

BEFORE THE INDIAN CLAIMS COMMISSION

THE SAC AND FOX TRIBE OF INDIANS)	
OF OKLAHOMA, ET AL.,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 83
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: June 16, 1971

ADDITIONAL FINDINGS OF FACT

The following findings of fact are supplemental to the findings of fact numbered 1 through 21 heretofore entered in the above-captioned suit.

22. Article 2 of the Sac and Fox cession treaty of November 3, 1804, 7 Stat. 84, provided respecting the western boundary of the plaintiffs' lands west of the Mississippi that it be located:

. . . Beginning at a point on the Missouri river opposite to the mouth of the Gasconade river; thence in a direct course so as to strike the river Jeffreon at the distance of thirty miles from its mouth . . .

The beginning point, opposite the mouth of the Gasconade River, was a known location and may be located on a modern map at the town of Gasconade, Missouri. The point on the River Jeffreon [now known as the North River] was not a known location, but was projected on a map at the time the treaty was drafted.

23. The call point on the River Jeffreon thirty miles from its

mouth is to be located by measuring thirty miles in a direct line to the west from what is now known as the confluence of the North River and the Mississippi River near Mark, Missouri. A measurement of thirty miles to the west in a straight line from that confluence locates the northwest corner of the plaintiffs' lands west of the Mississippi in Shelby County, Missouri, in Section 10, Township 58 North, Range 10 West.

24. The western boundary of the plaintiffs' lands west of the Mississippi consisted of a portion of the line beginning opposite the confluence of the Gasconade River and the Missouri River, and running straight, in a northerly direction, to the point on the River Jeffreon heretofore located thirty miles from the confluence of the North Jeffreon River and the Mississippi River.

25. The southern boundary of the plaintiffs' lands west of the Mississippi was defined in Finding of Fact No. 21(b) heretofore entered in this suit as:

. . . a line commencing at the mouth of the Cuivre river; thence west to a point where the western boundary line of Cession 50 intersects the Callaway-Montgomery County line."

That intersection occurs well to the north of Gasconade, approximately four miles west of the present town of Mineola, Missouri, in Montgomery County, Missouri, at Section 36, Township 48 North, Range 7 West. The straight line from the confluence of the Cuivre River and the Mississippi River in a westerly direction to its intersection with the western boundary of the plaintiffs' lands and with the Callaway-Montgomery

County line is the southern boundary of the plaintiffs' lands west of the Mississippi River.

26. The northern boundary of the plaintiffs' lands west of the Mississippi is the River Jeffreon (North River) by its meanders in an easterly direction to its confluence with the Mississippi River. The eastern boundary of the plaintiffs' lands west of the Mississippi is the Mississippi River, by its meanders, from its confluence with the River Jeffreon south to its confluence with the Cuivre River.

27. The area enclosed by the boundaries located in findings of fact numbered 23, 24, 25, and 26 herein consists of 1,850,000.00 acres.

28. Article III of the Louisiana Purchase treaty of April 30, 1803, 8 Stat. 200, provided.

Article III. The inhabitants of the ceded territory shall be incorporated in the Union of the United States . . . and in the meantime they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess.

In an Act of March 26, 1804, 2 Stat. 283, Congress took the first steps toward providing government for the Louisiana Purchase. Section 14 of that Act in effect held all foreign land grants in status quo pending enactment of specific legislation for the protection of the settlers' free enjoyment of their property.

29. The Act of March 2, 1805, 2 Stat. 324, provided the machinery under which holders of foreign land grants could secure confirmation of them. A number of restrictive conditions (e.g., extinguishment of Indian title, cultivation, habitation, size of

tract, age of occupant) were set out for the guidance of the Board of Land Commissioners authorized by Sections 4 and 5 of the 1805 Act. While the first Board of Land Commissioners was still holding hearings on claimed grants, Congress passed the Act of April 21, 1806, 2 Stat. 391, which relaxed the formal proof requirements for establishing that a claimant's original occupation was with permission of the proper authorities. Further relaxation of the requirements for establishing a valid grant was contained in the Act of March 3, 1807, 2 Stat. 440. The element of extinguishment of Indian title contained in the 1805 Act was not repealed or modified in the 1806 and 1807 acts but it was ignored consistently by a majority of the members of the first Board of Land Commissioners.

30. The first Board of Land Commissioners recorded more than three thousand claims and took testimony on about 90% of them. Of the more than 2,000 claimed grants which that board refused to confirm, 92 were located in the area enclosed by the boundaries established in findings of fact numbered 23, 24, 25 and 26 (supra). Of the 1,342 claimed grants which that Board confirmed by January of 1812, seventeen were located in the area enclosed by those boundaries.

31. The rejection of over 2,000 claimed grants led to further relaxation of the requirements for confirmation. In the interim, the Act of March 3, 1811, 2 Stat. 662, authorizing the survey and sale of Louisiana Purchase lands, exempted from sale those lands against which claims of grants had been made. By an Act of June 13, 1812, 2 Stat. 748, the time for filing claimed grants was extended to

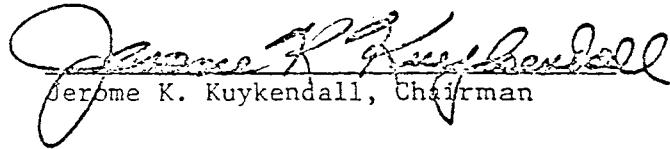
December of that year and the recorder was directed to confirm previously rejected claims which met new and less stringent standards. While rejected claims, and some new ones, were being considered, Congress passed the Act of April 12, 1814, 3 Stat. 121, in which the standards against which claimed grants were measured were further relaxed. Under these modified standards, the recorder considered more than 2,500 claims and rejected only 801. 73 of these confirmed land grants were located in the area enclosed by the boundaries alluded to in Finding of Fact No. 30.

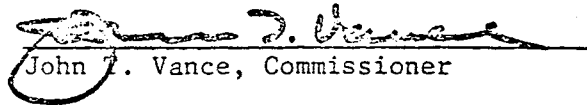
32. The existence of a substantial number of rejected claims led to pressures on Congress to modify further the criteria which restricted confirmation of land grants in the Louisiana Purchase. A very few were filed in the District Court of the United States for the District of Missouri pursuant to the provisions of the Act of May 26, 1824, 4 Stat. 52. That court rejected three claims, two of which were appealed to the Supreme Court and there confirmed. The remaining suits in the District Court were not prosecuted, pending the passage of remedial legislation.

33. A second Board of Land Commissioners was established by the Act of July 9, 1832, 4 Stat. 565. The Board sought, and secured, amendments which further liberalized the criteria under which land grant claims were to be considered. See Act of March 2, 1833, 4 Stat 661. Under these acts, the second Board of Land Commissioners confirmed 345 land grant claims and declined to confirm 152 claims, leaving a substantial number without decision. Finally, by acts of June 22, 1860,

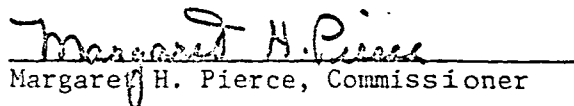
12 Stat. 85, and June 6, 1874, 18 Stat. 62, Congress authorized the recorder in St. Louis to decide all remaining claims and vested fee simple title in all holders of land grant claims confirmed by Congress, by either Board of Land Commissioners, or by a Recorder of Land Titles.

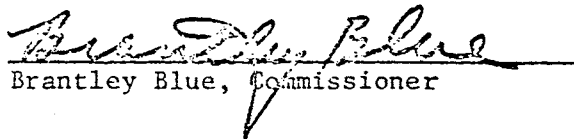
34. Of the claims confirmed between 1805 and 1874, 109 were located within the boundaries alluded to in Finding of Fact No. 30. They amounted to 211,275.61 acres. This is not chargeable against the defendant. The net quantity of land to be valued in the case at bar is 1,638,724.39 acres (1,850,000.00 less 211,275.61).


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner

Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner