

BEFORE THE INDIAN CLAIMS COMMISSION

COLORADO RIVER INDIAN TRIBES,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 283-B
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER DENYING DEFENDANT'S MOTION TO DISMISS

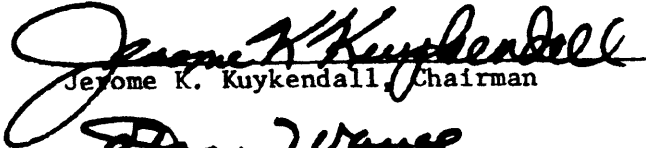
On August 21, 1974, defendant filed a motion to dismiss plaintiffs' "trespass" claim and requested a pretrial conference on pending accounting matters. The so-called "trespass" claim is defendant's designation of a claim for removal of natural resources from aboriginal title lands prior to the date of extinguishment of that aboriginal title. Plaintiffs responded to the motion on August 29, 1974, stating that they have a justiciable claim and are entitled to an opportunity to prove it at a hearing.

The Commission, having considered the motion, response, and all the pleadings in this case finds that the petition herein, filed on April 11, 1955, contains no allegations with respect to a preextinguishment removal of natural resources. Further, the report of May 31, 1963, which was filed by the defendant in response to the plaintiffs' petition for a full and complete accounting does not deal with any removal of natural resources. And further, the plaintiffs' exceptions to the report which were filed on February 3, 1964, and supplemented on December 18, 1969, do not relate to any claim for a pre-extinguishment removal of natural resources. The only reference which plaintiffs have made to such a claim appears in a January 21, 1974, letter reporting on cases to come before a calendar conference. In that letter plaintiffs' attorney referred to the subject docket as including a claim for removal of resources from plaintiffs' lands prior to the time their original title was extinguished.

Since it appears that no "trespass" claim is now before the Commission in this docket, the issue raised by defendant's motion is moot, and the motion should be denied. The request for a pretrial conference will be considered in the Commission's determination of the pending accounting issues in this case.

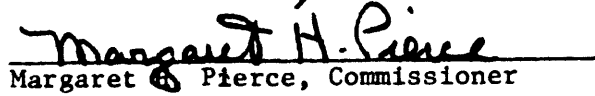
IT IS THEREFORE ORDERED that defendant's motion to dismiss and request for a pretrial conference be, and the same is hereby, denied.


Dated at Washington, D. C., this 10th day of July 1975.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner