

BEFORE THE INDIAN CLAIMS COMMISSION

THE KIOWA, COMANCHE AND APACHE)	
TRIBES OF INDIANS,)	
)	
Plaintiffs,)	
)	
v.)	Docket Nos. 257 and 259-A
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: July 17, 1974

FINDINGS OF FACT ON COMPROMISE SETTLEMENT

The above-captioned dockets are now before the Commission for approval of a consolidation of said dockets for the purpose of settlement and for approval of a compromise settlement of said consolidated dockets and entry of final judgment therein in the amount of \$35,060,000.00 in favor of the plaintiffs, with a waiver of review or appeal by all parties. A hearing having been held before the Commission on July 15, 1974, on the proposed consolidation and compromise settlement, the Commission makes the following findings of fact:

1. Extended settlement negotiations between the parties under the above-captioned dockets resulted in a letter dated April 15, 1974, from plaintiffs' attorney to the Attorney General of the United States submitting an offer of proposed settlement as follows:

Attorney General of the
United States
Department of Justice
Washington, D. C. 20530

Attention: A. Donald Mileur
Acting Chief, Indian Claims Section
Land and Natural Resources Division

Re: Kiowa, Comanche and Apache Tribes v.
The United States, Indian Claims Commission,
Dockets 257 and 259A

Dear Sir:

This is an offer as attorney for the Kiowa, Comanche and Apache Tribes to compromise and settle all issues in the above entitled cases, subject to the approvals required by the attorney contract with the Tribes.

Docket 257 was filed in the Indian Claims Commission on August 9, 1951. The petition asserted that the Kiowa, Comanche and Apache Tribes of Indians had recognized title to an area of land in the western part of the present State of Oklahoma and the northern part of the present State of Texas (designated as Royce Tracts 510 and 511) by virtue of the Treaty of October 18, 1865, [14] Stat. 717, which land, it was asserted, was taken for an unconscionable consideration by the Treaties of October 21, 1867, 15 Stat. 581 and 589. The petition asserted, alternatively, that the plaintiff Tribes were deprived of aboriginal possession of an area of land in western Oklahoma, southwestern Kansas, southeastern Colorado, and western Texas (Royce Tract 478) by the aforesaid Treaties of 1867 for an unconscionable consideration.

Plaintiff Tribes moved for summary judgment of recognized title before the Indian Claims Commission, and on August 9, 1971, this motion was granted (26 Ind. Cl. Comm. 101, 134, 4 to 1 decision). The United States appealed the order of the Indian Claims Commission to the United States Court of Claims, and on June [20,] 1973, that Court, in a 4 to 3 decision, reversed the Indian Claims Commission, [202] Ct. Cl. [29], 479 F.2d 1369. The decision of the Court of Claims, in effect, held that the plaintiff Tribes did not obtain recognized title to any identifiable area of land by virtue of the 1865 Treaty. The majority of the Court, however,

stated the Tribes might be able to establish a claim for aboriginal title, and, to the extent this was done, "this very opinion will support their claim based on unconscionable consideration." (479 F.2d at 1376)

While the Indian Claims Commission allowed the Wichita Indian Tribe of Oklahoma and other tribes there designated to intervene in Docket 257 before that Commission, the Court of Claims, in the opinion just mentioned, reversed that holding of the Commission. The Supreme Court of the United States on April 15, 1974, [42 U.S.L.W. 3584] denied the petition for certiorari filed by the Wichita, etc. Tribes, and, therefore, the Kiowa, Comanche and Apache Tribes are the proper parties to make this offer in compromise.

The petition in Docket 259A was filed on February 15, 1968, and an Amended Petition was filed on May 4, 1970, in the Indian Claims Commission. The Amended Petition involved 12,012.93 acres of land reserved for agency, school, religious and other purposes, which land had been omitted in Indian Claims Commission Docket 32, wherein the Kiowa, Comanche and Apache Tribes were also parties. The Indian Claims Commission on February 10, 1971 (24 Ind. Cl. Comm. 393) held that the petitioners were entitled to be paid the additional value of said 12,012.93 acres, when considered with the original acreage in that Docket.

