

**Hearing before the House Natural Resources Committee
on HR 2678--The Duwamish Tribal Restoration Act
The Honorable Nick J. Rahall, Chairman**

July 15, 2009

**TESTIMONY OF THE HONORABLE CECILE HANSEN
CHAIR, DUWAMISH TRIBE**

Good morning Chairman Rahall and distinguished members of the Committee. My Name is Cecile Hansen. I am the great great grand niece of Chief Sealth (known to you as Chief Seattle). I am a descendant of Chief Seattle's brother. My grandmother, Ann Garrison, lived to be 114 years old. She survived by gathering clams on the banks of Puget Sound. My mother survived the indignities of Indian Boarding Schools. I am the Chair of the Duwamish Tribe and have served in that capacity for 34 years. When I was called to serve my tribe, I was a young woman. I am an elder now, but I still hope to see justice for my people in my lifetime. On behalf of the Duwamish Tribe, I thank you for inviting me to testify in support of HR 2678 – The Duwamish Tribal Restoration Act.

We also want to express our appreciation to our Congressman, Representative Jim McDermott, for sponsoring this very important bill – a bill that promises to finally bring justice to Seattle's first people.

Since time immemorial, the Duwamish Tribe has called Elliot Bay home. The Duwamish saved the first European Settlers from certain peril - wintering as they were on wind-swept Alki Point - by inviting the settlers to take refuge in the more protected confines of inner Elliot Bay. As a result of the Duwamish Tribe's generosity, the once tiny European settlement thrived and eventually became known as Seattle – named after Chief Sealth, the Duwamish chief to whom the early settlers owed their very survival. Today, the gratitude of the early settlers lives on in their direct descendents, who actively support the Duwamish Tribe – including our struggle to restore our federal recognition.

When Issac Stevens arrived in the Puget Sound region in the early 1850's, he was under a Congressional mandate, as Governor of the Territory of Washington, to treat with the Indians to swiftly secure land for white settlement without military conflict. Governor Stevens was well aware that the Duwamish were a dominant tribe - both economically and politically - with extensive relationships with tribes throughout not only the Puget Sound, but the entire Northwest Territory. It is no accident that Governor Stevens entitled the treaty between the mid-Puget Sound tribes and the United States, the "Treaty between The United States, D'Wamish, Suquamish and other Allied and Subordinate Tribes of Indians in Washington Territory." Chief Seattle, on behalf of the Duwamish and Suquamish Tribes, and an additional three Duwamish chiefs and leaders were among the signers of the Treaty, today known as the Treaty of Point Elliot.

The Treaty of Point Elliot was ratified by Congress on March 8, 1859. However, the Presidential Order establishing the boundaries of the “general reservation” described in the Treaty was not issued until December 23, 1873, almost 19 years after the Treaty was signed.

Once established, the “general reservation,” which became known as the Tulalip Reservation, could not support the number of Indians designated by the government to live there. Much of the land was covered with timber and marshland and could only be made habitable with great cost and effort. The poor conditions on the reservation were worsened by the US government’s policies discouraging traditional religious practices and the use of the Indians’ native languages, as well as the government’s repeated interruptions of efforts to develop the land.

Because of the overcrowding and poor land conditions, many in the Duwamish Tribe were unwilling to relocate to the reservation, or left the reservation after being unable to obtain any viable land. In keeping with a cultural tradition of using strategic marriages to enhance political and economic interests, many Duwamish members married settlers, obtaining access to land and resources off the reservation, and establishing settlements in the Seattle area.

The unworkability of forcing the Duwamish to reside on a “general reservation” became apparent to federal officials even before its establishment. A reservation for the Duwamish Tribe was proposed in 1866 in the Tukwilla area, nestled along the banks of the Duwamish River, downstream from modern day Seattle. However, local non-Indian opposition prevented the establishment of this reservation.

As time passed, the initial gratitude of Seattle’s first European settlers gave way to outright racial animosity against the Duwamish and calls for their removal from the Seattle area. The City of Seattle responded on February 7th, 1865 by enacting Ordinance 5, An Ordinance for the removal of Indians which banned all Indians, including resident Duwamish, from the city limits. In 1893, non-Indians set fire to Duwamish houses in West Seattle along the bank of the Duwamish River in yet another attempt to drive out the very Tribe whose generosity and sacrifice had helped their community to thrive.

Despite the concerted efforts to drive out the Duwamish, we continued to maintain our customs, traditions, and political organization. Our continued presence is documented not only by the United States government’s express recognition though the Treaty of Point Elliot, but also by an unbroken stream of Congressional enactments from 1860 until 1923.

As a function of their continuing political organization, the Duwamish also pursued claims before the Indian Claims Commission from the 1930’s throughout the 1950’s.

The Duwamish were included in a list prepared by the Department of the Interior in 1950 for inclusion in a Congressional report naming tribes in Washington State recommended by the Department for termination of the federal trust relationship. Inclusion on this list begs the obvious question – the United States must have considered Duwamish a tribe, otherwise there would have been no need to terminate us.

It is striking that, other than the Duwamish, all the other Washington State tribes on the 1950 list are now “recognized” by the United States.

