

# CANADA, BRITISH COLUMBIA, AND THE DEVELOPMENT OF INDIAN RESERVE NO. 2 AT CHUCHUWAYHA<sup>1</sup>

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## INTRODUCTION

**I**N THE OPENING LINE of his review essay, “Surprises of the Empire,” in the 2 November 2006 issue of the *New York Review*, biographer and historian David Gilmour laments: “One of the eccentricities of the historical profession is its tradition of explaining very complicated events by means of very simple formulas.”<sup>2</sup> According to Gilmour, in the late twentieth and early twenty-first centuries postcolonial historians “have taken it for granted that colonial rule was always evil and colonialist motives always bad.” Gilmour cites the subject of his essay, historian Maya Jasanoff, as having said in her *Edge of Empire: Lives, Culture, and Conquest in the East, 1750–1850*, that most of the histories she had read while working on her book “drew a detailed if rather insidious picture of white European colonizers trying to supplant, appropriate, or denigrate the non-European peoples and societies they encountered.”<sup>3</sup>

Many Canadians hold similarly negative views regarding the oppression of Native peoples by European settlers. In his introduction to *The Unjust Society*, Harold Cardinal, president of the Indian Association of Alberta, wrote: “The policies adopted by Canada over the years with regard to Indians are not different from the rationale employed by Nazi Germany in its implementation of what it called the ‘Final Solution.’”<sup>4</sup> Native rights lawyer Thomas R. Berger wrote, without qualification, that “European contempt and indifference toward Indians and Indian

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<sup>2</sup> David Gilmour, “Surprises of the Empire,” *New York Review of Books* 53, 17 (2 November 2006), 48.

<sup>3</sup> *Ibid.*

<sup>4</sup> Harold Cardinal, *The Unjust Society* (Vancouver/Seattle: Douglas and McIntyre/University of Washington Press, 1999), xv. Examples from the United States include Ward Churchill, *A Little Matter of Genocide: Holocaust and Denial in the Americas, 1492 to the Present* (San Francisco: City Lights Books, 1997); David E. Stannard, *American Holocaust: The Conquest of the New World* (New York: Oxford University Press, 1992).

culture have persisted into our own time.”<sup>5</sup> Additionally, because of Canada’s role in expropriating Native land, some consultants in British Columbia who represent Native communities refuse to hire researchers who have worked for the Department of Indian Affairs and Northern Development. Scholars who seem insufficiently critical of the federal government risk rebuke by their colleagues.<sup>6</sup> A professor at the University of Victoria even hinted to a Jewish graduate student (who had a doctorate in modern European history) that the latter had an intellectual kinship with Holocaust deniers because he denied that Canadian Native policy involved any form of genocide or that it could be reasonably compared to the policies of Nazi Germany.

This article backs away from the lachrymose and recriminatory view of Canadian Indian policy;<sup>7</sup> rather, it suggests that, although the federal government operated within the colonialist supposition that Native peoples needed to be civilized and that vast amounts of Native land were going to waste (and therefore should be available to colonists), the Department of Indian Affairs (DIA) did sometimes support Native interests vis-à-vis settlers. One example is how the Native community of Chuchuwayha became part of the Indian reserve system in British

<sup>5</sup> Thomas R. Berger, *A Long and Terrible Shadow: White Values, Native Rights in the Americas since 1492* (Vancouver/Seattle: Douglas and McIntyre/University of Washington Press, 1999), 27.

<sup>6</sup> J.R. Miller, “Owen Glendower, Hotspur, and Canadian Indian Policy,” *Ethnohistory* 37, 4 (1990): 386–415; Douglas Cole and Ira Chaikin, *An Iron Hand upon the People: The Law against the Pottlatch on the Northwest Coast* (Vancouver: Douglas and McIntyre, 1990). For Brownlie and Kelm’s rebuttal, see Robin Brownlie and Mary-Ellen Kelm, “Desperately Seeking Absolution: Native Agency as Colonialist Alibi?” *Canadian Historical Review* 75, 4 (1994): 543–56. For Cole and Miller’s responses see Douglas Cole and J.R. Miller, “Desperately Seeking Absolution: Responses and a Reply,” *Canadian Historical Review* 76, 4 (1995): 628–39.

In another example of blaming the government, in this case for reporting identical census figures on Indian reserves for 1917 and 1918, Mary-Ellen Kelm writes: “The reasons for this faulty reporting are unclear. It may be a symptom of a larger indifference to First Nations issues, or it may have been an attempt to keep the true impact of this epidemic out of the hands of government critics” (“British Columbia First Nations and the Influenza Pandemic of 1918–19,” *BC Studies*, 122 [1999]: 24). Canada, *Annual Report of the Department of Indian Affairs for the Year Ended March 31, 1917* (J. de Labroquerie Taché, Printer to the King’s Most Excellent Majesty, 1917), 9, however, reports that “many alterations have been made this year in the report. The contents have been greatly reduced in order to meet the wishes of the Committee on Parliamentary Printing with a view to curtailing expenditure.” And, in Canada, *Annual Report of the Department of Indian Affairs for the Year Ended March 31, 1918* (J. de Labroquerie Taché, Printer to the King’s Most Excellent Majesty, 1918), 9: “Heretofore a census of the Indian population has been taken annually, but as the figures show very little change from year to year, it has been decided that henceforward a quinquennial census will suffice.” In other words, funding and personnel constraints associated with the First World War, rather than indifference or deception, likely accounted for the identical census figures. Moreover, the decision for a quinquennial census was made before the influenza outbreak.

<sup>7</sup> Columbia University history professor Salo Baron (1895–1989) inveighed against what he characterized as “the lachrymose theory” of Jewish history.

Columbia, beginning with the arrival of the first settler in 1860 and concluding with the establishment of the adjacent mining town of Hedley and Chuchurwayha's 1904 boundaries, which remain in force today. How this happened is the basis of the ensuing story.

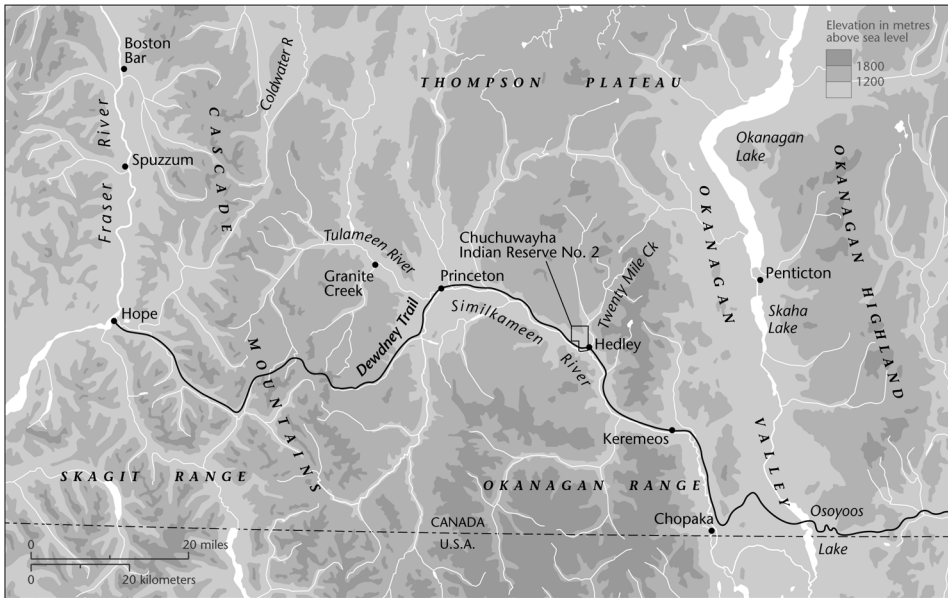
#### EARLY INTERIOR SETTLEMENT

When John Fall Allison established the first ranch in the Similkameen Valley in 1860, his arrival initiated a period of growing newcomer encroachment that provoked tensions not just between the Native population and non-Native settlers but also among settlers themselves, many of whom had conflicting views about how to proceed with the colonial enterprise. During the colonial period, Governor James Douglas's Indian land policy was criticized by colonists (as it has been by later historians) as less a policy than a series of haphazard ad hoc stratagems to promote colonization without provoking indigenous peoples and placing settlers at risk.<sup>8</sup> To many settlers, Douglas's Indian land policy seemed overly generous. "There was no groundswell of support from former fur traders for Douglas's Native land policies," writes Cole Harris.<sup>9</sup> There were, however, members of the Euro-Canadian community who sympathized with Native peoples. These included missionaries, settlers, and various government agents, although they were too few to effect a more generous policy towards the original inhabitants.

John Fall Allison appears to provide an example of such cross-cultural amity. He enjoyed a working rapport with the Similkameen people and engaged them as packers and, later, as helpers on his farm, establishing relationships that lasted for the rest of his life. But Allison was also a harbinger of things to come. He embraced the Western European cultural values of piety, thrift, industry, and hard work. Encouraged by mining prospects in the interior mainland, Allison staked mineral claims east of Hope in 1859. His first claim along the Similkameen River was in August 1860. "A great many men are rushing in there and it is my impression that it will prove a tolerable good mining country," he wrote to his parents. Allison also reported that, on one of his prospecting forays, he was accompanied by the high sheriff of British Columbia and

<sup>8</sup> See "The Douglas Years, 1850-64," in Cole Harris, *Making Native Space: Colonialism, Resistance, and Reserves in British Columbia* (Vancouver: UBC Press, 2002), 17-44.

<sup>9</sup> Harris, *Making Native Space*, 54.



Map 1. South-central interior of British Columbia. Cartography by Eric Leinberger.

a party of Indians, which suggests a degree of cooperation between newcomers and Native people.<sup>10</sup>

In 1860, Governor Douglas authorized a townsite to be laid out at the confluence of the Tulameen and Similkameen rivers. He named it Princeton in honour of the Prince of Wales, who was then visiting Canada. In the spring of 1861, Allison abandoned his mining claim and moved to 160 acres of land (the usual amount for settlers on the Mainland) that he had claimed near the site of Princeton in 1859. The area around Allison's fledgling ranch, known as Vermilion Forks because of the red ochre bluffs along the Tulameen River, was much coveted by the Similkameen people (and others), who traded the ochre with Native communities elsewhere.<sup>11</sup>

Not only did the Similkameen people supply Allison with provisions, but he married a Similkameen woman (name now unknown), a packer with whom he had four children. Their descendents continue to live

<sup>10</sup> Aurelia Angela Allison-McDiarmid, *Letters and Reflections from the Life and Times of John Fall Allison* (Vancouver: Pulp Press, 1977), 28.

<sup>11</sup> Upper Similkameen Indian Band and British Columbia, Ministry of Energy, Mines and Petroleum Resources, "Mining and Minerals Protocol Agreement," 27 July 2006, <http://www.llbc.leg.bc.ca/public/PubDocs/bcdocs/404682/AgreementFinalJuly272006.pdf> (viewed 16 September 2009).

in the Similkameen Valley. Census records for the Similkameen and Okanagan valleys from the late nineteenth and early twentieth centuries reveal a sprinkling of these mixed relationships, which were not uncommon. When Allison met Susan Moir in Hope, British Columbia, however, he left his Native partner and married Susan in a conventional Christian wedding.

Although there were many other examples of Native-settler cooperation during the ensuing decade, there were also reports of Native unrest. The departure of Governor Douglas in 1864 left a political vacuum that was filled by Lands and Works Commissioner Joseph William Trutch, whose outspoken contempt for Native peoples became legendary. Trutch served as chief commissioner of lands and works for British Columbia from 1864 to 1871 and as lieutenant-governor from 1871 to 1876. Originally from Somerset, England, Trutch became an engineer before emigrating to the United States in 1849 and then to Victoria in 1859, where he became involved in colonial, and then provincial, politics.

Trutch's statements and policies reveal that he was an autocrat. Although he promoted British Columbia's union with Canada, he opposed responsible government. Moreover, Trutch became notorious for his views on Native peoples, eventually earning the wrath of modern-day historians and Aboriginal peoples for his niggardly handling of the Native land issue. Robin Fisher, for example, excoriated Trutch in an issue of *BC Studies* published in the winter of 1971-72, characterizing him as an irascible bigot. Trutch's own words were even more damning:

The Indians really have no right to the lands they claim, nor are they of any actual value or utility to them; and I cannot see why they should either retain these lands to the prejudice of the general interests of the Colony, or be allowed to make a market of them [i.e., lease them] either to Government *or to individuals*.

...

[I]n carrying out such a reduction of these reserves in the manner proposed, very careful management of the dispositions of the Indian claimants would be required to prevent serious dissatisfaction; firmness and discretion are equally essential to effect the desired result, to convince the Indians that the Government intended only to deal fairly with them and the whites, who desire to settle on and cultivate the lands which they (the Indians) have no right to and no use for.<sup>12</sup>

<sup>12</sup> British Columbia, *Papers Connected with the Indian Land Question*, 1850-1875 (Victoria: Richard Wolfendes, Government Printers, 1876), 42 (emphasis in original). Robin Fisher, "Joseph Trutch and Indian Land Policy," *BC Studies* 12 (Winter 1971-72): 3.

Referring to Aboriginal peoples in the Oregon Territory, Trutch wrote: "I think they are the ugliest & laziest creatures I ever saw, & we shod. as soon think of being afraid of our dogs as them."<sup>13</sup> Further: "I have not yet met with a single Indian of pure blood whom I consider to have attained even the most glimmering perception of the Christian creed."<sup>14</sup>

Although modern historians and Aboriginal peoples have condemned Trutch, he was not alone in his views. He had the support of contemporary public opinion, which often shared his attitude towards Native peoples and what ought to be done with their land.<sup>15</sup>

Thanks largely to Trutch's policies, tensions continued to grow between Native peoples and Euro-Canadians after British Columbia became a province in 1871. Tensions, however, festered not only between Indians and settlers over access to land but also between the Dominion and provincial governments over jurisdictional issues and land allocation, with the Dominion government taking the more liberal view. When British Columbia joined Confederation, it did so with the following stipulation in Article 13 of the terms of admission:

[T]he charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit, should be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union.<sup>16</sup>

From the Dominion perspective, however, British Columbia's Indian policy was not liberal. A 2 November 1874 memo from the Department of the Interior, which oversaw Indian affairs in Canada, noted: "The policy heretofore pursued by the Local Government of British Columbia toward the red men in that Province, and the recently expressed views of the Government in the correspondence herewith submitted, fall far short of the estimate entertained by the Dominion Government of the reasonable claims of the Indians."<sup>17</sup>

British Columbia, then, pursued its own Indian policy throughout the province, frequently clashing with federal authorities over legal interpretation and jurisdiction.<sup>18</sup> Due to growing settler encroachment,

<sup>13</sup> Fisher, "Joseph Trutch and Indian Land Policy," 5.

<sup>14</sup> *Ibid.*, 7.

<sup>15</sup> For Euro-Canadian attitudes about real property and Native land, see Cole Harris, *The Resettlement of British Columbia: Essays on Colonialism and Geographical Change* (Vancouver: UBC Press, 1997), 125-26; Harris, *Making Native Space*, 46-69.

<sup>16</sup> British Columbia, *Papers Connected with the Indian Land Question*, 152.

<sup>17</sup> *Ibid.*

<sup>18</sup> Harris, *Making Native Space*, 73-76.

unrest was particularly acute in the southern interior. This problem appears to have been exacerbated by additional tensions south of the border, where the United States was at war with various Native groups, including the Nez Percé in Washington Territory.

An 1875 report to Canada's Department of the Interior mentioned that there had been the threat of an armed revolt in the summer of 1873, although it did not give the precise location. These tensions, wherever they appeared, resulted from the long-standing provincial policy of limiting the quantity and quality of land allocated to indigenous communities. "The British Columbia government," said the report, "appear to be resolved to adhere to their determination, not to go beyond the grant of 20 acres to each Indian family." The same report cited Indian Commissioner Israel Wood Powell in Victoria as having stated: "[I]f there has not been an Indian war it is not because there has been no injustice to the Indians, but because the Indians have not been sufficiently united."<sup>19</sup>

#### THE JOINT INDIAN RESERVE COMMISSION

To forestall an Indian war the Dominion government established with British Columbia the three-man Joint Indian Reserve Commission in May 1876. The Dominion representative on the commission was a former Hudson's Bay Company fur trader, Alexander Caulfield Anderson. The BC representative was Archibald McKinlay, a farmer in the Interior and a former fur trader. The third commissioner was Gilbert Malcolm Sproat, originally from Scotland. He became an entrepreneur in British Columbia in 1860 and involved himself in various aspects of colonial and then provincial business life, including serving as a justice of the peace in Victoria.<sup>20</sup>

The commission was to work with the BC government to distribute land fairly to Aboriginal peoples. Cole Harris has written that, during the commission's two-year lifespan, the commissioners probably averted an Indian war in the Okanagan and did their best, in many local decisions, to achieve what they were supposed to achieve: permanent

<sup>19</sup> G.M. Sproat to Superintendent General of Indian Affairs, 25 February 1879, Indian Affairs, RG 10, vol. 3679, file 12,068, National Archives of Canada (hereafter NAC). Superintendent general not named in document; however, I believe, Sproat was writing to the agency rather than specifically to its titular chief (in this case Sir John A. Macdonald, also prime minister). If the DIA was like other bureaucracies, correspondence would have been handled by a subordinate rather than by the titular head of an agency, even though correspondence was addressed to that head.

<sup>20</sup> Harris, *Making Native Space*, 98.

solutions to the Indian land question. In their terms, they strove to be fair, providing reasonably for Native peoples while leaving space for the British settler society, which, they were sure, British Columbia would primarily become.<sup>21</sup> Harris makes clear, however, that the relationship between commissioners and Natives was not an equal one. Nor was that between commissioners and settlers, much to the ire of the latter. And, if Sproat felt superior to Native peoples, he disdainfully referred to “farming settlers with the prejudices of their class.”<sup>22</sup> Writing about the commission’s work on the coast, historian Robin Fisher asserts: “Within their terms of reference the members of the Joint Commission did try to treat the coast Indians with a modicum of liberality and justice.”<sup>23</sup>

The Joint Indian Reserve Commission’s task was daunting because it had to comply with a list of criteria when deciding where to allocate land for reserves. Commissioners needed to know what portion of land was used (or could be used) for hayland, woodland, buildings, fences, fuel, or grazing. They needed to know what land had been damaged from overgrazing, what land was suitable for irrigation, and what land was arable but without water. They needed to know the location and character of winter grazing and summer grazing (open grassland, rocky, forested) and what shelter was available to protect livestock from the elements. The commissioners also needed to know the number of male adults in a family. And – a critical detail – they needed to know the chances of Indian land impinging on neighbouring settlers. Native peoples sometimes evinced “scanty belief in the sincerity of the two Governments.”<sup>24</sup> Settlers were critical because they believed the commissioners were removing increasingly scarce land from the possibility of settlement.

The outcome was that Sproat, on the one hand, and the BC government and a large contingent of settlers, on the other, soon became mired in a morass of mutual recrimination. Sproat believed that the provincial government was cheating Native peoples out of their ancestral birthright and that settler motivations were blighted by a “profound race-prejudice” – a point of view that did not win him friends in Victoria.<sup>25</sup>

<sup>21</sup> Ibid., 104.

<sup>22</sup> Ibid., 131.

<sup>23</sup> Robin Fisher, “An Exercise in Futility: The Joint Commission on Indian Land in British Columbia, 1875–1880,” *Canadian Historical Association Historical Papers* 79 (1975): 82.

<sup>24</sup> Gilbert Malcolm Sproat and Archibald McKinlay, “Second Condensed Report by the Commissioners Acting for the Province,” 1 January 1878, Provincial Secretary, Indian Reserve Commission records 1876–1878, GR 494, box 2, file 53, BC Archives.

<sup>25</sup> G.M. Sproat to Superintendent General of Indian Affairs, 10 November 1879, RG 10, vol. 3669, file 10,691, NAC.



Regarding the prospect of an Indian war, Sproat commented more specifically than did the Indian affairs report about the threat, arguing that, contrary to what had been alleged in Victoria, he was not involved in formulating “a confederation of Indian tribes on the Mainland”; rather, Sproat said he was aware that the Okanagan and Shuswap peoples had convened in 1876 or 1877 to enforce their land rights. Sproat believed that an outbreak of violence was imminent. Had one occurred, “the Province would have been ruined for several generations.”<sup>26</sup>

Far from instigating or assisting a Native confederation in the promotion of violence, Sproat argued to the superintendent of Indian affairs that he had effectively promoted a peaceful outcome. And, he continued, he thought it unlikely that the Okanagan and Shuswap would revisit the issue because, he believed, they were generally satisfied with the work of the reserve commission: “[B]ut the sale of the Osoyoos reserve and the action of the Provincial Government in regard to Indian lands at Similkameen and the head of Okanagan Lake,” predicted Sproat, “... may yet cause very serious trouble and perhaps a local outbreak, with bloodshed.”<sup>27</sup>

By 1879, however, Sproat’s effectiveness was on the wane. His nemesis was Joseph William Trutch and prevailing public opinion. The popular view was that Native peoples either could not or would not make proper use of the land and that they should therefore surrender it to a superior and more capable people. This idea made sense in the cultural and religious context of the time. There were those, however, such as Sproat, who believed that it was in the interest of the settler community to be peaceful neighbours with Native peoples, who should be free to make a reasonable living on their allotments of land and who should not have to feel estranged and cheated by the newcomers. In the late nineteenth-century Similkameen Valley, however, and in British Columbia generally, settler values conformed more to Trutch’s world view than to Sproat’s.<sup>28</sup>

One of Joseph Trutch’s endeavours as chief commissioner of lands and works was to create a reserve for the Similkameen people at Chuchwayha, near the confluence of the Similkameen River and Twenty Mile Creek. The creek was about twenty-nine kilometres west of Keremeos, a settlement that had started out in 1860 as a Hudson’s Bay Company post. The Chuchwayha reserve, also known as Indian

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> Harris, *Making Native Space*, 46–56, 190–91.

Reserve No. 2, was established in October 1870 by Commissioner Trutch's brother-in-law, Peter O'Reilly, acting under the commissioner's authority. Trutch had also appointed O'Reilly as provincial gold commissioner. John Trutch, Joseph Trutch's brother, surveyed the reserve on 21 September 1870. At the end of the day, he wrote in his field notes: "Sharp frost last night - No Indians having made their appearance as promised, Mr. O'Reilly pointed out boundaries of Reserve, which I surveyed accordingly - did not get in to camp until nearly 8 p.m. as I had 4 miles to walk back. day fine & bright - this was a long hard day."<sup>29</sup>

A map of the original reserve, plotted and drawn by J.B. Launders in November 1870 (presumably from John Trutch's field notes), shows it to have been a stretch of land comprising 1,028 acres along the Similkameen River, bounded on the southwest side by the river and on the northeast by steep bluffs.<sup>30</sup> The reserve included a small village and several potato gardens. We know little about the Similkameen response to the new reserve, and it seems they were not present when it was laid out.

The 1870 survey was likely a belated response to encroaching settlement and mining claims along the Similkameen River. In November 1866, John Fall Allison had written to colleagues in New Westminster: "The Indians in this District are anxious to have reserves laid out for them."<sup>31</sup> Although Allison noted that there was "very little mining on the Similkameen the present season," he had counted thirty miners in the district, most of them Chinese.<sup>32</sup> Ranchers later added to the pressure of settlement.

When the commissioners reached the Similkameen in October 1878, they noted that the region was better suited to stock farming than to agriculture. The climate was arid and prone to drought. Most of the creeks and rivers were incised and therefore difficult to gain access to for irrigation. Pumping stream water up into tilled fields did not, at the time, seem to be an option. Indeed, the commissioners concluded

<sup>29</sup> John Trutch, *Journal of Field Work in the Yale-Lytton District* [24 June-15 October 1870], Survey Plans Vault, drawer identified as "Misc. Field Books & Diaries 1864-up," Ministry of Lands, Parks and Housing.

<sup>30</sup> Map of Similkameen Indian Reserve, November 1878, Maps and Plans Vault, Indian Reserves 5, tray 1A, BC Land Title and Survey Authority.

<sup>31</sup> John Fall Allison to Colonial Secretary, 29 September 1866, Colonial Correspondence, GR 1372, file 335(2), BC Archives.

<sup>32</sup> *Ibid.*

“that the natural pastoral capabilities of this part of the province have been overrated in loose talk.”<sup>33</sup>

Indian agents also routinely commented on the poor quality of land in the Upper Similkameen Valley. Growing produce at Chuchuwayha was a constant struggle, with people’s efforts being undermined by poor soil and drought. In 1889, Indian Agent J.W. MacKay reported: “The land allotted to these Indians is poor, the fields at Chuchuwayha require rest; the crops are very deficient.”<sup>34</sup>

Thus, it seemed to Sproat, when he visited Chuchuwayha in 1878, that raising livestock was the best option, although he believed that, because of snow, the reserve would not be a good wintering spot for cattle.<sup>35</sup> Finding suitable grazing land was a challenge for Sproat as most of the pasturage in the area had already been pre-empted by settlers. Native people, therefore, had to rely on Crown grazing lands, which were vulnerable to further settler pre-emptions as well as to potential conflicts as settlers already grazed their livestock on them. Indeed, Sproat noted that settlers had already complained about sharing public land with Native people. Grasslands at a low enough elevation to be suitable for winter grazing were especially limited, and Sproat looked as far as Nicola for Upper Similkameen livestock. Sproat eventually resorted to a plan in which the Upper Similkameen community would retrieve its grass and hay from Spuzzum and Boston Bar on the Fraser River and from along the Coldwater River in Nlaka’pamux territory.<sup>36</sup> Owing to distances, this plan was unworkable. Sproat’s efforts, however, are a comment on the growing scarcity of pasturage.

#### INDIAN RESERVE COMMISSIONER PETER O’REILLY

Dissatisfaction continued at Chuchuwayha because reserve boundaries excluded cultivated fields and suitable grazing land. Therefore, in 1888, Peter O’Reilly, who had replaced Sproat as Indian reserve commissioner in 1880, authorized an expansion of the reserve from 1,028 acres to 4,130

<sup>33</sup> Gilbert Malcolm Sproat and Archibald McKinlay, “Second Condensed Report by the Commissioners Acting for the Province,” 1 January 1878, Indian Reserve Commission, GR 494, box 2, file 53, BC Archives.

<sup>34</sup> Canada, *Annual Report of the Department of Indian Affairs for the Year Ended 31st December 1889* (Brown Chamberlin, Printer to the Queen’s Most Excellent Majesty, 1889), 9.

<sup>35</sup> Gilbert Malcolm Sproat, Indian Reserve Commission, “Nekla-kap-a-muk [Nlaka’pamux, or ‘Thompson’] nation of Indians, Similkameen Valley, Field Minutes & Instructions,” 14 October 1878, Department of Indian and Northern Affairs, Indian Lands Registry Division, Vancouver.

<sup>36</sup> *Ibid.*

acres. The new land was described on a map as high mountain land, good range, bunch grass, and scattered timber.<sup>37</sup> O'Reilly also acknowledged, however, that much of the new area included "rough mountain land." The new land, now on both sides of the river, also included several low benches back from the river that O'Reilly thought would be suitable for cultivation.<sup>38</sup> All of this new land became part of the main reserve, known as Indian Reserve No. 2. Writing to the chief commissioner of lands and works in January 1889, O'Reilly reported: "the Indians are now perfectly contented."<sup>39</sup>

In November 1889, Captain William S. Jemmett surveyed the newly added portions of the reserve.<sup>40</sup> Sproat had recommended Jemmett because he sought "a quiet, discreet man who [would] not worry settlers, nor alarm the Indians" and because he had some experience in the Interior.<sup>41</sup> Jemmett was one of four surveyors who worked with the Indian Reserve Commission over some twenty years on setting out reserves. Although these surveyors had considerable experience, there were only four of them for the entire province, and this could not help but create unavoidable delays and place a strain on the system.<sup>42</sup>

In August 1893, O'Reilly again visited the Upper Similkameen Valley in response to further requests from Chuchuwayha residents for additional land for pasturage and cultivation. They argued that the land Sproat had promised them in Nlaka'pamux territory in 1878 was over 112 kilometres away, thus rendering its use impracticable. Chuchuwayha residents also complained to O'Reilly that an additional piece of land that Sproat had promised them was now owned by a J.H. Bromley. When O'Reilly consulted the minutes of decision for the survey, however, he found that land marked for inclusion in the reserve had been excluded owing to a surveyor's error. He was not able to recover this land.<sup>43</sup>

<sup>37</sup> Peter O'Reilly, minutes of decision, 26 October 1888, Ministry of Lands, Parks and Housing, GR 2982, box 4, file 16, BC Archives.

<sup>38</sup> Peter O'Reilly to Superintendent General of Indian Affairs, 29 January 1889, Federal Indian Reserve Commission minutes of decision, correspondence and sketches, vol. II, file 29838, Natural Resources Canada.

<sup>39</sup> Peter O'Reilly to Chief Commissioner of Lands and Works, 10 January 1889, Indian Reserve Commission minutes of decision, 1876-1980, GR 2982, BC Archives.

<sup>40</sup> B Plan of Chuchuwayha Reserve No. 2, TBC 46-B, 1889, Canada Centre for Cadastral Management, Natural Resources Canada, <http://www.clsn.nrcan.gc.ca> (viewed 16 September 2009).

<sup>41</sup> G.M. Sproat to Superintendent General of Indian Affairs, 25 February 1879, Indian Affairs, RG 10, NAC.

<sup>42</sup> British Columbia, *Papers Connected with the Indian Land Question*, 115.

<sup>43</sup> Peter O'Reilly to Superintendent General of Indian Affairs, 24 November 1893, Federal Collection, minutes of decision and sketches, Indian Reserve Commission Records, vol. 14,

In November 1893, however, O'Reilly reported to the chief commissioner of lands and works, F.G. Vernon, that he had added six new reserves, three each for the upper and lower Similkameen Valley. These new reserves were extensions of existing reserves allotted by Sproat in 1878, some of them contiguous and all of them described as rough grazing lands. O'Reilly designated the new land assigned to Chuchuwayha as Reserve No. 2a and Reserve No. 2b, the former consisting of 1,040 acres of "fairly good mountain range of which the Indians stood much in need."<sup>44</sup>

Reserve No. 2b contained 175 acres of land, half of which was a low bench that O'Reilly said the Native people thought they could cultivate. The remaining property, in O'Reilly's words, was "steep rocky mountain side, very worthless for any purpose."<sup>45</sup>

During 1893, I.W. Powell wrote to the superintendent general of Indian affairs in Ottawa as follows: "Great necessity exists for setting aside lands for reserve purposes in the Chilcotin country, Kootenay, Similkameen, and in some parts of the coast not yet visited by the Commissioner. The attention of settlers has been directed to these localities and urgent inquiries are constantly being made for land."<sup>46</sup> Some of the "great necessity" that Powell referred to was, in southern British Columbia, contingent upon a much anticipated railway. This, along with growing settler encroachment in the Similkameen (and not just in the Similkameen) and several gold strikes in the area, doubtless magnified Powell's long-standing concerns about the ability of indigenous communities to survive as farmers.

In 1885, a gold strike at Granite Creek, about nineteen kilometres west of Princeton, contributed to this increasing pressure on Similkameen land. Miners and prospectors made their way from the United States into the Upper Similkameen along the Dewdney Trail, which cut through Chuchuwayha. Among the many items they brought with them was whisky. Believing that alcohol undermined social order, the DIA did everything in its power to stop this commerce.

Despite such tensions, settler interest in mining the Upper Similkameen continued to grow. Mountainous terrain at Chuchuwayha

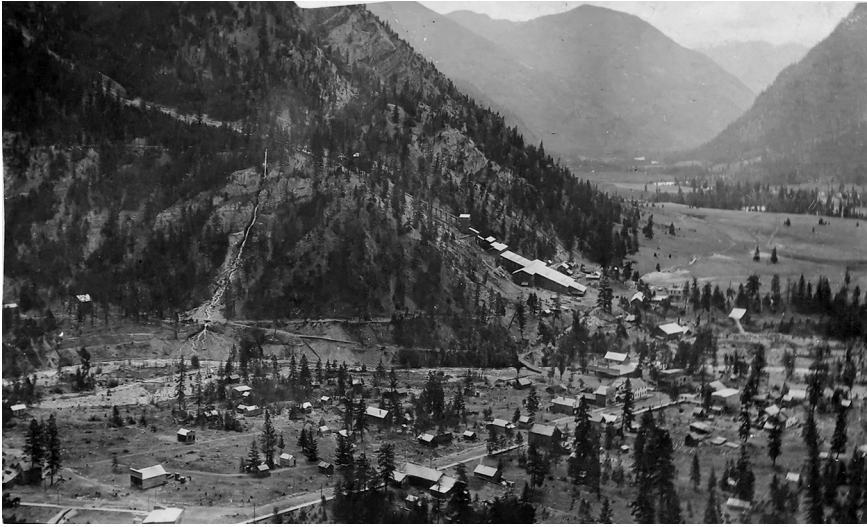
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Indian Land Registry, Department of Indian Affairs and Northern Development, Vancouver, 210-14.

<sup>44</sup> Peter O'Reilly to Chief Commissioner of Lands and Works, 16 November 1893, Indian Reserve Commission minutes of decision, 1876-1980, GR 2982, box 5, BC Archives. This letter appears to be absent from the federal IRC collection.

<sup>45</sup> Ibid.

<sup>46</sup> Canada, *Annual Report for the Department of Indian Affairs for the Year Ended 31 December 1883* (Maclean, Roger & Co., 1883), 110.



Hedley, 1904, showing Rodgers stamp mill nestled up against the base of Nickel Plate Mountain. Photo courtesy of Hedley Heritage Museum Society, G. Clare Collection.



Ore wagons. Photo courtesy of Hedley Heritage Museum Society.

was difficult and therefore expensive to survey. And because much of the land was open range with no pressing need for definitive boundaries, the DIA had left some of it unsurveyed. With prospectors now scouring the countryside for potential mining sites, both they and Native people saw a need for clear, legal demarcations of their property.

Until the early 1890s, mining activity near Chuchwayha seemed to be of little consequence. Although there had been growing interest and some placer mining along Twenty Mile Creek, miners staked no claims near Chuchwayha. That changed in 1894, when prospectors began to stake formal mining claims on Nickel Plate Mountain, known to local Native people as Snazai'st, a Native term for the iron oxide striations that could be seen on its side. A usual spot for these prospectors to set up camp as they staked their claims was a flat area near the confluence of Twenty Mile Creek (now Hedley Creek) and the Similkameen River. By 1900, the area had become known to local prospectors as Hedley Camp, in honour of Robert R. Hedley, who managed a smelter in Nelson, British Columbia, and supported local mining interests.<sup>47</sup>

#### M.K. RODGERS AND THE NICKEL PLATE MINE

Meanwhile, in 1898 an American mining engineer named M.K. Rodgers, working for mining industrialist Marcus Daley of Butte, Montana, bought the Nickel Plate and several other mines on Nickel Plate Mountain. In 1899 Rodgers started to develop the Nickel Plate claim and began hauling in supplies on a road he built to connect Nickel Plate Mountain with the Penticton-Keremeos Road.<sup>48</sup> The actual mine, near the summit of Nickel Plate Mountain, was several kilometres from Hedley Camp. Getting the gold ore to where it could be processed and then transported to a smelter required an arduous and potentially dangerous journey down a long, steep, winding mountain road. To transport the ore more directly to a processing site, Rodgers decided to construct an aerial tramway from the mine to the base of the mountain, where he proposed to build a stamp mill to process the ore. The stamp mill would be located just east of Hedley, near the edge of town and bordering the Chuchwayha reserve. Significantly, the mill would be located near the main road (the original Dewdney Trail) connecting

<sup>47</sup> Harry D. Barnes, "Early History of Hedley Camp," in *A Rich and Fruitful Land: The History of the Valleys of the Okanagan, Similkameen and Shuswap*, ed. Jean Webber (Madeira Park, BC: Harbour Publishing, 1999), 133.

<sup>48</sup> Harry D. Barnes, "The Nickel Plate Mine, 1898–1932," *British Columbia Historical Quarterly*, 14 (1950): 126–27.

Princeton, Hedley, and Keremeos. This main road was also along the likely route (more or less) of the expected and much discussed railway. Indeed, there was no other route through the narrow valley.

As plans for the tramway and stamp mill were under way, in December 1899, through Archibald Irwin, the local Indian agent, Rodgers applied to the DIA for permission to build a road and a ditch that would divert water from Twenty Mile Creek and then redeposit it in the creek farther downstream. Both road and ditch would cross part of the Chuchuwayha reserve. "All of the indians [sic] of the reserve above mentioned (except 3 which were away, and will be absent from the reserve for some time)," Rodgers wrote to Irwin,

have been consulted with, about this road and ditch, and are agreeable to the construction and use, and have given their permission, so far as their rights go, and have signed the accompanying agreement, which was interpreted to them by reliable persons, Mr Hugh Hunter, the Mining Recorder at Granite Creek, being present during the interview with the chief, and other indians [sic].<sup>49</sup>

Rodgers also wrote that water returning to Twenty Mile Creek would "give ample facility for using the water for irrigation purposes on the lands now under, or to be brought under cultivation on the reserve."<sup>50</sup> On an accompanying hand-drawn map, he shaded in the lowlands along the Similkameen River, which he thought would be arable and would therefore benefit from irrigation. Although Rodgers did not actually say so, one could reasonably conclude from his application that the ditch would benefit Chuchuwayha. In any case, this seemed clear to Indian Agent Irwin, who received Rodgers's application. Irwin also noted that Native packers could use the road to haul supplies to the mines on Nickel Plate Mountain. He therefore recommended that the DIA approve Rodgers's application; meanwhile, however, he asked Rodgers for further details about the ditch.<sup>51</sup>

"I wish to make it plain," Rodgers replied from Seattle, "that the water of 20 Mile Creek where diverted by the above ditch will be used and returned to 20 Mile Creek above where it would be required for irrigation purposes on the reserve."<sup>52</sup> And, "the proposed ditch could be of no possible use for any irrigating purposes either for the reserve

<sup>49</sup> M.K. Rodgers to A. Irwin, Indian Agent, 12 December 1889, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC. Typed as in original.

<sup>50</sup> *Ibid.*

<sup>51</sup> A. Irwin to A.W. Vowell, 14 December 1899, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

<sup>52</sup> M.K. Rodgers to A. Irwin, 21 December 1899, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.



or elsewhere.” Rodgers assured Irwin that no one had represented the ditch to Chuchuwayha residents as something that would be useful to them in order to secure their agreement.<sup>53</sup>

In a letter to Indian affairs in Ottawa, A.W. Vowell, the Indian superintendent in Victoria, supported Rodgers’s application, but with the caveat that, “should any damage arise to the Indians or their interests through the effects of his proposed improvements[,] full compensation be made by him for the same.”<sup>54</sup> We have no evidence that comes directly from the Similkameen; all we have is the self-interested statement from Rodgers. The possibility of misrepresentation also bothered Vowell, who concluded his missive by noting, with seeming disapproval, that the informality of Native consent had been pointed out to Irwin.

In principle, the DIA approved Rodgers’s application, but it ran into a legal snag. Owing to the reversionary interest of British Columbia, the Dominion lacked the authority to sell reserve land to any entity other than the province. On 9 January 1900, Samuel Bray, DIA chief surveyor in Ottawa, wrote to the secretary of Indian affairs as follows:

The Government of Canada has no power to sell any lands situated upon such Reserves, even if surrendered by the Indians, and could not convey a good title to such lands; such a power he [Sir John Sparrow David Thompson, minister of justice, 1892] thinks, would be inconsistent with the stipulation for a reversion to the Province of any land taken off a Reserve, on account of a decrease in the members of the Nation occupying it, since it will readily be seen that by procuring Surrenders from the Indians, and selling the lands surrendered, the Dominion Government could lessen the value of, and indeed entirely defeat the reversionary rights of the Province.<sup>55</sup>

Bray therefore recommended that Rodgers obtain an order-in-council from the province renouncing its reversionary right to the lands associated with the ditch and roadway. Upon receipt of the provincial order-in-council, the DIA would, after a formal surrender by the Native people, dispose of the real estate in accordance with Rodgers’s wishes.<sup>56</sup> There was, however, yet another snag. The relevant portion of Chuchuwayha had not yet been surveyed, so no one knew for sure at

<sup>53</sup> Ibid.

<sup>54</sup> A.W. Vowell to Secretary of Indian Affairs, Ottawa, 29 December 1899, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

<sup>55</sup> S. Bray, memorandum to the Secretary, 9 January 1900, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

<sup>56</sup> Ibid.

what point the road and ditch entered or exited the reserve. Clearly, a survey was required to determine the reserve boundary.

In 1899, just before Christmas, Richard A. Parkinson, a local miner and surveyor, wrote to Chief Commissioner of Lands and Works W.S. Gore to complain that the boundaries of the reserves at Twenty Mile Creek and at Ashnola (just south of Chuchuwayha) were “marked only by witness posts on either side of the [Similkameen] valley.” Because the reserves ran back into the mountains, continued Parkinson, “and as many mineral claims have been located on or in the vicinity of the Reserves, it is necessary that the full extent of the Indian Reserves should be marked on the ground in order to avoid disputes of title.”<sup>57</sup> Complaints such as Parkinson’s, a plethora of other mining claims, and pressure from Chuchuwayha finally obliged the DIA to dispatch Francis A. Devereux to resurvey the entire reserve, which he did between 11 May and 23 July 1900. Devereux’s survey, however, only exchanged one set of problems for another.

One of the most enduring of these problems, according to Penticton historian Doug Cox, was that Rodgers had allegedly appealed to the Canadian government to have “the Indian land resurveyed and two fractions removed from the Indian allotment for the present townsite of what was to be Hedley City.”<sup>58</sup> The allegation that the Hedley townsite was secretly and illicitly carved out of the Chuchuwayha reserve with the connivance of the Dominion government is widely accepted in Chuchuwayha. It appears that this belief originated when Duncan Woods, a prospector living in Penticton, staked his “Juniper” mineral claim on Native land.

The genesis of Woods’s allegation reaches back to Jemmett’s 1889 survey. Not only was Jemmett’s survey incomplete owing to difficult terrain, but it also included a mistake that was uncovered by Devereux. As Devereux undertook his survey, Woods watched him from a distance. On 25 August 1900, Woods wrote a letter to Interior Minister Clifford Sifton, followed by an undated letter, alleging a variety of misdeeds and irregularities that he believed had been committed by Devereux and his assistants.

Sifton, who was knighted in 1915, was a prominent and skilled political figure in the Wilfrid Laurier government as well as an assiduous promoter of development in the west. As a man who supported railways

<sup>57</sup> Richard H. Parkinson to Chief Commissioner of Lands and Works, 21 December 1899, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

<sup>58</sup> Doug Cox, *Mines of the Eagle Country: Nickel Plate and Mascot* (Penticton, BC: Skookum Publications, 1997), 47.

and mining interests, Sifton would seem to have been a sympathetic recipient of Woods's missives.

The most serious of Woods's allegations was that Devereux had cut out a portion of the Chuchuwayha reserve and staked a mining claim on it:

When the surveyor was here, the line was changed down about half a mile on Twenty Mile Creek as there was vacant ground there, supposed to be valuable for townsite purposes, the surveyor and his assistants Mr. Musgrave [sic] each located a claim, Mr. Devereux the surveyor in charge, had one claim located, as I saw him stake it, on May the 27th but it was located in the name of the recorder's wife at Granite Creek.<sup>59</sup>

The DIA, then under the Ministry of the Interior, forwarded Woods's letters to Devereux for comment. The surveyor acknowledged some of Woods's complaints and admitted cutting out a portion of the reserve. But Devereux said that he had done so only to correct a miscalculation in Jemmett's 1889 survey. Perhaps because of the impossibly rugged terrain just north of the incorrect boundary, Jemmett had failed to follow the original minutes of decision written by O'Reilly in 1888. If one follows the minutes of decision and maps out the disputed portion of the reserve on a sheet of paper and then compares the result with Jemmett's survey, one discovers that Devereux's new, corrected boundaries did indeed conform to O'Reilly's instructions, which read as follows:

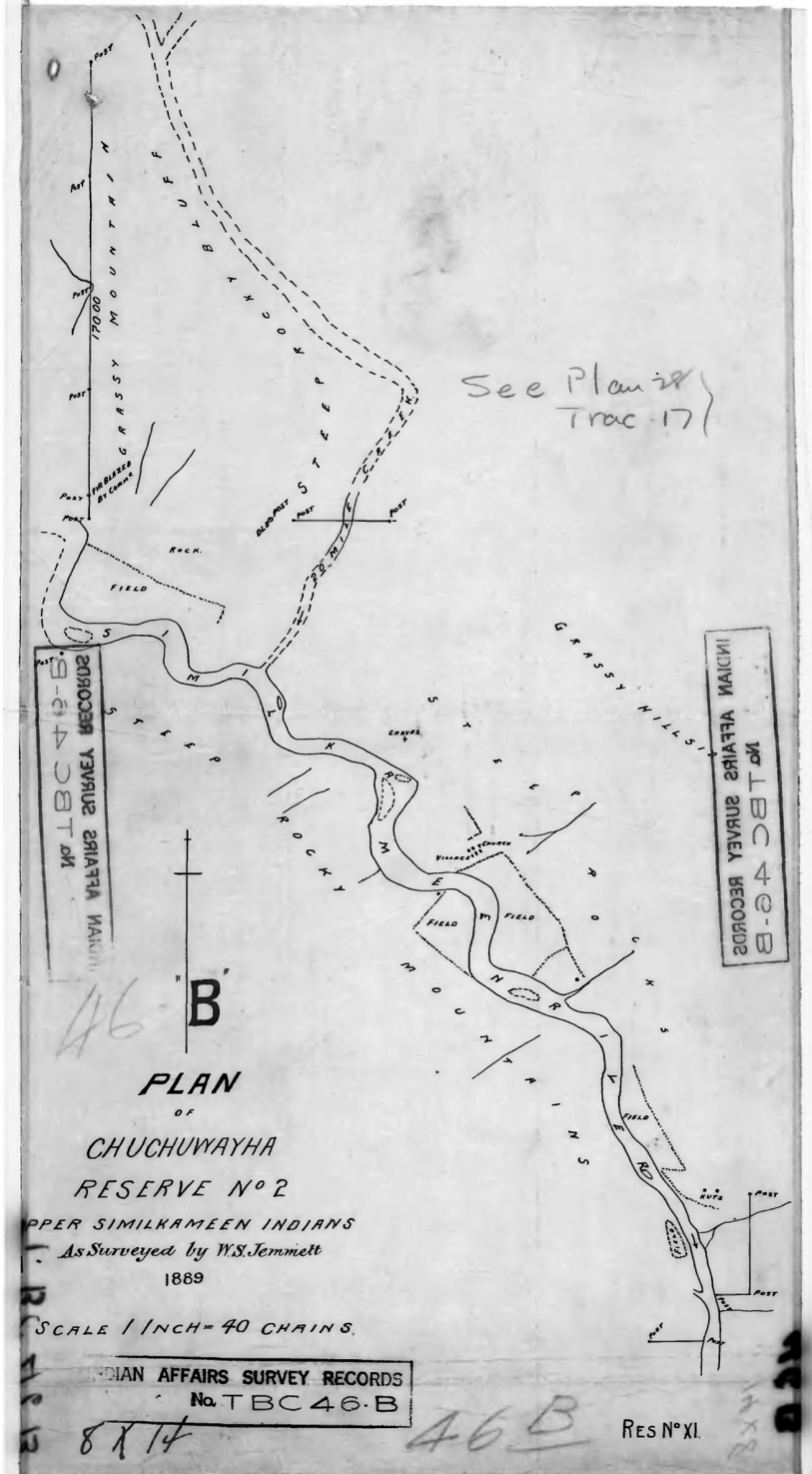
Commencing at a Fir Tree, marked Indian Reserve, on the left bank of the Similkameen river, about two, and a half miles above the Indian village [of Chuchuwayha], and running north one hundred, and sixty (160) chains; thence East eighty (80) chains; thence South two hundred (200) chains; thence East thirty (30) chains.<sup>60</sup>

When Jemmett undertook his survey in 1889, he undercalculated the line "South two hundred (200) chains," making it shorter than the 13,200 feet that, according to O'Reilly's minutes of decision, it ought to have been (see map 3, TBC46-C).

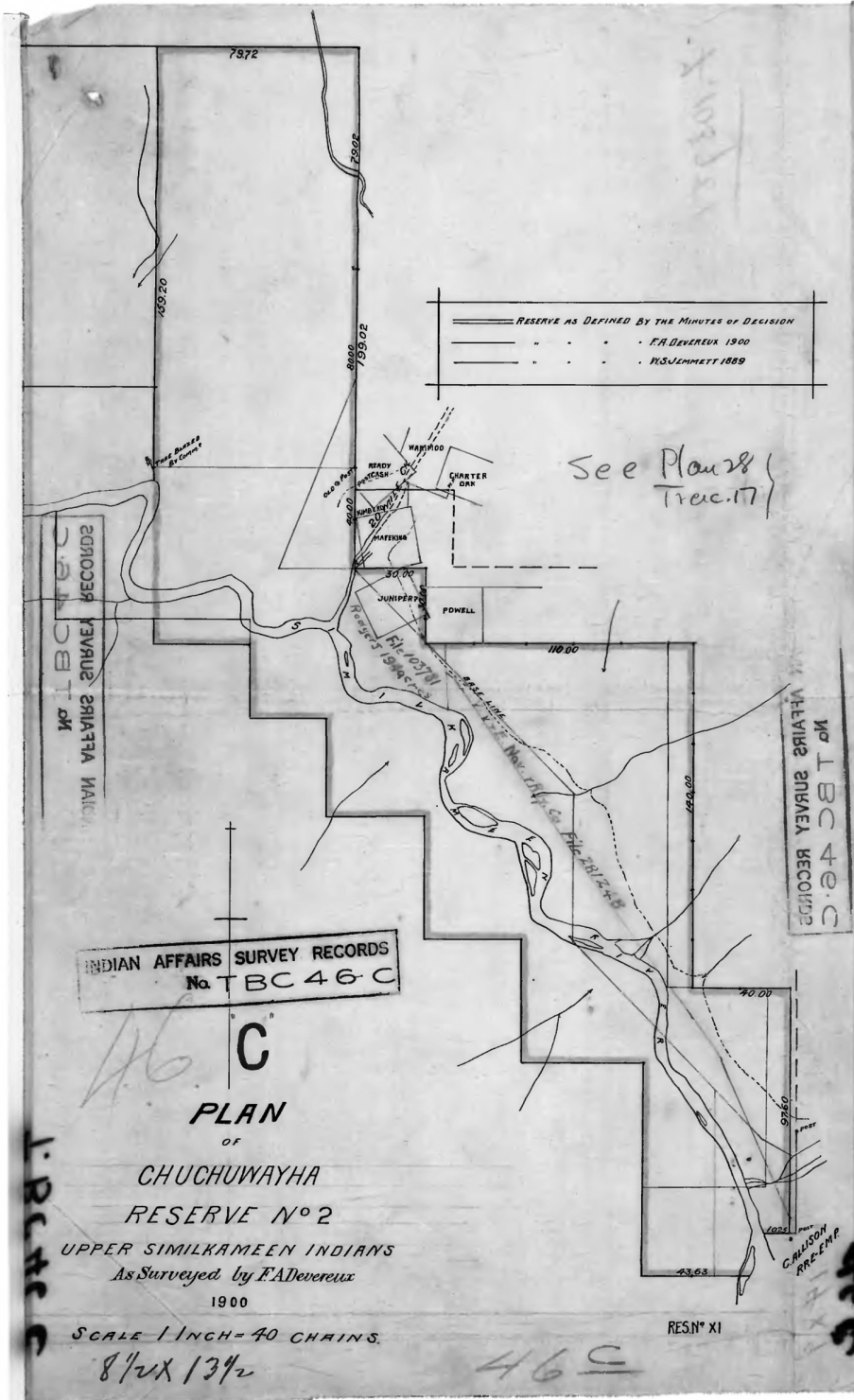
The most straightforward explanation for why Jemmett committed this error is that he simply blundered. Even for experienced surveyors such as Jemmett, the mountainous terrain of British Columbia ensured that errors were not uncommon. As planning and outfitting a surveying

<sup>59</sup> Duncan Woods to Clifford Sifton, 25 August 1900, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

<sup>60</sup> Peter O'Reilly, minutes of decision, 26 October 1888, Ministry of Lands, Parks and Housing, GR 2982, box 4, file 16, BC Archives.



Map 2. TBC-46-B, 1889. Source: Canada Centre for Cadastral Management, Natural Resources Canada, <http://class.nrcan.gc.ca> (viewed 16 September 2009).



Map 3. TBC-46-C, 1900. Source: Canada Centre for Cadastral Management, Natural Resources Canada, <http://cls.nrcan.gc.ca> (viewed 16 September 2009).

# British Columbia. 241486

## OSOYOOS. DIVISION OF YALE DISTRICT.

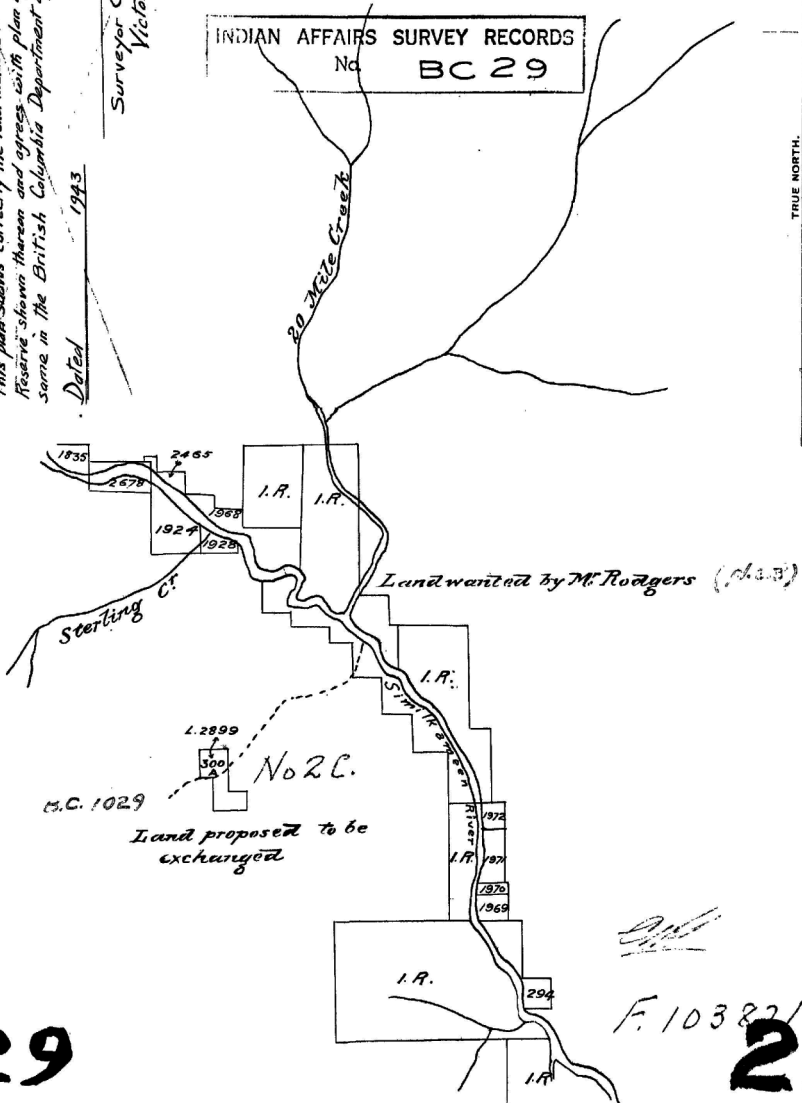
Land Registry Km/100 ps.  
This plan shows correctly the land included in the Indian  
Reserve shown thereon and agrees with plan of the  
same in the British Columbia Department of Lands  
Dated 1983

Surveyor General  
Victoria B.C.

Scale, 1/2 Inch = 1 Mile

INDIAN AFFAIRS SURVEY RECORDS  
No. BC 29

TRUE NORTH.



29

F. 103821

29

Map 4. Indian Affairs Survey Records No. BC29 showing lot 1968 (Similkameen City), land wanted by Mr. Rodgers, and land proposed to be exchanged. Source: Canada Centre for Cadastral Management, Natural Resources Canada, <http://class.nrcan.gc.ca> (viewed 16 September 2009).

expedition in the nineteenth century entailed an exhaustive (and exhausting) expenditure of time, money, and personnel, the government did everything it could to minimize such errors.

Devereux himself remarked in a letter to his superiors that his 1900 survey of the Chuchuwayha reserve was the most arduous he had ever undertaken. "I have worked in many parts of the Province," he wrote in his report, "and have never seen country to compare with the Similkameen. You will be surprised to know that the Indians who live within a mile or so of these cliffs did not know whether it was possible to scale them." Devereux also commented on the technology that may have contributed to Jemmett's error. "[I]ndeed," he continued, "the work was not possible in the old days with heavy instruments and the 66 feet chain." Available to Devereux was a specially made transit for surveying mineral claims and an aluminum tape measure that was much lighter than the ten-pound chain formerly in use. In addition, Devereux commented that mineral claims were found on all of the Similkameen reserves, especially Chuchuwayha, attesting to the miners' frequent disregard of reserve boundaries and to the urgent need for a survey.<sup>61</sup>

Duncan Woods's argument, then, that Devereux was part of a federal conspiracy to excise land from Chuchuwayha, seems implausible. Woods did, however, make a damaging allegation against Devereux when he asserted that the surveyor had marked off a mineral claim on land that he had excised from the reserve (known as the Mafeking claim) and registered it under the name of the recorder's wife in Granite Creek. Woods believed that staking a claim had been Devereux's intention from the outset; however, the surveyor probably just took advantage of an opportunity. In any case, the DIA disapproved of Devereux's action, even though he had performed it on a Sunday on his own time, and told him and other surveyors that personal work such as he had undertaken at Chuchuwayha would henceforth require prior approval.<sup>62</sup>

<sup>61</sup> F.A. Devereux to A.W. Vowell, 26 November 1900, Indian Affairs, RG 10, vol. 3962, file 147,713-4, NAC. An edited version of this report is available in Canada, *Annual Report of the Department of Indian Affairs for the Year Ended June 30, 1900* (S.E. Dawson, Printer to the Queen's Most Excellent Majesty 1900), 302. For additional comments on nineteenth-century surveying techniques and technology, see Katherine Gordon, *Made to Measure: A History of Land Surveying in British Columbia* (Winlaw, BC: Sono Nis Press, 2006).

<sup>62</sup> Memorandum from S. Bray, Chief Surveyor, to the Secretary, 17 December 1900, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC; "I have to say that, notwithstanding the fact that the staking out of the Mining Claims referred to, was performed by Mr. Devereux on a Sunday, the precedent is a bad one, and cannot be approved by the Department" (J.D. McLean to A.W. Vowell, 19 December 1900, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC); J.D. McLean to Duncan Woods, 5 February 1901, Indian Affairs, RG 10, vol. 3904, file 103,781,



Duncan Woods, no date. Courtesy Hedley Heritage Museum Society.

Woods was also troubled by his belief that Devereux had changed the boundary of Chuchuwayha to include Woods's own Juniper mineral claim, which he had illegally, and perhaps unwittingly, staked on the reserve, unmindful of the unsurveyed and therefore unmarked boundaries. An exchange of several letters, now located in the DIA files, reveals that Woods never did accept the DIA's explanation that Devereux had merely followed the minutes of decision and left unchanged the original reserve boundaries. Woods's Juniper claim had, in fact, always been on the reserve.<sup>63</sup>

The DIA became exasperated with Woods's repeated, and apparently mistaken, allegations regarding his Juniper claim. In a memorandum to his supervisor at Indian affairs, Chief Surveyor Samuel Bray commented: "I have to say that it has been rather difficult to understand Mr. Woods' complaint." Bray repeated Devereux's conjecture that Woods

NAC; Duncan Woods to Indian Department, 18 December 1900, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC, and other letters in the same file.

<sup>63</sup> Ibid. See also J.D. McLean to Duncan Woods, 18 December 1900, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.



had mistaken a base line (used for measurements in difficult terrain) for a boundary line. "I cannot see that there is sufficient evidence before the Dept.," Bray concluded, "to warrant a special examination, as no Surveyor would dare to submit the Plan, and make the statements Mr. Devereux has, without being satisfied of their correctness."<sup>64</sup>

Meanwhile, in the weeks following Devereux's survey, the Mafeking claim that he had staked was sold to Richard H. Parkinson, the local miner and surveyor who had urged the DIA to undertake a survey of Chuchwayha. Parkinson was also a local developer. He hoped to turn the Mafeking claim into Hedley townsite, which was in competition with another undeveloped (but already surveyed) townsite about a mile away called Similkameen City. The latter townsite was the brainchild of Frank Bailey, a mining engineer and fellow booster who aggressively promoted mining interests in the Similkameen Valley.<sup>65</sup>

Similkameen City, or Lot 1968, was promoted as the nascent mining centre in the valley; however, in November 1900, when Mafeking was sold for a townsite, Similkameen City was still in the planning stages. When Bailey first arrived in the Camp Hedley area in 1899, having been assured that no part of the reserve would be allocated for townsite purposes, he purchased Lot 1968, west of the Chuchwayha reserve, and had it surveyed. Soon after having done so, however, Devereux's survey seemed to change the reserve boundary by *appearing* to excise land from the reserve and making it available for a townsite – the very thing that the provincial and Dominion governments had assured Bailey would not happen.<sup>66</sup> Like Duncan Woods, Frank Bailey felt cheated and seemed unable to understand that Devereux's survey did not change the Chuchwayha boundary but, rather, affirmed it according to Peter O'Reilly's minutes of decision.

As for Hedley, convenience and proximity may explain why it superseded the proposed Similkameen City. The Similkameen City townsite was several times larger than Hedley, not as hemmed in by reserve land and cliffs, and therefore, had greater potential for growth. However, it was at least one and a half kilometres from the mines along and near Twenty Mile Creek; the Hedley townsite, on the other hand, was at their doorstep.

<sup>64</sup> S. Bray memorandum to the Secretary, 26 April 1901, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

<sup>65</sup> Richard H. Parkinson to Superintendent of Indian Affairs, 21 November 1900, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

<sup>66</sup> Frank Bailey, *Nicola, Similkameen and Tulameen Valleys: The Richest Section of British Columbia* (Vancouver: Ward, Ellwood, and Pound, n.d.), 70-72.

The federal government, then, did not in this case appear to have played the fraudulent role alleged by Bailey, Woods, and others. Yet their charge that Devereux had inappropriately staked a mineral claim on land originally believed to have been part of the Chuchuwayha reserve would have enduring relevance for those in the Aboriginal community seeking redress for their perceived loss of land. One could reasonably argue, over a century later, that Devereux's act of (in effect) excising land and then staking a mineral claim on it created a conflict of interest that vitiated his survey. Depending on BC law, the legal principle of acquisitive prescription could conceivably have left the Hedley townsite in the (legally unacknowledged) possession of Chuchuwayha.

One recalls that, in 1893, when a surveyor made an error in favour of J.H. Bromley and assigned to him land that ought to have been part of the reserve, Indian Reserve Commissioner Peter O'Reilly was either unable or unwilling to do anything about it, leaving Native people the losers. On the other hand, O'Reilly later authorized six additional reserves in the Similkameen Valley. Although the benefit of the doubt often accrued to Euro-Canadian settlers, the Dominion government did not yield to irate prospectors who had illegally staked mineral claims on Chuchuwayha land. Duncan Woods was never able to recover his Juniper claim. In December 1900, the DIA wrote Woods as follows: "You will note that the sketch which you forwarded with your letter of the 25th August last, is quite incorrect. The Juniper Claim you have located altogether within the Reserve, and, consequently, you can have no title whatsoever to it and cannot enter on it without trespassing on the Reserve."<sup>67</sup>

Other miners were similarly rebuffed. An M.J. Costello of Hedley, for example, wrote to the Department of the Interior seeking a way to recover a mining claim that he had staked and worked on at Chuchuwayha, investing (he said) much time, labour, and cash.<sup>68</sup> Indian Agent Irwin was unsympathetic. In his reply to Indian Superintendent A.W. Vowell in Victoria with regard to the matter, Irwin acknowledged that the lines of Indian Reserve No. 2a were indistinct owing to rough land and a lack of trees (which were commonly used to mark

<sup>67</sup> J.D. McLean, Department of Indian Affairs, to Duncan Woods, 18 December 1900, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC. See also A. Irwin to Duncan Woods, 8 February 1904, Indian Affairs, RG 10, vol. 3903, file 103,781, NAC. Writing to the Indian superintendent in Victoria, Irwin described Woods as "an obstructionist, pure and simple!" See A. Irwin to A.W. Vowell, 29 May 1903, Indian Affairs, RG 13, vol. 3904, file 103,781, NAC.

<sup>68</sup> M.J. Costello to Minister of the Interior, 24 December 1902, Indian Affairs, RG 10, vol. 3904 file 103,781, NAC.

boundaries).<sup>69</sup> Even so, Irwin asserted that there was “no excuse” for having filed a claim on reserve land. He pointed out that residents of Chuchuwayha had informed Costello that he was working on Native land, something he could easily have learned from them *before* embarking on his endeavour.<sup>70</sup>

When Irwin investigated the case, he discovered a number of abandoned claims on the Chuchuwayha reserve. They were abandoned, Irwin surmised, because miners had either realized their claims were on the reserve or because the prospects for a successful mine were limited. As for Costello, Irwin discovered while at Chuchuwayha that the prospector had not invested all the time, labour, and cash that he had alleged. Costello had only begun to work his claim. And when Irwin checked at the Mining Recorder’s Office in Princeton, he learned that Costello had not even filed papers on reserve land he had once claimed as his own.<sup>71</sup>

#### THE STAMP MILL

Another episode that illustrates the intricacies of Native land issues around the turn of the twentieth century again involved the Nickel Plate Mine, now becoming one of the most prominent mines in southern British Columbia. Rodgers had earmarked about 198 acres of reserve land to expand stamp mill operations and establish a smelter on land he hoped to acquire from the Chuchuwayha reserve. This piece of land became known as Lot 2900. As in the earlier imbroglio with Duncan Woods, much of the rhetoric associated with Lot 2900 was based on rumour and misunderstanding.

On 11 August 1902, R.H. Parkinson, who had an interest in the Hedley townsite then being developed, wrote to the federal minister of the interior of his concern that Nickel Plate manager M.K. Rodgers had plans to acquire “several hundred acres” of the Chuchuwayha reserve for a townsite.<sup>72</sup> The source of this story may have been Duncan Woods. He wrote a letter of his own to the minister of the interior on 20 August, arguing that reserve land under consideration by Rodgers contained the

<sup>69</sup> “The aspect of the country is very uneven and little timber along the line, so that between the corner posts, a distance of one and one-half miles, there are no marks or posts to show just where the line should be” (A. Irwin to A.W. Vowell, 17 May 1902, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC).

<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

<sup>72</sup> Richard H. Parkinson to Minister of the Interior, Ottawa, 11 August 1902, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

claim previously staked by Woods and then enclosed by Devereux in 1900.<sup>73</sup> Unlike Parkinson and Woods, others in the mining community supported Rodgers's plan, which was to build not a townsite but, rather, a stamp mill. This would be a large project that promised to bring jobs and development to the area. R.L. Cawston of Keremeos wrote to A.W. Vowell: "I understand that their [sic] is some opposition to the Nicola Plate mine people acquiring a mill site etc at 20 mile. Indian Reserve. In my humble opinion if this is not granted it will be a very hard knock to the settlers & Indians on the Similkameen River."<sup>74</sup> Pressure was increasing, and Rodgers had not even submitted his application.

Rodgers wrote the application on 29 August 1902 and sent it to Indian Agent Irwin in Kamloops. "The land herewith applied for on the reserve," he wrote,

is a gravelly bench & rocky hillside not used by the Indians for any agricultural purpose and will in no way be objectionable to the Indians. All of the Indians on the reserve have been consulted and have given written consent to accept in exchange for the above lot of land applied for, a lot of equal size of good grazing land situated on the south side of the Similkameen River.<sup>75</sup>

When Irwin forwarded the petition to A.W. Vowell in Victoria, he increased the proposed exchange of land from "a lot of equal size" (180 acres or 73 hectares) to a lot of three hundred acres (121 hectares). The reason for this increase is unclear since the Chuchuwayha residents had presumably already agreed to an equal exchange. Land for the exchange, wrote Irwin, was land the Native people had chosen themselves. Furthermore, Rodgers, and then Irwin, had noted that, by packing supplies to the Nickel Plate Mine during the previous three years, residents at Chuchuwayha had earned \$3,000 "and may expect increased benefits as the results of operations proposed."<sup>76</sup> Irwin's covering letter to Vowell, which introduced Rodgers's proposal, was an enthusiastic and unqualified endorsement.

Vowell concurred. In his own letter to the DIA, Vowell remarked that the chief commissioner of lands and works for British Columbia

<sup>73</sup> Samuel Bray, Chief Surveyor, to the Secretary, 9 September 1902, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

<sup>74</sup> R.L. Cawston to A.W. Vowell, 24 August 1902, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC. Spelling and punctuation as in original.

<sup>75</sup> M.K. Rodgers to A. Irwin, 29 August 1902, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

<sup>76</sup> A. Irwin to A.W. Vowell, 3 September 1902, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

“was willing to assist in every way in bringing about the proposed arrangement as being one in the interest of the development of the country, the welfare and advancement of the Similkameen Valley, and also of material advantage to the Indians in the same locality.”<sup>77</sup> Vowell conveyed his recommendation with a sense of urgency, warning that delay could compromise the project.

On 26 March 1903, an order-in-council from Victoria approved Rodgers’s petition. The parties to the agreement expected that a formal surrender by the Chuchuwayha residents would soon take place, and the chief surveyor for the DIA set down a legal description of Lot 2900.<sup>78</sup> The formal surrender took place in the village of Fairview on 16 May 1903 in the presence of C.A.R. Lambly, stipendiary magistrate for the County of Yale; Chief Charles Squalkim; and Archibald Irwin, the Indian agent. The proceedings seemed to conform to the legal protocols of the time and avoided the informal ad hoc agreement that had characterized Rodgers’s transaction regarding his now defunct ditch and road proposal. The informality of that agreement had concerned Vowell. The new instrument of surrender was a formal legal document from the Dominion of Canada, Form No. 66, which set out to assure that all the requirements for surrender had been met, namely, that a majority of males over twenty-one years of age, who were members of the Chuchuwayha reserve, had consented to the transfer at a council meeting. The magistrate, satisfied that Chief Squalkim understood the agreement, signed the document.<sup>79</sup>

Among the ten Native witnesses (including Chief Squalkim) who had signed an affidavit two days earlier authorizing the surrender, was a Walter Jameson. Identified in the 1911 census as a farmer born in 1861 of mixed parentage, he was the only Native person present who could read and write English. Yet, Jameson’s signature was an X that looked similar to the nine other X’s on the document: they all appeared to have been penned in by the same hand. Therefore, one could reasonably ask whether the men had actually been present to make their marks on the affidavit. And, by further inference, one could reasonably ask whether they had ever even been consulted on the matter.<sup>80</sup> Still, one

<sup>77</sup> A.W. Vowell to Department of Indian Affairs, Ottawa, 6 September 1902, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

<sup>78</sup> Sam Bray, Description of Surrender, Ottawa, 14 April 1903, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

<sup>79</sup> Form No. 66, 16 May 1903, Indian Affairs, GR 10, vol. 3094, file 103,781, NAC.

<sup>80</sup> Affidavit, “IN WITNESS WHEREOF . . .,” 14 May 1903, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC. Walter Jameson does not appear to have been included in the 1901 census, but he appears in the 1911 census as the only member of the Chuchuwayha reserve (of those

must not rule out an innocent explanation. And one should hesitate to impose present-day legal protocols on early twentieth-century practices. Pressure from the mining community for a stamp mill was strong, and there may have been corresponding pressure on Chuchuwayha to exchange land.

At the time, however, the settler community believed that it was being generous to Chuchuwayha residents. The federal and provincial governments had arranged to trade 194 acres or 78.5 hectares (down from 198 acres or 80 hectares) of what it regarded as marginal land for three hundred acres or 121 hectares of mixed grazing and timberland (Lot 2899) about five kilometres southwest of Chuchuwayha.<sup>81</sup> The property was at the top of a range of hills, some nine hundred metres above the valley floor. For grazing cattle, however, the distance probably would not have mattered because beef cattle and horses could be left unattended during the summer (a common practice with free-range beef cattle) and brought to lower elevations for the winter.

When the Dominion government received the land surrender from Chuchuwayha in May 1903, settlers expected that Lot 2900 would be transferred forthwith to Rodgers and the Nickel Plate Mine. That did not happen, partly because one of Rodgers's competitors, A.B. Clabon, now argued that he had placed a prior claim on Lot 2900 in March 1901.<sup>82</sup>

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enumerated) who could read and write English. See Census of Canada, 1911, Statistics Canada, RG 31, British Columbia, Yale-Cariboo, Chu-chu-wayha, District No. 14, Sub-District 57, p. 1. Available online at [www.collectionscanada.ca/archivianet/1911/index-e.html](http://www.collectionscanada.ca/archivianet/1911/index-e.html).

<sup>81</sup> On 13 October 1913, the Royal Commission on Indian Affairs for the Province of British Columbia (known as the McKenna-McBride Commission) visited the Similkameen Valley and briefly discussed Lot 2900 with Bertie Allison. Although Allison was from the Chopaka reserve, near the US border, his brother was the late chief at Chuchuwayha, who had died a few weeks before the commission convened. Bertie Allison seemed knowledgeable about Chuchuwayha and spoke through a translator on behalf of his deceased brother. During his discussion with the commission, Allison described several thousand acres of land in the mountains west of the reserve that his brother had sought for Chuchuwayha. Indian Agent Brown identified this land as including Lot 2899.

