

## BEFORE THE INDIAN CLAIMS COMMISSION

PUEBLO OF LAGUNA, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Docket No. 227
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Decided: December 11, 1970

FINDINGS OF FACT ON COMPROMISE SETTLEMENT

On November 10, 1970, the plaintiff and the defendant herein filed a joint motion for approval of a proposed compromise settlement based upon a "Stipulation for Settlement and Entry of Final Judgment" filed along with said motion.

The Commission entered an opinion, findings of fact and interlocutory order in consolidated dockets 227, 266 and 229 on February 28, 1967 (17 Ind. Cl. Comm. 615), holding that the defendant had extinguished plaintiff's title to the lands in New Mexico described in Finding of Fact No. 37 without payment of any compensation.

The Commission directed the parties to proceed with the case for the purpose of determining dates of taking, the acreage actually taken and the value of the land at the date of taking. The parties by approved stipulation determined that 287,029.68 acres of land were appropriated for use by the defendant without payment of compensation. This figure was used to determine the value of land involved in the compromise settlement which is presently before the Commission for approval.

The matter having been heard before the Commission on December 8, 1970, and having considered the oral and written evidence presented at the hearing, and all the evidence of record, the Commission makes the following findings of fact which are supplemental and additional to the Commission's findings of fact numbered 1 through 38 entered herein on February 28, 1967 (17 Ind. Cl. Comm. 615) and the amendments to said findings entered herein on May 7, 1968. (19 Ind. Cl. Comm. 154).

39. By letters dated May 27, 1970 (Pl. Ex. S-1), June 15, 1970 (Pl. Ex. S-2), and June 24, 1970 (Pl. Ex. S-3), Rodney J. Edwards, attorney of record for plaintiffs, submitted to the United States Department of Justice an offer of proposed settlement of all claims of plaintiff Pueblo of Laguna Indian Tribe in Docket No. 227 for the net final judgment sum of \$900,000.00 in favor of the plaintiffs subject to approval by the Pueblo of Laguna Tribe, the Secretary of Interior or his duly authorized representative and the Commission.

40. By letter dated July 10, 1970, the Assistant Attorney General, on behalf of the defendant, accepted the settlement offer subject to certain conditions. (Pl. Ex. S-4). The letter of acceptance reads as follows:

The offer to compromise and settle all claims of the Pueblo of Laguna Tribe of Indians alleged in Pueblo of Laguna v. United States, Docket No. 227 before the Indian Claims Commission for the net final judgment sum of \$900,000, as outlined in your letters of May 27, June 15, and June 24, 1970, is accepted subject to the following conditions:

1. That the proposed settlement be approved by appropriate resolution of the governing body of the Pueblo of Laguna;

2. That the settlement and the resolution of the Pueblo of Laguna be approved by the Secretary of the Interior or his authorized representative;

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

In order that there may be no misunderstanding on the part of the tribe concerning the matters which would be concluded by the settlement and included in the stipulation I am restating them in this letter. The settlement would terminate for all time any right to damages or any other judgment for all claims asserted in the petition, including, but not necessarily limited to, any claim relating to deprivation of land or inadequate payment therefor prior to August 13, 1946; any claim against the United States for loss of irrigation water or damage to irrigable lands within any of the land grants or reservations held by the Pueblo of Laguna Tribe as of August 13, 1946, which occurred prior to that date; and any claim for an accounting or damages or interest arising from the use of petitioner's funds which originated prior to August 13, 1946, including those which originated prior to that date and continued thereafter up to the present time.

Equally, the settlement would determine any right of the Government to claim offsets for gratuities expended on behalf of the Pueblo of Laguna or for lands granted or held in trust for it to the present time, including the lands and buildings which were placed in trust under the Act of November 9, 1969, 83 Stat. 184.

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 letters of approval of the settlement by the Department of the Interior, and (4) such other papers as will be offered in evidence at the hearing on the settlement. Copies of these papers shall also be furnished to the defendant.

41. On August 25, 1970, Tom Dailey, Governor of the Pueblo of Laguna issued a notice of a meeting of the adult members of the Pueblo of Laguna to be held at Laguna, New Mexico, on September 26, 1970, for the purpose of considering and voting upon the proposed settlement. (Pl. Ex. S-5). Sufficient numbers of copies of this notice of meeting and the claims attorney's written report explaining the proposed settlement, dated August 14, 1970 (Pl. Ex. S-6), were delivered to each Laguna village and colony for distribution to all adult members of the Pueblo of Laguna. The notice of meeting was published in three local newspapers (Pl. Ex. S-8). News accounts concerning the proposed settlement and scheduled meeting were extensively broadcast over local radio stations. The notice of meeting was posted in conspicuous places on the Pueblo of Laguna Reservation and in Pueblo of Laguna communities.

