

BEFORE THE INDIAN CLAIMS COMMISSION

THE SNOHOMISH TRIBE OF INDIANS,)	
)	
Petitioner,)	
)	
v.)	Docket No. 125
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: April 29, 1965

Appearances:

Frederick W. Post, Attorney
of Record for Petitioner

Walter J. Muir, with whom
was Acting Assistant Attorney
General, J. Edward Williams,
Attorneys for Defendant

OPINION OF THE COMMISSION

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

This case is now before the Commission for a final determination of defendant's liability on petitioner's claim.

By a prior determination (4 Ind. Cl. Comm. 549, 563) this Commission found that the petitioner tribe held Indian title to a tract of land in the present State of Washington and that said title was extinguished by its inclusion in the cession made by the petitioner tribe and other Indian tribes under the Treaty of January 22, 1855, 12 Stat. 927.

On July 23, 1959, this Commission entered its Second Interlocutory Order in this case (7 Ind. Cl. Comm. 768) by which it was determined

that the aforesaid Snohomish tract of land contained 164,265 acres and had a fair market value on March 8, 1859, the effective date of the treaty, of \$180,700.00. The Commission then ordered that the case proceed with proof of the consideration paid petitioner tribe under the provisions of the 1855 Treaty, and whether such consideration was unconscionable, and proof as to the interest retained by the Snohomish Indians in the Tulalip Reservation set aside by Article 3 of said Treaty for petitioner and other Indians.

In addition to the Snohomish Tribe's claim, ten other Indian tribes who were also signatory parties to the 1855 Treaty, had filed separate claims each claiming compensation for their lands ceded under said treaty. Since the treaty provided as consideration for the cession the payment of certain sums and created certain reservations for the Indians but did not provide that the payments be made in specific amounts to any one of the tribes, it was necessary to determine the consideration chargeable to each of said tribes. Therefore, the Commission by order of February 20, 1963, consolidated the said eleven cases for the limited purpose of determining all issues as to the consideration paid or allocable to each petitioner tribe in said eleven cases pursuant to the 1855 treaty. Following the submission of proof on said issues in the consolidated case the Commission found on August 13, 1964, in Upper Skagit Tribe of Indians, et al., v. The United States of America, 13 Ind. Cl. Comm. 583, 590, that the total monetary consideration paid to the Snohomish tribe for its aboriginal lands included in the 1855 Treaty cession was \$32,950.56 and that the value of said tribe's interest

in the Tulalip Reservation was \$11,583.62, or a total sum of \$44,534.21 monetary and reservation consideration paid to the Snohomish Tribe.

The parties are in agreement that the defendant's liability in this case rests on the question of whether the consideration the petitioner tribe received for its lands is unconscionable.

The consideration we have found was paid by defendant was just under 25% of the value of petitioner's land on the date of taking. We are of the opinion that the consideration of \$44,534.21 for the cession to the defendant of petitioner's lands was so grossly inadequate an amount for lands having a value of \$180,700.00 as to make the consideration unconscionable. Accordingly, the Commission concludes that the petitioner tribe is entitled, under Clause 3, Article 2 of the Indian Claims Commission Act, to an award in the amount of \$180,700.00, less the sum of \$44,534.21, constituting the United States' payment on the claim, or a net amount of \$136,165.79, less such gratuitous offsets as may be chargeable against the petitioner tribe under the provisions of the Indian Claims Commission Act.

Wm. M. Holt
Associate Commissioner

We concur:

Arthur V. Watkins
Chief Commissioner

T. Harold Scott
Associate Commissioner