

BEFORE THE INDIAN CLAIMS COMMISSION

THE SAN CARLOS APACHE TRIBE OF ARIZONA;)
)
 THE WHITE MOUNTAIN APACHE TRIBE OF THE)
 FORT APACHE INDIAN RESERVATION;)
)
 THE WHITE MOUNTAIN APACHE TRIBE OR GROUP,)
 THE SAN CARLOS APACHE TRIBE OR GROUP,)
 THE CIBECUE APACHE TRIBE OR GROUP,)
 THE SOUTHERN TONTO APACHE TRIBE OR)
 GROUP, and the several bands of each)
 of them, ex. rel., respectively)
 Clarence Wesley (White Mountain),)
 Jess J. Stevens (San Carlos), Nelson)
 Lupe, Sr. (Cibecue), and Ernest)
 Cutter (Southern Tonto);)
)
 THE WESTERN APACHE and each group and)
 band thereof, ex. rel. Clarence)
 Wesley, Jess J. Stevens, Nelson)
 Lupe, Sr., and Ernest Cutter,)
)
 THE NAVAJO TRIBE OF INDIANS,)
)
 Plaintiffs,)
)
 v.)
)
 THE UNITED STATES OF AMERICA,)
)
 Defendant.)

Docket No. 22-D

Docket No. 229

INTERLOCUTORY ORDER

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

1. That the plaintiffs in Docket No. 22-D have the right to maintain this action in a representative capacity for and in behalf of the Western Apache Indians or groups thereof as the same existed on May 1, 1873.
2. That the plaintiffs in Docket 22-D have proven Indian title in the Western Apache Indians to the area of land set forth in Finding of Fact No. 11.

3. That the plaintiff in Docket 229 does not have Indian title to any of the area of land set forth in Finding of Fact No. 11 and said plaintiff's claim to this area is therefore dismissed.

4. That on May 1, 1873, the United States extinguished, without the payment of compensation, said Indian title to the lands exclusively used and occupied by the Western Apache Indians outside the enlarged White Mountain Indian Reservation established by the Executive Orders of November 7, 1871, and December 14, 1872.


5. That by the Executive Orders of August 5, 1873, July 21, 1874, April 27, 1876, January 26, 1877, March 31, 1877, and December 22, 1902, the United States successively extinguished, without the payment of compensation, said Indian title to lands exclusively used and occupied by the Western Apache Indians inside the said enlarged White Mountain Indian Reservation as of the above dates.


6. That under Sec. 2(4) of the Indian Claims Commission Act plaintiffs are entitled to recover from the defendant on behalf of the Western Apache Indians the fair market value of the area set forth in Finding of Fact No. 11 as of the dates when said Indian title was extinguished by the United States.

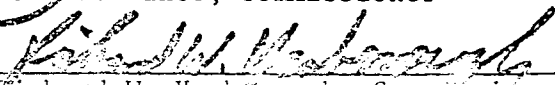
IT IS THEREFORE ORDERED that the case proceed to a determination of the acreage of the tract described in Finding of Fact No. 11, outside the enlarged White Mountain Indian Reservation established by the Executive Orders of November 7, 1871, and December 14, 1872, and the value of said lands on May 1, 1873.


IT IS FURTHER ORDERED that there be a determination of the acreages inside the said enlarged White Mountain Indian Reservation which were excluded from said reservation by the Executive Orders of August 5, 1873, July 21, 1874, April 27, 1876, January 26, 1877, March 31, 1877, and December 22, 1902, and the value of these tracts as of these dates.


Dated at Washington, D. C., this 27th day of June, 1969.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarbrough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner