BEFORE THE INDIAN CLAIMS COMMISSION

THE JICARILLA APACHE TRIBE OF THE JICARILLA APACHE RESERVATION, NEW MEXICO, Plaintiffs,	)	
v.	)	Docket No. 22-A
THE UNITED STATES OF AMERICA, Defendant.	)	

Decided: December 2, 1970

ADDITIONAL FINDINGS OF FACT

Introductory Statement

The Commission makes the following additional findings of fact which are supplementary to previous findings herein numbered 1 thru 168:

169. Topography. The subject area is located in southern Colorado and northern New Mexico. Approximately one-third, the western part, is in the Rocky Mountain region and two-thirds, the eastern part, is in the Great Plains region of plateaus and mesas. The elevation ranges from 3,800 feet in the southeastern part to 11,000 feet on the crest of the mountain range in the western part.

The major rivers and streams include the Rio Grande, Canadian River, Vermejo River, Cimmaron Creek, Purgatoiri River, Ocate Creek, Cebolla River, Sapello River, Mora River, Conchas River, Pecos River, Gallinas River, Ute Creek, Northern Canadian River, Arkansas River and

Cimarron River. The rivers were not navigable.

170. Climate. Climate in the subject area is moderate, pleasant and allows year-long grazing for livestock. The mean maximum temperature for July ranges from 84° F to 92° F and the mean minimum temperature varies from 54° F to 64° F. For January the mean maximum temperature ranges from 40° F to 52° F and the mean minimum temperature varies from 12° F to 20° F.

The precipitation throughout the area ranges from 8 to 30 inches a year and increases as one travels westerly through the mountainous part. The major portion of the precipitation falls during the summer months with winter precipitation occurring chiefly in the mountains.

171. Vegetation and Soil. Vegetation covers most of the area and consists of a growth of short grasses and scrub pine timber. Roughly 67% is grassland which is located in the lower and more level portions. The principal grasses therein are grama, buffalo and bunch grass. About 16% of the area has coniferous forests, in which pine, spruce and fir are common trees. Between the grassland at lower elevation and heavier coniferous forests upslope is an open woodland of pinion and juniper trees. Such woodland makes up about 12% of the area. The remaining 5% is made up of desert shrub such as sagebrush and greaswood.

The 766,000 acres of timber in the area was confined to the mountain regions. Only the timber located on the lower mountain slopes was accessible. The timber was of little commercial value and

was used largely for mine timbers, railroad ties, fencing and building construction and for fuel by local inhabitants and railroads.

Almost every major soil group that occurs throughout the United States exists to some extent in the subject area; the soil supports a vegetation of grass and plants suitable for grazing.

172. Coal and Other Mineral Deposits. Coal lands totaling about 87,000 acres were present in 1883 in the vicinity of Trinidad, Colorado and Raton, New Mexico. After the Santa Fe reached Colorado and New Mexico in the 1870's, the coal industry began to develop and by 1883 there was a significant production of coal from deposits in the subject area.

Although gold, silver, copper, lead and iron deposits were present in the subject tract in 1883, such deposits did not have significant commercial value.

173. Highest and Best Use of the Subject Area. Due to the favorable climate and elevation, the subject area contains some of the best cattle grazing land in [illegible] Mexico. The temperate summers with low humidity and cool nights enable the cattle to rest and gain weight. The moderate winters and the protection provided by the rolling terrain, hills, plateaus, river breaks, arroyos, and cedar cover result only in a small loss of cattle in the winter months. Snow melts quickly in the sloping regions, exposing the grass and eliminating costly winter feeding. The above-described factors, which eliminate the need to remove the cattle to a warmer winter pasture,

result in a more economical year-round cattle operation.

The carrying capacity, that is, the number of head of cattle each section of land will support year-round on a permanent basis, was excellent. The parties are in substantial agreement that the carrying capacity of the entire area is 14.8.

Both parties to this action agree that the highest and best use of the entire area was for cattle grazing and stock raising purposes and therefore best suitable for sale to cattlemen and investors.

Plaintiffs' principal appraisal witness Mr. Allen McMullen concluded that the fair market value of the subject tract, including minerals and timber, is $12,691,130.00.

Defendant's principal appraisal witness Mr. Harley M. McDowell and his colleagues placed a fair market value on the subject tract including the value of all minerals at $3,690,900.

174. Transportation and Accessibility. The first railroad to enter the subject tract was the Denver and Rio Grande, which, building south from Denver, reached Colorado Springs, Colorado in 1871 and by 1890, connected most of the important towns in the northern half of the area. The other railroad of major significance was the Atchison, Topeka and Santa Fe which, running westward from Kansas, entered the subject area at Holly, New Mexico in 1873. By 1883 the Santa Fe extended through the tract. The construction and operation by 1883 of railroads throughout the area made the grazing land in New Mexico and Colorado more accessible to the eastern markets than grazing lands located further west or in Texas. By 1890, the Santa Fe system

connected the subject area with markets on the west and east coasts.

