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. )

THE UNITED STATES OF AMERICA, )
) Docket No. 93
) Defendant.

Decided: May 7, 1965

FINDINGS OF FACT

The Commission makes the following findings of fact.

1. The petitioner herein, the Snoqualmie Tribe of Indians, is an identifiable group of American Indians having the right and capacity under the Indian Claims Commission Act to bring and maintain this suit on its own behalf. (60 Stat. 1049)

2. Along with numerous other Indian tribes and bands, the Snoqualmie Tribe of Indians participated in the Point Elliott Treaty of January 22, 1855 (12 Stat. 927). Under this treaty of cession, the Snoqualmie Tribe of Indians relinquished to the United States all right, title, and interest to a certain portion of the overall area ceded by all tribal participants. The particular tract now claimed to have belonged aboriginally to the Snoqualmie Tribe of Indians, the petitioner herein, was described by and large in the original Snoqualmie petition as being situated in the watershed area of the Snoqualmie River from its headwaters to its mouth.
3. On October 17, 1958, the Snoqualmie petitioner, on its own behalf "and on relation of the Skykomish Tribe of Indians," filed an amended petition setting forth a claim for an additional tract of land which adjoins the original Snoqualmie claim, and is located in the Skykomish River drainage area. The enlarged area now claimed by the petitioner under its amended petition is described as follows, to wit:

"Commencing at the point where the Skykomish River and 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 Stillaguamish 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 the 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." (Par. 4, Amended Petition of October 17, 1958)

The above described area contains approximately 974,822 acres, of which 538,048 acres are estimated to be in the Skykomish tract and 436,744 acres in the Snoqualmie tract.

4. 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 the subject Indians.

Congress authorized the negotiation of cession treaties by Act of July 31, 1854 (10 Stat. 315, 330) for the extinguishment of Indian claims to land lying west of the Cascade Mountains. Governor Isaac I. Stevens, in his capacity as Superintendent of Indian Affairs in Washington Territory, instructed Colonel M. T. Simmons to set up the Puget Sound District
Agency comprising all lands north of the Chehalis and Skookum Chuck Rivers and west of the Cascade Mountains. Stevens also instructed Simmons to tour among the various tribes, organize those bands not united, and to appoint chiefs and sub-chiefs, to record a careful census, and to ascertain as nearly as possible the boundaries of the 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 negotiations 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, headmen and delegates of the Duwamish, Suquamish, St-Tahl-mish, Sam-ahmish, Smalk-kamish, Skope-ahmish, St-kah-mish, Snoqualmoo, Skai-whamish, N'Quentl-ma-mish, Sk-tah-le-jum, Stoluck-whamish, Sno-ho-mish, Skagit, Kik-i-allus, Swin-ahmish, Squin-ah-mish, Sah-ku-mehu, Noo-wha-ha, Nook-wa-clah-mish, Mee-see-qua-quilch, Cho-bab-ah-bish, and other allied and subordinate tribes and bands of Indians, and took a cession "of all their right, title, and interest in and to lands and country occupied by them" (Art. 1, 12 Stat. 927).
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."

Snoqualmie representatives who subscribed to the said 1855 treaty include: "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, Subchiefs of Snoqualmoo Tribe; Do-queh-oo-satl, Klemsh-ka-nam, Noo-heh-oos, Hweh-uk, Yim-ka-dam, Luch-al-kanam, S'Hoot-kanam, Smeh-a-kanan, 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, Subchiefs; and members, We-ai-peh, Peh-nus, Twoi-as-kut, Heh-mahl, and Steh-shail, William.

Article 15 of the treaty provided that the "Treaty shall be obligatory on the contracting parties as soon as the same shall be ratified by the President and Senate of the United States." Ratification did not take place until March 8, 1859, which date is therefore the effective day of the treaty.

5. The subject area is located between the Cascade Range and Puget Sound in northwestern Washington. Approximately 20 miles upstream from the Sound the Snohomish River divides into two main forks; the north fork is called the Skykomish River and the south fork the Snoqualmie River. The claimed area in the amended petition includes substantially the Snoqualmie and Skyhomish drainage systems. The area lies largely
in mountainous country, although there are prairies and flats along the rivers. None of it borders on Puget Sound or other salt water.

6. While notable cultural distinctions can be drawn among many of the tribes and bands that lived along the rivers, streams, and shores of northwestern Washington, eye witnesses to the events of 1850 point to one common cultural characteristic among all groups. We find an almost universal and paramount dependence upon the products of a marine economy to sustain the tribal way of life. Indeed, fishing and its collateral pursuits were of prime necessity, while hunting and gathering activities for the most part were of secondary importance. The historical, scientific, and other reports concerning this period generally indicate an abundance of marine products that are readily available to the native inhabitants.

In 1853, shortly before he was to treat with the many Puget Sound tribes, Governor Stevens made the following general observation on the way of life of these Indians.

All these tribes live on the different water courses; or the bays & Inlets of the Sound, subsisting on Roots & Berries; and the various species of fish which abound in the waters. But few of these Indians ever leave this basin, but roam about the Sound leading for the most part an idle life. They have all, however, singled out a few spots in their domains, which, they wish to reserve; and contemplate the sale of the rest of their lands to the whites. These spots are not only permanent places of residence, but, are hereditary. Near them are the graves of their relatives and friends and they cherish an affection for them, which, I have scarcely ever seen equalled. Those are their homes, and from them they roam about the Sound in every direction, going where the fish Roots & berries abound most at the different seasons of the year." (Def. Ex. 73)

The topographical features of the land away from the rivers and streams contributed to the Indians' need to engage in fishing as their
principal means of subsistence. The adjacent land was quite fertile, but the heavily wooded areas proved difficult to penetrate. What animals that were taken in hunting for the most part included the deer, elk, or bear that had descended from the higher elevations to the river beds for water. The tribal fishing rights were of such importance to these northwest Indians, that invariably their rights to continue fishing at the usual and accustomed places were explicitly spelled out in many of the treaties of cession under which they relinquished their aboriginal rights.

Article 5 of the 1855 Point Elliott Treaty contains the usual and customary language followed by the treaty makers of this period, and it reads as follows:

"Article 5. The right of taking fish at usual and accustomed grounds and stations is further secured to said Indians in common with all citizens of the territory, and of erecting temporary houses for the purpose of curing, * * *." (Art. 5, 12 Stat. 927)

7. Most of the authorities familiar with the tribal activities of the Snoqualmie and Skykomish Indians during the mid 1800's pictured them as living along the Snoqualmie and Skykomish rivers in separate and extended villages. There they subsisted primarily by fishing, and incidentally by hunting and root gathering, with some effort toward farming a potato patch.

This type of tribal activity the Commission finds was consistently followed by all the river oriented tribes of western Washington. Away from the immediate village sites the intensity of Snoqualmie and Skykomish tribal land usage diminished. Hunting sorties were for the
most part sporadic. The interior groups of Indians, however, more actively engaged in hunting game than did their coastal neighbors, and the Snoqualmie Indians, who had horses, were rated as one of the better hunting tribes. The evidence in the record falls far short of defining any specific hunting areas that would belong exclusively to any one interior band or tribe. The Commission has found some evidence of the fact that, in this treaty period, the Snoqualmie and Skykomish Indians wandered and roamed through the Cascade Mountains on hunting expeditions.

8. As early as 1811-14, G. Franchere found with respect to the western Washington Indians that "... all the villages form so many independent sovereignties." (Def. Ex. 62) De Mofras in his "Travels on the Pacific Coast" (1844) recounted that "Among Indian tribes of the Northwest Coast, there exists at the present no large nations comparable to those found even today east of the Rocky Mountains. Most of the tribes are grouped into clans, each under its petty chieftains." (Def. Ex. 66)

In September of 1851 Superintendent Anson Dart made a report on ten Puget Sound tribes. He cites the "Snoqualimich (Snoqualmie) as being on the Snoqualimich river - South Branch Sinahomish" and the "Skeywhomish" (Skykomish) as being on the "Skeywhomish river and north branch of Sinahomish." (Def. Exs. 71, 56) The "Sinahomish" is the Snohomish River upon which Dart locates the Snohomish Tribe. These three groups occupy contiguous areas.

In 1853, Governor Isaac Stevens advised the Commissioner of Indian Affairs that "... There are some forty different tribes in the basin,
between the Cascade Mountains on the East, and the Olymic Range on the West, from the Columbia River, north to the 49° of latitude, numbering in all, not less than five thousand." (Def. Ex. 73) In 1854 Governor Stevens prepared a map of the Indian Tribes in the Washington Territory and in the Puget Sound area it named the following contiguous tribes in a descending order from North to South: Samish, Skagit, Stoluckwamish (Stillaguamish) Sinahomish (Snohomish), Skywamish (Skykomish) Snoqualmoo (Snoqualmie), and Duwamish. (Pet. Ex. 10)

