

BEFORE THE INDIAN CLAIMS COMMISSION

NORTHERN CHEYENNE INDIANS OF THE)	
TONGUE RIVER RESERVATION, MONTANA,)	
)	
Petitioner,)	
)	
v.)	Docket No. 329-C
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: November 27, 1963

Appearances:

John W. Cragun and Charles A. Hobbs of the law firm of Wilkinson, Cragun & Barker, Attorneys 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 offsets claimed by defendant against the petitioner, Northern Cheyenne Tribe, and all claims of petitioner, against the defendant, and the entry of a final judgment.

The claims of the Northern Cheyenne Tribe together with the claims of the Cheyenne-Arapaho Tribes of Oklahoma (also known as the Southern Cheyenne and Arapaho Tribes) and the Northern Arapaho Tribe

were originally presented in a petition filed on August 10, 1951, under Docket 329, the principal claim being one for additional compensation for the cession of their lands reserved under the Treaty of Fort Laramie of September 17, 1851 (11 Stat. 749). On August 11, 1951, a petition was filed under Docket 348, alleging the same claims alleged in Docket 329, except that the claims were presented for the Northern Cheyenne Tribe and the other tribes named above on the relation of and represented by Rufus Wallowing, an individual Indian.

The petitions in the two dockets were consolidated for trial, and on November 1, 1955, this Commission held that petitioners in said dockets owned, by virtue of the 1851 Fort Laramie Treaty, an area in Colorado, Wyoming, Kansas and Nebraska, comprising 51,210,000 acres of land. On December 6, 1961, the Commission held the land was worth \$23,500,000 as of 1865, and that the "petitioners in Docket 329, known as the Southern Tribes of Cheyenne and Arapaho Indians" had an undivided one-half interest in the lands, and that "petitioners in Docket 348, the Northern Cheyenne and Arapaho Indians" had an undivided one-half interest therein, fixing the consideration paid the Northern Cheyenne at \$589,313.81. On August 6, 1962, the Commission amended its findings and interlocutory order of December 6, 1961, changing the interest of the Northern Cheyenne Tribe therein to 25.32 per cent and the Northern Arapaho's interest to 24.07 per cent and awarded "petitioner in Docket No. 348, the Northern Cheyenne Tribe and the Arapaho Tribe

jointly" the sum of \$11,606,650 "in which total sum the 25.32 per cent interest of the Northern Cheyenne Tribe is \$5,950,200.00" and after subtracting the consideration paid of \$589,313.81, that the said tribe was entitled to an award of \$5,360,886.19, less allowable offsets.

Thereafter, the Northern Cheyenne Tribe 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 requested changes were made and each of the three tribes were ordered to proceed separately, independently of the other, and the Northern Cheyenne claims were assigned Docket No. 329-C.

The Stipulation now before us for approval provides that all claims or demands the Northern Cheyenne Tribe of Indians has or could have asserted against the defendant in this Commission, and all offsets, claims or demands which defendant has asserted or could have asserted against petitioner under Section 2 of the Indian Claims Commission Act up to and including June 20, 1962, are to be concluded by deducting \$1,000,000.00 from the interlocutory award of \$5,360,886.19, and the entry of a final judgment in favor of petitioner and against the defendant in the sum of \$4,360,886.19, with no review to be sought or appeal taken by either party.

The Commission has found that the members of the petitioner tribe and its Tribal Council have been fully advised of the terms of the proposed

settlement of all the Tribe's claims against the United States and of the claimed offsets of the defendant and the reasons why it should be entered into, and they understood its terms; and that the Tribal Council by resolution unanimously approved it and said resolution was ratified by a substantial majority of the membership of the Tribe at a meeting of the Tribal Council and the members of the Tribe, duly and properly called to consider the settlement. The proposed settlement has also been approved by an authorized official of the Department of the Interior.

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.

The total amount of defendant's claimed offsets settled by the agreement is \$3,213,580.46, covering the period from 1868 to 1962. The claims of petitioner still pending and included in the settlement are for a general accounting by defendant and several small claims for certain alleged wrongful acts on the part of the defendant. Counsel for petitioner advised the Commission at the hearing on the joint motion that the offsets were carefully considered by them, item by item, with all precedents noted; and that after they had investigated and considered each of the petitioner's other pending claims, had concluded their probable value was not great, so they considered that a net award of \$4,360,886.19 to the petitioner was a fair and reasonable settlement for all petitioner's claims and defendant's claimed offsets.

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

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

Wm. M. Holt
Associate Commissioner

We concur:

Arthur V. Watkins
Chief Commissioner

T. Harold Scott
Associate Commissioner