

BEFORE THE INDIAN CLAIMS COMMISSION

THE NOOKSACK TRIBE OF INDIANS )  
 ON RELATION OF JOSEPH LOUIS, )  
 CHAIRMAN OF THE GENERAL COUNCIL, )  
 )  
 Claimant, )  
 )  
 v. )  
 )  
 THE UNITED STATES OF AMERICA, )  
 )  
 Defendant. )

Docket No. 46

Decided: February 9, 1962

Appearances:

Frederick W. Post,  
Attorney for Claimant.

Bernard M. Newburg, with  
whom was Mr. Assistant  
Attorney General  
Ramsey Clark,  
Attorneys for Defendant.

OPINION OF THE COMMISSION

Holt, Associate Commissioner, delivered the opinion of the Commission.

This case is now before the Commission for consideration of a compromise settlement of counterclaims and offsets claimed by the defendant.

The Commission has heretofore found and determined that the claimant tribe held original Indian title to 80,590 acres of land located in the present State of Washington, and that said lands were included in an area ceded to the defendant under a treaty dated January 22, 1855. The Commission also found that claimant tribe was not a party to said treaty and that said lands were taken by defendant on March 8, 1859, the date

said treaty was ratified, without payment of any compensation therefor. The Commission then concluded that the value of said lands when taken was \$52,383.50 and that claimant was entitled to an award for that amount. An interlocutory order to that effect was then entered by the Commission with the further provision that the allowable offsets, if any, under the Indian Claims Commission Act, should be deducted from the value of the land and the claimant should recover the difference from the defendant.

The proposed compromise settlement which is now before the Commission for approval involves the amount of counterclaims and offsets to be deducted. This proposed settlement provides that the sum of \$3,000.00 shall represent the counterclaims and offsets properly to be deducted from the interlocutory award of \$52,383.50 and that a final judgment in the sum of \$49,383.50 be entered in favor of the claimant against the defendant, but without prejudice to the right of either party to appeal on any issue of fact or law in the case other than the amount of counterclaims and offsets.

In view of the small amount involved in the settlement, the Commission has admitted in evidence and considered the affidavits of claimant's attorney and five members of the tribe who are members and the officials of its tribal council. These show that the proposed settlement was fully presented and explained to the members of the tribe and it was freely, voluntarily and formally approved by the members of the tribe and by its council through the passage of the necessary resolution. The proposed settlement has also been approved by the Department of the Interior.

With respect to the merits of the proposed settlement, we find that the amended answer filed by the defendant asserts counterclaims and offsets in the total sum of \$77,344.00 for the period from March 8, 1859, through June 30, 1960. Approximately one-half of this amount is claimed as the tribe's proportionate share of the consideration paid by the defendant under the Point Elliott Treaty of 1855, although as previously stated, we have found that the Nooksack Tribe was not a party to said treaty. The balance is claimed as the tribe's proportionate share, ranging from 3 1/3% to 40% of funds gratuitously expended by defendant at the agency or reservations having jurisdiction of the Nooksack Indians during the period from 1859 through 1960. We believe that the settlement of said counterclaims and offsets for the sum of \$3,000.00 is fair to both the Indians and the defendant under all the facts and circumstances in this case and should be approved.

A final judgment will accordingly be entered in conformity with our findings of fact, this opinion and the Stipulation for Entry of Final Judgment.

Wm. M. Holt  
Associate Commissioner

We concur:

Arthur V. Watkins  
Chief Commissioner

T. Harold Scott  
Associate Commissioner