



DUWAMISH TRIBE - STATUS REPORT

On January 22, 1855 - the Point Elliott Treaty Promised Benefits & Services For the Duwamish Tribe 164 Years Ago

Cecile Hansen, Chair, Duwamish Tribal Council
January 26, 2019

So Where Do Things Stand - Today?

- 7/24/2015** The Interior Department said the Duwamish Tribe is not entitled to be Acknowledge as an Indian Tribe.
- 10/27/2015** The K&L Gates law office appealed the Interior Department's decision for the Duwamish tribe.
- 3/7/2016** The **Board of Indian Appeals** in the Interior Department issued the following **Order**:
 - ▶ The Board had the authority to review Interior Department's final negative decision not to Acknowledge Duwamish Tribe because a Federal Court had **Remanded** (returned) the negative decision back to the Inter Department.
 - ▶ The Board requested the Interior Department to provide documents to the Board by June 10, 2016 in response to the Board Duwamish Case number 16-008.
- 1/31/2019** ***As of this date***, the Duwamish Tribe case is currently under active review and we are waiting for the **Board of Indian Appeals** to issue a **Decision** on the Duwamish Tribe's **ACKNOWLEDGEMENT** for **Benefits & Services**.

2 Definitions: "Recognition" vs. "Acknowledgment"

Recognition: In 1859 the United State Senate ratified the **Treaty of Point Elliott** that **Chief Seattle** had sign in 1855 for the Duwamish Tribe giving them land, benefits and services.
Duwamish Tribe is a Federally **RECOGNIZED** Tribe!

Acknowledgment: In 1978 the Interior Department's, Bureau of Indian Affairs, Office of Federal Acknowledgment - basically **Amended** the Treaty by adding **7 new rules**.
Duwamish Tribe **now required** to meet **ACKNOWLEDGMENT** rules to receive land, benefits & services.

163-Year History of the Duwamish Tribe's "TREATY" with the United States

The following information is from Congressional hearings, the Western Federal District Court, Interior Department's Inspector General & Bureau of Indian Affairs, and Federal Freedom of Information Act requests & appeals.

From a Treaty with promises - To Rules that voided all promises

1/22/1855 Chief Seattle signed the Treaty of Point Elliott for the Duwamish Tribe in Mukilteo, Washington. The Native Americans were forced to give up 589,013 acres or 9,123 square miles of land:

- ▶ *From* Three Tree Point on Puget Sound (3 miles West of SeaTac Airport),
- ▶ *Eastward* to Cascade Mountains (along Wig Boulevard, South Center),
- ▶ *Northward* to the 49th parallel the Canadian border,
- ▶ *Westward* to the Puget Sound,
- ▶ *Southward* back to Three Tree Point.

Over the next 122 years the Interior Department's recordkeeping program on Duwamish Tribal members was at most very weak. Treaties forced Indians to live in a confined area while non-Indians could live anywhere.

5/15/1858 While living on Port Madison Reservation, **Chief Seattle said:**
"I have been very poor and hungry all winter and am very sick now. Many of my people died during the cold winter without getting their pay. When I die my people will be very poor – they will have no property, no chief and no one to talk for them."

3/8/1859 Treaty Ratified by U. S. Senate.

4/11/1859 Treaty Proclaimed by President James Buchanan

6/7/1866 Chief Seattle died.

6/7/1977 After 122 years the Duwamish Tribe tried again to apply to the Interior Department for federal benefits and services promised them under the Treaty.

6/1/1978 The Interior Department denied the Duwamish Tribe any benefits and services saying they are a different group not covered by the Point Elliott Treaty. **BUT**, the Interior Department's list of 573 Indian Tribes does not list any Duwamish Tribe. **Why?**

Duwamish Tribe's Acknowledgement

12/22/2000 Lee Fleming chief of the Branch of Acknowledgment and Research told Bureau of Indian Affairs, Acting Assistant Secretary Michael Anderson **he did not want to** Acknowledgment the Duwamish Tribe because the information they provided was **insufficient** for 3 of the 7 Criteria Rules.

