

BEFORE THE INDIAN CLAIMS COMMISSION

THE MOHAVE INDIANS who are members)	Docket No. 283
of THE COLORADO RIVER INDIAN)	
TRIBES, et al.,)	
)	
MOHAVE TRIBE OF INDIANS OF Arizona,)	Docket No. 295
California and Nevada, et al.,)	
)	
Plaintiffs,)	
)	
v.)	
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: December 29, 1971

FINDINGS OF FACT

The Commission makes the following findings of fact which are supplemental to the findings numbered 1 through 25, in 7 Ind. Cl. Comm. 219 (1959), and findings numbered 26 through 43, in 23 Ind. Cl. Comm. 87 (1970).

44. The defendant has asserted offsets in a total amount of \$299,038.82 for gratuitous expenditures made between 1867 and 1951 for the benefit of the plaintiff Mohave Indians. We have considered the course of dealings and accounts between the United States and the Mohave Tribe, and we find that those dealings have not been such that the United States is prohibited from receiving credit for such gratuitous offsets as may be allowable.

45. School Related Expenditure

The defendant has claimed offsets for expenditures made to the Indians of the Fort Mohave School. Those disbursements are set forth in Sections D and E of the General Accounting Office report, and they total \$10,700.24 (Section D is \$4,338.69; Section E is \$6,361.55). We find that the expenditures made through the superintendent of the Fort Mohave School were, at least in part, for an educational purpose, and they are disallowed.

46. Agricultural Aid

The defendant expended gratuitously for the benefit of the plaintiffs the amount of \$1,816.90 between the years 1879 and 1925. Disbursements ranged from \$118.56 to \$301.58. These expenditures constituted tribal benefits and were not within any of the prohibited purposes set forth in Section 2 of the Indian Claims Commission Act. These items are allowed as offsets.

Of the remaining gratuitous expenditures in this category, a total of \$1,230.34 were made in yearly amounts of less than \$100.00. They were too small to support an inference that they constituted tribal benefits and are disallowed as proper offsets.

Expenditures totalling \$276.47, reported under Sections D and E of the General Accounting Office report for agricultural aid are disallowed as they were school related expenditures discussed in finding 45, supra.

47. Agricultural Implements

Expenditures claimed in this category amount to \$11,160.51 between 1868 and 1943. From this total, \$8,869.61 will be allowed as gratuitous offsets. These expenditures ranged from a low of \$102.07 to a high of \$1,592.50 in any one given year.

Disbursements in the amount of \$1,434.44 are disallowed as offsets, as the payments, all of which were less than \$100.00 per year, were too small to have been a tribal benefit.

The remaining disbursement of \$856.46 reported under Section D of the G.A.O. Report is also disallowed as the expenditure was made through the Fort Mohave School.

48. Clothing

Disbursements made by defendant for clothing are allowed only for the years 1872 and 1876. In these two years defendant expended gratuitously \$1,022.03 and \$506.40. The remaining disbursements totalling \$577.29 are disallowed as the sums expended were too small to have constituted a tribal benefit. These amounts ranged from \$0.72 to \$132.33. The expenditure of \$132.33 was disbursed in 1900 when plaintiffs made up 88.2% of the reservation population or approximately 700 residents.

49. Expenses, Care and Sale of Timber

Defendant claims expenditures of \$1,472.45 for the care and sale of timber. Defendant's representative voucher (0-35) indicates that the disbursements were made for the salaries of forest guards.

The Commission finds that these employees were primarily a part of the agency or administrative service. Therefore, these expenditures will not be allowed as gratuitous offsets.

50. Expenses of Indian Delegation

An expenditure in the amount of \$196.80 was made by defendant to enable the Chief of the Mohaves and his interpreter to visit the Haskell Institute in Lawrence, Kansas, in the year 1890. This expenditure is disallowed as a gratuitous offset because of its educational benefit to the tribe.

51. Expenses, Soil and Moisture Conservation

These expenditures totalling \$6,347.04 were made by defendant for the salaries of one engineer and one soil conservationist. Defendant's voucher 0-36 indicates that these men were government employees with G.S. 9 and 11 ratings. We find that these employees were primarily a part of the agency or administrative service, and we disallow expenditures made in this category.

52. Fuel and Light

Defendant claims expenditures for fuel and light in the amount of \$427.30. Of this amount, \$120.32 will be allowed as a gratuitous offset. Defendant's representative voucher 0-42 shows an expenditure of \$40.32 for 250 gallons of oil weighing 2200 lbs. The Commission considers an expenditure of this nature to be a tribal benefit. The remaining amounts of small disbursements totalling \$306.98 are disallowed as being too small to constitute a tribal benefit.

53. Hardware, Glass, Oils and Paints

The defendant's claim in this category totals \$4,822.84 expended between the years 1868 and 1943. Of this amount, the Commission will allow as gratuitous offsets the sum of \$1,913.03. This is the total of expenditures ranging from a low of \$209.56 to a high of \$428.82 in any one given year. The remaining items totalling \$2,909.81 were too small to support an inference that a tribal benefit was conferred. Accordingly, this amount is disallowed.

54. Household Equipment and Supplies

The defendant's offset claim for household equipment and supplies totals \$5,726.62. Of this amount, \$3,171.51 shall be allowed as gratuitous offsets. These amounts are as follows:

1872	\$1,672.32
1875	766.93
1899	409.37
1917	<u>322.89</u>

Total	\$3,171.51
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The remaining amounts of small items expended by defendant, \$1,814.57, are disallowed as being too small to constitute a tribal benefit. Representative of these disallowed expenditures is defendant's voucher 0-33 where 100 blankets were purchased for \$207.50. At the time of this purchase (1894), plaintiffs numbered approximately 1300 residing on the reservation.

Defendant expended under this category, \$107.68 reported in Section D of the General Accounting Office report. This amount is

disallowed as a disbursement through the Fort Mohave School and serving, at least in part, an educational purpose.

55. Hunting and Fishing Equipment

The defendant's claim in this category totalled \$120.84 during the six years it was expended. The largest amount expended in one year was \$73.50 disbursed in 1869. However, during this year, there were approximately 4,000 members of the plaintiff tribe residing on the reservation. Therefore, all the offsets claimed in this category are disallowed.

56. Indian Dwellings

Expenditures for this category totalled \$308.11 paid out over three years. Defendant has produced two vouchers which were representative of these expenditures. The first voucher, 0-13, is for \$85.00 in salaries to workers building Indian dwellings for March 1932. At that time, over 700 of the plaintiffs resided on the reservation. It is likely that only a few individuals benefited from the services of these employees. Defendant's voucher 0-14 simply states that payments of \$259.59 were made for building materials for the same year, 1932. The Mohave Indians constituted 69% of the Indians on the reservations, so only \$179.12 is attributable to the plaintiffs. We find this sum too small to support an inference that a tribal benefit was conferred. All the other expenditures were even smaller.

57. Indigent Indians

All claimed offsets for various types of gratuities for the benefit of indigent Indians are disallowed since the expenditures were

for individual rather than tribal purposes. The amounts listed in this category are:

Section A	\$27,299.37
Section C	2,914.90
Section D	<u>129.31</u>
Total	\$30,343.58

58. Feed and Care of Livestock

Defendant claims expenditures for the feed and care of livestock in the amount of \$6,185.33 during the years 1868-1943. The Commission finds that \$5,512.49 is allowable as a gratuitous offset. Disbursements that are allowable ranged from \$100.97 to \$1,052.08. Representative of these disbursements is defendant's voucher 0-43 which shows an expenditure of \$133.16 made in 1900 for 6,433 lbs. of rolled barley and 750 lbs. of salt. An expenditure of this nature is considered to have been a tribal benefit.

The remaining expenditures totalling \$672.84 are too small to support an inference that a tribal benefit was involved.

59. Purchase of Livestock

Purchases of livestock were made in the amount of \$1,077.13 between the years 1869 and 1913. Defendant's representative voucher 0-32 indicates an expenditure made in 1892 for two mules at a cost of \$250.00. At the time of this purchase, the plaintiffs made up approximately 74% of the reservation population or about 1400 residents. One mule per 700 residents cannot be considered a benefit that is tribal in nature. The largest expenditure in this category was

\$312.14 with no voucher to support the purchase. It is doubtful that these expenditures were a tribal benefit, and they are disallowed.

60. Mills and Shops

Expenditures of \$594.97 and \$35.05 were made for blacksmith and carpenter shops. Both of these facilities were maintained primarily as an agency or administrative service, and these items are not, therefore, proper offsets.

61. Miscellaneous Building Material

Expenditures for miscellaneous building material totalled \$1,840.30. Disbursements were made between 1869 and 1909. One of defendant's representative vouchers, number 0-18, has specifically delineated purchases of building materials into two separate categories. The first category is for agency use where 2508 feet of lumber was used for agency repair. This is not claimed as an offset. The second category specified that 2507 feet of lumber were purchased to repair the doors and windows of Indian homes. This purchase was made in 1900 at a cost of \$55.15. The remaining transactions are similar. We find the expenditures in this category to have been a tribal benefit. Therefore, the Commission allows as gratuitous offsets under this category the total amount of \$1,840.30.

62. Payment of Salaries

Defendant has expended \$51,530.39 for salaries of stockmen, herders, laborers, adobe makers, blacksmiths, carpenters, butchers, engineers and teamsters. These disbursements were made between 1869 and 1938. It is the finding of this Commission that these employees

were part of the agency or administrative service. Therefore, these expenditures are disallowed as gratuitous offsets.

63. Payment for Inspection of Beef Hides

Disbursements made by defendant in this category totalled \$16.43 expended in the years 1904 and 1911. Defendant's voucher 0-44 indicates an expenditure of \$9.63 for the inspection of 132 hides and the expense incurred in the publication of information for sealed bids pertaining to the sale of these hides. These disbursements, although small, were expended for the benefit of the entire tribe and therefore will be allowed as gratuitous offsets.

64. Provisions

This category is the largest of the expenditures claimed by defendant. Expenditures for provisions were made between 1868 to 1951 and totalled \$150,024.51. Representative of these disbursements is defendant's voucher 0-44 providing for the purchase of 15,000 lbs. of unbleached flour for the sum of \$420.00. Based on the evidence presented by defendant, we find that the expenditures in the sum of \$146,852.91 are allowable offsets for the purchase of provisions. These expenditures range from \$218.03 to \$14,866.71 for any one given entry. One exception to these expenditures is a single disbursement of \$725.99 made in 1886 for the benefit of destitute Indians. This expenditure is disallowed.

Of the remaining gratuitous expenditures made by defendant certain purchases totalling \$2,301.36 were too small to support an

inference that a tribal benefit was conferred. This amount is disallowed as a gratuitous offset.

Expenditures totalling \$144.25 reported under Sections D and E of the General Accounting Office report are disallowed for the reason that they were made through the Fort Mohave School and thus involved, at least in part, educational benefits prohibited by Section 2 of the Indian Claims Commission Act.

65. To Protect Indians Against Inroads of the Colorado River

Defendant claims a 1912 expenditure of \$2,737.12 in this category. This is reported in Section D of the General Accounting Office report. This expenditure must be disallowed as it was disbursed for the Indians under the Fort Mohave school and thus considered, at least in part, for educational purposes. As set forth in finding 45, supra, all such disbursements are disallowed.

66. Transportation Expenses

Defendant claims credit for \$18,632.07 expended for, transportation costs. In reviewing the listing of these charges, the Commission has noted a number of apparent disparities. There are transportation expenditures listed for years in which there is no claim for offset of the particular items transported. For example the defendant claims transportation costs for provisions for:

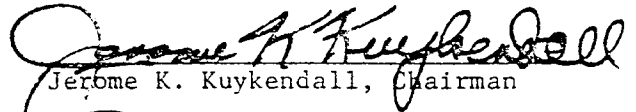
1943	\$ 69.79
1944	31.64
1945	5.02
1947	72.20
1948	5.46
1949	210.91

There is no claim for provisions furnished in 1943, 1944, 1945, 1948 or 1949. There is a claim for only \$10.13 expended in 1947. Since we are disallowing items of claimed offset in virtually every category, there are transportation charges **relating to a number of nonallowable** offset items. Since we have no basis for allocating the transportation charges to the respective offsetable articles, we must disallow the entire category.

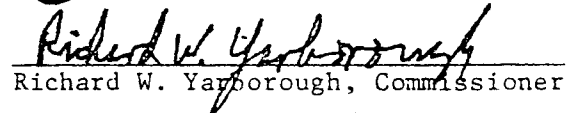
67. In summation, the offsets herein allowed are as follows:

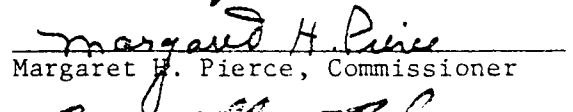
1. Agricultural Aid	\$ 1,816.90
2. Agricultural Implements and Equipment	8,869.61
3. Clothing	1,528.43
4. Expenses, Care and Sale of Timber	-0-
5. Expenses Indian Delegation	-0-
6. Expenses, Soil and Moisture Conservation	-0-
7. Fuel and Light	120.32
8. Hardware, Glass, Oils and Paint	1,913.03
9. Household Equipment and Supplies	3,171.51
10. Hunting and Fishing Equipment	-0-
11. Indian Dwellings	-0-
12. Indigent Indians	-0-
13. Feed and Care of Livestock	3,512.49
14. Purchase of Livestock	-0-
15. Mills and Shops	-0-
16. Miscellaneous Building Material	1,840.30
17. Payment of Salaries	-0-
18. Payment for Inspection of Beef Hides	16.43
19. Provisions	146,852.91
20. Protect Indians Against Inroads of the Colorado River	-0-
21. Transportation Expenses	-0-
TOTAL OFFSETS	<u>\$171,641.93</u>

Therefore, judgment should be entered for plaintiffs in the amount of \$428,358.07.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner