

## BEFORE THE INDIAN CLAIMS COMMISSION

THE MIAMI TRIBE OF OKLAHOMA,	)	
also known as THE MIAMI TRIBE,	)	
and HARLEY T. PALMER, FRANK C.	)	
POOLER and DAVID LEONARD, as	)	
representatives of THE MIAMI	)	
TRIBE and all of the members	)	
thereof,	)	
	)	
Petitioners,	)	Docket No. 67 (Consolidated) and
	)	Docket Nos. 124, 314 and 337
v.	)	consolidated therewith
	)	
THE UNITED STATES OF AMERICA,	)	INTERVENORS -
	)	Docket Nos. 15-D, 29-B, 89,
Defendant.	)	311 and 315

Decided: March 26, 1954

FINDINGS OF FACT

The Commission makes the following findings of fact:

1. The petitioners in Docket No. 67 are entitled to institute and maintain a claim under the Indian Claims Commission Act arising out of the cessions made by the Miami Tribe on October 6, 1818.

(This finding is not intended to be a finding granting to petitioners in Dkt. 67 the exclusive right to maintain such claim; nor to in anywise affect the determination of the right of the petitioners in Docket 124 to maintain a claim under the Indian Claims Commission Act based on the cession of October 6, 1818, which question remains for future determination.)

The defendant in its brief at pages 3, 9 and 40 admits the correctness of the above finding and eliminates the same as an issue in the case, and it is, therefore, thought unnecessary to make evidentiary findings as to the evidence upon which same is based.

2. The United States recognized the exclusive title of the Miami Tribe to the land ceded on October 6, 1818 (being Area 99 according to Royce's Map of Indiana) subject only to similarly recognized interests in the Delaware and Wea tribes.

EVIDENTIARY FINDINGS IN SUPPORT OF BASIC FINDING NO. 2

The Miami tribe originally included both the Eel Rivers and the Weas.

In the treaty of Grouseland, August 21, 1805, 7 Stat. 91, the United States stipulated that "the tribes which are now called the Miamies, Eel Rivers and Weas were formerly and still consider themselves one nation." On March 22, 1814, General William Henry Harrison, then territorial governor, wrote to the Secretary of War:

"The Miamies have their principal settlements at the forks of the Wabash, thirty miles from fort Wayne; and at Mississinaway, thirty miles lower down. A band of them under the name of Weas, have resided on the Wabash sixty miles above Vincennes; and another under the Turtle on Eel River, a branch of the Wabash, twenty miles northwest of fort Wayne. By an artifice of the Little Turtle these three bands were passed on general Wayne as distinct tribes, and an annuity was granted to each. The Eel River and Weas however to this day call themselves Miamies, and are recognized as such by the Mississinaway band \*\*\*."

The Eel Rivers remained at all times a part of the Miami. The Weas had their settlements well to the west of those of the other constituent bands of the Miami Nation. The Wea country was in the western part of Indiana, along the Wabash River, north of Vincennes. In the 1809 treaty negotiations, the Miami chiefs repeatedly referred to the land on the Wabash itself as occupied by the Weas, "our younger brothers." Despite the efforts of Governor Harrison in 1809 to

persuade the Weas of the advantages of "removing from the neighborhood of Vincennes and settling higher up the country with their older brothers, the Miamies"; the Weas, as late as 1818, continued to occupy land in western Indiana along the Wabash River. By the treaty of October 2, 1818, 7 Stat. 186, the Weas ceded to the United States all the lands claimed or owned by them in Indiana, except for a small reservation on the Wabash River in the Western part of Indiana (Royce, Area 114).

The treaty of Grouseland of 1805, which recognized the Weas as belonging to the Miami Nation was actually the last Miami treaty in which the Weas directly participated. The treaty of September 30, 1809, 7 Stat. 113, 115, was negotiated with the Miamis, including the El Rivers, at Fort Wayne, without the presence of any Wea delegates. A supplementary article to this treaty, 7 Stat. 115, stated that "the greater part of the lands ceded to the United States, by the treaty this day concluded, was the exclusive property of the Miami Nation and guaranteed to them by the treaty of Grouseland." Wea consent to that part of the treaty which affected lands within the Wea domination was obtained at Vincennes by the separate convention of October 26, 1809, 7 Stat. 116, following separate negotiations with the Wea chiefs. Following the 1809 treaties, there was no apparent treaty connection, even to the extent to requiring consent, between the Miami Nation and the Weas. During the War of 1812 a peace treaty was made on behalf of the Miamis (September 8, 1815, 7 Stat. 131), more than eleven months before a similar peace treaty was made by the Weas (August 24, 1816, 7 Stat. 146).

The Miamis did not participate in the treaty of the Wea tribe of October 2, 1818, nor did the Weas participate in the cession of October 6, 1818, by the Miami Nation. Two years later, the Weas removed completely from Indiana (Wea treaty of Vincennes, August 11, 1820, 7 Stat. 209), while the Miami tribe continued to reside in Indiana until 1846.

The separation of the Weas from the Miami Nation occurred after 1805 and before the treaties of 1818.

By the treaty of Greenville, August 3, 1795 (7 Stat. 49) between the United States and 12 Indian tribes, including the Miamis, Eel River and Weas, the United States relinquished to these tribes all its claims to certain lands in Ohio, Indiana and Illinois, including Area 99. The United States expressly acknowledged the exclusive rights of the Indians to these lands.

On August 3, 1795, at Greenville, a treaty of peace was entered into between the United States, represented by General Anthony Wayne, and "the tribes of Indians, called the Wyandots, Delawares, Shawanoes, Ottawas, Chipewas, Putawatimes, Miamis, Eel-river, Weea's, Kickapoos, Piankashaws, and Kaskaskias." Article III of the treaty fixed "the general boundary line between the lands of the United States and the lands of said Indian tribes" and exacted certain cessions from the Indians. Article IV provided that

"the United States relinquish their claims to all other Indian lands northward of the river Ohio, eastward of the Mississippi, and westward and southward of the Great Lakes and the waters uniting them, according to the boundary line agreed on by the United States and the king of Great-Britain, in the treaty of peace made between them in the year 1783 \*\*\*\*\*"

subject to certain excepted tracts.

Area 99 is on the Indians' side of the Greenville treaty line and within the area expressly relinquished to the Indians.

Article V provided as follows:

"To prevent any misunderstanding about the Indian lands relinquished by the United States in the fourth article, it is now explicitly declared, that the meaning of that relinquishment is this: The Indian tribes who have a right to those lands, are quietly to enjoy them, hunting, planting, and dwelling thereon so long as they please, without any molestation from the United States; but when those tribes, or any of them, shall be disposed to sell their lands, or any part of them, they are to be sold only to the United States; and until such sale, the United States will protect all the said Indian tribes, in the quiet enjoyment of their lands against all citizens of the United States, and against all other white persons who intrude upon the same. And the said Indian tribes again acknowledge themselves to be under the protection of the said United States and no other power whatever,"

No part of Area 99 was ceded to the United States by the treaty of August 21, 1805, 7 Stat. 91, called the treaty of Grouseland or by any former treaty.

Both before and after the treaty of Grouseland the title of the Miami Nation to the country on the Wabash, including Area 99, was consistently and continuously recognized by the responsible officials of the United States, subject only to the interests of the Delawares in the White River country, as herein above noted, and, after the separation of the Weas, to the rights of the Weas as former members of the Miami Nation.

Governor Harrison, who was not only the territorial Governor of Indiana, but also the sole treaty commissioner in all treaties of

cession made by the Miamis and other tribes in the area between 1803 and 1809 had acknowledged Miami title to the country on the Wabash as early as March 3, 1803. In a report to the Secretary of War on that date, Governor Harrison stated:

"The Potawatomes so far from having any claim to land on the South East side of the Wabash acknowledge that they have trespassed upon the Miamis by settling on the north bank of that river and it has been an object with the Turtle and Wells for several years to get them to remain."

In a similar report made to the Secretary of War on August 26, 1805, reporting on the treaty of Grouseland, Harrison stated:

"The admission of the Pattawatamies, as a party to the treaty, could not well be avoided, under the circumstances which gave rise to the conference, and I am confident that it will eventually be highly advantageous to us. They have given up all right to interfere in any future sales of lands by the Miamies, on the Wabash and its waters. The guarantee of those lands to the three tribes, who call themselves Miamies, could not be avoided, as they insisted upon it with the most persevering obstinacy. But, I conceive that it will be no difficult matter to get them, in the course of a few years, to make a division of the land that they now hold in common. At any rate, a point of much consequence has been gained, by getting the other tribes to acknowledge their exclusive title to the country on the Wabash, above the Vincennes tract."

In negotiations at Ft. Wayne on October 30, 1809, Harrison reported that the chief of the Eel River Miamis

"drew out the Treaty of Grouseland. 'Father--Here are your own words, in this paper you promised that you would consider the Miamies as the owners of the land on the Wabash. Why then are you about to purchase it from others?' The Governor assured them that it never was his intention to purchase the land from the other Tribes, that he had always said and was ready now to confess that the land belonged to the Miamies and to no other Tribe.

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\*\*\*\* it was not the intention of the Governor to put anything in the Treaty which would in the least alter their claim to their lands on the Wabash, as established by the Treaty of Grouseland unless they chose to satisfy the Delawares with respect to their claim to the Country Watered by the White River."

Following the execution of the treaty of 1809, in which the Miamis and Bel Rivers ceded certain tracts within the country on the Wabash and its waters, a supplementary treaty was entered into with the Miamis and Bel Rivers which recited that:

"the greater part of the lands ceded to the United States, by the treaty this day concluded was the exclusive property of the Miami Nation and guaranteed to them by the treaty of Grouseland."

In reporting on the 1809 treaties, Harrison stated to the Secretary of War on November 3, 1809:

"The Treaty as it now stands is nearly what the Miamis wished--the other Tribes have been admitted to it only as their allies, and their title to the lands on the Wabash left in statu quo."

In a further report made by Harrison to the territorial legislature of Indiana on November 12, 1810, the Governor stated:

"Upon this principle, in several of the treaties which have been made, tribes have been admitted to a participation in their benefits who had no title to the lands ceded, merely because They had been accustomed to hunt upon and derive part of their support from them. For this reason, and to prevent the Miamies, who were the real owners of the land, from experiencing any ill effects, from their resentment, in case they were excluded, the Delawares, Putawatamies, and Kickapoos, were made parties to the late treaty of Fort Wayne. No other tribe was admitted because it never had been suggested that any other could plead even the title of use or occupancy of the lands which at that time were conveyed to the United States."

Reporting to the Secretary of War on March 22, 1814, Harrison stated:

























