

BEFORE THE INDIAN CLAIMS COMMISSION

THE NORTHERN PAIUTE NATION AND THE BANDS THEREOF, EX REL.)	
WALTER VOORHEES, AVERY WINNEMUCCA, MARK JONES, FRANK)	
JOHN, ANDREW DICK, DEWEY SAMPSON, HASTINGS PANCHO,)	
WILLIE STEVE, WILLIAM HARDIN, SULLIVAN THOM, EARL)	
FRANK, WESLEY KENO, FRANK KAISER, ALBERT ALECK, HARRY)	
SAMPSON, ANN DOWNINGTON, ROSS HARDIN, OCHO WINNEMUCCA;)	
THE WALKER RIVER TRIBE OF THE WALKER RIVER RESERVATION;)	
THE PYRAMID LAKE TRIBE OF THE PYRAMID LAKE RESERVATION;)	
THE YERINGTON PAIUTE TRIBE OF THE YERINGTON RESERVATION;)	
THE RENO-SPARKS INDIAN COLONY;)	Docket No. 87
THE PAIUTE SHOSHONE TRIBES OF THE FALLON RESERVATION;)	
THE FORT McDERMITT PAIUTE SHOSHONE TRIBE,)	
)	
Petitioners,)	
)	
v.)	
)	
THE UNITED STATES OF AMERICA)	
)	
Defendant.)	

Decided: July 3, 1961

Appearances:

I. S. Weissbrodt, and
Abe W. Weissbrodt,
Attorneys for Petitioners.

Bernard M. Newburg and
Mr. Assistant Attorney General,
Ramsey Clark, Attorneys
for the Defendant.

STATEMENT AND OPINION OF THE COMMISSION

Watkins, Chief Commissioner, delivered the opinion of the Commission.

This docket number is now before the Commission for consideration of a compromise settlement between the parties in respect to certain matters in controversy. In a prior interlocutory order based on findings entered March 24, 1959, as amended June 4, 1959, the Commission determined that there were three separate and distinct groups of Northern Paiute Indians

each of which held original Indian title to a separate area of land taken by the United States without payment of compensation. The first of said groups was the Monos or Paiutes of Owens Valley who had Indian title to the tract described in the Commission's Finding 21. The second group was the Paviotso or Paiutes of western Nevada who had Indian title to the tract described in Finding 22 as amended by the Commission's order dated June 4, 1959. The third of said groups was the Snake or Paiute Indians of the Oregon Area (with the exception of the Yahooskin band of Snake Indians, the Walpapi (Woll-Rah-Pe) band of Snake Indians, and the Snake or Paiute Indians of the former Malheur Reservation) who had Indian title to the tract described in Finding 23.

The terms of the compromise are set forth in a Stipulation of Settlement which has been executed by the parties and filed with the Commission.

The Stipulation provides that the claim in this Docket with respect to the tract of land (hereinafter sometimes called "the Snake-Paiute tract" or the "Snake tract") described by metes and bounds in Commission's Finding No. 23 shall be separated from all other claims in said Docket. With respect to said Snake-Paiute tract, it is stipulated that a final judgment shall be entered by the Commission in favor of the bands or groups of Snake or Paiute Indians who, as found by the Commission, used and occupied the tract described in Finding 23. As shown in the Commission's findings and interlocutory order issued March 24, 1959, these Indians are the Snake or Paiute of the Oregon Area, with the exception of the Yahooskin band of Snake Indians who were parties to the treaty of 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 Piute (Paiute) Indians of the former Malheur Reser-

vation who were parties to the unratified treaty of December 10, 1868. The Stipulation also provides that said final judgment in favor of the Snake or Paiute Indians of the Oregon Area, as described, shall be entered by the Commission based on an express determination that there is no just reason for delay and upon an express direction for entry of such final judgment. ^{1/}

The net amount of the final judgment to be so entered, after all allowable deductions, credits and offsets, is the sum of \$3,650,000. It is further stipulated that entry of final judgment on this basis shall finally dispose of all rights, claims or demands which the petitioners in Docket No. 87 or any of them, or any group or groups thereof, have asserted or could have asserted with respect to the said Snake tract described in Finding 23, and also with respect to any other tract of land north of the forty-first parallel of latitude.

By Act of Congress approved April 4, 1960 (Public Law 86-401, 86th Congress), all right, title and interest of the United States in and to a certain 160 acre tract (described in section 2 of said Act) lying within the Fort McDermitt Indian Reservation, Nevada, was declared to be held by the United States in trust for the members of the Fort McDermitt Paiute and Shoshone Tribe, on condition, however, that the claim to this tract shall be eliminated from the suit pending before this Commission. To meet this condition, a provision has been included in the Stipulation of Settlement whereby the Fort McDermitt Paiute and Shoshone Tribe, a petitioner in Docket No. 87, and the other petitioners in Docket No. 87, agree to the elimination from their suit in this Docket any and all claims they have or

^{1/} Although the Commission is not bound by the Federal rules of Civil Procedure, it is worthy of note that this is in accord with Rule 54 of those rules, establishing procedure for entry of final judgment on one claim, where multiple claims are presented in a docket.

may have to said 160 acre tract, and renounce any and all claims which they have or may have to compensation with respect to said tract.

The Stipulation of Settlement also contains terms pertaining to offsets which are of particular significance in the future proceedings in Docket No. 87 to the claim to the tract of the Monos or Paiutes of Owens Valley as described in Finding 21, and to the claim to the tract of the Paviotso or Paiutes of western Nevada as described in Finding 22 as amended. By reason of these terms of the Stipulation of Settlement, forty (40) per cent of the amount which the Commission may ultimately determine, in the future proceedings in this Docket No. 87, to be allowable to defendant by reason of offsets, gratuities and counterclaims against petitioners or any of them or any group thereof for the period up to and including June 30, 1951, are absorbed and accordingly wiped out in connection with the instant settlement. The defendant reserves the right to assert the remaining sixty (60) percent of said amount as a deduction from the sum which may finally be determined to be payable to the petitioners or any of them or any group thereof with respect to the claim to the tract described by the Commission in its Finding 22 as amended. The defendant also reserves the right to assert as a deduction from the sum which may finally be determined to be payable with respect to said same tract described in Finding 22 as amended, the entire amount, if any of offsets, gratuities and counterclaims which the Commission may finally determine to be allowable to defendant for the period subsequent to June 30, 1951.

Since, by reason of the terms of the Stipulation of Settlement, there are no issues remaining to be decided with respect to the Snake tract described in Finding 23, and since early payment for the award of this tract was one of the important factors considered by the petitioners in approving

the settlement, there is no just cause for delay in entering a final judgment with respect thereto.

The steps and requirements prescribed by the Commission to be taken in cases of compromise settlements (see Omaha Tribe of Nebraska, et al., v. United States, 8 Ind. Cl. Comm., 416-419) have been followed in the present case. The supplemental findings herein set forth the steps taken which show that the proposed settlement was carefully and fully presented to the petitioner tribes and the members thereof; and it was freely, voluntarily, and formally approved by the governing body of each of the tribal petitioners at separate meetings duly called and held, and by the Northern Paiute Indians generally at a mass meeting, through the passage of necessary resolutions. It was also formally approved by each of the thirteen surviving representative individual petitioners in this case.

With respect to the merits of the terms of the settlement, we believe that they are fair under all the facts and circumstances of the settlement. The approval of the settlement was recommended to the petitioners by their attorneys; and the settlement has been approved by the Solicitor of the Department of the Interior acting on behalf of the Secretary of the Interior. Also the settlement has been approved by the Department of Justice on behalf of the defendant.

The judgment will be entered in favor of the petitioners for the benefit of the members and the descendants of members of the Snake or Paiute Indians of the Oregon Area as described. ^{2/} As has been noted, these are the Snake

^{2/} This is in accord with other cases where the Commission has entered judgments running to the benefit of aboriginal tribes or groups where representative suits were brought on their behalf. See for example, Confederated Tribes of the Colville Reservation et al., v. United States 8 Ind. Cl. Comm. 420, 429; Peoria Tribe of Indians et al., v. United States, 9 Ind. Cl. Comm. 274, 289.

or Paiute Indians of the Oregon Area, with the exception of the Yahooskin band of Snake Indians, the Walpapi band of Snake Indians, and the Snake or Piute (Paiute) Indians of the former Malheur Reservation. The Indian witnesses at the hearing on the settlement testified that there should be no difficulty in ascertaining the Indian groups who are beneficiaries of the judgment.

By reason of this settlement which the Commission approves, and the entry of final judgment embodying the terms of the Stipulation of Settlement, including the waiver by the parties of any right to appeal from or seek review of such determination, there is a final disposition of the claim with respect to the Snake tract described in Finding 23.

With respect to the tract described in Finding 21 and the tract described in Finding 22 as amended, further proceedings are to be held before the Commission.

Arthur V. Watkins
Chief Commissioner

Concurring:

Wm. M. Holt
Associate Commissioner

T. Harold Scott
Associate Commissioner