

BEFORE THE INDIAN CLAIMS COMMISSION

GILA RIVER PIMA-MARICOPA INDIAN	)	
COMMUNITY, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Docket No. 228
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Decided: January 20, 1972

ADDITIONAL FINDINGS OF FACT

The Commission makes the following findings of fact which are supplemental to the findings of fact, numbered 1 through 25, previously entered herein, 24 Ind. Cl. Comm. 301, 311 (1970).

26. Post - 1859 Use and Occupancy of Aboriginal Area. The Commission has previously found (Finding of Fact 22, 24 Ind. Cl. Comm. 301, 333-34) that, after the establishment of the first Pima-Maricopa reservation on the Gila River by the Act of February 28, 1859 (11 Stat. 388, 401), the Pimas and Maricopas continued to live in their customary ways and to use the much larger area of approximately 3 3/4 million acres which they had traditionally defended against encroachments by hostile Indians, which they continued to claim was theirs after 1859 (Plaintiffs' Exhibit 295 and Defendant's Exhibit 108), and which the Commission determined constituted their aboriginal lands, 24 Ind. Cl. Comm. at 335. In 1859 and immediately thereafter, the Pimas and Maricopas were residing and farming within the reservation area and

were using their aboriginal area outside the reservation, as they had traditionally, for gathering, hunting, and fishing, as well as for grazing their stock, which in 1859 numbered approximately 1800 cattle and horses, and which increased substantially in the years following.

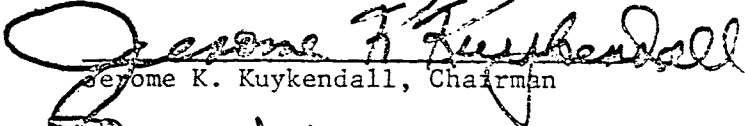
The 1859 reservation was established in order to protect the irrigated and cultivated lands of the Pimas and Maricopas from probable encroachments by white settlers. White settlement, however, was slowed by the Civil War and it was not until the late 1860's and early 1870's that the Pimas and Maricopas began to feel the effects of white settlement on their traditional ways of life. Settlers began to complain about the roaming Indian stock. The water supply on the Gila River decreased through a long drought and because white settlers irrigated lands above the reservation on the Gila, with the result that the farming activities of the Indians suffered substantially. The Pimas and Maricopas began to move their villages and farming activities to other portions of their aboriginal lands. In 1871 the first Indians left to make settlements on the Salt River and, by 1878, 2,500 Pimas and Maricopas had left the Gila River reservation to farm in other portions of their aboriginal lands, particularly along the Salt River and in the Blackwater area east of the reservation. To protect the Pima-Maricopa farm lands in these areas from intrusions by white settlers further portions of their aboriginal lands were reserved by the Executive Orders of August 31, 1876 (1 Kapp. 806) and June 14, 1879 (1 Kapp. 806, 807). Further enlargements of the Gila River Reservation were accomplished between 1879 and 1883 by Executive order. The greatest

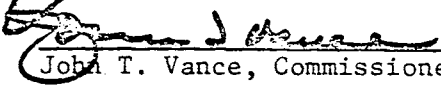
single addition was on November 15, 1883 (1 Kapp. 808) which enlarged it to almost its present size.

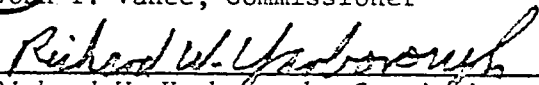
27. Extent of White Settlement between 1859 and 1883. White settlement in Arizona was severely hampered due to the Civil War, during which time the number of Federal troops available to maintain order and protect against the Indians was very limited. Only after the war did the arrival of settlers begin to conflict with the Pima-Maricopa land use within their aboriginal area. By 1870 Federal census figures show the population of the entire territory at about 9,500. In that same year, the Commissioner of Indian Affairs reported that approximately 20 percent of the Pima-Maricopa aboriginal area had been surveyed, that approximately 2 1/2 percent of the entire territory of Arizona had been surveyed, and that 96 percent of the land in the territory remained unpatented (Defendant's Exhibit 269, pp. 31, 115).

In 1868, the first land office in Arizona Territory was established at Prescott in central Arizona. By Act of February 18, 1873, 17 Stat. 465, Congress established the Gila Land District which encompassed the southern portion of the Arizona Territory (approximately 25 million acres) and included nearly all the Pima-Maricopa aboriginal tract of 3 3/4 million acres. Pursuant to this act, the second land office for Arizona Territory was established on March 20, 1873, at Florence, within the subject tract. Between 1874 and mid-1880, approximately 140,000 acres were patented at the Florence office. By 1880, Federal census figures show that the population of the entire territory had risen to about 40,000.

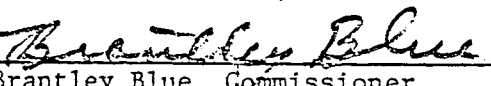
28. Dates of Taking. For those lands within the subject tract not entered by settlers previous to November 15, 1883 (aside from any acreage subsequently determined to be excluded from the area to be valued on the basis of Finding 25, 24 Ind. Cl. Comm. at 336, previously entered herein), the date of taking is November 15, 1883, the date of the Executive order enlarging the Gila River Reservation to almost its present size, which action the Commission finds manifested the Government's intention to assert dominion over the entire subject tract. For those lands actually entered by settlers previous to 1883, the Commission finds the date of taking of each tract so entered to be the date of entry thereon unless the parties subsequently agree to an average entry date for all such tracts in which case the date of taking for all such tracts shall be the average entry date so agreed to between the parties.

  
Jerome K. Kuykendall, Chairman

  
Joba T. Vance, Commissioner

  
Richard W. Yarborough, Commissioner

  
Margaret H. Pierce, Commissioner

  
Brantley Blue, Commissioner