1/18/2001 Nevertheless, Acting Assistant Secretary Michael Anderson told Lee Fleming, he had **decided to** Acknowledgment **the Duwamish Tribe**. Anderson came to dislike the Branch of Acknowledgment and Research as his dealing with them increased. Anderson considered the staff as merely adequate Civil Servants constituting a mix of good and bad personnel. Anderson stated they would *write books* about tribal acknowledgment rather than produce just the meat of the regulations. He defined their role as an information gathering body that has *overstepped its authority* and needs to be put back in check. (**Inspector General's Report, 2/2002**)

1/19/2001 Lee Fleming then prepared a memorandum of **non-concurrence disagreeing** with

Anderson's decision to Acknowledgment the Duwamish Tribe.

- 1/19/2001 On Michael Anderson's last day as Acting Assistant Secretary, Bureau of Indian Affairs ***signed the following documents:***
1. **Cover Memorandum** Determination on Recognition of Duwamish Tribal Organization.
Anderson *signed & dated 1/19/2001*
 2. **Approval Statement**
Anderson *signed & dated 1/19/2001*
 3. **Final Determination to Acknowledge the Duwamish Tribal Organization**
Federal Register Notice Acknowledging the Duwamish
Anderson *signed & dated 1/19/2001*
- Michael Anderson did not sign the following documents:***
4. **1st Copy Final Determination to Acknowledge the Duwamish Tribal Organization**
Anderson did not sign - *was not made aware he had to sign*
 5. **2nd Copy Final Determination to Acknowledge the Duwamish Tribal Organization**
Anderson did not sign - *was not made aware he had to sign*
 6. **Summary Under the Criteria and Evidence for Final Determination to Acknowledge the Duwamish Tribal Organization**
Anderson did not sign - *was not made aware he had to sign.*

1/19/2001 **Acting Assistant Secretary Michael Anderson de facto *Acknowledged the Duwamish Tribe* under the 1978 & 1994 "rules."**
He then telephoned Cecile Hansen and told her the Duwamish Tribe was Acknowledged!

1/19/2001 Lee Fleming then sent a 6-page document to the Interior Department's Inspector General covering the 1/19/2001 actions of Acting Assistant Secretary Michael Anderson's Acknowledgment of the Duwamish Tribe.

Duwamish Tribe's Acknowledgement - Put on *Temporary Hold* by new President

1/20/2001 The new President Bush put a hold on all U.S. Government actions of the prior Administration *until his officials* looked them over.

Overturing the Duwamish Tribe's Acknowledgement

1-22-2001 Lee Fleming ***picked up*** Michael Anderson's Duwamish Acknowledgment documents. Anderson's Duwamish Acknowledgment documents were Immediately stamped "**DRAFT**" so they would no longer be treated as officially approved legal documents.

1. The **Cover Memorandum** that Anderson had *signed & dated 1/19/2001*. This legally approved document was stamped **DRAFT** so it could now be called just a preliminary finding not releasable under the Freedom of Information Act.

3. The **Final Determination to Acknowledge the Duwamish Tribal Organization**
Anderson had *signed & dated 1/19/2001*.
This Federal Register Notice had been sent to the **Federal Register** and after 90 days the Duwamish Tribe would have been **Acknowledge!** At this point the document was a legal action of the Interior Department. It was returned so it could be read *by a new Administration official.*

But, to ensure that no one in the new Administration would ever see, it too was stamped **DRAFT** so it could also now be called just a preliminary finding not releasable under the Freedom of Information Act.

Since an Assistant Secretary had signed it - only an official acting in that position had legal authority to stamp it **DRAFT**.

[On 9/13/2018 after 883 days the Interior Department said it will not release any of these documents under the Federal Freedom of Information Act. Why?]

2/21/2001 Lee Fleming then wrote a **3-page document** saying the Acting Assistant Secretary Michael Anderson did not follow Fleming's interpretation of the rules.

Un-Acknowledgement of the Duwamish Tribe

9/26/2001 Lee Fleming, again **denied** Duwamish Tribe Acknowledgment.

3/22/2013 The **Western Federal District Court** found that the Department's Branch of Acknowledgment and Research was **arbitrary & capricious** in their review and therefore **Remanded** (returned) the Duwamish case to the Interior Department and **ORDERED** them to review the Duwamish Tribe for Acknowledgment under the new 1994 rules.

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After a delay of 163 years - there is still no land, benefits and services for the Duwamish Tribe. The rules process has been burdensome and expensive.

It has subjected the Duwamish Tribe:

- to undue political influence and manipulation by other tribes,
- to prove the tribe descended from the 1855 tribal members,
- to prove the Duwamish have been a tribe for 163 years, and
- to prove tribal members have been subject to a non-Indian style of political authority.