

BEFORE THE INDIAN CLAIMS COMMISSION

TILLAMOOK BAND OF TILLAMOOKS,)
 NAALEM (Ne-ha-lum) BAND OF TILLAMOOKS,)
 CLATSOP TRIBE, KATHLAMET BAND OF)
 CHINOOKS, NUC-QUEE-CLAH-WE-MUCK TRIBE,)
 the CONFEDERATED TRIBES OF SILETZ)
 INDIANS, CONFEDERATED TRIBES OF THE)
 GRAND RONDE COMMUNITY, OREGON, and)
 portions and descendants of all such)
 tribes and bands,)

Plaintiffs,)

v.)

Docket No. 240)

THE UNITED STATES,)

Defendant.)

ORDER ALLOWING FEES TO THE ATTORNEYS FOR THE TILLAMOOK
 BAND OF TILLAMOOKS AND THE NAALEM (NE-HA-LUM) BAND OF
 TILLAMOOKS, AND ALLOWING THE CLAIM OF THOSE ATTORNEYS
 FOR CERTAIN SUMS ADVANCED AND PAID BY THEM TO AND FOR
JAMES HATFIELD, AN EXPERT WITNESS

Upon consideration of the affidavit of E. L. Crawford and Joseph W. Creagh, respecting attorneys' services rendered and cash advanced in the above captioned case, filed herein on February 11, 1963, and the defendant having had a copy of said affidavit served upon it, and certain objections thereto having been entered on December 2, 1963, some of which objections having been met by the petitioners to the satisfaction of the defendant; and the Commission having received written evidence, and having considered the entire record, including the contracts of employment of said attorneys, the Commission makes these additional findings of fact:

1. That the attorneys' services were rendered on behalf of the Tillamook Band of Tillamooks and the Naalem (Ne-ha-lum) Band of Tillamooks in Docket No. 240 pursuant to contracts between the Confederated Tribes of Siletz Indians and the Confederated Tribes of the Grand Ronde Community, Oregon, and E. L. Crawford (Contract No. 42532); that the contract under which services were performed for the Confederated Tribes of Siletz Indians was dated June 4, 1951, and approved by the Commissioner of Indian Affairs on July 6, 1951; that the contract under which services were rendered for the Confederated Tribe of the

Grand Ronde Community was dated July 27, 1949, and was for a period of fifteen (15) years commencing with the date of approval by the Commissioner of Indian Affairs, which approval was given on August 9, 1950; that the contract under which services were rendered for the Confederated Tribes of Siletz Indians was for a period of ten (10) years, beginning with the date of its approval by the Commissioner of Indian Affairs, and provided for extensions for definite five (5) year periods by the Commissioner of Indian Affairs if necessary; that this contract was extended from July 6, 1961, for a period of three (3) years to and including July 5, 1964; that both contracts covered the period beginning August 8, 1951, on which date this claim was filed, and extending beyond August 27, 1962, when a final determination was made and entered in Docket No. 240 in favor of the Tillamook Band of Tillamooks and the Naalem (Ne-ha-lum) Band of Tillamooks; that said contracts and the extension of them with the Confederated Tribes of the Siletz Reservation were duly approved by the Secretary of the Interior as required by law, and were in full force and effect during all of said time.

2. On July 5, 1951, E. L. Crawford agreed with Garland S. Ferguson, III, and Joseph W. Creagh to assign to them a 40% interest in any fees received from the successful outcome of the litigation conducted under contracts with the Confederated Tribes of Siletz Indians and the Confederated Tribes of the Grand Ronde Community, Oregon; that this assignment was approved on May 6, 1955, by Glenn L. Emmons, Commissioner of Indian Affairs; that on June 28, 1957, Garland S. Ferguson, III, assigned his interest in the contract to Joseph W. Creagh and this assignment was approved by the Commissioner of Indian Affairs on June 28, 1957.

3. That the contract concerning attorneys' employment provided that the compensation of the attorneys was to be wholly contingent upon recovery for the tribe and that said compensation provided for in the contract with the Confederated Tribes of Siletz Indians should be ten percent (10%) "of any and all sums, or the value of any and all property recovered, in whole or in part, through his efforts, whether by judgment, compromise, settlement, or action of any department of the Government, or of the Congress of the United States, or otherwise." That in the contract with the Confederated Tribes of the Grand Ronde Community, Oregon, the compensation was to be wholly contingent, but in no event was the aggregate fee to exceed ten percent (10%).

4. That pursuant to the contract of employment, and the extension thereof, the attorneys prepared and filed on behalf of the Tillamook Band of Tillamooks, Naalem (Ne-ha-lum) Band of Tillamooks, Clatsop Tribe, Kathlamet Band of Chinooks, Nuc-Quee-clah-we-muck Tribe, the Confederated Tribes of Siletz Indians, Confederated Tribes of the Grand Ronde Community, Oregon, and portions and descendants of all such tribes and bands.

