

BEFORE THE INDIAN CLAIMS COMMISSION

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

Decided: August 8, 1963

Appearances:

Paul M. Niebell, with whom
were George E. Norvell,
Dennis W. Bushyhead and
Earl Boyd Pierce,
Attorneys for Petitioner

Ralph A. Barney, with whom
were Clifford R. Stearns and
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 offsets and counterclaims asserted by the defendant in Docket No. 173.

The claim of petitioner in Docket No. 173 was for additional compensation for the Cherokee outlet lands in Oklahoma. On April 3, 1961, the Commission determined that petitioner was entitled to recover

the sum of \$14,789,476.15 as additional compensation for 6,022,754.17 acres of the outlet lands ceded on March 3, 1893, less allowable offsets. As for 2,121,928.74 acres of the outlet lands previously acquired and set apart for other Indian tribes, we held there was insufficient evidence of value of such lands when taken to determine whether the consideration paid was unconscionable, and petitioner was permitted to sever such claim and file it in a separate petition under Docket No. 173-A.

Thereafter, pursuant to a stipulation of the parties duly approved by the Cherokee Executive Committee, the Secretary of the Interior and this Commission, a final judgment was entered in Docket No. 173 in the sum of \$14,789,476.15 with the proviso that \$1,432,084.17 thereof was not to be subject to distribution from the United States Treasury until such time as the amount of offsets due the United States was determined either by stipulation of the parties or through further litigation in Docket No. 173-A.

The proposed compromise settlement which is now before the Commission for approval involves the amount of counterclaims and offsets to be allowed the United States. The proposed settlement provides that the sum of \$425,000.00 shall represent the total amount of offsets and counterclaims of whatsoever nature the United States has asserted or could have asserted against the Cherokee Nation, and the members thereof, during the period March 3, 1893 to and through June 30, 1956. The \$425,000.00 with accrued interest thereon is to be deducted from the \$1,432,084.17 of the Cherokee Nation Judgment Fund in Docket No. 173 now withheld in the United States Treasury, and is to be returned to the credit of the United States immediately.

The Cherokee Nation has a Standing Executive Committee who has been granted the authority to accept or reject any offer of compromise or settlement affecting any claim of the Cherokee Nation, and said Executive Committee has approved and accepted the compromise settlement of offsets through the passage of the necessary resolution. The proposed settlement has also been approved by the authorized officials of the Department of the Interior.

Counsel for both the petitioner and the defendant also advise the Commission that they have held numerous conferences during the past two years in an effort to arrive at a compromise settlement of the offsets for an amount that would be fair to both parties.

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

Accordingly, an order approving the settlement of offsets will be entered.

Wm. M. Holt
Associate Commissioner

We concur:

Arthur V. Watkins
Chief Commissioner

T. Harold Scott
Associate Commissioner