

BEFORE THE INDIAN CLAIMS COMMISSION

NORTHERN ARAPAHO TRIBE OF INDIANS)	
OF THE WIND RIVER RESERVATION,)	
)	
Petitioner,)	
)	
v.)	Docket No. 329-D
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: June 27, 1963

Appearances:

John M. Schiltz of the law firm of Wiggernhorn, Hutton, Schiltz & Sheehy, Attorney for Petitioner

John D. Sullivan, 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 the joint motion of the parties seeking approval of a proposed compromise settlement of the counterclaims and offsets claimed by the defendant, and the entry of a final judgment.

The claims of the Cheyenne-Arapaho Tribes of Indians arising out of the cession of their lands reserved under the Treaty of Eort Laramie of September 17, 1851 (11 Stat. 749), were originally presented to the Commission in two separate petitions by the Southern Cheyenne and Arapaho Tribes, the Northern Cheyenne Tribe and the Northern Arapaho Tribe, which

petitions were assigned Docket Nos. 329 and 348. The two cases were consolidated for trial and on December 6, 1961, the Commission entered its findings of fact, opinion, and an interlocutory order in said consolidated cases. The Commission found that some 51,210,000 acres of land ceded to the defendant had a value of \$23,500,000.00 when ceded and that the "petitioners in Docket 329, known as the Southern Tribes of Cheyenne and Arapaho Indians," had an undivided one-half interest in said lands, and that "petitioners in Docket No. 348, the Northern Cheyenne and Arapaho Indians" had an undivided one-half interest therein. On August 6, 1962, the Commission entered an amended interlocutory order in which the interest in the lands of the Southern Cheyenne-Arapaho Tribe was changed to 50.61 percent, the Northern Cheyenne interest to 25.32 percent, and the Northern Arapaho interest to 24.07 percent and awarded "petitioners in Docket No. 348, the Northern Cheyenne Tribe and the Arapaho Tribe jointly" the sum of \$11,606,650.00, "in which total sum the 25.32 percent interest of the Northern Cheyenne Tribe is \$5,950,200.00 and the 24.07 percent interest of the Northern Arapaho Tribe is \$5,656,450.00, and from their respective shares shall be deducted the consideration paid, that is, \$589,313.81 to the Northern Cheyenne Tribe under the 1868 Treaty and \$572,702.60 consideration paid under said treaty to the Northern Arapaho Tribe; and less allowable offsets of each tribe to be determined in later proceedings."

Thereafter, the Northern Cheyenne and the Northern Arapaho each filed a motion to amend the August 6, 1962 amended interlocutory order to change the reference to "Docket 348" where it appeared therein to "Docket 329" and

also to allow each of the three tribes in Docket 329 to proceed separately with their claims. On November 13, 1962, the Commission entered an order amending the amended interlocutory order of August 6, 1962, to provide that thereafter the Northern Cheyenne Tribe and the Northern Arapaho Tribe should proceed separately, the one independently of the other, and that the offsets chargeable to each be separately determined and judgments entered separately for each of said tribes; and that in all subsequent proceedings the Southern Cheyenne and Arapaho Tribes be assigned Docket No. 329-B; the Northern Cheyenne Tribe assigned Docket 329-C; and the Northern Arapaho Tribe assigned Docket No. 329-D.

The proposed compromise settlement which is now before the Commission involves the amount of counterclaims and offsets properly to be deducted from the interlocutory award of \$5,083,747.40 made to the Northern Arapaho Tribe, petitioner in Docket No. 329-D. This proposed settlement provides that the sum of \$1,853,747.40 shall be taken to include all counterclaims and offsets which defendant has asserted or could have asserted for the period May 10, 1868 to December 31, 1961, to be deducted from the interlocutory award of \$5,083,747.40 and that a final judgment in the sum of \$3,230,000.00 be entered in favor of the petitioner the Northern Arapaho Tribe of Indians against the defendant, as a full and complete settlement of all claims between the parties hereto as the same are pleaded in said case, including a claim and prayer for a general accounting by defendant, and with prejudice to the right of either party to appeal.

The Commission has found that the members of the petitioner tribe have been fully advised of the terms of the proposed settlement of the defendant's

claimed offsets and the reasons why it should be entered into, and they understand its terms; and that they have unanimously approved it at a tribal meeting, duly and properly called to consider the settlement.

We have also found that all the formal requirements of the Commission which were adopted with respect to proof of a valid approval of a compromise settlement by the petitioner and the defendant, have been substantially complied with by the parties.

With respect to the merits of the proposed settlement, we find that the amended answer filed by the defendant asserts counterclaims and offsets in aggregate sum of \$8,125,814.69 for the period from May 10, 1868, to December 31, 1961. It is also noted that \$1,581,889.50 of the aggregate sum is the amount the defendant was required to pay the Shoshone Tribe for one-half, or approximately 1,171,770 acres, of their Wind River Reservation in Wyoming, which defendant gave to the Northern Arapaho Indians for a home and where most of them now live and operate profitably. Also included in the aggregate sum claimed for offsets is an item of \$4,682,392.92 damages in the form of interest the defendant was required to pay the Shoshone Tribe for the taking of the land given to the Northern Arapaho. See Shoshone Tribe v. United States, 85 C. Cls. 331. The balance of \$1,861,532.27 consists of public funds claimed to have been gratuitously paid out for goods and services for the benefit of petitioners, which includes \$561,141.37 expended for soil and moisture conservation, beneficial to petitioner's reservation lands.

Counsel for both the petitioner and the defendant have advised the Commission that they held numerous conferences over a considerable period

of time in an effort to compromise the offsets at a figure they considered would be fair to both parties.

Under all the circumstances we are of the opinion that the compromise settlement is fair and just to the petitioner and the defendant, and therefore, the joint motion of the parties that the settlement be approved should be granted.

A final judgment will accordingly be entered in conformity with our findings of fact, this opinion and the stipulation to compromise and settle offsets and for entry of final judgment.

Wm. M. Holt
Associate Commissioner

We concur:

Arthur V. Watkins
Chief Commissioner

T. Harold Scott
Associate Commissioner