

BEFORE THE INDIAN CLAIMS COMMISSION

THE SAMISH TRIBE OF INDIANS,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 261
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Decided: March 11, 1958

FINDINGS OF FACT

The Commission makes the following findings of fact:

1. The Samish Tribe of Indians, petitioners herein, is an identifiable tribe of American Indians residing within the territorial limits of the United States along the shoreline of Guemes Island and Samish Peninsula in what is now the Northwest portion of the State of Washington. The identity of this aboriginal group or tribe of Indians, as such, has been established in evidence as required by the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1049; 25 U.S. Code Sec. 70(a)).

EVIDENTIARY FACTS SUPPORTED ULTIMATE  
FINDINGS OF FACT NO. 1

(a) The United States Court of Claims found that the Samish Indians were one of the parties to the Treaty of Point Elliott by reason of the signature of "Pat-teh-us, Noo-wha-ah Sub Chief" (Duwamish, et al Indians v. United States, 79 C. Cls. 530, Findings of Fact IV, Docket No. F-275 and Deposition, p. 297).

(b) The Samish Indians, eo-nomine, do not appear in the Treaty of Point Elliott (12 Stat. 927; II Kapp. 669), either in the preamble or among the signatory Indian parties to the treaty. However, the treaty cession includes the whole of the areas alleged by petitioner to have been used and occupied by Samish Indians in aboriginal times.

(c) Report of Lieut. De L. Floyd Jones, dated September 1, 1853, states "Samish-suppose 150 - located north of Whidbey's Island on the Samish River" (Dft. Ex. 187, p. 5).

(d) Isaac Stevens, Governor and Superintendent of Indian Affairs, Washington Territory, reported on September 16, 1854, "the Samish are on a small river of the same name. in the south part of Bellingham Bay" (Dft. Ex. 11b, p. 455).

(e) Governor Stevens reported December 30, 1856, "The Lummi, Neuksack and Samish have their headquarters at Bellingham Bay (Dumamish, et al v. United States, R. 766, F-275).

(f) Indian Agent E. C. Fitzhugh reported on June 18, 1857, "Before and since the commencement of the Indian War in this Territory, I've had under my supervision 3 tribes: Lummas, Nooksacks, and Samish - in all 850 \* \* \* and the remainder, say 98 of Samish" (Dft. Ex. I, p. 1100, 13).

(g) The most descriptive report in treaty times on the identity of the Samish was made by Agent E. C. Fitzhugh in his report dated 1857:

The Samish as a tribe, appear to be more wandering than the others (Lummi and Nooksack). They have several islands which they claim as their inheritance, together with a large scope of the main land. They have some very fine bottom, which they cultivate on a river, whence they derive their name. Their principal fisheries are along the islands and in the channels, through the low bottoms or field lands adjacent to the mouth of their river. They are governed by one chief, but generally follow their own inclinations as they become associated with civilization. Their total number now I do not think exceeds two hundred, whereas ten or twelve years ago they were one of the most numerous tribes on the Sound, and at that date numbered over two thousand \* \* \*. They have been nearly annihilated by hordes of northern savages that \* \* \* infest our own shores (Dft. Ex. 1, pp. 2, 3, 4).

(h) Upchurch reported in Vol. 27, No. 4 (1936) of the Pacific Northwest Quarterly as follows:

(5) The Samish, a band related linguistically to the Clallam, the Songish of Vancouver Island, and the Lummi, have their name perpetuated in Samish Bay, Lake, Island, River and Village. I am inclined to believe that the word Samish is a different pronunciation of the name Songish of the Vancouver Island Band. So many generations have past that it is doubtful whether it could be authentically determined today. The Samish held Samish Island, Guemes Island, eastern Lopez Island, Cypress Island, and Fidalgo Island, west of Fidalgo Bay where they met the Swinomish. On the shores of the mainland in the vicinity of Edison they met the No-wha-ha, sometimes called Upper Samish, along a wide front. (6) The No-wha-ha, sometimes called Upper Samish or Stick Samish, (although they are not linguistically related to the Samish as closely as they are to the Snohomish or some of the other interior bands) occupied the country from southern Lake Whatcom on Samish Lake and Samish River south to where Mount Vernon now stands, where they met the Kikiallis on the South \* \* \*. They ranged easterly to the vicinity of Sedro Woolley where they met bands of what are now known as Upper Skaggits. Their principal villages were on the Samish River and what is now the village of Bayview.

(i) Both defendant's expert witnesses, Dr. Carroll L. Riley, and claimant's ethnologist, Dr. Wayne P. Suttles, testified on the hearing of the claim that Samish Indians were identifiable Indians

of aboriginal times (I Tr. pp. 9, 10, 11 and I Tr. 89). Dr. Suttles' thesis, "Economic Life of the Coast Salish of Haro and Rosario Straits" contains by far the most extensive treatment of Samish Indians among ethnological works.

2. We find this petitioner is the tribal organization of Samish Indians whose predecessors in interest ceded their lands, along with other groups of Indians, under the Treaty of Point Elliott to defendant (12 Stat. 927; II Kapp. 669; Fdg. la, e. f.).

EVIDENTIARY FACTS SUPPORTING FINDING NO. 2

(a) The chairman of the Samish Tribe of Indians testified there are about 150 members of the Samish Tribe (I Tr. 11). (Alfred Edwards; also Mary McDowell Hanson). He testified that two of his uncles and perhaps his father also had testified in the previous trial of the Samish claims urged before the Court of Claims. (Duwamish, et al. Indians vs. United States 79 C. Cls. 530, No. F-275 (1934)).

(b) The aged witness for claimant, Mrs. William (Ruth) Shelton, stated that Samish Indians had occupied certain areas of the Puget Sound since before treaty times (I Tr. pp. 26, 27, 28, 29, 30) and she made identification of certain Samish areas, named older Samish Indians and their uses of such locations in the latter part of the nineteenth century.

(c) The following plaintiffs were parties to the treaty of Point Elliott, viz: "\* \* \* and the Samish Tribes," (listing eleven tribes). (Duwamish case, Findings of Fact IV, Cit. Id).

(d) And defendant's expert, Dr. C. L. Riley, does not dispute that petitioners were descendants of a separate tribe but responds "as I know, they (Samish) were separate. Of course they may have lived with other tribes" (Dr. C. L. Riley, II Tr. 18) .

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

There shall be first a determination in the matter of Samish Tribe of Indians versus the United States of America, Docket No. 261, the question whether the claimant, 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 such determination, should such determination be favorable to claimant, proof as to the value thereof, or as to any question of fact not heretofore determined by the Commission.

4. Petitioner alleges that it had exclusive aboriginal use and occupancy of the following described territory within the area ceded to the United States in the Point Elliott Treaty of January 22, 1855, 12 Stat. 927, II Kapp. 669:

Commencing at the Northwest corner of Section 19, Township 35 North, Range 3 E.W.M.; thence East along said 1/16 line to its intersection with the range line between Range 3 E.W.M. and Range 4 E.W.M.; thence North on said range line to the Northeast corner of Section 25, Township 37 North, Range 3 E.W.M.; thence West along the North section line to its intersection with Chuckanut Bay in Section 25, Township 37 North, Range 2 E.W.M.; thence in a Southwesterly direction to the Southern tip of Lummi Island; thence in a Westerly direction through Obstruction Pass and to the Northwest corner of Obstruction Island in Township 36 North, Range 1 W.W.M.; thence in a Southwesterly direction to Port Stanley on Lopez Island in Section 12, Township 35 North, Range 2 W.W.M.; thence continuing in a Southwesterly direction to Davis Point on Lopez Island in Section 9, Township 34 North, Range 2 W.W.M.; thence in a Southeasterly direction to Iceberg Point on Lopez Island; thence









