

BEFORE THE INDIAN CLAIMS COMMISSION

THE NEZ PERCE TRIBE OF INDIANS,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 175-B
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER AMENDING FINDINGS OF FACT AND
CONCLUSIONS OF LAW

Upon its own motion and in compliance with the decision of the Court of Claims in the subject case, being Appeal No. 2-70, decided March 19, 1971, 194 Ct. Cl. 490, and for the reasons set forth in the opinion this date filed herein, the Commission orders:

(1) That Finding of Fact No. 26, entered on November 14, 1969, be stricken and there be set forth in lieu thereof the following:

26. After considering the evidence in this case, as reflected in our findings 1 through 25, 13 Ind. Cl. Comm. 184-235 (1964), and for the reasons set forth in the opinion accompanying those findings as well as the opinion entered this date, the Commission finds that an approximation of the average per acre values of the tribe's lands within the three use categories in this case would have been:

Agricultural land	\$6.70
Timberland	5.20
Grazing land	3.10

Applying these values to the proportion which each land use area bore to the entire Nez Perce tract, an average per acre value of about \$5.50 is indicated for the area as a whole. The Commission finds that the subject area had a fair market value, as of August 15, 1894, of \$3,022,575.00.

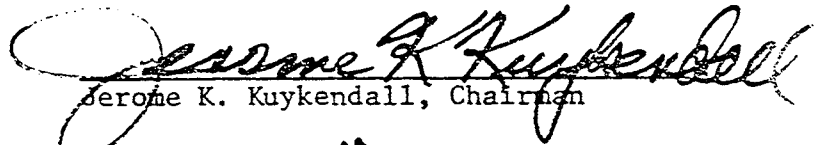
IT IS ORDERED that the Conclusions of Law entered on November 14, 1969, be stricken and there be set forth in lieu thereof the following:


Conclusions of Law

The consideration paid by the defendant for the cession was \$1,634,664.00 or an average of about \$2.97 per acre. This leaves a difference of \$1,387,911.00 in the fair market value of the tract and the amount paid for the cession. Accordingly, the lands were worth about 80% more than the consideration which was paid the plaintiff. The Commission concludes that the consideration of \$1,634,664.00 paid to the plaintiff for the cession of its lands having a fair market value of \$3,022,575.00 was so grossly inadequate as to make the consideration unconscionable.


Since the parties have agreed that there are no gratuitous offsets to be claimed in this case, the plaintiff is entitled to entry of a final award.

Dated at Washington, D. C., this 1st day of November 1972.


 Jerome K. Kuykendall, Chairman


 John T. Vance, Commissioner


 Richard W. Yarborough, Commissioner


 Margaret H. Pierce, Commissioner


 Brantley Blue, Commissioner