

Summary under the Criteria and Evidence for
Final Determination for Federal Acknowledgment
of the
Snoqualmie Tribal Organization

Prepared in response to a petition submitted to the Assistant Secretary -
Indian Affairs for Federal Acknowledgment that this group exists as an
Indian tribe.

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(date)

Ada E. Deer
Ada E. Deer
Assistant Secretary - Indian Affairs

SNOQUALMIE TRIBAL ORGANIZATION

SUMMARY UNDER THE CRITERIA

Determination of Previous Federal Acknowledgment under §83.8

The Federal acknowledgment regulations (section 83.8(a)) state that:

Unambiguous previous Federal acknowledgment is acceptable evidence of the tribal character of a petitioner to the date of the last such previous acknowledgment. If a petitioner provides substantial evidence of unambiguous Federal acknowledgment, the petitioner will then only be required to demonstrate that it meets the requirements of §83.7 to the extent required by this section.

The regulations (section 83.1) define "previous Federal acknowledgment" as:

... action by the Federal government clearly premised on identification of a tribal political entity and indicating clearly the recognition of a relationship between that entity and the United States.

This final determination is made under the revised acknowledgment regulations (25 CFR Part 83) which became effective in 1994. The 1994 regulations require an evaluation of whether the Snoqualmie Tribal Organization (STO) was a previously acknowledged tribe within the meaning of the regulations. Petitioners which meet the definition of unambiguous previous Federal acknowledgment in section 83.1 are evaluated under modified requirements provided in section 83.8 of the regulations.

The proposed finding was issued under the original acknowledgment regulations, which became effective in 1978. Those regulations made no provision for taking into account unambiguous previous Federal acknowledgment. The proposed finding did make factual conclusions that the STO had been previously treated as an acknowledged tribe. The Snoqualmie relationship with the Federal Government was analyzed in detail in the summary evaluation of the proposed finding and the supporting technical reports. The proposed finding's evaluation of the Snoqualmie under criterion 83.7(a), external identification, concluded that "Federal recognition of a government-to-government relationship with the Snoqualmie Indian Tribe existed clearly and continually from 1859, when the United States Senate and the President ratified the Treaty of Point Elliott, to sometime between 1955 and 1961."

This determination is based on a detailed review of the extensive documentation upon which the proposed finding's conclusions about previous acknowledgment rested, the relevant historical documentation submitted by the Tulalip Tribes, and some additional documents collected in research on Federal acknowledgment policies in connection with implementation of section 83.8 of the revised regulations. The conclusions of the proposed finding are adopted for the final determination except as supplemented and modified based on this additional analysis and review.

The definition of previous Federal acknowledgment in section 83.1 has two essential elements: (1) the action by the Federal Government is clearly premised on identification of a tribal political entity, and (2) the action indicates clearly the recognition of a relationship between that entity and the United States. In order for section 83.8 to apply, it must also be established that the petitioner is the same as the previously acknowledged tribe or is a portion that has evolved from the tribe as it existed at the last time of Federal acknowledgment (83.8(d)(1)).

Substantial evidence demonstrates that the Snoqualmie Tribal Organization had unambiguous previous Federal acknowledgment under section 83.8 until January 1953. The Snoqualmie tribe was acknowledged by the Treaty of Point Elliott in 1855 and continued to be acknowledged after that point. In the 1930's, after the organization of a tribal government on the Tulalip Reservation which was limited to the reservation residents or the affiliated members of the tribes of that reservation, the Snoqualmie Tribal Organization became acknowledged as a separate, non-reservation tribal entity.

Before the 1930's, the Snoqualmie Tribal Organization was acknowledged as part of the Snoqualmie tribe as a whole. It is not necessary to establish a specific date for initial acknowledgment of the STO as a separate Snoqualmie entity, but acknowledgment as a separate entity was clearly established by 1934. The Snoqualmie Tribal Organization was acknowledged as a separate, non-reservation tribal entity from approximately 1934 until January 1953. That political body was clearly identified as derived from the historical treaty-signing Snoqualmie tribe. The regulations require that acknowledgment be unambiguous. Consequently, the ending date of January 1953 has been used, since the status became less clear after that date, as termination policies were implemented.

There were multiple, consistent Federal dealings with the separate non-reservation Snoqualmie Band, sometimes known as the Jerry Kanim Band, between 1934 and 1953 which treated it as a recognized tribe under the jurisdiction of the Federal Government. Evidence of recognition in these years includes consistent identification in documents in which the Western Washington Agency clearly identified the tribes under its jurisdiction, and in Congressional reports and reports of the central office of the Indian Service. The Snoqualmie were listed in these Federal documents as a non-reservation, "public domain" tribe along with four other tribes. In addition to appearing on these lists, agency and central office documents described and characterized the STO as a tribe and explicitly distinguished it from voluntary organizations created for claims. Between 1937 and 1944, agency and central office officials developed plans to provide a reservation for the

band, which they considered to be under the 1934 Indian Reorganization Act but which needed a reservation land base in order to organize its tribal government under the act. The band was not proposed for land purchase and organization as a community of Indians of one-half degree Indian blood or more, an approach used by the Indian Service to extend recognition and benefits to unrecognized tribes. The agency dealt with the Snoqualmie as a recognized tribe in the same manner as reservation tribes during the efforts of Puget Sound area tribes to defend treaty fishing rights against Washington State, in which Chief Jerry Kanim of the STO played a lead role. The agency also treated the STO's rolls as those of a recognized tribe and gave them the same status as the enrollment of reservation tribes.

The Snoqualmie continued to be listed as a tribe under Federal jurisdiction and with a political relationship with the Federal Government from 1950 to 1953, the initial period of Indian Service planning for termination of Federal responsibility to tribes in Washington State. That policy, as it was developed and implemented, considered that Federal responsibility was limited to tribes which had Federal trust land. Consequently, after 1953, as the termination policy came fully into play, the Federal view of the status of the Snoqualmie changed, as did the status of the other non-reservation "public domain tribes" in Washington State. The proposed finding concluded that the end of acknowledgment of the Snoqualmie was in 1955, the first date when the available documentation indicated the Snoqualmie were not recognized. For purposes of this final determination under section 83.8, which uses a somewhat different approach, January 1953 is the last date when the documentation of acknowledged status is unambiguous.

Conclusions concerning previous acknowledgment under section 83.8 are solely for the purposes of a determination of previous acknowledgment under 25 CFR Part 83, and are not intended to reflect conclusions concerning successorship in interest to a particular treaty or other rights. An acknowledgment determination is not a determination of successorship to treaty rights. There is no requirement under the revised acknowledgment regulations to demonstrate that the STO is the political continuation of a treaty-signing tribe. Rather, it is adequate to show that the STO evolved from the Snoqualmie who were dealt with by the United States and who happened to sign a treaty. In this instance, the Government's statements and actions in the 1930's and 1940's showed previous acknowledgment of the petitioner separate from the rest of the Snoqualmie, clearly characterized the Snoqualmie Tribal Organization as part of the treaty-signing tribe, and based proposed Government actions on unfulfilled treaty obligations.

Therefore the Snoqualmie Tribal Organization meets the definition of unambiguous previous Federal acknowledgment in section 83.1 and the requirements of section 83.8 until January 1953.

Criterion 83.7(a) · External Identification

Criterion 83.7(a) requires that:

The petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900. Evidence that the group's character as an Indian entity has from time to time been denied shall not be considered to be conclusive evidence that this criterion has not been met.

The regulations (section 83.8(d)(1)) provide that a petitioner that demonstrates previous Federal acknowledgment must show that:

The group meets the requirements of the criterion in section 83.7(a), except that such identification shall be demonstrated since the point of last Federal acknowledgment. The group must further have been identified by such sources as the same tribal entity that was previously acknowledged or as a portion that has evolved from that entity.

The application of section 83.8 changes the requirements for criterion 83.7(a) to require identification from the date of last Federal acknowledgment. It requires also that the identification make clear that the group is being identified as the same entity which previously had been federally acknowledged.

The revised requirement for 83.7(a) as modified by 83.8 is clearly met. The STO since 1953 has been identified in a variety of Federal records as well as other sources as the same entity as the group known as "Jerry Kanim's Band," as it existed before 1953. The Tulalip Tribes' 1994 comments do not dispute that the STO as identified in Federal records after 1953 up until the present is the same entity as was dealt with before that time. Their comments only question the nature of the relationship and point out that much of the identification in Federal records was as a claims organization, not as a tribe.

The Tulalip Tribes' 1991 comments asserted that the STO had not met the requirements of the 1978 regulations for criterion 83.7(a) because it was not continuously identified as a tribal entity. This is an incorrect interpretation of this criterion, which serves to establish identification as an Indian group, but does not determine the tribal character of that group. Tribal character is determined by the other criteria. The modified standard under 83.8(d)(1) does not change this application of the criteria.

Therefore the Snoqualmie Tribal Organization meets the requirements of criterion 83.7(a) as modified by section 83.8(d)(1).

Criterion 83.7(b) - Community

Criterion 83.7(b) requires that:

A predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present.

The acknowledgment regulations (section 83.1) define "community" as:

. . . any group of people which can demonstrate that consistent interactions and significant social relationships exist within its membership and that its members are differentiated from and identified as distinct from nonmembers.

As modified for previously acknowledged petitioners, the regulations (section 83.8(d)(2)) require that:

The group meets the requirements of the criterion in section 83.7(b) to demonstrate that it comprises a distinct community at present. However, it need not provide evidence to demonstrate existence as a community historically.

Under 83.8, a demonstration of meeting the criterion for community is only required for the present day, or modern, community. Community need not be demonstrated from 1953, the last point of unambiguous Federal acknowledgment, until the modern community. Modern community has been defined for purposes of the STO proposed finding and final determination as being from 1981 to the present.

Some additional information concerning the modern community was provided by the STO's comments on the proposed finding. The additional information for the final determination provides stronger evidence to establish that the modern community meets the requirements of criterion 83.7(b).

The proposed finding stated that, "Strong evidence for the existence of significant social relationships among the Snoqualmie is provided by the fact that family-line groupings are socially defined and known throughout the membership." It concluded that these kinship groupings were well-known and had "a clear social definition which ascribes particular characteristics and histories to each family group." These groups "were recognized by Snoqualmie in some, though not all, social and political contexts, and thus significantly define social relationships." For this final determination, the existence and the social and political significance of family-line groupings was more strongly demonstrated with additional, more detailed evidence. This provided stronger evidence to demonstrate modern community because the social recognition and definition of these family-line groupings results from informal social interaction over an extended period of time.

The proposed finding stated also that, "The available data concerning family groups and their social significance is particularly strong concerning how they manifest themselves in Snoqualmie political contexts." The additional evidence for this final determination demonstrated more clearly and in considerably greater detail the political role of Snoqualmie family-line groupings over the entire period from 1981 to 1993 (see the discussion of criterion 83.7(c)).

The proposed finding concluded that in the present-day group kinship ties across family lines based on intermarriages in previous generations were not close enough to assume, based on genealogical evidence alone, that a social group still existed. It concluded further that other evidence showed that relationships continued based on intermarriages from earlier generation ties. These kinship ties between family-line groups are supporting evidence of social community. The proposed finding presented an analysis of the ties based on past intermarriages that linked the main Snoqualmie family-line groupings. Ties of common ancestry that are more than two generations removed are too distant to presume on genealogical evidence alone that a significant social tie exists, but may provide the basis for such ties or relationships, if shown by more direct evidence. Interviews with members of the Snoqualmie demonstrate that social ties based on kinship ties beyond the grandparent generation remain socially significant. There is a consistent pattern of reference to leaders Ed Davis and Jerry Kanim in kinship terms such as "uncle" and "grandpa," although the strict genealogical relationships are more distant.

Demonstration of political processes was an important source of evidence for the proposed finding to demonstrate community. The evidence for this was more detailed and systematic than the evidence which directly described the maintenance of social community. The proposed finding noted that the significant, non-coercive political processes such as occurred among the Snoqualmie, "require and are based on the existence of social ties and communication for them to operate." Where such political processes "are clearly established by the evidence" they provide evidence for the existence of a social community.

There is a substantial body of additional evidence for this final determination which provides significantly stronger evidence for political processes in the modern community (see criterion 83.7(c)). This evidence provides greater detail over a longer period of time for communication and social relationships as a basis for political processes such as the ouster of political officers. It shows significant interaction and social ties between family-line groupings. Thus it is particularly relevant evidence to demonstrate that social interaction is occurring and particularly good evidence to demonstrate community. Consequently, this part of the demonstration of modern community is strengthened for the final determination.

The most socially and politically active portions of the Snoqualmie membership, the proposed finding concluded, consisted of six major and six minor (in terms of number of enrolled members) family lines, comprising about 70 percent of the membership at that point. Another 15 percent were minor lines which appeared to have had significant ties in

earlier decades, but whose present-day level of contact and participation had not been determined. The balance of the membership, 15 percent, were two family lines that had become enrolled in the 1980's. The proportion of Snoqualmie who have not demonstrated social ties was small enough that, given the other evidence cited, the proposed finding concluded that significant interaction and social relationships exist broadly among the membership and, therefore, that the present-day Snoqualmie meet the requirements for community in criterion 83.7(b).

The percentage of membership accounted for by the most active family-line groupings increased for the final determination due to changes in the updated STO membership roll submitted for the final determination. That roll reflects an increased number of members from the most active family lines and the withdrawal or banishment of almost all members from the Julia Pat Kenum line, which had briefly been enrolled during the 1980's.

The proposed finding concluded that because attendance was broadly distributed, "the general membership meetings provide some evidence to demonstrate social community, although not strong evidence in itself." (The character of the meetings is also evaluated under criterion 83.7(c)). The Tulalip Tribes argues that, because the STO was only a claims organization, any interaction at STO meetings is not evidence for community. They cite the absence of detailed information about informal interaction in meeting minutes. The character of the interaction, rather than the context, however, is the correct measure of its evidentiary value. A review of interviews supports the proposed finding's conclusion that there was some informal social interaction at meetings which reflected the existence of a community and was not solely due to common membership in a voluntary organization. Absence of information in minutes is not evidence that informal social interaction did not occur, since formal minutes of meetings can not be assumed to include a record of this.

Important supporting evidence for community in the proposed finding was that there was "good evidence that a substantial minority of the Snoqualmie maintain significant cultural differences from non-Indians, and some evidence that a larger proportion maintains other, more limited cultural differences." It noted further that even though these differences were characteristic of a minority of the population, these individuals had high prestige within the Snoqualmie. The most important cultural characteristic was participation in an Indian religion, the Shaker Indian Church or the Smokehouse Religion. It noted that the "participants are drawn from several of the family lines, i.e., important cultural differences are not narrowly confined to a small portion of the membership." It also concluded that cultural differences in religion were "particularly strong evidence because religion is a fundamental part of a culture's belief system." Thus these were very strong, significant differences, even though only a minority of the membership maintained them.

The revised acknowledgment regulations list as one form of evidence for community, in section 83.7(b)(1)(vii), "Cultural patterns shared among a significant portion of the group that are different from those of the non-Indian populations with whom it interacts."

These differences must be more than symbolic expressions of identity. Maintenance of a distinct culture from non-Indians is not a requirement of the acknowledgment regulations, but the maintenance of cultural differences is good evidence for maintenance of a community because it demonstrates that there is sufficient community cohesion to maintain cultural differences against the acculturative pressures of non-Indian society.

The Tulalip Tribes argue that the Snoqualmie do not maintain a distinct culture, and that they have not had a distinct culture for many decades. It disputes the significance of the Shaker Church because it was not a religion limited to the Snoqualmie and was not practiced in the traditional culture in the treaty era. It also interprets the statements of two of the STO members and former chairman Robert Comenout to mean that there is no culture remaining. The Tulalip Tribes argue that the reinstatement of the position of chief in 1986 and refusal of individuals in earlier years to accept the post show that there is no traditional culture. The Tulalip Tribes also argue that the Snoqualmie salmon bakes and dance groups do not demonstrate distinct culture.

The proposed finding concluded, on a number of grounds, that the Snoqualmie had maintained a substantial degree of distinct culture in the two decades before 1953 and that, although this cultural distinctiveness had declined steadily since then, significant cultural differences remained in the modern community. The Tulalip Tribes' argument concerning the Shaker Church is based on an incorrect interpretation of the regulations that cultural differences need to be exclusive to the group, as opposed to distinguishing it from non-Indians, and that they must not only differ from non-Indians, but represent the traditional, pre-European culture. The statements in the BIA interviews showed only that older individuals felt that the younger generation had lost much of the culture, a conclusion consistent with the proposed finding. This demonstrates that the older generation has maintained cultural differences. The reinstated position of chief was not considered evidence of a distinct culture in the proposed finding, although this final determination concludes that refusals to accept such a position in the 1950's were evidence that traditional values and some degree of distinct culture existed within the STO at that time. The proposed finding concluded that it had not been demonstrated that the salmon bakes and dance groups were evidence of distinct culture under the regulations. No significant new evidence was submitted which would change this conclusion.

The geographical distribution of STO members shows that most members of the group live close enough to each other that a significant level of social interaction among them is easily possible. The geographical distribution of members, however, is not so concentrated that a presumption of significant social interaction may be made on geographical evidence alone. Therefore, the geographical distribution of members does not raise questions about the conclusions, which are based on other evidence, that social interaction and social ties are being maintained among members. There is no indication that the present-day geographical distribution of members is significantly different from that of the previous four decades.

There is no distinct settlement area occupied exclusively or almost exclusively by STO members. The Tulalip Tribes' comments assert that a tribe can not exist without occupying a distinct, exclusive geographical area, and without exercising the powers of a sovereign group over that area. These arguments are rejected as requiring a more restrictive standard than is called for by the regulations and the legal precedents behind the regulations, as well as being contrary to the precedents established in applying the 1978 and 1994 regulations. The regulations require a demonstration of social community, which may be done by a variety of forms of evidence. A distinct geographical community is not required to meet criterion 83.7(b). Maintenance of social cohesion as a distinct group is required by this criterion.

The Tulalip Tribes argue that a detailed demonstration of specific social interactions is necessary to demonstrate community under the regulations and that since this has not been done, the demonstration of community in the proposed finding is not adequate. The regulations allow a variety of forms of data which may be used in various combinations to demonstrate community. Past acknowledgment decisions have noted that where other kinds of data about social organization do not suffice, a detailed description of special social interaction, such as a network analysis, might be the only way to demonstrate significant social cohesion and distinction. However, in most cases, less quantitative, but equally valid forms of qualitative research techniques fundamental to anthropological research can show the existence of social institutions and political processes.

The Tulalip Tribes argue that there was a wide fluctuation of the membership of the STO over time which demonstrates that affiliation with the STO has been a matter of minor consequence to members, which is more typical of a claims organization than a tribe. This analysis contains serious methodological flaws such as not analyzing certain key rolls. Consequently, the analysis inaccurately shows a wide fluctuation in membership. Historical changes in STO enrollment, described in the technical reports, show that membership has been consistently centered around an interrelated group of family lines, and that the number of members from other lines decreased as individuals associated with those lines shifted their enrollments to Tulalip and other reservations after the 1930's. The nature and degree of change in enrollment does not conflict with a finding of continuity as a tribe as applied in previous cases under 83.7(b).

Criterion 83.7(b) requires a group to show that its members are identified as distinct from non-members. The proposed finding concluded that although non-Indians did not make strong social distinctions from STO members, the STO clearly meets the requirements of the regulations under criterion 83.7(b) because its members identify themselves as Snoqualmie and outsiders identify them as Snoqualmie. The proposed finding concluded that the 1/8th blood degree requirement of the STO embodies a significant social distinction from non-members and provides some evidence of community cohesion. A review of the comments on the proposed finding, along with the evidence and comments for the final determination, confirms these conclusions of the proposed finding that the implementation of these membership requirements show that the Snoqualmie maintain more than a minimal social distinction between members and non-members as required

by 83.7(b). The cultural differences described above provide supporting evidence for this conclusion.

The Snoqualmie Tribal Organization meets the requirements of community from 1981 to the present under criterion 83.7(b) as modified by section 83.8(d)(2).

Criterion 83.7(c) - Political Influence

Criterion 83.7(c) requires:

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

According to the acknowledgment regulations (section 83.1), "political influence or authority" means:

. . . a tribal council, leadership, internal process or other mechanism which the group has used as a means of influencing or controlling the behavior of its members in significant respects, and/or making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence. This process is to be understood in the context of the history, culture and social organization of the group.

As modified for previously acknowledged petitioners, the regulations (section 83.8(d)(3)) require that:

The group meets the requirements of the criterion in section 83.7(c) to demonstrate that political influence or authority is exercised within the group at present. Sufficient evidence to meet the criterion in section 83.7(c) from the point of last Federal acknowledgment to the present may be provided by demonstration of substantially continuous historical identification, by authoritative, knowledgeable external sources, of leaders and/or a governing body who exercise political influence or authority, together with demonstration of one form of evidence listed in section 83.7(c).

Under 83.8(d), the petitioner needs to demonstrate that it meets the requirements of criterion 83.7(c) only from the point of last Federal acknowledgment until the present-day, rather than from first sustained contact with non-Indians. It provides for a reduced burden of evidence to demonstrate that criterion 83.7(c) is met from the date of last unambiguous Federal acknowledgment until the modern community (83.8(d)(3)). The burden is met if the group shows that authoritative, knowledgeable external authorities, such as state or Federal officials in close contact with the band, identified, on a

substantially continuous basis until the present, group leaders and/or a governing body which exercised political influence or authority, and one other form of evidence under criterion 33.7(c). This section retains the ordinary requirements for demonstration of political influence in the modern community.

Under 83.8(d)(5), if a petitioner cannot provide the specific kinds of evidence needed to meet the reduced requirements stated in section 83.8(d)(3), it may be evaluated under the ordinary requirements of section 83.7(c). This evaluation of the STO is made under the latter requirements.

For the final determination, the petitioner has presented substantial additional information which demonstrates political influence within the STO from January 1953 to the present. Interviews provide new evidence which is particularly significant. This final determination reaches additional factual conclusions after a review and reanalysis of the existing record in the light of this new evidence.

Under section 83.8, because the Federal Government acknowledged the tribal existence of the Snoqualmie until 1953, it is not necessary to review either the proposed finding concerning political processes and influence before 1953 or the comments of the parties relating to the period before 1953. However, information concerning the STO while it was still acknowledged is reviewed here to the extent that it provides information concerning the political functioning of the STO after January 1953. Several issues concerning the STO from the 1930's through 1952 are examined, and a review of the Tulalip Tribes' comments is made.

The proposed finding concluded that Snoqualmie chief Jerry Kanim, who died in 1956, had been a strong leader. It described his style and methods of leadership. The new interview information and the improved transcript of a BIA interview with a former chairman confirms Kanim's strong political influence. Kanim's leadership provided the foundation and the reference point for subsequent leaders. The period of the 1940's to 1950's provides a context, and supporting evidence, for interpreting continuity of political influence after Kanim's death, including the continued leadership of Ed Davis.

The proposed finding concluded that fishing rights was a political issue of importance to a broad portion of the membership from 1953 to the present. It concluded also that the STO's activities in the decades before 1953 showed fishing rights to be a political issue and provided the basis of the continued interest in fishing rights after 1953. The Tulalip Tribes challenge this finding, contending that it has not been shown that this was more than an issue of importance to the leadership, that it was only a claims issue, and that there was little interest in fishing. A review of new and existing documentation concerning Snoqualmie defense of treaty fishing rights under Jerry Kanim from the 1930's on strengthened the finding that this was a significant political issue within the STO from the 1930's to 1953. It showed that the Snoqualmie were a leading influence among the recognized Puget Sound tribes on this issue in the 1940's and early 1950's, and that this was not only a "claims issue." Thus the proposed finding's conclusion that

fishing rights was a significant political issue to a broad spectrum of the membership after January 1953 is confirmed and strengthened by the demonstration that it was a political issue in the two decades before 1953. Leaders from these decades continued to be influential, and the membership included individuals who had previously fished and were familiar with past fishing rights protests. There was also direct evidence of the continuing importance of fishing rights in interviews, in post-1952 political conflicts, and in the number of individuals interested in fishing.

This final determination revises the conclusion of the proposed finding that, as a result of the loss of Federal recognition in 1953 and the death of chief Jerry Kanim in 1956, Snoqualmie political activity lessened for about a decade. The proposed finding concluded that there was a substantial decline in political activity after Kanim's death because the Snoqualmie political system did not immediately adjust to the changed conditions of not having the strong leadership figure it had had for decades and of not being recognized. The proposed finding concluded also that although political activity lessened, several important political figures influential in the past remained active, including Ed Davis, Kanim's chief political ally. Specific evidence concerning political activity in this time period was relatively limited for the proposed finding.

The new data submitted for the final determination and a reanalysis of the information from the existing record made possible a much more detailed and well-documented description of political activities from 1953 to 1968. This showed that some of the changes observed were not due to a decline in the strength of the political processes per se, but were the result of limitations due to changes in Federal policy as termination policies came into play. The new analysis shows also that what the proposed finding concluded was a decline in activity essentially as a result of the death of Jerry Kanim and the loss of Federal recognition was in part at least a manifestation of a process of political transition between generations which had begun in the early 1940's and continued until the 1960's. The new information and reconsideration of information already in the record confirms that there was a process of political restructuring beginning in the early 1940's and continuing after Jerry Kanim's death, and describes it more fully. Some of the changes described by the proposed finding as occurring after Kanim's death had begun earlier due to a change to younger, less traditional leadership. The final determination thus modifies the proposed finding which concluded that this changeover only began in the mid-1960's. While the level of political activity between 1956 and 1968 declined somewhat, the degree of decline was less than it appeared for the proposed finding, and represents a natural process of change and response to external conditions, not a weakening of political processes per se.

The influence and activities of specific political leaders in the first decade after Kanim's death are more strongly documented for the final determination than for the proposed finding. A more detailed and stronger description of tribal leadership in this decade was made possible by the new and reanalyzed data. The additional information for the final determination and the review of the existing record give direct, clear evidence that Ed Davis, a key leader and ally of Jerry Kanim before his death, and a very influential leader

in the 1970's and early 1980's, was also a key leader in the decade immediately after Jerry Kanim's death. The proposed finding had only indirect evidence of this. In addition, the leadership cadre that was active after 1956 was considerably larger than the proposed finding indicated. Other informal leaders besides Davis were identified and their roles more clearly spelled out than had been possible for the proposed finding.

The Tulalip Tribes' submitted an affidavit from a former STO chairman which it interprets as showing that there was little political activity before he became chairman in 1968, and only activity as a voluntary claims organization after that point. This affidavit was substantially contradicted by statements in his interview with BIA researchers. The interview was the more detailed and credible evidence.

The proposed finding concluded that there was a strong demonstration of political influence in 1968 with the accession of a strong chairman, Robert Comenout. The proposed finding implied that Comenout had little political contact with the STO before his election as chairman in 1968 except by virtue of his family line. A review of evidence, including the BIA interview with Comenout, shows that before he was chosen chairman he was a knowledgeable, well-known person with prior political involvement and long experience and background in Snoqualmie political traditions. This finding provides additional evidence for significant tribal political processes in the 1960's.

The substantial additional description and demonstration of political processes, leadership, and influence from 1968 onward, including the modern community, was made possible by the additional information submitted by the Snoqualmie and by the review and reanalysis of the existing record. This evidence demonstrates recurring political conflict over significant issues such as maintenance of tradition in the style of governance, the chairman's role versus the council's role, and how to approach fishing rights. These conflicts involved the communication of issues broadly among the membership and the mobilization of community opinion. The strongest evidence concerns 1978 to the present, but there is good evidence of conflicts over the issue of maintenance of tradition in style of governance since the late 1960's.

There is substantially more information for the modern community, in comparison with the proposed finding, showing processes of political conflict and transition in the election or ouster of STO leaders. These processes showed the involvement and interest of major portions of the tribe. The new evidence and review of existing evidence gives a stronger and more detailed demonstration, over a longer period of time, of the existence of family-line groupings and their political role. A political structure in which family-line groupings play a major role has existed for at least 20 years. The additional data and analysis confirms the proposed finding's conclusion that one dimension of conflict, and hence political influence, is along family-line groupings.

The proposed finding was not able to clearly establish how the candidates for the chairmanship or STO council became known to the membership and gathered support for election (or lost support once in office). There was some non-interview evidence that

candidates came to the fore as a result of public opinion within the Snoqualmie. Evidence was found in political movements in 1968 and 1978, where council membership changed and individuals indicated they were representing broader elements of opinion among the membership than themselves. There was limited evidence that shifts in chairmanship since 1981 reflected public opinion of the membership in general about the approach and effectiveness of the chairman.

The additional evidence for the final determination strengthens these conclusions of the proposed finding. It shows that important avenues of influence, other than direct campaigning by a candidate, exist to bring forward candidates and establish support. The description of conflicts and political transitions shows that public opinion significantly affects the promotion or defeat of candidates. It also shows that the family-line groupings play an important role in mobilizing political support among the membership for or against a candidate or office-holder.

A prime conclusion of the proposed finding was that the general council, the general meeting of the membership, had exercised major political influence since at least the 1960's as final arbiter of political questions. It was the means by which political disputes were settled and the actions of the tribal council reviewed and ratified. Political conflicts were played out in these meetings. This conclusion was not directly challenged by the Tulalip Tribes' response. There was some additional evidence to support this finding in the new interview data submitted by the petitioner and in the limited evidence in documents received by the BIA concerning a political dispute over the chairmanship from 1993 to 1996.

The proposed finding found no significant evidence to demonstrate that the office of chief, as reinstated in 1986, exercised political influence, nor that the chief had been shown to be a political leader in any significant degree. Interview data submitted in response to the proposed finding provides some support for a conclusion that the chief does play some political role. The interviews provide some specific, concrete descriptions of the actions of the chief which were lacking for the proposed finding, and described the rationale for reinstating the office as an alternative to the chairmanship in resolving conflicts.

The Tulalip Tribes present extensive specific arguments together with documentary and affidavit evidence to support their fundamental argument that the STO was only a voluntary organization which was formed solely for the purposes of pursuing land and other claims against the Government. To demonstrate this, they argue that most of the activities of the STO concerned claims. Pursuit of claims is not in itself evidence for or against meeting criterion 83.7(c). What is necessary is to demonstrate more directly whether the issue is of importance to a significant number of the members. The nature of the claim, whether it represents a long-ago loss, or a recent one that can therefore reasonably be expected to be important to many of the membership, is also relevant to demonstrating its political significance. The proposed finding and this final determination conclude that treaty fishing rights has been shown to be a significant

political issue, although it could technically be classified as a "claims issue" under the Tulalip Tribes' interpretation because the fishing rights were based on a treaty. Further, other kinds of evidence, described above, demonstrate that a significant political relationship is maintained among the members and influence is exercised within the membership.

The Tulalip Tribes make specific detailed arguments, citing particular documents, concerning the STO's enrollment and the activities of meetings as shown in written STO minutes. An analysis by the Tulalip Tribes of STO activities, based on minutes of its council and annual general membership meetings, is offered to show that the STO has largely dealt with claims. This analysis does not constitute new evidence since all of these minutes had been reviewed for the proposed finding, which concluded that much of the formal activities of the STO between 1953 and the present concerned claims or related issues concerning payment of the claims judgment award. Contrary to the Tulalip Tribes' arguments concerning enrollment, there is little evidence to suggest this enrollment is characteristic of a voluntary organization or that most members have enrolled solely to receive claims money. The Government declared in 1962 that the Snoqualmie award would be paid to all Snoqualmie descendants, only a minority of which had ever enrolled in the STO.

The Tulalip Tribes argue that the STO's members have had no connection with each other outside the context of the organization and therefore is not a tribe. They contend that political links between the governing body of the STO and its members has not been shown, nor has significant communication between leaders and followers been demonstrated. For this final determination there is significant evidence, more than for the proposed finding, which directly describes political communication. Communication is demonstrated to have occurred during a series of conflicts over transitions in chairmanships. Descriptions of the contending sides, and differing opinions in political conflicts, over issues such as fishing rights and styles of governance, show that these political processes are carried on by segments of the membership, not by individual leaders and not solely at meetings or other formal events. They show that there has been interest, debate and communication which involved more than the leadership. The role of family-line groupings in mobilizing political support is further evidence that social and political ties and political opinion extend beyond the immediate council and chairman and, hence, that communication between leaders and followers occurs.

The Tulalip Tribes cite as evidence Government reports written from 1953 to the 1970's in connection with planning for tribal termination under 1950's termination policies. They also cite reports and other documents concerning the Snoqualmie claim before the Indian Claims Commission and the subsequent process of planning for payment of the award. Although these reports often characterized the STO as an organization for claims, they are contradicted by more detailed and specific evidence concerning the functioning of the STO cited in this determination. They are also contradicted by Federal Government documents from the 1930's to 1953 which clearly characterize the STO as a tribe and distinguish it from claims organizations.

The Tulalip Tribes argue that the STO should be required to demonstrate the same political functions as a recognized tribe with sovereignty over a land base. The Department rejects this as requiring a standard for demonstrating tribal existence which substantially exceeds the regulations as well as the standard used in U.S. v. Washington.

In commenting on this criterion and criterion 83.7(b), the Tulalip Tribes argue that interview and oral history information is not valid, even when it concerns the experiences of the interviewee, if there are not also documents which support the same factual conclusions. They argue also that this material is not useful because the interviewees, often office holders and other influential people, have a stake in the outcome of this determination. Their comments therefore do not address the main body of the interview evidence used for the proposed finding. This finding rejects this methodological position in this unqualified form. This finding is based on a careful reading and evaluation of interview evidence, based on professional standards, together with a careful evaluation of documentary evidence, based on professional standards. Limiting interviews to individuals with no stake in the outcome in these circumstances would eliminate the most knowledgeable actors in the political process. It is not required under accepted professional standards. The Tulalip Tribes' position would have required eliminating from consideration the affidavits from Tulalip Tribes' officials which the Tulalip Tribes offered as evidence.

The Snoqualmie Tribal Organization has maintained internal political processes which demonstrate political influence from 1953 to the present. The long-time chief Jerry Kanim, whose political influence was recognized by outsiders including the Federal Government, died in 1956. Other leaders, including Ed Davis, a long-time leader allied with Kanim, continued to be influential after Kanim's death. Political issues of importance to many members of the STO were shown to have been dealt with by the STO from 1953 to the present, and to have been the focus of political conflicts between different portions of the membership. These political issues included fishing rights and the approach to seeking their restoration, changes in the traditional style of governance, and the powers of the council versus the chairmanship. Conflicts and changes in office-holders demonstrated the mobilization of political opinion for and against candidates and showed the role of family-line groupings in political conflicts. Conflicts over issues and over support or opposition to particular chairman demonstrated significant communication between the leadership and the membership in general. The general council, a meeting of the membership, is recognized by members and leaders as the ultimate authority for settling disputes and ratifying the actions of the chairman and council.

Therefore, from the time of its last Federal acknowledgment until the present, the Snoqualmie Tribal Organization meets the requirements of criterion 83.7(c) as modified by section 83.8(d)(3).

Criterion 83.7(d)

The proposed finding determined that the Snoqualmie Tribal Organization met the requirements of criterion 83.7(d). This criterion was not at issue in comments on the proposed finding. Therefore the proposed finding is affirmed.

Criterion 83.7(e)

The Tulalip Tribes' comments do not specifically challenge the proposed finding that the STO membership is descended from the historical Snoqualmie tribe and therefore meets the requirements of criterion 83.7(e).

Information and comments from political rivals within the STO submitted to the BIA during a leadership dispute between 1993 and 1996 challenged the ancestry of several of the family lines. This information did not provide evidence to change the proposed finding that these families were of Snoqualmie descent.

The Tulalip Tribes did present extensive evidence to support an argument that the family lines within the STO represent an insignificant portion of the total number of historical Snoqualmie family lines. The Tulalip Tribes also argue that the STO only represents a small portion of the descendants of those lines that are included in its membership. This does not constitute an argument that criterion 83.7(e), descent from a historical tribe, has not been met.

There is no requirement under the regulations that a petitioner be descended from most of the historical tribe. The requirement is to show descent as a tribe. The present membership of the STO is descended from a large number of historical Snoqualmie families and thus meets this requirement.

Because its membership descends from the historical Snoqualmie tribe, the Snoqualmie Tribal Organization meets criterion 83.7(e).

Criterion 83.7(f)

The proposed finding found that 20 percent of the members of the Snoqualmie Tribal Organization were also enrolled in recognized tribes and that the Snoqualmie Tribal Organization met the requirements of criterion 83.7(f). The final determination finds that 14 percent of the members on the revised membership roll submitted for the final determination are also enrolled in recognized tribes. Therefore, the Snoqualmie Tribal Organization meets criterion 83.7(f).

Criterion 83.7(g)

Significant comment or evidence was not submitted to refute the conclusion of the proposed finding that the Snoqualmie Tribal Organization met criterion 83.7(g). Therefore the proposed finding is affirmed.

Final Determination to Acknowledge The Snoqualmie Tribal Organization

The Technical Report
Bureau of Indian Affairs
Washington, D.C.
1997

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ADMINISTRATIVE BACKGROUND

Basis of the Final Determination

This final determination is based on documentary and interview evidence which formed the basis for the proposed finding and an analysis of the information and argument received in response to the proposed finding. The field interviews conducted by the BIA researchers, as well as the documentary materials in the record for the proposed finding, were reviewed in detail in light of the new information and arguments submitted by the Snoqualmie Tribal Organization (hereinafter cited as STO or Snoqualmie) and third parties.

Administrative History

The Assistant Secretary - Indian Affairs' proposed finding to acknowledge the Snoqualmie Tribal Organization (STO) was published in the Federal Register on May 6, 1993. The 120-day comment period was suspended until March 31, 1994, when documentary materials that were used for the proposed finding were provided to the Tulalip Tribes, Inc., of Washington State (hereinafter cited as Tulalip Tribes). The Assistant Secretary declined requests by the Tulalip Tribes for further extensions.

Revised acknowledgment regulations, which call for a 180-day comment period rather than 120 days, became effective March 26, 1994, and applied to the Snoqualmie petition. The comment period on the proposed finding ran for 180 days from March 31, 1994, or until September 27, 1994.

Technical assistance to explain the bases of the proposed finding was provided to the researcher and officials of the STO by phone on June 30, July 1, July 14, and July 15, 1993. The Tulalip Tribes and their representatives requested a copy of the documentary record for the proposed finding but did not request technical assistance concerning the proposed finding. BIA staff and Departmental attorneys met with the chairman and other officials of the Tulalip Tribes, their legal representative, and their researchers on September 27, 1994, when the Tulalip Tribes presented their comments on the proposed finding.

The 1994 acknowledgment regulations (§ 83.10 (k)) provide petitioners a minimum of 60 days after the close of the regular comment period to respond to comments by third parties. A longer period may be granted if warranted by the

extent and nature of the comments. The STO was given until September 9, 1995, to respond to the third party comments. The extended period was granted because of the voluminous nature of the comments submitted by a third party, the Tulalip Tribes, and because of the extended period of time that third parties had to comment on the proposed finding. An additional reason was that the U.S. Post Office had impounded the STO mail for several months as a result of an internal conflict within the group. Included in this mail was a major portion of the Tulalip Tribes' comments which had been provided to the STO as required under the regulations. Thus the STO was unable to review this material until several months after it was submitted to the Department.

The Tulalip Tribes requested that the final determination be made by staff and decision-makers not involved in the proposed finding. The Assistant Secretary denied this request, stating that the staff and decision-makers that prepared and made the proposed finding decision could be impartial (AS-IA 1996b). The denial stated that a proposed finding was a proposal, subject to modification or reversal based on new evidence and argument. She pointed out that other proposed findings had been reversed based on the responses received. She noted also that the proposed finding decision had been made by a different Assistant Secretary and that there were other changes in staff and line officials since the proposed finding was issued. Finally, she noted the opportunity for an independent review by the Interior Board of Indian Appeals under 25 CFR § 83.11.

The Assistant Secretary established the period for preparation of the final determination as March 1, 1996 to July 31, 1996. Work required under court deadlines in other cases required the extension of this period.

Description of Materials Considered for the Final Determination

Third Party Comments Received

The Tulalip Tribes submitted comments on the proposed finding through their legal representative James Jones of Bell and Ingram. This material was received September 27, 1994. This submission included a detailed narrative comment, a historian's report by Nicklason Research Associates, an anthropology report by Allen Ainsworth, and a series of genealogy reports by Sharon Sholars Brown concerning the genealogy and history of the Snoqualmie populations on and off reservation. Extensive documentation accompanied the reports, including affidavits and volumes of historic documentation. Transcripts of any interviews underlying the affidavits, if they existed, were not submitted. Comments and

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materials submitted by the Tulalip Tribes in 1991 during the preparation of the proposed finding reports have been considered for this final determination.¹

Letters of comment on the proposed finding were received from Dorothy Cohn and Phillip Wahl, former members of the STO and present members of a separate petitioner, the Snoqualmoo Tribe.²

Petitioner Comments

The STO submitted comments in response to the proposed finding and to the comments of the Tulalip Tribes on September 8, 1995. This response included a report entitled "Modern Political Community"³ by anthropologist Kenneth Tollefson, responses to portions of the Nicklason report and to the reports by Sharon Brown, written by anthropologist Douglas Pennoyer (with accompanying documentation), a response by Tollefson to Ainsworth's anthropology report, a report concerning the survey data submitted by the Snoqualmie and considered for the proposed finding, and a collection of articles by Kenneth Tollefson and others concerning the Snoqualmie and Puget Sound tribal culture. Two reports on Snoqualmie fishing were submitted, one prepared by anthropologist Harriet Turner, and one by STO member Lois Sweet Dorman.

¹ This material was not considered during the preparation of the proposed finding because of the advanced state of review of the petition (Jones 1991a) but the Department advised Tulalip Tribes that it could be considered during preparation of a final determination. The Department reiterated this position several times in response to subsequent letters from the Tulalip Tribes and their attorneys. The Tulalip Tribes requested that these 1991 materials be considered for the final determination. The 1991 materials include a letter from attorneys for the Tulalip Tribes (Jones 1991b), accompanied by a 57 page report with appendices and a 125 page historical report by Nicklason Research Associates with extensive exhibits. Also submitted in 1991 were 61 other exhibits and a letter from Tulalip Tribes Chairman Stan Jones.

² Copies of the letters were also included with the Tulalip Tribes' comments (Williams *et al.* 1994).

³ Interviews with Snoqualmie members, focusing on political and community structure accompanied the report entitled "Modern Political Community." In addition, three tapes of interviews with Snoqualmie elder Ed Davis conducted by Kenneth Tollefson in 1986 as part of a supplement to the documented Snoqualmie petition were submitted. The BIA had previously requested copies of these tapes which had been relied on by petitioner's researchers but had been informed that there were none (AS-IA 1993b).

The STO submitted several lists relating to membership in the response including a draft updated membership list on September 8, 1995.⁴ A membership list in final form was submitted March 12, 1996, as requested by the BIA.

Additional Materials Considered for the Final Determination

The regulations allow the Assistant Secretary to consider any materials in making a determination (§ 83.10(a)). In preparing this final determination, the Assistant Secretary considered materials submitted by opposing parties in a leadership conflict within the STO even though these materials were not designated a third party comment or response by the petitioner.⁵ Both sides sought to have the BIA become involved in settling the leadership dispute.⁶ In the process, substantial materials concerning membership, ancestry, meetings, voting and other matters were submitted to the BIA central office and the Puget Sound Agency. These materials have been reviewed as part of this finding because of their relevance to the nature of the modern community, its political processes and membership.⁷

Applicability of the Revised, 1994 Regulations to the Snoqualmie Tribal Organization

The proposed finding to acknowledge the STO was prepared under the 1978 acknowledgment regulations. Revised acknowledgment regulations became effective March 28, 1994, during the comment period on the proposed finding.

Petitioners under active consideration at the time the 1994 regulations became effective were permitted to choose which regulations would apply to their

⁴ Other lists submitted at this time include a list of individuals who had been "banished" as members; a list of individuals of 1/16th to 1/32nd Snoqualmie ancestry; a list of individuals from "The Tomullum (sic) Family Enrollments in 1992," a list of minors, and lists of honorary and deceased members.

⁵ This conflict occurred after Ronald Lauzon was defeated for reelection as chairman in the May 1993 annual meeting. During this conflict, various individuals affiliated with Lauzon or with the council led by chairman Andy de los Angeles submitted materials to the Bureau of Indian Affairs from 1994 to 1996.

⁶ The Assistant Secretary--Indian Affairs took the position that the BIA's relationship with the STO was limited to purposes of receipt and evaluation of the acknowledgment petition (AS-IA 1994). She declined to take a role in settling an internal dispute and stated that the Bureau would continue to deal with the council under Andy de los Angeles for purposes of the petition for acknowledgment.

⁷ The Snoqualmie response to the proposed finding addresses the initial stages of this conflict.

petition. (§ 83.3(g) of these 1994 regulations) Petitioners had 30 days to declare which option they chose. The STO was notified of this option by letter (Maddox 1994a) and did not respond. Under BIA policy, petitioners under active consideration which did not choose an option were considered under the 1994 acknowledgment regulations. Therefore, the BIA notified the STO by letter of June 8, 1994, that they would be considered under the 1994 regulations. Interested and informed parties were informed of this decision by copy of the letter to the STO (Maddox 1994b).

Previous Federal Acknowledgment Under 25 CFR 83

Introduction

The 1994 regulations required an evaluation of whether the STO was a previously acknowledged tribe within the meaning of the regulations. Petitioners which provide substantial evidence of unambiguous previous Federal acknowledgment as defined in section 83.1 are evaluated under modified requirements provided in section 83.8 of the regulations.

As part of this final determination, it is determined that until 1953, the STO was unambiguously Federally acknowledged and thus would be evaluated under section 83.8 of the regulations. The initial section of this report describes the evidence and presents the analysis which is the basis for this previous recognition determination.⁸

Focus of the Report, Based on Previous Acknowledgment

This final determination evaluates the STO under section 83.8. The finding of previous Federal acknowledgment until 1953 means that the Federal government acknowledged their tribal existence before then. This final determination also examines specific issues concerning the political character of the petitioner for the two decades preceding 1953 for purposes of providing a context for evaluating whether the criteria are met after 1953. This information helps demonstrate the character of the tribe after 1953, by describing its social and political antecedents

⁸ The proposed finding's evaluation of the STO under criterion 83.7(a), external identification, concluded that "Federal recognition of a government-to-government relationship with the Snoqualmie Indian Tribe existed clearly and continually from 1859, when the United States Senate and the President ratified the Treaty of Point Elliott, to sometime between 1955 and 1961" (PF Summary, 4). Applying section 83.8, the final determination establishes January 1953 as the date of last Federal acknowledgment.

that continue in the succeeding period. Also addressed are methodological questions relating to both the post-1953 and the pre-1953 period and issues and evidence relevant to the determination of previous Federal acknowledgment.

A review of certain issues prior to 1953 is particularly important to evaluate the Snoqualmie because the point of last Federal acknowledgment coincided with the Federal policy of termination, which was at its height in the early 1950's and coincided with a low point in activity in the group and significant changes in it. Coincidentally, this occurred around the same time as the death of Chief Jerry Kanim, the powerful leader who had led the tribe for many years.⁹ In addition, there were significant shifts in membership and organization between the 1930's and 1950's as a result of the formation of the tribal government at the Tulalip Reservation under the Indian Reorganization Act. World War II also slowed down the activities of the STO.¹⁰

⁹ In 1914, Jerry Kanim became chief and reorganized the tribal organization. At about the same time, there ceased to be distinct and exclusive geographical settlements. This final determination concludes that the STO was not separately recognized before 1934, but that the off-reservation Snoqualmie were part of the recognized Snoqualmie tribe. For this and subsequent time periods, the Tulalip Tribes' primary issue was STO's status: was STO solely a claims organization, or was it a tribal organization which, among other things, pursued claims, as the proposed finding concluded?

The Tulalip Tribes' response also disputed the conclusion that Jerry Kanim was a influential political leader. They claim that Jerry Kanim did not become chief in 1914, and question the proposed finding's conclusions about STO's reorganization immediately afterwards. They presented evidence to argue that he did not become chief until 1929, when the STO adopted a new constitution. Issues raised by the Tulalip Tribes concerning how Jerry Kanim came to be chief and the Snoqualmie reorganization between 1914 and 1916 do not impact the final determination because this petitioner has previous acknowledgment until January 1953. Genealogist Sharon Brown's reports (part of Tulalip Tribes response) also challenge the validity of Jerry Kanim's claim to be the nephew of Chief Pat Kanim. The Snoqualmie acknowledge that his relationship may have been more distant than previously believed. This information, however, does not change the Final Determination's conclusion of prior Federal acknowledgment until 1953.

¹⁰ The years 1934 to 1953 is the period of separate acknowledgment of STO. The Tulalip Tribes raise issues similar to those they brought up for earlier periods. This final determination partly addresses these arguments when it considers the character of the STO and evidence for Jerry Kanim's leadership between 1930 and 1953 in order to evaluate evidence concerning the tribal organization after 1953, when unambiguous acknowledgment ceased.

Effect of determination of previous acknowledgment under § 83.8 on scope of review of Tulalip Tribes' arguments in response to the proposed finding.

The proposed finding was based on a finding of continuous tribal existence since first contact with Europeans, predating the 1855 Treaty of Point Elliott. It concluded that the present petitioner evolved from the historic tribe as a separate but continuously existing portion of it. The final determination evaluation will not review these conclusions in the proposed finding and the technical reports, except as they provide background for the analysis of previous acknowledgment, or as they are relevant to demonstrating tribal existence after 1953.

The Tulalip Tribes presented extensive arguments and documentation in opposition to the finding of continuous tribal existence of an off-reservation Snoqualmie tribe after the 1855 Treaty of Point Elliott and before 1953. These arguments before 1953 need not be addressed under 83.8(d)(2) which specifically provides that a petitioner demonstrating unambiguous prior acknowledgment need not provide evidence to demonstrate existence as a community historically.¹¹ The petitioner in turn responded to these comments.

Legal Issues Raised by Tulalip Tribes

The Tulalip Tribes commented on several legal issues which are outside of the scope of 25 CFR 83. They argue that a 1981 Ninth Circuit Court of Appeals decision in the U.S. v. Washington treaty fishing case precludes the Department from acknowledging the Snoqualmie under 25 CFR 83 (Jones 1991a, 4; Tulalip Tribes 1994, 3). That court's decision was that the Snoqualmie had not existed continually as a tribe and were therefore not entitled to treaty fishing rights.

The Tulalip Tribes presented this position to the Department shortly after the court's decision, and several times subsequently, requesting that the Department not consider the Snoqualmie petition. The Department believes that the court decision does not automatically preclude the acknowledgment of petitioners that meet the requirements of the regulations to demonstrate continuous tribal existence. In 1996, the Assistant Secretary - Indian Affairs acknowledged the Samish Tribal Organization which, like Snoqualmie, sought to intervene in U.S. v. Washington (61 FR 15825). Similarly, the Department has issued proposed findings concerning the Duwamish and Snohomish petitioners, other would-be intervenors in that case (61 FR 33762 and 48 FR 15540). Thus, it remains the

¹¹ All parties addressed questions concerning the pre-1953 time period because the proposed finding was issued under the previously effective acknowledgment regulations which made no provision for previous Federal acknowledgment.

position of the Department that the Ninth Circuit decision does not preclude an evaluation under 25 CFR Part 83.

A second legal issue raised by the Tulalip Tribes (Tulalip Tribes 1994, 96) is that recognition may not be granted because the STO is no more than a voluntary organization which does not exercise the sovereign jurisdiction and powers over a land base, such as those the Tulalip Tribes exercise or live in a distinct geographical community. The Department agrees that a petitioner must be more than a voluntary organization to be recognized. However, the regulations have never required that a distinct geographical community exist. What is required is a demonstration of a distinct social and political community which has continuously existed.

The Tulalip Tribes' distinct geographic community argument puts forth a criterion requiring the exercise of political influence at a level which substantially exceeds the requirements of the acknowledgment regulations. The Department, in preparing the revised 1994 regulations, rejected similar arguments made in comments submitted by Bell and Ingram on behalf of the Tulalip Tribes (Jones 1991b, anc. 59 FR at 9288). The Tulalip Tribes' position also exceeds the requirements for demonstrating tribal existence as set forth in the Ninth Circuit's decision in U.S. v. Washington (U.S. District Court at Tacoma 1981). Thus, these arguments of the Tulalip Tribes are rejected. This final determination is based on the existing interpretation of the regulations as consistently applied since 1978.

The Tulalip Tribes' comments also include considerable information and comment on the ownership of the Tulalip Reservation. A determination under 25 CFR 83 is a determination of tribal status of the petitioning group only. Neither this final determination nor the proposed finding determines reservation ownership, nor treaty rights. Therefore, these materials have not been reviewed except to determine if they provided information concerning the status and character of the STO.

ANALYSIS OF PREVIOUS FEDERAL ACKNOWLEDGMENT OF THE SNOQUALMIE TRIBAL ORGANIZATION

Application of 25 CFR 83.8

Applicable Regulations

The proposed finding to acknowledge the STO was made under the 1978 regulations. Those regulations did not contain an equivalent provision to section 83.8 in the revised, 1994, Federal regulations concerning previously acknowledged groups. Consequently, the proposed finding contains no exact equivalent to the examination required under 83.8 of the revised regulations.¹²

The proposed finding did examine evidence of previous acknowledgment as a factual matter, particularly for criterion 83.7(a). It concluded that the Snoqualmie had been Federally acknowledged until at least 1955 (PF Summary, 4).

A detailed and complete review of previous federal acknowledgment follows.

Requirements for Establishing Previous Federal Acknowledgment Under 25 CFR 83.8

Introduction

Previous Federal acknowledgment is defined in 83.1. This definition has two essential elements: (1) the action by the Federal government is clearly premised on *identification of a tribal political entity* and (2) the action indicates clearly the *recognition of a relationship* between that entity and the United States. In order for section 83.8 to apply, it must also be established that the petitioner is the same as a previously acknowledged tribe or is a portion that has evolved from the tribe as it existed at the last point of Federal acknowledgment (83.8(d)(1)).

¹² Parties were initially notified by letter (Maddox 1994a) that a preliminary determination under 83.8 would be made within a few weeks. However, it was determined subsequently that because the Snoqualmie proposed finding contained detailed conclusions about previous acknowledgment and there was a detailed documentary record, the most appropriate course was for the evaluation of previous federal acknowledgment to be made during the final determination.

Conclusions of the Proposed Finding Concerning Previous Acknowledgment of the Snoqualmie

Introduction

Although the Snoqualmie were not evaluated under the 1994 acknowledgment regulations for the proposed finding, their relationship with the Federal government was analyzed in detail in the summary evaluation of the proposed finding and the technical reports. The conclusions of the proposed finding are adopted for the final determination, except as modified below based on subsequent submissions and additional research.¹³

Criterion 83.7(a)

The evaluation under criterion 83.7(a) concerns external identification of the petitioner as an Indian entity, including identification by Federal authorities. The summary evaluation for this criterion in the proposed finding included a discussion of Federal identification of the STO and concluded in part:

Unlike some previous western Washington acknowledgment petitioners, Federal recognition of a government-to-government relationship with the Snoqualmie Indian Tribe existed clearly and continually from 1859, when the United States Senate and the President ratified the Treaty of Point Elliott, to sometime between 1955 and 1961, when the Snoqualmie were no longer considered to be an "organized" tribe under the jurisdiction of the Bureau of Indian Affairs (BIA).

A substantial body of documentation indicates that BIA officials maintained continual contact with the off-reservation Snoqualmie leadership and/or its individual members from at least 1919 until the mid-1970's. Up until the period between 1955 and 1961, the Snoqualmie Indian Tribe was treated much like any other tribal entity under the jurisdiction of the BIA's Tulalip Indian Agency,

¹³ The discussion of previous Federal acknowledgment is based on a detailed review and reanalysis of the extensive documentation upon which the proposed finding's conclusions about previous acknowledgment rested. Relevant historical documentation submitted by the Tulalip Tribes as part of their comments has also been reviewed. Some additional documents collected in research on Federal acknowledgment policies which was conducted by the BAR in connection with implementation of section 83.8 of the revised regulations were also considered.

which became the Western Washington Indian Agency in 1950. Although the tribe lacked its own federally reserved land base, the BIA generally recognized that the Federal Government maintained some level of responsibility for the Snoqualmie as a result of the Point Elliott treaty provisions and the trust land allotted to individual Snoqualmie members on the public domain. During the 1940's, for example, the Tulalip Agency sought to obtain a reservation for the Snoqualmie in the Tolt Valley, and provided the tribe assistance in the negotiation of hunting and fishing rights with the State of Washington. The off-reservation based Snoqualmie Tribal Council was listed among the tribal governments recognized by the BIA in a report published by the United States Congress in 1953.

While the Snoqualmie Indian Tribe was considered to be subject to the Indian Reorganization Act (IRA) because it never voted officially to reject its provisions, it was not allowed to organize under the IRA because it did not have a tribal land base. By 1944, the BIA was classifying the western Washington tribes into three categories: (1) those based on reservations; (2) those with individual public domain allotments; and (3) those with no Federal trust land. The Snoqualmie were considered to be a public domain tribe under the second category.

When Congress was considering the termination of Federal services to the western Washington tribes in 1952, the BIA sent questionnaires regarding practices implemented under the IRA to tribes then considered to be federally recognized. The Snoqualmie were sent a questionnaire, as were some other off-reservation tribal entities, such as the Jamestown Clallam (previously acknowledged through the BIA's acknowledgment process). Other off-reservation groups in the area, including some who have also petitioned for acknowledgment through the BIA's administrative process, were not sent a questionnaire.

During the "termination era" of the 1950's, Government policy makers in the Northwest began to scrutinize the status of non-reservation tribal entities under Federal jurisdiction more closely. In 1955, the BIA's Portland Area Director suggested that the Government's trust responsibility in western Washington should be limited to reservation-based tribes. By 1961, the BIA made it clear that the Snoqualmie were not recognized as being an "organized tribe," that is, one that had a reservation or owned tribal property in

which members had a beneficial interest. By 1968, Snoqualmie leaders acknowledged in council meetings that the tribe was not federally recognized (PF Summary, 3-5).

Criterion 83.7(c)

In the proposed finding, the summary evaluation of criterion 83.7(c), demonstration of political influence, included the following conclusions relevant to the issue of previous federal acknowledgment:

Until the 1930's, the Government dealt with the Snoqualmie resident on and off-reservation more or less as a single political entity. Thus, in 1928 Jerry Kanim was elected head of the business council instituted by the Indian Service to deal with the Tulalip Agency Superintendent on matters affecting Snoqualmie interests on the Tulalip Reservation. Subsequently, the Government began to recognize the Snoqualmie on the Tulalip Reservation as a distinct entity. Beginning in 1929, there was a separate council on Tulalip, representing the interests of all of the Indians resident there, while Kanim was dealt with separately as leader of an off-reservation based Snoqualmie tribe. In 1936, the residents of the Tulalip Reservation, made up of Snohomish, Snoqualmie and others, were organized as a tribal government under the Indian Reorganization Act. The Federal government continued to recognize Jerry Kanim's band as a separate political unit (PF Summary, 27).

The summary for criterion 83.7(c) also stated:

Sometime between 1955 and 1961, the Snoqualmie lost Federal recognition by the Federal government. This loss resulted from the policy changes and reexamination of the status of non-reservation groups (see criterion (a)), rather than a change in the Snoqualmie. As a consequence, however, there was no longer the external recognition of significant political influence (PF Summary, 30-31).

Both the historical and anthropological technical reports included extensive discussion of the evidence for previous Federal acknowledgment (PF Anthropology, 43-47; PF History, 68-76).

Previous Acknowledgment of the Snoqualmie Tribe

Additional Analysis under 83.8

Point Elliott Treaty to 1913 and Acknowledgment Policies

The historic Snoqualmie tribe was recognized at the signing of the 1855 Treaty of Point Elliott. Consistent with policies throughout the country, jurisdiction and responsibility was based on the fact that the Federal government had taken a specific action, the treaty, which recognized that a tribe existed and specifically established a relationship with it, irrespective of whether the tribe or portions of it had a reservation or had removed to a reservation.

The terms of the Point Elliott and other Puget Sound treaties of 1854 to 1856 called for the removal of the tribes to reservations. Beginning sometime between the mid-1870's and the early 1890's, the Federal government stated that its responsibility to Indians was consequently limited to those who had moved to the reservations. However, despite some explicit statements of this policy, there continued to be some dealings with off reservation Indians and tribes. Non-reservation Indians were recognized as having rights to allotments on the reservations "set aside for their tribe's benefit," if there was sufficient land. They were required to move onto the reservation in order to be allotted.

Non-reservation tribal Indians were also eligible for individual (non-reservation) allotments on the public domain. Public domain allotments, under the 1887 General Allotment Act, were limited to individuals who were members of recognized tribes.¹⁴ This included off-reservation Snoqualmie, since Snoqualmie was one of the tribes of the Tulalip Reservation.

Population Movements

The proposed finding concluded that between the treaty and the 1930's, much of the Snoqualmie tribe moved to the Tulalip Reservation,¹⁵ and some moved to the

¹⁴ Documentation submitted by the Tulalip Tribes states explicitly that off-reservation members of the tribes of the Tulalip Reservation were entitled to come on reservation and be allotted or to have public domain allotments if there was insufficient land (Buchanan 3/11/1903, Secretary of the Interior 1910, McChesney 1909). Off-reservation Snoqualmie received at least five public domain homesteads or allotments (Upchurch 1944b).

¹⁵ The Tulalip Tribes also submitted extensive documentation of the movement of Snoqualmies onto the Tulalip Reservation in the 19th century to support their argument that essentially all of the Snoqualmie and its leaders moved to the reservation or to other reservations. Some documentation was provided concerning movement of Snoqualmie to other reservations besides Tulalip. In addition, they submitted extremely detailed

Muckleshoot Reservation or elsewhere. The proposed finding concluded also that a distinct community of Snoqualmie continued to reside off-reservation after the treaty was ratified (PF Summary, 8).¹⁶

The proposed finding analyzed anthropological and historical evidence and concluded that between 1855 and the 1930's there had been distinct off-reservation Snoqualmie settlements and off-reservation leaders¹⁷ but did not conclude that the on and off-reservation Snoqualmie constituted two different tribes before the 1930's. Before then, there was a process of evolution and reorganization which eventually led, by the mid-1930's, to a separate off-reservation band after other Snoqualmie became part of tribal communities organized under the Indian Reorganization Act.

The proposed finding concluded that although individual off-reservation Snoqualmie moved to the reservation at various points over many decades, political, social and kinship ties continued to exist between some of those who had removed to the reservations and those who did not (PF History, 54). Some

documentation of Snoqualmie ancestry for present Tulalip members as part of their argument that most of the descendants of the historic Snoqualmie became part of the present Tulalip Tribes. The Tulalip Tribes' comments also argued against the technical reports' conclusion during the proposed finding that the reason many of the Snoqualmie initially remained off-reservation after the treaty was because there was not adequate land for them on the reservation. These arguments ignore the fact that the Federal Government dealt with Jerry Kanim's band of off-reservation Snoqualmie.

¹⁶ The Tulalip Tribes presented extensive arguments and documentation to dispute the continuous tribal existence of off-reservation Snoqualmie communities and leaders after the 1855 Treaty of Point Elliott. These arguments and evidence addressed the size and composition of the non-reservation population and focused on the evidence used in the proposed finding to demonstrate the existence of an off-reservation community with leadership and internal political processes. The Tulalip Tribes' comments also argued against the proposed finding's technical reports' conclusion that many of the Snoqualmie initially remained off-reservation after the treaty because there was not adequate land for them on the reservation. These arguments and the related evidence submitted by Tulalip Tribes were not reviewed for this final determination because under 83.8, tribal existence need only be demonstrated from 1953 to the present. These comments do not in any case negate the fact that the Federal Government dealt with the Snoqualmie Tribe between 1855 and 1934, and from 1934 to 1953 specifically dealt with Jerry Kanim's Band of off-reservation Snoqualmie. To the extent these arguments are pertinent to criteria (b) and (c) as evaluated for this final determination, they are discussed in those sections.

¹⁷ The proposed finding's summary under criterion (c) noted the possibility that 19th century Snoqualmie leaders resident at Tulalip could have been leaders of the Snoqualmie both on and off the reservation, but reached no final conclusion. When the STO formally organized in 1916, it included substantial numbers of both reservation and non-reservation Snoqualmie.

close ties remained until at least the 1950's (PF Anthropology, 62-63). However, these ties diminished as the reservation based Indians increasingly became political bodies comprised of the Indians of different tribes that had become affiliated with the respective reservations over time.

Acknowledgment from 1913 to the 1930's

In 1913, the jurisdiction of the Tulalip and Taholah agencies was explicitly extended to non-reservation Indians (Buchanan 1913a), including the off-reservation Snoqualmie (Buchanan 1914). "Indians" in this context was limited to Indians "maintaining tribal relations."¹⁸

In 1919, Special Indian Agent Charles Roblin compiled a roll of "Unaffiliated Indians." This listing was developed as part of government efforts to determine the needs of "landless" Indians in western Washington.¹⁹ This roll, which included all claimants to tribal claims being pursued in this period, was based on descendancy alone. Roblin concluded that most of those listed were not part of tribes (Roblin 1919b) and thus these individuals were not added to agency jurisdiction. Only two groups -- the off-reservation Snoqualmie and the Cowlitz - - were identified by Roblin as having continued to maintain tribal communities.

The Snoqualmie tribe, as it was dealt with and recognized by the Federal government before the 1930's, was not limited solely to the reservation Indians, but included non-reservation Indians it concluded were maintaining tribal relations. This evidence supports the conclusion that the agency did not distinguish between the on- and off-reservation Snoqualmie in its dealings or consider them completely separate groups.²⁰

The Tulalip Indian Agency on April 6, 1929, responded to a central office circular inquiring whether the tribes in its jurisdiction had "a business committee" to handle matters of business for the tribe.²¹ It listed both Snoqualmie and

¹⁸ This expansion of jurisdiction did not include individuals of Indian ancestry who were considered to have separated from their tribe. However, in some instances, individuals who no longer maintained tribal relations were considered the agency's responsibility because their individual allotments remained in trust.

¹⁹ Parallel studies of landless Indians were conducted about the same time in California and Nevada.

²⁰ The agency in 1927 included off-reservation Snoqualmie on a list of heads of families, including Snoqualmie leaders Ed Davis and Jerry Kanim (Schlageter 1927, Gross 1927). In 1929 it listed several off-reservation Snoqualmie on a list of off-reservation Indians under its jurisdiction that it considered should be accorded off-reservation fishing rights.

²¹ Business committees were seen by the Indian Service as a vehicle for approving

Snohomish business committees, which corresponded to the officers of the organizations these Indians had formed. It listed the members and officers of the "Business Committee representing the Snoqualmie Tribe on the Tulalip Reservation" (Tulalip Indian Agency 1930).²² The president was Jerry Kanim and the treasurer was John Johnson, both nonreservation Snoqualmie.²³

Tulalip Agency documents concerning the tribes under its jurisdiction between 1913 and 1930 listed both reservation tribes and recognized non-reservation tribes, usually under the heading of "public domain" tribes.²⁴ The tribes frequently listed under the category of "public domain" tribes between 1913 and 1930 were the Upper Skagit, Suiattle, Jamestown Clallam, and Nooksack (see Duclos 1930). None of the "public domain" tribes had a reservation. Since the Snoqualmie were listed as a reservation tribe, affiliated with the Tulalip Reservation, Tulalip Agency jurisdiction listings between 1913 and 1930 did not separately list a non-reservation, public domain Snoqualmie tribe.²⁵

leases and similar matters concerning reservation land (Tulalip Indian Agency 1927b, 1928). The recognition of a business council which could represent tribal interests did not necessarily mean that the agency considered all of the members of the organization to be under its jurisdiction (see AS-IA 1983, 5, 16).

²² The proposed finding incorrectly states that this committee was formed in 1929 (PF History 62). The agent's report describes an existing council.

²³ The Nicklason Research Associates report (Nicklason 1994, 108) cites a 1934 agency letter (Collier 1934d) which lists a Snoqualmie, a Snohomish, and a Tulalip business committee, and a 1934 agency report (Tulalip Indian Agency 1934b), as evidence that the agency considered the STO to be a claims organization. The letter predates the passage of the IRA. The report was an informational report prepared to begin planning for application of the newly passed Indian Reorganization Act, focusing on the reservation tribes. Its characterization of the Snoqualmie organization as "formed for claims" conflicts with earlier documentation which treated the officers of this organization as able to represent tribal interests on the Tulalip Reservation. It also conflicts with an agency report in the same year which specifically noted the existence of the Jerry Kanim band (Upchurch 1934e).

²⁴ The term "public domain" tribe meant a tribe for which no reservation had been provided and did not include a separate listing for off-reservation members of tribes for which a reservation had been designated.

²⁵ The proposed finding incorrectly cited pre-1930 agency listings as including a separate, non-reservation Snoqualmie group. The Tulalip Tribes' response correctly questioned this conclusion (Nicklason 1994).

Evidence of Separate Federal Acknowledgment of the Snoqualmie Tribal Organization (Jerry Kanim Band of Snoqualmie)

Establishment of a Tulalip Reservation Council

In 1930, the superintendent formed a reservation-only business committee which was drawn from all of the tribes of the Tulalip reservation. At the superintendent's direction, it explicitly excluded off-reservation Indians, regardless of the tribe (PF History, 62; Tulalip Reservation Committee 1930). The limitation was hotly debated by the Indians, opposed by some, and supported by others, including Snoqualmie Wilfred Steve. New, reservation-only councils were formed at the same time on the other reservations. These councils were apparently formed by the agency in response to new regulations concerning the leasing of Indian lands which evidently were interpreted by the Indian Service as requiring the limitation to reservation Indians (Department of the Interior 1929; AS-LA 1982, 5; Sampson 1930).

The IRA applied to the reservation by vote in 1935 and a constitution was adopted under the act in 1936. The organization of the Indians of the Tulalip Reservation under the Indian Reorganization Act was limited to Indians considered affiliated with and residents of the reservation, principally Snohomish, Stillaguamish and Snoqualmie (PF History, 62).

Description and Analysis of Specific Evidence

After the formation of the reservation-only business committee in 1930, the Tulalip Agency continued to deal with an off-reservation band of Snoqualmie as a recognized band of Snoqualmie. The band was frequently termed the "Jerry Kanim Band of Snoqualmie," after its leader (cf. Upchurch 1944b, 65). Subsequent to 1934, the Tulalip Agency listings of non-reservation tribes under its jurisdiction included the Snoqualmie Tribe (a reference to the off-reservation band) in addition to showing the Tulalip Tribes as a reservation tribe including the Snoqualmie.²⁶

Evidence of Federal dealings with and acknowledgment of the Jerry Kanim Band as a tribe is consistent and constant between 1934 and 1953. Multiple reliable documents give clear information showing that the Snoqualmie were recognized.²⁷ The Snoqualmie (Jerry Kanim Band) are referred to in a variety of lists and other documents between 1934 and 1953. In addition, correspondence and agency

²⁶ There was no corresponding listing for Stillaguamish or Snohomish, the other major Tulalip Reservation tribes.

²⁷ References exist in most years, even during World War II, when agency and tribal activity was at a low ebb and many petitioners have had difficulty providing historical documentation.

planning documents from the same years deal in detail with the character of the band and its status. They are thus particularly important evidence of acknowledgment by the Federal Government.²⁸

There is strong continuity of identification of the off-reservation Snoqualmie Band throughout this period on federal lists of tribes under agency jurisdiction. Although the nature of some lists is unclear, most of these lists are clearly lists of tribes under agency jurisdiction.

Description

There is a clear identification of a separate, recognized off-reservation Snoqualmie band in 1934, after the reservation-only business council was organized for the Tulalip Reservation and before the reservation government was organized under the IRA. In response to a questionnaire from the National Resources Board regarding tribal groups within the region, Superintendent Oscar Upchurch of the Tulalip Agency stated that there was "an important band of Snoqualmie Indians under the leadership of Jerry Kanim," and noted that a number of these Snoqualmie "were not enrolled at any agency and have no land." As a solution to this situation, Upchurch proposed the establishment of a small reservation for the band within the Snoqualmie National Forest (Upchurch 1934e; PF History, '0.)

In 1935, Superintendent Upchurch wrote to the Commissioner of Indian Affairs, providing a "list of the members of the Tribal Councils under this jurisdiction." This list included two members of the off-reservation "Snoqualmie Council" (Upchurch 1935). All of those on this list were reservation tribes or recognized public domain tribes.

Between 1937 and 1944, the Indian Service proposed to acquire land for the STO so that it could organize under the Indian Reorganization Act.²⁹ A preliminary

²⁸ In contrast, in many cases, an agency list does not clearly describe the status of groups on it, nor differentiate between groups which actually have differing statuses. Also, these documents may not make clear the criteria used to create the list. A list is more definitive on its face in some instances than in others. A specific statement of tribes under the jurisdiction of an agency is more definitive than a document which merely lists councils with which the agency dealt but provides no further information. The Tulalip Agency at times dealt with some groups on a limited basis while others were dealt with as fully recognized tribes.

²⁹ The approach was to provide a land base to a tribe with which the Federal government already had a relationship and for which it had a responsibility. The land base would permit the tribe to organize under the IRA (see discussion below of half-blood communities). The responsibility was couched in terms of an unfulfilled obligation under the Treaty of Point Elliott (Upchurch 1941b).

Technical Report, Final Determination. The Snoqualmie Tribal Organization

report in 1937 by the Land Field Agent on the "Chief Keenum Band of the Snoqualmie Tribe Project," stated:

In the vicinity of Snoqualmie Falls and Fall City, along the Snoqualmie River, there is resident a small band of Snoqualmie Indians under the leadership of Chief Jerry Keenum [sic], a total of 211 enrolled individuals, who are unallotted on any reservation and who have been living by day labor in logging camps, on farms and wherever employment was obtainable for the past generation (Johnston 1937).

George LaVatta, field agent for the Organization Section of the Central Office, responded to Johnston's report.³⁰ He stated that it was "necessary to establish a reservation or land holdings before organization can take place" so that they "can avail themselves of the benefits of the IRA" (LaVatta 1937b).

LaVatta's reference was to the need under the act for a land base in order to be able to organize a tribal government under the act.³¹ Implementation of the act involving a landless tribe required a determination of whether the group was recognized by the Federal government.³² No mention is made in the available documents of a need to evaluate or clarify the tribal status of the off-reservation Snoqualmie while considering their possible organization under the IRA. This indicates that their status as a tribe with a relationship to the Federal government was not in doubt.

Superintendent Upchurch wrote the Commissioner of Indian Affairs in 1941:

In clarification of the status of the Snoqualmie Tribe, it should be noted that a majority of the Snoqualmie Indians united with the Snohomish Tribe to occupy the Tulalip Reservation. There was insufficient land however to accommodate all the Indians of both tribes and a small band headed by Jerry Kanim received no allotments and little or no other treaty benefits (Upchurch 1941b).

³⁰ He somewhat mischaracterized the band as "Indians who have never had a reservation and never identified themselves with any tribes that have reservations under the Tulalip Agency."

³¹ The language of the act was construed by the Department to apply to non-reservation groups which were nonetheless recognized. Land could be acquired for such tribes under the IRA and an IRA-based government then established (Meiklejohn 1937, 1938).

³² This was done in a number of cases, including Jamestown and other Clallam.

Superintendent Upchurch described the off-reservation Jerry Kanim band,³³ which had "increased in number and had been joined in their recent claims protest by Tulalip Allottees and their landless descendants of Snoqualmie blood, and also by Indians of Snoqualmie blood affiliated on the Yakima Reservation." Upchurch concluded that he felt that "a small band of this tribe" had "a legitimate claim to further lands" and that he had proposed the acquisition of a reservation in the Tolt River Valley for them (Upchurch 1941b).

Upchurch's description identifies a tribal community and distinguishes it from other Snoqualmie that may have been part of a larger STO for claims purposes. This is unequivocal evidence of acknowledgment of a tribal political entity referred to as a Snoqualmie Band under Jerry Kanim's leadership.

The proposal to establish a reservation and statements indicating that the government viewed the off-reservation Snoqualmie as a tribe with a relationship with the United States also appeared in 1944 in the Preliminary Report on the 10 Year Plan for the Tulalip Indian Agency (Upchurch 1944b).³⁴

The report classified the tribes under Tulalip Agency jurisdiction either as reservation tribes or as public domain, non-reservation Indians.³⁵ It listed the Nooksack, Skagit-Suiattle, Stillaguamish, Snoqualmie, and Clallam Tribes as public domain tribes. The report stated:

The Snoqualmie Tribe, together with the Snohomish Tribe, were expected under the Treaty to remove to the Tulalip Reservation. A considerable band of the Snoqualmie Indians, however, never removed to the reservation for the apparent reason that when the reservation was allotted, there was not sufficient land to grant to them: the amount specified in the Treaty which provides compliance with the terms of the Omaha Treaty. As a consequence, Chief Jerry Kanim's band of Snoqualmie Indians are non-reservation, and in a large measure, landless Indians. We have record of only 5 Snoqualmie Indians who received public domain homesteads. This band of Snoqualmie Indians maintained a roll of

³³ Upchurch continued that this band had been meeting "periodically for a number of years" under Kanim's general guidance. He estimated that the number of adult members of Snoqualmie blood who were unattached to any reservation numbered about 100.

³⁴ This plan was created in response to a central office initiative directed at Indian agencies across the country.

³⁵ A similar classification appears in Congressional Hearing Report in that year (U.S. House of Representatives 1944, 14-17).

their own in which are listed 120 families of 629 Indians, 352 females, 277 males. A number of these Indians are enrolled at the Tulalip Agency and some of them have lands or interests in lands on the Tulalip Reservation. The exact number of landless Indians and whose families have never had the benefit of allotments and lands contemplated in the Treaty is not definitely available. It may be assumed, however, that an important percentage of the persons which this organization has enrolled are entitled to fulfillment of the Treaty of 1855 and that a reservation sufficient to assure them a home should in equity be secured for them (Upchurch 1944b, 65).³⁶

This report reflects early changes in policy ideas which would culminate in the termination policies of the 1950's (see discussion below). Given Upchurch's recommendations for the termination of many Indians,³⁷ his recommendation in the same report to give the Snoqualmie a reservation and to organize their tribal government under the IRA is significant evidence of their recognized status and identification as a tribal political entity.

In 1947, Tulalip Superintendent Fred A. Gross, who replaced Upchurch, listed the off-reservation Snoqualmie among those "in addition to the Tulalip Tribe" that were "under the jurisdiction of the Tulalip Agency" (Gross 1947i). Also, he advised the Snoqualmie on the proper procedures for adopting a formal governing document, stating that since there was no record of them rejecting the IRA, the act applied to them (Gross 1947d). The STO proceeded to adopt a constitution and bylaws in 1948.³⁸ In 1949, the agency assisted the Tulalip Tribes and the non-reservation STO to reconcile their membership rolls, sending the Snoqualmie a

³⁶ The report stated that the land was to remedy "... the long delayed equity of this Snoqualmie band in the 1855 treaty..." (Upchurch 1944b, 65). It also urged an accurate enrollment of all landless Indians "with an estimate of the requirements necessary to fulfill the Treaty obligations."

³⁷ The superintendent, who was still Oscar Upchurch, recommended "elimination of approximately one-fourth of our population from the rolls of ward Indians." These were to be released "entirely from Federal supervision" (Upchurch 1944b).

³⁸ The Nicklason Research Associates report (1994, 137) quotes STO tribal secretary Judy Moses as stating in 1975 that the bylaws were adopted because of a request from the STO's attorney Arthur Griffin, and argues that therefore the STO was a claims organization. The request was aimed at improving the organization of the STO, in part to deal with claims, but does not show that improving its capabilities means that it was a voluntary organization. The Department of the Interior did not regard it as such at this point. Other recognized tribes such as the Nooksack also sought to reorganize in connection with pursuing claims before the ICC at the same time (Department of the Interior 1947).

list of possible dually enrolled members (PF Anthropology, 44). The agency in this correspondence treated the two tribes as equivalent in status.

In 1950, the Snoqualmie sought review of their 1948 constitution by the Indian Service. Superintendent Gross told the central office that he believed that the constitution was adopted "in the interest of the tribe" and that since the STO was not under the IRA "it may or may not require Indian Office approval" (Gross 1950j). This comment meant only that the document was not adopted under the IRA, not that the tribe was not recognized. A constitution adopted under the IRA would have required approval by the Department of the Interior, but non-IRA tribes' governing documents and constitutions did not.

Also in 1950, Jerry Kanim played a lead role, on behalf of both reservation³⁹ and non-reservation tribes, in agency-sponsored meetings with state officials (see discussion below of documentation under fishing rights, below, criterion (c) discussion) (PF History, 81, 84-85; PF Summary, 25). Throughout the 1940's, Kanim had played a similar leadership role in meetings involving the tribes, the agency, and state authorities. The Indian Service representatives treated the Snoqualmie and Kanim in the same manner as the recognized reservation tribes and leaders attending these meetings.

As part of termination planning, the Portland Area Office and the Puget Sound Agency began in the early 1950's a series of evaluations and studies of the status of Western Washington tribes and the nature of the Government's obligations to them. These documents included several references to the status of the Snoqualmie which indicated that until at least January 1953 it was clearly still classified as a recognized tribe and not listed as a non-tribal claims organization.⁴⁰

A December 15, 1952,⁴¹ report by the House Committee on Interior and Insular Affairs published the results of an extensive investigation of the BIA, which it had conducted in order to determine the feasibility of termination proposals. The

³⁹ Including the Tulalip Tribes.

⁴⁰ For example, the Snoqualmie appear on a list of tribal councils in 1951, a list consistent with the listings for the previous decade. Two 1951 letters list the Snoqualmie among groups concerned with claims. These two letters have less evidentiary value in comparison to other more definitive documents. A withdrawal planning document for non-reservation tribes with public domain allotments in 1952 listed the Snoqualmie as a public domain tribe, with a non-IRA tribal organization. Also listed were Nooksack, Skagit, and Duwamish (Western Washington Agency 1992). Significantly, a 1952 listing of claims organizations did not include the Snoqualmie (Western Washington Agency 1952).

⁴¹ The proposed finding dated this document as 1953, based on the publication date.

committee requested information on all tribal organizations, explicitly including all IRA and non-IRA tribes (U.S. House of Representatives 1953).⁴² In the resulting House report, the Snoqualmie were listed as a public domain tribe in a table of tribal organizations submitted by the BIA (U.S. Congress 1953, 59).

The last year in which the evidence supports a conclusion that the STO had unambiguous Federal acknowledgment is 1952. This conclusion rests on the overall body of evidence, not solely their appearance on various lists as a public domain tribe.⁴³ This report refers to the STO as having unambiguous Federal acknowledgment until January 1953.

The termination laws and policies of the 1950's were primarily concerned with reservation tribes whose Federal relationship should be terminated. However, as part of the change in policy at this time, the view was taken that Federal responsibility to Indians was limited to those with trust land.⁴⁴ Termination policies became stronger as time went on, especially after the passage of House Concurrent Resolution 108 in 1953, which established Congressional sentiment for termination. Changes in status of the Snoqualmie reflected the development and implementation of this policy.⁴⁵

⁴² The Duwamish, Jamestown, Skagit, Nooksack and Suiattle were also listed. Other 1952 documents with a similar characterization include a plan for Federal withdrawal from nonreservation tribes with public domain allotments (Western Washington Agency 1952).

⁴³ Although the Duwamish are listed from time to time as a "public domain tribe," there is no evidence except their inclusion on some lists to support a conclusion that they also were dealt with as a tribe. Two tables in the 1952 House Report list the Duwamish as a public domain tribe. These are entitled, "Indian Tribal Governing Bodies, Tribal governments at present recognized by the Indian Bureau" (U.S. Congress 1952, 1369) and the "Alphabetical list of Indian Tribal Organizations (1950)--Non-IRA." These lists, apparently compiled by the committee staff rather than the BIA, are less definitive than the BIA's own listings, which did not include Duwamish in this category.

⁴⁴ Non-reservation Indians without trust land, like the Snoqualmie, were no longer considered the responsibility of the Federal government (see also Hill 1956, re implementation in California). The Nooksack and "Skagit-Suittle" had voted on and accepted the IRA in 1935 (Haas 1947, 10). None of the Clallam groups were permitted to vote, nor did the Snoqualmie vote. Nonetheless, the Nooksack were told in 1947 that they were not under the IRA (Department of the Interior 1971) and neither they nor the "Skagit-Suittle" remained recognized by 1961.

⁴⁵ In 1953, the House Committee again sent out a questionnaire. The Western Washington agency reply this time included responses for the Cowlitz and Chinook as well as for the Jamestown Clallam, Nooksack, Skagit, Duwamish, and Snoqualmie (Bitney 1953d). It referenced the conferences held with both tribes and unrecognized groups that had been held by the Indian Service that year in connection with the proposed Western Washington termination act, whose effect was not limited to recognized tribes (see below).

This policy change is reflected in a 1955 statement by the Director of the Portland Area Office in a planning report on termination of the federal responsibility to Indian tribes in western Washington. In this report, he included the Snoqualmie in the list of those groups, which he felt "should not be of Bureau concern at this time" (Foster 1955).⁴⁶ In contrast, later in the year, the Assistant Commissioner of Indian Affairs included the Snoqualmie on a list of public domain tribes, for purposes of planning termination of Federal responsibilities (Utz 1955).⁴⁷

A clear cut statement which treated the Snoqualmie as a non-recognized tribe appeared in a 1961 Western Washington Agency report. It stated that the Snoqualmie had no constitution or charter and was not organized formally for "self-government." It concluded that the "main object" of the tribe was "to press its suit" (Western Washington Indian Agency 1961).⁴⁸

The Department concludes for purposes of 83.8 that the Snoqualmie were unambiguously Federally acknowledged until 1953. Documentation after that point is ambiguous, and beginning in 1961, clearly denies a Federal relationship with the petitioner as a tribe.

This conclusion of unambiguous acknowledgment until 1953 differs from the proposed finding, which stated the Snoqualmie were acknowledged until 1955 and lost this status between 1955 and 1961. The proposed finding used 1955, the first date when the documentation available for review indicated the Snoqualmie were not recognized, as the date for the end of acknowledgment of the

The agency's response indicates a shift in view towards the landless groups, in the direction of characterizing them as claims organizations. The response concerning the Snoqualmie characterized them as "organized for claims," although at the same time remarking that their "assimilation had been slow" (Bitney 1953c).

⁴⁶ The area director recommended strongly that Federal responsibility be viewed from the perspective of obligations connected with ownership of trust land and not on the basis of "tribes, treaty tribal groupings, etc. not connected with the land" (Foster 1955). He stated that in planning for termination, there was "little or no purpose in the Bureau concerning itself with tribes who have no trust real property . . . and whose only special connection with the Federal Government is the settlement of their claims." In his view, such groups were "living on the same terms and under the same conditions as other citizens of the state."

⁴⁷ Thus in 1955, the central office and the area office leadership presented two different identifications of the status of the Snoqualmie, with Central Office including them as a recognized tribe.

⁴⁸ The Portland Area Director in 1961 defined an "organized tribe" as "one that has a reservation and owns tribal property in which members have a beneficial interest" (Foster 1961). In the 1930's and 1940's, being unorganized meant being recognized but not having a constitution under the IRA. In the context of termination era policy, not being "organized" was the equivalent to not being recognized.

Snoqualmie. For purposes of this final determination, however, the date of 1953 is used under section 83.8 of the regulations as the last date when the documentation of acknowledged status is unambiguous.⁴⁹

The documentary descriptions of the status of the Snoqualmie between 1934 and 1953 differ from those of other Puget Sound groups reviewed to date under the acknowledgment regulations, except for the Jamestown Clallam.⁵⁰

Central Office Actions

Agents of the central office of the Indian Service during the IRA era concurred in the agency's interpretation that the Snoqualmie were recognized. Documentation of this concurrence includes the letters of the field agent for the Organization Section of the central office, George LaVatta (1937), and the field land agent, E.M. Johnston (1937), discussed above.

Although it was common practice in implementing the Indian Reorganization Act in the 1930's for the Commissioner of Indian Affairs to request an opinion of the Office of the Solicitor when the status of a non-reservation group was not entirely clear, there was no such request for a legal review of the Snoqualmie. The discussions concerning acquisition of a land base for them under the IRA assumed and did not question their tribal status. Thus, their status as federally recognized apparently was not in doubt (see discussion below). The letter of Assistant Commissioner Zimmerman (1939) discussed below was not adopted as the Indian Service's position.

⁴⁹ Even though there is now additional documentation from 1955 showing the Snoqualmie as recognized (Utz 1955) which was not available for the proposed finding, their 1955 status vis a vis the Federal Government is not unambiguous because other documents from the same year treat them as an unrecognized entity.

⁵⁰ The Jamestown Clallam determination concluded that they were a recognized tribe until 1954 (AS-IA 1980a, 3). The Duwamish Tribal Organization appears on a few of the lists of "tribes" with which the agency was dealing in the early 1940's (Upchurch 1940b; Tulalip Agency 1941, 1943; Upchurch 1943f; U.S. House of Representatives, 1944). For Duwamish, however, there is not the extensive, clear cut documentation supporting their recognized status equivalent to that of the Snoqualmie (cf. Duwamish PF, History Report, 57-60). They are only represented on lists. Snoqualmie documentation is equivalent to that for the Nooksack, Skagit-Suiattle, and Jamestown Clallam. It includes discussions of their status, and plans for a reservation. Lists alone, as noted above, may not be strong evidence unless their basis and meaning are clearly spelled out and understood.

The Snoqualmie Were Not Proposed for Organization as a Community of Half-blood Indians.

A clear indication that the off-reservation Snoqualmie were considered a recognized tribe, though landless, in the 1930's and 1940's is that they were considered eligible for a reservation and organization as a tribe under the IRA. They were not proposed for organization as a community of "half-blood Indians" under the IRA. A review of documents from the Collier administration indicates that this mechanism was an alternative only considered when a group was unrecognized and therefore did not come under the IRA.⁵¹ The Department of Interior concluded with regard to such groups that this was the only means to "extend the 'benefits of the act' to unrecognized groups. The Government would purchase land for them and organize a tribal government of "half-blood" Indians for them."⁵²

Groups, like the Snoqualmie, whose tribal status and government-to-government relationship with the United States were clear, were considered eligible for a land purchase and organization under the authority of the IRA *without regard to blood degree*.

⁵¹A prime example of consideration of organization as a community of half bloods of groups considered unrecognized is found in Michigan. A letter from Assistant Commissioner Zimmerman to Michigan Senator Arthur Vandenberg in 1934 stated that ". . . practically all of the Michigan Indians lost their so-called wardship status and are not members of a recognized tribe under Federal jurisdiction . . ." (Zimmerman 1934). It was proposed therefore to recognize them through the use of the half-blood mechanism. Similar proposals were made concerning groups in Montana, California, Oregon, North Carolina and Washington State.

Commissioner of Indian Affairs John Collier wrote to the Secretary of the Interior in 1935 regarding the "half-blood" provision of the IRA, distinguishing the proposed groups from tribes under federal jurisdiction (letter of December 23, 1935). He stated that "It is clear that the Congress did not intend to limit the benefits conferred by this legislation to Indians now under Federal jurisdiction . . . but that other Indians of one-half or more Indian blood, should be included (Collier 1935).

⁵²The term "Indian" under section 19 of the IRA included "all persons of Indian descent who are member of any recognized tribe now under Federal jurisdiction and all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any indian reservations, and shall further include all other persons of one-half or more Indian blood [emphasis added]. Under section 16, "Any Indian tribe, or tribes, residing on the same reservation" had the right to organize for its common welfare and to adopt a constitution adopted by a majority of "the adult Indians residing on such reservations, as the case may be . . ."

Half-blood Indians were considered to include any Indians who could demonstrate this blood degree, whether members of recognized tribes or not, and whether or not affiliated with a tribe (Roe Cloud 1939; Collier 1935; see for example Department of the Interior 1937; Westwood 1937).

Evaluation of Possible Negative Evidence

Several documents from 1939-41 appear to characterize the off-reservation Snoqualmie as not having a separate relationship (from Tulalip Reservation) with the United States as a tribe. Some of these documents are cited in the Nicklason report submitted as part of the Tulalip Tribes' comments (121-2). A 1939 letter from Assistant Commissioner William Zimmerman concerning an attorney contract for pursuing claims stated that the Snoqualmie were "now apparently included within the organization known as the Tulalip Tribes Inc." (Zimmerman 1939d).⁵³

Tulalip Superintendent Upchurch responded in February 1940 by correcting Zimmerman. He stated that "although members of the tribes were included within allottees of the Lummi and Muckleshoot Reservations [and were] members of bodies operating under the Reorganization Act, . . . a large percentage are unallotted, not resident on any reservation . . ." (Upchurch 1940a).⁵⁴ The Assistant Commissioner subsequently approved the contract with the nonreservation Snoqualmie (Zimmerman 1940). Zimmerman apparently felt his concerns from 1939 had been answered satisfactorily and that the STO was separate from the Snoqualmie who resided on the reservation.⁵⁵

These two documents⁵⁶ are contradicted by numerous detailed and explicit statements by the agency superintendent and central office agents between 1934 and 1951.⁵⁷

⁵³ Zimmerman also stated that the Duwamish were included in the Tulalip Tribes, Inc. There was no evidence or documentation that in writing this letter the central office had reviewed the status of the Snoqualmie in any detail.

⁵⁴ He also stated that the Snoqualmie and Duwamish "were not organized" (i.e., did not have tribal governments under the IRA). He made no statement that either group was organized solely for claims.

⁵⁵ Approval of this contract was not an act of Federal acknowledgment. The letter is cited here because it "corrects" the Assistant Commissioner's comments that implied that all Snoqualmie were part of Tulalip tribes.

A 1941 list of councils under the Tulalip Agency stated that the "Snoqualmie band . . . maintains an outside organization" (Tulalip Agency c. 1941). It is not clear whether this brief notation by the agency of an organization not under its jurisdiction meant the off-reservation Snoqualmie were not recognized, or just that they did not have a government organized under the IRA, or merely that they were landless.

⁵⁶ These were the only documents found between 1934 and 1951 which do not clearly characterize the Snoqualmie (Jerry Kanim Band) as a tribe (separate from the Tulalip Reservation) under the jurisdiction of the agency and the Federal government.

⁵⁷ This includes documents written immediately before and after those described above. For example, in 1941, Superintendent Upchurch wrote the Commissioner of Indian Affairs in 1941, in response to an inquiry concerning the composition of the

This final determination relies on the more explicit and numerous documents during this period which describe the Jerry Kanim Band of off-reservation Snoqualmie as a band under the jurisdiction of the agency and separate from the reservation based Snoqualmie.⁵⁸

Review of Comments Received on the Proposed Finding

Tulalip Tribes' Comments: Introduction

The Tulalip Tribes' comments on the proposed finding do not directly address the proposed finding's conclusions⁵⁹ that the United States dealt with the STO as a recognized tribe into the 1950s. Rather, their response questions the proposed finding's characterization of the STO as a tribe and argues that the STO was created in 1916 as a voluntary claims organization, not a tribe.

The Tulalip Tribes' analysis, nevertheless, includes comments on the nature of STO's relationship with the Federal government and the Federal government's characterization of the STO between 1930 and 1953. This material is reviewed here because it describes the Federal government's actions and determinations and relates to previous acknowledgment.⁶⁰

Analysis of Tulalip Tribes' Comments

Most comments relevant to the question of prior federal acknowledgment are in the 1991 and 1994 historical reports prepared by Nicklason Associates or in the narrative submitted by the tribe (Jones 1991, 1994). They argue that the Federal

Tulalip Tribes:

In clarification of the status of the Snoqualmie Tribe, it should be noted that a majority of the Snoqualmie Indians united with the Snohomish Tribe to occupy the Tulalip Reservation. There was insufficient land however to accommodate all the Indians of both tribes and a small band headed by Jerry Kanim received no allotments and little or no other treaty benefits (Upchurch 1941b).

⁵⁸ These documents discuss the acquisition of land for the band under the IRA and the possible organization of the band under that act. These documents also recognize Federal obligations to the band.

⁵⁹ These conclusions are found in the summary evaluation under the criteria and the technical reports for the PF.

⁶⁰ The actual character of the STO before 1953, as opposed to Federal actions regarding the Snoqualmie, need not be evaluated. As stated in 83.8(a), "unambiguous previous Federal acknowledgment is acceptable evidence of tribal character of a petitioner to the date of the last such previous acknowledgment." See also 83.8(d)(2).

documents show that the STO was viewed as a claims organization by the Federal Government from the 1920's to the 1970's and not a recognized tribe.⁶¹

The Nicklason report does not review directly the documents discussed above concerning the proposal to organize the Jerry Kenum Band under the IRA and to acquire a reservation for it. The comments also fail to address the portions of these Federal documents cited above from 1950 to 1952, which had been discussed also in the proposed finding (PF History, 90, 95, 97).⁶²

The Federal documents cited by Nicklason and Jones and the Tulalip Tribes from the early 1950's are not accurately characterized as demonstrating that the government viewed the group as solely a claims organization. Rather, documents from 1953 and before generally characterize the Snoqualmie as a tribe, not a claims organization.

The Bureau's concerns expressed in pre-1953 documents relating to the Snoqualmie interest in pending claims does not in itself mean that it did not consider the Snoqualmie a tribe.⁶³ An interest in claims does not mean that a group is not a tribe, since recognized tribes often pursued claims.⁶⁴

The Tulalip Tribes submitted documents concerning their tribe's organization under the IRA and the status of Indians on and off the Tulalip Reservation before 1934. On the one hand, the formation of the consolidated tribal government of the reservation, including Snoqualmie as one of the component tribes, under the IRA in 1936, does not mean that the non-Tulalip Snoqualmie were not a tribe. On the

⁶¹ See detailed discussion of Federal documents after 1953 under criterion 83.7(c) below.

⁶² Documents from 1934 to 1941 (Upchurch 1934e) support Tulalip's argument that the Snoqualmie tribe went to the Tulalip Reservation and became part of the Tulalip Tribes. Some of these were reviewed for the proposed finding and others were not (Daiker 1941; Upchurch 1934g). These documents do not show that all of the Snoqualmie moved to the Tulalip Reservation at this time nor do they preclude the existence of a recognized off-reservation Snoqualmie band after 1934.

⁶³ Documents cited which date from 1930 to 1950 reflected claims pursuits, as well as the pursuit of treaty rights, and did not characterize the STO as a voluntary organization. As noted above, the Snoqualmie appeared as a recognized tribe, leading a multi-tribal effort to support treaty fishing rights, in the decade between 1940 and 1950.

⁶⁴ Because the claims issues were pending at the same time as termination was being considered for Western Washington, Bureau planning for "withdrawal of services" took claims into account, for reservation and non-reservation tribes, and for Indians that were not part of any recognized tribe but had some more limited relations with the Federal Government.

other hand, the fact that some Tulalip Snoqualmie were part of the STO at the time is not inconsistent with STO tribal status.

Tulalip Tribes submitted documents and arguments concerning a 1956 determination by the Department of Interior that the Tulalip Reservation was owned exclusively by the Indians included in the reservation tribe organized under the IRA (Fritz 1956).⁶⁵ The solicitor's opinion and other contemporary documents did not address the STO's character or recognition status; rather, they focused on the legal process which defined the reservation Indians of the present Tulalip Tribes, Inc., as exclusive owners of the reservation. This position is consistent with a separate Federal relationship with the STO.

STO Comments

The STO response to the proposed finding and to the Tulalip Tribes' comments included no specific comments concerning previous acknowledgment. The Snoqualmie petition itself, however, included extensive documentation concerning previous acknowledgment. This documentation was evaluated in the proposed finding, and reviewed again for the final determination.

Conclusions under 83.8

The STO was acknowledged as a separate, non-reservation tribal entity from 1934 until 1953. Before that time, it was acknowledged as part of the Snoqualmie tribe as a whole. The Snoqualmie tribe was acknowledged by the Treaty of Point Elliott in 1855.⁶⁶

It is not necessary to review or establish a specific date for initial acknowledgment as a separate Snoqualmie entity. Acknowledgment as a separate entity is clearly established by 1934, however.

Conclusions concerning previous acknowledgment under 83.8 are solely for the purposes of a determination of previous acknowledgment under 25 CFR 83, and

⁶⁵ This determination, by the Interior Department solicitor, was apparently stimulated by the STO attempts to gain rights to some lands on the Tulalip Reservation (Nicklason Research Associates 1994, 142-144; PF History Report, 37), and by agency questions about the Tulalip Tribes' authority to lease reservation lands.

⁶⁶ The regulations require that acknowledgment be unambiguous. Consequently, the ending date of January 1953 has been used, since the status became less clear after then, as termination policies were implemented.

are not intended to reflect conclusions concerning successorship in interest to a particular treaty or other rights.⁶⁷

Having determined that the petitioner has unambiguous Federal acknowledgment until January 1953, the petition has been evaluated under the criteria of 83.7 as modified by 83.8. Review under the 1994 regulations and the determination of previous acknowledgment until January 1953 under section 83.8 of those regulations renders unnecessary a review of STO prior to that time. Thus, the Tulalip Tribes' comments which challenge the STO under the acknowledgment criteria prior to 1953 need not be evaluated in the final determination except insofar as they may be relevant to the evaluation after that time.

EVALUATION UNDER THE CRITERIA

Modified Requirements for Acknowledgment under 83.8

The revised regulations reduce the burden of evidence for previously acknowledged tribes to demonstrate continued tribal existence but do not reduce the standard. The essential requirement to be acknowledged remains the same: a petitioner must demonstrate historic continuity of tribal existence.

By demonstrating previous acknowledgment, petitioners are providing sufficient evidence of tribal existence to the point of last acknowledgment (83.8(a)). Continuity of tribal existence between the past group and the present group must still be shown. This demonstration is made under section 83.8 which modifies section 83.7. These modifications, applied to this final determination, are described below.

⁶⁷ An acknowledgment determination is not a determination of successorship to treaty rights. There is no requirement under the revised acknowledgment regulations to demonstrate that STO is the political continuation of a treaty signing tribe. Rather, it is adequate to show that STO evolved from the Snoqualmie who were dealt with by the United States and who signed a treaty.

Nonetheless, in this instance, the Federal Government statements and actions in the 1930's and 1940's show previous acknowledgment of the petitioner separate from the rest of the Snoqualmie, clearly characterize the STO as part of the treaty-signing tribe and base proposed government actions on unfulfilled treaty obligations.

When proceeding under 83.8, the petitioner must also demonstrate that the present group constitutes a social and political community (83.7(b) and (c)) and that its membership is descended from the previously acknowledged tribe (83.7(e)).

Criterion 83.7(a) External Identification

Criterion 83.7(a) External Identification as modified by 83.8

The regulations provide that for petitioners which can demonstrate unambiguous previous Federal acknowledgment:

83.8(d) To be acknowledged, a petitioner that can demonstrate previous Federal acknowledgment must show that:

(1) The group meets the requirements of the criterion in section 83.7(a), except that such identification shall be demonstrated since the point of last Federal acknowledgment. The group must further have been identified by such sources as the same tribal entity that was previously acknowledged or as a portion that has evolved from that entity.

Criterion 83.7(a) requires:

The petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900. Evidence that the group's character as an Indian entity has from time to time been denied shall not be considered to be conclusive evidence that this criterion has not been met.

Proposed Finding, Criterion 83.7(a)

The proposed finding concluded that criterion 83.7(a) had been met (PF Summary under the Criteria, 3-5; PF History Report, 1-3).

Tulalip Tribes' Comments

The Tulalip Tribes' 1994 comments challenge the proposed finding's conclusion that criterion 83.7(a) has been met for the years before 1929, when the STO reorganized (Tulalip Tribes 1994, 74-76), asserting that only individual off-

reservation Snoqualmie were identified. It does not challenge the identifications after 1929.⁶⁸

Application of the 1994 Regulations

The application of section 83.8 changes the requirements for 83.7(a) to require identification from the date of last Federal acknowledgment rather than from 1900 to the present. It also requires that this identification make clear that the group being identified is the same as the entity which had been previously federally acknowledged, or has evolved from it. The Tulalip Tribes' comments do not challenge the external identification after the last date of unambiguous Federal acknowledgment.

⁶⁸ In his 1991 report, submitted before the proposed finding, the attorney for the Tulalip Tribes, James Jones, argued that the STO did not meet the requirements of criterion 83.7(a) because it had not been continuously identified as a tribe. Jones argued that the criterion, read together with the statement of scope in 25 CFR 83.3 requires identification as "an Indian tribal entity" [emphasis in the original] (Jones 1991, 14) and that identification as a voluntary organization or other entity is not sufficient. Historical data was reviewed in the 1991 Nicklason Research Associates Report (Nicklason 1991, 108-115).

The Tulalip Tribes' 1994 comments take note of the explanation in the preamble to the revised regulations that, "The criterion serves to establish the Indian identification as a group, but does not determine the character of that group. Tribal character is determined by the other criteria" (59 FR 9286).

This interpretation of the regulations has been applied since they were published in 1973. Criterion 83.7(a) is limited to requiring substantially continuous identification as an Indian group, without further specification of its character. The modified standard under 83.8(d)(1) does not require identification as a tribal entity, but does require identification as the same group as the previously acknowledged tribe.

The final determination against acknowledgment of the Ramapough Mountain Indians, Inc., elaborated further on this point. It explained that evaluation under this criterion is a determination of the opinions of external observers at a given point in time, not a determination of the accuracy or knowledgeability of those observers. The other criteria, especially 83.7(b), 83.7(c), and 83.7(e) evaluate whether continuous tribal existence has been maintained.

Section 83.3, which Jones cites in support of his interpretation, is a general statement of the scope of the regulations and does not modify the more specific language of the criteria in 83.7.

Conclusion

The revised requirement for external identification under 83.7(a) as modified by 83.8 is clearly met without requiring an additional review of evidence. The external identifications are described in the summary evaluation under criterion 83.7(a) of the proposed finding and in the historical technical report. These show that the STO since 1953 has been identified in many Federal records as well as other sources as Snoqualmie, as a continuation of the historic Snoqualmie tribe, and as the same entity as the Snoqualmie Tribal Organization, the group sometimes known as "Jerry Kanim's Band," as it existed before 1953.

Criterion 83.7(b) Community

Criterion 83.7(b), Community, as modified by 83.8

The regulations require in 83.8(d)(2) that

The group meets the requirements of the criterion in section 83.7(b) to demonstrate that it comprises a distinct community at present. However, it need not provide evidence to demonstrate existence as a community historically.

Criterion 83.7(b) reads:

83.7(b) A predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present.

83.1 Community means any group of people which can demonstrate that consistent interactions and significant social relationships exist within its membership and that its members are differentiated from and identified as distinct from nonmembers. Community must be understood in the context of the history, geography, culture and social organization of the group.

A petitioner proceeding under the provisions of section 83.8 does *not* have to show that their community existed historically. They must show only that the group meets 83.7(b) in the present day.⁶⁹

⁶⁹ Present day, or modern, community in the proposed finding was identified for working purposes as approximately 1981 to the present. For consistency of analysis, that definition is retained for the final determination. The proposed finding on community and

Summary of Proposed Finding on Modern Community, Criterion 83.7(b)

The proposed finding found significant evidence that important social relationships existed among the Snoqualmie between 1981 and the present:

Family line groupings are socially defined and known throughout the membership. Groups of related Snoqualmie are recognized by Snoqualmie in some, though not all, social and political contexts, and thus significantly define social relationships . . . These social definitions carry with them a sense of a long history of interaction and relationships which are important to the Snoqualmie. Their existence indicates that regular social interaction has taken place, in order for that knowledge and history of relationships to exist (PF Summary, 16).

It also cited the maintenance of a blood degree requirement for membership and community attitudes about this requirement as evidence of community (PF Summary, 21).⁷⁰

In addition, the proposed finding found that political activities were evidence for community. It stated in part:

The evidence concerning Snoqualmie political processes in the present-day group is more detailed and systematic than that which was available which directly described the maintenance of social community. Significant, noncoercive political processes such as those which occur among the Snoqualmie, require and are based on the existence of social ties and communication in order for them to operate. Thus the existence of such political processes, where they are clearly established by the evidence, provides evidence for the existence of a social community (PF Summary, 18).

It stated further:

Aspects of present-day Snoqualmie political process which most clearly indicate the existence of supporting social processes include the expression of differences of opinion along generational and

comments on it are reviewed only for the modern community.

⁷⁰ This evidence demonstrated that the STO was more than merely a group of Snoqualmie descendants with no common ties except a genealogical demonstration of ancestry. As direct evidence of community, it also showed the maintenance of a significant distinction between members and non-members.

other lines concerning such issues as fishing rights and the form of leadership and the mobilization of opinion to seek the ouster of a chairman whose behavior was not acceptable (PF Summary, 18).

The proposed finding also relied on evidence of the continuing existence of kinship ties⁷¹ within the group's membership, as well as within the larger sphere of Puget Sound Indian society. The proposed finding concluded that they were still a factor in social and political relationships although they were presumed to be less significant than in previous eras.⁷² The proposed finding concluded that the geographical dispersion was too great to assume the existence of social community, but close enough to allow it if it could be established with evidence of actual interaction.

Other supporting evidence included continued, though diminishing, cultural differences from non-Indians among a portion of the membership (PF Summary, 20). In addition, there was some direct evidence of informal social interaction, social interaction at general membership meetings, and demonstrated social knowledge of fellow members and their families as shown in interviews (PF Summary, 19).⁷³

The Concept of Community

Tulalip Tribes' Comment

The Tulalip Tribes argue that because the STO members do not form a separate geographical community they are not a social community. These arguments appear in anthropologist Allen Ainsworth's report. He states that, "in the author's opinion . . . it is not credible to conclude that significant rates of interaction of a tribal nature may exist broadly among members of a widely disbursed [*sic*] group" and that a group cannot preserve the "cohesion of the culture" under these circumstances (Ainsworth 1994, 34-36).

⁷¹ These ties, between family groups, rested on marriage ties between Snoqualmie lines. These marriages took place before 1930.

⁷² They were considered to provide significant supporting evidence for the more direct evidence that significant social relationships still exist within the Snoqualmie.

⁷³ A portion of the membership did not demonstrate at least some social ties. This portion was not large enough to conclude, given the other evidence, that the present-day Snoqualmie do not meet the requirements for community, i.e., that significant interaction and social relationships exist broadly among the membership. Criterion 83.7(b) criterion does not require that social interaction and relationships be uniform within the membership, but allows for the common circumstance where the main body of a group has substantial social ties while a periphery of membership has a lesser degree of social connection.

Ainsworth does not cite social science literature or other data to support his theoretical assertion that social community requires a distinct geographic community and cites no empirical studies to support this proposition. To support his argument, he cites an affidavit by Dr. J. Anthony Paredes, a government witness in a 1994 hearing before an Administrative Law Judge in Greene v. Babbitt.

Response

This final determination concludes that a modern-day Snoqualmie social community as defined under the regulations exists.⁷⁴ The fundamental question is whether sufficient social cohesion exists and can be demonstrated empirically in a particular case. It cannot be disproven on the basis of a theoretical proposition.⁷⁵

The requirements for community that Ainsworth states, not only geographically separate but highly intermarried, are equivalent to "sufficient evidence" defined in 83.7(b)(2) of the revised regulations.⁷⁶ This section in turn reflects the interpretations and experience in applying the 1978 regulations and does not differ materially from them. However, the regulations specifically permit other forms of evidence, "significant evidence," 83.7(b)(1), to demonstrate community.

The interpretation of the acknowledgment criteria utilized here, in the proposed finding, and in all previous decisions, recognizes that tribal social relations may be maintained even though members are not in an isolated geographical village-type community. It also takes into account the historical difficulties and

⁷⁴ The definition of community under the regulations (25 CFR 83.1) differs substantially from that typical of a voluntary association or club. The requirements under the regulations follow the legal precedents concerning tribal existence which clearly distinguish a voluntary organization from a tribe (AS-IA 1992). The standard does not differ between the 1978 and the 1994 regulations.

⁷⁵ It is not appropriate to exclude *a priori* certain groups solely on the basis of certain characteristics, where the petitioner can demonstrate by other means permitted under 83.7(b) that it is a distinct, cohesive, social community. In developing the revised 1994 regulations, the Department specifically rejected proposals, in comments by Paredes and by the Tulalip Tribes, to add a requirement that the petitioner have maintained a separate settlement from non-Indians or controlled a separate territory. This was rejected as unfairly stringent and an escalation of the requirements for acknowledgment (see 59 Fed. Reg. 9286-87).

⁷⁶ To the extent that Ainsworth's comments are a statement of appropriate standards, rather than an interpretation concerning the social organization of the Snoqualmie petitioner, they represent a more stringent standard than do the regulations. Ainsworth's comment echoes the Tulalip Tribes' attorney's comments on the Snoqualmie proposed finding (Jones 1994), which assert that the standard for acknowledgment should include the maintenance of a distinct territorial community (Tulalip Tribes 1994).

limitations which may have made it impossible for unrecognized groups to maintain a separate geographical community.⁷⁷ It is correct that a nonterritorial group with little contemporary intermarriage faces conditions which may impose significant difficulties, particularly over a very long period of time, in meeting the acknowledgment regulations.

Paredes, whom Ainsworth used to bolster his argument, in fact does not require a social community to have geographical proximity. Paredes contemplates, that for some period, a nonterritorial community could exist, if it reflects an earlier territorial one and contemplates a return to that status. The Snoqualmie would certainly meet these conditions.⁷⁸

⁷⁷ Thus, the final determination in Miami stated:

Demonstration of community, showing sufficient social connections among members to meet the requirements of criterion b, does not require close kinship ties or a distinct territory occupied by a portion of the membership. It also does not require the demonstration of separate social institutions or the existence of significant cultural differences from non-Indians. In their absence, community can alternatively be shown by demonstrating that significant informal social relationships exist throughout the membership. Informal relationships may be used to demonstrate community if a systematic description can be provided showing that such social relationships are broadly maintained among the membership and that social interaction occurs with significant frequency.

Informal relationships also contrast with those among members of a club, society or other organization. The social ties among members of such organizations are normally limited to relationships which derive from their common membership and participation in the organization. Social interaction occurs only in the context of meetings or other activities of the organization (AS-IA 1992, 10).

⁷⁸ Paredes in his affidavit took the position that a community cannot continue to exist for more than several generations after it no longer has a common territory (Paredes 1994). Paredes offered a similar comment in response to the proposed revised acknowledgment regulations published in 1991 (Paredes 1992). However, a close examination of Paredes' 1994 affidavit shows that he qualified his assertions by stating that contemporary distinct territory is not required, but that "a group must have a common geographic anchor point, no matter how dispersed its members might be most of the time," and that "aspirations to separate political status rests ultimately upon claims to and eventual control over a common territory" (Paredes 1994, 10-11).

Methodology for Demonstrating Community

Tulalip Tribes' Comments

Ainsworth suggests that a detailed demonstration of social networks is necessary to demonstrate community under the regulations, using interviews and "ethnographic data"⁷⁹ which directly addresses the breadth of interest, support, and involvement of a group's membership in the organization" (Ainsworth 1994). He asserts that since, in his view, this has not been done, the demonstration of community in the proposed finding is not adequate.

Response

The revised regulations set out a variety of forms of data other than a detailed description of social interaction which may be used in various combinations to demonstrate community or political influence (83.7(b)).⁸⁰ This list is not an exclusive one.

In some cases, where other kinds of data about social organization do not suffice, an analysis of social networks or other similarly detailed approach to mapping specific interactions might be the only way to demonstrate significant social cohesion and distinction. In contexts where qualitative research techniques fundamental to anthropological research can show the existence of social institutions and political processes, a detailed description of social networks is not required. In such circumstances, the suggested level of detail becomes an excessive requirement. The Department, in publishing the revised regulations, made clear its position that a detailed description of social interactions was not a requirement where social and political community could be demonstrated by other means (59 FR 9287).

Political Processes as Evidence for Modern Community

For this final determination, the evidence for informal political processes within the STO from 1981 to the present is substantially greater and more detailed (see criterion 83.7(c) discussion below). Consequently, there is substantially stronger

⁷⁹ This presumably refers to direct observations of the social interactions of members of the group.

⁸⁰ The Nicklason Research Associates report at several points commented that the proposed finding did not document detailed, specific social and political interactions historically (e.g. Nicklason Research Associates 1994, 334, 354). Nicklason suggested that demonstrations of political participation and community before 1979 must also be done with this high degree of specificity.

evidence to demonstrate that the Snoqualmie meet the requirements for criterion 83.7(b) for the modern community.

Family Groupings in Snoqualmie Social and Political Processes

The proposed finding concluded that the Snoqualmie's involvement with each other was reflected in their knowledge, opinions, and characterizations of the family lines (PF Summary, 19).

The proposed finding stated:

Strong evidence for the existence of significant social relationships among the Snoqualmie is provided by the fact that family line groupings are socially defined and known throughout the membership. Groups of related Snoqualmie are recognized by Snoqualmie in some, though not all, social and political contexts, and thus significantly define social relationships. These kinship groupings are well-known and are defined as the major families making up the tribe. They have a clear social definition which ascribes particular characteristics and histories to each family group (PF Summary, 16).

It also stated that, "The available data concerning family groups and their social significance is particularly strong concerning how they manifest themselves in Snoqualmie political contexts" (PF Summary, 16).⁸¹

The proposed finding (PF Summary, 19, PF Anthropology Report, 71, 73-74) described the significance of this evidence for demonstrating criterion 83.7(b).⁸² It stated concerning Snoqualmie family line groupings:

⁸¹ The Snoqualmie generally identified five or six family line groupings and knew their history. Specific characteristics were attributed to them, e.g., the association of the Kanims and the Davises with the key historical leaders. The Forgues were known for their political influence, association with Lake Sammamish, and the earlier role of Dwenar Fogue (PF History Report, 47).

⁸² Consistent with past acknowledgment decisions, socially defined family line groupings are considered to be the result of a long history of informal social interaction during which relationships are established, knowledge is gained, and opinions formed. They are thus significant evidence for demonstrating community (83.7(b)(1)(ii) and (iii)). The more detailed these characterizations, and the more generally found throughout the membership, the stronger the evidence for social community.

The intensity and depth of time of this knowledge and these relationships goes well beyond the knowledge that would have resulted from informal social interaction developing out of participation at formal events such as meetings. In other words, it was not characteristic of the knowledge growing out of the limited social relationships associated with membership in a formal organization (PF Summary 19; PF Anthropology Report 71, 73-4).

This informal interaction is also evidence which distinguishes voluntary associations from tribal communities, because it is unlikely to be characteristic of the members of a voluntary organization whose only social connection and interaction with each other is as members of the organization. Lack of knowledge or ideas about important groups within the membership indicates that little informal social contact occurs over time among a group's membership.

Comments

Neither the Tulalip Tribes nor the STO directly commented on this conclusion or the underlying interview data. The interviews submitted by the Snoqualmie, however, included additional information.

Final Determination

The interview data submitted for this final determination provided further information about social definitions of family line groupings and extensive information about their role in political processes.⁸³ The existence of family line groupings as social categories within the Snoqualmie in the modern day community, as well as political relationships based on them, are more strongly established in the final determination than for the proposed finding. There is a substantial amount of interview data for this conclusion.⁸⁴

⁸³ Additional information was developed by more complete transcripts of the previously available BAR interviews. Also, new information which supports the proposed finding's conclusions concerning community is found especially in the Snoqualmie interviews of Barr, Sweet, Nelson, Hinzman, and Freese as well as other interviews. The additional information included more detailed characterizations of family line groupings, from a larger number of interviews, and identification of their role in Snoqualmie political processes where they function as political pressure groups, and constituencies or vehicles for mobilizing votes (see extended discussion under criterion 83.7(c)). This bolsters the proposed finding's conclusion of extensive informal social interaction.

⁸⁴ There was agreement between interviewees from different family backgrounds as to what the family categories were, although there was some variation from statement to statement. The family/kin group categories stated in the interviews was sometimes broader or narrower, in reference to larger groups or their subdivision. This variation depended on the speaker and the context of the discussion. It reflected differences in point of view and knowledge and in how the question being responded to was framed.

Kinship Ties

Proposed Finding

The proposed finding considered that at present, kinship ties across family lines are no longer so close as to assume, based on them alone, that a social group still exists.⁸⁵ However, it also concluded that relationships based on marriages from earlier generations continued. The family lines were small enough, and the kinship links close enough, that the ethnographic data showing them functioning as actual social groups was credible.⁸⁶

Tulalip Tribes' Comment

The Tulalip Tribes' comments (Ainsworth 1994) state that no description of these kin links was provided. They also challenge the view that kinship links outside the immediate group are evidence for social community.

Response

A detailed description of the kinship links referred to in the proposed finding appears in the anthropological technical report (PF Anthropology Report, 48-52). It outlines the marriage patterns of the family lines of the current membership, by line and generation, and describes the significant extent to which the STO

⁸⁵ Marriage within the Snoqualmie was common until the 1920's and Snoqualmie marriage within Puget Sound Indian society was common until the 1950's. Thus, there remained a considerable number of close kinship ties within the membership between 1956 and 1931. Ties of common ancestry may be demonstrated genealogically without necessarily having any social significance. Where two individuals share a common ancestry that is more than two generations removed, the relationship is too distant to presume on genealogical evidence along that a significant social tie exists. It may in fact provide the basis for such ties or relationships, but cannot be presumed to do so without more direct evidence.

⁸⁶ The proposed finding evaluation stated:

Kinship ties between family groups rest on marriage ties between Snoqualmie lines created no later than the 1920's, with some dating back to the last decades of the 19th century. They are still a factor in social and political relationships but are presumed to have diminished in significance in comparison with previous eras because they are no longer as close. Nonetheless, they provide significant supporting evidence for the more direct evidence that significant social relationships still exist within the Snoqualmie. Snoqualmie kinship ties with the Puget Sound Indian network, traditionally part of their social context, are somewhat stronger, since it was only in the 1950's that marriages to Indians of other tribes in the area stopped being common (PF Summary, 18).

membership has been centered around their historical leaders, Jerry Kanim and Ed Davis, and these men's kinship groups.⁸⁷

Interviews with members of the Snoqualmie demonstrate that kinship ties beyond the grandparent generation remain socially significant. A review of the interviews by BAR and Snoqualmie show a consistent pattern of reference to leaders Ed Davis and Jerry Kanim in kinship terms such as "uncle" and "grandpa," even when the strict genealogical relationships are more distant (see Hinzman 1993; Sweet 1993).

The proposed finding used a model of extensive intermarriage and corresponding economic and ceremonial links between tribal units as support of the significance of kinship ties between tribes within the Puget Sound region. This model is consistent with the generally accepted anthropological view of Puget Sound Indian culture.⁸⁸ The definitions of community and of political influence in 83.1 of the acknowledgment regulations require that the criteria in 83.7 be understood in the context of the history, culture and social organization of the group. Given this interpretation, it is appropriate to consider present-day participation in the intertribal Indian society of the region as evidence for social community of STO. Criterion 83.7(b) specifically identifies "patterned outmarriages with other Indian populations" as evidence for community. Evidence of intertribal marriage among the Coast Salish tribes, as used in the proposed finding, clearly fits this description.

Annual Meetings as Evidence of Informal Social Interaction

Tulalip Tribes' Comment

The Tulalip Tribes' response contends that the minutes of annual meetings of the STO contain no information showing that social interaction was occurring during the annual meetings. The Nicklason report also argues that the STO was a claims group and that any social interaction which occurred at the annual meeting took

⁸⁷ It provides a description which shows that the followers of Jerry Kanim were in large part drawn from an interlinked set of family lines (PF Anthropology Report, 33-34), including that of Ed Davis. The pattern continues to be reflected in the present membership.

⁸⁸ Ainsworth challenges the use in the proposed finding of what he characterizes as a concept of a "Puget Sound Tribe." He asserts instead the concept of distinct tribes among the Puget Sound Salish peoples (Ainsworth 1994, 49). Ainsworth's comment about "Puget Sound Tribe" mischaracterizes the proposed finding's interpretation of traditional Indian society in the Puget Sound area as one in which there are no tribal units. The proposed finding does not use the term "Puget Sound Tribe," nor does it characterize the traditional Indian society of the Coast Salish Indians as forming a single tribe.

place merely because of common membership (Nicklason Research Associates 1994, 313).⁸⁹ The Nicklason report also takes the position that such interaction does not demonstrate social community because it is limited in nature and occurs only in the context of the organization.⁹⁰

Response

The proposed finding's evaluation of modern community concluded that annual meetings and other general membership meetings were held consistently, and that they were social as well as political in nature. It stated that, "Social interaction at the annual meetings has been reasonably intense, but limited in time, and must be evaluated together with and in the context of the overall body of evidence of social interaction and social relationships" (PF Summary, 19).

"Social interaction" means informal social interaction based on knowledge and acquaintance and experience outside of the context of the organization's meetings and activities. As the term is used in the proposed finding, it is not limited to interaction based solely on common participation in the formal activities and functions of the organization.⁹¹

In other words, the individuals knew each other and associated with each other in social contexts in addition to attendance at meetings of the organization. While informal social interaction occurred during or after meetings, it was based on a long history of social contact in other contexts.

The proposed finding placed no substantial weight on the social interaction that occurred at annual meetings, although there was evidence of social interaction at past meetings from oral history accounts of individuals who participated in them (PF Summary, 19). The absence of information in the minutes of informal social interaction is of little value one way or the other in determining the character of

⁸⁹ The Tulalip Tribes state, in the Nicklason Research Associates report, that "any social interaction which may have taken place, occurred primarily because of a common group membership and participation in a claims organization" (Nicklason 1994, 294). This argument characterizes interaction at meetings based on the overall claim that the STO was only a voluntary organization of otherwise unconnected individuals.

⁹⁰The Snoqualmie response did not directly address this comment by the Tulalip Tribes.

⁹¹The approach of the Department is to evaluate direct evidence of social interaction at these meetings to determine if these interactions are shaped and affected by kinship and marriage ties or a long history of previous interaction outside of formal meetings. The Department also studies these social relationships to determine if these meetings are used by participants as an opportunity to catch up on the news of close friends and family rather than as a business meeting.

the social interaction occurring at STO meetings, because it is unlikely that formal minutes would show actions other than the business of the group.

The ethnographic and interview information about the Snoqualmie, particularly concerning the role of the annual meetings in political processes, makes it clear that both the social and political components of their meetings are grounded in a long history of significant social contact. Individuals in STO knew each other and associated in social contexts in addition to attendance at meetings of the organization. While informal social interaction may have occurred during or after meetings, it was based on a long history of social contact in other contexts.

The conclusions of the proposed finding concerning annual meetings as evidence of informal social interaction are confirmed for this final determination. These meetings are an occasion for informal social interaction. However, because they are limited in time and scope, they are insufficient in themselves to demonstrate community. The meetings are supporting evidence to be weighed with the other evidence of modern community.

Christmas and Thanksgiving Dinners

Proposed Finding

The proposed finding concluded that these dinners were established in the 1970's, that they were not a continuation of Thanksgiving dinner events held in the 1930's and before, and that only two of the main family lines consistent attended them (PF Anthropology Report, 76-77).⁹²

Tulalip Tribes' Comment

The Tulalip Tribes (Nicklason Research Associates 1994, 369-371) cite the statements of the anthropological and historical technical reports concerning the Christmas and Thanksgiving dinners organized by the STO as evidence of a lack of social cohesion.

The 'Tulalip Tribes' comments repeat factual conclusions of the proposed finding technical reports. They do not address the information in the documents or the

⁹² The proposed finding anthropological technical report analyzed the available documents that specifically listed the attendees at some of these events. It concluded that the Christmas and Thanksgiving dinners, though well attended, were largely limited to members of the Forgue and Davis family lines (PF Anthropology Report, 76-77). These events were the subject of considerable attention in the BAR interviews, which generally supported the documentary data concerning attendance or lack of attendance from specific family lines.

interviews in the record except to note some mentions of these dinners in STO minutes. They do not provide any additional information or analyses.

Response

The summary evaluation under criterion 83.7(b) did not cite these events as evidence of community. Further, the fact that these events were not attended by all of the major family line groupings does not provide evidence to disprove the existence of social community. It only shows that in this case extensive social contact across the entire membership did not take place at this kind of occasion.

The proposed finding did not give these events any substantial weight in demonstrating community because they were instituted relatively recently and because participation in them was limited to two of the family lines. However, the proposed finding analysis did show that these events were attended by a large number of members from the two most central family line groupings, Forgue and Davis, and they are evidence of informal social contact between these two important lines. These meetings were supporting evidence to be weighed with other evidence.

Weddings and Funerals

Proposed Finding

The proposed finding stated:

There was no information concerning the extent of informal social gatherings of Snoqualmie beyond those of close family members. There was clear information that attendance at weddings and funerals was limited to members of the particular family line involved (PF Summary, 21).

Tulalip Tribes' Comments

The Tulalip Tribes cite the statements of the anthropological technical report that weddings and funerals were not attended by a broad representation of STO membership nor a large number of members as evidence showing that the STO does not meet criterion 83.7(b) (Nicklason Research Associates 1994, 369-370).

Response

The Tulalip Tribes' comments on this subject added no new information or analysis. Limited attendance at weddings and funerals only shows that in this case extensive social contact does not take place at these kinds of occasions.

Social Distinction from Non-Members

Introduction

Under the definition of community in 83.1, the group's members must be "differentiated from and identified as distinct from non-members." If significant social cohesion within the group is shown, it is not necessary for there to be a sharp social boundary recognized from the outside, as long as some distinction is maintained. The review of public comments accompanying the publication of the 1994 regulations noted that distinctions may be imposed by the group and/or by outsiders (59 FR 9287).

Proposed Finding

The proposed finding concluded that although strong social distinctions were not made by non-Indians, the Snoqualmie clearly met the requirements of the regulations concerning distinction, identifying themselves and being identified by outsiders as Snoqualmie. The proposed finding found the Snoqualmie membership requirements and the social opinions and political actions surrounding them demonstrate social distinction:⁹³

The blood degree of the Snoqualmie membership as a whole provides evidence of maintenance of a community. A blood degree requirement for membership in a group establishes a requirement for the maintenance within the group as a whole of at least a minimal degree of social ties, since it is a measure of how close kinship ties of a given individual are with other members of the tribe (PF Summary, 13).

STO Response

The STO response and documents generated during the post-1993 internal political conflict contain additional information concerning how membership requirements are used by the group to maintain social distinction between their membership and non-members. The response asserts that significant social distinction is demonstrated by their treatment of non-Indian spouses (Tollefson 1995a, 49-63).

⁹³ The STO instituted a membership requirement of 1/8 degree Snoqualmie blood in the late 1940's or early 1950's and has maintained this requirement since then. Individuals with lesser degrees of ancestry, normally from the Snoqualmie family line groups that already form the membership, are individually evaluated and adopted by the tribal council and the general council in order to become members. As the proposed finding noted, this demonstrated that the STO was more than a collection of individuals where membership was based solely on ancestry without any common history as a group or social contact prior to becoming a member (PF Summary, 22).

Tulalip Tribes' Comments

The Tulalip Tribes' comments cited the proposed finding evaluation and the anthropological technical report to support its argument that the STO members participated in non-Indian society and that a meaningful distinction from non-Indians was not maintained (Nicklason Research Associates 1994, 357, 375). Specifically, they cited the proposed finding's rejection of survey data concerning discrimination and added their own criticisms of that survey and related data (Ainsworth 1994, 8).⁹⁴

Response and Interpretation of the Regulations

As the proposed finding noted, strong social distinctions "such as patterns of social discrimination" are good evidence to demonstrate the existence of social cohesion within the group, but are not required to meet criterion 83.7(b).⁹⁵

The Tulalip Tribes argue that there is no evidence of present or past discrimination against the members of the STO. The Tulalip Tribes also argue that there is substantial evidence of frequent interaction of STO members with non-Indians and participation in non-Indian institutions.⁹⁶ The proposed finding reached a similar conclusion (PF Summary, 21-22; PF Anthropology Report, 92-93), but also decided that there was substantial evidence that STO members, who kept up strong social ties, maintained more than a minimal social distinction from non-members. This final determination affirms this conclusion.

⁹⁴ The STO response defended the survey data they had submitted with the petition as evidence of social distinction. It criticized the proposed finding's rejection of most of this information and presented arguments that it was valid data.

⁹⁵ The proposed finding evaluation stated the following interpretation of the regulations:

Demonstration of community under the regulations requires that the tribe be a social community which is distinct from other populations in the area. This requires that they maintain a significant degree of social cohesion within the group and also that members maintain at least a minimal social distinction from non-members. Minimal social distinction means that they identify themselves as distinct and that they are identified as different by non-members. Evidence of more than a minimal distinction is not required to demonstrate that criterion (b) is met, as it can be met by directly demonstrating the existence of significant levels of social interaction and social relationships (PF Summary, 21).

⁹⁶ In support of these contentions, the Tulalip Tribes' comments largely cited the conclusions of the proposed finding itself (PF Summary 21).

Evaluation of Information on Blood Degree Requirement for Membership

Tulalip Tribes' Comment

The Tulalip Tribes claim that the blood degree requirement for membership is a recent requirement (Nicklason Research Associates 1994, 174), and they argue that the STO enrollment was based only on Snoqualmie descent. They assert the membership is not a social and political group, but is only a claims organization made up of only a portion of the descendants of the historic Snoqualmie tribe. These arguments are made in Nicklason's history report.

Response

The Nicklason report cites a 1968 Federal claims report (Western Washington Agency 1968) to support its argument. This report states that the STO enrollment was done without regard to blood degree (Western Washington Agency 1968). They cited an isolated comment in the 1968 report that is given little weight when reviewed against the rest of the documentary record, even without reference to interview information. The Nicklason report makes no analysis of the multiple documents cited in the proposed finding which showed that the Snoqualmie instituted a membership requirement of 1/8 degree Snoqualmie blood in the late 1940's or early 1950's (PF Anthropology Report, 88-89). The Nicklason Report (Nicklason 1994) also cites a document from the 1930's which it interprets to mean that there was no blood degree requirement at that point (see also the discussion below of Tulalip Tribes' comments on enrollment in the STO). This document shows only that there was no blood degree requirement, not that the STO was enrolling or willing to enroll all individuals of Snoqualmie descent. The membership of the STO at that time in fact exhibited a very high blood degree (PF History Report, 68).

A review of all the comments and evidence presented confirms the conclusions of the proposed finding that there is a significant social distinction embodied in the membership requirements of the STO and the way these membership requirements are actually applied in the real situation. This shows social distinction and provides some evidence of community cohesion.

Evaluation of Snoqualmie Evidence of Treatment of Spouses

Showing that a group distinguishes between themselves and non-members who try to participate in its families, activities and social events is a valid way to show social distinction as a group.⁹⁷ Like the blood degree requirement, this represents

⁹⁷ This provides the alternative approach to showing that non-Indians make a social distinction between themselves and group members.

a process by which the group members maintain their social boundary themselves, rather than have outsiders impose it on them.

Information in the Snoqualmie response concerning the status of non-Indian spouses is limited to interviews with two members and two spouses.⁹⁸ These interviews indicate that, even though there is no Snoqualmie prohibition or even strong feeling about marriage to non-Indians, non-Indian spouses are not accepted automatically by the families they marry into. The Snoqualmie response suggests also that the involvement of several non-Indian spouses in "tribal affairs" has met with resistance and resentment (Tollefson 1995a, 54-63).

The examples are too few and data about the interviewees' experiences are too limited for the Department to draw conclusions about social distinction from the treatment of non-Indian spouses and their relatives. The data merely suggests that their involvement in Snoqualmie events is sometimes resisted and resented, when it appears to be too intrusive (Barker 1993).⁹⁹

Cultural Differences from Non-Indians

Proposed Finding

For the modern community, the proposed finding concluded:

There is good evidence that a substantial minority of the Snoqualmie maintain significant cultural differences from non-Indians, and some evidence that a larger proportion maintains other, more limited cultural differences. There is good evidence that such individuals have high prestige within the Snoqualmie. Approximately 15 percent of the membership participates in an Indian religion. Further, participants are drawn from several of the family lines, i.e., important cultural differences are not narrowly confined to a small portion of the membership. Cultural differences of this nature are particularly strong evidence because religion is a fundamental part of a culture's belief system. These are very strong, significant differences, even though only a minority of the population currently maintains them (PF Summary, 20).

⁹⁸ The Snoqualmie submitted interviews with the husband of Katherine Barker and the wife of chairman Andy de los Angeles.

⁹⁹ It is not automatically clear from the descriptions in the interviews whether problems with family acceptance were because the individual was non-Indian or due to other factors.

Tulalip Tribes' Comments

Based on Nicklason's report, the Tulalip Tribes argue that the STO did not maintain a distinct culture from 1916 to 1979, or afterwards.¹⁰⁰ Most of the Tulalip Tribes' comments concern the period before the modern community. Since this period provides the background for the continuing cultural differences in the modern community, the comments are reviewed here.

The Tulalip Tribes argue that the STO members lived among non-Indians and were assimilated.¹⁰¹ They contend that the STO members did not significantly participate in the Shaker Church, as the proposed finding had concluded. They argue further that, in any case, the Shaker Church is intertribal and is therefore not evidence to demonstrate a tribal community for a particular group (Ainsworth 1994, 43-44). In addition, they argue that documents concerning the succession to chieftainship¹⁰² demonstrate an absence of traditional culture.

Interpretation of the Acknowledgment Regulations

Maintenance of a distinct culture is not a requirement for acknowledgment under 25 CFR 83. What is required is demonstration of a distinct social and political community, which may or may not be also culturally different from the surrounding populations. The maintenance of cultural differences is good evidence for maintenance of a community because it demonstrates that there is sufficient community cohesion to maintain cultural differences against the acculturative pressures of non-Indian society.¹⁰³ Cultural patterns must be distinct from those of non-Indians, but do not need to be "traditional" in the sense of being unchanged from the culture of the group before contact with Europeans. Indian

¹⁰⁰ The Nicklason report states that, "there is no primary, secondary, or corroborated oral history evidence showing sustained off-reservation social interaction or practice of traditional culture between 1916 and 1979" (Nicklason Research Associates 1994, 293).

¹⁰¹ Federal reports from the 1950's to 1970's are cited in support of this argument, as showing that Federal authorities concluded that the Snoqualmie lived among non-Indians and were assimilated. Other evidence cited in support is statements from Tulalip Tribes' affidavits and BIA interviews which are interpreted to demonstrate that no traditional culture remains among the STO, including statements by Kenneth Moses and Robert Comenout.

¹⁰² Ed Davis and another man refused to accept the chief's position in 1956 after Jerry Kanim died. Davis again refused the position in 1976, and Ernest Barr accepted it in 1986.

¹⁰³ The revised acknowledgment regulations list as one form of evidence for community, 83.7(b)(1)(vii), "Cultural patterns shared among a significant portion of the group that are different from those of the non-Indian populations with whom it interacts." The regulations state that, to be significant evidence, these cultural patterns ". . . must function as more than a symbolic identification of the group as Indian."

cultures evolved in many ways after European contact without necessarily adopting European culture.

General Responses

The Tulalip Tribes' comments focus on whether traditional culture has been maintained.¹⁰⁴ The Tulalips's arguments erroneously equate traditional culture with distinct culture, neither of which is required under the regulations.

Decline in Cultural Distinctiveness

The argument in the Nicklason report states general conclusions that the off-reservation Snoqualmie cannot show any significant cultural differences at any point between 1916 and 1979.¹⁰⁵

Past STO Chief Robert Comenout in his BIA interview characterized STO political processes as quite traditional until the 1940's and noted subsequent changes as generations changed. This and other statements in his interview are consistent with the overall conclusions of the proposed finding that the Snoqualmie historically were culturally distinct even though the traditional culture gradually declined over time.¹⁰⁶

The Tulalip Tribes cite a statement made by Kenneth Moses¹⁰⁷ in his BIA interview, reviewed for the proposed finding, that he had moved away to

¹⁰⁴ Distinct culture which is a post-treaty evolution of the pre-treaty culture, e.g., especially, the Shaker Church, is treated in their comments as "traditional culture." Their comments are evaluated here in terms of the maintenance of a distinct culture from non-Indians, regardless of whether it may have changed historically.

¹⁰⁵ It ignores, or rejects by implication, the proposed finding's conclusion that there was a significant decline in the amount of distinct culture over this time period.

¹⁰⁶ Comenout's brief comment in his affidavit submitted by the Tulalip Tribes, that no one in the STO "has knowledge of what the true Indian culture is" (Comenout 1994, 6) is not a statement that there was no maintenance of distinct culture. Rather, it reflects a substantial change from Snoqualmie culture as it existed in the 19th century and in the first part of the 20th century. But a change in culture does not automatically mean that a distinct culture from non-Indians is not maintained. For instance, the Smokehouse religion, in which a number of STO members participate, is a revival of traditional Salish culture, quite distinct from that of non-Indians, but not an exact copy of past religion. Suttles describes in similar terms an example of revival of traditional religion from farther north in Puget Sound (Suttles 1960).

¹⁰⁷ Moses, who died recently, was one of the most traditional of the STO members and a practitioner of the Smokehouse religion. Today, he is widely remembered among Indians throughout the region.

Darrington because traditional culture had declined in the Snoqualmie area. His statement and those of other elders¹⁰⁸ reflect their devotion to traditional culture. These statements do not conflict with the conclusions of the proposed finding and the final determination that although traditional culture declined significantly, albeit gradually, from the early part of the 20th century until the present, some distinct culture was maintained from 1953 to the present. They show that at least the older generation has in fact maintained a distinct culture, which is consistent with the proposed finding. There is ample evidence that although traditional cultural practices and the number of practitioners has declined, they are not entirely gone.¹⁰⁹

Shaker Church

The Tulalip Tribes' position, based on Ainsworth (Ainsworth 1994), that the Shaker church is pan-tribal and therefore not evidence of cultural distinctiveness, is invalid. Under the regulations, cultural distinctiveness is assessed by comparing the petitioner to the non-Indian populations with whom they interact. The regulations do not require that culture be unique to the petitioner and not shared by any other tribe.

In recent decades, Shaker church membership has declined significantly from what it was earlier in the century (AS-IA 1980a, 12-13). Individual congregations are now more intertribal in composition than they were previously. Nonetheless, Snoqualmie participation in them shows significant cultural distinction from non-Indians and involvement in the Indian society of the Puget Sound region.

Shaker church participation was found to be distributed across several major family lines and to involve individuals of high prestige within the group.¹¹⁰

¹⁰⁸ The proposed finding cited similar statements by Leona Eddy and Ernest Barr, senior members of the STO and widely regarded as knowledgeable about the traditional culture and language. They viewed many younger members of the STO as uninformed about traditional culture or even as culturally "white" (PF Anthropology Report, 91).

¹⁰⁹ The loss of "traditional" culture does not mean that a distinct culture was not maintained.

¹¹⁰ Ainsworth incorrectly states that the only available measure of STO participation in the Shaker church is the survey materials submitted by the STO, which he considered flawed. BIA researchers interviewed at least five STO members who were Shaker church participants concerning their participation. The petition also included documentary information concerning Shaker Church participation between 1953 and the present. The survey information on this question was considered valid supporting evidence since it yielded results consistent with documentary and interview data (PF Anthropology Report, 83, 86). The Snoqualmie survey data is separately addressed in a

Amoss says that the number of people participating in the Shaker Church does not "adequately represent the influence of the church on Native Americans" (Amoss 1990, 639). Its significance was evaluated together with evidence that some STO members participated in the more traditional Smokehouse religion.¹¹¹ The Department concludes that the comments submitted do not warrant a change in the proposed finding that the Shaker Church participation even though declining, was significant evidence of community.

Tulalip Tribes' Comments Concerning Evidence about Social Community in Past Government Reports

Tulalip Tribes' Comments

The Tulalip Tribes cite evidence which they interpret as showing that the Snoqualmie have long been "assimilated" into the non-Indian society in which they were living (Nicklason Research Associates 1994, 142-143, 299-307).¹¹² The Tulalip Tribes cite government documents and other materials from the 1930's to the 1970's as evidence to show assimilation.¹¹³ These statements are relevant to evaluating the modern community because it is an argument that no distinct culture was maintained in the past, making it unlikely that one is maintained now.

In support of this argument, the Nicklason report cites statements by several STO members,¹¹⁴ as saying that they had lived among white people all of their lives. The government documents cited describe the Snoqualmie as living among non-Indian citizens and as being well adapted to this.

Analysis and Response

The Tulalip Tribes accept at face value the view of the time expressed in government documents that if the Indians lived "among the general population"

general section reviewing its validity and value as evidence for social distinctions and other questions.

¹¹¹ The Tulalip Tribes' materials did not comment on the Smokehouse religion.

¹¹² They reference also as supporting evidence that the Snoqualmie were scattered, in effect repeating the argument that because there was no distinct geographical community, there could be no tribe.

¹¹³ Particularly quoted are a number of the 1950's and 1960's Federal reports concerning termination planning and/or claims activity. These are cited as evidence that the STO members were neither socially nor culturally distinct (Nicklason Research Associates 1994, 32-33, 140-142, 145-148).

¹¹⁴ These statements include one from Chester Williams in the 1930's and one from Ernest Barr in 1991.

rather than on a reservation, this meant that they were "assimilated."¹¹⁵ In particular, statements are cited that the Snoqualmie were "well adapted," that they had "amalgamated" with non-Indians, and had "demonstrated their ability to make a living in the white-man's world without assistance from the Bureau" (Nicklason Research Associates 1994, 301) or that they "lived in non-Indian communities and [successfully] competed with whites for work"(Bitney 1953). The proposed finding looked behind these reports and found maintenance of distinct community.¹¹⁶

Many of the statements in the reports cited are clearly formulaic, using language common to the numerous termination and claims reports of the time. To this degree they are less valuable as evidence because they are less likely to reflect a specific investigation or knowledge of the Snoqualmie. Termination reports characteristically stressed "readiness" of the members of a tribe for separation from government protection.¹¹⁷ Their statements were responding to planning questions slanted in this direction.¹¹⁸ For this reason, a 1953 agency superintendent's statement about the Snoqualmie, in a background report prepared for Congress as it contemplated termination of Washington State tribes, is particularly significant because it makes special mention that the Snoqualmie assimilation had been slow (Bitney 1953).

¹¹⁵ "Assimilated" here means both that they did not maintain a distinct culture and that they did not maintain a distinct social community.

¹¹⁶ The Tulalip Tribes accept uncritically the view of the time that competence in and ability to live within white society automatically meant both that tribal relations had been dissolved and that no distinct culture had been maintained. It also interprets as descriptions of assimilation documentary statements that only described people who lived off-reservation, were able to interact socially with non-Indians, and were able to make a living in non-Indian settings. These same documents did not specifically assert assimilation.

¹¹⁷ Nicklason also cites BIA 1991 interview statements as evidence of assimilation. The same two individuals (Earnie Barr and Ken Moses) are cited elsewhere in Nicklason's report as complaining of the "invasion" of the STO by "non-Indians," referring to Snoqualmie descendants, generally of younger generations, who they considered were culturally "white." These interviews of Barr and Moses reflect the point of view of individuals who were culturally and socially Indian and not assimilated, and do not conflict with the conclusion in the proposed finding and final determination that a distinct culture was maintained from 1953 to the present.

¹¹⁸ Somewhat similar statements appear in a 1952 planning report evaluating withdrawal of Federal services from the Tulalip Tribes. It notes that in 1942, only a third of the Tulalip membership lived on or near the reservation and only four of the 785 members did not speak English. It also stressed that they had long managed their own affairs. This is cited to show the direction of the language in the reports of this era and is not considered to show that distinct culture and language were not then maintained among the membership of the Tulalip Tribes.

Comment on the Chieftainship

Tulalip Tribes' Comment

The Nicklason report cites the failure of the STO to appoint a new chief after Jerry Kanim's death in 1956 until 1986 as evidence of a lack of traditional culture (Nicklason Research Associates 1994, 308). It also cites the fact that when a chief was appointed in 1986 he was from a different family line than the "chiefly" Kanim line. Nicklason also cites a statement by elder Ed Davis in 1976 in declining an effort to appoint him chief as saying the young people were not traditional enough.

Response

After Jerry Kanim's death, both Ed Davis and Kiutus Tecumseh refused to take over the chief's position, for the expressed reason that they were not from the Kanim family line. The STO reportedly refused to make Kanim's daughter chief because the position had not been traditionally held by women (PF History Report, 132). These actions are evidence that STO members were following a cultural tradition, derived from Coast Salish culture, of drawing leadership from specific family lines. The actions are thus evidence of a cultural difference between Snoqualmie and non-Indians.

When Davis again refused the position of chief in 1976, he said that the chief was expected to speak the traditional language and that the young people did not know the language. His statement reflects the point of view of a man born in the 1880's, addressing young adults almost a century later.¹¹⁹ These statements support a finding that the STO maintained a substantial amount of distinct traditional culture in the past, which had gradually declined in the younger generations.

The proposed finding did not treat events and actions concerning the chieftainship after 1956 as significant evidence of the maintenance of traditional culture.¹²⁰ A review of the evidence shows that Jerry Kanim functioned as chief in a way which was culturally distinct from non-Indians (see discussion of leadership below) and which was derived from Snoqualmie traditions, even if not identical with pre-treaty culture (see Comenout 1991). The refusals of Ed Davis and Kiutus

¹¹⁹ This opinion is also consistent with the views of Comenout, Barr, and Eddy noted above.

¹²⁰ The reinstatement of a chieftainship in 1986 is clearly described in the proposed finding as the institution of a different kind of office than had been held by Jerry Kanim or earlier Snoqualmie leaders (PF Summary, 28). The modern chief's position was evaluated solely in terms of what evidence it could contribute concerning criterion 83.7(c), not as evidence of distinct culture 83.7(b). A revised finding concerning the post 1986 chieftainship, as evidence for criterion (c), is presented below.

Tecumseh to accept the position and the denial of it to Jerry Kanim's daughter in 1956 are evidence of significant distinct cultural traditions at the time of Jerry Kanim's death, even though not "traditional culture."

Salmon Bakes and Dance Groups

The Tulalip Tribes assert that STO salmon bakes and recent dance groups are not evidence for distinct culture. The proposed finding did not treat salmon bakes and recent dance groups as evidence for distinct culture (PF Summary, 20) and the technical reports did not interpret them as examples of traditional culture (PF Anthropology Report, 78, 84). The proposed finding concluded that they were purely symbolic expressions of identity and as such were not cultural patterns which showed the maintenance of a cohesive, distinct social community (see 25 CFR 83.7(b)(1)(vii)).¹²¹ The STO salmon bakes which began in the 1970's and the dance groups formed in the 1980's could not be established, on the basis of the available evidence, to be more than symbolic revivals. No evidence was submitted by STO to refute the Department's conclusion.

Criterion 83.7(c) Political Influence or Authority

Criterion 83.7(c), Political Influence or Authority, as modified by 83.8

Criterion 83.7(c) requires:

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

The concept of political influence or authority is defined in the regulations:

83.1 Political influence or authority means a tribal council, leadership, internal process or other mechanism which the group has used as a means of influencing or controlling the behavior of its members in significant respects, and/or making decisions for the group which substantially affect its members, and/or representing the group in dealing with outsiders in matters of consequence. This

¹²¹ Performed in contexts such as parades or performances before non-members, these activities affirmed group identity, but without the context of beliefs and social and economic obligations that the dance had in its original setting.

process is to be understood in the context of the history, culture and social organization of the group.

The acknowledgment regulations state that to be acknowledged a previously acknowledged petitioner must show:

83.8(d)(3) The group meets the requirements of the criterion in section 83.7(c) to demonstrate that political influence or authority is exercised within the group at present. Sufficient evidence to meet the criterion in section 83.7(c) from the point of last Federal acknowledgment to the present may be provided by demonstration of substantially continuous historical identification, by authoritative, knowledgeable external sources, of leaders and/or a governing body who exercise political influence or authority, together with demonstration of one form of evidence listed in section 83.7(c).

83.8(d)(5) If a petitioner which has demonstrated previous Federal acknowledgment cannot meet the requirements in paragraphs (d)(1) and (3), the petitioner may demonstrate alternatively that it meets the requirements of the criteria in sections 83.7(a) through (c) from last Federal acknowledgment until the present.

Language of the Regulations

Under 83.8(d), the petitioner needs to demonstrate that it meets the requirements of criterion 83.7(c) only from the point of last Federal acknowledgment until the present rather than from first sustained contact with non-Indians. The burden of evidence to show this is greatly reduced. Under section 83.8(d)(3), the group may show that authoritative, knowledgeable external authorities, such as state or Federal officials in close contact with the band, identified group leaders and/or a governing body which exercised political influence or authority. This identification of political influence must be substantially continuous until the present. In addition, the petitioner must show one other form of evidence listed in 83.7(c).

Treatment of the STO under 83.8 for this Finding

The evidence concerning the STO petitioner does not meet the requirements of section 83.8(d)(3) concerning demonstration of political influence from 1953 to the present. Although there are some external identifications of leaders, these do not meet the requirements for authoritative external identification of leaders.

The regulations provide that where a previously acknowledged petitioner cannot meet the requirements of 83.8(d)(3), the group may be evaluated under the

ordinary requirements of section 83.7 from the point of last acknowledgment until the present (83.8(d)(5)). This approach allows a broader variety of evidence, which may be more readily available, and has been used in the evaluation of the STO for this final determination. The present-day requirements are not modified but are the same as for any petitioner, whether previously acknowledged or not.

Evaluation of New Evidence

The STO comments on the proposed finding presented substantial new evidence concerning political processes within the STO from 1953 through the present. The Tulalip Tribes presented extensive comments and some additional data. This final report analyzes this new evidence and arguments together with the existing record.

Substantially revised conclusions were reached concerning tribal political influence within the STO from 1953 to the present. There is substantially more evidence of Snoqualmie political influence than for the proposed finding. The initial portions of this review present the revised findings concerning political processes. A review of additional comments and data on the proposed finding concerning criterion 83.7(c) follow the initial discussion.

Comment on STO Submission re Criterion 83.7(c)

STO Response

A report by Kenneth Tollefson (Tollefson 1995a), including interviews with STO members and others, presents the most significant data in the STO response concerning contemporary political processes. This report describes the political processes in the contemporary community, from the removal of Robert Comenout in 1930 to the present.¹²²

Response

The conclusions of this portion of the final determination are based on an examination of the interviews and not on the Tollefson report. The interviews speak for themselves and contain considerable useful information.¹²³

¹²² The report which concerns political processes in the modern community is based almost entirely on these interviews. Some conclusions, lacking citations, appear to be based on the author's fieldwork in general rather than specific interviews.

¹²³ In particular, there is good evidence of significant rapport between the interviewer and the interviewee which contributes to their value and mitigates against some evident limitations in interview technique. The Tollefson report is not relied on in

Treatment of Pre-1953 Political Influence within the STO

The Tulalip Tribes' comments challenge some of the proposed finding's conclusions concerning the period from 1930 to 1953, which do not necessarily pertain directly to the period after January 1953.¹²⁴ They present arguments and evidence that the STO was only a voluntary organization concerned with the pursuit of claims. They review whether there was sufficient evidence to demonstrate that Jerry Kanim was a leader with significant political influence.¹²⁵

The Proposed Finding Concerning Criterion 83.7(c)

Introduction

For clarity of analysis and presentation, the proposed finding addressed the evidence for criterion 83.7(c) for the entire period between 1956 to the present (including the modern community) as a single unified discussion.¹²⁶ It did not separately discuss the modern community.¹²⁷

the final determination because it includes very general and broad statements which were not sufficiently verifiable by reference to the accompanying interviews or to other available data. An example is the reference to the role of "grandmothers" in calling together extended families for political purposes. This conclusion and others in the report which are not referred to in this finding are not rejected, but are not utilized for the final determination because they were not verifiable.

¹²⁴ Because section 83.8 only requires a demonstration of tribal existence from the point of last acknowledgment to the present, comments pertaining to criterion 83.7(c) from 1930 to 1953 are dealt with here only insofar as they bear on the evaluation of the STO from 1953 to the present. They are dealt with in the section which responds to Tulalip Tribes' comments.

¹²⁵ This time period is also addressed by the analysis of previous acknowledgment, which gives clear evidence that the STO was a political entity before 1953 and was identified as such by the Federal government in the decades before 1953.

¹²⁶ The proposed finding utilized the natural division point of 1956, the year Jerry Kanim died. Because this final determination evaluation begins in 1953, it includes the last few years of Jerry Kanim's leadership. The examination of the evidence for political influence within the STO in the two decades preceding his death more than suffices to establish political influence between 1953 and 1956 and lays the foundation for evaluating the evidence after his death.

¹²⁷ The proposed finding defined "modern community" as the community from 1981 to 1991. This finding defines "modern community" as the community from 1981 to the present. In the proposed finding, because of the continuity of modern community evidence and activities with the immediately preceding decade (1968-80), discussion of the political issues encompassed the entire period beginning in 1968 and continuing to the

Summary Evaluation Findings

The proposed finding's evaluation under the criteria stated:

There exists substantial evidence between 1956 and 1968 and strong evidence from 1968 through the present that political influence is exercised within the Snoqualmie membership, that leaders and council have a significant political connection with the membership, i.e., a bilateral political relationship, and that political issues of significance to a broad portion of the membership have been addressed. Thus, the Snoqualmie have met the requirements of criterion (c) from 1956 up to and including the present (PF Summary, 30-31).

It also made specific findings:

The general membership meeting (general council) has played a major role in Snoqualmie political processes from at least the 1960's until the present. It is the final arbiter of political issues and conflicts. . . . [I]t connects the tribal council and the chairmen to the membership, both by electing them and by reviewing actions which are considered critical or controversial. . . . The fact that not all adult Snoqualmie can be shown to be directly participating in the general councils does not conflict with this conclusion, given that a significant portion of the membership participates and that participation is broadly distributed among the membership (PF Summary, 28-29).

The proposed finding also concluded that there was some evidence that members were aware of political issues in advance of the general council meetings. This showed that general council actions represented significant political influence because they were affected by political concerns among the Snoqualmie that existed outside the context of a given meeting. The issues were known and of concern to members before the meeting, with the meeting serving to air and resolve them. The proposed finding concluded:

There is some evidence to demonstrate that, both presently and in past decades, broad public opinion has existed concerning various incumbent chairmen. There was little evidence of systematic

present. Changes in political activities, and differences in forms of available evidence for different decades were addressed within the analysis.

informal campaigning for chairman or tribal council in advance of general council meetings (PF Summary, 29).

The proposed finding summary also concluded that there was good evidence that there were political issues which were important to the entire tribe and that these issues were sometimes the subject of political conflicts within the STO. The proposed finding summary stated:

There is good evidence, consistent over a long period of time (1960's to the present), that opinion and concern over the actions of the Snoqualmie leadership and the form of that leadership have existed at large among the membership. These have been evidenced from time to time by generational differences concerning the Snoqualmie leadership and the form of government.

Generational conflicts over political issues have been evident in Snoqualmie political processes since the 1968 election of Robert Correnout. Several examples were evident during the 1970's, involving representation on the council, the form of governance, and the approach to seeking restoration of fishing rights. These conflicts have taken a form which indicates that a broad spectrum of public opinion among the Snoqualmie is involved rather than just the actions and opinions of particular individuals.

Hunting and fishing rights have been a consistent concern addressed by the Snoqualmie council and leadership throughout the period between 1956 and the present.

* * *

There is good evidence that public opinion among the Snoqualmie up until the present has remained strong concerning the loss of fishing rights. Thus, there is good evidence that fishing rights is a political issue of substantial significance and concern among a wide portion of the Snoqualmie because the effective loss of access to these rights is recent and there is continued widespread interest among the members (PF Summary, 30).

The summary concluded in part that the alignment of members on political questions occurred along family line groupings, in addition to breaking along generational and other differences. The summary stated:

Additional evidence that there presently exist processes of political opinion and influence within the Snoqualmie which involve most of the membership is that the major family lines function politically to a limited degree. Family lines presently are recognized within the Snoqualmie as social units which have political opinions that differ from those of other families.

* * *

There appear to be significant differences among different portions of the membership in their degree of involvement in Snoqualmie political relationships. Five major family lines are particularly active in Snoqualmie social interaction and political relationships . . . Other family lines enrolled in the Snoqualmie are less active (PF Summary, 30).

Revised Findings: Criterion 83.7(c)

Political Influence After Jerry Kanim's Death--1956-1967

Proposed Finding

The proposed finding concluded that political activity lessened substantially among the Snoqualmie after Jerry Kanim's death in 1956 and the coincidental loss of Federal acknowledgment as a result of national changes in Indian policy.¹²⁸

Despite the apparent decline in political activity, the proposed finding also concluded that there was no break in tribal political influence, that general council meetings continued, that issues were considered, and that leaders who had been active and influential during Kanim's tenure continued to be effective.¹²⁹

¹²⁸ It concluded that "There was a decline in political activity after Kanim's death because the Snoqualmie political system did not immediately adjust or reorganize itself in response to the changed conditions of not having the strong figure it had had for decades and not being recognized" (PF Summary, 27).

²⁹ It particularly mentioned the likelihood of a continuing role for Ed Davis. It stated concerning the latter that:

Judging by the major role he played in later periods, he would have carried considerable influence, although his activity in this regard for the first ten to 20 years after Kanim's death has not been demonstrated by documentary or field data (PF Anthropology Report, 52-54).

Comments Received

Significant new interview information was submitted by the STO. The Tulalip Tribes' response contained only limited comment and analysis concerning the BIA interview information relating to the 1956 to 1968 time period. Their comments refer to particular interview statements. The Tulalip Tribes submitted some relevant information in affidavits, including one by Robert Comenout.¹³⁰

Evidence from Political Processes Immediately Before 1956

A review of the existing evidence and the new interview evidence submitted by the STO sheds new light on the events in the decade after Jerry Kanim's death, strengthens the proposed finding's conclusions that substantial political authority existed within the STO from 1953 to 1981, and gives more detailed explanation of political events between 1956 and 1968. It also shows that the apparent decline in political activity between 1956 and 1968 was not as significant as the proposed finding's analysis had concluded (see following section).

Key information appears in the BIA interview with Robert Comenout,¹³¹ who refers to what he characterizes as a decline in tribal activity after World War II. He is referring first to the aging of the oldest generation, whom he describes as attached to traditional ways of conducting political affairs; second, to the effect of war work and military service, which temporarily dispersed people;¹³² and third, to greater difficulties of pursuing the STO's goals of a reservation and fishing rights in the less friendly climate of Federal policies that shifted in the direction of termination soon after World War II ended (Comenout 1991).¹³³

Descriptions of the immediate post-1956 period by other interviewees that were relied on in the proposed finding change in the context of Comenout's interview. What the proposed finding concluded was a decline in activity essentially as a result of events in the mid-1950's, including Jerry Kanim's death and STO's loss of Federal recognition, was actually part of a much longer political transition between generations which began in the early 1940's and continued until the 1960's. Comenout describes the generational change after the war and continuing after Jerry Kanim's death:

¹³⁰ The Tulalip Tribes rejected the use of any interview information that was not specifically corroborated by documentary evidence. This general methodological comment is responded to separately.

¹³¹ This interview has been more fully transcribed for this final determination.

¹³² In this regard, Comenout referred to Jerry Kanim's action at the beginning of World War II to set aside the efforts to gain a reservation, and fishing rights, until after the war was over.

¹³³ Others also discussed the termination-era difficulties.

. . . it was just too fast for the elders to keep up. The loss came there with the things of the world and the traditional way of our elders. It just caused turmoil within the tribe. This was the beginning of the conflict between the elders and the younger generation (Comenout 1991).

In summary, the proposed finding described a process of restructuring the tribe in the late 1940's and early 1950's.¹³⁴ New information and a reconsideration of information already in the record¹³⁵ confirms Comenout's view that there was actually a somewhat longer process of political restructuring beginning in the early 1940's and continuing after Jerry Kanim's death.¹³⁶

Analysis of 1953-1967 Data

The STO response and the BIA interviews confirm the proposed finding's conclusion that there was no significant break in political functioning after

¹³⁴ This involved in part updating and clarifying of the tribal membership rolls (PF Anthropology Report, 40; PF History Report, 80).

¹³⁵ Statements of informants such as Evelyn Enick and others about this time period, cited in the proposed finding, referenced a decline in activity. The anthropological technical report quoted Enick, Kanim's daughter and tribal secretary, who characterized the period after Jerry Kanim's death as one in which she "tried to keep things together." The report concluded that these comments "largely referred to the formal activities of the organization, without providing much information concerning whether less formal political influence was exercised or not" (PF Anthropology Report, 52).

Reviewed in the context of Comenout's interview (Comenout 1991), Enick's statement referred to the difficulty of accomplishing goals in the termination period rather than to only political disorganization as the result of the loss of a leader. Comenout's description of the period (Comenout 1991) is consistent with Enick's. Comenout refers to the difficulties after World War II in reviving the STO efforts to gain a reservation and fishing rights. Comenout stated about the post-war period that Jerry Kanim:

made some moves after the war and it took some time to get the people back together, the war further separated the people. After the war it was slow in getting things back to the point of negotiation to further the steps of Snoqualmie recognition. In 1956, Jerry passed on, at that time the people were just getting back to where they were and his passing devastated the people (Comenout 1991).

¹³⁶ The proposed finding concluded that the position of tribal chairman before Kanim's death in 1956 had been a less powerful position than the chief, in the "shadow" of the chief. The chairman's position did not become more influential immediately after the position of chief opened and remained vacant. A number of individuals, including some of the council members, carried on less formal leadership. The proposed finding concluded that the chairmanship became a substantially more powerful office under Robert Comenout when he was elected in 1968.

Kanim's death, document the active role of elder Ed Davis, and identify some specific actions taken by other leaders.¹³⁷

The proposed finding noted the continued presence of Ed Davis who was influential before and after Kanim's death. He and Kiutus Tecumseh were offered and declined the post of chief.¹³⁸ The proposed finding indicated Davis' leadership before 1956 and in the 1970's was evidence of his continuing leadership the immediate post-1956 time period, although there was not direct evidence of this (PF Anthropology Report, 53). The additional information for the final determination and the review of the existing record gives clear and direct evidence of Ed Davis' leadership in this period following Kanim's death.¹³⁹

The proposed finding anthropological technical report included statements which stressed that many of those remaining on the council were old and apparently not influential. The proposed finding concluded that new individuals did not come into the leadership until the 1960's (PF Summary, 28). The review for this final determination indicates this characterization is not valid. The leadership cadre that was active after 1956 was considerably larger and more influential than the proposed finding indicated.

The 1993 interviews submitted in the STO response show that other older individuals were important leaders after Jerry Kanim's death. For example, several interviewees mentioned Jerry Enick, husband of Evelyn Enick. He was a Pentecostal preacher who was a close associate of Kanim. He is described as "aware of all of the earlier activities."¹⁴⁰ Helen Moses, long time tribal secretary

¹³⁷ This revised finding modifies but does not invalidate the proposed finding's conclusion that there was a significant drop in activity initially after 1956.

¹³⁸ Although Ed Davis, specifically rejected becoming chief, both in 1956 and later, this did not mean he rejected leadership. It reflected his political style, termed by one interviewee as ". . . [H]e did not feel he should be in the lime light . . . and be spotlighted all the time, to be the star of something" (Sweet 1993, 391). This accurately described Davis' behind the scenes political role from Jerry Kanim's era until his death in 1987.

¹³⁹ The Snoqualmie submitted new interviews with four older individuals, three of them leaders themselves, which refer to Ed Davis as influential. The evidence indicates that he was probably the most influential individual in the period immediately after Kanim died (Barr 1993; Nelson 1993). Thus there is now good, direct evidence of Davis' leadership role immediately after 1956. No additional information was developed concerning Kiutus Tecumseh.

¹⁴⁰ One interviewee described him as having been the most important leader (in the sense of holder of a formal leadership office) immediately after Kanim's death, until "there was an election." It could not be determined what election this referred to.

was also influential. Interviews described her as a leader beginning in the 1930's.¹⁴¹

New evidence indicates that three important younger Snoqualmie became involved in the council in the 1950's and played a role before and after Jerry Kanim died. These were Judy Moses¹⁴² (daughter of Helen Moses), Emma Sweet, and Leona Eddy. Jerry Kanim supported these women's political activities in the 1950's (PF Anthropology Report, 111). They became notable leaders in the 1970's. Sweet and Eddy were influential through the 1990's.

Robert Comenout's 1991 interview with BIA researchers provides significant evidence demonstrating continuing political functioning of the STO from 1956 to 1968.¹⁴³ The evidence submitted during the comment period does not change the proposed finding's conclusion that the chairman's position, which had been in the "shadow" of the chief before Kanim's death in 1956, did not become a highly influential position until Comenout's 1968 election. It confirms, however, that leadership was carried on less formally by a number of individuals.¹⁴⁴

For this final determination, the overall evidence demonstrating a significant level of exercise of political influence between 1956 and 1968 is critically strengthened in comparison with the proposed finding. Therefore, the overall evidence for the conclusion that the Snoqualmie meet criterion 83.7(c) is also stronger.

¹⁴¹ An interview submitted with the Snoqualmie response stated that after Jerry Kanim died, "Helen Moses and a few others took over and helped the men." It also stated in this context that "Grandmother Moses knew a lot" (Eddy 1993, 226, 236).

¹⁴² Judy Moses was secretary or treasurer of the STO from 1962 until 1983, when she withdrew from tribal politics. She is mentioned as one of the principal allies of the elders against Comenout in the conflict during his chairmanship over how much and how fast to "modernize" tribal government in the 1970's (K. Barker 1993a). The proposed finding did not mention her as having a significant leadership role in part because materials were limited. The review of the new evidence in conjunction with the previously available evidence concludes that she was an influential figure.

¹⁴³ This finding does not find the evidence from Comenout's 1994 affidavit to be as good evidence as his 1991 interview (see discussion below). The interview statements show detailed knowledge and communication of political events because, even though Comenout was living outside of the area and not attending meetings until a few years before he became chairman, he had sufficient contact to be able to provide some description of how the council and leadership functioned in the early 1960's and the late 1950's.

¹⁴⁴ Comenout's description, however, overly diminishes the role of the continuing leaders, by describing the council members after Kanim's death as aged and infirm. His statements (Comenout 1991) appear to stress his own role in creating change after he became chairman in 1968, and in providing strong, active leadership again after the interval following Kanim's death (PF Summary, 28).

Political Processes from 1967 to 1978

The Election of Robert Comenout in 1968

Proposed Finding

The proposed finding indicated indirectly that Comenout had little involvement with the STO before being elected chairman.¹⁴⁵ The history report stated about his election to the chairmanship:

Although Comenout was a relative newcomer to STO activities, he was from an old Snoqualmie family, being a descendant of Sililus Dan, who was elected to the STO council of elders in 1930 (PF History Report, 109).

This conclusion suggested that the STO electorate had turned to a relative outsider for leadership, which would be evidence that it was not maintaining significant internal political processes.

Final Determination

A review of the more complete transcription of BIA's Comenout interview shows these conclusions in the proposed finding are incorrect. Comenout's statements show an involvement in the STO political processes before his election to office.¹⁴⁶

Therefore the proposed finding was incorrect to the extent it implied that Comenout had little political contact with the STO before his election as chairman in 1968 except as a result of his family connections. The final determination concludes that the STO elected a knowledgeable, well-known person with experience and background in Snoqualmie political traditions when they elected

¹⁴⁵ It pointed out that he was not from a major family, although his family had been involved in the 1930's.

¹⁴⁶ His interview described in considerable detail the leadership activities and style, and mode of conducting meetings, during the Jerry Kanim era (Comenout 1991). Comenout stated that he even spoke for his grandmother at some meetings in the 1940's, as part of his "grooming" for leadership. The interview demonstrated that Comenout had significant knowledge about tribal politics from 1956 to the beginning of his term as chairman in 1968, even though he had been living and working "out of the area" on the Yakima Reservation. He stated that he had begun "to become involved in tribal politics" again in 1963 and 1964, several years before his election, coming to meetings while still living at Yakima. When asked who had supported his election, he stated, "I would say pretty much all the elders knew me and my standing and that was where the sanctions came from for me" (Comenout 1991).

him. This finding provides additional evidence for significant tribal political processes in the 1960's.

Political Processes in the Modern Community (1980 to 1995)

Conflicts and Transitions as Evidence of Political Processes

Introduction: Interpretation of Political Conflicts under the Regulations

Political conflicts, and transitions between office-holders, can provide good evidence to demonstrate criterion 83.7(c), if petitioners demonstrate that conflicts involve significant portions of the membership and are not just conflicts between individuals, even if those individuals are council members.¹⁴⁷

The revised acknowledgment regulations list particular kinds of evidence that may be used to show political influence.¹⁴⁸ These forms of evidence were used in cases decided under the previous regulations, even though those regulations did not explicitly list them.¹⁴⁹ The events described below fit some of the specific forms of evidence explicitly listed in 25 CFR 83.7(c).¹⁵⁰

¹⁴⁷ Political conflicts within a group and their resolutions often provide excellent evidence that significant political relationships exist within the group's membership. They can demonstrate the involvement and interest of members, the influence of formal and informal leaders, and the communication of information and opinion. Conflicts highlight alignments and divisions within the membership and issues of significance to members corresponding to those alignments. They are particularly likely to demonstrate whether issues, and the conflicts over them, are of concern to more of the membership than just a few leaders. Conflicts often stimulate petitions and other lists of politically interested members, as individuals are moved to declare their interest and become involved.

Only if there is involvement of a significant portion of the membership is the conflict evidence for criterion 83.7(c). Even a voluntary organization whose members have no common ties except their membership can experience significant conflict among its leaders and officers. The difference may be shown by direct description of the extent, nature and intensity of membership involvement. See, for example, the analysis of conflict in the Mohegan tribe in the final determination (AS-IA 1994b, FD Summary 23-26, Technical Report 155, 159-266).

¹⁴⁸ They do not apply a different standard for criterion 83.7(c) nor do they require different evidence than the previous regulations.

¹⁴⁹ This list, found at §§83.7(c)(1)(i) through (v), is not meant to be the only evidence which would be accepted.

¹⁵⁰ One form of evidence listed is found in 83.7(c)(1)(v), which allows as evidence to demonstrate criterion 83.7(c): "internal conflicts which show controversy over valued group goals, properties, policies, processes and/or decisions." Another form of evidence listed is found in 83.7(c)(1)(iii): "widespread knowledge, communication and involvement in political processes by most of the group's members" (83.7(c)(1)(iii)).

New Evidence Concerning Political Conflicts and Transitions

The STO presented evidence, which was unavailable for the proposed finding, concerning internal conflicts from 1980 to the present. This evidence provides information which supports and greatly extends the proposed finding's conclusions concerning political influence within the STO.

This new information concerns the ouster of Robert Comenout in 1980, which is discussed in the proposed finding; the conflict with Karen Boney, which was ongoing at the time of the proposed finding research; and the 1993 ouster of Ronald Lauzon, which occurred after the proposed finding and continues to be an issue now. There was also some information submitted concerning the 1990 election of Ronald Lauzon over the then incumbent chairman Andy de los Angeles. Information about these events from the BIA interviews and documentary files for the proposed finding have been reviewed in detail.

These events provide detailed evidence from 1968 to the present for political conflicts, alliances, mobilizations of support, and political communication. A broad base of members became involved in these events. An important finding is the important role of family line groups in these political processes and also the prominence of generational differences over issues.¹⁵¹

The 1980 Ouster of Robert Comenout

Proposed Finding

The proposed finding discussed the ouster of chairman Robert Comenout as an important example of conflict which demonstrated widespread involvement of tribal members.¹⁵²

¹⁵¹ This section is a description of events and political processes, as evidence for or against criterion 83.7(c). It is not an evaluation of the correctness or legality of these actions, nor an evaluation of the justifications presented by the interviewees for action, e.g., the reasons given for the conflict, or for allying with or rejecting an individual. These are separate matters that are not relevant to the evaluation under the acknowledgment criteria.

¹⁵² The summary evaluation, under criterion 83.7(c) stated:

A strong demonstration of internal political influence occurred in 1980 when community opinion was mobilized to oust the chairman, whose behavior in this role violated community norms. This ouster is an especially significant exercise of political influence because there was no formal provision, nor precedent, for such an action. The ouster brought one of the highest turnouts at a general council meeting. The turnout, as well as interview data, indicate that there was extant community opinion

Review of Evidence Concerning the Ouster of Robert Comenout

The existing record was reviewed because of Tulalip Tribes' comments that no significant connection had been demonstrated between leaders and followers in the STO and because the affidavit of Robert Comenout submitted by the Tulalip Tribes was used to support their arguments that the STO was only a voluntary organization.¹⁵³

Statements in BIA interviews and STO documents concerning Comenout's leadership style reflect arguments which characterized Snoqualmie politics throughout the 1970's. These arguments concerned what the documents and interviews refer to as the "style of leadership,"¹⁵⁴ that is, whether to stay with the more culturally traditional form of governance as practiced when Jerry Kanim was chief or shift to what one member described as a "white man's club."

Comenout led a push to change the way the Snoqualmie were organized and governed (see discussion of tribal political issues) (Comenout 1991). A review of the evidence shows that this "style of leadership" question had been a political issue for more than a decade before the ouster of Comenout in 1980. It remained an issue after his ouster, as the STO changed from life terms to fixed terms for officers, under the new constitution adopted the next year.¹⁵⁵

The interviews also describe the process of mobilizing political support to oust Comenout. Chief Ernie Barr, in his BIA interview, stated: "Finally, we got together and got [Comenout] out of there." He stated further that the "general membership is the one that did it."¹⁵⁶

about the chairman's actions. This opinion was presumably communicated informally. This illustrates the existence of the flow of political opinion and thus a bilateral political relationship, a requirement of criterion (c) (PF Summary, 29).

¹⁵³ In addition, new evidence submitted by the Snoqualmie demonstrated the importance of later political conflicts as evidence of political processes within the STO, and raised questions of continuity of political issues and alignments within the STO that required review of this earlier conflict.

¹⁵⁴ Multiple respondents gave strong statements that the prevailing opinion within the group concerning his actions as chairmen was that he was not paying attention to the expressed opinions and concerns of the membership and of other leaders. Various individuals described his style as "going his own way," ignoring the opinions of others, as "high-handed," and similar characterizations (PF Anthropology Report, 58-59; Barr 1991; Barker 1993a).

¹⁵⁵ The change was in part due to the difficulties in ousting Comenout, because before the 1981 constitution the chairman served for life (PF Anthropology Report, 60, 102).

¹⁵⁶ Barr added a further dimension by noting that the ouster was not unanimous,

Tulalip Tribes' Comments

The Tulalip Tribes' response does not challenge the proposed finding's conclusion that Comenout's ouster in 1980 shows political influence.¹⁵⁷ The proposed finding's conclusion is confirmed.

The Transition from Karen Boney to Andy de los Angeles in 1984

Proposed Finding

The proposed finding discussed conflicts between council member and former chairman Karen Boney (successor to Comenout) and other members of the Snoqualmie council, which were current at the time of the BIA fieldwork in 1991, but originated during Boney's chairmanship from 1981 to 1984. Then chairman Ronald Lauzon and the council were fighting for control of the Snoqualmie nonprofit organization with former chairman Boney (PF Anthropology Report, 103). Boney was subsequently banished from membership in the tribe (PF Anthropology Report 109, 117-118).

The proposed finding's evaluation under criterion 83.7(c) did not, however, have sufficient information about this conflict for it to be more than supporting evidence for political authority within the Snoqualmie.¹⁵⁸

Comments Received

The STO response contained interviews with additional information about the conflict between Boney and influential political figures within the tribe.¹⁵⁹

stating that "some of the women supported him, even after." Barr believed that Ed Davis had supported the ouster. The description of this conflict, including Davis' position, is consistent with the proposed finding's descriptions of the political conflicts between Comenout (and some followers) and others throughout the preceding decade (PF Anthropology Report, 58-59). The interview data and meeting minutes consistently described several parties as involved in political conflict (PF History Report, 141). The interview data and minutes of council meetings indicate that several parties, including Juanita Carpenter and Ed Davis, became involved in conflicts generated by Comenout (PF History Report, 141). Other leadership figures who came to oppose Comenout were Judy Moses, who was specifically mentioned as allied with the traditionalists (Comenout 1991), and Mary Anne Hinzman (Hinzman 1991).

¹⁵⁷ This was a key finding because of the consistency of the data and the fact that it described a conflict extending over about a decade.

¹⁵⁸ The proposed finding did not describe a conflict in 1984, when Boney was defeated for re-election as chairman by Andy de los Angeles.

¹⁵⁹ While the Snoqualmie report on Modern Political Community does not specifically address this conflict, the interviews submitted with it contain significant new information. The Tulalip Tribes' comments did not address this conflict.

Final Determination

The new information and an examination of the existing record demonstrates that Boney's conflict with the council in 1991 and a few years preceding that, which was described in the proposed finding, had existed longer than was described in the proposed finding.¹⁶⁰

As with the ouster of Comenout, the issue in the conflict during Boney's chairmanship was that the council, or influential members of it, felt that the chairman was acting too independently. Boney's actions as chairman were opposed by influential members of the Forgue family line grouping, as well as by a leader of the Davis family line grouping (Sweet 1993; Hinzman 1993).¹⁶¹ The election of de los Angeles over Boney was a result of loss of political support for Boney from the Forgue family. The latter instead recruited de los Angeles to be chairman and promoted his candidacy (K. Barker 1993a, Sweet 1993).

There were statements in the new interviews that the membership, i.e., more than just members of the council, had been unhappy with Boney's actions as chairman for years (Sweet 1993).¹⁶² They show that a change in chairman did not come about because of the dynamics of a single annual meeting or a personality conflict among individuals. Rather, it resulted from political conditions lasting a substantial period and affecting members in general rather than just the council, which provides significant evidence of internal political processes.

The political events surrounding the 1984 election fill in the picture developed in the proposed finding of political influence dating from the early 1970's and continuing to the present. These events demonstrate the existence of strong political opinion within the membership, which leaders used to mobilize political support from ordinary members for or against an office-holder.

¹⁶⁰ Boney had remained on the council after losing the chairmanship in 1984 and had also remained as the head of the Snoqualmie non-profit organization. The new evidence shows that political conflicts between Boney and others in the STO that were observed in 1991 began during her chairmanship (1981 to 1984).

¹⁶¹ Notably, Boney, even though a member of the Forgue family line, clashed with them politically in the same manner as other chairmen had or did later (see below). The Forgue, Sweet/Davis and Zackuse family line groupings backed de los Angeles. However, Boney did retain backing from some elements of the membership, as evidenced by her subsequent election to the council in 1985.

¹⁶² This provides evidence that community opinion was involved, and that these opinions had existed for some time.

The Transition from Andy de los Angeles to Ronald Lauzon, 1990

Introduction

The proposed finding technical reports reviewed the 1990 election when incumbent chairman Andy de los Angeles was defeated for reelection by Ronald Lauzon.¹⁶³ The data available then indicated that Lauzon had not engaged in extensive campaigning.

New Evidence

The new evidence submitted by the STO concerning the succession of Lauzon shows that he gained sufficient political support by being "recruited" by influential political figures from the Forgue family, who sought a candidate to oppose de los Angeles (Hinzman 1993; Lauzon 1993).¹⁶⁴ This explains in part why the candidate undertook relatively little "campaigning" outside his family line.¹⁶⁵

Conclusion

The additional information concerning the 1990 election provides supporting evidence of significant political processes within the STO.¹⁶⁶ While not described or documented in great detail, the political mechanisms working in this particular conflict are consistent with the preceding and following elections and related conflicts, in which influential family lines clashed or joined to exert influence on tribal decision-making.¹⁶⁷ The character of events in the 1990 election therefore supports the conclusion in the final determination that these political processes

¹⁶³ It reviewed this election in terms of discovering the process by which Lauzon gained sufficient political support to become chairman.

¹⁶⁴ One leader from the Forgue family grouping said, "He got in because we backed him." This is confirmed by individuals from Lauzon's own family line, the Tomallums, who said that some of the "other families" had "heard what Ron had to say" and decided they wanted to give him a chance to be chairperson (Freese 1993).

¹⁶⁵ He did campaign in his "family group," the Tomallums. Lauzon, although not previously a central political figure, was not an unknown before his election, having been appointed a subchief in 1986. One leader who helped promote him for chairmanship said they had taken note of his earlier actions (Freese 1991).

¹⁶⁶ The new evidence submitted does not describe in detail the amount and manner of campaigning done on behalf of Lauzon or de los Angeles before the annual meeting where the election was held. It does show that political support was mobilized for Lauzon and against de los Angeles by influential political figures within the STO, indicating that communication must have occurred.

¹⁶⁷ In particular, it is a further example of the political pattern since the late 1970's in which the Forgue family bloc has played a predominant role in exercising political influence, consulting or conflicting with other family line groupings over the powers and performance of various chairmen (see discussion below of the role of family line groupings in STO political processes).

involved groups which comprised pivotal segments and a substantial portion of the membership.

The Defeat of Ronald Lauzon as Chairman of the STO

Introduction

Another conflict within the STO arose in late 1992 or early 1993 over the chairmanship of Ronald Lauzon, chairman from 1990 to 1993. In May 1993, Lauzon was defeated for reelection as chairman at the annual general council meeting. He lost the election to Andy de los Angeles, previously chairman from 1985 to 1990. Lauzon had been in conflict with influential former allies on the council from the Forgue family for at least six to nine months (S. Barker 1993) when he lost. They advanced de los Angeles as an opposing candidate.¹⁶⁸

Proposed Finding

The proposed finding did not address this particular conflict, since it played out after the proposed finding research was conducted, and long after the STO petition was submitted.¹⁶⁹

STO Response

The STO response includes interview data which addresses the political processes surrounding the conflict before the May 1993 election. No documentary information was submitted.¹⁷⁰

Review of New Evidence

The interviews submitted by the STO give good evidence that an alternative candidate for chairman was brought forward because influential political leaders on the council, particularly from the large and influential Forgue family, were unhappy with Lauzon, their former protege. Interviewees said the conflict involved disagreement over the role of the council versus that of the chairman

¹⁶⁸ The description and analysis here deals with the conflict up to the 1993 election and with the political processes surrounding the election itself. The conflict continued after the election, because Lauzon refused to accept the results of the election as valid. The later history of the conflict, which continues to the present day, is dealt with separately, below.

¹⁶⁹ The field data from the 1991 BIA visit gave some indication of earlier conflict between the Forgue family and the chairman Lauzon and vice-chairman Art Freese. Both are from the Tomallum family line grouping. This earlier information provides some independent confirmation of the data and description in the Snoqualmie response (Lauzon 1991).

¹⁷⁰ The Tulalip Tribes' response does not address this conflict or election in any substantial way.

(K. Barker 1993).¹⁷¹ The council members felt that the chairman should answer to the council.¹⁷² Lauzon, as portrayed by his opponents, emphasized his view that the chairman primarily answers to the general council (K. Barker 1993).¹⁷³

In addition, public opinion among the membership was that it too was unhappy with Lauzon's approach to the chairmanship. One senior council member from the Forgue family describes this discontent in some detail.¹⁷⁴ This information provides evidence that the conflict involved not only the council and the chairman but also the membership.

The interviews submitted with the Snoqualmie response give good evidence that conflict mobilized public opinion fairly broadly within the membership and opinions were shared widely. Members communicated their opinions along family lines, among family lines, and to council members. Two somewhat different versions of events or perspectives appear in the interviews submitted by the Snoqualmie. One version describes a comprehensive consultation in the council, which included Chief Ernie Barr, Andy de los Angeles and others, with these leaders in turn consulting more widely.¹⁷⁵ The description in the other interview focuses on the council as they responded to public opinion and initiated action against Lauzon (K. Barker 1993).

Members from all of the major family groups were involved in the election: the Forgues, Moses, Zackuse, Davis (Sweet, Willoughby) and Kanims.¹⁷⁶ Lauzon's interview clearly confirms the description by his opponents of their mobilization of political support against him (Lauzon 1993). He says that support was "taken from him" through a strategy of political maneuvering and communication, in which people opposing him talked and consulted with friends and family, who then turned against him (Lauzon 1993).

¹⁷¹ The chairman's relationship to the council, and degree of communication with council and general membership, were also cited as part of earlier political conflicts, over the chairmanships of Robert Comenout and Karen Boney.

¹⁷² The issue was also phrased from the council's perspective. They (and other STO members) felt they had insufficient knowledge of the chairman's actions.

¹⁷³ Note that the general council is made up of the entire adult membership.

¹⁷⁴ A second interview alludes to this discontent, but does not describe it directly.

¹⁷⁵ This interview describes two senior Forgue family leaders from the council as "going on the road" to enlist support from the leaders of the different family line groupings. It indicates they discussed the issue with "elders" (names not specified) of the other major families -- Sweet (Davis), Willoughby (Davis), Enick (Kanim), Moses, Zackuse and Harriman (S. Barker 1993; Hinzman 1993).

¹⁷⁶ The only substantial family line group that was not consulted in the effort to defeat Lauzon was the Tomallum, to which Lauzon and Art Freese belonged.

Based on the evidence, the 1993 election was preceded by extensive political activity and widespread communication that involved all the major Snoqualmie family lines. In the same manner, the influential senior Forgue family leaders mobilized votes from throughout the membership for Andy de los Angeles as an alternative candidate to the incumbent chairman.

The Emergence and Election of Office Holders: Political Lobbying and Communication

Interpretation under the Regulations

One approach to identifying meaningful internal political processes in a petitioner with relatively informal organization is to develop information concerning how candidates come forward and are elected to the governing body. How members become successful candidates for office provides evidence to demonstrate a bilateral political relationship between the membership and the governing body and officers, and communication of political information, and thus evidence that the group meets criterion 83.7(c).

Proposed Finding

The proposed finding was not able to clearly establish how candidates for chairman or STO council became known to the membership and gained or lost support during an election. Nor could it adequately describe how officers maintain or lose support once in office. Interview information indicated that council candidates (in the modern community) did not usually become known through lobbying and politicking before their election at a general council meeting. Instead, they appeared to emerge and be nominated because they had participated at general council meetings, on committees or in other formal activities, had demonstrated an interest, and had time and resources to serve (PF Anthropology Report, 104).

The proposed finding concluded that some non-interview evidence indicated that candidates had come to the fore as a result of public opinion within the STO.¹⁷⁷ Based on limited evidence, the proposed finding also concluded that shifts in chairmanship since 1981 reflected public opinion of the membership in general¹⁷⁸ about the approach and effectiveness of the chairman.

¹⁷⁷ It cited particularly political movements in 1968 and 1978 when council membership changed and individuals indicated they were representing opinion among the membership not merely themselves (PF Anthropology 107, PF History 136).

¹⁷⁸ These opinions extended beyond the council members themselves.

Final Determination

The additional evidence for the final determination strengthens the proposed finding's conclusions that important avenues of influence, other than direct campaigning by a candidate, exist to bring forward candidates and establish support. This influence is shown by the role of family blocs during conflicts and political transitions discussed above. The description of these conflicts also strongly reinforces the proposed finding's conclusion, based on non-interview evidence, that public opinion significantly affects the promotion or defeat of candidates.

Direct campaigning by a candidate in advance of an election is of secondary importance. However, the new information from the interviews submitted by the Snoqualmie shows that candidates for chairman, and people backing them, sometimes campaign and contact members prior to meetings where the election is held.¹⁷⁹

The most important new information showing political communication concerned the three political conflicts which resulted in changes in chairmanship (above). The interviews submitted by the STO provide substantial, though not definitive, new information.¹⁸⁰ These interviews provide information which shows the extent of political communication in connection with efforts for the election or defeat of candidates for chairman. The new information shows that candidates for chairman, or people backing them, sometimes engage in some campaigning and contact prior to and outside of meetings where they are elected (see also discussion above).

¹⁷⁹ There was no information whether this was occurring with respect to candidates for the council.

¹⁸⁰ The anthropology technical report for the proposed finding noted that evidence of campaigning and communication existed, but stated that the interviews by BIA did not develop much direct specific information describing campaigning and communication (PF Anthropology Report, 104). A review for this determination of the BIA interviews developed information not utilized previously for the proposed finding. The BIA interviews, especially that of Ernie Barr, include some direct descriptions of specific examples of communication processes. They are useful information because they were not idealizations, although some specific information was not given because of the interviewee's reluctance to provide information that might provoke conflict if shared publicly (Barr 1991).

Families and Political Conflict

Proposed Finding

The proposed finding concerning criterion 83.7(c) found:

Family conflicts are considered a characteristic feature of general council meetings. There is no system of family representation per se, and the family lines do not function as highly organized blocks. However, they are one line along which political opinion is formed. There was no evidence whether or not family lines had functioned similarly in the past (PF Summary, 34).

The anthropology technical report for the proposed finding stated:

In part, existing conflicts between families are seen as coming out at General Council meetings (FD) [field data]. One leader urged that a dispute involving him and the family of one of his rivals be settled at the council meeting at which he was speaking because otherwise ". . . at the next general membership meeting, we will be pulled apart" (Snoqualmie Tribe 1987f) (PF Anthropology Report, 103).

The anthropology technical report also stated:

In another instance, members of one family line clearly referred to the "Forgues" as a bloc whose opposition they were concerned to avoid (FD) [field data] (PF Anthropology Report, 106).

Final Determination

The above analysis and description of political transitions shows that family line groupings are an important dimension of STO politics. They are instrumental in lining up political support for and against candidates for chairman.

The interviews submitted with the Snoqualmie response¹⁸¹ indicate that family line groupings have functioned as part of the Snoqualmie political structure at least since 1980 and probably since at least the late 1970's when the Forgues, particularly several "young Turks," appear to have become more prominent than previously.¹⁸² The new data and analysis reinforces the proposed finding's

¹⁸¹ The interviews also provided additional evidence showing family line conflicts as an important political process, and as a political problem to be solved.

¹⁸² The present predominance of the Forgue family line (see below) is an additional dimension to the political structure of the Snoqualmie that is made clear by the

conclusion that a major dimension of political alignment is along the lines of family groupings.

Family line conflicts in STO politics, according to the description by the present chairman, Andy de los Angeles, led to the re-institution of the office of chief in 1986. De los Angeles stated that during his first term as chairman, from 1984 to 1990, he was "getting into a lot of social issues. And having to be like a judge, jury kind of situation about family squabbles, basically community issues . . ." (de los Angeles 1993). A similar statement appears in his BIA interview (de los Angeles 1991). He concluded that such problems were better dealt with by someone other than the chairman.¹⁸³ The position of chief, which was reinstated in 1986 for this purpose, was different in form and entailed less political authority than it had under Jerry Kanim. It deals primarily with social issues bothering members (see discussion below).

In summary, a political structure in which family line groupings play a major role has existed within STO for at least 25 years. The new information does not fully flesh out the relationships between family groupings, but provides additional evidence that they exist.¹⁸⁴

This evidence and analysis further validates that there are significant political processes within the modern community by confirming the proposed finding's conclusion that conflict, which often shows political influence in high relief, is organized according to family lines.

new data and analysis. The interviews submitted with the Snoqualmie comments indicate that although the Forgue family line grouping is the most powerful political bloc (Sweet 1991; Sweet 1993; K. Barker 1993; Hinzman 1993), it consults with the others in making its political moves. Thus, all of the major family lines are involved in political decisions. The pattern of consultation appears in the ouster of a chairman or recruitment of a new chairman in 1980, 1984, 1990 and 1993. The Forgue interviewees implicitly see themselves as a central, moving force, even though they clearly consult with other families. Interviews with prominent members of other family groupings confirm this because although they portray themselves as less powerful in STO politics, they confirm their support for the political system, and affirm that the Forgues have consulted with them.

¹⁸³ This applies to the chief position as it was defined under the 1981 constitution.

¹⁸⁴ The information shows the key political involvement of the Forgues, Davis (Sweet and Willoughby in particular, sometimes separately identified), Moses, Zackuse and Tomallum family line groupings. Limited mention is made of the Harrimans, who probably played a more peripheral role. The Julia Pat Kenum (Snoqualmoo) line, adopted in the early 1980's and later ousted, played a political role for about five years, before leaving the STO after a political conflict with some of the major family lines.

Formalized Family Organization

Proposed Finding

The proposed finding concluded that the rather formalized model of family groupings and of regular meetings and communication within these groups, as described in the petition narrative, had not been adequately demonstrated (PF Summary, 30; PF Anthropology Report, 72-73).

STO Response

The STO made this subject a major focus of the additional interviews and the report on Modern Political Community (Tollefson 1995a).¹⁸⁵

Conclusions

The interview data presented for the Modern Political Community report (Tollefson 1995a) give fairly detailed and reliable evidence, from a variety of interviewees, that the Forgue family group maintains regular channels of communication and apparently does hold "family get-togethers" at which STO issues, including candidacies, are discussed.¹⁸⁶

Concerning the other major family line groups, the new interview data and the description in Tollefson's report are still too limited to be accepted. Thus, with the notable exception of the Forgue family bloc, the available data did not support the Snoqualmie claim that formal, organized intra-"family" political communication and decision-making processes exist. The proposed finding's conclusions are therefore not changed in this respect.¹⁸⁷

¹⁸⁵ Significant comments on this topic were not made by the Tulalip Tribes' reports.

¹⁸⁶ The descriptions in the interviews did not specify how frequently and over what span of years these meetings and communication occurred. However, the range of interviewees is broad enough, and the description of the character of events detailed enough to conclude that, within this major kinship group, at present, political communication and discussion is somewhat organized.

¹⁸⁷ It is not necessary that this degree of formalized organization of political processes be shown in order to conclude, as done in the proposed finding and the final determination, that there is significant political communication within the STO and that family line groupings play a significant role in internal political processes (see above). The new data does support the overall picture of STO political processes insofar as the Forgue grouping, the largest and the most powerful politically, is shown to use fairly well defined processes to make decisions and to formulate actions in the political arena.

The Political Role of the STO Chief and Subchiefs

Proposed Finding

The proposed finding found no significant evidence that the office of chief, in the form reinstated in 1986, exercised political influence or that the chief had been shown to be a political leader in any significant degree.¹⁸⁸ The summary evaluation concluded:

Although the Snoqualmie again appointed a chief in 1986, the role is considerably different than that of Jerry Kanim or 19th century chiefs. It was not demonstrated that the chief, and an associated council of subchiefs, in fact play a significant political role (PF Summary, 32).

STO Response

The STO report on Modern Political Community (Tollefson 1995a) includes a description of, and interview information on, the role of the modern post-1986 chief.

Tulalip Tribes' Comments

The Tulalip Tribes' comments repeat the proposed finding's conclusion that there was no significant evidence that the modern chief and subchiefs played a significant political role. They do not present new data or arguments.

Final Determination

The additional interview data provides some support for a conclusion that the chief does play some political role. The interviews provide some specific, concrete descriptions of the actions of the chief. This kind of information was lacking for the proposed finding (PF Anthropology Report, 100-101).¹⁸⁹ Thus there was not adequate evidence to demonstrate the claimed political role for these offices.

New interview data adds descriptions of specific actions taken by the chief. Chief Ernie Barr for example, says that he dealt with internal conflicts from time to time, and he also provides a specific description of a member's asking him to use

¹⁸⁸ The proposed finding concluded that there was not sufficient specific information to show that the chiefs and subchiefs played a role.

¹⁸⁹ The proposed finding had noted that descriptions given by interviewees of the role of the chief (and the subchief's council) were very general, idealized descriptions of what the role should be, with no specific examples to show actions were actually carried out.

his position to influence the council concerning a membership requirement issue (Bar: 1993).¹⁹⁰

The new information was still insufficient to change the proposed finding's conclusion that there was not sufficient evidence to show that the chiefs and subchiefs play a significant political role.

Post-1993 Conflict

Description of Snoqualmie Political Conflicts After 1993

After Chairman Ronald Lauzon was defeated for reelection as chairman in the May 1993 annual meeting, he challenged the validity of Andy de los Angeles' election. This led to a series of conflicts. Lauzon continued to represent himself as the legitimate chairman of the STO at meetings of Indian organizations and with BIA and other Federal officials, among others.¹⁹¹ In July 1994, Lauzon convened a meeting of his backers which purported to elect him chairman of the "Snoqualmie Tribal Organization." A council and other officers were also elected.

Because the Lauzon council was representing itself as the governing body of the STO, the STO council under chairman Andy de los Angeles brought the matter of which council was legitimate before a state court. This court ruled in 1995 that the de los Angeles council was the legitimate council and had been properly elected.¹⁹² The court enjoined Lauzon and his council from further representing themselves as the STO council (Fox 1995a, Fox 1995b).

¹⁹⁰ In addition, the Snoqualmie interview of the chairman, Andy de los Angeles, includes a description of the political circumstances for establishing the present position of chief at that particular time. He states that it was done so that there would be a separate official from the chairman, to deal with "social" problems that the chairman had been dealing with to that point (see discussion above of family grouping conflicts.)

¹⁹¹ The BIA found no reason not to continue to deal with the Andy de los Angeles council. It specifically declined to become involved as a mediator of the dispute between Lauzon and those allied with him or to review the STO election (AS-IA 1994).

The conflict is reviewed here only in terms of its relevance to a determination under 25 CFR 83 whether or not the STO meets criteria 83.7(b), 83.7(c), and 83.7(e). This final determination report does not purport to review the intricacies of the grounds of the challenges to the 1993 election and subsequent elections, or to evaluate whether or which STO rules and governing documents were followed or were not followed in particular instances.

¹⁹² The court ruled narrowly, focusing on evidence it concluded showed that the meeting which purportedly elected Lauzon in 1994 had not been properly held according to the procedures of the STO.

During the course of this conflict, various parties within the STO or allied with Lauzon submitted materials to the BIA.¹⁹³ As part of the conflict, challenges were exchanged concerning the legitimacy of Snoqualmie ancestry of Lauzon, de los Angeles, and others. The de los Angeles council at one point threatened to disenroll all members of the Tomallum family line, to which Lauzon belonged, on grounds that they did not meet the membership requirements for Snoqualmie ancestry. The de los Angeles council did not carry out this action, and included Tomallum family line members on the roll submitted for the final determination. The evidence submitted by the de los Angeles council did not change the determination that the Tomallums were Snoqualmie descendants. This information is reviewed separately under criterion 83.7(e).

Tulalip Tribes' Comments

Except for a statement in Robert Comenout's affidavit (Comenout 1994), no comments were received from the Tulalip Tribes concerning these events which occurred after the proposed finding was issued. Comenout stated his opinion that "given the recent split, I question whether the STO meets the criteria. Both factions are in there for their own interest" (Comenout 1994).¹⁹⁴

Analysis

The exact size and character of the group of individuals that supported Lauzon at one point or another in some fashion was not determined.¹⁹⁵ In addition to the conflict between the STO council and Lauzon and his supporters, some conflicts developed within the STO council and within those supporting it.

At some points in time, the Lauzon council was able to enlist the support of much of the Tomallum family line, apparently because of threats to disenroll them.¹⁹⁶ In addition, at least some members of the Moses family, including subchief Kenneth Moses, offered support at some points. There was an undetermined amount of support and involvement from members and leaders of the Julia Pat Kenum (Snoqualmoo) family that was briefly enrolled with the STO in the 1980's.¹⁹⁷

¹⁹³ Although not technically comments on the proposed finding, they do form part of the administrative record and include information concerning the social and political character of the STO. Therefore they are analyzed here briefly.

¹⁹⁴ The comment suggests his opinion that political divisions preclude the STO from meeting the acknowledgment criteria, but does not suggest that he views the STO as a voluntary organization for claims.

¹⁹⁵ The number of individuals, and their character, appears to have fluctuated substantially, depending on the course of events.

¹⁹⁶ Many of the younger members of this family line would not be able to demonstrate the 1/8th Snoqualmie ancestry to become a STO member without adoption.

¹⁹⁷ The Julia Pat Kenum line now forms a separate petitioner, the Snoqualmoo (see PF History Report, 145-146). Several of the leaders of that group were banished from

It was not determined what percentage of those who supported Lauzon at one time or another consisted of individuals who were enrolled on the STO membership list submitted for the proposed finding or the final determination.¹⁹⁸

There was no indication that Lauzon's supporters formed a distinct social group, or were a real faction within the STO. Support, even within the Tomallum line, fluctuated considerably between 1993 and 1996. With the exception of some of the Moses line, there was no significant representation from the other major family line groupings besides the Tomallums and the Snoqualmoo.

Conclusion

The conflict demonstrates continuity with the earlier political conflicts described above, to the extent it is partly based on family line differences. For example, the Tomallum family line subsequently realigned itself, at least in part, with other family lines within the STO (Freese 1995). The Moses family aligned with Lauzon, at least temporarily. This was apparently because of discontent with the dominance of the Forgue family and its closest allies.

There are also some differences in the conflict over Lauzon from previous conflicts. This difference was generated by the threat to remove an entire family line from the rolls. It is likely that many of the individuals supporting Lauzon were either unable to become members without the support of the other family lines for adoption, or eventually sided with Lauzon because of apparent threats by the de los Angeles council to remove the Tomallum family group from the membership list.¹⁹⁹

The conflicts and events following the defeat of Lauzon as chairman in 1993 provide evidence that significant political processes exist within the STO. They support the conclusion that the STO represents a stable group of family lines, rather than a collection of descendants. They also show that there remains a significant degree of social distinction between members and non-members,

STO membership in 1988.

¹⁹⁸ A complete analysis has not been done of the attendees at the meetings at which Lauzon's chairmanship was supported. An initial review indicates that a substantial number of individuals who are listed as attending and voting at this or other meetings of Lauzon's group appear to be persons of 1/16th or less Snoqualmie ancestry who, for the most part, had not gained adoption into the STO (see PF Anthropology Report, 89-90, re: adoptions) and thus were not members of the petitioner.

¹⁹⁹ The course of the conflict confirms the conclusion that maintenance of a blood degree requirement for membership represents an important social distinction for the STO, even though it may become an element for fighting a political conflict as well.

expressed in the maintenance of the blood degree requirement for membership. The charges made concerning ancestry are not untypical of internal divisions within any Indian tribe, and are consistent with the conclusion that there is a significant social recognition and definition of family line groups within the STO.

Proposed Finding Conclusions Concerning Political Processes not Addressed by Tulalip Tribes' Comments

Introduction

The following sections address portions of the proposed finding concerning criterion 83.7(c) for which no significant comment was received.

The General Council

Proposed Finding

The proposed finding concluded that the general council meeting of the membership was one of the prime political institutions of the Snoqualmie. The general council meetings were held annually, and sometimes more frequently. There was excellent evidence from a wide variety of sources that the general council functioned as the ultimate decision-making body for the STO. The functioning of the general council was one of the major elements demonstrating that the STO met criterion 83.7(c) from 1953 to the present.

The summary evaluation of the STO under criterion 83.7(c) of the proposed finding stated:

The general membership meeting (general council) has played a major role in Snoqualmie political processes from at least the 1960's until the present. It is the final arbiter of political issues and conflicts. The general council meeting provides clear evidence that there is a bilateral political relationship between Snoqualmie members and the tribe. More particularly, it connects the tribal council and the chairmen to the membership, both by electing them and by reviewing actions which are considered critical or controversial. The expectation and experience of Snoqualmie leaders is that the general council is a forum where public opinion is brought to bear. Any issue may be brought to the general council by a member. Attendance at meetings ranges from 10 to 35 percent of the membership, depending in part on the importance of the issues to be discussed. The fact that not all adult Snoqualmie can be shown to be directly participating in the general

councils does not conflict with this conclusion, given that a significant portion of the membership participates and that participation is broadly distributed among the membership (PF Summary, 28-29).

Tulalip Tribes' Comments

The Tulalip Tribes' comments do not directly address the proposed finding's specific description of the role of the general council. Partially relevant comments are made in the sections addressing the nature of annual meetings, whether they were held consistently, the extent of attendance at meetings, and their claim that there is no significant communication of leaders with members. These points are addressed in the respective sections of this report.

STO Response

Although the STO response does not directly address the role of the general council, the new interviews submitted by the STO contain additional evidence demonstrating the importance of the general council's role. The information appears in answers to questions about other political matters, such as movements to oust a chairman.

Conclusion

The interview evidence in the STO response is entirely consistent with the evidence in the record for the proposed finding which shows a widespread view that the general council is the final decision-maker for political questions within the STO and is thus evidence for political influence within the STO.

Generational Differences Concerning STO Leadership and Form of Governance as a Political Issue

Proposed Finding

The proposed finding summary evaluation of criterion 83.7(c) stated:

There is good evidence, consistent over a long period of time (1960's to the present), that opinion and concern over the actions of the Snoqualmie leadership and the form of that leadership have existed at large among the membership. These have been evidenced from time to time by generational differences concerning the Snoqualmie leadership and the form of government (PF Summary, 29).

The anthropological technical report stated with regard to the 1970's meetings of the STO:

These meetings reflect the concern older members expressed during Comenout's tenure over proposals to revise the governing document and procedures. Older members referred to the advice and teachings of Jerry Kanim, and cautioned against moving too fast into new forms and activities that they (the Snoqualmie) might not fully understand (PF Anthropology Report, 58).

Final Determination--Generational Conflicts and Style of Governance

A review and more complete transcription of the 1991 BIA interview with Robert Comenout²⁰⁰ confirms and strengthens the proposed finding's conclusion that the form and manner of tribal governance was a major political issue for the STO from 1968 until Comenout was ousted in 1980. It also confirms the proposed finding that this was an issue of concern to the membership in general, not just the governing council. The conflict resulted in the institution of major changes in the governing structure of the tribe in 1981 (PF History Report, 141, 149; PF Anthropology Report, 59).

The review of Comenout's interview demonstrates that the issue of the form of tribal governance was a long-standing one, predating his tenure as chairman, something which was not apparent for the proposed finding. He indicates that the issue had its genesis during the 1940's when, according to his description, traditional ways of holding meetings began to end and the Snoqualmie faced new challenges. He stated that after World War II:

The loss came there with the things of the world and the traditional way of our elders. It just caused turmoil within the tribe. This was the beginning of the conflict between the elders and the younger generation (Comenout 1991).

According to Comenout's own description, his approach as chairman was to change the ways of governance, to meet modern demands which he stated the "elders" were "not equipped" to handle. The documentary record confirms that he advocated strongly for revising the STO constitution and other changes and that his efforts met with considerable resistance from the membership as well as other Snoqualmie leaders (PF Anthropology Report, 57-58; PF History Report, 122) . In his BIA interview Comenout describes his differences with Judy Moses²⁰¹

²⁰⁰ This review involved making a more complete transcription of the taped interview.

²⁰¹ Moses was secretary or treasurer of the STO from 1962 until 1983 and was an

about how much to heed the views of the elders, who opposed change, versus how much to follow his beliefs that changes were needed in how the STO was governed.

Towards the end of his tenure, Comenout's political conflicts were no longer solely, nor perhaps even mostly, generational. Ironically, he describes opposing the "young Turks" of the late 1970's and early 1980's (much of the present leadership) because they wanted to move too fast and were not prepared to deal with governing. Opposition to him, reflected in common interview statements about his leadership style, indicate that, like any political system, there were multiple dimensions of alignment and varying issues operating. The conflicts involving him became focused on a conflict over the position of the chairman in relationship to the council.²⁰²

Review of Other Comments by the Tulalip Tribes Concerning 83.7(c)

Introduction

The Tulalip Tribes' comments raise a number of issues concerning 83.7(c) that are most appropriately addressed separately and directly.

Tulalip Tribes' General Arguments Concerning 83.7(c)

The Tulalip Tribes' comments, particularly the 1994 Nicklason report (Nicklason Research Associates 1994), dispute the conclusions of the proposed finding that criterion 83.7(c) was met and therefore that the STO was a tribe. A series of interrelated arguments are presented. One argument is that the STO was solely a voluntary organization organized for claims. A second is the assertion that there was little communication between leaders and followers. A third is a direct attack on the specific conclusions of the proposed finding that certain issues were significant to a large portion of the membership and thus significant evidence for criterion 83.7(c).

influential figure.

²⁰² The same conflict has recurred within the STO from 1980 on (see discussion of conflicts and changes in chairmen, above). It appears to have resulted from the changes after Jerry Kanim's death. The chairmanship had been an important, but somewhat subordinate office while Kanim was chief. After his death, with the chief's position unfilled, the chairmanship emerged as the most important office, but with some continuing questions as what its role and power should be.

Tulalip Tribes' Comments that the STO is a Claims Organization

Tulalip Tribes' Comment

The Tulalip Tribes' comments place heavy emphasis on an argument that the STO was only a voluntary organization of descendants formed solely to pursue claims and therefore, by virtue of this, not a tribe.²⁰³ Much of this argument consists of a general assertion that since the STO pursued claims, it was not a tribe, and a series of more specific detailed comments, with extensive accompanying documentation. The specific arguments concern documentation about the views of the Federal government concerning the STO, the STO's views of itself, the nature of the enrollment in the STO, the frequency and character of STO meetings, statements by Robert Comenout in his affidavit, as well as other issues.

Response: Interpretation of the Regulations

The Tulalip Tribes argue that because the STO pursued claims, and carried out functions related to it such as hiring an attorney, worked with witnesses and dealt with the agency on claims-related issues, they are a voluntary organization and not a tribe. This argument is flawed because pursuing claims does not in itself provide evidence one way or another whether a group is a tribe or simply a voluntary organization of descendants concerned with claims. These activities, in themselves, do not allow differentiation between a tribe and a voluntary organization because they can occur in either.

The proposed finding discussed this question:

The form that Kanim's reorganization of the Snoqualmie took after he became chief was stimulated by and reflected, though only in part, Indian movements which had begun 10 or more years earlier in the Puget Sound area to gain land and pursue claims against the Government. One common element in these movements was the creation of formally organized councils representing the interests of claimants to the rights of various historical treaty tribes. These organizational forms, however, were adopted by a variety of populations of greatly differing social and political character. Formal organizations at the time were adopted by reservation tribes and non-reservation tribes, but also by organizations which were largely made up of descendants of Indians who had assimilated

²⁰³ The Tulalip Tribes' comments which argue that the STO was a voluntary organization concerned with claims are reviewed here only for the years 1953 to the present, with reference to 1930 to 1953 as appropriate to evaluate the more recent period. Information concerning 1930 to 1953, relevant to the determination of previous acknowledgment, was reviewed above.

into the non-Indian population. *The adoption of a formal organization by a group of people such as those in the latter category meant that the existence of such an organization did not automatically demonstrate that the organization thus formed was a tribe and that the organization exercised tribal political authority within the meaning of these regulations or was the reorganization of an on-going more traditional tribal political system.* In contrast, the Snoqualmie were a traditional, culturally distinct community, fully part of Indian society and did not include significant numbers of Indian descendants. Its reorganization was the reorganization of an on-going political system [emphasis added] (PF Summary, 26).

To determine whether claims is a significant political issue for the purposes of 83.7(c), it is necessary to look beyond the claims activity itself to determine whether the issues involve a significant portion of the membership, and whether they are of more than minimal importance to these members. It is also necessary to look at the character of the petitioning group, to determine whether a bilateral political relationship exists within the membership.

Previous acknowledgment decisions have concluded that claims were likely to be a significant political issue where the loss directly affected the living members of the group.²⁰⁴ An example is loss of the land base on which the members had previously been living. However, where land was lost many generations earlier, this would not *in itself* show that a claim for recovery or payment is now an issue of such political significance among the membership that it is good evidence to show the group meets the requirements of criterion 83.7(c). It would not automatically meet the test of substantially affecting the lives of the individuals. The petitioner instead would be required to show directly by specific evidence that the loss for which a claims settlement was being sought had direct relevance to the members.

Response: Proposed Finding's Conclusions which are not Addressed

The Tulalip Tribes' comments insist that the STO is only a claims organization. This is a general argument which conflicts with the proposed finding that specific political processes exist within the STO. Tulalip Tribes' comments which address some of these political processes are discussed in the sections pertaining to specific points of evidence (see discussion of meetings, and political communication, below). However, many of the specific characterizations of political processes and leadership that formed the basis for the proposed finding

²⁰⁴ See for example Miami Nation of Indians Final Determination (AS-IA 1992, FD Summary 17, Technical Report 81-82).

are not directly addressed by the Tulalip Tribes' general argument that the STO is a voluntary organization for claims.

The demonstration that criterion 83.7(c) was met after 1953 did not rest on the activities of the STO in pursuit of claims. The finding did conclude, using other evidence, that one issue which the Tulalip Tribes characterizes as a "claims issue" was shown to be a significant political issue. There was significant evidence that treaty fishing rights were a significant political issue among a broad segment of the membership. (The Tulalip Tribes' comments on whether fishing rights are a significant political issue are reviewed below). Much of the proposed finding's conclusions that the STO met criterion 83.7(c) after 1953 (and those of this final determination as well) were based on good evidence that the members of the group maintained a significant political relationship with each other, shown through the character of the general council, mobilization of political support, and internal conflicts over political issues.

Documentary Evidence concerning STO Meetings and Council Actions

Tulalip Tribes' Comments

The Nicklason 1994 report (Nicklason Research Associates 1994, 133-139) analyzes the subject content of STO meetings between 1946 and 1971, and associated documents concerning council actions. It concludes that "treaty claims or claims related issues" (not otherwise defined) "dominated" in 23 of the 35 "special or council" meetings and was at least part of the subject matter in eight others. According to their analysis of annual meetings in the same time span, claims were discussed in 11 annual meetings for which there is adequate record, dominating the agenda in six. No mention is made of four other annual meetings at which, by implication, claims were not discussed. The report also states that the STO "spent a considerable amount of time dealing with the agency, its attorneys and other matters concerning contracts and the issues of the claims case," citing correspondence with the Western Washington agency and the like. This information is offered as evidence of the "claims nature, orientation and focus of the Snoqualmie group" (Nicklason Research Associates 1994, 133).

Response

The proposed finding concluded that there was frequent activity by the STO council surrounding claims in the 1946 to 1971 time period but did not conclude that the claims activity either proved or disproved that the STO met criterion 83.7(c) (see especially PF History Report, 106-115 *passim*). It was not determined whether claims were a significant political issue. The proposed finding found, for example, that fishing rights, which were not part of the claims

(Docket 93), "eclipsed" claims litigation as the primary STO issue during the 1950's (PF History Report, 103).

In addition, the minutes in this time period focus on formal actions, which during this time period often concerned claims, since this is the time period during which the action before the ICC and the subsequent award were most prominent.²⁰⁵ Since the STO held the attorney contract, and was the lead actor in pursuing the claims, even though it did not include all Snoqualmie descendants (e.g., those on the Tulalip Reservation), its meetings naturally include considerable focus on these issues during this period. At the same time, the Tulalip Tribes' comment that the minutes do not show a wide range of other formal governmental functions, such as dispute resolution, are correct. The non-reservation, unrecognized Snoqualmie would have had limited powers to carry out the kinds of governmental functions that the Tulalip Tribes point out were carried out by their government. This does not mean that significant political processes did not exist in the STO.

There is no discussion of how the prominence of claims issues at a meeting was measured, hence it is not possible to meaningfully evaluate the argument that claims "dominated" at certain meetings.²⁰⁶ Even under their analysis, however, claims "predominated" at a minority of the annual meetings from 1947 to 1971

Response to Comment on Political Communication

Tulalip Tribes' Comments

The Tulalip Tribes make a general argument that there is little or no evidence that members of the group are in communication with the group's leaders. Political issues are claimed to be "leadership issues," meaning that only the leaders care about them (Nicklason Research Associates 1994, 384, 394). They argue that the membership in general is not knowledgeable about what the leaders are doing and that the leaders' actions are not influenced by knowledge of the opinion of the members.

²⁰⁵ As noted below, minutes of organizations frequently do not reflect the full extent of political activities carried out, nor give evidence of informal political processes. Hence in and of themselves, the absence of information in minutes is not good evidence for the absence of political processes.

²⁰⁶ It appears that the Tulalip Tribes classified fishing issues as claims. Fishing issues have been determined, based on the overall body of evidence, to be a significant political issue (see below). Since this was a frequent item of discussion, exclusion of it from the analysis would likely reduce the number of meetings where claims predominated.

Language of the Regulations

Evidence that may be used to demonstrate criterion 83.7(c) includes:

83.7(c)(iii) There is widespread knowledge, communication and involvement in political processes by most of the group's members.

A wide variety of evidence may be used to demonstrate communication. The evidence may directly describe communication processes such as lobbying, visits, family meetings, and phone calls. Communication may also be shown "indirectly" by demonstrating that events and actions have taken place which would require communication processes and knowledge, or by showing that members and leaders have knowledge about leaders' activities and the issues they raise.

Proposed Finding

There was extensive *indirect* evidence for the proposed finding that communication occurred in connection with political activities. Indirect evidence was found in political processes such as the ouster of officers and the expressions of issues of group concern at meetings, because these could not exist without an underlying, precursor communication process.

The summary evaluation under criterion 83.7(c) said:

There is some evidence to demonstrate that, both presently and in past decades, broad public opinion has existed concerning various incumbent chairmen. There was little evidence of systematic informal campaigning for chairman or tribal council in advance of general council meetings (PF Summary, 29).

There was also a limited amount of direct evidence of communication. There was relatively little information to show that ideas and information about candidates for office were circulated, by campaigning or otherwise, prior to the meetings where they were elected.

Final Determination

The general argument by the Tulalip Tribes that there is no significant communication between leaders and followers is responded to in several sections of this report which discuss political processes. For this final determination there was more evidence which directly described political communication. Evidence that communication has occurred is also shown by the transitions in office holders, functioning of the general council, generational differences in political opinion, and other aspects. The interview and document descriptions of the contending sides and of differing opinions in political conflicts show that these

political processes are carried on by significant segments of the membership, not by individual actors at the meetings and other events. There was evidence of social and political ties and political opinion that extended beyond the immediate council and chairman and, hence, that communication between leaders and followers had occurred.

The newly submitted evidence and a review of the evidence for the proposed finding strengthens the conclusion that STO political processes include contact, communication, and interaction outside of the context of the annual meeting and extend beyond interactions involving office-holders alone.

Tulalip Tribes' Argument Concerning Federal Views of the STO 1950 to 1970's

Tulalip Tribes' Comments

The Tulalip Tribes argue in the Nicklason 1994 report (Nicklason Research Associates 1994) that Federal documents from the 1920's to the 1970's show that the STO was viewed by the Federal government as a claims organization (Tulalip Tribes 1994, 69-70; Jones 1991a, 29).²⁰⁷ The government documents cited after 1950 include planning documents for termination from 1950 to 1956, documents concerning the Snoqualmie claim under Indian Claims Commission Docket 93, and post-award documents concerning the development of a plan to pay the award.

Analysis of Indian Service Views before 1960

The STO became separately recognized by 1934 and was considered a tribe, not a claims organization, by the Federal government (see discussion above, under previous acknowledgment). The significance of previous, separate acknowledgment is that the STO was viewed until January 1953 as a tribal group.

A particularly relevant and important source of documentary information from the time period when the STO was separately acknowledged as a tribe is a 1941 letter giving the views of long-time Tulalip Agency Superintendent Oscar C. Upchurch. In an April 8, 1941, letter to Commissioner John Collier, Superintendent Upchurch clearly distinguished the STO from a claims organization. He described the STO as a small band "headed by Jerry Kanim" which had received no allotments or other treaty benefits, but which had "increased in number and

²⁰⁷ Only the arguments and documentation from January 1953 to the present need to be reviewed here, because of the determination of previous Federal acknowledgment. Relevant government documentation from 1934 to 1953 was reviewed above in the context of that determination.

have been joined in their recent claims protest by Tulalip Allottees and their landless descendants of Snoqualmie blood, and also by Indians of Snoqualmie blood affiliated on the Yakima Reservation" [emphasis added] (Upchurch 1941b). Upchurch continued that the STO had been meeting "periodically for a number of years" under Kanim's general guidance. Upchurch estimated that the number of adult members of Snoqualmie blood who were unattached to any reservation numbered about 100 (Upchurch 1941b). Thus he clearly considered the STO to be a tribe, but with additional affiliated individuals who, at least in part, were enrolled in other tribes. Many of these individuals were probably not actually part of Jerry Kanim's band. It is largely these individuals who withdrew from or were taken off the STO rolls during the 1940's as tribal enrollments of the STO and the Tulalip tribes were revised (PF Anthropology Report, 62-63).

Good evidence showing that the Federal government viewed the STO as a recognized tribe is demonstrated by how they are listed in termination planning documents from 1950 until 1953.²⁰⁸ These documents clearly characterize them as a recognized, public domain tribe, and distinguish them from organizations which the Bureau characterized as groups with which it had begun to deal only in a claims context, beginning approximately in 1950 (Bitney 1951e). About such groups, the Portland Area Office stated in 1952:

There have been several tribes or bands under the jurisdiction of the Western Washington Agency with whom we have never had any previous dealings but who have come forward under the urgency of the Indian Claims Commissioner Act to file claims as bands or tribes (Towle 1952).²⁰⁹

Only after 1955 was STO consistently classed together with organizations that do not appear on the 1953 and earlier lists of recognized tribes cited above²¹⁰ and only after 1955 was STO characterized consistently as a claims organization rather than a tribe. In 1955 they are categorized together with groups that the Area Director characterized as "recent responsibilities" resulting from claims (Foster 1955). The change in Federal view evident in the later reports probably

²⁰⁸ The analysis of historical documentation in the section demonstrating previous Federal acknowledgment of the Snoqualmie addresses the documentation between 1950 and 1961 in more detail.

²⁰⁹ Some of the termination era documents which refer to the Snoqualmie as a "public domain tribe" (i.e., a recognized, non-reservation tribe) are cited in the Nicklason report and included as exhibits (Upchurch 1944e; U.S. Congress. House of Representatives 1944).

²¹⁰ Between 1953 and 1955, the Snoqualmie are characterized both as a tribe and as a claims organization, in different, more or less contemporaneous Federal documents.

reflects the effects of the full implementation of the termination policy that there was no Federal responsibility for tribes with no trust land.

Analysis of Federal Views from 1961 to 1978

The proposed finding reviewed numerous Federal reports and documents on the STO from 1961 to 1978 pertaining to claims, fishing rights and the judgment award in Docket 93. Although the Nicklason 1994 report (Nicklason Research Associates 1994) cites additional documents, they do not differ significantly from the documents reviewed for the proposed finding (Nicklason Research Associates 1994, 156-163). In a number of cases, such as congressional legislative reports, they appear to be substantially derived from agency reports and not to represent additional investigations. And, a 1963 Associate Commissioner's letter which deals generally with landless Washington State groups (Officer 1963) does not differ substantially from a similar 1966 letter (Officer 1966). The technical reports for the proposed finding reviewed this documentation in detail and concluded that the Federal government's position in this era was that the STO was a voluntary organization for claims and that it was not a recognized tribe (see for example, PF History Report, 107, 112-113). However, the proposed finding reached a different conclusion concerning the character of the STO, based on the other evidence and analysis presented in the proposed finding. The proposed finding and the final determination conclude that the Federal Government's characterizations of the STO from 1961-1978 were incorrect.

The Nicklason report (Nicklason Research Associates 1994) cites U.S. briefs filed with the Indian Claims Commission in response to the Snoqualmie claim (Nicklason Research Associates 1994, 144-146, 152). These briefs take the same position as agency and congressional claims reports, that the STO was only a group of descendants. It also cites several of the ICC findings of fact. The ICC's final conclusion about the STO was that it was "an identifiable group" of Snoqualmie, not a tribe but having sufficient connection under the ICC act to bring the Snoqualmie claim (PF History Report, 112). Although the ICC concluded that the STO was not a tribe, the character of the group was not at issue before the ICC, which did not hear extensive evidence concerning the character of the group.²¹¹ Thus its conclusions are of limited value on this question of tribal status.

²¹¹ The claims commission decided whether a historic tribe had sustained a loss (usually in the 19th century) compensable under the act, and whether the group bringing the claim had standing, but did not decide who the present-day beneficiaries of an award were.

Robert Comenout Affidavit Statements Concerning Tribal Political Existence of the STO

Tulalip Tribes' Comments

The Tulalip Tribes' comments rely heavily on a number of statements in Robert Comenout's affidavit (Comenout 1994) about the functioning of the STO as evidence that it was only a voluntary organization for claims and as evidence against the proposed finding's conclusion that meaningful political processes existed within the group (see for example, Tulalip Tribes 1994, 28-32; Nicklason Research Associates 1994, 138, 317-319, 325, 408).

General Response

The Tulalip Tribes' comments do not contest the contents of the 1991 BIA interview with Comenout conducted during the field research trip to evaluate the petitioner. For the reasons described in the general section reviewing Comenout's affidavit (see below), the BIA interview is the more credible as well as the more detailed source of information. The BIA interview was reviewed for the final determination, with a new, more complete, transcription made. The interview supports a number of the proposed finding's specific conclusions about political processes within the STO and provides more detail and context than the brief statements in the affidavit.

In the interview, Comenout talked at length about modernizing the government structure of the STO, generational conflicts over the form of governance, Jerry Kanim's style of leadership, the lack of recognition and Kanim's efforts to gain it, and other matters and events. He discussed these matters in terms of the Snoqualmie's being a tribe, and described many aspects and details. He was concerned with the functioning of the tribe, not merely complaining that rights had been taken and claims had not been paid. For example, he commented on the strength and importance of Jerry Kanim's leadership and described how he led. His comments did not indicate any doubt about these matters (see also discussion of the 1956 "transition period"). STO minutes from the period of Comenout's chairmanship, in which he presses for fishing rights, land, and limitation of enrollment, are consistent with a view of the STO as a tribe, not as a claims organization (STO 1969a, STO 1969d). Comenout's affidavit statements cited by the Tulalip Tribes as evidence that the STO functioned only as a claims organization and not as a tribal political body are therefore not given much weight.

Some of the affidavit statements appear, in the light of the more detailed discussion in the interview, to be statements of frustration that during his tenure as chairman he was not able to move the Snoqualmie in directions he wanted to go. His complaints that it was a "do-nothing organization" are consistent with, and

most likely reflect, the political conflicts and differences that Comenout had with other STO leaders while he was chairman (PF Anthropology Report, 58-60; PF History Report, 140-141).

His criticism in his affidavit that nothing was accomplished clearly refers to the fact that, because of political opposition, he was unable to implement many of the changes that he thought were important. In his interview with BIA he states:

People asked me why I put up with the hassles. I sometimes look at my 10 years in the tribal system as a total waste and then again I look at it and see the tribal heritage that they have been able to hang on to, at least we've kept that, so the benefits are there (Comenout 1991).

His statements describe a tribal political system which is impeded by conflict, or reveal a frustrated leader whose efforts are blocked by opposing political forces. The lack of action as perceived by Comenout does not provide evidence that the STO was a voluntary organization and not a tribe. Failure of a governing body to act or implement specific programs or changes is not in itself evidence that it is not a governing body.

Fishing Rights as a Political Issue

Tulalip Tribes' Comments

The Tulalip Tribes assert that fishing rights were not a significant political issue for the STO and thus not evidence for meeting criterion 83.7(c). They argue first that interest in fishing rights was inherently a claims issue and that the documentary record illustrates this (Nicklason Research Associates 1994, 168, 170). They also argue that there is no "direct evidence" that this was other than a "leadership issue," something raised by the leadership with no evidence that the membership at large had any interest in it (Nicklason Research Associates 1994, 384). They also argue that the STO minutes do not show much discussion of fishing, as evidence that there was little interest in fishing.

STO Response

The STO response included interview and documentary materials concerning fishing before as well as after 1953 (Baxter 1993, Turner 1995). These comments for the most part duplicated materials already in the record. There was some additional interview information which confirmed and added detail to the proposed finding's description of post-1953 fishing.

Proposed Finding

The proposed finding concluded concerning the decades before 1953:

Gaining land for the Snoqualmie to settle upon and the maintenance of fishing and hunting rights under the treaties were two issues that Kanim spoke powerfully about to the Snoqualmie all his life. Kanim pursued these issues with Federal, state, and local authorities throughout his tenure. Kanim came into office during a period when the Snoqualmie had recently lost their off-reservation lands. At the same time the completion of the allotment of reservations left many eligible individuals landless because there was insufficient reserved land. Hunting and fishing rights were of great importance because the Snoqualmie hunted and fished extensively for subsistence purposes. Access to traditional hunting and fishing grounds was becoming increasingly limited because of competition with non-Indians and increasing[ly] restrictive game and fish laws. Land and hunting and fishing rights were thus clearly issues of significance and concern to the Snoqualmie as a whole (PF Summary, 25).

The proposed finding noted that during the 1940's the Tulalip Agency sought to obtain a reservation for the Snoqualmie in the Tolt Valley and provided the tribe assistance in the negotiation of hunting and fishing rights with the State of Washington.

The proposed finding also concluded that, "Generational conflicts over political issues have been evident in Snoqualmie political processes since the 1968 election of Robert Comenout." It gave as an example, conflict over the proper approach to seeking restoration of fishing rights:

These conflicts have taken a form which indicates that a broad spectrum of public opinion among the Snoqualmie is involved rather than just the actions and opinions of particular individuals (PF Summary, 30).

The proposed finding stated further:

Hunting and fishing rights have been a consistent concern addressed by the Snoqualmie council and leadership throughout the period between 1956 and the present. Some fishing continued under ordinary license or under temporary treaty rights between 1971 and 1979 during the U.S. v. Washington litigation. Regaining hunting and fishing rights is one reason voiced for

seeking Federal acknowledgment. It is likely that fishing remained an important part of Snoqualmie subsistence until World War II, and for some time later for some Snoqualmie. There is good evidence that public opinion among the Snoqualmie up until the present has remained strong concerning the loss of fishing rights. Thus, there is good evidence that fishing rights is a political issue of substantial significance and concern among a wide portion of the Snoqualmie because the effective loss of access to these rights is recent and there is continued widespread interest among the members (PF Summary, 29-30).

Response

The 'Tulalip Tribes' comments include documentary information from the period between 1930 and 1953 as well as afterwards. The comments pertaining to 1930 to 1953 are addressed here because this time period provides evidence and background to the attitudes of the STO members after 1953 to the present which are evidence of political influence within the STO. These attitudes are part of the demonstration that fishing rights are a significant political issue.

The 'Tulalip Tribes' comments characterize fishing rights as "inherently a claims issue" because they are derived from and thus linked to treaty rights. The relevant determination, however, is the degree of interest and importance the ability to fish has for the membership.

The proposed finding historical report details the strong efforts made by the STO to protest state limitations on Indian fishing rights off-reservation (PF History Report, 65-67). The historical report describes arrests of Snoqualmie fishermen in 1930, 1933, 1934, and 1937. The STO met to consider how to deal with this problem, and Jerry Kanim sought the agency's help.²¹² The STO in 1934 obtained the support of the fisherman's association in Tolt (where the tribe was historically centered) for its fishing rights.

The Nicklason report (Nicklason Research Associates 1994) stresses evidence which it interprets to mean that the STO members preferred payment to the rights themselves. The primary source record documents cited by the Nicklason report do not, even in themselves, show that the interest in fishing rights between 1930 and 1953 was a preference for payment rather than rights. Documents from the 1940's show that the STO push for fishing rights was not a claims movement seeking money, but an effort to regain the rights themselves. The documentary record clearly indicates that in the 1940's there was considerable debate within the

²¹² These reports are entirely consistent with oral history obtained in 1991 (PF Anthropology Report, 107).

STO on the issue of fishing rights. At this time, they were a recognized tribe and were experiencing conflict over off-reservation fishing, like other Washington State tribes. The documents show for example that the STO decision on a 1940 claims bill was shaped by their own perceptions and legal advice about what would be possible to achieve. Ultimately, they were advised that they could only get restitution through payment, and that this required explicitly ceding their rights.

This advice is illustrated by the 1940 minutes (cited by the Tulalip Tribes' reports) of a STO meeting with their attorney Arthur Griffin (Nicklason Research Associates 1994, 168). Government officials at the meeting told the STO membership that their proposed claims bill would not pass without giving up their fishing rights in exchange for payment. The choice as presented was monetary compensation or nothing in the foreseeable future. The minutes stated that Chief Jerry Kanim "didn't want to give up his rights as to fishing and hunting, and asked the membership to express their opinion and not to be afraid." Kanim moved against giving up the rights, and for asking to change the proposed bill. He also is quoted as saying, "which do you want, fish or money. Senators won't go for both" (STO 1940a).

The political importance of fishing rights within the STO is also shown by an account of a 1941 meeting of the Snoqualmie concerning Jerry Kanim's move at the beginning of World War II to set aside the efforts to gain a reservation and fishing rights until after the war. The account of the meeting indicates that this was unpopular among some of the Snoqualmie. It caused debate and was particularly opposed by younger members (*Seattle Times* 1941).

Government documents from the 1940's and early 1950's also show that the movement to defend and regain fishing rights in Washington State was not limited to the Snoqualmie, but was shared with the Tulalip and other recognized tribes. Further, Snoqualmie chief Jerry Kanim played a leading role in these efforts. The documents show meetings of Indian delegations, including Kanim and individuals from other recognized tribes, with state fisheries officials, as part of a negotiation process from 1946 through at least 1951. The agency did not treat the STO as a claims organization in this process, nor did it treat the effort for fishing rights as an attempt to gain monetary compensation (Gross 1946b; Anonymous 1949; Skagit Tribal Organization 1950).

The Tulalip Tribes' comments reject the significant interview data cited for the proposed finding that showed significant fishing activity until the late 1950's, and continued strong interest in fishing rights after that point, derived from the preceding Jerry Kanim era. The oral history shows that in Jerry Kanim's day there

was active fishing, and frequent actions to protest the reduction in fishing rights that was occurring at that time (PF History Report, 65-66).

The Nicklason report (Nicklason Research Associates 1994, 401) cites an affidavit statement by Robert Comenout (Comenout 1994) that there was little interest in fishing before he became chairman "in 1969." The body of data reviewed for the proposed finding indicates that there was little fishing actually going on in the two decades before treaty fishing became temporarily available to the Snoqualmie under the initial Boldt decision (PF History Report, 65-66; PF Anthropology Report, 107-108). Comenout's statement may therefore refer to the actual fishing activity during the early 1970's as a result of the litigation since he, as chairman, submitted a sizeable list of Snoqualmie fishermen to the State fishing Commission in 1975 (Comenout and Sennhauser 1975). In any event, his statement does not outweigh interview information gathered from a variety of sources and documentary evidence which confirm the significant post-1953 membership interest, which was firmly rooted in the preceding decades.

Comenout as chairman did push for fishing rights. In 1969, he and other leaders such as Juanita Carpenter influenced the tribe to vote 27 to 5 to reconsider the acceptance of the claims payment, in the light of "new information" which they felt would allow them to recover fishing rights rather than have to accept monetary compensation. This indicates fishing rights were an important political issue in 1969 (STO 1969a).

The Nicklason report (Nicklason Research Associates 1994) cites evidence which it concludes shows that there was no interest in fishing among STO members and therefore it was not a political issue. It cites two lists of individuals from 1973 and 1975 (listing 33 names) who sought to fish in the early 1970's under the temporary rights the Snoqualmie exercised under the Boldt decision (Nicklason Research Associates 1994, 401-402). It fails to cite the larger estimates of 70 tribal fishermen that Comenout himself submitted to the court in 1975 (Comenout and Sennhauser 1975, 21-22; PF History Report, 65-66; PF Anthropology Report, 108).²¹³ The proposed finding anthropology technical report concluded, after examining all the evidence, that the number of actual fishermen between

²¹³ Oral history information from BIA interviews with Earnest Barr and Mary Ann Hinzman is cited by the Nicklason report (Nicklason Research Associates 1994, 402-403) in support of their argument. The cited comments refer to the number fishing for a living, not the level of interest. A statement by Comenout in his affidavit, that he was told nobody was interested in fishing in 1969, appears to reflect the fact that fishing had become dormant by that time, and the fact, consistent with the proposed finding, that the amount of interest increased after the Federal court in the early stage of the U.S. v. Wash. ngton made fishing possible again.

approximately 1971 and 1978 was between 20 and 30 (PF Anthropology Report, 108). Given that the Snoqualmie had been unable to exercise treaty fishing rights from the 1940's until 1971, this is a substantial number of actual or potential fishermen in relation to the total membership. In all likelihood, the number of actual or potential fishermen is smaller than the total number of members who considered fishing rights an important issue.

The Nicklason report (Nicklason Research Associates 1994, 395-399) argues that fishing rights came up infrequently at annual and other meetings of the STO, showing that it was not an important political issue. The report argues further that, because the attendance at those meetings was not large, in their view, that there was no evidence that fishing rights concerns had been communicated from the leadership to the membership. While evidence that large numbers of individuals had attended these meetings would be good evidence of their exposure to this issue, the other evidence cited here that fishing rights have been of concern for a very long time shows that communication to and from leaders has occurred.

Even though meeting minutes are only one form of evidence among many and are primarily evidence of formal actions, and even though the documentary record of meetings is incomplete, the meeting dates cited in the Nicklason report (Nicklason Research Associates 1994) and the proposed finding history report (PF History Report) for the 1930's show that fishing rights have been raised at Snoqualmie meetings from 1930 into the 1980's. From 1930 to 1940 and 1950 to 1970, fishing rights were an issue raised at a minimum of six annual or special meetings in each decade for a period of 40 years. The report does not analyze the number of meetings at which the issue came up from 1974 to the present. The proposed finding concluded that fishing rights continued to be an issue that was raised at meetings throughout the 1970's and into the 1980's as a reason for seeking acknowledgment (PF Anthropology Report, 57, 59, 63, 107, 109; PF History Report 128, 134, 135, 147, 149).

Petitioners are not required to show exactly how many individuals are involved in a particular political issue in order to show that a political issue is more than a "leadership issue." Specific, detailed, qualitative information, such as that discussed here, is more than sufficient to show that fishing rights, or other issues, are issues of broad interest to the membership and not solely something of interest to the leaders. A fundamental requirement is to show, as has been done here, that there is a political structure which links membership and leadership and through which communication and influence flow. It is strong evidence to show, as has been done here, that there was interest, debate, and communication over the particular issue of fishing rights.

Land Rights as a Political Issue

Tulalip Tribes' Comment

The Tulalip Tribes contend that the STO's efforts to obtain reservation land during the 1940's were restricted to a few leaders and was not a real political issue. They contend further that the membership actually preferred payment of money, indicating that the STO was just a claims organization. The Nicklason report (Nicklason Research Associates 1994) also cites an affidavit statement by Robert Comenout (Comenout 1994) that he had opposed the Snoqualmie acceptance of the claims award in 1968, because unlike the membership, he had wanted them to hold out for land.

Proposed Finding

The proposed finding concluded that land was a major concern before 1950, and one which Jerry Kanim had forcefully pursued (PF Summary, 25), but there was insufficient evidence to show that land remained a significant political issue in the 1950's.

Response

Because the Snoqualmie were recognized until January 1953, a response is not necessary to the comments concerning land as a political issue within the STO before that point. However, it is unlikely that the Indian Service would have engaged in efforts spanning a decade to seek land for the tribe if Jerry Kanim alone was interested in a reservation (see analysis of previous acknowledgment above). The Nicklason report (Nicklason Research Associates 1994) quotes Evelyn Enick in 1944 as saying that they should only accept claims money if it could be used for land (Enick 1944). Thus the Tulalip Tribes' comments are not entirely consistent on this issue.

Since the proposed finding did not conclude that land was a significant political issue after 1952, there is no need to review in detail the Tulalip Tribes' comments on this particular matter.²¹⁴ The Indian Claims Commission Act did not provide for the possibility of provision of land as the settlement of a successful claim. Only monetary compensation was permitted. Thus acceptance of a monetary payment must be viewed in this context.

²¹⁴ The documentary record is not sufficient to establish that it was a political issue, but also does not establish that there was no interest in land and a preference for a cash payment.

Interpretation of STO Response to the Termination Era

Tulalip Tribes' Comment

The Tulalip Tribes argue that the STO response to termination era policies demonstrates that it was a voluntary organization formed for claims and not a tribe. The Nicklason report cites several documents indicating that the Snoqualmie opposed termination if it would adversely affect their claims (Nicklason Research Associates 1994, 171-174). It notes particularly documents concerned with the effect of the proposed termination act on their fishing rights under the treaty. It argues at length that because the STO was concerned that termination would negatively affect their fishing rights, this evidence establishes that the STO was established only for the pursuit of claims and was not a tribe.

Response

The position that termination not be enacted until claims issues were settled was not limited to the STO. A look at the broader documentary record of the time demonstrates that this was a general concern of landless tribes, reservation tribes, and the unrecognized claims organizations in western Washington, because the purpose of the proposed termination was to end all Federal responsibility of any kind.

Planning for termination began in approximately 1951 and continued actively until at least 1956. A draft Western Washington Termination Act was proposed in 1953 and discussed in a series of meetings with western Washington Indians, but was never enacted.

The linkage of termination and claims was established by Federal policies of the time, not by the STO. One reason for the concern of the tribes, reservation and non-reservation, and of the unrecognized groups, was that the proposed termination act and the associated "withdrawal planning" did not refer to termination of tribal existence but to termination of Federal responsibilities of any kind (see Towle 1952; Sacks 1953; Foster 1955). It is for this reason that unrecognized claims groups as well as recognized tribes, reservation and non-reservation, were consulted at various points in the early 1950's.

A 1955 letter to the Commissioner of Indian Affairs from the Portland Area Director strongly opposed an "omnibus termination bill." It advised that any such bill was unwise until the Indians' requirements, "solidly presented" by the Western Washington Indians, were met. These requirements were settlement of their claims against the United States and protection of their hunting and fishing rights (Foster 1955; Libby 1953). Appended to one of the Nicklason (Nicklason Research Associates 1994) exhibit documents, cited in connection their argument concerning Snoqualmie views, is a 1952 resolution from the Tulalip Tribes,

expressing the opinion of a general meeting that claims be settled before termination was accomplished (Tulalip Tribes 1952). Thus the Snoqualmie position was the same as that of Western Washington tribes in general, including the Tulalip Tribes, and thus is not evidence that STO was only a claims organization.

In addition, the STO was still considered a recognized tribe during the initial phases of termination planning. Only two years earlier, in 1950, the Snoqualmie, led by chief Jerry Kanim, were, with the aid of the local agency, in the lead in a multi-tribal effort to press protection of fishing rights which included the Tulalip and other reservation tribes (see above discussion of fishing rights).

Membership and Enrollment as Evidence of Being a Voluntary Organization Based on Claims

Tulalip Tribes' Comments

Part of the Tulalip Tribes' argument that the STO was a claims organization is that its enrollment was maintained solely for the purposes of claims (Nicklason Research Associates 1994, 174). Most of these documents cited in support of this argument are from the 1960's and 1970's, the period of greatest activity in claims.

Several of the documents cited by Nicklason appear to indicate a concern on the part of the STO that expanding its enrollment for the claims award would encompass many more individuals than were presently enrolled (Nicklason Research Associates 1994, 175; James 1950b). In addition, several agency documents are cited as "evidence that the BIA central office" "understood that the STO enrollments were kept to determine claims eligibility (Holm 1955). In support of an argument that the Tulalip Tribes viewed the STO as a claims organization, the Nicklason report cites Tulalip Tribes' documents from 1961 and 1967 concerning the Tulalip Tribes' membership requirements and roll, and a 1994 affidavit by Wayne Williams (Williams 1994). Also cited are statements in Robert Comenout's affidavit (Comenout 1994) concerning the incompleteness of the enrollment when he became chairman in 1968.

STO Response

The STO response points out that the Federal government treated the STO in the 1940's and early 1950's as a tribe and in particular treated their enrollment as a tribal enrollment (Pennoyer 1995b, 5-6). It cited documents which were reviewed for the proposed finding and cited in the technical reports but did not provide additional documentation.

Response

Nicklason (Nicklason Research Associates 1994) cites 1950's agency statements of its view that the STO enrollment was solely for claims. This view, however, is contradicted in 1950 by the agency's equal treatment of the STO roll and the Tulalip Tribes' roll as tribal rolls,²¹⁵ and by other documents.

It is only later that government documents characterize the STO enrollment as a claims organization, after the government's view of the Snoqualmie had changed in the era of termination and the activity surrounding the Indian Claims Commission. The Snoqualmie award in ICC Docket 93 was settled in 1968. The payment was made on a descendency basis to all individuals alive in 1971. Federal documents from the 1960's and 1970's in connections with the planning of the payment of this award generally characterized the STO as a claims organization and its enrollment consequently as an enrollment for claims.

The Nicklason report (Nicklason Research Associates 1994) places great weight on the 1968 BIA report (Western Washington Agency 1968a) on implementing the claims settlement. It cites report statements which assert that membership in recent years had not been based on blood degree but on descendency and "association with the group." The report stated further that, "We do not believe that the descendency of those accepted in recent years has been verified and that they have been able to register if they paid a fee." There is no corroborating evidence, even in Comenout's affidavit (Comenout 1994), that members were accepted without verification. There is extensive oral history and documentary evidence that a blood degree was established in the 1940's (see discussion below) and that an internal verification process was always conducted (Moses 1961, 58; PF Genealogy Report, 2-3). The Nicklason report in a later section accepts the 1968 agency's characterization of the STO enrollment as "enrollment on the basis of descendency" and "association with the group"²¹⁶ (Nicklason Research

²¹⁵ Earlier in the 1940's, the Western Washington Agency's superintendent discussed STO enrollment and treated it as a tribal enrollment. Upchurch worked with the STO, urging it to maintain its membership roll. The distinction between tribe and voluntary organization is made clearly by Superintendent Upchurch in discussing the membership of the STO in 1941. Upchurch distinguishes between STO tribal members and others from Tulalip and Yakima who may have become affiliated for purposes of claims (Upchurch 1941b). This is consistent with Jerry Kanim's expression of concern in 1944 that individuals were attempting to join who "did not belong" (Kanim 1944d) and STO's own descriptions, by Jerry Kanim and others, of its enrollment, found in the documents (STO 1949d; Gross 1949e).

²¹⁶ That characterization, at the heights of claims activity, is supportive of the conclusion that the STO was more than a temporary association of descendants for a single purpose. In accepting the agency's 1968 statement, it characterizes the STO membership as being more than simply descendance and recognizes some historical

Associates 1994, 308), but despite this asserts that "the group existed not for purposes of social community but for the pursuit of treaty claims" (Nicklason Research Associates 1994, 353).²¹⁷

The Nicklason report (Nicklason Research Associates 1994) also cited STO minutes which discuss enrollment in support of its argument. One is a 1968 document which states that the STO wanted to close its rolls (Nicklason Research Associates 1994, 177).²¹⁸ Also cited are some of the available STO minutes from the 1950's and 1960's which indicate that there was sometimes a concern over expansion (e.g. STO 1950b). However, this appears in the context where an ongoing tribal organization was considering whether it should take the position that the claims payment be made only to its members, or to all individuals of Snoqualmie descent, whom it would then have to enroll. In the first decade or so after the claims were filed with the ICC, groups in the Puget Sound area which had filed the claims and parties authorizing attorney contracts were under the impression that the awards would be paid to the groups, based on their membership rolls. Consequently, some confusion arose on the part of the STO whether they would have to enroll everybody who was eligible for the claim, in effect adapting their roll to be a claims roll.

However, by 1962 the Bureau's representatives had made it clear that the payment would be made on a per capita basis to all descendants of a historic tribe, whether a member of the group which brought the claim before the ICC, a recognized tribe, or otherwise (STO 1962a). The motion to close the rolls in a 1968 meeting came after BIA representatives had specifically stated in that meeting that there would be no advantage because the award would be paid to all descendants (STO 1868a; PF History Report, 110-111). Thus, by this point, there would have been no incentive for the STO, as far as claims payments were concerned, to either enroll more members or to seek to limit enrollment. There also would have been no incentive for the numerous other Snoqualmie descendants in the region to enroll in the STO.

The 'Tulalip Tribes' response (Nicklason Research Associates 1994, 416) cites an affidavit statement by Robert Comenout (Comenout 1994), that when he became chairman in 1968 there were 118 unapproved memberships which were approved

coherence to the membership.

²¹⁷ It argues that other evidence about the STO described in their report, not the evidence about enrollment, is what demonstrates it is only a claims organization.

²¹⁸ In most instances where claims are awarded, the number of descendants of the historic tribe that sustained the loss, usually in the 19th century, will be significantly larger than the currently existing tribe. Over time, many individuals or their descendants join other tribes or cease to belong to any tribe.

after he became chairman, as evidence that enrollment was for claims. The significance attributed by the Tulalip Tribes' response to the unapproved memberships is not clear. Another separate document was also cited (quoting Judy Moses) which indicates that the membership lists were not well kept up during the 1960's (STO 1962a; STO 1972a).

These facts are consistent with the conclusion that the level of organizational activity declined after 1956. Testimony by Judy Moses in 1961 before the Indian Claims Commission stated that there were "lots of kids" that were not enrolled, indicating simply that the roll was not up to date (Moses 1961). She also stated that new enrollees were generally known to the council.

The fact that the STO enrollment was not complete in 1968 does not support the Tulalip Tribes' argument that the STO was therefore a voluntary organization for claims only, or that the roll was kept only for claims purposes. It was not uncommon for the rolls of even recognized tribes to be less than complete in the 1950's and 1960's.²¹⁹

The Nicklason report (Nicklason Research Associates 1994, 148-149) cites 1961 and 1967 documents of the Tulalip Tribes concerning membership requirements. According to a 1994 affidavit from a tribal official who worked on those requirements (Wayne Williams 1944; Jones 1994, 21) the Tulalip Tribes forbid dual enrollment with recognized tribes but not with organizations such as the STO, because the STO was not viewed as a tribe.²²⁰

²¹⁹ A 1955 agency report stated that the last roll of the Tulalip Tribes had been prepared in 1942 and that the 1935 census cited as their base roll in their membership criteria did not exist (Robertson 1955). Documents submitted by the Tulalip Tribes make clear that in 1961 they were only then in the process of "creating" the needed 1935 base roll and establishing an up-to-date membership roll based on it (Tulalip Tribes 1961). In 1977, a Western Washington Agency report on the status of preparations of approved rolls for off-reservation treaty rights in U.S. v. Washington concluded that of the 19 recognized tribes, six had only draft rolls and five, including the Tulalip Tribes, did not even have a draft roll (Western Washington Agency 1977b).

²²⁰ Although the Tulalip Tribes' governing body may have taken the position in the 1960's that the STO was not a tribe, in 1950 (Odell 1950), Tulalip chairman Wilfred Steve (a Snoqualmie and former officer of the STO) appears to have taken a contrasting position. He stated that individuals enrolled in the Snohomish organization could not be also enrolled at Tulalip because "an Indian can only be enrolled in one tribe." He characterized the membership of the Tulalip Tribes as "the Indians residing on the reservation" and "explained that the membership on the Tulalip Tribes' roll was composed" of Snohomish, Skagit and Snoqualmie who "who happened to be residing on the reservation and received allotment there." He encouraged the Snohomish organization to file a claim before the ICC and clearly did not view enrollment with them as different from enrollment with the Tulalip Tribes. He also did not believe that the Snoqualmie

The Tulalip Tribes' comments (Nicklason Research Associates 1994, 416) also cite Comenout's affidavit statement (Comenout 1994) that in the 1980's there was membership "padding for grants purposes." It stated that all those who benefited from the claims group were eligible for membership. No supporting documentation was provided or found to either show "padding" or that membership size significantly affected the few grants that the STO received in the 1980's.²²¹ Thus this statement is not supported by other evidence.

The most important evidence in the enrollment data which shows that the STO is not a voluntary organization of Snoqualmie descendants is that the membership has been consistently drawn from a certain group of associated families. The Tulalip Tribes' response demonstrates that the number of Snoqualmie descendants is far larger than the STO enrollment, or even the STO plus the Snoqualmie descendants who were members of the Tulalip Tribes (Nicklason Research Associates 1994, 176; Brown 1994b; Brown 1994c), and that there are many Snoqualmie family lines which are not represented in the STO.²²²

The Tulalip Tribes' comments and Robert Comenout's affidavit (Comenout 1994) argue that changes in membership have occurred because of the "draw" of the resources and benefits that a recognized tribe can provide (Comenout 1994, 3; see also discussion of membership fluctuation). This is consistent with the proposed finding's conclusion that changes in membership between 1930 and the present have been primarily due to the loss of some families and family lines due to the draw of a recognized tribe (PF Anthropology Report, 62-63). This demographic phenomenon of tribe jumping²²³ does not demonstrate that the STO was a claims organization. It shows only that a recognized tribe offered advantages over an unrecognized group regardless of its character.²²⁴

members of the Tulalip Tribes were the only Snoqualmie descendants. His view is consistent with the agency's view at the time.

²²¹ Major programs like the foodbank program and the nonprofit organization were required to be open to nonmembers.

²²² None of the interviews give an indication that STO enrollment was ever seen as based on collecting all Snoqualmie descendants.

²²³ Tribe jumping has been identified between recognized tribes where one tribe is able to offer more services or resources than another.

²²⁴ This is particularly true from the 1950's onward as tribal governments developed.

Membership List Fluctuation

Tulalip Tribes' Comments

The Tulalip Tribes' comments include a report by Sharon S. Brown (Brown 1994a) which analyzed all of the membership lists of the STO that were available to the Tulalip Tribes and concluded that the composition of the STO membership had fluctuated widely. The Tulalip Tribes argue that the purported shifts in membership demonstrate that affiliation with the STO was a matter of minor consequence, and that this was a pattern more typical of claims organizations than tribes.

STO Response

The STO presented detailed comments in response to the Brown genealogical reports (Per noyer 1994a). These comments criticized the methodology employed as flawed because the major measure of fluctuation did not take into account changes due to deaths and births. The comments also stated that her conclusions were not valid because she did not have available the 1990 membership roll and did not utilize several of the important rolls from the 1930's.

Response

The evaluation of the Tulalip Tribes' comments, consistent with the determination of previous acknowledgment, need only refer to 1953 to the present.²²⁵ Because a complete roll for 1953 was not available, the review was made by looking at family composition as shown on key rolls from 1940 and 1951, in addition to later rolls.²²⁶

Although there were changes in the STO enrollment between the STO as it existed in the late 1940's and early 1950's, and today, there were not fluctuations of the extreme kind claimed by Brown's report. There was also no substantial evidence of significant fluctuation since 1980. The differences are those discussed in the proposed finding, which found that some family lines which formerly had substantial numbers enrolled in the STO have largely withdrawn from the STO in favor of membership in the Tulalip or other recognized tribes (PF Anthropology Report, 62-63).

Brown's analysis contains serious methodological weaknesses which make it impossible to establish whether its conclusions are valid. Her analysis omits consideration of several important rolls, notably the 1951 membership roll and

²²⁵ Brown's analysis goes back to 1916.

²²⁶ Evidence preceding the point of last Federal acknowledgment may be used to evaluate tribal existence after that point.

1975 and 1976 rolls.²²⁷ Also, it does not consider the roll for the proposed finding (1990) and the present (1996) roll. Finally, her evaluation does not fully consider the circumstances of each enrollment, in particular whether it was complete or not, or only represented part of the group.

Other methodological weaknesses undermine the credibility of Brown's analysis of STO membership variations. One measure of variation she used was based on a single master list of all names that appeared on any list. Her report measured fluctuation by counting names as they appeared and disappeared from various lists. Because this analysis did not take into account births and deaths, the apparent variation is substantially inflated.²²⁸ A similar criticism applies to some of her comparisons of individual rolls with each other, including the 1980 roll.

Another weakness is that Brown could not identify 63 of the individuals on the 1980 list which she utilized to evaluate the present membership and differences from past membership. Because this is a substantial portion of the list, all of her analyses of ancestry are deficient.

The Brown analysis is necessarily incomplete in part because key genealogical materials, including the STO roll used for the proposed finding, were not available to her. These materials were withheld because they were information of a personal and private nature that cannot, under the Privacy Act, be released. However, the other flaws in Brown's analysis would question its validity even if she had had these materials.

BIA analysis of the most important membership lists shows that the main family lines: Moses, Davis, Zackuse, Jerry Kanim, Tomallum, and Fogue (Mary Lewis) are represented on all of these lists from 1934 through the present.²²⁹ Other major families appear on all but one of these lists. These are the Charlie Kanum line (on from 1940 through the present), the family of the late Chief Ernest Barr (except for an incomplete 1968 list), and the Selalius (Robert Comenout) line (1940 to the present).

²²⁷ Brown analyzes a "1976" roll which by its description is a 1975 list submitted to the court in U.S. v. Washington. The proposed finding genealogical report noted that this list deviated substantially from other rolls which were more or less contemporaneous (PF Genealogy Report, 15). Brown does not analyze the 1976 roll used for the proposed finding.

²²⁸ Brown compares a 1976 list with a 1940 list, in terms of how many names appear on one but not the other, a thirty-six year time span during which many births and deaths occurred.

²²⁹ These are the lists for 1934, 1940, 1951, 1968, 1974, 1976, and 1990.

Under the regulations as interpreted in previous cases, there is some leeway for fluctuation in composition as shown in membership rolls. However, extreme differences which indicate a lack of continuity may be evidence that the petitioner was not a tribal body. The changes in STO membership since 1940 reflect the evolution of the group, but show the continuing consistent core group of family lines that other sources describe. The changes in STO membership do not show that the petitioner is not a social and political community.

Extent of Membership Involvement in Political Activities

Tulalip Tribes' Comments

Tulalip Tribes assert that it was not shown that more than a few members of the STO are involved in its affairs, and, therefore, political relationships are not meaningful. Addressing voting patterns and meeting frequency and attendance, they ask how it is demonstrated that the entire group is politically involved. The Tulalip Tribes' comments argued that the annual general membership meetings had not been consistently held until recently and that attendance at these meetings was sparse and unrepresentative.²³⁰

STO Response

The STO did not directly respond to the Tulalip Tribes' comments concerning the degree and character of participation. The STO comments did respond to statements and analysis in the proposed finding which discounted survey data that had been presented by STO to show a very high proportion of the membership had held office in the STO. Their response provided analyses intended to show that a very high percentage of the membership, at least those living within a 50 mile-radius, had held office or been part of a committee.

The STO response (Abbott 1995) to the criticism of the survey data does not overcome the general criticisms raised in the anthropological technical report (PF Anthropology Report, 79-80). Consequently, it does not provide useful data concerning the extent of political participation.

Response: Interpretation of the Regulations

Evidence for meeting criterion 83.7(c) is not limited to the relationships between the council and chairman on the one hand and the membership on the other. Nor

²³⁰ The Tulalip Tribes' response also takes issue with the proposed finding's conclusions concerning the breadth of distribution of attendance at STO annual meetings (Nicklason Research Associates 1994, 317-319). It states that there was no data to support its conclusions concerning the broad family line composition of attendance at these meetings.

is the percentage of members attending annual meetings, holding office, participating on committees, or attending meetings in itself a definitive measure of involvement or lack of involvement in a tribal body. Political relationships encompass, but extend beyond, the formal activities of a council or other political organization of a petitioner.

It is not a requirement that attendance at meetings comprise a high percentage of the group's membership, if it can be shown in another way that the tribe's political processes involve most of the membership. A council, or even an annual meeting, may function only as a formalized structure which does not constitute the entirety of a tribe's political processes. They may not even be the most fundamental political processes in a tribe.

Conversely, activities such as pursuing claims and administering government grants can be accomplished by a small group of people, acting in the name of a larger category of individuals, but with little contact, knowledge, or more than minimal interest by that larger body. Showing such activities is not adequate evidence in itself. It must further be shown that the named leaders are in touch with and responding to the concerns of the membership at large. One means of doing so is to demonstrate directly that council activities are of strong interest among a major portion of the membership.

Final Determination Review: Evidence for Political Processes

The proposed finding's conclusions, which are affirmed by this final determination, rest not only on interviews by BIA and the STO with a variety of individuals occupying different positions within STO, but also on information from documentary sources, including meeting minutes. These sources provide reasonably detailed and specific accounts of political events, conflicts, alignments, and issues. The accounts are consistent with each other, reflect the different perspectives of individuals participating, and provide in-depth, detailed information, confirmed from a variety of sources, of the significant breadth of political involvement.

Detailed data stating the exact percentages of the membership that participated in the political conflicts over issues or offices, or that had opinions on them, was not available for the modern community or from 1953 to 1981.²³¹ It is methodologically unreasonable to require this type of data for a past period and is not necessary for the modern day, if a bilateral political relationship can be shown by other means.

²³¹ Information of this kind is not consistently available in the historic record. Collecting such data would require direct observation of a population or intensive interviewing.

Attendance at Annual or other General Membership Meetings

Tulalip Tribes' Comments

The Tulalip Tribes' comments assert that attendance at STO meetings has been low and that this and other data about attendance show that the STO was a voluntary organization. The 1994 Nicklason report (Nicklason Research Associates 1994, 317-321) cites some STO minutes between the 1930's and the 1970's in which individuals complained about low attendance at meetings, as well as citing attendance figures. The Tulalip Tribes interpret some of these documents as indicating that the STO attempted to compel attendance by making membership contingent on attendance or on paying dues.

STO Response

There were no specific STO comments in response to the comments concerning meeting attendance.

Proposed Finding

The summary evaluation under criterion 83.7(b) of the proposed finding concluded:

Attendance at general membership meetings from the 1960's on has been broadly distributed among the main family lines and within each family line as well. Attendance at a given meeting has ranged from 10 to 30 percent of the membership. There was no measure made of the total percentage of the membership that had attended at least one general membership meeting within a given time span (PF Summary, 19).

Response

The documentary information concerning attendance analyzed at some length in the anthropological technical report (PF Anthropology Report) shows that the total percentage attending the meetings was neither particularly high nor low.²³² While the level of attendance at STO annual meetings from 1953 to the present is not, in itself, strong evidence for political processes, it is sufficient to support the other evidence of significant political processes.²³³ The wide representation of

²³² The Nicklason report (Nicklason Research Associates 1994) incorrectly states that there was no evidence cited or available on which to base the proposed finding's conclusions about attendance. The conclusion was based on lists of attendees for four meetings, which are cited in the anthropological technical report.

²³³ A lack of interest in attending meetings does not necessarily equal a lack of interest in the proceedings or a lack of affiliation with the tribe. Membership knowledge and interest may be widespread, despite low attendance. In any kind of community,

family lines that are involved and the extent of involvement within family lines was, and is, supporting evidence for the conclusion that significant political processes and communication exist within the STO.

In contrast to the weight Tulalip Tribes put on the issue of paying dues as reflecting a voluntary organization, Kenneth Moses in his BIA interview²³⁴ stated that "They never really enforced it" [requiring attendance or paying of dues]. He stated that ". . . through the years it was mostly voluntary, people would just pay what they could."²³⁵

Tulalip Tribes' Comments Concerning Consistency of Occurrence of Annual and Other Meetings

Tulalip Tribes' Comments

The Nicklason report contends that there is no documentary proof that the annual meetings took place every year from 1929 to 1979 (Nicklason Research Associates 1994, 315). It states in its main discussion of the issue that there was no documentary record of an annual meeting in 1955, 1957, 1958, 1961, 1962, 1965, 1966, 1970, 1971, 1972, 1975, and 1976.²³⁶ It argues that this is evidence that the STO was a voluntary organization for claims and that it had not functioned continuously. It also cites Robert Comenout's affidavit statement that after Jerry Kanim passed on until 1969, the STO "was more or less dormant. There was just not very much happening. Nothing that the STO was interested in" (Comenout 1994).

Proposed Finding

The proposed finding concluded concerning the period after 1956:

Annual meetings and other general membership meetings are held consistently, often several times a year. These meetings are social as well as political in nature, but are not the lengthy, multi-day events of Jerry Kanim's time (PF Summary, 19).

STO Response

There was no specific STO response to this analysis.

organizational matters may not be seen as an issue requiring actual attendance at meetings.

²³⁴ Moses' BIA interview is cited by the Tulalip Tribes in other contexts (see above).

²³⁵ Moses' statements refer to the 1940's to 1962, when his mother, Helen Moses, was secretary.

²³⁶ This discussion is limited to the years after January 1953.

Response

The historical technical report (PF History Report) and the anthropological technical report (PF Anthropology Report) considered whether annual meetings had been held consistently, based on available documentary and interview evidence. The historical technical report noted the years for which there was documentary evidence of an annual meeting. For four of the years cited by the Nicklason report as having no documentation of annual meetings (Nicklason Research Associates 1994), 1955, 1962, 1972, and 1976, there are no minutes but other contemporary documents refer to the annual meeting.²³⁷ There was no documentary evidence concerning annual meetings in the other years.

The interview evidence cited in the proposed finding technical reports, however, indicates that annual meetings were held consistently, although there may have been a few instances when a meeting was not held (PF Anthropology Report, 54-55). One leader active in those years stated that two such meetings had been missed because of deaths (Eddy 1991). The absence of documentation does not definitively demonstrate whether or not annual meetings were held. That annual meetings in a few instances may not have been held does not outweigh the overall evidence for political relationships and accompanying political processes of a sort that reflect a long existent political system.

The documentation, including that cited elsewhere in the Nicklason report (Nicklason Research Associates 1994), does not support Comenout's characterization of the STO as "dormant until 1969," nor does it indicate that meetings were held infrequently before 1968 (Western Washington Agency 1968). The statement of the Comenout affidavit concerning activities up to 1969 (Comenout 1994) is vague and not supported by his BIA interview (Comenout 1991). The available documentary and interview evidence does point to the years between 1956 and 1968 as a period in which organizational activity was at a low point. If an annual meeting was skipped one year, it could have been in this period.²³⁸ However, the interview and documentary information does indicate continuity and activity of a variety of leaders in the same time period (*see above* and PF History Report, 20, 106-110). Thus the lack of a meeting does not show a lack of continuity.

²³⁷ Elsewhere in their report, Nicklason Research Associates correctly state that there is documentary evidence for annual meetings in 1955 and 1962, but no minutes (Nicklason Research Associates 1994, 133, 135). Minutes of a 1972 council meeting set the date for the annual meeting (PF History Report, 11). There is an attendance list for the 1976 annual meeting, showing that 72 attended (STO 1975-81).

²³⁸ For 1965, there are minutes of one meeting. There were no meeting minutes of any kind in the record for 1957, 1958, 1961, and 1966, but there are lists of officers prepared in 1961 and 1966 (STO 1961; STO 1966). This is consistent with the interview information that this was the lowest point of organizational activity.

There are minutes of other meetings or other documentary evidence of organizational activity for the other years in the 1970's cited by the Nicklason report (Nicklason 1994) for which no annual meeting could be directly documented, 1970, 1971, and 1975.²³⁹ These are within the period of Comenout's chairmanship. Thus it is unlikely that annual meetings were in fact not held during the years he was chairman, nor does the Comenout affidavit (Comenout 1994) make such a claim.

Family Line Participation: Interpretation of Community Under the Regulations, in Relation to Criterion 83.7(c)

Introduction

Questions concerning the extent of political participation necessarily involve the related question of the extent of community, since political influence within the meaning of the regulations must be exercised within a social community. It is particularly pertinent in this case since the direct evidence for political activity is strong and provides some of the support for demonstrating modern community. Ainsworth does comment that no "social core" had been identified (Ainsworth 1994, 357).

Definition of Community under the Regulations

Criterion 83.7(b) requires that a "*predominant portion* of the petitioning group comprises a distinct community" [emphasis added]. The term "predominant" states the requirement that at least half of the membership maintains significant social contact with each other. This means that at least half of the membership of the petitioner must participate in, be part of, or be involved in the social relationships, interaction, and/or institutions used to demonstrate community.²⁴⁰

This standard allows for the reality that in present-day circumstances not all members of a tribe maintain close contact, but that there remains a strong community at the "core."²⁴¹ It is thus not required that all of the members

²³⁹ A special meeting and a council meeting are recorded for 1971 (PF History Report, 117). A larger number of council meetings and other activities are recorded in the historical record for 1975 (PF History Report, 126-127). Only one document was found for 1970, a list of tribal council members prepared by the STO (STO 1970).

²⁴⁰ The requirement for a "predominant portion" does not require a specific counting of individuals. It only requires that the evidence for community will demonstrate in a reasonable fashion that the greater portion of the membership meets the definition of community. In other words, the evidence used to demonstrate community must apply to this proportion of the membership.

²⁴¹ "Core" means a social core, not a geographical one. It is usually the case that the social core correlates somewhat with the membership living near each other, but it is

maintain the same or even strong social connectedness to other members. There is usually a "social core" which has a high degree of social cohesion while the periphery of the membership has a lesser degree of attachment.

In addition to showing that a predominant portion of the membership forms a community, as defined in the regulations, it is essential to demonstrate that all or most of the rest of the membership (referred to here as "peripheral") maintain social ties and interaction with the community core. It does not have to be shown that the "peripheral" members maintain significant contact with each other, or with a lot of other members. It should be shown that most of them have some significant link with at least some members of the community's core.²⁴²

Proposed Finding

The proposed finding concluded:

There appear to be significant differences among different portions of the membership in their degree of involvement in Snoqualmie political relationships. Five major family lines are particularly active in Snoqualmie social interaction and political relationships. All actively participated in general council meetings and participation was generally broad within each family line. These families are socially recognized as distinct units with differing characteristics. Other family lines enrolled in the Snoqualmie are less active (PF Summary, 30).

The most socially and politically active portions of the Snoqualmie membership, the proposed finding concluded, consisted of six major and six minor (in terms of number of enrolled members) family lines,²⁴³ comprising about 70 percent of the membership. Another 15 percent were minor lines which have historically been STO members and appeared to have had significant ties in earlier decades, but whose present-day level of contact and participation had not been determined. There was limited evidence of their participation until at least the 1970's. Thus these appear to reflect the process by which individual members have shifted their

not the case that a geographical concentration is necessarily a social core.

²⁴² Most typically, urban members of a group who live in the same city may not have close ties with each other, and do not form a community within that city, but may retain close ties with their home community.

²⁴³ These included the families of the late chief Ernest Barr and that of Robert Comenout.

tribal affiliation to a recognized tribe.²⁴⁴ The balance of the membership, 15 percent, were two family lines that had become enrolled in STO in the 1980's.

The proposed finding concluded, in part, that part of this "fringe" were people who were only formally on the membership list, in distinct contrast to the well-defined core of family lines which participate actively in the political system. It does not provide a detailed description of the social and political relationship of this "periphery" to the active group of families lines which meets the requirements of §3.7(b). The proposed finding concluded that the proportion of Snoqualmie that have not demonstrated at least some social ties is not large enough to determine, given the other evidence cited below, that the present-day STO does not meet the requirements for community.

Analysis

The percentage of STO membership accounted for by "peripheral" family line groupings is smaller for this final determination because of changes in the STO membership roll. The updated roll submitted for the final determination reflects the withdrawal or banishment of members from the Julia Pat Kenum family line, which joined in the 1980's. Other changes in membership have increased the number of members from the most active lines and hence also reduced the proportion of the membership which is somewhat peripheral or whose ties have not been well established (see the discussion of criterion 83.7(c)).

None of the new data submitted, nor a review of the data already in the record, changes the proposed finding's conclusion that significant political activity has been demonstrated for the main family lines. The proposed finding's conclusion that significant activity was not shown for some of the smaller lines is also affirmed. The additional data for the final determination and reanalysis of previously available data verifies and reinforces the proposed finding's conclusions concerning the most active major lines.

While the proposed finding does not specifically label the main family lines as the "social core," the summary evaluation (PF Summary) and the anthropological technical report (PF Anthropology Report) clearly identify them as the portion of the membership maintaining significant contact and most significant political relationships.²⁴⁵

²⁴⁴ The Tulalip Tribes and Robert Comenout both refer to this change, as the effect of the greater benefits available from a recognized tribe (Nicklason Research Associates 1994; Comenout 1994).

²⁴⁵ There is no requirement under the regulations to specify a social core, only to describe the existence of a social community within the membership.

Conclusions of Other Evaluations

Federal Court Rulings in U.S. v. Washington

The Tulalip Tribes' comments (Nicklason Research Associates 1994; Tulalip Tribes 1994; Jones 1991) report at some length the 1979 and 1981 decisions in U.S. v. Washington, which denied the Snoqualmie (STO) treaty fishing rights and concluded that they had not existed continuously as a tribe.

The historical technical report for the proposed finding (PF History Report) included an extensive discussion of the Federal Court rulings in U.S. v. Washington. The report describes the record used for the proposed finding (PF History Report, 137-140) and explains how the record in front of the court was severely limited in comparison to that before the BIA, particularly with regard to evidence concerning tribal leadership. In addition to the differences in the extent and nature of the record available to the court and the record available to serve as a basis for the Federal acknowledgment decision, there were important differences in emphasis. The court emphasized a more formal political organization and the importance of a land base, which the acknowledgment regulations do not.

The 1974 BIA "Three-Stars" Study

In 1974, the Snoqualmie were one of nine unacknowledged groups which were reviewed by the BIA for acknowledgment, in connection with the initial, 1974, district court decision in United States v. Washington. This study, headed by Peter Paul Three Stars, concluded that the Snoqualmie should be recognized, but its recommendations were deferred in favor of developing a fully defined process for acknowledgment of tribes (see PF History Report, 118-121). The Tulalip Tribes' comments challenge this study. The materials reviewed for the study were much more limited than those for the proposed finding or this final determination. All of the documentation reviewed for the 1974 study has been incorporated into the administrative record and reviewed for this finding.

General Comments on Methodology

Introduction

Three items submitted by the Tulalip Tribes, the 1991 and 1994 reports by Nicklason Research Associates (Nicklason Research Associates 1991; Nicklason Research Associates 1994) and the report by anthropologist Allan Ainsworth (Ainsworth: 1994) criticize the methodology used by the Snoqualmie researchers,

Tollefson and Pennoyer, and by the BIA to collect and analyze data. They also criticize the methodology of the BIA technical reports. Many of their specific criticisms have been reviewed above. However, some general issues remain and are dealt with below.²⁴⁶

Interviews Versus Documentary Evidence

Tulalip Tribes' Comment

The Nicklason 1994 report (Nicklason Research Associates 1994; see also Tulalip Tribes 1994) asserts that oral history cannot be used unless there is corroborating primary historical documentary evidence.

Response

The Nicklason report's (Nicklason Research Associate 1994) comments on oral history in effect set a standard that oral history is not valid or useful. It is not consistent with professional standards and with how oral history evidence has been used in past acknowledgment decisions. In practice, oral history has been usefully combined with documentary sources and may explain or add information to documentary references. It is not used by the Department or by professional researchers solely to "corroborate" what is in a document.

An experienced researcher, in using either interview materials or government reports, must take into account the point of view, knowledge, motivation, and frame of reference of the person being interviewed. Questioning must also be assessed in order to determine if the questions lead or interrupt. Any oral account, as any document, must be evaluated in the context of the entire body of evidence, but cannot be dismissed *a priori* because it is not on paper. Historical documents are often essentially reports based on interviews, conversations, and attendance at events.²⁴⁷ They often have the advantage of being contemporary with events, or being closer in time to them. Researchers, however, usually cannot question

²⁴⁶ Nicklason's and Ainsworth's comments concern the entire course of Snoqualmie history. Since this final determination is based on the revised regulations and thus pertains only to the period after 1953, major portions of the critique are moot. The treatment of oral history relating to the 19th century, particularly that provided by Ed Davis, and the treatment of documentary sources for the 19th century concern time periods which are beyond the scope of this finding. Therefore, some of the methodological criticisms are also beyond the scope of the finding. Criticisms and comments which concern both the time period before 1953 and after January 1953 are dealt with here in the post-1953 context.

²⁴⁷ They may be largely oral history and interview information written down.

authors, test their assumptions, clarify meanings of terms, and gather supplemental information, as they routinely do when conducting interviews.²⁴⁸

A verbal account after the fact from a knowledgeable participant in an event, as obtained by an experienced and skilled interviewer, is almost always preferable to a contemporary newspaper account, where the reporter often has had limited contact with the group and little knowledge about it. Government reports may reflect the policy needs and biases of a particular time or program and thus have significant limitations. Even if prepared by knowledgeable observers, these reports may be limited by biases and preconceptions, especially where questions of understanding the social organization and political processes of a group are concerned.

The Tulalip Tribes' response extensively utilizes affidavits, which are a special form of recording interview or oral history information (see Williams et al. 1994), as well as quotes from BIA interviews (see cultural differences discussion). It argues that it only uses them where there is also documentary information, which greatly limits the data available to them.²⁴⁹

Critique of BIA Interview Methodology

Tulalip Tribes' Comment

Ainsworth's report (Ainsworth 1994) does not reject the use of interview evidence, including oral history interviews. It argues, however, that the interview methodology used by BIA was sufficiently flawed so as to make the information gained not useful:

Such incidental data as has been collected by the TP [Tollefson and Pennoyer] and BIA researchers during the course of their interviews has not been systematically gathered and can be described as anecdotal in nature . . . In order to sufficiently prove or disprove social community there is a professional need for systematic interviews and other ethnographic data [to] be [gathered] which directly addresses the breadth of interest, support, and involvement of a group's membership in the organization (Ainsworth 1994, 42).

²⁴⁸ Information on how the statements in the report were gathered and evaluated is more often than not missing.

²⁴⁹ Their approach to oral history/interview information ignores a substantial body of valid, interview based information for the same time period that their affidavits cover, which has been utilized for this final determination.

Ainsworth then concludes that the results have to be reproducible by other researchers (Ainsworth 1994, 2).

Ainsworth also criticizes the choice of interviewees as not a systematic one choosing from a broad selection of individuals with different knowledge and background. He also argues that the interviews by the Snoqualmie researchers and by BIA were done entirely with individuals involved in the data gathering effort for the petition, e.g., the chairman, chief and council members, whose information would be too biased to be useful (Ainsworth 1994, 50).

Response

Ainsworth's idealized model is not entirely appropriate to the questions addressed in an acknowledgment determination, where the role of interviewing is to augment, evaluate, and verify an existing, extensive interview and documentary record. The width and depth of knowledge that might be developed by the approach he advocates would aid in evaluating the interview information provided by the STO. Standard methods used by anthropologists and historians to critique sources and compare multiple sources allow reasonable judgments by experienced researchers as to the validity, reliability, and meaning of statements.

Interviews based solely on responses to directed questions, as Ainsworth suggests, have serious limitations. Useful information is often gained from interviewees' statements which are not made in response to specific questions. Such is the case with the interview information used for this final determination.

It would be impossible to meaningfully investigate the political system of the STO (or any other group) without talking to leaders and senior members. These individuals would inevitably be actively involved in the petitioning effort, but would also be the individuals with the most detailed knowledge of critical political events and the functioning of the tribal community. The strategy of dealing with "key informants," those highly knowledgeable about a group, is well-established in anthropological methodology (Russell 1988). Avoiding these individuals, particularly in a small, close-knit group, would raise serious questions about the reliability of the information gained.

The BIA interviewees included one very key informant who is strongly opposed to the current leadership group. This individual is former STO chairman Comenout, who was interviewed by BIA researchers in 1991.²⁵⁰ Information from his interview is discussed at length in this finding (see also discussion below). It

²⁵⁰ Comenout is presently strongly opposed to acknowledgment of the STO, although he was not opposed at the time of the BIA interview.

actually reinforces the information provided by other interviewees, as well as the documentary record.

Researchers must assume that every interviewee has a particular point of view, a specific kind of knowledge and understanding, and particular interests and motivations, by virtue of his or her position in the group being investigated.²⁵¹ Integrating and analyzing data from multiple interview sources, plus documentary information, is the essence of ethnographic technique.²⁵²

The interview information used for the proposed finding and the final determination is not "anecdotal" even though it is not the result of a survey or a standardized questionnaire. Combined ethnographic and documentary research, when done systematically and in a manner appropriate to the particular group and research question, can produce as good or better results than surveys or questionnaires. This final determination is drawn from a substantial variety of interviewees and documentary sources which provide adequate information to establish the necessary factual conclusions.

Affidavits are a form of oral history. The affidavits submitted by the Tulalip Tribes have been evaluated along with the other materials in the record. For historical and anthropological research, affidavits often have less value than standard interviews because they lack the kind of detail that allows an assessment of the knowledgeability and perspective of the affiant. They also lack the context, provided by the inclusion of the questions asked, which Ainsworth indicates is important for evaluation of interviews (see response to comments on interview methodology). Affidavits have the advantage that the affiant has had a chance to review and correct or amend his or her statements. Because the affidavits here are so brief on any given point, their limitations outweigh the advantage of any review.

Oral history concerning an interviewee's own lifetime can provide acceptable, vital evidence, without specific documentary corroboration, given appropriate evaluation and comparison with other sources. Oral history and interview

²⁵¹ Interviewees may hold unique positions inside or outside of the group.

²⁵² Interview information in the acknowledgment research process is evaluated against other data including documents of all kinds, other interviews with the same individual, and interviews with other knowledgeable individuals. The analysis must resolve and/or rationalize differing or conflicting accounts of the same events by different sources, in accord with reasonable ethnographic principles. Different interviewees have different perspectives, interests, and interpretations of events, which affects the information provided. Different interviews with the same individual will, for a variety of reasons, elicit different information. Some information may be difficult to elicit. Interviewees may deliberately and inadvertently include or exclude relevant information.

information can provide valid evidence despite the personal interest of the interviewee in the outcome. These methodological conclusions concerning oral history and interview information were applied throughout the proposed finding as well as this final determination technical report.

Robert Comenout Affidavit

Tulalip Tribes' Comment

The Tulalip Tribes' comments put particular weight on an affidavit by former STO Chairman Robert Comenout (Comenout 1994)²⁵³ and do not reference his 1991 BIA interview (Comenout 1991).²⁵⁴ It offers no explanation concerning the differences between Comenout's position in his affidavit and his interview with the BIA in 1991.

Response

The BIA interview provides more accurate and detailed information and is preferable to the affidavit to the extent that they conflict.²⁵⁵ In context, Comenout could be considered a "hostile witness" to the STO at the time of his interview, because he had been ousted from the chairmanship and had been socially banished from the tribe. Nonetheless, although he made his disagreements and disappointments clear, he explicitly referred to the STO as a tribe throughout the interview, in many different contexts.

Availability of Interviews with Tulalip Tribes' Members

The BIA staff was unsuccessful in its attempts during its 1991 field research trip to arrange interviews with members of the Tulalip Tribes.²⁵⁶

²⁵³ In addition to the following general discussion, the evidentiary value of particular statements in the affidavit are discussed in detail in other sections of this report.

²⁵⁴ Although the Tulalip Tribes' response included complete transcripts of the tapes of some of the BIA interviews, it does not include a transcript of the Comenout interview nor does it critique or make any reference to it.

²⁵⁵ Specific points in the interview have been separately evaluated and are discussed under particular topic headings above. He was very much at odds with the STO leadership in place at the time of the BIA interview (Comenout 1991).

²⁵⁶ Interviews were requested through the Tulalip Tribes' attorney and through a member of the Tulalip Tribes' council. Interviews were specifically requested with Cyrus James and Mrs. Edith Parks, Tulalip Tribes members who had participated in the STO until the late 1950's or early 1960's. The BIA researchers also offered to interview other people whom the Tulalip representatives wished to designate. Upon their arrival on the reservation for the scheduled visit, the staff members were informed by a council member

Ed Davis Interviews

Introduction

A substantial portion of the oral history relied upon in the central narrative document of the Snoqualmie (STO) petition (entitled the Cultural Continuity Study) by Tollefson and Pennoyer (Tollefson and Pennoyer 1986) was based on interviews conducted by Tollefson with Snoqualmie elder Ed Davis. Davis was born in approximately 1871 and died in 1987. He was the key political ally of Chief Jerry Kanim and remained an important political leader until shortly before his death. Neither tapes nor detailed field notes of these interviews were available for the proposed finding.

Tulalip Tribes' Comments

The Tulalip Tribes' comments contend that Davis was too elderly at the time he was interviewed to give reliable information and that he was evasive and deliberately misleading with interviewers, particularly Tollefson.²⁵⁷ The Tulalip Tribes therefore take the position that the proposed finding was not reliable to the extent that it relied on Tollefson's interviews with Davis as the sole source of information.

Response

For the proposed finding, information material from the petition narrative derived from Tollefson's interviews with Davis was supported where possible with other sources. These include documentary sources and a limited number of transcripts or affidavits by Davis himself (Davis n.d.) or others who had talked with Davis. These sources, overall, supported the accuracy and veracity of Davis as a source. Nonetheless, relatively little material, except the 1987 petition narrative, was available for some topics before 1953.²⁵⁸ These topics do not require review for this final determination.²⁵⁹

The additional materials supplied with the STO comments support the general validity of the information from Ed Davis' interviews and recollections. In

who met briefly with them that it had not been possible to arrange any interviews because there was insufficient notice. An offer to attempt to schedule an interview later was declined because of the constraints of the work schedule during this field trip.

²⁵⁷ They also note that, when the proposed finding was being prepared, the petitioner's researcher was unable to provide detailed notes or transcripts or tapes of his interviews with Davis.

²⁵⁸ Such interviews include particularly those concerning political processes in the 19th century and the reorganization of the Snoqualmie by Jerry Kanim around 1914.

²⁵⁹ This is because of the determination that the Snoqualmie meet the requirements for previous acknowledgment under 83.8 of the revised regulations and only need demonstrate tribal existence since January 1953.

particular, the three taped interviews with Ed Davis that were submitted confirm that he was a reliable interviewee, even at an advanced age.²⁶⁰ One of the tapes verifies the methodology Tollefson claims to have used, of developing an ethnographic statement and feeding it back in a subsequent interview for verification and clarification.²⁶¹ The Snoqualmie comments include affidavits by outside experts attesting to the accuracy of Ed Davis as a source even at an advanced age.²⁶²

In conclusion, the information derived from the Ed Davis interviews, as reported in the narrative is reliable. Specific information in each instance requires evaluation, as with any other interview.²⁶³

Utilization of the Petitioner's Research and Documentation

Tulalip Tribes' Comments on the Research by the Petitioner's Researchers

The general stance taken by the Tulalip Tribes is that the methods of the STO's researchers Tollefson and Pennoyer were fatally flawed (Ainsworth 1994, 4, 6; Nicklason Research Associates 1994, 251; Tulalip Tribes 1994, 4, 5, 43). The Tulalip Tribes' comments also assert that the BIA technical reports supporting the proposed finding were defective because they depended on Tollefson and Pennoyer's research.

Response

The proposed finding technical reports on their face demonstrate that the proposed findings were not dependent on the analyses in the STO petition. The technical reports are based on information provided by the petitioner and interested parties and on documentary and interview information gathered by the BIA staff. The information gathered by BIA researchers is for the purpose of augmenting,

²⁶⁰ Davis spoke clearly and directly. He clearly identified what he felt were the limits of his knowledge and refused to go beyond it even when repeatedly pressed for an answer. His answer would rephrase the interviewer's question to reflect what he considered to be a more accurate description of an event or circumstance or to include relevant information that was not directly called for by the question.

²⁶¹ This does not substitute for a complete transcript of the interview but does substantiate that this method was used.

²⁶² Affidavits include Jay Miller, an anthropologist, and Vi Hibert, a widely respected Native American scholar who is a member of a Puget Sound Salish tribe closely related to the Snoqualmie. Hibert has worked and published extensively with Puget Sound Salish on their history, language and culture (Tollefson 1995b).

²⁶³ Because of the 1953 date established by the determination of previous Federal acknowledgment, this final determination does not depend substantially on Tollefson's interviews with Ed Davis as reported in the Cultural Continuity Study.

evaluating, and putting in context information provided to the Department by the parties. The Department may depend on specific factual points and analysis provided by others, or may undertake additional analyses. The extent to which any argument or information is accepted depends on its merits.

The proposed finding and this final determination reject some of the specific conclusions presented by the STO and by the Tulalip Tribes. It also does not rely on certain portions of interview data, as well as documentary and affidavit data, presented by one or the other party, where it has concluded that these materials are not reliable, cannot be adequately interpreted with the information available, or are outweighed by better, more reliable evidence.

Tulalip Tribes' Comment on the Form of the Petitioner's Reports

The Tulalip Tribes' response takes the position that the information presented by the STO must be fatally flawed because it is presented in the form of a directed argument to demonstrate tribal existence rather than a neutral, scholarly report (Nicklason Research Associates 1994, iii; Ainsworth 1994, 4, 6).

Response

Neither the STO petition nor the Tulalip Tribes' comments are neutral presentations in the sense defined in the Tulalip Tribes' comment. Both parties hold a stake in the decision. Both present extensive bodies of information and argument to support opposed positions. Their comments and documentation have been fully evaluated and reviewed by the Department's researchers. The government researchers, in contrast, are neutral.

Tulalip Tribes' Allegation of Biased Presentation by the STO and Their Researchers

The Tulalip Tribes' comments argue that the STO materials are fatally biased because of materials it has found indicating that a former STO chairman contemplated withholding and censoring the information (Ainsworth 1994, 11-13). Their comments also cite information that they argue demonstrates that the lead researcher for the petitioner, Kenneth Tollefson, acted as a lobbyist on the group's behalf and thus was biased. They argue that these claimed biases make the STO petition materials not useful.

STO Response

Tollefson (1995b, 8-9) presents a detailed rebuttal to the Tulalip Tribes' comments, reviewing the specific minutes cited by Tulalip Tribes. Tollefson argues that the roles of advocacy and scholarship are not incompatible and that the STO had not told him or Pennoyer what to write. He states that his initial interviews with Davis were probably awkward, but that this passed with time and did not mean that Davis had deliberately misled him.

Response

Every effort was made by BIA researchers to obtain materials on all sides of the question. The BIA interviews and documentary research were directed at obtaining evidence which most fully described political and social relations. Absence of data was also evaluated by the government's researchers.

BIA staff provided extensive consultations and advice to the STO and their researchers, emphasizing the importance of providing as full and complete a body of information as could be accomplished.²⁶⁴ Whether every possible source has been made available or whether materials have been withheld because of perceived negative impact cannot be fully determined in this or any other case.²⁶⁵ However, more than adequate information has been obtained to make a determination.

Survey Data

Proposed Finding

The anthropological technical report for the proposed finding (PF Anthropology Report) concluded that most of the survey data submitted by the STO was so methodologically flawed that it was of little evidentiary value for or against showing whether the STO met criteria 83.7(b) or 83.7(c) (PF Anthropology Report, 79-80). Some data showed informal social interaction within the membership.

The summary evaluation did not cite the survey data because of its limited evidentiary value.

Comments

The STO response included a report responding to the methodological criticisms (Abbott 1995). The Tulalip Tribes' comments noted the proposed finding's general criticisms and cited some of the specific statements from the proposed finding in support of its own comments.

²⁶⁴ Some of this advice post-dates the alleged efforts to bias the data. The STO petition is very detailed and rich with information. In addition, the petitioner made its extensive archives available to BIA researchers and made members of the tribe fully accessible for interview.

²⁶⁵ The Tulalip Tribes' comments provide no specific indication of what kinds of materials they believe were, in the end, withheld. Consequently, this comment cannot be evaluated further.

Response

Most of the comments in the STO response did not take issue with the proposed finding's criticisms which found basic flaws in the design and administration of the survey. Consequently no reason was presented to revise the proposed finding's evaluation of the survey data and no additional data from it has been utilized for this report. The Tulalip Tribes' comments did not add any new conclusions not already reached in the proposed finding.

Criterion 83.7(d): Governing Document

Criterion (d) requires:

A copy of the group's present governing document including its membership criteria.

The STO met criterion 83.7(d) for the proposed finding. No comment was received challenging this conclusion. The proposed finding is affirmed.

Criterion 83.7(e): Descent from the Historical Tribe

Criterion (e) states in part:

The petitioner's membership consists of individuals who descend from a historical Indian tribe . . .

Introduction

The Tulalip Tribes' comments do not challenge the proposed finding's conclusion that the STO membership is descended from the historical Snoqualmie tribe and that it meets the requirements of criterion 83.7(e). Their comments, based on their extensive archives, include thorough argumentation and evidence to support their position that the STO represented an insignificant portion of the historical Snoqualmie family lines. They also argue that, of those lines that are included in the STO membership, only a small portion of the descendants are enrolled in the STO (Nicklason Research Associates 1994; Brown 1994a).

The Snoqualmie Tribal Organization's Membership Roll

Determining Descent from the Historical Tribe

The STO submitted a revised roll dated March 16, 1996, for the final determination.²⁶⁶ There were 397 names on the 1996 roll, including names of 23 deceased members, 8 duplicate entries, and 8 honorary members, for a total of 358 members. Descent from the Snoqualmie tribe has been established for 337 of the 358 individuals shown on the roll. This represents 94 percent of the membership. Based on the evidence available at this time, another 4 percent can be expected to demonstrate Snoqualmie ancestry.

The 358 names on the 1996 roll include 201 individuals whose names appear on the 1990 roll used for the proposed finding. The other 157 persons are almost all drawn from the same family lines which historically have been part of the STO, and are primarily the children,²⁶⁷ siblings and other close relatives of those on the 1990 roll. Thus, the increase in membership and the "new" surnames on the roll do not represent a change in the character of the STO.

In 1990, 96 percent of the STO membership (299 of 313) established, or were expected to be able to establish, descent from the historical tribe. All but seven of the 202 individuals appearing on the 1996 roll who were also on the 1990 roll have established Snoqualmie ancestry.

Since ancestry charts were not submitted for the "new" names on the 1996 roll, the BIA compared these names to the Docket 93 payment roll, to family tree charts created by the BIA for the proposed finding, or to other materials in the record. The BIA also requested additional information from the STO concerning 56 individuals on the 1996 roll, which they promptly provided. The BIA was then able to determine Snoqualmie ancestry for 143 of the 157 "new" names on the 1995 roll. Based on the evidence available, twelve of the remaining 14 persons can be expected to demonstrate Snoqualmie ancestry.

²⁶⁶ Submission of an updated roll is the standard procedure for final determinations. One purpose for requiring the updated membership list is to have the most recent membership list and to evaluate any changes that may have occurred.

²⁶⁷ This includes 69 individuals who were minors in 1990 and would not have been listed on the 1990 roll at that time, which did not include minors.

Comparison between the 1990 roll and the 1996 roll

General Analysis

There are 98 names on the 1990 roll which are not listed in 1996 and which were not identified as either deceased or banished.²⁶⁸ About half of these are accounted for by withdrawals of individuals who were dually enrolled in a recognized tribe, were adoptees of less than 1/8th Snoqualmie blood whose adoptions have apparently been questioned, or were from the Julia Pat Kenum line, which was briefly enrolled in the STO in the 1980's. The absence of these names from the 1996 roll did not change the character of the STO, except to essentially eliminate the Julia Pat Kenum (Snoqualmoo) family line.²⁶⁹

Banished Members

None of the former STO members who were banished from membership appear on the 1996 roll. A list of banishments was submitted with the STO comments in September 1995. This includes five individuals (Robert Comenout and four Snoqualmoo) who were banished before 1990,²⁷⁰ and eight additional persons who have been banished since 1990. These eight are: former chairman Karen Boney, two of her sons and one of her sisters, two individuals from the Zackuse line, former chairman Ronald Lauzon, and one other individual from the Tomallum line.

Snoqualmoo

Only three members of the Julia Pat Kenum (Snoqualmoo) line could be identified on the 1996 list. In 1990, there were 24. At least 16 of these were less than 1/8 Snoqualmie (see below) and were probably excluded from the membership list as part of the exclusion of some "adoptees." It is also possible that some Julia Pat Kenum descendants withdrew in favor of enrollment in the Snoqualmoo petitioner.

Adopted Individuals

The STO maintains a membership requirement of 1/8 degree Snoqualmie ancestry. The STO's constitution and bylaws also allow for membership by

²⁶⁸ Eight persons who were on the 1990 list are deceased and do not appear on the 1996 list, and an additional 8 persons who were on the 1990 list were banished and do not appear on the 1996 list.

²⁶⁹ Those individuals from the 1990 roll who are not longer listed include 21 from the Julia Pat Kenum (Snoqualmoo) family line, 13 Tomallum, six Moses, eight Forgues and six Plasters. Three individuals whose Indian ancestry could not be established for the proposed finding are no longer listed. The rest (41) are distributed across seventeen family lines. Some of those individuals no longer listed are probably individuals who were members by adoption whose names have been removed.

²⁷⁰ These five did not appear on the 1990 roll.

adoption of individuals of less than 1/8th degree Snoqualmie blood. Adoptions of individuals participating in the tribe have been made on a case by case basis. There has been considerable controversy within the STO in the past seven years over the process of adoption, what rights the adoptees have, and, more significantly, which adoptions were properly done. These political conflicts have resulted in at least a partial moratorium on further adoptions of individuals participating in the tribe who might otherwise have been adopted. Those most affected by this controversy, whose rights to membership were questioned, were from the Tomallum and Snoqualmoo lines. Two other adopted individuals from the Fergue family line had their membership status questioned and were later banished.

The controversy over adoption appears to explain some of the differences between the 1990 and 1996 lists. While complete data was not available, some perspective may be gained by examining a list of 51 persons that the STO submitted in September 1995 entitled "List A, 1/16 and 1/32 or Less" (i.e. Snoqualmie blood). Thirty of those on the September 1995 list were enrolled in 1990. Of the 30 enrolled in 1990, six (five from the Tomallum line and one from the Davis line) are still enrolled in 1996. Twenty-four are no longer enrolled. Of these, 16 are from the Julia Pat Kenum line, six from the Tomallum, one from a minor line and one is deceased.²⁷¹ The other 21 persons on List A did not appear on either the 1990 or the 1996 membership lists.

STO Membership Requirements: Blood Degree

The 1996 list does not include blood degrees. Because supporting information was not submitted, a review was not made to determine how many on the 1996 list who were not adoptees meet the membership requirement of 1/8 Snoqualmie blood.²⁷²

Tulalip Tribes' Comments: Snoqualmie Ancestry

Sharon Brown's Report Number Two for the Tulalip Tribes (Brown 1994b), which analyzes the membership of the Tulalip Tribes, is concerned with demonstrating that most of the descendants of the historical Snoqualmie tribe became members of the Tulalip Tribes. It was accompanied by voluminous documentary materials prepared by Brown, a genealogist, and by the enrollment

²⁷¹ It is probable that a significant number of the 1/16th and 1/32 individuals on List A, whether presently enrolled or formerly enrolled, are among those who have backed Ron Lauzon's efforts to regain the chairmanship.

²⁷² Not meeting the group's written membership requirements does not preclude a petitioner from meeting criterion 83.7(e).

department of the Tulalip Tribes. Nicklason (Nicklason Research Associates 1994) cites this report in arguing that the STO represents only a small fraction of the family lines of the historical Snoqualmie.

Brown's Report Number Three (Brown 1994c) expands this review and analysis beyond the Tulalip Tribes' membership to the roll prepared for the ICC Docket 93 judgment award. This roll includes all Snoqualmie descendants who applied for the award and were accepted, regardless of current tribal affiliation. Brown attempts to demonstrate that the STO only includes a minority of the historical Snoqualmie families and that, of the family lines that are included in the STO membership, only a small portion of the living descendants are enrolled in the STO.

Because of the extensive privacy materials included, and because the Privacy Act prevented the Tulalip Tribes from reviewing much of the genealogical materials in the administrative record of the proposed finding, the Tulalip Tribes protested the requirement to provide Brown's Report Number Two and its documentation to the STO. Section 83.10(i) of the acknowledgment regulations requires that third party commentors provide copies of their comments directly to the petitioner. The Department as a matter of policy and to uphold the regulations declines to consider third party comments that were not provided to the petitioner.²⁷³ However, there is no need to consider the actual report and accompanying exhibits for this final determination because the underlying argument is not valid.

Snoqualmie Tribal Organization Comments

Although they did not receive the report or documentation, the STO briefly responded to the general argument and factual conclusions embodied in Report Number Two (Pennoyer 1995a). The premise and the report's conclusions appear in the Tulalip Tribes' 1994 narrative comment and in the Nicklason report (Nicklason Research Associates 1994). In addition, many of the same issues are addressed in Brown's Report Number Three on the Docket 93 judgment fund roll (Brown 1994c). The STO did receive and review Report Number Three.

²⁷³ The Tulalip Tribes provided an extra copy of Brown's Report Number Two to the Department and requested that it not be provided to the STO unless the Department required either that STO limit who could review it, or that other protective arrangements be made. Report Number Two and the extensive genealogical documentation accompanying it were not provided to the STO. The STO, although aware of the Tulalip Tribes' request and the transmission of its copy to the Department, did not request these materials.

The response for the STO, by Douglas Pennoyer (Pennoyer 1995a), essentially reiterates the Department's conclusions on this matter in the proposed finding. These conclusions are discussed below.

Response

The Tulalip Tribes' conclusion that many or even most of the descendants of the historical Snoqualmie tribe are not part of the petitioner is entirely consistent with the conclusions of the proposed finding.²⁷⁴ The basic premise of their argument, that most of the descendants of the historical Snoqualmie tribe are not part of the STO, does not provide an argument against acknowledgment of the STO under the acknowledgment regulations. The requirement in the regulations is to show continuous tribal existence. The administration and interpretation of the regulations, consistent with law and policy concerning tribal existence, recognize that historical tribes may have separated into more than one political unit. There is no requirement that, to be acknowledged, a petitioner must represent the entirety or even the majority of the contemporary descendants of the historical tribe.

No review has been made of the documentation accompanying Report Number Two (Brown 1994b) because, even assuming its conclusions were correct, it does not provide a valid argument against the STO's meeting the acknowledgment regulations.

Information from the Post-1993 Conflicts

In the course of the dispute after the 1993 election, Andy de los Angeles presented information and argument challenging the Snoqualmie ancestry of Ron Lauzon, and of the Tomallum family group of which Lauzon is a member. Some of this material was sent to the BIA. Lauzon in turn submitted information and arguments to the BIA that Andy de los Angeles and his family line (Zackuse) were allegedly of Duwamish ancestry with no Snoqualmie ancestry. He also challenged the Forgue and Jerry Kanim lines. Threats were made to remove all of the Tomallum family from the STO membership list. This action was not taken, however. The Tomallum family is represented on the revised membership list

²⁷⁴ The analysis by Brown (Brown 1994c) and the Tulalip Tribes includes *all* individuals known to have Snoqualmie ancestry. Because most Indians of the Puget Sound region have ancestry from more than one tribe, as a consequence of the prevalence of intertribal marriage, many of those listed may not have considered themselves, or have been considered by other Indians, to be Snoqualmie (see for example, the Mable Gobin affidavit cited in Nicklason Research Associates 1994, 152). This approach inflates the number of individuals classified as Snoqualmie in the Tulalip Tribes' analysis.

submitted with the final determination. None of these accusations concerning non-Snoqualmie ancestry were found to be accurate.²⁷⁵

Criterion 83.7(f): Membership in Other Federally Recognized Tribes

Criterion 83.7(f) states in part:

The membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian Tribe.

Proposed Finding

The proposed finding noted that 63 members of the STO (20 percent) were enrolled in other federally recognized tribes, i.e., Lummi, Muckleshoot, Nooksack, Sauk-Suiattle, Suquamish, Tulalip, and Upper Skagit (PF Genealogy Report, 11). Since the 63 dual enrollees were dispersed among seven tribes, there was no evidence that they represented a faction or factions attempting to break away from their tribe. The proposed finding concluded that the STO met criterion 83.7(f) because the membership was principally composed (80 percent) of persons who were not members of an acknowledged tribe.

Final Determination

There are 49 names (14 percent) on the 1996 STO membership list that are also found on the 1992 BIA list of enrolled members of federally recognized tribes, or on the 1994 Tulalip Tribes' enrollment list (U.S. BIA 1992; Tulalip Tribes 1994b). The dually enrolled were found on the rolls of Lummi (12), Nooksack (2), Tulalip (11), Sauk-Suiattle (17), and Muckleshoot (7). There were 23 names on the 1990 list who were dually enrolled who were also on the 1996 list.

Although 14 percent of the 1996 membership appears to be dually enrolled, the STO is composed principally of persons who are not members of another federally acknowledged tribe.

²⁷⁵ Both the Tomallum and Zackuse family lines were demonstrated to be of Snoqualmie ancestry for the proposed finding. The Zackuse family line was also of Duwamish ancestry. None of the information supplied by either party is substantially new nor presents grounds for a change in the determination that these family lines are descended from the historical Snoqualmie tribe.

Criterion 83.7(g): No Congressional Termination

Criterion 83.7(g) requires:

Neither the petitioners nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.

The STO met criterion 83.7(g) for the proposed finding. No comment was received challenging this conclusion. The proposed finding is confirmed.