

## BEFORE THE INDIAN CLAIMS COMMISSION

THE PONCA TRIBE OF INDIANS OF )  
 OKLAHOMA, AND WILLIAM OVERLAND, )  
 MUTHA COLLINS AND JOHN WILLIAMS, )  
 AS REPRESENTATIVES OF THE PONCA )  
 TRIBE AND ALL OF THE MEMBERS THEREOF, )

Plaintiff, )

v. )

Docket No. 323

THE UNITED STATES OF AMERICA, )

Defendant. )

Decided: December 30, 1970

ADDITIONAL FINDINGS OF FACT

The Commission makes the following Findings of Fact which are supplementary to Findings of Fact numbered 1 to 42, inclusive, previously entered herein and reported at 17 Ind. Cl. Comm. 162 (1966):

43. Geographical Description of the Land. The Ponca Indian Reservation is located in the northeast corner of the present state of Nebraska in the confluence of the Niobrara and Missouri Rivers. The southern and eastern boundary of the Ponca tract is the Niobrara River. The northern boundary follows the Missouri River west from its juncture with the Niobrara River to the division line between Boyd and Knox Counties, then south along the division line to Ponca Creek, then along Ponca Creek to the western boundary of the subject tract which is the division line between Ranges 10 and 11 West. The Ponca Indian Reservation contains 96,000 acres, including the islands in the Niobrara River.

44. Topography. The subject tract consists generally of high flat plains and uplands, and to a lesser degree alluvial bottom lands. The uplands, which are more rolling and rough particularly in the western part of the subject tract, slope gently to the north and east, causing the drainage from the streams and creeks to flow into the Niobrara and Missouri Rivers. The alluvial plains border on the Niobrara River, the Missouri River, and the branches of the larger creeks and streams, and are separated from the uplands by bluffs and terraces.

The streams in the subject area have steep gradients and are actively deepening their channels. That portion of the Niobrara River which borders the subject area is shallow, swift flowing, and contains large areas of quicksand. It is difficult to ford. The islands in the Niobrara River are low, flat and subject to inundation.

45. Climate. The climate in the subject tract is typical of northeastern Nebraska and suitable for grain growing and livestock production. The average annual precipitation is 22 to 24 inches in the immediate area of the subject tract. [Three-fourths of this falls during the period of April through September.] Rain is usually more plentiful during the early summer. Short dry spells are experienced from late July to the end of summer and at times drought conditions prevail.

Temperatures average 20° to 22° above zero in the winter and in the low 70's during the summer. There are normally 30 to 60 days during the summer when the temperature is 90° or above.

The growing season averages 150 days.

46. Soils and Vegetation. The prevailing soils in the Ponca Indian Reservation are generally classified as the Moody-Boyd series, a classification of soil generally associated with and related to general farming, and the raising of corn, spring small grains, and beef cattle. The shale and clay subsurface materials that are found in the subject tract are nearly impervious to water and generally unsuitable for farming. In areas where sandy loam soils predominate, a larger percentage of the land can be cultivated. Good well water is obtainable in the uplands, at depths of from 50 to 150 feet.

Percentage wise, the reservation lands are made up of the following types:

Bottom and terrace land . . . . .	20.2%
Level and undulating rolling upland . . . . .	30.7%
Rolling to hilly upland . . . . .	32.7%
Rough, broken and hilly upland . . . . .	16.4%
	<u>100.0%</u>

In 1877 there were large expanses of grass cover throughout the subject area.

An examination of the many recorded observations and statements of the surveyors who began to tract the Ponca Indian Reservation as

early as 1858, indicate that the reservation consisted roughly of 60% "first" and "second" rate soil suitable for cropland and 40% "third" and "fourth" rate soil suitable for raising hay or grazing.

Timber stands were generally found in narrow strips along the streams in the larger valleys, and on the slopes of the bluffs that border the bottom land. Ash, box elder, burr oak, cottonwood, and willow were the more common species of timber that grew in the subject area. The timber stands in the reservation area had no significant commercial value in 1877, but were used by individual settlers for local building purposes, for fence posts and for fuel.

47. Minerals. In 1877, there were no known mineral deposits of commercial value in the subject area.

48. Settlement and Population. The first permanent settlement in northeast Nebraska, and the one nearest the subject tract, was established in 1856 at Niobrara at the junction of the Missouri and Niobrara Rivers. By 1857 there were at least 60 people living in and around the village area. Later settlements were established principally in the valleys of the Missouri River and Verdigris Creek, south and east of the subject tract. The communities were essentially rural. Settlement of the rugged hilly areas was retarded somewhat by the lack of water.

The settling of Boyd County lagged behind Knox County. The first settlements west of the subject tract were established along the Keya Paha River about 1880. Before this date, the entire area, including that part of the Ponca tract located within Boyd County, was inhabited mostly by trappers and hunters.

Across the Missouri River and about twenty miles upstream from the Ponca Indian Reservation was the village of Yankton, later to become the Dakota territorial capital. The population of Yankton grew from 2,097 in 1870 to 8,390 in 1880. In 1877 it was the largest town nearest to the Ponca tract.

The population of Nebraska in 1877 was heavily concentrated in the east and southeast. The 1870 census figures show 122,000 people living in Nebraska. By 1880 the population exceeded 452,000.

After crossing the Missouri River, normally at Omaha, the population movement in Nebraska generally followed the railroad lines into the farming regions of the eastern, central and southern parts of the state. For the most part, new settlement was slow to the north and west where the land became progressively more arid and rough.

Knox County, which contains approximately two-thirds of the subject tract, realized its greatest population growth percentage wise in the decade from 1870 to 1880, increasing from 261 to 3,666 inhabitants. During this same period Omaha, Nebraska, south of the subject tract, increased from 16,083 to 30,518 persons.

49. Transportation. The Missouri River has always afforded access to the eastern part of the Ponca Indian Reservation. In the early days of white settlement steamboats plied the Missouri River principally between the railroad terminal at St. Louis, Missouri and Sioux City, Iowa, a major market for surplus farm products. As railroad lines were extended into the northern Missouri River valley in the 1860's and 1870's, the centers of river transportation moved northward. For the most part Missouri River travel above Sioux City, Iowa, was governed by seasonal weather limitations and navigational problems. Riverboats experienced some difficulties in reaching the villages, Niobrara and Yankton; only under favorable conditions could boats of lighter draft navigate the Missouri River as far as the Montana mining fields. River traffic on the Missouri River never attained the proportions of that reached on the Ohio and Mississippi Rivers; due to inherent navigational hazards, the rather exorbitant













