

(4) Proposed Finding Documents

- October 27, 1982

MEMORANDUM TO READER

The text of the attached copy of the recommendation and summary of evidence for the proposed finding against Federal Acknowledgment of the Samish Indian Tribe has been annotated to show the primary sources of evidence upon which the report is based. This addition to the report has been made at the request of Evergreen Legal Services, attorneys for the Samish, to assist them in preparation of comments and evidence in response to the proposed finding.

Branch of Federal Acknowledgment
December 1983

Technical Note

The references cited and the sources listed are the most important and directly pertinent out of the total body of materials which could be cited. The research files may contain additional documents or materials which relate to a particular point. Sources are frequently too numerous to permit complete citation. The reader is also advised that any given statement is intended to be understood against a general background of knowledge about the case and the history of the area, and not solely on the basis of the cited source. The list of sources therefore includes many items intended as general sources, not all of which are cited specifically in the text.

Each item in the list of sources has been given a number which is used as the means of citation in the text of the original report. In order to provide additional background or more detailed information about sources for a particular statement, some additional sources have been added to those in the original report. These appear following the last page of the original report. No sources have been added which were not used in the research for the original report.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

WASHINGTON, D.C. 20245

IN REPLY REFER TO:

Tribal Government Services - FA

OCT 27 1982

Memorandum

To: Assistant Secretary - Indian Affairs

From: Deputy Assistant Secretary - Indian Affairs (Operations) *[Signature]*

Subject: Recommendation and Summary of Evidence for Proposed Finding Against Federal Acknowledgment of the Samish Indian Tribe, Pursuant to 25 CFR 83 (formerly Part 54)

1. RECOMMENDATION

We recommend that the Samish Indian Tribe not be acknowledged as an Indian tribe entitled to a government-to-government relationship with the United States. We further recommend that a letter of determination be forwarded to the Samish and that a notice of the proposed findings that they do not exist as an Indian tribe be published in the Federal Register.

2. GENERAL CONCLUSIONS

The aboriginal Samish were one of the Coast Salish tribes of Puget Sound, with territory centered on Guemes and Samish Island, and including neighboring islands and portions of the mainland shore to the east. The economy was primarily based on saltwater fishing of various species. The Samish aboriginally consisted of several autonomous winter villages, which usually consisted of one or more multi-family households. The households were often resident in a single very large multi-family dwelling constructed and owned jointly by the heads of the families. Family and household were often as important units of cooperation and action as the village itself. Intermarriage between village and tribes was the norm, as least by the higher social class, creating social ties for fishing rights and security against attack. (21, 22, 32, 38)

Leadership was not highly formalized but was exercised by influential men in the context of particular situations. There were strong rank or class distinctions between families. "Tribes," as the term has been applied to groups in this area, were linguistic and cultural units, closely linked by kinship ties and residence in a common area. They were clearly defined and named in the traditional culture. (21, 32, 38)

Samish population was reduced to a single large village on Samish Island by the 1840's (21) by exposure to disease and raiding from more powerful tribes to the north. Population estimates of 150 to 200 during this time period are probably somewhat low. (78)

Earliest recorded Samish contact with Europeans was in 1792, but this contact was (22, 24) limited to trade until the early 1850's, when extensive white settlement of the Puget Sound area began. White settlement in the immediate Samish area did not begin, however, until the late 1860's. (37)

*Immediately east of the Samish were the Noowhaha. Some of the descendants of this group were enrolled in Samish organizations formed in the twentieth century. The Noowhaha were often referred to by whites in the historical record as "Stick Samish," and even occasionally misidentified as "Samish." They were, however, clearly a distinct group, speaking a different language from the Samish. They were primarily a river or forest group rather than a saltwater tribe, as the Samish were. The term "Stick" is derived from Chinook jargon and refers to their inland, literally "forest" rather than saltwater, character. Linguistically, the Noowhaha, speaking Puget Sound Salish, were more closely related to the Upper Skagit, while the Samish, speaking Straits Salish, were closer to the Lummi, the neighboring tribe to the north. Both of the terms Noowhaha and "Stick Samish" will be used in this report. (9, 21, 22, 41)

The Samish area was ceded to the U.S. in the Treaty of Point Elliott, which was signed in 1855 and ratified in 1859. This was one of the series of treaties with Western Washington Indians negotiated by Governor Isaac Stevens to open the way for extensive white settlement. The treaties provided for several temporary reservations, with the expectation that all of the Indians would eventually be removed to a single large reservation at Tulalip. This expectation was never fulfilled. Temporary reservations were established in Lummi territory just to the north of the Samish, and in Swinomish territory, just to the south. These were eventually made permanent. Another reservation, on the Samish river, in or next to the Samish, was apparently contemplated but never established. (8, 19, 36, 75-81)

Although the Samish are not mentioned in the final draft of the treaty, they were part of the treaty negotiations and were clearly considered to be covered by the treaty. The Lummi chief was considered to have signed for them. (9, 75-8)

Under the treaty, it was expected that the Samish would go to the reservation in Lummi territory. Except for a brief period, however, they resisted moving into another group's territory and remained as an independent group in their home area.

In 1875, the village at Samish Island was abandoned, apparently under pressure of increasing white settlement in the area. A new village was established on the northwest corner of Guemes Island. Earlier Samish villages had existed on Guemes. The new village, hereinafter referred to as "New Guemes" to distinguish it from earlier Samish villages, was established on two homesteads. These homesteads were obtained under the Indian Homestead Act of 1875, and totaled about 232 acres. They were taken out with the assistance of white settlers. (27, 21, 181-2)

Although the law intended individual family settlements, and the two homesteads were in the names of two individual Samish, the Samish established what was in effect a traditional village. A large multi-family house, perhaps 60 by 500 feet, was built, straddling the division line between the two homesteads. The house was communally built and owned in traditional fashion by the nine heads of families which composed the basic units of the house. The majority of the permanent residents were drawn from two big kin units, one based on the Edwards family and one based on the family of Harry Whulholten. This accounted for six of the nine owners. The other three were part Samish, kinsmen of the other families, but probably raised in other tribes into which their mothers had married. (28, 32, 21)

The village had a permanent population of about 55, but had as many as 100 residents at one time. The larger population reflected other, related, Samish and part-Samish that moved in and out. After the village was established, part of the Whulholten family returned to their home area on Samish Island. While residents sometimes lived elsewhere and there may have been a few Samish living on the Lummi Reservation or elsewhere, the village was the primary center for the tribe in this period. The economy of the village was based on fishing and wage work for whites. Several big potlatches, sponsored by village leaders, were held. The last one was in 1884. Lesser ceremonies were noted in the local press as late as the 1890's. (21,25) (1,12,28)

The New Guemes village continued the earlier Samish reluctance to move onto reservations. The village is viewed by the anthropologist Wayne Suttles as a means of retaining the traditional culture in the face of increasing white pressures on Indian land and economy. (22)

Harry Whulholten and Syitslanowh, whose descendants formed the Edwards family, were among the most influential Samish leaders of the village. Their leadership probably followed more or less the traditional informal pattern. There is nothing to indicate the development of a formal Samish chieftainship in post treaty times. (21,28, 32)

The Noowhaha, like the Samish, were supposed to go onto the Lummi Reservation. Although they were induced to move there for a short period around 1867, they resisted efforts to move them and generally remained off-reservation. At least five Indian homesteads for Noowhaha were filed, but only one is known to have been successfully perfected. Some Noowhaha eventually went onto the Swinomish Reservation, probably after 1890, while others moved upriver to join the related Upper Skagit, with whom they had kin ties. The last clear reference to the group, to a "Stick Samish Tribe," is in 1886, although several clusters of "Stick Samish" show in the Indian Schedule of the Federal census. (75,76) (52,53, 95,96) (42,106) (225)

The New Guemes village ended about 1900, probably declining gradually. Some seasonal and perhaps ceremonial use of the land may have continued, until the land was all sold. Most of the land was sold between 1907 and 1910. Suttles attributes the village decline to different preferences by the younger generation, physical decline of the big house and perhaps difficulty in making a living at that location. Rights to important fishing grounds were lost around 1900, and restrictions on fishing increased in that same period. Another cause was probably the expiration of the trust period on the homestead land, which would have expired around 1901. (179,180-183-6,148) (150,56, 147) (22) (32)

Many of the Samish moved onto the Swinomish Reservation. Important leaders like Charlie and Dick Edwards and George Cagey were already resident on that reservation in 1900, and received allotments in 1905. Others from the village, from the Whulholten family, had been allotted in 1885, although some at least did not take up residence until considerably later. Some Samish remained off-reservation, in areas nearby, for another 10 to 20 years before moving onto the Swinomish Reservation. Besides the Samish, the Swinomish Reservation in the early twentieth century included substantial numbers of Swinomish, Lower Skagit, and Kikiallus, plus a few Noowhaha and others. The Samish, Lower Skagit and Kikiallus are groups nearby the Swinomish, (148,150, 154) (104, 120,243) (66,106) (23,108)

²⁸ within whose territory the reservation is located. The composition of the reservation community is most commonly referred to in terms of these four tribes.

There were marriages between pioneer men and Samish and Noowhaha women during the first ten years of heavy white settlement in their areas, i.e., between 1870 and 1880, and even some marriages to early pioneers in the preceding decade. Some of the descendants of such marriages merged back into the Samish and other Indian communities or reservations. Others remained living in white communities and married non-Indians almost exclusively, retaining few ties with their Indian relatives in Indian communities or reservations. Many such Samish and Noowhaha descendants, along with some descendants of pioneer marriages with members of some other tribes, later participated in organizations formed in 1914 and 1926 to pursue Samish claims.

Movements to seek redress for unfulfilled treaty claims in Western Washington began soon after 1900. These movements form the key background to formal organizations involving the Samish descendants and other people which came into existence after the Samish moved to the reservations. In 1913 or 1914, the Northwest Federation of American Indians was organized to push for fulfillment of treaty claims. This organization had local branches on most reservations and for most tribes. They were instrumental in getting the Indian Office to authorize a survey of homeless and landless Indians, conducted by Charles Roblin between 1916 and 1918.

The Anacortes Branch of the Northwest Federation was established in 1913 or 1914 by Sarsfield J. Kavanaugh, a Samish descendant born in 1862. Despite the branch's name, it apparently represented Samish interests in the Federation, although no actual documentary statement of this was found. According to oral history, it was a combination of Noowhaha and Samish, although there was also a Noowhaha representative in the parallel organization of Upper Skagit Tribes. The Anacortes Branch was not a reorganization or formalization of the pre-1900 Samish tribe. Samish and Noowhaha descendants were instrumental in forming the group. It is not clear what role Samish leaders from the reservations or other Samish members of Indian communities played in the formation of the organization or its activities in the first six or seven years.

Claims bills were introduced as early as 1918. In 1921 the Tulalip agency received instructions to meet with tribal representatives to help in formulation of tribal claims. The meetings and council of representatives were dominated by the Northwest Federation chapters. Sarsfield Kavanaugh, head of the Anacortes Branch, was active in these meetings.

In February 1925, legislation was enacted which allowed various tribes signatory to the Stevens treaties and some non-signers to sue before the Court of Claims. The agency called a series of meetings to appoint delegates to choose an attorney. A meeting of the "band of the Samish tribe and descendants of same" chose Kavanaugh (Anacortes), Charles Edwards and Annie Whulholten Lyons (LaConner, i.e., Swinomish Reservation), and Joe Cagay (Marietta, i.e., Lummi Reservation) as delegates.

At a meeting in 1926, it was "agreed to have a tribal organization." This organization agreed in 1927 to form a joint organization with a parallel organization representing

the Swinomish, to better pursue their aims and "further cooperation between the tribes." This group, which met occasionally between 1926 and 1935, was essentially concerned with claims related matters such as raising funds for the attorney and especially conducting an enrollment. (166-8, 202, 203)

The Samish organization did hold a meeting in 1930 in connection with the Superintendent's request for representatives from the four Swinomish Reservation tribes to be elected to a business council for the reservation. A meeting was held and two representatives sent to a meeting to select council representatives. George Cagey was elected the Samish representative. Samish leaders were active previously to this in reservation-wide formal organizations such as the Northwest American Society. They also participated in the formation of a Swinomish Reservation government under the Indian Reorganization Act in 1935, and George Cagey was elected to the first Swinomish Senate that year. (see p. 12)

The Samish case before the Court of Claims was brought in 1926 as part of a combined action titled The Duwamish, et al Tribes of Indians v. the United States. The decision was rendered in 1934. Damages of \$71,496 were awarded. Since this was offset by claimed Federal expenditures, the case was dismissed. The Samish were considered to have incurred damages for the loss of 14 houses. No award was made for lands lost. Appeals were denied in 1935.

Another group active at this time and subsequently was one that called itself variously the Mitchell Bay or the San Juan Islands Indians. The two names appear from the record to refer to the same collection of individuals. One large family which is listed on the Roblin roll as Mitchell Bay Indians also appears on Samish enrollments of 1926-7 and the early 1930's, and many of them or their descendants appear on the Samish roll in 1953 and on the current roll. At the same time, a member of the family was listed as a leader of the San Juan group in 1925 and 1949.

There was evidently a San Juan Islands Branch of the Northwest Federation and a San Juan Islands group participated in the Duwamish case. The authorizing legislation specifically mentioned them as a non-treaty tribe. The court held they were not aboriginally a separate and distinct tribe but were derived from other tribes who had had villages in the Islands. Roblin in 1919 commented on a "Mitchell Bay Tribe," greatly mixed with Vancouver Island and Alaskan Indians and composed of "mixed-bloods and a few full-bloods." The Indian Claims Commission denied the San Juan Islands group standing to sue on the grounds that they were derived from the Lummi and Samish tribes and therefore covered under those claims. A separate group calling itself the Mitchell Bay Tribe of the San Juan Islands still exists currently.

There is no indication that the Samish organization formed in 1926 continued to function after 1935. No documentary record of a Samish organization or other group between 1935 and 1951 was found and no documentary evidence of one was submitted by the petitioner. Samish representatives are not listed in BIA and Northwest Federation of American Indian records which were examined for this period.

In 1951, a new organization was formed for the purpose of pursuing the Samish claim before the Indian Claims Commission. It was conceived as the direct successor to the

organization formed in 1926. Like that organization, its membership was a mixture of Indian descendants of Samish, Noowhaha and other Indian background, and some Samish and Noowhaha members of reservation communities. However, where the earlier organization's leadership and active participants were dominated by reservation Indians, the non-reservation Indian descendants played a much more prominent role in the new organization. This was particularly true after the 1960's. An open conflict between the two elements in 1975 led to the formation of a short-lived "Aboriginal Samish" organization by the reservation Indians. (193, 222) (83, 84, 187, 193, 222)

The 1951 organization, like the 1926 organization, enrolled individuals known to be of Stick Samish (Noowhaha) descent and was, similarly, conscious of the distinction. In 1977 there was a short-lived attempt by a few Noowhaha reservation members to form a separate Noowhaha tribe and seek recognition. (193) (222, 233)

The Samish organization formed in 1951 initially sought Federal recognition in 1972. A documented petition was first submitted in 1975, and a revised petition under 25 CFR 54 (now part 83), was submitted in October 1979. (73, 74)

In 1974, the U.S. v. Washington (Boldt) decision affirming treaty fishing rights brought the question of unrecognized groups to the fore. The Samish, who were not parties to the original suit, petitioned in 1974 to intervene, along with four other unrecognized tribes. In 1979, Boldt ruled against the five, holding that none was a political continuation of or political successor-in-interest to the treaty signers and further that only recognized tribes were entitled to exercise treaty fishing rights. On appeal, the Circuit Court held that Federal recognition was not a prerequisite to the exercise of treaty rights. Reexamining the evidence, it held that the five intervenors had not maintained sufficient political and social cohesion to constitute Indian tribes and therefore were not entitled to exercise treaty fishing rights. The Supreme Court declined to review the case. (140) (141)

The present-day organization membership includes individuals of distant Samish ancestry as well as individuals of other Indian blood. The membership does not form a community. Interaction among members is limited and members have few if any Samish experiences. At least 50 of the current Samish members are enrolled in other North American Indian tribes. (see p. 26) see p.13

The petitioner is presently governed by a constitution and bylaws which were approved by the membership on June 29, 1975. According to this document, eligibility for membership is based on being of Indian blood and on a federally prepared roll of the Samish Indian tribe to be dated June 1, 1975. The cited roll does not exist. No explanation was given concerning how eligibility has actually been determined during the past seven years in the absence of the specified roll. (197)

The current membership roll includes approximately 590 members. Forty-two percent of the membership have been unable to satisfactorily document their descent from an Indian ancestor who can be reliably identified to be Samish. In fact, a sizeable portion of the number have been determined to be descendants of other historical Indian tribes. (173) (see p. 22)

*Of eight former lists submitted by the petitioner, almost all appear to have been prepared for some purpose other than as a record of the group's actual membership. They vary considerably in terms of size and composition from each other, as well as from the current roll. (see p20)

Dual enrollment is permitted under the group's present constitution; however, the petition has stated that members currently maintaining membership in other tribes will have to make a decision regarding their affiliation when Samish is acknowledged. There are many individuals enrolled with other North American Indian tribes who are eligible for membership with the petitioner based on their Samish ancestry. However, only 50 current Samish members are now dually enrolled (predominantly at Swinomish and Lummi). Based on available evidence, it is not possible to predict whether any of those now enrolled elsewhere would relinquish their membership in favor of Samish if Samish were federally recognized.

EVALUATION OF THE SAMISH PETITION BY THE CRITERIA IN PART 83 (FORMERLY PART 54) OF TITLE 25 OF THE CODE OF FEDERAL REGULATIONS

Summary Evaluation

Included in 25 CFR 83 (formerly Part 54) are seven criteria which petitioning groups must meet before acknowledgment can be extended. The Samish were unable to meet three of the seven criteria.

83.7(a) A statement of facts establishing that the petitioner has been identified from historical times until the present on a substantially continuous basis, as "American Indian," or "aboriginal." A petitioner shall not fail to satisfy any criteria herein merely because of fluctuations of activity during various years.

The Samish, that is the community centered at the Samish Island village and subsequently the New Guemes village, are identified as a tribe by the Federal Government until approximately 1900.

The Samish are identified as a tribe in Federal Government documents as early as 1853. They are referred to frequently in journals, drafts and other historical documents concerning the 1855 Treaty of Point Elliott, although not mentioned in, nor signatory to, the final draft. They are clearly considered in subsequent agency reports and similar documents to have been covered by the treaty and to be under the jurisdiction of the Office of Indian Affairs. (232)(9,112-13)(75-8)

The existence of an Indian community at Samish Island and subsequently at "New Guemes" after 1875 is occasionally noted in local newspapers, as well as in subsequent local histories referring to this period. Until recently, maps showed an "Indian village" (1,11,12)(14,25)

at that location. Local references are to the "Indian rancheria" on Guemes, the "Guemes Indians," and to "Tom Sam's Rancheria." Local white citizens helped the New Guemes Indians obtain homestead land for the new village.

No clear identifications of a Samish group were found between 1900 and 1920, although subsequent Federal statements imply that some kind of Samish group was distinguished within the Swinomish Reservation in the period.

No distinct off-reservation community or other group of Samish was identified by Indian Agent Charles Roblin in his survey of off-reservation Indians and claimants to Indian status between 1916 and 1918. (106)

No clear Federal identification as Samish of the Anacortes Branch of the Northwest Federation of American Indians from its formation in 1913 or 1914 to 1920 was found, although it is possible that such exists. Although no unambiguous reference to the organization as Samish is found between 1921 and 1924, the Indian Affairs office probably dealt with the group, or its representative Sarsfield Kavanaugh, as Samish in that period as part of its work with representative groups to formulate treaty claims. (46) The identification was as a group representing Samish interests as far as proposed legislation to settle treaty claims, but not as a tribe. (63, 64)

Beginning in 1921, the local Indian Agency, under instructions from Washington, called meetings to locate representatives of Western Washington tribes to help formulate their claims in connection with proposed legislation. These meetings and the subsequently elected group of representatives were dominated by the Northwest Federation branches which were generally organized by tribal background. This group was evidently accepted as a valid representative in 1925 to appoint delegates to hire the lawyer for the Samish claims. The Samish organization formed in 1926 was dealt with as being representative of Samish interests between 1926 and 1935 in connection with the Duamish case, even though a joint organization was formed in 1927 with the Swinomish group. (46, 59-64) (205) (66-69, 88, 92, 93)

The Samish participated in the Duamish case on the basis of the 1925 legislation authorizing the suit, although the legislation refers only to signatories of the Point Elliott Treaty and not individual tribes. The Court did determine that the Samish were covered by the treaty and on that basis allowed them standing in the case. It made no other determinations on the character of the groups as they were at the time of the suit. One plaintiff, San Juan Islands, was rejected as not representing an aboriginal entity. (29)

Tribal distinctions within the Swinomish Reservation are indicated by the Superintendent's request in 1930 for separate "band" representatives. No such provision was made in the Indian Reorganization Act constitution adopted in 1935 nor was it discussed in correspondence concerning preparation and adoption of the constitution. (200, 207) (132, 133)

No evidence was found of identification of a distinct entity of Samish Indians between 1935, following the dismissal of the Duamish case, and the formation of the current Samish organization in 1951. No representatives are noted at Northwest Federation meetings or BIA meetings concerning hunting and fishing issues in this interval. (81, 87, 100, 246-7)

*The presently petitioning organization, formed in 1951 in connection with the Samish claim before the Indian Claims Commission, has been identified as a Samish entity of one kind or another by the BIA and other Federal agencies, various Indian organizations, and to a limited degree by State agencies.

Although the local BIA agency has dealt with the Samish organization primarily in connection with the Samish claim, from time to time it has dealt with them as a representative of Samish interests in some other matters. It has never dealt with them as representative of Samish interests on the Swinomish Reservation. They were classified as a non-reservation group and as unrecognized, but were occasionally consulted with or provided limited assistance. The Samish were one of the groups to whom "blue cards" were issued by the agency in 1953, identifying them as members of treaty tribes." They were also consulted in connection with a proposed Western Washington termination bill.

The Public Health Service in 1971 informed the organization that its members were eligible for services from the Indian Health Service. The determination was based on the Indian Claims Commission finding that the Samish had been participants in the Point Elliott Treaty.

The Indian Claims Commission in 1958 stated that the Samish were an "identifiable tribe of Indians," and, therefore, had standing to bring the claim for aboriginal Samish land before the Commission (see detailed discussion under criterion c). The Commission denied that the petitioning group was a valid representative of the Noowhaha, stating that there was no evidence of a formal tribal merger.

Anthropologist Wayne Suttles, who conducted extensive research on Samish culture and history to early 20th century, identified the group in 1979 as the "biological descendants and cultural and political heirs" of the aboriginal tribe.

The Samish organization was included in the Washington State Governor's Indian advisory council in 1971 and 1973.

The Samish organization formed in 1926 was identified as Indian by other such organizations and a Samish organization was a member of the Northwest Federation of American Indians.

The Samish were members of the Intertribal Council of Western Washington Indians, a group of recognized and unrecognized Indians active in the 1950's. They have been members of the Small Tribes Organization of Western Washington (STOWW) which was formed in 1967, and the Affiliated Tribes of Northwest Indians (ATNI), which are organizations of both recognized and unrecognized groups. They were granted membership in the Northwest Indian Fish Commission, an intertribal organization, in 1975. They have been members of the National Congress of American Indians (NCAI) since at least 1974. NCAI, ATNI and STOWW have endorsed Samish recognition. The Samish were given invitational fishing rights by the recognized Suquamish tribe in 1978 and those of 1/8 or more Indian blood were permitted associate membership on Swinomish Reservation for purposes of fishing.

*Four resolutions from recognized tribes supporting recognition for the Samish have recently been submitted by the petitioner. Resolutions submitted were passed by the Squaxin Island Tribe in May 1981, and by the Jamestown Klallam, Sauk-Suiattle, and Suquamish tribes in late September 1982.

The Swinomish Reservation government opposed Samish recognition in 1976 and continues to be opposed, feeling that the group is recognized through them. The Tulalip Tribes has also opposed Samish recognition. (89, 136, 137) (146)

The Samish tribe, i.e., those associated with the Samish Island and the New Guemes villages, were recognized, as well as identified, as a tribe under Federal jurisdiction after the treaty signing in 1855. It is not clear, however, whether they were still considered under Federal jurisdiction as a recognized group in the latter part of the 19th century, after the General Allotment and Indian Homestead Acts were passed. One 1890 statement declared that off-reservation Indians in the area were not under Indian agency jurisdiction. Allotments were granted to Samish on Swinomish Reservation in 1885, 1902 and 1905. During this period, the Federal Government did not treat off-reservation Indian descendants living in white communities as Indian. (68, 227) (117)

There is no evidence of Federal recognition of a distinct Samish tribe after 1900. The Samish on Swinomish Reservation after this point were considered one of the component "bands," although from time to time treated as a distinct group within the reservation.

Although Tulalip agency jurisdiction was extended to off-reservation Indians in 1913, there are no citations of an off-reservation Samish group between 1900 and 1950. Thus there is no indication of recognition of the off-reservation Samish and Noowhaha Indian descendants involved in the Anacortes Branch of the Northwest Federation or the Samish, Noowhaha and other Indian descendants involved in the organization formed in 1926. The Samish are only cited on lists of groups under the Tulalip jurisdiction in the context of lists of tribes covered under the original treaty. Other identifications of a Samish group in this period refer to organizations formed for claims purposes. (54, 82) (227-8, 69, 238) (69, 245, 246)

The Bureau declined a request from the organization in 1967 that the unoccupied Ozette reservation be given to the Samish and denied a request from the group for recognition in 1972. A BIA study commission in 1975 also recommended against recognition on the basis of lack of evidence of exercise of political authority and of provision of services and recognition of rights by the Federal Government. (188) (73, 74) (119)

In summary, the Samish group which was considered signatory to the Point Elliott Treaty was identified as a tribe and recognized as a separate tribe until no later than 1900. Those Samish from the Indian community existing up to that time that joined the Swinomish or Lummi reservations were recognized subsequently only as parts of those reservations. Other entities identified as Samish by the Federal Government and others after that point were created primarily to pursue legal claims. Much of the membership of these organizations was of Noowhaha or other non-Samish ancestry. The Northwest Federation branch and the 1926 Samish organization both explicitly considered themselves as combinations of Samish and Noowhaha.

*Limited evidence of identification of a Samish entity was found for 1900 to 1920, but it is believed further research would produce additional evidence of identification of such an entity at least by local or other Indian sources. No identifications of a Samish entity were found between 1935 and 1950.

We conclude therefore that various entities of one kind or another have been repeatedly identified as Samish since aboriginal times and that they meet the requirements of criterion a.

83.7 (b) Evidence that a substantial portion of the petitioning group inhabits a specific area or lives in a community viewed as American Indian and distinct from other populations in the area and that its members are descendant of an Indian tribe which historically inhabited a specific area.

The aboriginal Samish tribe consisted of several autonomous villages, linked by kinship ties and common territory, identity and language. The number of villages was reduced to two by the early 19th century, one on Guemes Island and one on Samish Island. Some time in the 1840's, the Guemes village residents joined the Samish Island village, so that at the time of the signing of the Treaty of Point Elliott, the tribe consisted of a single large village. (21)

The village at Samish Island continued to function until 1875, resisting attempts by the Indian agency for the Lummi Reservation to have the Samish move onto that reservation. In that year, the Samish Island village was abandoned and the "New Guemes" village established at the northwest corner of Guemes Island, on land homesteaded by two village members. The new village consisted of a single very large multi-family plank house, of traditional style, although some small buildings were subsequently built. Three of the nine owners, i.e., heads of family sections, were individuals of non-Samish identity, leading the anthropologist Suttles to refer to this as an "almost unique" village unit. All of the three were part Samish, probably children of Samish women who had married into neighboring tribes. (21, 32)

The New Guemes village ended around 1900, probably through a gradual process. The largest number of residents moved to the Swinomish Reservation, where some had received allotments as early as 1885. A few remained off-reservation at other locations for a number of years further. There were a few Samish or part Samish at Lummi at this time and some additional ones from the Swinomish Reservation married into that community in the following 20 years. Thus after about 1900, there was no longer a separate, distinct community of Samish Indians. (40, 179-180, 183-5, 66, 120, 154)

The survey of non-reservation, "unattached" Indians of Western Washington, conducted by the Office of Indian Affairs between 1916 and 1918, by Charles Roblin, listed a number of off-reservation communities of varying degrees of social cohesion and distinctness. No Samish or Noowhaha (Stick Samish) community was listed by Roblin. (106)

* The Samish on the Swinomish Reservation participated extensively in reservation-wide formal organizations which became increasingly important after 1910. At the same time, the collection of portions of four tribes was increasingly becoming a single community in terms of informal social ties. Thus Samish were members of the Swinomish Reservation Indian club in 1917, and in 1918 petitioned together with other Swinomish Reservation residents in an undifferentiated petition requesting examination of treaty claims of Swinomish Reservation Indians. The traditionalist smoke-house religious group on the reservation included prominent Samish, while others were members of the more progressive Northwest American Society, both intertribal but reservation-limited organizations. Samish voted extensively in balloting to accept the IRA on Swinomish Reservation, adopt a constitution, and elect the first Swinomish Senate in the 1930's. Although there was progressively greater integration, tribal interests within the reservation have aligned from time to time along tribal lines, principally in relation to claims efforts in the 1920's and after 1950.

The composition of the formal Samish organization created in 1926, based on the lists of those enrolled in 1926-27 and in the 1930's, was well outside any concept of a tribal community. The majority of the membership were Indian descendants of Samish, Noowhaha or other Indian background from family lines which had maintained few if any social ties with members of Indian communities. A large percentage were residents of Canada, of unknown social ties with reservation Samish or with non-reservation Indian descendants. With one or two exceptions, the leaders and most active participants were reservation Samish, some of whom were prominent within Swinomish Reservation community. There was also a small element of reservation Noowhaha that were active participants.

The 1926 organization cannot be considered a formal merging of the Samish and Noowhaha tribes, although it evidently saw itself at the time as a combined organization. Active participants did include a few Noowhaha from Indian communities and some Indian descendants of Noowhaha background. There were, however, also Noowhaha from Indian communities included in a parallel organization, the "Allied Tribes of the Upper Skagit." The Noowhaha had a specific delegate in this organization and this organization specifically represented Noowhaha claims in the Duwamish case.

According to oral history, the Anacortes Branch of the Northwest Federation had also been a combined Samish-Noowhaha organization, a "merging of the two Samishes." In this period also, there were Noowhaha in a parallel organization of tribes of the Upper Skagit.

Thus the organization created in 1926 was not a tribal community but an organization of people of diverse background and with limited functions. Its character was that of an organization enrolling individuals to participate in an anticipated claim. It was, further, part of a wider process of "sorting out" of claimants between various tribal claims organization of the period.

The present-day Samish organization membership includes individuals of distant Samish ancestry as well as others of distant Noowhaha and other non-Samish Indian

ancestry. The group has been unable to retain a distinction from surrounding communities. Marriage outside the group appears to be the rule and is considered acceptable. (3,122,222)

The Samish residing on the Swinomish and Lummi reservations are socially part of their respective communities. Reservation Samish have only limited ties to Samish organization members outside of their respective reservations. Reservation and non-reservation Samish as a group do not constitute a community. Non-reservation Samish individuals have few ties to other Samish organization families. Interaction among members is limited and members generally know few if any of the other families on the current Samish list. In some situations, Samish members will indicate they know some of the other families on the Samish membership roll but they do not know if these families are Samish. Contact with other Samish families is frequently non-existent or limited to an occasional contact at an annual Samish meeting. (39,222)

Some distinction is made between the reservation members and the "Anacortes bunch," a general term for the off-reservation Indian descendants. In recent years there has been political conflict between the two elements over the question of maintaining a blood degree requirement for membership, and over control of the council.(45,83-4,187,193,222)

Members of the Samish organization do not appear to be group-oriented. Not only do most members generally refrain from attending formal Samish activities, they also do not have a high level of knowledge of Samish affairs, can relate few if any Samish activities and can personally relate few if any Samish experiences. The commonly cited source of information for Samish activities or Samish family events is the group's newsletter. (193,222)

Considerable evidence exists that the Samish do not form a community and have not for some time. A 1926 list of 53 members paying membership dues is the earliest (164) known Samish list or roll of members. A review of all known Samish membership rolls and lists of dues paying members since the first enrollments in 1926 indicates that there has been a great deal of fluctuation in the membership of Samish organizations during this 55 year period.

Many members on earlier Samish membership rolls do not appear, nor do their descendants appear, on the current roll. Approximately one-third of the "1926-27 (165) Enrollment Information List" of 365 Samish members, for example, are not on the current roll although some of these families are still evident in the surrounding communities. The current roll also reflects a large number of family lines that do not (179) appear on any of the earlier Samish membership rolls or lists. In addition to the potential members who descend which derive from members on earlier rolls, there also appears to be a potential for several hundred additional members who are descendants or other relatives of current members.

The character of the current group was affected by the elimination of the blood degree requirement in 1975. Samish membership became available to many individuals (197) not previously considered members. These individuals may have had little or no prior contact with other Samish individuals or with the group. One member of 1/16 Samish

*Indian blood, for example, stated although her mother actively attended Samish meetings in previous years, she is not active and her children of 1/32 Samish Indian blood are not active and never have been and do not know much about the Samish. Another member stated her grandmother told her to enroll in recent years although "we're not much Indian." Many regard themselves as of Indian ancestry rather than as Indian. (222)

The Samish petitioners submitted a list of addresses for members and concluded that 74.3 percent of the enrolled Samish lived within a 60-mile radius of Samish Island. An effort to verify a sample of the addresses indicated that as many as 150 may be inaccurate. Therefore, the listed submitted cannot be used as a valid determination of geographic distribution. A Samish representative states some of the addresses provided were not actually the residences of the member himself, but addresses for a relative since these were members who change residences frequently. In order to maintain contact with the individual, the addresses for relatives are used. The Samish representative also offered to provide addresses for members who could not be located by the Federal Acknowledgment staff. Since the mailing addresses provided by the group in response to our request were already the petitioner's second submission, a third update was not requested. Field investigation indicated, however, that individuals at the addresses provided in some cases were also unable to provide accurate addresses for these members. Some individuals indicated that the member had never lived at that location, was deceased, or had never heard of the member.

Consequently, materials submitted in the petition and independent research by the Acknowledgment staff did not substantiate the high degree of geographic concentration claimed by the petitioner, notwithstanding the fact that geographic distribution by itself cannot be used to establish a claim that members maintain tribal relations. No core group or cluster of Samish members was evident around which Samish activities revolve.

Field research and documentary evidence does not support the presence of a cohesive community with a core group or cluster of members around which Samish activities revolve. We conclude that a substantial portion of the petitioning group does not now constitute, and has not constituted for at least seventy years, a community of American Indians which is distinct from other populations in the area. The petitioner, therefore, does not meet the criterion in 25 CFR 83.7(b).

83.7(c) A statement of facts which establishes that the petitioner has maintained tribal political influence or other authority over its members as an autonomous entity throughout history until the present.

Samish traditional leadership, like the Puget Sound Salish tribes in general, was not highly formalized. Leadership was exercised in the context of particular situations, such as potlatches and other group ceremonies, warfare, and reef-net fishing. Leadership in these situations was often exercised by different men. There were no

formally constituted offices, such as a village chief, although one man might be more influential than others within a village. There were, however, clearly distinguishable influential individuals who acted in these contexts, usually men of material wealth, possessing inherited spirit powers, drawn from the highest social class. (21, 28, 32, 38)

There is no indication that more definite chiefs emerged among the Samish even under the influence of European contact. There is good evidence of the continuance of more or less traditional leadership patterns among the Samish throughout the period of existence of the Samish Island village and the New Guemes village. Oral testimony indicates that Harry Whulholten and Syitslanowh (Edwards) were both important leaders. Both were said to have organized potlatches, which would have required effort by the entire village. Both men owned reef-net fishing areas and headed fishing crews, in the traditional manner. Both were reputed to have had important spiritual powers. (21, 22, 28, 32, 222)

There are no clearly documented dealings by outsiders with named Samish leaders. There is documentary record of several potlatches, as well as some other instances of group ceremonial activity. Whulholten and Syitslanowh are from the two large (21, 32, extended families which formed the core of the New Guemes village. The two 181-2, homesteads on which the village was established were taken out by one man from each of these two family groups. Whulholten and Syitslanowh both probably died in the late 1890's, just before the dissolution of the village.

The Samish, including influential Samish individuals, participated extensively in community-wide Swinomish Reservation institutions after they moved to the reservation. Important Samish leaders such as Charlie and Dick Edwards and George Cagey were (2, 150, already reservation residents by 1900. Others, such as Bob and Billy Edwards, 243) evidently remained primarily off-reservation as late as the 1920's. (27, 66, 106)

George Cagey was president of the Swinomish Reservation Indian Club in 1917. (206) Samish leaders were included in a general petition in 1918 from the Swinomish (218) Reservation to press the claims of Swinomish Reservation Indians in general. Samish leaders were active in the Northwest American Society, an improvement organization (39, 214, organized in 1924, and in the traditionalist smokehouse religious movement. Both 216, 244) activities functioned reservation-wide at about the same time. At the request of the (22) superintendent, the Samish elected a specific tribal representative to represent the Swinomish Reservation Samish on the reservation business council in 1930. This (207) reflects the continuation of some tribal distinctions with the reservation community in the 1930's, but not the existence of a distinct Samish community within the (39) reservation. It also reflects the Samish acceptance of a single governing body for the reservation as a whole. The Samish participated extensively in the organization of the reservation under the 1934 Indian Reorganization Act, including the adoption of a constitution and the first elections. George Cagey was elected to the first Swinomish Senate. (209, 217, 219)

Thus between the dissolution of the New Guemes village around 1900 and the organization of the Swinomish Reservation government under the IRA in 1935, the political activity of the Samish as a tribal political community gradually decreased,

corresponding to the increased merging of the Samish from the former Indian community at New Guemes into the Swinomish Reservation community. Some leaders survived from the previous era, with a more or less traditional, informal leadership character. The succeeding generation of Samish in the Indian community who were identified as leaders tended to play more formal organizational roles in the recognized tribe. (2,15,28,32)

Indian community Samish who were regarded as leaders tended to function formally or informally in Swinomish Reservation community institutions, and less formally as leaders of the Swinomish Reservation segment of the Samish. There was perhaps initially some carryover of the latter role to Indian community Samish who were resident at Lummi or to the few who continued living nearby off-reservation. The reservation community institutions were increasingly important after 1920, and there is little indication of a consistently functioning Samish tribal political unit, even within the Swinomish Reservation, after that point. Even this degree of identified Samish leadership is less clear after 1935, as the generation born off-reservation died out. (22,28,32,222,39)

The Anacortes Branch of the Northwest Federation of American Indians, founded about 1914, cannot be considered as a formalization of Samish tribal organization. Its character, like other Northwest Federation branches, was a vehicle for pursuing claims. There is no evidence that Samish leaders from the Indian communities played any particular role in the first years of the organization, up to 1921. The leader was a Samish Indian descendant. There were also some Noowhaha descendants in leadership roles. (18,56,147,237,242,28,46)

The Samish organization formed in 1926 similarly cannot be considered to have been a formalization of traditional Samish political organization though the organizers stated they "agreed to have a tribal organization." As discussed above, its membership did not form a tribal or other kind of community, but was highly diverse, with many non-Samish. The organization was clearly formed in response to claims activities coming to a head in that year, focused on the filing of the Duwamish case. Virtually all of its recorded activities had to do with claims. Its relationship to the Anacortes Branch of the Northwest Federation, which continued, is not clear. (189-91,199-203,164-9,18,205)

Although Samish leaders from the Swinomish Reservation appeared to play a dominant role in this organization, there is no evidence to show that the Samish and non-Samish Indian descendants and residents of Canada, who made up the majority of the enrolled membership, were followers of these leaders except in the narrow context of the organization. Leaders from Swinomish Reservation such as Charlie Edwards, Tommy Bob and George Cagey were officers or were influential in the organization. (56,147,199-204,242)

The last recorded actions of the Samish organization were in 1935, the year in which the Duwamish appeal was dismissed and the year in which the first Swinomish Senate under the Indian Reorganization Act was elected. There is no evidence that any formal organization existed between this time and the formation in 1951 of a new organization to pursue the Samish claims before the Indian Claims Commission. (204,16,82,100)

The current Samish petitioner is the organization formed in 1951 for the purpose of pursuing the Samish claim before the Indian Claims Commission. The character of the membership, like that of the earlier Samish organization, is outside any concept of a tribal community, including part of the reservation Samish from Swinomish and Lummi reservations, Canadians, some of whom may be members of Canadian bands, and large numbers of both Samish and non-Samish Indian descendants. There is no evidence that the large majority of the membership has had any significant contact with or role in the choosing of this leadership. Similarly, there is no evidence that the membership participated or contributed to the decisions formulated by the council. Present or recent Samish organization officials have been at the same time, or nearly the same time, officials in the Swinomish and Lummi reservation governments. (193,222) (101-3)

The initial activities of the Samish organization were predominantly concerned with pursuit of the Samish claim, e.g., hiring lawyers and expert witnesses, and enrolling potential participants in the expected payment. In the past ten years, much of the activity has been concerned with attempting to establish a wider governmental character and seeking Federal recognition as a distinct tribe. The organization from time to time has pursued other efforts, such as attempting to assert tribal fishing rights and establish a tribal fishery, seeking to acquire a land base, and participating with other Western Washington groups in efforts to defeat termination, prevent limitation of Indian fishing rights, and similar causes. (193,198)

The Indian Claims Commission determination in 1958 that the Samish were "an identifiable tribe of Indians" did not constitute a determination of the maintenance of continuity of political organization since aboriginal times. The strongest language used by the Commission is that the Samish "have continued to perpetuate their identity as a tribal entity into contemporary times." The purpose of such findings was to establish standing to bring a claim, i.e., that the group is identifiable as connected with the aboriginal entity for which the claim is made and has group, rather than individual, claims to pursue. Claims Commission findings concerning Western Washington claims, judging by an examination of other Commission findings in the Samish area, used the term "identifiable tribe" when the claim was for an entity which formed a single autonomous unit in 1855. Thus the term was used for the Samish who had been reduced to a single village. The Commission used the term "identifiable group" for cases like the Lummi, where in 1855 there were several closely related but autonomous villages. (34,35) (231)

In summary, a clearly functioning political organization for the Samish existed only until approximately 1900, i.e., until the dissolution of the traditional New Guemes village. Separate Samish political organization gradually ended as the Samish increasingly merged into and participated in the Swinomish reservation community and its political institutions. Some traditional leaders and leadership patterns initially carried over into the new context, before gradually changing by the 1920's.

