

BEFORE THE INDIAN CLAIMS COMMISSION

UPPER CHEHALIS TRIBE, ET AL.,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 237
)	
THE UNITED STATES,)	
)	
Defendant.)	

Decided: October 7, 1963

Appearances:

Joseph W. Creagh and
E. L. Crawford,
Attorneys for Plaintiffs

Craig A. Decker, 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 plaintiffs' claim and the offsets claimed by defendant, and the entry of a final judgment.

In the interlocutory order based on findings of fact entered in this case on March 14, 1960, this Commission determined that the plaintiff known as The Confederated Tribes of the Chehalis Reservation and the three individually named plaintiffs had the right to maintain this action for and on behalf of the tribes or identifiable groups existing

in 1855 which were known as the Upper Chehalis and the Lower Chehalis Tribes. We also determined that plaintiff had proven Indian title of the Lower Chehalis Tribe to the lands described in the Commission's Finding 23; and of the Upper Chehalis Tribe to the lands described in Finding 24; and that said lands were taken by the United States without payment of compensation on or after March 3, 1855. The parties agree that the area described in Finding 23 comprises 517,700 acres, and the area described in Finding 24 comprises 320,500 acres, or a total of 838,200 acres.

The proposed compromise settlement which is now before the Commission for approval was entered into in order to settle the issues of the value of the said lands taken for which the defendant would be liable, and any offsets which the defendant could claim against any sum it would owe for said lands. The stipulation provides that the net amount of the final judgment to be entered in favor of the plaintiffs and against the defendant, after all allowable deductions, counterclaims, credits and offsets, is the sum of \$754,380.00. It is further stipulated that entry of final judgment on this basis shall finally dispose of all rights, claims or demands which plaintiffs in Docket 237 have asserted, or could have asserted with respect to the said Lower Chehalis lands described in Finding 23 and the Upper Chehalis lands described in Finding 24; and shall dispose of all rights, claims, demands, payments on the claim, counterclaims or offsets which the defendant has asserted or could have asserted against plaintiffs for the period from March 3, 1855, through June 30, 1951. It is further stipulated that entry of final

judgment shall constitute a final determination of the case by the Commission, with both parties waiving any and all rights to appeal from or otherwise seek review of such final determination.

The Commission has found that the Upper and Lower Chehalis Indians have been fully advised of the terms of the proposed settlement and understand its terms; and that a substantial majority of said Indians have given their approval of it at a meeting duly and properly called to consider the settlement.

We are of the opinion 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 plaintiffs and the defendant have been substantially complied with by the parties.

With respect to the merits of the terms of the settlement, it is noted that the settlement is based on an allowance of 90 cents an acre net for the subject lands, allowing no government offsets. Counsel for plaintiffs advised the Commission that plaintiffs had taken into consideration awards the Commission had made in other Indian cases where the lands were comparable in making their decision that the 90 cents per acre net was a fair price in a compromise settlement.

The approval of the settlement was recommended to the plaintiffs by their attorneys; and the settlement has been approved by the Associate Commissioner of Indian Affairs acting on behalf of the Secretary of the Interior. Also the settlement has been approved by the Department of Justice on behalf of the defendant.

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

The parties have agreed that a single judgment be entered for plaintiffs. Accordingly, a final judgment will be entered in favor of plaintiffs for and on behalf of, and for the benefit of the Upper and Lower Chehalis Tribes of Indians.

Wm. M. Holt
Associate Commissioner

We concur:

Arthur V. Watkins
Chief Commissioner

T. Harold Scott
Associate Commissioner