

NOTICE: THIS IS AN UNPUBLISHED
OPINION.

(The Court's decision is referenced in a "Table of Decisions Without Reported Opinions" appearing in the Federal Reporter. Use FI FCL CT Rule 52.1 for rules regarding the citation of unpublished opinions.)

United States Court of Claims

The Hopi Tribe
v.
The United States

App. No. 13-74

January 30, 1976

****1** *Indians; appeal from Indian Claims Commission; overlapping land claims.*-On January 30, 1976 the court issued the following order:

Before SKELTON, Judge, Presiding,
NICHOLS and BENNETT, Judges.

"In this case the Navajo Tribe filed a petition with the Indian Claims Commission on July 11, 1950, in which it claimed the taking of a substantial amount of land to which it had aboriginal title by the United States and sought just compensation for the same. *Navajo Tribe v. United States*, Docket No. 229. In like manner the Hopi Tribe filed a similar suit on August 8, 1951, seeking compensation for the taking of land by the United States to which it claimed aboriginal title. *Hopi Tribe v. United States*, Docket No. 196. Inasmuch as the land claimed by these tribes in these suits overlapped, the Commission consolidated the cases and tried them together. On June 29, 1970, the Commission determined the area to which each tribe had aboriginal title and made findings of fact and entered an interlocutory order in the consolidated case. 23 Ind. Cl. Comm. 277. Thereafter, the Hopi Tribe filed a motion for further hearings on the dates of taking, and for a rehearing and for amendment of the findings of the

Commission. The Commission granted a hearing and permitted the filing of documentary evidence and exhibits and thereafter denied the motion to amend its findings. 31 Ind. Cl. Comm. 16 (1973) and 33 Ind. Cl. Comm. 72 (1974).

"The Hopi Tribe appealed to this court in the present suit from the decisions, findings, and orders of the Commission. The Navajo Tribe and the United States did not appeal.

"After consideration of the record, the briefs, and oral argument of counsel, the court concludes that the findings made by the Commission support its decisions and orders and the same are supported by substantial evidence.

"We conclude further that there is no error of law in the decisions of the Commission and that the same should be affirmed.

"Accordingly, the decisions and orders of the Commission are approved and affirmed, and the case is remanded to the Commission for further proceedings in accordance with this order."

Appellant's motion for rehearing and suggestion for rehearing *en banc* were denied March 26, 1976.

529 F.2d 533 (Table), 208 Ct.Cl. 1027, 1976 WL 23827 (Ct.Cl.) Unpublished Disposition

END OF DOCUMENT

UNITED STATES COURT OF CLAIMS

DECISIONS BY ORDER WITHOUT PUBLISHED OPINIONS

| <u>Plaintiff</u> | <u>Docket Number</u> | <u>Date</u> | <u>Disposition</u> [*] |
|--|--------------------------|-------------|---------------------------------|
| Stoddart v. U. S. | 193-68 | 7/25/75 | \$ 68,241.89 |
| Rygg v. U. S. | 5-71 | 8/ 1/75 | 2,000.00 |
| Koppers/Clough v. U. S. | 516-71 | 8/ 1/75 | 2,687,000.00 |
| Phipps v. U. S. | 109-72 | 8/ 1/75 | 22,341.26 |
| Great American Ins. Co. v. U. S. | 151-72 | 8/ 1/75 | 11,410.00 |
| Gunston v. U. S. | 76-74 | 8/ 1/75 | Dismissed |
| Barnum v. U. S. | 432-74 | 8/ 1/75 | Dismissed |
| Burnette v. U. S. | 19-75 | 8/ 1/75 | Dismissed |
| Quinn v. U. S. | 221-73 | 8/ 8/75 | 18,486.50 |
| Riley v. U. S. | 206-73 | 8/15/75 | Remanded ¹ |
| Whittaker Corp. v. U. S. | 630-71 | 8/22/75 | 800,000.00 ² |
| Whittaker Corp. v. U. S. | 476-73 | 8/22/75 | 180,000.00 ² |
| Myles v. U. S. | 55-75 | 8/22/75 | Dismissed |
| Lykes Bros. Steamship Co. v. U. S. | 375-69 | 8/29/75 | 673,432.88 |
| Western Lands, Ltd. v. U. S. | 327-73 | 8/29/75 | 27,500.00 |
| Lion Oil Co. v. U. S. | 420-74 | 9/ 4/75 | 3,200.00 |
| Commonwealth of Pennsylvania v. U. S. | 863-71 | 9/ 4/75 | 200,710.00 ³ |
| Vucurevich v. U. S. | 150-75 | 9/ 4/75 | Dismissed |
| KFOX, Inc. v. U. S. | 151-71 | 9/19/75 | 189,524.73 |
| Trustees of Graceland Cemetery Fund v. U. S. | 446-69, etc. | 9/25/75 | 570,382.60 |
| Estate of Bogley v. U. S. | 52-73 | 10/ 3/75 | 24,957.02 |
| Smith v. U. S. | 104-75 | 10/ 3/75 | 13,400.00 |
| Pasquino v. U. S. | 92-75 | 10/ 3/75 | Dismissed |
| Wease v. U. S. | 404-74 | 10/ 3/75 | Dismissed |
| Metal Forming & Coining Corp. v. U. S. | 42-74 | 10/17/75 | 1,400,000.00 ² |
| Bautzer v. U. S. | 263-72 | 10/17/75 | Dismissed |
| Grand Machining Co. v. U. S. | 169-74 | 10/24/75 | 145,000.00 ² |
| Economy Mechanical Industrial Corp. v. U. S. | 222-73 | 10/24/75 | Dismissed |
| Kirschenbaum v. U. S. | 15-74 | 10/24/75 | 452,746.00 ⁴ |
| Kirschenbaum v. U. S. | 395-74 | 10/24/75 | 1,334,508.00 ⁴ |
| Aragon v. U. S. | 351-74 | 10/24/75 | Dismissed |
| Jordan v. U. S. | 433-66 | 10/30/75 | 40,690.00 ⁵ |
| Aerofab Co., Inc. v. U. S. | 635-71 | 10/30/75 | 5,000.00 ² |
| Aerofab Co., Inc. v. U. S. | 636-71 | 10/30/75 | 30,000.00 ² |
| Burteo Co., Inc. v. U. S. | 318-73 | 10/30/75 | 10,534.48 |

DECISIONS BY ORDER WITHOUT PUBLISHED OPINIONS—Continued

| <u>Plaintiff</u> | <u>Docket Number</u> | <u>Date</u> | <u>Disposition*</u> |
|---|--------------------------|-------------|------------------------|
| Untalan v. U. S. | 363-74 | 10/30/75 | Dismissed |
| Stevadore Dredging Corp. v. U. S. | 275-72 | 10/30/75 | Dismissed |
| Jack Picoult Construction v. U. S. | 403-74 | 10/30/75 | Dismissed |
| Fort Peck Indians v. U. S. | App. 18-74 | 10/30/75 | Remanded ⁶ |
| Crest Construction Corp. v. U. S. | 171-74, 174-74 | 10/30/75 | Dismissed |
| Pastore v. U. S. | 297-74 | 10/30/75 | Dismissed |
| Global Van Lines v. U. S. | 126-69 | 11/ 7/75 | 12,040.00 ⁷ |
| Stein v. U. S. | 411-73 | 11/ 7/75 | 19,816.00 ² |
| Hinton v. U. S. | 182-72 | 11/ 7/75 | 281.62 ⁵ |
| O'Brien v. U. S. | 468-72 | 11/ 7/75 | Dismissed |
| Hoynes v. U. S. | 27-75 | 11/ 7/75 | Dismissed |
| Urban System Develop. Corp. v. U. S. | 35-75 | 11/ 7/75 | Dismissed |
| Cagle Wholesale Lumber Co. v. U. S. | 47-75 | 11/ 7/75 | Dismissed |
| Peter Andrea Corp. v. U. S. | 57-75 | 11/ 7/75 | Dismissed ⁸ |
| Lane v. U. S. | 240-75 | 11/ 7/75 | Dismissed |
| Gay Gibson, Inc. v. U. S. | 300-70 | 11/14/75 | 28,547.62 |
| Keydata Corp. v. U. S. | 299-72 | 11/14/75 | 15,000.00 |
| Talley Industries, Inc. v. U. S. | 78-73 | 11/20/75 | 249,000.00 |
| Fortec Constructors v. U. S. | 282-74 | 11/20/75 | 31,850.00 |
| Alonso v. U. S. | 30-74 | 11/21/75 | Dismissed |
| Denis v. U. S. | 291-74 | 11/21/75 | Dismissed |
| Bartos v. U. S. | 329-74 | 11/21/75 | Dismissed |
| Yokum v. U. S. | 2-75 | 11/21/75 | Dismissed |
| Blanchett v. U. S. | 84-75 | 11/21/75 | Dismissed |
| Tanaka v. U. S. | 208-75 | 11/21/75 | Dismissed |
| Swentek v. U. S. | 218-75 | 11/21/75 | Dismissed |
| Blount Construction Co. v. U. S. | 129-72 | 11/26/75 | Dismissed |
| Dargan v. U. S. | 335-74 | 11/26/75 | Dismissed |
| Bay Mills Indian Community v. U. S. | App. 2-75 | 11/26/75 | Affirmed ⁶ |
| Mazany v. U. S. | 258-74 | 11/26/75 | Dismissed |
| Dunphy v. U. S. | 284-73 | 11/26/75 | Dismissed |
| Mooney v. U. S. | 370-73 | 11/26/75 | Dismissed |
| Sacramento Northern Ry. v. U. S. | 57-74 | 11/26/75 | 1,371.03 |
| Devine v. U. S. | 271-74 | 11/26/75 | Dismissed |
| Kellerman v. U. S. | 128-73 | 12/12/75 | 18,577.95 |
| Edrow Engineering Co., Inc. v. U. S. | 232-74 | 12/12/75 | 34,153.14 |
| Knapp King-Size Corp. v. U. S. | 9-73, 203-73 | 12/19/75 | 635,855.77 |
| Contra Costa County Flood Control v. U. S. | 392-73 | 12/19/75 | 30,000.00 |
| Central Bank & Trust Co. v. U. S. | 143-75 | 12/19/75 | 50,000.00 |
| American National Bank v. U. S. | 276-75 | 12/30/75 | 150,000.00 |

DECISIONS BY ORDER WITHOUT PUBLISHED OPINIONS—Continued

Continued

| <u>Disposition*</u> | <u>Plaintiff</u> | <u>Docket Number</u> | <u>Date</u> | <u>Disposition*</u> |
|------------------------|---|---|-------------|--------------------------|
| Dismissed | John Wood Co. v. U. S. | 71-72 | 1/ 9/76 | 175,000.00 ² |
| Dismissed | P. E. C. Corp. v. U. S. | 703-71 | 1/ 9/76 | Dismissed |
| Dismissed | Calargo v. U. S. | 252-74 | 1/ 9/76 | Dismissed |
| Remanded ⁴ | Reale v. U. S. | 316-74 | 1/ 9/76 | Dismissed |
| Dismissed | First Nat'l City Bank v. U. S. | 470-72 | 1/ 9/76 | Dismissed |
| Dismissed | James McConnen & Sons v. U. S. | 209-74, 211-74 | 1/23/76 | Dismissed ⁴ |
| 12,040.00 ⁷ | | | | |
| 19,816.00 ² | James McConnen & Sons v. U. S. | 210-74, 304-74 | 1/23/76 | Dismissed ⁴ |
| 281.62 ⁵ | Pollutro v. U. S. | 62-75 | 1/23/76 | Dismissed |
| Dismissed | Porter v. U. S. | 183-75 | 1/23/76 | Dismissed |
| Dismissed | Wilhite v. U. S. | 242-75 | 1/23/76 | Dismissed |
| Dismissed | Ruderer v. U. S. | 103-75, 122-75, 151-75, 159-75 | 1/23/76 | Dismissed |
| Dismissed | Burket v. U. S. | 27-76 | 1/30/76 | Dismissed |
| 28,547.62 | Burlington Northern, Inc. v. U. S. | 680-71 | 1/30/76 | 552,733.98 |
| 15,000.00 | Wagner Elec. Corp. v. U. S. | 173-72 | 1/30/76 | Liability ¹⁰ |
| 00.00 | Allen v. U. S. | 827-71 | 1/30/76 | Dismissed |
| 50.00 | Bray v. U. S. | 182-68 | 1/30/76 | 2,528.54 |
| Dismissed | Northland Camps, Inc. v. U. S. | 450-72 | 1/30/76 | 2,687.00 ⁵ |
| Dismissed | Flescher v. U. S. | 233-75 | 1/30/76 | Dismissed |
| Dismissed | Simonson Lumber Co. v. U. S. | 84-73 | 1/30/76 | 84,500.00 |
| Dismissed | Hopi Tribe v. U. S. | App. 13-74 | 1/30/76 | Affirmed ⁶ |
| Dismissed | Nisqually Tribe v. U. S. | App. 20-74 | 1/30/76 | Affirmed ⁶ |
| Dismissed | Squaxin Tribe v. U. S. | App. 21-74 | 1/30/76 | Affirmed ⁶ |
| Dismissed | Steilacoom Tribe v. U. S. | App. 22-74 | 1/30/76 | Affirmed ⁶ |
| Dismissed | Coates v. U. S. | 185-74 | 1/30/76 | Dismissed |
| Dismissed | Polse v. U. S. | 256-74 | 1/30/76 | Dismissed |
| Affirmed ⁶ | Pacific Far East Line, Inc. v. U. S. | 214-70 | 2/ 6/76 | 811,030.00 ¹¹ |
| Dismissed | Maynard v. U. S. | 233-73 | 2/ 6/76 | 500.00 |
| Dismissed | Dounias v. U. S. | 234-75 | 2/ 6/76 | Dismissed |
| Dismissed | Muehlen v. U. S. | 291-75 | 2/ 6/76 | Dismissed |
| 1,371.03 | Smith v. U. S. | 183-74 | 2/ 6/76 | Dismissed |
| Dismissed | | | | |
| 18,577.95 | | | | |
| 34,153.14 | | | | |
| 635,855.77 | | | | |
| 30,000.00 | | | | |
| 50,000.00 | | | | |
| 150,000.00 | | | | |

* Figures represent judgments for plaintiffs unless indicated otherwise.

¹ Air Force Board for Correction of Military Records.

² Determination of excessive profits in stated amount.

³ Amount recovered by plaintiff after offsetting \$113,750 due United States on its counterclaim.

⁴ Judgment for United States on counterclaim with further proceedings to be had as to the determination of plaintiff's excessive profits.

Notes—Continued

⁸ Judgment for United States on counterclaim with plaintiffs' petition dismissed.

⁹ Indian Claims Commission.

⁷ The judgment for plaintiff in this case is the first of 894 to come in the so-called "household goods" cases. Future judgments will not be included in this or future tabulations. This judgment and those to follow are based on court opinions in *Global Van Lines, Inc. v. United States*, 456 F.2d 717, 197 Ct.Cl. 575 (1972) and *Trans Ocean Van Service v. United States*, 426 F.2d 329, 192 Ct.Cl. 75 (1971); 470 F.2d 604, 200 Ct.Cl. 122 (1972) together with a stipulation for settlement filed in *Global Van Lines, Inc., supra*.

⁸ Dismissal as to Count I with the case as to Count II transferred to the U. S. District Court for the Eastern District of New York.

⁹ Adoption of trial judge's decision dismissing petitions.

¹⁰ Determining that plaintiff is entitled to recover with amount to be determined in further proceedings.

¹¹ Partial judgment for plaintiff.