42. The Tribal Council, the governing body of the Pueblo of Laguna Tribe at their regular meeting held at Laguna, New Mexico, on September 24, 1970, adopted a resolution to accept the proposed settlement by a vote of 21 in favor and -0- against. (Pl. Ex. S-10).

43. Explanation of the proposed offer of settlement was presented to the members of the Pueblo of Laguna Tribe at the scheduled meeting held on September 26, 1970, at Laguna, New Mexico, on the Pueblo of Laguna Reservation. Additional copies of the claims attorney's written report dated August 14, 1970, concerning the proposed settlement were available. Rodney J. Edwards, Claims Attorney, made an oral report on the proposed settlement, reviewed the written report, explained the terms of the

settlement and recommended that the proposed settlement be accepted by the Tribe. The meeting was opened for questions which were answered by the attorney. Each person was given an opportunity to make comments on the proposed settlement. An interpreter was present to translate the report, questions, answers and comments into the Pueblo of Laguna language and vice versa. After the meeting 180 adult members of the Pueblo of Laguna voted by secret ballot on the resolution approving the proposed settlement of which 169 voted for adoption of the resolution and 11 voted against. In addition, 133 absentee ballots of adult members of the Pueblo of Laguna residing at four colonies were opened and counted. Of these, 117 voted for adoption of the resolution and 16 voted against. The proposed settlement was thus accepted by resolution adopted by a vote of 286 for and 27 against. (Pl. Ex. S-9).

44. The resolutions adopted by the Tribal Council of the Pueblo of Laguna Tribe on September 24, 1970, and the members of the Pueblo of Laguna Tribe on September 26, 1970, accepting the proposed settlement were submitted to the Commissioner of the Bureau of Indian Affairs along with reports of Field representatives of the Bureau of Indian Affairs who attended the meetings and assisted in supervision of the voting. (Pl. Ex. S-11). On November 5, 1970, the Commissioner of the Bureau of Indian Affairs approved the resolutions of the Tribe accepting the settlement and approved the settlement by letter of that date to Hoag and Edwards, attorneys for the plaintiffs (Pl. Ex. S-12). The aforesaid resolutions

and letters of approval were submitted in evidence to the Commission and are part of the record.

45. The parties have entered into a stipulation, made a part of the record herein, which reads as follows:

STIPULATION FOR SETTLEMENT AND ENTRY  
OF FINAL JUDGMENT

It is hereby stipulated between the attorneys for the parties in the above-captioned docket, as follows:

1. There shall be entered in the above entitled case (Docket 227), after all allowable deductions, credits and offsets, a net judgment for plaintiff, Pueblo of Laguna Tribe of Indians, in the amount of NINE HUNDRED THOUSAND AND NO/100 (\$900,000.00) DOLLARS.

2. Entry of Final Judgment in said amount shall finally dispose of all rights, claims or demands which the plaintiff has asserted or could have asserted with respect to the subject matter of these claims including, but not necessarily limited to, any claim relating to deprivation of land or inadequate payment therefor prior to August 13, 1946; any claim against the United States for loss of irrigation water or damage to irrigable lands within any of the land grants or reservations held by the Pueblo of Laguna Tribe as of August 13, 1946, which occurred prior to that date; and any claim for an accounting or damages or interest arising from the use of petitioner's funds which originated prior to August 13, 1946, including those which originated prior to that date and continued thereafter up to July 10, 1970, and plaintiff shall be barred thereby from asserting any such rights, claims or demands against defendant in any other or future action.

3. Entry of Final Judgment in the aforesaid amount shall finally dispose of all rights, claims, demands, payments on the claim, counter-claims or offset claims for gratuities expended on behalf of the Pueblo of Laguna or for lands granted or held in trust for it to the present time, including the lands and buildings which were placed in trust under the Act of November 9, 1969, (83 Stat. 184), which the defendant has asserted or could have asserted against plaintiff under the provisions of Section 2 of the Indian Claims Commission Act (c. 949, 60 Stat. 1049)

accruing before July 10, 1970, and defendant shall be barred thereby from asserting against plaintiff in any other or future action, any such rights, demands, payments on the claim, counterclaims or offsets attributable to such periods. It is agreed that defendant shall not be barred by this Stipulation or by Entry of Judgment pursuant thereto from claiming in any other or future action offsets accruing on or after July 10, 1970.

