



# Raymond Yowell

*Great Basin Indian Archive*

GBIA 007A



**Oral History Interview by**

**Norm Cavanaugh**

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**IEN (Indigenous Environmental Network)**



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Y: Welcome. I've been told to, or asked to, give a history of the struggle that the Shoshone have been through for quite a number of years. And a little bit of background, the Shoshone Nation per se—the Shoshone Nation, per se, is made up, or covered the territory, of what is now six states: Wyoming, Idaho, Oregon, Utah, Nevada, and California. That is the makeup of the Shoshone Nation territory as a whole. Also, there's a splinter group called the Comanche that splintered off from the main Shoshone Nation about 1701. And they occupied the country of part of Colorado, New Mexico, Oklahoma, and Texas. So when you talk about the Shoshone Nation writ large, you're talking practically about the whole West. Lot of people back before the Europeans arrived. Disease took a heavy toll on the Shoshones, as well as, you know, among other Indian nations. Battles, war also took a toll. The Shoshones fought as best they could with rocks and sticks, against guns and gunpowder and cannons. And of course, eventually, we lost. Before 1863, there was no such entity as the Western Shoshone Nation, or the Western Shoshone Tribe. That came about via treaties that were made by the United States with the Shoshone Nation. Because the Shoshone covered such a large area, such a large country, they couldn't get the Shoshone Nation per se in one place. So they ended up making five treaties with the Shoshone Nation proper. The Eastern Shoshone—these are the names that they ended up with—the Eastern Shoshone, the Northwestern Shoshone, there's one in the middle of Utah, at Soda Springs, didn't get a nation name, the Goshute Nation—Goshute Shoshone—and the Western Shoshone. That's when the names of those began. And because of the Treaty, that became the names that we use now. In 1863, when they made the Treaty with the Shoshone, basically they were first Treaties of Peace

and Friendship. Later on, they came back to the Eastern Shoshone, the Northwestern Shoshone, I'm not sure about the Soda Springs—but they never came back to the Goshute Shoshone or the Western Shoshone for a treaty of land cession. So, that was our understanding of how the Treaty went. The struggle started way, way back, almost right after the Treaty of Peace and Friendship was made, as far as the Western Shoshone are concerned. They began to ask, when white settlers began to come in here, how the Shoshone land was taken. And being uneducated at that time in the white language, and not going to the white schools, they could not put their position forward the way that they needed to do. And from leadership to leadership down through the years, that question remained: how did United States government get the territory of the Western Shoshone Nation? In 1861—let me go back a little bit. In 1787, the United States was about 10 years old, having become a nation in 1776. And one of the things that they passed in 1787 was what they call the Northwest Ordinance. And this ordinance applies to all Shoshone, or all Indian nations within United States. In simple terms, it says that Indian land will not be taken without their consent. Now, when we're talking about consent, this turned out to be, in later practice, treaties of cession, where Indian nations would cede their land to the United States via a treaty. And so, in 1848, when the Treaty of Guadalupe Hidalgo was signed—which supposedly took in Shoshone country as well as other Indian nations—that's what the United States hangs its hat on of how they acquired the territory of the Western Shoshone Nation. But if you look at Article 6 of that treaty, it does not say that. It does not say that the Mexicans had extinguished the title of any of the Indian nations within the area that they claimed. And a close examination of Article 11 says, "it is contemplated"—and the word 'contemplated' means what you think about

it, or thought it to be—"in the future"—in other words, not with the signing of that treaty, but sometime in the future—"to be within boundaries of the United States"—and the next key phrase is "now occupied by savage Indian tribes." And the Western Shoshone was one of the so-called "savage Indian tribes" that occupied our territory. So, that's, United States hangs its hat that that's how it got the land, the whole land that the Mexicans supposedly had. In 1861, when they founded the territory of Nevada, the Congress went right back to the 1787 Northwest Ordinance, and included that in the Nevada Territory Act: that Indian land within the territory of Nevada will not be included in the territory without their consent. And their consent would be by treaty. We have never signed a treaty ceding our land to the United States. So, the struggle, like I said, started almost from the signing of the treaty, and continued down through the years as best people could. And as time went on, we got a little bit more educated, and began to read some of the papers and some of the laws that had been passed. Unfortunately, in the mid-1940s, 1946, they passed what they call the Indian Claims Commission. Maybe some of you might be familiar with the Indian Claims Commission. And unfortunately, and sadly, a group of Shoshones applied for a claim within that system. And even though the traditional government at that time, the members of the traditional government were still around, the continued entity that had signed the 1863 treaty, stated that they did not need to submit a claim, because the land had never been taken. But of course, the white government seized upon that issue, and seized upon the fact that there were some people that wanted to file a claim. And so it was filed in the Indian Claims Commission. And that proceeded down through its process for a number of years. At every meeting that happened within the territory, when the Indian Claims Commission lawyers came here,

there was always a group that protested that action, and asked the question, “How did United States acquire the territory of the Western Shoshone Nation?” And the answer that was finally developed after some time was, “Oh, it happened through gradual encroachment. Gradual encroachment of the white settlers coming in here to settle their land.” And early on, we didn’t know how to counter that, that claim. Because you see, look around, there’s towns, there’s cities, and ranches, and other things that’s going on. But as we looked at it more, and as we become more educated, we began to ask: the whole state of Nevada, there’s only 13 percent of it that’s privately owned. And then, Shoshone country lays in the most arid and most desolate part of that state. And we never have determined how much of Shoshone country is actually private land by the American citizens. And we began to ask the question, “If it’s gradual encroachments, how many encroachers do you have to have to be able to say you effected an encroachment?” And that was never determined. The lawyers that handled the Indian Claims Commission never asked that question. And looking back, we see now that all they wanted was to make money. The lawyers that happened to represent the Western Shoshone Nation were the ones that wrote the law itself. Wilkinson, Kragun, and Barker. Washington, D.C. law firm. They wrote the Indian Claims Commission law, and they wrote in there that they would do it on the contingency—and that means that they would not be paid up front, but they would be paid with whatever they would win. And so their motivation, in order to get paid, was to show that the Western Shoshone had lost their land. If they could show that they did not lose their land, they were not going to get paid. They got 10 percent, the dollar amount value that would be determined through the Indian Claims Commission process. So, that was the motivation of the lawyers that represented the Shoshone Nation.

Later on, when during my tenure, when I became interested in what was going on, we began to look back into the various processes. Like I said, the Nevada Territory Act, and other things that should have been done. The United States purports to be a nation of law. The rule of law nation. In language terms, that means that when the law is set up, it has to be followed to the letter. And sadly, probably not only in the Shoshone case, but in many other Indian nations' cases, that was not done. They ignored the rule of law, and conquered under rule of law. And we mounted a struggle as best we could, I guess beginning, probably, in the 1930s. The leaders at that time, like I said, maybe had a third grade education or a fifth grade education, and [\_\_inaudible at 12:31\_\_]. But as time went on, their education became a little higher, and so they began to look into various documents, as to the rule of law and how it was supposed to be followed. What we found out was that Indian Claims Commission lawyers did *not* look at the rule of law. They did *not* look at the Nevada Territorial Act. They did *not* look at the 1787 Northwest Ordinance. And instead, proceeded as best they could to say that Shoshone land had been taken, and all they could get was money. And they would tell us this when they came out here. "You can't get your land back." And they didn't say how we lost it. Later on, they said it was gradual encroachment. But all we could get was money. We couldn't get the land back. But there's always a group, like I said, that never took that as an acceptable answer, and continued to raise that question, and to demonstrate through various ways their dissatisfaction with what was going on. In 1980, the last event that happened in Indian Claims Commission is what is called the Hearing of Record. And that hearing of record has to be held within the territory of the Indian nation that's being affected. They held that hearing of record in Elko in July of 1980. And we mounted a defense, an

opposition to that—the traditional people that still wanted that question answered. And as I remember back, I think the second or the third testifier in that hearing of record asked the hearing officer how much, “What law did the United States use to take the Shoshone land?” And the hearing officer couldn’t answer the question. And when that happened, every Shoshone that came up to testify rejected the claim, with the words, “Until you can answer that question, keep your money. We don’t want it.” And so the claim was rejected at that time. This is an official action. This was a hearing set up by the Bureau of Indian Affairs, it was an official action. In 1983—well, I’ll begin earlier: in 1981, the various Indian reservation cattlemen began to talk. “Why are we paying the BLM for our land, for grazing cattle on our land?” It turns out that, maybe you’re not aware, but the agricultural reservations are things that, Western Shoshone territory did not include the grazing land, but left it purportedly in the hands of the BLM—Bureau of Land Management. So in 1981, 1982, those cattlemen on these reservations began to talk. And the Duckwater Reservation took the lead, and told the BLM, presented them a letter, “We’re not going to pay you until you can show us how you took our land.” And the South Fork Reservation followed suit in 1983, wrote the BLM the letter saying, “We’re not going to pay you until you can show us how you took the land.” The Yomba Reservation followed suit with the same question. And the Dann sisters were already not paying the BLM. And so you had the four different entities that were forcing the United States by action to show how they acquired the territory of the Western Shoshone Nation. And our main position during all this time was, we’re open to negotiations. We’re open to negotiations. If you want to talk with us about this, we’re willing to sit down with you at the table and discuss this matter, and enter into various agreements as far as the use of

the land is concerned. And one of the positions that we had was, we're going to keep a certain amount of that for ourselves. You can't show how you got it, so we're going to keep a certain portion of it for ourselves, and use it for whatever purpose *we* want. But there's other lands that we might let you use under certain conditions, under certain agreements. Number one, the storage of high-level nuclear waste was not a negotiable item. That was not even considered. We don't want a deal, we don't want it. The testing of the nuclear weapons was also non-negotiable. We don't want it. We don't want that being done in our territory. We were successful in getting five negotiation sessions with United States government, and basically it was the Bureau of Indian Affairs. If you think about that, those of you that are fated with private governments, the United States has a position that they are our trustee, and then the Bureau of Indian Affairs is our trustee. And so, later on, when we got to thinking about these negotiations with the Bureau of Indian Affairs being the main entities at the table, it dawned on us: why are we negotiating with our trustee? Shouldn't we consider an outsider's opinion? You're supposed to be our trustees, you'd be on our side. But they're the ones across the table. And of course, being novices, and inexperienced, and those kinds of things, it didn't dawn on us until afterwards, when we got to thinking back. And looking at some of the videos that was taken of those happenings. And unfortunately, the Dann case came along, and had started before that, and was in the court process. And in 1985—well, it went into [19]84, then rendered decision [19]85, that the land had been taken by gradual encroachment according to what the Indian Claims Commission had decided. And therefore, we cannot raise that issue. So when the United States, when the Supreme Court of the United States came out with that decision, the United States, they said, "We don't

have to talk with them no more. They've lost the land, and that's the end of that." And so that's basically where the struggle ended internally. And by that, I mean *in* the United States. We then devoted our efforts to the international scene, since we had lost in the local area, and internally in the United States, we went to the international scene. The first time we went to the other Dann case was to the Organization of American States, which is basically a UN for North and South America. And that case was in there for a number of years. In the end, they came out, and they supported every one of our positions. They did not reject any of the positions that we had put before them. We were right on every point: the lands were not taken, the human rights had been violated, and so forth. I'll have Carrie talk more about that when she talks. And what happened was, then, the United States basically ignored that. Even though they're part of the Organization of American States. And when they joined that, they say they pledged to do whatever that entity finds, they will comply with it. But in this case, they just ignored it. And so then, we made a move to the United Nations, to the Elimination for Racial Discrimination—CERD. Committee for Elimination of Racial Discrimination. And then that was there for a number of years, and in the end *they* come out with the same decision as the Organization of American States. That Western Shoshone land has never been taken the way it should have been taken, and ordered the United States to get with the Western Shoshone to resolve the situation. And again, the United States has drug its feet. It has not indicated any willingness to talk any further with the Western Shoshone. And so, basically, that's the history of our struggle here. And as we sit here today, the United States has yet to show any document of how it acquired the territory of the Western Shoshone Nation. And that remained to be answered, and there's people that are still

going to carry that forward on the international scene. And I myself was part of the Western Shoshone National Council, and led that fight for quite a number of years. I'm getting up in age, and I'm getting hard to get around, and my feeling is gone. And I have stepped down from that position, and am no longer at the forefront. But I'm still interested, and still support the best I can of that fight. So thank you very much.

[End of recording]