

BEFORE THE INDIAN CLAIMS COMMISSION

THE SNOQUALMIE TRIBE OF INDIANS)	
on its own behalf, and on rela-)	
tion of THE SKYKOMISH TRIBE OF)	
INDIANS,)	
)	
Petitioner,)	
)	
v.)	Docket No. 93
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: June 30, 1960

FINDINGS OF FACT

The Commission makes the following findings of fact:

1. Identifiable Group.

The historic Snoqualmie and Skykomish Tribes of Indians represented by petitioner herein were each identifiable groups of America Indians in treaty times; however, in modern times only the Snoqualmie Tribe are identifiable within the meaning of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1049; 25 U.S.C. Sec. 70(a)) since the record of evidence fails to disclose present day existence of any Skykomish Indians.

2. Villages of Snoqualmie and Skykomish

The Snoqualmie Tribe and the Skykomish Tribe in aboriginal times each consisted of a separate and independent "extended village" situated generally along the respective forks of the Upper Snohomish River, which forks came to be known as the Skykomish River and the Snoqualmie River, and are hereinafter more particularly described.

The names and locations of the villages and houses of the aboriginal Snoqualmie and Skykomish Tribes are as follows (Pet. Exs. I and IR, J. M. Collins; Ex. No. 30, p. 209, M. Smith)

Snoqualmoo (an extended village)

- (a) One winter house at the mouth of Cherry Creek on the east side of Snoqualmie River (Skay-wabst).
- (b) One winter house across from the mouth of the Tolt River on the west side of the Snoqualmie River (Tolt-ha).
- (c) One winter house at Fall City.
- (d) One winter house below Snoqualmie Falls on the northeast side of the river.
- (e) Four small summer houses south of North Bend on Sultan Prairie.

Skai-whamish (an extended village)

- (a) One house at Sultan, west of Sultan Creek.
- (b) One house 4 miles north of Sultan.
- (c) One house below Gold Bar on the Skykomish River (Klee-wabsh).

3. Parties to Point Elliott Cession Treaty of January 22, 1855.

The historical background giving rise to the negotiation of cession treaties with the numerous bands and tribes in Oregon and Washington territories are well known and only brief mention of it will be made here to reflect the nature and purposes of the cession treaty with subject Indians.

Congress authorized the negotiation of cession treaties by Act of June 5, 1850 (9 Stat. 437) for the extinguishment of Indian claims to lands lying west of the Cascade Mountains. Governor Isaac I. Stevens in his capacity as Superintendent of Indian Affairs of Washington Territory instructed

Colonel M. T. Simmons to set up the Puget Sound District Agency to comprise all lands north of the Chehalis and Skookum Chuck Rivers and west of the Cascade Mountains. Stevens also instructed Simmons to tour through the various tribes, organize bands not united, and to appoint chiefs and sub-chiefs to record a careful census, and to ascertain as near as may be the boundaries of territory claimed by each, "preparing the way for future negotiations" (Pet. Ex. 13)

In December, 1854, Governor Stevens reported to the Commissioner of Indian Affairs that the next treaty he intended to hold would be at the mouth of the Sno-ho-mish River where he would bring together the Indians of the islands and eastern shore of the Puget Sound. Stevens reported "these tribes have a population of 2223 own 425 canoes and raise 6400 bushels of potatoes." Stevens said he would attempt to establish these Indians on a single reservation near the mouth of the Snohomish River (Def. Ex. 133).

On January 22, 1855, Governor Stevens entered into a treaty with the chiefs, head-men and delegates of the Dwamish, Suquamish, St-Tahl-mish, Sam-ahmish, Smalk-kamish, Skope-ahmish, St-kah-mish, Snoqualmoo, Skai-wha-mish, N^oQuentl-ma-mish, Sk-tah-le-jum, Stoluck-wha-mish, Sno-ho-mish, Skagit, Kik-i-allus, Swin-a-mish, Squin-ah-mish, Sah-ku-mehu, Noo-wha-ha Nook-wa-clah-mish, Mee-see-qua-quilch, Cho-gah-ah-bish, and other allied and subordinate tribes and bands of Indians (Preamble, Treaty; Cit. below) and took a cession "of all their right title and interest in and to lands and country occupied by them" (Art. 1, Treaty).

Articles, 2, 3, 4, 5 and 7 described the Indian rights and interests in reservations, fishing grounds, and other rights retained by the Indian

parties to this cession. Article 6 provided for the manner of payment by the United States of the sum of one-hundred and fifty thousand dollars "in consideration of the above cession."

The Snoqualmoo and Skai-whamish (Skykomish) were parties to said treaty, the Treaty of Point Elliott (12 Stat. 927; 2 Kapp. 669; Duwamish, et al v. U. S., 79 C. Cls. 533; Fdg. IV). The signatures of some twenty of their representatives are subscribed to said treaty, to-wit: "Pat-Ka-nam, Chief of the Snoqualmoo, Snohomish, and other tribes, his X mark," and Squush-um, or The Smoke, Slat-eah-ka-nam, St'hau-ai, and John Kanam, Sub-chiefs of Snoqualmoo Tribe; Do-queh-oo-satl, Klemsh-ka-nam, Noo-heh-oos, Hwek-uk, Yim-ka-dam, Luch-al-kanam, S'hoot-kanam, Sme-a-kanam, Sad-zis-keh, members of Snoqualmoo Tribe. The representatives of the Skaiwhamish Tribe identified by signatures to said treaty are: Smeh-mai-hu and Lugs-ken, Sub-chiefs; and members, We-ai-pah, Peh-nus, Twoi-as-kut, Heh-mahl, and Steh-shail, William.

4. Amended Claim of Aboriginal Lands.

Petitioner in the original petition herein claimed Indian title to all of the land which was ceded to the United States in the treaty cession of January 22, 1855, and "more particularly" to the watershed of the Snoqualmie River (Orig. Pet., par. 5). After completion of testimony on the question of capacity to sue and liability issues, and over the objections of defendant, this Commission permitted the petitioner to amend its claim and additionally claim on its own behalf and on the relation of the Skykomish Tribe of Indians, the land in the Skykomish River drainage area. The petitioner's claim, as amended, is described as follows:

Commencing at the point where the Skykomish River and the Snoqualmie River come together to form the Snohomish River; thence northward and eastward along the divide separating the waters of the Skykomish River from the waters of the south fork of the Stillaquamish River and the forks of the Sauk River to the crest of the Cascade Mountains; thence southward on said crest to the most eastern point of the divide separating the waters of the south fork of the Snoqualmie River from the waters of Cedar River; thence westerly and northerly along said divide; being south and west of the Snoqualmie River and the south fork thereof to the place of beginning. (Amended Petition, par. 4, filed Oct. 17, 1958).

5. The above described tract of land upon which petitioner herein bases claim of original Indian title contains approximately 974,822 acres, of which 538,048 acres is estimated to be in the Skykomish tract and about 436,744 acres in the Snoqualmie tract proper. (Planimeter Report, Pet. Ex. 19; Map, Pet. Ex. I).

6. Attorney's Contract.

The copy of Attorney's Contract, File No. 59-A, Docket 93, appears to be a valid and sufficient contract executed with the necessary formalities and approval of the Secretary of Interior. In the absence of any evidence to the contrary, we find same is prima facie evidence of such attorney of record's authority to prosecute this claim on behalf of petitioner.

7. Stipulation.

It was orally agreed and stipulated between respective parties on September 10, 1958, at the commencement of hearings in this case that only those issues related to title would be tried at this stage of subject claim, and that all evidence adduced herein, testimony and exhibits, are considered as evidence in both Dockets Nos. 92 and 93 (Tr. 2-4), although each of said docket numbers was heard separately.

8. Legal Capacity.

This petitioner is a corporate entity. It is duly authorized to present this claim on behalf of and for the benefit of the respective descendants of two separate land-using entities, known in aboriginal times as the Snoqualmie Tribe and the Skykomish Tribe.

The record of evidence fails to establish that this petitioner is successor in interest of such aboriginal tribes, or of either of them.

9. Relationship of the Skykomish and Snoqualmie.

a. Interior Culture Varied Slightly from Saltwater Tribes.

