

BEFORE THE INDIAN CLAIMS COMMISSION

THE S'KLALLAM TRIBE OF INDIANS,)

Petitioner,)

vs.)

THE UNITED STATES OF AMERICA,)

Defendant.)

Docket No. 134

Decided: December 2, 1957

FINDINGS OF FACT

The Commission makes the following findings of fact:

1. The S'klallam (also known as the "Clallams") Tribe of Indians are an identifiable tribe of American Indians residing, at least in part, within the territorial limits of the United States along the southern shores of the Straits of Juan de Fuca in what is now the northwestern portion of the State of Washington. The identity of this aboriginal tribe, as such, has been sufficiently established to meet the requirements of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1049; 25 U.S. Code Sec. 70(a)).

EVIDENTIARY FACTS SUPPORTING ULTIMATE FINDING OF FACT NO. 1

a. The United States recognized this tribe in the preamble of the Treaty of Point No Point (12 Stat. 933; II Kappler 674).

b. Handbook of American Indians (1907) Bulletin 30, Part I states "Clallam (Strong People) a Salish Tribe living on the south side of Puget Sound, Washington, formerly extending from Port Discovery to Hoko

r., being bounded on each end by Chimakum and Makah. Subsequently they occupied Chimakum territory and established a village at Port Townsend."

c. In Governor Isaac Stevens' Report dated September 16, 1854 by first Governor and ex-officio Supt. of Indian Affairs of Washington Territory, to the U. S. Commissioner of Indian Affairs, it is stated: "Next to the Makahs are the Clallams, or as they call themselves S'Klallams, the most formidable tribe now remaining * * *."

d. Stevens' Report (1857). The relative population and location of the tribes were shown in Governor Stevens' report, dated March, 1857:

Treaty of Point No Point, January 25, 1855:

Clallams	926
Skokomish	290
Chemakim	100

e. Ethnological Works which identify Clallams are:

(1) Dr. Henry R. Schoolcraft (1851-1857) "Bureau of Indian Affairs reports on population of subject tribe" * * * (S'Klallams) (Dft. Ex. 170, pp. 490-491).

(2) Dr. George Gibbs Report (1854) Clallam (S'Klallams) Tribe whose "country stretches along the whole southern shore of the straits to between Port Discovery and Port Townsend." (Dft. Ex. 189, pp. 456-457).

(3) Dr. Gibbs Report (1877) "Location of the S'Klallams."

(4) Dr. Edward S. Curtis "The North American Indian" (1913) (Dft. Ex. 47, pp. 19-20) reports on the Clallam, a group comprising about a dozen populous villages.

- (5) Dr. Erna Gunther "Klallam Ethnography" (1927) (Dft. Ex. 40)
- (6) International Journal of American Linguistics (1927) edited Franz Boas and P. E. Goddard (Dft. Ex. 211, p. 120) lists "Salishan - Interior dialects * * * coastal dialects * * * Clallam."
- (7) Dr. Ronald L. Olson "The Quinault Indians" (1936) Dft. Ex. 52, pp. 13-14)
- (8) Dr. Leslie Spier's "Tribal Distribution in Washington" (1936) (Dft. Ex. 5, p. 32)
- (9) Dr. Marion W. Smith "Indians of the Urban Northwest" (1949) (Dft. Ex. 143, pp. 343-346) Glossary of Tribal Names.
- (10) Dr. Wm. Elmendorf "The Structures of Twana Culture" (Dft. Ex. 196, pp. 7, 38-44, 53, 65-66).
- (11) Dr. Wayne Prescott Suttles "Economic Life of the Coast Salish of Haro and Rosario Straits" (1951) (Dft. Ex. 58, p. 4)

2. We find this petitioner is the tribal organization of S'Klallam Indians whose predecessors in interest ceded their lands, along with other groups of Indians, under the terms of the Treaty of Point No Point to defendant.

