursuant to adjournment. Owing to deep snow, and severe weather prevailing, the Indians and their witnesses were unable to be present, and in order to secure attendance of witnesses, and enable the Indians through their agent and interpreter to hear evidence of whites as taken at Wapinitia and have same explained, the Commission adjourned to the 20th instant, at 10 a. m. when taking of testimony will be resumed. Notice was sent out to Indians and to J. F. Moore, counsel for whites. Affidavit of W. C. McKay, filed. Certificate of Indian agent admitted to be genuine.

J. F. PAYNE,
Secretary.

Approved.

MARK A. FULLERTON,
Chairman.

WARM SPRINGS, OREGON, *March 20 to 27, 1891,* inclusive.

Commission met March 20, 1891 at 10 a. m. pursuant to adjournment. Both sides announced their readiness to proceed with taking of evidence. Indian Johnson acted as counsel for the Indians, and J. F. Moore, esq., of Pineville, Oregon, appeared as counsel for white settlers.

Pursuant to leave heretofore granted, Mr. Moore, counsel for whites, offered in evidence preëmption filing No. 7090 by Richard M. Alexander, a white witness heretofore examined.

The signature of S. W. Slusher, receiver, and F. A. McDonald, register, was admitted to be genuine. Transcript thereof is filed in evidence, marked Exhibit Q.

On the evening of March 21, Mr. Moore, counsel for whites, stated to the Commission that owing to sickness in his family he would be compelled to return to his home, but that he did not desire that the taking of evidence should be continued or left open on account of his absence. He asked and obtained leave to enter of record certain objections to evidence of Indians in event same was offered or presented by them during progress of evidence taken by Commission which objections were reduced by him to writing and are as follows:

OBJECTIONS BY MOORE, COUNSEL FOR WHITES.

(1) To all hearsay evidence except common reputation with respect to boundary.

(2) To all conversations and communications between a witness and a person deceased where such witness had an interest remote, actual or contingent in the result of this controversy.

(3) To all conversations and communications between a witness and a person admitted to be within the jurisdiction of the court or whose testimony upon the subject-matter could be obtained by subpœna or deposition.

(4) To evidence tending to impeach the treaty between Gen. Palmer and the Indians of June, 1855, it being admitted that the Indians claimed under that treaty.

(5) To any evidence with respect to the contents of a paper writing without producing the original or satisfactorily accounting for its absence.

These objections were asked to be considered as being interposed to all objectionable matter offered, and the Commission so ordered.

The witnesses were duly sworn by the Commission before their testimony was taken. Evidence of witnesses was carefully reduced to writing and subscribed, and same is filed properly marked and indicated.

Commission was engaged in taking this evidence from March 20 to 27, inclusive, adjournments being regularly taken from day to day. Charlie Pitt was duly sworn as Indian interpreter and performed all the duties of such interpreter.

Indians offered the following evidence:

(1) Plat of north boundary of reservation and field notes of John A. McQuinn.

(2) Affidavit and letter attached of John A. McQuinn; same filed as Exhibit X.

(3) Report by A. P. Dennison, Indian agent, Warm Springs Reservation, to J. W. Nesmith, superintendent, filed in letter book pages 66–68, inclusive. Transcript filed, Exhibit Y.

Notice was given to Indians that on Monday April 6, examination and inspection of disputed lines would begin, and such Indians as desired to be present were invited to attend.

Same notice was given to the whites. In the meantime it was ordered that such preliminary examination of lines in dispute be made as might be found practicable and accessible to Commission in present state of the weather. The Commission then adjourned to meet on the 6th of April, upon the said lines, unless sooner convened upon call of chairman. Leave was granted Indians to file affidavit of John M. Marden, when taken.

J. F. PAYNE, *Clerk.*

Approved:

MARK A. FULLERTON,
Chairman.

WAPINITIA, OREGON, *April 15, 1891.*

The Commission was engaged in the matter of examination and inspection of disputed lines with respect to north boundary of Warm Springs Reservation from April 6 to 15 inclusive, the 12th instant having been spent in traveling. It was ordered that Commissioner J. F. Payne be, and he was hereby, directed to visit Portland, Oregon, for the purpose of making a personal examination of the records of the surveyor-general's office with the view of ascertaining whether or not T. 5 S., R. 10 E., and T. 6 S., R. 9 E., or either of them, have been subdivided; also whether or not the survey of the *west* boundary of the Warm Springs Indian Reservation made by John A. McQuinn in 1890 has been approved. The said Commissioner J. F. Payne is hereby directed and instructed to make dilligent examination of the maps of said subdivisions, if any, of said townships with respect to the lay of country, taking such notes of same as are deemed proper, and that he report his investigations to this Commission at Spokane Falls, Wash., on the 22d instant.

The work with respect to the north boundary line of Warm Springs Reservation having been completed with exception of the investigations to be made at Portland by said Payne, commissioner, and to be reported as aforesaid, it was thereupon ordered that this Commission adjourn to meet in the city of Spokane Falls, Wash., on Wednesday, the 22d April

next, then and there to begin the work assigned on the Colville Indian Reservation in the State of Washington.

J. F. PAYNE,
Clerk.

Approved:

MARK A. FULLERTON,
Chairman.

SPOKANE FALLS, WASH., *May 27, 1891.*

At a meeting of the Commission this day held, a full report of visit to Portland, Oregon by J. F. Payne, commissioner, pursuant to instructions of this Commission, was presented and filed, and it was resolved to defer the preparation of report on the work of Commission in Oregon on the Warm Springs Reservation, until after the completion of work on Colville Reservation in Washington, as the entire time of Commission is now engaged with said latter work.

J. F. PAYNE,
Clerk.

Approved:

MARK A. FULLERTON.
Chairman.

SPOKANE FALLS, WASH., *May 26, 1891.*

It was this day resolved and ordered by Commission that the report with respect to the location of the northern boundary of Warm Springs Reservation be prepared by Commissioner in the town of Colfax, Wash., where subsistence for Commission is cheaper than elsewhere.

J. F. PAYNE,
Clerk.

MARK A. FULLERTON,
Chairman.

OFFICE OF WARM SPRINGS AND COLVILLE COMMISSION,
Colfax, Wash., June 8, 1891.

The report as prepared with respect to the location of the northern boundary of the Warm Springs Indian Reservation was read, approved, and signed by all the members of the Commission. It was ordered that said report with all accompanying documents be conveyed by Commissioner J. F. Payne to the Department at Washington, D. C. And it was further ordered that the disbursing officer of this Commission be, and he is hereby, instructed to pay the diem and expenses of travel and subsistence of members of Commission to their respective homes. Final adjournment was then ordered and taken.

J. F. PAYNE,
Clerk.

Approved:

MARK A. FULLERTON,
Chairman.

OFFICE INDIAN AGENT,
Dalles, Oregon, February 24, 1857.

SIR: Your letter of January 19 was received February 1, since which time there has been no communication between here and the Cascades, in consequence of the Columbia River being closed by ice. I have carefully considered the contents of your circular and hope my reply will be satisfactory. My expenses this present

quarter will probably not exceed my estimate, which was $5.300, including the expense of removing the Wasco Indians to the reservation, although I can not now correctly estimate that expense. I have at present one carpenter and six laborers employed at the Warm Springs Reservation, whose service I consider absolutely and indispensably necessary to protect and save the public property from waste and to prevent the improvements already commenced from being lost. I believe it would be economy to increase the number of laborers, because articles of food can be raised there cheaper than they can be bought and transported. I have still in the employ of the Department a physician, and think his service actually necessary to protect the lives of the Indians, as there is a great deal of sickness among them. I have also in the employ of the Department a clerk whose services I consider actually necessary to assist me in rendering prompt and full accounts of my transactions to the Department. My position is such that nearly all of my time is employed in settling difficulties which arise between whites and Indians, between different tribes, and in giving advice and counsel to those who are constantly visiting me for that purpose; in fact, when I am at home my office is generally full of Indians from morning until night, so that I have little or no time to attend to the clerical part of my duties. My outstanding liabilities, contracted between the 1st day of May and the 31st day of December, 1857, amount to only $10,220, which is a small proportion of the sum mentioned in your circular as being contracted in that period. You will bear in mind that this district is a very large one, and this the only agency in the Territory east of the Cascade Mountains.

The Indians now upon the reserve were moved there by my predecessor, R. R. Thompson, esq., prior to my taking charge of this agency, and improvements commenced. I have continued those improvements sufficient in my own judgment to induce the Indians to remain there and make some effort to subsist themselves. If I had made no improvements I am of opinion that these Indians would have scattered over the country, to the annoyance of the settlers, and the young men joined those bands that are now considered hostile from the fact that their country is almost entirely occupied by white settlers. Therefore I consider what has been done and is now doing absolutely necessary to maintain peace and protect the lives of the Indians. I have constantly endeavored at all times since I have been in the service of the Department to use the utmost economy in all of my transactions and make the service effective and of benefit to those for whom it was intended, and I do not think the present expenses of this agency can be curtailed without serious detriment to the Department and great injustice to the Indians, many of which are very desirous to improve their condition by engaging in agricultural pursuits, and will learn readily if they have an opportunity.

Respectfully, your obedient servant,

A. P. DENNISON, *Indian Agent.*

J. W. NESMITH, Esq.,
Superintendent Indian Affairs, Salem, Oregon.

STATE OF OREGON, *County of Crook, ss:*

I hereby certify that I am a clerk of Warm Springs Agency, Oregon, and by virtue of laid office I am legal custodian of all books, papers, records, etc., belonging to said office, and that the above is a true copy of a report made by A. P. Dennison, United States Indian agent, February 24, 1857, to J. W. Nesmith, superintendent Indian Affairs at Salem, Oregon, as filed in letter-book from page 66 to 68, inclusive.

Witness my hand at Warm Springs Agency, Oregon, this 30th day March, A. D. 1891.

S. A. LESTER, *Clerk.*

OFFICE INDIAN AGENT,
Dalles, Oregon, April 24, 1858.

SIR: On the 29th day of March last I obtained from Capt. Thos. Jordan, assistant quartermaster at Fort Dalles, sixteen Government teams for the purpose of moving the Wasco tribes of Indians to the reservation. He loaded and started the same day. I started myself with the pack train belonging to the Department, together with the Indians, on the 30th. We arrived at the reservation on the evening of the 3d of April without meeting with any losses or serious difficulties.

Immediately upon the arrival of the Indians upon the reserve I located them upon the land I designed them to occupy, and I deem it my duty in justice to those

Indians to say that they behaved remarkably well upon the road, and as soon as they were shown the lands they were to occupy they commenced in good earnest to clear it off and prepare it for a crop. The larger portion of their land is thickly covered with brush and a small growth of timber, requiring a deal of labor upon it to prepare it for plowing. These Indians being extremely poor I have been compelled to furnish them all the assistance in my power, and regret that I was not able to do more for them, as I know personally that many of them are suffering for want of something to eat. They seem well pleased with the efforts being made for them, and as soon as the salmon commence running they will be more comfortable.

My expenses in removing these Indians have been small. I will report them in detail at the expiration of this quarter.

The Indians placed upon the reserve last year are improving rapidly in agricultural pursuits; they are willing and anxious to team, and quite industrious; they have improved their condition very much since they have been upon the reserve.

Very respectfully, your obedient servant,

A. P. DENNISON, *Indian Agent.*

J. W. NESMITH,
Superintendent Indian Affairs, Salem, Oregon.

STATE OF OREGON, *County of Crook, ss:*

I hereby certify that I am the duly appointed and acting clerk of the Warm Springs Indian Agency, at the above county and State, and by virtue of said office I am the custodian of and in the possession of all books, papers, and records belonging to said office. That the above and foregoing is a full and correct copy of the report made by Agent A. P. Dennison on April 24, 1858, filed in "letter book," pages 85 and 86, inclusive, and of the whole of such report, as appears on file in my office and in my custody.

Dated the 4th day of March, A. D. 1891.

S. A. LESTER,
Clerk of Warm Springs Indian Agency.

OFFICE INDIAN AGENT,
Dalles, Oregon, August 1, 1858.

SIR: In compliance with the regulations of the Indian Department I beg to submit the following as my annual report for the year 1858:

The district under my charge is known as the eastern district, Oregon Territory, and embraces all of said Territory lying east of the Cascade range of mountains and a small portion of Washington Territory. The tribes of Indians being within said district are the Day River or Cascade Indians, Wascoes, Tychs, Des-Chutes, John Days, Utillas, Walla Wallas, Cayuses, Klamaths, a few of the Nez Perces and Flatheads, Mountain Snakes, Bannacks, and Diggers. The three last named are generally known as the Shoshones or Snake Indians, and are parts of that large tribe, the Day River or Cascades. Indians have during the past year been placed under the charge of Agent Lansdale, who, I suppose, will report their condition.

The Wascoes who occupied a small tract of country near to and adjoining Lost Dalles I removed to the Warm Springs Reservation early last spring. Immediately upon their arrival upon the reservation I selected and located them upon small tracts of lands, which after being cleared I plowed for them and gave them seed to plant; many of this tribe having formerly cultivated small tracts of land are not unskillful in some kinds of agricultural labor. The land which I was obliged to locate them upon was thickly covered with brush and small timber, and I deem it my duty in justice to them to say that they are entitled to much credit for their industry and perseverance in clearing their lands and putting in their crops. They are extremely poor, so much so that many of the families during the time they were putting in their crops were actually compelled to subsist upon the carcasses of horses that had died from disease.

I furnished them all the provisions I felt authorized to under my instructions. They have been partially subsisted by the Government the past year, and will require considerable assistance in the future from causes which I shall speak of hereafter. They are very desirous to have schools established upon the reserve for the education, and, in fact, to have all the conditions of the treaty made with them by late Superintendent Palmer fulfilled.

The Des Chutes and Lyich tribes, who have been upon the reserve the last year, have profited very much by the little that has been done for them by the Government. They learn to perform some kinds of agricultural labor very easily and have very much improved their condition.

The John Day Indians during the past year have scattered, considering many of them have crossed to the north side of the Columbia River. Those remaining in my district have received some presents of provisions from the Department during the year, and they will require some assistance in the future. The Day River, Wascoes, Des Chutes, Tyrch, and John Day River Indians were treated with June 25, 1855, and are now all upon the reservation, with the exception of a small band of the Des Chutes numbering about 60 souls, a remnant of the John Day tribe numbering about 100 souls, and the Day River or Cascade tribe numbering about 130 souls. I deem it of the utmost importance both to the Government and the Indians that the treaty made with them should be ratified immediately and they placed upon the reservation. The tribes now upon the reserve, numbering about 1,200 souls, have made rapid improvement in agricultural labor since they have been there, and are entitled to much credit.

The treaty referred to guaranties to these Indians the right to occupy the fisheries formerly occupied in common with the citizens. These Indians have been encouraged during the past two or three years to put up salt salmon, which I have found very profitable to them, and which they have become very fond of. Their fisheries are upon rough, stony ground, where it is almost impossible to go with wagons, and are distant from the reservation from 20 to 75 miles. Their salmon have to remain at the fisheries until they want to use them, and then have to be packed out. They are very much exposed, and are sometimes stolen and destroyed by vicious white persons and Indians. I would, therefore, recommend that the sum of $3,000 be furnished this agency for the purpose of erecting suitable houses at each of the fisheries to facilitate the putting up and preserving salmon after they are put up. All the tribes of which I have spoken have been partially subsisted by the Government during the past year, and will require aid to be extended to them in the future, and especially the present year, from the fact that I have not had sufficient means at my command to make the necessary improvements upon the reservation to meet their wants. From the improvements made during the year ending June, 1857, they will only receive about half an average crop. Owing to the cold, unfavorable season their corn, beans, etc., have been nearly all destroyed by frost. There has also been an unusual small quantity of salmon taken this season in the Columbia River and its tributaries. From the above causes these Indians are very much discouraged and disheartened. They will require considerable assistance from the Government to prevent hunger and starvation the coming spring. These tribes have continued friendly towards our people and have manifested little or no sympathy with the hostile Indians.

The Cayuse, Walla Walla and Utilla tribes who occupy the country known as the Walla Walla Valley, have generally, during the last year, remained in their own country and been friendly disposed toward our people. The Cayuse tribe have recently had a fight with their old enemies, the Snake Indians, in which they were badly beaten, having their principal chief, We-at-tio-tio-way, killed, and several men and women. The Snakes also succeeded in capturing a large number of their horses, camp fixtures, etc., and taking several women prisoners. I believe the result of this engagement will be to make the Cayuses very humble and friendly towards the whites because it has made them poor. These three tribes have received but little assistance from the Department the past year, and not being restricted to any particular limits, having nearly the whole of their country to themselves, I do not think they will require much assistance the coming year, although I would recommend that a small quantity of dry goods, clothing, and provisions for this agency, to be given the chiefs and principal men among the several tribes who may visit this agency for the purpose of advice and council.

It is the custom of the Indians in the upper country who are friendly disposed towards the whites, and have no agent in the country, to visit this agency for such purpose, and in doing so they expect to receive some presents in provisions and clothing from the agent therefor. I have asked to be furnished a small quantity of provisions and clothing for that purpose, and believe that the money so expended would be of benefit to the service and very much assist the agent in securing an influence over them.

The Shawnee or Snake Indians within this agency district have had but little intercourse with the whites, consequently but little is known of their condition.

During the past year there has been one band of Diggers residing opposite the Warm Springs Reserve and have visited this agency frequently during the year. These Indians are of the lowest order of intellect but of great physical strength. I have encouraged them to visit the agency for the purpose of becoming acquainted with them and establishing friendly relations between them and the Indians upon the reserve. I have given them nothing but a small quantity of tobacco. I would recommend, however, that this agency be furnished with a small quantity of clothing, tobacco, etc., to be distributed among them as presents. They subsist principally upon insects, juniper berries, and roots. They kill some game, the skins of which furnish them with clothing. They have no horses or guns, but are said to be very fleet on foot and expert with the bow and arrow. * * *

The Warm Springs Reservation, located 80 miles south of this place, derives its name from a warm sulphur spring upon it, and embraces a section of country about 35 miles square, bounded on the north by Mutton Mountain, on the south by the northwest branch of the Des Chutes River, on the west by the summit of the Cascade Mountains, and on the east by the Des Chutes River. It is a very rough country, high table-lands broken by deep cañons and ravines running through it from the Cascade Mountains to the Des Chutes River. In some of the ravines the tillable land is found. It is generally good land but in small tracts. It will always be liable to frost, owing to its near proximity to the mountains and its elevation, but nearly every year with proper attention good crops of corn, wheat, and potatoes can be raised. It is an excellent grazing country, one of the best on the Pacific coast. It is tolerably well timbered with pine, cottonwood, birch, juniper, and a very few small oaks.

There are several small streams of water running through it, which I think the best in the world. The Indian names of these streams are Miller Chit-ike, Lucsuc-Key, and Matulins. The improvements made have been made upon the Chit-ike, which is near the center of the reserve, north and south. The reservation and country in its vicinity abound in game, such as antelope, elk, deer, and bear; also in roots and berries, which the Indians gather for food. I have broken up this spring about 150 acres of land, and have it divided among the Indians upon the reserve, except about 10 acres, which I have planted as a garden for the agency. I have erected upon the reservation during the year an agency building 60 feet long by 20 feet wide, with an addition 20 by 20, but have been unable to finish it for want of funds. The house is built of square timber 8 by 12½ inches; also a rough log house 30 by 20 feet, which I design for a blacksmith shop and storehouse. It has been occupied by employés during the year.

The character of the timber upon the reserve is such that I can not make a fence with it that will turn stock; consequently I am much embarrassed for want of a saw-mill to make lumber so that I can put up permanent fences and finish the agency building. I estimate the number of Indians on this agency as follows:

Tribe.	Chiefs or headmen.	Whole No. in tribe.	No. in this district in charge of Agent Lansdale.
Day River	Bell and Wallachin	130	130
Wasco	Mark	450	450
Des Chutes	Sam Wan	450	450
Des Chutes	Kuckup and Alixan	300	300
John Days	House	100	100
Utillas	Winamsnoot	250	250
Cayuses	Hoelitz Wampum	500	500
Walla Walla	Hurnly	300	300
Nez Percés	Billey	3,300	3,300
Mart Snakes		1,200	1,200
Bannacks			700
Diggers			500
Scattering bands on Columbia River		7,680	300
Total			5,280

Since my last annual report the Indians north of the Columbia and east of Snake River have again commenced a war against our people. There has already been two engagements, one between Col. Steptoe and the Indians between Snake and Spokane Rivers and one between a party of miners, who were en route for Thompson's River mines, and the Indians in the Yakima country, the particulars of

which, I suppose, will be fully reported by other agents. I believe that very few, if any, of the Indians living within this district participated or sympathized with the hostile party. I estimate the expenses of this agency the next year at $50,000, provided the treaties are not ratified. I estimate the necessary expense, outside of the treaty, at $25,000.

Respectfully, your obedient servant,

A. P. DENNISON,
Indian Agent.

J. W. NESMITH, Esq.
Superintendent Indian Affairs, Salem, Oregon.

STATE OF OREGON, *County of Crook:*

I hereby certify that I am the duly appointed and acting clerk of the Warm Springs Indian Agency at the above county and State, and by virtue of said office I am the custodian and am now in custody of all books, papers, and records belonging to said office; that the above and foregoing is a true and full copy of the report made by Agent A. P. Dennison August 1, 1858. Filed in "Letter Book," pages 102 to and inclusive of 110, and of the whole of such report as appears on file in my office and in my custody.

Dated the 4th day of March, A. D.1891.

S. A. LESTER,
Clerk of Warm Springs Indian Agency.

OFFICE OF UNITED STATES INDIAN AGENT, OREGON,
Warm Springs Reservation, August 3, 1863.

SIR: In compliance with the requirements of the Indian Department I have the honor to transmit my third annul report. Last November, when I distributed the school installment annuity goods to the Indians located upon this reservation, and constituting the confederated tribes and bands of Indians in middle Oregon, I found the number of those drawing their portion of the goods, 223 men, 300 women, and 293 children, 817 souls; and to this may be added some malcontented Indians who would not draw, say about 200; total, 1,017 souls. As these malcontented did not draw their portion I was unable to get an exact figure, but I estimate at least 200, comparing with the last census. The cause of these Indians refusing to partake of the distribution of the annuity goods is, that they were instigated to do so by the ever wily young chief Quepe-ma, who assumes a leading position, and will find a good many followers to his dictates with some malcontented Indians.

Notwithstanding the refractory conduct and obstinacy of these Indians, it was gratifying for me to see a good many Indians more than last year devote themselves to agricultural pursuits and put in a crop which I estimate in the neighborhood of 300 acres, consisting principally in potatoes, wheat, oats, corn, etc.; and bids fair to reap a rich harvest. Some who put in crops have left as customary for the fisheries, but it is well to say they came past occasionally to tend to them and to clear them of wild weeds, thereby showing a willingness to do something for themselves and not be depending entirely on the Government for support. I have encouraged and assisted them in every way I could and am satisfied that all the Indians of this reservation might be yet induced to apply themselves in future to raise their subsistence. If there would be every year such an acquisition of number of Indians who manifest a desire to cultivate the soil, and have the fruit of their labor at heart as they have done this year, to come back occasionally from the fisheries to look after their crops, I feel confident that gradually we might succeed slowly, but surely towards their advancement in civilization and industry and inculcate into their minds the necessity of their being provident and self-dependent during the winter.

Those fisheries on the Columbia are a great attraction for Indians to go to, but at the same time are great drawback to keep the Indians on the reservation, and just when the crops require their constant weeding and proper care and attention to keep the cattle from breaking through the fences, but they insist it is one of their reserved rights by treaty stipulation to go fishing on the Columbia, and the agent can not prevent them from going there unless their interest would be bought out, and which I think could be easily done, with very little expense to the Government, and it would then enable the agent to prevent them from leaving and to compel them to remain on the reservation to cultivate the soil and tend to their crops. The Department will have about 35 or 40 acres under culti-

vation, consisting chiefly of wheat, oats, potatoes, and some vegetables. During last winter, which was tolerably mild, the Government cattle have not suffered, and I will ascertain the increase of stock as soon as I get through the busiest time of harvesting, when I will report and take it up on my property returns.

The Warm Springs Reservation derives its name from a warm sulphur upon it, and embraces a section of country from 8,000 to 10,000 acres of tillable land, bounded on the north by Mutton Mountain, on the south by the northwest branch of the Des Chutes River, on the west by the summit of the Cascade Mountains, and on the east by the Des Chutes River. It is a very rough country, high table lands broken by deep cañons and ravines running through it from the Cascade Mountains to the Des Chutes River. In some of these ravines the tillable land is found. It is generally good grazing land, but in small tracts. It will always be liable to frost owing to its proximity to the mountains and its elevation, but nearly every year with proper attention good crops of corn, wheat, and potatoes can be raised. It is an excellent grazing country, one of the best on the Pacific coast. It is tolerably well timbered with pine, cottonwood, birch, juniper, and a very few oaks. There are several small streams of water running through it, which, I think, the best in the world. The Indian names of these streams are "Miller-Chit-ike," "Suc-suc-key," and "Metalins." The improvements made have been made on the Chit-ike, which is near the center of the reservation, north and south. The reservation and country in the vicinity abound in game, such as antelope, elk, deer, and bear; also in roots and berries, which the Indians gather for food, The improvements on the reservation belonging to the Department consist of one saw and flouring mill, in good running order; one house with three rooms and garret, used as mess-house, kitchen, and sleeping place for employés, in good condition, but lightly constructed.

One storehouse in good order and suitable for the intended purpose. One schoolhouse, very bad and lightly constructed, unfit to keep school in during the winter season, not half finished and requires considerable repairing before it can be properly used for the purpose and by neglect will go to ruin.

One hospital building entirely too small, rudely constructed, and requires a great deal of repairing before it is suitable to the wants of the service for which it was originally intended. One blacksmith shop, with tin and gunsmith shop thereto attached in a very bad state, requires constant repairing, is dark and does not answer the desired purpose.

One wagon and plowmaker's shop will answer, but rather too small to overhaul wagonbeds and other similar work. I have been unable to do the required repairs on some of the above-mentioned buildings on account of not having received the funds appropriated and which are in arrears for that purpose, but last June I made a requisition for those funds and trust I will have them remitted to me at an early day to enable me to do the required repairing and improvement on those buildings before they go to ruin and like they are now. They are entirely unfit for the purposes they were originally intended or may be required for. There could be some more tillable land put in cultivation, but I am greatly deficient in farming implements, such as wagons, carts, wheelbarrows, harness, plows, etc. For further and detailed description of the condition of the shops and occupation of employés, they have to refer you to the several reports of employés herewith inclosed. I transmit also a sketch and diagram of affixed property of this reservation and an estimate of funds for the fiscal year ending June 30, 1865, no part of which has been provided for by treaty stipulations.

All of which is respectfully submitted by

Very respectfully, your obedient servant,

WM. LOGAN,
United States Indian Agent, Oregon.

Hon. J. W. PRATT HUNTINGTON,
Superintendent Indian Affairs, Salem, Oregon.

STATE OF OREGON, *County of Crook, ss:*

I hereby certify that I am the duly appointed and acting clerk of the Warm Springs Indian Agency, at the above county and State, and by virtue of said office I am the custodian of and am now in custody of all books, papers, and records belonging to said office. That the above and foregoing is a full and correct copy of the report made by William Logan, on August 3, 1863, filed in "letter book," pages 236 to and inclusive page 239, and of the whole of such report as appears on file in my office and in my custody.

Dated the 4th day of March, A. D., 1891.

S. A. LESTER,
Clerk of Warm Springs Indian Agency.

WARM SPRINGS INDIAN AGENCY, *February 11, 1867.*

SIR: I herewith transmit to your office in triplicate my property returns and sworn statements of balances for fourth quarter, 1866, also statistical returns of farming, etc., and statistics of education, etc., for 1866.

These papers were ready for mailing on the 1st instant, but the snow on Mutton Mountains and the quantity of water in the streams between here and The Dalles has detained them till now.

I am doubtful of making the trip even at this time.

Very respectfully, your obedient servant,

JOHN SMITH,
United States Indian Agent.

Hon. J. W. PRATT HUNTINGTON,
Superintendent Indian Affairs, Salem, Oregon.

STATE OF OREGON, *County of Crook, ss:*

I hereby certify that I am clerk of Warm Springs Agency, Oregon, and by virtue of said office I am legal custodian of all books, papers, records, etc., belonging to said office, and that the above is a true copy of a report made by Agent John Smith, February 11, 1867, filed in letter book, page 309, in reference to boundary lines or territory of Warm Springs Reservation.

Witness my hand at Warm Springs Agency, Oregon, this 4th day of March, A. D. 1891.

S. A. LESTER, *Clerk.*

WASHINGTON, D. C., *June 6, 1887.*

To WHEELER,
Agent, The Dalles, Oregon:

Dispatch from Deputy Surveyor McGin says; "Indians not satisfied with location and say they will destroy all corners set from Mutton Mountain." Consult with surveyor and see if satisfactory understanding between him and Indians can not be reached. Report full particulars immediately.

J. D. C. ATKINS, *Commissioner.*

STATE OF OREGON, *County of Crook, ss:*

I hereby certify that I am clerk of the Warm Springs Agency, Oregon, and by virtue of said office I am legal custodian of all books, papers, records, etc., belonging to said office, and that the above is a true copy of telegram dated June 7, 1887, sent by J. D. C. Atkins, Commissioner of Indian Affairs, to Jason Wheeler, Indian agent, relative to the northern boundary of Warm Springs Reservation, and which is duly filed among the records of my office.

Witness my hand at Warm Springs Agency, Oregon, this 4th day of March, A. D. 1891.

S. A. LESTER, *Clerk.*

\$3.00.] LAND OFFICE AT THE DALLES, OREGON, *October 30, 1889.*

Mr. Richard M. Alexander has this day paid \$3, the register's and receiver's fees, to file a declaratory statement, the receipt whereof is hereby acknowledged.

S. W. SLUSHER, *Receiver.*

No. 7090.]

Mr. Richard M. Alexander having paid the fees, has this day filed in this office his declaratory statement, No. 7090, for S. ½ SE. ¼, section 8, and N. ½ NE. ¼ T. 6 S., R. 12 E., containing 160 acres, settled upon September 30, 1889, being unoffered.

Under the provisions of the preëmption laws, the time within which final proof is required to be made on unoffered lands expires in thirty-three months from date of settlement, or from date of filing of township plat in district land office in case of settlement on unsurveyed lands, and on offered lands in twelve months from date of settlement; and under act of March 3, 1879, notice of intention to prove up must be given by publication in a newspaper, to be designated by the register, for a period of thirty days, or in six consecutive issues of said paper, which notice must also contain the names of the witnesses by whom the necessary facts will be established.

Notice is therefore hereby given that this preëmption filing expires on June 30, 1892, after which date the tract will be subject to the claim of any other qualified party.

Very respectfully,

F. A. McDONALD, *Register.*

THE DALLES, OREGON, *February 19, 1891.*

MY DEAR SIR: In reply to yours of the 16th instant, I have to say I was employed on the Warm Springs Reservation during the year 1862.

The matter of boundary was raised that year when the Delore brothers built a house near where the packets have been living, at the mouth of the canyon.

But the agent, William Logan, soon yielded the point. The matter was discussed at length. Mr. McCay (now living at Pendleton) was interpreter at that time at Warm Springs Agency. He was with Gen. Palmer when the treaty was made. He said the Indians stood out a long time to include Tygh Valley in the reservation, but when the boundary was fixed it was on the divide between the waters of Warm Spring River and the waters running north from the divide.

The divide laying generally in an east and westerly direction till it comes to near the crossing of the headwaters of the "Nenee," which is crossed about 1 mile below where the wagon road then crossed the creek, from thence on in an easterly direction to the Des Chutes River.

At the time when this boundary question was up there were then several of the chiefs of the different tribes (that make up the confederate tribes) then living who had been parties to the treaty and had signed the same. Amongst the number were Stockwhitly, Symtester, and Kuckup, all of which, I think, signed the treaty.

Mark was then chief of the confederate tribes. Indians, agent, and employés were all satisfied at that time that was the intended north line of the reservation. There had not at that time been any survey of any sort to establish a line, and what may have been done since the spring of 1863 I know nothing about whatever.

ROBERT MAYS.

Mr. H. D. CORNIN, *Wapanicia.*

STATE OF OREGON, *County of Wasco, ss:*

I, Robert Mays, being first sworn, say on my oath that I am the Robert Mays who wrote and signed the letter hereto attached; that each and all of the statements made in said letter are true, as I verily believe.

ROBERT MAYS.

Subscribed and sworn to before me this 27th day of February, 1891.

[SEAL.] B. S. HUNTINGTON,
Notary Public for Oregon.

SKIMITCHE, an Indian, after being duly sworn, makes oath and says:

Q. What is your name, age, and place of residence?—A. My Indian name is Skimitche; English name, Dry Creek Billy; my age is 67, and I live on the reservation.

Q. Were you present when the Joel Palmer treaty of 1855 was made, and if so, who else was present?—A. I was present. Kuckup, Symtustus, William Chernook, Gushhelah, Stockolah, Shekemah, and others were present.

Q. Did you see the treaty signed?—A. Yes.

Q. State if you know where the beginning point of the northern boundary of the reservation is?—A. Yes. It is in the Des Chutes River, opposite to Yarpolat rock.

Q. How do you know this?—A. I have been over the line, and have been taken there by my people.

Q. Who took you there?—A. William Chernook, Kuckup, Mark, Miller, Mushenpla, Laquassee; these are all I remember.

Q. Were any white men along when they showed you the beginning point?—A. No white men were present.

Q. How long has it been since they showed you the beginning point?—A. I think it was some thirty-five or thirty-six years ago, but am not certain about it.

Q. At that time was there a marked line westward from what you say is the beginning point?—A. There was no marked line.

Q. When and where did you see the oak?—A. I saw the oak in the forenoon, and the beginning point in the afternoon of same day; it was north of the Wapinitia Hills and just back of Paquet's Point.

Q. What was the size of the oak, and how many blazes on it when you first saw it?—A. The oak was about the size of a man's body and blazed on both sides.

Q. How many times since have you seen the tree, and how far do you live from it?—A. I saw it every time I went to The Dalles; it was right by an old trail, and I live about 20 miles off by the trail.

Q. What has become of this tree?—A. It has been destroyed.

Q. How long since it was destroyed?—A. I think about five years ago.

Q. Were there any other oak trees near by, and, if so, are they standing?—A. Yes, there were other oak trees near by and they have been cut down.

Q. Did you see the oak tree blazed?—A. I did not see the tree blazed.

Q. How long ago has it been blazed?—A. It was blazed after the treaty, some thirty-seven years or thirty-eight years ago, about one year after the treaty.

Q. Where is Mutton Mountain?—A. It is on the reservation.

Q. Where on the reservation?—A. Mutton Mountain is called Tuckolute; it is south of the beginning point about 10 miles.

Q. Is this the Mutton Mountain called for in the treaty?—A. No.

Q. Where is the Mutton Mountain that is called for in the treaty?—A. Mutton Mountain called for in the treaty is next to Des Chutes River and on the Handley line which is disputed.

Q. Did you sign the treaty?—A. No.

Q. Have you ever been over the Handley line?—A. No.

Q. Why not?—A. I could not go to line to-day and don't know where it is.

Q. Have you been over the McQuinn line?—A. Yes; I have been over the McQuinn line.

Q. How far from the blazed oak does the McQuinn line run?—A. The line runs north of oak about 250 yards.

Q. Were you along with McQuinn when he ran the line?—A. Yes.

Q. Did you then show McQuinn the oak?—A. I did not show McQuinn the tree, but others in the party did.

Q. How large was the oak then?—A. It was some bigger than the body of a man.

Q. Did you know Joel Palmer?—A. Yes.

Q. What was his reputation for truth and honesty?—A. Among the Indians he was regarded as a man of truth and honesty. He was a man that dealt fairly and what he said could be always depended upon.

Interrogated by Indian JOHNSON for the Indians:

Q. State why it was that Thompson did not blaze the tree immediately after the treaty was made.—A. The reason why the tree was not blazed at once was that there was a war going on which prevented.

Q. Do you know this of your own knowledge?—A. Yes.

Q. Was the man who blazed the tree the agent at that time?—A. Thompson was the agent. I have heard that he blazed the tree, but do not know of my own knowledge.

Q. You have spoken of a war; what was it about?—A. It was about our country—not the reservation.

Q. Why was not there a war among our people?—A. Because the treaty was made in peace.

Q. At the time McQuinn ran the line, did you ever hear any of the Indians threaten to remove the corners if McQuinn did not run the line as the Indians wanted it?—A. No.

Q. Did you hear any of the Indians say that they had forced McQuinn to run the lines where they wanted?—A. No.

Q. Do you mean to say that McQuinn and the Indians were all friendly at the time he ran the line?—A. Yes.

SKIMITCHE (his x mark).

Witness:
CHARLES PITT.

Sworn and subscribed before Commission, February 17, 1891.

J. F. PAYNE, *Clerk.*

PUMMO, an Indian, after being duly sworn, testified as follows:

Q. What is your name, age, and place of residence?—A. I am an Indian, and my name is "Pummo;" am 55 years old, and live on the reservation.

Q. Were you present when the Joel Palmer treaty of 1855 was made; and, if so, who else was present?—A. Yes; I was present. All the leading men named in the treaty were there.

Q. Did you see the treaty signed?—A. Yes; I saw it signed.

Q. Are you acquainted with the northern boundary lines of the reservation; if so, state where they are?—A. Yes; I know them. It is on the north side of Wapinitia Ridge. The first peak back of Packquett's house is where the old treaty boundary comes through, and there are some rock monuments placed around about where the oak tree was blazed. Opposite the beginning point in Des Chutes River, near the bank, there is a rock standing in the water; I don't remember the name of it. From this rock the line runs up the hill, from the top of the hill to a mountain, from the mountain across Neena Creek, above the mouth, then on to the Wapinitia Hills, thence to the blazed oak, then the line runs west from the oak to the Black Butte, in the Cascades.

Q. Did you see the oak tree blazed?—A. Yes.

Q. Who blazed it?—A. Agent Thompson.

Q. When did he blaze it?—A. About a year after treaty was made.

Q. You speak of running thel ines; tell us, if you can, who ran these lines from the beginning past the oak to the Butte?—A. These lines were pointed out by the Indians to Thompson at the time he blazed the tree, and were afterwards run out by McQuinn.

Q. How many trees were blazed on the line?—A. There was only one tree blazed and that was blazed by Thompson.

Q. What has become of the blazed oak?—A. It has been destroyed.

Q. When was it destroyed?—A. It has been several years ago; can not say when.

Q. Explain if you can the size of the blazed oak?—A. As well as I can recollect it was a little bigger than the body of a man.

Q. Did you ever take a chip out of the tree when it was blazed?—A. I did not take a chip, but Albert did; I mean Albert Kuckup.

Q. When did Albert Kuckup take the chip from tree?—A. I do not know.

Q. Then, how do you know that Albert did take chip from tree?—A. I saw him do it. It was chipped two or three years ago.

Q. Where is the chip?—A. I don't know.

Q. How far do you live from where the oak used to stand?—A. It is about one and a half hours' ride on horseback from my house to oak.

Q. Are there any other trees where oak used to stand?—A. There are other oak trees now standing where the oak used to be.

Q. Where is Mutton Mountain?—A. On reservation inside of boundary.

Q. How far is it from the beginning in Des Chutes River?—A. It is about 8 miles from the beginning—south course from beginning—up the Des Chutes River.

Q. State whether this is the same Mutton Mountain called for in the treaty.—A. No.

Q. Where is the Mutton Mountain that is called for in treaty?—A. It is on the disputed Handley line.

Q. Where were you when the Handley line was run?—A. I was out hunting in southern part of reservation.

Q. Why did you not go to see Handley run the line?—A. I could not hunt and see the line run, both.

Q. When you got back from your hunt did you go over to see where the line had been run?—A I did not examine it.

Q. Do you know where that line is?—A. I only know of the beginning point at Mutton Mountain.

Q. How far do you live from the Handley line?—A. It is about an hour's ride on horseback from my house.

Q. Do you know Neena Pat, and where does he live?—A. Yes, I know Neena Pat; it is about an hour's ride on horseback over to his house from where I live.

Q. How far from the Handley line does Neena Pat live?—A. He lives almost right on the line.

PUMMO (his x mark).

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission February 16, 1891.

J. F. PAYNE, *Clerk.*

"HOLIQUILLA," an Indian, after being duly sworn, testifies as follows:

Q. What is your name, age, and place of residence?—A. My name is Holiquilla; age 80; and I live on reservation.

Q. Were you present when the Joel Palmer treaty of 1855 was made?—A. Yes; I was there and heard what was said.

Q. Who else was present?—A. From the Teninoes, Kuckup, Alexans, and Teliqueesh; from the Wascoes, Mark, Gushhelah, Wm. Chernook, and Bear Cap; from the Tyghs, Stockolah, and there were also present other leading men from that tribe whose names I have forgotten; also present, Symtustus, Chewatnat, Larquaquasee; these are all I can remember.

Q. Was Joel Palmer present?—A. Yes.

Q. What other white men were present?—A. Perhaps there were other white men present—I don't remember.

Q. Who were the interpreters?—A. Pat Mitchell, Tysimpt, and I think Dr. Wm. McKay.

Q. In what language was it (treaty) interpreted to the tribes?—A. Dr. McKay interpreted in Chernook to Pat Mitchell, and then Pat Mitchell interpreted to Tysimpt in Wasco, and Tysimpt interpreted to the Indians in Warm Springs. It was understood and agreed on by all present.

Q. Did you see the treaty signed, and did you sign it?—A. Yes; I signed the treaty, and I saw it signed up just a little before sundown.

Q. Do you know where the northern boundary of the reservation is?—A. Yes.

Q. How often have you been over it?—A. I can't tell how often, but have been over it frequently.

Q. Where is the beginning point?—A. I don't know of my own knowledge; it was only pointed out to me.

Q. When, where, and by whom?—A. I can't say exactly when. All I say about the time is that it was pointed out to me a year or so after the treaty. Kuckup and Alexand pointed it out to me. They showed me the oak, and eastward from the oak the beginning point, westward from the oak the Butte in the Cascades.

Q. When the oak was pointed out to you was it blazed then?—A. Yes; and it was then right new.

Q. On how many sides was it blazed?—A. On two sides.

Q. Where is Mutton Mountain?—A. Mutton Mountain is known and has been known as Tuckolute; it is on the reservation, south of the beginning point, and about some 10 miles from beginning point.

Q. Is this the Mutton Mountain called for in treaty?—A. No.

Q. Where then is the Mutton Mountain that is called for in treay?—A. It is on the Handley line.

Q. Did you know Joel Palmer?—A. Yes.

Q. What was his reputation for truth, honesty, and fair dealing?—A. He was a choice man, a man of high standing, honest and fair in his dealings; he was no thief.

Interrogated by JOHNSON, for Indians:

Q. How many settlers from The Dalles this way did you find when you came out to reservation?—A. None that I saw.

HOLIQUILLA (his x mark).

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission February 18, 1891.

J. F PAYNE, *Clerk.*

W. M. MCCORKLE, after being duly sworn, makes oath and says:

Interrogated by MOORE, counsel:

Q. What is your age, occupation, and where do you reside?—A. I am 62 years old; my occupation is that of a miller; and I reside at Tygh Valley, 15 miles distant, in Wasco County. I am well acquainted with the territory of the reservation covered by the northern boundary.

Q. Are you acquainted with the range of mountains commonly known as Mutton Mountains in the vicinity? And if so, state how long you have known them by that name.—A. I have known these mountains personally for twenty years, and by common reputation for thirty-nine years. They have always been known as Mutton Mountains.

Q. State, if you know, how the Handley line runs with respect to this range. State all you know about running this line.—A. I was an employé at the Warm Springs Agency, under Capt. Smith while he was agent there; when Mr. Handley came to run the line in 1871, Capt. Smith, and several of the Indians went out with him. I was also along. Among the Indians present I distinctly now remember William Chernook and John Mission. I have an impression that Mark was present also, but am not positive. After full consultation between Handley, Capt. Smith, and the Indians, Handley located the beginning point in the middle of the channel of the Des Chutes River opposite to the eastern termination of a range of highlands usually known as Mutton Mountains; running thence westwardly along the general direction of this range, not always confining the line run to the summit, because all agreed that it was impracticable to so run it in every instance. The line was agreed on, as I understood, and there was no dispute about it. I speak Chenook, which Indians understand.

Q. State, if you know, how the Handley line was regarded by the whites, the Indians, and the agent after his survey.—A. I have lived in the vicinity of this line ever since it was run, have had intimate dealings with both whites and Indians since then, and have never known of any complaints or objections to that line until after McQuinn survey.

Q. In your best judgment is the Handley line on the most practicable direction and course with respect to the summit of Mutton Mountains?—A. I am satisfied that it is the most practicable line that could be run. From my knowledge of the country and the treaty, the Handley line gives the Indians more land than they would get if line was run strictly in accordance with treaty calls.

Q. State what effect in your best judgment the adoption of either the Handley or McQuinn lines would have upon the respective rights of whites and Indians.—A. In my judgment the adoption of the McQuinn line would work a great injustice to the whites—it would deprive them of pasturage, wood, and water. The adoption of the Handley line could not injure the Indians for the reason that they would have ample territory to supply all their wants.

Q. Have you any interest in this controversy?—A. I have no interest in it whatever and it matters not what the decision may be—it will not affect me in any respect.

W. M. McCORKLE.

Sworn to and subscribed before Commission, February 27, 1891.

J. F. PAYNE, *Clerk.*

I. A. STOLEY, after being duly sworn, makes oath and says:

Interrogated by J. F. MOORE, counsel:

Q. Were you present at the time Gen. Palmer treated with the Indians in 1855?—A. I was present. I have lived here since 1853.

Q. Tell what you know was then said and done with respect to the north boundary line of the Warm Springs Reservation.—A. The treaty was made on Three Mile near The Dalles. I was there off and on every day during the time the treaty was made. I was then 35 or 40 years of age. They were negotiating the treaty some five or six days before it was concluded. I had no interest in it. Among the white men present I remember Mr. Sims, Hornison, Mitchell, Green Arnold, Rory Shumway; there were other white men present. Various Indians were present whose names I can't now remember. I saw the treaty signed. I was then living on Five Mile Creek. From what was said and done at that time I knew where the north boundary was. It was then understood and agreed between Joel Palmer and the Indians that the north boundary was to have its beginning point in the middle of the channel of Des Chutes River opposite the eastern termination of some highlands then generally known as Mutton Mountains, and then it was to run westwardly to the summit of Mutton Mountains along the divide to the Cascade Mountains. The Indians frequently told me that this was the northern boundary, and I well remember that an Indian chief present at the treaty, and who signed same, named Kuckup, now dead, told me that the boundary I have named was the northern boundary of their reservation. I understood and spoke the jargon or Chenook language, which the Indians understood. There were present at the treaty English and Indian interpreters. What was said and agreed on was interpreted to the Indians in their own language—was fully explained to them and understood by them. The boundary I have named is, as I understood it, the same as that in the treaty description.

Q. State whether any of the Indians who were present at the treaty at any

time afterwards pointed out this boundary to you; and, if so, name them.—A. Yes. About three years after the treaty was made I was riding over to agency in company with said Kuckup and four or five other Indians who were present at the treaty, and when we got on the line of the northern boundary I have described somewhere along the divide Kuckup said to me, in Chenook, "Here is the line; all south of this line belongs to the Indians, and all to the north of it to the white men." They stopped for some little time and talked to me about it. This point where Kuckup indicated the boundary to be is somewhere in the neighborhood of what is said to be the Handley line and some three miles south of Neenan Pat's place. Kuckup was the chief of several tribes and was a leader among all the Indians to whom they looked for counsel and advice.

Q. State whether or not any of these Indians you have mentioned showed to you or mentioned an oak as being on northern boundary.—A. No mention was made of an oak at time of treaty, and Kuckup and the Indians with him never said anything to me about a blazed oak nor did they show or offer to show me any such tree.

Q. What route did you go to the agency when in company with Kuckup and the Indians?—A. We took the route of an old Indian trail leading from the Klamath Reservation over to the Dalles.

Q. Who was the Indian agent at time of your ride over to agency in company with the Indians?—A. Col. Dennison.

Q. How long have you known Mutton Mountain?—A. I have known it both before and since the treaty.

Q. State if you know the name of the highlands north of Mutton Mountain?—A. Yes, they are called the Wapinitia or Oak Grove hills.

Q. In your best judgment how does the Handley line compare with the treaty boundary as agreed on at treaty and shown to you by the Indians?—A. The Handley line substantially conforms to the treaty boundary and that pointed out to me by the Indians spoken of.

I. A. STOLEY.

Sworn to and subscribed before Commission February 26, 1891.

J. F. PAYNE, *Clerk.*

D. W. BUTLER, a witness offered by whites, after being duly sworn, testifies as follows:

Interrogatories by J. T. MOORE, counsel for whites.

Q. What is your name, age, occupation, and residence?—A. My name is Daniel W. Butler; age, 59; occupation, farmer; residence, Tygh Valley.

Q. How long have you lived on and in the vicinity of the Warm Springs Reservation?—A. I have lived at Tygh Valley since 1857, excepting such time as I was agent at Warm Springs Reservation. Was agent in 1888 and portion of 1889.

Q. Do you know anything about the northern boundary of this reservation which was agreed upon by and between Joel Palmer, as agent for the Government and the various Indian tribes, on 25th of June, 1855, and if yes, tell what you know about it?—A. I was present when the treaty of 1855 was made and when the boundaries of reservation were agreed on between Palmer, as agent for the Government, and the Indians. A white man named Nathan Olney, Mathew Dofey, Jack Flik, all white men, were English interpreters; there were also Indian interpreters present, but I do not now recall their their names. There were other white men present and various Indians representing their respective tribes. I saw the treaty signed.

Q. State, if you know, whether or not the lines describing the reservation were fully and well understood by all parties interested before the treaty was signed.—A. The treaty after it had been reduced to writing and explained was read over to the Indians two or three times and no objection was made to it. Everything stated in the treaty which described the boundaries was fully made known and explained before the treaty was signed. The boundaries now contained in treaty are the same which were then agreed upon.

Q. Are you acquainted with Mutton Mountain, described in the terms of said treaty; and if so, how long; and was it generally known by that name (Mutton Mountain) at time of treaty?—A. I am acquainted with Mutton Mountain, and have known it before and since the treaty. It has been generally known as Mutton Mountain for many years, both before and since the treaty, and these mountains were generally known as Mutton Mountains at time the treaty was made and agreed upon. They have frequently been pointed out to me as Mutton Mountains.

Q. How does the Handley survey of said northern boundary run with reference to said Mutton Mountain, if you know?—A. I have been over the Handley line with Gen. Gordon and Mr. Martin, special Government agents, when they were sent out here to examine and report with respect to the disputed lines. From what I saw then I am of the opinion that the Handley survey conformed to the terms of the treaty. His beginning point was located in or about the middle of Des Chutes River, opposite to the eastern termination of a range of high lands generally reported to be Mutton Mountains, and which were pointed out to me by Mr. Dofey as such. Dofey is now dead. He was well acquainted with topography of the country at time of treaty.

Q. State how many agents of this reservation you have personally known while acting as such and who they were.—A. I knew R. R. Thompson; he was the first agent. The second was Ami P. Dennison; the third, William Logan; fourth, John Smith; next was Capt. Mitchell; next, John Smith; next, Gessner (was not acquainted with him); next, Jason Wheeler; next, Mr. Dougherty; special agent, Gen. Heath. I was next in order as agent, and J. E. Luckey is now the agent. I think that Mr. Lester acted as agent for a while after Dougherty.

Q. Which of these agents are dead?—A. Logan, John Smith, Capt. Mitchell, and Dougherty.

Q. State, if you know by general reputation, when and how Mutton Mountain was known to be among the agents of the reservation.—A. Mutton Mountain was generally known by the agents of the reservation to be the range of highlands named in treaty and which are located on the Handley line as in his survey.

Q. State, if you know, what is the land in dispute.—A. The land in dispute lies between the Handley and McQuinn lines. The whites claim the Handley line to be about correct in most particulars, and the Indians claim the McQuinn line to be the correct line.

Q. What is the character of the land in dispute, if you know?—A. It is rough and mountainous country, not adapted to agriculture. The greater portion of the eastern part of this disputed land is fair grazing land. The western part of it is only useful for timber and water.

Q. State, if you can, what in your opinion would be the comparative effect upon the respective rights and privileges of the whites and Indians by the establishment of either of the lines in dispute.—A. If the McQuinn line is established the whites would lose some good grazing land and timber land and privilege of water; if the Handley line is established the Indians would lose some good grazing land and land for wintering stock, located as I have stated in eastern portion of land in dispute, but they would still have ample territory for water and timber.

Q. Were you Government farmer on the reservation, and if so, when?—A. Yes; under Dennison, Indian agent, about 1860 or 1861, for about one year.

Q. At that time, according to general reputation, where was the north line of the reservation?—A. It was generally understood between the Indians and whites at that time that the summit of Mutton Mountain was the northern line. Logan, Indian agent, now dead, pointed out to me the summit of Mutton Mountain as the northern boundary.

Q. From the summit of Mutton Mountain, can a person see a continuous range through to the Cascades?—A. From the eastern termination of the Mutton Mountains, next to the Des Chutes River, you can see a continuous range through to the Cascades.

Q. Did you know well the agent, R. R. Thompson, if so, state his reputation as a business man, and his reputation also for truth and honesty.—A. I was well acquainted with him. He was one of the best business men in the country, and was always regarded a truthful and honest man.

Cross-examined by JOHNSON, for Indians:

Q. Do you know anything about Mr. R. R. Thompson having blazed an oak?—A. I do not know.

Q. Do you remember, when you were agent here, of telling the Indians that W. D. McLewis's sheep had come over onto the reservation, and they must be driven out?—A. Yes.

Q. When Lewis's sheep came onto the reservation, did you not go out to the boundary line with Pianoose, Albert Kuckup, and Kish Walk?—A. I went out with them to Warm Springs River.

Q. Did you not go along with Pianoose in his buggy by the saw-mill road over to the north boundary?—A. I did go along with Pianoose, but not to the north boundary. We went to Warm Springs River, met Lewis there, and camped all night.

D. W. BUTLER.

All the foregoing erasures and interlineations were made before the above witness subscribed the foregoing, and same were fully explained to him.

Sworn and subscribed before the Commission February 20, 1891.

J. F. PAYNE, *Clerk.*

S. G. BLACKERBY, after being duly sworn, makes oath and says:

Interrogated by Mr. MOORE, counsel.

Q. Are you acquainted with what is commonly called Mutton Mountains, and if so, state where they are situate.—A. I know these mountains and they are generally known as Mutton Mountains, they are situate south of Wapinitia Hills.

Q. Describe these mountains as to range and divide.—A. These mountains form a well-defined range, though somewhat crooked in direction; they form a watershed and the steams flow from either side of the mountains. The divide is plainly indicated and forms a junction with the Cascade Range.

Q. State if you know how these mountains are situate with respect to the Handley and McQuinn lines.—A. The Handley beginning point is in middle of channel of Des Chutes River opposite to the eastern termination of Mutton Mountains, and then this line extends westwardly towards summit of this range along divide to Cascade Range. The McQuinn line begins some 10 or 12 miles down the Des Chutes River from initial point of Handley line and does not touch Mutton Mountains but runs along Wapanitia and Neena hills. I know both of the lines.

Q. State whether or not at any time you have been an employé at Warm Springs agency; if so, when.—A. Yes; I was superintendent of farm at the agency in 1875 under Capt. Smith.

Q. During your said employment did any person or persons show to you what was then claimed to be the north boundary line of Warm Springs Reservation?—A. Yes, Capt. Smith, the agent at the reservation, and several Indians showed me the beginning point of the Handley line, as I have described it, as being the beginning point of the northern boundary. Among these Indians I now remember the names of Capolius and William Johnson, who were sent out with me as escort on certain police duty. At another time, about 1879 or 1880, an Indian named Nena Pat showed the line to Mr. John T. Porter and myself, in response to a question by Porter as to where the line was. Pat said, "Here is the north boundary," pointing to the Handley line. Several Indians, at different times while I was at the agency, pointed out the Handley line to me as the north boundary of the reservation. I had occasion to pass over the line very frequently and became well acquainted with it.

Q. Do you know anything about a blazed oak, claimed by the Indians to be on the north boundary line?—A. I never knew or heard about any such tree until after McQuinn survey.

S. G. BLACKERBY.

Sworn to and subscribed before Commission, March 2, 1891.

J. F. PAYNE, *Clerk.*

STATE OF OREGON, *County of Umatilla, ss:*

WILLIAM C. MCKAY, being first duly sworn, gives testimony as follows:

Q. State name, age, residence, and occupation.—A. William McKay; age, 67; Umatilla Reservation; physician.

Q. State whether or not you were present at time of treaty made by Joel Palmer and the Indians of Middle Oregon on June 25, 1855; and, if so, what services did you perform, if any?—A. Was present at the time of council and treaty, and was secretary for Gen. Joel Palmer, superintendent of Indian affairs of Oregon.

Q. State what you know about the agreement at time of treaty with respect to the north boundary line of the Warm Springs Reservation, and if you know describe it as agreed upon.—A. As I understand the treaty the boundary line commences in the middle of the Des Chutes River, opposite the eastern terminus of a range of highlands called Mutton Mountain; thence westerly to the summit of said range along the divide to its connection with the Cascade Mountains: thence to the summit of the Cascade Mountains.

Q. State whether or not you were at any time a resident on the Warm Springs Reservation. If so, when?—A. I was a resident on Warm Reservation from the fall of 1861 to 1869.

Q. How was the north boundary line of the Warm Springs Reservation regarded, and was there anything said about definite location while you were residing on

the reservation?—A. I never fully understood just where the actual location of the north boundary was. All the knowledge I possess is from what I have seen on the maps, and which is partly or wholly imaginary.

Q. If you know Mutton Mountain named in treaty, state how long you have known it, and is it a well-defined range? Does it form a water-shed?—A. I have known the location of Mutton Mountain ever since the treaty was made. It is a well-defined range of mountains running north and south and is a water-shed.

W. C. McKAY, M. D.

Subscribed and sworn to before me this 7th day of March, 1891.

LEE MOORHOUSE,
United States Indian Agent.

H. PETERSON, after being duly sworn, makes oath and says:

Interrogated by MOORE, counsel:

Q. Where do you reside?—A. At Wapinitia.

Q. Are you acquainted with Mutton Mountains; and if so, where are they?—A. Yes. South of Wapinitia Hills.

Q. State, if you know, how the Handley and McQuinn survey lines run with respect to these mountains.—A. The Handley line strikes the eastern terminati on of these mountains and runs westwardly along the divide to Cascade Range; the McQuinn line has its beginning point about 12 miles down Des Chutes River from the Handley initial point, and this line does not touch Mutton Mountains.

Q. State whether or not any of the Indians on the Warm Springs Reservation have at any time shown you what they claim to be the north boundary line.—A. I was herding sheep just about where the Handley line is situate, and met an Indian from the agency, who showed me the Handley line and said that this was the northern boundary. This was some four years ago. I was and am acquainted with the Handley line. I made inquiry about this line of the Indian spoken of, whose name I can't remember, in order that I might not herd over the angles of the line.

HENRY PETERSON.

Sworn to and subscribed before Commission February 28, 1891.

J. F. PAYNE, *Clerk.*

H. KELLEY, after being duly sworn, makes oath and says:

Interrogated by MOORE, counsel:

Q. Where do you reside?—A. Four miles from Wapinitia, and have lived here eleven and a half years.

Q. Are you acquainted with Mutton Mountains; and if so, where are they?—A. Yes; they are situate southeast of Wapinitia.

Q. State the terminus of these mountains?—A. The eastern terminus is on the west side or bank of Des Chutes River, and they extend thence westwardly, and the western terminus is Cascade Mountains.

Q. State, if you know, whether this is the same range of mountains situate on or near the Handley line.—A. The line known as Handley line begins opposite the eastern termination of these mountains, in Des Chutes River.

H. KELLEY.

Sworn to and subscribed before Commission March 3, 1891.

J. F. PAYNE, *Clerk.*

J. N. MOAD, after being duly sworn, makes oath and says:

Interrogated by MOORE, counsel:

Q. Where do you reside?—A. I live at Tygh Valley, Wasco County, about 12 miles from Wapinitia. I have lived there since 1886.

Q. Are you acquainted with what is commonly known as Mutton Mountain; if so, how long have you known it, and where is it?—A. I have known Mutton Mountains since 1869. This range is south of this place, Wapinitia, and is a range of highlands extending eastwardly to Des Chutes River and westwardly to the Cascade Mountains.

Q. State, if you know, how the Handley survey runs with respect to this range of mountains.—A. The Handley line strikes the eastern termination of these mountains and then runs westwardly with the divide.

Q. Have you been intimately associated with the Indians? If so, state how and when.—A. Yes, I have had some intercourse and dealings with the Indians.

Q. During this time have the Indians ever shown you an oak tree what they claim as the north boundary line; if so, where is it?—A. I never heard anything about the oak tree, and they never showed such a tree to me before the McQuinn survey.

Q. What effect would the adoption of either the Handley or McQuinn lines have on the respective rights of the whites and the Indians?—A. If the Handley line was adopted the Indians would have ample territory for every purpose and still have an abundance of wood and water. If the McQuinn line was established the whites would be seriously affected by being deprived of wood and water and pasturage. Their settlements here would be useless.

J. N. MOAD.

Sworn to and subscribed before Commission February 27, 1891.

J. F. PAYNE, *Clerk.*

B. C. MCATEE, after being duly sworn, makes oath and says:

Interrogated by MOORE, counsel:

Q. Where do you reside?—A. I reside at Tygh Valley, Wasco County, Oregon, 15 miles from Wapinitia. I have lived there since 1865.

Q. Are you acquainted with Mutton Mountain, and, if so, how long have you known it and by what name?—A. I have known it since 1865 and it has always been known as Mutton Mountains.

Q. How is this range situate with respect to the Handley line and what is known as the McQuinn line?—A. The Handley line begins in the middle of the channel of Des Chutes River, opposite the eastern termination of Mutton Mountains. The beginning point of McQuinn line is several miles down the river from the Handley line and does not touch Mutton Mountain.

Q. State if you know how the Handley line was regarded by both whites and Indians with respect to the north boundary line of the reservation.—A. The Handley line was generally known as the northern boundary by both whites and Indians. Several times my cattle went over on the reservation and were driven back by the Indians to the Handley line where they stopped.

Q. State in your best judgment how the respective rights of the whites and the Indians wou'd be affected by the adoption of either of those lines.—A. If the Handley line was adopted the Indians would have ample territory for all their purposes and have also an abundance of wood and water. If the McQuinn line be adopted the injury to the whites would be very great, because they would be deprived of wood and water and would have to haul their water many miles.

Q. Do you know anything of an oak tree claimed by the Indians as marking the north boundary of reservation?—A. I do not.

B. C. MCATEE.

Sworn to and subscribed before Commission, February 27, 1891.

J. F. PAYNE, *Clerk.*

W. H. DAVIS, after being duly sworn, makes oath and says:

Interrogated by MOORE, counsel:

Q. Where do you reside?—A. At Wapinitia, Wasco County, for some thirteen years.

Q. Are you acquainted with Mutton Mountain, and if so, how long have you known it by that name?—A. Yes; I am acquainted with Mutton Mountain and have known it for about ten years.

Q. Has this mountain at any time borne any other name?—A. It has not.

Q. Describe this mountain as best you can.—A. It forms a watershed, and is a well-defined range. Streams run from either side of it.

Q. Do you know where the Handley and McQuinn lines are?—A. I have crossed over both these lines in different places, and by common reputation know their course and direction.

Q. State in your best judgment what the effect would be upon the whites and Indians by adoption of either the Handley or McQuinn lines.—A. By adoption of McQuinn line the whites would be deprived of wood and water, and if Handley line were adopted the Indians would still have an abundance of wood and water.

Q. Describe the country, and say by what name it is known north of the eastern portion of Mutton Mountains.—A. The country is hilly, and the hills immediately north of the eastern part of Mutton Mountains are called Neena Hills, and those farther north are called Oak Grove Hills.

W. H. DAVIS.

Sworn to and subscribed before Commission, February 26, 1891.

J. F. PAYNE, *Clerk.*

J. B. MANLEY, after being duly sworn, makes oath and says:

Interrogated by MOORE, counsel.

Q. Are you acquainted with Mutton Mountains; if so, where are they situate?—A. Yes, I know where these mountains are; they are south of Wapinitia, and I live about 4 miles from Wapinitia.

Q. How are Mutton Mountains situate with respect to the Handley and McQuinn lines?—A. The Handley line has its beginning point in Des Chutes River opposite eastern termination of Mutton Mountains, and thence this line runs a west course along the general course of these mountains to Cascade Range. The beginning point of McQuinn line is some 12 miles down Des Chutes River, from initial point of Handley line, and does not in any respect touch Mutton Mountains. This McQuinn line strikes Neena and Wapinitia Hills, which are no part of Mutton Mountains.

J. B. MANLEY.

Sworn to and subscribed before Commission, March 4, 1891.

J. F. PAYNE, *Clerk.*

H. T. CORUM, after being duly sworn, makes oath and says:

Interrogated by MOORE, counsel.

Q. Are you acquainted with what is commonly known as Mutton Mountains; if so, state where they are situate?—A. I know these mountains well. The range commences opposite the Des Chutes River at the initial point of the Handley line, and extends westwardly to the Cascade Mountains.

Q. State if you know where the McQuinn line is situate, with respect to Mutton Mountains.—A. The McQuinn line begins several miles down the Des Chutes River, from initial point of Handley line, and runs thence in a southwesterly direction. It does not strike Mutton Mountains, but runs north of these mountains across the Oak Grove or Wapinitia Hills.

Q. State whether or not you know what McQuinn did with respect to his survey.—A. I was with a party of white settlers in this vicinity who visited Mr. McQuinn at the time he first came out here to run the line. In a conversation with respect to how he proposed to run the line, he responded that he intended to run in accordance with the treaty, and substantially as Handley had run the line. We were all satisfied with this, and did not know of any change until he had located his initial point where it is now, and had run a considerable portion; then we could not induce him to make any changes. He ran about 9 miles in the first instance, just as Handley ran, from his beginning point opposite eastern termination of Mutton Mountains, then quit, and thereafter ran as he located his line.

Q. How was the Handley line regarded prior to McQuinn survey?—A. I never knew or heard of any objections to it.

Q. Where do you reside?—A. I live at Wapinitia and have resided here about eight years. This place is about 2½ miles to the nearest point of the McQuinn line.

Q. Are you on friendly terms with Indians and white settlers?—A. I am.

Q. What is your business?—A. I am engaged in general merchandising at Wapinitia ever since I came here, about eight years ago.

H. T. CORUM.

Sworn to and subscribed before Commission, March 3, 1891.

J. F. PAYNE, *Clerk.*

J. P. ABBOTT, after being duly sworn, makes oath and says:

Interrogated by MOORE, counsel:

Q. Are you acquainted with Mutton Mountains; and if so, where are they situate?—A. Yes; they are situate south of Wapinitia.

Q. How are these mountains situate with respect to the Handley and McQuinn lines?—A. The beginning point of Handley line is in Des Chutes River, opposite to the eastern termination of Mutton Mountains, and then the line runs west along the general direction of these mountains. The McQuinn line begins several miles down the Des Chutes River from the initial point of Handley line, and does not touch Mutton Mountains.

Q. What has been the reputed north boundary line of the Warm Springs Reservation?—A. The Handley line has alwas been regarded as the northern boundary for some fourteen years.

Q. What persons have shown you the Handley line?—A. Capt. Smith, the agent at Warm Springs, and Mr. C. H. Walker have frequently shown me the line. Indians belonging to the reservation have very often pointed out to me the Handley line as their north boundary. I have resided near this line for upwards of fourteen years.

Q. Are you acquainted with the Neena and Wapinitia hills, and are they any part of the mountains known as Mutton Mountains?—A. Yes; I know them; they are no part of Mutton Mountains.

Q. When McQuinn ran his line who was present, and what was said about running that line?—A. McQuinn began his line just as Handley ran it, and told me he began at eastern termination of Mutton Mountains; he ran for some 9 miles and then stopped. He then told me that the Indians had pulled up his stakes.

J. P. ABBOTT.

Sworn to and subscribed before Commission March 4, 1891.

J. F. PAYNE, *Clerk.*

J. I. WEST, after being duly sworn, makes oath and says:

Interrogated by Mr. MOORE, counsel:

Q. Where do you reside?—A. I live at Wapinitia, and have lived here for ten years.

Q. Are you acquainted with what are generally known as Mutton Mountains; and, if so, where are they?—A. I know these mountains. They are situate south of Wapinitia Hills. They extend down to Des Chutes River with respect to their eastern termination. A large, deep cañon separates them from Nuna Hills.

Q. State from what you know whether this is a well-defined, prominent range of mountains, and give each terminus.—A. It is a well-defined, prominent range of mountains, varying in direction, somewhat crooked, having its eastern termination at Des Chutes River and western termination at Cascade Mountains, with which last-named range it forms a junction.

Q. Are you acquainted with the Handley and McQuinn lines of survey?—A. Yes, I am acquainted with both of these lines throughout the greater portion of their respective routes.

Q. How are Mutton Mountains situate with respect to the Handley and McQuinn lines?—A. The beginning point of Handley line is in the middle of Des Chutes River, opposite eastern termination of these mountains, and then the line runs west along the divide to Cascade Range, the western termination. The beginning point of McQuinn line is several miles down Des Chutes River from initial point of Handley line, and this line does not touch Mutton Mountains or any part of them.

J. I. WEST

Sworn to and subscribed before Commission March 3, 1891.

J. F. PAYNE, *Clerk.*

A. MCCLURE, after being duly sworn, makes oath and says:

Interrogated by MOORE, counsel:

Q. Are you acqqainted with what is commonly known as Mutton Mountains? If so, state where same are situate.—A. I know where these are; that are situate south of Wapinitia.

Q. State, if you know, how Mutton Mountains are situated with respect to the Handley and McQuinn lines.—A. The Handley line begins in Des Chutes River opposite the eastern termination of Mutton Mountains and extends in a westwardly course along these mountains to Cascades. The McQuinn line be gins several miles down the Des Chutes River from the Handley initial point, and does not anywhere in its entire course touch Mutton Mountains. It strikes Nuna Hills and Wapinitia Hills, and these hills are no part of the range known as Mutton Mountains.

A. MCCLURE.

Sworn to and subscribed before Commission March 4, 1891.

J. F. PAYNE, *Clerk.*

W. D. MUNGER, after being duly sworn, makes oath and says:

Interrogated by MOORE, counsel:

Q. Are you acquainted with what is commonly known as Mutton Mountains, situate in this vicinity?—A. Yes, I know where these mountains are; they are situate south of Wapinitia Hills. I have known them for ten years.

Q. Are you acquainted with the Handley and McQuinn lines of survey? And, if so, please state how these lines run with respect to Mutton Mountains—A. The Handley line begins in Des Chutes River, opposite the eastern termination of Mutton Mountains, and follows westwardly the course of the divide to Cascade Range. The course of divide is crooked, but the Handley line in my opinion is run in the most practicable direction and course and substantially conforms to calls of treaty. The McQuinn line begins several miles down the Des Chutes River from the Handly initial point, and it does not touch Mutton Mountains. I know both lines.

Q. State whether or not any person has ever shown you what has been claimed to be the north boundary of the reservation.—A. Mr. William Davis, James Brown, John West, and many other white persons have shown me this boundary. Several of the Indians have repeatedly shown me this boundary, saying all south of the Handley line, which they said was north boundary, belonged to the Indians and all north of that line belonged to the whites. The Handley line has for many years up to McQuinn survey been generally respected by both whites and Indians as the north boundary of reservation. I was shown the Handley line several years prior to McQuinn survey.

Q. State whether or not you know anything of a blazed oak claimed by the Indians as their north boundary.—A. I know nothing about any such tree and none was ever pointed out to me by Indians. The first time I ever heard anything about it was since McQuinn survey.

W. D. MUNGER.

Sworn to and subscribed before Commission March 2, 1891.

J. F. PAYNE, *Clerk.*

ROBERT A. LAUGHLIN, after being duly sworn, makes oath and says:

Interrogated by J. F. MOORE, counsel for whites.

Q. Where do you reside and how long have you resided there?—A. I live in Wasco County, and about a mile and a quarter at the nearest point to the McQuinn line. Have so resided for some eighteen years.

Q. Are you acquainted with what is commonly known as Mutton Mountain in this vicinity?—A. Yes; I have known it for fifteen years at least, perhaps longer.

Q. Is this a distinct and well-defined range of mountains?—A. Yes, it is a well-defined range of mountains, plainly seen and indicated. It forms a watershed from which streams flow on either side.

Q. Are you acquainted with the Handley and McQuinn lines? If so, state how they run in regard to Mutton Mountain.—A. I am acquainted with these lines. The beginning point of the Handley line is in the middle of the channel of the Des Chutes River, opposite the eastern termination of what is generally known as Mutton Mountains. The beginning point of the McQuinn survey is some 10 or 12 miles down the Des Chutes River from the beginning point of the Handley line, and does not touch Mutton Mountains.

Q. Do you know whether or not the Handley line has been for a number of years recognized as the north boundary line of the Warm Springs Reservation by both the whites and the Indians?—A. Yes; the Handley line has been generally recognized as the north boundary for many years, and I never heard of any objection to it till since the McQuinn survey.

Q. State what effect the adoption of either the Handley or McQuinn lines would have upon the respective rights of the whites and Indians?—A. In my opinion the adoption of the Handley line would leave the Indians with ample supply of timber and water, and that the adoption of the McQuinn line would deprive the whites of both timber and water.

R. A. LAUGHLIN.

Sworn to and subscribed before Commission, February 25, 1891.

J. F. PAYNE, *Clerk.*

R. M. ALEXANDER, after being duly sworn, makes oath:

Interrogated by J. F. MOORE, counsel for whites.

Q. Where do you reside?—A. About a mile and a half from Wapinitia, and about 3 miles from McQuinn line.

Q. Have you at any time occupied any land situated between the Handley and McQuinn lines, if so, how did you occupy it?—A. Yes; I filed preëmption claim on a quarter section between the two lines. I got a receipt for money paid for land when I filed. I am still in possession under my claim of right.

R. M. (his x mark) ALEXANDER.

Sworn to and subscribed before Commission, February 25, 1891.

J. F. PAYNE, *Clerk.*

LOUIS DELCORE, after being duly sworn, makes oath and says:

Interrogated by MOORE, counsel.

Q. Where do you reside?—A. I have lived near Wapinitia for about eleven years.

Q. Were you present when Mr. McQuinn attempted to survey the north boundary line of the Warm Springs Reservation, and if so, tell all you know about it?—A. Yes, I was present. I know where Mutton Mountain is, and McQuinn commenced his survey opposite the eastern termination of Mutton Mountains about where Handley ran his line. He ran some 8 or 9 miles along Mutton Mountain and then he stopped and went back, and several days after began the line he did run several miles down the Des Chutes River from the Handley beginning point. After McQuinn had gone over to the agency he returned with Agent Wheeler and commenced running the line known as the McQuinn line.

Q. How did McQuinn run his line with respect to summit and divide?—A. For about some 16 miles he ran without any regard to summit or divide—My understanding was that he did not touch Mutton Mountain.

Q. What name, if you know, has been given to the highlands near here, and which lie north of Mutton Mountain?—A. They are called Oak Grove Hills.

LOUIS DELCORE.

Sworn to and subscribed before Commission, February 26, 1891.

J. F. PAYNE, *Clerk.*

FRANK GABEL, after being duly sworn, makes oath and says:

Interrogated by J. F. MOORE, counsel for whites.

Q. State your name, age, residence, and occupation.—A. My name is Frank Gabel, age 35, I reside near Wapinitia, in Wasco County, Oregon. My occupation is that of a farmer and stock-raiser.

Q. How long have you resided in this vicinity?—A. About eleven years; I have also lived near the Des Chutes River for some four years, and the river is in this vicinity.

Q. Are you acquainted with the lines heretofore run on the north boundary of Warm Springs Reservation by one Handley and McQuinn?—A. Yes.

Q. Are you acquainted with a range of mountains in the vicinity of those lines commonly known as Mutton Mountains?—A. I am acquainted with those mountains.

Q. How long have you known these mountains by that name?—A. For something over fourteen years.

Q. Have these mountains any other name that you know of?—A. No.

Q. Is this range known as Mutton Mountains, a well-defined range, and describe this range with reference to the Handley and McQuinn surveys.—A. This range is a well-defined range of mountains and is a continuous range extending from the eastern termination of these mountains on through to their junction with the Cascade Range; this range all the way through is one continuous range of mountains and the divide is plainly indicated. This boundary has its beginning point in or about the middle of the channel of the Des Chutes River opposite the east termination of this range, and this range west to the summit thereof and along the divide has been and is generally known as the northern boundary of Warm Springs Reservation. The beginning point, as located by Handley survey, is in the middle of the channel of the Des Chutes River opposite the eastern termination of Mutton Mountains, and is in conformity with the description set forth in the treaty. Handley in running his lines from the beginning point substantially conforms with description in treaty with respect to the northern boundary, except that in some instances he runs farther north after

leaving beginning point than would seem to be authorized by strict calls of treaty. The beginning point located by McQuinn survey is some 10 or 12 miles down the Des Chutes River from the beginning point as located by Handley, and in my opinion the McQuinn survey does not conform to the calls in treaty description.

Q. How long has the range of mountains spoken of by you as Mutton Mountains been generally known as such?—A. When I first came to this country in 1876 it was then generally known by all people who know anything about the country as Mutton Mountains; it was laid down on all the maps as such.

Q. Do you know whether the Handley line was plainly marked; and, if so, describe it the best you can?—A. Yes; the Handley line is plainly marked. I went over it with Gen. Gordon and Mr. Martin, the special agents sent out by the Government to inspect the Handley and McQuinn lines. There were a number of Indians along, among them I remember Neena Pat, Wm. Chernook, Kishwalk, Charlie Pitt. This line was plainly marked and indicated all the way through by stone monuments, and the Indians who were along knew where the corners were, frequently going to them before we got there.

Q. State whether or not at this time any of the Indians present raised any question in regard to the Handley line.—A. No; they seemed satisfied with it.

Q. At that time did any of the Indians present (or at any time you know of) say anything about a blazed oak situate on what they now claim to be the north boundary?—A. At that time no mention was made of it, and neither since nor before have I known of any such claim asserted by the Indians.

Q. If you know by general reputation or otherwise where the McQuinn line is, state how it runs with respect to Mutton Mountain, and whether it follows any divide or crosses gulches, streams, and without reference to the summit of any particular highland?—A. I am well acquainted with the eastern portion of the McQuinn line, and with the general direction of the entire line. I have already described where the beginning point under his survey was located. In running westwardly from the Des Chutes River it passes over a ridge which is no part of Mutton Mountain, there being a deep canyon between that ridge and Mutton Mountain, taking the entire course of this line westwardly from the river it does not touch Mutton Mountain. It crosses Neena Creek about a mile above the mouth of it, then crosses a gulch near F. X. Packett's, then crosses Oak Grove Creek about 2 or 3 miles above the mouth of it; then with respect to Summit, I would say that this line runs for some 4 or 5 miles on the north side of summit of Wapinitia Hills in its western course.

Q. State whether the summit of Mutton Mountain forms a watershed. If so, what streams take their sources in these mountains? Give their names, and general directions.—A. Yes; the summit of Mutton Mountain does form a watershed. On the north side of Mutton Mountain, Eagle, and Neena creeks take their source in said mountains and flow in a northeast direction. On the south side of the summit of said mountains one or two creeks, the names of which I can't remember, take their source in said mountains and flow southeast.

Q. Are you acquainted with a butte in the Cascade Range, and about 20° north of west from the initial point of the Handley survey in Des Chutes River?—A. I know where it is—it has been pointed out to me.

Q. In your best judgment, tell as near as you can how a north boundary line commencing at this initial point of the Handley survey and running to the butte mentioned would affect the interests of the whites and Indians with respect to the disputed lands.—A. While I do not think that the line above indicated would be strictly in accord with the calls of the treaty, yet in my opinion it would be a fair and equitable boundary with respects to the rights of both whites and Indians.

Q. Now, you may state, in your best judgment, how the respective rights of the whites and Indians would be affected by establishing either the Handley or the McQuinn.—A. If the Handley line be established the Indians would only lose the benefit of pasturage in the eastern portion of disputed lands, but they would still have ample timber and water. If the McQuinn line be established, the whites would lose benefit of pasturage and timber and water. Whites would have to go to White River to water their stock, a distance of 12 or 13 miles. The injury to whites on account of deprivation of water and timber would materially impair the value of all settlements.

Q. Were you acquainted with Mr. McQuinn, and did you see him about the time he surveyed the line in question?—A. Yes.

Q. State what, if anything, he said to you or in your hearing at that time.—A. When McQuinn first came to make his survey I went to see him about it, accompanied by Mr. Lewis, M. J. Anderson, and J. P. Reeburg. McQuinn then

said that he would not run the line over the hills—by this I mean the line as it now is; he also said we could go home and rest easy about it. He had first begun running according to the Handley line. I was absent for a few days, and in the mean time McQuinn ran the line. About the time he was running the line, or shortly after, he came to my house and, in a conversation with him about his having run the line after his promise not to run it, he said, if you white men had been here it would not have been run as it was, but now it will have to stand.

FRANK GABEL.

Sworn to and subscribed before Commission, February 24, 1891.

J. F. PAYNE, *Clerk.*

W. F. MCCLURE, after being duly sworn, makes oath and says:

Interrogated by MOORE, counsel:

Q. Are you acquainted with Mutton Mountains, and if so, where are they situate?—A. I know where these mountains are—they are situate south of Wapinitia.

Q. State if you know how Mutton Mountains are situate with respect to the Handley and McQuinn lines.—A. The beginning point of Handley line is in Des Chutes River, opposite eastern termination of Mutton Mountains and thence this line runs west along the general course of these mountains to junction with Cascade Range. The McQuinn line is several miles further north, begins some 10 miles or more down the Des Chutes River from beginning point of Handley line, and does not touch Mutton Mountains. It runs along Wapinitia and Nuna Hills, which are no part of range known as Mutton Mountains.

W. F. MCCLURE.

Sworn to and subscribed before Commission, March 4, 1891.

J. F. PAYNE, *Clerk.*

PERRY DEAN, after being duly sworn, makes oath and says:

Interrogated by MOORE, counsel:

Q. Where do you reside?—A. I reside near Wapinitia, and have so resided since 1869.

Q. Are you acquainted with what is commonly known as Mutton Mountains in this vicinity?—A. I know where these mountains are; they are south of Wapinitia Hills. These mountains have always been known as Mutton Mountains, and were so called from the fact that wild mountain sheep abounded in these mountains and many were killed there.

Q. State if you know how the Handley survey line runs with respect to Mutton Mountains.—A. The beginning point of the Handley line is in the middle of Des Chutes River, opposite to the eastern termination of Mutton Mountains, and then the line runs westwardly towards the summit of this range and along the divide to Cascade Range. These mountains are quite crooked and the line does not run straight, as it was found impracticable so to run it.

Q. How does the line of the McQuinn survey run with respect to Mutton Mountains?—A. The beginning point of McQuinn line is some ten miles down the Des Chutes River from where Handley began his line, and this line does not, as I understand it, touch Mutton Mountains. This McQuinn line strikes the Nuna Hills and the Wapinitia or Oak Grove Hills.

Q. State, if you know, who was with Mr. Handley when he ran his line?—A. W. M. McCorkle, Peter Delore, and other white men were present. Several Indians were along, and they belonged to Warm Springs Reservation. I do not remember the names, because at that time I was not well acquainted with the people.

Q. What was said and done then?—A. It was agreed that Mutton Mountains were situate as described in the treaty. The Indians showed Handley where to begin and run his line, and one of them pointed out the way. Handley ran the line as pointed out by the Indians. There was no objections and all seemed satisfied. The white people talked to the Indians in jargon, called Chernook, which they understood. I think Charlie Pitt, Indian interpreter, was present.

Q. Did the Indians and whites respect this line as Handley ran it?—A. They did until Agent Wheeler took charge at the agency, and then disturbance began about the line.

Q. Did you ever occupy any lands near the Handley line?—A. Yes.

Q. Do you know of a blazed oak claimed by the Indians to be on or about the northern boundary of reservation?—A. I do not. I am quite certain that nothing was heard of any such claim until after McQuinn's survey. I knew of some

blazed oaks when they began running township lines many years ago at a point between Handley and McQuinn lines.

Q. How would it affect the respective rights of the whites and Indians to adopt either the Handley or McQuinn lines?—A. By adoption of the McQuinn line the whites would suffer greatly in being deprived of wood and water, and pasturage. If Handley line were established as the boundary the Indians would not in point of fact be losers, for they do not need the land for agricultural, pasturage, wood, or water, the remainder of reservation being more than sufficient to supply all their wants.

PERRY DEEN.

Sworn to and subscribed before Commission, February 28, 1891.

J. F. PAYNE, *Clerk.*

The above-named witness was recalled and further interrogated.

Q. State, if you know, where McQuinn began his survey; was it continued as begun, and if not, why not?—A. McQuinn began running his line just as Handley ran it, and after running it for some distance he quit and the reason he gave me for quitting, in conversation I had with him, was that he was afraid to run it account of threats by Indians.

PERRY DEEN.

Sworn to and subscribed before the Commission, February 28, 1891.

J. F. PAYNE, *Clerk.*

W. MCD. LEWIS, after being duly sworn, makes oath and says:

Interrogated by MOORE, counsel.

Q. Where do you reside?—A. I have resided near Wapinitia since fall of 1875.

Q. Are you acquainted with a range of mountains commonly called Mutton Mountains, and if so, how long?—A. I have known these mountains by general reputation since 1862, and personally since 1875.

Q. How are these mountains situate with respect to the Handley and McQuinn lines?—A. The Handley line at its beginning point strikes the eastern termination of these mountains. The McQuinn line is several miles north of Mutton Mountains.

Q. Do these mountains form a watershed, and are they a well-defined range?—A. They do form a watershed, and although the range is crooked, it is a well-defined range.

Q. Has this range borne any other name than Mutton Mountain?—A. I never knew or heard of any other name.

Q. Do you know whether by reference to the maps generally in use Mutton Mountains are laid down?—A. Yes; I find these mountains laid down on all the maps describing this country.

Q. Are you acquainted with the Handley and McQuinn surveys, and if so, state what you know about them?—A. I know them both, I have been over the entire length of the Handley line, except perhaps the last mile. I have been over the greater portion of the McQuinn line. The Handley survey most nearly conforms to the calls of treaty. The McQuinn survey does not in any respect conform to the treaty, follows no devide, runs to no summit, and cuts across hills and ravines.

Q. What kind of country is situate north of the eastern portion of the Handley line, what name or names has it?—A. It is a rough, hilly country; it is called Nuna Hill; further on north the hills are known as Oak Grove Hills or Wapinitia Hills; among the Indians it is known as Wapinitia Hills.

Q. What effect would it have on the whites and Indians to adopt either the McQuinn line or the Handley line?—A. The whites would lose pasturage and wood and water by adoption of the McQuinn line, and the Indians by the adoption of the Handley line would only lose some pasturage on the eastern portion of disputed lands, but would still retain an abundance of wood and water.

Q. State whether or not the Handley line was for any length of time respected by the whites and Indians as the north boundary line?—A. The Handley line was generally respected as the north boundary by whites and Indians up to the McQuinn survey.

Q. What, if anything, was said to you by Indians with respect to Handley line; when and where?—A. When Messrs. Gordon and Martin were out here inspecting the Handley and McQuinn lines there were several Indians along and we were on the Handley line. Among these Indians I remember William Chernook, Neena Pat, Kishwalk, Pianoose, Charlie Pitt. They, the Indians whose names

I have mentioned, said they were satisfied with the Handley line. Their only desire seemed to be to save Neena Pat and Indian Johnnie's land.

Q. Do you know anything about a blazed oak tree which is claimed by the Indians to be on the treaty line?—A. I never heard anything about this oak tree until McQuinn survey.

Q. State whether the Indians or any of their agents claimed any other blazed oak to be on boundary?—A. Yes. On one occasion I went over to see Capt. Smith, then agent, about the line, and Capt. Smith said the Handley line was the northern boundary and that I would find a blazed oak thereabouts. Afterwards I found the oak about on the Handley line. It was about a foot thick and had an old blaze on it. I think this was about 1881 or 1882, but can't be positive.

W. McD. LEWIS.

Sworn to and subscribed before Commission, February 26, 1891.

J. F. PAYNE, *Clerk.*

The above witness was recalled and testified.

Q. State whether you know D. W. Butler, a witness heretofore examined.—A. I do.

Q. State whether you met said Butler as referred to in answers to questions 3 and 4 in deposition of said Butler, and, if so, when, and who were present?—A. Yes; we met at Warm Springs River and not on north boundary of reservation. Pianoose and, I think, Albert Kuckup were along.

"SKITUS," an Indian, after being duly sworn, makes oath:

Q. What is your name, age, and place of residence?—A. My Indian name is Skitus, English name is "Cree," I am 75 years old. I live on the reservation and belong to the Wasco tribe.

Q. Were you present when the Joel Palmer treaty of 1855 was made; and, if so, who else was present?—A. I was present at time treaty was made; leading men of the tribes were present also.

Q. Did you see the treaty signed, and when was it signed?—A. I saw the treaty signed; it was signed a short time after the same was made.

Q. Are you acquainted with the northern boundary lines of the Warm Springs Reservation? If so, state where they are.—A. I am acquainted with the lines. The beginning point is in the middle of the Des Chutes River, and opposite is a rock standing in the water; then the line runs west up on to a rocky hill; then from the top of the rocky hill across a dry gulch to a little mountain; from the mountain it crosses Neena Creek about 1½ miles from the mouth of Neena: after it crosses Neena it runs on the Wapinitia ridge to the blazed oak; from the blazed tree the line runs across Wapinitia Creek; then out of the creek up on side of mountain; thence on the north side of the mountain; then where the mountain runs out on through heavy timber to Cranberry Marsh (north of marsh); thence to a black butte.

Q. Were you present when the oak tree was blazed?—A. I was.

Q. Who blazed the tree?—A. Thompson, our agent, blazed it.

Q. Did you see him blaze it?—Yes; I saw him blaze it. I was a few feet off.

Q. Who was present when the tree was blazed?—A. "Mark," from the Wascoes, Wm. Chernook, Bear Cap and Polk, Kuckup, Alexant, Tallekush, Schooly, and others.

Q. What white men were present?—A. Two only—Agent Thompson and a man named Olney.

Q. Where, if you know, are these white men now?—A. Thompson is in California; Olney died several years ago.

Q. Was there any other tree blazed along northern boundary to mark out the line, outside the oak you speak of?—A. The only tree ever blazed on the line of northern boundary was the oak tree I have spoken of. No other trees blazed till McQuinn survey when he marked it out.

Q. How long after the treaty was the oak blazed?—A. We wintered at The Dalles after treaty was made. The next spring we went out onto the reservation, and then the oak was blazed.

Q. State, if you know, where is Mutton Mountain.—A. It is inside of reservation and on the east and next to Des Chutes River.

Q. How far from the beginningp oint in the Des Cchutes River is Mutton Mountain?—A. It is some 5 or 6 miles; can't say positive; it is south of the beginning point.

Q. Is this the same Mutton Mountain that is called for in treaty?—A. No.

Q. Where is the Mutton Mountain that is called for in treaty?—A. This Mutton Mountain is where Handley ran the line.

Q. Did any of your people at any time point out to Handley the blazed oak tree?—A. They did not.

Q. Did not Gen. Palmer know where Mutton Mountain was?—A. I don't know.

Q. Was the oak tree much talked about among the Indians before McQuinn survey?—A. Yes; there was a good deal of talk about it.

Q. Then why was it that your people did not insist that Handley should run his line to the oak?—A. When Handley came to run line he did not notify us or the agent. Capt. Smith was agent then.

Q. Did not Capt. Smith and the Indians know that Handley was running this line by orders of the Government?—A. I can't say what Capt. Smith did know, but I do not think that the Indians knew of it.

Interrogated by Indian "JOHNSON," lawyer for Indians:

Q. State whether Agent Thompson told you or the Indians to select their boundary line.—A. Yes; he gave us the chance to select the boundary.

Q. How many settlers did you find on your way out from The Dalles to the reservation as you came out with Thompson, the agent?—A. There were no white settlers from the Tygh this way.

Q. Did you understand that Palmer sent Thompson out here to establish the boundaries?—A. I did; but Palmer did not tell me so or say so.

Q. Did you hold a council before the tree was blazed?—A. Yes; the line was selected at the foot of the Wapinitia Hills at first; we did not agree to this line because the Indians said, "Let us have a little space between us and the whites so the whites can get wood and water."

Q. When they decided to run the line past the oak tree was it understood that the tree was to be blazed on Mutton Mountain?—A. No.

Q. Have you any recollection of Thompson leaving you and going over to Mutton Mountain?—A. No.

Q. When the oak tree was blazed state whether you knew the size of the reservation.—A. Yes.

SKITUS (his x mark).

Witness:
CHARLES PITT.

Sworn and subscribed before Commission February 12, 1891.
J. F. PAYNE, *Clerk.*

JOHNSON, an Indian, after being duly sworn, makes oath and says:

Q. What is your name, age, and place of residence?—A. My name is Johnson; 70 years old, and live on reservation.

Q. Were you present when the Joel Palmer treaty was made?—A. I was present.

Q. Who else were present?—A. Symtustus, Skekemah, Larquaquasee, Chewatnat, Kuckup, Alexand, Taliqueesh, Stockolah, Bear Cap, Gushhelah, William Chernook, John Mission, Shiats, Tockas, Tesympt; these are all I remember now. There were other leading men present.

Q. What white men were present?—A. I do not remember that any white men were present.

Q. Was Joel Palmer present?—A. Yes.

Q. What interpreters were present?—A. Dr. William McKay, a half-breed; Pat Mitchel, and Tesympt were present.

Q. How was the treaty interpreted and made known to Indians?—A. McKay interpreted from Palmer to the other interpreters in Chernook; then these two Indian interpreters, Pat Mitchell and Tesympt, interpreted in Indian to the tribes. In this way the treaty was made, and all that was said was explained and fully understood by the Indians.

Q. Did you know Joel Palmer?—A. Yes.

Q. What was his reputation for truth and honesty among the Indians?—A. He was a good, truthful, and honest man.

Q. Did you see the treaty signed?—A. Yes. It was signed the next day after it was made.

Q. Do you, of your own knowledge, know the northern boundary of the reservation?—A. No. Wm. Chernook, now dead, showed it to me.

Q. When did he show it to you?—A. When we first moved out on the reservation.

Q. What point did he show you?—A. The first place was the blazed tree; next he pointed west to a black butte in the Cascades; then he pointed east from the oak above mouth of Neena Creek or into Des Chutes River.

Q. Have you been over the Handley line, and do you know where it is?—A. No

Q. Do you know where the McQuinn line is?—A. Yes.

Q. How far from the oak does this line run?—A. About twice as far as the blacksmith shop at agency is from Luckey's office, estimated to be, in all, 100 yards. It runs on the north side of the oak.

Q. What is the length of northern boundary?—A. Yes; it is about a day's ride.

Q. How many whites were along when McQuinn ran the line?—A. I think there were three or four.

Q. Give us their names.—A. I do not know their names.

Q. Were there any settlers among them?—A. There were two settler along; one of them was on a little white pony.

Q. How is it that you know two of them were settlers and not know their names?—A. I don't know.

Q. Where did these two men who you call settlers live?—A. I don't know.

Interrogatories by INDIANS:

Q. Do you know of any Indian council held by Indians with respect to Handley running the line?—A. No.

Q. Could the Indins go now and trace out the Handley line?—A. No.

Q. Is Mutton Mountain on the McQuinn or on the Handley line?—A. Mutton Mountain, called in Indian Tuckolute, is on the Handley line.

JOHNSON (his x mark).

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission February 19, 1891.

J. F. PAYNE, *Clerk.*

NEENA PAT, an Indian, after being duly sworn, makes oath and says:

Q. What is your name, age, and place of residence?—A. My name is Neena Pat; am about 49 years old, and live on the reservation.

Q. Were you present when the Joel Palmer treaty of 1855 was made; and if so, who else was present?—A. Yes, I was present. Joel Palmer was present; among the Indians, Kuckup, Symtustus, Wm. Chernook, Mark, Gushhelah, Stockolah, and others were present also.

Q. Did you see the treaty signed?—A. Yes.

Q. Are you acquainted with the northern boundary lines of the reservation? If so, state where they are—A. Yes. The boundary is on the north side of the Wapinitia Ridge, at a point back of Pacquett's house. There was an oak tree standing by an old Indian trail which all Indians were acquainted with, and the line ran by this oak. Eastward the boundary extends from oak to the Des Chutes River, and westward from oak on north of Wapinitia Hills to the Butte in the Cascades.

Q. Describe the oak tree you speak of as being in line of northern boundary, and tell all you know about it.—A. The oak tree had been blazed years back; when I knew it it was about the size of a man's body, and there were two other oak trees near by.

Q. Who blazed the oak?—A. I have understood That thompson blazed it. I did not see it blazed.

Q. How long after it had been blazed did you first see this tree?—A. About one year afterwards.

Q. When, according to your best impression, did Thompson blaze the tree?—A. About a year after treaty was made.

Q. Do you say that it was a year or thereabouts after the treaty that Thompson and the Indians first marked out the northern boundary?—A. Yes, this is what I say.

Q. How far from the oak tree do you live?—A. About a mile and a half.

Q. How long have you lived this near the oak?—A. About seventeen years.

Q. What has become of the oak?—A. It has been cut down and the stump burnt up, and the other two oaks have been cut down and put into cordwood.

Q. State whether the two oaks that were cut down and put into cordwood were blazed as pointers.—A. I do not think there was any tree blazed except the one spoken, and I do not think the two oaks were blazed as pointers.

Q. When was the big oak and the other two oaks you speak of destroyed?—A. About four years ago.

Q. Did you ever examine particularly the blaze on the oak so that you might tell the age of it?—A. I never closely examined it and don't know age of blaze.

Q. Did you ever see any chip taken from the blazed part of tree so as to tell the age?—A. All that I know about this is that McQuinn cut out a chip from the stump and gave it to Albert Kuckup. I know nothing about the age of it.

Q. State, if you know, what became of the chip that Albert got.—A. I am informed that his children accidentally burned it up.

Q. Where is Mutton Mountain?—A. It is on the reservation and is called Tuck-o-lute. It is some 8 miles from the beginning point and south of it.

Q. Is this the same Mutton Mountain called for in the treaty?—A. No.

Q. Where is the Mutton Mountain that is called for in the treaty?—A. It is on the disputed line run by Handley. It is Wapinitia Mountain.

Q. How far do you live from the Handley line?—A. I live about 50 yards outside of Handley line—that is to say, my dwelling house is this distance outside of line.

Q. How much of your land is left out by Handley line?—A. The Handley line takes all of "my bought land." The number of acres I can't give now, but will do so whenever required.

Q. Have you been over the Handley line; and, if so, when?—A. Yes; I went over it with General Gordon and Mr. Martin when they were here.

Q. Did you go along with Handley when he ran the line through your premises?—A. I did not see him when he ran the line.

Q. Where were you that you did not see him?—A. I was out hunting at the time.

Q. Did he run his line in sight of your house?—A. No; at the time he ran the line I was living at the old place, and could not see him running from there.

Q. When did you first hear about the Handley line?—A. The first that I heard of the Handley line was when the Frenchman moved on the land I bought, and when he commenced building.

Q. Does the McQuinn line take in all your premises?—A. Yes.

Q. Did you ever know of what is called McQuinn line till he ran it?—A. I first knew of McQuinn line when he ran it, not before.

NEENA (his x mark) PAT.

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission February 16, 1891.
J. F. PAYNE, *Clerk.*

STOT-LIKER, an Indian, after being duly sworn, testifies as follows:

Q. What is your name, age, and place of residence?—A. My name is Stot-liker; I am son of Bear Cap; am 60 years old, and live on the reservation.

Q. Were you present at the Joel Palmer treaty?—A. I was present.

Q. Do you know the northern boundary of the reservation?—A. I don't know it myself, but it was pointed out to me.

Q. By whom and when was it?—A. It was pointed out to me by my father, Bear Cap, about thirty-four years ago.

Q. Where is that boundary?—A. It is on the north side of Wapinitia Mountains.

Q. Have you ever seen the oak, and when?—A. Yes, I saw it same time the boundary was pointed out to me; it was then freshly blazed.

Q. What do you know about settlement of the country by whites?—A. There were no whites between here and The Dalles when I came out to reservation.

STOT-LIKER (his x mark).

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission February 18, 1891.
J. F. PAYNE, *Clerk.*

"SHARKER," an Indian, after being duly sworn, testifies as follows:

Q. What is your name, age, and place of residence?—A. My Indian name is Sharker, English name Warm Springs George; am 66 years old, and live on the reservation.

Q. Were you present when the Joel Palmer treaty of 1855 was made?—A. Yes, I was there.

Q. Who else was present?—A. Quak-Purner, Neena-Pat, Syntustus, Ske-ke-mah, Larquaquase, Kuckup, Stockolah, Alexand, Talequeesh, Mark, Gushhelah,

Tesympt, Chewatnat, William Chernook, Polk, Bear Cap; these are all I can remember.

Q. Did you sign the treaty?—A. No.

Q. Did you see the treaty signed?—A. Yes.

Q. Was Joel Palmer present?—A. Yes.

Q. What other whites were present?—A. I think there were about four other whites, but don't remember their names.

Q. What interpreters were present?—A. I think there were two; can't remember their names.

Q. How was the treaty interpreted?—A. One of the interpreters took it from the English; then it was handed to interpreter in Chernook; then from the second interpreter it was given to the Indians in the Indian language. All that was said and done was fully explained and understood.

Q. Are you acquainted with the northern boundary of the reservation?—A. I do not know it of my own knowledge; it was only pointed out to me.

Q. By whom?—A. Chewatnat pointed it out to me.

Q. How long since?—A. I can't say positively, but think it was some thirty-five years ago.

Q. Where is this boundary?—A. It is on the north side of the Wapinitia Hills.

Q. Could you point out the boundary now?—A. Yes; I can show what was pointed out to me.

Q. Have you ever seen the oak?—A. No.

SHARKER (his x mark).

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission February 18, 1891.

J. F. PAYNE, *Clerk.*

ELIJAH MILLER, an Indian, after being duly sworn, testifies as follows:

Q. State whether you went with Mr. C. H. Walker to the oak tree; if so, tell what was done and who was present.—A. I went with Walker to the tree. Pianoose, Skitus, Albert Kuckup, Bill Wennanwit, my father, Miller, and Neena Pat. Pianoose said to Walker, "You blaze this tree again." Walker reblazed the tree where it had been blazed before.

Q. Did Walker go to any other part of the line?—A. Yes; he went from blazed oak tree to the river, and I showed him "Yarpallat."

Q. Did Walker blaze any other tree?—A. No.

ELIJAH MILLER.

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission, February 13, 1891.

J. F. PAYNE, *Clerk.*

C. H. WALKER, a witness offered by the Indians, after being duly sworn, testifies as follows:

Q. Where do you now reside, and what is your occupation.—A. I reside at Warm Springs Agency, and am superintendent of the agency school.

Q. State whether you went out on the northern boundary of the reservation; if so, when and at whose instance and request.—A. The first time I went out on this boundary was in March, 1881; the second time was in March, 1882; third time in July, 1882. I went at the request and by direction of the agent, at that time Capt. Smith; but at the time I went in July, 1882, was at the request of the surveyor, who was retracing the Handley line.

Q. Did any Indians go out with you?—A. The first time I went out I was accompanied by Neena Pat, Pianoose, William Chernook, Skemena, and a number of other Indians whose names I do not now recall.

Q. Did the Indians take you to a tree?—A. Yes; they took me to an oak tree, blazed, as I remember, on the south side; I think the tree was about a foot thick at the butt, and about 6 inches thick where it was blazed. There were other oak trees around.

Q. Did the Indians take you directly to the oak tree?—A. Yes; they took me to it without any trouble. I tried to trace out for them the Handley line which had been surveyed, but the Indians objected, and they took me over to the blazed oak.

Q. What did you do and who was along when you went out in March, 1882?—A.

My brother, M. W. Walker, was with me, and we found the stone monument on the Handley line west of the Des Chutes River to be on a bald hill, the highest point of the eastern termination of the Mutton Mountain Range.

Q. Is the Handley line a straight line?—A. No; it follows the course of the divide from the stone monument. The course of the divide is sometimes straight and sometimes crooked. We followed it about a mile in a south direction and then west about 2 miles.

Q. Is there a dispute about the Handley line and the McQuinn line?—A. Yes; they are both in dispute. The Indians claim the McQuinn line to be the correct line, and most of the whites claim the Handley line to be the correct line.

Q. Were there any rocks piled about the blazed oak?—A. None that I remember of.

Q. What was the age of the blaze on the oak, and did you reblaze it?—A. It was an old blaze, nearly grown over with bark; I can't say what the age of it was. I have no recollection of reblazing the tree, although I may have done so.—No marks on blaze.

Q. State whether there is any other point where the Indians took you.—A. Yes; they took me to a bald point north from the tree about 15 or 20 rods; they showed me there a distant peak in the Cascade Range, and William Chernook, now dead, said that was the western termination of the north boundary line, and then he pointed to the Des Chutes River and said that was the eastern termination.

C. H. WALKER.

Sworn to and subscribed before Commission February 18, 1891.

J. F. PAYNE, *Clerk.*

JAMES C. LUCKEY, a witness offered by the Indians, after being duly sworn testifies as follows:

Interrogated by JOHNSON, for the Indians:

Q. What is your occupation, and where do you reside?—A. I am Indian agent at Warm Springs Reservation, and reside there.

Q. Were you here when Capt. Smith was the agent?—A. Yes, I was here from 1867 to 1870. I was blacksmith in Government employ; I was absent a short time after 1870, but returned and remained until 1876.

Q. State whether Handley came here at the time you were here?—A. Yes.

Q. State, if you know, whether that Handley gave notice to Indians what he came here for.—A. I do not know whether he gave any notice to the Indians, but I do know he was here for some month or so. I never knew myself anything about his running the north boundary of reservation.

Q. Do you know the age of Albert Kuckup, the Indian witness examined?—A. Yes, I think I do, in this way: when I came here, in 1867, he was a young man then and about my age. I was then about 25.

J. C. LUCKEY.

Sworn to and subscribed before Commission, February 19, 1891.

J. F. PAYNE, *Clerk.*

GADSHAW, an Indian, after being duly sworn, makes oath and says:

Q. What is your name, age, and place of residence?—A. My name is Gadshaw, I am 80 years old and live on the reservation.

Q. Were you present when the Joel Palmer treaty of 1855 was made; and, if so, who else was present?—A. Yes; of the Wascoes there were present Gush-helah, Mark, William Chernook, and Bear Cap, of the Teninoes, Kuckup, Alexand, Stock-o-lah. Of the Tygh, Symtustus, Skekemah, Munninuckt. Of the lower Des Chutes, Shewatnat, Lacquaquasee, Taliquish and others.

Q. Did you see the treaty signed?—A. Yes.

Q. State, if you know, where is the north boundary of the reservation; and, if yes, tell us when you first knew it.—A. Yes, I know where it is; it is on the north side of the Wapinitia Hills. It was pointed out to me about a year after the treaty by Mark and Gushhelah; there was an oak tree on the boundary and it was blazed.

Q. Do you know where the beginning point in this boundary is?—A. The direction of the beginning point is east from the oak; it was pointed out to me. I never was there nor have I been over the line of the boundary. From the oak in a west course they pointed out the butte in the Cascades.

Q. Who pointed this out to you?—A. Mark and Gush-helah.

Q. When you saw the oak were there any blazes on it; if so, how many?—A. I do not think there was more than one blaze on it.

Q. When was the last time you saw the oak?—A. I can not tell. I passed by it frequently.

Q. Where is Mutton Mountain?—A. It is south of the beginning point about five or six miles.

Q. Is this the Mutton Mountain that is called for in treaty?—A. No.

Q. Where is the Mutton Mountain that is called for in treaty?—A. It is on the disputed Handley line.

Q. Have you been over the Handley line?—A. No.

Q. Did you know Joel Palmer?—A. Yes.

Q. What was his reputation among the Indians for truth and honesty?—A. I have reasons to believe that Gen. Palmer was a God-fearing man—truthful and honest, and fair in his dealings.

Q. Have you been over the McQuinn line; if so, when?—A. I have never been over that line.

Q. Was Gen. Palmer present at the treaty?—A. Yes; he was there, and talked to us.

Q. Did you sign the treaty?—A. I did not.

Interrogated by Indian JOHNSON, lawyer for Indians:

Q. How many white settlers were there between this place and The Dalles when the Indians first moved out on the reservation?—A. From The Dalles out here there were only two houses and they were on Fifteen Mile Creek—one up next to the timber, the other way down several miles on creek; from there out to resvation saw no houses or white men.

Q. Did you know old man Dufur; and, if so, was he one of the settlers on Fifteen Mile Creek?—A. I did know Mr. Dufur; and he was not one of settlers at that time.

Q. How long after Palmer treaty did you know Mr. Dufur?—A. It is only a few years back that I knew him.

Q. Did you ever pass William Lewis's house at the time the Indians first moved out?—A. No; I only heard of Lewis some four or five years back.

GADSHAW (his x mark).

Witness:

CHARLES PITT.

Sworn to and subscribed before Commission, February 17, 1891.

J. F. PAYNE, *Clerk.*

TESYMPT, an Indian, after being duly sworn, testifies as follows:

Q. What is your name, age, and place of residence?—A. My name is Tesympt in Indian. I have no English name. I am about 80 years old, as near as I can get at it. I live on the reservation.

Q. Were you present when the Joel Palmer treaty of 1855 was made; and, if so, who else was present?—A. Yes; I was present when the treaty was made Gushhelah, Mark, William Chernook, Bear Cap, Tuckus; these are Wascoes, and all of them were present. From the "Teninoes" there were present Kuckup, Alexant, and Tellikeesh; from the Celliloes there were present Stockolah, Stumah, and Mannynmuckt, and Hinnie; from the Upper Des Chutes or Tygh Indians there were present Symtustus, Lah-quas-quasia, and Skekemah, and Chewatnat, Quak Purner. These represent the tribes.

Q. Did you see the treaty signed, and when was it signed?—A. I was present when the treaty was signed. I think it was signed about two weeks after same was made; it was signed in the Dalles on Three Mile.

Q. Are you acquainted with the northern boundary lines of the Warm Spring Reservation; if so, state where they are?—A. I do not know of my own knowledge where the lines are, but I have been shown where the oak tree used to stand, it is but a short distance from the foot of the Wapinitia Hills. I only know a part of the boundary; from the beginning about half way through, it begins in the middle of the Des Chutes River and runs up the hill on top of a rocky point, from the rocky point it runs down the gulch and across to a medium-size mountain, then across another gulch and in the Wapinitia Ridge to the blazed oak, from the blazed oak down the Wapinitia Gulch and out of the gulch bearing west on alongside of the mountain till the mountains run out, and farther I know nothing of my own knowledge.

Q. Were you present when the oak tree was blazed?—A. I was not.

Q. Who showed you where the oak tree stood?—A. Bear Cap, Gushhelah, and Mark showed it to me.

Q. When did they show you the tree, and was it standing?—A. We wintered

in The Dalles after the treaty was made, and the spring following we came out to the reservation, it was then that they showed me the tree; it was blazed and still standing.

Q. State if you know where Neene Creek is?—A. I know where this creek is; the north boundary line cuts across the mouth of it.

Q. When did you last see the oak tree, and what has become of it?—A. The last time I saw it was when Capt. Smith was here. Smith was the agent. I have heard that the tree is now destroyed.

Q. Do you know where Mutton Mountain is?—A. I know what is said to be Mutton Mountain; in Indian it is called Tucklute and it is on the reservation.

Q. How far is it Mutton Mountain from the beginning point, and in what course is it from beginning point?—A. It is up the Des Chutes River and south from the beginning point. I think it is about as far from the beginning point as the agency is from Warm Springs River.

Q. State whether you were present when the Handley and McQuinn lines were run?—A. No.

Q. Do you know whether any of the Indians on the reservation pointed out the oak tree to Mr. Handley when he ran the line?—A. I never knew and never heard that any Indians pointed out to Mr. Handley the oak tree.

Q. Did you know William Chernook; and, if so, where is he now?—A. Yes; I knew him, and he is now dead.

Q. When did he die?—A. About two and a half months ago.

Q. Did William Chernook ever show you the oak tree?—A. Some years after we moved out on the reservation, he showed me the tree.

Q. Can you now go to where the oak tree is said to have stood and point out the place?—A. Yes, I can.

Interrogated by Indian JOHNSON, lawyer for Indians.

Q. Were you interpreter when treaty was made?—A. I was. Interpreted in Chernook and Warm Spring language. I belong to Wasco tribe.

Q. What was the treaty about?—A. The treaty was made between Joel Palmer for the Government and the Indians. I took it in Chernook and interpreted it in Warm Springs language.

Q. Were you familiar with the white man at that time?—A. No, we were still wild.

Q. What was it that caused you to believe the white man, he being a stranger?—A. The reason we trusted the white man who was Gen. Palmer was that he said the Government would assume all responsibilities and perform all agreements.

Q. Did you have any fear about coming out to the reservation?—A. I did not, because Joel Palmer promised to fight all danger and protect us.

Q. Did the Government protect the Indians?—A. No; we had to go out and fight ourselves.

Q. When you went out to fight your battles, did you then know what land you were fighting for, and were you then acquainted with the boundaries of the reservation?—A. I knew what I was fighting for, and also knew the boundaries of the reservatfon.

Q. Did you go to war more than once?—A. Yes; I fought the Snake Indians more than once. They drove off the reservation all the stock belonging to the Indians and the Government. There were women and children belonging here carried off and butchered.

Q. Did Gen. Palmer tell you anything about Mutton Mountain?—A. No; he did not as I remember.

Q. Did Gen. Palmer say to go out and select reservation?—A. Yes.

TESYMPT (his x mark).

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission, February 12, 1891.

J. F. PAYNE, *Clerk.*

THOMAS SCHOOLY, an Indian, after being duly sworn, testifies as follows:

Q. What is your name, age, and place of residence?—A. My name is Thomas Schooly; age, 85, and live on the reservation. I belong to Warm Springs tribe.

Q. Were you present when the Joel Palmer treaty of 1855 was made, and, if so, who else was present?—A. Yes; I was there and there were present so many that I can't now call over the names.

Q. Did you see the treaty signed?—A. Yes.

Q. Are you acquainted with the northern boundary lines of the reservation; if so, state where they are?—A. I am acquainted with the line. It is on the north side of the Wapinitia Ridge. We began at the oak tree and followed the Wapinitia Ridge and piled rocks along clear down to the mouth of Neena, and I helped to pile the rocks. Then from the oak it bears west along the Wapinitia Ridge to Black Butte in Cascades.

Q. How long has it been since you went over the line and piled the rocks?—A. We wintered once on the Tygh after the treaty and the following spring went over line and piled the rocks.

Q. Who was with you when you piled the rocks?—A. Chewatnat, Lahquaquasia, Kuckup, Alexant, Squally, Skonewah, Smarshsnott, Tarskinch, Isus, Punimo. These are all I can remember, but there were others.

Q. State if you were present when the oak was blazed, and who blazed it.—A. I was present and tree was blazed by Thompson.

Q. Were there any other trees blazed along the line of the boundary?—A. No.

Q. How long has it been since the tree was blazed, and what has become of it?—A. I do not know how long it has been since tree was blazed; the tree has now been destroyed.

Q. How far do you live from where the oak used to stand?—A. It is about one-half day's ride on horseback from my place.

Q. Where is Mutton Mountain?—A. It is on disputed line inside of the reservation where Handley ran.

Q. State, if you know, where the beginning point of the Handley line is.—A. I don't know.

Q. Where is the beginning point of the McQuinn line?—A. It is opposite Yarpolat.

Q. How do you know this?—A. I went there myself with Simtustus, Kuckup, Latquaquasia, Chewatnah, Skekemah, Alexant, Wm. Chernook, and others.

Q. Did any of your people at any time point out to Handley the blazed oak tree?—A. I do not know.

Q. Where were you when Handley ran the line?—A. I was west of Black Butte gathering berries.

Q. How long did you stay and when did you get back home?—A. I came home late in the fall, after the hunting season was over.

Q. When you got back home did your people tell about the Handley line?—A. No.

Q. Did you ever hear about the Handley line?—A. Yes, late afterwards.

Q. If called upon to do so, can you go over the line of the northern boundary and point out all the corners?—A. Yes, I can.

Q. How far do you live from the Handley line?—A. I live not quite a half a day ride from this line.

Q. Did you ever go over this line?—A. I have been 6 miles west of the wagon road over the Handley line.

Q. Why did you not go over the whole line?—A. Because I did not want to.

Q. Did you go over the McQuinn line?—A. Yes; I went over the line as far as McQuinn ran it.

THOMAS (his x mark) SCHOOLY.

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission February 14, 1891.

J. F. PAYNE, *Clerk.*

JACOB H. THOMAS, an Indian, after being duly sworn, makes oath and says:

Q. What is your name, age, and place of residence?—A. My name is Jacob H. Thomas; I am 46 years of age, and I live on the reservation.

Q. Were you present when the Joel Palmer treaty of 1855 was made?—A. No.

Q. Are you personally acquainted with the northern boundary lines of this reservation? And if so, state where they are.—A. I know only a part of the boundary on the northern side of the Wapinitia Mountains, where the old Indian trail used to be. I was shown both sides of the trail. I became acquainted with it the first time I came on the reservation, about the month of August, 1868. My sister, Catherine Linewhats, showed it to me; she is now dead, and was about 60 years old when she died. "Mark" and William Chernook also showed it to me about the same time. When I came out to the reservation in 1868 there were no white settlers from the Tygh Valley this way. I never heard of any other boundary

from the Indians. Mark and William Chernook are dead. The trail led up and down the Wapinitia Hill, and made into a wagon road. My sister Catherine mentioned the oak tree, but did not show it to me. She came out to the reservation when the rest of the Indians came out, and remained till 1874.

Q. Have you ever seen the oak tree?—A. No.

Q. Did anyone ever show you that tree?—A. No one ever went there with me, but the direction where it stood was pointed out to me.

Q. Where is Mutton Mountain?—A. Mutton Mountain, as I understand it, is 8 or 9 miles south of the McQuinn line.

Q. Do you remember when the Handley line was run?—A. I do not.

Q. Do you know when the McQuinn line was run?—A. No.

Q. Where were you when Handley ran the line?—A. I was here on the reservation, teaching school for the Government.

Q. Can you go now and locate the place where the oak is said to have stood?—A. I don't think I could.

The following interrogatories were put to witness at request of leader for the Indians:

Q. Please tell under what agents you was teacher for the Government.—A. Under Capt. Mitchell and Capt. Smith.

Q. What agent was here at the time Handley came?—A. I do not know. I heard several years afterwards that Handley had been here. I was here from 1868 to 1873, when I enlisted as a scout in the United States service; during this time I never heard of any council being held with the Indians with respect to Handley running the line. I was a member of the council.

JACOB H. THOMAS.

Witness:
CHARLES PITT.

Sworn and subscribed before Commission, February 16, 1891.

J. F. PAYNE, *clerk*.

"QUAK-PURNER," an Indian witness, after being duly sworn, testifies as follows:

Q. What is your name, age, and place of residence?—A. My name is Quack-Purner; I am 65 years old, and I live on the reservation. I belong to Warm Springs tribe.

Q. Were you present when the Joel Palmer treaty of 1855 was made; and, if so, who else was present?—A. I was present. Kuckup, Symtustus, Mark, Gushhelah, Lah-quas-quasia, Bear Cup, Alexant, Talequish, Stockolah, Ski-ke-mah, Te-coah, Wm. Chernook, Shy-yatch, Gadshaw, Che-watnat, Maninock, and others were present.

Q. Did you see the treaty signed?—A. I saw the treaty signed the next day after it was made.

Q. Are you acquainted with the northern boundary lines of the reservation? If so, state where they are.—A. Yes; I am acquainted with the lines. The beginning point is in the Des Chutes River above the mouth of Neena Creek; then crosses a dry gulch onto a mountain and crosses Neena Creek; then it strikes the Wapinitia Mountain; then to the blazed oak; then from the blazed tree it bears off westwardly down to Wapinitia Creek; then out of the Wapinitia Creek; then bearing westwardly along the mountain; then on where the mountains give out to the north side of Cranberry Marsh; then to the Butte.

Q. Do you mean to say that you in person have been over this entire line from the river to the Cascades?—A. Yes.

Q. When did you go over the line?—A. I went over the line five years ago.

Q. State if you were present when the oak was blazed, and who blazed it.—A. I was not present.

Q. Did you ever see the blazed tree?—A. Symtustus showed it to me.

Q. How long ago?—A. When we first moved out on the reservation.

Q. Were there any other trees blazed along the line of boundary?—A. No other tree was blazed, to my knowledge.

Q. State, if you know, where is Mutton Mountain.—A. The Mutton Mountain is called Tuck-lute; it is up the Des Chutes River, a south course from the beginning point.

Q. How far from the beginning point in the Des Chutes River is Mutton Mountain?—A. It must be all of 5 miles, if not more.

Q. Is this the same Mutton Mountain called for in treaty?—A. No.

Q. Where is the Mutton Mountain that is called for in the treaty?—A. Mutton Mountain is on the Handley disputed line.

Q. Where is the beginning point on the Handley line?—A. I do not know.

Q. Where is the beginning point on the McQuinn line?—A. The beginning point is in the middle of the Des Chutes River, opposite a sharp rock on the other side of the river, standing in the water; the rock is called in Indian, "Yarperlat."

Q. Did any of your people at any time point out to Handley the blazed oak tree?—A. No, not that I know of.

Q. Did not Gen. Palmer know where Mutton Mountain was?—A. I don't know.

Q. When Handley came to run the line, how many Indians went along with him?—A. I do not know.

Q. Is there not a general report here that two Indians did go out with Handley when he ran the line?—A. I know nothing about it.

Interrogated by Indian JOHNSON for Indians.

Q. When you signed the treaty, did you agree to have Mutton Mountain in the boundary?—A. No; nothing was said about Mutton Mountain.

Q. When "Symtustus" showed you the blazed tree, did he tell you it was on Mutton Mountain?—A. No.

Q. Were you one of the party that blazed the tree, and who was the leader in blazing the tree?—A. I was not there and don't know.

Q. State if this is all you know about it.—A. Yes.

QUAK (his x mark) PURNER.

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission February 14, 1891.

J. F. PAYNE, *Clerk.*

THOMAS SEYMORE, an Indian, after being duly sworn, testifies as follows:

Q. What is your name, age, and place of residence?—A. My name is Thomas Seymore, age 54, and live on the reservation.

Q. Were you present when Joel Palmer treaty of 1855 was made?—A. No.

Q. Do you know of your own knowledge where the northern boundary of the reservation is?—A. No; it has been shown to me.

Q. By whom?—A. By Hennie, Stornach, Sharsules.

Q. Where are these men now?—A. All are dead.

Q. Where is the boundary?—A. It is on the north side of Wapinitia Hills, on an old Indian trail.

Q. What did you find there?—A. I found a blazed tree which was blazed on both sides.

Q. How long ago was this?—A. Something over thirty years ago.

Q. Can you go now and point out the spot where this tree was?—A. Yes.

Q. Where is Mutton Mountain?—A. It lies some 8 miles south of the beginning point in Des Chutes River.

Q. Is this the Mutton Mountain called for in treaty?—A. No.

Q. Where is the Mutton Mountain that is called for in the treaty?—A. It is on the Handley line.

Q. Is this all you know about the boundary?—A. Yes.

Interrogated by JOHNSON for Indians:

Q. When you came out on reservation how many whites were between this place and The Dalles?—A. None.

THOMAS (his x mark) SEYMORE.

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission this 18th February, 1891.

J. F. PAYNE, *Clerk.*

SKITUS, witness heretofore sworn, was recalled and examined:

Q. State whether you went with Mr. C. H. Walker to the oak tree; if so, tell us what was done by Mr. Walker at that time, and who was present.—A. Yes; Walker went along with us to the Handley line and said, "This is your line." We said, "No; it is not our line." Walker was unwilling to give it up, and we went over to the blazed oak. He (Walker) followed on. We showed him the blaze on the tree, and he said, "Yes, it has grown over." He then blazed the tree again in the same place it was blazed before, and he took his pencil and

wrote something on tree the north side of it. This is the same time spoken of by Albert Kuckup. He was present; also Miller, Bill Wennanwit, Elijah Miller, Neena Pat, and others.

Q. Did Mr. Walker blaze any other tree, and did you ask him so to do?—A. No.

Q. Did you take Walker with you over the boundary line?—A. Yes; there were parties who took him down from the oak to Des Chutes River. These parties were Elijah Miller, Bill Wennanwit, Neena Pat, and, I think, Schooly also.

SKITUS (his x mark).

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission, February 13, 1891.

J. F. PAYNE, *Clerk.*

SKIMICHE, an Indian witness, after being duly sworn, testified as follows:

Q. Do you know anything about the age of Indian witness Wash-sumps? If so, state same.—A. I know his age; he is 47 years old.

SKIMICHE (his x mark).

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission, this 20th March, 1891.

J. F. PAYNE, *Clerk.*

CHARLES PITT, an Indian, after being duly sworn, testifies as follows:

Q. Were you here at the time Handley came?—A. Yes.

Q. Who was agent at that time?—A. Capt. Smith.

Q. Did you hold any Government position under Capt. Smith?—A. Yes, I was interpreter.

Q. Did all the Indians know of Handley coming to survey the north boundary line?—A. No.

Q. Were there any Indians here who knew of his coming for that purpose?—A. Yes.

Q. Who were they?—A. Skemawa, Smo-hollow-Jim; this last named Indian was a Umatilla or John Day Indian.

Q. Were these or any of them employed by Handley?—A. Yes, both of them were employed by Handley as packers.

Q. Do you know of your own knowledge where the blazed tree is?—A. Yes.

Q. How do you know it?—A. I know it by the McQuinn line.

Q. Were you along when McQuinn ran the line, and at which of the camping places were you?—A. I was with McQuinn when he ran the line; there were two camping places, one on Wapinitia Creek, the other on the Des Chutes at the beginning point. I was at them both.

Q. When McQuinn ran the line did the Indians threaten to pull up the corners?—A. No.

Q. Did you ever hear afterwards that the Indians or any of them had threatened to remove the corners?—A. No.

Q. Did the Indians and McQuinn run the line in peace?—A. Yes.

Q. When you were at the oak tree did McQuinn show you any paper?—A. Yes.

Q. When did you see the blazed oak?—A. I first saw where it stood at the time of the McQuinn survey—the tree was destroyed and nothing left but the remains of the stump.

CHARLES PITT.

Sworn to and subscribed before the Commission, February 18, 1891.

J. F. PAYNE, *Clerk.*

ALBERT KUCKUP, an Indian, after being duly sworn, testifies as follows:

Q. What is your name, age, and place of residence?—A. My English name is Albert; Indian name, Kuckup; age, 60. I live on reservation and belong to Tenino tribe.

Q. Were you present when the Joel Palmer treaty was made in 1855; and, if so, who else was present?—A. I was present when treaty was made, and there were other tribes also present. The treaty was made on Three Mile, south of The Dalles.

Q. Did you see the treaty signed, and when was it signed?—A. Yes, I saw the

treaty signed. My father, Kuckup, signed the treaty just after it was agreed to, and the other tribes signed not long afterwards.

Q. What white persons, if any, were present at time of treaty besides Joel Palmer?—A. Yes, there was a man named Laughlin present, now dead, also one Olney, dead also. Col. Gates, a lawyer now dead, was also present. Charlie Denton, living now on Mill Creek, below The Dalles, was also present. A man named Cushon was present; he lives on Five Mile, and other whites were present whose names I do not remember.

Q. Are you personally yourself acquainted with the northern boundary of this reservation?—A. I know the boundary line myself. My father moved out to the reservation about a year after the tree was blazed, and he showed it to me when it was freshly blazed. This tree was near the old trail, and there was but one trail. From that time up to the present I know all that has occurred about the northern boundary. I knew all about the trail, because I often traveled in it.

Q. How long has it been since your father's death?—A. He died in the summer of the last Snake Indian war.

Q. Did your father tell you who blazed the oak?—A. My father told me that Thompson blazed the tree under instructions from Gen. Palmer, under agreement with the Indians. I am not positive about this, but I think so.

Q. Since you have known the line has any other tree than the oak been marked at any place on the boundary?—A. Thompson was the only man to mark a tree, and no Indian that I know of made any marks on the line, except there were some stones put up around the oak, and eastward along the ridge some stones were placed, and if they have not been moved I can go and show them to yon.

Q. State if you know who placed the stones there?—A. There were three Indians who put the stones there, viz: Schooley, Mushenpla, and Pummo. These are living, and Mushenpla has been examined as a witness. There are several others who helped to put the stones there, but they are dead.

