

BEFORE THE INDIAN CLAIMS COMMISSION

THE YAKIMA TRIBE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Docket No. 47-A
	)	
THE UNITED STATES,	)	
	)	
Defendant.	)	

ORDER ALLOWING ATTORNEY FEE

Upon consideration of the application for an award of an attorney fee filed November 30, 1965, the defendant having had notice thereof and not objecting thereto, and having considered the entire record in this case, the Commission finds that:

1. The original contract with the Yakima Tribe of the Yakima Reservation was entered into with Attorney Paul M. Niebell of Washington, D. C. on July 20, 1948 and was approved on February 14, 1949 for a ten year period. Subsequently, the same parties entered into a contract dated December 10, 1958 which was approved on February 16, 1959 for a period of ten years, beginning on February 14, 1949. Said contracts provide for an attorney fee to be fixed in an amount not in excess of ten percent (10%) of any and all sums recovered or procured for said Yakima Tribe.

2. Pursuant to the aforesaid contracts of employment, the said attorney prepared and filed a petition for the Yakima Tribe, assigned Docket No. 47, asserting rights to recover on claims for certain areas of lands designated as Tracts A, B, C, and D and other lands claimed in Cedar Valley, alleged to have been erroneously excluded from the

Yakima Indian Reservation in the State of Washington reserved by the Treaty of June 9, 1855, 12 Stat. 951. After several hearings on liability held in Seattle, Washington and Washington, D. C., this Commission on May 29, 1953, entered an interlocutory order (as amended on November 6, 1953) upholding the right of the Yakima Tribe to recover for the Tract C lands along with the other lands in Cedar Valley and denied recovery for the lands claimed in Tracts A, B, and D. Thereafter hearings were held on the value of the lands awarded, and on November 29, 1957, the Commission entered its amended findings, opinion and interlocutory order determining the value of Tract C and the Cedar Valley lands, and denied recovery for the lands in Tracts A, B, and C.

3. Counsel for the Yakima Tribe appealed to the United States Court of Claims from the Interlocutory Orders of the Commission both on the issues of liability and value as determined by the Commission. On October 3, 1962, that Court affirmed the determination of the Commission on liability and value on the claims to Tract C and the Cedar Valley lands, and reversed the determination of the Commission on liability with respect to Tracts B and D lands.

4. On June 3, 1965, the defendant filed a motion for an order docketing separately the claim for the Tract C and Cedar Valley lands as Docket No. 47-A, and requested that a final award be entered in Docket 47-A on the claim for Tract C and Cedar Valley lands since this claim had been affirmed by the Court of Claims and had therefore become final. This motion was approved by the Yakima Tribe, and at a hearing

held before the Commission on June 15, 1965, counsel for petitioner consented to said motion and waived petitioner's right of appeal with counsel for defendant also waiving defendant's right of appeal and its claim to offsets. On June 18, 1965, the Commission entered an order granting defendant's motion and ordered petitioner's claim for Tract C and Cedar Valley lands separately docketed as Docket 47-A and that a final judgment in favor of petitioner on the Tract C claim be entered in Docket No. 47-A in accordance with the Commission's Interlocutory Order entered November 29, 1957, in said Docket No. 47. On June 25, 1965, the Commission entered a final award in Docket 47-A in favor of the Yakima Tribe in the total amount of \$61,991.40 for the Tract C and Cedar Valley lands, which sum has been appropriated by the United States Congress and is now credited to the Yakima Tribe on the books of the United States Treasury.

The Commission further finds that the attorney for petitioner has earned and is entitled to the full sum allowable under his contracts with petitioner, namely, ten percent (10%) of the amount recovered of \$61,991.40, or \$6,199.14.

IT IS THEREFORE ORDERED AND ADJUDGED that the said attorney, Paul M. Niebell, be and he is hereby allowed the sum of \$6,199.14, which sum shall be in full compensation for legal services rendered the Yakima Tribe in the prosecution of its claim against the United States on its claim for the Tract C and Cedar Valley lands in Docket No. 47-A; that said sum shall be paid out of the appropriation which the Congress of the United

States made to satisfy the final award made by this Commission on  
June 25, 1965.

Dated at Washington, D. C., this 16th day of February, 1966.

Arthur V. Watkins  
Chief Commissioner

Wm. M. Holt  
Associate Commissioner

T. Harold Scott  
Associate Commissioner