

BEFORE THE INDIAN CLAIMS COMMISSION

BARON LONG, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 80-A
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: December 2, 1976

Appearances:

Arthur J. Gajarsa, Attorney for Intervenor, the San Pasqual Band of Mission Indians.

A. Donald Mileur and M. Edward Bander, with whom was Assistant Attorney General Peter R. Taft, Attorneys for Defendant.

OPINION OF THE COMMISSION ON GRANTING INTERVENOR'S MOTION TO ADMIT MISSING EXHIBITS

Blue, Commissioner, delivered the opinion of the Commission.


On October 29, 1976, intervenor moved for admission of seven exhibits which had been missing from exhibits previously submitted. (See discussion of missing exhibits in this proceeding at 38 Ind. Cl. Comm. 386.) Intervenor's explanation for the delay in furnishing the missing exhibits is reasonable, and the exhibits appear to be relevant and material.

The defendant responded in opposition to certain of the exhibits on grounds that they reflect post-1946 conditions and are thus not within

the Commission's jurisdiction, and that the right of way claims were wholly adjudicated in Thompson v. United States, Dockets 31 and 37, 13 Ind. Cl. Comm. 369 (1964).


All of the objected to exhibits appear to contain features such as early rights of way, which pre-date or which may pre-date 1946. As we stated in our opinion herein at 38 Ind. Cl. Comm. 382-365 (1976), rights of way, roads, etc., may be shown to establish truncation of irrigable acreage as a measurement of intervenor's water rights. Intervenor's water right claims were not subsumed in Thompson, supra.

The exhibits accordingly are admitted by the accompanying order.




Brantley Blue, Commissioner

We concur:




Jerome K. Kuykendall, Chairman



John T. Vance, Commissioner



Richard W. Yarborough, Commissioner



Margaret H. Pierce, Commissioner