

BEFORE THE INDIAN CLAIMS COMMISSION

THE SQUAXIN TRIBE OF INDIANS,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 206
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: June 30, 1969

FINDINGS OF FACT

1. The plaintiff tribe is the Squaxin Tribe of Indians; is an organized band of Indians recognized by the Secretary of Interior as having the authority to represent such Tribe, and it has the right and capacity under the Indian Claims Commission Act (60 Stat. 1049) to bring and maintain this suit in a representative capacity for the "Squawskin" tribes or band of Indians, the tribal signatory to the 1854 Treaty of Medicine Creek (11 Stat. 1032) and owner of the claims asserted herein.

2. The membership in plaintiff tribe as provided in Article 11 of its Constitution and Bylaws consists of (a) all persons of Indian blood whose names appear on the official census roll as of January 1, 1940, and their children born after that date; (b) all original Squaxin Island allottees and their direct descendants of 1/8th degree or more Indian blood; (c) all persons whose names appear on Charles Robin's Schedule of the Unenrolled Indians of the Squaxin Island Tribe as of January 1, 1919, and their descendants of 1/8th degree or more Indian blood; (d) any persons who shall within one year of the date of the approval of the Constitution submit proof of relinquishment of membership in another

tribe; (e) all persons of 1/8th degree or more Indian blood born to any member of the Squaxin Island Tribe after date of approval of the Constitution.

3. By virtue of the Act of August 14, 1848 (9 Stat. 323), Congress created the Territory of Oregon and made all laws affecting United States public lands applicable to those within the Oregon Territory. The Act provided that nothing contained therein "shall be construed to impair the rights of persons or property now pertaining to Indians in said Territory as long as such rights remain unextinguished by Treaty between the United States and such Indians . . ."

By the Act of March 2, 1853 (10 Stat. 172), the Congress created the Territory of Washington out of the north half of the Oregon Territory, and all laws enacted by the Congress regarding the Oregon Territory, not inconsistent with the 1853 Act, were to be continued in force in the Washington Territory.

4. The "Squawskin" tribe or band of Indians was one of the parties to the 1854 Treaty of Medicine Creek, hereinafter referred to as the 1854 Treaty, negotiated by Governor Isaac I. Stevens with "chiefs, headmen, and delegates of the Nisqually, Puyallup, Steilacoom, Squawskin, S'Hom-amish, Steh-chass, T'Peeksin, Squi-aitl and Sa-heh-wamish tribes and bands of Indians, occupying the lands lying round the head of Puget's Sound and adjacent inlets, who, for the purpose of this treaty are to be regarded as one nation, on behalf of said tribes and bands, and duly authorized by them."

Under the terms and conditions of the Treaty "the said tribes and bands of Indians hereby cede, relinquish and convey to the United States,

all their right, title, and interest in and to the lands and country occupied by them, bounded and described as follows:

Commencing at the point on the eastern side of Admiralty Inlet, known as Point Pully, about midway between Commencement and Elliott bays; thence running in a southeasterly direction, following the divide between the waters of the Puyallup and Dwamish, or White rivers, to the summit of the Cascade Mountains, thence southerly, along the summit of said range, to a point opposite the main source of the Skookum Chuck Creek; thence to and down said creek, to the coal mine; thence northwesterly, to the summit of the Black Hills; thence northerly, to the upper forks of the Satsop River; thence northeasterly, through the portage known as Wilkes's Portage, to Point Southworth, on the western side of Admiralty Inlet; thence around the foot of Vashon's Island, easterly and southeasterly, to the place of beginning.

* * *

This tract is designated as No. 346 on Royce's Map No. 1 of the State of Washington.

In consideration for such cession, the United States agreed, inter alia, to reserve for the use and occupancy of the tribes and bands, parties to the treaty, certain tracts of land described in Article II of the Treaty; secure certain fishing rights and grazing rights to the Indians, together with other residents of the area (Article III); to pay certain sums of money set out in Articles IV and V; and to generally promote the welfare of the Indians.

The Indian tribes and bands signatory to the treaty acknowledged their dependence on the government of the United States, and solemnly promised friendship to all citizens.

The treaty was ratified by the Senate on March 3, 1855 and proclaimed by the President on April 10, 1855.

5. The white man's contact with the southern Puget Sound Indians came as early as 1792, if not earlier, when Vancouver made his famed exploration of the area. Very little concerning the Indians appears in historical records until the founding of the Hudson's Bay Company when several censuses of Indian population were apparently taken.

A report purportedly dated 1838-39 shows a total Indian population in the Puget Sound area of 5593, while a report to the House of Commons in 1848-49 derived from the trading lists of the Hudson's Bay Company shows a total of 4014 Indians ascribed to the thirteen tribes designated as Nisqually, but the "Squawskin" are not shown.

While some of the other census reports during this same period show a relatively high population for the Puget Sound Tribes, the ravages of disease took its toll, and the Puget Sound Indian population was reduced drastically.

In 1852, just two years before the 1854 Treaty, Agent Starling attributed to the four groups located on Budd Island, Case Inlet and Totten Inlet a total of 225 people. The report of Governor Stevens and George Gibbs in 1854 estimated a total population of the southern Puget Sound groups at 170. In 1856 the Indians, who has been assigned to the Squaxin Island following the conclusion of the 1854 Treaty, and who included other tribal participants besides the "Squawskin", numbered around 400. By 1858 it was reported that no more than 35 families, or about 105 persons, resided on Squaxin Island.

Other post-treaty Squaxin population figures as they appear in the annual reports of the Commissioner of Indian Affairs for the years noted show: (1875) 150; (1876) 50; (1878) 100; (1880) 100; (1889) 69; and (1900) 116.

6. George Gibbs, one of the prime historical sources for information relative to the identity and location of the Puget Sound Tribes at the time of the 1854 Treaty wrote an ethnological report in 1854-55 in which he identified the "Skwawksin or Skwawksnomish who occupy the isthmus between Hood Canal and Case Inlet, . . ." (Def. Ex. 1, P. II-4). He stated that in some respects these Indians more properly belong to the Skokomish at Hoods Canal than to the Sound Indians.

Other authorities of note who located the early Squaxin Indians were:

1. Frederick Hodge - Handbook of American Indians North of Mexico (1907-1910), "Squaxon - A Salish division on the peninsula between Hoods Canal and Case Inlet, Washington."
2. Myron Eells reported in 1877 that the Squaxin were located east of the Twanas, or Skokomish at and around the base of the great peninsula between Hood's Canal and the main Sound.
3. Edward Curtis in North American Indians (1913) stated that the Squaksadabsa (Squaxson) occupied the east half of Hartstene Island and the east shore of the isthmus separating Hood canal from Case Inlet.
4. Dr. Leslie Spier in his Tribal Distributions in Washington (1936) listed the Sqwawksin on the isthmus between Hood Canal and Case Inlet.

5. Dr. Marion Smith in her book The Puyallup Nisqually (1944) list an aboriginal Squaxin village at Allyn on North Bay at the head of Case Inlet.

6. Dr. William Elmendorf in The Structure of Twana Culture (1950) stated that the Twana (Skokomish) territory lay in contact with that of four other distinctive Indian communities, one of whom was the Squaxon and that "a short trail running south . . . on the south shore of the southern arm of the canal, near the head to the present site of Allyn on Case Inlet, the aboriginal village of duskwaxwsed (Squaxon)."

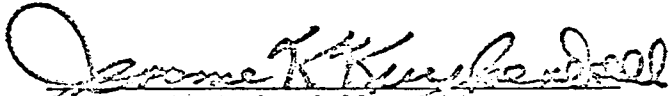
7. Of great assistance to the Commission in determining the extent and degree of Squaxin tribal use and occupancy of the lands within the claimed area was the expert testimony and the accompanying reports of Dr. Herbert C. Taylor, Jr., for the plaintiff tribe and Dr. Carrol L. Riley for the defendant. Both experts relied essentially on the same basic source material in drawing the ultimate conclusion with respect to the identity and composition of the aboriginal Squaxin tribe and area of use and occupancy attributed to these Indians at the time of the 1854 Treaty. Dr. Taylor sought to subsume several of the other Puget Sound tribes under Squaxin, particularly in the post treaty era. Dr. Riley maintained that the Squaxin and the other 1854 Treaty participants were small autonomous tribes or bands of Indians.


8. From the testimony of the expert witnesses, as well as the testimony of the Indian informants, and from all the historical, ethnological, archaeological and other documentary evidence in the record, the Commission has concluded that the aboriginal "Squawskin" tribe or band of Indians,

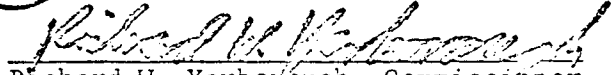
like the other fish-eating Indians of the Puget Sound area, ranged over the nearby rivers, bays, inlets, and contiguous lands in their canoes and on foot in quest of salmon, clams, berries, roots, fowl, and small game. Food was most plentiful and being a relatively small tribe the actual subsistence area could not be any appreciable distance beyond the immediate village site.

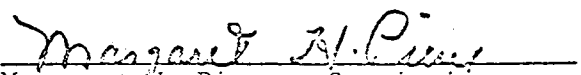
9. Based upon the foregoing findings of fact and all the evidence of record, the Commission finds and concludes that as of March 3, 1855, the effective date of the 1854 Treaty of Medicine Creek and within that area ceded to the United States as described in Finding 4, supra, the "Squawskin" tribe or band of Indians held Indian title to the following bounded area and no other:


Beginning at the town of Allyn on North Bay at the head of Case Inlet, then southwesterly on a line to the town of Bayshore on the western shore of Oakland Bay, thence southeasterly on a line crossing Hartstene Island, Case Inlet and Herron Island to the town of Herron, thence northerly on a line to the point of beginning.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner