

BEFORE THE INDIAN CLAIMS COMMISSION

THE SOUTHERN PAIUTE NATION, ET AL., )  
 )  
 Petitioners, )  
 )  
 v. ) Docket Nos. 88, 330, and 330-A  
 )  
 THE UNITED STATES OF AMERICA, )  
 )  
 Defendant.)

Decided: Jan 18 1965

Appearances:

John W. Cragun, Donald C. Gormley,  
 Frances L. Horn, John S. Boyden and Abe  
 Weissbrodt, Attorneys for Petitioners.

Bernard M. Newburg, with whom was  
 Mr. Assistant Attorney General  
 Ramsey Clark, Attorneys for the  
 Defendant.

OPINION OF THE COMMISSION

Chief Commissioner Watkins delivered the opinion of the Commission.

This is a proceeding to consider the proposed consolidated compromise settlement of five cases by the simultaneous entry of two separate Findings of Fact, Opinions, and Final Judgments with respect to claims of two identifiable groups of American Indians designated as follows: The Southern Paiute Nation of Indians, Docket Nos. 88, 330, and 330-A; and the Chemehuevi Tribe of Indians, Docket Nos. 351 and 351-A.

These cases were consolidated for the purposes of the hearing on the compromise settlements, but separate Findings of Fact, Opinions, and Final Judgments were to be entered for each of these identifiable groups. The total overall settlement provides for the recovery against the defendant, the United States of America, the sum of \$8,250,000 to be shared by the two groups as follows: The Southern Paiute Nation of

Indians \$7,253,165.19, and the Chemehuevi Tribe of Indians, \$996,834.81. The overall acreage involved in all of these claims is approximately 29,935,000 acres, we are advised.

Hearings have been held on the title phase of these land claims. The petitioners prepared and filed proposed findings of fact and briefs supporting their proposals but defendant did not reply. At this stage of the proceedings, negotiations for compromise settlements began and were recently brought to a successful conclusion, and the petitions praying for the approval of the settlements now before us were filed and heard at a special joint hearing on December 17, 1964.

It appears that the principal reasons for consolidating the hearings and settlement of the five docket numbers were that the two Indian entities were closely related in aboriginal times, and that they also held adjoining lands during the same period, which were of the same general type and classification. Even though the stipulations for compromise and settlement executed by the parties contains no reference to what must have been a number of taking dates of the lands claimed by both Indian tribes, there are matters of history of which we may take judicial notice, and some evidence before the Commission, received when hearings on these docket numbers were being held on title phase, that make it quite clear that taking of the lands in question couldn't have occurred before 1847, the year the Mormon pioneers entered Salt Lake Valley, and possibly began shortly thereafter and continued on into the 1880's if not into the 1890's or later. This matter of the taking date is of considerable importance in fixing fair market value because ordinarily the later the taking date the higher the market value.

So much for matters germane to both groups of Indians.

There yet remains matters that relate specifically to the settlement of the Southern Paiute claim. We shall not attempt to paraphrase the findings in this case but will point out some distinguishing features.

The Southern Paiute Nation, which we found to be an unorganized, identifiable group of American Indians, was made up of a number of small bands of Indians whose places of residence were scattered over a vast area in southwestern Utah, northwestern Arizona, southeastern Nevada, and in a portion of southeastern California.

In aboriginal times they did some subsistence farming but most of their food and fiber were obtained by hunting wild animals and gathering vegetable products native to the areas in which they lived. These groups were loosely organized and known generally to early white explorers and settlers as bands of Southern Paiutes, with local names designating each band. White settlements in the areas in which these Indians lived were located along the streams running through, or nearby, valleys capable of producing farm products when placed under irrigation. There appeared to be no formal, wholesale taking of these lands by the white pioneers; just a gradual expansion of areas developed as the need of the early settler dictated. These early pioneers, for the most part, got along fairly well with the Indians. The need for survival of all of them was mutual.

Four of these bands in Utah were the subject of a recent Federal Termination Act. These Indians were assured that their rights and interests in the tribal land claims would not in anyway be affected by the Termination Act. Our findings, we believe, take care of this matter

so that justice can be done to these Indian people.

The procedures previously outlined by the Commission with respect to the consideration of compromise settlements seem to have been substantially complied with in the instant proceeding; and it appears that the settlement is fair and just to both parties. It is ordered that the joint motions of the parties for entry of final judgment in accordance with the Stipulation for Entry of Final Judgment will be granted and Final Judgment will be so entered.

/s/ Arthur V. Watkins  
Chief Commissioner

We concur:

Wm. H. Holt  
Associate Commissioner

T. Harold Scott  
Associate Commissioner