

BEFORE THE INDIAN CLAIMS COMMISSION

THE DUWAMISH TRIBE OF INDIANS,)
)
 Petitioner,)
)
 v.)
)
 THE UNITED STATES OF AMERICA,)
)
 Defendant.)

Docket No. 109

Decided: July 20, 1962

Appearances:

Frederick W. Post, Attorney
for Petitioner.

Walter J. Muir, 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 petitioner tribe held original Indian title to 54,790 acres of land located in the present State of Washington, and that said lands were included in an area ceded to the United States by the Treaty of January 22, 1855, 12 Stat. 927. The Commission also found that petitioner Tribe was a party to said treaty and that the United States extinguished petitioner's Indian title to said lands on March 8, 1859, the effective

date of the treaty. The Commission then concluded that the value of said lands on March 8, 1859 was \$74,000.00 and entered an interlocutory order on July 6, 1959, directing that the case proceed with proof of the consideration paid to the Duwamish Tribe under the provisions of the Treaty of January 22, 1855, and whether such consideration so paid was unconscionable.

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 \$12,000.00 shall represent counterclaims and offsets properly to be deducted from the \$74,000.00 found as the value of petitioner's land ceded to the United States and that a final judgment in the sum of \$62,000.00 be entered in favor of the petitioner 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 such counterclaims and offsets.

The Commission has considered the affidavits of petitioner's attorney and five members of the tribe who are also members and officials of its Tribal Council. These affidavits show that the members of the tribe and its officials fully understand the proposed compromise settlement and voluntarily approved it. The proposed settlement has also been approved by the Department of the Interior.

With respect to the merits of the proposed settlement, we note that the amended answer filed by the defendant asserts counterclaims and offsets in the total sum of \$32,141.00 for the period from March 8, 1859 through June 30, 1960. Over \$16,000.00 of this amount is claimed

as the tribe's proportionate share of the consideration paid by the defendant under the provisions of the Point Elliott Treaty of 1855. The balance is claimed as the tribe's proportionate share of funds expended gratuitously by defendant at the agency or reservations having jurisdiction of the Duwamish Indians during the period from 1859 through 1960. We believe that the settlement of said counterclaims and offsets for the sum of \$12,000.00 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.

William M. Holt
Associate Commissioner

We concur:

Arthur V. Watkins
Chief Commissioner

T. Harold Scott
Associate Commissioner