

## BEFORE THE INDIAN CLAIMS COMMISSION

THE SKAGIT TRIBE OF INDIANS, also known )  
 as THE LOWER SKAGIT TRIBE OF INDIANS, )  
 also known as WHIDBEY ISLAND SKAGITS, )

Petitioners, )

vs. )

Docket No. 294

THE UNITED STATES OF AMERICA, )

Defendant. )

Decided: Mar. 20, 1959

Appearances:

Warren J. Gilbert, Frederick  
 W. Post and Malcolm S. McLeod,  
 Attorneys for Petitioner

Donald R. Marshall, with whom  
 was Mr. Assistant Attorney Gen-  
 eral Perry W. Morton,  
 Attorneys for Defendant.

OPINION OF THE COMMISSION

Witt, Chief Commissioner delivered the opinion of the Commission.

The petition in this case presents claim in behalf of the tribe of American Indians alleged to be the Lower Skagit Tribe of Whidbey Island Skagits. We find that petitioner is an identifiable group of American Indians within the meaning of the Indian Claims Commission Act (60 Stat. 1049) and as such is entitled to maintain this cause of action.

Petitioner alleges that the United States by the Point Elliott Treaty of January 22, 1855 (12 Stat. 927, II Kapp. 669) secured a cession of Indian land aboriginally belonging to said petitioner for an unconscionable consideration (Petition, Par. VII). The land ceded to

the Government in the Point Elliott Treaty by various tribes and bands of Indians consisted of a large area in what is now the northwestern part of the State of Washington and petitioner's claim is a specified portion of the lands so ceded to the United States.

The only issues to be determined at this time are (1) whether petitioner has capacity under the Indian Claims Commission Act to maintain this action, and (2) is it successor in interest to the original owners of the land involved; and (3) whether petitioner or its predecessors in interest held aboriginal Indian title to the land described in the petition, paragraph IV, or any portion thereof (I Tr. P. 3).

Since the first white contact with the native inhabitants of the Puget Sound area, historical sources have referred to "Skagit Indians" as being located on parts of Whidbey Island and about the mouth of the Skagit River. It is also true that "Skagit" from early times has been used as an identification of one dialect of the Salish language. George Gibbs, Governor Steven's able assistant, in pre-treaty times defined "Skagit" as a dialect spoken by at least four tribes. But aside from the usage of "Skagit" as a classification of dialect, Gibbs also described not only "Skagit" as an entity of American Indians but also drew a distinction between "up-river" bands of Skagits and those situated along the mouth of the Skagit River and on Whidbey Island. This multiple usage of the word "Skagit" in reference sometimes to "Skagit-speakers" and at other times in reference to the Skagits residing on central Whidbey Island and the lower portion of the Skagit River, and at other times used in reference to those Indians residing along the upper portions of the Skagit River has given rise to confusion and controversy in Indian cases.

In 1934 decision which antedates the Indian Claims Commission Act of 1946 (Duwamish, et al. v. United States, 79 C. Cls. 530, Finding IV and Op., p. 581). The Court of Claims found that the Lummi Tribe, Samish, Whidbey Islands Skagit and Upper Skagit, among others, were parties to the Point Elliott Treaty.

Indian Agent Lane in an annual report of 1849 noted "the Skagets live on the Skagit river down to the ocean, toward the north end of Whidbey's Island, a total number about 500 \* \* \*."

George Gibbs, in 1854, classified the Whidbey Island Skagits as a separate identifiable group of Indians in this language, "the next tribe proceeding northward are the Skagits, who live on the main around the mouth of the Skagit River, and own the central parts of Whidbey Island, their principal ground being the neighborhood around Penn's cove."

Also pre-treaty reports of priests, explorer, and government men, Blanchet, Bolduc, Kautz, Wilkes, and others all mention the Sachets, Shatchets, Skagats, etc., as living on Whidbey Island and adjacent areas. The Government men treated with the Skagit in the Point Elliott Treaty and also before and after said treaty. The fourth signature to this treaty is "Goliah, Chief of the Skagits and other allied tribes." It is well known that Goliah as well as Chief Neetlum and other prominent Skagits resided on Whidbey Island.

Sally Snyder, petitioner's ethnologist, pointed out in her testimony that various methods were used in Indian classification among scholars who have made special studies of Indians and their culture, particularly in the Puget Sound region. Some classifications used are ecological, geographical, linguistics, tribal caste systems, potlaching, etc. Snyder

commented that in her classification the term "tribe," among Indians of this region, would be applied to a group of Indians inhabiting, ordinarily, contiguous territory with a degree of solidarity that would approach a political level -- something more than by mere physical habitat or ecological grouping. In defining the Lower Skagits as a tribe she drew a distinction between them and the up-river (upper) Skagits (II Tr. pp. 12-14).

It appears beyond question that these Skagits spoke a common dialect, roamed about together in their canoes around Whidbey Island and lower portions of the Skagit River, constructed pole barricades at Penn's Cove as a common refuge against their common enemy, the Queen Charlotte Indians or the "Yugoltah" of Frazier River. They potlached together, had areas of religious ceremonies, buried their dead in a common cemetery, had arbitration councils to settle internal disputes, followed the leadership of Chief Neetlum and others. While, perhaps, their social order appeared crude and loosely knit when compared to such groups as the powerful and warlike confederacy of "the Six Nations" among the Iroquois, and other organized tribes east of the Mississippi, nevertheless, we have concluded upon the basis of these factors, and in the light of the history of Government negotiations in treaty times treating with them and their leaders as representatives of "tribes and bands," that the Lower Skagits were an identifiable group of Indians within the meaning of the Indian Claims Commission Act. Our finding is thus based not alone upon modern sources and studies but also upon reports of religious, political, and administrative relationships by missionaries, explorers, and Government men with these Indians at a period when they had not abandoned their native culture, 1792-1850's.

Petitioner has established that it is the successor to the aboriginal tribe of Lower Skagit Indians. The testimony of three members of petitioner whose ancestors were well known Skagit Indians, identified by their native culture, 1792-1850's.

This Commission believes that petitioner has established that it is the successor to the aboriginal tribe of Lower Skagit Indians. The testimony of three members of petitioner whose ancestors were well known Skagit Indians, identified by Blanchet, Bolduc, and others, who came in contact with the Indians on Whidbey Island and the North Fork of the Skagit River, supports our Finding No. 10, that petitioner represents the descendants of said aborigines and is the successor to said aboriginal group or tribe of American Indians.

The fourth signer of the Point Elliott Treaty is subscribed "Goliah, Chief of the Skagits and other tribes." When considered with Colonel Simmon's report, this fact considered with other early reports of Skagits on Whidbey Island set out in our Evidentiary Finding No. 10, establishes that Chief Goliah's group of Skagits were a party to the Point Elliott Treaty and their principal residence, at least, was on central Whidbey Island.

The validity of the treaty is not challenged by defendant but only the identity of "so-called Lower Skagit Tribe or Whidbey Island Skagits," as a party to such treaty.

Petitioner seeks additional compensation for lands ceded by the Lower Skagits under the terms of the aforementioned Point Elliott Treaty (12 Stat. 927; II Karp. 669) and alleges such Indians held exclusive use and occupancy of lands described by metes and bounds in the petition,

Par. IV. Said lands of Island and Skagit Counties, Washington, generally comprise two parcels, namely, all that portion of Whidbey Island south from Dugula Bay and north of the entrance to Holmes Harbor and a triangular shaped area on the mainland generally circumscribing so much of the Skagit River as comprises the North Fork, from an apex about three miles north of Mt. Vernon, with one leg extended down to a point on Skagit Bay near Swinomish Slough, and the other leg roughly dividing in half the area between the North and South Forks of the Skagit River, and with that segment of Skagit Bay shoreline thus cut by these forming the base of the triangular tract claimed.

The locations of villages, campsites and use areas of the Lower Skagit were detailed by petitioner's ethnologist, Sally Snyder. (Finding 11)

Snyder in her testimony in this case located and explained the place names set out on the map. (Claimant's Exhibit 4) with aboriginal boundaries delineated in red pencil. She reported Skagit villages beginning at the north end of Whidbey and along the eastern coastline down to Holmes Harbor. Snyder listed Ben Ure, Dugula Bay, Crescent Harbor, Oak Harbor, Penn Cove, Monroe's Landing, Long Point, Snakelum Point and Greenbank, and on the mainland opposite Bald Island, at the fork of the North and South Forks of the Skagit River and near Mt. Vernon, all as permanent Skagit village sites (II Tr. pp. 25-40).

This Commission believes that the evidence, both of modern sources and of such eminent authorities as George Gibbs, and other writers who were among the first to report on the Skagits, establishes that Skagits lived on Whidbey Island and "on the main" along the North Fork of the Skagit River, and were an identifiable group.





