

BEFORE THE INDIAN CLAIMS COMMISSION

THE FORT SILL APACHE)	
TRIBE OF OKLAHOMA;)	
THE CHIRICAHUA APACHE)	
TRIBE, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Docket Nos. 30-A and 48-A
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: August 25 , 1971

ADDITIONAL FINDINGS OF FACT

On June 9, 1971, the Commission issued findings of fact, opinion and interlocutory order in Docket Nos. 30-A and 48-A, holding that the plaintiffs shall recover from the defendant the sum of \$15,975,000 less any gratuitous offsets which may subsequently be allowed, and ordering that the suit proceed to a determination of the gratuitous offsets which may be allowable under the Indian Claims Commission Act.

Also, on June 9, 1971, based on the conclusions of law and opinion filed on that date in Docket Nos. 30-A and 48-A, and based on a stipulation earlier entered into between the parties and filed on September 4, 1970, in the companion suit in Docket Nos. 30 and 48, the Commission entered an interlocutory order in said Docket Nos. 30 and 48, ruling that the plaintiffs recover from the defendant the sum of \$521,796.00 less any gratuitous offsets which may be subsequently allowed, and directing that the suit proceed to a determination of the gratuitous offsets which may be allowable.

The Commission now makes the following findings of fact supplemental and additional to Findings Nos. 1 through 29 heretofore made in Docket Nos. 30-A and 48-A.

30. On August 2, 1971, the defendant filed in Docket Nos. 30-A, 48-A, 30 and 48 its "Amended Answer Claiming Offsets." In said amended answer, the defendant set forth certain sums claimed to have been gratuitously expended for plaintiffs for the period extending from and after July 1, 1872, as reflected in various schedules in the Report of the General Services Administration dated October 4, 1966, which was filed with the Commission on November 22, 1968.

31. On August 17, 1971, the attorneys for the parties filed with the Commission in the four dockets, Nos. 30-A, 48-A, 30 and 48, a Stipulation settling on the sum of \$7,700.00 as the total amount of allowable gratuities, limited to the period September 4, 1886 through June 30, 1951, which are offsetable against the recoveries in said four dockets, and agreeing that said total of \$7,700.00 for said period should be offset against defendant's liability solely in the proceedings in Docket Nos. 30-A and 48-A. The parties also filed a joint motion that the Commission adopt the Stipulation.

32. The Stipulation provided as follows:

The undersigned attorneys for the parties in the above-captioned proceedings enter into a stipulation with respect to the offset issue only in said cases and only as herein specifically set out:

1. The defendant is entitled to a credit against its liability in the above-captioned proceedings for gratuitous expenditures on behalf of the plaintiffs in the total amount of \$7,700.00, it being agreed that said total amount shall be credited against defendant's liability solely in the proceedings in Docket Nos. 30-A and 48-A.

2. The stipulated sum in paragraph 1 above shall be taken to include all claims, deductions, credits and offsets chargeable against, or allocable to, plaintiffs or any of them, for the period from September 4, 1886 through June 30, 1951, and the defendant shall be barred from asserting any such claims, deductions, credits and offsets in any other action. This bar against claims, deductions, credits and offsets shall not apply to those which have accrued prior to September 4, 1886, or to those which may accrue subsequent to June 30, 1951.

3. This stipulation 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 plaintiffs 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.

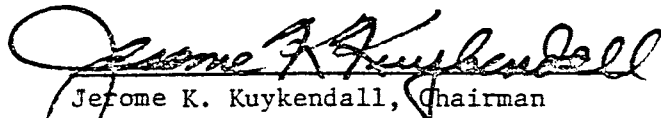
4. It is expressly understood and agreed that nothing contained herein shall prevent either of the parties from appealing any decision of the Indian Claims Commission to the Court of Claims (or thereafter seeking review of any adverse decision in the Supreme Court of the United States) of any issue or issues connected with these cases except the issue of offsets for the period of time between September 4, 1886 and June 30, 1951.

5. This stipulation is entered into by way of compromise and settlement and shall not be construed as an admission by any of the parties, for the purposes of precedent or argument in any other case.

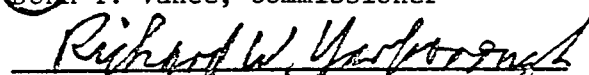
6. The attorneys for the parties shall execute and file this stipulation with the Commission along with a motion for adoption thereof. Any order of the Commission adopting this stipulation shall dispose only of the issues as to the amount of claims, deductions, credits and offsets chargeable against or allocable to the plaintiffs or any of them for the period from September 4, 1886 through June 30, 1951, and no other issues.

7. The amended answer claiming offsets which was filed in the above entitled cases on August 2, 1971, shall be dismissed, without prejudice, upon the acceptance of this stipulation by the Commission and upon the entry by the Commission of a final award in all of the above entitled cases.

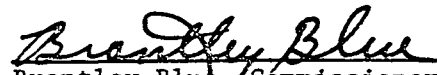
33. Based on the record in said dockets, including the Report of the General Services Administration dated October 4, 1966, the defendant's answer claiming offsets, and the Stipulation of the parties as to offsets, the Commission finds that the agreement of the parties as to the total amount of allowable gratuitous offsets, for the period September 4, 1886 through June 30, 1951, is fair and equitable and adopts the Stipulation.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner