

BEFORE THE INDIAN CLAIMS COMMISSION

BAY MILLS INDIAN COMMUNITY, SAULT)	
STE MARIE BANDS, Arthur W. LaBlanc,)	
Daniel Edwards and John L. Boucher,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 18-F
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: November 19, 1969

FINDINGS OF FACT

1. This claim involves the cession and relinquishment by the Chippewas of Sault Ste. Marie to the United States by the Treaty of August 2, 1855 (11 Stat. 631, 2 Kappler 732), of "the right of fishing at the falls of St. Mary's and of encampment, convenient to the fishing ground, secured to them by the Treaty of June 16, 1820." The ceded land area is delineated in the original township plat of United States Government Surveyors approved in 1846 of Township 47 North, Range 1 East Mer., Michigan and contains 36.4 acres.

2. The Bay Mills Indian Community is a Wheeler-Howard Act Indian corporation duly organized pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), under a constitution and by-laws approved by the Secretary of the Interior on November 4, 1936. Its membership consists of members of the Sault Ste. Marie Band of Chippewa Indians residing on the Bay Mills Reservation in the State

of Michigan. The Bay Mills Indian Community is not the successor in interest to the claim presented under Docket No. 18-F but is entitled to maintain this action in a representative capacity on behalf of the Sault Ste. Marie Band of Chippewa Indians, the present day tribal entity of the Chippewas of Sault Ste. Marie who were parties to the Treaty of August 2, 1855 (11 Stat. 631, 2 Kappler 732).

3. On June 16, 1820, the United States entered into a treaty with the "Chippeway tribe of Indians" (7 Stat. 206, 2 Kappler 187) which provided, among other things, that the United States would secure to the Indians "a perpetual right of fishing at the falls of St. Mary's, and also a place of encampment . . . convenient to the fishing grounds" (Article 3). In Article 3 of the Treaty of March 28, 1836 (7 Stat. 491, 2 Kappler 450, 451), made with the Ottawa and Chippewa Nation of Indians, the right of fishing at the falls of St. Mary's and place of encampment secured to the Chippewas by the Treaty of June 16, 1820, were reserved by the following provision:

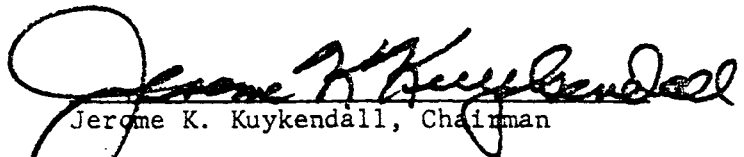
It is understood that the reservation for a place of fishing and encampment, made under the treaty of St. Mary's of the 16th day of June 1820, remains unaffected by this treaty.

4. In Article 3 of the Treaty of July 31, 1855 (11 Stat. 621, 2 Kappler 725, 729), made with the Ottawa and Chippewa Indians of Michigan "The right of fishing and encampment secured to the Chippewas of Sault Ste. Marie by the Treaty of June 16, 1820" were excepted from the release and discharge of the United States from liability on account of former treaty stipulations.

5. April 15, 1856, the date of ratification of the Treaty of August 2, 1855, was the effective date of the cession and relinquishment of the fishing rights and of the place of encampment.

Conclusions of Law

Upon the foregoing Findings of Fact the Commission concludes as a matter of law that the Bay Mills Indian Community is entitled to maintain this action in a representative capacity on behalf of the Sault Ste. Marie Band of Chippewa Indians; and that the Sault Ste. Marie Band of Chippewas held rights of fishing at the falls of St. Mary's and recognized or reservation title to a 36.4 acre place of encampment, which rights and title were ceded by them to the United States by the Treaty of August 2, 1855, which became effective on April 15, 1856.


Jerome K. Kuykendall, Chairman


John F. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner