

BEFORE THE INDIAN CLAIMS COMMISSION

THE MUCKLESHOOT TRIBE OF INDIANS	)	
on relation of Napoleon Ross,	)	
Chairman of the General Council,	)	
	)	
Claimant,	)	
	)	
v.	)	Docket No. 98
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Decided: October 18, 1963

Appearances:

Frederick W. Post,  
Attorney for Claimant.

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

This Commission has heretofore determined that the petitioner Muckleshoot Tribe of Indians held original Indian title to 101,620 acres of land located in the present State of Washington; and that said lands were taken by the defendant as of March 8, 1859, without the

payment of any compensation to petitioner. In an interlocutory order based on findings of fact entered in this case on July 17, 1958, this Commission determined that the value of said lands when taken was \$86,377.00 and that the Muckleshoot Tribe was entitled to recover from the defendant the sum of \$86,377.00, less such offsets, if any, that may be allowable under the Indian Claims Commission Act.

The proposed compromise settlement which is now before the Commission for approval was entered into in order to settle the issue of the amount of offsets and counterclaims to be allowed the defendant. The stipulation provides that the sum of \$6,000.00 shall represent all such counterclaims and offsets which defendant has asserted or could have asserted for the period between March 8, 1859 and June 30, 1960. The stipulation also provides that a final judgment in the sum of \$80,377.00 be entered in favor of petitioner against the defendant without prejudice to the right of either party to appeal on any issue of fact or law other than the amount of offsets.

Since the amount involved in the settlement is not large, the Commission has received in evidence the petitioner's Compromise Exhibits "A" through "G" as proof of the approval of the proposed settlement by the Muckleshoot Tribe. These exhibits have been fully considered by the Commission and in findings of fact 49 through 53 we recite the actions that these exhibits show were taken by the petitioner tribe in approving the proposed settlement. We are of the opinion that the Muckleshoot Indians have been fully advised of the terms of the proposed settlement and understand its terms, and that said Indians have given

their unanimous approval of it at a meeting of the tribe called to consider the proposed settlement. The proposed settlement has also been approved by the Acting Solicitor of the Department of the Interior acting on behalf of the Secretary of the Interior.

With respect to the merits of the proposed settlement, we note that in the amended answer filed by the defendant in this case it asserts counterclaims and offsets in the total sum of \$32,818.00, covering the period from March 8, 1859 to June 30, 1960. Of this sum \$3,254.00 is claimed as the value of 3,840 acres of land that was set apart for the benefit of the Muckleshoot Indians pursuant to the Point Elliott Treaty of January 22, 1855, 12 Stat. 927. This is at the rate of 85 cents per acre, the same as petitioner has been allowed per acre for its land taken by the defendant. Approximately one-third of the amount claimed, or \$10,887.00, is claimed as the Muckleshoot Tribe's proportionate share of the consideration paid by defendant under the provisions of the Point Elliott Treaty, although we have heretofore found that petitioner tribe was not a party to that treaty. The balance of \$18,667.00 is claimed as the tribe's proportionate share, or 3.4%, of funds gratuitously expended by defendant at the agency or reservations having jurisdiction of the Muckleshoot Indians during the period from 1859 through 1960. We think a compromise settlement of these counterclaims and offsets for the sum of \$6,000.00 is fair to both the petitioner Indians and the defendant. We therefore find that the joint motion of the parties that the settlement be approved by the Commission should be granted and a final judgment be entered.

Accordingly, a final judgment will be entered in favor of the petitioner and against the defendant in the sum of \$80,377.00.

Wm. M. Holt  
Associate Commissioner

We concur:

Arthur V. Watkins  
Chief Commissioner

T. Harold Scott  
Associate Commissioner