Q. State whether you saw these stones placed there, and when.—A. I did not see them put up the stones, but I saw the stones after they had been put up, the next day. We wintered in The Dalles twice after treaty was made. The second spring we came out to reservation and then it was that the stones were put up.

Q. State, if you know, where is Mutton Mountain?—A. It is south from the beginning point. I think it is all of 7 miles if not more from the beginning point.

Q. Is this the same Mutton Mountain called for in the treaty?—A. No.

Q. Where is the Mutton Mountain called for in the treaty?—A. The Mutton Mountain called for in the treaty book is where Handley ran his line.

Q. Did any of your people at any time point out to Handley the blazed oak tree? A. No.

Q. Why did your people not insist that Handley should run his line to the oak tree?—A. We did not know anything about his running the line, and the agent did not tell us to go out there.

Q. Did not Handley come to the agency when he ran the line?—A. I don't know.

Interrogated by Indian JOHNSON, lawyer for Indians:

Q. When McQuinn came to run the line did he run it all the way as the Indians pointed it out?—A. No; the old line ran in shape of an elbow taking in some natural pasture. McQuinn said why not run it a straight line. After talking about it it was agreed to run the straight line, and the line missed the oak some 200 or 300 yards. This is why the beginning point of McQuinn's survey is above the mouth of Neena Creek instead of below it, as in old boundary.

Q. When Handley came did not the agent tell some of the Indians that he was here?—A. No.

Q. After Handley ran the line did not Capt. Smith, the agent, tell you about it?—A. After Handley had run the line Capt. Smith, the agent, told me and others about it; then we told Smith that was not our line, and Smith sent Mr. C. H. Walker with us and we went, and when we got to the Handley line Mr. Walker said here is your line, and we told him that is not our line. We told him our boundary line is over at the blazed oak. So we went over to the blazed oak and showed Walker where it was. At that time Elijah Miller was our interpreter. Pianoose, Miller, Bill Wannanwit, Nena Pat, Skitus, and others were present. Walker insisted that Handley's line was right.

Q. What did Mr. Walker do?—A. Mr. Walker reblazed the tree. The bark had grown over the place that was blazed before, and this was the reason it was blazed again. Mr. Walker at same time wrote something on the tree. I can't say how long since it was. Mr. Walker will know.

Q. Did you show Mr. Walker any part of the boundary, except at the oak

tree?—A. Yes; I showed him the boundary from the oak to the river, and also the butte.

Q. Did Mr. Walker go in person over the line?—A. Yes; we sent him with Neena Pat, Bill Wennanwit, and Elijah Miller over the line from the oak to the river.

Q. State whether the former agents of this reservation knew anything of this controversy.—A. The agents prior to Captain Smith knew nothing about it.

Q. State whether you can now identify the persons who went with you and Mr. Walker out to the boundary.—A. Yes, I can (and witness here points out among the bystanders in the house the following persons, viz: Elijah Miller, Pianoose, and Bill Wennanwit, also Skitus and Miller, who stand up and ackowledge their names and identity).

Q. It has been reported to the Government that McQuinn was at first forbidden by the Indians to run the line of northern boundary, and that your people threatened to take up and remove all corners if McQuinn did not run as the Indians wanted. State whether this is true.—A. It is not true.

ALBERT (his x mark) KUCKUP.

Witness:
CHARLES PITT.

Sworn and subscribed before Commission, February 13, 1891.

J. F. PAYNE, *Clerk.*

PAT MITCHELL, an Indian, after being duly sworn, testifies as follows:

Q. What is your name and age, and where do you reside?—A. My Indian name is Catchiexer and am generally known as Pat Mitchell in English. I am 48 years of age; I belong to the Wasco tribe of Indians and I live on the reservation.

Q. Were you present when the Joel Palmer treaty of 1855 was made; and, if so, who else was present?—A. I was present when the treaty was made and interpreted for General Palmer and the tribes; four different tribes of Indians were present. The Wascoes, Tininoes, Celleso or Lower Des Chutes, and the Upper Des Chutes or Tygh Indians.

Q. Did you see the treaty signed, and when was it signed?—A. Some eight days after we met together the treaty was signed, and I saw it signed.

Q. Are you acquainted with the boundary lines of the Warm Springs Reservation? If so, state what and where they are.—A. Yes; I know the boundary lines of the reservation. The beginning point of the northern boundary is in the middle of the Des Chutes River, and runs westwardly above the mouth of a small stream along the Wapinitia Ridge up to the blazed oak tree. There were three trees, and one of them was blazed, and from this blazed tree it runs north along the Wapinitia Hills and across Wapinitia Creek (which is now the wagon road), then follows westwardly on the north side of the Wapinitia Hills. After leaving the hills the line runs on west through heavy timber on north side, I think, of Cranberry Marsh to a round butte in the Cascades. From the round butte the line then runs south on the summit of the Cascade Range to foot of Mount Jefferson, and then around west side of Mount Jefferson; then on south to Black Butte; south side of Butte; then east down to the falls of Des Chutes River; hen down the Des Chutes River to the beginning point.

Q. Were you present when the oak tree was blazed?—A. I was not present, but Wm. Chenook and others, whose names I can't now give, showed me the tree when the Indians first moved out on the reservation.

Q. How long after the treaty was the tree blazed?—A. As near as I can remember, it was about ten days after treaty was made.

Q. Did you make any note or memorandum of the time the tree was blazed?—A. I did not.

Q. Have you been in person over the line known as the northern boundary; if so, when and with whom?—A. I never was over the northern boundary myself; it was only pointed out to me.

Q. Where is Mutton Mountain?—A. I don't know.

Q. State whether you were present when the Handley line was run.—A. I was not present.

Q. Were you present when the McQuinn line was run?—A. I was not present.

Q. When was it that the first dispute arose about the northern boundary?—A. First dispute was shortly after Handley line was run.

Q. What persons, if any, were present when McQuinn line was run, and who

present when Handley line was run?—A. I do not know who was with Handley at time he ran the line, but do know who was with McQuinn when he ran the line: William Chernook, Pianoose, Johnson, and the interpreter, Charley Pitt; also Agent Wheeler, and there were others.

Interrogated by Indian JOHNSON, lawyer for Indians:

Q. You have said that you were interpreter when treaty was made. State what was said then.—A. Gen. Palmer said: "All the Indians come together; I want to have a talk with you." The meeting was held on Three Mile, between the old Edward place and The Dalles City. Palmer told the Indians he was sent by the Government to talk with the Indians. Palmer said: "The Government wants to treat with you, and I will furnish you with a blacksmith and a carpenter. I will also furnish you a schoolhouse, teacher to teach your children, and a doctor; also a sawmill and a flour-mill, a gunsmith and a tinsmith, a harness shop and harness-maker, and a shoemaker." Indians understood that all these things were to be furnished them. In addition to this, Gen. Palmer promised the Indians $8,000 worth of goods for the first five years; "the second five years I will let you have $6,000 worth of goods; the third five years I will let you have $4,000 worth of goods;" the last five years there was to be $2,000 more in goods. Palmer asked if Indians accepted offer; Indians hung their heads and said nothing during the talk of Palmer.

Q. Why did the Indians hang their heads and say nothing?—A. The Indians rose up and said, "Our tongues have been cut off, as it were." The Indians said, "Now we will tell you why we have said nothing. You have asked us for our fishery which we have always depended on, and the mountains where we used to kill game and pick berries and other places where we used to dig roots."

Q. What was Palmer's answer to all this?—A. Palmer nodded his head and turned red in the face like he was ready to shed tears. Palmer answered the Indians, and said, "Governor Stevens and myself are out here to buy land from the Indians, and the Government don't ask us to see whether the land has salmon on it, or fish, or game, or roots." The Indians then told Palmer "All right; we are ready to sign the treaty." Palmer says, "You know you will have to move out to the Warm Springs. You will have to go and work over the country before you move out, to see whether you like it or not and establish the boundary." Now, this is about the wind-up of my knowledge about the matter, and there are others who know about it; some are dead and some are living and in this house.

PAT (his x mark) MITCHELL.

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission February 10, 1891.

J. F. PAYNE, *Clerk.*

Mr. MILLER, an Indian, after being duly sworn, testifies as follows:

Q. What is your name and age and where do you reside?—A. My Indian name is Clam-stu-tna and my English name is Miller, and about 60 years of age, and have lived on reservation since it was established.

Q. Were you present when the Joel Palmer treaty of 1855 was made; if so, who else was present?—A. I was there at the Joel Palmer treaty, about a half grown man then. There were different tribes present; there was Pionoose, Johnson, Pat Mitchell, Tasimpt, Skitus, Mush-implua, Gadshaw, Holiqulla, and many other leading men of the tribes.

Q. Did you see the treaty signed, and when was it signed?—A. Yes, I saw the treaty signed; I do not really remember when it was.

Q. Are you acquainted with the line of the northern boundary of Warm Springs Reservation; and if so, where is it?—A. Yes, I am acquainted with the north boundary line of the reservation. It begins in the middle of the Des Chutes River, and runs west up the hill, which has a steep, rocky point; from that point it runs along the Wapinitia Ridge until the line strikes the oak that was blazed, then the line runs westwardly across the Oak Grove Creek up on the north side of the Oak Grove or Wapinitia hills until the hills give out, then through heavy timber until it gets to Cranberry Marsh, then north of Cranberry Marsh to a round butte in the Cascade Range.

Q. Were you present when the oak tree was blazed?—A. Yes, I was present when the oak tree was blazed. Thompson, Indian agent, was present and he blazed the tree.

Q. How long after the treaty was the tree blazed?—A. The treaty was made

in the spring of the year; we wintered in The Dalles, and the next spring we went out to reservation, and then we blazed the tree.

Q. When did you last see the oak tree, and what has become of it?—A. I saw the tree several times after we moved out on the reservation; do not remember the last time I saw it. The tree has been cut down and the stump has been burned up. I forgot to mention that the oak tree stood several years after it was blazed, and the bark had grown over the blaze. We took Mr. C. H. Walker, superintendent of the school, now living at this place, out to the tree while it it was standing and showed him the blaze with the bark grown over it, and Mr. Walker blazed the tree again.

Q. Have you been in person over the line known as the northern boundary; and, if so, when and with whom?—A. I have been over the line several times, and last fall I was over it with Pianoose and others.

Q. Where is Mutton Mountain?—A. I know where Mutton Mountain is. It is on the reservation, southwest from the beginning point in Des Chutes River; quite a distance from the beginning point.

Q. State whether you were present when the Handley and McQuinn lines were run.—A. I was with McQuinn when he ran the line; don't know who was present when the Handley line was run.

Q. When was it that the first dispute arose about the northern boundary?—A. The dispute arose soon after the survey by Handley.

Q. Who was present when the McQuinn line was run?—A. Agent Wheeler, myself, Pianoose, Johnson, Albert, and Charlie Pitt, the interpreter.

MILLER (his x mark).

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission February 10, 1891.

J. F. PAYNE, *Clerk.*

"TIM," an Indian, after being duly sworn, testifies as follows:

Q. What is your name, age, and place of residence?—A. My English name is Tim, and my Indian name is Mush-en-pla; I am about 80 years old; I live on the reservation, and have been here ever since the treaty was made.

Q. Were you present when the Joel Palmer treaty of 1855 was made; and if so, who else was present?—A. I was present when treaty was made; "Kuckup," the first signer was present; "Sim-tus-tus" was present, also; "Chewat-nat," Tar-quasia, also; "Stock-col-ah," also; and Gen. Palmer was present. I remember these; there were several others there whose names I don't remember now.

Q. Did you see the treaty signed; and if so, when was it signed?—A. I saw the treaty signed after it was made.

Q. Are you acquainted with the northern boundary lines of the Warm Springs Reservation? If so, state where they are.—A. I am acquainted with the northern boundary. It begins in middle of Des Chutes River and runs west to a mountain where we camped; where the line begins there was a rock standing up on opposite side of river; the line runs from the river straight up onto the summit of sharp, tall rock; then the line goes on from the sharp rock across a gulch to another mountain; then the line goes on across the Wapinitia Ridge and strikes the blazed tree, where there were three oaks, and one of them was blazed; from the blazed tree the line runs down the Wapinitia Creek, then out from the creek till it strikes the smooth part of the Wapinitia Mountains; then runs on on the north side till it runs down to the slope of the mountains, and from the slope of the mountains the line runs on to the level of the ground timber to Cranberry marsh, north of the marsh, on to the round black butte which has an Indian name, viz: "Te-sar-ti;" then runs on the side of the summit of the Cascades to Mount Jefferson on west side.

Q. Were you present when the oak tree was blazed?—A. I was present. Agent Thompson blazed it.

Q. How long after the treaty was the oak tree blazed?—A. We wintered at The Dalles after the treaty was made, and the next spring the tree was blazed, I think.

Q. At the time you say Thompson blazed the tree, was any other white person present?—A. There were present only two white persons; one was Thompson and the other a man named Olney, and there was a packer for Thompson along; but can't say whether he was a white man or half-breed.

Q. You say that the oak tree was blazed and that there were two other trees standing by; was any mark made on these trees?—A. I do not remember that

the other two trees were blazed; don't think they were. The oak that was blazed was cut on east side and west side.

Q. State, if you know, what has become of the oak tree you say was blazed.—A. The tree has been cut down and burnt; there may be traces of the stump next to the ground, but I can't say as to this.

Q. What has become of the other two oak trees you say were not blazed?—A. I have not been there lately, but think they are also destroyed.

Q. When the oak tree was blazed were any monuments put up to mark the place? And tell, if you know, whether any monument was placed at the point where you say the oak once stood.—A. There were rocks piled up where the blazed oak stood, and I think, but am not certain, that there are rocks now piled up where the oak stump is, around and close by. No other rocks were piled since oak tree was blazed.

Q. Did Thompson go with you to the beginning point in Des Chutes River when the oak was blazed?—A. Thompson did not see the beginning point nor west point. All that was done was to blaze the oak tree.

Q. How far is the blazed oak from the beginning point in Des Chutes River?—A. I can't tell the exact distance, but think it is about 3 or 4 miles.

Q. State, if you know, how far it is from the beginning point in Des Chutes River to end of northern boundary.—A. I do not know.

Q. What tribe of the Indians do you belong to?—A. I belong to the Warm Springs tribe.

Q. State whether or not there is a well-timbered range of mountains extending from beginning point in Des Chutes River westward to the Cascade Range.—A. Yes; there is some timber, such as oak, along on the line up to the blazed tree, and there is timber along the Wapinitia Hills, and well timbered further on.

Q. Do you know, of your own knowledge, whether any other trees than the oak you spoke of were marked along the line from the river to the Cascades?—A. No other trees were marked or blazed except the oak until McQuinn ran the line, and then McQuinn marked it out.

Q. You have said that there is a sharp, tall rock opposite the beginning point in Des Chutes River; please state, if you can, whether this sharp rock is Mutton Mountain.—A. This rock is on the other side of the river in the water near the bank, and this rock is no part of Mutton Mountain; it is "Yahparlat."

Q. Where is Mutton Mountain?—A. Mutton Mountain is on the reservation; it is called in Indian language "Tuck-lute;" it is up the Des Chutes River a south course and about 6 or 7 miles from the beginning point, the direction from the beginning point being south.

Q. Is this the same Mutton Mountain called for in the treaty?—A. It is not.

Q. Where is the Mutton Mountain called for in the treaty?—A. Mutton Mountain is on the line run by Handley.

Q. State whether or not you were present when Handley ran the line of northern boundary.—A. I was not present and knew nothing about it.

Q. Were you present when the McQuinn line was run?—A. I was present.

Q. What white men were along when the McQuinn line was run?—A. As far as I remember, outside of the surveyor, Agent Wheeler was the only white man present.

Q. Did you go with McQuinn over the entire northern boundary?—A. I only went from the beginning to the blazed tree.

Q. Was the blazed tree standing then?—A. No; the tree was destroyed then; nothing but remains of the stump next to ground.

Q. State whether or not you know by common report that settlers had laid entries on the lands between the McQuinn and Handley lines prior to and shortly after the survey by Handley in 1871.—A. Yes; I have understood that the whites, after the Handley line was run, crowded up onto the land between the Handley and McQuinn lines with stock and took up land. I never heard of any entries before Handley line was run.

Q. Who was the Indian agent at this reservation when the settlers are said to have laid entries?—A. I am not certain, but think that Capt. Smith was here at the time.

Q. Did Capt. Smith know about these entries?—A. Capt. Smith did not know about these entries at the time they were made, but the agents after him did know.

Q. When Handley ran the line did any of the Indians go out on the line with him?—A. I don't know whether any Indians went with him or not when he ran the line.

Q. Did the agent at reservation go over the line with Handley?—A. Agent did not go over line with Handley.

Q. State whether or not any of the Indians pointed out the blazed oak to Handley.—A. Not that I know of. I never heard any of the Indians showing Handley the oak tree.

Q. Could you now go to the spot where oak tree stood and point it out?—A. Yes; I could go right to the place.

Interrogated by Indian JOHNSON, lawyer for Indians:

Q. State whether you know of an old Indian trail from the Klamath Reservation through this reservation over Mutton Mountain to The Dalles.—A. I do know of this Indian trail; it passed through the reservation to Warm Springs River, then on to the blazed tree, and it leaves Mutton Mountain on the east end of reservation, next to Des Chutes River.

Q. Are you certain that Thompson could not go on Mutton Mountain and blaze tree without your being present?—A. No; Thompson never left the trail while I was with him.

TIM (his x mark).

Witness:
CHARLES PITT.

Sworn and subscribed before Commission, February 11, 1891.,
J. F. PAYNE, *Clerk.*

SPOOMS, an Indian witness, after being first duly sworn, testifies as follows:

Q. State your name, age, and place of residence.—A. Spooms is my Indian name; I am 67 years old, and live at Linemasho, on the reservation.

Q. How long have you lived upon the reservation?—A. I have lived here ever since the reservation has been established.

Q. Were you present at the time the treaty was made with Joel Palmer in 1855, in which treaty the boundaries of the Warm Springs Reservation were defined?—A. I was present at time of treaty. There were no boundaries ever mentioned then in the treaty. Palmer said to Indians to go out and mark out the boundaries of reservation.

Q. To what tribe did you belong?—A. I belonged to Tygh Indians.

Q. Were you one of the signers of the treaty?—A. No.

Q. How long after the treaty was signed did you come out to reservation?—A. About two years.

Q. Who was agent then, and who did you come out with?—A. I think it was Thompson. I came out with the Indians. Thompson was not with us.

Q. State if you know how soon after you came out the north boundary of the reservation was marked out by the Indians, and where is that boundary?—A. I don't understand this question.

Q. State what you may know about the north boundary of this reservation.—A. About a year after treaty was made, leading men of the Indians came out to pick out the boundary, and this was done before the Indians came to live on the reservation. Afterwards the boundary was pointed out to me by Shekemah, Chewatnah, and To-coh; the lines were quite a distance from Packart's place, and passed by the blazed oak.

Q. When was this line first pointed out to you?—A. Something like thirty-four years ago.

Q. How do you fix that date?—A. For some years we kept time by tying knots on a string, but we have quit this for some years past.

Q. At time of treaty was there anything said by Palmer about a range of mountains called by him Mutton Mountains?—A. No.

Q. Do you know of a range of mountains called Mutton Mountains?—A. I have known of late years of a range of mountains called by the whites Mutton Mountains. I don't know positively where these mountains are.

Q. What do the Indians call the mountains called by whites Mutton Mountains?—Q. I don't know.

Q. Tell where the blazed oak tree is, which you have mentioned?—A. The blazed tree is on east end of Wapinitia Mountains.

Q. Is there a range of mountains towards north boundary of reservation called by Indians Tucklute?—A. Yes.

Q. Was Tucklute Mountains named by Palmer at time of treaty?—A. No.

Q. Do you know the general course of the McQuinn line, or have you ever been over it?—A. Yes.

Q. How close to the blazed oak tree does the McQuinn line run?—A. McQuinn was a little north of oak tree—can't say as to distance.

Q. Are you acquainted with the Handley line, and do you know its general course?—A. I know nothing about Handley line.

Q. Were you on the reservation at the time Handley ran the line?—A. I was not.

Q. Did you ever point out to any of the agents the blazed oak tree as the north boundary of the reservation; if so, to whom?—A. Yes. I showed it to Capt. Smith and Agent Wheeler.

Q. Was this before or after the Handley line was run?—A. I showed it to Smith before Handley ran the line, and to Wheeler after Handley ran the line.

Q. Is there anything further that you wish to state with respect to the north boundary line?—A. I do not think of anything else.

Interrogated by Indian JOHNSON for Indians:

Q. Did you see any white settlers between the agency and The Dalles when you came out on the reservation?—A. None that I remember.

Q. Were you acquainted with W. M. McCorkle, George McKay, or W. McD. Lewis at time of treaty or when you come out to reservation?—A. No.

Q. Were you present when McQuinn ran the line?—A. Yes.

Q. When McQuinn ran the line did the Indians threaten to destroy his corners or pull up his stakes if McQuinn did not run the line according to wishes of Indians?—A. There were no threats made.

Q. State whether Mr. Handley ever called any council of the Indians in relation to his running the line of northern boundary, and also state whether Mr. Handley requested any of the Indians to go with him and show him the boundary.—A. No council was held, and I never heard of any Indians being asked to show Handley the boundary.

Cross examined by J. F. MOORE, counsel:

Q. Do you say that you were present and witnessed all that was said and done at time of making and signing treaty with Palmer?—A. I do not mean to say that I saw and heard all that was said and done, but what I have stated I saw and heard.

Q. Then Mutton Mountain and Tuck-lute could have been mentioned and you have known nothing about it?—A. I never heard Mutton Mountain or Tuck-lute mentioned; all that I heard was, you will have to go to Warm Springs. Mutton Mountain or Tuck-lute might have been mentioned without my hearing it.

Q. Where were you at the time of Handley survey?—A. I can't remember, but I was on the reservation.

Q. Were you with McQuinn when he was running the whole of his line?—A. I was with him about a half of his line or thereabouts.

Q. From how many points did he start in making that survey?—A. He started from one point, from where we showed him, then he went on.

Q. Are not most of these things you have been telling what you have heard?—A. As far as I know I have told just what I know myself.

Q. If you had not heard that Handley was here and ran a line, you would not know anything about it, would you?—A. How could I know when he slipped in here? I would have to believe what was told me.

Q. Then of your own knowledge you don't know whether or not Handley had some Indians with him when he surveyed, do you?—A. No.

SPOOMS (his x mark).

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission, March 21, 1891.

J. F. PAYNE, *Clerk.*

THE DALLES, OREGON, *March* 30, 1891.

DEAR SIR: Yours of 27th to hand, and in reply would say that I don't see how I could make an affidavit regarding the reservation line, as all my information on that subject is secondhand.

All I know is that the officer of the reservation in 1859 and 1860 claimed the water at or near where Wapinitia now is, it being the first water on the road from Tygh Valley at that time, and Lieut. Gregg, the commanding officer, put some half-breeds from there in fall of the first-named years, I think.

Whilst I would gladly do anything to assist you, I can't see myself justified, for the above reasons, in making the affidavit.

Very respectfully,

JOHN M. MARDEN.

Mr. J. C. LUCKEY.

I, John M. Marden, being first duly sworn, depose and say: That I am and have been a resident of Wasco County, Oregon, since 1858; that I was employed at the Warm Spring Indian Agency as a carpenter and contractor on mills during the years of 1859, 1860, and part of 1861 under A. P. Dennison, then agent, and that it was understood at that time that the northern boundary line of said Indian reservation established and considered to embrace the spring now at Wapinitia, being the first water on the road then traveled from The Dalles to the Warm Spring Indian Agency, and that during my residence at the agency at that time Lieut. David McGregg, since then Gen. McGregg, U. S. Army, who at that time was in command of the post at the Warm Spring Indian Reservation, ordered and caused the arrest of some half-breed Indians and had them put off from where they camped and compelled them to leave, as being on the reservation and inside the boundary lines.

JOHN M. MARDEN.

Subscribed and sworn to before this, 7th day of April, A. D. 1891.

[SEAL.] E. SCHUTZ,
Justice of the Peace.

CLERK'S OFFICE, THE DALLES, OREGON.

STATE OF OREGON, *County of Wasco, ss:*

I, J. B. Crossen, county clerk of Wasco County, Oregon, and *ex officio* clerk of the circuit court, both being courts of record, and each having a seal, do hereby certify that E. Schutz, Esq., was at the date of the certificate of proof or acknowledgment of the annexed instrument in writing, a justice of the peace in and for said county, duly authorized to take the same; that I am well acquainted with his handwriting, and verily believe and do certify that the signature to said certificate is genuine, and that the annexed instrument is executed and acknowledged according to the laws of this State.

In testimony whereof I have hereunto set my hand and affixed the seal of said county this 8th day of April, A. D. 1890.

[SEAL.] J. B. CROSSEN, *County Clerk.*
By J. A. CROSSEN, *Deputy.*

I, John A. McQuinn, being first duly sworn, depose, say: I surveyed the north boundary line of the Warm Spring Indian Reservation, in Oregon, in accordance with the treaty of 1855, a copy of which was furnished me by the Surveyor-General of Oregon, together with all letters of conference that had been had with the various Indians on the said Warm Spring Indian Reservation, and other matter relating to the establishment and former survey of the north boundary line of said reserve.

That in my final decision as to the location of the line I caused to be taken the affidavits of several of the old Indians that were on the ground when the treaty was made and the line fixed or pointed out as the northern boundary line of their possessions. These affidavits, in my judgment, are not in conflict with the language of the treaty, and just what a commissioner would do at that early date would be to point out the location of the boundary line from the most accessible and feasible place, which was by the old Indian trail just south of Oak Grove, where the oak tree was blazed and marked; thence easterly to the Des Chutes River and westerly to the summit of a blue butte (the same being at the summit of the Cascade Mountains). These points were plainly designated and pointed out by the Indians as the original location of the line from the above evidence, which I regard as the best possible. I surveyed and established the northern boundary line of the reservation. That all accusations of fraud or intimidation perpetrated by myself or any one else at the time I surveyed this line are false and can not be established.

JOHN A. QUINN.

Subscribed and sworn to before me this, the 6th day of March, A. D. 1891.

[SEAL.] D. E. DUPREE,
Notary Public in and for the State of Oregon.

PORTLAND, OREGON, *February 18, 1891.*

Mr. J. C. LUCKY,
Indian Agent, Warm Springs Reservation:

Your letter of the 14th at hand and in reply will state that all rumors of intimidation and corruption on my part or the Indians of the Warm Springs Reservation will not and never can be shown by any party, either Indian or white man, and it is absurd for any one to make such reports. I have heard a great many things since I surveyed the north boundary line, and I am more solid now than ever, in the belief that my line is as near as can be established in accordance with the treaty (not technically, but upon the broad and equal ground as to where the line was pointed out to the Indians) I took the oaths of several of the Indians before I finally settled on the mode of procedure, and I run the line in accordance with my convictions at that time, and I am satisfied that the evidence upon which I based my authority will not be ignored by the Commissioner of Indian Affairs. I am very positive that the Commission last appointed to reinvestigate and report on the state of affairs will report adversely to my line, but I can beat them before the Commissioner of the general Indian Affairs. Yet I have no interest in the affair other than as a citizen to protect myself as such should any charges be brought against me. I will furnish you an affidavit setting fourth all the facts of which you speak, but I think it rather soon as my affidavit should go before Commissioner Groff, and not before the present Commission investigating the line. However, write me and say what you think about it.

Very respectfully.

JOHN A. MCQUINN,
No. 34 Washington street.

SNOUTIL, an Indian witness, after being first duly sworn, testifies as follows:

Q. What is your name, age, and place of residence?—A. My Indian name is "Snoutil," English name is "Joe Lane." I can't be positive about my age—think it is 55 years. I live on the reservation almost 5 miles from the agency. I belong to Wasco tribe.

Q. When did you first move on the reservation?—A. About a year after the treaty was made.

Q. Were you present at the time the treaty was made between Gen. Palmer and the Indians with respect to the reservation?—A. Yes.

Q. State, if you know, where the north boundary line of the reservation is.—A. Yes; it is a little on the north side of the Wapinitia Mountains.

Q. How do you know it is where you have stated?—A. My father and Miller showed it to me.

Q. What did they show you?—A. They showed me the blazed oak, then the point west, and the point down into the Des Chutes River.

Q. When was this?—A. It was the time when we first moved out to reservation.

Q. Have you ever been over the line known as the McQuinn line?—A. I have never been over the McQuinn line; what I know about it is only concerning the oak what I have stated.

Q. Have you ever been over the line known as the Handley line?—A. No.

Q. State any other fact you may know in respect to the north boundary line of the reservation.—A. I was a packer for Agent Dennison. As I was going into The Dalles there was an employé at the agency, a white man named Hewey, who was sent along with me to help me as packer. On our return from The Dalles we got pretty near up to where Paquet's house stands with the pack train. Hewey asked me, "Joe, do you know where the reservation boundary is?" I said, "Yes, it is further on ahead." Hewey said, "I'll bet you a plug of tobacco that you don't know what you are talking about." I said, "All right, we will bet." Hewey contended that the boundary was at foot of Wapinitia Hills. We went right on up the hill, and when we got on top the first hill that was in sight of blazed tree, then Hewey said, "Show me, where is your boundary now." I said, "Right yonder by the oak tree where the mule "Brigham" has stopped." We rode up to the tree, and I got off my horse, hid the blaze on the tree with my overcoat; then I said, "Do you believe me now that I can show you the boundary line?" Hewey again said, "No, I don't believe it." Then I threw my overcoat aside and showed him the blazed oak tree. Hewey then said, "I'll give up; you are right." So he just pulled the tobacco out and gave me the plug.

Hewey then called me up to the tree and said, "See here, don't you see that?" and I saw some writing right on the cut part of blaze. Hewey read it, and the

writing said Kuckup, Mushenpla, Schooley, Gushhelah, Simtestus, Wm. Chernook, and he named other names, but I don't remember them. There was the name of a white man written down who blazed the tree, but I can't remember his name. Hewey read from the writing that the line ran west to Cascades and east to Des Chutes River towards Bakeoven. I went back again with another white man named Jimmy, who was a herder, and I don't now remember his other name. As we were going along we were talking about my having won the plug of tobacco from Hewey, and Jimmy asked me, "Where is the oak tree?" and I said "I will show you further on." When he came to the tree I showed it to him and he read it. Jimmy read it just exactly like Hewey read it; said it read west to Cascades and east to Des Chutes River, towards "Bakeoven." Jimmy is dead; I don't know where Hewey is. This is all I know about north boundary of the reservation.

(The foregoing conversations and communications with Hewey and Jimmy objected to by counsel for whites. See objection filed. Overruled.)

By COMMISSION:

Q. Did you ever tell this to any of the agents of reservation; if so, to whom?—A. I did not tell any of the agents, but did tell Dr. Fitch.

SNOUTIL (his x mark).

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission 27th March, 1891.

J. F. PAYNE, *Clerk.*

MILLER, an Indian witness, heretofore sworn and examined, is recalled by leave of Commission, and testifies as follows:

Interrogated by Indian JOHNSON:

Q. State what was said by Joel Palmer to Indians at time of treaty with respect to north boundary of reservation.—A. There was no boundary mentioned by Palmer at time of treaty.

(Above question and answer objected to by counsel for whites. See objections in writing filed. Objection overruled.)

Q. In what shape were the boundaries of reservation laid off by Palmer?—A. All that he said was, "You will have to go out to Warm Springs after the treaty is made and search out the country."

(Same objection by counsel. Overruled.)

Q. Did Gen. Palmer tell the Indians they would have to go out and lay off the boundaries themselves?—A. Yes.

(Objected to as above. Overruled.)

Q. Did you afterwards point out the boundaries, and where?—A. Yes. After we had ridden over the country we went back to the oak, and from this tree pointed west to black butte and east to Des Chutes River.

Q. Did you hear Thompson say before he blazed the oak that he intended to blaze it on Mutton Mountain?—A. No.

(Same objection. Overruled.)

Interrogated by COMMISSIONERS.

Q. Was anything said at time the treaty was made by Joel Palmer about Mutton Mountains?—A. No.

Q. Was any mountains or mountain named by Gen. Palmer at time of treaty as being at the beginning point of northern boundary?—A. No.

Q. At the time you came to reservation to look over the ground, did you select any other boundaries for the reservation except north boundary?—A. Yes; we did select other boundaries. From Yarpolat running west to blazed oak tree, thence from the west to black butte in Cascade Mountain, from the butte south passing west side Cascade Range to Mount Jefferson, and from Mount Jefferson bearing off to Three Sisters; thence east down into channel of Des Chutes River; thence down river to Yarpolat. At the foot of Three Sisters there is a stream that heads and flows eastwardly into Des Chutes, called Tom-ma-lawah.

MILLER (his x mark).

Witness:
CHARLES PITT.

Subscribed before Commission 24th March, 1891.

J. F. PAYNE, *Clerk.*

SIDWALLIE, an Indian witness, after being first duly sworn, testifies as follows:

Q. What is your name, age, and place of residence?—A. Sidwallie is my name; age is about 60; I live near Kishwalk's house and belong to Wasco tribe. I have lived there about ten years.

Q. When did you move on reservation?—A. About two years, I think, after the treaty was made. I came out with main body of Wascoes.

Q. Were you present when treaty was made?—A. Yes.

Q. What was said there between Joel Palmer and the Indians with respect to north boundary of reservation?—A. All that Gen. Palmer said was, "You will have to go to the Warm Springs;" but nothing was said about the boundary.

Q. Did Agent Thompson come out to reservation with leading men of Wasco tribe and look over the ground before the main body of the tribe came out?—A. Yes. Thompson did come out about two years after treaty with leading men of tribes before the main body of Indians came out, and looked over the ground. I saw them come.

Q. State what you may know with respect to north boundary line of the reservation.—A. When I came out to reservation to live the leading men showed me the north boundary; it was the mountain next to Paquet's store and at the blazed oak tree.

Q. Did you ever point out to any of the agents this tree as being the boundary; if so, to whom?—A. No.

Q. Is the oak tree standing now, and if not, when was it destroyed?—A. The oak tree was destroyed the spring of the hard winter we had about six years ago, and the summer following the stump was gone.

Q. How was the tree blazed?—A. As well as I remember it was blazed on both sides.

Q. Were you on the reservation when the Handley line was run?—A. I was scouting when this line was run and heard about it after I got home.

Q. Is there anything else you desire to state with respect to this boundary?—A. Yes, the blazed tree I spoke of is on Wapinitia Mountain. When McQuinn came to run the line he notified us, and I among the rest showed him where the boundary was.

Interrogated by Indian JOHNSON:

Q. State the number of settlers you found between here and The Dalles when you first came out.—A. There were none.

Q. Did you see any stock on the plains anywhere near north boundary belonging to whites?—A. No.

Q. Do you know who told Thompson to blaze the tree?—A. The general understanding among the Indians was that Palmer authorized Thompson to blaze the tree.

Q. Did McQuinn have any trouble with the Indians about running the line?—A. No; all was friendly and peaceable.

Q. When McQuinn ran the line why was it be ran it without any trouble?—A. Because he believed the Indians told him the truth, for he found a paper which said that the Indians had said the same things before.

Q. Did you understand how McQuinn got the paper?—A. Yes; I heard him say it was sent on by the Government.

SIDWALLIE (his x mark).

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission 23d March, 1891.

J. F. PAYNE, *Clerk.*

SIMCO, an Indian witness, after being first duly sworn, testifies as follows:

Q. State your name, age, and place of residence.—A. Simco is my name; age I don't know; I live on the reservation, near the agency. I belong to Wasco tribe.

Q. How long have you lived on the reservation?—A. I can't say exactly, but I came out with the main body of Wascoes, and have lived here ever since.

Q. Did you ever know Gen. Palmer?—A. I did not know him well, but I saw him when treaty was made.

Q. Were you present at making of the treaty between Joel Palmer and the Indians?—A. I was there.

Q. State what was said, if you remember, at time the treaty was made, about the north boundary of the reservation between Palmer and Indians.—A. In talking

about it Palmer said, "You will have to go to Warm Springs." This was all he said.

Q. How soon after treaty did you come on the reservation?—A. I want you to know that I am very ignorant about keeping time; but I think it was one or two years after treaty was made when I came out.

Q. Tell what you may know about the location of the north boundary of the reservation.—A. The boundary is on a mountain next to Wapinitia plain, near an old Indian trail. Here the oak tree stood that was blazed.

Q. How do you know this to be the north boundary line?—A. The leading men of the Indians pointed it out to me and the oak tree also; the same men who had come out to look over the reservation.

Q. Did you ever point out the oak tree to any of the agents of the reservation; if so, to whom?—A, No; it was never inquired after by any of the agents.

Q. Were you on the reservation at the time the Handley lime was run?—A. I was here, but never knew anything about Handley running the north boundary line.

Q. Do you know of a range of mountains towards the north boundary of reservation called Mutton Mountains by the whites?—A. I don't know what part is called Mutton Mountains.

Q. State anything further you may know with respect to this north boundary.—A. I have told you all that the truth will permit me to tell. I have told you all that I know about it.

SIMCO (his x mark).

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission 24th March, 1891.

J. F. PAYNE, *Clerk.*

PIPPS, an Indian witness, after first being duly sworn, testifies as follows:

Q. State your name, age, and place of residence.—A. My name is Pipps: age 60, as near as I can tell, and I live on the reservation. I belong to Wasco tribe.

Q. When did you first come out to reservation?—A. I came out with the main body of the Wascoes.

Q. Were you present at time the treaty was made between Gen. Palmer and the Indians?—A. I was present.

Q. State, as nearly as you remember, what was said by Gen. Palmer and the Indians about the north boundary line of the reservation at time of treaty.—A. Nothing was said about boundary. Palmer said to Indians, "You will have to go to Warm Springs."

Q. State what you may know as to location of north boundary line of reservation.—A. The north boundary line is on Wapinitia Mountain.

Q. How do you know this?—A. The line was shown to me by Mark, Gushhelah, and William Chernook.

Q. State what you may know as to an oak tree being on boundary line.—A. These men who showed me the line showed me the oak tree and said it was blazed by Thompson.

Q. Did they show you this tree before or after the Handley line was run?—A. This line was shown to me when we first moved on the reservation.

Q. Give the names of the Indians who went with Handley and Capt. Smith when Handley ran his line.—A. I know nothing about this.

Q. State anything further you may know concerning the north boundry line.—A. Nothing more do I know except what I have told.

Interrogated by Indian JOHNSON:

Q. When you first came out on reservation did you see any settlers between The Dalles and reservation, or any stock belonging to whites?—A. I saw none.

Q. Did any of the Indians threaten McQuinn, when he ran the line, if he did not run as the Indians wanted?—A. I heard of no threats.

PIPPS (his x mark).

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission 24th March, 1891.

J. F. PAYNE, *Clerk.*

PIANOOSE, an Indian witness, after being first duly sworn, testifies as follows:

Q. State your name, age, and place of residence, also to what tribe you belong.—A. Pianoose is my name; I am 76 years old; I reside on the reservation and have so resided ever since we came out here. I belong to Wasco tribe.

Q. What official position, if any, do you hold in relation to your tribe?—A. I am chief of police, and also chief of Wasco tribe.

Q. Were you present at the time the treaty was made between Gen. Palmer and the Indians with respect to reservation?—A. Yes, I was present; I understood what was said by Gen. Palmer at the time.

Q. State if any line was agreed upon between Gen. Palmer and the Indians at time of treaty which should be the north boundary of this reservation.—A. Gen. Palmer mentioned no line or boundary for the reservation.

Q. Explain how it is, if you know, that the treaty signed at that time defines the boundaries of the reservation.—A. Gen. Palmer told us you sign this paper for your country to the Government, then you can go out to the reservation and point out the boundaries yourselves in the presence of Thompson. The leading Indians there, about a year after the treaty was made, came out with Thompson and pointed out the boundaries.

(Objection by counsel for whites as to declarations of Palmer; see same filed; overruled.)

Q. Did you come with these leading men you have mentioned at time the boundaries were pointed out?—A. No.

Q. How soon after these Indians returned did you come out to reservation?—A. About a year. Dennison was then agent.

Q. Did Gen. Palmer tell the Indians that he had already marked out the boundaries of the reservation in the treaty and defined same?—A. No.

Q. Was anything said at the time of the treaty by Gen. Palmer about a range of mountains called Mutton Mountains?—A. No such mountains were mentioned.

Q. Do you know where the mountains are that are now called Mutton Mountains?—A. I have only known these mountains of late years, and the name was given by the whites. After whites settled at Oak Grove, they named Mutton Mountains, and also gave the name of Oak Grove Mountains to mountains near Oak Grove, which last named mountains the Indians called Wapinitia Mountains. These Mutton Mountains are on the reservation, McQuinn line is north of them. The Handley line is on them, and it starts right from the summit.

Q. Was this mountain now called Mutton Mountain, mentioned by Gen. Palmer at time of treaty by any other name?—A. No.

Q. State what part you took, if any, in making the treaty of 1855 between Gen. Palmer and the Indians.—A. I was a watchman or picket at time of treaty. I had no interest in it except to see and hear what was going on.

Q. State anything further you may know with respect to the north boundary of reservation.—A. I want you to understand that I did not see the boundaries pointed out, or the oak tree blazed; it was only shown to me after I came out on the reservation to live by Mark, Wm. Chernook, Gush-helah, and other leading men.

Q. When did they first show you the blazed oak?—A. When the body of the Indians first moved out—when Dennison was agent.

Q. Is there anything further you wish to state in this matter?—A. At the time McQuinn came out to run the line, he called on the Indians to point out to him the place where they understood the line to be. We showed him the blazed oak tree, and we had a long talk then about the line. He asked us all manner of questions like you men have done, and finally he said I believe you are right. We then went down to the Des Chutes River, commenced there and surveyed a line to the blazed tree, and from Oak to Black Butte. This line was run just as the Indians understand the treaty boundary line to be. When Handley came to run the line most of the Indians were on the reservation, and why Handley did not tell us that he came to run the line, I do not know. I have been for many years back a member of the council, and if any council had been called by Handley about running the line I would have known it. No council was called. The reason we do not agree to Handley line is that we had no notice as to running of it. Neena Pat was the first person who told us that Handley had run the line, and he told us about it after he had found out about its being run. We told Capt. Smith about it, who was the agent at that time. Smith said Handley ran the line without my knowing it, you take C. H. Walker out there and show him the old treaty boundary. Miller, Albert Kuckup, Skitus, Neena Pat, myself, and Interpreter Elijah Miller went out to north boundary with C. H. Walker and showed him the blazed oak as our boundary; this was sometime spoken of

by witness C. H. Walker in his testimony. None of the agents at reservation before Capt. Smith told us or showed us Mutton Mountains as being on north boundary.

There were two Indians with Mr. Handley when he ran the line, one of them was Smo Hollow Jim, who did not belong to the reservation, and the other Indian I did not know. Remember I have stated what I heard about this, not what I have seen and know. I was not out with Gordon when he went over the lines as stated by W. McD. Lewis.

Interrogated by Indian JOHNSON:

Q. State whether when you first came out to reservation there were any white settlers between The Dalles and the reservation, or any stock on the plains belonging to the whites.—A. No.

Q. Did the Indians make any threats against McQuinn when he ran the line?—A. No. I was present when McQuinn ran the line.

By COMMISSION:

Q. You have stated that at the time you had the conversation with McQuinn at the blazed oak tree, that he said he believed you were right, because your statement agreed with certain papers that had been sent on from Washington; did you understand from McQuinn that he had been furnished with evidence from Washington showing that to be the boundary line?—A. At the time of the conversation had with McQuinn, we told him of the fact that Thompson, while going back with the leading Indians after viewing the reservation, had asked Indians if they wanted the boundary at the foot of Wapinitia Hills, that the Indians then consulted together, and finally agreed that they would have the boundary further up the hill, so that they would have some space between the Indians and whites when the country should be settled; that Thompson then blazed the oak tree and said that should be the line, and sat down and did some writing. It was this writing that we thought McQuinn had.

PIANOOSE (his x mark).

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission, 25th March, 1891.

J. F. PAYNE, *Clerk.*

CAPOLAS, an Indian witness, after being first duly sworn, testifies as follows:

Q. What is your name, age, and place of residence?—A. My name is Capolas, age 64, and I live at Sinemarsho, on reservation. I belong to the Tygh tribe of Indians.

Q. How long have you lived on the reservation?—A. Ever since the Indians were first brought on the reservation.

Q. Were you present at time the Joel Palmer treaty was made?—A. No.

Q. State anything you may know regarding the location of the north boundary of this reservation.—A. I know nothing about this boundary myself, except what was shown me. The blazed oak tree was pointed out to me as being the north boundary after the treaty by Symtustus, Kuckup, Skekemah, Chewat-nat, and Lar-qua-qua-si.

Q. How long was this after treaty?—A. About two years, I think.

Q. Is there a range of mountains on north side of reservation called Tucklute?—A. There is a range of mountains this side of old treaty boundary line called Tucklute.

Q. Is this the same range the whites call Mutton Mountains?—A. I am not positive.

Q. How long have you known the name Mutton Mountains?—A. Little over two years.

Q. Were you on the reservation at the time the Handley survey was made?—A. No; I was at that time in the Klamath country.

Q. Are any of these Indians living who showed you the oak tree?—A. None are living whose names I mentioned, but there is another Indian named Schooley who showed me the tree, and he is living.

Q. How long had you been living on the reservation before you were shown the tree?—A. The tree was shown to me when I first came out on the reservation to live.

Q. How large was the tree when it was first shown you?—A. I think about 6 inches in diameter.

Q. How was it blazed?—A. It was blazed on two sides.

Q. When did you last see it?—A. Can't say positively, but think it was when Capt. Smith was agent.

Q. Did you point out this tree to any of the Indian agents here, and, if so, to whom?—A. No.

Q. Where was this oak tree situate which you have been speaking about?—A. It is on first hill this side of Wapinitia plains.

Q. Was the direction the line ran pointed out to you from that place?—A. Yes; the direction was pointed out from that place—east towards Des Chutes River and west towards Black Butte in Cascades, along the Wapinitia Hills.

Q. Can you see the Black Butte to the west from where this tree stood?—A. By stepping off a short distance from the tree the butte can be seen.

Q. Is there anything further you wish to state with respect to this boundary?—A. Not at present.

Interrogated by Indian JOHNSON:

Q. How many white settlers were there on the road between the reservation and The Dalles when you came out here?—A. There were no settlers of the whites between here and The Dalles.

Q. Was there at that time any stock running on Wapinitia plains belonging to the whites?—A. No.

Q. When McQuinn ran the lines were you present?—A. I was present; McQuinn asked us where the line was, and he ran it where we showed him.

Q. Were any threats made to McQuinn at the time he ran the line?—A. None that I know of.

Q. Did McQuinn run the line past the blazed oak tree?—A. Yes.

Q. Were you here when Handley came to run the line?—A. No, I was absent.

Q. State whether McCorkle, Handley, yourself, and others went along with Handley to run the line?—A. No.

CAPOLAS (his x mark).

Witness:
CHARLES PITT.

Sworn and subscribed before Commission March 21, 1891.

J. F. PAYNE, *Clerk.*

CHARLIE PITT, an Indian witness heretofore sworn and examined, is recalled and testifies as follows:

Q. In the evidence of W. McD. Lewis he states that when Messrs. Gordon and Martin were out here inspecting the Handley and McQuinn lines several Indians were along, among whom were William Chernook, Neena Pat, Kishwalk, Pianoose, and Charlie Pitt; that while on the Handley line these Indians said they were satisfied with the Handley line, their only desire seemed to be to save Indian Johnnie and Neena Pat's land. What is the fact about this?—A. I was there at time mentioned by witness; Lewis Pianoose was not there, but the other Indians were present. There William Chernook asked Gen. Gordon what he was sent to do about the two lines that had been run by Handley and McQuinn. Gordon replied, "I came to inspect both of these lines and to make some compromise between the Indians and the whites." William Chernook said, "Well you have seen the Handley line now, when will you be ready to go over to see McQuinn line?" Then Billy Chernook pulled out the piece that had been taken out of the stump of the blazed oak tree and handed it to Gen. Gordon, saying, "You look at that; it was taken out of the oak tree which was on the line run by McQuinn and was on the old treaty boundary." Gordon said to Billie, "Why how did Thompson blaze a stump." Billie said, "Not at time Thompson blazed it, it was a growing tree, but the white men has cut the tree down and burned it up, and this is part of the remains we have brought." Now, Billie said, "When will you be ready to go over the old treaty boundary." Gen. Gordon said "I know where the McQuinn line is, but the Handley line I have not been over. Billie said how are you to settle this if you don't go over the McQuinn line." Gordon said, "I did not think there was such a big difference as there is between the whites and the Indians; I'll not settle this, but will report back to Washington the difference between these two surveys, and they will act on it back there, and in time you will know about." This was all that was said and the Indians did not say that they were satisfied with Handley line as stated by Lewis.

CHARLES PITT.

Subscribed before Commission 25th March, 1891.

J. F. PAYNE.

GADSHOW, an Indian witness, is recalled and testifies as follows:

I was present at the conversation related by Charles Pitt. He has stated this conversation as I remember it. The Indian named by Lewis did not tell Gordon or Martin that they were satisfied with the Handley line.

GADSHOW (his x mark).

Witness,
CHARLES PITT.

Subscribed and sworn to before the Commission, March 25, 1891.

MARK A. FULLERTON,
Chairman.

Indian JOHNSON is recalled by the Indians, and testifies as follows:

I wish to make a statement. I have been sworn, and know "that God see'th all things," and I expect to answer to the truth of every word that I have given in before the Government before God. Gen. Gordon was standing close to Billy Chernook at the time Billy was talking, as stated Charley Pitt. There are two things Charley Pitt did not state. Billy says to Gordon: "I understand you to say that you are tracing out both lines, McQuinn's and Handley's. When we met McQuinn at the blazed oak he showed us the paper that had been sent him from Washington directing him to run according to the old treaty. Now, haven't you got the same kind of a paper that McQuinn had?" Gordon says: "Yes, I have it; it is here in my pocket," patting his breast; "I have the same thing that McQuinn had; all the rest of Charley Pitts statement is true; that is all he has omitted."

JOHNSON (his x mark).

Witness,
CHARLES PITT.

Subscribed and sworn to before the Commission, March 25, 1891.

MARK A. FULLERTON,
Chairman.

PIPE-SHA-SEM-TES-TUS, an Indian witness, being first duly sworn, testifies as follows:

Q. State your name, age, residence, and the tribe to which you belong.—A. My name is Pipe-sha-sem-tes-tus; I am about 55 years, I do not remember exactly; I live on the reservation north of here; I belong to the Tygh Indians.

Q. Was you present at the time the treaty was made between Gen. Palmer and the Indians with respect to this reservation?—A. I was there.

Q. How long were you there?—A. I was not there during the whole time, only part of the time.

Q. State, if you know, what was said by Gen. Palmer and the Indians at the time of treaty touching the north boundary of reservation.—A. All I understood was that Gen. Palmer said, "You must go out to the Warm Springs." After we had agreed together we said we would. Nothing was said about the north boundary.

Q. When did you first come out to the reservation?—A. It was about two years after the treaty was made; it was then that the blazed tree was shown to me.

Q. Where is the north boundary line of the reservation?—A. The blazed tree is on the Wapinitia hill, where the old treaty boundary is that my forefathers showed me.

Q. How long has it been since you were first shown this oak tree?—A. I can not tell the exact time, but is considerably over thirty years.

Q. Who first showed the tree to you?—A. Two men showed it to me—my father, Sem-tes-tus, and Che-wat-nut.

Q. How large was the tree when you first saw it?—A. It was about a foot and a half through, I think.

Q. How far do you live from Linemarsho?—A. About 3 miles.

Q. Have you ever been over the McQuinn line?—A. Yes.

Q. How far is the oak tree from the McQuinn line?—A. McQuinn's line runs north of the old blazed tree something over 200 yards, I think.

Q. Does the McQuinn line begin on or near Mutton Mountain?—A. McQuinn's line is on the old treaty boundary. It does not begin on or near Mutton Mountains.

Q. Does the McQuinn line touch Mutton Mountain at any point?—A. No; the space is big between the two; the line is clear away from it.

Q. Do you know where the Handley line is, and how far do you live from it?—A. I could not tell you exactly where the Handley line is, and can not tell how far it is from my house to it.

Q. Have you not crossed over this line frequently?—A. I don't know where I cross it. I can't tell whether I cross it or not; the only place where I cross it is where it crosses the road.

Q. Do you mean to say that the Handley line does not cross the road leading from Sinemarsho to Wapinitia?—A. I don't know whether it crosses the road or not.

Q. Do you know Mutton Mountains are now said to be?—A. No, not by that name.

Q. By what name do you know these mountains, and where are they?—A. I know a mountain called Tuck-a-lute, a single mountain; it may be this mountain that the whites call Mutton Mountain.

Q. Does the Handley line begin on or near Tuck-a-lute?—A. It is beyond my knowledge where the Handley line begins.

Q. State if there is anything else you desire to say concerning the north boundary of the reservation.—A. I have nothing further to say about the boundary line.

PIPE-SHA- (his x mark) SEM-TUS-TUS.

Witness:
CHARLES PITT.

Subscribed and sworn to before the Commission March 25, 1891.
MARK A. FULLERTON, *Chairman.*

WASH-SUMPS, an Indian witness, after being duly sworn, testifies as follows:

Q. State your name and age, and tell where you reside.—A. Wash-sumps is my Indian name; David is my English name; my age is 30 years; I live on Dry Creek, 4 or 5 miles from agency.

Q. How long have you lived on the reservation?—A. I have lived on reservation ever since the Indians first came out; don't remember number of years.

Q. Did you come here with the main body of Indians after treaty of 1855, in which the boundaries of this Warm Springs Reservation were defined?—A. Yes.

Q. How old were you at that time?—A. I was a small boy then; can't remember age.

Q. Have you any recollection as to where the north boundary line of this reservation was understood to be by the Indians at that time?—A. Yes.

Q. State where it was understood by the Indians at that time that the northern boundary ran; give its beginning point, termination, and such intermediate points as nearly as you now remember.—A. All I know about it is that the blazed oak tree was pointed out to me, and I saw it standing. I know nothing about the beginning point or the termination except what has been shown me.

Q. Who first pointed out to you the blazed oak tree you have mentioned?—A. Kuckup and Alexand, my uncles, pointed it out to me; these are all I remember.

Q. State, if you know, the name of the agent here at the time this tree was first pointed out to you.—A. I think it was Thompson.

Q. Do you know where the mountains are that are called Mutton Mountains?—A. I do.

Q. Give the general course of these mountains that you know as Mutton Mountains?—A. The general course of these mountains is east and west; they are high mountains.

Q. Where are they situate with respect to what you understand to be the north boundary of this reservation?—A. Mutton Mountains are south of what I understand to be the northern boundary, say some 6 or 7 miles south of it.

Q. In the treaty of 1855 the north boundary line of this reservation is described as commencing in the middle of the Des Chutes River opposite the eastern termination of a range of highlands known as Mutton Mountains. Now state if the mountains mentioned in the treaty are the same mountains you know as Mutton Mountains.—A. There were no Mutton Mountains named in the treaty.

Q. Are there more than one range of highlands towards the north boundary of the reservation known as Mutton Mountains?—A. I know of only one mountain that is called Mutton Mountain, and I have only known this lately.

Q. About when did you first hear this mountain called Mutton Mountain?—A. About eleven years ago; but I can't be positive.

Q. Are you acquainted with the line known as the McQuinn line?—A. I have

never been over this line except when the wagon road crosses it, and have seen blazes there.

Q. State if you have been over the line known as the Handley line; if so, when?—A. I have never been over this line.

Q. Were you with Mr. Thompson at the time he is said to have pointed out the north boundary line and blazed the oak tree you have described?—A. I was not present.

Q. What were these Mutton Mountains called at the time the treaty defining the boundary lines was made?—A. "Tucklute."

Q. Does the McQuinn line run over or along the summit of the mountains known as the Tucklute Mountains?—A. No.

Q. Is there anything further that you wish to state to the Commission with respect to the north boundary line?—A. The only north boundary line I ever knew was that which was pointed out to me by the Indians at the point where the blazed oak used to stand. My forefathers taught me that this was the line to separate us from the whites; that the stakes must not be pulled up or the line disturbed in any way.

Interrogated by JOHNSON for Indians:

Q. State how many white people lived between here and The Dalles at time the Indians came out to the reservation.—A. There were no white settlers that I know of.

Q. After the Indians came on the reservation did you know of a white man named W. M. McCorkle?—A. I never knew him at that day.

Q. State if you know when Handley came to run his line, and how many Indians and whites he took with him to run the line.—A. I know nothing about this.

Q. Did you know anything about McQuinn coming to run his line?—A. Yes.

Q. State if any of the Indians with McQuinn threatened to destroy his corners if he did not run the line to suit the Indians.—A. I never heard of any threats.

Q. Who was agent at time McQuinn ran the line?—A. Mr. Wheeler.

Q. Was Mr. Wheeler out with McQuinn when he was running the line.—A. Yes.

Q. State if McQuinn ran the line according to the old boundary, and did it pass near the blazed oak when Alexant and Kuckup showed you.—A. Yes.

Q. Are you positive about your statement concerning your age?—A. I do not really know how old I am.

Cross-examined by J. F. MOORE, counsel for whites:

Q. How long after the treaty before you came to the reservation?—A. I think about a year after treaty.

Q. How long after you came to the reservation before you heard of this blazed oak tree?—A. I was shown the tree when we first moved out on reservation.

Q. Gen. Palmer was never on the reservation, was he, at any time prior to treaty?—A. I don't know.

Q. Were you raised on or in the vicinity of Warm Springs Reservation?—A Yes.

Q. Then, at time of making the treaty Gen. Palmer and the Indians who treated with him did not visit the reservation, but made and signed the treaty near The Dalles, did they not?—A. I can't say about this; don't know.

Q. What is the meaning of Tucklute Mountain in English, and why is it called Tucklute?—A. Tucklute means body of rock standing in water.

Q. State from your best information how the Handley and McQuinn lines run with respect to Tucklute Mountain you speak of?—A. Tucklute lies up the Des Chutes River from the McQuinn line; can't say as to distance. I don't know how the Handley line runs with respect to this mountain.

WASHSUMPS (his x mark).

All erasures and interlineations made before signature of witness.

Attest:

CHARLES PITT.

Sworn to and subscribed before Commission, this 20th March, 1891.

J. F. PAYNE, *Clerk.*

SWARCOPS, an Indian witness, after being first duly sworn, testifies as follows:

Q. State your name, age, and place of residence.—A. My name is Swarcops; age, I don't know; may be 80. I live on reservation, and belong to the Wasco tribe.

Q. When did you first come out to reservation?—A. I came out with main body of Wascoes after the treaty was made.

Q. Were you present when treaty was made between Gen. Palmer and the Indians?—A. Yes.

Q. How large were you at that time?—A. I was a full-grown man.

Q. State what was said between Gen. Palmer and the Indians about the north boundary line of reservation at time treaty was made.—A. There was no boundary mentioned by Palmer. All he said was, "You will have to go to Warm Springs."

Q. Were you present during the whole time treaty was being made?—A. Yes.

Q. State what you may know concerning the location of the north boundary line.—A. When we first moved out on the reservation, Mark, William Chernook, Gush-helah, Miller, and other Indians pointed out to me the oak tree and said that was the boundary, pointing in two directions.

Q. If the oak tree was then blazed, state how.—A. It was blazed on two sides.

Q. State anything further you may know regarding the north boundary line.—A. I do not wish to state anything more.

Interrogated by Indian JOHNSON:

Q. When you came out to reservation did you see any white settlers between The Dalles and reservation, or any stock belonging to whites on the plains?—A. I saw none.

Q. Did you know of any disturbance or threats made by Indians at time McQuinn came to run the line?—A. No.

Q. Did you ever hear of Mark, William Chernook, John Mission, or any other leading men among Indians taking Handley out to run the line on Mutton Mountain?—A. No.

SWARCOPS (his x mark).

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission, 24th March, 1891.

J. F. PAYNE, *Clerk.*

POLK, an Indian witness, after being first duly sworn, testifies as follows:

Q. State your name, age, and place of residence.—A. My name is Polk; age, 48 years; and I live at Warm Springs Agency.

Q. How long have you lived on the reservation?—A. Ever since the Indians first came out here to live.

Q. Were you present when treaty of 1855 between Gen. Palmer and the Indians was made?—A. No.

Q. To what tribe do you belong?—A. Wasco.

Q. With whom did you come when you came out to reservation; name the principal men?—A. I came out with my father, Polk, and the leading men of the Wasco tribe—Mark, Gush-helah, Ty-simpt, John Mission, Kuskup, Gadshaw, Skitus, and Simmenti; also Miller.

Q. Do you know a range of mountains towards north boundary of reservation, called Mutton Mountains?—A. I know several ranges, but don't know which is Mutton Mountain.

Q. Do you know of a range of mountains towards north boundary, which the Indians call "Tuck-lute?"—A. Yes; it is on the reservation next to Des Chutes River, where the water whips around the mountain.

Q. Is the word "Tuck-lute" the name of any kind of animal; if so, what?—A. No.

Q. Do you know the point next to the Des Chutes River the beginning point of what is called the Handley line?—A. No.

Q. State what you know concerning the north boundary line of this reservation?—A. The old treaty boundary line is on the Wapinitia Mountain, south of Old Man Paquet's place, on a hill; the blazed oak tree is on the west side of an Indian trail; the first time I saw it there was a pile of stones on the east side of this trail.

Q. How do you know that the line you havs described is the old treaty boundary line?—A. My father showed me the blazed tree and the pile of rock the first time we came out to reservation.

Q. Who was agent the first time you came out to reservation?—A. I think it was Dennison.

Q. How long was that after the treaty was signed?—A. I don't remember exactly, but think it was something over a year after the treaty.

Q. Did you ever point out to any of the agents on reservation this blazed oak tree as being the north boundary; if so, to whom?—A. No.

Q. Were you on the reservation at the time the Handley line was run?—A. I was here when Handley was surveying in the valley, but I don't know anything about his surveying the north boundary.

Q. Is there anything further you wish to state about the north boundary line?—A. No.

Interrogated by Indian JOHNSON:

Q. State how many white settlers there were between Agency and The Dalles when you first came out.—A. None.

Q. Did you ever see any stock on the Wapanitia plains belonging to white settlers at that time?—A. No.

Q. Who did your father say blazed the oak?—A. Thompson blazed it.

Q. Who did you understand authorized Thompson to blaze the tree?—A. I understood it was Palmer authorized Thompson to blaze the tree.

Q. Did you ever work on the reservation under any of the agents?—A. Yes. I was carpenter; apprenticed under Agent Logan and Capt. Smith; was under Smith till he died.

Q. Did any of the agents ever point out to you Mutton Mountains?—A. No.

Q. Did you ever hear of Mark, Wm. Chernook, or John Mission, or any other leading men among the Indians taking Handley to run the north boundary?—A. If such was the case I should have known something about it. I never heard it.

Q. Did you know anything about McQuinn running the line?—A. Yes; he notified the Indians, and I went with him.

Q. Do you know whether Capt. Smith went with Handley when he ran the line?—A. I don't know.

POLK (his x mark).

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission, March 23, 1891.

J. F. PAYNE, *Clerk.*

KISH-WALK, an Indian witness, after being first duly sworn, testifies as follows:

Q. State your name, age, and place of residence.—A. My name is Kish-walk; age 55. I have no record of my age; am simply guessing at it. I live this side of Linemasho, in the reservation. I belong to Wasco tribe.

Q. When did you first come on the reservation?—A. I came when the Indians came out.

Q. Did all the Indians come at one time, or at different times, and in different lots?—A. In the party I came with there was quite a number of them, but there were others who came out afterwards.

Q. Tell what you may know about the north boundary line of the reservation.—A. When we first came out we came on up out of a valley on to an old Indian trail, which we followed some distance, till we came to a mountain, and the Indians said, here is our boundary; besides this, they told me, here stands an oak, on the west side of the trail.

Q. Do you know of a range of mountains towards the north boundary of reservation called the Mutton Mountains?—A. Yes, these mountains are on the reservation; I have known them of late years.

Q. What do the Indians call those mountains?—A. In Warm Springs they are called Tuck-lute; in Wasco they are called Wadyim.

Q. What is the Warm Springs name for Wild Mountain sheep?—A. I don't know. In Wasco it is "Itgahharquick wownum."

Q. Were you on the reservation at the time the Handley line was run?—A. I was on the reservation at the time, but did not know anything about it until some time after it had been run.

Q. State anything further you may wish to state with respect to this north boundary.—A. The only other thing I know is that McQuinn ran the boundary as it was claimed by the Indians and shown to me.

Interrogated by Indian JOHNSON:

Q. Tell me how many white people there were between The Dalles and agency when you first came out.—A. None that I saw.

Q. Was there at that time any stock on the plains belonging to whites?—A. No.

Q. Did you see the blazed oak tree at the time you spoke of?—A Yes.

Q. Do you live near Handley line?—A. Yes.

Q. Did you ever see Handley pass by your place to run line in company with John Mipin, Mark, Wm. Chernook or McCorkle, and others?—A. No; I did not see nor hear anything about it.

Q. When Gen. Gordon was sent here were you out with him looking over the lines?—A. Yes.

Q. State what Gen. Gordon said to you about the line.—A. He said he did not come to establish any line, but merely to see how they ran.

Q. Did Gen. Gordon do what he was sent to do?—A. Yes.

Q. State if you had any other talk with Gen. Gordon; if so, where, and what was it?—A. Yes; Gen. Gordon said, where is your line? We met over the Neena Ridge and had this talk. Wm. Chernook showed Gordon where the oak tree was on other side of mountain. At this meeting Gordon said to Indians, tell me what you know about your line, and the men present told him. Johnson, Neena, Pat, Gadshaw, Simmenti, and Charlie Pitt were present. Then Indians said to Gordon, we told McQuinn the same we have told to you about the boundary, and Gordon said, yes; I have got it in my pocket. Gordon said, I am glad you have told this to me. Now, I have seen the line and will make my report. I am not going to decide this between you; I will leave it to the Government; you will hear about it.

KISH WALK (his x mark).

Witness:
CHARLES PITT.

Sworn to and subscribed before Commission, March 22, 1891.
J. F. PAYNE, *Clerk.*

KACHIA, an Indian witness, after being first duly sworn, testifies as follows;

Q. What is your name, age, and place of residence?—A. My name is Daniel Kachia; age 47; live on reservation.

Q. How long have you resided on reservation?—A. I have lived here ever since the Indians were brought out here on reservation.

Q. How long was that after treaty was signed?—A. The second year after the treaty was signed.

Q. How old were you at that time?—A. Eleven years old.

Q. Did you come with Agent Thompson?—A. No.

Q. Were you present when the Joel Palmer treaty was made?—A. No.

Q. If you know anything regarding the north boundary of the reservation state what it is.—A. The boundary line was shown to me when I was coming out on the reservation.

Q. What was shown to you as the north boundary line?—A. The blazed oak alongside of an Indian trail was shown me as the boundary by William Chernook, Mark, and Gush-helah.

Q. What was said about it at that time?—A. From the oak west to the butte, and east from oak to the river; this was all that was said about the boundary.

Q. Have you talked with the persons above named about that being the line of north boundary since that time?—A. Since then I have talked with William Chernook about the line.

Q. When was the last time you talked with William Chernook about it?—A. The last talk I had with him about it was early in the fall of the year he died. I understand from Mr. Luckey, the agent, that he died 9th December, 1890.

Q. To what tribe do you belong?—A. Wasco tribe.

Q. To what tribe did William Chernook, Mark, and Gushhelah belong?—A. To the Wasco tribe.

Q. Do you know a range of mountains towards the north boundary of a reservation called Mutton Mountains?—A. I do not.

Q. State anything further that you may know respecting the north boundary line of the reservation.—A. The north treaty boundary is on the north Wapinitia Mountains.

Q. Do you know a range of mountains towards the north boundary called by the Indians "Tuck-a-lute?"—A. I know the name "Tuck-a-lute," but do not know where the mountains are.

Interrogated by Indian JOHNSON:

Q. When you moved on the reservation were there any white settlers between the reservation and The Dalles?—A. I do not remember of any.

Q. Was there any stock belonging to W. M. McCorkle, McD. Lewis, or any white men then running on the Wapinitia plains?—A. None that I saw.

Q. Were you with McQuinn when he ran the north boundary line?—A. I was not with him.

Q. Did you know of McQuinn's having any trouble with the Indians when he was running the line?—A. No.

Q. Do you know of Handley's calling any council of the Indians at the time he came to run the north boundary line?—A. No.

Q. Were you here on the reservation at the time Handley ran that line?—A. I was.

Q. If the leading men had went with Handley, would you not have known something of it?—A. I would have been apt to have known something about it.

Q. How long have you known this name "Mutton Mountain?"—A. The Indians never knew Mutton Mountain until the white people lately named that name Mutton Mountain.

Q. Did this name come into existence before or after Handley ran the line?—A. This name Mutton Mountain came into existence after Handley had run his line.

Cross-examined by J. F. MOORE, counsel:

Q. The Indians could have gone with Mr. Handley at the time he made his survey, could they not, if they so desired?—A. Yes.

Q. Were not the Indians on the reservation at that time, and would have been glad to have gone with Mr. Handley when he made his survey?—A. Yes; the Indians were on the reservation at the time, and would have been glad to have gone with Handley when he made his survey, if they had been asked so to do.

Q. Your recollection in regard to the time you have known Mutton Mountain is just as good as it is on all other facts to which you have testified in this case, is it not?—A. Yes.

DANIEL (his x mark) KACHIA.

Witness:
CHARLES PITT.

SIAMCON, an Indian witness, after first being duly sworn, testifies as follows:

Q. State your name, age, and place of residence, and the tribe to which you belong.—A. My name is Siamcon; I am about sixty-eight years old; am not positive about my age; I reside a few miles from the north boundary line, north of Linemarsho; I belong to the Warm Springs.

Q. Were you present at the time the treaty was made between Gen. Palmer and the Indians with respect to this reservation?—A. No; I was not there.

Q. When did you first come on to the reservation?—A. I came on to the reservation with the last band of my tribe; we came in two different bands.

Q. Who was agent when you came out?—A. I don't recollect.

Q. State, if you know, how long after the treaty you came to live on the reservation.—A. I don't really remember; it was two years any way, if not more.

Q. Do you know where the north boundary of this reservation is?—A. Yes; the treaty boundary is on the north side of Wapinitia Hill, towards the top.

Q. How do you know this?—A. Mun-ni-nuckt showed it to me. There were three trees together, and one of those trees was blazed. The blaze looked kind of fresh.

Q. How long has it been since the oak tree was shown to you?—A. It is something over 30 years—I can not tell when, exactly.

Q. How large was this oak tree when it was shown to you?—A. As I said, there were three of the trees; the smallest of these was blazed. I think the blazed tree was something larger than a stove-pipe [indicating].

Q. Were there any blazes on the other trees?—A. No; just the one tree blazed.

Q. How long has it been since you last saw the tree?—A. I couldn't tell exactly. After we came to the reservation we traveled past the tree for several years. I don't know just how long. I can now show you where it was.

Q. Is this all you know of your own knowledge respecting the north boundary of this reservation?—A. Yes; I have stated all I know about the north boundary line. I have no knowledge of the line except as being shown it by Mun-ni-nuckt, as I have stated.

Q. Have you ever been over the McQuinn line?—A. Yes; I was cook for the Indian party when the line was run, and went over the line then.

Q. Where does the McQuinn line begin?—A. The old point is the blazed tree. From the oak tree it runs down to the Des Chutes River, and from the oak tree it runs west to the butte. This butte has no particular name. It is called by the Indians Lo-hum Lo-hum Posster—means Black Butte. The McQuinn line begins at the oak tree.

Q. Were you with McQuinn when he first began his survey of the north boundary line?—A. Yes.

Q. Does the McQuinn line touch Mutton Mountains at any point?—A. No.

Q. Have you ever been over the Handley line?—A. No, I have never been over it, nor have I seen it.

Q. How far do you live from the Handley line?—A. I have already stated that I do not know where the Handley line is. I do not know how far it is.

Q. How far do you live north from Linemarsho?—A. I think about one mile and a half.

Q. Have you ever traveled the public road leading from Linemarsho to Wapinitia?—A. Yes, I have traveled that road.

Q. Does the McQuinn line cross this road?—A. Yes, the McQuinn line crosses this road in the Wapinitia Gulch.

Q. Does the Handley line cross this road?—A. I don't know.

Q. Is it not generally reported and understood in your neighborhood, both by the whites and Indians, that the Handley line does cross this public road?—A. I don't know.

Q. Is it not generally reported and understood by whites and Indians that the Handley line begins at or near Mutton Mountains?—A. I don't so understand it.

Q. Are there any mountains in your neighborhood called by the whites of late "Mutton Mountains?"—A. No; I don't know anything about the name Mutton Mountains, even of late.

Q. Are there any mountains in your neighborhood called by the Indians "Tuck-a-lute?"—A. There is one big mountain called by the Indians, Tuck-a-lute, only one.

Q. How far is this mountain from the McQuinn line?—A. Tuck-a-lute is south of the McQuinn, about as far as from here to the Warm Springs River.

Q. How long have you known Tuck-a-lute?—A. I have known Tuck-a-lute ever since I was a young man, and my forefathers took me around hunting.

Q. Is there anything else you desire to say concerning the northern boundary of the reservation? If so, you may state it.—A. All I have to say is that Wapinitia is an old Indian name.

Interrogated by Indian JOHNSON:

Q. When you first moved out into the reservation were there any white settlers between here and The Dalles?—A. There were no whites that I saw, neither in the Wapinitia flat were there any.

Q. Were there any stock belonging to the whites running on the hills along the road when you first came out?—A. No.

Q. Were there any threats made by the Indians against McQuinn at the time he ran the line, if he did not run it where the Indians wanted it?—A. No, there were none.

Q. Why was it that McQuinn ran the line without any trouble.—A. I understood that McQuinn was sent out here by the Government, and that McQuinn was handed a paper by the Government, and in that paper it was stated where the Indians pointed out the boundary, we showed him the boundary and there he ran the line, I mean that it was stated in the paper that the boundary we showed him was the boundary pointed out by the Indians to Thompson.

Q. Do you know who sent Thompson out with the Indians to establish the north boundary, the north boundary of the reservation?—A. I do not know of my own knowledge who sent Thompson out with the Indians.

SIAMCON (his x mark).

Witness:
CHARLES PITT.

Subscribed and sworn to before the Commission, March 26, 1891.

MARK A. FULLERTON,
Chairman.

GOODSTER, an Indian called as a witness on behalf of the Indians, after being first duly sworn, testified as follows:

Q. State your name, age, residence, and to what tribe you belong.—A. My Indian name is Goodster, English name is Peter Hull. I am 49 years old. I live 6 or 7 miles south of Linemarsho. I belong to the Wasco tribe.

Q. Were you present at the time the treaty was made between General Palmer and the Indians with respect to this reservation?—A. I was.

Q. How many days were they employed in making the treaty?—A. Somewhere in the neighborhood of seven or eight days, perhaps ten; I wouldn't be certain.

Q. Were you present at the time the treaty was being made?—A. Not all the time; I was there off and on.

Q. What was your age at the time the treaty was made?—A. I think I was about 13 or 14 years.

Q. What white men were present at the time the treaty was made?—A. I know Palmer was there, but how many others I do not know. There were some others there.

Q. Were there present any Indian interpreters?—A. Yes, Te-sympt and Pat Mitchell were there; I don't know how many others.

Q. Could the Indians hear and understand what was said and done at the time of treaty?—A. I do not see why they shouldn't. They must have understood it, at least Idid.

Q. Where is the north boundary of this reservation?—A. On Wapinitia Mountain.

Q. How do you know?—A. It was shown to me by the old man, my uncle Bear-cap. He showed me the tree.

Q. When did your uncle show you the tree?—A. When we first moved out on the reservation after treaty, as well as I recollect about a year after the treaty, perhaps more.

Q. Where is this situated?—A. As I have said before it is on Wapinitia, towards the top of the hill.

Q. Have you ever been on the McQuinn line?—A. Yes.

Q. Where does the McQuinn line begin?—A. It begins at the Des Chutes and runs past the the tree.

Q. How far from the tree does the line run?—A. The line runs north of the tree about as far as from here to Gadshow's house [indicating about two hundred yards].

Q. Does the McQuinn line touch Mutton Mountain at any point?—A. I do not know where Mutton Mountain is.

Q. Does the McQuinn line touch Tuck-a-lute?—A. In my tongue Tuck-a-lute is called Wad-wy-ern. I don't know which side of the mountain the line runs on.

(The interpreter says he misunderstood the question and translated it "The Handley line," and asks the question repeated.)

Q. Does the McQuinn line touch Tuck-a-lute?—A. I do not know where Tuck-a-lute is.

Q. Do you know where Wad-wy-ern is? If so, does the McQuinn line touch this mountain?—A. No; the McQuinn line is way north of Wad-wy-ern.

Q. Does the Handley line touch Wad-wy-ern?—A. I do not know.

Q. Have you ever been over the Handley?—A. No, not that I know of.

Q. Have you ever traveled the public road leading from Linemarsho to Wapinitia?—A. Yes; I have traveled it ever since I have been on the reservation.

Q. In traveling this road do you not cross over both the Handley and McQuinn lines?—A. I know nothing about crossing the Handley line, but do know that we cross the McQuinn line.

Q. State anything else you may desire to say with respect to the north boundary of the reservation.—A. I can not think of anything further to say concerning the north boundary line.

GOODSTER (his x mark).

Witness:
CHARLES PITT.

Subscribed and sworn to before the Commission this 26th day of March, A. D. 1891.

MARK A. FULLERTON, *Chairman.*

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