

BEFORE THE INDIAN CLAIMS COMMISSION

THE CONFEDERATED TRIBES OF THE GOSHUTE)	Docket No. 326-B
RESERVATION SUING ON ITS OWN BEHALF)	
AND ON BEHALF OF THE GOSHUTE TRIBE,)	
)	
GOSHUTE TRIBE OR IDENTIFIABLE GROUP,)	Docket No. 326-J
REPRESENTED BY THE CONFEDERATED)	(Consolidated)
TRIBES OF THE GOSHUTE RESERVATION,)	
)	
Plaintiffs,)	
)	
v.)	
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: April 20, 1977

FINDINGS OF FACT AND ORDER ALLOWING ATTORNEYS' EXPENSES

HAVING CONSIDERED the petition for allowance of attorneys' expenses, and the amendment thereto filed on July 26, 1976, and October 20, 1976, respectively, by Robert W. Barker, Esq., attorney of record for the plaintiffs in Dockets 326-B and 326-J; the responses from the Department of Justice and the Department of the Interior; the attorney contracts under which these claims were prosecuted; and the supporting documents submitted by Mr. Barker; the Commission finds:

1. Award. On November 5, 1975, the Commission entered a final award in the amount of \$7,300,000.00 in favor of the plaintiffs, 37 Ind. Cl. Comm. 58. This final award was entered upon the joint motion of the parties for entry of final judgment under Dockets 326-B and 326-J, pursuant to a

stipulation between the parties for settlement and entry of final judgment. Funds to satisfy the judgment were appropriated by Public Law 94-157, approved December 18, 1975 (89 Stat. 826).

2. Attorney Contracts. The subject claims have been prosecuted under contracts between the plaintiffs and John S. Boyden, Ernest L. Wilkinson, and the law firm of Wilkinson, Cragun & Barker. The contracts are fully described and identified in our findings of fact 2 through 5 entered February 25, 1976, relating to attorneys' fees. 37 Ind. Cl. Comm. 241, 242-244. These findings are incorporated herein by reference.

The contracts provide for the reimbursement of "all reasonable and proper expenses incurred or paid by them or their associates in the investigation, formulation, presentation and prosecution of [the] claim. . . ." The contracts also authorized employment of technical and stenographic assistance, and reimbursement for the costs thereof.

3. Application for Attorneys' Expenses. In the amended application Mr. Barker requested that we fix a total of \$12,243.53 as reimbursable expenses in Dockets 326-B and 326-J. This total represented expenditures made by the law firm of Wilkinson, Cragun & Barker, Ernest L. Wilkinson and John S. Boyden in both dockets. The firm alleged total expenses of \$613.20 in Docket 326-B and \$11,379.35 in Docket 326-J. The schedule of Mr. Boyden's disbursements in connection with Dockets 326-B and 326-J totaled \$250.98.

The amended petition withdrew certain items of expense totaling \$198.84, which were incurred after the cut-off date of December 18, 1975 (P.L. 94-157, 85 Stat. 826), and had been included in the original petition through oversight.

4. Notice to Parties. Notices of the filing of the application, with copies of the application, were mailed by the Clerk of the Commission on July 27, 1976, to:

- a. Goshute Business Council, Ibapah, Utah 84034
Robert Steele, Chairman
Clell Pete, Vice Chairman
Rosa Naranjo, Secretary
Lee Moon, Treasurer
Jim Steele, Sgt.-at-Arms
- b. Supt. Norris (Mack) M. Cole, Eastern Nevada Agency,
Owyhee, Nevada
- c. Skull Valley Group - Goshute
Richard Bear
Post Office Box 74
Stockton, Utah 84071

Lawrence Bear
Post Office Box 838
Grantsville, Utah 84029

Bert Wash
c/o General Delivery
Grantsville, Utah 84029
- d. Hon. Peter R. Taft, Assistant Attorney General,
Land and Natural Resources Division;
Attn: A. Donald Mileur, Chief
Indian Claims Section
U. S. Department of Justice
Washington, D. C. 20530
- e. Hon. Morris Thompson, Commissioner,
Bureau of Indian Affairs;
Attn: Louise Perkins,
Tribal Operations
U. S. Department of Interior
1951 Constitution Avenue, N.W.
Washington, D. C. 20240

5. Response of Parties. Neither tribal client has responded or made objection to the expenses claimed by the firm of Wilkinson, Cragun & Barker or John S. Boyden. The Department of Justice filed a response stating that it took no position as to the allowance of the claimed expenses. Attached to that response was a copy of a letter dated January 11, 1977, from the Assistant Solicitor, Division of Indian Affairs; and a memorandum of January 7, 1977, from the Acting Deputy Commissioner of Indian Affairs, wherein the Acting Deputy Commissioner stated that his bureau had no objection to the allowance of the expenses claimed. The letter from the Assistant Solicitor concurred in this position.

6. Determination of Reimbursable Expenses. Pursuant to section 15 of the Act, Rule 34(b) of the Commission's Rules of Procedure (25 C.F.R. §503.34(b)), as amended, 39 Fed. Reg. 41173 (1974), the Commission's Policy Statement §102, issued July 15, 1968, the foregoing findings, and upon examination of the original and amended applications herein, the supporting record, the attorneys' contracts with the plaintiffs, and the entire record of expenditures incurred in the prosecution of these consolidated claims, the Commission concludes that claimed expenses in the application are reasonable and proper expenses of litigation and should be allowed with the exception of the following items:

Exhibit 3 (John S. Boyden)

Two phone calls made on December 29 and 30, 1975, were subsequent to December 18, 1975, on which date funds to satisfy the award in this case were appropriated. Expenses incurred after that cut-off date cannot be allowed.

\$2.47
1.00

Total \$3.47

The allowable expenses totaling \$12,240.06 are:

Exhibit 1 (Schedules of Disbursements by Wilkinson,
Cragun & Barker, Docket No. 326-J)

Amount Claimed and Allowed \$11,379.35

Exhibit 2 (Schedules of Disbursements by Wilkinson,
Cragun & Barker, Docket No. 326-B)


Amount Claimed and Allowed \$ 613.20

Exhibit 3 (Schedules of Disbursements by John S. Boyden,
Docket Nos. 326-B and 326-J)


Amount Claimed \$ 250.98
Amount Disallowed 3.47

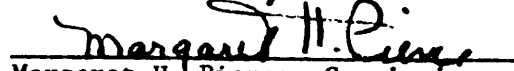
Net Allowable \$ 247.51

IT IS THEREFORE ORDERED that out of the funds appropriated to pay the joint final award entered herein on November 5, 1975, there shall be disbursed to Robert W. Barker, attorney of record in Dockets 326-B and 326-J, the sum of \$12,240.06 as reimbursement in full for expenditures incurred in the joint prosecution of these claims, said sum to be distributed by Robert W. Barker, to all parties having an interest in these applications.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner