

BEFORE THE INDIAN CLAIMS COMMISSION

THE SKAGIT TRIBE OF INDIANS, also)
known as THE LOWER SKAGIT TRIBE OF)
INDIANS, also known as WHIDBEY IS-)
LAND SKAGITS,)

Petitioner,)

vs.)

Docket No. 294

THE UNITED STATES OF AMERICA,)

Defendant.)

Decided: Mar. 20, 1959

FINDINGS OF FACT

The Commission makes the following findings of fact:

1. The Lower Skagit Tribe of Indians, Petitioner herein, is an identifiable group of American Indians within the meaning of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1049; 25 U.S. Code Sec. 70(a)), and as such is entitled to maintain this cause of action. (See supporting evidence under Finding No. 10)

2. 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):

Beginning at the northwest tip of Whidbey Island, known as North beach, in Township 34 North, Range 1 E.W.M.; thence in a Northeasterly direction through Deception Pass to the Northeastern tip of Whidbey Island, known as Hoypus Point in Township 34 North, Range 2 E.W.M.; thence in a Southeasterly direction to the Southwesterly tip of Goat Island in Township

7 Ind. Cl. Com. 292

33 North, Range 2 E.W.M.; thence around the South side of Goat Island to its Southeastern tip; thence in a northeasterly direction in a straight line to the center point of Section 35, Township 34 North, Range 4 E.W.M.; thence in a Southwesterly direction in a straight line to the Northeast corner of Section 14, Township 33 North, Range 3 E.W.M.; thence West along said section line to the Northwest corner of Section 17, Township 33 North, Range 3 E.W.M.; thence in a Southwesterly direction to Point Demock on the Northwest tip of Camano Island in Township 32 North Range 2 E. W. M.; thence South to the entrance to Holmes Harbor in Township 30 North, Range 2 E.W.M.; thence West to the intersection of the East-West center line of Section 7, Township 30 North, Range 2 E.W.M. with the meander line of Admiralty Inlet (which intersection point is about three miles North of Lagoon Point); thence in a Northwesterly direction in a straight line to Point Partridge on Whidbey Island in Township 32 North, Range 1 E.W.M.; thence in a Northeasterly direction in a straight line to point of beginning. (Petition, Par. IV)

3. Claimant's original petition was filed in this cause

August 10, 1951, to which defendant filed an answer September 11, 1951.

By order dated October 12, 1955, this Commission permitted defendant to amend its answer and delete paragraphs 20 and 21 and to make paragraphs 8 and 22 read as follows:

8. Defendant admits that the so-called Skagit Tribe and other so-called tribes and bands entered into a treaty with the United States at Point Elliott on January 22, 1855 (12 Stat. 927, II Kapp. 669), by the terms of which said tribes and bands did "cede, relinquish and convey to the United States all their right, title, and interest in and to the lands and country occupied by them." Defendant denies that any so-called Lower Skagit Tribe or Whidbey Island Skagits, as such, entered into the above mentioned treaty.

22. Defendant alleges that the lands described in paragraph IV of the petition herein were included in the cession to the United States made by various Indians by said Treaty of January 22, 1855, (12 Stat. 927, 2 Kapp. 669)

4. In 1853, Governor Stevens urged upon the Government the necessity of making treaties with the Indian Tribes west of the Cascade Mountains. These tribes, he estimated, as some forty in number and stated that they lived on the different water courses or bays and inlets of the Sound. He further reported: "They have all... a few...which... are not only permanent places of residence, but are hereditary. Near them are the graves of their relatives and friendsThese are their homes, and from them they roam about the Sound in every direction, going where the fish, roots, and berries abound most at the different seasons of the year." Stevens recommended that thorough consideration should be given to establishing reservations for the different tribes in their own territory and joining as many of the tribes as possible under one head. Governor Stevens, in March of 1854, informed Agent Simmons of his appointment as special Indian Agent for the District of Puget Sound. The Governor instructed Simmons to visit the various tribes in his district to prepare them for future negotiations. Simmons was told to organize "the small bands, not at present united, by gathering them into tribes and procuring the selection of head chiefs and of assistant or lesser types." (Pet. Req. Fdg. 3; our Fdg. 5 in Snohomish, Dkt. 125, 4 Ind. Cl. Com. 552).

5. Congress by Act of June 5, 1850 (9 Stat. 437) had authorized the negotiation of treaties with the Indian tribes in the Territory of Oregon (of which Washington Territory was a part) for the extinguishment of their claims to lands lying west of the Cascade Mountains. On August 30, 1854, the Acting Commissioner of Indian Affairs instructed Governor Stevens

who was also Superintendent of Indian Affairs for Washington Territory, that funds had been appropriated by Congress for the expenses of negotiating treaties with Indian tribes in that territory. Stevens was directed to attempt to unite the numerous bands, and fragments of tribes into tribes and to provide for the concentration of one or more of such tribes upon the reservations which might be set apart for their future homes. Governor Stevens commenced negotiating treaties within the territory. In December, 1854, he reported to the Commissioner of Indian Affairs that the next treaty he intended to hold would be at the mouth of the Snoho-mish river where he would bring together the Indians of the Islands and the eastern shore of Puget Sound. "These tribes," Stevens said, "have a population of 2,223, own 425 canoes and raise 6,400 bushels of potatoes." Stevens said he would attempt to establish these Indians on a single reservation near the mouth of the Snohomish River. (Pet. Req. Fdg. 4; our Fdg. 6 in Snohomish, Dkt. 125, 4 Ind. Cl. Com. 553)

6. On January 22, 1855, Governor Stevens entered into a treaty with the chiefs, headmen and delegates of the Duwamish, Suquamish, Sk-tahl-mish, Sam-ahmish, Smalk-kamish, Skope-ahmish, St-Kan-mish, Sno-quahlmoo, Skai-wha-mish, N'Quentlama-mish, sk-tah-le-jum, Stoluck-wha-mish, Sno-ho-mish, Skagit, Kik-i-allus, Swinamish, Squin-sh-mish, Sah-ku-mehu, Noo-wha-ha, Nook-wa-clah-mish, Kee-see-qua-quilch, Cho-bah-ah-bish, and other allied and subordinate tribes and bands of Indians. By Article I of the treaty, these Indians ceded certain described lands within the territory of Washington within which larger area were contained the lands now claimed to have been within the exclusive use and

