

BEFORE THE INDIAN CLAIMS COMMISSION

THE NISQUALLY TRIBE OF INDIANS,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 197
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: July 31, 1974

ADDITIONAL FINDINGS OF FACT

The Commission makes the following findings of fact, which are supplemental to findings numbered 1 through 10, 21 Ind. Cl. Comm. 173 (1969), and findings numbered 11 through 32, 29 Ind. Cl. Comm. 432 (1973), previously entered herein.

33. Course of Dealings

Defendant has asserted offsets in a total amount of \$11,215.22 for gratuitous expenditures made between 1858 and 1958 for the benefit of plaintiff. The course of dealings between the United States and the Nisqually Tribe is not such that would cause us to disallow those of defendant's claimed offsets which are otherwise allowable.

34. Agricultural Aid

Defendant claims a total of \$81.15 in expenditures for agricultural aid for plaintiff. The disbursements were made during 5 different years and the amounts ranged from \$4.09 to \$39.56 in any given year. These expenditures were of too small an amount to support an inference that they constituted tribal benefits. They are disallowed.

35. Feed and Care of Livestock

Defendant claims expenditures for the feed and care of livestock in the total amount of \$527.76 between 1858 and 1905. The disbursements in given years ranged from \$.77 to \$150.20. The expenditure of \$150.20 in 1868 constituted a tribal benefit. It is allowed. Part III, Section B, of the G.A.O. report, in Disbursement Schedule No. 52, indicates that the \$89.96 claimed for 1858 was disbursed from the appropriation "Removal and Subsistence of Indians in Washington Territory." We assume the disbursement was for removal purposes. It is denied. The remaining expenditures were of too small an amount to constitute a tribal benefit. They are disallowed.

36. Purchase of Livestock

Defendant claims \$265.26 as plaintiff's proportionate share of \$648.72 spent to purchase livestock. The expenditures claimed by defendant were made in two separate years. In 1864 defendant disbursed \$431.25 for the purchase of livestock, of which it seeks to offset \$176.34 against plaintiff. There are two vouchers which support this expenditure. The first is in the amount of \$187.50, and is for the purchase of one yoke of oxen for the use of "Indians on Nisqually Reservation." The second voucher is in the amount of \$243.75, and is for the purchase of one yoke of oxen for the use of "Indians on Puyallup Reservation." These expenditures constituted tribal benefits. They are allowed.

In 1866 defendant disbursed \$217.47 for the purchase of livestock, of which it seeks to offset \$88.92 against plaintiff. The supporting voucher indicates that this expenditure was of tribal benefit. We therefore allow it.

37. Pay of Interpreters

Defendant claims \$2,009.15 as plaintiff's share of money disbursed for the pay of interpreters between 1858 and 1871. The services of interpreters were at least as beneficial to the United States as they were to the plaintiff. Accordingly we deny these expenditures.

38. Provisions

Defendant claims expenditures for provisions in the amount of \$750.02. Claimed disbursements were made during four years between 1859 and 1880. Part III, Section B, of the G.A.O. report, in Disbursement Schedule No. 52, indicates that \$279.49 of the \$297.89 claimed by defendant for 1859 was disbursed from the appropriation "Removal and Subsistence of Indians in Washington Territory." We assume that the disbursements were for purposes of removal, and therefore disallow the claimed expenditure. The remaining disbursement in 1859 is too small to support the inference that a tribal benefit was conferred. It is disallowed. The expenditures of \$199.24 in 1869 and \$69.68 in 1870 were too small to permit the inference that a tribal benefit was conferred. We disallow these two expenditures.

The vouchers supporting the expenditures of \$183.22 in 1880 indicate that the goods purchased were delivered to the Nisqually Agency. The 1880 annual report of R. H. Milroy, agent at the Nisqually Agency, indicates that the agency included not only the three reservations on which the Medicine Creek Treaty tribes lived, but also the Chehalis Reservation and seven bands or tribes not located on reservations. Under these circumstances, the presumption that plaintiff received 40.89% of the goods purchased during 1880 is rebutted. This expenditure is disallowed.

39. Clothing

Defendant claims a total of \$2,662.75 in expenditures for the purchase of clothing for plaintiff. Claimed disbursements in this category were made in 1859, 1879, and 1880. Of the claimed amount, \$2,276.44 was expended in 1859. Part III, Section B, of the G.A.O. report, in Disbursement Schedule No. 52, indicates that \$1,598.89 of this amount was disbursed from the appropriation "Removal and Subsistence of Indians in Washington Territory." We assume the disbursement was for purposes of removal. It is disallowed. The remaining \$677.55 disbursed in 1859 constituted a tribal benefit and is allowed.

The remaining expenditures were of too small an amount to support the inference that they constituted a tribal benefit. We disallow them.

40. Household Equipment and Supplies

Defendant claims expenditures for household equipment and supplies in the amount of \$1,210.99. There were expenditures of \$1,112.21 in 1859 and \$98.78 in 1880. Part III, Section B, of the G.A.O. report, in Disbursement Schedule No. 52, indicates that the entire \$1,210.99

claimed for 1859 was disbursed from the appropriation "Removal and Subsistence of Indians in Washington Territory." We assume that the disbursement was for removal purposes. It is disallowed. The 1880 expenditure was too small to permit the inference that a tribal benefit was conferred. It is disallowed.

41. Hunting and Fishing Equipment

Defendant claims \$492.52 as plaintiff's proportionate share of \$1,204.50 expended for hunting and fishing equipment. Part III, Section B, of the G.A.O. report, however, in Statement No. 30, indicates that a total of only \$13.50 was expended for hunting and fishing equipment for all the tribes party to the Medicine Creek Treaty. Plaintiff's share of this expenditure is far too small to be considered of tribal benefit. This claimed expenditure is therefore denied.

42. Expenses, Care and Sale of Timber

Defendant claims expenditures of \$3,044.66 for the care and sale of timber. These expenses were part of those incurred during the period 1922 through 1958 for those reservations under the jurisdiction of the Tahola Agency and the Western Washington Agency. Defendant apportions the total expenditure among the reservations on an acreage basis. The supporting documents for these expenditures indicate that the money was expended for salaries of forest guards. These employees were primarily a part of the agency or administrative service. Therefore, these expenditures are disallowed.

43. Expenses, Soil and Moisture Conservation

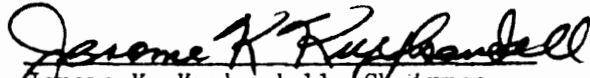
Defendant claims expenditures for soil and moisture conservation in the amount of \$171.96. These expenditures were made during the years 1953, 1954 and 1955. Defendant has not supplied any supporting vouchers or any other explanation of the nature of these expenditures. In other cases, disbursements under this category were for the salaries of employees and were disallowed. See, e.g., Mohave Indians v. United States, Dockets 183 and 295, 26 Ind. Cl. Comm. 263, 273 (1971). We find that defendant has not proved that these were proper offsets. They are disallowed.

44. Conclusion


In summation the offsets which the Commission allows are as follows:

1. Agricultural Aid	\$	0
2. Feed and Care of Livestock		150.20
3. Purchase of Livestock		265.26
4. Pay of Interpreters		0
5. Provisions		0
6. Clothing		677.55
7. Household Equipment and Supplies		0
8. Hunting and Fishing Equipment		0
9. Expenses, Care and Sale of Timber		0
10. Expenses, Soil and Moisture Conservation		<u>0</u>
Total Offsets Allowed		\$1,093.01

Deducting this amount from the interlocutory award previously entered in the amount of \$81,106.08, the Commission concludes that a final award in the amount of \$80,013.07 should be entered for plaintiff.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarbrough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner