

BEFORE THE INDIAN CLAIMS COMMISSION

CITIZEN BAND OF POTAWATOMI INDIANS)	
OF OKLAHOMA, ET AL.,)	
)	
Petitioners,)	Docket No. 146
)	
THE PRAIRIE BAND OF THE POTAWATOMI)	
TRIBE OF INDIANS, ET AL.,)	
)	
Petitioners,)	Docket No. 15-M
)	
ROBERT DOMINIC, ET AL., as the)	
Representatives and on behalf of all)	
members by blood of the OTTAWA TRIBE)	
OF INDIANS,)	
)	
Plaintiffs,)	Docket No. 40-K
)	
v.)	
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: December 23, 1964

Appearances:

Howard D. Moses, Louis L. Rochmes and Giddings Howd, Attorneys for Petitioners in Docket No. 146

Robert Stone Johnson, Attorney of Record for Petitioners in Docket No. 15-M

O.C.R. McGuire, of Counsel

James R. Fitzharris, Attorney of Record for Plaintiffs in Docket No. 40-K

Jay H. Hoag, of Counsel

Sim T. Carman, with whom was Mr. Assistant Attorney General Ramsey Clark, Attorneys for the Defendant.

OPINION OF THE COMMISSION

Scott, Associate Commissioner, delivered the opinion of the Commission.

This case is now before the Commission for the determination of the acreage and value of the respective lands held by the Grand River Band of Ottawa Indians and the St. Joseph Band of Potawatomie Indians on August 29, 1821, when the treaty of cession of that date was signed (7 Stat. 203). The date of valuation for these lands is agreed to be the date of ratification of the treaty which was March 25, 1822.

The areas of land to be valued herein are described as follows:

The Ottawa Tract

This tract is bounded on the south by the Kalamazoo River from its mouth on Lake Michigan to a point six miles south of the Michigan Base Line where it intersects the south line of the territory ceded by the treaty of September 24, 1819, 7 Stat. 203; thence west along said boundary line to a point sixty miles west of the Michigan Meridian, which point is the southwest corner of the territory ceded by said treaty of 1819; thence northeasterly along the western line of the 1819 cession to where such line crosses the main branch of the Grand River about two miles west of Saranac, Michigan; thence along the north bank of the Grand River to its mouth on Lake Michigan; thence following the shore of Lake Michigan southerly to the point of beginning; and to a tract of land bounded by a line beginning at the source of the Kalamazoo River in Section 30, Township 4 South, Range 1 West of the Michigan Meridian, and running thence due east to its intersection with the west line of the treaty cession of November 17, 1807, 7 Stat. 105; thence north on such west line to a point six miles south of the Michigan Base line; thence west from that point on a line which is the south line of the Territory ceded by the Treaty of September 24, 1819,

7 Stat. 203, to the Kalamazoo River; thence up said river to its source, which is the place of beginning, and containing 1,140,740 acres after deducting reserves and grants to Indians in the amount of 2,193 acres.

The Potawatomi Tract

This tract is bounded by a line commencing at a point on the St. Joseph River of Lake Michigan, near the Parc aux Vaches, due north of Rum's Village, and running thence south to a line drawn due east from the southern extreme of Lake Michigan; thence with said line east to the west line of the tract ceded by the Potawatomi to the United States by the Treaty of Fort Meigs in 1817, 7 Stat. 160; thence north on said line to the northwest corner of said tract; thence east along the northern line thereof to the northeast corner where it intersects the west line of the treaty cession of November 17, 1807, 7 Stat. 105; thence north on such west line to a point due east of the source of the Kalamazoo River in Section 30, Township 4 South, Range 1 West of the Michigan Meridian; and thence west on a straight line to the source of the Kalamazoo River; thence down said Kalamazoo River to the point of intersection with a line running east and west parallel to and six miles south of the Michigan Base Line; thence west along said east and west line to its intersection with the Kalamazoo River; thence down said Kalamazoo River to its mouth; thence southerly along the east shore of Lake Michigan to the mouth of the St. Joseph River; thence up the St. Joseph River, along the south bank thereof, to the place of beginning, and containing 2,857,494 acres after deducting reserves and grants to Indians in the amount of 80,999 acres.

The subject lands are bounded by present-day landmarks as follows:

Beginning at the mouth and along the north bank of the Grand River, the boundary follows the river upstream to a point just east of the Kent County-Ionia County line. It then follows a straight line in a southwesterly direction to a point approximately five miles northwest of the present City of Kalamazoo. The boundary line then follows the south boundary of the northern tier of townships in Kalamazoo County, Calhoun County, and Jackson County to a point approximately six miles northeast of the present City of Jackson where the before-mentioned township lines intersect the Michigan Meridian. It then follows straight south

along the meridian to a point about three miles north of the present City of Hudson, then straight west parallel to the township line to the Branch County-Hillsdale County line, thence south along that county line to a point straight east of the southern tip of Lake Michigan. This point is now in Indiana. It then goes directly west to the St. Joseph River, following that river to the Michigan Lake shore. The Lake shore constitutes the west boundary to the point of origin at the mouth of the Grand River.

The above described areas are known as a unit as Royce Area 117, Michigan 1, Indiana. The Commission in its findings of fact and opinion on the title phase of this case determined that the area was separately occupied by the Ottawas of Grand River and the St. Joseph Band of Potawatomi. For this reason the areas will be valued separately. However, since the areas are contiguous and any differences are minor, they will be valued based upon the same findings of fact.

As detailed in the findings of fact made herewith, the situation which determined the settlement and development of Michigan Territory was rather unique in the history of the settlement of this country. The subject lands were among the best to be had for the purpose of subsistence farming which was the primary aim of the settler of this period. However, due to a combination of circumstances, these lands were not well known by the general public in 1822. These same circumstances prepared the way for the great Michigan land boom of the mid-1830's and perhaps, in the long run, contributed to a more advantageous settlement of the Territory and of the subject lands. The circumstances referred to consisted of remoteness due to transportation difficulties and the promulgation of a false report concerning the desirability of lands in the subject areas.

The three main routes to Michigan Territory in 1822 were the Great Lakes, through Canada, and through Ohio. The Canadian route evidently was not used very much because of its length and the oftentimes severe winter weather. The Great Lakes route had not yet reached the position which it was to occupy after the completion of the Erie Canal in 1825.

The route through Ohio was hampered for many years by the Black Swamp which lay south of the present City of Toledo, Ohio. This was the most direct route from the settled portions of Ohio but it was almost impassable. There was a military road constructed by General Hull as a result of the difficulties experienced during the War of 1812 in supplying the military establishment at Detroit. This road was useless as early as 1815. It was not until 1829 that a usable road was completed through the Swamp.

In addition to the above conditions the Ohio River was still the great route west because of its comparative ease of use. As a result the main stream of emigration had ignored Michigan Territory for Ohio, Indiana, and Illinois.

Another factor combining to slow the progress of settlement in Michigan Territory was the location of 2,000,000 acres of Military Bounty lands in the Territory and their relocation to the State of Illinois and Missouri. This came about through an erroneous impression created by the surveyors who were sent in the fall of 1815 to survey these bounty lands. They spent only a few weeks in the field and because of weather or hostile Indians, or both, returned with a completely

derogatory report of the land. This report was forwarded by Edward Tiffin, the Surveyor General of the United States for Lands Northwest of the Ohio River, to Josiah Meigs, Commissioner of the General Land Office. Meigs then recommended the relocation of these lands which was done by Congress. The attendant publicity created a bad impression of Michigan lands in the mind of the public. It wasn't until some four or five years later that better reports began to be heard concerning these lands which lay east of the subject area towards Detroit.

After the Tiffin report surveying in southeastern Michigan stopped for a time. Governor Cass and the Receiver of the Detroit Land Office succeeded in getting it started again in 1816. By 1817 some of the surveys were completed in the area around Lake Erie, the Detroit River, and Lake St. Clair. These lands were in Area 66, Michigan 1, and had been ceded in 1807. The surveys in the subject area were begun in 1824 and almost entirely completed in 1839 with only a few townships which were not finally finished until 1848.

With the situation as briefly outlined above it is obvious that there existed no actual market for either the lands of the Ottawas or the St. Joseph Band in 1822. In the absence of this actual market there are no sales of land in the subject areas during the time in question. In this case the Commission will use the criteria set forth in the case of Otoe and Missouri Tribe v. The United States, 131 C. Cls. 593, 633, and last approved by that Court in Pawnee Indian Tribe of Oklahoma v. The United States, 301 F. 2d 667, Cert. den., 82 S. Ct. 1556.

As stated in the Otoe case:

* * * In the absence of a market at the time in question, and therefore the absence of evidence of "market value" in the conventional sense, this court and the Commission have taken into consideration numerous other factors in determining the value of lands ceded by the Indians. * * * It considers the natural resources of the land ceded, including its climate, vegetation, including timber, game and wildlife, mineral resources and whether they are of economic value at the time of cession, or merely of potential value, water power, its then or potential use, markets and transportation -- considering the ready markets at that time and the potential market. * * *

On the basis of the above factors it is possible to arrive at "an estimated or imputed fair market value" as referred to by the Court of Claims in The Miami Tribe of Oklahoma, et al v. The United States, 175 Fed. Supp. 926.

The definition of market value which has been adopted by this Commission and cited with approval by the Court of Claims in the Miami case, supra, is the following:

Market price is the highest price estimated in terms of money which land will bring if exposed for sale in the open market with a reasonable time allowed to find a purchaser buying with knowledge of all the uses and purposes to which it is best adapted and for which it is capable of being used.

The Commission will apply the factors referred to in the Otoe case, supra, to the framework of the above definition to arrive at the "estimated or imputed fair market value" of the two areas of Royce Area 117 on March 25, 1822.

The findings regarding the physical characteristics of the areas show them to have been desirable for subsistence farming. They were well drained insofar as rivers were concerned. The Grand, Kalamazoo, and St. Joseph Rivers are located in the areas, while to the east in

Area 66 are the Raisin, Huron, and Clinton Rivers. It was possible to cross the southern part of Michigan from Detroit to Lake Michigan on these rivers by using the light river craft of the day and by portaging relatively short distances between the two drainage basins. The three streams in Area 117 were navigable by steamboats of the day for some distance from their mouths but would have required the expenditure of time and money to bring them to a position of real importance commercially.

The soils are of the grey-brown podzolic type which were created in a cool-temperate climate under a deciduous forest. The lands are dominantly loams and silt loams, developed on calcareous glacial drift left by the Wisconsin glaciation and were highly productive with suitable crops.

The annual average rainfall varies within the areas because of the location of the lakes on each side. The highest annual average precipitation within the areas is 38 inches in St. Joseph County near the Indiana border. The west side of the areas near Lake Michigan shows 30 inches or better.

The lakes bordering Michigan tend to moderate temperatures over the state. Because of this spring is delayed and so is autumn. The mean annual temperature within Area 117 is from 46° to 49° F. The average January temperatures range from 24° to 26° F. and the average July temperatures range from 66° to 72° F.

The growing season within Area 117 varies from 150 to 160 days. The northern part may have a somewhat shorter season while the southern

part may be slightly higher to a possible maximum of 180 days.

The original covering of the area was deciduous forest with a mixture of pine in the northwesterly part of Area 117. Interspersed throughout the area were prairies, some large enough to have names and some small enough to be called "oak openings." These "oak openings" were much sought after by settlers in every section of the country because they relieved the necessity of clearing before plowing and planting and yet there was sufficient wood nearby for building, fuel, and furniture. The prairies and oak openings also furnished hay for livestock.

The classification of the land as taken from the original surveyors' field notes shows the following results for the Ottawa area expressed in acres and percentages. These figures exclude lands reserved to individual Indians under the Treaty.

<u>Prairie</u>	<u>Swamp</u>	<u>Marsh</u>	<u>Upland Timber</u>
15,369	75,175	17,047	1,033,148
1.3%	6.6%	1.5%	90.6%
<u>Potawatomi Area</u>			
128,461	190,024	58,195	2,480,813
4.5%	6.7%	2.0%	86.8%

The soil ratings taken from the original surveyors' field notes show the following results for the Ottawa area expressed in acres and percentages. These figures exclude lands reserved to individual Indians under the Treaty.

<u>1st Rate Soil</u>	<u>2d Rate Soil</u>	<u>3d Rate Soil</u>
272,271 23.9%	734,419 64.4%	134,049 11.7%
<u>Potawatomi Area</u>		
984,289 34.5%	1,655,542 57.9%	217,662 7.6%

The above figures show the Ottawa area to have had approximately 88% of first and second class soil and the Potawatomi area to have had approximately 92% of first and second rate soil.

Communications within the two areas in 1822 were by Indian trails and the streams. These trails would support the fur trade and foot or horseback travellers, but not wagons. The streams, as stated previously, would handle the light water craft of the day and steamboats to some distance above the mouths. The problem of accessibility to the area as a whole was mentioned above and will not be gone into here.

The population of the subject area in 1822 consisted of a few scattered "squatters" along the streams. In the Territory as a whole in 1820 there were some 8,896 people. Some 6,630 of these were in the Detroit-Lake Erie area and the remainder of 2,263 were throughout all of northern Michigan and what is now the State of Wisconsin. This population represented an increase of 4,134 people since 1810 and shows an average annual growth of 413 people during the period from 1810-1820.

By contrast, the State of Indiana had increased in population from 24,520 in 1810 to 147,178 in 1820, and average annual increase of 12,266. Illinois increased from 12,282 to 55,221, an average annual increase of

4,293. Ohio grew from 230,760 to 581,434, an average annual increase of 35,067.

The biggest single item of commerce in Michigan Territory in 1822 was the fur trade which employed some 1,000 people and was valued at about \$300,000 during the summer of 1821. The fur trade continued to be dominated by the American Fur Company which had twenty trading posts in the Grand River Valley by 1827, with their headquarters at Grand Haven at the mouth of the Grand River.

There was no agriculture in the subject area in 1822 because there was no population and no markets. The settlement at Chicago was of no importance as a market in 1822 even if there had been products to sell.

There were no minerals of commercial importance in 1822. The trappers and traders were aware of some salt springs, but they were not commercially valuable in 1822. The gypsum beds in the area were not known at this date and it wasn't until 1838 that they became known to have a potential commercial importance.

There were numerous saw and grist mill sites mentioned by the surveyors in their field notes. These became valuable with settlement and consequent local demand.

The fur trade was a valuable asset in the area in 1822. It could operate economically with the transportation because of the size and value of the cargoes.

The public land policy of the government had gone through several changes by 1822. The most important change was that of 1820 whereby the credit sales were changed to cash sales at \$1.25 per acre with

a minimum purchase of 80 acres. This change was the result of experience during the period from the first legislation in 1796 to 1820. It had become evident that the sales of the large tracts as originally provided for needed to be changed to allow the average person of modest means to procure sufficient land to support himself and his family. This change in the act of 1820 was an impetus to land sales and consequent settlement.

The Treasury Department sent to the Senate in November, 1820, a statement of the western lands purchased from the Indians, the amount surveyed, and the amount sold to September 1819. This report showed a remainder of 54,203,162 acres to be sold as of 1819.

Through 1822 some 28,861,087 acres of public land had been offered for sale, of which 1,885,913 acres had been sold. This left for private entry at \$1.25 per acre 26,975,174 acres in 1822-1823.

The average cash price of lands sold during 1820, 1821 and 1822 in Ohio was \$1.24, \$1.30, and \$1.27 respectively. For the same period in Indiana it was \$1.32, \$1.37, and \$1.30, and in Illinois it was \$1.30, \$1.26, and \$1.25 for the respective years.

The sales of public lands in the United States grew to a high of 5,475,648 acres in 1819 and in 1820 dropped off to 821,904, in 1821 to 781,213, and in 1822 to 801,226 acres.

Land sales in Michigan had begun in 1818. The first land office was established at Detroit in 1804, but there had been insufficient demand to warrant a sale until July 7, 1818. 349,500 acres in Wayne and Monroe Counties were offered at this time with a total of 24,124

acres or 8.6% being sold. Wayne and Monroe Counties were in Area 66 and bordered Lake Erie.

In September and November of 1818, 1,014,000 acres near the City of Detroit were offered and 20,830 acres, or 2% were sold.

In 1820 a total of 755,200 additional acres were offered in Area 66, of which 80 acres were sold. Later in 1820, 184,800 acres in the same area were offered for sale and 487 acres were sold.

There was a total offering of 2,304,300 acres in Area 66, east of Area 117, between 1818 and 1821, and total sales of 71,997 acres, or 3.125%. These offerings were made from a total acreage of 11,953,700 acres to which Indian title had been extinguished prior to 1822. After the above sales there remained in Area 66 of Michigan 2,232,300 acres which were subject to private entry at \$1.25 per acre.

Mr. J. W. Trygg, the appraiser for petitioners in Dockets 146, 15-M, and 40-K placed a value of \$5,995,900 on the lands of the St. Joseph River Band and a value of \$2,401,720 on the lands of the Ottawas of Grand River. This is, as stated by Mr. Trygg, a value of \$2.00 per acre for each of the two areas.

To arrive at this value Mr. Trygg made an analysis or inventory of the field notes of the original surveyors in the General Land Office. This inventory is set forth in petitioners' Exhibit No. 665, which is the appraisal report. Reference is made to pages 10, 11 and 11a of that report for the complete list of information abstracted from the survey notes. Needless to say this information deals with the physical characteristics of the areas as they would be found in such notes. For

the economic and historical aspects of the valuation Mr. Trygg relied on the report of Dr. Helen Knuth. This report is petitioners' Exhibit No. 664.

In his testimony Mr. Trygg stated that he had considered all of the usual factors which go to make up the fair market value of land as it is determined under the circumstances found in this case. These factors were much the same as those set forth in the Otoe case, *supra*. In addition thereto he used land sales which had been abstracted from the records of various counties within the areas. These sales were analyzed to show rapidity of sales after they were begun and to show the median price paid per acre in private sales. These sales are all after the date of valuation because the lands were not surveyed in 1822. The surveys began in 1824 and were finished in 1839 except for two townships which were not surveyed until 1848.

The peculiar circumstances surrounding the development and settlement of the area are significant. By the mid-1830's Michigan became the center of a land boom because of its large acreage of government land which by this time was known to be good, its easy accessibility as compared to lands farther west whose quality was unknown, and the comparatively heavy settlement in Ohio, Indiana, and Illinois, where good land was becoming increasingly scarce. With all government land selling at \$1.25 an acre the settlers preferred to pass over what they might consider marginal or rejected lands and take only the best available. This type of land was to be found in the subject areas and as a result the land boom was located there and in the surrounding areas. The boom

conditions attracted speculators as well as settlers and its natural tendency was to inflate the price of land.

The land involved herein could not have been sold prior to extinguishment of Indian title and before it had been surveyed thereafter. Since the sales of this land and the prices paid for it were of necessity at dates later than the cession, the prospective purchaser for the entire tract at that time could not have had knowledge of them. Therefore, these have not been used in the findings herein as facts within the ascertainable knowledge of such a purchaser at that time upon which to base his judgment of current fair market value. These have been included, however, since the prospective purchaser would have taken into account not only the immediate but also the potential use and demand for the land.

While the prospective purchaser probably would not have anticipated a land boom such as occurred in the 1830's, these sales tend to confirm, on a hindsight basis, that a purchase in 1822 based on prospective use of these lands would have been reasonable.

There is a lack of comparability in the use of sales where there is no showing as to improvements or lack of improvements. It is not possible to establish the value or to confirm an established value of unimproved lands by comparison with lands whose condition in this regard is unknown. There is no showing in the abstracts as to improved or unimproved land, although there are variances in prices which would indicate improvements.

For the reasons given above we are unable to agree with the value set by petitioners.

Mr. Paul Starrett, defendant's appraiser, used the same physical, economic, and historical factors to arrive at a fair market value of \$822,866 for the whole of Area 117, or at the rate of 20¢ per acre on March 25, 1822. The Commission does not agree with this figure but is indebted to the appraisers for much pertinent background information.

Both parties agree that the highest and best use for the areas was subsistence farming. While petitioners in their proposed findings emphasize the commercial value of the timber, both pine and hardwood, in 1822, their appraiser testified that subsistence farming was the highest and best use in 1822. The Commission agrees that this is the proper use at this period.

The findings made herewith reflect both positive and negative factors which would have been considered by the prospective purchaser in 1822. These matters have been set out above and include all the elements which make for excellent subsistence farming country. The temperature, rainfall, length of growing season, presence of some prairie land and oak openings, along with timber for the necessary improvements, contributed to the desirability of the area. The presence of abundant game and wild life is shown by the extensive fur trade. The potential value of an estimated 3-1/2 billion board feet of pine timber, along with logging streams, is also an addition. This timber had no present commercial value in 1822 but the value of pine timber was well known in 1822 because of previous experience in the east and it most

certainly would have been considered in 1822 by a prospective purchaser for its potential value as well as present value to settlers for homes, furniture and fuel. The availability of saw and grist mill sites would have been a factor for consideration in connection with the presence of the pine timber. The transportation potential would have been obvious because of the rivers which flowed into Lake Michigan and, of course, the natural progress of land transportation which follows settlement would have been expected. The Erie Canal was already under way and there was no reason to doubt its successful completion in the near future. It would have been common knowledge that this Canal would have a tremendous effect on the Great Lakes region, including the subject areas. It would put Michigan in a position similar to that theretofore occupied by Ohio, Indiana and Illinois because of the Ohio River. Another present condition to be considered was the presence of salt springs from which prospective settlers could obtain salt for their domestic needs and the presence in the forests of natural foods upon which settlers could depend for a part of their subsistence while awaiting their first crops.

As reflected by the findings there was a large amount of public land available in Area 66 east of Area 117 as well as elsewhere in the nation. It is not unreasonable, however, to think that a prospective purchaser, while aware of the amount of land available, would foresee the possibility of a large demand for Michigan land in the reasonably near future. The favorable situation created by the settling of other nearby areas and the anticipated completion of the Erie Canal which would put Michigan in the path of emigration would have been considered

by a prospective purchaser as an asset to the land. This would be true, we believe, although a purchaser could not reasonably have anticipated the land boom which was to hit Michigan in the 1830's.

The above factors when viewed in the framework of the Otoe case, supra, including the potential as well as present values of such factors, form a sufficient basis for this Commission to arrive at the "estimated or imputed value" of Area 117 in 1822. For this reason the contention of petitioners that the true value of the subject lands in this case is \$1.25 per acre because of the absence of an open market is without merit.

Petitioners contend that certain grants of land to individual Indians under the treaty should be included in the acreage to be valued. It is the opinion of the Commission that these individual grants were a part of the over-all agreement embodied in the treaty, and were necessary to its successful negotiation. In the absence of proof of any wrongdoing by defendant in making these individual grants they will not be included in the area to be valued.

Returning to the basic question of the valuation of Area 117, the Commission is faced again with the necessity of valuing an area where there are only the physical features of the land, its geographical location, and such other general matters as have been set forth in the findings upon which to assess a proper value. Thus, fair market value becomes a matter of opinion based upon experience in the application of these general factors to the criteria approved by the Court of Claims as mentioned heretofore.

Essentially the same approach has been applied by this Commission and the Court of Claims to the question of establishment of Indian title. Snake or Piute Indians v. United States, 125 C. Cls. 241, 254. There seems to be little, if any, difference between the two types of decisions insofar as the existence of evidence upon which to base them is concerned. In either case it is a difficult task made more so by the passage of time. Especially is this so in cases such as this where the evidence placed in the record consists of general facts with nothing specific such as reasonably contemporaneous sales or appraisals in the area or a comparable area and where the Commission is unable to agree with either petitioners' or defendant's appraisers in their final conclusions on value.

Under these conditions the Commission must determine from the evidence available what it considers to be the fair market value of Area 117 on March 25, 1822. Based upon the findings made herewith and particularly upon the physical attributes present in Area 117 on the date in question in conjunction with its geographical location which would enhance the future attractiveness of the area, it is the conclusion of the Commission that the fair market value of Area 117, broken down into the separate areas occupied by each group, would be as follows:

Grand River Band:	\$ 969,629.00, or at the rate of 85¢ per acre
St. Joseph River Band:	\$2,428,869.90, or at the rate of 85¢ per acre

Defendant has alleged a consideration of \$32,337.33 to the Ottawas of Grand River under the treaty and a consideration of \$108,499.20 to

the Potawatomi and United Tribes of Chippewa, Ottawa, and Pottawatomi Indians (St. Joseph Band).

As pointed out by the Commission in The Absentee Shawnee Tribe of Oklahoma v. The United States, 6 Ind. Cl. Comm. 345, 407, there exists a real controversy as to whether the consideration paid by defendant to petitioners is unconscionable. We have in this case an allegation by defendant as to the payment of the consideration mentioned above and an apparent admission by plaintiffs on page 85 of their reply brief that such allegation is correct. The value of the land is established herein and based upon the allegation and admission as to the correctness of the consideration paid, the Commission finds that such consideration was unconscionable. An award will be made on the basis of the consideration alleged and admitted, less such offsets as may be proved at a figure hearing.

Therefore, petitioners in Docket 40-K are entitled to recover from defendant for and on behalf of the Ottawa Band of Grand River Indians as such band was constituted on March 25, 1822, the effective date of the Treaty, the sum of \$969,629.00, less a consideration of \$32,337.33, making a balance due of \$937,291.67, less such offsets as may be allowable under the Indian Claims Commission Act.

Petitioners in Docket No. 146, the Citizen Band of Potawatomi Indians of Oklahoma, et al., and petitioners in Docket No. 15-M, The Prairie Band of the Potawatomi Tribe of Indians, et al., are entitled to recover from defendant for and on behalf of the St. Joseph River

Band of Potawatomi Indians, as such Band was constituted on March 25, 1822, the effective date of the Treaty, the sum of \$2,428,869.90 less a consideration of \$108,499.20, making a balance due of \$2,320,370.70, less offsets, if any.

An order to the above effect will be entered.

T. Harold Scott
Associate Commissioner

We concur:

Arthur V. Watkins
Chief Commissioner

Wm. M. Holt
Associate Commissioner