



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

OCT 24 1991



Memorandum

To: Superintendent, Northern California Agency

Through: Sacramento Area Director

From: Acting Director, Office of Tribal Services

Subject: Issuance of Per Capita Checks from the Hoopa-Yurok Settlement Act Funds

Judge Royce C. Lamberth, in the case of Heller, Ehrman, White & McAuliffe, *et al.* v. Hon. Manuel Lujan, Jr., Civil Action No. 91-2012 signed an order on October 2, 1991, staying his order of payment of attorneys' fees pending consideration for appeal and pending appeal. This order permits the Secretary to withhold the contested amounts from per capita payments to be made under the Hoopa - Yurok Settlement Act. The amount withheld will be maintained in the Settlement Fund as ordered by the Court on October 2, 1991. The withheld funds will continue to be invested in accordance with 25 U.S.C. §162(a) with interest earned for the benefit of the ultimate payee.

The Superintendent, Northern California Agency is instructed to proceed to reprocess the per capita payment to the eligible recipients using the following categories:

1. Jessie Short plaintiffs involved in *Jessie Short, et al. v. United States* (Cl. Ct. No. 102-63) are to have 6.5 percent withheld from the amount due them. Determination of who are Jessie Short plaintiffs is to be made from the list supplied by the attorneys in the Jessie Short case. (see attached)
2. Eligible recipients who are not represented in Cl. Ct. No 102-63 and who are represented in cases *Charlene Ackley v. United States* (Cl. Ct. No. 460-78); *Bret Aanstadt v. United States*, (Cl. Ct. No. 146-85L); and *Norman Giffen v. United States*, (Cl. Ct. No. 746-85L) are not to have any amounts withheld as the Jessie Short attorneys make no claims against them.

3. All other eligible recipients are to have 25 percent withheld from their amount due.

Since the Jessie Short attorneys realize that the Settlement Fund included funds that their firms are not entitled to assess, a joint motion to modify the final judgment was filed and in response the judge has ordered certain funds excluded. Only those funds in 25 U.S.C. § 1300i (b) (1) (A) and (B) and a portion of one of the funds, 25 U.S.C. § 1300i (b) (1) (F) is to be assessed. Therefore, before the 6.5 percent or 25 percent is calculated for each eligible individual, the proportional amounts from the accounts identified in 25 U.S.C. § 1300i (b) (1) (C), (D), (E), and (G) and that portion of 25 U.S.C. § 1300i (b) (1) (F) that is agreed to by the Department of Justice and the Jessie Short attorneys are to be excluded and not used in the calculation of the amount which is to be withheld from each eligible recipient.

The procedure is first to determine the total amount of the escrow funds at the date of the creation of the Settlement Act Fund account. (see attachment) Based on the information provided by your office this amount was \$66,625,800.39. Then the total amount of the excluded moneys is to be determined. These moneys include the following: Proceeds of Klamath River Reservation, J52-562-7056, \$75,616.41; Proceeds of Labor -Yurok Indians of Lower Klamath River, J52-562-7153, \$16,626.36; Proceeds of Labor-Yurok Indians of Upper Klamath River, J52-562-7154, \$218,837.02; and Klamath River Fisheries, No. 5628000001/Fish, \$458,705.18.

Funds in Proceeds of Labor-Hoopa Reservation for Hoopa Valley and Yurok Tribes, Hoopa Yurok Settlement Act designation I.b.I.F, J52-575-7256, \$14,344,254.75, are derived from both Hoopa as well as Yurok resources. It is necessary to determine the Yurok share of this account. The total amount in this fund is to be multiplied by one half of one percent, the figure which your office determined as the appropriate Yurok share.

The excluded funds are then totaled and equal, \$841,505.97. The percentage of these funds is then calculated by dividing the total amount included in the Settlement Act and this amounts to 1.26303 percent. This amount is not subject to the 6.5 percent or 25 percent lien.

Using this percentage the amount to be excluded from the assessment is to be calculated for the \$5000, \$7500, or \$15,000 that was to be paid to the qualified individuals on the Settlement Roll and, pursuant to § 1300i3(d) of the Settlement Act, to the Yurok Tribe.

/s/ CAROL A. BACON

Attachment

cc: Sacramento Area Director

CALCULATION OF YUROK PER CAPITA PAYMENTS

1. Total Funds at time of creation of Settlement Fund Account
\$66,625,800.39

2 Total Funds derived from Klamath River portion \$841,505.97
(see below)

→ 3. Percentage of funds derived from Klamath River portion: .0126303

$$\frac{841,506}{66,625,800} = .0126303$$

4: Examples of the amount on which attorney fees are to be calculated

$$\$15,000 - (.0126303 \times 15,000) = 14,810.55$$

$$\$7,500 - (.0126303 \times 7,500) = 7,404.27$$

$$\$5,000 - (.0126303 \times 5,000) = 4,936.85$$

5. Examples of the calculation for the amounts to be withheld from each payment and the amount of payment for the recipient.

| | | |
|---------------|---|----------------------|
| For \$15,000: | Amount withheld | Payment to recipient |
| | $\$15,000 - (.25 \times 14,810.55 = 3702.64)$ | $= \$11,297.36$ |
| | $\$15,000 - (.065 \times 14,810.55 = 962.69)$ | $= \$14,037.31$ |

For \$7,500:

$$\$7,500 - (.25 \times 7,405.27 = 1851.32) = \$5,648.68$$

$$\$7,500 - (.065 \times 7,405.27 = 481.34) = \$7,018.66$$

For \$5,000

$$\$5,000 - (.25 \times 4936.85 = 1234.21) = \$3,765.79$$

$$\$5,000 - (.065 \times 4936.85 = 320.90) = \$4679.10$$

Funds used in calculating Klamath River Funds

| | | |
|---|---------------------------------------|------------|
| C | Proceeds of Klamath River Reservation | 75,616.41 |
| D | Proceeds of Labor (Lower Klamath) | 16,626.36 |
| E | Proceeds of Labor (Upper Klamath) | 218,837.02 |
| G | Klamath River Fisheries | 458,705.18 |

| | | |
|---|-------------------------------------|-----------|
| F | Proceeds of Labor (Hoopa and Yurok) | |
| | $(\$14,344,254.75 \times .005) =$ | 71,721.00 |

TOTAL \$841,505.97