Prior to the construction of railroads in the subject area, transportation was confined to trails and roads. The only significant trail was the Santa Fe Trail, a wagon road, which originated in Independence, Missouri, crossed the area in northeastern New Mexico and proceeded southwesterly to Las Vegas and into Santa Fe, a total of 775 miles. Other roads were military roads used by the Army to service their various forts which were located in the subject area and wagon roads which serviced the land grants within that area.

Rail service infused new life into trade and business in the area of the subject tract. By linking the Western plains region with the markets in the east, the railroads helped bring on the cattle boom of the early and middle 1880's and that boom in turn increased the demand for grazing land.

175. Population and Settlement Through the 1880's. The census figures show the following populations for New Mexico:

1870	1880	1890
91,874	119,565	143,593

During the early 1880's the population was distributed principally northward along the Rio Grande valley, and along the water courses such as the Pecos, Gallinas, Mora, Ocate, Cimmarron, Vermejo and Canadian Rivers. Principal settlements in or near the subject area were Las Vegas, Watrous, Wagonmound, Springer, Raton, Galisteo, Anton Chico, Mora, Cimmarron, Elizabethtown, Arroyo Hondo, Lucer and

Ocate. New towns also sprung up along the Santa Fe railroad route which crossed the subject tract.

176. The Cattle Industry in the Subject Tract in the 1880's. After the Civil War, because of the marked shortage of livestock and grazing lands in the Eastern and Mid-western United States, the Great Plains area of the west was becoming a major cattle supply area. Cattle were being driven from Texas into the new and ample grasslands of New Mexico and Colorado. The Santa Fe extension of the railroads westward across the subject tract made rapid shipment of cattle to the east and west possible. Packing plants were built in St. Louis, Kansas and Chicago. A great cattle boom developed in the early 1880's in the Great Plains and many fortunes were made. Books appeared depicting economic prospects for settlers in the Great Plains in extravagant terms. There was a market for all the cattle that could be raised and prices rose steadily. Cattle prices in Chicago were on the rise. As shown by the following table, the value per head of cattle in New Mexico rose steadily between 1880 and 1884 and then declined:

Year	Number (1,000)	Average Value Per Head (dollars)	Total Value (1,000 dollars)
1880	545	11.10	6065
1881	567	12.20	6894
1882	605	13.20	7998
1883	711	19.50	13832
1884	812	20.20	16405
1885	949	18.90	17940
1886	1065	18.10	19266

By 1880 cattle investors from the eastern United States and a number of British, Scotch, Canadians and German investors began to move into the West and invest capital in Western land and cattle companies. The British had as much as $45,000,000 invested in the Western cattle business by the early 1880's. In New Mexico 114 cattle companies were incorporated between 1881 and 1883. The British and Scotch capital added to the increasing domestic financial resources already committed to the cattle industry helped feed the great boom experienced by the Western cattle industry during this period.

177. The Effect of the Cattle Industry Upon the Demand for Land in the Subject Tract. Until about 1880, extensive fee simple ownership was shunned by Western cattle owners. Cattlemen would buy just enough land for headquarter camps and to control surface waters for watering of their livestock. For grazing purposes, the cattlemen used the adjoining public domain without surface water. Such free use of the public domain (free range) created little demand for unwatered land by the cattle industry, but created substantial demand for the small units of land controlling water holes and access to water. However, by 1883 the westward migration from the east and the use of the newly invented windmill and drilled well, combined with the boom in the cattle industry, increased the demand for all lands. Lands without surface water, which in the past years had been used by cattlemen freely and without ownership, began to be purchased for stock raising. Although parts of the subject area contain streams and

In 1882 the state of Texas entered into a contract with the Capitol Company whereby the Company agreed to build the Texas Capitol Building in return for 3,000,000 acres eventually selected as the XIT Ranch. The original estimate of the construction cost was $1,500,000. The construction was completed in 1888 at a final cost of $3,224,593.45.

Matador Ranch. In 1882 Matador Land Company sold 100,000 acres of land in the Texas Panhandle to the Matador Land and Cattle Company, a Scotch company, for $1,250,000. This sale included fencing improvements, 265 horses and 40,000 head of cattle. According to the defendant's expert this sale indicates a net price for the fee of $1.95 per acre, but included range rights over a total 1,600,000 acres. By the end of 1883 the Company had acquired 374,717 acres of fee lands listed as costing them $1.62 per acre. Through the 1880's the Company continued to enlarge its fee holdings for an average $1.50 per acre.

Spur Ranch. The Spur Ranch in West Texas contained 242,560 acres. It sold in 1883 for $515,440. This transaction included leased range rights over 300,000 acres.

Francklyn Land & Cattle Company. The Francklyn Land & Cattle Company, owned by one Colonel B. B. Groom, consisted of 529,920 acres and was located in the Texas Panhandle. It was sold by New York & Texas Company to Francklyn Land Company in February 1882 for $699,494.40. The purchase price was to be paid in installments over a five-year period at the low interest rate of 5%.