

BEFORE THE INDIAN CLAIMS COMMISSION

THE SAC AND FOX TRIBE OF OKLAHOMA)
ET AL.,)

)
)
Petitioners,)

v.)

) Docket No. 220
)

)
)
THE UNITED STATES OF AMERICA,)

)
)
Defendant.)

ORDER AMENDING FINDINGS OF FACT
AND FOR ENTRY OF FINAL JUDGMENT

In accordance with the decision of the Court of Claims reversing and remanding this docket to the Commission for further proceedings, Appeal No. 3-63, decided October 16, 1964, the Commission, upon its own motion and for the reasons stated in the opinion accompanying this order, orders that:

1. Finding of Fact No. 21, entered herein on November 28, 1962, is hereby amended by striking out the last sentence in paragraph 1 thereof, and by striking out paragraph 4 thereof.

2. Finding of Fact No. 41, entered herein on November 28, 1962, is hereby amended by striking out the last sentence therein.

3. After Finding of Fact No. 41, insert the following finding of fact,

"41-A Dr. McReynolds, petitioners' expert witness, testified extensively concerning the nature, quality and extent of improvements made in the Sac and Fox lands during the period following the 1891 opening. Settlers in the Sac and Fox area made improvements on their land rather slowly. Because settlers generally made improvements entirely by means of their own labor, the quality of such improvements tended to be inferior and of little money value. Dr. McReynold's testimony was corroborative of the fact that the land improvements during the period were of minimum value. His conclusions in this regard were based not only upon historical evidence, but personal experience and observation in and around the Sac and Fox area during his boyhood.

In addition we find Dr. McReynolds provided evidence of the fact that there were appraisals of Indian allotted lands both within and without the Sac and Fox lands during the years 1900 to 1910 and that the improvements thereon were appraised separately. Fifteen such appraisals reflect an average value of the improvements of 86.32 cents per acre, or slightly more than 4% of the total appraised value of the improved tracts."

4. Finding of Fact 43 (a), entered herein on November 28, 1962, is hereby amended by striking out the last sentence therein.

5. Finding of Fact No. 46, entered herein on November 28, 1962, is hereby stricken, and the following finding of fact substituted in lieu thereof.

"46 (a) Considering all the evidence in the record and based upon all matters set forth in the Commission's findings herein, the Commission finds and concludes that as of February 12, 1891, the effective date of the 1890 Sac and Fox agreement, the 391,188.05 acres of surplus Sac and Fox lands which were acquired by the United States under the aforesaid agreement, and the subject matter of the claims asserted herein, had an overall fair market value of \$3.00 per acre, or \$1,173,564.15. Since under the 1890 agreement the tribal petitioners herein, the Oklahoma Sac and Fox received from the United States as compensation for said lands \$481,000, or \$1.23 per acre, the Commission finds that the disparity between the price paid by the United States for said lands and their fair market value at the time of taking, is an unconscionable consideration under our Act. Accordingly the petitioners are entitled to recover from the defendant herein the sum of \$692,564.15 less allowable offsets.

(b) By a stipulation filed July 19, 1961, in Docket No. 83, The Sac and Fox Tribes of Oklahoma, et al., v. United States, between the petitioners and the defendant, all gratuitous expenditures by the United States on behalf of the Sac and Fox tribes made between November 2, 1804 and June 30, 1960, were compromised and settled in the amount of \$35,000. Said stipulation on offsets was subsequently approved by the Commission and set off against the compromised settlement of Sac and Fox claims in Docket Nos. 138

and 232, The Iowa Tribe of the Iowa Reservation in Kansas and Nebraska et al., v. United States, 15 Ind. Cl. Comm. 42. Apparently no further proceedings are required to terminate the matters involved in this docket. Therefore the Commission finds that the petitioners, the Sac and Fox Tribe of Indians of Oklahoma, are entitled to a final award of \$692,564.15."

6. All other Findings of Fact entered herein on November 28, 1962, are re-entered and affirmed.

IT IS FURTHER ORDERED that the petitioners, the Sac and Fox Tribe of Oklahoma, shall recover from the defendant the sum of \$692,564.15.

Dated at Washington, D. C., this 14th day of February, 1967.

Wm. M. Holt
Associate Commissioner

T. Harold Scott
Associate Commissioner