

BEFORE THE INDIAN CLAIMS COMMISSION

THE CONFEDERATED BANDS OF)	
UTE INDIANS,)	
)	
Petitioner,)	
)	
v.)	Docket No. 327
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: February 18, 1965

Appearances:

Robert W. Barker, with whom
were Claron C. Spencer of
Wilkinson, Cragun, and Barker,
Attorneys for Petitioners

W. Braxton Miller, 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 motion of the petitioner seeking approval of a proposed compromise settlement of the offsets claimed by the defendant, and the entry of a final judgment. A hearing was held before the Commission on January 19, 1965 on the approval of the proposed settlement.

The petitioner, the Confederated Bands of Ute Indians, is composed of four bands, the Uncompahgre Band, the White River Band, the Southern Ute Band and the Ute Mountain Band.

The claim of petitioner was for additional compensation for certain lands in southwestern Colorado ceded by said confederated bands under the Treaty of September 18, 1873 (18 Stat. 36). In the interlocutory order based on findings of fact entered in this case on September 14, 1962, 11 Ind. Cl. Comm. 180, this Commission made an award to the petitioner against the defendant in the amount of \$7,992,337.16, less allowable offsets to be determined in a later proceeding.

Thereafter, on April 19, 1963, the defendant filed its amended answer asserting offsets totaling \$3,822,967.00 plus additional claimed offsets with no amount stated.

The proposed compromise settlement provides for the allowance of offsets in this case, Docket 327, of \$83,751.00 and the entry of a final judgment of \$7,908,586.16. The entry of said final order will dispose of all offsets, claims, or demands which defendant has asserted or could have asserted against the petitioner in this case for all disbursements and transactions from April 29, 1874 to June 30, 1962, so far as the White River, Uncompahgre and Ute Mountain Ute Bands of Ute Indians, or any of such bands are concerned. The amount asserted as an offset in paragraph 19 of defendant's amended answer and one-half of the amounts asserted in paragraphs 20 and 22 of said amended answer are reserved to the defendant as assertible against the Southern Ute Band in Docket No. 328 now pending before the Indian Claims Commission, or, any other case involving that band, but no other item or amount which has been asserted or could be asserted in this case for payments or

expenditures prior to June 30, 1962 is to be assertible against the Southern Band of Utes in any other action. The parties have reserved the right of appeal to the Court of Claims on the question of value in said case as determined by this Commission in its interlocutory order of September 14, 1962.

The evidence shows that the members and officials of each of the interested bands or tribes were fully advised of the terms of the proposed settlement and understood its terms and gave their approval to the settlement in meetings appropriately convened and conducted. We are of the opinion that all formal requirements of the Commission with respect to proof of a valid approval of a compromise settlement have been substantially complied with by the parties. The proposed settlement has also been approved by the Associate Commissioner of Indian Affairs acting on behalf of the Secretary of the Interior.

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

A final judgment will be entered in accordance with said motion.

We concur:

Wm. M. Holt
Associate Commissioner

Arthur V. Watkins
Chief Commissioner

T. Harold Scott
Associate Commissioner