The Samish organizations formed in 1914 and 1926 were almost entirely for the purposes of claims. Although Samish leaders from the reservation community participated in and were leaders in the 1926 organization, the membership of the organization vastly exceeded any concept of a tribal community. The majority of the

* membership were Samish or non-Samish Indian descendants who did not form a community. Therefore, tribal political influence cannot be said to have been exercised through this organization.

No evidence of any tribal leadership or political activity of any kind was found between 1935 and 1951. The Samish organization formed in 1951, which is the present petitioner, has functioned primarily for claims purposes and not in a broader political sense, and has a similar broad character to its predecessor, vastly exceeding any concept of a tribal community.

We thus conclude that the Samish have not met the criterion of continual tribal political existence under 25 CFR 83.7(c).

83.7(d) A copy of the group's present governing document, or in the absence of a written document, a statement describing in full the membership criteria and the procedures through which the group currently governs its affairs and its members.

The current governing document of the Samish Indian Tribe consists of a constitution and bylaws approved by the membership on June 29, 1975. Article II of this document deals with the requirements for membership. (197)

Two earlier versions of the present constitution and bylaws exist; the first, approved in 1951, and a subsequent revision dated 1965. An even earlier Samish document is said to have existed about 1926-27; however, this document could not be located by the petitioner or by Acknowledgment researchers. A set of bylaws for the combined Samish-Swinomish organization of 1927, which is referred to in minutes of that organization, could not be located either. (189,190,191)

A comparison between the membership requirements found in Article II of the current governing document and those found in Article III of the 1951 and 1965 documents shows a significant change from a more restrictive and traditional concept of membership to the rather loose and ill-defined concept of membership which is present now.

Blood degree vs. source document

A 1/16 Samish Indian blood degree requirement was apparently used from 1951 until 1975 as the basis for determining eligibility for membership. This requirement was replaced in 1975 by the current membership statement which specifies "persons of Indian (emphasis added) blood whose names appear on the membership roll of the Samish Indian Tribe to be dated June 1, 1975, as prepared by the Secretary of the Interior...." This wording apparently grew out of a change to the 1965 constitution proposed by the group in 1974 and submitted to the Agency for comment. Among other things, the 1974 proposed criteria cited a non-existent January 1, 1942 census of the group. The Agency recommended the membership article be revised as quoted (236) (195)

*above. The Samish accepted the Agency's recommendation word-for-word and approved the constitution on June 29, 1975. Neither the 1942 census nor the 1975 Samish roll cited exists nor are they known to have existed in the past. Notwithstanding this, the organization has continued to certify the eligibility of new members during the past seven-year period. (91,197) (236)

Certification of Samish membership

Prior to 1965, the Samish elders and the council were responsible for certifying membership eligibility and the resultant membership roll. With the adoption of the 1965 documents, however, the elders were constitutionally omitted from the certification process, leaving the determination of eligibility in the hands of the tribal council which has tended to be composed increasingly of persons whose Samish ancestry has not been documented for acknowledgment purposes. The council elected on June 29, 1975, when the current constitution and bylaws were approved, included only one member (descendant) from an established Samish family line. The balance of the ten-member council consisted of six descendants of three Stick Samish (Noowhaha) families, two from one family of Mitchell Bay Indians, and one member whose Indian ancestry is not now established. (235)

Dual Enrollment Provision

The enrollment of Samish members in other North American Indian tribes was prohibited by the constitution and bylaws until 1975. In 1975, they were rewritten to permit concurrent membership. The change in thinking on this criterion seems to be consistent with the relaxation of membership standards which occurred at the same time.

Conclusion

While the group has technically complied with 83.7(d) of the regulations by providing a current governing document which describes membership criteria, it must be pointed out that the Samish organization has not adequately explained how eligibility is in fact being determined, given the fact that rolls cited do not exist and tribal elders are no longer constitutionally required to certify membership eligibility.

83.7(e) A list of all known current members of the group and a copy of each available former list of members based on the tribe's own defined criteria. The membership must consist of individuals who have established, using evidence acceptable to the Secretary, descendency from a tribe which existed historically or from historical tribes which combined and functioned as a single autonomous entity.

In accordance with the regulations, a list of the petitioner's current membership as well as eight former lists were submitted. Considerable fluctuation exists among the

lists suggesting a general lack of stability in membership as well as a lack of continuity between the organizations represented. The following is a discussion of the current list and significant former lists.

Evaluation of current list

A list of the group's current members was submitted with the petition. This list, labeled "Enrollment Record - Samish Indian Tribe of Washington," bears a handwritten notation "As of 10-1-72" and is further described by the petitioner as being a list which was initially approved by the Samish council in 1975 and was updated as of 9-22-79.⁽¹⁷³⁾ Based on this list, the group's total enrollment for acknowledgment purposes is 590. The bulk of this list (#1-499) appears to have been prepared at one time, possibly in the mid to late sixties. It was apparently updated again in the early seventies, at which time 17 names were added, all but one of which had Canadian addresses. Thirty-three more names were added October 20, 1975, according to U.S. v. Washington testimony and exhibits, to bring the total to 549. The additional 41 members needed to bring the membership up to the current figure of 590 appear to have been added since that time.

The constitutional authority for enrolling all members is shown as "Article 3 of Tribal Bylaws." Article 3 apparently refers to the membership provision found in the 1951⁽¹⁹²⁾ and 1965 governing documents rather than the current 1975 constitution which discusses membership under Article II. The most recent birth date in the entire list is October 1, 1972, which suggests that little enrollment of minors is taking place.

The list clearly includes descendants of non-Samish Indian ancestry as well as other Indians whose ancestry has not been established. In spite of extensive research conducted by the petitioner and research conducted by the Acknowledgment staff, 42 percent of the Samish membership are still unable to satisfactorily document their Samish Indian ancestry for acknowledgment purposes. Thirty-two percent of the total membership have, in fact, established their ancestry to be that of Stick Samish (Noowhaha), Snohomish, or Mitchell Bay Indians rather than Samish.

The group's chairman indicates that when federally acknowledged, they plan to take in 50 new members from Mitchell Bay and an equivalent number from Canada.⁽²²²⁾

Evaluation of former lists submitted

The eight former lists of the group's members include four from the 1926-27 period, two dated ca. 1930, and two from the early 1950's, specifically 1951 and 1953. Three statements can safely be said to apply to most of the former lists submitted:

- 1) no consistent membership criteria appear to have been used in determining membership;
- 2) almost all former lists were prepared for a purpose other than as a record of the group's general membership, thus their composition and size vary considerably; and,

- 3) most lists include a substantial number of members whose ancestry has not been established as Samish for acknowledgment purposes or whose ancestry has been established as being that of other Indian tribes.

1926-27 period. Most of the lists from the 1926-27 period were clearly related to the group's participation in the Duwamish claims case. The largest of these lists was⁽¹⁶⁵⁾ entitled "1926/27 Enrollment Information," and was recently prepared from information found on individual enrollment questionnaires submitted for claims purposes in the 1926-27 period.

Approximately 19 percent of the 365 persons on this list appear to be members or ancestors of currently petitioning families whose Samish ancestry can be satisfactorily documented. One-third (33%) are believed to be Canadian families that are no longer present in the current membership. The remaining members appear to be individuals of Stick Samish (Noowhaha), Snohomish, Mitchell Bay, and other Indian ancestry who are present in the current membership but do not appear on the 1953 roll.⁽¹⁷¹⁾

1930 period. The earliest officially-prepared roll submitted by the petitioner is said to⁽²³⁶⁾ have been prepared by Samish tribal officers, ca. 1930. This roll was divided into four⁽¹⁶⁹⁾ geographically identified parts, apparently based on member's residency. The chart which follows shows the geographic distribution of the 268 members found on this roll.

Roll prepared by tribal officers ca. 1930

<u>Geographic identification</u>	<u>No. Members</u>	<u>% of Total Membership</u>
LaConner and Samish	51	19%
Anacortes	77	29%
B/C (British Columbia)	114	42%
Mixed	26	10%
	<u>268</u>	<u>100%</u>

Approximately 15 percent of the 268 persons on the 1930 roll appear to be members or ancestors of documented Samish families that are still present in the current membership. Essentially the same Canadian and other non-Samish families are on this roll and in roughly the same proportions as were present on the 1926-27 roll. The 1930 roll, however, appears to lack any representation from two of the largest Samish families on the current and earlier rolls. These two families, by themselves, account for 34 percent of the total current membership and 59 percent of the 1953 membership.

1950 period. The lists submitted from the early 1950's support a conclusion that the group was organized for claims purposes. The petitioner describes the earliest of these lists, a handwritten list dated ca. 1951 by virtue of the first entry, as being a list of monies received from "tribal members who had voluntarily paid the Samish Tribal^(170,236) Assessment...used to pay attorneys' fees, travel, and other administrative costs." No attempt was made to evaluate this list since numerous duplications were noted in the members' names as well as the numbers which had been assigned to them.

"The April 15, 1953 list includes approximately 250 enrolled members "who had established their right to membership to the satisfaction of the Council and Elders...." The petition states that this list was prepared in response to a request for a "verified...roll to facilitate...issuance of 'Blue Cards' to Samish members for...Treaty fishing and hunting rights." Though cards were subsequently issued by the Agency, no information is available to show what type of evidence, if any other than the council's statement, was used to establish the Samish ancestry of members listed. (236)

It appears that this list, while offered as a former roll, was initially prepared and certified by the council and the elders using far more restrictive membership criteria than seem to have been used at any other time in the group's history. The 1953 list is significantly different in its composition from all other lists because it is composed primarily of descendants of documented Samish lines (83%) and descendants (15%) of one large Stick Samish (Noowhaha) line which is present on all other lists. Canadian lines, which were previously included, are no longer present and do not reappear in subsequent lists. Other Indian descendants, present on former rolls but absent here, reappear in greater numbers in subsequent rolls along with a few new lines.

Enrollment Forms

Forms used by the group for enrollment purposes have invariably included questions concerning claims being made by the applicant/enrollee and the act or treaty under which these claims are being made. Based on available evidence, answers to these questions have generally been "such claims as are embraced in the Point Elliott Treaty of January 22, 1855." Though the current Samish membership application (revised June, 1981) asks these same questions relating to claims, an accompanying instruction sheet now formally advises the applicant to respond with the following statement: "The Samish Indian Tribe claims fishing and hunting rights, water rights, land, minerals, and timber" and "We make these claims under the 1855 Treaty of Point Elliott."

"...Tribes own defined criteria...."

Under the strictest interpretation of the regulations, it is not possible to determine whether the list of current Samish members is "based on the tribe's own defined criteria," because the group's approved constitution contains a membership section which cites a non-existent roll as the basis for determining eligibility. However, since the constitution apparently intended to base membership on an official roll to be prepared by the Secretary of the Interior of Samish Indian descendants, genealogical research has been aimed at proving descent from ancestors who can be reliably identified as Samish Indians.

Determining tribal ancestry

The process of determining tribal ancestry has been difficult for numerous reasons:

- o The earliest membership rolls of the group begin about 1926 and were prepared by the group for claims-related purposes.

- o No official Federal, state, or local rolls were found which included members of the group, or their ancestors, as a group and identified them as Samish.(152-9,161)
- o No Federal, state, or territorial census records were found which enumerated members of the group as a group. When individual members or their ancestors did appear in the census listed as Indian or half-breed, it was almost always without tribal designation. (7,148-151,160)
- o Most of the published sources which identified individual members as Indian did not specify tribe.
- o Applications and other forms used by the group to collect ancestry information were considered unreliable for purposes other than descent since they had been prepared for the purpose of asserting the group's claim being Samish in the courts. In a number of cases, these were the only source of evidence for Samish ancestry. In particular, the enrollment applications of the late twenties included individuals not of Samish ancestry and, therefore, cast doubt on their value as evidence. The enrollment goes well beyond any conception of a Samish community that might have existed at that time. The Samish enrollment in the twenties was part of a larger process of segregation of claimants into different tribal groups, with the Snohomish, the Swinomish, and perhaps others, simultaneously reviewing applicants and does not appear to have been a process of setting down the known membership of an existing group.
- o There was a tendency on the part of some informants and previous researchers to presume an individual's tribal ancestry based on his place of birth, his residence, or his tribal affiliation at the time. A number of verifiable inaccuracies have been found.

The following is a discussion of some of the specific sources used by the Acknowledgment staff to establish Indian ancestry in this case.

Rolls prepared by the Bureau of Indian Affairs

Descendancy rolls. Though no official descendancy roll currently exists for the Samish, work is in progress on such a roll as a result of a favorable decision by the Indian Claims Commission on Docket 261. A preliminary draft of the roll being prepared by the Puget Sound Agency was provided to the Acknowledgment staff and evidence gathered for use in preparing the roll, as well as other Agency files relating to the Samish, were also made available.(163)

Schedule of Clallam Indians of the State of Washington, 1926. The Schedule of Clallam Indians, prepared by Walter F. Dickens (then Superintendent of the Tulalip Indian Agency) pursuant to the Act of Congress of March 3, 1925 (43 Stat. L. 1102), lists the 1,225 persons who applied to share in the payment to be made to Clallam Indians as a result of the Act (Dickens, 1926). Although applicants listed are predominantly of Clallam Indian ancestry, blood derived from other Indian tribes was(162)

also noted. This schedule is considered a valid source of tribal ancestry information and is generally relied upon by enrollment personnel at Puget Sound Agency when making determinations regarding the ancestry of Western Washington Indians.

Roblin Roll and supporting affidavits, 1919. In 1916, Charles E. Roblin was instructed by the Commissioner of Indian Affairs "to investigate and report on (the) unenrolled Indians of Western Washington." In Mr. Roblin's own words, (107)

"This matter arose as follows: For many years Thomas G. Bishop and the 'Northwestern Federation of American Indians' had made claim that there were many thousand Indians in western Washington who had never shared in any of the benefits derived from any of the treaties of early days and who were entitled to some (sic) recognition by the Government and some remuneration for lands taken from them, either in the shape of an allotment on the Quinaliet Reservation, or by the payment of the cash equivalent of such an allotment. These were supposed to be 'Indians' who were not enrolled at any agency on the coast. Mr. Bishop made several trips to Washington on behalf of these homeless Indians, and was advised by the Office that there were no records in the Office showing who these Indians were and that there was no foundation for a request to Congress for relief for them. In 1916 Mr. Bishop urged the Office to have an enrollment made of these Indians, so as to get such information in the record. The Office agreed to have such an enrollment made, with the distinct understanding that such an enrollment would not be a recognition of any claims made by the Indians; but an endeavor to have the record show what their claims were (Roblin, 1926)." (107)

Roblin's report to the Commissioner was supported by all original applications, Roblin's handwritten notes of testimony taken and affidavits subsequently signed by the affiants, as well as by any supporting information or papers he had been able to collect. (Roblin, 1919) (106)

Considerable weight has been assigned to testimony taken by Roblin and the affidavits which were subsequently signed and submitted in support of his Schedule of Unenrolled Indians of Western Washington. A number of the persons he interviewed are the "original ancestors" of the petitioner's family lines or are members of their immediate family. Since these people had nothing to gain by identifying their ancestry as any one tribe over another, their testimony and affidavits are considered to be objective.

Although Roblin took affidavits from numerous persons who identified themselves as being of Samish or Stick Samish ancestry, he did not identify them as such on the roll (178) which he submitted as part of his report. Instead, they were included under one of some 40 other tribal designations. The petitioner did not provide and Acknowledgment researchers could not find a satisfactory explanation concerning why Roblin had not used Samish or Stick Samish as separate categories.

^x
Census records

No population records, Federal, state, or territorial, could be found which enumerated the members and ancestors of the Samish Indian Tribe as a separate group as it is said to have existed in the historical past. (7, 148-151, 160)

Only a few persons could be found in the Indian schedules of the 1900 Federal population census identified as Samish individuals or as having parents with Samish bloodlines. In the general schedules of the Federal census, as well as in the territorial censuses, members and their ancestors were identified as "Indian" or "half-breed," but (148-51) without reference to the type of tribal blood or affiliation. No state census records (7) are known to exist for the period following statehood (1889-present). No separate Indian census rolls of the Samish appear to have been prepared by the Bureau at any time. (152-9, 161, 226)

Use of census records as evidence of Samish tribal ancestry in this case was limited to a very few instances where members or their ancestors appeared in the Indian schedules of the 1900 Federal population census identified as being of Samish ancestry. In general, however, the principal use of census records was as a tool for validating genealogical information obtained from other sources.

