

BEFORE THE INDIAN CLAIMS COMMISSION

RED LAKE BAND and PETER GRAVES,)	
JOSEPH GRAVES and AUGUST KING,)	
<u>ex rel.</u> RED LAKE BAND,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 189
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided:

FINDINGS OF FACT

1. Identity and Capacity to Bring Suit. The Red Lake Band of Chippewa Indians is a duly organized band of American Indians with a tribal organization recognized by the Secretary of the Interior as having authority to represent such band, and is authorized to maintain this action under the Indian Claims Commission Act of August 13, 1946, 60 Stat. 1049.

2. Original Red Lake Reservation. The original Red Lake Indian Reservation consisted of approximately 3,200,000 acres located in the northwestern portion of the present State of Minnesota on the Canadian border. The boundaries of the original Red Lake Reservation were established as a result of the cession to the United States of adjoining areas. By the Treaty of February 22, 1855, 10 Stat. 1165, the Mississippi, Pillager and Lake Winnibigoshish Bands of Chippewas ceded to the United States a large tract of land located to the east and south of the reservation. This area is identified as Area 357 on Royce's Map of Minnesota 1 in

Part 2 of the 18th Annual Report of the Bureau of American Ethnology (1896-1897).

By the Treaty of October 2, 1863, 13 Stat. 667, the Red Lake and Pembina Bands of Chippewas ceded to the United States a large tract of land adjoining the reservation on the west. This cession is identified as Area 445 on Royce's Map of Minnesota 1.

The unceded area located between the Canadian border on the north and the boundaries of the areas ceded under these two treaties constituted the original Red Lake Indian Reservation, identified as Area 446 on Royce's Map of Minnesota 1. In Article 6 of the 1863 treaty these unceded lands were called "the reservation," and thereafter were regarded by the United States and the Indians as constituting the Red Lake Reservation.

3. 1872 Survey. By survey approved June 21, 1872, a segment of the western boundary of the original reservation was erroneously surveyed so that 39,750.55 acres of reservation land were excluded from the reservation. The land so excluded is herein identified as Tract C. Tract C is about 57 miles long from north to south and varies from a fraction of a mile to about 3 miles wide. It runs from the Canadian border in Township 164 North, Range 36 West, south to the main channel of the Thief River in Township 157 North, Range 42 West.

4. 1875 Survey. By survey approved December 17, 1875, a segment of the eastern boundary was erroneously surveyed so that 12,727.34 acres

of reservation land were excluded from the reservation. The tract so excluded is herein identified as Tract A. Tract A is a triangular piece of land beginning on the north with a base about 1 mile wide on a branch of the Black River in Township 157 North, Range 27 West, and extending southwesterly approximately 60 miles to a point located in Township 148 North, Range 33 West.

5. 1885 Survey. By survey approved November 23, 1885, the southern boundary of the original reservation was erroneously surveyed so that 31,933.96 acres of public land were erroneously included within Royce Area 446 and excluded from Royce Area 357. This land is herein identified as Tract B. Tract B is a rectangular strip approximately 2 miles wide and 26 miles long extending along and just inside the short southern boundary of Royce Area 446 between Ranges 33 and 38 West. Under the terms of the Treaty of January 14, 1889, 25 Stat. 642, a portion (identified as Area 706 on Royce's Map of Minnesota, Northern Portion, and including Tract B) was ceded to the United States.

6. Disposal of Lands. The lands excluded from the reservation by reason of the erroneous surveys were disposed of by the United States on various dates by grant to the State of Minnesota as swampland, or school sections 16 and 36, or indemnity land, and to individuals by patents under the public land laws. The Tract B lands were also disposed of by the United States as public lands.

7. Valuation Dates, Acreage and Value. ^{*/} The values and acreages of the Tract A and Tract C lands by median dates of disposal are as follows:

^{*/} The parties have agreed on the dates of valuation, the acreage, and the values of the respective tracts. Accordingly, primary findings on these matters are considered unnecessary.

TRACT A

<u>Valuation Date</u>	<u>Acreage</u>	<u>Value</u>
1/1/1883	6.67	\$ 8.34
1/1/1895	687.62	3,887.74
1/1/1897	8,391.79	44,388.44
1/1/1903	2,331.98	34,979.70
4/1/1903	<u>1,309.28</u>	<u>17,829.20</u>
	12,727.34	\$101,093.42

TRACT C

<u>Valuation Date</u>	<u>Acreage</u>	<u>Value</u>
4/6/1885	457.51	\$ 571.89
11/10/1879	424.50	530.62
7/1/1895	2,768.86	6,922.15
10/1/1898	11,572.63	35,190.44
4/1/1900	5,833.96	47,953.78
1/1/1907	<u>18,693.09</u>	<u>218,668.82</u>
	39,750.55	\$309,837.70

8. No Compensation Paid. The United States has not paid the Red Lake Band any compensation for the Tract A or Tract C lands.

CONCLUSIONS OF LAW

1. The action of the United States in disposing of the Tract A and Tract C lands to others without compensation to the Red Lake Band constituted a taking under the Fifth Amendment.

2. The Red Lake Band is entitled to just compensation, including interest at the rate of 5 percent per annum as part of just compensation,

for the Tract A and Tract C lands taken by the United States.

3. Plaintiffs are entitled to an award in the total amount of \$1,843,038.50 as summarized below, plus simple interest from March 31, 1973, until paid, at 5 percent per annum on the principal sum of \$410,931.12.

<u>Valuation Date</u>	<u>Principal Sum</u>	<u>Interest to March 31, 1973</u>	<u>Total</u>
1/1/1883	\$ 8.34	\$ 37.63	\$ 45.97
1/1/1895	3,887.74	15,210.78	19,098.52
1/1/1897	44,388.44	169,230.93	213,619.37
1/1/1903	34,979.70	122,866.20	157,845.90
4/1/1903	<u>17,829.20</u>	<u>62,402.20</u>	<u>80,231.40</u>
	<u>101,093.42</u>	<u>369,747.74</u>	<u>470,841.16</u>
<u>TRACT C</u>			
4/6/1885	\$ 571.89	\$ 2515.84	\$ 3,087.73
11/10/1879	530.62	2,477.78	3,008.40
7/1/1895	6,922.15	26,909.86	33,832.01
10/1/1898	35,190.44	131,084.39	166,274.83
4/1/1900	47,953.78	175,031.30	222,985.08
1/1/1907	<u>218,668.82</u>	<u>724,340.47</u>	<u>943,009.29</u>
	<u>309,837.70</u>	<u>1,062,359.64</u>	<u>1,372,197.34</u>
	<u>410,931.12</u>	<u>1,432,107.38</u>	<u>1,843,038.50</u>

Jerome K. Kuykendall, Chairman

Margaret H. Pierce
Margaret H. Pierce, Commissioner

Brantley Blue
Brantley Blue, Commissioner

John T. Vance
John T. Vance, Commissioner

Richard W. Yarborough
Richard W. Yarborough, Commissioner