

BEFORE THE INDIAN CLAIMS COMMISSION

KLAMATH AND MODOC TRIBES AND	)	
YAHOSKIN BAND OF SNAKE INDIANS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Docket No. 100-B-1
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

ORDER ALLOWING ATTORNEYS' FEE

HAVING CONSIDERED the petition for allowance of attorneys' fee filed on February 4, 1977, by Angelo A. Iadarola, attorney of record for the plaintiff in this docket; the defendant's response to the petition and the remainder of the record herein; the Commission finds:

1. Award. The Commission entered a final award of \$18,000,000.00 to the plaintiff on January 21, 1977, 39 Ind. Cl. Comm. 262.

2. Attorneys' Contract. The approved attorneys' contract as amended (No. 14-20-650, Contract No. 530), pursuant to which the claim in this case was brought to final judgment, was entered into March 12, 1941, between the Klamath Tribe and Ernest L. Wilkinson. The contract was approved by the Secretary of the Interior on March 29, 1941. By an agreement approved by the Klamath Tribal Executive Committee on May 10, 1961, the contract between the Klamath Tribe and Ernest L. Wilkinson was assigned to the firm of Wilkinson, Cragun and Barker. The assignment was approved by the Solicitor of the Department of the Interior on June 8, 1961. The contract has been extended for additional periods of two years, with the last such extension covering the period from March 25, 1975 to March 24, 1977.

3. Attorneys' Fee. Paragraph 5 of the contract of March 12, 1941, was amended by the Klamath Executive Committee on May 10, 1961, and the Klamath General Council on May 15, 1961. The amendment was executed by the Chairman and Secretary of the Tribes on May 15, 1961, and by Ernest L. Wilkinson, then

the contract attorney on May 15, 1961; and it was approved by the Solicitor of the Department of the Interior on June 19, 1961. Amended paragraph 5 provides that the attorneys' fee shall be nine percent of the recovery. The fee of \$1,620,000.00 sought by the attorney of record represents nine percent of the final award made to the plaintiff.

4. Notice to Parties. By letter dated February 7, 1977, the Clerk of the Commission notified the interested parties of the petition for allowance of attorney's fee. The interested parties notified were:

- a. Mr. Elnathan Davis, Chairman, Klamath Tribal Executive Committee
- b. Honorable Ben Reifel, Commissioner, Bureau of Indian Affairs, U.S. Department of the Interior, and
- c. Honorable Peter R. Taft, Assistant General Counsel, Land and Natural Resources Division, U.S. Department of Justice.

5. Response of Plaintiffs. No response was received from the Klamath Tribal Executive Council with regard to the petition for allowance of attorneys' fee.

6. Defendant's Response. The Department of Justice responded to the letters of notice on March 4, 1977, stating that it takes no position with respect thereto.

Enclosed with the Department of Justice response was a copy of an undated letter from the Acting Associate Solicitor, Division of Indian Affairs, U.S. Department of the Interior, transmitting a copy of a memorandum dated February 4, 1977, from the Acting Deputy Commissioner of Indian Affairs dealing with the petition for attorneys' fee. The Commissioner determined that the sum sought was reasonable and in accordance with the provisions of the contract between the plaintiff and their counsel.

7. Attorneys' Services. Pursuant to their contract with the plaintiff, the attorneys investigated, filed and prosecuted the claim in this docket on which the plaintiff has been awarded the amount of \$18,000,000.00. For services rendered in connection with this award, the attorneys are entitled to a fee in the requested amount of \$1,620,000.00.


IT IS THEREFORE ORDERED that out of the funds to be appropriated to pay the final award of January 21, 1977, there shall be distributed to Angelo A. Iadarola, as attorney of record, the sum of \$1,620,000.00 for distribution by him to all attorneys entitled to share in the fee. This sum shall be payment in full for all services rendered in the settlement of this claim.

Dated at Washington, D.C., this 4th day of May 1977.

  
Jerome K. Kuykendall, Chairman

  
John T. Vance, Commissioner

  
Richard W. Yarborough, Commissioner

  
Margaret H. Pierce, Commissioner

  
Brantley Blue, Commissioner