

BEFORE THE INDIAN CLAIMS COMMISSION

THE TLINGIT AND HAIDA INDIANS OF)	
ALASKA, in its own right and)	
as the representative of, or)	
successor to, the ANGOON TRIBE)	
and each of the clans and groups)	
of the ANGOON TRIBE; and)	
)	
THE ANGOON TRIBE, in its own right)	
and as the representative of, or)	
successor to, the clans and groups)	
thereof,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 278-B
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: November 26, 1973

FINDINGS OF FACT ON COMPROMISE SETTLEMENT

This matter is now before the Commission for approval of a compromise final settlement in Docket 278-B and the entry of a final judgment therein in the amount of \$90,000.00, in favor of the plaintiffs, for and on behalf of the Angoon Tribe.

The suit in Docket 278-B was instituted by the Tlingit and Haida Indians of Alaska and the Angoon Tribe. It presents claims for compensation arising out of the actions of a United States military force in bombarding and burning the Tlingit village of Angoon on October 26, 1882.

The trial in this case on liability and damages was set for June 28, 1973. Several days before that date, the parties informally advised the Commission that the attorneys for the parties had negotiated a settlement,

subject to approval of the plaintiffs and appropriate officials of the Department of Justice. Accordingly, the Commission entered an order on June 27, 1973, removing the case from the trial calendar in order to provide the time for the taking of appropriate steps to obtain the necessary approvals of the proposed settlement.

The Commission now makes the following findings of fact:

1. On November 19, 1973, the parties filed (a) a joint motion for the entry of a final judgment in this case in the amount of \$90,000.00, in favor of the plaintiffs, for and on behalf of the Angoon Tribe, and (b) a stipulation for entry of final judgment.

2. The parties also filed seven exhibits, identified as S-1 through S-7, in support of the proposed settlement. These exhibits are hereby received in evidence.

3. On July 2, 1973, counsel for plaintiffs in Docket No. 278-B submitted a letter to Assistant Attorney General Wallace H. Johnson, offering to compromise and settle the plaintiffs' claims therein for a net final judgment of \$90,000.00 in favor of the plaintiffs, for an on behalf of the Angoon Tribe, with no review to be sought or appeal taken by either party (Exhibit S-1).

4. By letter dated July 25, 1973, Assistant Attorney General Wallace H. Johnson, on behalf of the Department of Justice, accepted the offer of settlement subject to certain conditions, including (a) that the proposed settlement be approved by a general resolution of the people

of the Angoon Community and an appropriate resolution of the Executive Committee of the Tlingit and Haida Indians and (b) that approval of the settlement, as well as the resolutions of the tribes, he secured from the Secretary of Interior, or his authorized representative (Exhibit S-2).

5. The terms of the settlement are set forth in the Stipulation for Entry of Final Judgment entered into by counsel for the parties and filed with the Commission, which reads as follows:

STIPULATION FOR ENTRY OF FINAL JUDGMENT

It is hereby stipulated by the parties, through their attorneys, as follows:

1. All claims asserted by plaintiffs in Indian Claims Commission Docket 278-B shall be settled by the entry of a final judgment in the amount of Ninety Thousand Dollars (\$90,000.00) in favor of the plaintiffs, for and on behalf of the Angoon Tribe, no review to be sought or appeal to be taken by any party.

2. Entry of final judgment in said amount shall finally dispose of all rights, claims and demands which plaintiffs have asserted or could have asserted against defendant in this case, and plaintiffs shall be barred thereby from asserting any such rights, claims or demands against defendant in any other or future action. Entry of such final judgment shall also dispose of all claims, demands, payments on the claim, counterclaims, or offsets which the defendant has asserted or could have asserted against plaintiffs under the provisions of Section 2 of the Indian Claims Commission Act (60 Stat. 1049) in this case.

3. 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 any party as to any issue for purposes of any other case.

4. 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 approval of the Commission.

For the Defendant:

/s/ WALLACE H. JOHNSON
WALLACE H. JOHNSON
Assistant Attorney General
of the United States

/s/ RICHARD L. BEAL
RICHARD L. BEAL
Attorney for Defendant

For the Plaintiffs:
WEISSBRODT & WEISSBRODT

By /s/ I.S. WEISSBRODT
I.S. WEISSBRODT

/s/ ABE W. WEISSBRODT
ABE W. WEISSBRODT

6. A general meeting of the members of the Angoon Tribe was scheduled for October 6, 1973, for the purpose of considering and voting upon the proposed settlement. However, the meeting was postponed for two weeks until October 20, 1973 in order to give the Angoon Indians more time to discuss the proposed settlement.

The general meeting was held, as rescheduled, on October 20, 1973, in the Alaska Native Brotherhood Community Hall, in Angoon, Alaska. Details of the meeting of October 20, 1973 and its purpose were published in the newspapers and broadcast over the radio stations in Juneau, Alaska. Notice of the meeting was also posted in the village of Angoon for several weeks before it was held (Exhibit S-6).

7. Prior to the voting at the meeting, the terms of the proposed settlement were explained. A written report prepared by the tribal attorneys was read aloud, in full, at the meeting. It was interpreted in Tlingit by Clarence Jackson, President of the Central Council of the

Tlingit and Haida Indians. Following several hours of discussion, during which many questions were asked which were answered by a tribal attorney, a resolution accepting the proposed settlement was adopted by a vote of 31 in favor and 2 opposed (Exhibit S-4).

8. By resolution adopted on October 26, 1973, the Executive Committee of the Central Council of the Tlingit and Haida Indians of Alaska unanimously approved the proposed settlement (Exhibit S-5).

9. Exhibit S-6 is a report dated November 2, 1973, prepared by Joseph G. Wilson. Mr. Wilson is a Tlingit Indian who holds the position of Native Agency Director, Southeast Alaska Agency, Bureau of Indian Affairs. The report, along with six documents attached thereto, presents a detailed account of the procedures followed and the events which occurred in connection with the presentation and approval of the proposed settlement by the Angoon Indians. The report concludes:

There was adequate notice of the meeting in the Village of Angoon as well as notice in the Juneau Alaska Empire and notice over the Juneau radio stations. There was opportunity in the meeting for full discussion and all questions were answered with no unfair pressure exerted on the Angoon Indians. In my opinion, the vote represents the wishes of most of the Angoon Indians concerning the Angoon Bombardment Case.

10. On the basis of the report submitted by Mr. Wilson, as well as information on the merits of the proposed settlement supplied by the attorneys for the Indians, the Department of the Interior approved the proposed settlement by letter dated November 13, 1973, addressed to

Weissbrodt & Weissbrodt, counsel to the plaintiff tribes in Docket 278-B, as follows:

You requested our approval of a proposed compromise to settle claims in Indian Claims Commission Docket No. 278-B for a net final award of \$90,000.00 to the Petitioner, the Tlingit and Haida Indians of Alaska, for and on behalf of the Angoon Tribe.

The case is being prosecuted by you under contract, Symbol 14-20-650 No. 528, which was approved on March 6, 1957, for a period of ten years from the date of approval. An extension of the contract until March 5, 1975, was approved on April 26, 1966.

You made an offer on July 2, 1973, to the Assistant Attorney General to settle Docket No. 278-B for \$90,000.00. He accepted the offer on July 25, 1973, with conditions, two of which were that (1) the approval of the proposed settlement be obtained from the Angoon people and from the Executive Committee of the Central Council of the Tlingit and Haida Indians, and (2) approval be obtained from the Secretary of the Interior, or his authorized representative, of the resolutions and the terms of the settlement.

A meeting of the Angoon people was scheduled for October 6, 1973, for the purpose of obtaining their views on accepting or rejecting the proposed settlement. In order to give the Indians time to discuss the proposed settlement, the meeting was rescheduled to be held in the Alaska Native Brotherhood Hall in Angoon, Alaska, on October 20, 1973. The meeting was well publicized. Notice of the October 20, 1973, meeting was posted in the village of Angoon three weeks before the date it was to be held. The Juneau Alaska Empire carried an item in its issue of October 15, 1973, that the meeting was scheduled for the 20th and stated the purpose for which it was called. Notice was also given over the radio stations in Juneau, Alaska.

The meeting was held on October 20, 1973, as scheduled. A representative of the Bureau of Indian Affairs attended and reported on it.

Mr. Clarence Jackson, President of the Tlingit and Haida Central Council, and Mr. Abe W. Weissbrodt, claims counsel for the Indians, attended the meeting. The meeting was opened by Mr. Albert Frank, Sr., President of the Angoon Community Tlingit and Haida Council. He appointed Mr. Daniel Jackson to preside at the meeting. A report on the case and the proposed settlement that had been prepared by the Indians' claims counsel was read at the meeting and interpreted in Tlingit by Mr. Clarence Jackson.

Many questions were asked by the Indians about the proposed settlement. The questions were discussed and answers given by the claims counsel. The meeting continued until time came to turn over the hall to another previously scheduled group. Therefore, the meeting of the Angoon people was recessed at 8:30 p.m. The meeting was reconvened at 3:00 a.m. the following morning. About 70 Angoon Indians were present. Again, the claims counsel explained the case and the proposed settlement, and there was more discussion among the Indians. Following the discussion, the Angoon people, by a vote of 31 Yes and 2 No, adopted a resolution accepting the proposed settlement. The Bureau's representative witnessed and signed the resolution.

A meeting of the Executive Committee of the Central Council of the Tlingit and Haida Indians was held on October 26, 1973. With no dissenting votes, it adopted Resolution No. 73-74 Ex. 8 approving the proposed settlement. We are satisfied that the meeting of October 20, 1973, was well noticed, that it was well attended, that the claims counsel gave a detailed explanation of the claims case, that the Indian people reasonably understood the terms of the proposed compromise, and that the voting was representative of the Angoon people. We are further satisfied that the meeting of the Executive Committee on October 26, 1973, was properly called and held, and that the resolution was duly adopted. The two resolutions are hereby approved.

In light of the information that you sent to us, that furnished by the Bureau's field offices, and that obtained from other sources, we are satisfied that the

proposed compromise to settle Docket No. 278-B for \$90,000.00 is fair. The terms of the proposed settlement, as stated in the Stipulation For Entry of Final Judgment, are hereby approved.

Sincerely yours,

/s/ La Follette Butler
For the Assistant to the
Secretary of the Interior

11. The firm of Weissbrodt & Weissbrodt, which represents the plaintiffs in this case, is thoroughly experienced in the litigation of tribal claims, having appeared before the Commission in many cases. The firm prepared a report, dated September 1973, in which it presented the history of the claims in this case and the basis for the proposed settlement. The firm recommended that the proposed settlement be approved. A copy of this report is in evidence in this case (Exhibit S-6, Attachment D).

12. Based on the entire record, including the approvals of the settlement by resolutions of the Angoon Tribe and the Executive Committee of the Tlingit and Haida Indians of Alaska, the Native Agency Director, counsel for both parties, and the duly authorized representative of the Secretary of the Interior, the Commission finds that approval of the settlement as set forth in the Stipulation for Entry of Final Judgment, filed on November 19, 1973, is fair and just to both parties and will eliminate additional litigation expenses as well as delay in payment of the final award, and that said stipulation should be approved.


The plaintiffs have filed a motion for waiver of hearing on this settlement. In support of the motion the plaintiff states that, considering the size of the judgment and the distance involved, it would be a hardship and involve unnecessary expense to require the presence of Indian witnesses from Alaska at a hearing in Washington, D. C. Plaintiffs' attorney further represents that he is authorized to state the defendant agrees with the motion.

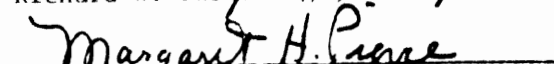
The Commission has considered the evidence and the approvals above indicated and accordingly finds and determines that in view of the amount of this settlement and the distance involved it is appropriate in this case to waive the hearing on this settlement.

The Commission hereby approves the proposed compromise and settlement and will enter a final judgment in Docket 278-B in favor of the plaintiffs, for and on behalf of the Angoon Tribe, in the amount of \$90,000.00, subject to the terms and provisions set forth in the Stipulation for Entry of Final Judgment.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner