

## BEFORE THE INDIAN CLAIMS COMMISSION

THE CREEK NATION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Docket No. 275
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Decided: August 23, 1972

FINDINGS OF FACT ON COMPROMISE SETTLEMENT

This matter is now before the Commission for approval of a compromise final settlement of this case and entry of a final judgment in the amount of \$1,346,000, with a waiver of review or appeal, said judgment to settle and dispose of the above-entitled claim and all counterclaims or offsets which defendant has asserted or could have asserted in this docket under the provisions of Section 2 of the Indian Claims Commission Act (25 U.S.C. §70a). The government does not waive its right to assert offset claims arising after June 30, 1956, in any other Creek case.

The Commission has heretofore determined herein on April 15, 1970, that the plaintiff held aboriginal title to that portion of the lands in suit described in the Commission's Finding No. 25 until, through a series of acts culminating with the ratification on April 8, 1816, of the treaty with the Cherokees (7 Stat. 139), the United States without compensation, deprived the Creek Nation of its aboriginal title.

23 Ind. Cl. Comm. 1. The Commission ordered that case proceed to a

determination of the acreage contained within the area described in Finding No. 25 and the fair market value of said lands as of April 8, 1816.

Subsequently on March 3, 1971, the Commission issued an opinion denying defendant's motion for rehearing. 24 Ind. Cl. Comm. 473. No appeal having been taken from this decision, the Commission set the case for trial on value. Thereafter negotiations for the settlement of this claim were commenced with the consent and agreement of the parties. Agreement was ultimately reached on a settlement in the net amount of \$1,346,000 which would dispose of all the plaintiff's claims in Docket No. 275 and all claims of offsets by the defendant. The proposed settlement was conditioned upon approval by plaintiff tribe, the Secretary of the Interior or his authorized representative, and this Commission.

A hearing having been held before the Commission on August 15, 1972, on the proposed offer to compromise and settle, the Commission makes the following findings of fact which are supplemental to the previous findings Nos. 1-26, inclusive, made herein:

27. On May 3, 1972, counsel for plaintiff sent a letter to the defendant, addressed to Honorable Kent Frizzell, Assistant Attorney General U. S. Department of Justice, offering to compromise and settle, which letter reads as follows:

On April 15, 1970 the Indian Claims Commission entered its findings of fact and opinion holding that the United States was liable to the Creek Nation for lands in northern Alabama and northwest Georgia south of the Tennessee River, described in its Finding 25 (23 Ind. Cl. Comm. 1, [sic] 15 [35]). The area in question contains 1,346,000 acres, as computed by the Bureau of Land Management. The Commission also fixed the date of valuation of these lands on April 8, 1816. The issue of value alone remains to be litigated.

As counsel for plaintiff, I have investigated the value of said lands, and am ready for trial of this issue, which is set before the Commission on July 31, 1972. With the possibility of settling the value of these lands by agreement of the parties, and by way of compromise settlement, I am willing to suggest to my client, the Creek Nation, settlement on the basis of \$1.00 an acre on the date of valuation, April 8, 1816, which would result in a judgment in favor of the Creek Nation in the net amount of \$1,346,000.

This offer in compromise is made to avoid further litigation on the issue of value, and thus save the commensurate delay and additional expense to both parties in the final settlement of this claim.

Sincerely yours,

/s/ Paul M. Niebell,  
Paul M. Niebell,  
Attorney for the Creek Nation.

[Ex. S-1]

Copies of this letter were also sent to Hon. Claude A. Cox, Principal Chief of the Creek Nation, and to the Commissioner of Indian Affairs.

28. By letter dated June 19, 1972, the Assistant Attorney General, Kent Frizzell, on behalf of the defendant, accepted the settlement offer subject to certain conditions. The acceptance letter addressed to Paul M. Niebell, counsel for plaintiff, states as follows:

