George Gibbs reported to Captain George B. McClellan on March 4, 1854, on the Indians of Western Washington from data compiled incident to preparation for treaties of cession which were negotiated the following year. Gibbs reported, among others, a range of tribes generally independent of those along the shores of the Puget Sound and lower parts of the rivers, who rarely descend from their recesses, but are intermediate in their habits between the coast and mountain tribes; however, all belong to the same general family upon whose borders they live. Those in the neighborhood of the passes own a few horses which subsist in the small prairies at the base of the Cascade Mountains (Def. Ex. 3, p. 432). Thus Gibbs, a most astute observer of Indians west of the Cascades during treaty times, noted there were some distinctions between interior Indians from those along the shoreline of the Sound.

b. Located on Upper Branches of Snohomish River.

In direct reference to the petitioner's aboriginal villages Gibb

listed the "Sky-wa-mish" (Skykomish) as "Qunk-ma-mish, Sky-wa-mish, and Sk-tah-le-jum," located on the upper branches, north side of the Sinahomish (Snohomish) River with a total estimated population of 300. Gibbs next listed the "Sno-qual-mook" on the south fork, north side of the Sinahomish River with an estimated population of 195 (Def. Ex. 3, p. 436).

c. Language and Dialects Similar: Snohomish Language Different.

Gibbs stated that at the time of the Point Elliott Treaty Patkanam was placed as chief over all of the six bands of the "Snohomish division of the Niskawalli Nation." It is observable that though the connection between them is most intimate, the Snohomish assimilate in dialect to the next tribe, the Skagit, while the Snokwal̄m̄ speak the Niskwalli in its purity.

September 1, 1852, Indian Agent E. A. Starling reported "as to language the Skea-nu-mish speak Snohomish tongue. The Sno-qual-muke use the Nesqually language" (Pet. Ex. 45, Sen. Doc. I, pp. 458-464). We do not find a distinction between the Skykomish and Snoqualmie language or speech made elsewhere in the record. Moreover, Dr. George Gibbs is quoted in James G. Swan's celebrated work "Three Years at Shoalwater Bay" as authority for the proposition that "Upper Bands of Snoqualmie, Cedar River, Green River, White River, the Puyallup, Nisqually, and Cowlitz speak two languages (Def. Ex. 86, p. 426). Dr. June McCormick Collins testified the Snoqualmie and Skykomish were treated as a language entity (Dkt. 92, Tr. p. 40), and this Commission so finds.

d. Respected Authorities Suggest Snoqualmie-Skykomish Were One Group.

Myron Eels' article in the January 1887 issue of "The American Antiquarium" quoted George Gibbs as authority for the proposition that

the Snoqualmie or Snokwalmu band was very intimate with and properly belonged to this tribe (the Snohomish). He (Gibbs) also says that Snoqualmie dialect more properly agrees with the Indians on their south, that is, with the Nisqually language proper (Pet. Ex. 40, p. 8).

In the "Snohomish division of the Niskawalli nation" Gibbs included the "Snohomish, Snokwalmū Skaiwhamish, Sk'tah-le-jum, Kwehtl-ma-mish and Stolutswhamish" (Def. Ex. 4, p. 179). The more specific classification by Gibbs of petitioner's ancestors is followed by Dr. Marion Smith. Smith lists three groups under the heading "Snoqualmie", the Snoqualmie, Staktdledjabc, and Skykomish (Def. Ex. 32); however, defendant's expert, Dr. Carroll L. Riley, stated he thought Smith's classification was made for sake of convenience (Tr. 49).

John R. Swanton classifies the Skykomish as a subdivision of the Snoqualmie (Sdo'-kwabiuq), a Nisqually branch of the coastal division of the Salishan linguistic family (Pet. Ex. 9, p. 443).

Governor Isaac I. Stevens, Washington Territory, in January 1854, reported the Skykomish, Snoqualmie and Snohomish together, apparently as one group in an estimate of Indians west of the Cascades. His report was apparently based on the conclusions set forth by his assistant, George Gibbs (Pet. Ex. 15, p. 250).

This Commission found in the Snohomish case (4 Ind. Cl. Comm. 549, 562-563, Fdg. 16) that the extended village groups of the Snohomish included the Sdohobc (Snohomish proper), the Sdocohobc and the N'Qentl-ma-mish (Kwehtl-ma-mish on the Filchuck River. This finding omits any mention of either the Snoqualmie or the Skykomish as part of Snohomish.

e. Modern Experts Not in Agreement.

Dr. June McCormick Collins, expert witness for petitioner, testified that she was uncertain whether or not Snoqualmie and Skykomish were one aboriginal tribe, but if Skykomish were not an independent group they were a subgroup of the Snoqualmie Tribe (Tr. 7). Dr. Carroll L. Riley, expert witness for defendant, stated his conclusions were that the Skykomish were an entirely separate group (Tr. 46).

f. Commission's Conclusion:
Separate Land-using Entities.

It is not disputed that the Skykomish lived in a separate extended village on the north fork of the Snohomish River, opposite to the Snoqualmie, whose extended village was situated on the opposite south fork of the same river from the Skykomish. Both the Snoqualmie and Skykomish were of Coast Salish stock, obtained their subsistence in a similar manner, and spoke a similar if not identical dialect, and were placed under a common chief, Pat-kanam, by the treaty agents of the United States, and also included under this chief was the Snohomish Tribe.

The Snohomish Tribe "assimilate in dialect to the next tribe, the Skagits, while the Snoqualmie (Snowualmie) speak the Nisqually in its purity." Thus it appears that the Snohomish are distinctly different from the Snoqualmie and the Skykomish in two respects: they not only inhabited the down-river and salt water areas rather than upper-river, but they spoke a different dialect from the "Snoqualmie and Skykomish."

This Commission concludes the Skykomish and Snoqualmie were separate identifiable groups of Indians and occupied different areas of land, as hereinafter defined, along opposite forks of the same river.

10. Subsistence.

Locations and subsistence areas are reported in Haberlin and Gunther's "Indians of Puget Sound" (Pet. Ex. 18). Snoqualmie (S^uōkwa'lbx^u) lived on the Snoqualmie River from North Bend to the junction of the Skykomish and the Snoqualmie Rivers (Stevens in Bancroft, I, 300 Handbook, 606). In summer they went to Snoqualmie Prairie to gather roots and berries and roamed through the Cascades hunting (Pet. Ex. 18, p. 7). The authors included a map entitled "Distribution of Puget Sound Tribes" which shows the Stkla'ledjebc between the respective forks, Sultan and Skykomish Rivers, which form the upper reaches of the Snohomish River. In larger print is shown the Skykomish, north of the Sultan and Skykomish Rivers and on the Foss River. Squa'lxo is shown southeast of the second major bend of the Snoqualmie River, about the present site of Snoqualmie Falls. Haberlin and Gunther state the Sk'ta'ledjebc are now extinct. The Skykomish were also called sq'e'wabc and sq'e xoh.

The intertribal relations *** The Snoqualmie were friendly with Snohomish and Skykomish but carried on war with Cowichan, Klallam and Nisqually. The Skykomish fought Klikitat and Klallam. (Pet. Ex. 18, pp. 8, 9, 11 and 12).

Haberlin and Gunther's description of Snoqualmie summer houses was a shelter constructed of poles and mats with one side open to an outside fire (Pet. Ex. 18).

The people of this area were interested in both land and sea hunting, the Skykomish, Snuqualmi and Skagit being concerned more with the former. The typical Snuqualmi salmon trap was a fence constructed of willow staves which crossed the entire stream. The Snoqualmie used large capacity canoes

accommodating from 6 to 15 persons only when they came to the Sound (Pet. Ex. 18, pp. 25, 27, 34).

Skykomish and Snoqualmie wove blankets of goat wool, dog hair, or of feathers and fireweed. The dog hair was obtained from the Snohomish or the Klallam (Pet. Ex. 18, p. 30). Dr. George Gibbs reported the Macaw (Makah) were the only Indians skilled in making cedar bark blankets (Pet. Ex. 41).

Gibbs also observed "The Snokwalmū (Snoqualmie) and other upper bands of this division possess a few horse, and are much intermarried with the Yakama Indians, here indiscriminately called Klikatat. *** The Snokwalm also kill more deer and elk on the island than do the Sound Indians" (Def. Ex. 4, pp. 179-180, 193).

Erna Gunther, in a later work, Ethnobotany of Western Washington, 1945, stated the Snuqualmi had lived too long on a "logged off" reservation to retain much knowledge of the aboriginal plant life (Pet. Ex. 26, p. 11).

The search for subsistence necessitated ranging over _ relatively wide areas for fish, roots, berries, and game. Gibbs described difficulties in population estimates because the bands were in an almost constant state of "locomotion." This habit created some problems to the early agents as is described in the following extract of an agent's report.

Edmond Mallet, Special Agent at Tulalip, Washington Territory, in a letter to the Commissioner of Indian Affairs, dated August 18, 1877, noted:

No people were ever civilized on horseback or in canoes, and one of the most powerful means of advancing civilization among these Indians, in their present condition, is to make their homes more attractive, and to encumber them with so much furniture that they can no longer move the whole family and all of the household effects in a canoe. I have therefore

estimated the new fiscal year for a comparatively large quantity of wall paper, flooring, bedsteads, chairs, tables, etc., in place of the usual estimates for tea, rice, flour, etc., which the Indians may easily procure for themselves. (Pet. Ex. 46, p. 199).

11. Tribal Organizations.

In a letter dated December 1, 1853, De L. Floyd Jones, 1st Lieutenant 4th Infantry, wrote to Major E. D. Townsend, Assistant Adjutant General, San Francisco, and commented on the loose organization of most of the tribes of the Puget Sound as imperfect and in many difficult to ascertain any leaders or chieftains; however, Jones stated "the Sno-qual-mish are an exception. They are a well organized restless band on the Snoqualmish River of 225 and the Skey-wah-mish have a supposed number of 175. The Snoqualmish Chief, Pat-cha-nim, is a wily, shrewd fellow, and they are better able to give us trouble than any tribe on the Sound. They subsist more than any other tribe by the chase, and many of them are well skilled in the use of fire-arms" (Pet. Ex. 20, pp. 6-7).

The Nisqually Journal published in the Quarterly, July 1915-April, 1916, reported on the dominant powers of Pat-kanim. An American, one Wallace, was murdered by a part of Snoqualmie and Skey-whamish Indians in May 1849. Governor Joseph Lane, anxious to apprehend the slayers of Wallace, instructed that a bounty of 60 blankets be offered to Chief Putkanim to produce the killers. The transaction was successfully concluded. Lane had authorized the bounty offer to Patkanim be doubled if the Chief was reluctant to produce the offenders (Pet. Ex. 23).

12. Population.

Dr. Henry Schoolcraft, in an 1855 Department of Interior Bulletin, cites A. De Harley's population figures for the Snoqualmich: males 110,

females 140; children under 12 years 90; slaves 8; total 348. Of the Skeysehamish (Siykomish) De Harley estimates 450.

Superintendent Joseph Lane reported to the Secretary of War or Commissioner of Indian Affairs on October 13, 1849, that the "Snoqualmick" Indians live on the Snoqualmick River, a south branch of the Sinahamish (Snohomish), number about 350, have some firearms; their disposition (towards whites) doubtful; live by hunting and fishing. The Skeywhamish live on the Skeywhamish (Skykomish) River, total number 450; some arms, disposition doubtful (Pet. Ex. 44, p. 162).

Three years later Indian Agent E. A. Starling advised Superintendent Of Oregon Territory, Anson Dart, on September 1, 1852, the "Sno-qual-a-muck" are of supposed number of 225 and the Skea-wa-mish of supposed number of 175. Starling recited the same locations for both tribes as above mentioned in Lane's earlier report (Pet. Ex. 45, Sen. Doc. 1, pp. 458-465).

Dr. Ludwik Krzywick of the University of Warsaw reported in his "primitive Society and Its Vital Statistics" (1934) a chronological account of population estimates of Snoqualmie Indians. It does not appear whether Krzywick included the Skykomish with the Snoqualmie, apparently he did not so include the Skykomish. He stated (Pet. Ex. 33, p. 347):

- (1) Earliest estimate by W. F. Tolie, about 1844, at 373 souls (Geo. Gibbs at 434 and I. I. Stevens at 459).
- (2) Thornton's estimate in 1850 at 350 (Jos. Lane at 162).
- (3) A. E. Starling, in 1852, at 460.
- (4) L. Floyd Jones, in 1853, at 225.

A possible explanation for the decline in population estimates is

contained in the Annual Report of the Commissioner of Indian Affairs, 1858, setting out a letter of Indian Agent M. T. Simmons and his visit with the Snoqualmie. Sub-chief Hetley Kanim of the Snoqualmie bitterly complained of the numerous homicides among his younger tribesmen induced by the liquor trade with the "Custis Bostons." Kanim further complained of four summers passing with no government compensation for his tribes' lands promised by Colonel Simmons and Governor Stevens (Pet. Ex. 35, p. 229).

We conclude the DeHarley figures cited by Schoolcraft are most credible of the evidence submitted on the population of subject Indians. The De Harley figures are both detailed and nearest in point of time to the date of the cession.

13. Neighboring Tribes.

To the northwest of Snoqualmie and Skykomish Indians, on the lower portions of the same river of which the Skykomish River formed the north fork and the Snoqualmie River the south fork, were the Snohomish Indians.

To the east, beyond the Cascade Divide, were the Wenatchee and Yakima Indians of the plateau culture.

To the south and southeast were the Duwamish and Muckleshoot.

To the north and northwest were the Suiatle Sauk, Stillaguamish, and Upper Skagits (Skagit R. 26-30, 33-35; and maps, Pet. Ex. I; Pet. Ex. 43, pp. 42-43; Def. Ex. A 109).

14. Boundaries.

This Commission, based on the findings of fact herein made and the evidence of record, finds that the lands exclusively used and occupied by the respective aboriginal groups of Indians, known as the Snoqualmie

Tribe and the Skykomish Tribe, were contiguous but separate tracts of land, described as follows, (for reference map see Dft's. Ex. 112) to-wit:

A. The Snoqualmie Tract of Aboriginal Lands.

Commencing at the northeast corner of the townsite of Monroe, Washington; thence southerwesterly to the headwaters of Tuck Creek; thence south by southeasterly to the town of Kerriston, Washington; thence southeasterly to Annet Lake; thence northeasterly to Snoqualmie Pass; thence northwesterly to the mouth of the Creek on the east shore of Lake Hancock; thence northwesterly to and including all of Lake Hannan; thence northwestward to place of beginning.

B. The Skykomish Tract of Aboriginal Lands.

Commencing at the northeast corner of the townsite of Monroe, Washington; thence southeasterly to Lake Hannan; thence eastward to Mount Index; thence southeastward to Cleveland Mountain; thence northeastward to the confluence of Tye and Beckler Rivers; thence northwesterly to Mount Stickney, a peak about 6 miles northeast of Goldbar, Washington; thence southwestward to place of beginning.

15. Date of Taking.

The United States extinguished the Indian title to the lands described in Finding 14 above by virtue of the terms of the Treaty of Point Elliott of January 22, 1855. The taking of such cession of land and the extinguishment of subject Indian title became effective upon the date of ratification of said treaty, to-wit, March 8, 1859.

16. The proof in this case wholly fails to establish the present day existence of any "identifiable tribe, band, or group" of Skykomish Indians, or any descendant or successor thereof. Moreover, the preponderance of the evidence shows that the historic tribe or village band of Skykomish Indians were not a sub-group of the Snoqualmie Tribe, but to the contrary were in treaty times a separate land-using entity. Therefore, this Commission finds

and concludes that the United States is not liable for the taking of the Skykomish aboriginal lands as defined in paragraph B. of Finding 14 above.

17. The Commission finds and concludes that the Snoqualmie Tribe held original Indian title to the tract of land described in paragraph A of Finding 14 above. Any rights which the Snoqualmie Indians or their ancestry may have retained in such lands, or acquired in other lands in consideration of the taking of same by defendant, may be made the subject of inquiry at the further hearing respecting the consideration paid to the Snoqualmie Tribe or their predecessors in interest and of the value of said lands as of the effective date of the treaty, March 8, 1859.

s/ EDGAR E. WITT
Chief Commissioner

s/ WM. M. HOLT
Associate Commissioner