

BEFORE THE INDIAN CLAIMS COMMISSION

THE CONFEDERATED TRIBES OF THE	)	
COLVILLE RESERVATION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Docket No. 178
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Decided: September 17, 1970

FINDINGS OF FACT ON COMPROMISE SETTLEMENT

1. The petition in this case was filed before the Indian Claims Commission by the Confederated Tribes of the Colville Reservation (hereinafter sometimes referred to as the "Confederated Tribes") on July 31, 1951. The claims herein involved are for a general accounting by the defendant of its administration and management of the trust funds and property of the Confederated Tribes.

2. The plaintiff, the Confederated Tribes, 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 the authority to represent the Indians enrolled on the Colville Reservation. The plaintiff is an identifiable group of American Indians consisting of the descendants of various aboriginal tribal groups.

3. In 1966, the defendant filed an accounting for the period up to and including June 30, 1951. Exceptions to the accounting were then filed by plaintiff to which the defendant filed a response.

4. At this stage of the proceedings, the attorneys for the parties entered into negotiations for the settlement of the claims for the period to June 30, 1951. It was proposed to settle the accounting claims from the time defendant took the responsibilities of trustee of the Confederated Tribes, to June 30, 1951, since the parties could not agree as to the plaintiff's right to an up-to-date accounting.

5. By letter dated June 18, 1970, the attorneys for plaintiff submitted an offer of compromise, along with a "Proposed Stipulation for Entry of Final Judgment" to the Attorney General. By letter dated August 3, 1970, from Assistant Attorney General Shiro Kashiwa to the attorneys, the offer was accepted subject to certain conditions which have been met.

6. The agreed amount of the settlement of the accounting claims to June 30, 1951, was determined to be \$5,540,598. The parties also agreed that any claim that the plaintiff has to an accounting from July 1, 1951, to date of judgment, would be severed and designated as Docket No. 178-A, and its prosecution continued before the Commission.

7. Pursuant to the offer and acceptance, a "Stipulation for Entry of Final Judgment" was signed for the parties herein, and was attached as part of a "Joint Motion for Entry of Final Judgment" filed with the Commission on September 2, 1970. The said stipulation was also approved

by the plaintiff, the Confederated Tribes. The stipulation reads as follows:

"Before the INDIAN CLAIMS COMMISSION

"THE CONFEDERATED TRIBES OF	)	
THE COLVILLE RESERVATION,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 178
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

"STIPULATION FOR ENTRY OF FINAL JUDGMENT

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

"(1) All claims asserted in Indian Claims Commission Docket No. 178, except for that portion of the claims which will be severed as hereinafter stated and designated as Docket No. 178-A, shall be settled by entry of a final judgment in favor of the petitioner, the Confederated Tribes of the Colville Reservation, in the amount of \$5,540,598.00. No review is to be sought and no appeal is to be taken by either party.

"(2) This judgment shall finally dispose of all claims and demands which petitioner has asserted or could have asserted against defendant in Docket No. 178 (with the exception of the severed portion to be placed in Docket No. 178-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 petitioner under the provisions of Section 2 of the Indian Claims Commission Act (60 Stat. 1049), for the period commencing July 2, 1872 and ending June 30, 1957.

"(3) The settlement does not preclude the petitioner from continuing to prosecute the claims for an accounting with respect to the period from July 1, 1951, to the date of judgment on such claims. Such claims will be severed from Docket No. 178 and designated as Docket No. 178-A.

"(4) This stipulation and the entry of final judgment thereon 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 the petitioner 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.

"(5) This stipulation and the entry of final judgment thereon 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,

WEISSBRODT & WEISSBRODT

by /s/ I. S. Weissbrodt  
I. S. Weissbrodt

/s/ Abe W. Weissbrodt  
ABE W. WEISSBRODT

Attorneys for petitioner  
in Docket No. 178

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

/s/ John D. Sullivan  
Attorney for defendant

"Approval of Stipulation For Entry  
of Final Judgment in Docket No. 178

"The above and foregoing Stipulation for Entry of Final Judgment In Docket No. 178, is hereby approved by the undersigned on behalf of the Confederated Tribes of the Colville Reservation pursuant to Resolutions adopted on August 8, 1970, by the Business Council and by the members of the Confederated Tribes of the Colville Reservation.

"The Confederated Tribes of the  
Colville Reservation

by /s/ Narcisse Nicholson, Jr.  
Narcisse Nicholson, Jr.  
Chairman, Business Council  
Confederated Tribes of the  
Colville Reservation

"ATTEST:

/s/ Barney Rickard  
Barney Rickard  
Secretary, Business Council  
Confederated Tribes of the  
Colville Reservation"

8. On August 8, 1970, a General Meeting of the members of the Confederated Tribes was held at the Old Council Hall at Nespelem, Washington, to consider the proposed settlement. Notices of the meeting had been mailed to the last known address of each enrolled member of the Confederated Tribes and had been posted at the usual posting places throughout the reservation. Widespread notice of the meeting had also been given through local newspapers, radio and television stations.

9. The General Meeting was called to order by Mr. Barney Rickard, chairman of the Claims Committee of the Tribal Business Council, which

is the governing body of Confederated Tribes. A detailed explanatory report on the proposed settlement, prepared by the attorneys for plaintiff, was passed out and read to the tribal members. Speakers of the several tribal languages served as interpreters. Many questions were asked and they were answered by the attorneys. The advantages and disadvantages of the proposed settlement were freely and openly discussed.

10. The General Meeting then voted to accept the proposed settlement. The following resolution was adopted by a vote of 393 for and 1 against.

"Resolution Adopted at a General Meeting  
of the Members of the Confederated Tribes of the  
Colville Reservation

"BE IT RESOLVED by the members of the Confederated Tribes of the Colville Reservation:

"(1) that the terms of the offer of settlement, in Docket No. 178 of certain of the accounting claims of the Confederated Tribes before the Indian Claims Commission, as set forth in a letter dated June 18, 1970, from Claims Attorney Abe W. Weissbrodt, with accompanying Proposed Stipulation for Entry of Final Judgment, which were transmitted to Attorney General John N. Mitchell, Department of Justice, Washington, D. C., and as accepted by the letter dated August 3, 1970, of Assistant Attorney Shiro Kashiwa, are hereby approved, confirmed and ratified; and

"(2) that approval and consent are hereby given to the execution of the Stipulation for Entry of Final Judgment by the Claims Attorneys on behalf of the Confederated Tribes;

"(3) that the Chairman or Vice Chairman of the Business Council of the Confederated Tribes of the Colville Reservation are hereby authorized on behalf of the Confederated Tribes of the Colville Reservation to sign and execute any writing

which may be appropriate or required to carry said Stipulation into effect.

"Certification

"The foregoing Resolution was duly adopted by the members of the Confederated Tribes of the Colville Reservation at a meeting duly held on August 8, 1970, at Nespelem, Washington by a vote of 393 For, and 1 Against.

"/s/ Narcisse Nicholson, Jr.  
Chairman, Business Council  
Confederated Tribes of the  
Colville Reservation

"ATTEST

/s/ Barney Rickard  
Secretary, Business Council  
Confederated Tribes of the  
Colville Reservation

"AUTHENTICATION OF SIGNATURES

"I hereby certify that the foregoing signatures of the Chairman and Secretary of the Business Council of the Confederated Tribes of the Colville Reservation are genuine.

"Dated: August 8, 1970

"/s/ Elmo Miller  
Elmo Miller, Superintendent  
Colville Indian Agency"

11. Following the General Meeting, the Business Council met to consider the proposed settlement. The Business Council discussed the proposed settlement and then adopted a resolution approving it by a vote of 12 for and 0 against.

12. Superintendent Elmo Miller of the Colville Indian Reservation attended both meetings as a representative of the Bureau of Indian Affairs and submitted a report to the Department of the Interior, which by letter of August 31, 1970, approved the proposed settlement as follows:







