

BEFORE THE INDIAN CLAIMS COMMISSION

THE PEORIA TRIBE OF INDIANS OF OKLAHOMA,)	
GUY FROMAN on behalf of the PEORIA,)	
NATION, AND FRED ENSWORTH on behalf)	
of the KASKASKIA NATION,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 313
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: August 22, 1974

Appearances:

Jack Joseph, Attorney for Plaintiffs.

Richard L. Beal, with whom was Assistant Attorney General Wallace H. Johnson, Attorneys for Defendant.

OPINION OF THE COMMISSION ON DENYING PLAINTIFFS' MOTION WITH RESPECT TO VALUATION DATE OF LANDS CEDED BY THE ILLINOIS

Pierce, Commissioner, delivered the opinion of the Commission.

The plaintiffs filed the subject motion on July 11, 1974. They charge that the Commission's title decision herein does not explicitly state the valuation date of the Kaskaskia^{1/} cession. They move that the Commission definitely state whether the effective date of the cession was the effective date of the cession treaty of August 13, 1803 (7 Stat. 78), or the effective date of the confirmation treaty of September 25, 1818 (7 Stat. 181).

^{1/} The Kaskaskia and Peoria nations, as well as other tribes, were referred to generally as the Illinois.

In the final paragraph of their motion the plaintiffs announce that if the Commission determines the earlier date to control, they propose to make an offer of proof with respect to value as of the effective date of the 1818 treaty, and also, in view of the Commission's determination that the Peoria had no interest in the lands ceded by the 1818 treaty, to make an offer of proof of value "with respect to the additional lands ^{2/} ceded by them. . . . for the purpose of preserving their position for possible appeal."

The defendant responded on July 22, 1974, in opposition to the plaintiffs' motion. The defendant contends that the motion is an untimely attempt to obtain a rehearing of issues clearly and directly decided by our title decision herein: Potawatomie Tribe of Indians, v. United States, Dockets 15-D, et al., 30 Ind. Cl. Comm. 42 (1973). The defendant also objects to the heading of plaintiffs' motion, which treats Docket 313 as still consolidated with Dockets 15-D, 29-B, 311, 314-A, and 315. The defendant urges that if the Commission considers these cases to be consolidated, an order so stating should be entered.

The plaintiffs' motion that the Commission state the effective date of the Kaskaskia cession must be denied for the reason that we have already done so in our title decision herein. Our conclusions of law in respect to Docket 313 are set forth at 30 Ind. Cl. Comm. 117-119. Our conclusion of law number 1.h. reads:

^{2/} We interpret this reference to be to that portion of Royce Area 96a (ceded under the 1818 treaty) which does not overlap Royce Area 48. We have rejected plaintiffs' claim to Royce Area 96a. See n. 3, infra.

The effective date of cession of the Kaskaskia interest in Royce Area 48, was December 23, 1803, the ratification date of the Kaskaskia cession treaty of August 13, 1803.^{3/}


We presume that the plaintiffs' proposed offers of proof of value as of 1818 will be made, if at all, during the valuation hearing presently set for January 6, 1975.


As to the matter of consolidation of Docket 313 with other dockets, the parties' attention is invited to Potawatomie Tribe of Indians v. United States, Docket 15-D, et al., 32 Ind. Cl. Comm. 232, 237 (1973), wherein we stated that the intent of our consolidation orders herein was to consolidate these dockets only through the title phase, and that the consolidation terminated therewith.

For the reason stated herein, the subject motion is denied by the accompanying order.


Margaret H. Pierce, Commissioner

We concur:


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner

Richard W. Yarberough, Commissioner


Brantley Blue, Commissioner

^{3/} Our conclusions of law number 1.f. and 1.g. state that at the time of the confirmation treaty of September 25, 1818, the Peoria had neither recognized title nor Indian title to Royce Area 96a, having abandoned said area to other tribes prior to 1775.