Regarding the exchange of Lot 2900 for Lot 2899, Allison testified as follows:

Chairman: "There is a little piece of land out on the hill, about which you were speaking a short time ago?"

A: "Yes, we exchanged that to the Stamp Mill."

Q: "Have you ever been there – what kind of land is it?"

A: "Yes, it is just good for grazing and nothing else."

See Canada, "Royal Commission on Indian Affairs for the Province of British Columbia," Okanagan Agency, McKenna-McBride Rept. (1913), 125-33. Available online under "Resources" at [www.ubcic.bc.ca](http://www.ubcic.bc.ca) (viewed 16 September 2009).

<sup>82</sup> A.B. Clabon to Clifford Sifton, 31 March 1904, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC. See also Frank Pedley, Deputy Superintendent General for Indian Affairs, to M.K.

Frank Bailey, meanwhile, complained that Rodgers sought the land for a smelter site and “speculation purposes.” Contrary to the conventional wisdom that the gravelly land was useless for agricultural purposes, according to Bailey:

[It could be] very valuable for fruit growing and could be watered from Twenty Mile Creek. I haven’t been able to take up a preemption as all the best land in the Similkameen Valley is held by the Indian Reserves but if I thought that the Indian Dept was open to sell part of the Indian Reserve land I could have formed a large Company for the purpose of encouraging fruit growing on these Indian Reserves.<sup>83</sup>

If Rodgers could buy reserve land, continued Bailey, why could others not do the same? Bailey argued further that there were quite a few Indian reserve flats going uncultivated because the land allocated was too extensive and the Native people did not know how to cultivate it. In a post scriptum, Bailey commented: “The Yale Gold Mining Company [the mother company of the Nickel Plate Mine] are all American Capitalists and Speculators – ‘Canada for the Canadians.’”<sup>84</sup> As with Duncan Woods, however, the Dominion government was unwilling to consider Bailey’s demand to open up Native reserves to settlers.<sup>85</sup>

Since the Dominion government investigated and responded to counter-claims on Lot 2900 (including one from Duncan Woods), there were delays in consummating the Native surrender of land to the Dominion, thence to the Province of British Columbia, and thence to the Nickel Plate Mine. Delaying transfer of Lot 2900 to the Nickel Plate, settlers feared, risked initiating a domino effect that would undermine regional development. There was the widespread expectation, for example, that Rodgers would not only extend his stamp mill into the newly acquired reserve but also build a smelter that could be used by other mines in the area. A regional smelter would, in turn, entice a much hoped for railway into the Similkameen Valley, promoting still further growth.

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Rodgers, 4 July 1903, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC, marginal note: “Mr. Clayburn [*sic*] called at Dept today & stated he had made a prior appln for this land, told by D.M. nothing would be done without duly ensuring his claim.”

<sup>83</sup> Frank Bailey to Indian Agent, Indian Department, Ottawa, 15 September 1903, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

<sup>84</sup> *Ibid.*

<sup>85</sup> “I quite agree with you that there are lot of good lands, some of which undoubtedly contain valuable minerals, belonging to Indian Reserves, but under present conditions these are not open for sale” (Frank Pedley, Deputy Superintendent General of Indian Affairs, to Frank Bailey, 10 October 1903, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC).

Meanwhile, Rodgers was becoming impatient and threatened to move the smelter phase of his project into the United States, a threat that exacerbated tensions between the federal government and settlers.<sup>86</sup> The result was a petition to the federal minister of the interior, Clifford Sifton, early in 1904. It was signed by a cross-section of the settler community, including not just miners and prospectors but also carpenters, hotel clerks, labourers, merchants, ranchers, and other potential beneficiaries of a smelter.<sup>87</sup> This petition also reached British Columbia's premier, Richard McBride, who wrote to Interior Minister Clifford Sifton that he believed "the acquisition of the lands in question is absolutely necessary."<sup>88</sup>

But nothing happened. The absence of a resolution to the impasse prompted another plea from Rodgers, this time to Secretary of Indian Affairs T.D. McLean, in March 1904, nearly a year after Chuchuwayha residents had surrendered Lot 2900. In this letter Rodgers repeated his argument that delays would force him to move his smelter project to the United States, where he had been offered five hundred acres for a site. Further, "if our investments in BC are to be held up by delays, as we have been in this case, it will be very much to our interest to keep as much of our investments in the US as possible."<sup>89</sup>

Meanwhile, Clabon pressed his own claim, creating still further delays.<sup>90</sup> Additionally, the DIA wrestled with issues pertaining to what had become a complicated legal conundrum involving provincial and federal jurisdiction. The language associated with the surrender of Lot 2900 did not say to whom the land would be transferred, only that it was to be exchanged for three hundred acres (Lot 2899), "[s]o that, on the one hand," wrote Deputy Superintendent General of Indian Affairs Frank Pedley,

I take it that the British Columbia Government is under no obligation to complete the transfer unless the land surrendered is conveyed to Mr.

<sup>86</sup> M.K. Rodgers to Clifford Sifton, 19 November 1903, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

<sup>87</sup> Petition Urging the Completion of the Transfer of a Part of the Chu-chu-way-ha Indian Reserve to M.K. Rodgers, to the Minister of the Interior, n.d., Indian Affairs, RG 10, vol. 3904, file 103,781, NAC; "Ottawa Petitioned re Indian Reserve," *Similkameen Star*, 9 January 1904.

<sup>88</sup> Richard McBride to Clifford Sifton, 22 January 1904, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

<sup>89</sup> M.K. Rodgers to T.D. McLean, 17 March 1904, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

<sup>90</sup> A.B. Clabon to Clifford Sifton, 31 March 1904, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.



Rodgers; and, on the other hand, so long as the 300 acres are obtained it makes no difference to the Indians to whom the 194 acres are deeded.

I am of the opinion, further, that up to the present the Dominion government is under no obligation to complete the transfer, as the surrender and the acceptance thereof by the Governor in Council are matters of purely domestic concern, and that there is nothing to prevent this Government from staying further action, or, if deemed advisable, rescinding the Order in Council accepting the surrender. We have entered into no contractual relation with either the British Columbia Government, with Mr. Rodgers, or anyone else, and until this Government signifies its intention of proceeding to conclude the proposed exchange, there is no obligation to do so.

The negotiations did not originate with this Department. Its action so far has simply been the observance of certain formalities necessary to complete the exchange if such be considered advisable.<sup>91</sup>

Meanwhile, Rodgers waited impatiently, along with hundreds of his Similkameen Valley supporters whose livelihoods depended on continued development.

The interjection of Premier McBride into the matter seemed not to help. Clifford Sifton wrote to McLean that he did not recognize the right of the provincial government to decide the terms of exchange without first consulting him. Sifton asked McLean to telegraph this opinion to McBride.<sup>92</sup> Not surprisingly, it was poorly received.<sup>93</sup>

R.F. Green, chief commissioner for lands and works, replied on behalf of British Columbia and refuted the notion that the Dominion government had any interest in any Native land surrendered to the province, which, in his view, “absolutely reverts to the Province to be dealt with as we may consider advisable.”<sup>94</sup> Eventually, the Dominion government backed off, apparently agreed to disagree with British Columbia, and closed the file on Chuchwayha late in 1904.

M.K. Rodgers never did get his smelter. Nor did he carry out his threat to have Nickel Plate ore moved to the United States for processing;

<sup>91</sup> Frank Pedley to Clifford Sifton, 4 April 1904, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

<sup>92</sup> Clifford Sifton to J.D. McLean, 27 August 1904, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

<sup>93</sup> R.F. Green, Chief Commissioner of Lands and Works, to Superintendent General of Indian Affairs, 31 August 1904, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

<sup>94</sup> R.F. Green to Superintendent General of Indian Affairs, 31 August 1904, Indian Affairs, RG 10, vol. 3904, file 103,781, NAC.

instead, he used large, horse-drawn wagons to haul the ore to a smelter in Princeton. The arrival of the Great Northern Railroad in the Similkameen Valley a few years later relieved him of this burden.<sup>95</sup>

## REFLECTIONS

Although the main interest of settlers in the Similkameen Valley was to develop a commercial infrastructure that would promote a European lifestyle, Euro-Canadian views of how settlement was to proceed vis-à-vis Native peoples were conflicted. In the case of Chuchuwaiya, Canada's Department of Indian Affairs did seem to have a more liberal attitude than did British Columbia and many settlers regarding how to handle the Native land controversy. Settlers wanted large amounts of land. Aboriginal peoples were allocated only small portions of the land base, but settlers wanted most of that as well. Judging from the concerns of miners Duncan Woods, Frank Bailey, M.K. Rodgers, and others, their quest for land appeared not to be motivated by animosity against Native peoples. The latter were just in the way and had to be nudged aside. Indeed, a perusal of the *Similkameen Star* between 1900 and 1905 more than suggests that local settler animus was directed not against Indians but against the Chinese. Land, not Native people, was the focus of settler interest. Further, as developments at Chuchuwaiya attest, infighting and jurisdictional disputes between the Dominion and provincial governments, and their shared concerns over the expense of funding the Native reserve system, contributed to delays and to a haphazard and seemingly contradictory implementation of policy directives from far-away Ottawa.

Some observers view the Dominion government as complicit in expropriating land from Native people in the Similkameen Valley. However, it was under DIA authority that, over the years, reserve acreage in the Similkameen expanded, preventing incoming settlers from completely expropriating Native land. The DIA evicted non-Native squatters from Chuchuwaiya and, in other cases, prevented the encroachment of mining interests. Moreover, by the late nineteenth century, the DIA was alone in asserting that the Native population was not dying out but, in many communities, was actually increasing.

Duane Thomson shows that, during this period, the Okanagan Band's experience with settlers was more tense than was that of the

<sup>95</sup> The Great Northern Railway arrived in Keremeos in 1907, and the first passenger train arrived in Hedley on 23 December 1909.

Similkameen. At Head of the Lake and at Penticton, Native people lost large amounts of quality agricultural land after it had been allocated to them under the reserve system. This discrepancy between the Similkameen and the Okanagan may have been because the latter had more desirable agricultural land than did the former. Much of the mineral-bearing land along the Similkameen was unsuitable for agriculture not only because aridity and soil quality limited the range of crops but also because the land was too steep and rocky to till.

The quest for land at Chuchuwayha, then, invites us to rethink the Native/settler experience in British Columbia. In some ways, the Chuchuwayha experience at the turn of the twentieth century may have been an anomaly as, in other parts of British Columbia, tensions between Native peoples and newcomers resulted in violence and lasting bitterness. Certainly, the Euro-Canadian occupation of the land was a mixed blessing – or, if one prefers, a mixed curse – for Chuchuwayha and Native peoples generally. The point is that, over time, the experience was a *mixed* one, providing an odd juxtaposition of opportunities and frustrations, friendships and enmities, wealth and poverty that became inextricable, defying facile generalizations and revealing a complex and intractable reality.