

BEFORE THE INDIAN CLAIMS COMMISSION

THE NEZ PERCE TRIBE OF INDIANS,)
 OR CHARLES E. WILLIAMS AND)
 JOSEPH REDTHUNDER, as repre-)
 sentatives of the NEZ PERCE)
 TRIBE OF INDIANS,)
)
 Petitioner,)
)
 v.)
)
 THE UNITED STATES OF AMERICA,)
)
 Defendant.)

Docket No. 175-A

Decided: June 17, 1960

Appearances:

Donald C. Gormley, Attorney
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 docket number is now before the Commission for consideration of a compromise settlement of the claim of the Nez Perce Tribe of Indians. In a prior interlocutory order based upon findings entered on the 31st day of December, 1959, it was ordered that the petitioner have and recover from the defendant the sum of \$4,227,603.06, less such offsets, if any, that may be allowable under the Indian Claims Commission Act.

The compromise provides that this case shall be settled by the entry, after all allowable deductions, credits and offsets, of a net final judgment in the amount of \$4,157,605.06 against the defendant and in favor of the petitioner; that the difference between the amount awarded the petitioner in the interlocutory order and the amount allowed in the compromise final judgment is \$140,000.00, an amount which represents the compromise settlement of the offsets to be deducted.

The proposed settlement of offsets also includes all offsets, counterclaims, and payments on the claim, to which the United States may be entitled in the case of Charles E. Williams, Joseph Redthunder and Harry Owhi, as representatives of the Nez Perce Tribe v. The United States of America, Docket No. 180-A, as well as those to which the United States would be entitled in the present case, Docket No. 175-A. The purpose of including in this case of settlement of offsets in Docket No. 180-A is to permit the entry without further proceedings (determination of offsets would be the only matter left to determine) by the Commission of a final judgment in Docket No. 180-A at this time. Either party in that case shall have the right to and may then promptly appeal from the decision of the Commission in that case. It was also understood that while the parties hereto waive appeal or further review in Docket No. 175-A, there is no corresponding waiver of appeal made by either party in Docket No. 180-A.

The steps and requirements which are generally to be taken in cases of compromise settlements (see Omaha Tribe of Nebraska, et al. v. U.S.

8 Ind. Cl. Comm. 392, 416-419), have been followed in this present proceeding. The findings fully set forth the steps taken which show that the proposed settlement was carefully and fully presented to the Indians of the petitioner tribe; and it was freely, voluntarily and formally approved by the members of the tribe generally and by various governing bodies through the passage of necessary resolutions. With respect to the merits of the settlement of offsets against both dockets for \$140,000.00, to be charged only in Docket No. 175-A, we believe that this sum is fair under all the facts and circumstances in this case. It was stated that the defendant had spent in the neighborhood of \$600,000.00 for this tribe, a considerable portion of which might ordinarily be chargeable as offsets, but in view of the law with respect to operation of forests for Indians and the charges that might be paid defendant for such operation out of the proceeds of the operation, we believe that the Government is not being unjustly dealt with in the allowance of \$140,000.00 as full settlement of chargeable offsets it has against this petitioner.

Important to this case, and to the petitioner and the Nez Perce Tribe of Indians it represents, is our Finding No. 50, that the Nez Perce Tribe of Indians, petitioner herein, represents in this matter all of the Nez Perce Indians in Idaho, or Washington, or wherever situated and that these Indians are, as described, entitled to the benefits of the final judgment to be entered herein. As stated in the findings this provision just mentioned was part of an agreement entered into between the Nez Perce Tribe of Indians of Idaho with another part of

the same tribe on the Colville Indian Reservation in the State of Washington and also between the attorneys for the two groups. This agreement had the approval of the Department of the Interior.

Final judgment will accordingly be entered in conformity with our Findings, this Opinion and the Stipulation for Entry of Final Judgment.

s/ ARTHUR V. WATKINS
Associate Commissioner

Concurring:

s/ WM. M. HOLT
Associate Commissioner