

determining any allowable offsets." (17 Ind. Cl. Comm. 456). With the exception of certain preliminary motions and the taking of depositions by defendant, Docket No. 122 has not moved forward to trial or any decision on the merits. On May 21, 1968, the Commission held a hearing on a proposed compromise settlement of Docket Nos. 90 and 122.

The Commission makes the following additional findings of fact, which findings of fact are equally applicable to the above dockets, and, which findings of fact are supplemental to Commission's findings of fact 1 through 19 entered herein on November 19, 1962 and the Commission's additional findings of fact 20 through 62 entered herein on December 21, 1966:

63. Negotiations for Settlement

After the Commission on May 11, 1967, denied petitioner's motion for consideration in Docket No. 90, the attorneys for the Hualapai Tribe and the defendant entered into negotiations for a consolidated compromise settlement of the claims set forth in Docket No. 90 and Docket No. 122. Tr. 5.* Following discussion among themselves and then with counsel for defendant, counsel for the claimant by letter dated January 19, 1968, submitted a settlement offer to the United States covering both cases. This offer subsequently was amended and extended, and, as so revised, the offer was conditionally accepted on April 17, 1968, by Assistant Attorney General Clyde O. Martz, acting for the United States, as follows (Tr. 5):

* All record references are to the Transcript of the Proceedings before the Commission, May 21, 1968.

The offer to settle the claims of the Hualapai Tribe of the Hualapai Reservation, Arizona v. United States, Docket Nos. 90 and 122, before the Indian Claims Commission, for the sum of \$2,950,000 as outlined in your letter of March 21, 1968, is accepted, subject to the following conditions:

1. That the proposed settlement be approved by appropriate Resolution of the governing body of the Hualapai Tribe.

2. That approval of the settlement, as well as the Resolution of the Tribe, be secured from the Secretary of the Interior, or his authorized representative.

In summary, as of April 17, 1968, agreement had been reached between the attorneys for the Hualapai Tribe and the United States that final judgment be entered in Docket Nos. 90 and 122 in the net amount of \$2,950,000 and that said judgment would finally dispose of (1) all claims and demands which the Hualapai Tribe has asserted or could have asserted against defendant in these cases, and (2) all claims, demands, payments on the claim, counterclaims or offsets which the defendant has asserted or could have asserted against petitioner under the provisions of Section 2 of the Indian Claims Commission Act for the period from January 4, 1883, to and including June 30, 1951. Tr. 5. This agreement, of course, was conditioned upon approval of the settlement by the Hualapai Tribe and the Secretary of the Interior or his duly authorized representative.

64. Notice of Meeting on Settlement

On April 19, 1968, a copy of the following "Notice of Meeting on Final

lement of Claims of the Hualapai Tribe of Indians before the Indian Claims Commission" was mailed, postage prepaid, to the last known address of all adult members of the Hualapai Tribe (Tr. 8; PX-A1):

NOTICE OF MEETING ON FINAL SETTLEMENT OF CLAIMS
OF THE HUALAPAI TRIBE OF INDIANS
BEFORE THE INDIAN CLAIMS COMMISSION

TO ALL MEMBERS OF THE HUALAPAI TRIBE OF INDIANS:

You are hereby notified that there will be a meeting of the enrolled members of the Hualapai Tribe of Indians on Saturday, May 4, 1968, at 9 o'clock A.M., the Civic Center, also known as the Gymnasium, in Peach Springs, Arizona, to consider approval of a proposed final settlement for the sum of TWO MILLION NINE HUNDRED AND FIFTY THOUSAND DOLLARS (\$2,950,000) of the claims filed on behalf of the Hualapai Tribe against the United States still pending before the Indian Claims Commission. The claims included within the proposed settlement are Docket No. 90 (land) and Docket No. 122 (trespass).

A complete explanation of the proposed final settlement will be given by the claims attorneys at the meeting, followed by a question and answer session in which members of the Hualapai Tribe will be encouraged to participate. At the end of the meeting, a vote will be taken on the question of whether to accept an award of \$2,950,000. To be effective, the proposed settlement also must be approved by the Hualapai Tribal Council.

THE ABOVE MEETING AND SUBSTANTIAL ATTENDANCE BY TRIBAL MEMBERS ARE REQUIRED BY RULES OF THE INDIAN CLAIMS COMMISSION. THE APPROVAL OF THE COMMISSION IS ESSENTIAL BEFORE THE SETTLEMENT CAN BE EFFECTIVE. ALL ADULT MEMBERS OF THE HUALAPAI TRIBE, THEREFORE, ARE STRONGLY URGED TO ATTEND AND VOTE AT THE MEETING.

<u>/s/ Arthur Lazarus, Jr.</u>	<u>/s/ Royal D. Marks</u>
Arthur J. Lazarus, Jr.	Royal D. Marks
Attorney of Record, Docket	Attorney of Record, Docket
No. 90	No. 122
1700 K Street, N.W.	819 Title and Trust Building
Washington, D. C. 20006	Phoenix, Arizona 85003

The most recent census of the Hualapai Tribe was completed early in 1968 (Tr. 8-9), and shows a total of 397 eligible voters. Tr. 9; PX-A2.

Most members of the Hualapai Tribe live on the Hualapai Reservation in Arizona. Tr. 16. Nonetheless, in order to assure the attendance of as many tribal members as possible at the meeting on May 4, 1968, a press release entitled "Hualapai Indians to Vote on Settlement" (PX-A3) was distributed by representatives of the Bureau of Indian Affairs to seven newspapers of general circulation, four television stations and ten radio stations in the States of Arizona and Nevada. PX-A4. A notice of the meeting also was posted in the United States Post Offices in Peach Springs, Valentine, Seligman, Prescott and Kingman, Arizona -- all communities on or near the Hualapai Reservation -- and at each Bureau of Indian Affairs office in the Phoenix Area. PX-A4.

65. Meeting at Peach Springs, Arizona

Beginning at 9:00 o'clock A.M. on Saturday, May 4, 1968, at the Civic Center, also known as the Gymnasium, in Peach Springs, Arizona, on the Hualapai Reservation, a meeting of Hualapai Indians was held for the purpose of considering and voting upon the proposed settlement in Docket Nos. 90 and 122. The meeting was attended by over 200 tribal members, including at least

adults, by Royal D. Marks, one of the attorneys for petitioner, and by representatives of the Bureau of Indian Affairs. Rupert Parker, Chairman of the Hualapai Tribal Council, served as chairman of the meeting. Tr. 9. A transcript of the proceedings has been made a part of the record before the Commission. PX-A5.

At the beginning of the May 4 meeting, each tribal member was given a copy of a proposed stipulation for entry of final judgment in Docket Nos. 90 and 122, and also a copy of a proposed resolution reading as follows (PX-A6):

RESOLUTION

WHEREAS, the Hualapai Tribe of the Hualapai Reservation, Arizona, has been prosecuting a case before the Indian Claims Commission to obtain compensation for land in the present State of Arizona originally owned and occupied in Indian fashion by the Hualapai Tribe and taken by the United States on January 4, 1883, without payment therefor, which case is identified as Docket No. 90; and

WHEREAS, the Commission on December 21, 1966, entered an interlocutory order in Docket No. 90 declaring that the Hualapai Tribe "shall have and recover from the defendant the sum of \$2,800,000.00, less such offsets, if any, as may be allowable under the Indian Claims Commission Act"; and

WHEREAS, the Hualapai Tribe also has been prosecuting a case before the Commission seeking damages from the United States for trespasses which occurred on the Hualapai Reservation after its establishment by Executive Order on January 4, 1883, which case is identified as Docket No. 122 and is scheduled for trial on October 21, 1968; and

WHEREAS, in view of the fact that many key questions involved in the Hualapai cases already have been determined by the Commission, the attorneys for petitioner and the attorneys for the Government agreed to enter into negotiations for the possible settlement of the claims, and following successful negotiations said attorneys have agreed, subject to the approval of the Hualapai Tribe, the Secretary of the Interior or his authorized representative, and the Indian Claims Commission, to settle and compromise jointly all issues in all remaining claims of the Hualapai Tribe for the sum of \$2,950,000, said amount to be net after all offsets to which the United States might have been entitled in Docket Nos. 90 and 122 for the period from January 4, 1883, to and including June 30, 1951; and

WHEREAS, at a meeting of the Hualapai Tribe of Indians, called for the purpose of considering the terms of the foregoing settlement, and at which the proposed final settlement was fully discussed by the attorneys for the Hualapai Tribe, the members of the Hualapai Tribe were given full opportunity to enter into said discussion and ask questions concerning all phases of the claims; and

WHEREAS, a representative of the Department of the Interior was present during said meeting and observed the proceedings; and

WHEREAS, the members of the Hualapai Tribe are fully informed regarding the proposed settlement, and with the proposed Stipulation for Entry of Final Judgment, the same having been distributed to the members, read in the aforementioned meeting, and explained by the attorneys for the Hualapai Tribe;

NOW, THEREFORE, BE IT RESOLVED, That the proposed final settlement of all claims and offsets, in Docket Nos. 90 and 122, in the amount of \$2,950,000 be, and the same is, hereby approved; it being understood that by this approval the attorneys for the Hualapai Tribe are authorized to execute said proposed Stipulation for Entry of Final Judgment; and

BE IT FURTHER RESOLVED, That the Chairman of the aforementioned meeting is hereby authorized to execute the proposed Stipulation and to appear and testify at a hearing before the Indian Claims Commission with respect to the proposed settlement and the action taken by the Hualapai Tribe with respect thereto; and

BE IT FURTHER RESOLVED, That the Secretary of the Interior or his duly authorized representative, and the Indian Claims Commission are hereby requested to approve the proposed settlement and Stipulation for Entry of Final Judgment as described above.

After opening remarks by Chairman Parker in English and the Hualapai language (PX-A5, p. 1), Mr. Marks gave a detailed presentation on the scope and history of the Hualapai claims, the length of time and effort necessary to prosecute each case to judgment, the possible results of continued litigation, and the background, terms, consequences and merits of the proposed settlement. Id at pp. 1-14. The meeting was then opened to questions from the audience -- all of which were fully answered. Id at pp. 15-33. When it appeared that the tribal members had no further questions, balloting on the proposed settlement was started.

After the last adult Hualapai voter desiring to vote had done so, the ballots were counted and this tally showed 174 in favor of the settlement, 6 against, and 4 spoiled ballots. Tr. 12. These figures were entered on the foregoing resolution, which was then executed by the Chairman of the meeting and authenticated by the Phoenix Area Office Representative, Bureau of Indian Affairs. PX-A6.

66. Tribal Council Approval

The Hualapai Tribe is organized pursuant to Section 16 of the Indian Reorganization Act, 48 Stat. 987, 25 U.S.C. 476, and has a tribal council recognized by the Secretary of the Interior. At a duly convened meeting on May 4, 1968, which immediately followed the above-described general meeting, the Hualapai Tribal Council considered the proposed compromise of Docket Nos. 90 and 122 and unanimously adopted the following resolution (PX-A7):

RESOLUTION No. 15-68
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION
(A FEDERALLY CHARTERED INDIAN CORPORATION)
Peach Springs, Arizona

WHEREAS, the Hualapai Tribe of the Hualapai Reservation, Arizona, has been prosecuting a case before the Indian Claims Commission to obtain compensation for land in the present State of Arizona originally owned and occupied in Indian fashion by the Hualapai Tribe and taken by the United States on January 4, 1883, without payment therefor, which case is identified as Docket No. 90; and

WHEREAS, the Commission on December 21, 1966, entered an interlocutory order in Docket No. 90 declaring that the Hualapai Tribe "shall have and recover from the defendant the sum of \$2,800,000.00, less such offsets, if any, as may be allowable under the Indian Claims Commission Act"; and

WHEREAS, the Hualapai Tribe also has been prosecuting a case before the Commission seeking damages from the United States for trespasses which occurred on the Hualapai Reservation after its establishment by Executive Order on January 4, 1883, which case is identified as Docket No. 122 and is scheduled for trial on October 21, 1968; and

WHEREAS, in view of the fact that many key questions involved in the Hualapai cases already have been determined by the Commission, the attorneys for petitioner and the attorneys for the Government agreed to enter into negotiations for the possible settlement of the claims, and following successful negotiations said attorneys have agreed, subject to the approval of the Hualapai Tribe, the Secretary of the Interior or his authorized representative, and the Indian Claims Commission, to settle and compromise jointly all issues in all remaining claims of the Hualapai Tribe for the sum of \$2,950,000, said amount to be net after all offsets to which the United States might have been entitled in Docket No. 90 and Docket No. 122 for the period from January 4, 1883, to and including June 30, 1951; and

WHEREAS, the proposed final settlement has been fully discussed with the Hualapai Tribal Council on several occasions by the attorneys for the Hualapai Tribe, and members of the Tribal Council have been given full opportunity to enter into discussions and ask questions concerning the matter for the past two months; and

WHEREAS, a representative of the Department of the Interior was present during said discussions with the Tribal Council; and

WHEREAS, the members of the Hualapai Tribal Council are fully informed regarding the proposed settlement.

NOW, THEREFORE BE IT RESOLVED by the Hualapai Tribal Council in meeting assembled this 4th day of May, 1968, that it approves the proposed final settlement of all claims and offsets in Docket Nos. 90 and 122 in the amount of \$2,950,000.00, it being understood that by this approval the attorneys for the Hualapai Tribe are authorized to execute the proposed Stipulation for Entry of Final Judgment; and

BE IT FURTHER RESOLVED that the Chairman of the Hualapai Tribe is authorized to execute the proposed Stipulation for Entry of Final Judgment providing the same has been approved by a vote of the majority of the adult members of the Hualapai Tribe who will attend the general tribal meeting called for the purpose of voting on the proposed settlement, and the Chairman is further authorized to appear and testify at a hearing before the Indian Claims Commission with respect to the proposed settlement and the action taken by the Hualapai Tribe with respect thereto; and

BE IT FURTHER RESOLVED that the Secretary of the Interior or his duly authorized representative and the Indian Claims Commission are hereby requested to approve the proposed settlement and Stipulation for Entry of Final Judgment provided same has been approved by the Hualapai Tribe.

67. Secretarial Approval

Under date of May 10, 1968, as supplemented by a letter dated May 14, 1968, counsel for petitioner wrote to the Secretary of the Interior, requesting approval of the compromise settlement, and transmitting all relevant documents pertaining to the negotiation of the settlement agreement, as well as its presentation to the Hualapai Indians and their approval. After due consideration, the Department of the Interior, through Associate Commissioner T. W. Taylor, approved the compromise settlement by letter of May 16, 1968, as follows (PX-A8):

Strasser, Spiegelberg, Fried, Frank
& Kampelman
1700 K Street, N.W.
Washington, D. C. 20006

Gentlemen:

You submitted for our approval a proposed compromise to consolidate and settle the claims of the Hualapai Tribe in Indian Claims Commission Dockets numbered 90 and 122 for a net final judgment in the amount of \$2,950,000.00.

Prosecution of the dockets is governed by one contract. Contract numbered I-1-ind. 42183, dated December 11, 1948, between the Hualapai Tribe and Marks and Marks was approved on April 20, 1949, for a period of five years beginning January 1, 1949. It has been extended twice. The last extension was for a period of ten years beginning January 1, 1960. An amendment, dated December 7, 1957, making the law firm of Strasser, Spiegelberg, Fried and Frank (now Strasser, Spiegelberg, Fried, Frank and Kampelman) a party to the contract was approved on July 10, 1958.

By letters dated January 19 and 25, February 27, March 21 and 22, and April 16, 1968, you made an offer to the Department of Justice to consolidate Dockets numbered 90 and 122 and, for a net final judgment in the amount of \$2,950,000.00, dispose of all claims and demands which the Hualapai Tribe has asserted or could have asserted against the United States in the two dockets and also dispose of all claims, demands, payments on the claims, counter claims, and offsets which the United States asserted or could have asserted for the period from January 4, 1883, to and including June 30, 1951. No review is to be sought or appeal taken by any party.

By letter dated April 17, 1968, the Assistant Attorney General accepted your offer with the conditions that the proposed settlement be approved by appropriate resolution of the Hualapai Tribe and that the Secretary of the Interior or his authorized representative approve the settlement as well as the resolution of the tribe.

The Hualapai Indians of the Hualapai Reservation were called to a general meeting held in the Civic Center in Peach Springs, Arizona, on May 4, 1968, to consider the proposed settlement. Timely notices stating the time, place, and purpose of the meeting were addressed to the members of the Hualapai Tribe. Notices were posted in several Post Offices which serve these Indians. Announcements were made over several television and radio stations covering the area in which most of the Hualapai Indians live. One radio station announced the meeting in the Hualapai language. Also, various newspapers carried notices of the meeting. The meeting was well publicized. We are satisfied that due notice was given to the members of the Hualapai Tribe and that they had the opportunity to attend.

A count of the Indians at the meeting disclosed that 270 were present. Mr. Royal Marks, one of the tribe's claims attorneys, gave a detailed explanation of the terms of the compromise to those present. He also gave a history of the litigation and the pros and cons of the proposed settlement. All of the several questions asked by the Indians were answered by the attorney. The Indians had a discussion of the matter among themselves and appeared to understand the terms of the settlement and to grasp the effects of approval of the proposed final judgment. The Indians then proceeded to adopt a resolution on the proposed settlement by the casting of