In 1858, Special Indian Agent E. C. Fitzhugh, reporting at Bellingham Washington on the Lummi, Nooksack, and Samish tribes states that "... They are all intermarried with one another -- i.e., the different tribes but they still hold tenaciously to their own territory, as they call their several domains." (Pet. Ex. 34)

Dr. George Gibbs, who assisted Governor Stevens at the 1855 Point Elliott Treaty attempted a "Geographical grouping" of those Puget Sound tribes within what he termed the "Nisqually Nation." The Snohomish division of this "Nisqually Nation" included the Snoqualmie, Skykomish, and four other tribes.* Gibbs assigns separate areas to each and makes no attempt to link them politically. Although the relationship between

*In 1910, Dr. Frederick Hodge made the following comment concerning Dr. Gibb's geographical grouping of the Puget Sound tribes:

".....; but probably nothing more is meant by this classification than that the dialects of the several divisions were nearly related and the geographical position close. Nothing like political union appears to have existed among them." (Pet. Ex. 8)
these tribes was close, Gibbs observed that the Snohomish Indians assimilated the dialect of their neighboring tribe the Skagits, while the Snoqualmie language agrees more nearly with the Nisqually Language which is spoken by the Indians further south. Dialectically then we find the Skykomish linked with the Snohomish and Skagit group and the Snoqualmie with the Nisqually. (Pet. Ex. 41) Gibb's observations generally confirm what Indian Agent A. E. Starling had similarly reported in 1852. (Pet. Ex. 45)

In 1877 Dr. Gibbs, in a more comprehensive report on the Puget Sound had this to say with respect to tribal territorial rights.

"**Tribes are however, somewhat tenacious of territorial rights, and well understand their respective limits; but this seems to be merely as regards their title, and they never it is believed, exclude from them other friendly tribes." (Pet. Ex. 41, Def. Ex. 4)

The Commission finds from this early history of the Puget Sound tribes that there is an almost universal treatment of these Indians as separate, distinct, autonomous entities, and despite very intimate relationships between these tribes and bands, the contiguity of their tiny domains and village sites, and the marked similarity in language and culture patterns, these small tribes and bands lacked the essential political and social unity to form any single overall tribe or nation.

9. The actual location of Snoqualmie and Skykomish village sites within the respective claimed areas at the time of the 1855 Point Elliott Treaty is difficult to determine. There is no archaeological evidence available that would confirm village sites. The historical evidence
speaks only in general terms as to tribal locations. The anthropological and ethnological evidence (based primarily on informant testimony) sets out some village site locations within the claimed areas.

As early as 1838-39, there are historical references to a tribe called the "Skaywomish" (Skykomish) living on the "Sinnohomish River" (Snohomish River) and numbering some 585 persons (Def. Ex. 56). The reports of Anson Dart in 1851, Agent E. A. Starling in 1852 and Lt. D. F. Jones, do not cite village locations but place the Snoqualmie Indians on the south fork or south branch of the Snohomish River which would be the Snoqualmie River and the Skykomish are located on the north fork of the Snohomish River which fork would be the Skykomish River. (Def. Exs. 70, 72, 74) In Lt. Jones' report he states that he has attempted to locate these tribes at their winter quarters since they have no permanent location in the summer months.

Those maps contemporary to the 1855 Point Elliott Treaty do not show any specific village sites but merely indicate general tribal locations. In like manner are the reports of the Indian agents immediately after the conclusion of the 1855 Treaty. These reports are more specific in some details, but make no reference to actual village locations. Agent M. T. Simmons reported in December of 1855 that he was at the assembly ground of the Snohomish and Snoqualmie tribes, and when these two tribes met he was able to make a reasonable head count of those present. (Def. Ex. 80) In September of 1856 Agent Nathan D. Hall found a portion of the Snohomish tribe at the mouth of the Snohomish River,
and shortly thereafter he contacted the Snoqualmie Indians under their
Chief Pat Kanam and a portion of the Skykomish tribe at the forks of
the Snoqualmie and Skykomish Rivers (Def. Ex. 84). From the available
maps of this period it would appear that the Snohomish Indians were
northwest of the Skykomish and Snoqualmie tribes who were located on
the lower portions of the Snohomish River, of which the Skykomish River
formed the north fork and the Snoqualmie River the south fork. To the
east, beyond the Cascade Divide, were the Wenatchee and the Yakima In-
dians of the plateau culture. The Yakima Indians or "Klikatats" were
extensively intermarried with the Snoqualmies. The close contact be-
tween these two tribal groups is not unusual since one of the principal
trails across the Cascade Mountains by way of the Yakima Nation passes
through Snoqualmie country. Further north and northwest could be found
the Suiattle Sauk, Stillaguamish, and Upper Skagits, while to the south
and southeast were the Duwamish and Muckleshoot tribes (Pet. Exs. 1,
43; Def. Ex. 109).