EVIDENTIARY FACTS SUPPORTING ULTIMATE FINDING NO. 2

a. The respective chairmen of the tripartite council, representing the respective tribal councils of S'Klallam Indians, testified that Jamestown Branch had 684 members, Port Gamble Branch had 240 members and the Elwha Branch had 220 members and these three branches elected "General Council of the Klallam Tribe," as it is organized today. (Testimony of Cynthia Larsen, 1 Tr. 3, Lester Jackson, 1 Tr. 23; Martin Hoppie, 1 Tr. 34; Marion Vincent, 1 Tr. 65)

b. Report of field agencies of the Bureau of Indian Affairs to the House Interior and Insular Affairs Committee, May 15, 1953 states: "Jamestown, 225 voting age Indians; Elwha, 18 voting age Indians; Port Gamble, 80 voting age Indians" (House Report, pursuant to House Resolution 89, 83d Congress, p. 238).

c. Dr. Erna Gunther's Klallam Ethnography (1927) contains a "Table of Population of the Klallam Tribe" (showing its descent into recent decades):

	<u>1841</u>	<u>1845</u>	<u>1855</u>	<u>1862</u>	<u>1878</u>	<u>1881</u>	<u>1885</u>	<u>1923</u>
Whole Tribe	420	1500	926	1300	597	485	--	296
Klallam & Chemakum					550		380	
Klallam Bay & Hoko River					40	46 3		
Pysht					30	24		
Elwah					75	67		
Port Angeles					35	57		
Jamestown					100	86		75
Washington Harbor					43	18		20
Port Discovery					40	22		
Port Gamble					100	96		
Beecher Bay				75				
Scattered in Brit. Colum.					75	62		
Skokomish Reserv.						6		
Seabeck						10		
Port Ludlow						6		
Port Townsend						12		

(Dft's Ex. 40, pp. 180-181)

d. Annual Reports of the Commissioner of Indian Affairs (Dft.

Ex. 229) reports S'Klallam population, in part, as follows:

1883 (p. 280)	S'Klallam		430
1900 (p. 654)	"	Jamestown	237
	"	Port Gamble	94
1929 (p. 26)	Clallam		783

3. The Chimakum (also known as "Chem-a-kums"), although a separate lingual group from the S'Klallams in aboriginal times, were conquered and merged into the S'Klallams, a powerful and warlike Salish Tribe, after having been reduced in numbers by the Snohomish wars in about 1850. This merger was in about 1857 after the signing but prior to the ratification of the Treaty of Point No Point, (Klallam Ethnography, Dr. Erna Gunther, 1927, Dft. Ex. 40) and the Chimakums are extinct today as an identifiable tribe, group or band of Indians owing to such merger in about 1857 with the S'Klallams. (Cynthia Larsen, I Tr. 17; Lester Jackson, I Tr. 46; Gunther's Ethn. Dft. Ex. 40). Gibbs is quoted by Dr. Curtis (Dft. Ex. 47, p. 141) as reporting the Chimakums as "numbering only ninety souls in 1855 and formerly inhabited the peninsula between Hoods Canal and Port Discovery, their villages in the main being situated on Port Townsend and Port Ludlow." Petitioner herein asserts claim in its requested Finding of Fact No. 14(a) to such area because of previous occupancy by the Chimakums since the "Chem-a-kums" have lost their identity through merger with S'Klallams. (Pltf. Ex. 86, Quileute, Docket No. 155).

4. The petitioner and defendant stipulated at the opening of the initial hearing of this case as follows:

"There shall first be a determination of the matter of the S'Klallam Tribe of Indians versus the United States of America, Docket No. 134, the question whether the claimants under the law and facts to be adduced, had, at the time of the alleged wrongful acts by the defendant, aboriginal or Indian title, within the meaning of the Act, to the lands described in the petition, or any part thereof, and if so, whether the defendant unlawfully deprived the claimant thereof, postponing until after such determination, should such determination be favorable to claimant, proof as to the value thereof, or as to any other question of fact raised by the pleadings not heretofore determined by the Commission. (1 Tr. 2A)

5. The S'Klallam villages, within the area of the United States, were situated along the southern shores of the Strait of Juan de Fuca and extended in aboriginal times from the mouth of the Hoko (Okeho) River to Port Discovery.

6. Eleven S'Klallam villages were named in the caption of the Treaty of Point No Point (12 Stat. 933; II Kapp. 674) and contained a total population of 926. (Stevens Report, March, 1857, Map 187, Tube 1033, Records of the Office of Indian Affairs, National Archives).

7. Both S'Klallams and Chimakums were recognized, each as a tribal entity, at the signing of the Treaty of Point No Point, "Chits-a-mak-han, the Duke of York, Chief of S'Klallams" and "Kul-kak-han, or General Pierce, Chief of the Chem-a-kum" were so designated in the signing of the treaty. The Chimakums had a population of 100, Stevens noted in his report of the negotiation of this treaty.

8. Names and location of S'Klallam villages were as follows:

- a. Kakaitl - at Port Discovery
- b. Shkwin
- c. Steteylhem (two very large houses)
- d. T'sawq'w
- e. Tsey'spat - Old Dungeness
- f. T'salhmæt - at Moore's Creek (possibly a salmon run)
- g. Ey'eynes - East end of Port Angeles
- h. Wyeywehtsen - West of Port Angeles

- i. Elwha - Mouth of Elwha River
- j. Stey'alh - Mouth of Indian Creek (a tributary of Elwha River)
- k. T'lhtsent - Port Crescent
- l. Wha'wham'ma - Mouth of the Lyre River
- m. Newchey'saquen - Twin River
- n. T'seywheng - Deep Creek
- o. T'sawhangoylh - Jim Creek
- p. Neywho' - Mouth of Pysht River
- q. Pesht'st - near mouth of Pysht River
- r. Whengeynet - East end of Clallam Bay
- s. T'ihat'lhaways - West end of Clallam Bay
- t. Hoqe - Mouth of Hoko River

(Dr. Wayne Prescott Suttles' testimony, II Tr. 17)

9. The Chimakums occupied the area from Port Ludlow around to Port Townsend, having their two principal villages at these respective points, and some also were at Port Gamble (Dft. Ex. 47, p. 141; Dr. George Gibbs Report (Dft. Ex. 6, p. 167)).

10. The principal food of the S'Klallams was fish, included also were clams, roots and berries, sea-food constituted the major diet and was the principal cultural influence. Although the lands were fertile, but heavily wooded, the ease with which food could be obtained from the sea left little or no incentive for agriculture or penetration of the dense forests for the flesh of land animals. (Dr. Edw. Curtis, "The North American Indian"; Dft. Ex. 47, pp. 19-20).

11. Hunting was of least importance to the S'Klallams in aboriginal times. Most of their hunting was done by chasing the deer and elk, which seasonally came onto the flatlands, out to sea and chasing the animals in canoes until the animals died of exhaustion. (Dr. Erna Gunther "Klallam Ethnography," 1927; pp. 201-20, Dft. Ex. 40).

12. The American Branch of the S'Klallams fished off the southern shores of the Strait of Juan de Fuca and on the Hoko River, Clallam Bay,

Pisht River, Elwha River, Dungeness River and on Port Discovery Bay, all located on or running into an eighty mile stretch of shore line of the Strait of Juan de Fuca. The Chimakum fished from Port Ludlow Bay, Port Gamble, Port Townsend and at Port Discovery Bay. (Gunther's Klallam Ethn., p. 177).

The S'Klallam root beds and berry patches were located in close proximity to their villages on the coastal flatlands, or vice versa. The S'Klallams dug clams along the bays and inlets away from the rough waters of the Straits. (Cynthia Larsen, 1 Tr. 9).

13. Petitioner originally claimed an area of land generally bounded on the north by the Strait of Juan de Fuca, and commencing at the mouth of the Hoko River, from a point 5 miles west of Clallam Bay; thence south-eastward to the corner of Range 7 west, W.W.M., township 23 north; (apparently in reference to the peak of Hurricane Hill); thence east to the Willamette meridian along the south boundary of township 23 in Ranges 1, 2, 3, 4, 5 and 6, W.W.M.; thence north of the Willamette meridian to its intersection with the westward shore of Hood's Canal in a northward direction following the shore line to Port Townsend; thence along the shore line of the Strait of Juan de Fuca to the place of beginning. (Par. 3, Orig. Pet., filed July 9, 1951).