Counsel for the respective parties have been engaged for many years in efforts to settle amicably the issues presented in Dockets 257 and 259A. While the issues presented in these dockets are not interrelated, the settlement offer is for both dockets. Counsel for both parties have carefully considered the issues involved in these cases and in light of the available evidence and pertinent legal precedent it is believed that the parties are now in a position to agree upon a compromise settlement of the issues on the following basis:

All claims asserted in Dockets 257 and 259A are to be considered as released and merged into a final judgment or judgments which it is expected would be issued by the Indian Claims Commission. Settlement is to include, but not be limited to, the following:

Docket 257

1. All plaintiffs' claims that it was paid unconscionable consideration for the surrender of Royce Tract 511, under the Treaties of October 21, 1867, 15 Stat. 581 and 589.

2. All plaintiffs' claims that it surrendered its aboriginal land claims, Royce Tract 478, for an unconscionable consideration by virtue of the Treaty of October 18, 1865, [14] Stat. 717.

3. Any and all other claims of the plaintiffs set out in Docket 257.

4. The United States on its part agrees that it has no claims for offsets or gratuities arising under the Indian Claims Commission Act, as amended, 60 Stat. 1049.

Docket 259A

5. All claims of the plaintiff Tribes for payment for the 12,012.93 acres of land described in the Amended Petition in Docket 259A acquired by the United States pursuant to the Act of June 6, 1900, 31 Stat. 672.

6. Any and all other claims of plaintiff Tribes set out in the Amended Petition in Docket 259A.

7. The United States on its part agrees that it has no claims for offsets or gratuities arising under the Indian Claims Commission Act, as amended, 60 Stat. 1049.

The settlement here contemplated shall be without prejudice to continuing efforts of Kiowa, Comanche and Apache Tribes to induce the Secretary of Interior or his authorized representative to restore to tribal ownership any lands, whether pursuant to statute, Executive order, regulation, or policy.

The parties anticipate that the settlement here contemplated shall be effected by entry of a final judgment in Dockets 257 and 259A or in a consolidation of these Dockets by the Indian Claims Commission which shall be by way of compromise and shall not be construed as an admission by either party for purposes of precedent in any other case.

In consideration of the settlement of the claims herein proposed to be disposed of the parties will agree that there be entered a final judgment in favor of the plaintiffs in Docket 257 of \$35,000,000 and in Docket 259A of \$60,000, or a total of \$35,060,000, and that no appeal will be taken by any party from said judgments or judgment.

It is understood that this settlement proposal is subject to obtaining from the proper tribal officials or organizations of the Kiowa, Comanche and Apache Tribes and from the Secretary of the Interior, or his authorized representative, approval of the settlement in the amount of \$35,060,000. It is also recognized that final proceedings must be had before the Indian Claims Commission in these Dockets and that that Commission must give approval and enter judgment in accordance with the terms herein contemplated before any such settlement can be effective.

The settlement proposal herein contained shall be accepted or rejected, in its entirety, within 30 days from the date of this letter and, if rejected, neither the settlement discussions nor this proposal shall be used in any wise in future proceedings in connection with the claims of these plaintiffs against the United States.

Very truly yours,

/s/ J. Roy Thompson, Jr.
J. Roy Thompson, Jr.
Attorney for Kiowa, Comanche
and Apache Tribes

2. By letter dated June 17, 1974, the defendant, through Wallace H. Johnson, Assistant Attorney General, accepted the offer of settlement, with conditions as follows:

J. Roy Thompson, Jr., Esquire
Thompson, McGrail and O'Donnell
400 Union Trust Building
740 15th Street, N. W.
Washington, D. C. 20005

Dear Mr. Thompson:

The offer to settle the claims in Kiowa, Comanche and Apache Tribes v. United States, Docket Nos. 257 and 259-A

before the Indian Claims Commission, for the sum of \$35,060,000 as outlined in your letter of April 15, 1974, is accepted subject to the following conditions:

1. That Docket Nos. 257 and 259-A shall be consolidated for the purpose of settlement.

2. That the proposed settlement be approved by appropriate resolutions of the governing bodies of the Kiowa, Comanche and Apache Tribes.

3. That the approval of the settlement, as well as the resolutions of the tribe, be secured from the Secretary of the Interior, or his authorized representative.

4. That a copy of such resolutions and the approval of the terms of the settlement by the Department of the Interior be furnished to this Department.

5. That the judgment shall finally dispose of all claims or demands which the plaintiffs have asserted, or could have asserted in Docket Nos. 257 and 259-A.

6. That the United States will waive any and all claims for offsets, gratuities and payments on the claim, as to the plaintiffs' claims asserted in Docket Nos. 257 and 259-A.

7. The United States will submit for the record the historical report of Dr. Ernest Wallace, entitled The Habitat and Range of the Kiowa, Comanche and Apache Indians before 1867, and will submit to the Commission findings outlining the conclusions contained in Dr. Wallace's report. The plaintiffs will make no objections to the submission of the report and findings.

The Department of Justice will be happy to work out with you the terms of the stipulation and the appropriate motions and orders necessary to carry into effect the offer of settlement subject to the conditions specified herein.

In drawing the Joint Motion for entry of judgment please list the documents which will be introduced in support of the settlement, such as (1) the stipulation, (2) the tribal resolution or resolutions, (3) the letter of approval of

the settlement by the Department of the Interior, and (4) such other papers as will be offered in evidence at the hearing on the settlement. Copies of these papers shall also be furnished to the defendant.

Sincerely,

/s/ Wallace H. Johnson
Wallace H. Johnson
Assistant Attorney General

3. Pursuant to paragraph 7 of Assistant Attorney General Johnson's letter, at the July 15, 1974, hearing before the Commission the defendant submitted for the record a historical report entitled The Habitat and Range of the Kiowa, Comanche and Apache Indians Before 1867 (1959) prepared by Dr. Ernest Wallace of the Texas Technological College. There having been no objection by the plaintiffs to the submission of this report, the same was received in evidence as Defendant's Exhibit W-1.

4. In his report, Dr. Wallace found that the range and habitat of the Kiowa, Comanche and Apache Tribes as of 1865 was an extensive area of land lying primarily in West Texas and Oklahoma, and extending into Kansas, Colorado and New Mexico, as follows:

* * * embraced by a line extending from the Arkansas River on the northwest along the Purgatory (Las Animas or Purgatorie) River to its headwaters, through Raton Pass, down the Canadian River to its big bend, thence southward (east of but relatively near the Pecos River) to Valverde County; thence in 1862-65 in an indefinite westward direction nearby the headwaters of the Devil's, Nueces, and Llano Rivers to the vicinity of Kerrville; thence northward just west of the military road through Kerrville, Mason, Coleman, Breckenridge, Belknap, and Henrietta to the Red River approximately at the 98th meridian * * * thence north along the 98th meridian to the Cimarron; thence indefinitely northward to the Salt Plains; thence up the Salt Fork of the Arkansas to

Medicine Lodge Creek; thence to the Arkansas in the vicinity of Fort Larned; thence up that stream to the place of beginning. [Def. Ex. W-1, at 455 (32)-(33)]

Portions of the area so described by Dr. Wallace have previously been found by this Commission to have been aboriginally owned by other tribes. In the case of Mescalero Apache Tribe v. United States, Dockets 22-B and 22-G, 17 Ind. Cl. Comm. 100, 148 (1966), the Commission found that a portion of the above-described area in New Mexico was aboriginally owned by the Mescalero Apache Tribe. In the case of Jicarilla Apache Tribe v. United States, Docket 22-A, 12 Ind. Cl. Comm. 439, 467-68 (1963), the Commission found that a portion of the above-described area in northeastern New Mexico and southeastern Colorado was aboriginally owned by the Jicarilla Apache Tribe.

5. The attorney for the plaintiffs has kept the members of plaintiff tribes advised of the settlement negotiations. On June 14, 1974, the chairmen of the three tribes involved announced the calling of general councils on June 29, 1974, to consider the settlement proposal.

6. In preparation for the tribal meetings plaintiffs' attorney supplied full information respecting the proposed settlement to William W. Grissom, Superintendent of the Anadarko Agency, the agency having direct contact with the plaintiff tribes. On June 17, 1974, Superintendent Grissom prepared a "News Release" in which details of the proposed settlement were set out and announcing that meetings of the three tribes had been called for June 29, 1974. Copies of this release were furnished to twenty-one local and state-wide newspapers as well as to fourteen radio and TV stations. As a result of this release and other efforts to assure that all interested

tribal members had knowledge of the proposed settlement and meetings, newspaper articles respecting the proposed settlement and meetings appeared in local papers. These articles generally described the proposal to settle the claims in question for \$35,060,000 and announced the time and place of the tribal meetings.

7. The proposed offer of settlement was presented to the members of the three plaintiff tribes at a general council in the Anadarko High School Gymnasium, Anadarko, Oklahoma, commencing at 10:00 a.m., June 29, 1974. Prior to this meeting each adult tribal member present was furnished with a copy of a document entitled "Memorandum Re Proposal to Settle Claims of Kiowa, Comanche and Apache Tribes Set Out in Dockets 257 and 259A Before the Indian Claims Commission for Total of \$35,060,000" (Pl. Settl. Ex. No. 1). This 85-page document was prepared by the attorney for plaintiffs and set out the background and history of the claims proposed to be settled, i.e., Docket 257 and Docket 259A, a resume of the settlement negotiations, arguments for accepting the settlement, arguments against accepting the settlement, the attorney's recommendation, a copy of the letter from plaintiffs' attorney to the Attorney General of the United States dated April 15, 1974, making the settlement proposal, a copy of the letter from the Assistant Attorney General dated June 17, 1974, accepting the settlement proposal with certain conditions, and the proposed stipulation of settlement and for entry of final judgment, as well as a mass of

historical and statistical data. At this meeting the attorney for plaintiffs made a full and complete explanation of the proposed settlement. Full opportunity was given for the members present to ask questions of the attorney and this opportunity was availed of.

8. At the conclusion of this general meeting the three tribes met separately, but in the same building. At the meeting of the Kiowa Indian council tribal counsel appeared and answered such other questions as tribal members might have. Thereupon, counsel withdrew from the meeting and the members present discussed the proposed settlement further.

Thereafter a resolution was proposed that the Kiowa Indian Council approve the proposed settlement, that the Chairman and Secretary, on behalf of the Kiowa Tribe, and plaintiffs' attorney, be authorized and directed to sign the stipulation of settlement and entry of final judgment, and that three tribal members be authorized to appear before the Indian Claims Commission to testify respecting the proposed compromise settlement. This resolution passed by a vote of 301 for and 1 against. The signatures of the Chairman of the Council and the Secretary of said Council to said resolution were duly authenticated by the Superintendent. The Chairman and the Secretary duly executed the Stipulation of Settlement and For Entry of Final Judgment on behalf of the Kiowa Tribe.

9. At the meeting of the Comanche General Council, tribal counsel also appeared and answered such other questions as tribal

members might have. Thereupon, counsel withdrew from the meeting and the members present discussed the proposed settlement further.

Thereafter a resolution was proposed that the Comanche General Council approve the proposed settlement, that the Chairman and Secretary, on behalf of the Comanche Tribe, and plaintiffs' attorney, be authorized and directed to sign the stipulation of settlement and entry of final judgment, and that three tribal members be authorized to appear before the Indian Claims Commission to testify respecting the proposed compromise settlement. This resolution passed by a vote of 352 for and 5 against. The signatures of the Chairman of the General Council and the Secretary of said General Council to said resolution were duly authenticated by the Superintendent. The Chairman and the Secretary duly executed the Stipulation of Settlement and For Entry of Final Judgment on behalf of the Comanche Tribe.

10. At the meeting of the Apache General Council, tribal counsel also appeared and answered such other questions as tribal members might have. Thereupon, counsel withdrew from the meeting and the members present discussed the proposed settlement further.

Thereafter a resolution was proposed that the Apache General Council approve the proposed settlement, that the Chairman and Secretary, on behalf of the Apache Tribe, and plaintiffs' attorney, be authorized and directed to sign the stipulation of settlement and

entry of final judgment, and that three tribal members be authorized to appear before the Indian Claims Commission to testify respecting the proposed compromise settlement. This resolution passed by a vote of 30 for and none against. The signatures of the Chairman of the General Council and the Secretary of said General Council to said resolution were duly authenticated by the Superintendent. The Chairman and the Secretary duly executed the Stipulation of Settlement and For Entry of Final Judgment on behalf of the Apache Tribe.

11. The Stipulation of Settlement and For Entry of Final Judgment was duly signed by Wallace H. Johnson, Assistant Attorney General, A. Donald Mileur, Chief, Indian Claims Section, and Bernard M. Sisson, as representatives of the defendant, and by J. Roy Thompson, Jr., as attorney for the plaintiffs. The Stipulation of Settlement and For Entry of Final Judgment, as executed, is as follows:

STIPULATION OF SETTLEMENT
AND FOR ENTRY OF FINAL JUDGMENT

It is hereby stipulated between counsel for the parties in the above captioned dockets as follows:

1. That Docket Nos. 257 and 259-A shall be consolidated for the purpose of settlement.

2. That there shall be entered in consolidated Docket Nos. 257 and 259-A, after all allowable deductions and credits, a final judgment in the net amount of \$35,060,000 in favor of the Kiowa, Comanche and Apache Tribes of Indians.

3. Entry of final judgment on said basis in consolidated Docket Nos. 257 and 259-A shall finally dispose of all rights, claims or demands of plaintiffs as follows:

a. All plaintiffs' claims in Docket No. 257 that it was paid unconscionable consideration for the surrender of Royce Tract 511, under the Treaties of October 21, 1867, 15 Stat. 581, and 589.

b. All plaintiffs' claims in Docket No. 257 that it surrendered its aboriginal land claims, Royce Tract 478, for an unconscionable consideration by virtue of the Treaty of October 18, 1865, 14 Stat. 717.

c. Any and all other claims which the plaintiffs have asserted or could have asserted in Docket No. 257.

d. All claims of the plaintiff tribes in Docket No. 259-A for payment for the 12,012.93 acres of land described in the Amended Petition in said Docket acquired by the United States pursuant to the Act of June 6, 1900, 31 Stat. 672.

e. Any and all other claims which the plaintiffs have asserted or could have asserted in the Amended Petition in Docket No. 259-A.

4. The United States on its part agrees that it waives any and all claims for offsets, gratuities and payments on the claims arising under the Indian Claims Commission Act, as amended, 60 Stat. 1049, 25 U.S.C. 70a, as to the plaintiffs' claims asserted in Docket Nos. 257 and 259-A.

5. The settlement here contemplated shall be without prejudice to continuing efforts of Kiowa, Comanche and Apache Tribes to induce the Secretary of Interior or his authorized representative to restore to tribal ownership any lands, whether pursuant to statute, Executive order, regulation or policy.

6. The final judgment of the Indian Claims Commission in consolidated Docket Nos. 257 and 259-A, pursuant to this stipulation, shall constitute a final determination of the claims of the plaintiffs in said Dockets, and shall become final on the day it is entered, the parties to the stipulation waiving any right to appeal from, or otherwise seek review of, such determination.

7. The said final judgment in consolidated Docket Nos. 257 and 259-A, entered pursuant to this stipulation

shall be by way of compromise and settlement, and shall not be construed as an admission for purposes of precedent or argument in these or in any other cases.

(s) J. Roy Thompson, Jr.
J. Roy Thompson, Jr.
Attorney for Kiowa, Comanche
and Apache Tribes, Plaintiffs
in Docket Nos. 257 and 259-A

(s) Wallace H. Johnson
Wallace H. Johnson
Assistant Attorney General

(s) A. Donald Mileur
A. Donald Mileur
Chief, Indian Claims Section

(s) Bernard M. Sisson
Bernard M. Sisson
Attorney for Defendant

The foregoing Stipulation for Settlement and Stipulation for Entry of Final Judgment in Docket Nos. 257 and 259-A is hereby approved by the undersigned, pursuant to Resolution duly adopted by the Kiowa Indian Council at a meeting held on the 29th day of June, 1974, a copy of which is hereto annexed.

Dated: June 29, 1974

(s) Bob Cannon
Bob Cannon
Chairman

Attest:

(s) Juanita D. Ahtone
Juanita D. Ahtone
Secretary

The foregoing Stipulation for Settlement and Stipulation for Entry of Final Judgment in Docket Nos. 257 and 259-A is hereby approved by the undersigned, pursuant to Resolution of the Tribal Council, the governing body of the Comanche

Tribe, duly adopted on the 29th day of June, 1974, a copy of which is hereto annexed.

Dated: June 29, 1974 (s) Lee Motah
Lee Motah
Chairman

(s) Ava F. Doty
Ava F. Doty
Secretary

The foregoing Stipulation for Settlement and Stipulation for Entry of Final Judgment in Docket Nos. 257 and 259-A is hereby approved by the undersigned, pursuant to Resolution duly adopted by the Apache Tribe of Indians at a general meeting held on the 29th day of June, 1974, a copy of which is hereto annexed.

