

THE STATUS OF CERTAIN LANDS WITHIN OR ADJACENT TO THE  
CHEMEHUEVI VALLEY INDIAN RESERVATION,  
CALIFORNIA

By

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Submitted to

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## PREFACE AND ACKNOWLEDGEMENTS

This report was written at the request of the law firm of Keck, Mahin & Cate, Washington, D. C. The focus of the project was to discover information on the status of lands owned by Allen Jayne of Los Angeles, California, within or adjacent to the Chemehuevi Valley Indian Reservation and to find data on rights-of-way or access to these properties. Dennis J. Whittlesay, attorney-at-law, was the principal contact during this research and secured the records of the General Land Office and the Historical Indexes from the Bureau of Land Management, Sacramento, California.

I wish to thank the staff of the Map Library, Department of Geography, University of California, Los Angeles, for assistance in locating a variety of U. S. G. S. topographic maps of the lower Colorado River region.

I also want to thank the staff of the National Archives and Records Service, Laguna Niguel, California, for assisting me in the review of the records of the Colorado River Agency and the Fort Mohave School. Archives specialist Fred Klose was particularly helpful during my work in Laguna and patiently responded to my requests for yet more materials or oversize maps.

I further note that copies of all letters sent by the Colorado River Agency, 1906-November, 1910, were missing in the agency records in Laguna. Many of the letterbooks showed water damage from periodic flooding of the Colorado River at Parker, Arizona, and presumably the books covering this period were totally destroyed. The B. I. A. files RG 75 in Washington, D. C., should, however, preserve the letters received.

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TABLE OF CONTENTS

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C. F. Hawke, February 15, 1912

	Page
Preface and Acknowledgment . . . . .	ii
List of Figures . . . . .	iv
I. Identity of the Chemehuevi . . . . .	1
II. Township 5N, Range 24E, San Bernardino Meridian, California . . . . .	4
III. Chemehuevi Valley Indian Reservation, Chemehuevi Allotments, and Tribal Interests in Reservations . . . . .	9
IV. Access to Allen Jayne's Lands . . . . .	31
V. Conclusions . . . . .	36
Bibliography . . . . .	41

## LIST OF FIGURES

Fig.	Page
1. Jayne Parcels in Relationship to Chemehuevi Indian Reservation . . . . .	8
2. 'Grazing Map, Chemehuevi Valley Indian Reservation (Coulson 1931) . . . . .	11
3. Map of Chemehuevi Indian Reservation [c. 1956] (Thompson n.d.) . . . . .	29
4. Parker, Ariz.-Cal. Topographic Quadrangle (U. S. Geological Survey 1911) combined with Needles, Ariz.-Calif. (U. S. Geological Survey 1904) . . . . .	32
5. Topock, Ariz. Topographic Quadrangle (U. S. Geological Survey 1951) . . . . .	34
6. Sawtooth Range, Calif. (U. S. Geological Survey 1950) . . . . .	35

## I. IDENTITY OF THE CHEMEHUEVI

Commonly known as the Chemehuevi, but sometimes identified as the Halchidhoma, these Indians occupied the desert and inundated lowlands along the west bank of the lower Colorado from Bill Williams River on the south to Sacramento Wash (which enters the Colorado at Topock, Arizona) on the north. Their territory now lies in eastern San Bernardino County, California. Their language is variously classed in the Maricopa group, one of three languages in the River Branch of Yuman, or as Shoshonean, a tongue in the Uto-Aztecan stock. The Yuman languages include Mohave, Diegueno, and Yuma and are all part of the widely distributed Hokan-Siouan Stock (Kendall in Ortiz 1983:4; Hodge 1905[1]:242).

The Chemehuevi remain poorly treated in the ethnographic literature. In his essay "Mohave" published in volume ten of the Handbook of North American Indians, Kenneth M. Stewart focused on the Indians living from the Colorado River Reservation north to Davis Dam--the corridor along the Colorado River west of the Black and Mohave mountains. Stewart's references to the Chemehuevi were brief. He noted that they were "migratory desert Indians" whom the Mohave allowed in the nineteenth century "to infiltrate and farm along the river in what is now known as the Chemehuevi Valley" (Stewart in Ortiz 1983:55).

Henry O. Harwell and Marsha C. S. Kelly have written the essay "Maricopa" for the Handbook but concentrate almost exclusively upon the Maricopans residing in the Gila River drainage in southern Arizona. Explaining the presence of the Halchidhoma (Chemehuevi) in this district, they wrote:

At the beginning of the nineteenth century the term Halchidhoma or its variants designated Yumans along the Colorado River south of the Mohave. After about 1825 some segments of these people relocated via the Mohawk Mountain district on the Gila to Magdalena, in Sonora. By 1840 Halchidhomas came to the Gila Valley near Sacate where, by this time, many other Yumans from the Gila Bend districts had also located (Harwell and Kelly in Ortiz 1983:74).

The Chemehuevi who occupied the west bank of the Colorado thus did not gain assessment, other than in passing reference in the tenth volume of the Handbook. They fared even more incompletely in the eighth volume, California, edited by Robert Heizer (1978). The principal essay referring to them in any way was that on the "Cahuilla" written by Lowell John Bean. A number of problematic Cahuilla villages or subsistence areas extended east beyond the Chocolate Mountains into the historic era Chemehuevi homeland west of the Colorado River. Without any explanation, Bean identified Chemehuevi as a tribe resident with the Cahuilla on the Augustine and Torres-Martinez reservations in 1970 (Bean in Heizer 1978:585).

The Chemehuevi of the Chemehuevi Valley were most likely Shoshoean-speakers and were nomadic people who tapped the desert for resources. Ultimately they settled on the

west bank of the Colorado where they lived in the historic period (Hodge 1905[1]:242).

## II. TOWNSHIP 5N, RANGE 24E, SAN BERNARDINO MERIDIAN, CALIF.

This township was first surveyed and subdivided by the cadastral surveyors of the General Land Office in June, 1883. G. W. Baker gained the surveying contract on May 28, 1882, and completed the survey on June 13, 1883. His plat of survey contained no notes on any human presence. Baker noted two major "washes" running in an easterly direction across the northern half of the township and another, identified as a "gulch" crossing the southwestly corner of the southern half of the township (Baker 1883).

### Section 1

The Historical Index developed by the General Land Office and maintained by the Bureau of Land Management confirms that the first land transactions in this township were the transfer of sections 16 and 36 to California by Act of Congress on March 3, 1853. The second transaction was a "temporary withdrawal" by order of the Secretary of the Interior for sections 1, 12, and 13 for the Colorado River Reclamation Project on September 8, 1903. This withdrawal was revoked by secretary's order on September 15, 1919, with a further partial revocation by the BLM on November 13, 1955 (BLM 1986d).

On February 2, 1907, the Secretary of the Interior withdrew by his order lands for the Chemehuevi Valley Indian Reservation. The General Land Office recorded those



sections as: 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, 36. This secretarial action affected the entire eastern half of the township (BLM 1986d). This withdrawal was presumably taken in anticipation of a presidential order to create this reservation by Executive Order or else the passage by Congress of legislation creating the reservation. These two actions were the only legal means, other than by treaty (a process terminated in 1871) to create a reservation in the early twentieth century. No record exists of either an Executive Order or an Act of Congress to buttress the secretarial withdrawal.

Two recent analysts of federal responsibility in Indian affairs, Vine Deloria, Jr., and Clifford M. Lytle, have commented on the general context of withdrawals for reservations:

In the closing decades of the nineteenth century, presidents used their powers to issue executive orders to resolve some Indian problems. The prohibition against further treaty-making left the executive branch without a satisfactory means of dealing with tribes that had not previously made some kind of political agreement with the United States. Rather than attempt to establish treaty or agreement relationships with these groups of Indians, presidents would issue executive orders setting aside tracts of land as reservations for them. An executive order is a formal administratively oriented policy pronouncement by the president. Once promulgated by the president and published in the Federal Register, it has practically the same effect as policy as if it had been a law passed by Congress and it serves as a clarification of federal law until withdrawn or superceded by an act of Congress on the subject. [Emphasis supplied] (Deloria and Lytle 1983:37).

The tenuous nature of the Chemehuevi Reservation was documented on August 21, 1916, by the issuance of a railroad grant patent (Serial No. 543283) for 440.96 acres in section one. This tract included all of the NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , and the SW $\frac{1}{4}$  and was within the area withdrawn for the proposed reservation (BLM 1986d).

The Historical Index for T5N, R24E confirms that section 1 was repeatedly listed in various secretarial and General Land Office withdrawals for reclamation projects. The inclusion of section 1 in these actions is inexplicable in light of the issuance of the railroad grant patent (Serial No. 543283) in 1916. The Historical Index documents no relinquishment, foreclosure, or reconveyance of this land to the federal government. The NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , and SW $\frac{1}{4}$  have remained in private ownership since 1916.

Section 9, NW $\frac{1}{4}$ , NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , and NE $\frac{1}{4}$ SE $\frac{1}{4}$ :

Section 9 was not included in the secretarial withdrawal of February 2, 1907, to create the Chemehuevi Valley Reservation (BLM 1986d). The "Grazing Map, Chemehuevi Valley Indian Reservation" (Coulson 1931) and the "Map of the Chemehuevi Indian Reservation [c. 1956]" (Thompson n.d.) both confirm that this section lies west of the "Reservation Boundary" [See Figs. 1, 2].

The NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$  and NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; and the NE $\frac{1}{4}$ SE $\frac{1}{4}$  and NW $\frac{1}{4}$ SE $\frac{1}{4}$  of section 9 were included with lands in section 17

in a railroad grant patent (Serial No. 507835) on January 13, 1916. In spite of this patent, section 9 was repeatedly enumerated in various withdrawals and revocations for reclamation projects along the lower Colorado River in the twentieth century. No record exists that this tract, however, has ever returned to federal ownership (BLM 1986d).

Section 17, NW $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$

Section 17 was not included in the secretarial withdrawal of February 2, 1907, to create the Chemehuevi Valley Reservation (BLM 1986d). The "Grazing Map, Chemehuevi Valley Indian Reservation" (Coulson 1931) and the "Map of the Chemehuevi Indian Reservation [c. 1956]" (Thompson n.d.) confirm that this section lies west of the "Reservation Boundary" [See Figs. 1, 2].

The parts of section 17 identified herein were part of the railroad grant patent (Serial No. 507835) on January 13, 1916 (BLM 1986d).

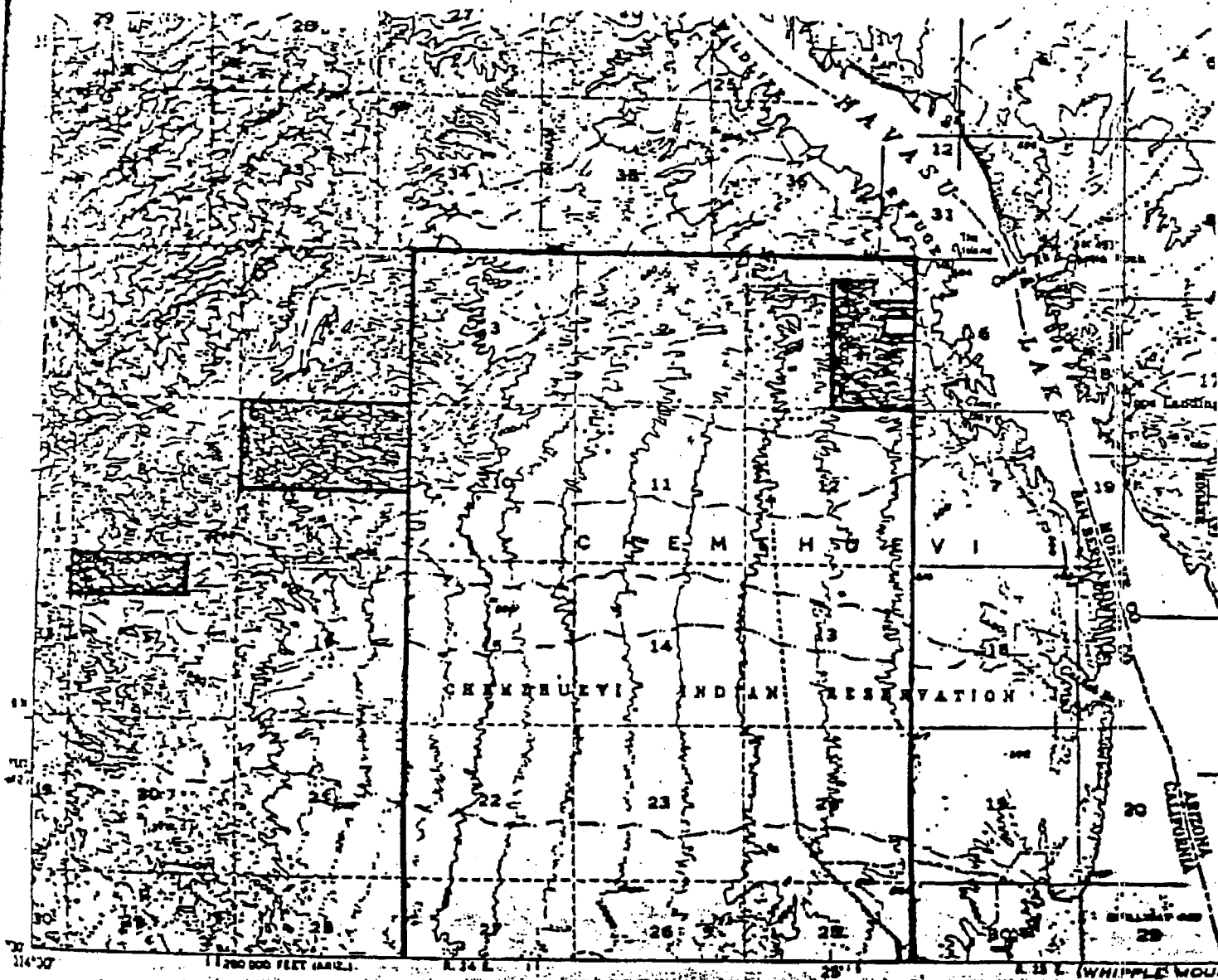


Fig. 1. Jayne land parcels in relationship to Chemehuevi Indian Reservation

Section 1 not shown

### III. CHEMEHUEVI VALLEY INDIAN RESERVATION

The Chemehuevi Indians remained without a treaty when Congress suspended negotiating such agreements in 1871. Some families of Chemehuevi moved east from the Mohave Desert and settled in the nineteenth century along the Colorado River south of the Chemehuevi Mountains and Mohave Rock. This river corridor in Townships 4-6 North, Range 24 East became known as the Chemehuevi Valley (Stewart in Ortiz 1983:55). Early in the twentieth century the landless condition of the Chemehuevi and Mohave, largely living in off-reservation settings, drew the attention of the Bureau of Indian Affairs. Section 25 of the Indian Appropriation Act of April 21, 1904, authorized the allotment of up to five acres of irrigable land per Indian to the people under the jurisdiction of the Colorado River Agency (Atkinson 1904).

The Mohave and Chemehuevi were technically under the jurisdiction of the Colorado River Agency, headquartered at Parker, Arizona. Few of these Indians, however, resided upon the Lower Colorado River Reservation and fewer yet had any on-going relationship with the Bureau of Indian Affairs at the turn of the century. The lack of oversight was attested by Enos B. Atkinson, Indian superintendent at Parker, in a letter to the Commissioner of Indian Affairs in 1904:

Many Indians are living there [Needles, California] who were residents of this reservation some years ago, and whose names do not appear on the census or record of Indian families on file in this office, for the sole

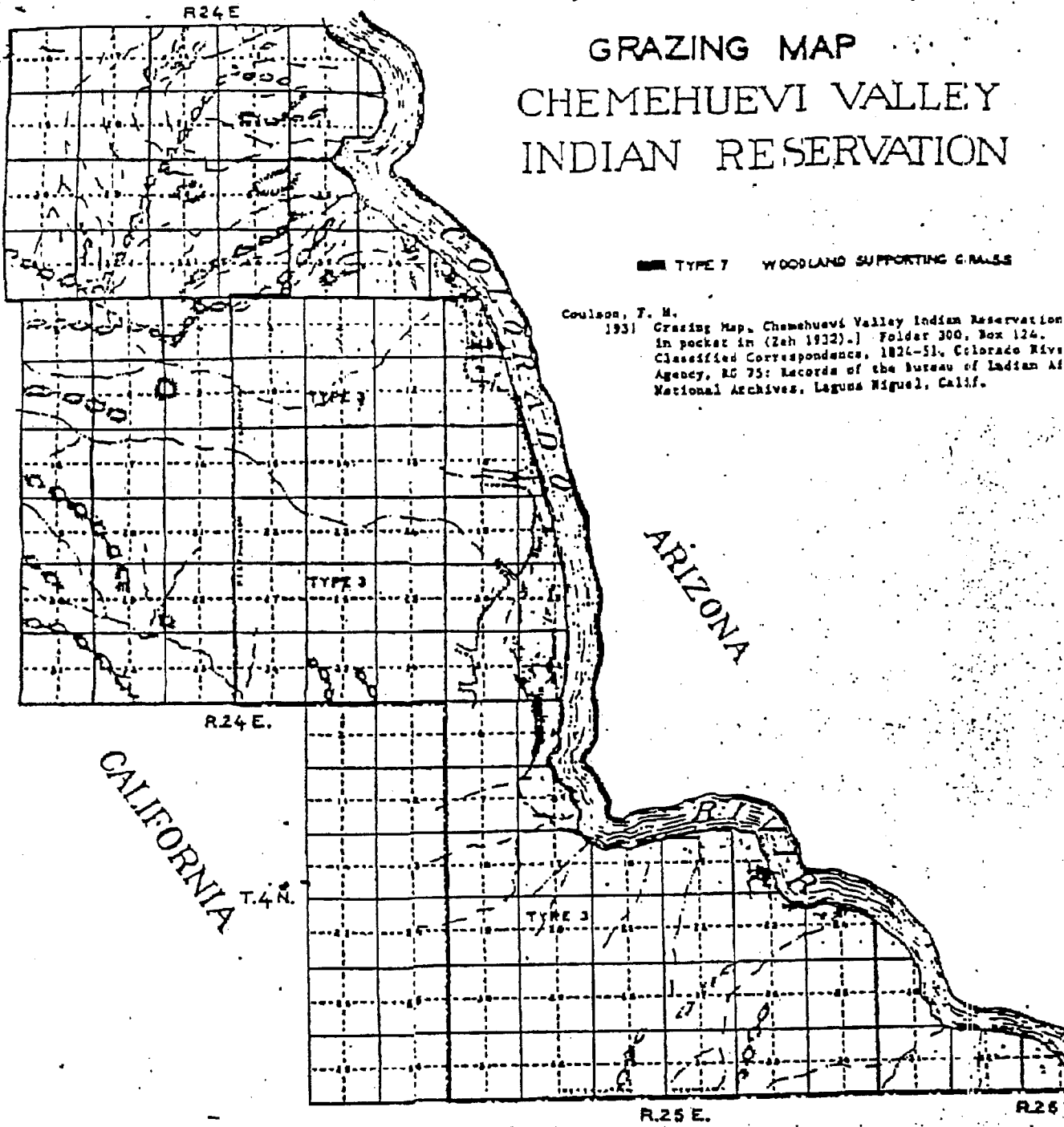
reason that they have absented themselves from this, their true home, for several years . . . (Atkinson 1904).

The superintendent continued:

There is also a tribe of Chimehuevi Indians numbering 100 persons, or thereabouts, who, for a number of years past have resided in the Chimehuevi Valley about 30 miles north of this reservation, and who do not reside on any government reserve, or land set aside under Executive Proclamation for their benefit, but who, owing to the large surplus of land that must remain unallotted should be permitted to come in under the provisions of the Section [in the Indian Appropriation Act of 1904] above referred to for a portion of allotted land (Atkinson 1904).

Atkinson sought to enroll all Mohaves who had formerly resided on the reservation at Parker, Arizona, as well as the Chemehuevi and to inform them that "they may be entitled to receive the benefits of the said allotment of land whenever the same may be held" (Atkinson 1904).

On February 2, 1907, the Secretary of the Interior issued the order to withdraw lands in T6N, R24E; T5N, R24E and R25E; and T4N, R25E, R26E. All of the withdrawn lands lay on the west bank of the Colorado River and formed a corridor extending one to five miles distant from that stream [See Fig. 2] (BLM 1986a, 1986b, 1986c, 1986d, 1986e). In the 1930's the construction of Parker Dam led the Chemehuevis to seek damages from the Metropolitan Water District of Southern California for flooding their lands in the tracts withdrawn by the Secretary of the Interior. An opinion handed down on December 15, 1939, mentioned that these lands were included in reclamation withdrawals under



# GRAZING MAP CHEMEHUEVI VALLEY INDIAN RESERVATION

■ TYPE 7 WOODLAND SUPPORTING GRASSES

Coulson, T. M.  
1931 Grazing Map, Chemehuevi Valley Indian Reservation  
in pocket in (Zeh 1932). Folder 300, Box 124.  
Classified Correspondence, 1824-51, Colorado River  
Agency, RG 75: Records of the Bureau of Indian Affairs  
National Archives, Laguna Niguel, Calif.

Grazing Map, Chemehuevi Valley Indian Reservation  
(Coulson 1931)

provisions of the act of June 17, 1902 (32 Stat. 388) and by orders dated July 2, August 26, and September 15, 1902, and February 5 and September 8, 1903. The opinion continued:

It further appears that the Secretary of the Interior, in a letter to the General Land Office dated February 2, 1907, ordered these lands, among others, withdrawn from all form of settlement or entry pending action by Congress authorizing the addition of the lands to various Mission Indian reservations. This latter withdrawal was made pursuant to the recommendation of the Acting Commissioner of Indian Affairs which, in turn, was predicated upon two reports by Special Agent C. E. Kelsey, dated December 27, 1906, and January 3, 1907. Those reports, which were made by the request of the Commissioner of Indian Affairs, indicated that the lands now in question had been occupied for many years by the Chemehuevi Indians and urged that the lands be reserved and set aside for their use" (Margold 1939:87-88).

George Laird, a Chemehuevi who subsequently married the ex-wife of the ethnologist John Peabody Harrington [See Carobeth Laird, Encounter With an Angry God: Recollections of My Life with John Peabody Harrington (1975)], pressed the B. I. A. in 1908 about the situation of his tribe. Writing on behalf of his half-sister, Laird contended that "there is no reservation for the Chemehuevi Indians other than the Colorado River Reservation" and sought grazing rights for his sister on that tract (Larabee 1908).

C. F. Larabee, Acting Commissioner of Indian Affairs, however, clarified the jurisdiction over the Chemehuevi in his response to this matter:

It is believed that Laird has not fully understood your position in this matter. Until about two years ago the Chemehuevi [sic] Indians living along the Colorado River were under the jurisdiction and supervision of the Superintendent of the Colorado River Reservation,



when all the Colorado River Indians living within thirty miles of Fort Mojave were placed under the jurisdiction of the Superintendent of that school. The Indian woman referred to may be among this number" (Larabee 1908).

The Bureau of Indian Affairs operated in a general state of ignorance about the numbers, condition, and status of the Indians supposedly within the jurisdiction of the Colorado River Agency. On October 16, 1909, for example, M. F. Rolland, Superintendent of the Colorado River Indian School, requested a topographic map showing the Colorado River Reservation and its boundaries. C. F. Hawke, chief clerk for the B. I. A. in Washington, D. C., responded: "The Office has no map, at this time, of the Colorado River Indian Reservation." He informed Rolland that the General Land Office had recently made a resurvey of that reservation and that the B. I. A. hoped it could prepare a map of the entire tract (Hawke 1909a).

By the fall of 1909 the secretary withdrawal of lands for the Chemehuevi in California was clearly perceived as "temporary" by the B. I. A. Chief Clerk Hawke wrote to M. F. Holland, Superintendent of the Colorado River Indian School at Parker, Arizona: "Reference is hereby made to your letter of May 29, 1909, recommending that the temporary withdrawal of certain lands in California for the benefit of the Chimehuevi Indians be continued until the reclamation project affecting these lands is completed and allotments thereon made to the Indians" [Emphasis supplied]. The

Director of the Reclamation Service on October 12, 1909, advised L. L. Hill, the Supervising Engineer, that "the Chimehuevi Indians be moved from their present location to suitable lands on the Colorado River Indian Reservation, near Parker, Arizona" (Hawke 1909b).

In November, 1909, the Bureau of Indian Affairs had no expectation of a permanent Chemehuevi Reservation on the west bank of the Colorado in California. Chief Clerk Hawke observed that irrigation projects would open up approximately 100,000 acres near Parker, Arizona, "furnishing more than enough irrigated lands for the Indians of the Colorado River Reservation, as well as the Chimehuevi Indians." The B. I. A. advised the agency officials to proceed with the plans for removing the Chemehuevi to the Arizona side of the river (Hawke 1909b).

By December, 1909, the B. I. A. was wrestling with the legal authority over the opening for non-Indian entry of lands within the Colorado River Reservation west of the river in California. C. F. Hawke called attention to the Act of April 21, 1904 (33 Stat. 225), providing for allotments of five acres of irrigable land and the "disposal of surplus irrigable lands under the provisions of the Reclamation Act of June 17, 1902 (32 Stat. 388)" (Hawke 1909c). Hawke found no authority for the disposal of surplus nonirrigable lands within the reservation, but he observed: "If the lands west of the river, on the California

side, which you suggest be disposed of, are irrigable lands and not needed for allotment to the Indians, they may be disposed of under the provisions of the Reclamation Act, as authorized by the Act of April 21, 1904, supra. If they are nonirrigable, however, there would be no authority for their disposal" (Hawke 1909c).

Congress increased the allotment portions to ten acre tracts on March 3, 1911 (P. L. 454). This provision affected the lands within the Colorado and Yuma reservations in Arizona and California (Hawke 1911a). As the allotment program moved along, A. F. Dunnington, a topographer, began the subdivisional surveys within the Colorado River Reservation (Hawke 1911b).

The status of the Chemehuevi Indians at the time of allotment in 1911 became a matter of concern for C. E. Kelsey, Special Agent for the California Indians. In May of that year Kelsey commenced a census of the tribe, beginning with those resident near Parker, Arizona, as well as those at Riverside and Palo Verde, California. Kelsey referred on May 18, 1911, to the secretarial order withdrawing lands for a proposed Chemehuevi Reservation:

Four years ago, at my request, all the land in and surrounding the Chimehuevi Valley was reserved pending allotment to the Indians. There was a reclamation service withdrawal, but we feared it would be withdrawn. It was not possible to send in an allotting agent until last year, when Mr. Williams went in. He allotted all the land in the Chimehuevi Valley, on the California side, in 37 allotments.

According to my figures there are 78 Chimehuevis

without land. Of these 8 are in the Chimehuevi Valley, 14 at Ft. Mohave or opposite, 11 at Old Dead Mountain and your 11 at Riverside and 34 at Blythe Ranch. The Chimehuevis foot [?] up as follows:

Chimehuevi Valley	54
Opposite Needles, in Arizona	6
Needles	1
Old Dead Mountain	11
Opposite Ft. Mohave	83
Coachella	23
Twenty Nine Palms	23
Riverside Mountain	11
Blythe Ranch, Palo Verde Valley	34
	<u>246</u>

(Kelsey 1911)

In his assessment of the situation of the Chemehuevi in 1911, Agent Kelsey noted that the executive order setting aside the Colorado River Reservation was "broad enough to include the Chimehuevis" but he had little expectation that they would find a welcome among the Mohaves. "The Mohaves," he wrote, "Indian like, would not say a word at the time, but afterward there would be a great ferment and distress, and probably unaccountable affrays, of which you could never get head or tail" (Kelsey 1911).

By December 19, 1911, the B. I. A.'s Land Division still had no map showing allotments to the Chemehuevi Indians. The Bureau was preparing a schedule of allotments but had little other data (Francis 1912). By the end of 1911, however, the situation of the Chemehuevis was as follows:

An order of the Secretary of the Interior had withdrawn

lands in the Chemehuevi Valley along the west bank of the lower Colorado River for a reservation. This withdrawal was made in anticipation of an Act of Congress to create a reservation. No such legislation passed Congress.

- The secretarial withdrawal of lands for the proposed Chemehuevi Valley Reservation overlapped previous withdrawals for projected reclamation projects.
- The B. I. A. mounted an allotment program in 1911, identifying five acre, irrigable tracts--37 in all--in on the west bank of the Colorado River.
- At least 78 Chemehuevi remained without allotments by the end of 1911.

On January 7, 1913, Representative Carl Hayden of Arizona introduced H. R. 27790 (62 Congress, 3 Session) to open "surplus and unallotted lands" within the Colorado River Indian Reservation to settlement under the provisions of the Carey Act. All of the lands, in this instance, were east of the Colorado River (Bureau of Indian Affairs 1912-13).

In 1912 the Bureau of Indian Affairs wrestled with the problem of Chemehuevi allotments along the Colorado River in areas which were withdrawn by the Bureau of Reclamation. Chief Clerk Hawke noted: "A considerable area of the land allotted to these Indians in a withdrawal for reclamation purposes, and the Office is now in correspondence with the Reclamation Service with a view of obtaining a release of

the withdrawal in order that all of the allotments may be approved." The B. I. A. position was that all Chemehuevi allotted public domain lands who wanted enrollment and allotment on the Colorado River Reservation would have to relinquish their lands. Hawke further wrote: "Any unallotted Chimehuevi Indian not now enrolled on the Colorado River Reservation who may wish to go there, would be entitled, if enrolled with the tribe having rights thereon, to an allotment on the said reservation." The position of the B. I. A. by early 1912 remained unclear: "The question of tribal rights of the Chimehuevi Indians generally on the Colorado River Reservation and of your jurisdiction over them in their present locations will form the subject of other letters" [Emphasis supplied] (Hawke 1912a).

In February, 1912, the B. I. A. tried to define the situation of the Chemehuevi relative to the Colorado River Reservation, a tract of 75,000 acres set aside pursuant to the act of March 3, 1865 (13 Stat. 341-359) and expanded by executive orders of November 22, 1873, November 16, 1874, and May 15, 1876. Clerk Hawke wrote:

It is clear from the foregoing that the Chimehuevi was one of the tribes for whom the reservation was established as these Indians came within the purview of its terms. These Chimehuevi are therefore entitled to full rights on the reserve; and those absentee members of the said tribe who may return or remove thereto, are to be accorded the same rights as permanent residents--upon the condition in the case of those who may have received allotments on the public domain that they are to relinquish the same prior to taking allotments on the Colorado River Reservation (Hawke 1912b).

This position statement from the B. I. A. in 1912 confirmed that the Chemehuevi Valley Reservation had no validity. The B. I. A. saw the Colorado River Reservation as the appropriate homeland for the Chemehuevi. Any members of this tribe who remained outside of that reservation were living on "public domain." Hawke wrote:

For your information it may be said, however, that such right as these absentee Chimehuevi have to lands is an elective one--whether they will remove to the Colorado River Reservation and receive allotments there or retain their present holdings on the public domain. It is not the intention of the Office to influence them in any manner in making their final decision other than to suggest that possibly it would be easier for them to obtain water for irrigation purposes on the Colorado River Reservation and on the public domain (Hawke 1912b).

In the spring of 1912 the B. I. A. continued to explore the situation of the Chemehuevi in California and Arizona. C. F. Hawke, Second Assistant Commissioner, wrote to Omar L. Babcock, Superintendent of the Colorado River School: "As opportunity offers, you are authorized to make it known that the Chemehuevi Indians are entitled to take allotments on the Colorado River Reservation, but that the application of any Indian of that tribe who goes to the reservation to take an allotment thereon will be given the consideration when this work is taken up" (Hawke 1912c).

By the fall of 1912 Superintendent Babcock remained uncertain about the size of allotments for the Chemehuevi.

He wrote on December 30 to the Commissioner of Indian

Affairs:

The Indians of the Chemehuevis Valley were allotted under the Act of February 8, 1887, 80 acres to the husband and none to the wife, of irrigable land. As this act was amended June 25, 1910, the wives were entitled to 40 acres and the husbands to but 40 acres. The question has arisen as to whether the wives of the men allotted in the Chemehuevis valley are entitled to an allotment here or not. I respectfully request to be definitely instructed in this matter.

Hawke responded:

While the allotments you speak of are in the Chemehuevi Valley may be irrigable, in the sense that the lands are so located as to be susceptible of irrigation, yet the Office understands no irrigation project is being constructed there with a view of furnishing water to the lands allotted in that valley. Therefore, considering their present status, the lands are allottable in quantities of 80 acres of agricultural land or 160 acres of grazing land according to the character of the land.

Under the Act of February 28, 1891 (26 Stats. L., 794), amendatory of the General Allotment Act of February 8, 1887 (24 Stats. L., 388), allotments on the public domain are not confined to heads of families (exclusive of the wife) and single persons, but each individual is entitled to an allotment of the same quantity of land, viz., 80 acres of agricultural or 160 acres of grazing land. The Act of June 25, 1910 (35 Stats. L., 858), Section 17, amends the General Allotment Act only in that it limits the maximum quantity of irrigable land that can be given to any one Indian to 40 acres. Bearing in mind the interpretation placed on the meaning of the word 'irrigable' the allotments to the Indians in the Chemehuevi Valley, on the public domain, of 80 acres to each Indian were proper" [Emphasis supplied] (Hawke 1913a).

Hawke's letter in January, 1913, confirmed that six years after the secretarial order withdrawing lands for the Chemehuevi Valley Reservation, the B. I. A. yet considered those lands "public domain" and that the Indians selecting allotments there did so as on other public domain tracts across the American West.



On March 1, 1913, Hawke discussed further the setting of the Chemehuevi Valley:

In connection with this matter [allotments to the Chemehuevi on the Colorado River Reservation], attention is invited, however, to a report dated May 4, 1911, from Mr. C. E. Kelsey, Special Agent for the California Indians, a copy thereof having been forwarded to you under date of January 18, 1912. Mr. Kelsey said that the Chemehuevi Valley is one of the most beautiful little valleys he has ever seen; that there is a heavy growth of tall Mesquite and Cottonwood trees; that the soil is rich and the supply of water unlimited and that he has seen no place on the Colorado river where the land can be more easily or cheaply irrigated. He recommended that the allotments made by Special Allotting Agent Williams be confirmed at the earliest date. He said further that it does not seem feasible to him to place any large number of Chemehuevis at Parker and that those now there are all that can be safely allotted on the Colorado River Reservation, the tribes being of diverse racial stock and hereditary enemies.

.....

The band in the Chemehuevi Valley have occupied and cultivated their lands for years and years and now that there is an opportunity to patent the lands individually selected for them as allotments this Office can see no good reasons for their relinquishing their present holdings to take them on the Colorado River Reservation. The wording of the Executive Order creating the reservation apparently gives the Chemehuevi Indians rights thereon, and any of the and who has not been allotted or cannot be provided for in the Chemehuevi Valley may take allotments on the Colorado River Reservation if they wish to go there (Hawke 1913b).

The Bureau of Indian Affairs expressed no awareness of a Chemehuevi Reservation on the west bank of the Colorado in its correspondence in 1912-13. Its references to reservation lands were premised on the rights of the Chemehuevi on the Colorado River Reservation in Arizona. Hawke concluded his letter of March 1, 1913, by addressing

the reclamation withdrawals affecting the lands on the west bank:

A part of the lands allotted in the Chemehuevi Valley was withdrawn for reclamation purposes, but this Office took up the matter with the Director of the Reclamation Service and from letters recently received from the Reclamation Service, it appears that a recommendation has been made that the withdrawal be revoked. This Office has not been advised that the withdrawal has actually been cancelled, but in case this is done, probably nothing else will stand in the way of improving and patenting the allotments (Hawke 1913b).

On March, 13, 1913, the General Land Office responded to the Commissioner of Indian Affairs about the status of the proposed allotments in the Chemehuevi Valley in light of the secretarial order withdrawing lands there on February 2, 1907, for a Chemehuevi Valley Reservation. S. V. Proudfit, Assistant Commissioner of Lands, wrote:

I have to call to your attention letter "G" of this office, dated May 5, 1910, in which reference was made to the departmental withdrawal, dated February 2, 1907, of Ts, 4 and 5, N., R. 25 E., S. B. M., within which townships the land included in the said allotment applications lie, and it was asked whether the said reservation prevented the allowance of these applications.

.....  
In your letter of July 27, 1912 (71591-1912 WAM), you stated that the departmental withdrawal of February 2, 1907, was with the view of reserving the lands temporarily, until allotments could be made in the area, and that no objections were known to the approval of the same.

On June 14, 1911, the Director of the Reclamation Service advised this office that no objection was known to the allowance of said applications, the lands being within a reclamation withdrawal and that recommendation had been made to the Department for the restoration of the lands involved.

In view of your statement that the order of reservation was originally made for the protection of the Indians who have filed the said allotment applications, the cases will be examined, and if they are found in proper form the same will be examined in the field as to the settlement alleged, and will in due course, if found to be legally filed, for lands subject to allotment, be transmitted to your office for its consideration (Proudfit 1913).

Omar Babcock, Superintendent of the Colorado River School, B. I. A., reported on July 14, 1913, that 64 Chemehuevi had applied for and gained allotments in the Chemehuevi Valley. These allotments totalled 2,040 acres on the public domain (Babcock 1913). A year later Babcock reported that the allotment project concluded in April, 1913; the program gained approval of the Commissioner of Indian Affairs on December 12, 1913. Babcock wrote: "In addition to the Indians mentioned above [on the Colorado River Reservation] there are 2040 acres on the Public Domain which are allotted to the Chemehuevie Indians in the Chemehuevi Valley. This land is not watered . . . . There are about 50 of these Chemehuevis allotments" (Babcock 1914).

The Historical Indexes of the Bureau of Land Management confirm some of these allotments along the west bank of the Colorado River.

T5N, R25E, S.B.M.

The General Land Office issued trust patents to seven

... Township. One, for 80 acres, was deeded on March 25, 1921; the other six were deeded on November 2, 1921 (BLM n.d.e).

T4N, R25E, S.B.M.

The General Land Office issued four trust patents for allotments in this township in 1919 and 1920 (BLM n.d.c).

By 1914 the status of the Chemehuevi lands on the west bank of the Colorado River was as follows:

- Both the B. I. A. and the General Land Office perceived these lands as "public domain" and repeatedly referred to them as such in their correspondence.
- A total of 2,040 acres of public domain lands was allotted by April, 1913, to Chemehuevi Indians in the Chemehuevi Valley, an off-reservation setting.
- The Chemehuevi had rights on the Colorado River Reservation in Arizona by the terms of the Executive Order creating that reservation.
- The reclamation withdrawals on the west bank of the Colorado River included the lands allotted to the Chemehuevi, but the withdrawals were probably to be cancelled or revested.

Between 1913, when the Chemehuevi were perceived as taking allotments on the public domain, and 1932 the Bureau of Indian Affairs altered its position on the existence of a Chemehuevi Valley Reservation. No documents either in the Colorado River Agency files in the National Archives, Laguna Niguel, or in the BLM Archives, Sacramento, California, explain this shift in perception. In 1932, however, William H. Zeh, filed his "Grazing Report" on three reservations: Fort Mohave, Chemehuevi Valley, and Colorado River. Zeh provided a map [See Fig. 2] and estimated that the "reservation" contained about 35,000 acres. He wrote:

This reservation is inhabited by two families of Chemehuevi Indians. Both families are engaged in the stock business, one family owning approximately 300 head of cattle and the other about forty head. This cattle shows that these Indians have been fairly successful in improving their herd which now shows some stock with very good markings of the Hereford breed (Zeh 1931).

Zeh noted that the construction of Parker Dam to supply water for the Los Angeles Aquaduct would eventually overflow all of the productive lowlands in the Chemehuevi Valley as far north as Topock, Arizona (Zeh 1931).

In 1935 the B. I. A.'s Annual Forestry Report confirmed that this agency operated on the assumption of the existence of a Chemehuevi Valley Reservation. The B. I. A. identified 34,360.55 acres of tribal lands and 639.45 acres in trust allotments. (Anonymous 1935). On December 3, 1936, C. H. Gensler, Superintendent of the Colorado River Agency, filed the annual "Record of Federal Real Estate." He identified

400 acres in allotments, held by seven Indians on the eastern margin of San Bernardino County, California. He reported, however, only 7,560 acres of tribal lands in the Chemehuevi Valley Reservation--a figure considerably different from that estimated in 1931 by William Zeh. Gensler stated that the allotment and tribal lands were acquired by "Secretary's Withdrawal from Public Domain" in 1907 (Gensler 1936a, 1936b).

In 1938 the Superintendent's Council Committee of the Colorado River Agency reported that 397 Chemehuevi and Mohave resided on the Fort Mohave and Chemehuevi reservations. The committee recommended that all of these Indians should remove to the Colorado River Reservation and that 12,000 acres should be held for them there (Superintendent's Council Committee 1938).

On October 1, 1940, C. H. Gensler asked the Commissioner of Indian Affairs about the interest of the Chemehuevi allottees on the Colorado River Reservation in the "proceeds derived from the use of lands within the Chemehuevi Reserve, California." Walter V. Woehlke, Assistant to the Commissioner, responded:

The records show that under date of February 2, 1907, the Secretary of the Interior withdrew for the Chemehuevi Indians the following described lands:

Fractional Ts. 4 N., R. 25 E., 4 N., R. 26 E., 5 N., R. 25 E., 6 N., R. 25 E; the E $\frac{1}{2}$  of 5 N., R. 24 E., and Secs 25, 26, 35 and 36, T. 6 N., R. 24 E., S. B. M., California.

The lands above referred to are still reserved for

Indian purposes and a small number of Indians have received fourth section allotments on the above lands. However, the bulk of the lands are still unallotted. Some of the members of the Chemehuevi Tribe who did not take allotments on the above described reserve elected to take allotments on the Colorado River Reservation which was established under the Act of Congress and the Executive Order as follows . . . (Act of March 3, 1865 (1 Stat. 559)) (Woehlke 1940).

Woehlke was explicit in identifying that the allotments in the Chemehuevi Valley were "fourth section" [public domain] allotments and differed from those on a reservation. He lifted this matter up in this letter: "It might be added that the Chemehuevi Indians allotted on the lands reserved for them by the Secretary of the Interior on February 2, 1907, were given public domain allotments" (Woehlke 1940).

With the approval of Oscar Chapman, Assistant Secretary of Interior, Woehlke further addressed the matter of the Chemehuevi "reservation" on the west bank of the Colorado:

The question now has arisen as to the status of the Chemehuevi allottees on the Colorado River Reservation with respect to the unallotted portion of the lands set apart for the use of the Chemehuevi Indians by the Departmental Order of February 2, 1907. Since the Chemehuevi allottees of the Colorado River Reservation elected to take their allotments on the Colorado River Reservation and relinquished their allotments on the public domain or had never received allotments theretofore, it is the opinion of this Office that they are entitled to full tribal rights on the Colorado River Reservation, the same as other permanent residents thereon. Such being the case, it is apparent that they are not entitled to receive benefits which might accrue through the lease, etc., of the unallotted portions of the tract set aside by Departmental Order of February 2, 1907. To permit such Indians to receive tribal benefits on the Chemehuevi Reserve would be in direct contravention of the ruling long recognized by this Department and upheld by the courts, particularly, in the comparatively recent decision by the Tenth Circuit Court of Appeals in Maniler v. United States

(52 Fed. 2nd, 713), to the effect that an Indian is not entitled to claim membership in and receive tribal benefits in more than one Indian tribe or reservation at the same time (Woehlke 1940).

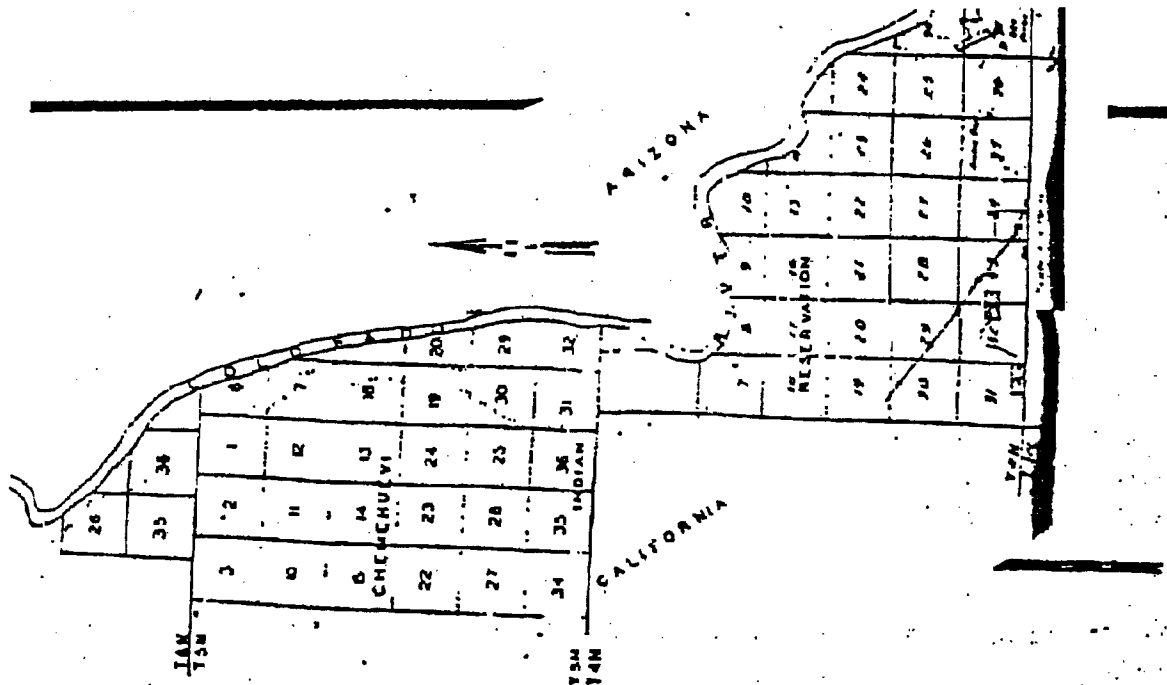
The final position of the B. I. A. on those Chemehuevi having "beneficial interests" in the Chemehuevi Reservation was that only those who had public domain allotments or who were not affiliated with the Colorado River Reservation were to retain an interest in the lands on the west bank of the Colorado River (Woehlke 1940).

In 1944 the Bureau of Indian Affairs identified the Chemehuevi Reservation as containing 20,224 acres, "Barren and waste area." The report noted: "All of the above lands are tribal property; no allotted lands within the area described" (Gensler 1944).

In May, 1946, John Peabody Harrington, field ethnologist for the Smithsonian Institution, wrote to the superintendent of the Colorado River Agency about the status of the Chemehuevi Valley Reservation (Harrington 1946a, 1946b). C. H. Gensler responded: "The Chemehuevi Indian Reservation originally consisted of 28,000 acres. A reduction in this reservation of 7776 acres was made in 1940 by condemnation as a result of water storage behind Parker Dam." Gensler reported that the Indians were paid an appraised price for the lands condemned (Gensler 1946).

In 1955-56 the Bureau of Indian Affairs administered mineral leases within the Chemehuevi Indian Reservation. The Chemehuevi Business Council of Parker, Arizona, which





Thompson, Charles  
 n.d. Map of Chemehuevi Indian Reservation [c. 1956]. Box 100.  
 Central Classified Files, 1936-59, Branch of Land Operations,  
 Phoenix Area Office, RG 75; Records of the Bureau of Indian  
 Affairs, National Archives, Laguna Niguel, Calif.

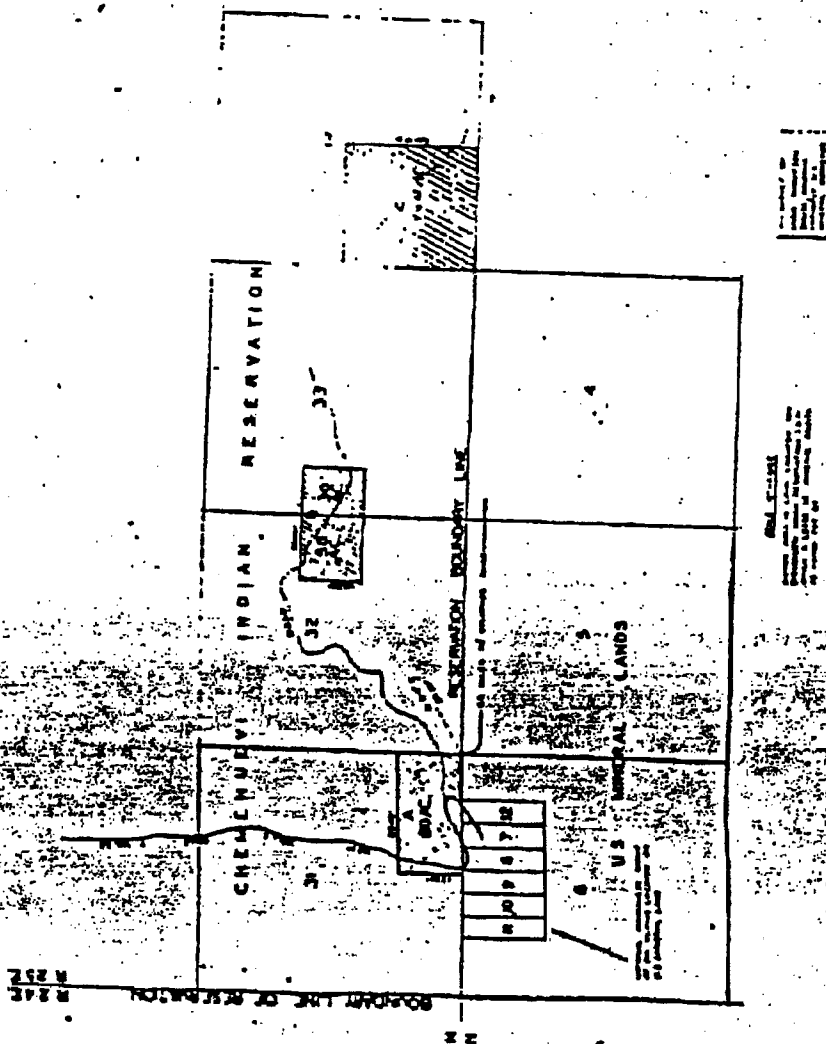


Fig. 3. Map of Chemehuevi Indian Reservation [c. 1956]  
 (Thompson n.d.).

previously approved such leases was found in March, 1956, not to have any legal authority in that its members were affiliated with the Colorado River Reservation. Only Chemehuevi who were not affiliated with that reservation or who had public domain allotments could authorize such leases concluded B. I. A. officials (Stewart 1955; Nelson 1956).