14. The Makah Tribe (Docket No. 60) claim to the center of Clallam Bay (Plf. Ex. 35) although the Makahs plead the Okeho River as their boundary with S'Klallam. Both the Makah Treaty (12 Stat. 939, II Kapp. 682) and the Treaty of Point No Point (12 Stat. 933; II Kapp. 764) described the "Oke-ho River" as the division boundary between Makah and S'Klallam Indians.

15. The Quileute Tribe claim land areas southwest, and south of the S'Klallam (Plf. Ex. 86, Docket 155).

16. The Sko-ko-mish (Twana) Indians claim the area southeast of S'Klallam (Old Chimakum) land areas, as follows:

Commencing at Hood Head, near the mouth of Hood Canal, thence generally westward along the watershed of those streams draining into Hood Canal to the watershed of the Dungeness and Big Quilcene rivers; thence generally southwestward along the eastern summit of the Olympic Range in such a way as to define the watershed of those streams emptying into Hood Canal on its west side, including the Sko-komish River and its tributaries, following the height of land between the headwaters of the Skokomish and its tributaries and the Satsop River. (Plf. Pet. Dkt. 296)

17. Petitioner amended its petition with respect to land areas claimed (Par. III) over the objections of the defendant that such amendment was barred by limitations. On November 15, 1955, this Commission, having overruled the objections of defendant, permitted petitioner to paste such amendment over the original Par. III of the petition. This amendment alleges the south boundary to be some fifteen miles farther south than originally alleged and encompasses the Bolton Peninsula and Iondos Peninsula, Port Gamble and Foulweather Bluff areas, and reads as follows:

Commencing at the mouth of the Hoko River, thence to the town of Sappho; thence to the peak of Mt. Olympus; thence to the peak of Mt. Anderson; thence to the north point of Quilcene Bay; thence along the shoreline of Bolton Peninsula to Dabop; thence along the shoreline of Iondos Peninsula which is also the east shoreline of Dabop Bay, to Oak Head which is the southernmost point of Iondos Peninsula; thence to Hazel Point; thence to Bangor; thence along an east-west line to a point mid-distant between Hoods Canal and Liberty Bay; thence northwestward on the divide between Hoods Canal and Puget Sound to Foulweather Bluff; thence to Liplip Point; thence to Fort Flagler; thence to Wilson Point; thence along the south shore of the Strait of Juan de Fuca to the mouth of the Hoko River which was the place of beginning.

July 6, 1956, petitioner filed a disclaimer "of all lands west of a line which follows the crest of the Olympic Mountains around the source of the Hoh River to the peak of Mt. Olympus, thence following the crest around the source of the Queets River" and naming Mt. Olympus as an exception to the disclaimer and referred to Dr. Ray's map (Ex. 72, Docket 155) as showing the proper boundary west of Mt. Olympus.

18. Hunters of various tribes of Indians on the Olympic Peninsula jointly used the Cascade Mountain range area for hunting deer, elk, and bear and these mountains and this area is not included as the property of petitioner in Finding 19. (Dr. Carrol L. Riley, III Tr., p. 117; Lester Jackson, I Tr. pp. 28-29).

19. The S'Klallam Tribe of Indians, together with the Chimakum Tribe, which had merged with them, used and occupied an area of land in aboriginal times described as follows:

Commencing at the mouth of the Hoko River and following up said river to the river bend, approximately $2\frac{1}{2}$ miles west of Royal, Washington; thence southeastward to the south point of Beaver Lake; thence eastward to south point of Crescent Lake; thence east to Mt. Baldy; thence east along the crest of the "Foot Hills" to Round Mountain; thence to Camp Colonial Shelter at the headwaters of the Dungeness River; thence to the north point of Lake Crocker; thence southeastward to the center of Sandy Lake; thence eastward to a midpoint between Tala Point and Hannon Point on Hood Canal; thence northward along the shoreline, and including Indian Island and Morrowstone Island to the place of beginning.

ADDITIONAL EVIDENTIARY FACTS SUPPORTING ULTIMATE FINDING OF FACT NO. 19

WEST BOUNDARY: From the mouth of the Hoko (Okeho) River at the principal bend of the river formed the WEST boundary of the S'Klallam Tribe in aboriginal times;

a. Treaty Recognition

(1) Treaty of Point No Point describes the lands therein ceded, as follows: "Commencing at the mouth of the Okeho River, on the Straits of Juan de Fuca; thence southeastwardly along the westerly line of territory claimed by the Makah Tribe, etc." (12 Stat. 933; 2 Kapp. 674).

(2) Treaty with the Makah at Neah Bay similarly begins the description of lands ceded, as follows: "Commencing at the mouth of the Okeho River, thence westward, etc." (12 Stat. 939; 2 Kapp. 682).

b. 1854, Dr. George Gibbs (Dft. Ex. 81, p. 9): "The country occupied by Them (Clallams) extends from Port Townsend along the Straits of Fuca to near Cape Classet within which district they have nine villages, viz: at * * *, and the river Ocha."

c. 1854, Dr. George Gibbs (Dft. Ex. 189, p. 456): "Next to the Makahs are the Clallams, * * * have eight villages, viz: commencing nearest the Makahs, Okeno, or Ocha, which is a sort of alsatia or neutral ground for the runaways of both tribes (Makahs and Clallams) * * *."

d. Dr. Henry R. Schoolcraft (1851-1857), under direction of the Bureau of Indian Affairs, published the following information (Dft. Ex. 170, p. 490): "Indian Population of Washington Territory" * * * "Tribe, Cape Flattery; population, 150; Remarks - Skllams" * * * however, at page 701, Schoolcraft states "The Makaw, or Cape Flattery Indians * * * occupying * * * Cape Flattery * * * eastward to the boundary of the Halam or Noostlalum lands." The designation "Skllallams" in reference to Cape Flattery by Schoolcraft was probably an error, since Gibbs lists same population (150) on Cape Flattery as "Makahs" in January, 1854 (Dft. Ex. 189, p. 464).

e. Dr. George Gibbs noted in his "Alphabetical Vocabularies of the Clallam and Lummi, 1863" (Dft. Ex. 212) "The tribe of Clallams * * * S'Klal'am * * * Nus-Kl'ai-yum * * * inhabit the southern shore of Fuca Strait, from about the Okeho River on the west, * * *."

f. In 1877, Dr. Gibbs, in a more comprehensive report on "Puget Sound Indians" (Dft. Ex. 6) from data obviously obtained in 1853-55 stated: "* * * along this tract from the Okeho River to Point Wilson, the Klallam, or S'Klallam are located."

g. Dr. Edward S. Curtis in his "The North American Indian" (1913) wrote (Dft. Ex. 47, pp. 19-20) "Clallam. The most powerful and warlike of all Salish Tribes on the coast of Washington were the Callam, a group comprising about a dozen populous villages on the southern shore of the Strait of Juan de Fuca from Port Discovery on the east to Hoko Creek on the west, * * *." At page 174 Curtis detailed six houses of mixed Makah Clallam at mouth of Hoko Creek as a Clallam Village. He further listed among eleven other S'Klallam villages besides "Hoko" the next as "Tlat-lawais, on the west side of Clallam Bay."

h. Dr. Leslie Spier's study "Tribal Distribution in Washington," published in 1936, (Dft. Ex. 5) exhibits a map at page 42 showing the work "Klallam" in an area between the Hoko River and the mouth of Port Discovery Bay, but notes (Id. pp. 5-6) "the procedure (of assigning boundaries) is not wholly valid."

i. Dr. H. C. Taylor's report on the "Makah Indians" (June, 1955) states (Dft. Ex. 218) that at mouth of the Hoko is marked as a shatter-belt (joint use) area between the Clallam and the Makah.

j. Missionary Myron Eells, writing in "The American Antiquarian" in January 1887 (Vol. IX, Dft. Ex. 22a, pp. 1-9) stated: " * * * Their (Nu-Sklaim) territory formerly extended from Port Discovery Bay to the Hoko River on the northern coast of Washington Territory," although Eells states he only counted "three at Hoko."

k. The Department of the Interior report in 1942 (Dft. Ex. 78, at p. 139) in discussing Clallam villages, noted testimony of aged Indians that Hoko Indians often went to Sekiu for salt water fish for a change from the Hoko River fish.

NORTH AND SOUTH BOUNDARIES:

The south boundary of Territory exclusively occupied by Sklallam Indians was the mountains "to their back" and their north boundary was the Strait of Juan de Fuca.

a. The W. H. Dall map, allegedly based on the work of Dr. George Gibbs, 1876, has the word "Klallam" along the south coast of the Strait of Juan de Fuca between the Twin and Dungeness Rivers; it vividly portrays the mountains coming down almost to the water's edge. (Dft. Ex. 105)

b. Dr. Gibbs' comprehensive report of 1877 (Dft. Ex. 6, p. 167) "Pursuing the Straits of Fuca, the mountain barrier comes in like manner to the shore until reaching the neighborhood of False Dungeness, leaving only a few covers for habitation.

From thence to Port Townsend a strip of more local character, some of it valuable for cultivation, borders the coast and bays. * * * They are as may be supposed almost exclusively maritime, depending mainly for support on fish or the commodities which they get in exchange. * * *

recognize no individual right to land except actual occupancy. This seems to be respected to this extent, that if a man has cleared a spot of land for cultivation, he can hold it on return of the season for planting from year to year, as long as he sees fit. So in their villages, the site of a house pertains to the individual. * * * Tribes are, however, somewhat envious of territorial rights * * * (Id., pp. 186-187)."

c. Dr. Edward S. Curtis in his "North American Indian" (1913) wrote (Dft. Ex. 47, p. XI) " * * * The dominating cultural influence of the tribes treated in this volume was their dependence upon sea food. * * * Agriculture was unknown. * * * The forest jungle was difficult to penetrate and the flesh of land animals was not particularly relished. * * * The Clallam scattered along some eighty miles of sea coast." (pp. 19-20)

d. P. L. Goddard in his "Indians of the Northwest Coast" (1924) reported (Dft. Ex. 56) on page 17 "Trails for the most part, the interior of the larger island and the mainland was untraversed by the natives."

e. Dr. Erna Gunther published her "Klallam Ethnography" (Dft. Ex. 40 at p. 178) in 1927 and notes Gibbs and Curtis' respective reports of S'Klallam villages all situated at the mouths of the rivers and bays along the southern coast of Juan de Fuca, viz: Hoko River, Clallam Bay, Pysht Bay, Elwha River, west base of Ediz Hook, Dungeness River, New Dungeness River, Sequim Bay, Port Discovery Bay, Port Townsend and Washington Harbor. Gunther also observes (Id. p. 204) "Hunting is of least importance, economically, to S'Klallam. What little is done is carried on at sea rather than on land. The mountains back of the Klallam territory are known only to a few hunters who go there for elk

and deer * * * (Id. p. 204). There are no family hunting grounds but the whole of the Olympic range is free to everyone. * * * Hunting on a smaller scale is done if an elk or deer or bear is seen walking on the beach. The people chase the animal into the water and follow it in a canoe until the animal dies of exhaustion." (Id. p. 205).

Dr. V. F. Ray in "The Sanpoil and Nespelem" (1933) seems to singularly disagree with Gunther, stating that he had "several reports" that hunting grounds were divided among nobles, commoners, and slaves of Northwest Tribes. (Dft. Ex. 38). However, Dr. H. G. Barnett observed on the Salish coast that the dense undergrowth topped by heavy stands of conifers made penetration to the higher mountains very difficult and "foreign to the genius of their culture (fishing)." (Dft. Ex. 155)

f. Dr. Ronald L. Olson in his study of "The Quinault Indians" (1936) reports (Dft. Ex. 52, p. 13) "The Heights above the sources of the river (off the southern coast) were more or less common hunting territory for Quinault, Skokomish, Klallam and Queets."

g. Dr. William Elmendorf in "The Structures of Twana Culture" published in 1950 (Dft. Ex. 196) states "there was no concept of clearly defined linear boundaries or frontiers to the Twana Country; boundaries correspond generally to sometimes extensive watershed areas."

THE EAST BOUNDARIES: The Chimakum Indians occupied the area around Port Ludlow and Port Townsend in aboriginal times.

a. Dr. Henry Schoolcraft published in his reports (1851-1857) under the direction of the Bureau of Indian Affairs (Dft. Ex. 170) that "Chimakum were 70 in position along Straits of Fuca while Skokomish occupied

upper end of Hood's Canal (pp. 490-491). Dr. Schoolcraft states that the "once powerful Chimakum a few years since, have been nearly destroyed by Snoqualmos and now occupy some fifteen lodges on Port Townsend Bay" and "lately, the Clallams have taken possession of their country and they are, in a measure, subject to them * * *. Their territory seems to have embraced the shore from Port Townsend to Port Ludlow." (Id. pp. 458-9).

b. Map dated 1856, apparently made by Dr. George Gibbs (Dft. Ex. 176) shows the word "Chemakum" between Point Wilson and Port Ludlow. Gibbs further noted in his "Alphabetical Vocabularies of the Clallam and Lummi" (1863) that "the Tsemakum are reduced to 90 souls. Their original country embraced Port Townsend, Port Ludlow and Port Gamble." (Dft. Ex. 81, p. 177).

c. Captain George Vancouver saw no Indians, but a deserted village at the site of the Tsemakum Town, apparently in a state of decay and observed about sixty Skokomish at head of Hood's Canal. (Id. p. 228).

d. Dr. Edward S. Curtis in "The North American Indian" (1913) stated, the former (Chimakum), now extinct, inhabited the peninsula between Hoods Canal and Port Discovery, their villages being in the main between Port Townsend and Port Ludlow." (Dft. Ex. 47, 141).

e. Albert R. Reagan's "Ethnography and History" (1916?) in an unpublished manuscript stated "these two tribes (Hoh and Quileute) are sole survivors of the Chimakum Linguistic family * * * the Chemakum proper of Port Townsend having become extinct * * *."

f. Frachtenberg's "Eschatology of the Quileute" (1920) stated Chimakums, extinct today, occupied northwestern part of Jefferson County.

g. Gunther repeatedly observed in her "Klallam Ethnography" (1927) that Clallams "visited" the areas of Hood Canal for visiting and trading with other Salish groups, viz: Skokomish, Twanas, Chemikums near the permanent camps of the Skokomish. (Dft. Ex. 40, pp. 177, 180, 190, 195, 196) and Dr. Gunther's work shows no "Klallam" village at the head of Port Discovery or Port Townsend.

h. In 1942 the Department of Interior noted that S'Klallams had summer fishing and camping grounds along the Hood Canal (Dft. Ex. 78).

i. September 1, 1852, Indian Agent A. E. Starling reported (Dft. Ex. 199) that 75 Chemakum were located in "Vicinity of Port Townsend."

20. The lands described in Finding 19 were part of lands ceded to the United States by the terms of the Treaty of Point No Point by the S'Klallam and Chimakum Indians. The date of signing this treaty by the respective parties thereto was January 26, 1855. This treaty was not ratified, however, until some four years later on March 8, 1859, and the date of such ratification by the United States Senate constitutes the date of taking. (12 Stat. 933; II Kapp. 674).

21. Any rights which petitioner or its ancestors and predecessors in interest may have retained or acquired to any lands within the boundaries as set forth in Finding 19 may be made the subject of inquiry at the further hearing of this claim respecting the credits of defendant and consideration paid to petitioner or its ancestors and predecessors in interest, and as to the value of said lands as of the effective date of the treaty, March 8, 1859.

Edgar E. Witt
Chief Commissioner

Louis J. O'Harr
Associate Commissioner

Wm. M. Holt
Associate Commissioner