



9 Ind. Cl. Comm. 417

October 14, 1864, 16 Stat. 707; the Walpapi band of Snake Indians who were parties to the treaty of August 12, 1865, 14 Stat. 683; and the Snake or Paiute Indians of the former Malheur Reservation who were parties to the unratified treaty of December 10, 1868) who aboriginally owned the tract described in Finding 23.

The proposed compromise settlement which is now before the Commission relates primarily to the tract (described in Finding 23) to which the Snake or Paiute Indians of the Oregon Area, as described, held Indian title, and contemplates the entry of a final judgment with respect to said tract. It also includes terms pertaining to offsets which affect all three tracts.

The great bulk of the tract described by the Commission in Finding 23 is located in the states of Nevada and Oregon, and a small portion thereof is located in California. The Commission determined that the parts of this tract located in Nevada and Oregon were taken by the United States without payment of compensation, on September 12, 1872 (Finding 31); and that the part of this tract located in California was taken by the United States without payment of compensation, on March 3, 1853 (Finding 28).

The Commission has heretofore made findings of fact 1 through 31 in this case, and now makes the following additional findings which are supplemental to those already made.

32. On June 22, 1961, the parties herein filed with the Commission a Joint Motion for Entry of Final Judgment based on a Stipulation of Settlement filed of even date therewith, executed by I. S. Weissbrodt, Attorney of Record for the petitioners; Ramsey Clark, Assistant Attorney General of the United States; and Bernard M. Newburg, Attorney for the defendant. Said

Stipulation is set forth in words and figures as follows, to wit:

It is hereby stipulated between the undersigned counsel for the parties in the above entitled case that:

1. The claim in Docket No. 87 with respect to the tract of land described by metes and bounds in Finding No. 23 of the Findings of Fact entered by the Commission on March 24, 1959 (7 Ind. Cl. Comm. 322 at p. 374) shall be separated from all other claims in said Docket. Said separated claim is hereinafter referred to as the "Snake-Paiute Tract claim."

2. With respect to said "Snake Paiute Tract claim," it is agreed as follows:

a. A final judgment shall be entered by the Commission in favor of the bands or groups of Snake or Paiute Indians who the Commission found exclusively used and occupied the tract described as aforesaid in said Finding No. 23, based on an express determination by the Commission that there is no just reason for delay and upon an express direction for entry of such final judgment.

b. The net amount of the final judgment to be entered in favor of the said Snake or Paiute Indians, against the defendant, as damages, is \$3,650,000.

c. Entry of final judgment on this basis shall finally dispose of all rights, claims or demands which said petitioners or any of them, or any group or groups thereof, have asserted or could have asserted with respect to said tract described in Finding No. 23, and also with respect to any other tract of land north of the forty-first parallel of latitude; and said petitioners, and each of them, and each group thereof, shall be barred thereby from asserting any such rights, claims, or demands against defendant in any other or future action or actions.

d. It is understood and agreed that in the further proceedings in this Docket No. 87, the Commission may determine the amount allowable to defendant by reason of offsets, gratuities, and counterclaims which the defendant has asserted or may assert under the provisions of Section 2 of the Indian Claims Commission Act (C. 949, 60 Stat. 1049) against the petitioners or any of them, or any group or groups thereof; and the defendant reserves the right to assert as a deduction from the sum which may be finally determined to be payable to the petitioners or any of them, or any group or groups thereof, with respect to the claim to the tract described by the Commission, by

metes and bounds, in its Finding No. 22 of the Findings of Fact issued March 24, 1959, 7 Ind. Cl. Comm. 322 at p.373 (as amended by order dated June 4, 1959), sixty (60) per cent of the amount which the Commission may finally determine to be allowable to the defendant by reason of the aforesaid offsets, gratuities and counterclaims for the period up to and including June 30, 1951, as well as the entire amount, if any, of the aforesaid offsets, gratuities and counterclaims which the Commission may finally determine to be allowable to defendant for the period subsequent to June 30, 1951.

e. The entry of final judgment in said "Snake-Paiute Tract claim," as aforesaid, shall constitute a final determination of said claim by the Indian Claims Commission and shall become final on the day it is entered, the parties hereto waiving any right to appeal from or otherwise seek review of such determination.

f. Counsel for the parties hereto shall execute and file with the Commission a joint motion for entry of said final judgment on the "Snake-Paiute Tract claim," pursuant to the stipulation of settlement, submitting a proposed form of final judgment for approval by the Commission.

3. The judgment entered pursuant to the stipulation of settlement shall be by way of compromise and settlement and shall not be construed as an admission of any of the parties for purpose of precedent or argument in any future proceedings in this case or any other case.

4. The petitioner, Fort McDermitt Paiute and Shoshone Tribe of the Fort McDermitt Indian Reservation, and the other petitioners in Docket No. 87, agree to, and do hereby, eliminate from their suit in said Docket any and all claims which they or any of them, or any group or groups thereof, have or may have for compensation with respect to the tract of land described in Section 2 of the Act of Congress of April 4, 1960, Public Law 86-401, 86th Congress; and, in any event, renounce any and all claims which they or any of them, or any group of groups thereof, have or may have for compensation with respect to said tract.

Attached to said Stipulation were properly signed and executed approvals by officials of the tribal governing body of each of the six tribal petitioners named as parties in the case; and also properly signed and executed approvals by each of thirteen surviving individual representative petitioners who

were named as parties in the amended petition filed in this case; and also an approval signed, on behalf of the Northern Paiute Nation and the tribes, bands and groups thereof, by an official representative duly authorized thereunto by a resolution adopted at a general meeting of the Northern Paiute Indians, comprising the Northern Paiute Nation and the tribes, bands and groups thereof. Each of the signatures are attested. Supporting documents in evidence are Petitioners' Exhibits C-1, C-2, C-3, C-4, C-5, C-6, D, E-1, E-2, E-3, E-4, E-5, E-6, and E-7.

Further, there were attached to the Stipulation approvals by the law firm of Cobb and Weissbrodt, and by Jay H. Hoag, Rodney J. Edwards, and Clarence G. Lindquist, contract attorneys in Docket No. 87, and by James E. Curry, former contract attorney. Supporting documents in evidence are Petitioners' Exhibits B-1, B-2, and B-3.

33. Attorney contracts of employment provide that the attorneys will be subject to the supervision and direction of the Commissioner of Indian Affairs and shall not make any compromise settlement or other adjustment of the matters in controversy unless with the approval of the tribes and the Commissioner of Indian Affairs. An approval in accordance with the attorney contracts - and also as required by this Commission - of the proposed Stipulation of Settlement is contained in a letter (Exhibit P) dated June 19, 1961, from Frank J. Barry, Solicitor of the Department of the Interior, acting pursuant to delegation of authority by the Secretary of the Interior and addressed to Cobb and Weissbrodt, attorneys at law, Washington, D. C. This letter reviews the request for approval of the compromise settlement, and the terms of the settlement, and the information furnished with respect to the settlement, and then concludes as follows:

"We have carefully considered all the information which you have furnished us concerning this matter and the several tribal resolutions adopted by the Northern Paiute Nation and the bands or groups thereof and have concluded that the compromise of the litigation is in the best interest of the Indian tribes or groups involved. Therefore, we hereby approve the proposed compromise settlement as set forth in the proposed stipulation which accompanied your letter of June 12, 1961."

34. At an open hearing before the Commission on June 23, 1961, oral and documentary evidence was received showing approvals of said Stipulation of Settlement by all the petitioners in the case, including the governing body of each of the six tribal petitioners, each on behalf of the respective tribal petitioner and on behalf of the Northern Paiute Nation and the bands and groups thereof; and by the Northern Paiute Nation and the tribes, bands and groups thereof. Certified and attested copies of resolutions authorizing said approvals which were adopted by the six tribal petitioners and by the Northern Paiute Nation at duly called meetings, and certified and attested copies of the minutes of each such meeting were received in evidence as Petitioners' Exhibits F-1, F-2, F-3, F-4, F-5, F-6, and G.

35. Walter Voorhees, of Schurz, Nevada, who appeared as a witness for the petitioners at the hearing, testified in substance as follows:

That he is a full-blooded Northern Paiute Indian, 58 years of age; is a member and secretary of the Walker River Paiute Tribal Council, governing body of the Walker River Paiute Tribe, one of the tribal petitioners in this case; has been a member of the Tribal Council for about 15 years and also has served as chairman of the Walker River Paiute Tribe; and is also chairman of the High Council of the Northern Paiute Nation;

That he is a graduate of high school, and also completed two years of training in business administration at Haskell Institute. He was an

employee of the Bureau of Indian Affairs for seventeen years, terminating his service with the Bureau in approximately 1942. He is presently engaged in ranching, and also operates a trading post at Schurz, Nevada. He is a member of the county school board in his area of Nevada. He speaks English fluently, and also speaks the Northern Paiute language;

That he participated in the calling and arranging of a mass meeting of the Northern Paiute Indians held at the Civic Auditorium in Reno, Nevada, on May 27, 1961. As chairman of the High Council of the Northern Paiutes, he presided at this meeting and he certified as to the truth and accuracy of the minutes of the meeting (Exhibit G). Notice of the meeting was given to the chairman of the tribal governing body of each of the six tribal petitioners in this Docket, as well as to leaders and representatives of Northern Paiutes in various cities, towns and communities, including, Fort McDermitt, Schurz, Yerington, Reno-Sparks, Pyramid Lake, Fallon, Lovelock, Summit Lake, Owyhee, Carson City, Bishop, Lee Vining, and Independence. Notice of the time, place, and purpose of the meeting was given to the Northern Paiute Indians by posting circulars in the Community halls and in prominent places in the reservations and towns and communities in which Northern Paiute Indians resided. Notice was also given by other means, including mailing of notices, telephone and word of mouth communication. Also, notice was given to each of the thirteen surviving individual representative petitioners in Docket No. 87.

This mass meeting of the Northern Paiute Indians was also attended by attorneys I. S. Weissbrodt and Abe W. Weissbrodt who made a detailed explanation of the proposed compromise settlement. Also copies of a written report by the attorneys explaining the proposed settlement were distributed

to the Northern Paiute Indians at the meeting. Many questions were asked by the Northern Paiute Indians and there was a full discussion of the proposed settlement. A resolution was unanimously adopted by the Northern Paiutes at this meeting, approving the proposed settlement.

Prior to this meeting in Reno, Mr. Voorhees had made two separate automobile trips up and down the length of and across the Northern Paiute territory, during which he discussed the terms of the proposed settlement with Northern Paiute leaders and during which he attended several meetings where the terms of the settlement were explained to the Northern Paiute people. During the second of said trips which took place from May 24-27, 1961, and covered about 1300 miles, Mr. Voorhees was accompanied by attorneys I. S. Weissbrodt and Abe W. Weissbrodt who explained the proposed settlement at meetings of the Northern Paiute Indians and distributed to the Northern Paiute Indians copies of a written report on the proposed settlement.

Also, the tribal governing body of each of the tribal petitioners in Docket No.87 held separate duly convened meetings for the purpose of considering and taking action on the proposed settlement, and resolutions approving the settlement were adopted at the meetings by each such tribal petitioner. These meetings included a meeting of the Fort McDermitt Paiute-Shoshone Tribe held on May 26, 1961; a meeting of the Paiute-Shoshone Tribe of the Fallon Reservation held on May 27, 1961; a meeting of the Reno-Sparks Indian Colony held on May 28, 1961; a meeting of the Yerington Paiute Tribe, held on May 29, 1961; a meeting of the Pyramid Lake Paiute Tribe held on June 2, 1961; and a meeting of the Walker River Paiute Tribe held on June 8, 1961. Mr. Voorhees attended all of these meetings with the exception of the meeting of the Pyramid Lake Paiute Tribe. Also, the meetings of the Fort



McDermitt Paiute Shoshone Tribe, and the Reno-Sparks Indian Colony were attended by attorneys I. S. Weissbrodt and Abe W. Weissbrodt; and the meeting of the Paiute Shoshone Tribe of the Fallon Reservation was attended by I. S. Weissbrodt.

In the original petition in Docket No. 87, Mr. Voorhees was named as the sole representative individual petitioner. Thereafter, by amendment to the petition, seventeen additional representative individual petitioners were named. Mr. Voorhees testified that he personally knew each of the said seventeen representative individual petitioners. He also certified (Petitioners' Exhibit H) and testified as to the death of five of said seventeen individuals. Mr. Voorhees and each of the other twelve surviving individual representative petitioners, who are leaders among the Northern Paiutes, signed and executed approvals of the Stipulation of Settlement (Petitioners' Exhibits E-1 through E-7).

Mr. Voorhees testified that he understands the terms of the settlement; that he considers the terms to be fair and equitable to the Northern Paiute Indians; that he has discussed the settlement personally with other Northern Paiute Indians; that the rank and file of the Northern Paiutes are familiar with the settlement and approved it; and that he knows of no reason why the settlement should not be approved.

36. Mr. Ross Hardin, also called as a witness for the petitioners, testified that he is a full-blooded Northern Paiute Indian, 60 years of age, and resided on the Fort McDermitt Indian Reservation. He is chairman of the Tribal Council of the Fort McDermitt Paiute-Shoshone Tribe, a tribal petitioner in Docket No. 87.

Following completion of Grammar school, Mr. Hardin studied for two years at the Haskell Institute. He is engaged in ranching, and is secretary of the local Cattlemen's Association. He speaks both English and Northern Paiute.

Mr. Hardin presided at the meeting of the Tribal Council of the Fort McDermitt Paiute-Shoshone Tribe on May 26, 1961, at which a resolution was adopted approving the settlement. He also attended the general meeting of the Northern Paiute Indians held at Reno on May 27, 1961, at which a resolution was also adopted approving the settlement. He testified as to the notices of the call of said meetings and also testified that the minutes of said meetings as presented in evidence were accurate. He also identified his signature which appears on various documents received in evidence.

Mr. Hardin is also named as one of the representative individual petitioners in the amended petition in this case. As such representative petitioner, he also signed an approval of the settlement (Petitioners' Exhibit E-1).

Mr. Hardin testified that he understands the terms of the settlement and believes such settlement to be fair and equitable to the Northern Paiute Indians, and that the Northern Paiute Indians discussed the settlement and approved it, and that the members of his tribe understand the settlement. He testified that he knows of no Northern Paiute Indian who considers the settlement to be unfair or inequitable.

37. Contracts of employment of attorneys for petitioners in Docket No. 87, together with approvals thereof by the Commissioner of Indian Affairs acting for the Secretary of the Interior, are on file with this Commission, which establish that the present contract attorneys are Jay H. Hoag, Rodney J. Edwards, and Clarence G. Lindquist, Duluth, Minnesota, and David

Cobb and I. S. Weissbrodt (a law firm) of Washington, D. C. The record also shows that James E. Curry of Washington, D. C. was the attorney under earlier contracts which were superseded by the present contracts of employment. All of the above-named attorneys have approved the Stipulation of Settlement.

38. As shown by the testimony of the Indian witnesses and the statements of counsel for the petitioners, the terms of the settlement were carefully explained to the Northern Paiute Indians at the general meeting of the Indians and also at the separate meeting of the various tribal divisions. Tribal members took part in the discussions and asked questions and understood the settlement and approved it.

Under these circumstances it appears and we so find that the Northern Paiute tribal members and officials understand the settlement and voluntarily and freely approve it.

39. Counsel for the petitioners and for the defendant stated that they considered the settlement to be fair and equitable. Counsel for the petitioners stated that during the course of all the discussions and meetings which he held with the Northern Paiute Indians there was no dissent to the terms of the settlement by a single Indian. Counsel for the defendant stated that the settlement is fair, both from the standpoint of the Indians and of the Government.

40. The Commission finds that the compromise settlement is fair and just to the petitioners and the defendant, and we approve and adopt the terms of the Stipulation of Settlement; that the said Snake or Paiute Indians of the Oregon Area, as described, are entitled to the benefits of

final judgment to be entered herein; that the final judgment be entered in favor of the petitioners for and in behalf of, and for the benefit of, the members and descendants of members of the Snake or Paiute Indians of the Oregon Area, as described, in the amount of \$3,650,000 as against the defendant.

Arthur V. Watkins  
Chief Commissioner

Wm. M. Holt  
Associate Commissioner

T. Harold Scott  
Associate Commissioner