

BEFORE THE INDIAN CLAIMS COMMISSION

NEZ PERCE TRIBE OF IDAHO,)	
)	
Plaintiff,))	
)	
v.)	Docket No. 179-A
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER DENYING DEFENDANT'S MOTION TO DISMISS AND
SETTING TIME TO FILE EXCEPTIONS TO ACCOUNTING REPORT

UPON CONSIDERATION of defendant's motion, filed July 19, 1976, to dismiss this case on the grounds that the Commission lacks jurisdiction over claims accruing after August 13, 1946, plaintiff's opposition thereto, filed August 24, 1976, defendant's reply, filed August 31, 1976, and the record in this case, the Commission finds:

(1) that the claims in this accounting case were severed from Docket 179 in 1970 when all claims to June 30, 1951, were settled and final judgment entered against the defendant, with the express provision that plaintiff's right to prosecute its accounting claims from and after July 1, 1951, be severed and presented as Docket 179-A, 23 Ind. Cl. Comm. 39, 69; and

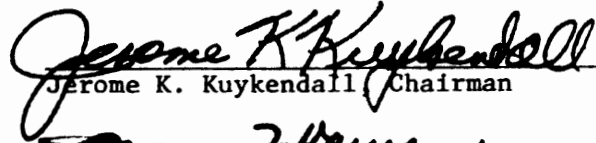
(2) that the plaintiff has cited examples of alleged wrongdoings which commenced prior to August 13, 1946, and which can be reasonably expected to have continued, without interruption, until after June 30, 1951; and

(3) that the Commission has jurisdiction over such claims, notwithstanding the fact that the parties settled all claims up to June 30, 1951, in an earlier proceeding. See Yankton Sioux Tribe v. United States, Docket 332-D, 37 Ind. Cl. Comm. 64, 72 (1975), Northern Paiute Nation v. United States, Docket 87-A, 34 Ind. Cl. Comm. 414, 417 (1974).

IT IS THEREFORE ORDERED that defendant's motion to dismiss this case be, and the same hereby is, denied; and


IT IS FURTHER ORDERED that plaintiff shall on or before November 22, 1976, file its exceptions to the accounting report filed herein and/or move for any supplemental accounting it requires.

Dated at Washington, D. C., this 22nd day of October 1976


Jerome K. Kuykendall, Chairman


John F. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner

Brantley Blue, Commissioner