4. The Final Judgment entered pursuant to this Stipulation shall be by way of compromise and settlement and shall not be construed as an admission by either party, for the purpose of precedent or argument, in any other case.

5. The Final Judgment of the Indian Claims Commission pursuant to this Stipulation shall constitute a final determination by the Commission of the above-captioned case, and shall become final on the day it is entered, all parties hereby waiving any and all rights to appeal from or otherwise seek review of such final determination.

6. The parties agree to execute and file with the Commission a Joint Motion for Entry of Final Judgment pursuant to this Stipulation, submitting a proposed form of Final Order for the approval of the Commission.

7. Filled herewith and incorporated herein by reference are plaintiff's exhibits S-1 through S-12, among which are:

(a) Resolution adopted by the adult members of the Pueblo of Laguna at a general meeting held on September 26, 1970 at Laguna, New Mexico (identified as plaintiff's exhibit S-9), and Resolution adopted by the Governing Tribal Council of the Pueblo of Laguna (identified as plaintiff's exhibit S-10), both approving the settlement on the basis of the terms set forth in this Stipulation and authorizing attorneys for plaintiff to enter into and execute this Stipulation; and

(b) Report of the Commissioner of the Bureau of Indian Affairs as the authorized representative of the Secretary of the Interior approving the settlement (identified as plaintiff's exhibit S-12).

8. This Stipulation is executed by the attorneys for the parties, subject to final approval of the settlement by the Indian Claims Commission.

Dated: November 9th, 1970.

For the Defendant:

/s/ Shiro Kashiwa  
Asst. Attorney General  
of the United States

For the Plaintiffs:

/s/ Rodney J. Edwards  
Attorney of Record for  
Plaintiffs

/s/ Bernard M. Newburg  
Attorney for the Defendant

46. On December 8, 1970, the Commission held a hearing on the proposed settlement of Docket 227. Testimony of representatives of the Pueblo of Laguna Tribe was received in addition to the statements of Counsel. The exhibits numbered S-1 through S-13 inclusive were admitted into evidence. The Tribal witnesses were Tom Dailey, Governor and Gilbert A. Pacheco, Secretary of the Pueblo of Laguna Tribe. The testimony of these witnesses confirmed that notice of the general meeting of the members of the Pueblo of Laguna to be held on September 26, 1970, for the purpose of voting on the settlement was well published through the posting of notices, distribution of copy of notice and attorney's report to members of the tribe, publications in newspapers, preliminary meetings held in Pueblo of Laguna villages and colonies, announcements as news items by local newspapers, radio and television and by general word of mouth and discussions among the members; that the general meeting was called and conducted in accordance with the usual customary and constitutional provisions of the Pueblo of Laguna tribe in deciding




matters of general membership importance; that the terms of the proposed compromised settlement and background information on the claims was carefully explained at the general meeting of the members and the tribal council meetings; that there was a full and free discussion at the meetings; and that the officials and members of the Tribe understood the terms of the proposed settlement, and understood that Entry of the Final Judgment in Docket No. 227 would constitute a final determination of all claims the tribe had against the defendant; and that the 313 members, who voted on the settlement, formed as large a group as are usually present to vote on matters of importance to the tribe.

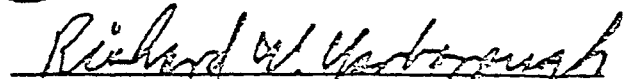
47. The Commission finds, based upon all the evidence, that the members of the Pueblo of Laguna Tribe of Indians and the Tribal Council of the Pueblo of Laguna Tribe were afforded ample opportunity to discuss and understand the settlement and did voluntarily and freely approve it.


48. The Commission finds, based upon the entire record and all the evidence in the proceedings, the prior findings of fact and decisions of the Commission heretofore entered, and evaluation of the remaining issues to be decided in Docket No. 227, that the compromise settlement is fair and just to the Pueblo of Laguna Tribe and to the United States, and that approval of the settlement will eliminate the need for considerable additional litigation expenses as well as delay in payment of final award. In addition thereto, all offset claims


by the defendant are compromised and settled.

  
Jerome K. Kuykendall, Chairman

  
John T. Vance, Commissioner

  
Richard W. Yarborough, Commissioner

  
Margaret H. Pierce, Commissioner

  
Brantley Blue, Commissioner