

BEFORE THE INDIAN CLAIMS COMMISSION

THE KOOTENAI TRIBE OR BAND OF)	
INDIANS OF THE STATE OF IDAHO,)	
)	
Petitioner,)	
)	
v.)	Docket No. 154
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: April 25, 1960

Appearances:

Robert W. Barker, with whom were
Glen A. Wilkinson, John W. Cragun,
and Donald C. Gormley, Attorneys
for Petitioner.

John D. Sullivan, with whom was
Mr. Assistant Attorney General
Perry W. Morton, Attorneys for
Defendant.

OPINION OF THE COMMISSION

Watkins, Commissioner, delivered the opinion of the Commission.

This case is now before the Commission for consideration of a proposed settlement of the claim of petitioner tribe.

In a prior determination, after hearings on the issue of liability, this Commission concluded that petitioner's ancestors, The Bonners Ferry Band of Kootenai Indians (now known as The Kootenai Tribe or Band of Indians of the State of Idaho) exclusively used and occupied a certain area of land in what is now the northeastern part of the State of Idaho and the northwestern part of the State of Montana. The Commission further found that these lands were acquired by the United States on March 8, 1859,

without the payment of any compensation to said Indians for their lands (5 Ind. Cl. Comm. 456, Findings of Fact 8,9, and 10). Accordingly, an Interlocutory Order was made by the Commission which provided that the defendant was liable to petitioner for the value of said lands, aboriginally held by petitioner, as of March 8, 1859.

The parties to this action have now filed a Joint Motion for Entry of Judgment which is based on a Stipulation for Entry of Final Judgment (Finding 11). The effect of the granting of such motion would be approving the settlement of petitioner's claim based upon the terms of the stipulation entered into by the parties. By the provisions of the stipulation, the parties agree that there shall be entered in this case, after all allowable deductions, credits and offsets, a net judgment of \$425,000.00, in favor of the Petitioner.

The steps and requirements which are generally to be taken in cases of settlement (see The Omaha Tribe of Nebraska, et al v. The United States, 8 Ind. Cl. Comm. 392, 416-419) have been followed in this case. A hearing was held on April 18, 1960, on the Joint Motion for Entry of Judgment and documentary evidence received in support of the proposed settlement, as set forth in the Findings of Fact herein made. Since the petitioner tribe was without funds, the Commission did not require the presence at the hearing of tribal officials. The Commission, however, did submit written interrogatories to Mr. Simon Francis, Chairman of the Tribal Council, and Mr. Moses Isadore, Secretary of the Tribal Council, which were answered by these officials under oath. The Commission is of the opinion that the proposed settlement was carefully and fully presented to the Indians of petitioner tribe and that it was freely, voluntarily and formally approved

by the members and the Tribal Council through the passage of resolutions unanimously adopted at a general membership meeting and a meeting of the Tribal Council.

The proposed stipulation of settlement was signed by counsel for the parties, by the Chairman and Secretary of petitioner tribe who were duly authorized to sign for the tribe, and by all contract attorneys or their heirs or representatives.

Counsel for the parties at the hearing on the Joint Motion for Entry of Judgment stated that they were of the opinion, in view of the remote location of the lands involved, the early date of valuation and former determination of value in other cases in the general area, that the amount of the proposed settlement was fair and reasonable. The Commission is also of the opinion that under all the circumstances the compromise is fair and just.

Final judgment will accordingly be entered in conformity with this opinion.

Arthur V. Watkins
Associate Commissioner

Concurring:

Edgar E. Witt
Chief Commissioner

Wm. M. Holt
Associate Commissioner