

BEFORE THE INDIAN CLAIMS COMMISSION

ABSENTEE DELAWARE TRIBE OF
OKLAHOMA, DELAWARE NATION,
ex rel. W. E. EXENDINE and
MYRTLE HOLDER,

Petitioners,

v.

UNITED STATES OF AMERICA,

Defendant.

Docket No. 337

INTERLOCUTORY ORDER AND CONCLUSIONS OF LAW

Petitioners having, on January 16, 1957, moved for an order allowing all documents introduced and depositions taken in Consolidated Dockets 27-A and 241 on the question of petitioners' capacity and standing to sue to be used and applied in this Docket, and declaring its findings of fact and opinion of October 23, 1952, 2 Ind. Cls. Comm. 253, aff. 130 C. Cls. 782, as controlling the issues of petitioners' capacity and standing to sue in this Docket, and the said motion having duly come on to be heard on February 20, 1957, and the Commission having heard the argument of counsel for all parties and having allowed the defendant additional time to introduce further evidence, and the defendant having since informed the Commission that it does not desire to introduce further evidence, and it appearing to the Commission that petitioners' motion should be granted,

IT IS THEREFORE HEREBY ORDERED:

(1) That petitioners' motion be, and it is hereby sustained and granted;

(2) That the parties hereto shall, if and when directed by the Commission, respectively provide and file in this cause copies of the evidence introduced in Consolidated Dockets Nos. 27-A and 241 as follows: From Docket 27-A, petitioners' exhibits numbered 1 to 18, inclusive, and Exhibit 20 (depositions of Barbles and Woodward); from Docket 241, petitioners' exhibits numbered 1 to 106, inclusive, and depositions 1 and 2, and defendant's exhibits numbered 1, 1-A, 3 through 21, 22 through 28 and 30 through 41; and such other evidence introduced in either of said dockets as may be required by the Commission or designated by either party hereto, relevant to the petitioners' capacity to maintain the claim herein;

Upon findings of fact made of even date herewith, which are made part of this order, the Commission concludes as a matter of law; that

(1) petitioners have the capacity to prosecute this claim on behalf of the Delaware Nation as constituted in 1818;

(2) any recovery herein shall be for the benefit of all the descendants of the Delaware Nation as constituted in 1818, including members of the present-day Delaware Tribe of Indians;

The Commission having held in its order of September 17, 1956, in Consolidated Docket No. 67, "On October 3, 1818, the Delaware Tribe had a recognized one-half interest in 3,859,000 acres in the southern part of Area 99 being the country watered by the White River," (Section 1, paragraph 4 of said order), and having decided that the reasonable market value of said land was 75¢ per acre (Finding 46, Consolidated Docket No. 67);

IT IS FURTHER ORDERED, That the parties now proceed with the presentation of evidence relating to the consideration paid to the Delaware Nation for said lands.

Dated at Washington, D. C., this 20th day of September, 1957.

Edgar E. Witt
Chief Commissioner

Louis J. O'Marr
Associate Commissioner

Wm. M. Holt
Associate Commissioner