

BEFORE THE INDIAN CLAIMS COMMISSION

THE SNAKE OR PIUTE INDIANS OF )  
 THE FORMER MALHEUR RESERVATION, )  
 IN OREGON, )  
 )  
 ) Petitioners, )  
 )  
 ) vs. )  
 )  
 ) UNITED STATES OF AMERICA, )  
 )  
 ) Defendant. )

Docket No. 17

Decided: December 23, 1960

Appearances:

Mr. Bernard J. Long,  
Attorney for Petitioners.

Mr. Ralph A. Barney, with  
whom was Mr. Assistant Attorney  
General, Perry W. Morton,  
Attorneys for Defendant.

OPINION OF THE COMMISSION

Holt, Commissioner, delivered the opinion of the Commission.

By order dated May 31, 1960, the Commission allowed the fees of the petitioners' attorneys and expert witnesses. Consideration of the claimed reimbursable expenses incurred by the attorneys and the expert witnesses was deferred.

On December 5, 1960, a hearing was held concerning the claimed reimbursable expenses and this is the sole remaining matter now before this Commission. The expenses for which reimbursement is now sought are as follows:

Bernard J. Long	\$1,924.17
Estate of Charles B. McConnell	6,247.20
A. A. Bardwell	363.60
D. C. Eggleston	325.00
M. A. Palmer	<u>612.72</u>
Total	\$9,472.69

Both the Bureau of Indian Affairs and Office of the Solicitor, Department of the Interior, have examined the petition for reimbursement for expenses together with supporting documents. The objections of that Department are incorporated in the response filed by defendant on December 5, 1960.

With respect to the claimed expenses of Bernard J. Long objections were made to:

1. Sept. 1949, phone calls - \$5.75

Mr. Long testified at the December 5, 1960, hearing that this item represented a charge for a long distance call, or possibly calls, from Washington, D. C., to Mr. McConnell in Burns, Oregon, in connection with this case. The Commission is satisfied that Mr. Long has adequately supported his claim for reimbursement for this item.

2. Oct. 1957 - Expenses (meals, taxi fares and hotel) on above trip - \$135.30

Objection is made to the Fairmont Hotel, San Francisco, California, charge of \$17.00 a day for October 24 and 25.

Mr. Long testified that this was the amount he paid for his hotel room and that he did not know where hotel accommodations could be obtained in San Francisco for the \$12.50 charge suggested as the "allowable rate" by

the Department of the Interior. While the Commission considers that a hotel rate of \$12.50 should be the maximum charge allowable under most circumstances, the Commission is satisfied with Mr. Long's explanation of the \$17.00 charge in this particular instance. Accordingly, this is an allowable expense for reimbursement.

Objection is also made to the restaurant charge on October 24 of \$12.15 at the Fairmont Hotel, San Francisco, when there were also charges listed on October 24 for the following meals:

breakfast	\$1.50
lunch	1.75
food	<u>5.00</u>
	\$8.25

The Commission does not believe that a charge for dinner of \$12.15 is reasonable, and particularly so when there have already been charges totaling \$8.25 for meals on the same day. The \$12.15 item is not an allowable item for reimbursement.

Objection has been made to the \$1.50 charge appearing on the Fairmont Hotel bill on October 24 as a "fee." This item has not been satisfactorily explained and is not, therefore, an allowable item of expense.

The charges on the Fairmont Hotel bill for laundry in the amount of \$2.59 and for a fountain pen in the amount of \$1.95 are not allowable items of expense.

Retyped

3. August, 1958 - Taxi fare - \$4.75

Objection has been made to the entry for August, 1958, in the amount of \$4.75 for taxi fare to and from the Department of the Interior. Mr. Long testified that this was not a charge for one trip but represents the month's charges for five or six taxi trips. This is an allowable expense for reimbursement.

4. August, 1958 - M. A. Palmer transportation expenses

Objection has been made to certain expenditures in the category entitled, "In account with Marcellus A. Palmer, Recapitulation of Expenses." The items are for transportation on August 17, in the amount of \$11.20; August 18, in the amount of \$16.89; August 19, in the amount of \$7.82; and miscellaneous expenses in the amount of \$12.50. Mr. Long testified that the August 17 item was for a pullman charge of \$10.45 from Washington to Chicago plus a cab charge in Washington of \$0.75 (total \$11.20). The August 18 item was for a pullman charge of \$16.89 from Chicago to Boise, Idaho. The miscellaneous items were for tips and charges for red cap services, bellhops, porters, etc., totaling \$12.50. All of these items are allowable expenses for reimbursement.

The discrepancy of \$100.00 in the total amount of the advances to Mr. Palmer and his itemized expenses was explained by the fact that Mr. Long advanced \$100.00 to

Mr. Palmer, who in turn advanced that amount to Mr. McConnell.

Mr. McConnell's itemized statement of expenses is \$100.00 above his stated travel advances, and the items, therefore, balance off.

4. August, 1958, Mr. McConnell's railroad pullman fare - \$44.22

Objection is made to a discrepancy of \$44.22 in Mr. McConnell's statement of railroad ticket expenses on his trip from Boise, Idaho, to Washington, D. C. and return in 1958. Mr. Long testified that Mr. McConnell's round trip ticket cost \$179.30 plus tax of \$17.93. The pullman charge of \$44.22 was the one-way charge, and the additional \$44.22 item was the pullman charge on the return trip. This is an allowable item of expense.

In summary, the following items claimed by Mr. Long are not allowable:

\$12.15	restaurant
1.95	fountain pen
2.59	laundry
<u>1.50</u>	fee
Total	\$18.19

This leaves a total of \$1,905.98.

With respect to the claimed expenses of Mr. McConnell, the only objection was to a \$14.00 item paid to J. W. Elliott on September 9, 1947, since there was no showing of the relationship of the payment to this case. Mr. Long explained this expenditure as one for a document or photostat of a document to be filed in this case, Mr. Elliott then being the Superintendent of Indian Affairs in Oregon. This is an allowable item of expense.

Retyped

There were no objections to the claimed expenses for Mr. Bardwell and Mr. Eggleston.

Objection was made to the inclusion in Mr. M. A. Palmer's statement of expenses of charges of \$50.00 per day for August 10 and 17, both of which were Sundays. Mr. Long testified that on both days Mr. Palmer was traveling - on August 10 from Burns, Oregon, to Washington, D. C., and on August 17 from Washington, D. C., to Burns, Oregon. The Commission finds that these charges for travel days are in accord with Mr. Palmer's contract of engagement, which provided for a fee of \$50.00 per day for services performed outside of Harney County, Oregon, and the charges are allowable items for reimbursement.

Mr. Palmer has advised the Commission, by letter to Mr. Long, that a charge of \$50.00 for Saturday, August 16, should not have been included in the claim for expenses since that day was spent sightseeing in Washington, D. C., and neither traveling nor working on this case. This reduces the expenses claimed for Mr. Palmer to \$562.72.

The Commission has examined all the remaining items of claimed expense not specifically discussed above, and we find they are allowable expenses for reimbursement from the judgment in this case. Accordingly, the following sums shall be paid as reimbursable expenses incurred in the prosecution of the subject claim, and it will be so ordered:

Bernard J. Long		\$3,157.30
which includes the expenses incurred by:		
A. A. Bardwell	\$363.60	
D. C. Eggleston	325.00	
M. A. Palmer	562.72	
Estate of Charles B. McConnell, deceased		<u>6,247.20</u>
Total		\$9,404.50

Wm. M. Holt  
Associate Commissioner

We concur:

Arthur V. Watkins  
Chief Commissioner

T. Harold Scott  
Associate Commissioner