

BEFORE THE INDIAN CLAIMS COMMISSION

THE QUECHAN TRIBE OF THE FORT)
 YUMA RESERVATION, CALIFORNIA,)
)
 Petitioner,)
)
 v.)
)
 THE UNITED STATES OF AMERICA,)
)
 Defendant.)

Docket No. 319

Decided: August 5, 1965

Appearances:

Fulton W. Hoge, with whom was
 Louis L. Rochmes, Attorneys
 for Petitioner

Milton E. Bander, with whom was
 Mr. Assistant Attorney General,
 Edwin L. Weisl, Jr.,
 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 a joint motion of the parties seeking approval of a proposed compromise settlement of the claim of petitioner in this Docket No. 319.

On the issue of title and the taking of lands by the defendant from the Quechan Tribe, this Commission entered its findings of fact, opinion and interlocutory order on September 30, 1959, holding that petitioner had established Indian title to certain lands located in what are now

the States of California and Arizona. We also held that such title to the land in California was extinguished by the defendant on March 3, 1853, and in Arizona on January 9, 1884. The parties have agreed that the acreage taken by the defendant in California comprised 667,544 acres and in Arizona 881,644 acres.

The compromise settlement now before us for approval was entered into in order to settle the issues of the value of aforesaid lands for which the defendant would be liable. With respect to possible offsets, if any, the proposed settlement does not include nor is it to be construed to affect the claim of the United States to any offsets which it might have against the Quechan Indians, and the right of the United States to claim offsets against the Quechan Indians is reserved and may be considered by this Commission in Quechan Tribe v. United States, Docket No. 320, from the date said offsets would have been allowable in this Docket No. 319. The settlement also determined that neither party would seek a review or take an appeal.

We have found that the members and officials of the Quechan Tribe of Indians have been fully advised of the terms of the proposed settlement, the reasons why it was entered into, and that they understand its terms; and that the settlement was voluntarily and freely approved both by the Quechan Tribal Council at a meeting duly and properly called to consider the settlement, and by the members of the Quechan Tribe at a General Tribal meeting duly and properly called to consider the settlement.

Considerable evidence descriptive of the lands aboriginally occupied by the Quechan Tribe was presented to the Commission in the recent trial on the claim of the Quechan Tribe in Docket No. 320 which involves the Yuma Indian reservation located in the south-central part of the tract found in Docket 319 to have been aboriginally occupied by the Quechan Tribe. The lands in said tract aboriginally occupied are located along the Colorado River in California and Arizona, and the Gila River in Arizona. The area is practically all barren mesa and mountainous land, except the area along the rivers. The area has extremely hot weather and the rainfall is slight with vegetation confined mainly to the river bottoms. There was a dense undergrowth along the rivers where the water overflowed from time to time where the Indians planted crops. In the year 1853, no development had taken place in the area. Many emigrants and gold-seekers used the route along the Gila River to its confluence with the Colorado River as a means of entry into California. The area which later became the Yuma Indian Reservation was occupied at that time by United States troops where a fort was established to control the Yuma or Quechan Indians, and prevent conflicts with the settlers passing through. Any land values on either side of the Colorado River at that time were potential only.

While there may have been some farming done by means of water from wells or from the river as early as 1884, there had been no major reclamation projects at that time and developments in the subject tract were still largely in the future. Mr. Edmond H. Jackson, a member of

the Quechan Tribal Council, who testified at the hearing on the joint motion on July 7, 1965, when asked for his understanding of the settlement stated, "It is my understanding that it is a settlement by the Government for the lands taken in 1884, for the Arizona lands." He was then asked if it was not true that the California land probably was more barren. His answer was, "Both sides of the valley were barren, but we got 40 cents for the Arizona land."

The stipulated settlement of the claim for \$520,000.00 was arrived at by the parties on the basis of \$167,000.00 for the 667,544 acres of land in California, or approximately 25 cents an acre, and \$353,000.00 for the 881,644 acres in Arizona, or about 40 cents an acre. The difference in the dates of taking, 1853 for the California land, and 1884 for the Arizona land is the reason for the higher value in Arizona.

We are of the opinion that all the formal requirements of the Commission with respect to proof of a valid approval of a compromise settlement by petitioner and the defendant have been substantially complied with in this case, and it appears that the settlement is fair and just to both parties. It is therefore ordered that the joint motion of the parties for entry of final judgment in accordance with the Stipulation for Entry of Final Judgment be granted and a final judgment will be so entered.

Wm M. Holt
Associate Commissioner

We concur:

/s/ Arthur V. Watkins
Chief Commissioner

/s/ T. Harold Scott
Associate Commissioner