Other sources

Although numerous other sources were also used, the degree to which they could be relied upon as evidence of tribal ancestry was largely dependent upon the nature of the individual document or source itself.

One of the frequently used sources was probate records, especially early ones involving intestate estates and the determination of heirs. Another valuable source was the research notes and writings of anthropologists familiar with Indians of the Pacific Northwest. Other sources used included, but were not limited to, testimony from the Duwamish case and Docket 261 from the Indian Claims Commission, testimony given for proving homestead claims, school applications, early correspondence to and from the Bureau, and some affidavits. Determinations were based on a preponderance of the best evidence available whenever possible.

Descent from the historical tribe

Based on genealogical evidence available at this time, 42 percent of the petitioner's membership are unable to satisfactorily document Samish Indian ancestry for acknowledgment purposes. Of this figure, 22 percent have, in fact, been determined to be of Stick Samish (Noowhaha) ancestry, three percent of Snohomish ancestry, seven percent of Mitchell Bay ancestry; 10 percent are presently of undetermined Indian ancestry. Fifty-eight percent were determined to be of Samish Indian ancestry.

Stick Samish ancestry does not meet the criterion in 83.7(e) because the Samish and Stick Samish were not "tribes which historically combined and functioned as an autonomous unit." Most of the Stick Samish descendants enrolled in the 1926 and 1951

*organizations had no historical connection to the Samish tribe. Only a very small portion of those now enrolled have historical social ties through intermarriage. (see p.4,12-16)

Based on our research, it seems highly unlikely that more than half of those who are as yet undetermined could be expected to produce new evidence which would support a determination of Samish ancestry for them. It should be pointed out that, in order to arrive at the percentage calculations cited above, credit has been given for any Samish Indian ancestry which could be documented by reliable/acceptable sources. In instances where some evidence was present to indicate Samish as well as Stick Samish (Noowhaha) ancestry, the family was counted as Samish.

At least 69 percent of the group's membership descend from marriages which occurred in the 1860's and '70s between Indian women and pioneer white men, whose descendants were assimilated at a very early date, and subsequently have had no significant degree of intermarriage with other Indians.

Conclusion

Although the group's membership is clearly of part Indian ancestry, it is a collection of descendants who are of Samish, Stick Samish (Noowhaha), Snohomish, Mitchell Bay, and other Indian ancestry. Combined with poorly defined membership criteria, the presence of such a large number of non-Samish members indicates some other concept of an Indian tribe than that anticipated in 83.7(a-g) of the regulations. The group is, therefore, determined not to meet 83.7(e).

83.7(f) The membership of the petitioning group is composed principally of persons who are not members of any other North American Indian Tribe.

A conservative estimate of the number of members on the Samish roll who are now enrolled in other North American Indian tribes is 50 (9 percent of the total Samish membership). This figure includes seven members whom the petitioner has indicated are enrolled in a Canadian tribe. Most of the dually-enrolled members are evenly distributed between the Swinomish and Lummi reservation tribes. (108,236)

The group's constitution and bylaws (approved in 1975) permit Samish members to maintain membership in other Indian tribes. Earlier versions of the constitution, however, prohibited such concurrent or dual enrollments. (192,194)

Dual enrollment is also acceptable under the present Swinomish and Lummi constitutions regardless of the Samish acknowledgment status. Membership requirements for these reservation tribes, however, are such that currently unenrolled Samish are unlikely to be able to qualify for membership.

The enrolled membership of the petitioner does not include all of the persons enrolled at Swinomish and Lummi who are known to have Samish Indian ancestry, nor does it include a number of other families that were active during the claims period of the

*twenties, or who have applied to share in Docket 261 distributions to be awarded as a result of the 1958 decision by the Indian Claims Commission. (163) (164-9)

Based on the evidence available at this time, it is impossible to predict whether Samish descendants who are now enrolled in other reservation and non-reservation tribes would relinquish these memberships in favor of membership in an acknowledged Samish tribe. Some Indians who are maintaining membership in Samish as well as another reservation tribe have indicated that they are subject to a good deal of harassment for claiming their status as Samish Indians. (222)

Conclusion

Based on the present low level of dual enrollment found among the members of the Samish organization, the petitioning group is determined to be composed principally of persons who are not members of any other North American Indian tribe and, therefore, meets 83.7(f).

83.7(g) The petitioner is not, nor are its members, the subject of congressional legislation which has expressly terminated or forbidden the Federal relationship.

The Samish Indian Tribe does not appear on current lists of "Indian Tribes Terminated from Federal Supervision" or "Terminated Tribes Restored to Federal Status" prepared by the Bureau of Indian Affairs. The group has not been the subject of congressional legislation which expressly terminated a previous Federal relationship. Although the group's name was included in a rough draft of termination legislation prepared by the Bureau in September 1953, the draft was marked "For Discussion Purposes Only" and it was not even enacted into law. The Samish are, therefore, determined to meet Section 83.7(g) of the regulations. (223-4) (54)

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- 183 1906 Mortgage from Bob Kitholanoach and Lucy, his wife, both of Guemes Island, Skagit County, Washington, to William Payne, Lots 1, 2, and 3, and SE¼, NE¼, Sec. 35, T36N, R1E, Willamette PM, June 4. (Satisfied 6-13-1908). Pet. A.
- 184 1908 Deed from Bob Kitholanoach and Lucy, his wife, to Victor McConnell, all of Guemes, Skagit County, Washington, Lot 1, Sec. 35, T36N, R1E, Willamette PM, June 4. Pet. A.
- 185 1908 Deed from Bob Kitholanoach and Lucy, his wife, to Victor McConnell, all of Guemes Island, Skagit County, Washington, SE¼, NE¼ and Lots 2 and 3, Sec. 35, T36N, R1E, Willamette PM, June 8. Pet. A.

Watchcoat, Sam

- 186 1904 Deed from Sam Watchcoat to Martha Childs, granddaughter of grantor, both of Guemes, Skagit County, Washington, Lot 7 and SW¼, SE¼, Sec. 26, T36N, R1E, Willamette PM, July 2. Pet. A.

Documents of Samish Organizations

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Samish and Swinomish Tribes

- 189 1926 Minutes of Joint Meeting of Swinomish and Samish Tribes. November 6. Pet. 1975.
- 190 1927 Meeting of Samish and Swinomish Tribes. February 5. Pet. 1975.
- 191 1927 Meeting of the Samish and Swinomish Tribes. January 29. Pet. 1975.

Samish Indian Tribe

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- 193 1951-81 Minutes, resolutions and attendance sheets for council meetings, annual meetings and general tribal meetings for 1951-5, 1957-8, 1961-8, 1970-1, 1975-81. Pet. Exhibits, Pet. A., PSA 1306 12, Tribal Meetings, Samish. (includes attendance lists and lists of council members)
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- 201 1930 Minutes and List of Expenses for 1930. June 19. Pet. Exh. 68.
- 202 1932 List of Those Present at Meeting Held January 22. Pet. Exh. 70.
- 203 1933 Minutes of a Meeting Held March 20. Pet. Exh. 34.

Samish Tribe of Indians

- 204 1937/4 Resolution of Samish Tribe of Indians, Upper Skagit Samish Band. April 8. Pet. Exh. 79.

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Swinomish Reservation Community Documents

Plaster, Frank and George Cagey

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- Wilbur, Tandy
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- Willup, Pat, et al
- 221 c.1940 Petition from Indians and Residents of the Swinomish Indian Reservation re fishing Rights in reservation waters, to F.A. Gross, Superintendent, Tulalip. FRC-S 921, Box 302.

222 Field Data

Research trips were conducted in Anacortes, Washington, on the Swinomish and Lummi Indian Reservations and elsewhere in the Puget Sound region between June 21 and June 28 and between July 25 and August 9 for the purpose of verifying and adding to the information submitted in the petition.

Abbreviations

BFA	Branch of Federal Acknowledgment
FRC-S	Federal Records Center, Seattle
GS	General Service
NARS	National Archives and Records Center, Washington, D.C.
Pet.	Samish Petition of October 1979
Pet. A	Materials Submitted as addenda to Samish petition
Pet. 1975	Samish Petition submitted 1975
PSA	Puget Sound Agency, Everett, Washington
RG	Record Group (all archives and records center references are to Record Group 75, Bureau of Indian Affairs, unless otherwise cited.)
Snoh.	Materials submitted with Snohomish petition for acknowledgment
Tul.	Tulalip Indian Agency

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