

BEFORE THE INDIAN CLAIMS COMMISSION

ABSENTEE DELAWARE TRIBE OF OKLAHOMA,)
DELAWARE NATION, EX REL., W. E.)
EXENDINE AND MYRTLE HOLDER,)
)
Petitioners,)
)
v.) Docket No. 337
)
UNITED STATES OF AMERICA,)
)
Defendant.)

INTERLOCUTORY ORDER

Upon the findings of fact made this date herein; upon the Commission's Findings 5-9 in Docket 27-A, 241 consolidated (2 Ind. Cl. Comm. 253) entered on October 23, 1952; upon the Commission's Findings 2, 3, 4(2) in Docket 67 consolidated (2 Ind. Cl. Comm. 617), entered on March 26, 1954, and upon the Commission's Findings 6-46 in Docket 67 consolidated (4 Ind. Cl. Comm. 346), entered on September 17, 1956, as amended by the Commission's additional Findings, Opinion, and Order of June 30, 1960 (9 Ind. Cl. Comm. 1), all of which findings are hereby made a part of this order, the Commission concludes as a matter of law that:

1. The petitioners herein, the Absentee Delaware Tribe of Oklahoma as represented by individual petitioner members, W. E. Exendine and Myrtle Holder, have the right and capacity to bring and maintain this suit under the provisions of the Indian Claims Commission Act (60 Stat. 1049); that
2. Any recovery herein shall be for the benefit of all the descendants of the Delaware Nation as constituted in 1818, including those who are members of the present day Delaware Tribe of Indians; that
3. By the treaty of October 3, 1818 (7 Stat. 188), the Delaware Nation ceded all its right, title, and interest to certain lands in Indiana, and as of the effective date of said treaty the Delaware Nation had a recognized one-half interest in 3,859,000 acres in the southern part of Royce Area 99, being the country watered by the White River; that
4. As of October 6, 1818, the agreed date of evaluation between the parties herein, the subject tract had a fair market value of \$1.15 per acre; and,
5. In consideration for the cession by the Delaware Nation of all its interest in Royce Area 99 under the aforesaid 1818 Treaty, the United States paid the following consideration,

(a) A grant of land in Kansas under the supplemental Treaty of September 24, 1829 (7 Stat. 327), as originally provided for in Article 2 of the 1818 Treaty, of which grant the acreage and the fair market value as of the date of said treaty shall hereafter be determined;

(b) \$14,396.98 to cover the cost of the improvements on the ceded lands and the removal of the Delaware Nation to the west side of the Mississippi River under Article 3 of the 1818 Treaty;

(c) \$78,514.58, being the commuted value of the \$4,000.00 permanent annuity provided for in Article 5 of the 1818 Treaty;

(d) \$18,450.92, being the commuted value of the "Blacksmith annuity" provided for in Article 6 of the 1818 Treaty; and,

(e) \$13,312.25, which was appropriated and disbursed to satisfy certain claims on the Delaware Nation as provided for in Article 8 of the 1818 Treaty.

IT IS THEREFORE ORDERED that this case shall proceed without further delay with the presentation of evidence relating to acreage and fair market value of the land granted under the supplemental Treaty of September 4, 1829 (7 Stat. 327), said valuation to be fixed as of the effective date of the treaty.

IT IS FURTHER ORDERED that the Commission's Findings 47-52 previously entered in this docket on September 20, 1957 (5 Ind. Cl. Comm. 489) are hereby stricken from the record in this case and that the Commission's Order of September 20, 1957, in this docket is hereby amended by striking the ";" following the phrase "to maintain this claim herein" found at the end of paragraph "(2)" on page one of said Order, and substituting in lieu thereof a "." . Said Order is amended further by striking and deleting therefrom all matter on page "2" of said Order beginning with the words "Upon Findings of fact etc.," and ending with the phrase ". . . per acre (Finding 46, consolidated Docket No. 67);" .

Dated at Washington D. C., this 22nd day of June, 1961.

Arthur V. Watkins
Chief Commissioner

Wm. M. Holt
Associate Commissioner

T. Harold Scott
Associate Commissioner