BEFORE THE INDIAN CLAIMS COMMISSION

THE CONFEDERATED TRIBES OF THE COLVILLE RESERVATION as the representative of the
JOSEPH BAND OF THE NEZ PERCE TRIBE,

CHARLES E. WILLIAMS, JOSEPH REDTHUNDER AND
HARRY OWHL, as the representatives of
the JOSEPH BAND OF THE NEZ PERCE TRIBE,

THE CONFEDERATED TRIBES OF THE COLVILLE
RESERVATION, as successor to the claims
of the JOSEPH BAND OF THE NEZ PERCE TRIBE,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA,

Defendant,

THE NEZ PERCE TRIBE OF INDIANS OF THE
NEZ PERCE RESERVATION, IDAHO,

Intervenor.

Decided: April 29, 1970

FINDINGS OF FACT ON COMPROMISE SETTLEMENT

1. The petition in this case was filed before the Indian Claims
Commission on July 16, 1951, by the Confederated Tribes of the
Colville Reservation as the representative of the Joseph Band of the
Nez Perce Tribe, and by certain named individuals. The claims in this
petition arise under Section 2 of the Act of August 13, 1946 (60 Stat. 1049). The plaintiff, the Confederated Tribes of the Colville
Reservation, is a tribal organization existing at the Colville Reservation.
in the State of Washington, and it is an organization recognized by
the Secretary of the Interior as having authority to represent the
Indians enrolled on the Colville Reservation. The plaintiff is an
identifiable group of American Indians comprising descendants of
various aboriginal tribes and bands, including descendants of members
of the Joseph Band of the Nez Perce Tribe.

2. The plaintiffs, Charles E. Williams, Joseph Redthunder, and
Harry Owhi, are descendants of members of the aboriginal Joseph Band
of the Nez Perce Tribe.

3. The intervenor, the Nez Perce Tribe of Idaho, is an American
Indian tribe within the meaning of section 2 of the Indian Claims
Commission Act, as amended (25 U.S.C. §70(a)), with a tribal organiza-
tion duly recognized by the Secretary of the Interior as having
authority to represent the tribe.

4. The intervenor, the Nez Perce Tribe of Idaho, filed a motion
to intervene in this claim on November 5, 1968. The claim herein
involved is for a general accounting by the defendant of its administra-
tion and management of the lands, funds, and other property of the Nez
Perce Tribe which the defendant hold in trust for the Nez Perce Tribe,
including the Joseph Band of that tribe. On February 16, 1968, the
defendant filed its accounting in this claim which included an accounting
of the lands, funds, and other property of the Nez Perce Tribe of Idaho
(the intervenor), as well as the lands, funds, and other property of the
Joseph Band of the Nez Perce Tribe. As a result, on February 26, 1969,
the Commission ordered that the intervenor's motion to intervene as a party plaintiff in this claim be granted.

5. After the Nez Perce Tribe of Idaho was made a party to this claim by intervention, counsel for the government, the plaintiffs, and the intervenor, entered into negotiations for settlement of this claim. Subsequently, on July 25, 1969, the attorneys for the plaintiffs and the intervenor submitted a letter of offer to compromise this claim based upon a formula of percentages of recoveries to be made from certain disbursements by the government from those accounts belonging to the plaintiffs and the intervenor. This offer was subsequently modified by letters of August 18 and September 18, 1969. An accountant was employed to determine the total amounts involved pursuant to the formula of percentage recoveries agreed to by the parties. This amount was determined to be $1,119,071.78. The proposal was to settle this accounting claim from the time the defendant took the responsibilities of trustee of the Nez Perce Tribe, to June 30, 1951, since the parties could not agree as to the Nez Perce Tribe's right to an up-to-date accounting. The parties agreed that any claim the Nez Perce Tribe of Idaho has to an accounting from July 1, 1951, to date, would be severed and designated as Docket No. 179-A, and its prosecution continued before the Commission.

6. By letter of December 1, 1969, Assistant Attorney General Shiro Kashiwa accepted the offer on behalf of the defendant, subject to certain conditions. This letter states:
"December 1, 1969

"Mr. Angelo A. Iadarola
1616 H Street, Northwest
Washington, D. C. 20006

"Dear Mr. Iadarola:

"The offer to settle the claims in The Confederated Tribes of the Colville Reservation as the Representative of the Joseph Band of the Nez Perce Tribe, et al. v. The United States, and the Nez Perce Tribe of Indians, Intervenor, Docket No. 179, before the Indian Claims Commission for the sum of $1,119,071.78, as outlined in your joint letters of September 18, August 18, and July 26 [sic], 1969, is accepted subject to the following conditions:

"1. That the proposed settlement be approved by appropriate Resolution of the governing body of the Confederated Colville Tribes of the Colville Reservation as the representative of the Joseph Band of the Nez Perce Tribe and the governing body of the Nez Perce Tribe of the Lapwai Reservation in Idaho.

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

"3. That responsible officials and representative members of the Tribes be present to testify in behalf of the Tribes on the compromise settlement before the Indian Claims Commission.

"The Department of Justice will be happy to work out with you the terms of the stipulation and the appropriate motions and orders necessary to carry into effect the offer of settlement subject to the conditions specified herein. In drawing the Joint Motion for entry of judgment please list the documents which will be introduced in support of the settlement, such as (1) the stipulation, (2) the tribal resolution or resolutions, (3) the letter of approval of the settlement by the Department of the Interior, and (4) such other papers that will be offered in evidence at the hearing on the settlement. Copies of these papers shall also be furnished to the defendant.

"Very truly yours,
/s/
"Shiro Kashiwa
"Assistant Attorney General

"A similar letter sent to Mr. I. S. Weissbrodt, 1614 20th Street, Northwest, Washington, D. C. 20009."
7. Pursuant to the offer and acceptance, a "Stipulation for Entry of Final Judgment" was signed by the attorneys for the parties herein on February 27, 1970, and was attached as part of a "Joint Motion for Entry of Final Judgment" filed with the Commission on March 13, 1970. The said stipulation was also approved by the intervenor, the Nez Perce Tribe of Idaho, and the plaintiff, the Confederated Tribes of the Colville Reservation, as the representative of the Joseph Band of the Nez Perce Tribe, as well as the individual party plaintiffs. The stipulation reads as follows:

"Before the INDIAN CLAIMS COMMISSION

"THE CONFEDERATED TRIBES OF THE COLVILLE RESERVATION as the representative of the JOSEPH BAND OF THE NEZ PERCE TRIBE,

CHARLES E. WILLIAMS, JOSEPH REDTHUNDER AND HARRY OWNI, as the representatives of the JOSEPH BAND OF THE NEZ PERCE TRIBE,

THE CONFEDERATED TRIBES OF THE COLVILLE RESERVATION, as successor to the claims of the JOSEPH BAND OF THE NEZ PERCE TRIBE,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA,

Defendant,

THE NEZ PERCE TRIBE OF INDIANS OF THE NEZ PERCE RESERVATION, Idaho,

Intervenor.

Docket No. 179"
"STIPULATION FOR ENTRY OF FINAL JUDGMENT

"It is hereby stipulated by the parties, through their counsel, as follows:

"(1) All claims asserted in Indian Claims Commission Docket No. 179, except for that portion of this claim which will be severed as hereinafter stated and designated as Docket No. 179-A, shall be settled by entry of a final judgment in the Indian Claims Commission in the amount of $1,119,071.78. This settlement shall not affect in any way Docket No. 175, Docket No. 175-B or Docket No. 186.

"(2) The final judgment shall be in favor of the Confederated Tribes of the Colville Reservation, as the representative of the Joseph Band of the Nez Perce Tribe, petitioners, and the Nez Perce Tribe of Idaho, intervenors, and against the United States of America, defendant, no review to be sought or appeal to be taken by either party.

"(3) This judgment shall finally dispose of all claims and demands which petitioners have asserted or could have asserted against defendant in Docket No. 179 (with the exception of the severed portion to be placed in Docket No. 179-A). The judgment shall also dispose of all claims, demands, payments on the claim, counterclaims, or offsets which defendant has asserted or could have asserted against the petitioners in Docket No. 179 under the provisions of Section 2 of the Indian Claims Commission Act (60 Stat. 1049), for the period commencing [sic] July 1, 1861, and ending June 30, 1957.

"(4) The settlement does not preclude the Nez Perce Tribe of Idaho from continuing to prosecute [sic] a claim for the misappropriation [sic] and mismanagement by the United States, as trustee of the lands, funds and other properties of the Nez Perce Tribe during the period July 1, 1951, to the date of judgment on such claim. Such a claim will be severed from Docket No. 179 and designated as Docket No. 179-A, and will be prosecuted solely on behalf of the Nez Perce Tribe of Idaho.

"(5) This stipulation for entry of final judgment shall not operate to deprive the defendant from exercising its right to collect from the proceeds of timber sales (as authorized by statute), any expenses of managing, protecting and selling timber as authorized by the Act of February 14, 1920, as amended (25 U.S.C. § 413), nor shall it affect any
right of any of the petitioners or intervenor to have credited to the trust funds of the tribe, bands or groups represented, all or a portion of such administrative deductions by reason of such trust funds having borne expenses of management, protection and sale of timber to the extent provided by 25 U.S.C. §413.

"This stipulation and entry of final judgment shall not be construed as an admission of any party as to any issue for purposes of precedent in any other case or otherwise.

"Respectfully submitted,

"Feb. 27, 1970
Dated

/s/ I. S. Weissbrodt
I. S. Weissbrodt
Attorney of Record for Petitioner,
Joseph Band of the Nez Perce Tribe,
Docket No. 179

/s/ Angelo A. Iadarola
Angelo A. Iadarola
Attorney of Record for Intervenor
Nez Perce Tribe of Idaho,
Docket No. 179

/s/ Shiro Kashiwa
Assistant Attorney
General of the
United States

/s/ John D. Sullivan
Attorney for Defendant

"APPROVAL BY THE NEZ PERCE TRIBE OF
INDIANS OF THE NEZ PERCE RESERVATION,
IDAHO, INTERVENOR; THE CONFEDERATED
TRIBES OF THE COLVILLE RESERVATION AS
THE REPRESENTATIVE OF THE JOSEPH BAND
OF THE NEZ PERCE TRIBE, PLAINTIFFS;
AND CHARLES E. WILLIAMS, JOSEPH RED
THUNDER AND HARRY OWILI, INDIVIDUAL
PLAINTIFFS.

"The foregoing stipulation for entry of final judgment in Docket No. 179 is hereby approved by the undersigned pursuant to authority vested in them by resolutions adopted on December 12, 1969, by the Nez Perce Executive Committee and

"THE NEZ PERCE TRIBE OF INDIANS OF IDAHO

By: /s/ Walter L. Moffett
    Walter L. Moffett, Chairman

By: /s/ Jesse Green
    Jesse Green, Secretary


By: /s/ Narcisse Nicholson
    Narcisse Nicholson, Chairman

By: /s/ George Snider
    Harry-Owhi Geo. Snider, Secretary

/s/ Charles E. Williams
    Charles E. Williams

/s/ Joseph Red Thunder
    Joseph Red Thunder

DECEASED
    Harry Owhi"

8. The intervenor, the Nez Perce Tribe of Idaho, having been kept informed of the status of the settlement negotiations through its governing body, the Nez Perce Executive Committee, called a meeting of the Nez Perce General Council for December 12, 1969, to consider the proposed settlement, and posted notices of that meeting on November 25, 1969. On November 25, 1969, it also gave widespread notice of the meeting and the matter to be considered there through local newspapers, radio and television. Notices were also mailed to the last known address of all enrolled members of the Nez Perce Tribe of Idaho on November 24, 1969.
9. The Colville Business Council, the governing body of plaintiff tribe, also having been kept informed of the status of the settlement negotiations, called for a General Meeting of the Confederated Tribes of the Colville Reservation for December 13, 1969, to consider the proposed settlement, and posted notices of that meeting by December 1, 1969. The Colville Business Council also gave widespread notice of the meeting and the matter to be considered there through local newspapers, radio and television stations.

10. The Commission finds that the members of the intervenor tribe, the Nez Perce Tribe of Idaho, and the plaintiff tribe, the Confederated Tribes of the Colville Reservation, as the representative of the Joseph Band of the Nez Perce Tribe, received sufficient notice of these meetings to allow all who had an interest in the claim to participate in the Nez Perce General Council meeting held on December 12, 1969, and the Colville General Meeting held on December 13, 1969, if they so desired.

11. A meeting of the Nez Perce Tribal Executive Committee, the governing body of the tribe, was held on December 12, 1969, at Lapwai, Idaho. The minutes of this meeting show that Angelo A. Iadarola, attorney with the Wilkinson, Cragun & Barker Law firm, Washington, D. C., which firm represents the Nez Perce Tribe of Idaho, explained in detail the terms of the proposed settlement. Also present at that meeting was Abe Weissbrodt, with the law firm of Weissbrodt & Weissbrodt, Washington, D. C., claims attorneys for the Confederated Tribes of the Colville
Reservation. Members of the Nez Perce Tribe of Idaho testified at the hearing before the Commission on March 25, 1970. The testimony by these witnesses show that Messrs. Iadarola and Weissbrodt gave a full and complete explanation of the proposed settlement, discussed the advantages and disadvantages of continuing litigation, and fully answered all questions proposed by the members of the Nez Perce Tribal Executive Committee. A resolution passed by the Nez Perce Tribal Executive Committee on December 12, 1969, approved the proposed settlement by a vote of 8 to 1.

12. On the same day, December 12, 1969, a meeting of the Nez Perce General Council was held at Lapwai, Idaho. The record shows that 138 eligible members of the Nez Perce Tribe of Idaho voted on the proposed settlement. At that meeting Messrs. Iadarola and Weissbrodt gave a full and complete presentation of the proposed settlement, discussing the advantages and disadvantages of accepting the proposed settlement as opposed to continuing litigation. Also present at the meeting was the local general counsel for the Nez Perce Tribe of Idaho, Robert C. Strom. Reverend Walter Moffett and Allen Slickpoo, Nez Perce members at the hearing held on March 25, 1970, testified that Messrs. Iadarola and Weissbrodt gave a full and complete explanation of the proposed settlement, setting out all the advantages and disadvantages of accepting the settlement or continuing with the litigation. The witnesses also testified that Messrs. Iadarola and Weissbrodt answered all questions submitted on the proposed settlement by the members of the Nez Perce
Tribe of Idaho and that it was the feeling of the witnesses that the
members of the tribe had an understanding of the proposed settlement.
At this General Council meeting, Mr. Allen Slickpoo, a member of the
Nez Perce Tribe of Idaho and a witness at the hearing, translated into
the Nez Perce language a complete explanation of the proposed settlement
as it was made by Messrs. Iadarola and Weissbrodt. The members of the
Nez Perce General Council voted to accept the settlement by a vote of
188 to 0. A resolution was passed by the Nez Perce General Council on
December 12, 1969, approving the settlement.

13. At the hearing before the Commission, Reverend Moffett, a
Nez Perce witness, testified as to the nature of the notice given and
the efforts of the Nez Perce Tribal Executive Committee to make it as
widespread as possible. Reverend Moffett also testified that the
attendance and participation at the Nez Perce General Council meeting
was very good. Reverend Moffett further testified that the proposed
compromise settlement was fully explained to the members at the meeting
by Messrs. Iadarola and Weissbrodt and that a letter summarizing the
proposed settlement dated December 9, 1969, entitled "Report to the
Nez Perce Tribe of Indians of the Nez Perce Reservation, Idaho, and to
the Confederated Tribes of the Colville Reservation As a Representative
of the Joseph Band of the Nez Perce Tribe," referring to the subject
"Proposed Settlement of Docket No. 179," was passed out to all the members
at the General Council meeting. The Nez Perce witnesses also testified
that there was a question-and-answer session during which questions
were asked of the attorneys, Messrs. Isadario and Weissbrodt, and these questions and answers were also interpreted into the Nez Perce language. The witnesses testified that they were well satisfied from their knowledge of the Nez Perce people and from the questions and answers and from the discussions of the meeting immediately following it and thereafter, that the vote by the General Council to accept the settlement reflected the informed desires of the Nez Perce members.

14. The approval of the Nez Perce General Council was embodied in the following resolution:

"RESOLUTION"

"(Nez Perce General Meeting)"

"WHEREAS, the Nez Perce Tribe is and has been prosecuting a claim before the Indian Claims Commission identified as Docket No. 179, which involves the mismanagement and mis-handling of Nez Perce lands, funds and other properties by the United States, as trustee of said properties; and"

"WHEREAS, the original petition in Docket No. 179 was filed in the name of the Confederated Tribes of the Colville Reservation as the representative of the Joseph Band of the Nez Perce Tribe, and in the name of certain individuals as representatives of the Joseph Band of the Nez Perce Tribe; and"

"WHEREAS, the United States General Accounting Report was rendered to the petitioners in Docket No. 179, the representatives of the Joseph Band of the Nez Perce Tribe, on February 16, 1968; and"

"WHEREAS, after reviewing the General Accounting Report, the claims attorneys for the Nez Perce Tribe in cooperation with the claims attorneys for the Joseph Band of the Nez Perce Tribe, filed a motion to intervene in Docket No. 179, which motion was filed on November 4, 1968, since it was apparent from a review of the accounting report that much of the funds and properties accounted for by the United States involved funds and properties belonging to the Nez Perce Tribe as well as the Joseph Band of the Nez Perce Tribe; and"

"WHEREAS, the Indian Claims Commission by its order of February 26, 1969, granted the motion to intervene permitting the Nez Perce Tribe to become a party to Docket No. 179; and"
"WHEREAS, on March 12, 1967, the claim attorneys for the Nez Perce Tribe filed the 'Intervenor's Petition' in Docket No. 179; and

"WHEREAS, subsequent to the filing of the Intervenor's Petition in Docket No. 179, extensive settlement negotiations took place between attorneys for the United States and claim attorneys for the Nez Perce Tribe and the Joseph Band of the Nez Perce Tribe; and

"WHEREAS, following said negotiations between the attorneys for the Nez Perce Tribe and the Joseph Band of the Nez Perce Tribe and the Attorneys for the government, said attorneys have agreed, subject to the approval of the Nez Perce Tribe of Idaho, the Confederated Tribes of the Colville Reservation, as the representative of the Joseph Band of the Nez Perce Tribe, the Secretary of the Interior, or his authorized representative and the Indian Claims Commission, to settle the claim in Docket No. 179 for the total amount of $1,119,071.78, which amount will be the net judgment in favor of the Nez Perce Tribe and the Confederated Tribes of the Colville Reservation as the representative of the Joseph Band of the Nez Perce Tribe; and

"WHEREAS, at a special and open meeting of the Nez Perce Tribal Executive Committee, held in Lapwai, Idaho, on the 12th day of December, 1969, said Executive Committee passed a resolution approving the settlement of the claim in Docket No. 179 in the amount of $1,119,071.78, and authorizing the Chairman to execute a stipulation providing for said settlement and entry of final judgment in said Docket No. 179; and

"WHEREAS, at a special and open meeting of the Nez Perce tribal membership, called for the purpose of considering a report by Angelo A. Iadarola of the law firm of Wilkinson, Cragun & Barker, Washington, D. C., claims attorney of record for the Nez Perce Tribe, with respect to the settlement of the claim in Docket No. 179, at which time said settlement was fully discussed by the attorney for the Nez Perce Tribe and also by Abe Weissbrodt of Weissbrodt & Weissbrodt, claims attorney for the Confederated Tribes of the Colville Reservation, and the members of the Nez Perce Tribe were given full opportunity to enter into said discussion and ask questions concerning any and all phases of the case or questions dealing with the negotiations of the settlement, further proceedings in the case, etc.; and

"WHEREAS, Mr. Thomas H. St. Clair, Superintendent, Northern Idaho Indian Agency, was present during said meeting of the Nez Perce General Council and observed the proceedings therein; and
"WHEREAS, the said discussion included a discussion with respect to the possible gains to be realized from prosecuting the claim and the potential disadvantages or losses which might be suffered by further prosecuting the case, with full and complete opportunity for discussion and questions from members of the General Council as to these aspects of the settlement or as to any other phases of the settlement or further prosecution of the case; and

"WHEREAS, it was explained that the net judgment in the claim would be $1,119,071.78 and that this would be in full settlement of Docket No. 179, from 1855 to and including June 30, 1951, and that such settlement would not affect whatever legal arguments the Tribe may have in its Docket No. 175 claim insofar as the issue of consideration paid to the Tribe under the 1855 Treaty is concerned; and

"WHEREAS, it was further explained that the settlement of Docket No. 179 which includes the final settlement of this case from 1855 to June 30, 1951, does not affect the Tribe's right to pursue its claim for an accounting and for the alleged misappropriation and mismanagement of the Tribe's lands, funds and other properties for the period commencing July 1, 1951, until the date of final judgment on such claim, and that such a claim is being severed from Docket No. 179 and will be designated as Docket No. 179-A and will continue to be prosecuted before the Indian Claims Commission solely on behalf of the Nez Perce Tribe of Idaho since this aspect of the accounting claim could not be settled with the government; and

"WHEREAS, it was further explained by the claims attorney that the proposed settlement in Docket No. 179 (with the exception of the severed portion of the claim designated as Docket No. 179-A, involving a claim for the period July 1, 1951, to the date of judgment), would permit the entry of final judgment and final disposition of this claim leaving a net judgment of $1,119,071.78 in favor of the Nez Perce Tribe of Idaho and the Confederated Tribes of the Colville Reservation, as the representative of the Joseph Band of the Nez Perce Tribe; and

"WHEREAS, the members of the Nez Perce Tribe are fully informed in the premises, of the action taken by the Executive Committee, and of the resolution passed on December 12, 1969, by said Executive Committee, the same having been read and explained to said General Council;
"NOW, THEREFORE, BE IT RESOLVED, that the proposed settlement of Docket No. 179 (with the exception of that portion of the claim being severed and placed in Docket No. 179-A) which involves an accounting claim against the government for the mismanagement and the misappropriation of the Nez Perce Tribe's lands, funds and properties, as outlined above and explained by the claims attorneys for the Tribe, and which is in accordance with the proposed stipulation for entry of final judgment, copies of which have been furnished the Tribe and read in open meeting at which this resolution was considered, and as described and acted upon by resolution of the Nez Perce Tribal Executive Committee on December 12, 1969, a copy of which having been read in the meeting at which this resolution was considered, said proposed settlement resulting in a net judgment in favor of the Nez Perce Tribe of Idaho and in favor of the Confederated Tribes of the Colville Reservation as the representative of the Joseph Band of the Nez Perce Tribe in the total amount of $1,119,071.78, be, and the same is, hereby approved; it being understood by this approval that the attorneys for the Nez Perce Tribe are authorized to execute a stipulation for entry of final judgment in Docket No. 179, in the amount of $1,119,071.78; and

"BE IT FURTHER RESOLVED, that the Nez Perce Tribe hereby ratifies, confirms and approves the action of the Nez Perce Tribal Executive Committee in its resolution of December 12, 1969, and specifically authorizes the Chairman and Secretary of said Executive Committee to execute the stipulation for entry of final judgment in Docket No. 179 on behalf of the Nez Perce Tribe of Idaho, and the Nez Perce General Council hereby further authorizes the Nez Perce Tribal Executive Committee to appoint the necessary members of that Committee to appear and testify at a hearing before the Indian Claims Commission with respect to the said settlement and entry of final judgment in Docket No. 179; 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 stipulation for entry of final judgment in Docket No. 179 and the Commission is requested to enter a final judgment in Docket No. 179 in favor of the Nez Perce Tribe of Idaho and the Confederated Tribes of the Colville Reservation as the representative of the Joseph Band of the Nez Perce Tribe, in the amount of $1,119,071.78."
"CERTIFICATION"

"The foregoing resolution was duly adopted by the Nez Perce General Council, meeting in special session on December 12, 1969, at Lapwai, Idaho, by a vote of 188 FOR, and 0 AGAINST, a quorum being present.

/s/ Timothy R. Wheeler
Chairman, Nez Perce General Meeting

ATTEST:

/s/ Regina Ehrstrom
Secretary, Nez Perce General Meeting

"AUTHENTICATION OF SIGNATURES"

"I certify that the foregoing signatures of the Chairman and Secretary of the Nez Perce General Meeting are genuine, that the resolution was approved by the General Meeting and certified to in my presence, and that said meeting occurred in my presence at Lapwai, Idaho, on the 12th day of December, 1969.

/s/ Bill Bryan
Acting Superintendent, Northern Idaho Indian Agency, Bureau of Indian Affairs, Department of the Interior"

15. The Colville General Meeting was held on December 13, 1969, at Nespelem, Washington, to consider the proposed settlement. The record shows that at least 122 eligible members of the Colville Tribe voted on the proposed settlement. At that meeting, Mr. Weissbrodt gave a full and complete presentation of the proposed settlement, discussing the advantages and disadvantages of accepting the proposed settlement as opposed to continuing litigation. Also present at this meeting were Mr. Iadarola and the Colville Tribe's local claims attorney, Lyle Keith of Spokane, Washington. Both Messrs. Keith and Iadarola also participated in the presentation of the proposed settlement and answered questions,
along with Mr. Weissbrodt. The Colville member at the Commission hearing of March 25, 1970, Mr. Barney Rickard, testified that Messrs. Weissbrodt and Iadarola gave a full and complete explanation of the proposed settlement, setting out all the advantages and disadvantages of accepting the settlement now or continuing with the litigation.

Mr. Rickard also testified that a letter dated December 9, 1969, entitled "Report to the Nez Perce Tribe of Indians of the Nez Perce Reservation, Idaho, and to the Confederated Tribes of the Colville Reservation As a Representative of the Joseph Band of the Nez Perce Tribe," explaining the proposed settlement, was passed out to all members at the General Meeting. He further testified that Messrs. Weissbrodt, Keith, and Iadarola answered all the questions submitted on the proposed settlement by the members of the Colville Tribe and that it was his feeling that the members of the tribe had an understanding of the proposed settlement. At this meeting a member of the Colville Tribe translated into the Colville language a complete explanation of the proposed settlement as it was made by the attorneys. The members of the Colville Tribe voted to accept the settlement by a vote of 112 to 10. A resolution was passed by the General Meeting of the Confederated Tribes of the Colville Reservation on December 13, 1969, approving the settlement.

16. On the same date, December 13, 1969, immediately after the General Meeting of the Confederated Tribes of the Colville Reservation, the Colville Business Council held a meeting concerning the proposed settlement. Since all the members of the Business Council were earlier present at the Colville General Meeting, and since the members were all
acquainted with the terms of the settlement, the Business Council
considered the proposed settlement and voted to accept it by a vote
of 10 to 0. Also present at the meeting of the Business Council were
Messrs. Weissbrodt, Keith, and Iadarola, who were available to answer
any questions concerning the proposed settlement. A resolution was
passed by the Colville Business Council on December 13, 1969, approv-
ing the proposed settlement.

17. The approval of the General Meeting of the Confederated Tribes
of the Colville Reservation was embodied in the following resolution:

"RESOLUTION

"(General Meeting, Confederated
Tribes of the Colville Reservation)

"WHEREAS, the Nez Perce Tribe of Indians and the
Joseph Band of the Nez Perce Tribe, in the name of certain
representatives, are, and have been, prosecuting a claim
before the Indian Claims Commission, identified as Docket
No. 179, which is an accounting claim alleging the mis-
appropriation and mismanagement by the United States, as
trustee, of the lands, funds and other properties of the
Nez Perce Tribe; and

"WHEREAS, some members of the Nez Perce Tribe and,
more particularly, members or descendants of members of the
Joseph Band of the Nez Perce Tribe are members of the
Confederated Tribes of the Colville Reservation; and

"WHEREAS, the attorneys for the Nez Perce Tribe in
Docket No. 179 have negotiated a proposed settlement of the
claim, and the proposed stipulation approving said
compromise has been approved by the Nez Perce Tribal Execu-
tive Committee, sitting in special session at Lapwai, Idaho,
on December 12, 1969, and by the Nez Perce General Council,
sitting in special session held also at Lapwai, Idaho, on
December 12, 1969; and

"WHEREAS, the terms of the proposed settlement which
include a final judgment in the amount of $1,119,071.78,
the reservation of the right to sever and continue to prosecute a post-June 30, 1951 accounting claim solely on behalf of the Nez Perce Tribe of Idaho, designated Docket No. 179-A, and a reservation of the right to argue and take issue with the amount of consideration expended by the government in return for the Nez Perce Tribe's 1855 Treaty cession, presently being prosecuted in a claim designated Docket No. 175, said settlement and the proposed stipulation incorporating the terms of the settlement having been fully read to and explained to this general meeting of the Confederated Tribes of the Colville Reservation, it is the desire and the intent of this general meeting to approve the settlement;

"NOW, THEREFORE, BE IT RESOLVED, that the said proposed settlement of the claim designated Docket No. 179 and the proposed stipulation for entry of final judgment are hereby approved by the general membership of the Confederated Tribes of the Colville Reservation, acting on its own behalf and on the behalf of the Joseph Band of the Nez Perce Indians and the members thereof, and this general meeting hereby authorizes the Business Council of the Confederated Tribes of the Colville Reservation to also approve the proposed settlement and to appoint the Chairman and Secretary of said Council to execute said proposed stipulation on behalf of the Confederated Tribes of the Colville Reservation, the Joseph Band of the Nez Perce Tribe of Indians and the individual members thereof, as their interests may appear, and also authorizes the Tribe's claims attorneys to execute on behalf of the Tribe the stipulation for entry of final judgment, and further authorizes the Business Council to select certain members of the Tribe to appear and testify at a hearing of the Indian Claims Commission on said proposed stipulation and settlement, as may be set by the Indian Claims Commission; and

"BE IT [sic] FURTHER RESOLVED, that the Secretary of the Interior or his authorized representative, and the Indian Claims Commission, are hereby respectfully requested to approve the proposed stipulation."
"CERTIFICATION"

"This is to certify that the foregoing resolution was duly adopted at a general meeting of the Confederated Tribes of the Colville Reservation, meeting in special session, on December 12, 1969, at Ncpelem, Washington, by a vote of 112 for and 10 against, a quorum being present.

/s/ Narcisse Nicholson
Chairman, General Meeting
Confederated Tribes of the Colville Reservation

ATTEST:

/s/ George Snider
Secretary, General Meeting
Confederated Tribes of the Colville Reservation

"AUTHENTICATION OF SIGNATURES"

"I hereby certify that the foregoing signatures of the Chairman and Secretary of the general meeting of the Confederated Tribes of the Colville Reservation, held this 13th day of December, 1969, are genuine, that the resolution was approved and certified to in my presence, and that the said meeting occurred in my presence.

/s/ Elmo Miller
Superintendent, Colville Indian Agency
Bureau of Indian Affairs
Department of the Interior"

18. On January 29, 1970, the attorneys for the plaintiff and the intervenor tribes, forwarded a letter to the Honorable Louis R. Bruce, Commissioner of Indian Affairs, Department of the Interior, setting out the terms of the proposed settlement and requesting approval by the Secretary of the Interior.

19. Representatives of the Bureau of Indian Affairs attended both the meetings of the Nez Perce General Council held on December 12, 1969,
and the Colville General Meeting held on December 13, 1969. On the basis of reports submitted by representatives of the Bureau of Indian Affairs, as well as information on the merits of the proposed settlement supplied to the Commissioner of Indian Affairs by the attorneys for the plaintiff and the intervenor tribes, the Department of the Interior by letter of February 18, 1970, approved the proposed settlement:

"UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
Washington, D. C. 20242

Feb 18 1970

"Weissbrodt & Weissbrodt
1614 Twentieth Street, N. W.
Washington, D. C. 20009

"Attention: Abe W. Weissbrodt

"Gentlemen:

"You and Wilkinson, Cragun and Barker requested by letter of January 29, 1970, our approval of a proposed settlement of all except one claim in Indian Claims Commission docket numbered 179 for a net final judgment in the amount of $1,119,071.78 in favor of the Confederated Tribes of the Colville Reservation as representative of the Joseph Band of the Nez Perce Tribe, petitioners, and the Nez Perce Tribe of Idaho, intervenor. The claim not to be disposed of by the proposed settlement is for an accounting of lands, funds, and other property of the Nez Perce Tribe for the period July 1, 1951, to the date of judgment on the claim. This claim is to be removed from docket numbered 179 and placed in a new docket numbered 179-A.

"The law firm of Weissbrodt and Weissbrodt is representing the Confederated Tribes of the Colville Reservation under contract number I-1-ind. 42442, dated November 28, 1949. This contract has been extended several times, the last extension to run until August 18, 1974. The law firm of Wilkinson, Cragun and Barker is representing the Nez Perce
Tribe of Idaho under contract numbered 14-20-0650-977, dated January 7, 1961. This contract, by its own terms, is to run until January 6, 1971.

"You made an offer to the Attorney General on July 25, 1969, as amended by letters of August 13 and September 18, 1969, to settle the claims in docket numbered 179 for $1,119,071.73, except for the claims of the Nez Perce Tribe covering the period July 1, 1951, to the date of judgment on the claim. Issuance of final judgment will dispose of all claims and demands which the petitioner has asserted or could have asserted against the United States in docket numbered 179, except for the claim which is to be severed and placed in docket numbered 179-A. It will also dispose of all claims, demands, counterclaims or offsets which the United States has asserted or could have asserted against the petitioner in docket numbered 179 for the period beginning July 1, 1961, and ending June 30, 1967. Also, neither party nor the intervenor is to seek a review or take an appeal therefrom. The terms of the proposed settlement are more specifically set out in the "Stipulation for Entry of Final Judgment."

"The Assistant Attorney General accepted your offer on December 1, 1969, with conditions. One required that the proposed settlement be approved by appropriate resolutions of the governing bodies of the Confederated Tribes of the Colville Reservation, as the representative of the Joseph Band of the Nez Perce Tribe, and the Nez Perce Tribe of Idaho. Another condition is that the resolutions, as well as the proposed settlement itself, be approved by the Secretary of the Interior or his authorized representative.

"The Wilkinson law firm took the proposed settlement to the Nez Perce Tribe of Idaho at a general council meeting in Lapwai, Idaho, on December 12, 1969. A notice of the meeting was sent to all adult members of the tribe who were living on or adjacent to the Nez Perce Reservation in Idaho. Also the Lewiston Evening Tribune, which serves the area in Idaho where most of those Nez Perce Indians live, carried a news item on December 11, 1969, which gave the date and place the meeting was to be held and the purpose for which it was called. Voting members of the Nez Perce Tribe who attended the meeting numbered 188. The December 12 meeting was attended by a representative of the Wilkinson law firm. A representative of this Bureau also attended and reported on the meeting. Copies of a report which you had prepared explaining the proposed settlement were given to each Indian at the meeting."
"An attorney of the Wilkinson law firm made a comprehensive explanation of the proposed settlement, including what actions should be taken if the proposed settlement were accepted and what actions would be taken if it were rejected. A question and answer period followed during which many questions were discussed and answered. A member of the Nez Perce Tribal Executive Committee served as interpreter. A vote was then taken on the proposed settlement. It was accepted by adoption of a resolution by a vote of 183 for and none opposing. The Nez Perce Tribal Executive Committee met on December 12 following the general council meeting. It accepted the proposed settlement by adopting resolution numbered NP-91 by a vote of eight for and one opposed.

"The Chairman and Secretary of the general council meeting of the Nez Perce Tribe of Idaho and those of the Nez Perce Tribal Executive Committee signed the respective resolutions and their signatures were certified by the Bureau's representative as being genuine.

"The Weissbrodt law firm then took the proposed settlement to the Confederated Tribes of the Colville Reservation at a general council meeting held in the Old Council Hall in Nespelem, Washington, on December 13, 1969. Notices of the meeting, stating the date, place, and its purpose was printed in the December 1969 issue of the Tribal Tribune. A copy of that paper was mailed to each enrolled member of the Confederated Tribes of the Colville Reservation at their last known address.

"News releases were sent to more than 20 radio and TV stations, newspapers, and news services. In addition, notices were posted in 14 post offices and agency buildings serving the Indians in the area where most of them live. The number of members attending the December 13 meeting totaled 130. The December 13 meeting was attended by representatives of your law firm. A representative of this Bureau also attended and reported on the meeting. A report which you had prepared explaining the proposed settlement was given to each Indian who attended.

"An attorney from the Weissbrodt law firm gave a comprehensive explanation of the proposed settlement. This was followed by a period during which the various attorneys present answered the many questions asked. Upon request, the proceedings were interpreted into several tribal dialects for the benefit of those without a good understanding of the English language. A vote was then taken on acceptance or rejection of the proposed settlement. It was accepted by adoption of a
resolution by a vote of 112 for and ten opposing. The Business Council of the Confederated Tribes of the Colville Reservation met on the same day following the general council meeting. It accepted the proposed settlement by adopting resolution numbered 1969-467 by a vote of ten for and none opposing.

"The Chairman and Secretary of the general council meeting of the Confederated Tribes of the Colville Reservation and those of the Business Council signed the respective resolutions and their signatures were certified by a representative of this Bureau as being genuine.

"We are satisfied that the meetings were well noticed and that the Indians had an opportunity to attend the meeting of the group of which they were members. Considering the poor weather and road conditions, we are satisfied that both general council meetings were well attended. We are also satisfied that the Indians who attended those meetings reasonably understood the proposed settlement and the actions which would be taken should they accept or reject it. The members of both tribal groups who voted appear to have been representative of their respective tribes and that their views as expressed by the votes cast reasonably reflected those of the membership of their tribe. We hereby approve the resolutions.

"In light of the information which you have sent to us, that submitted by our field offices, and that obtained from other sources, the proposed settlement of claims in Indian Claims Commission docket numbered 179, as set out in the "Stipulation for Entry of Final Judgment", is hereby approved.

"Sincerely,

/s/ William J. Betham
Acting Associate Commissioner"

20. It appears from the documents presented in evidence as the parties' joint exhibits and statements by counsel for both plaintiff and intervenor tribes, that the Colville and Nez Perce Tribes have reached an agreement as to the division of this judgment between them.
21. At the hearing of March 25, 1970, the attorney for the defendant, John D. Sullivan, stated that he was satisfied that the proposed compromise was a fair settlement on behalf of all parties to this dispute.

22. Based on the record in this case, the testimony of the witnesses, the approval of the proposed compromise settlement by William J. Benham, Acting Associate Commissioner of Indian Affairs, the Nez Perce General Council, the Nez Perce Executive Committee, the General Meeting of the Confederated Tribes of the Colville Reservation, the Colville Business Council, and representations by counsel for all the parties that the settlement is fair to the plaintiff and intervenor tribes and to the Government, the Commission finds that the settlement is fair to all parties and grants the Joint Motion of the Parties for Entry of Final Judgment. Judgment in the amount of $1,119,071.78, is granted jointly to the Confederated Tribes of the Colville Reservation as the representative of the Joseph Band of the Nez Perce Tribe and the Nez Perce Tribe of Idaho. The claim in this case made for the period July 1, 1951, to date will be continued before this Commission as Docket No. 179-A and prosecuted solely on behalf of the Nez Perce Tribe of Idaho.

Margaret H. Pierce, Commissioner
Brantley Blue, Commissioner

Jerome K. Kuykendall, Chairman
John T. Vance, Commissioner

Richard W. Yarborough, Commissioner