This Commission found and so stated in its Findings of Fact in this docket dated June 10, 1955, that the Confederated Tribes of Siletz Indians and the Confederated Tribes of the Grand Ronde Community, Oregon, include descendants of the Naalem (Ne-ha-lum) Band of Tillamooks and that they were entitled to maintain this action on behalf of the descendants. The action was considered dismissed as to the other plaintiffs since no evidence had been introduced in support of any claim by them.

5. Trial was held on the question of title and liability of the Government with respect to the claims of the Tillamook Band of Tillamooks and the Naalem (Ne-ha-lum) Band of Tillamooks. Findings, Opinion, and Interlocutory Order were entered covering the claims of both Bands on June 10, 1955, and favoring the plaintiffs.

The Commission found that the plaintiffs should recover from the defendant the value of lands described in Finding No. 8(b) of Findings of Fact dated June 10, 1955, and agreed to by stipulation between the parties dated April 30, 1956.

6. That on August 27, 1962, Additional Findings of Fact, Opinion and Final Award were entered by this Commission in which it was provided that the plaintiffs, the Confederated Tribes of Siletz Indians and the Confederated Tribes of the Grand Ronde Community were entitled to recover from the defendant for and on behalf and for the benefit of the descendants of members of the Naalem (Ne-ha-lum) Band of Tillamooks as such band was constituted and recognized by the United States at the time of the Treaty of August 6, 1851, the sum of \$82,662.50 less an offset in the amount of \$10,500.00 paid as original consideration for such lands, or a net sum of \$72,162.50; and for and on behalf of and for the benefit of the descendants of members of the Tillamook Band of Tillamook Indians as such band was constituted and recognized by the United States at the time of the Treaty of August 7, 1851, the sum of \$107,525.00 less an offset of \$10,500.00 paid as original consideration for their lands, or a net sum of \$97,025.00. That the sum of \$169,187.50 was appropriated by the Congress on May 17, 1963, in full settlement of the claims set forth in Docket 240; that the sum is now deposited in the Treasury to the credit of said Indian tribes; said sum is also entered on the records of the Department of the Interior to the credit of said Indians.

7. That the contracts of employment in this claim also provided for the employment of such technical or stenographic assistance as the attorneys might deem necessary to be paid by the plaintiffs as expenses incidental to employment of the attorneys.

The attorneys in this claim have filed a number of affidavits as to expenses incurred in the employment of experts and stenographic assistance. The defendant has raised objections as to some of these

expenses which at this time have not been met by the plaintiffs. However, on January 20, 1964, E. L. Crawford advised this Commission that further supplemental material will be supplied at which time the attorneys will ask that the matter be set down for hearing. These matters will, accordingly, be disposed of after such hearing and consideration of the evidence by this Commission. Appropriate orders will then be entered.

8. As to one claim, that for expert witness fees and expenses of James Hatfield, the defendant, on September 1, 1964, stated it had no objection to payment of the sum claimed for him and heretofore paid by E. L. Crawford except for \$1.05 for which no satisfactory explanation had been made, or a total sum of \$3,595.93.

9. Having considered the record of this claim, and the circumstances surrounding it, the Commission now finds that a reasonable and proper attorney fee to be awarded the attorneys herein, E. L. Crawford and Joseph W. Creagh, is 10% of the award of \$169,187.50 (after deduction of offsets in the amount of \$21,000.00), or \$16,918.75 for their services as attorneys in Docket No. 240 and pursuant to said contracts of employment.

Further, the Commission finds that the fee and expenses of James Hatfield in the amount of \$3,595.93 are reasonable and should be paid to E. L. Crawford without further delay.

IT IS THEREFORE ORDERED AND ADJUDGED that E. L. Crawford and Joseph W. Creagh are hereby awarded and allowed the sum of \$16,918.75, which sum shall be in full compensation for all legal services rendered the Confederated Tribes of Siletz Indians and the Confederated Tribes of the Grand Ronde Community, Oregon, for and on behalf of the descendants of members of the Naalem (Ne-ha-lum) Band of Tillamook Indians and the Tillamook Band of Tillamook Indians in the prosecution of claims in Docket No. 240; that E. L. Crawford is hereby awarded and allowed the sum of \$3,595.93 which shall be in full compensation for all sums expended by him for expert witness fees and expenses of James Hatfield; and that said sums shall be paid out of the appropriation which Congress has made to satisfy the final award to the plaintiffs herein made by this Commission on August 27, 1962.

Dated at Washington, D. C., this 22nd day of September, 1964.

Arthur V. Watkins
Chief Commissioner

Wm. M. Holt
Associate Commissioner

T. Harold Scott
Associate Commissioner