

## BEFORE THE INDIAN CLAIMS COMMISSION

EMIGRANT NEW YORK INDIANS, ex rel.	)	
JULIUS DANFORTH, OSCAR ARCHIQUETTE,	)	
SHERMAN SKENANDORE, MAMIE SMITH,	)	
ARVID E. MILLER AND FRED L. ROBINSON,	)	
THE ONEIDA TRIBE OF INDIANS OF	)	
WISCONSIN AND THE STOCKBRIDGE-	)	
MUNSEE COMMUNITY,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 75
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Decided: October 8, 1962

SUPPLEMENTAL FINDINGS OF FACT

The Commission makes the following additional findings of fact on the issue of value which are supplemental to findings of fact Nos. 1 through 37 as heretofore made.

38. The lands which are to be valued are described in the amended interlocutory order entered herein on November 12, 1957, subject to certain exclusions as hereinafter set forth, and are to be valued as of June 25, 1832.

39. The lands in question contain 4,037,000 acres, less the exclusions referred to above, of which the petitioners owned an undivided one-half interest on June 25, 1832. Said lands are located in eastern Wisconsin and the southern portion of the upper peninsula of Michigan and include all or part of the following counties: Milwaukee, Ozaukee, Sheboygan, Manitowoc, Calumet, Kewaunee, Door, Brown, Outagamie, Shawano, Oconto, Marinette and Florence, in the State of Wisconsin; and Menominee,

Dickinson and Delta, in the State of Michigan. The lands include portions of Royce Cessions 158, 160, 219 and 271, as shown on Royce's Map Wisconsin 1.

40. The general knowledge of the claimed area was a matter of long standing prior to June 25, 1832, the valuation date herein. The French had begun to explore Wisconsin in the 17th century when Jean Nicollet entered Green Bay and traveled down the Fox River for about 90 miles to the vicinity of Berlin in Green Lake County. In 1655 and again in 1659 Radisson and Groseilliers explored the area and penetrated as far as the upper Mississippi. These explorations aroused the interest of the Jesuit missionaries, the first of whom reached the Wisconsin river in 1661. Father Marquette was sent to Green Bay in 1669. The French continued to explore the Mississippi valley by way of the Fox-Wisconsin river route. In 1655 a fur trader by the name of Perrot had entered Wisconsin and through his influence with the Indians aided the exploitation of the northwest area by the French. The Fox-Wisconsin route being the link between the Great Lakes and the Mississippi valley made Wisconsin the key to French control of their new world possessions. The French managed to hold this area until they surrendered possession to England in 1763.

The English continued their fur trading and domination of the area through their posts until after the War of 1812. When news of the Treaty of Ghent of December 24, 1814, reached Wisconsin in 1815 the British surrendered all of their posts in Wisconsin and Mackinac. On August 7, 1816, the Americans erected Fort Howard on the Fox river, a mile from the mouth at Green Bay. The village of Green Bay then had

45 to 48 families. On June 21, 1816, Fort Crawford was erected at Prairie du Chien. In 1828 Fort Winnebago was built near Portage.

41. All of the Northwest Territory, except the present State of Ohio and the southern peninsula of Michigan, and including all of Wisconsin, was in Indiana Territory as of June 30, 1805. On March 1, 1809, Indiana Territory was separated from the Northwest Territory, as were also the lands in the area east of a line extended due north from the western boundary of Indiana Territory, which included the northern peninsula of Michigan. The Wisconsin area was on that date in Illinois Territory. On December 3, 1818, Illinois was created as a state. All the remaining area in the Northwest Territory, after Ohio, Indiana and Illinois had been admitted as states with the present boundaries, was in Michigan Territory. Michigan Territory, after December 3, 1818, and at the date of this appraisal on June 25, 1832, included not only Michigan but also the present State of Wisconsin and that portion of the present State of Minnesota east of the Mississippi river. Wisconsin was not organized as a territory until 1836, four years after this appraisal.

42. In 1830, Wisconsin was largely an uninhabited and trackless wilderness. Sketchy trails or traces connected the early settlements made at the mouths of the Menominee and Milwaukee rivers and at Green Bay at the mouth of the Fox river. Few civilized communities were to be found in the distance of 400 miles from Green Bay to Prairie du Chien on the Mississippi near the mouth of the Wisconsin river.

The Green Bay Trail from Green Bay to Fort Dearborn at Chicago was surveyed in 1833, and trees were blazed and stakes driven along

the line. The southern portion from Milwaukee to Chicago was somewhat improved the following year but the northern section to Green Bay was only a blazed trail until 1836. The military road connecting Fort Howard (Green Bay), Fort Winnebago (Portage), and Fort Crawford (Prairie du Chien) was started in 1835 and completed two years later. In 1838 a road was built from Green Bay to Chicago.

However, the Black Hawk War of 1832 brought soldiers into the area on steamboats. These were the first steamboats to traverse Lake Michigan to Chicago. The presence of the military during this war did much to publicize the claimed area as well as northern Illinois. Prior to the advent of these steamers other lake vessels had been plying both Green Bay and Lake Michigan.

43. The claimed area, of course, was still occupied by the Indians in 1832. As a result there were no sales of land within the claimed area prior to 1832. As soon as the Indian cessions of 1832 and 1833 were completed, the government surveyors entered Wisconsin, starting in the southwestern part of the state and moving eastward. By 1836 almost all of the land south and east of the Fox-Wisconsin rivers had been surveyed. The larger part of the area north of Green Bay was not surveyed until the 1840's and 50's. After detailed examination of the land, the surveyors recorded their estimates of the quality of the land as first, second or third class. They described the surface as level, rolling, rough, broken or swampy. They located the oak openings and the prairies and indicated whether they were high rolling, low wet or level dry. They recorded the kinds and comparative density of timber.

The first public land sales in the claimed area took place at the land office at Milwaukee in 1838 and at Green Bay in 1835. By 1837 Green Bay had a population of more than 1000, several stores, two churches and a bank, as well as three hotels. Milwaukee, which two years before had been merely a trading post for trappers and Indians, by 1836 contained about 50 houses and with the adjoining area also counted a thousand people.

Of the land first offered in 1835 in the claimed area that was ultimately disposed of by individual entry, approximately 25% was entered by individuals in the four year period ending in 1839, approximately 38% in the decade beginning in 1840 and approximately 36% in the decade beginning in 1850. Thus, of the land first offered in 1835, which was entered by individuals, approximately 99% was taken up within a period of twenty-five years.

The above figures represent 230,794 acres of the 236,963 acres entered by individuals after having been offered first in 1835.

44. The climate of the claimed lands is healthful, favorable for white habitation and for agricultural pursuits, and was so recognized by the people who were in the area at and before the date of taking. The growing season varies from five and one-half months in the south to four months in the northern part of the area. It supported a rather high state of agriculture near Green Bay before white occupation. Precipitation averages about 30 inches per year with two-thirds coming in the warmer half of the year during the growing season and is adequate for agricultural crops. The soil in the claimed area is fertile and well adapted for

agricultural purposes in the southern portion of the area where the climate is most suitable for agriculture. The major area of the A quality soils, as shown below, is located in the present counties of Milwaukee, Ozaukee, Sheboygan, Manitowoc, Kewaunee, Calumet, Brown, southeastern Outagamie, and southern Door county. The less fertile soils are concentrated in the north where the climate is most suitable for silviculture and the soil in that area is well suited for the growth of pine timbers. There was no definite line of division between the two types of area as described above although the pine timber predominated to the north of a line from Manitowoc on the shore of Lake Michigan to Portage and to the falls of the St. Croix river on the western side of the state. The northern portion was more noted for its timber, not because the forest was more luxuriant there, but because the more highly valued trees, white pine and white cedar, grew in greater abundance towards the north; while the more fertile soil towards the south supported less desirable hardwood forests.

Based on studies made by recognized soil experts, the following table shows the percentage and approximate acreage of the claimed lands falling within four categories, rated from best to poorest for agricultural purposes as A, B, C, D:

<u>Soil Rating</u>	<u>Percentage of total</u>	<u>Acreage</u>
A	34	1,336,540
B	38	1,493,780
C	5	196,550
D	<u>23</u>	<u>904,130</u>
Total	100	3,931,000

It will be noted that this acreage above does not agree with the acreage of 4,009,000 acres finally found by the Commission as being correct. The variation would not unduly disturb the percentages as stated above.

45. The topography of the claimed area is that of a plains, varying from flat (local relief less than fifty feet) to undulating (local relief between fifty and one hundred fifty feet), with essentially all of the area lying in the flat or undulating categories. The topography is well suited for agriculture and silviculture.

Virtually all of the claimed area was subjected to glaciation. Ground moraine or till plain covers approximately 40% of the surface of the claimed area, lake plains 25% to 30%, outwash plain 15% to 20% and the balance end moraine. Although the outwash plain in the claimed area has large areas not highly suitable for agriculture, it is very usable for the growth of timber, particularly pine, and is located for the most part in the northern portion of the claimed area where the climate is less suitable for agriculture but where the pine timber was found in most abundance.

Approximately 15% of the claimed area is classified as "wet lands", concentrated towards the north; 13% of the claimed area being forested wet land and 2% being open wet land or marsh. The wet lands in the claimed area were not deep unusable swamps, but were shallow and, in the course of time, with the cutting of the timber, dried out and were usable for agricultural purposes without the necessity of extensive and complicated drainage work.

46. The claimed area was strategically and favorably located with respect to accessibility for white settlement and as a potentially important location for commercial development. Bordering on the west side of Lake Michigan, it was accessible throughout its entire extent from north to south by means of water transportation via the Erie Canal and the Great Lakes from the sources of population and emigration and markets of the east. It formed a bridge connecting the lakes to the interior. The Fox river provided the historic communication link via the portage to the Wisconsin river and thence to the Mississippi river at Prairie du Chien.

The creation of a canal link between Lake Michigan and the Mississippi river, thence to the Gulf of Mexico, was first considered in 1673 by Joliet. From that time until Illinois was given a land grant in 1827 for the purpose of subsidizing the canal, everything was directed towards this important link between the East and the West. The original town of Chicago grew from Illinois-Michigan canal lands which were surveyed and laid out in town lots. The first sale of these lots took place on September 4, 1830.

47. In 1832 most of the claimed area was covered by what is known as the hemlock-white pine-northern hardwoods forest of North America, which extended westward from New England through the upper Great Lakes area beyond the western margin of Lake Superior into Minnesota. In the northern portion of the claimed area, especially, were found extensive growths of potentially valuable lumber, primarily white and Norway pine, which were referred to as the "pineries." (Geologists designated as

































