

BEFORE THE INDIAN CLAIMS COMMISSION

THE SEMINOLE NATION,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 247
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER DETERMINING VALUATION DATE AND FOR OTHER PURPOSES

THE COMMISSION has considered the issues raised by plaintiff's motion of February 14, 1975, requesting the Commission to determine the dates as of which the station reservations involved herein should be valued, and the measure of damages to be awarded herein, defendant's response to said motion, filed April 22, 1975, and plaintiff's reply, filed May 12, 1975. Oral argument on plaintiff's motion was held before the Commission on January 9, 1976.

The issues raised by said motion are: (1) the meaning of the term "municipality" as used in section 14 of the Act of April 26, 1906, 34 Stat. 137, 142, for the purpose of identifying those station reservations title to which, pursuant to said act, vested in municipalities rather than adjoining allottees; (2) the date as of which each such station reservation is to be valued; and (3) the measure of damages.

UPON CONSIDERATION of each of said issues, the Commission has concluded as follows:

1. The term "municipality" as used in section 14 of the Act of April 26, 1906, supra, means, for purposes of identifying the station reservations to be valued herein, a town or city incorporated or attempted to be incorporated before November 16, 1907, in the Indian Territory under the organic law of Arkansas which was validated as an existing town or city upon statehood by Article XVIII, §2, and Schedule §10, of the Constitution of the State of Oklahoma, and a town or city incorporated or attempted in good faith to be incorporated between November 16, 1907, and June 30, 1909, under Article XVIII, §1, of the Constitution of the State of Oklahoma and the laws enacted

pursuant thereto, which during said period of time exercised authority as a municipal corporation. See Town of Maysville, Oklahoma v. Magnolia Petroleum Co., 272 F.2d 806 (10 Cir. 1959).

2. The fair market value of each station reservation which on June 30, 1909, was situated within a municipality as defined above, shall be determined as of June 30, 1909, which was the date on which title to each said station reservation vested in a municipality. See Commission Exhibit No. 1, infra.

3. The determination of the quantum of damages, if any, beyond fair market value of the station reservations as of June 30, 1909, necessary to provide ". . . an appropriate and equitable measure of redress under clause 5" (see Seminole Nation v. United States, 203 Ct. Cl. 637, 654 n. 11 (1974)) shall be made by the Commission as part of the next phase of proceedings under this docket.

IT IS THEREFORE ORDERED that this case proceed to a determination of the fair market value as of June 30, 1909, of the fee title to each station reservation which had been owned by plaintiff and which on said date was situated within a municipality as defined supra.

IT IS FURTHER ORDERED that the attached communication, dated February 27, 1909, consisting of two pages and addressed to the Secretary of the Interior from the Acting Commissioner of Indian Affairs which communication was filed on February 14, 1975, as plaintiff's proposed Exhibit No. 32 in Commission Docket 277, Creek Nation v. United States, involving identical issues of law, be, and the same hereby is, admitted into evidence in this docket as Commission Exhibit No. 1.

Dated at Washington, D. C., this 28th day of January 1976.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner

Brantley Blue, Commissioner

I. Hill
[Signature]

REFER IN REPLY TO THE FOLLOWING:

2-4069

DEPARTMENT OF THE INTERIOR,

Land
16002-1909
E B X

OFFICE OF INDIAN AFFAIRS,

WASHINGTON, D.C. FEB 27 1909

Extension of time in
which to acquire title
to railroad lands.

COMMISSION EXHIBIT NO. 1.....
INDIAN CLAIMS COMMISSION DKT. NO. 247

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith telegram dated February 26, 1909, from W. F. Evans, of St. Louis, Missouri, General Solicitor of the St. Louis and San Francisco Railroad Company, referred to this Office for appropriate action by Messrs. Britton & Gray, local attorneys of the company. The telegram reads as follows:

Can you not prevail upon Secretary Interior to extend time for applications to purchase under Section fourteen act April 26, 1906, from March 1st to June 30th. No form of deed yet adopted. Important that we know character of deed before deciding upon advisability of making applications to purchase.

The records of the Office show that the Department on October 29, 1908, in connection with the application of the Midland Valley Railroad Company to acquire title to the lands occupied by it for railway purposes under the provisions of Section 14 of the Act of April 26, 1906 (34 Stat. L., 137), extended the time from November 1, 1908, to March 1, 1909, as the day prior to which any railway company may acquire title to lands occupied by it for railway purposes.

[Signature]

I-16002-2.

In connection with the application herewith, there appears to be ample authority in Section 14 of the Act of April 26, 1906, for the Department to extend the time in which railway companies may make applications to procure the benefits of the act in question, and the Office knows of no reason why the application for an extension of time should not be granted. In paragraph 8 of the Regulations, promulgated under Section 14 of the Act of April 26, 1906, it is prescribed that they may be waived or amended as the circumstances surrounding each case may warrant.

The Office, therefore, recommends that the time within which railway companies may make applications to procure the benefits of Section 14 of the act referred to, be extended to June 30, 1909, and that the Office be authorized to notify the Commissioner to the Five Civilized Tribes accordingly, and that he be instructed to advise the railway companies operating lines in that part of Oklahoma which was formerly Indian Territory of the action of the Department in this matter.

Very respectfully,


Acting Commissioner.

AC-27.

FEB 27 1909

Approved:


Assistant Secretary.