



## **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**.

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#### **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 49<sup>th</sup> 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. **1<sup>st</sup> Copy Final Determination to Acknowledge the Duwamish Tribal Organization**  
Anderson *did not sign - was not made aware he had to sign*
  5. **2<sup>nd</sup> 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.*

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**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.