In August 1966, the BIA’s Chief Tribal Operations Officer circulated a document that listed Indian Groups within the Bureau’s jurisdiction. The compilation included listed tribes based on their organizational status, and expressly included the Duwamish Tribe within the BIA’s Portland area. The vast majority of these tribes are now recognized by the Federal government; two notable exceptions are the Chinook and Duwamish.

*The Duwamish Tribe’s 32 Year Effort for Recognition
by the Department of the Interior*

The Duwamish Tribe initially petitioned for federal acknowledgement in 1977, one year prior to the Department of the Interior’s publication of regulations governing the procedure for official recognition of Indian tribes. In response to the regulations, the Duwamish submitted a documented petition in 1987. The petition included genealogical, anthropological and historical studies, eyewitness accounts, tribal constitutions and bylaws, studies, reports and identifications made during the last 150 years by anthropologists, historians, local residents, scholars, journalists, and others familiar with the Tribe as well as federal and state government reports and documents during the same period. The Duwamish Tribe further supplemented its petition in 1998, in response to the Assistant Secretary’s 1996 Proposed Finding against acknowledgment.

On January 19, 2001, the Acting Assistant Secretary for Indian Affairs completed work on a Final Determination to Acknowledge the Duwamish Tribe. The Final Determination set forth evidence and analysis that supported the Assistant Secretary’s conclusion that the Duwamish Tribe had satisfied all seven mandatory criteria required for recognition under the regulations. The Assistant Secretary signed the decision document, called the Tribe to announce his decision, before the Clinton Administration completed its final day in office.

On January 20, 2001, a new President of the United States took office, and Interior Department leadership positions were vacated. The new administration never forwarded the **positive** Final Determination to the Federal Register. Instead, it announced its intention to review all non-final decisions reached by the previous administration.

On September 25, 2001, the new Assistant Secretary Neil McCaleb issued a **negative** Final Determination detailing reasons for denying acknowledgment to the Duwamish Tribe. This new decision omitted significant evidentiary and analytic material expressly included in the positive Final Determination that had supported its conclusion in favor of the Tribe. As an example, the negative Final Determination recites that the Proposed Finding had adduced no evidence of federal action on behalf of the Duwamish Tribe at any time in the 20th Century before 1930. The January, 2001 positive Final Determination, on the other hand, refers to evidence in the record establishing 59 congressional enactments specifically mentioning the Duwamish Tribe. Through the omission of material facts and analyses, the new Final Determination asserted that the Duwamish failed to meet the same criteria which the former Assistant Secretary had concluded were, in fact, met prior to leaving office. The facts did not change, but were only selectively ignored by new drafters. In other words, material evidence was purposefully omitted by the new administration to substitute a negative determination for a prior positive finding.

On December 31, 2001, the Duwamish Tribe submitted to the Interior Board of Indian Appeals a request for reconsideration of the Negative Final Determination, asking that the previous positive Final Determination be reinstated. The Board held no hearing. On January 4, 2002, it dismissed the appeal on the grounds that it was not within its jurisdiction, and referred all further questions to Secretary Norton.

On May 8, 2002, Secretary Gale Norton signed a memorandum informing the Assistant Secretary that she would not request reconsideration of the final determination. She noted that the previous Positive Final Determination had "never left the Department." She noted that the acknowledgment regulations provide a "thorough and transparent process" for determining whether the Department should acknowledge a tribe and that she believed that the outcome would not change upon reconsideration of the record.

No evidentiary hearing was held at any time in the determination process. The Tribe was not provided an opportunity to cross-examine witnesses, and decision makers did not take live testimony and therefore were not able to determine the credibility of the anthropologists, historians and other professionals – many of whom held differing opinions concerning whether the Tribe did or did not meet the criteria. **No impartial decision maker had the opportunity to evaluate a full and complete record of the Tribe's existence.**

It is clear to the Duwamish that the decision to recognize or not recognize our Tribe depended upon which administration controlled the decision-making at the Department rather than an objective consideration of the merits of our petition. We trust this Committee expects better from the Department. Our experience with the Department's recognition process is perhaps the most glaring example of just how broken that process really is.

When it comes to the Department's recognition process, three things are certain: 1) each year Congress conducts hearings in which all agree that the Department's recognition process is broken; 2) each year Department officials argue that the Department will soon fix the varied problems with the recognition process; and 3) each year nothing changes - leaving tribes to continue to suffer.

The Duwamish Tribe has been a victim of the Department's broken recognition process for the past thirty-two years. While the broken system languishes year after year, our people continue to be denied fundamental services provided to other tribes, and the Duwamish Tribe continues to be deprived of its right to be on equal footing with the other tribes that signed the Treaty of Point Elliot. HR 2678 promises to finally release the Duwamish from the yoke of the Department's broken recognition process and will allow us to take our rightful place among our fellow signatory tribes to the Treaty of Point Elliot. The Duwamish people respectfully urge you reaffirm our Federally-recognized status by acting favorably on HR 2678 so that we may be one step closer to finally realizing justice.

Finally, it is worth repeating the words of Duwamish Chief Satiacum that were recorded on the 16th of April 1915 which are still true 94 years later. "I will forget the lies the government has told us many times, if only the government settle with younger members of my tribe, give us land, we want some fish and game. Governor Stevens told us that white man was honest. Now let the white man government prove it."

Again, I thank the Chairman and Committee members for this opportunity to testify.