

## BEFORE THE INDIAN CLAIMS COMMISSION

MINNESOTA CHIPPEWA TRIBE, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Docket No. 18-U
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

ORDER RULING ON LEGAL ISSUES AFFECTING OFFSETS


UPON CONSIDERATION of the plaintiffs' motion for rulings concerning the defendant's demand for offsets, including payments on the claim and gratuities, of August 12, 1971, the defendant's response of November 5, 1971, and the plaintiffs' reply of November 17, 1971, and for the reasons set forth in the accompanying opinion, the Commission concludes as a matter of law that:


1. The reservations set aside by Article 2 of the Treaty of September 30, 1854, 10 Stat. 1109, were part of the consideration for the lands ceded and may be offset as payments on the claim.
2. The proper measure of the offsets for the reservations is their fair market value on January 10, 1855.
3. The withholding from sale of Royce Area 342, consisting of 11,303.05 acres, in 1863 for the purpose of enlarging the Red Cliff Indian Reservation, and the confirmation of that enlargement by Joint Resolution No. 16 of Congress of February 20, 1895, 28 Stat. 970, was not a part of the consideration for the lands ceded, and therefore was not a payment on the claim.
4. The defendant is not entitled to credit as a payment on the claim for any expenditure under Article 3 of the Treaty of September 30, 1854, supra.
5. The defendant is entitled to credit, as payments on the claim for those disbursements which were made in fulfillment of the express obligations under Article 4 of the Treaty of September 30, 1854, supra.

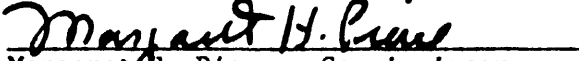
6. So much of the expenditures under Article 5 of the Treaty of September 30, 1854, supra, as exceed the obligation remaining on January 10, 1855, the date of ratification, under Items 3 and 4, Article 2, of the Treaty of July 29, 1837, 7 Stat. 536, and Article IV of the Treaty of October 4, 1842, 7 Stat. 591, were part of the consideration for the cession under the 1854 Treaty, and they may be offset as payments on the claim.
7. The nature of the claim and the entire course of dealings and accounts between the United States and the plaintiffs do not in good conscience preclude considering the set-off of gratuitous expenditures against the award.

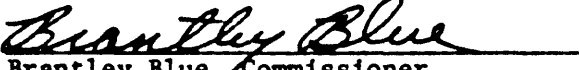
IT IS ORDERED that this case be set for trial on offsets.

Dated at Washington, D. C., this 13th day of February, 1975

  
Jerome K. Kuykendall, Chairman

  
Richard W. Yarborough, Commissioner

  
Margaret H. Pierce, Commissioner

  
Brantley Blue, Commissioner