

(7) Federal Register Notice of Final Determination

- August 29, 1997

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs****Final Determination To Acknowledge the Snoqualmie Tribal Organization**

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of final determination.

SUMMARY: This notice is published in the exercise of authority delegated to the Assistant Secretary—Indian Affairs (Assistant Secretary) by 209 DM 8.

Pursuant to 25 CFR 83.10(m), notice is hereby given that the Assistant Secretary acknowledges that the Snoqualmie Tribal Organization, c/o Andy de los Angeles, 3946 Tolt Avenue, P.O. Box 280, Carnation, Washington 98014, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the group satisfies all seven criteria for acknowledgment in 25 CFR 83.7, as modified by 25 CFR 83.8.

DATES: This determination is final and is effective November 28, 1997 pursuant to 25 CFR 83.10(l)(4), unless a request for reconsideration is filed with the

Interior Board of Indian Appeals pursuant to 25 CFR 83.11.

SUPPLEMENTARY INFORMATION: The Assistant Secretary's proposed finding to acknowledge the Snoqualmie Tribal Organization (STO) was published in the *Federal Register* on May 6, 1993. The proposed finding was prepared under the 1978 acknowledgment regulations. This final determination is made under revised acknowledgment regulations which became effective March 28, 1994, during the comment period on the proposed finding.

The original comment period was suspended until March 31, 1994, when documentary materials that were used for the proposed finding were provided to the Tulalip Tribes. The 180-day comment period provided under the 1994 regulations ended September 27, 1994. The Snoqualmie Tribal Organization was given until September 9, 1995, to respond under section 83.10(k) to third party comments. The extended period was granted because of the voluminous nature of the comments submitted by the Tulalip Tribes and because of the extended period of time that third parties had to comment on the proposed finding.

Third party comments were received on September 27, 1994, in opposition to acknowledgment from the Tulalip Tribes, Inc., and from Les Wahl and Dorothy Cohn, members of a separate petitioner called the Snoqualmoo tribe. Comments were received from the Snoqualmie Tribal Organization on September 5, 1995.

This final determination is based on the 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. Additional factual conclusions were reached after a review and reanalysis of the existing record in light of the additional evidence.

The 1994 regulations required an evaluation of whether the Snoqualmie were a previously acknowledged tribe within the meaning of the regulations. Because it has been determined that the Snoqualmie Tribal Organization meets the definition of unambiguous previous Federal acknowledgment in section 83.1, it has been evaluated under modified requirements provided in section 83.8 of the regulations. Conclusions concerning previous acknowledgment under 83.8 are solely for the purposes of a determination of previous acknowledgment under 25 CFR 83, and are not intended to reflect conclusions concerning successorship in interest to a particular treaty or other rights.

Although the 1978 regulations made no provision for taking into account unambiguous previous Federal acknowledgment, the proposed finding made detailed factual conclusions that the STO had been previously treated as an acknowledged tribe.

Substantial evidence showed that the Snoqualmie Tribal Organization had unambiguous previous Federal acknowledgment under 25 CFR 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. The Snoqualmie Tribal Organization was acknowledged as a separate, nonreservation tribal entity by 1934. There were multiple, consistent Federal dealings with the non-reservation Snoqualmie Band between 1934 and January 1953 which treated it as a recognized tribe under the jurisdiction of the Federal Government. Evidence includes consistent identification in Indian agency documents which clearly identified the tribes under the jurisdiction of the Western Washington Agency as well as in other Federal documents. Agency and central office documents describe and characterize the STO as a tribe and distinguish 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 under the 1934 Indian Reorganization Act.

Criterion 83.7(a), as modified by the application of section 83.8, requires external identification of the petitioner as an Indian entity from the date of last Federal acknowledgment. It also requires that this identification makes clear that the group is being identified as the same as the entity which had been previously Federally acknowledged.

The 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 the Snoqualmie Band, or "Jerry Kanim's Band," as it existed and was acknowledged 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.

Under 83.8(d)(2), a demonstration of meeting the criterion for community is required only for the present day, or modern, community. Community need not be demonstrated from 1953, the last point of unambiguous Federal acknowledgment until the present day. Modern community has been defined

for the proposed finding and final determination as 1981 to the present.

The proposed finding's general conclusion that the modern community meets the requirements of criterion 83.7(b) is strengthened by additional evidence that family line groupings are widely recognized in both social and political contexts. The social recognition and definition of these family line groupings result from informal social interaction over an extended period of time and thus provide good evidence for community. Demonstration of political processes was also evidence for community in the proposed finding, which noted that significant, non-coercive political processes occurred among the Snoqualmie. These processes require and are based on the existence of social ties and communication to operate. Significantly stronger additional evidence which demonstrates political processes in the modern community exists for this final determination than for the proposed finding (see also criterion 83.7(c)). This additional evidence provides greater detail over a longer period of time about communication and social relationships as a basis for political processes and shows significant interaction and social ties between family line groupings.

Evidence for community is found in significant cultural differences, particularly participation in Indian religions, which were maintained by a significant minority of the Snoqualmie membership, and were broadly distributed among family lines. The Snoqualmie do not occupy a distinct settlement area, but the geographic distribution of Snoqualmie members is close enough that a significant level of social interaction among most of the group is easily possible. The distribution is not close enough to raise any presumption of significant social interaction, but is close enough that it raises no question about conclusions, based on other evidence, that social interaction and social ties are being maintained. This final determination rejects comments from the Tulalip Tribes which asserted that a tribe could not exist without occupying a distinct, exclusive geographical area and without exercising the powers of a sovereign group. These arguments were 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 to previous cases.

Criterion 83.7(b) requires that a petitioner show that its members are

identified as distinct from non-members. The proposed finding concluded that although there were not strong social distinctions 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 STO membership requirement of 1/4th degree Snoqualmie ancestry as it has been viewed and implemented by the leaders and membership embodies a significant social distinction from non-members as well as providing 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. Distinction is also shown by the cultural differences described above.

The STO meets the requirements of 83.7(b) as modified by 83.8(d) from 1981 to the present to demonstrate modern community.

Substantial additional information which demonstrated political influence within the STO from 1953 to the present was presented for the final determination by the petitioner. The additional information confirmed and expanded the proposed finding's conclusion that from the 1930's to 1956 Snoqualmie Chief Jerry Kanim had been a strong leader. Kanim's leadership provided the foundation and the reference point for subsequent leaders. The period before 1953 provides a context for interpreting continuity of political influence after Kanim's death, including the continued leadership of Ed Davis.

This final determination revises the conclusion of the proposed finding that Snoqualmie political activity lessened for about a decade after 1956 because the Snoqualmie political system did not immediately adjust to the changed conditions of no longer being recognized and no longer having the strong leadership figure it had had for decades. While overall the level of political activity between 1956 and 1968 declined, the degree of decline is less than appeared for the proposed finding and represents a natural process of change and response to external conditions, not a weakening of political authority per se. Some of the changes observed were the result of limitations due to changes in Federal policy and others were a manifestation of a political transition between generations which began in the early 1940's and continued until the 1960's.

The influence and activities of specific political leaders in the first decade after Kanim's death is

documented more strongly than for the proposed finding. There was direct, clear evidence, not available for the proposed finding, 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. In addition, the leadership cadre that was active after 1956 was considerably larger than the proposed finding indicated and their roles more clearly spelled out than had been possible for the proposed finding.

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 that the STO activities in the decades before 1953 showed fishing rights to be a strong political issue which formed the basis of the continued interest in fishing rights after 1953. The Tulalip Tribes challenged this finding, contending that fishing was only a claims issue and that there was little interest in fishing. A review of new and existing documentation strengthened the finding that this was a significant political issue to a broad spectrum of the membership within the STO both from the 1930's to 1953 and after 1953.

Substantial additional demonstration of political processes, leadership and influence from 1968 to the present 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 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. For this final determination, there is a stronger and more detailed demonstration, over a longer period of time, of the existence of family line groupings and their political role. There is a stronger and more detailed demonstration that important avenues of influence exist to bring forward candidates and establish support by mobilizing public opinion and political support.

A prime conclusion of the proposed finding was that the general council (general meeting of the membership) 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. There was some additional evidence to support this

finding. This conclusion is therefore affirmed.

The Tulalip Tribes presented 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. A careful review of their comments and evidence did not support their conclusion that the STO was an organization whose members had no connection with each other except to enroll to receive claims or that its issues were not of political importance to the membership. The STO meets the requirements of 83.7(c) as modified by 83.8(d)(3).

The Tulalip Tribe's comments do not specifically challenge the proposed finding that the STO membership is descended from the historical Snoqualmie tribe and therefore met the requirements of criterion 83.7(e). They did present extensive evidence to support an argument that the family lines within the STO represents an insignificant portion of the total number of historical Snoqualmie family lines. The Tulalip Tribes also argued 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 present membership of the STO is descended from a large number of historical Snoqualmie families and thus meets the requirement to show descent as a tribe. The STO membership descends from the historical Snoqualmie tribe. The STO therefore meets criterion 83.7(e).

The STO met criteria 83.7 (d), (f), and (g) for the proposed finding. Significant comment or evidence was not submitted to refute the finding concerning these criteria. Consequently, this final determination confirms that the STO meets these criteria.

Dated: August 22, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

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