

BEFORE THE INDIAN CLAIMS COMMISSION

THE YAKIMA TRIBE,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 162
)	
THE UNITED STATES,)	
)	
Defendant.)	

Decided: August 31, 1965

Appearances:

Paul M. Niebell, Attorney
for Plaintiff

Keith Browne, 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 the plaintiff's motion for entry of final judgment herein in the net amount of \$49,000.00, which motion is endorsed as "approved" by counsel for defendant.

The plaintiff's claim was for 23,000 acres of its reservation lands in the State of Washington ceded to the United States by the agreement of January 8, 1894, for an alleged unconscionable consideration of \$20,000.00. On June 5, 1956, this Commission held that said land was worth \$69,000.00 in 1894, and the plaintiff was entitled to recover

from the defendant the sum of \$49,000.00, less offsets to which defendant may be entitled to under the provisions of the Indian Claims Commission Act.

Thereafter, on April 22, 1957, the parties filed a stipulation agreeing that the time for defendant to file its amended answer setting up claimed offsets be indefinitely extended and further action in this case be held in abeyance pending a final determination by the Commission in the case of Yakima Tribe v. United States, Docket No. 47. On December 30, 1960, the plaintiff in Docket No. 47 filed notice of appeal to the Court of Claims from the Commission's decision in that case. However, prior thereto, on December 19, 1960, the parties filed a second stipulation agreeing that the stipulation of April 22, 1957, be adhered to and further action in this Docket No. 162 be held in abeyance pending a final determination in Docket No. 47. At the hearing before the Commission on June 15, 1965, on plaintiff's motion for entry of final judgment, the attorneys for both parties agreed that an order be entered vacating the two stipulations filed April 22, 1957 and December 19, 1960, and such an order has been entered by the Commission.

Under the proposed agreement to terminate the litigation in this Docket No. 162 and to enter a final judgment, it is agreed that any offsets the defendant may have against the plaintiff accruing between 1894 and 1905 are to be deferred and may be raised by the defendant in any other case of the Yakima Tribe still pending before the Commission, with both parties waiving their right of rehearing and appeal from the final judgment to be entered in Docket No. 162.

The aforesaid agreement was approved by the plaintiff by two resolutions adopted by the Yakima Tribal Council. The first resolution (Plf's Ex. B) adopted June 2, 1965, approved the entry of the final judgment for \$49,000.00, and waived the right of rehearing and appeal from said judgment. The second or supplemental resolution (Plf's Ex. C) adopted August 3, 1965, approved the reserving to the defendant of the right to present any offsets that might be applicable to Docket 162, between 1894 and 1905, in any other Yakima case now pending before the Commission. Both of these resolutions have been approved by the duly authorized official of the Department of the Interior.

We are of the opinion that the proposed agreement is fair to both the plaintiff and the defendant and should be approved and plaintiff's motion, as approved by counsel for defendant, should be granted.

A final judgment will accordingly be entered in the amount of \$49,000.00, reserving to the defendant the right to present offsets that might be applicable to this case, between 1894 and 1905, in any other case of the Yakima Tribe now pending before the Commission.

Wm. M. Holt
Associate Commissioner

We concur:

Arthur V. Watkins
Chief Commissioner

T. Harold Scott
Associate Commissioner