

BEFORE THE INDIAN CLAIMS COMMISSION

THE FORT PECK INDIANS OF THE)	
FORT PECK RESERVATION, MONTANA,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 184
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER

Having considered certain questions reserved in its previous decision in this case (28 Ind. Cl. Comm. 171 (1972)), and having reconsidered, on motion of one or both of the parties or upon its own motion, certain questions decided therein, the Commission ORDERS as follows:

Exception No. 1

The plaintiff's motion for reconsideration of the Commission's previous ruling under Exception No. 1 is denied. The defendant's motion for reconsideration is also denied.

Exception No. 3

The plaintiff's motion for reconsideration of the Commission's previous ruling under Exception No. 3 is denied. The Commission answers in the affirmative the question reserved in its prior decision under Exception No. 3, to wit, whether the unexpended balances of the appropriations to pay the installments of consideration provided in Article III of the agreement ratified by the Act of May 1, 1888, c. 213, 25 Stat. 113, were "funds held in trust by the United States" within the meaning of the Act of September 11, 1841, 31 U.S.C. § 547a.

Exception No. 5

The question of the liability of the defendant for failure to invest the fund known as Indian Moneys, Proceeds of Labor between 1883 and 1930, reserved in the Commission's previous decision herein, is answered in accordance with the decision in Te-Moak Bands of Western Shoshone Indians v. United States, Docket 326-A, 31 Ind. Cl. Comm. 427 (1973).

Exception No. 6

The question of the liability of the defendant to invest funds in its treasury made up of interest earned upon funds held in its treasury in trust for plaintiff is answered as stated in the accompanying opinion. Specifically, the defendant is ordered to:

(1) Restate its accounts of the funds "Proceeds of Fort Peck Reservation, Montana," "Fort Peck Reservation Four Per Cent Fund" and the corresponding interest account, "Interest and Accruals on Interest, Fort Peck Reservation Four Per Cent Fund," so as to correct reverse spending and late postings of interest, and to show year-end balances.

(2) Restate in a similar manner starting from June 30, 1930, the funds "Proceeds of Labor, Fort Peck Indians, Montana" and "Interest and Accruals on Interest, Proceeds of Labor, Fort Peck Indians, Montana."

(3) Carry the restated accounts down to the end of the last fiscal year before the date of filing with this Commission.

(4) Calculate 5% annual interest, compounded annually, on the uninvested balances in the restated "Interest and Accruals on Interest" funds.

(5) File the restated, updated accounts and the calculations of interest with this Commission, and serve copies on the plaintiff, on or before August 26, 1974.

Exception No. 13

Plaintiff's motion for reconsideration of the Commission's previous ruling under Exception 13 is granted, and the order of the Commission dated June 14, 1972, 28 Ind. Cl. Comm. 202, is hereby vacated insofar as it applied to this exception. The plaintiff shall be permitted to prosecute a claim in this case, without amendment of the pleadings, based upon the purchase by defendant of 6,736.71 acres of the Fort Peck Reservation for \$1.25 an acre pursuant to the Act of May 31, 1908, c. 237, 35 Stat. 558.

Exception No. 14

A. Plaintiff's motion for reconsideration of the Commission's previous ruling under Exception No. 14 is denied.

B. The previous order of the Commission herein is vacated insofar as it orders the defendant to clarify, explain, or supplement any account of expenditures contained in the General Accounting Office report filed herein.

The defendant is permitted until the close of business on Monday, August 26, 1974, to file such amended accounting for expenditures as it may care to submit voluntarily. The plaintiff is permitted until the close of business on Monday, September 23, 1974, to file specific exceptions to items of expenditure as shown on the amended account, or to the extent that the account is not amended, as shown in the General Accounting Office report currently on file.

IT IS FURTHER ORDERED that the parties shall cause their lawyers and accountants to confer at their earliest convenience to consider what further accounting may be necessary or desirable in this case and to report their views to Commissioner Vance at a conference to be held in the hearing room of the Commission on Tuesday, May 14, 1974, at 10:00 a.m.

IT IS FURTHER ORDERED that the parties shall adhere to the following schedule in the succeeding stages of this case:

- May 14, 1974: Conference and status report before Commissioner Vance.
- August 26, 1974: Last day for Government to file supplemental accounting ordered by this or earlier decision.
- September 23, 1974: Last day for plaintiff to file exceptions. Last day for either party to file dispositive motions.
- October 23, 1974: Last day to answer exceptions or other party's motion.
- November 7, 1974: Last day to reply to opposition to party's own motion.
- December 9, 1974: Last day for filing and service of pretrial statements.
- December 12, 1974: Pretrial conference. Last day to file and exchange, pursuant to Rule 23(e) of the Commission's General Rules of Procedure, documentary evidence proposed for use at trial.

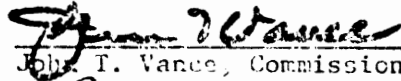
The hearing will be held under Rule 22(e) of the General Rules of Procedure and the pretrial instructions contained in the Commission's General Policy Statement § 101, effective on

July 15, 1968. At the hearing all matters will be considered which would simplify the issues and expedite the trial and ultimate disposition of the case.

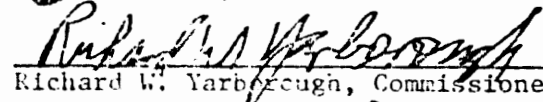
Each party should be represented by the attorney who expects to conduct the actual trial. The said attorney should familiarize himself with the Commission's pretrial rules and instructions and come with full authority to admit and stipulate undisputed facts, and to waive requirements for formal proof of documents; to discuss possibility of settlement; to furnish names and addresses of witnesses and the nature of their testimony; to submit a list of all documents and other exhibits to be offered at the trial along with a digest describing each document or exhibit; and to discuss points of law.

January 21, 1975: Trial.

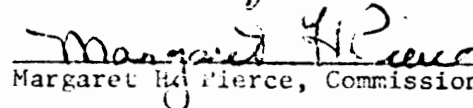
Dated at Washington, D. C., this 3rd day of May 1974



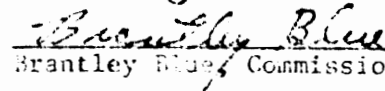
John T. Vance, Commissioner



Richard W. Yarborough, Commissioner



Margaret H. Pierce, Commissioner



Brantley Blue, Commissioner