

BEFORE THE INDIAN CLAIMS COMMISSION

THE YAKIMA TRIBE OF INDIANS,)	Docket No. 47
)	
THE YAKIMA TRIBE OF INDIANS,)	Docket No. 147
)	
THE YAKIMA TRIBE OF INDIANS,)	Docket No. 160
)	
THE YAKIMA TRIBE OF INDIANS,)	Docket No. 164
)	
Petitioner,)	
)	
v.)	
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: November 14, 1968


STATEMENT AND ADDITIONAL FINDINGS OF FACT
ON COMPROMISE SETTLEMENT OF CLAIMS OF THE
YAKIMA TRIBE OF THE STATE OF WASHINGTON

The Yakima Tribe of the State of Washington, petitioner herein, now has pending before the Commission four claims entitled Docket Nos. 47, 147, 160 and 164.

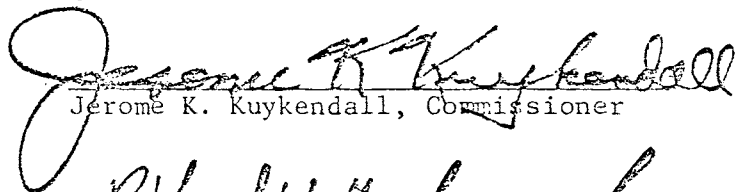
The petition in Docket No. 47, filed before the Commission on June 21, 1949, presented claims for just compensation for four separate areas contiguous to the present reservation boundaries and designated as Tracts A, B, C and D, which the petitioner alleged had been excluded from the Yakima Reservation, reserved to the Yakima Tribe by Treaty with the United States dated June 9, 1855 (12 Stat. 951, 2 Kapp. 698). An additional claim was included in the petition for lands patented to white settlers within

IT IS FURTHER ORDERED that the defendant's "Motion for Summary Judgment" is withdrawn insofar as it applies to the "Second Claim" and the "Third Claim" in the petition, and that, in view of the Commission's action taken this day as set forth in this order, defendant's further motion for an entry of an order is superfluous, and it is hereby dismissed.

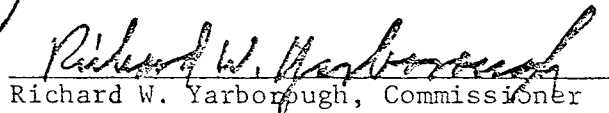
Dated at Washington, D. C., this 14th day of November, 1968.



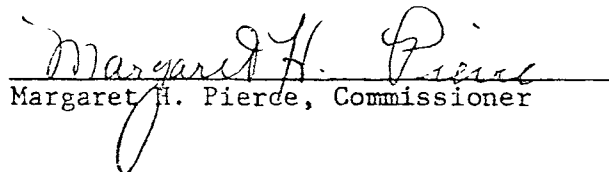
John T. Vance, Chairman



Jerome K. Kuykendall, Commissioner



Richard W. Yarborough, Commissioner



Margaret H. Pierce, Commissioner

the present boundaries of the Yakima Reservation in an area known as Cedar Valley, which were confirmed to said settlers by Act of December 21, 1904 (35 Stat. 595).

By decision of the Commission, dated May 29, 1953 (2 Ind. Cls. Comm. 433), as amended by decision of November 6, 1953 (2 Ind. Cls. Comm. 481), recovery was denied for Tracts A, B and D, and recovery was allowed for a portion of Tract C, and 27,647.71 acres patented and confirmed to white settlers within the Cedar Valley Area of the Yakima Reservation.

By amended and supplemental findings of fact and opinion, dated November 29, 1957 (5 Ind. Cls. Comm. 636), the Commission fixed the value of the 27,647.71 acres of Cedar Valley lands awarded at \$2.50 an acre, or \$69,119.28 as of December 21, 1904; determined the area within Tract C awarded by the Commission to be 17,669.10 acres, and fixed the value of said 17,669.10 acres of Tract C lands at \$1.25 an acre, or \$22,086.38 as of 1923, and allowed interest on said values as thus fixed as part of just compensation at the rate of 5% per annum from the several dates of taking to 1934, and 4% per annum thereafter until entry of final award.

Petitioner appealed from the findings and opinions of the Commission on liability and value. On October 3, 1962, in Appeals Case No. 4-61 (158 C. Cls. 672), the United States Court of Claims affirmed the determinations of the Commission on liability and value on the Cedar Valley and Tracts A and C areas, and reversed and remanded the issue of liability on the Tracts B and D areas.

On June 18, 1965 the claim for the Tract C area, made final by the decision of the United States Court of Claims on appeal, was separately docketed as Docket No. 47-A, and on June 25, 1965 a final award was entered therein in favor of the Yakima Tribe in the total amount of \$61,991.40 (15 Ind. Cls. Comm. 456), which sum has been paid to the Yakima Tribe.

On the remand of the United States Court of Claims further proceedings were held by the Commission on the issues relative to Tracts B and D areas, and additional evidence on these issues was presented by both parties. Thereafter, on February 25, 1966, the Commission entered its additional findings of fact and opinion denying recovery for the Tract B area, and upholding the claim of petitioner for the Tract D area (16 Ind. Cls. Comm. 536).

As a result of further proceedings before the Commission, on June 19, 1967 the Commission entered the following Order (18 Ind. Cls. Comm. 426):

"Upon consideration of the motion of defendant for an Order directing further proceedings, filed herein on April 28, 1967, and the answer of plaintiff thereto, and defendant's reply, and the oral argument thereon by counsel for the parties at a hearing on said motion held before the Commission on June 8, 1967,

"IT IS HEREBY ORDERED, that the agreement between counsel for the parties that the area designated as Tract D herein contains an area of 121,465.69 acres is hereby approved by the Commission.

"IT IS FURTHER ORDERED that as agreed by the parties, the total acreage of the unpatented lands within said Tract D with respect to which there has been no 'taking' is eliminated from the claim and will be deducted from the total area of Tract D to be valued.

"IT IS FURTHER ORDERED that the patented lands included within said Tract D shall be valued by the parties on the dates of the patents issued to said patented lands; or, in the alternative, a fair approximation or average of values, over the period during which said patents were issued, may be adopted to avoid burdensome detailed computation of value as of the date of disposal of each separate tract.

"IT IS FURTHER ORDERED that the issues relative to lands within Tract D included within the National Forest, or otherwise set aside by the United States for other uses, and whether said uses constitute a 'taking' are reserved for decision by the Commission upon the presentation of evidence relative to said lands; and in making their respective appraisals the parties may value said lands in accordance with their separate contentions with respect thereto."

The Commission is advised that soon after the oral argument before the Commission on June 8, 1967 on defendant's motion for an Order directing further proceedings, counsel for the parties began negotiations looking toward the settlement of Docket No. 47 issues and the other Yakima claims cases, Docket Nos. 147, 160 and 164, pending before the Commission, then in various stages of preparation for trial. Negotiations continued through the following months until finally consummated by the settlement agreement of the parties, set out in Finding No. 73, infra.

Therefore, the Commission makes the following additional findings of fact:

ADDITIONAL FINDINGS OF FACT

69. After negotiations covering a period of more than a year, an agreement was reached between counsel for the Yakima Tribe, petitioner, and the United States, defendant, on July 12, 1968, which provided in substance that an area estimated to contain 21,008.66 acres of the 121,465.69 acres within Tract D, Docket No. 47, be severed from that case and be

