

BEFORE THE INDIAN CLAIMS COMMISSION

THE MESCALERO APACHE TRIBE and bands thereof,)
ex rel. Solon Sombrero, Fred Pellman,)
Eric Tortilla and Victor Dolan;)
)
THE APACHE TRIBE OF THE MESCALERO RESERVATION)
on behalf of, or as successor to, the)
Mescalero Apache Tribe and bands thereof,)
)
Plaintiffs,)
)
v.)
)
THE UNITED STATES OF AMERICA,)
)
Defendant.)

Docket No. 22-B

7-7-66

INTERLOCUTORY ORDER

Upon the findings of fact numbered 1 through 38 and opinion this day filed herein, and which are hereby made a part of this order, the Commission finds and concludes as a matter of law:

1. That the plaintiffs, The Apache Tribe of the Mescalero Reservation, is an organized tribe of American Indians, and, as such, has the right to bring and maintain the claims in Docket No. 22-B in a representative capacity for and on behalf of the aboriginal Mescalero Apache Tribe and bands thereof pursuant to the provisions of the Indian Claims Commission Act (60 Stat. 1049);
2. That, by virtue of the Treaty of Guadalupe Hidalgo, entered into between the United States and the Mexican Republic on February 2, 1848 (9 Stat. 922), the United States acquired by formal cession control and sovereignty over a vast area south of the Arkansas River embracing the aboriginal claim of the Mescalero Apache Tribe herein;
3. That confirmed Spanish and/or Mexican Land Grants within the area claimed herein never became public lands subject to the control and sovereignty of the United States; and, therefore, must be excluded from any award to petitioner herein; and
4. That the United States, on May 29, 1873, the date upon which by Executive Order a reservation (the area of which was by successive Executive Orders expanded) was established for the Mescalero Apache Tribe, acquired the Indian title to the aboriginal lands of the said tribe as they are described in our Finding No. 37 herein without payment of compensation; and

IT IS THEREFORE ORDERED that this matter shall proceed for the determination of the acreage of that area as set forth in the Commission's Finding No. 37 herein; and, unless appropriate motion is made within thirty days from the date of this order by either of the parties for further proceedings relevant to acreage which either of them has reason to believe represents the location of confirmed Spanish or Mexican Land Grants within the area described in the said Finding No. 37, this matter shall also proceed to the determination of the value of said lands as of May 29, 1873, and what offsets, if any, defendant is entitled to under the provisions of the Indian Claims Commission Act.

Dated at Washington, D. C., this 7th day of July, 1966.

Arthur V. Watkins
Chief Commissioner

Wm. M. Holt
Associate Commissioner

T. Harold Scott
Associate Commissioner