More modern writers, including those prominent in the early 1900's
sought specific locations of Skykomish and Snoqualmie villages. In 1913
noted Indian authority Dr. Edward Curtis published "The North American
Indian." Dr. Curtis locates the Snoqualmie Indians at two village sites in
the Snoqualmie River valley, one village being at the mouth of Tolt River,
the other about one mile below Snoqualmie Falls. Curtis' only reference
to the Skykomish Indians places them on the Skykomish River apparently
in a single village. His general observation concerning the many small
Salish bands that inhabit the Puget Sound country is that, "... in spite of the close linguistic, geographical and cultural relationships, there were no political ties among them." (Def. Ex. 9) In 1930, Doctors Haeberlin and Gunther published "The Indians of Puget Sound" based upon work done as early as 1916-17. Their map shows a separate area for the "Skykomish" in the drainages of the Skykomish, Skagit, and Sultan Rivers. They state that the "Skykomish lived along the Skykomish and Foss Rivers," and that "a band of Skykomish used to live on Sultan Creek but are now extinct." (Def. Ex. 18) They further stated that the Snoqualmie Indians lived on the Snoqualmie River from North Bend to the junction of the Skykomish and Snoqualmie rivers. There is no reference to particular village sites only the general observation that these Indians built their villages along the rivers and streams with the houses facing the water and generally in a single row. Thus, Puget Sound villages could extend for quite some distance along the water courses, and some boundary points between tribes could be determined by the extent of the village.

In 1940, Dr. Marian Smith published "The Puyallup-Nisqually" wherein she assigns one village to the "Skykomish" which is "below Gold Bar on the Skykomish River" and two villages to the "Snoqualmie", one opposite the mouth of the Tolt River and the other at Snoqualmie Falls. (Def. Ex. 31) Dr. Smith considered the autonomous village to be the land using entity.

The expert testimony given in this case for the petitioning tribe gives eight village site locations within both the Snoqualmie and
Skykomish claimed areas while defendant's expert gives the Snoqualmie one extended village of three permanent settlements at the junction of the Tolt and Snoqualmie Rivers, and the Skykomish occupied one village on the Skykomish River. (See Commission's Findings 14, 15.)

The Commission believes that the available evidence shows the Skykomish occupying a single village site somewhere on the Skykomish River. The Snoqualmie probably had a grouping of two or three small sites which was a single extended village that was situated where the Tolt River and the Snoqualmie River came together.

10. It is generally agreed upon by the historians, anthropologists, ethnologists and other experts of note, that during the first half of the nineteenth century there occurred a serious and destructive depopulation of the Puget Sound Indians and the other tribes of western Washington and Oregon, caused chiefly by epidemic sweeps of smallpox. Influenza, consumption, and venereal diseases took their toll but it was the dreaded smallpox or "Nooksack sickness" that literally obliterated whole Indian communities. The rapidly diminishing numbers of Indians caused serious discrepancies in attempts to tabulate tribal populations.

In 1844 W. M. Tolmie recorded the population of "Sin-a-ho-mish" (Snohomish) at 322, the "Sno-qual-mook" (Snoqualmie) at 373, and the "Sin-a-ah-mish" at 195. (Def. Ex. 3) In 1950 Superintendent Joseph Lane gave the "Sinahomish" (Snohomish) as 330, the "Snoqualamich" (Snoqualmie) about 350, and the "Skeywhomish" about 450. (Def. Ex. 69)

The population figures given out by Governor Stevens in 1854 just before the 1855 Point Elliott Treaty are somewhat smaller. In this
report Stevens says that the Snoqualmie Indians under their Chief Pat Kanam number about 200 souls and live on the south fork of the Snohomish River, and that they are closely associated with the Yakimas or Klikatats; and for the Skykomish Indians, he brackets them with two other bands and places them on the upper branches and north side of the Snohomish River with an estimated population of 300 souls. (Pet. Ex. 15)

The difficulty in obtaining accurate head counts among these numerous tribes and bands can be attributed in a great part to the shifting nature of the tribes since they frequently wandered from place to place. Dr. George Gibbs blamed his difficulties in this regard on the fact that, as he puts it, the bands were in a constant state of locomotion.

The Commission believes that population figures submitted in an 1855 Department of Interior Bulletin by Dr. Henry Schoolcraft are probably as reliable as any, and certainly are the most detailed and closest in point of time to the date of the treaty cession. Dr. Schoolcraft relies on the population statistics of a De Harley which were compiled in 1849. These figures approximate the Tolmie's 1844 figures and those given out in 1850 by Superintendent Lane. Ten tribes are listed separately and the following separate breakdown is given for the Snoqualmie and the Skykomish:

"The Snoqualimich (Snoqualmie) . . . Males 110; females 140, total 348
The Skeysehámish (Skykomish) . . . they number about 450 souls;
. . ." (Pet. Ex. 42)

11. The Point Elliott Treaty was concluded on January 22, 1855, and in Article II of the Treaty it was provided that there should be
established "for the present use and occupation of said tribes and bands: four specific tracts of lands. These four reservations as subsequently enlarged and diminished by Executive Orders are as follows:

1. The Tulalip or Snohomish reservation consisting of 22,489.91 acres.

2. The Lummi reservation consisting of 12,562.94 acres.

3. The Swinomish reservation consisting of 7,448.80 acres.

4. The Port Madison reservation consisting of 7,284.00 acres.

The Tulalip reservation was the largest of the four tracts and it was here that the Tulalip Indian Agency was located. This Tulalip agency had jurisdiction over the Four Point Elliott Treaty reservations as well as over the Muckleshoot reservation that was later created by the Executive Order of April 9, 1874.

Article 4 of the 1855 Point Elliott Treaty provided that,

The said tribes and bands agree to remove to and settle upon the said first above-mentioned reservations within one year after the ratification of this treaty, or sooner, if the means are furnished them."

In the years that followed many of the Point Elliott Treaty tribes and bands eventually removed to the four treaty reservations as well as to the Muckleshoot tract. The early official government reports and documents dealing with the Point Elliott Treaty tribes, both prior to and immediately after their removal to the special reservations set up under the 1855 treaty, are more detailed in supplying information about specific tribes.

The 1856 Report of the Commissioner of Indian Affairs shows the combined population of the "Snohomish, Snoqualmie, and Skiquamish
(Skykomish) to be 1300 (Def. Ex. 84). In this same report there is included Indian Agent M. T. Simmons' annual report in which he indicates that the Indians seemed to be pleased with the treaties they had made, for he says,

"The Indians being mostly fishing tribes, and cultivators of only small patches for raising potatoes, they placed but little intrinsic value on the soil, and they expressed themselves glad to make arrangements with regard to their lands."

During this period there were published two more maps by Governor Stevens, one dated December 30, 1856, which shows the "Skywamish" along the Skykomish River, and the "Snoqualmoo" along the upper branch of the Snoqualmie River, the other map, dated March 1857, shows "Skywamish" along the Skykomish River and "Snoqualmoo" north of the Snoqualmie River.

On November 17, 1857, Agent J. Ross Browne indicated in his report that some of the Point Elliott Tribes were being localized. He states that,

"** At Scaggets Head, thirty-five miles distant by canoe, under the charge of R. S. Bailey, are the Snohomish, Snoqualmy (Snoqualmi), Skiquamish (Skykomish), Stiliquamish (Stillaguamish), proper, and a few minor tribes **" (Def. Ex. 89; Pet. Ex. 17)

In 1858 Agent R. C. Fay reported that the number of Indians "attached to the different tribes under my supervision will fall, I think a little short of three thousand. The Skagits, with the tribes Sno-dom-ish, Ke-ka-alons (Kikialus?) and Scho-nam-ish, probably number thirteen hundred and fifty; the Sno-ho-mish, Sno-qual-mie, and Ski-quam-ish about fifteen hundred." (Def. Ex. 91)

In 1863, the Snohomish, Snoqualmie, and Skykomish tribes were reported living at Tulalip (Def. Ex. 92). The Stillaguamish Indians
were also placed on the Tulalip reservation. Located at the Swinomish tract were the Swinomish, Skagit, Kikiallus, Sahkumehu, and several smaller bands. The Duwamish, Suquamish, Skopamish, Etakbush, and several other bands resided at the Port Madison reservation. At the Lummi reservation could be found the Lummi Indians, Samish tribe, and the Nooksack tribe, the latter being a non-treaty participant. (See Pet. Ex. 38)

The annual report of the Commissioner of Indian Affairs for the 1870 period contains the January 18, 1870 report of Colonel Samuel Ross and the results of a "thorough census" he made of some twenty tribes living on the five reservations under the jurisdiction of the Tulalip sub-agency (Def. Ex. 138). With the exception of such tribes as the "Muckleshoot" and "Nooksac," the majority of them participated in the 1855 Point Elliott Treaty. He shows the "Duwamish" at the Port Madison reservation under Head Chief Jim Seattle with the largest population at 666. Next are the "Lummi" under Head Chief General Taylor at the Lummi reservation with 335; the "Snoqualmoo" (Snoqualmie) under Head Chief San-a-wa at the Tulalip reservation with 301; the "Sno-ho-mish" under Head Chief Napoleon Bonaparte at the Tulalip reservation with 291; the "Nook-sac" under Head Chief Rempt-Colam at the Lummi reservation with 218; etc. The "Skai-na-mish" (Skykomish) under Head Chief William Stechelch at the Tulalip reservation show a population of 144.

12. The annual reports in the years that follow do not contain any such detailed breakdown of the Point Elliott Treaty tribes or those living on the five reservations under the Tulalip agency. For the sake of
convenience, the references to the Indians under the Tulalip agency in the various statistical tables and figures that cover such topics as Indian school statistics, population, Indian reservations and how they were established, annuity data, etc., are usually made in general terms with tribal groupings specified as a matter of convenience by whomever is making the particular report. In any given report the Indians under the Tulalip agency are frequently identified in several ways vis: "Duwamish and other bands", "Indians under the Point Elliott Treaty", "Duwamish and other allied tribes in the Washington Territory", "Duwamish, Suquamish, and other tribes." (Annual Report of the Commissioner of Indian Affairs (1871)) In the 1875 report of the Commissioner of Indian Affairs the population of the Indians under the Tulalip agency are by reservation as follows: Snohomish (Tulalip) 900, Lummi 600, Swinomish 700, Etakmur* (Port Madison) 550, and Muckleshoot 500. In the Commissioner's report of 1880 and in practically all annual reports thereafter up until at least 1928, the Indians under the Tulalip agency were identified in the schedule of Indian reservations (including areas and how established) as follows: "Duwamish, Etakmur, Lummi, Snohomish, Sukwamish, Swiwamish". (Commissioner's reports of 1880-1884, 1886, 1893-1902, 1904, 1906-1909, 1911-1913, 1917, 1919-1920, 1928)

In the 1906 report of the Commissioner of Indian Affairs, there is a specific reference to the "Snoqualmie" in a population report covering

* The Etakmur are not named in the Point Elliott Treaty but are identified as treaty participants by such writers as Eells (1887) and Agent Mallet (1877) who called them the "Etakbush" and placed them with other tribes at the Port Madison reservation. (Def. Exs. 95, 98)
the Tulalip reservation as follows: "Tulalip, Snohomish, Snoqualmie, and remnants of Duwamish and allied tribes." The population of this grouping is given as 453. In this same report Agent Buchanan noted the following "a large portion of the treaty tribes, those who made the treaty with the Government at Point Elliott live on no reservation, but cluster chiefly along the valleys of the great rivers of the Sound".

(p. 38, Supra)

A 1950 report of the House Subcommittee on Indian Affairs cites the Snoqualmie Indians as being located on the Tulalip reservation for many years and having a 1910 population of 93 souls. The report also lists 761 Snohomish Indians on this reservation as of 1950. The report further states that, "In 1929, Duwamish, Etakmur, Lummi, Sukwamish, and Swiwamish Indians were listed as being on this reservation also." (Def. Ex. 105)

13. Contributing to the diminution of tribal entities in the Washington Territory was the Government policy of concentrating insofar as possible the numerous tribes and bands on a few reservations and thereafter breaking up the reservation lands under an individual allotment program.

Article 7 of the 1855 Point Elliott Treaty gave the President the discretionary authority, if and when he thought it to be for the best interests of the territory and the Indians, to remove the tribes from the four special reservations established under the treaty and relocate them on a permanent reservation, or to consolidate them with other friendly tribes and bands. It was further provided in part that the President,
"... may further at his discretion cause the whole or any portion of the lands hereby reserved, or of such other land as may be selected in lieu thereof, to be surveyed into lots, and assign the same to such individuals or families as are willing to avail themselves of the privilege, and will locate on the same as a permanent home on the same terms and subject to the same regulations as are provided in the sixth article of the treaty with the Omahas, so far as the same may be applicable ... " * (12 Stat. 927)

No permanent reservation was ever established but the Government did undertake to parcel out by allotment the reservation lands. The four reservations continued to exist even though practically all the available land has been disposed of. The 1950 report of the House of Representatives Subcommittee on Indian Affairs shows that on the Tulalip reservation 15,707 acres were allotted, 2,848 acres were unallotted, and 4,218 acres were patented in fee; on the Swinomish reservation 5,395 acres were allotted, 50 acres were unallotted, and 85 acres were reserved by the Government; on the Port Madison reservation 4,360 acres were allotted, 36 acres unallotted and 3,049 acres patented in fee; and on the Lummi reservation 10,162 acres were allotted, 2,040 patented in fee and 2 acres were reserved by the Government.

The effect of the Government's allotment program among these particular tribes promoted to a great extent the assimilation of the individual Indian landowner into the white community. Many of the older

* The sixth article of the Omaha Treaty provides in part as follows: "The President may, from time to time, at his discretion, cause the whole or such portion of the land hereby reserved, ... to be surveyed into lots, and to assign to such Indian or Indians of said tribe as are willing to avail of the privilege, and who will locate on the same as a permanent home, ... " (10 Stat. 1043)
tribal entities ceased to exist. The Skykomish tribe was one that went out of existence and cannot be identified today as a tribal entity. Those tribes that retain their present identity today as organized tribes or unorganized groups, do so primarily for social purposes and to promote business ventures. (Def. Ex. 105)

14. Dr. June M. Collins testified as an expert witness for the petitioners. Dr. Collins acknowledged that she was less familiar with data relative to the Snoqualmie and Skykomish Indians than she was with the neighboring Upper Skagits. In addition she indicated she had done no field work among these two Indian groups preparatory to testifying in this case. Her information concerning the village sites she located within the claimed areas, stems from her interviews with Indian informants in the year 1942. Dr. Collins specifically located eight village sites within the Snoqualmie and Skykomish claimed areas. Five are along the Snoqualmie River; two are along the Skykomish River; and one is up the Sultan River, a Skykomish tributary. Her 1942 list purports to show that these villages existed in 1800, and she believed that they were there in 1859. As stated previously, there is no archaeological evidence available in the record that would confirm the existence of any of her village sites.

With respect to the relationship between the Snoqualmie Indians and the Skykomish Indians, Dr. Collins did state that, at the time of the 1855 Point Elliott Treaty, the Snoqualmie and Skykomish Indians were indeed separate identifiable groups of Indians. Her Snoqualmie Indian informants made a distinction between the two groups. However, because
of certain alleged cultural similarities, Dr. Collins said that, if she were to place the Skykomish Indians with any other group of Indians in this area, she would place them with the Snoqualmie. Along with this general observation, the Commission finds nothing convincing in Dr. Collins' testimony or the evidence cited in support thereof that would support a finding that the Snoqualmie and Skykomish Indians were at any time one and the same aboriginal tribe, or, that the Skykomish Indians were a sub-group or a part of the Snoqualmie tribe.

15. Giving expert testimony for the defendant was Dr. Carroll Riley. He testified that as of the effective date of the 1855 Point Elliott Treaty, the Snoqualmie and Skykomish Indians were separate and independent groups of Indians; that the Snoqualmie Indians lived in an "extended village", consisting of three permanent settlements that were grouped together where the Tolt River and the Snoqualmie River come together, and that the Skykomish Indians were located in one village on the Skykomish River. Dr. Riley was of the opinion that the only common bond between the Skykomish Indians and Snoqualmie Indians was that they were Salish speaking Indians, like the other Indians living in the general area. He notes only minor dialectical differences between villages. According to Dr. Riley, each village was an autonomous entity, and represented the highest form of political organization, there being no overall political or landholding multi-village organization. In addition, it was Dr. Riley's testimony that the village area was the area of most intensive use, and the non-village area was sporadically and nonexclusively used with Indians living outside of the claimed areas.
For the most part, Dr. Riley's testimony, bearing upon the cultural patterns and tribal way of life of the Snoqualmie and Skykomish Indians during the early and middle 1800's, is consistent with what this Commission has on other occasions found to have been the way of life followed by many of the other coastal and river Indian tribes in western Washington. (See The Nooksack Tribe v. United States, 3 Ind. Cl. Comm. 479; Muckleshoot Tribe v. United States, 3 Ind. Cl. Comm. 658; Snohomish Tribe v. United States, 4 Ind. Cl. Comm. 459; Duwamish Tribe v. United States, 5 Ind. Cl. Comm. 117; Suquamish Tribe v. United States, 5 Ind. Cl. Comm. 140, Samish Tribe v. United States, 6 Ind. Cl. Comm. 159; Skokomish Tribe v. United States, 6 Ind. Cl. Comm. 135; Skagit Tribe v. United States, 7 Ind. Cl. Comm. 292)

16. The Commission concludes from all the evidence that, as of the effective date of the 1855 Point Elliott Treaty, the Snoqualmie and Skykomish Indians were two separate, identifiable groups of Indians who occupied different areas of land along opposite forks of the same river. There is no substantial evidence in this case showing that at any time the historic tribe or band of Skykomish Indians was a sub-group or integral part of the Snoqualmie Tribe. On the contrary, the Skykomish Indians were an independent land-owning entity, and the United States recognized them as such in dealing with them as a specific named band under the Point Elliott Treaty.

17. On February 20, 1962, the petitioner placed in evidence the depositions of eight members of the Snoqualmie Tribe that were taken in Seattle, Washington, on July 18, 1961. Three of the eight Snoqualmie
deponents claimed some degree or trace of Skykomish blood. On September 28, 1962, the Commission received in evidence on behalf of the petitioner tribe photo copies of the registration applications of ten Snoqualmie Indians as members of the Snoqualmie Tribe, which applications were completed during the period 1944 to 1951. These application forms purport to show that the applicant involved has some degree or trace of Skykomish blood. Among the ten applications are those of two of the three Snoqualmie deponents claiming Skykomish blood ties.

On November 2, 1962, the Commission received into evidence on behalf of the defendant six additional copies of membership application forms in the Snoqualmie tribe, which forms were introduced for the purpose of refuting the claims of certain Snoqualmie Indians relative to their alleged Skykomish ancestry.

Besides the fact that the several claims of the Snoqualmie deponents and applicants concerning their respective Skykomish blood connections are impossible to substantiate or corroborate on the record before us, the particular Skykomish blood relative that is cited cannot be identified further as being a member of or descendant of a member of the Skykomish Tribe of Indians as it existed in 1855 at the time of the Point Elliott Treaty. It is also obvious that the eight Snoqualmie deponents and those who executed the registration forms have multiple blood ties with numerous other neighboring northwest coast tribes, not an uncommon characteristic among the tribes of western Washington. Some of these tribes exist in some form today, while others are extinct as tribal entities. Among those noted are the following: Skagit, Skokomish,
Snohomish, Swinomish, Stillaguamish, Suiattle, Chelan, Chalawhkid, Duwamish, La Connor, Pilchuck, Sodock, Wenatchee, and Yakima. There was also testimony in the record indicative of the fact that within the membership of other northwest coast tribes there could be found individuals who could assert similar Skykomish blood ties.

None of this "new" evidence sheds any light on the circumstances surrounding the breakup or disbandment of the Skykomish Indians as a tribe in the years following the conclusion of the 1855 Point Elliott Treaty. The actual whereabouts of the Skykomish membership upon the dissolution of the tribe, or the descendants of such membership as an identifiable group owning a tribal claim today, cannot be shown on the record before us. In the absence of any tangible evidence in regard to the above situation, be it historical, ethnological, anthropological, etc., the Commission finds that the unsubstantiated Skykomish blood claims of a few individual Snoqualmie Indians, who enjoy the benefits of present day membership in the petitioner tribe, and who owe no allegiance to any other tribal group, does not prove, or even give rise to the inference, that the aboriginal Skykomish Tribe has been absorbed by the petitioning Snoqualmie Tribe, in order to give to the latter possible successorship rights to the tribal claims of the former.

18. There being no valid tribal or legal connection, including rights of successorship or community of interest between the petitioner, Snoqualmie Tribe of Indians, and the aboriginal Skykomish Tribe of Indians, the Snoqualmie petitioner is not entitled under the Indian Claims Commission Act to bring or maintain the instant lawsuit on behalf
of or "on relation of the Skykomish Tribe of Indians." The tribal claims, as set forth in the amended petition of the Snoqualmie petitioner, for and on behalf of the Skykomish Tribe of Indians for lands ceded by the said tribe under the 1855 Point Elliott Treaty will be dismissed.

19. Based upon the findings of fact made herein, and all the evidence of record, the Commission finds that the Snoqualmie Tribe of Indians, the petitioner herein, is the same Snoqualmie Tribe of Indians that participated in the January 22, 1855, Point Elliott Treaty of cession, and, that as of the effective date of said treaty, to wit, March 8, 1859, the date of Senate ratification, the petitioner herein held Indian title to the following tract of land:

Commencing at the northeast corner of the townsite of Monroe, Washington; thence southwesterly 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 the place of beginning.

Arthur V. Watkins
Chief Commissioner

Wm. M. Holt
Associate Commissioner