

BEFORE THE INDIAN CLAIMS COMMISSION

THE SKAGIT TRIBE OF INDIANS, also	)	
known as THE LOWER SKAGIT TRIBE OF	)	
INDIANS, also known as THE WHIDBEY	)	
ISLAND SKAGITS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Docket No. 294
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

ORDER ALLOWING ATTORNEYS' FEE

HAVING CONSIDERED that part of the petition for payment of compensation and expenses filed November 26, 1971, by Frederick W. Post, attorney of record for the plaintiff herein, applicable to allowance for attorneys' fee, the contracts under which the attorneys served the plaintiff, the defendant's response to said petition filed January 11, 1972, and the remainder of the record herein, the Commission finds as follows:

1. On October 13, 1971, the Commission entered a final judgment in this docket in the amount of \$74,856.50 in favor of the Lower Skagit Tribe of Indians (26 Ind. Cl. Comm. 325). Funds to satisfy this judgment have not been appropriated therefor by the Congress.

2. The representation herein of the Lower Skagit Tribe of Indians was under three separate contracts. Initially, the Lower Skagit Tribe entered into contract, Symbol 14-20-0650 No. 117, dated July 16, 1950, with Frederick W. Post, Warren J. Gilbert, Harwood Bannister and Malcolm S. McLeod. The contract, as amended and approved on October 23, 1951, was for a term of five years beginning with the date of approval. The second contract, Symbol 14-20-0650 No. 593, dated December 3, 1957, was entered into by the tribe with Warren J. Gilbert and Frederick W. Post and was approved February 18, 1958, for a term of seven years beginning October 23, 1956. Neither of these contracts were extended or renewed.

3. The third contract, Symbol 14-20-0500 No. 2352, dated July 14, 1965, between the Lower Skagit Tribe and Frederick W. Post and Warren J. Gilbert, was approved on July 27, 1965, for a term of three years beginning on July 14, 1965. This contract was extended on October 21, 1970, for a term of five years beginning July 14, 1968.

4. The contract in force, as extended, fixes the compensation of the attorneys, in the event the controversy was submitted to a court or tribunal for determination, at a sum not to exceed ten percentum of any and all sums recovered or procured for the Indian tribe through the efforts of the attorneys. The application by the attorney of record requests an allowance as attorneys' fee the sum of \$7,485.65, the same being ten per cent of the aforementioned final judgment.

5. Warren J. Gilbert died during the year 1971. Letters testamentary, issued June 11, 1971, by the Superior Court of the State of Washington for Skagit County appointed Catherine M. Gilbert the Executrix of the Estate of Warren J. Gilbert, deceased. The application herein prays that the fee requested be paid to Frederick W. Post and Catherine M. Gilbert, Executrix of the Estate of Warren J. Gilbert, deceased.

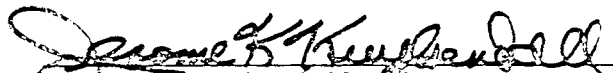
6. The defendant's response to the application enclosed a copy of a letter dated December 30, 1971, from the Acting Associate Solicitor, Indian Affairs, Department of the Interior, and a copy of an accompanying memorandum dated December 22, 1971, from the Acting Deputy Commissioner of Indian Affairs and concluded with the advice that the Department of Justice ". . . takes no position with respect to the payment of the fees . . . claimed by the attorney in his petition." The letter from the Acting Associate Solicitor refers to the memorandum from the Acting Commissioner of Indian Affairs which advised that the requested fee was within the terms of the contract and no objection was interposed to the allowance of the amount claimed and concluded by stating "We concur".

7. An appropriate notice of the filing of the attorneys' application for allowance of attorneys' fee was duly mailed to Mr. Tandy Wilbur, Sr., Tribal Representative of the Lower Skagit Tribe, December 2, 1971, by the Acting Superintendent of the Western Washington Agency, Bureau of Indian Affairs. No response to this notice was received.

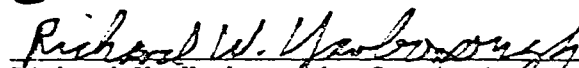
8. The attorneys have rendered valuable services in their successful prosecution of the plaintiff's claim in this docket and they are entitled under the terms of the aforementioned contract to a fee in the requested sum of \$7,485.65.


IT IS THEREFORE ORDERED that out of the sum to be appropriated to pay the aforementioned judgment in favor of the Lower Skagit Tribe of Indians there shall be disbursed jointly to Frederick W. Post and Catherine M. Gilbert, Executrix of the Estate of Warren J. Gilbert, deceased, the sum of \$7,485.65, as payment in full of the attorneys' fee owed for legal services herein rendered for the said tribe.

Dated at Washington, D. C., this 16th day of February 1972.

  
Jerome K. Kuykendall, Chairman

  
John T. Vance, Commissioner

  
Richard W. Yarborough, Commissioner

  
Margaret H. Pierce, Commissioner

  
Brantley Blue, Commissioner