Dated: June 29, 1974 (s) Frank RedBone
Frank RedBone
Chairman

Attest:

(s) Houston KlineKole, Jr.
Houston KlineKole, Jr.
Secretary

12. The **Department** of the Interior approved the proposed settlement by letter dated July 5, 1974, addressed to Mr. J. Roy Thompson, Jr., plaintiffs' attorney, as follows:

Mr. J. Roy Thompson, Jr.
Thompson, McGrail and O'Donnell
Union Trust Building
Washington, D. C. 20005

You requested our approval of a proposed compromise to settle Indian Claims Commission Docket Nos. 257 and 259-A for a final judgment in the sum of \$35,060,000.00 in favor of the Kiowa, Comanche, and Apache Tribes of Indians.

The claims in the two dockets are being prosecuted under contract No. I-1-ind. 18353, dated May 16, 1947, between the Kiowa, Comanche, and Apache Tribes and Attorneys T. P.

Gore and W. C. Lewis. This contract was approved on August 1, 1947, for a period of ten years beginning with the date of approval. It was extended twice, each for a period of ten years. The last extension which was approved on July 27, 1967, extended the contract for a period of ten years beginning on August 1, 1967.

An assignment by Attorney Lewis of a one-half interest in the contract to Attorney J. Roy Thompson, Jr., with Attorney Thompson to pay from his one-half interest any fee due the estate of Attorney Gore, and an assignment by Attorney Lewis of a one-fourth interest in the contract to Attorney Frank Miskovsky were approved on June 16, 1949.

Attorneys Gore, Lewis, and Miskovsky are now deceased.

The contract provides that the attorneys shall not make any compromise of the matters in controversy unless with the approval of the Tribes and the Commissioner of Indian Affairs.

You submitted an offer to the Attorney General of the United States on April 15, 1974, to settle the claims in the two dockets for \$35,060,000.00. The Assistant Attorney General, by a letter addressed to you on June 17, 1974, accepted the offer with conditions. Two of the conditions were that the proposed settlement be approved by appropriate resolutions of the governing bodies of the Kiowa, Comanche, and Apache Tribes and that the approval of the settlement, as well as the resolutions of the tribes, be secured from the Secretary of the Interior, or his authorized representative.

Entry of a final judgment of \$35,060,000.00 by the Indian Claims Commission will dispose of all rights, claims or demands of the plaintiff tribes set out in Docket Nos. 257 and 259-A. The United States agrees that it has no claims for offsets or gratuities arising under the Indian Claims Commission Act, as amended, 60 Stat. 1049, in either Docket No. 257 or 259-A. The settlement, moreover, shall be without prejudice to continuing efforts of the Kiowa, Comanche, and Apache Tribes to induce the Secretary of the Interior or his authorized representative to restore to tribal ownership any lands, whether pursuant to statute, Executive order, regulation, or policy. Both parties waive any right to appeal from or otherwise seek

review of the final judgment and it shall become final on the day it is entered.

The calling of a meeting of the Kiowa, Comanche, and Apache tribal members in General Council on June 29, 1974, for consideration by them of the proposed settlement of Docket Nos. 257 and 259-A was well publicized. A press release was initiated by the Anadarko Agency on June 14, 1974. It was followed by another press release on June 17, 1974, that gave more details of the meeting and the purpose for which it was being called. Notice of the meeting appeared in 21 newspapers in Oklahoma. It was announced over 14 radio and TV stations in Oklahoma and Texas. The newspapers, radio stations, and TV stations serve the area in which most of the Kiowa, Comanche, and Apache Indians live.

The meeting was held as scheduled with separate registration of the members of the Kiowa, Comanche, and Apache Tribes commencing at 10:00 a.m., in the Anadarko High School Gymnasium in Anadarko, Oklahoma, on June 29, 1974. A representative of the Bureau of Indian Affairs was present and reported on the proceedings.

A memorandum on the claims and the proposed settlement had been prepared by Claims Attorney J. Roy Thompson. Many copies were given to Indians prior to June 29, 1974. However, each Indian was given a copy of the memorandum when he or she appeared at the meeting.

The General Council of the Kiowa-Comanche-Apache Tribes convened at 10:45 a.m., with the Chairman of the Comanche Business Committee presiding. He explained the purpose of the meeting and then introduced Mr. J. Roy Thompson, Jr., Tribal Claims Attorney. Mr. Thompson gave a history of the claims and stated that the purpose of the meeting of the Indians was to obtain their views on acceptance or rejection of the proposed settlement. He gave a comprehensive presentation of the claims proposed to be settled, the arguments for and against the settlement, and the fairness of the proposed compromise.

