

BEFORE THE INDIAN CLAIMS COMMISSION

THE MUCKLESHOOT TRIBE OF INDIANS )  
on the relation of Napoleon Ross, )  
Chairman of the General Council, )

Claimant, )

v. )

THE UNITED STATES OF AMERICA, )

Defendant. )

Docket No. 98

Decided: May 14, 1953

Appearances:

Frederick W. Post, with whom was  
Malcolm S. McLeod,  
Attorneys for Claimant.

Donald R. Marshall, with whom  
was Mr. Assistant Attorney General  
Wm. Amory Underhill,  
Attorneys for Defendant.

FINDINGS OF FACT

1. That on February 12, 1925, Congress passed an Act (43 Stat. 886)  
providing as follows:

"\* \* \* that all claims of whatever nature, both  
legal and equitable, which the Muckleshoot, San Juan  
Island Indians; \* \* \* may have against the United States  
shall be submitted to the Court of Claims, \* \* \*."

Some nineteen tribes filed separate petitions pursuant to said Act in the  
case entitled Duwamish et al. vs. United States, No. F-275, reported in  
79 C. Cl. 530, and the Court of Claims consolidated the petitions and

heard all cases at one time. The Muckleshoot Tribe was one of the claimants which filed a separate petition and whose claim was disposed of in the consolidated action.

2. Defendant's Exhibit #28, being The Indians of Puget Sound by Hermann Haeberlin and Erna Gunther, (1930), at page 9 reads as follows:

"The Muckleshoot (o'kElcul) lived on the White River, their territory extending from Kent east to the mountains. \* \* \* The Duwamish. (Duxuduwa'bc) lived about the present site of Seattle, their territory extending from the Muckleshoot lands in the south to the Suquamish territory in the north."

A map attached to the article assigns the Muckleshoot Tribe an area on the river beds and watersheds of Green River and White River.

3. Defendant's Exhibit #29, being Tribal Distribution by Leslie Spier, (1936), at page 34, reads as follows:

"Muckleshoot. I follow Haeberlin and Gunther in giving this group a separate status on the map, but their distinctiveness from Duwamish and Puyallup is by no means clear. They write: 'The Muckleshoot (o'kElcul) lived on the White River, their territory extending from Kent east to the mountains.' On Gunther's map Green River is included, as it is in the territory assigned by Curtis (White and Green River valleys).

"It would appear from Gibbs that there were a number of small groups in this area. After mentioning Duwamish and Suquamish, he writes (1856): 'In this connection are also the Samamish (included with the Duwamish on Gunther's map), Skopahmish, Sk'tehlmish, St'kamish, and other small bands lying upon the lakes and the branches of Dwamish River, who are claimed by the others as part of their tribe, but have in reality very little connection with them.....They (with Duwamish and Suquamish) differ but slightly from the Niskwalli in language." Since the Skopahmish were on upper Green River and the St'kamish (Sekamish) on White River, it would seem that the whole group belongs to the Muckleshoot division. Add to these the Smulkamish on the upper White River, 'associated with the Skopamish.'"

A map attached to this article assigns the Muckleshoot Tribe an area on the river beds and watersheds of Green River and White River, the same as Haerberlin and Gunther. (Def. Ex. #28).

4. The Court of Claims in *Duwamish vs. United States*, supra, found as follows (Def. Ex. #2):

"XXV. The United States endeavored to, but did not conclude or ratify treaties with the upper Chehalis, the Muckleshoot, the Nooksack, the Chinook, and the San Juan Island Indian Tribes."

5. Myron Eells, a former Indian Agent, writing in the *American Antiquarian*, March 1, 1887, at page 103, states (Def. Ex. #24):

"By orders of the President the Muckleshoot reservation was set apart for the benefit of the Muckleshoot Indians, January 20, 1857, and April 9, 1874."

6. Defendant's Exhibit #26, being The North American Indians by Edward S. Curtis, (1913), at page 18, states:

"But for Leschi and Qai'emuhl, Kitsap the Muckleshoot Chief, and Stihhai the son of Leschi's aunt, no pardon was offered \* \* \*."

"In August, 1856, adequate reservations were made for the Nisqually and the Puyallup, and a smaller tract on White River was set aside for the Muckleshoot and Stukamish."

7. Defendant's Exhibit #13 is a letter from the Secretary of the Interior, dated January 13th, 1858, which reads as follows:

"Another post was established during the war at Muckleshoot, a point in the interior, about 25 miles from Steilacoom. At that station were collected some 300 of the most troublesome Indians, consisting of the Upper Puyallops, the Nooscoopes, and Green River Indians. These tribes still reside in that vicinity."

8. Defendant's Exhibit #14 is a Report of the Secretary of the Interior, dated December 3rd, 1857, at p. 626:

"The Muckleshoot is also provided for in the treaty of Medicine creek, and is the proper locality for the Tooahk or Upper Puyallup, the S'Balahco or White River, and the Nooscope or Green River Indians; being in all about three hundred souls. Treaty stipulations have not been attempted to be carried out at the Muckleshoot, and these Indians have heretofore been, and are now, in the temporary charge of Local Agent Page, who has furnished them this spring with some seed potatoes, and a small crop will be raised on the reservation."

9. Arthur C. Ballard, a noted anthropologist and student of the Indians inhabiting the area involved, testified that the tribe today called the Muckleshoot Tribe is composed of the descendants of the Skopabsh Indians and their subordinate bands who prior to the white man lived on Green River; and the descendants of the Smulkamish Indians and their subordinate bands who, prior to the white man, lived on White River; that the ancestors of the tribe, today called the Muckleshoot Tribe, were moved to the Muckleshoot Reservation about 1857 and their descendants have resided there ever since.

10. The Commission finds that an identifiable group known as the Muckleshoot Tribe of Indians was created in 1856 from the so-called Green River Indians known as the Skopabsh and their subordinate bands, and of the so-called White River Indians known as the Smulkamish and their subordinate bands, and that their descendants have continued to be known as the Muckleshoot Tribe of Indians until this date; that the claimant group is an identifiable group within the meaning of the Indian Claims Commission Act and is entitled to maintain this action.

11. The so-called Muckleshoot Tribe was a party plaintiff in Duwamish, et al. Indians v. United States, 79 C. Cl. 530. The claim there made was substantially the claim made in the present lawsuit. Its case was dismissed because the Court held that it was without jurisdiction in a case between tribal Indians and the United States for the recovery of the alleged value of lands in the absence of a treaty or an Act of Congress recognizing the Indians' title by right of occupancy to the same.

/s/ Edgar E. Witt  
Chief Commissioner

/s/ Louis J. O'Marr  
Associate Commissioner

/s/ Wm. M. Holt  
Associate Commissioner