

BEFORE THE INDIAN CLAIMS COMMISSION

THE SEMINOLE INDIANS OF THE STATE	)	
OF FLORIDA,	)	
and	)	
THE SEMINOLE NATION OF OKLAHOMA,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Docket Nos. 73 and 151
	)	(Consolidated)
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Decided: April 27, 1976

FINDINGS OF FACT ON COMPROMISE SETTLEMENT

The above-captioned consolidated dockets are now before the Commission for approval of a compromise settlement and entry of final judgment in the amount of \$16,000,000, with a waiver of review or appeal by either party, said judgment to dispose of all claims, demands, payments on the claim, counterclaims or offsets which defendant has asserted or could have asserted in these dockets under the provisions of Section 2 of the Indian Claims Commission Act, 60 Stat. 1049, 1050 (1946). Defendant has reserved the right to assert in any other Commission docket to which either plaintiff is a party, any offsets arising after October 22, 1970. A hearing having been held before the Commission on March 26, 1976, on the proposed compromise settlement, the Commission makes the following findings of fact:

1. History of Litigation. On August 14, 1950, and July 23, 1951, the Seminole Indians of the State of Florida and the Seminole Nation of Oklahoma, respectively, filed wholly overlapping claims for compensation for aboriginal lands relinquished to the United States under the Treaty of Camp Moultrie, September 18, 1823, 7 Stat. 224, and reservation lands ceded in 1832. These lands were approximately identified as all of the present State of Florida. The claims were assigned Dockets 73 and 151 and the land claims were consolidated and tried as a consolidated case.

On May 8, 1964, the Commission entered an interlocutory decision in Dockets 73 and 151, determining, inter alia, that at the time of the 1823 Camp Moultrie Treaty, the Seminoles had, except for certain designated areas, aboriginal title to all of the present State of Florida lying south and east of the Old Spanish Road which connected St. Augustine at the Atlantic Ocean with Pensacola at the Alabama-Florida border. See 13 Ind. Cl. Comm. 326 (1964), aff'd, 180 Ct. Cl. 375 (1967). On May 13, 1970, the Commission entered its decision determining that the value on September 18, 1823, of the plaintiffs' aboriginal lands, consisting of 23,892,626 acres, was \$12,500,000. See 23 Ind. Cl. Comm. 108. On October 22, 1970, the Commission determined that defendant was entitled to offset certain gratuities from the amount of the interlocutory award and entered a final award in favor of the plaintiffs in the amount of \$12,262,780.63 in full settlement of the claims in these consolidated dockets. <sup>\*/</sup> See 24 Ind. Cl. Comm. 1. Both parties appealed from the final award and, on February 18, 1972,

---

\*/ No recovery was allowed for the reservation lands ceded in 1832, the Commission having concluded at 23 Ind. Cl. Comm. 108, that the consideration was adequate.

the Court of Claims remanded these dockets to the Commission with instructions that the Commission make more specific findings on value and explain more fully the reasoning behind said findings. See 197 Ct. Cl. 350 (1972).

In the same decision, the Court of Claims directed that these dockets be consolidated with Commission Docket No. 280, C.W. McGhee, et al., (Creek Nation, East) v. United States, for the purpose of resolving overlapping claims. The claims in Docket 280 were ultimately dismissed and that docket severed from consolidated Dockets 73 and 151 (35 Ind. Cl. Comm. 7 (1974)), but it was not until January 3, 1976, that the Commission reacquired jurisdiction over the claims in Dockets 73 and 151.

2. Offer to Compromise. On July 24, 1975, counsel for both Seminole plaintiffs wrote to Assistant Attorney General Wallace H. Johnson formally offering to compromise the claims in these dockets. That letter reads as follows:

In accordance with the authority contained in the enclosed copies of Resolutions of the Tribal Councils of the Seminole Indians of the State of Florida, and the Seminole Nation of Oklahoma, we submit to you a formal offer to settle Seminole Cases, Dockets 73 and 151, consolidated, before the Indian Claims Commission, for the net amount of \$16,000,000.00.

Respectfully submitted,

/s/ Roy L. Struble  
Roy L. Struble

/s/ Effie Knowles  
Effie Knowles

/s/ Charles Bragman  
Charles Bragman,

/s/ Paul M. Niebell  
Paul M. Niebell,  
Attorney for the Seminole  
Nation of Oklahoma

Attorneys for the Seminole  
Indians of the State of Florida

3. Resolutions Authorizing Council to Negotiate. Accompanying the offer to compromise and referred to therein were the resolutions of the respective tribal councils, which resolutions read as follows:

SEMINOLE TRIBE OF FLORIDA  
HOLLYWOOD, FLORIDA

RESOLUTION NO. C-11-76

WHEREAS, the Seminole Tribe of Florida is an organized Tribe as defined in Section 16 of the Act of June 18, 1934, as amended, and

WHEREAS, the Seminole Indians of The State of Florida and The Seminole Nation of Oklahoma have consolidated Dockets No.'s 73 and 151 pending before the Indian Claims Commission, and

WHEREAS, it appears desirable to compromise and settle said claim, if possible, and

WHEREAS, Roy L. Struble, Effie Knowles, and Charles Bragman, claims Attorneys for the Tribe, have recommended that they be authorized and empowered to enter into a stipulation for settlement of said proceeding before the Indian Claims Commission, i.e. consolidated Dockets No.'s 73 and 151, being entitled The Seminole Indians of The State of Florida v. The United States of America, and The Seminole Nation of Oklahoma v. The United States of America, for a sum not less than Sixteen Million Dollars (\$16,000,000.00), net.

NOW THEREFORE BE IT RESOLVED: That Roy L. Struble, Effie Knowles, and Charles Bragman, claims Attorneys aforesaid, are hereby authorized to enter into a stipulation for settlement of the proceeding pending before the Indian Claims Commission, entitled consolidated Dockets No.'s 73 and 151, and entitled The Seminole Indians of The State of Florida v. The United States of America, and The Seminole Nation of Oklahoma v. The United States of America, for a sum not less than a net of Sixteen Million Dollars (\$16,000,000.00).

DONE THIS 18th DAY OF JULY, 1975, at a special meeting of the Tribal Council, duly convened in Hollywood, Florida, a quorum being present, by a vote of 4 for, none against, with no abstentions.

/s/ Howard E. Tommie  
Chairman  
TRIBAL COUNCIL

ATTEST:

/s/ Dorothy S. Osceola  
Secretary  
TRIBAL COUNCIL

RESOLUTION NO. 75-22

WHEREAS, the Seminole Nation of Oklahoma has a claim against the United States for the fair market value of lands in Florida formerly owned by the Seminole Nation, and said claim has been in litigation before the Indian Claims Commission since 1951, and is designated as Docket No. 151, and

WHEREAS, said Docket No. 151 was consolidated for trial with a similar claim of the Seminole Indians of the State of Florida, designated as Docket No. 73, which has also been in litigation before the Indian Claims Commission since 1951; and

WHEREAS, after many years of active litigation the Indian Claims Commission entered a judgment in favor of the Seminole plaintiffs in the consolidated cases in the net amount of \$12,262,780.63, on October 22, 1970, 24 Ind. Cl. Comm. 1, which on appeal was reversed by the United States Court of Claims on February 18, 1972, 197 Ct. Cl. 350, and remanded to the Indian Claims Commission for more specific findings of fact to justify the value of said Florida lands as determined by the Commission; and in its decision the Court ordered the consolidation of the claim of C. W. McGhee, et al. (Creek Nation East) with the Seminole cases to settle an overlapping claim of said Creek Nation East group for some of the Florida lands included in the judgment in the consolidated Seminole cases, Dockets 73 and 151; and

WHEREAS, counsel for both Seminole groups have succeeded after trial and subsequent proceedings in having the overlapping claim of C. W. McGhee, et al (Creek Nation East) dismissed with prejudice, and cut away from the consolidated Seminole cases by Order of the Indian Claims Commission entered September 13, 1974, 35 Ind. Cl. Comm. 7-10; and on June 27, 1975 further succeeded in having the United States Court of Claims dismiss the appeal of said C. W. McGhee et al. (Creek Nation East) from the September 13, 1974 Order of the Commission, and affirm said Order of the Commission dismissing said Creek Nation East claim with prejudice; and

WHEREAS, it is the desire of the Seminole Nation of Oklahoma to settle the claims in the consolidated Seminole cases, Dockets 73 and 151, and thus avoid further litigation which could continue for several more years, with the future loss of interest on said judgment money,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Seminole Nation of Indians of the State of Oklahoma, acting through its General Council, at its regularly called meeting held pursuant to notice, at the General Council House, Mekusukey Mission, Seminole, Oklahoma, on this 19th day of July, 1975, that Paul M. Niebell, counsel for the Seminole Nation of Oklahoma in Docket No. 151, be and is hereby authorized to settle by stipulation of the parties as expeditiously as possible the claim of the Seminole Nation of Oklahoma and the Seminole Indians of the State of Florida, plaintiffs in consolidated cases, Dockets 73 and 151, for the total net sum of not less than \$16,000,000.00, without off-sets.

NOW, THEREFORE, LET IT BE RESOLVED, That this resolution as approved be wholly supported by the Seminole Nation of Oklahoma.

Adopted this 19th day of July, 1975, at the meeting convened at the Council House, Mekusukey Mission, Seminole, Oklahoma, by a vote of 34 for and 0 against.

/s/Edwin Tanyan  
Edwin Tanyan, Principal Chief  
Seminole Nation of Oklahoma

ATTEST:

/s/ Corena Mae England  
Secretary, General Council

4. Defendant's Conditional Acceptance. By letter dated September 22, 1975, the defendant, by Acting Assistant Attorney General Walter Kiechel, Jr., accepted the offer to compromise, subject to the following conditions:

1. That the proposed settlement be approved by appropriate resolutions of the governing bodies of the plaintiff tribes.

2. 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.

3. That a copy of each resolution and the approval of the terms of the settlement by the Department of the Interior be furnished to this Department.

4. That the judgments entered into pursuant to this settlement shall finally dispose of all claims or demands which the plaintiffs have asserted or could have asserted in Docket Nos. 73 and 151 before the Indian Claims Commission.

5. That the United States will waive any and all claims for offsets which have been asserted or could have been asserted against the plaintiff tribes under the provisions of section 2 of the Indian Claims Commission Act up to October 22, 1970.

6. That the settlement is conditioned on a prior final disposition of any overlapping claim in the case of McGhee (Creek Nation East) v. United States, Docket No. 280, before the Indian Claims Commission.

7. That the Commission shall approve of this settlement and the stipulation before the judgment is entered.

5. Resolution Accepting Compromise - General Council of Seminole Nation of Oklahoma. To comply with condition 1 of the defendant's letter of acceptance, a meeting of the General Council of the Seminole Nation of Oklahoma was convened on September 27, 1975, pursuant to notice. The General Council which, pursuant to the Constitution of the Seminole Nation

of Oklahoma, has the power to act on behalf of the Nation in all matters in which the Nation is empowered to act, approved the following resolution by a vote of 31 in favor and 0 against:

RESOLUTION NO. 75-31

A RESOLUTION ACCEPTING SETTLEMENT OF THE FLORIDA LAND CLAIMS FOR \$16,000,000.00.

WHEREAS, the Seminole Nation of Oklahoma has previously authorized its claims attorney to settle the Florida Land Claims for not less than \$16,000,000.00 with no offsets, and

WHEREAS, the claims attorney has now advised that the claim has been settled for \$16,000,000.00 with no offsets, for the combined claim of the Seminole Nation of Oklahoma and the Seminole Tribe of Florida,

NOW THEREFORE BE IT RESOLVED by the General Council of the Seminole Nation of Oklahoma that the settlement of \$16,000,000.00 be, and it hereby is, approved and accepted.

PASSED AND APPROVED by the General Council of the Seminole Nation of Oklahoma this 27 September 1975 at Mekusukey, Oklahoma, by a vote of 31 for, 0 against, and 0 abstaining, a quorum of 22 Council Members being present.

/s/ Edwin Tanyan  
Edwin Tanyan, Principal Chief  
Seminole Nation of Oklahoma

ATTEST:

APPROVED BY MUSKOGEE AREA, BIA

/s/ Corena England  
Corena England, Secretary of  
the General Council of the  
Seminole Nation of Oklahoma

By: \_\_\_\_\_  
Area Director

Date: \_\_\_\_\_

6. Same--Tribal Council of Seminole Tribe of Florida. A like resolution, dated November 21, 1975, was approved by the Tribal Council of the Seminole



Tribe of Florida, by a vote of 5 in favor and 0 against. That resolution reads as follows:

SEMINOLE TRIBE OF FLORIDA  
HOLLYWOOD, FLORIDA

RESOLUTION NO. C-51-76

WHEREAS, the Seminole Tribe of Florida is an organized Tribe as defined in Section 18 of the Act of June 18, 1934, as amended; and

WHEREAS, the Seminole Indians of The State of Florida, and The Seminole Nation of Oklahoma have consolidated Dockets Nos. 73 and 151 pending before the Indian Claims Commission; and

WHEREAS, the Bureau of Indian Affairs, U.S. Department of the Interior, has raised some question with respect to approval of the settlement authorized to be made by the Claims Attorneys (per Resolution No. C-11-76 copy attached hereto) involving the pending Dockets Nos. 73 and 151 before Indian Claims Commission; and

WHEREAS, the Chairman recommended the adoption of the following resolution:

NOW THEREFORE BE IT RESOLVED: That the Tribal Council approves the proposed settlement of Claims Dockets Nos. 73 and 151 pending before Indian Claims Commission for the total figure of Sixteen Million Dollars (\$16,000,000.00) net. In other words, no offsets are to be charged against this amount.

DONE THIS 21st DAY OF NOVEMBER, 1975, at a regular meeting of the Tribal Council, duly convened in Hollywood, Florida, a quorum being present, by a vote of 5 for, none against, and with no abstentions.

/s/ Howard E. Tommie  
Chairman  
TRIBAL COUNCIL

ATTEST:

/s/ Dorothy S. Osceola  
Secretary-Treasurer

7. Satisfaction of Condition. Condition 6 of the defendant's letter of acceptance, supra, required a prior final disposition of any overlapping claim in the case of C. W. McGhee, et al. (Creek Nation, East) v. United States, Docket 280. This condition has been satisfied as a result of the Commission's dismissal of that case. See 35 Ind. Cl. Comm. 7 (1974), reh. denied, 35 Ind. Cl. Comm. 117 (1974), appeal dismissed, App. No. 1-75 (Ct. Cl., June 27, 1975), reh. denied, Oct. 3, 1975.

8. Political Organization of Seminole Indians in Florida. Seminole Indians in Florida are organized into three separate political entities. The largest Seminole political entity, with an enrolled membership of 1,230 persons, is the Seminole Tribe of Florida. Members of the Seminole Tribe of Florida reside on three Federal reservations--Brighton, Big Cypress and Hollywood--in the southern portion of the State of Florida. The Seminole Tribe of Florida is an organized tribe of American Indians recognized by the Department of the Interior.

A second group of Florida Seminoles, numbering approximately 400 persons, is the Miccosukee Tribe of Indians of Florida. This group is also an organized tribe of American Indians and is recognized by the Department of the Interior. There is a State reservation, the Miccosukee Indian Reservation, where some members of this group apparently reside. Others, according to testimony at the settlement hearing before the Commission, infra, reside in camps in and around Immokalee, Florida.

A third group of Florida Seminoles is the Everglades Miccosukee Tribe of Seminole Indians. According to testimony at the settlement

hearing, members of this group, numbering approximately 40 persons, reside in three camps, located near Naples, Florida. The Everglades Miccosukee Tribe of Seminole Indians is not politically affiliated with the reservation organizations nor do they participate in Federally sponsored services. By letter dated January 27, 1958, the Commissioner of Indian Affairs recognized this group ". . . to speak for and on behalf of those Indians who have affiliated with the organization. . ." and ". . . to speak for its members on matters which are of concern to the Florida Seminoles as a whole (such as the pending claim against the United States). . . ." (See Comm. Ex. No. 1.)

The Commission has previously determined that all Florida Seminoles, regardless of political affiliation, are represented in the claim denominated Docket No. 73. See 19 Ind. Cl. Comm. 440 (1968).

9. Notice to Florida Seminoles of January 22, 1976 Meeting. The Seminole Tribe of Florida prepared the following notice, dated January 7, 1976, of the general meeting of Florida Seminoles convened to discuss and vote on the proposed settlement:

HOLLYWOOD, FLORIDA 33024

NOTICE OF GENERAL MEETING      JANUARY 7, 1976

TO: ALL MEMBERS OF THE SEMINOLE  
OF THE STATE OF FLORIDA [sic]

NOTICE IS HEREBY GIVEN THAT A GENERAL MEETING OF THE MEMBERS OF THE SEMINOLE TRIBE OF THE STATE OF FLORIDA WILL BE:

JANUARY 22, 1976  
10:00 A.M.  
HOLLYWOOD INDIAN RESERVATION  
GYMNASIUM BUILDING  
HOLLYWOOD, FLORIDA

THE PURPOSE OF THE MEETING WILL BE TO CONSIDER AND PASS UPON A PROPOSED SETTLEMENT OF THE LAND CLAIMS OF THE SEMINOLE TRIBE OF THE STATE OF FLORIDA AND OF THE SEMINOLE NATION OF OKLAHOMA VS.

UNITED STATES GOVERNMENT PENDING BEFORE THE INDIAN CLAIMS COMMISSION, NO. 73-151, FOR THE NET SUM OF SIXTEEN MILLION DOLLARS (\$16,000,000.00).

THE TRIBAL COUNCIL HAS HERETOFORE APPROVED SAID SETTLEMENT, AND IT APPEARS NECESSARY AND ADVISABLE THAT CONSIDERATION AND APPROVAL BE GIVEN BY ALL MEMBERS OF THE SEMINOLE TRIBE OF THE STATE OF FLORIDA.

ALL SEMINOLE INDIANS ARE URGED TO ATTEND THIS MEETING.

Testimony at the settlement hearing before the Commission, infra, indicated that 2 1/2 to 3 weeks before the meeting approximately 300 copies of this notice were printed and distributed by hand on the three Seminole federal reservations and at the Seminole village of Immokalee, Florida; that copies of the printed notice were mailed to the office of the Miccosukee Tribe of Indians of Florida; that notice of the meeting was published in The Alligator Times, a newspaper published by the tribal council of the Seminole Tribe of Florida; and in local newspapers of general circulation such as the Miami Herald; that notice of the meeting was broadcast on television and radio in south Florida; and that many Seminoles were informed of the meeting by telephone and direct conversation.

10. Meeting of Florida Seminoles. On January 22, 1976, a general meeting of the members of the Seminole Tribe of the State of Florida was held at the Gymnasium Building of the Hollywood Indian Reservation, Hollywood, Florida. This meeting was open to all Seminole Indians in Florida and was attended by 376 Seminole Indians. Mr. Howard E.

Tommie, the elected Chairman (Chief) of the Seminole Tribe of Florida presided over the meeting.

At the meeting, the tribal claims attorney, Mr. Roy Struble, presented a comprehensive review of the Seminole history that led up to the land claim suit and reviewed the procedures and activities relative to the claim from its initiation to the present. He also explained the terms of the proposed settlement. Questions were asked regarding the settlement, including the alternative of continuing the case for possible settlement for a sum higher than the proposed sum of \$16,000,000.00. Questions were also asked regarding the participation in the claim of the Oklahoma Seminoles and how they would share in the settlement. Mr. Struble and Mr. Tommie also explained the general process that will be necessary after the settlement becomes effective and before actual distribution can be made. Chief Tommie translated the proceedings into the Miccosukee language and he, assisted by Stanley Johns, the Councilman of the Brighton Reservation, translated the proceedings into the Creek language.

After three hours of discussion, Mr. Tommie called for a vote on the following resolution:

Be it therefore resolved that: following the discussion of their land claim pending before the Indian Claims Commission in accepting the proposed \$16,000,000 compromise settlement the members of the Seminole Tribe of Florida here assembled endorse the actions of the elected Council of the Seminole Tribe of Florida.

Seven persons voted against this resolution; almost all others present voted for the resolution.

Testimony at the settlement hearing before the Commission indicated that approximately five Miccosukee Seminoles from the camps near Naples, Florida, attended the meeting but that none of them asked questions. In addition, testimony at the settlement hearing indicated that one Mike Osceola who is a member of the Seminole Tribe of Florida but lives in the area of the three camps near Naples did speak at length at the meeting. All Seminole Indians in Florida, whether or not members of the organized Seminole Tribe of Florida, were entitled to attend and vote at the meeting.

11. Approval of the Secretary of the Interior. On October 1, 1975, counsel for both plaintiffs addressed a letter to the Honorable Morris Thompson, Commissioner of Indian Affairs, requesting his approval of the proposed settlement. In a letter dated March 10, 1976, addressed to Paul M. Niebell, attorney for the Seminole Nation of Oklahoma, Commissioner Thompson, who is the authorized representative of the Secretary of the Interior, approved the settlement. In pertinent part, the Commissioner's letter states as follows:

On July 24, 1975, you sent a letter to the Honorable Wallace H. Johnson, Assistant Attorney General of the United States, offering to settle the claims in dockets 73 and 151 in the Indian Claims Commission in favor of the Seminole Indians of the State of Florida and the Seminole Nation of Oklahoma in the amount of \$16,000,000. This offer was accepted by the Acting Assistant Attorney General Walter Kiechel, Jr., on September 22, 1975, subject to certain conditions, namely, that the proposed settlement be approved by appropriate resolutions of the governing bodies of the plaintiff tribes; that the approval of the settlement be secured from the Secretary of the Interior or his authorized representative;

and that copies of the tribal resolutions and the approval of the terms of the settlement by the Department of the Interior be furnished to the Department of Justice.

#### TRIBAL APPROVAL OF THE SETTLEMENT

The Seminoles of Florida:

The proposed compromise settlement was initially considered by the Seminole Tribal Council, the governing body of the Seminole Tribe of Florida, in a special joint session with the Seminole Board of Directors which represents the Seminole Tribe of Florida, Inc. By Resolution C-11-76 enacted on July 18, 1975, the Seminole Tribal Council by a vote of four for and none against, authorized the tribal claims counsel, Attorneys Roy L. Struble, Effie Knowles, and Charles Bragman, to enter into a stipulation for the settlement of the claims in dockets 73 and 151, and by Resolution C-51-76, enacted November 21, 1975, formally approved the proposed compromise settlement by a vote of five for and none against.

On November 6, 1975, Superintendent Duane C. Moxon of the Seminole Agency certified that the signatures appearing on Resolution C-11-76 are those of Mr. Howard Tommie, Chairman of the Seminole Tribal Council, and Dorothy S. Osceola, Secretary of the Seminole Tribal Council. The same signatures appear on Resolution C-51-76.

The initial submittal of the proposed compromise for tribal approval by the Seminole Tribe of Florida did not follow in whole established procedures as set out in the Omaha decision (8 Ind. Cl. Comm. 416). We were concerned whether the procedure that was followed resulted in the necessary tribal understanding of and consent by the tribal members to the proposed settlement. Our principal concern involved the lack of a general meeting of the tribal membership at which the claims attorneys explain to the tribal members the "pros and cons" of disposing by compromise of the issues involved rather than resolving them by litigation. The usual procedure involves an initial general meeting of the tribal membership, and upon its acceptance of the proposed settlement a subsequent meeting of the tribal governing

body to consider the settlement. You and the claims attorneys representing the Seminole Tribe of Florida diligently proceeded to rectify this lack and made arrangements for full discussion of the proposed compromise by the tribal members.

On January 22, 1976, Claims Attorney Roy Struble presented to the Seminole tribal membership the matter of the proposed compromise. Notice of the meeting was issued on January 8, 1976, 300 copies of which were well distributed on each of the three Florida Seminole reservations: Hollywood, Big Cypress and Brighton. Copies of the notice were posted in the tribal offices and the Seminole Indian Agency.

The meeting was attended by 376 tribal members and chaired by Mr. Howard E. Tommie, Chairman of the Seminole Tribal Council. Claims Attorney Struble presented a comprehensive review of the Seminole history that led to the land claim suit and reviewed the procedures and activities of the tribal claim from its initiation to the present. This presentation was interpreted in the Miccosuki language by Chairman Tommie and in the Creek language by Chairman Tommie as assisted by Mr. Stanlo Johns, Brighton Reservation Councilman.

Questions were asked regarding the alternative of continuing the case for possible settlement higher than the proposed \$16,000,000 settlement and regarding the Seminoles of Oklahoma participating in the claim and sharing in the settlement. Superintendent Moxon, who attended the meeting, feels that the tribal members who were at the meeting of January 22 were given a full explanation of the proposed compromise and through discussion of it that the members understand the nature of their claims and the terms of the proposed settlement. Chairman Tommie called for a vote on the following resolution of the general tribal meeting:

"Be it therefore resolved that: following the discussion of their land claim pending before the Indian Claims Commission in accepting the proposed \$16,000,000 compromise settlement the members of the Seminole Tribe of Florida here assembled endorse the actions of the elected Council of the Seminole Tribe of Florida."

The resolution was adopted with only seven dissenting votes against it.



We are satisfied that the general tribal meeting was well publicized and that the tribal members had an opportunity to attend. The meeting was satisfactorily conducted with the voting held after the members had the opportunity to consider fully the proposed compromise. The meetings of the Seminole Tribal Council at which Resolutions C-11-76 and C-51-76 were adopted were also satisfactorily called and conducted with the resolutions approving the settlement being duly adopted. The resolutions are hereby approved.

The Seminoles of Oklahoma:

The proposed compromise was first discussed by the Seminole General Council, the governing body of the Seminole Nation of Oklahoma, at its meeting of July 19, 1975. At this meeting the information contained in your letter of July 15, 1975, addressed to Principal Chief Edwin Tanyan, which summarizes the history of the claims in dockets 73 and 151 and explains the basis for the proposed compromise, was fully discussed and deliberated upon. Following such deliberation, Resolution 75-22 was adopted by the general council by a vote of 34 for and none against authorizing you to settle the claims by stipulation of the parties as expeditiously as possible for the sum of \$16,000,000.

The proposed compromise was again fully discussed by the general council at its meeting of July 31, 1975, at which time the action taken by that body on July 19, 1975, was affirmed by a vote of 27 for, 3 against, with one abstention. It was again deliberated upon at a special general council meeting held on September 27, 1975, at which Resolution 75-31 was adopted by an unanimous vote of 31 to nothing, approving the settlement of the claims in dockets 73 and 151.

The Seminole General Council of Oklahoma is composed of 42 members (three representatives from each of 12 Seminole bands or "towns" and from each of the two freedmen bands or "towns") and provides an effective two-way communication between the tribal membership and the tribal governing body. Discussion of all matters to be brought before the general council takes place in band meetings held prior to each general council session and the band representatives are instructed by their constituents on the position to be taken by them at the general council at least 10 days prior to the date of each meeting, except in unusual cases when a shorter notice of such meeting must be made.

Both Superintendent Buford Morrison and the Acting Area Director of the Muskogee Area Office feel that the question of accepting or rejecting the compromise settlement of the Florida land claims has had full disclosure of all pertinent issues pertaining to the claims case. Subsequent to each of the general council meetings of July 19, July 31, and September 27, 1975, Acting Area Director Kennedy of the Muskogee Area Office advises that band representatives reported to their constituents a complete account of the council proceedings, and gleaned from band members recommendations to be referred to the General Council.

We are satisfied that the general council meetings were well publicized and satisfactorily conducted with the voting held after the members had the opportunity to consider fully the proposed compromise with Resolution 75-31 approving the proposed compromise being duly adopted.

In light of the information on file in this office and that obtained from other sources, we are satisfied that the proposed settlement of dockets 73 and 151 has been adequately presented to the tribal members of both the Florida and Oklahoma Seminoles and that the acceptance of the settlement at their respective meetings represents the consensus of both tribes. Therefore, as our information indicates that the proposed settlement is fair and just, the settlement is hereby approved.

12. Stipulation. A stipulation for entry of final judgment was agreed to by counsel for all parties. The stipulation reads:

STIPULATION FOR ENTRY OF FINAL JUDGMENT

It is hereby stipulated and agreed between counsel for the parties that the above entitled consolidated cases shall be settled and disposed of by the entry of final judgment by the Indian Claims Commission in favor of the Seminole Indians of the State of Florida and the Seminole Nation of Oklahoma, and against the United States in the total net sum of Sixteen Million Dollars (\$16,000,000.00), and that no review therefrom is to be sought by either of the parties.

That no offset claims are to be asserted against said judgment so entered, and the United States hereby waives any and all claims for offsets which have been asserted or could have been asserted against the plaintiffs in this

case under the provisions of Section 2 of the Indian Claims Commission Act. However, the United States reserves and does not waive its right to assert offsets arising after October 22, 1970, if any, in any other Seminole case pending before the Commission.

Nothing connected with this compromise may be construed as an admission of either of the parties as to any issues for purposes of precedent in any other case.

/s/ Paul M. Niebell  
Paul M. Niebell  
Attorney for the Seminole Nation  
of Oklahoma, Plaintiff

/s/ Roy L. Struble  
Roy L. Struble PMN\*

/s/ Effie Knowles  
Effie Knowles PMN\*

/s/ Charles Bragman  
Charles Bragman PMN\*

Attorneys for the Seminole Indians  
of the State of Florida, Plaintiffs

/s/ Peter R. Taft  
Peter R. Taft  
Assistant Attorney General

/s/ A. Donald Mileur  
A. Donald Mileur, Attorney  
Department of Justice

/s/ Craig A. Decker  
Craig A. Decker, Attorney  
Department of Justice

Attorneys for the United States,  
Defendant.

---

\* The initials "PMN" apparently mean that Mr. Paul M. Niebell actually signed the names of the respective attorneys for the Seminole Indians of the State of Florida.

13. Communications to Commission from Everglades Miccosukee Tribe of Seminole Indians; March 21, 1976, and March 24, 1976. The following letter dated March 21, 1976, and telegram dated March 24, 1976, were received by the Commission from the Everglades Miccosukee Tribe of Seminole Indians, the former having been admitted into evidence as Exh. No. S-10, and the latter admitted into evidence as Commission Exhibit No. 2 by the accompanying order:

We have read in the newspapers where all Indians in Florida are supposed to have held a meeting and approved a so-called \$16,000,000 settlement. We also heard the BIA sent out notices of the meeting. This is not true. We don't know any Indians who received such a notice. We were never notified of any such meeting and do not approve of any so-called \$16,000,000 settlement. And we are sending you the letter of recognition U.S. Indian Commissioner Glenn Emmons gave our Tribe agreeing that our council must approve any such settlement, and the letter U.S. Secretary of Interior Seaton signed himself approving Mr. Emmons agreement dated Jan. 27, 1958, on July 12, 1960.

The lawyers who filed this so-called claim #73 25 years ago for \$50,000,000 and the lawyers who made this so-called settlement for \$16,000,000 are not our lawyers and never have been. The Indian called Howard Tommie, who says he speaks for all Indians in Florida does not speak for our tribe or tribal council and never has. He has never been on our council and has never been in our tribe, He is a Muskogee and has never had any authority to represent our tribe or make any so-called \$16,000,000 settlements for our Miccosukee Nation or tribal council. For 25 years we have tried to tell you that the individual Indians who made the so-called claim #73, 25 years ago in the name of all the Indians in Florida, were not then and never have been representatives of all the Indians of Florida or our Miccosukee Nation- but you were afraid to hear this truth and afraid to even let us have a hearing-which everyone is supposed to have under your constitution. It was a fake money claim 25 years ago when it started, and it is a fake money claim today.

We cannot stop you from giving away U.S. money to whoever you want to. But we want to make it clear to you and the rest of the world before you try to tell everyone you are giving your money to all the Florida Indians, that our Tribe does not want your money and we have never asked for it. Our Miccosukee Seminole Nation has never made any claim for money in your Commission or any place else in the U.S. government.

For 25 years we have told you and the U.S. we want our land, not money.

And we know that the U.S. has made strong treaties, stronger than your Commission, where the U.S. must protect our people and our Florida lands for us forever. These strong treaties say you cannot let anyone trick us out of our lands and you cannot force us to sell it. Our land is not for sale.

We are sending you a copy of our letter to Pres. Ford, Feb. 2, 1976 and attorney general Levi, Feb. 3, 1976 and Mar. 16, 1976, and our letter to the U.S. Congress c/o Bella Abzug, Mar. 16, 1976.

Cert. # 129940 Ret. Rec. Req.    The Executive Council  
Copy Sent to Cong. Bella Abzug

Howard Osceola  
Douglas Osceola  
Homer Osceola  
Bill McKinley Osceola

Claim # 73 - AND ALL OTHER MONEY CLAIMS

OUR TRIBE, YOU SOMETIMES CALL THE MICCOSUKEE SEMINOLE NATION, WAS NEVER NOTIFIED OF ANY SO-CALLED JANUARY MEETINGS FOR ALL FLORIDA INDIANS AND NO ONE EVER ASKED FOR OUR TRIBE'S APPROVAL OF THE SO-CALLED \$16,000,000. SETTLEMENT WITH ALL FLORIDA INDIANS-WHICH OUR TRIBE DOES NOT APPROVE- AND WHICH APPROVAL YOU WILL SEE IS NECESSARY FROM THE LETTER YOU WILL GET FROM OUR TRIBE MARCH 25, 1976 ENCLOSING BOTH COMMISSIONER EMMON'S JAN. 27, 1958 AGREEMENT AND SECRETARY OF INTERIOR SEATON'S JULY 12, 1960 AGREEMENT WITH OUR TRIBE.

OUR TRIBE HAS TOLD YOU MANY TIMES, OVER 25 YEARS, THAT THIS UNAUTHORIZED CLAIM #73 WAS NEVER MADE OR AUTHORIZED BY OUR TRIBE. ALL INDIANS AND LAWYERS WHO HAVE EVER HAD ANYTHING TO DO WITH STARTING AND MAKING CLAIM #73 AND THE SO-CALLED

\$16,000,000. SETTLEMENT, SUCH AS HOWARD TOMMIE, HAVE NEVER HAD ANY LAWYERS REPRESENTING OUR TRIBE IN CLAIM #73, OR ANY OTHER CLAIM FOR MONEY- EXCEPT TO FIGHT IT.

THEREFORE, IF YOU TRY TO TELL EVERYONE YOU ARE GIVING YOUR MONEY TO ALL FLORIDA INDIANS, OUT OF CLAIM #73, OR ANY OTHER CLAIM, WE WANT TO MAKE IT CLEAR TO YOU AND THE WORLD THAT OUR TRIBE DOES NOT WANT YOUR MONEY AND HAVE NEVER ASKED FOR ANY MONEY FROM YOUR COMMISSION OR ANYONE ELSE.

YOU SHOULD KNOW THE U. S. MADE STRONG TREATIES THAT PROTECT OUR TRIBE AND OUR FLORIDA LANDS FOR US FOREVER-SO NO ONE CAN TRICK US OUT OF THE LANDS OR FORCE US TO SELL IT. OUR LAND IS NOT FOR SALE.

MARCH 24, 1976

EXECUTIVE COUNCIL  
EVERGLADES MICCOSUKEE TRIBE OF SEMINOLE INDIANS  
HOWARD OSCEOLA  
HOMER OSCEOLA  
DOUGLAS OSCEOLA  
BILL MCKINLEY OSCEOLA  
JOHN OSCEOLA

14. Settlement Hearing Before the Commission; March 26, 1976. By order of March 17, 1976, the Commission set a hearing on the proposed settlement on March 26, 1976, at the hearing room of the Commission in Washington, D. C. At the hearing six Seminole Indians who are members of the Seminole Tribe of Florida testified that they favored the settlement and also testified regarding all aspects of the settlement procedures, as did three Seminole Indians who are members of the Seminole Nation of Oklahoma.

Mr. Howard E. Tommie testified that he lives in Hollywood, Florida; that he is the elected Chairman or Chief of the Seminole Tribe of Florida;

and that he presided over the dissemination of notice of the January 22, 1976, Seminole meeting and the meeting itself. He testified that he believed that general notice of the meeting had been effectively given to all Seminole Indians in Florida. When asked whether he believed that members of the Everglades Miccosukee Tribe of Seminole Indians had received notice of the meeting he testified that some Seminoles from the area where these Miccosukees live were present at the meeting and further stated as follows

. . . we know that it [the claim] is a common interest among Indian people and it is discussed among Indian people. And we have close--we do not have a large population.

So, any interest among the Indian people is discussed. So the amount of notice in my mind, was there ~~were~~ notified, by verbally or by the notices that were sent out. [sic]

Dorothy Osceola testified that she lives on the Hollywood Reservation and that she is Secretary-Treasurer of the Tribal Council of the Seminole Tribe of Florida. She testified that notice of the meeting was distributed 2 1/2 to 3 weeks prior to the meeting, and that the written notice was given general distribution throughout the reservations and among the Seminole Indians in Florida. She testified that she spoke by telephone with several persons at the tribal office of the Miccosukee Tribe of Indians of Florida including Alice Day who is the sister of Howard Osceola (who is Co-Chairman of the Everglades Miccosukee Tribe of Seminole Indians) and lives in the same community as her brother, that she informed these persons of the meeting, and that she asked those with whom she spoke to

inform other persons. She further testified that to her knowledge the Everglades Miccosukee Tribe of Seminole Indians does not have an office. Asked whether she believed the latter group knew of the meeting, she testified as follows:

We hand distribute anything of importance which is regarding the Indians of the Seminole Tribe, and we always mail a copy to the Miccosukee Tribal Office, and these independent Miccosukees, as they call themselves, they go to this office in and out, and they are also my relatives and we talk, and I'm sure that they knew.

Michael Tiger testified that he lives on the Hollywood Indian Reservation and that he is a member of the Board of Directors of the Seminole Tribe of Florida, Incorporated, which is the economic development base of the Seminole Tribe of Florida. Mr. Tiger testified that he personally met with John Osceola, Jr., whose father is a member of the Executive Council of the Everglades Miccosukee Tribe of Seminole Indians; that he discussed the meeting and the proposed settlement in detail with John Osceola, Jr., and that he gave John Osceola, Jr., a copy of the printed notice of the meeting. He further testified that a copy of the notice was posted at the Miccosukee Tribal office, that persons living in the three camps near Naples frequently pass in and out of that office, and that, in his opinion, these persons must have known about the meeting.

Paul Buster testified that he resides on the Big Cypress Reservation and that he is a member of the tribal council of the Seminole Tribe of Florida. He testified that he personally distributed approximately



50 written notices of the meeting to Seminoles living in the Immokalee area who are members of the Miccosukee Tribe and that these Indians are related to, socialize and intermarry with those Miccosukees living in the camps near Naples. He testified that several of the latter Miccosukees attended the January 22, 1976, meeting, and that since they attended the meeting they must have had notice of it.

Bill Osceola testified that he is a Baptist Minister and is also the President of the Board of Directors of the Seminole Tribe of Florida, Inc. He stated that he is a Miccosukee but belongs to the Seminole Tribe of Florida. He testified that the claim and the proposed settlement thereof were generally discussed by Seminole Indians, that the meeting was a matter of common information among Seminoles, and that he believed that the majority of Seminoles surely knew about the meeting.

Stanley Johns testified that he is the tribal councilman from the Brighton Reservation. He testified that written notice of the meeting was posted at five locations on the Brighton Reservation. When asked whether he believed the Everglades Miccosukees knew of the meeting he responded as follows:

I would say, yes, sir. . . They would have to know because its in the news media, on television, radios, newspapers. . . because this had been talked about for 20 years.

Edwin Tanyan testified that he is Chief of the Seminole Nation of Oklahoma; that the legislative body of the Seminole Nation of Oklahoma

is the Seminole General Council, which is composed of 42 council members, who represent the 14 bands of the Seminole Nation, and each band has a band chief; that it is the custom of the Seminole Nation of Oklahoma to bring the band chiefs together and discuss important matters with them so that they in turn can call their band members together and discuss such matters with them in band councils; that the General Council makes all the decisions relative to the affairs of the tribe, including tribal level funds, tribal programs, Indian Claims settlements, and contracts with attorneys, and that the General Council authorized the appearance of the present witnesses to appear at the hearing on behalf of the Seminole Nation of Oklahoma. He further testified that his signature appears on the resolution of the Seminole General Council of July 19, 1975, and that the other signature thereon is that of Corena England, Secretary of the General Council; that this resolution was approved by the Muskogee Area Office; that an agent from the Area Office is usually present at General Council meetings; that the Resolution of July 19, 1975, was the first resolution passed by the Seminole General Council by a vote of 34 in favor of, and none against, and directed the claims attorney to consummate the settlement, and approved the proposed settlement for not less than \$16,000,000; that subsequent to the council meeting of July 19, 1975, the council members had another meeting with the band chiefs, during which the settlement was again discussed at length, and the band chiefs in turn discussed the settlement in meetings of their respective bands, to determine the consensus of opinion of the several bands, and at

the General Council meeting of September 27, 1975, a second resolution was approved agreeing to accept said settlement. He also testified that notice was give to individual council members, and since the county in which they live is small it is easy to get information out to the people; that the standard procedure is that all council meetings are published in the local papers in the two cities, Wewoka and Seminole, and the Secretary made a special effort to get the agenda of the council meetings out so that the members would know that the settlement would be considered at the council meetings; that notices were also given by radio by the Assistant Chief, who is a radio announcer; that any member of the Seminole Nation of Oklahoma can attend the General Council meetings, and is welcome; that in the councils in which the resolutions approving the settlement were approved there was general discussion of the proposed settlement, and the settlement was agreed to; that the Indians generally wanted more money, but settled for \$16,000,000; that their claims attorney, Paul M. Niebell, outlined the terms of the proposed settlement in a letter dated July 15, 1975, addressed to him as Chief; that minutes are taken at the council meetings, and matters are explained in English and interpreted in the Seminole language by the Chief or the Assistant Chief, so that matters are pretty generally understood; that they are in the process of making a new roll; that the Bureau of Indian Affairs fixed their membership at 7,500, but there are more than that; that they have a Miccosukee band, and 374 members of that band have been processed, but that the number of Miccosukees should reach 600.

Tom Palmer testified that he is the elected Assistant Chief of the Seminole Nation of Oklahoma; that he corroborates the statements of Chief Edwin Tanyan; that he is convinced that everyone having an interest in the settlement got word of it in one way or another; that he has a radio show twice a week and gives newscasts in English and Seminole languages; and that he announced the proposed settlement over the radio several times before the several council meetings.

Corena Mae England testified that she is the tribal council Secretary, and since last December 22, 1975, she has also been the tribal secretary; that she takes the minutes of the general council, and sends them to the Muskogee Area Office, and they are sent to Washington, D. C., and approved by the Interior Department; that her signature appears on the Seminole General Council Resolutions of July 19, 1975, and September 27, 1975, and that she corroborates the testimony of Chief Tanyan and Tom Palmer; that an effort was made to give notice to all members of the Seminole Nation of Oklahoma, and nothing more could be done to acquaint them of the proposed settlement; and that they received telephone calls about the settlement from as far away as California.

15. Conclusions of Law. Based upon the entire record in these proceedings, the testimony of the witnesses, the representations of counsel, and all other pertinent facts before us, the Commission concludes as follows:

(a) Notice of the meeting on January 22, 1976, of the Florida Seminoles was widely disseminated among all political groups of Seminoles

and, in view of such wide dissemination, the great majority of the members of the Seminole Tribe of Florida, the Miccosukee Tribe of Florida, and the Everglades Miccosukee Tribe of Seminole Indians must have known that said meeting was to be held.


(b) As evidenced by the nearly unanimous vote in favor of accepting the settlement at the January 22, 1976, meeting of the Florida Seminoles, the Seminole Indians of Florida have freely entered into said settlement.

(c) The Seminole Nation of Oklahoma has, in accordance with its constitutional and traditional political procedures, freely entered into said settlement.

(d) The proposed compromise settlement is fair to all parties and has been approved by the duly authorized representative of the Secretary of the Interior.

The Commission hereby approves the proposed compromise settlement and will enter final judgment in Dockets 73 and 151, consolidated, in the amount of \$16,000,000, in favor of the plaintiffs in Docket 73, the Seminole Indians of the State of Florida, and the plaintiffs in Docket 151, the Seminole Nation of Oklahoma, on behalf of the Seminole Nation as it existed in Florida on September 18, 1823, subject to the terms and provisions of the Stipulation for Entry of Final Judgment.

  
Margaret H. Pierce, Commissioner

  
Brantley Blue, Commissioner

  
Jerome K. Kuykendall, Chairman

  
John T. Vance, Commissioner

  
Richard W. Yarborough, Commissioner