

## BEFORE THE INDIAN CLAIMS COMMISSION

|  |   |                |
|--|---|----------------|
| ALEUT COMMUNITY OF ST. PAUL ISLAND     | ) |                |
|  | ) |                |
| Plaintiff,                             | ) |                |
|  | ) |                |
| v.                                     | ) | Docket No. 352 |
|  | ) |                |
| THE UNITED STATES OF AMERICA,          | ) |                |
|  | ) |                |
| Defendant.                             | ) |                |
|  | ) |                |
| THE ALEUT TRIBE, by Iliodor Mercurieff | ) |                |
| as Representative of the said Tribe    | ) |                |
| and all members thereof; and THE       | ) |                |
| ALEUT COMMUNITY OF ST. PAUL ISLAND,    | ) |                |
|  | ) |                |
| Plaintiffs,                            | ) |                |
|  | ) |                |
| v.                                     | ) | Docket No. 369 |
|  | ) |                |
| THE UNITED STATES OF AMERICA,          | ) |                |
|  | ) |                |
| Defendant.                             | ) |                |

ORDER GRANTING PLAINTIFFS' MOTION FOR  
FINAL SEVERANCE OF CLAIMS, AND FOR OTHER PURPOSES

On July 14, 1978, plaintiffs under the above-captioned dockets filed a motion for final severance of the claim of the Aleut Community of St. George Island from Docket 369, for consolidation of said claim for all purposes with Docket 352, and for entry of final award in the newly-consolidated dockets. Defendant replied in opposition on August 7, 1978, asserting that such an order would prejudice defendant because the claims remaining under Docket 369 after severance have not been stated with sufficient clarity and detail to inform defendant and the Commission as to what those claims are.

The Commission has previously held that the claim of the Aleut Community of St. George Island pleaded under Docket 369 presented questions of law and fact identical with questions under the Docket 352 claim of the Aleut Community of St. Paul Island and different than the questions to be resolved with respect to any other possible claims under Docket 369, 36 Ind. Cl. Comm. 235, 249 (1975). At the

same time, the Commission ordered the severance of the St. George claim from Docket 369 and its consolidation for trial with the St. Paul claim under Docket 352, 36 Ind. Cl. Comm. at 252.

On June 9, 1978, the Commission entered an interlocutory award, subject to offsets, on the claims so consolidated for trial, 42 Ind. Cl. Comm. 1, 152. Defendant, however, does not claim offsets against the interlocutory award. See defendant's Memorandum accompanying response in opposition, August 7, 1978, at 3.

Having considered defendant's objections, the Commission concludes that no prejudice will ensue to defendant as a result of granting plaintiffs' motion, that the claims decided by the Commission's decision at 42 Ind. Cl. Comm. 1 (1978) are now ripe for entry of final award and that, consequently, plaintiffs' motion should be granted.

It is the law of the case here that the St. George claim in Docket 369 and the St. Paul claims in Docket 352 are identical with each other and different than any remaining claims in Docket 369 and that said distinguishable claims are severable, 35 Ind. Cl. Comm. at 249, 252, supra. Upon entry of final award on those claims decided by the Commission at 42 Ind. Cl. Comm. 1, supra, said claims will be res judicata and, therefore, not relitigable in any form under Docket 369. Finally, entry of such a final award will not in any way reflect upon the viability or the merits of any of those claims allegedly remaining under Docket 369.

IT IS THEREFORE ORDERED that the claim of the Aleut Community of St. George Island which, by Commission order of July 18, 1975, 36 Ind. Cl. Comm. 252, was severed from the other claims of The Aleut Tribe, et al., under Docket 369 and consolidated for trial with the claims of the Aleut Community of St. Paul Island under Docket 352, and with respect to which claim, together with said claims under Docket 352, the Commission on June 9, 1978, 42 Ind. Cl. Comm. at 152-53, entered an interlocutory award in favor of plaintiffs in the amount of \$11,239,604, be, and the same hereby is, finally severed from any other claims alleged under Docket 369, designated as Docket 369-A and captioned Aleut Community of St. George Island v. The United States of America, and

IT IS FURTHER ORDERED that said Docket 369-A be, and the same hereby is, consolidated with Docket 352 for the purpose of entering final judgment in said dockets. A separate final award in said consolidated dockets will be concurrently entered.

Dated at Washington, D. C. this 30th day of August  
1978.

\_\_\_\_\_  
Jerome K. Kuykendall, Chairman

\_\_\_\_\_  
John T. Vance, Commissioner

*Richard W. Yarborough*  
\_\_\_\_\_  
Richard W. Yarborough, Commissioner

*Margaret H. Pierce*  
\_\_\_\_\_  
Margaret H. Pierce, Commissioner

*Brantley Blue*  
\_\_\_\_\_  
Brantley Blue, Commissioner