

BEFORE THE INDIAN CLAIMS COMMISSION

THE CHEROKEE NATION OR TRIBE OF INDIANS,)	
)	
Petitioner,)	
)	
v.)	Docket No. 173
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: September 14, 1961

Appearances:

Paul M. Niebell,
George E. Norvell,
Dennis W. Bushyhead and,
Earl Boyde Pierce,
Attorneys for petitioner

Ralph A. Barney, with whom were
Clifford R. Stearns and Mr. Assistant
Attorney General Ramsey Clark.

OPINION OF THE COMMISSION

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

The petitioner has filed a motion with the Commission asking for the approval of a stipulation entered into in the above docket number with the defendant for the settlement of the claim of the petitioner.

The Commission is primarily interested in two major items in this proceeding. First, is the proposed settlement fair and just to the petitioner and the defendant? The Commission has neither asked for nor received any evidence in this proceeding on that question for the reason that it has already found that the fair market value of the subject tract at the time and place of taking was \$22,585,328.14 and that the sum of \$7,795,851.99 was paid by the defendant to the Cherokee Nation, and said

sum therefore should be deducted, leaving a net recovery of \$14,789,476.15 for the petitioner from the defendant.

The second question is, has the petitioner been fully advised of the meaning and effect of the provisions of the stipulation of settlement which has been filed with this Commission? If petitioner has been so advised and understands what is intended, has it adopted and approved said stipulation? The evidence received by this Commission in this proceeding we believe is complete and conclusive that the petitioner has been fully advised of the terms and the meaning of said stipulation, and what the final judgment in this case will be if said stipulation is approved and adopted by this Commission. The record and the evidence in this proceeding, which is fully set forth in our Findings of Fact and need not be reviewed here, establishes beyond question, that the petitioner has fully authorized, approved, and adopted the said stipulation of settlement.

Apparently there is a strong feeling among members of the tribe that approaches the point of unanimity, that no appeal should be taken from the Interlocutory Order of the Commission, holding that the Cherokee Nation should recover the sum of \$14,789,476.15 from the defendant less offsets allowable under the Indian Claims Commission Act. And this is true in spite of the fact that the Nation had pressed vigorously before the Commission its claim that the subject tract at the time of taking had a fair market value of at least \$10 per acre, whereas the Commission had decided the fair market value to be \$3.75 per acre. The general attitude of the members of the nation of willingness to settle for the

amount found to be due in the said Interlocutory Order, could well be in part at least, a reflection of the confidence the Indians had in their Executive Committee and the lawyers representing them before the Commission.

We believe it is worthy of note that 9 out of the present 11 members of the Committee are college graduates; that four of them are lawyers; that one is now a member of the Supreme Court of the State of Oklahoma; that another served as District Judge in the State of Oklahoma; that one served 25 years in the Solicitor's Office in the Department of the Interior; one is a Doctor of Medicine; one is a teacher with many years of experience; one is a professional worker in Soil Conservation; one has a Master's Degree in welfare work and is employed by the State of Oklahoma; and the Principal Chief of the Nation and a member of the Committee, is Executive Vice President of a major oil company; and the Chairman of the Committee is a retired lawyer who served many years in the land department of a large oil company; other members not mentioned are people of substance with more than average scholastic training and important experience in Indian problems. In modern parlance this is truly a "blue ribbon" Committee, capable in every respect of protecting the rights of the Cherokee Nation. Together with members of the Nation, we have every confidence in them. More need not be said. Final judgment will therefore be entered in accordance with said stipulation.

We Concur:

Arthur V. Watkins
Chief Commissioner

Wm. M. Holt
Associate Commissioner

T. Harold Scott
Associate Commissioner