The Chemehuevi Indians secured interests in several reservations. Some affiliated with the Indians of the Colorado River Reservation and took allotments on those lands near Parker, Arizona. Others were affiliated with the Augustine Reservation, established in 1891 in California. In 1970 two persons, identified as "Cahuilla-Chemehuevi" resided on this reservation. The B. I. A. reported that 150 acres were allotted and 342 remained as tribal lands (Heizer 1978:585). The Chemehuevi also secured the Twenty-Nine Palms Reservation, established in 1895 in California. In 1973 this tract of 162.13 acres had no residents, but 12 Chemehuevi retained an interest in the land (Heizer 1978:612).

## IV. ACCESS TO ALLEN JAYNE'S LANDS

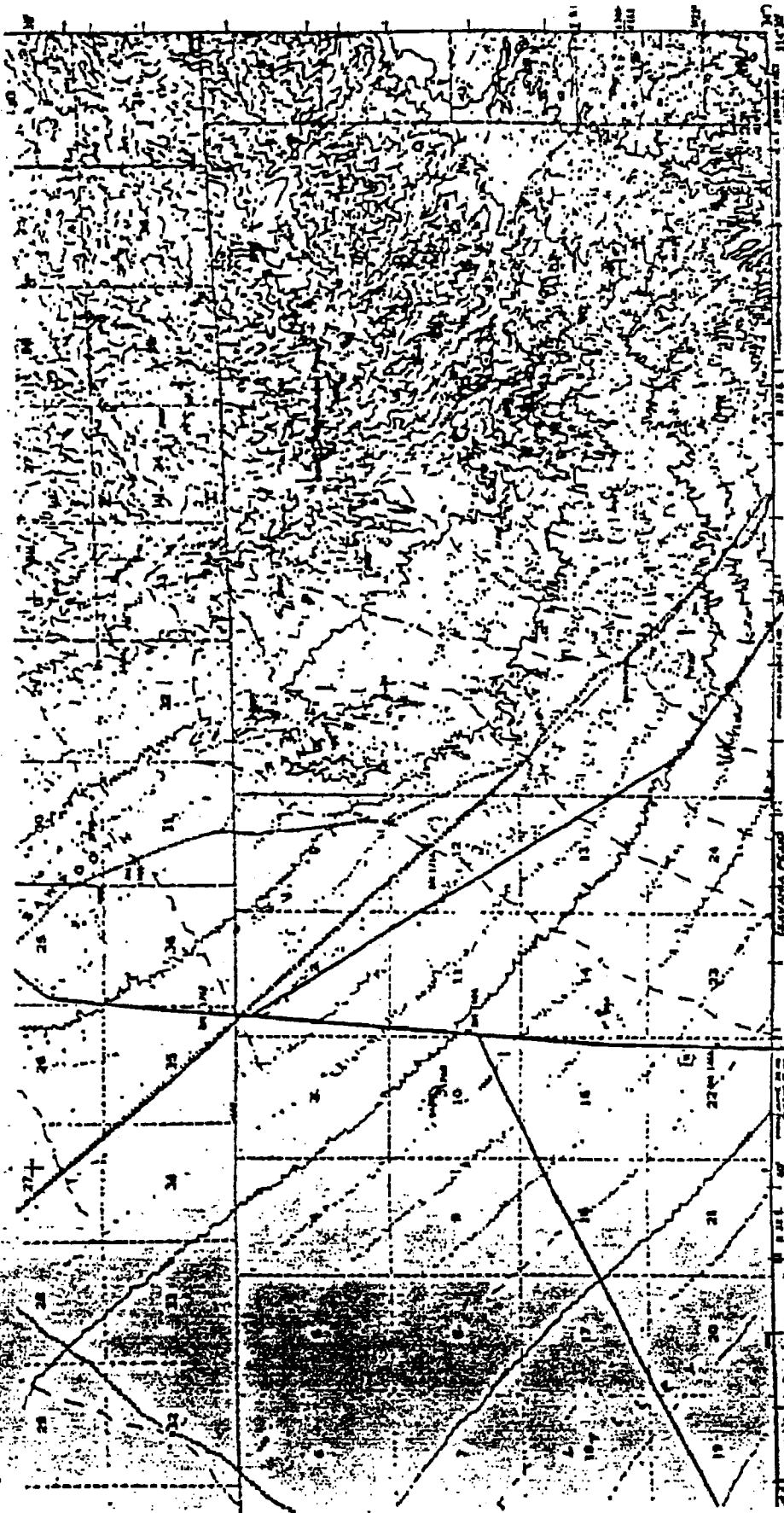
Documentary materials confirm the existence of routes of access or rights-of-way to and through Section 1 of T5N, R24E, San Bernardino Meridian, California. The earliest such record is of a major trail along the west bank of the Colorado River. In 1904 this trail traversed the east half of Section 1 in a north-south direction. Another trail, a mile to the east, followed the margin of the river. This trail was documented by the U. S. Geological Survey in its topographic quadrangle map (U. S. Geological Survey, 1904). This trail extended south into the Chemehuevi Valley where it joined a road system heading westerly from Liverpool Landing to West Well and beyond (U. S. Geological Survey 1911) [See Fig 4.]

W. B. Kimmel of the General Land Office noted this road system when in 1920 he mounted a resurvey of T5N, R25E, S.B.M. Moving north "on a true line bet[ween] secs. 7 and 12," Kimmel found at 31.25 chains "Old road, bears NE. and SW" (General Land Office 1920:7).

In 1951 an unimproved road traversed the eastern half of Section 1 in a northeast-southwest direction. This road extended from the margin of Lake Havasu across the section and entered section 12 at a mid-point on the north line of that tract. The road then moved almost due south for several miles. (U. S. Geological Survey 1951) [See Fig. 5].

Between September 29, 1967, and March 27, 1968, Claude

PAGE 32 or 35 ?



**Map Classification**  
 Contour Interval: 10 Feet  
 Horizontal Scale: 1" = 25000 Feet  
 Vertical Scale: 1" = 2500 Feet

**Legend**  
 U.S. Route: U.S. Route  
 State Route: State Route  
 Section Line: Section Line  
 Township and Range: Township and Range

**Scale 1:25000**  
 CONTOUR INTERVAL 10 FEET  
 HORIZONTAL SCALE 1" = 25000 FEET  
 VERTICAL SCALE 1" = 2500 FEET

**U. S. Geological Survey**  
 1950 Sawtooth Range, Calif. (Topographic Quadrangle Map)  
 Government Printing Office, Washington, D. C.

**64980a**  
 62  
 USGS  
 1953  
 File 6000

**SAWTOOTH RANGE CALIF.**  
 1950-1953

Fig. 5 Sawtooth Range, Calif. (U. S. Geological Survey 1950)

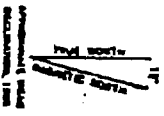
W. Hamon, Cadastral Surveyor, carried out a "Dependent Resurvey" of lands in T5N, R24E, S. B. M., Calif. In running the north-south line between sections 1 and 2, Hamon found at 5 chains a "Graded road" which dead ended to the west. Running the south boundary of Section 1 between that section and Section 12, Hamon found at 41.70 chains a "Graded dirt road, bears NE and SW." At 70.10 chains he found a "Hard surface road, bears N. and S." These survey field notes confirmed that in 1968 access routes extended into Section 1 (Bureau of Land Management 1975:11).

The U. S. Geological Survey maps and the field notes of the cadastral surveyors prove conclusively that Section 1 is not "landlocked." The general public had access to Section 1 via the trail system documented as early as 1904, more than three years prior to the secretarial withdrawal of lands for the proposed Chemehuevi Valley Reservation. This access or right-of-way persisted through the twentieth century and was again documented in the 1951 quadrangle by the U. S. Geological Survey. The roads were also attested to in 1968 by the cadastral surveyor.

The Jayne lands in sections 9 and 17 are to the west of the boundary of the Chemehuevi Indian Reservation. The Chemehuevi tribe has no jurisdiction over access to these parcels from the north, south, or west. No cartographic information was located to confirm access roads or trails into these tracts.

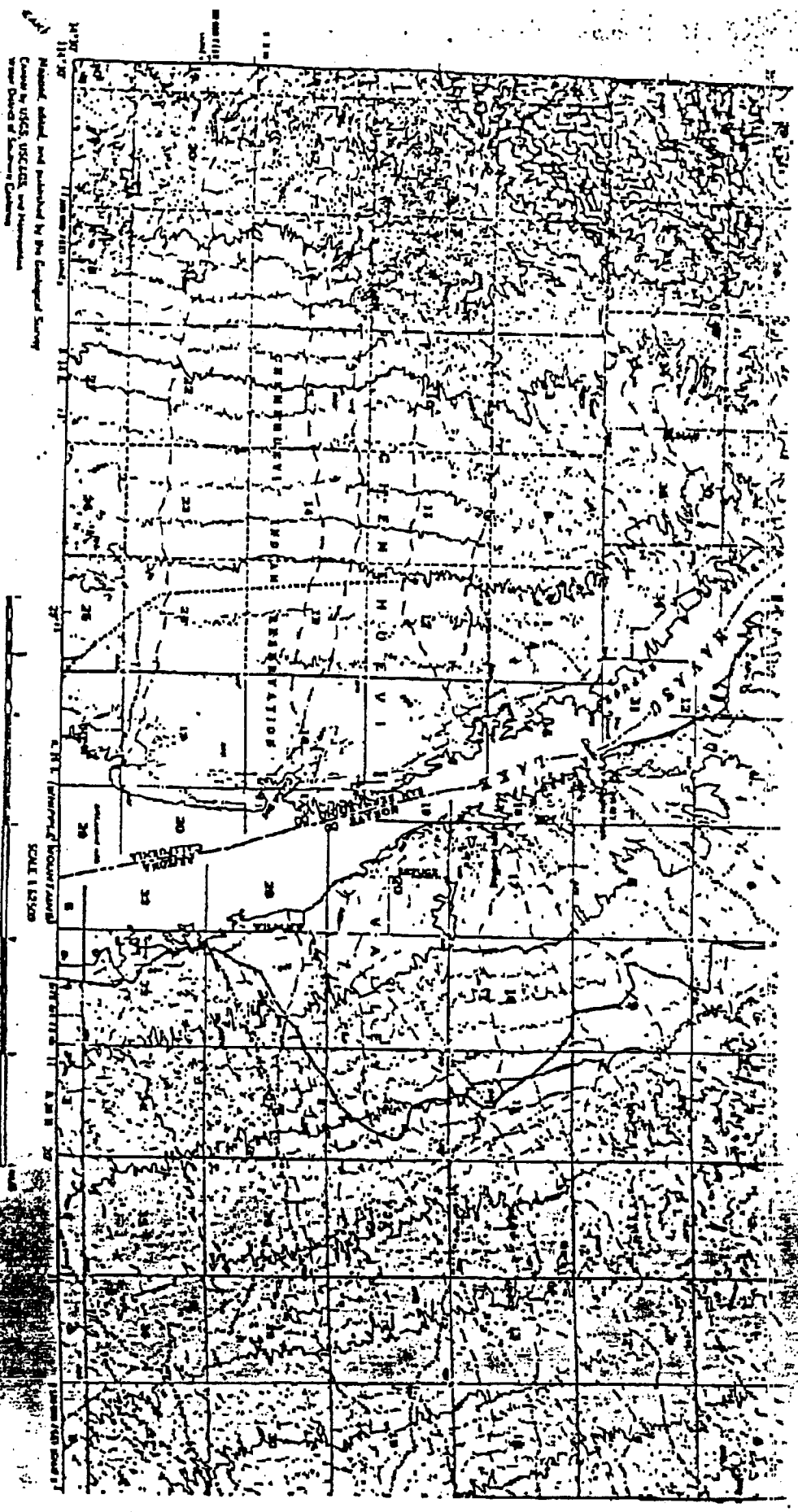
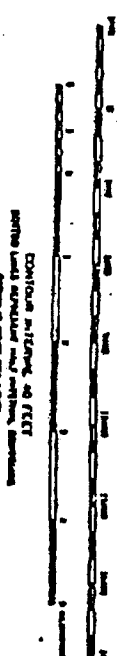
5. Topock, Ariz. Topographic Quadrangle (U. S. Geological Survey 1951)

Reproduced from aerial photographs by photogrammetric methods. Contour interval, 100 feet. Horizontal scale, 1:62,500. Vertical scale, 1:31,250. Contour interval, 100 feet. Horizontal scale, 1:62,500. Vertical scale, 1:31,250. Contour interval, 100 feet. Horizontal scale, 1:62,500. Vertical scale, 1:31,250.



U. S. Geological Survey

1951 Topock, Ariz. Topographic Quadrangle Map. Government Printing Office, Washington, D. C.



613301  
62  
1951  
USGS

## V. CONCLUSIONS

This review of manuscript and published materials relating to certain lands within or adjacent to the Chemehuevi Valley Reservation leads to the following conclusions:

- Section 1, T5N, R24E, San Bernardino Meridian, California, has well documented access through a trail (1904), an unimproved road (1951), and a "hard surface road" (1968).
- On September 8, 1903, the Secretary of the Interior made a first form "temporary withdrawal" of lands for a Colorado River reclamation project. This action included all of section 1.
- On February 2, 1907, the Secretary of the Interior withdrew lands on the west bank of the Colorado River for anticipated legislation to create a Chemehuevi Valley Indian Reservation. No legislation ever passed Congress to make legal such a withdrawal. This withdrawal included all of section 1.
- Reservations were created by treaties, Executive Orders of the President, or Acts of Congress. No other secretarial withdrawal is known as the legal basis for

establishing a permanent reservation.

° Fractional parts of sections 1, 9 and 17, T5N, R24E, S.B.M., Calif., were patented railroad grants in 1916. These lands have not returned to federal ownership, though they were identified in secretarial withdrawals for reclamation projects (1930, 1931).

° The B. I. A. between 1907 and 1932 did not consider the secretarial withdrawal of 1907 as having created a reservation:

--the B. I. A. attempted to get Chemehuevi Indians to locate on the Colorado River Reservation at Parker, Arizona, a place in which it deemed they had an interest;

--the B. I. A. made only "public domain" [4th Section] allotments to Chemehuevis on the west bank of the Colorado River, further evidence that it did not perceive those lands to be within a reservation.

° By 1932 the B. I. A. considered the secretarial withdrawal of lands on the west bank of the Colorado a reservation:



--the B. I. A. estimated 35,000 acres were in the tract;

--the B. I. A. found a total population of two families on the tract.

- In 1936 the B. I. A. reported on the lands within the Chemehuevi Valley Reservation:

--440 acres were in allotments;

--7,560 acres were tribal lands. [No explanation accounts for the discrepancy between the 35,000 acres in 1932 and the 7,560 acres in 1936.]

- In 1940 the B. I. A. ruled that only Chemehuevis holding public domain allotments or not affiliated with the Colorado River Reservation had an interest in the Chemehuevi Valley Reservation.

- In 1944 the B. I. A. reported that the Chemehuevi Valley Reservation contained 20,224 acres. All of this was tribal land.

- In 1946 the B. I. A. reported that the Chemehuevi Valley Reservation was reduced by 7,776 acres in 1940 by the

construction of Parker Dam.

- In 1955-56 the B. I. A. exercised oversight on the negotiation of mineral leases on the Chemehuevi Valley Reservation.
- On November 13, 1955, the Bureau of Land Management revoked the reclamation proclamation of the Secretary of the Interior of September 8, 1903, an action relating to Section 1.
- On October 21, 1976, all of sections 9 and 17 were included in the California Desert Conservation Area.

The following observations emerge from this research project:

- Sections 9 and 17 have no documented access, but are outside the bounds of any Chemehuevi Valley Reservation
- The fractional parts of sections 9 and 17, in spite of private ownership, were included in 1976 in the California Desert Conservation Area. This legislation may severely limit the use of this land and may constitute a taking.

... parts of section 1 in private ownership  
were freed from the reclamation withdrawal by a BLM  
order in 1955.

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