After the explanation by the claims attorney, the Chairman called for a question and answer period.

The attorney answered all of the questions asked. Then, according to the announced procedure, the joint general council meeting broke into separate groups by tribe.

The Kiowa Tribe then continued by assembling in the Anadarko Junior High School Auditorium where the meeting was called to order by the Chairman of the Kiowa Tribe. Attorney Thompson was present and asked if everyone understood what was expected of them and then opened a period for answering of questions. Mr. Thompson answered the many questions asked. When there were no more questions, a vote was taken on acceptance or rejection of the proposed settlement. The proposed settlement was accepted on June 29, 1974, by adoption of a resolution by the Kiowa Indian Council by a vote of 301 for and 1 against.

The members of the Comanche Tribe held their separate meeting in the Anadarko Junior High School Gymnasium. The Chairman of the Comanche Tribe opened the meeting and introduced Attorney Thompson. After further explanation, Mr. Thompson had a long question and answer session. He answered all questions. A vote was then taken on rejection or acceptance of the proposed settlement. The Comanche Tribe accepted the proposed settlement by adoption of a resolution on June 29, 1974, by a vote of 352 for and 5 against.

The separate meeting of the Apache General Council was held in the Anadarko High School Gymnasium on June 29, 1974. Mr. Thompson was present and he again explained the claims, the terms of the proposed settlement, and arguments for and against acceptance of the proposed settlement.

After a question and answer session was held with all questions answered, a vote was taken. The Apache Tribe accepted the proposed settlement by adoption of a resolution on June 29, 1974, by a vote of 30 for and 0 against.

A representative of the Bureau of Indian Affairs who was present at the respective meetings certified that the signatures of the tribal officials affixed to the respective resolutions are genuine.

The calling of the Kiowa, Comanche, and Apache Indians to meet on June 29, 1974, was well noticed and announced over a broad area so that the vast majority of the adult voting members of the tribes had timely knowledge of the meeting. The joint meeting and the separate meetings were held in a satisfactory manner, the explanations were comprehensive, and we believe that the Indians present reasonably understood the proposed settlement before voting on it.

The voting on the resolutions adopted was in an acceptable manner and we are satisfied that the resolutions, therefore, were duly adopted. The number of members of each tribe present and voting appeared to be representative and to express the views of the membership of the respective tribes. The three resolutions adopted separately by the Kiowa, Comanche, and Apache Tribes of Indians are hereby approved.

In light of the information which you have sent to us, that submitted by our field offices, and that obtained from other sources, the proposed settlement of the claims of the Kiowa, Comanche, and Apache Tribes in Docket Nos. 257 and 259-A, as identified and set out in the "Stipulation of Settlement and for Entry of Final Judgment" for \$35,060,000.00 is hereby approved.

Sincerely yours,

/s/ Raymond V. Butler
Acting Deputy Commissioner
of Indian Affairs

13. A hearing was held before the Commission on July 15, 1974, on the proposed settlement. The parties presented a joint motion for consolidation and for entry of final judgment in Docket Nos. 257 and 259A which had attached to it (1) the executed Stipulation of Settlement and For Entry of Final Judgment, (2) a proposed form of order carrying into effect the joint motion, and (3) a list of the documents and evidence proposed to be introduced by petitioners at the hearing.

At this hearing testimony was received from Lee Motah, James M. Cox and Joe Attocknie, Comanche representatives, Bob Cannon and Dr. Everett Rhoades, Kiowa representatives, and Frank RedBone, Houston KlineKole, Sr., and Philemon Berry, Apache representatives. In addition, counsel for both parties made statements and exhibits were received.

14. Reverend Lee Motah, James Cox and Joe Attocknie testified on behalf of the Comanches. Reverend Lee Motah is an ordained Methodist minister. He has been a representative of the Comanche Tribe since 1933 and is now Chairman of the Comanche Tribal Council. Mr. James Cox is the vice-chairman of the Kiowa-Comanche-Apache Intertribal Land Use Committee and a member of the Comanche Business Committee. Mr. Joe Attocknie is Vice-Chairman of the Comanche Tribal Council. All three of these witnesses testified that the terms of the proposed settlement were explained in detail at the meeting of the tribal members; that there was a full and free discussion at the meeting; that the members of the tribe understood the terms of the proposed settlement; that the vote of the tribe in favor of acceptance was 352 for and 5 against; and that the stipulation was duly executed pursuant to formal resolution of the tribe.

15. Bob Cannon and Everett Rhoades, M.D., Kiowas, testified with respect to the knowledge and understanding of the Kiowas of the proposed settlement. Mr. Cannon is Chairman of the Kiowa Indian Council. Dr. Rhoades is the vice-chairman of the Kiowa Business Committee. These witnesses testified that the terms of the proposed

settlement were explained in detail at the meeting of the tribal members; that there was full and free discussion at the meeting; that the members of the tribe understood the terms of the proposed settlement; that the vote of the tribe in favor of acceptance was 301 for and 1 against; and that the stipulation was duly executed pursuant to formal resolution of the tribe.

16. Frank RedBone, Houston KlineKole, Sr., and Philemon Berry, testified as representatives of the Apache Tribe. They testified that the Kiowa-Apache Tribe is the same entity as the Apache Tribe. Mr. RedBone is Chairman of the Apache Tribal Business Committee. Mr. Houston KlineKole, Sr., is Secretary-Treasurer of the Apache Tribal Business Committee. Mr. Philemon Berry is the Administrator-Advisor to the Apache Tribe. All of these witnesses testified that the terms of the proposed settlement were explained in detail at the meetings of the tribal members; that there was a full and free discussion at the meetings; that the members of the tribe understood the terms of the proposed settlement; that the vote of the tribe in favor of acceptance was 30 for and 0 against; and that the stipulation was duly executed pursuant to formal resolution of the tribe.

17. J. Roy Thompson, Jr., attorney for the plaintiffs, recommended to the plaintiffs that they approve the settlement stating that the settlement was in his professional opinion a good compromise and, under all the circumstances, was in their best interests. Bernard M. Sisson, the attorney for the defendant, who actively engaged in

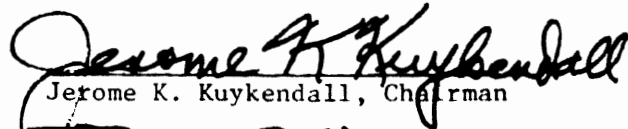
the trial of the recognized title phases of Docket 257, and who was thoroughly familiar with all phases of Dockets 257 and 259-A and with the settlement negotiations, stated that the Assistant Attorney General had approved the proposed settlement.

18. During the hearing, one telegram was received from a Kiowa Indian who objected to the proposed settlement (Comm. Ex. 1). No one, however, appeared at the hearing to speak against the proposed settlement, nor does the evidence submitted in connection with the proposed settlement or the testimony of the tribal representatives indicate that any appreciable portion of the members of the tribes objected to the proposed settlement. The voting at the tribal meetings held on June 29, 1974, shows that the tribal members overwhelmingly approve of the proposed settlement.

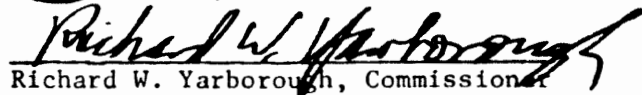
19. The Commission finds, based upon the testimony of the witnesses, the record at all stages of the litigation, the representations of counsel, and all other pertinent factors before us, that the proposed consolidation for settlement of Dockets 257 and 259-A and the proposed compromise settlement in said dockets are fair to the parties and that said proposed compromise settlement has been freely entered into by the Kiowa, Comanche and Apache Indians and duly approved by Acting Deputy Commissioner of Indian Affairs.

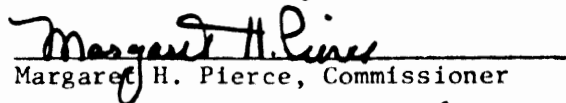
The Commission will therefore order the consolidation for settlement of Dockets 257 and 259-A. Furthermore, the Commission hereby approves the proposed compromise and settlement and will enter a

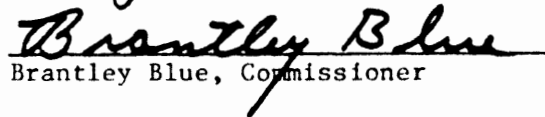
final judgment in Dockets 257 and 259-A, consolidated, in favor of the plaintiffs, the Kiowa, Comanche and Apache Tribes of Indians, in the amount of \$35,060,000, subject to the terms and provisions set forth in the Stipulation of Settlement and For Entry of Final Judgment.


Jerome K. Kuykendall, Chairman


John J. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner