

BEFORE THE INDIAN CLAIMS COMMISSION

THE CONFEDERATED SALISH AND KOOTENAI )  
 TRIBES OF THE FLATHEAD RESERVATION, )  
 MONTANA, )  
 )  
 Petitioner, )  
 )  
 v. ) Docket No. 61  
 )  
 THE UNITED STATES OF AMERICA, )  
 )  
 Defendant. )

Decided: August 1, 1966

FINDINGS OF FACT ON COMPROMISE SETTLEMENT

Explanatory Statement

This matter is now before the Commission for approval of a compromise final settlement of this case by entry of a final judgment in the amount of \$4,431,622.18, to be conditional upon dismissal of the pending appeal in the Court of Claims, Appeal No. 1-66, and remand by that court to this Commission for entry of said final judgment.

The Commission has heretofore determined in 8 Ind. Cl. Comm. 40 (Findings of Fact Nos. 1-21), that petitioner, the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, is the successor-in-interest to the Flathead, Kootenai (Libby-Jennings Band), and Upper Pend d'Oreille Tribes of Indians who held aboriginal title to that land in western Montana which they ceded to the United States by the Treaty of July 16, 1855, 12 Stat. 975. By Interlocutory Order of August 3, 1959, this Commission ordered the case to proceed to a

determination of the acreage of the ceded lands, their value as of March 8, 1859, the effective date of the Treaty and whether the consideration was unconscionable.

On September 29, 1965, further hearings having been held on the latter issues, additional findings of fact were entered, 16 Ind. Cl. Comm. 1 (Findings of Fact Nos. 22-42), in which the Commission found that the lands ceded embodied 7,500,000 acres of timberland, 1,000,000 acres of wasteland, 3,155,000 acres of range land, and 350,000 acres of crop land, and that the total ceded, 12,005,000 acres, had a fair-market value as of March 8, 1859, of \$5,300,000. The Commission also determined that the total consideration paid was \$593,377.82, and that the difference between the fair-market value and the consideration, \$4,706,622.18, was unconscionable and that petitioner was entitled to recover from the defendant that amount, less whatever offsets, if any, defendant was entitled to under the Indian Claims Commission Act.

On November 30, 1965, defendant filed an amended answer claiming offsets in the amount of \$4,316,090.31. Petitioner filed an appeal from our interlocutory order on December 29, 1965 (App. No. 1-66, United States Court of Claims). Counsel thereafter commenced discussions concerning settlement of claimed offsets, and ultimately agreed that offsets would be compromised and settled for \$275,000, conditioned upon approval of the proposed settlement by petitioner's governing body, the Bureau of Indian Affairs, and this Commission, and conditioned upon the dismissal of the pending appeal and remand to this Commission for

entry of a final judgment in favor of petitioner in the amount of \$4,431,622.18.

A hearing having been held in Washington, D. C. on July 26, 1966, on the aforesaid proposed offer to compromise and settle, the Commission makes the following findings of fact which are supplemental to the previous Findings Nos. 1-42, inclusive, made herein:

43. Petitioner herein, the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, was organized under the Indian Reorganization Act, Act of June 18, 1934, 48 Stat. 984, pursuant to a Constitution and Bylaws approved by the Secretary of the Interior on October 28, 1935.

44. Pursuant to Article III of the approved Constitution, the governing body of the petitioner is the Tribal Council, an elected body composed of representatives from geographic districts within the reservation, each elected for a term of four years. The Tribal Council has been the sole governing authority of the petitioner since October 28, 1935.

45. Pursuant to the approved Bylaws, Article I, Section 7, as amended, the Tribal Council must hold regularly scheduled meetings on the first Friday of January, April, July, and October, at 9:00 A. M., at the Flathead Agency.

46. By letter of June 16, 1966, the defendant accepted an offer to compromise and settle the claimed offsets of \$4,316,090.31, in the amount of \$275,000, subject to approval by the governing body of petitioner, the Bureau of Indian Affairs, and this Commission, and conditioned upon the dismissal of the pending appeal (Court of Claims,

App. 1-66), and the remand of the case to this Commission for entry of final judgment in the amount of \$4,431,622.18. On June 17, 1966, the Secretary of the Tribal Council issued a notice concerning the proposed offer of compromise and settlement. The notice explained that an offer to compromise and settle this case in the amount of \$4,431,622.18, would be presented to the Tribal Council for its consideration and action at the regularly scheduled meeting (required by the Bylaws of the Tribes), of the first Friday of July, July 1, 1966, at the Flathead Agency, at 10:00 A.M. The notice explained briefly the proposed settlement and urged that all attend the meeting in order to express their views; it specifically urged all who could not attend the meeting and were opposed to the proposed compromise and settlement to "send your written reason for opposition to settlement to the Tribal Council by mailing it to the Secretary at Dixon, Montana, prior to the meeting of July 1, 1966."

The notice in its entirety reads as follows:

THE CONFEDERATED SALISH AND KOOTENAI TRIBES  
OF THE FLATHEAD RESERVATION

Dixon, Montana

June 17, 1966

NOTICE OF PROPOSED SETTLEMENT OF ABORIGINAL TITLE CLAIM,  
INDIAN CLAIMS COMMISSION, DOCKET NO. 61, TO BE PRESENTED  
AT CONSTITUTIONAL MEETING OF JULY 1, 1966.

Subject to Tribal and Indian Claims Commission approval, the Tribal Council has been advised by your Claims Attorneys that the United States is willing to compromise and settle your Aboriginal Title Claim in the Indian Claims Commission, Docket No. 61, for a net amount (after offsets) of \$4,431,622.18. Approval is recommended by your Claims Attorneys.















































