

Review of Information in S'Klallam Tribes' August 2015 Report
on S'Klallam Hunting in the WDFW Sol Duc (607) and
Southern Dickey (602) Game Management Units

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Executive Summary

The Jamestown and the Port Gamble S’Klallam Tribes seek to demonstrate an aboriginal hunting ground in parts of the Soleduck and Dickey River drainages that the Washington Department of Fish and Wildlife (WDFW) designates the Sol Duc (607) and Dickey (602) Game Management Units (GMUs). To accomplish this, the S’Klallam Tribes need to provide evidence under the Washington Supreme Court’s 1999 *Buchanan* Decision (*State v. Buchanan* 138 Wn.2d 186, 978 P.2d 1070 (1999)), which states that a tribe’s hunting areas include its treaty-ceded lands and “may include other areas if those areas are proven to have been actually used for hunting and occupied by the . . . Tribe over an extended period of time” (*Buchanan* 978 P.2.d 1070 at 1081).

The Sol Duc and southern Dickey GMUs lie outside the lands ceded in the S’Klallam Tribes’ Treaty of Point No Point (1855) and within the lands ceded by the Quileute and Quinault Tribes in the Treaty of Olympia (1856). A drainage divide between the waters that flow north into the Strait of Juan de Fuca from those running southwest to the Pacific Ocean separates the treaty-ceded lands.

The S’Klallam Tribes previously provided an Interim Report (Wisniewski 2014) asserting S’Klallam hunting in the Sol Duc and southern Dickey GMU sections as well as other GMUs and more recently submitted a longer report (“S’Klallam Report;” Wisniewski 2015) regarding S’Klallam aboriginal hunting in these areas. In 2014, the Lower Elwha Klallam Tribe provided documents regarding S’Klallam hunting in the subject GMU sections. Based on their opposition to S’Klallam hunting in various areas, the Quileute, Hoh, Makah, and Quinault Tribes submitted comment letters, reports, and documents to WDFW critiquing the two S’Klallam reports. I reviewed information in the submissions and provided WDFW with a review report on the S’Klallam Tribes’ Interim Report and the Lower Elwha Tribe’s documents (Thompson 2015).

The present report reviews references cited in the S’Klallam Report as well as other sources to understand if the information provides evidence of a S’Klallam aboriginal hunting ground in the Sol Duc and southern Dickey GMUs. Review subjects include aspects of archaeological data from the Hoko River site complex, elk distribution, tribes’ hunting in the Olympic Mountains, S’Klallam trail use, S’Klallam subsistence mobility, tribes’ overlapping use of resource areas, and S’Klallam oral histories. I conclude that extensive research and analysis of the relevant information provides almost no evidence for S’Klallam aboriginal hunting in the Sol Duc and southern Dickey GMUs, confirming the opinion expressed in my earlier report.

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1. Introduction

The Washington Department of Fish and Wildlife (WDFW) asked me to review the Port Gamble S’Klallam Tribe’s and the Jamestown S’Klallam Tribe’s 2015 Report titled *Review and Critique of Washington Department of Fish and Wildlife’s Methodology and Conclusion Regarding S’Klallam Hunting, Including Additional Evidence of S’Klallam Hunting on the Western Olympic Peninsula* (the S’Klallam Report or Report) about S’Klallam aboriginal hunting on the western Olympic Peninsula (Wisniewski 2015). The review is about two Game Management Units (GMUs): the Sol Duc (607) and the southern part of the Dickey (602) (subject GMU portions). Figure 1 shows the Olympic Peninsula setting, and Figure 2 shows the location of the Sol Duc and Dickey GMUs. The S’Klallam Report arrived after several documents on S’Klallam hunting provided by the Lower Elwha Klallam Tribe along with the *Interim Ethnohistorical Analysis of S’Klallam Hunting and Territoriality in parts of the Olympic Peninsula in Western Washington including the Dickey, Sol Duc, Hoko, Quinault Ridge and Wynochee [sic] Game Management Units* (the Interim Report) produced for the two S’Klallam tribes in 2014 (Wisniewski 2014). The 2015 Report aimed to provide additional evidence for S’Klallam traditional hunting in several WDFW GMUs.

In 2014, WDFW asked me to investigate the Lower Elwha Tribe’s documents and the Interim Report for evidence that would support the existence of a S’Klallam aboriginal hunting ground in the Sol Duc and southern Dickey GMUs (Thompson 2015). These areas lie south of the drainage divide that separates waters flowing north into the Strait of Juan de Fuca from those flowing southwest into the Pacific Ocean. While the northern part of the Dickey GMU lies within the ceded lands of the Treaty of Point No Point (1855), which the S’Klallam Tribe and others signed, the Sol Duc and southern Dickey GMUs are located in the ceded lands of the Treaty of Olympia (1856), which the Quileute Tribe and Quinault Tribe signed.

In addition to hunting rights on lands ceded under a tribe’s treaty, the Washington State Supreme Court *Buchanan* (*State v. Buchanan* 138 Wn.2d 186, 978 P.2d 1070 (1999)) decision states that hunting rights may extend to areas beyond the treaty-ceded lands that can be shown to have been “actually used for hunting and occupied by the . . . Tribe over an extended period of time,” often referred to as the *Buchanan* standard (*Buchanan* 978P.2d 1070 at 1081). Reviews of both the Interim Report and the S’Klallam Report are conducted under this standard.

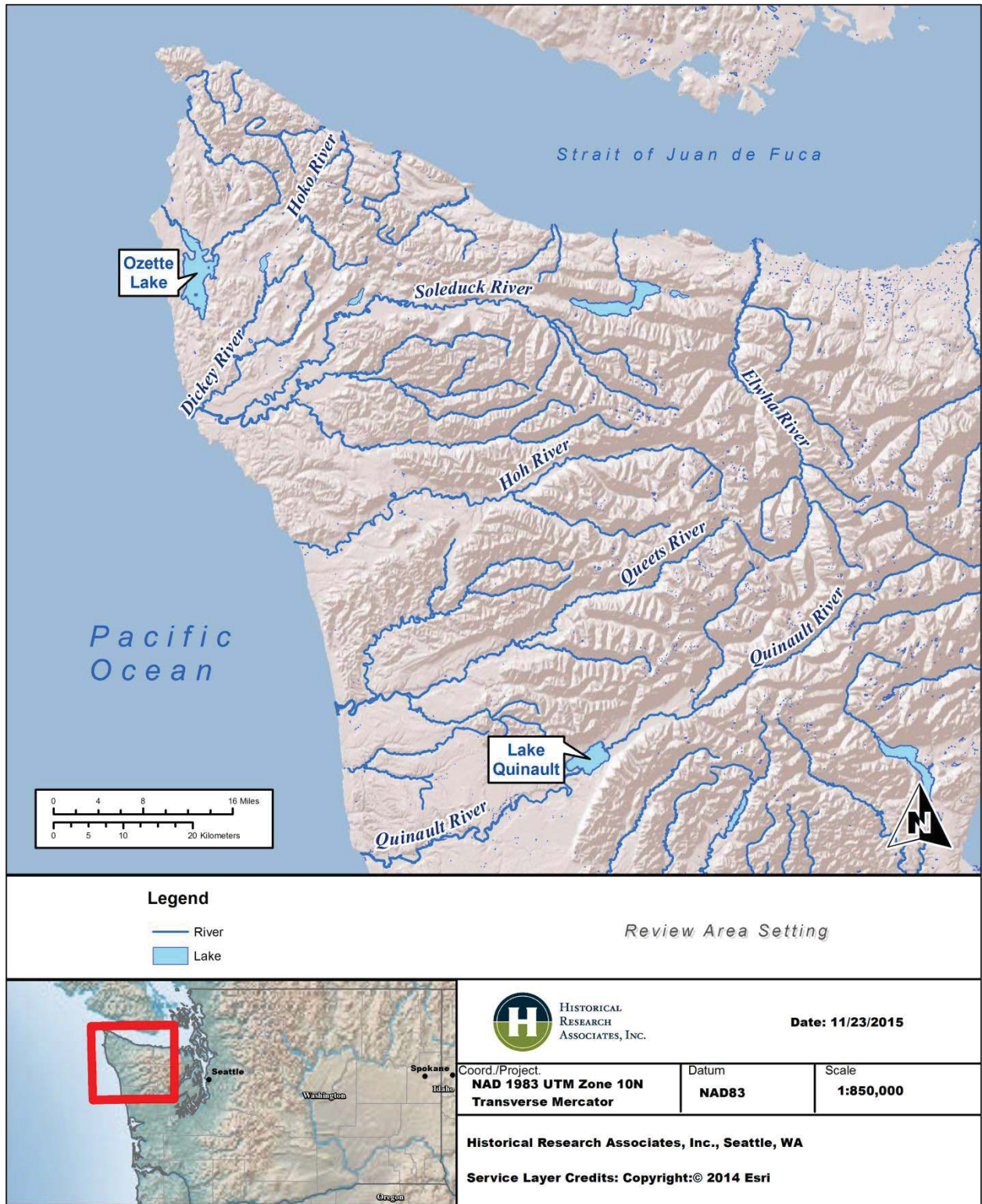


Figure 1. Review Area setting.

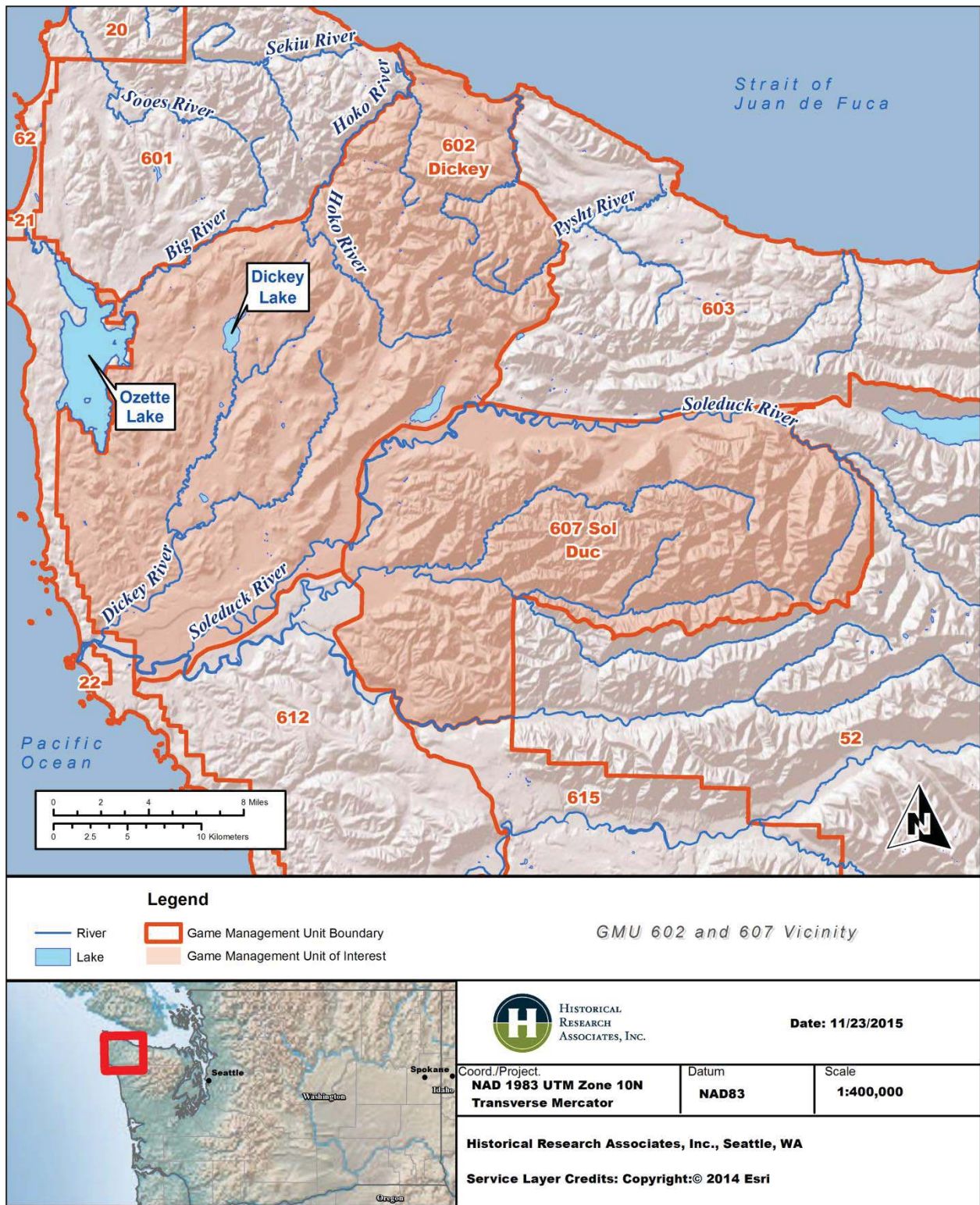


Figure 2. GMU 602 and 607 vicinity.

WDFW provided various documents that I consulted, along with others, while preparing my review of the 2014 materials and Interim Report, including two reports from the Quileute Tribe (Powell 2014a, 2014b), which had been written to refute the S’Klallam assertion of aboriginal hunting in several GMUs, including the Sol Duc and southern Dickey GMUs. I also read letters from the Hoh Tribe (Easton 2014), the Makah Tribe (Greene 2014), and the Quileute Tribe (King 2014a, 2014b). Materials consulted for the present report include reports by Jay Powell (2015) and Daniel Boxberger (2015a) reviewing aspects of the 2015 S’Klallam Report, a report by Boxberger (2015b) on the Interim Report, and a letter from the Makah Tribe (Greene 2015) commenting on portions of it.

As did my January 2015 report, the present review examines information presented as evidence for S’Klallam aboriginal hunting in the two GMU portions prior to treaty time under the *Buchanan* standard. My earlier review of the Interim Report found almost no evidence of S’Klallam traditional hunting in the two GMU portions. My investigation of information in the 2015 S’Klallam Report, as well as a number of the references cited in the Report and others, reveals almost no additional evidence, and I confirm my earlier opinion that the S’Klallam Tribes have provided almost no evidence for aboriginal hunting in the Sol Duc and southern Dickey GMUs.

As with the Interim Report review, I found evidence in the 2015 S’Klallam Report to support S’Klallam hunting in the tribe’s aboriginal territory, including the Elwha River drainage stretching into the Olympic Mountains and in Treaty of Point No Point ceded land including land located to the west and east of the Elwha River. This area includes the northern part of the Dickey GMU. However, my present review finds very little evidence that the S’Klallam hunted in the Dickey River drainage (the southern part of the Dickey GMU) and the Soleduck River drainage (the northern part of Sol Duc GMU) nor evidence that could be reasonably inferred to indicate S’Klallam hunting in those areas. The only potential evidence appears to be a statement in Lower Elwha Tribal Chairman Martin Hopie’s 1952 Indian Claims Commission (ICC) Docket No. 134 testimony about Pleasant Lake (formerly called Tyee Lake). Hopie (1952:49) stated that the lake, which is located in the Soleduck River drainage, “would be in our territory.” My earlier review report discusses the problems with this statement and the ICC Findings of Fact in Docket No. 155 that referred to S’Klallam use of the Lake Pleasant area (Thompson 2015:9–10, 13–14).¹

With the present review of the S’Klallam Report and the earlier Interim Report, it is clear that the S’Klallam Tribes have fully researched, analyzed, and discussed the information that could demonstrate S’Klallam hunting in Sol Duc and southern Dickey GMUs. The Quileute, Hoh, and Makah Tribes have provided their information and views as well. While a good deal of information

¹ ICC Docket No. 134 concerned the S’Klallam Tribe, while Docket No. 155 addressed the Quileute Tribe; Findings of Fact 13.b explained the Commission’s reasoning for setting the boundary of the Quileute exclusive use area to the south of Lake Pleasant.

pertains to both S’Klallam hunting in their aboriginal territory and the Quileute Tribe’s hunting in their aboriginal territory in the GMU portions, what is lacking is evidence for S’Klallam hunting in the Sol Duc and southern Dickey GMUs. The S’Klallam Tribes’ argument involves the following: the importance of elk, the nature of archaeological remains in the Hoko River site complex, an asserted lack of sufficient elk numbers in the coastal plain, an asserted overlapping of tribes’ hunting areas in the upper river watersheds in the Olympic Mountains, the existence of aboriginal trails between the Strait S’Klallam territory and the Pacific Ocean Quileute territory, S’Klallam mobility over water, tribes’ joint use of some geographic features, and S’Klallam oral histories about twentieth-century hunting in the Sol Duc and Dickey GMUs (Wisniewski 2015:4–6). As discussed in the sections below, none of these assertions or the information about them show evidence that the S’Klallam “actually used for hunting and occupied” (*Buchanan* 978 P2.d 1070 at 1081) the GMU portions, and I confirm my opinion that there is almost no evidence of S’Klallam hunting in the Sol Duc and the southern Dickey GMUs.

Section 2 of this report discusses review methods, including use of the *Buchanan* standard, concerns with the S’Klallam Report, conventions, and assumptions. Section 3 reviews the S’Klallam Report’s seven primary arguments about hunting in the GMU portions: archaeology (Section 3.1), elk distribution (Section 3.2), elk hunting in the Olympic Mountains (Section 3.3), the existence of trails (Section 3.4), S’Klallam mobility (Section 3.5), joint use of resource areas (Section 3.6), and S’Klallam oral histories (Section 3.7). Section 4 provides the report’s conclusions, and Section 5 lists the references cited in the report.

2. Methods

This review is conducted under the Washington State Supreme Court *Buchanan* case decision (*State v. Buchanan* 138 Wn.2d 186, 978 P.2d 1070 (1999)) about the conditions under which a tribe may hunt outside its treaty-ceded lands. The *Buchanan* standard states:

the aboriginal hunting grounds of the . . . Tribe are reserved under the treaty for hunting by tribal members, so long as the lands remain open and unclaimed. The geographic area available for hunting would certainly include the territory ceded to the United States and described in article . . . of the Treaty of . . . , and may include other areas if those areas are proven to have been actually used for hunting and occupied by the . . . Tribe over an extended period of time [*Buchanan* 978 P.2d 1070 at 1081].

The S’Klallam Report addresses evidence concerning whether the S’Klallam Tribes had an aboriginal hunting ground for an extended period prior to treaty time in the Sol Duc and southern Dickey GMUs. While the Report argues that evidence should meet the standards of proof for the *U.S. v. Washington* court case instead of the *Buchanan* standard, WDFW establishes agreements with tribes about hunting in state GMUs based on *Buchanan*, which guides the present investigation.

The S’Klallam Tribes bear the burden of proof for aboriginal hunting use and occupation for an extended period prior to treaty time. Some statements in the S’Klallam Report suggest that the author believes my January 2015 report aimed to prove the Tribes did not use the Sol Duc and southern Dickey GMUs. These statements include the claim that my January 2015 review’s discussion of Quileute ethnographic information about the subject GMUs was intended to prove S’Klallam absence from the area; instead, the point of providing this material was to identify the types of evidence a reviewer could expect to see for a tribe hunting in an area (Thompson 2015:19; Wisniewski 2015:10).

Similarly, the S’Klallam report asserts, for example, that “the Thompson Report . . . concluded that the S’Klallam likely would not have gone to the Sol Duc and Dickey merely because there *might* have been sufficient abundance closer to settlements” (Wisniewski 2015:65, 71, emphasis in original). In addition, the Report states that “the conclusion reached by WDFW that S’Klallams would not travel less than eight (8) miles along trails to identified hunting areas for the purpose of hunting is not supported by ethnographic evidence” (Wisniewski 2015:76). These two statements appear inappropriately to deny the expectation that the S’Klallam would provide proof of an aboriginal hunting ground in the Sol Duc and southern Dickey GMUs and attempt to shift the burden to the state to disprove S’Klallam aboriginal hunting in these areas. The Report also states that my previous review denied the evidentiary value of trails and oral histories (Wisniewski 2015:40, 77); however, the review rejected the S’Klallam-related content of these types of evidence, not their form.

As with the previous review, my goal in the present report is to investigate the information presented in the S’Klallam Report and assess whether the evidence shows the existence of an aboriginal hunting ground outside the Tribes’ treaty-ceded lands. In general, I compared the contents of the two reports to determine what additional information appears in the S’Klallam Report (Wisniewski 2014, 2015). While the 2015 report appears to present more detail, assumptions, inferences, and arguments, the new material includes a discussion of archaeological data from the Hoko River site complex, of S’Klallam mobility, and of tribes’ shared use areas (Wisniewski 2015:21, 65, 72).

The present investigation’s methods included checking the material and the sources cited in the S’Klallam Report as well as other available additional sources that bear on the subject (e.g., Elmendorf 1956; Olson 1956) to learn if they support the author’s analyses and assertions about the Tribes’ aboriginal hunting in the Sol Duc and southern Dickey GMUs. I understand the Report’s arguments in support of S’Klallam hunting elk south across the Strait/Ocean drainage divide into the GMU portions to include:

- The existence of elk remains (and reeds) in the Hoko River archaeological site complex;
- The greater availability of elk south across the Strait/Ocean drainage divide;
- The Olympic Peninsula Tribes’ late summer hunting of elk in highland watersheds of the Olympic Mountains with asserted overlapping hunting areas;
- The existence of trails between S’Klallam territory on the Strait and Quileute territory across the drainage divide to the south;
- The S’Klallam traveled long distances over water using canoes, while the distance overland south across drainage divide is shorter;
- The S’Klallam and Makah historically shared use of the Hoko River, and the Quileute and Makah both used Lake Ozette; and
- S’Klallam tribal members’ oral histories state they hunted elk in the Sol Duc and Dickey GMUs in the 1900s.

The Report often omits the page numbers of cited references and also sometimes does not explain the reasoning behind some of its assertions. Some relevant sources are not included in the Report, and some quotations limited. These conditions required additional research to understand the Report’s arguments and support for them.

The S’Klallam Report does not distinguish its discussions between the portion of the Dickey GMU located within the Point No Point Treaty-ceded area from that portion located within the Treaty of Olympia-ceded area, nor does it point out that the Sol Duc GMU lies within the latter area. These

distinctions are important because the drainage divide between the streams running into the Strait and those running directly into the Pacific Ocean separate the S'Klallam and Quileute Tribes' aboriginal territories as well as between the Point No Point and Treaty of Olympia-ceded lands. It is important that the S'Klallam Tribes identify evidence of aboriginal hunting south of the drainage divide in the Sol Duc and the southern portion of the Dickey GMU.

The Report introduces some confusion in describing places located in the lower half of the Elwha River valley as being in the "upper valley." This confusion may have arisen because the S'Klallam who occupied the inland village at the Indian Creek confluence with the Elwha River were called "upper Elwha," even though Indian Creek is only 7.5 miles above the river's mouth. Because the Elwha River is about 45 miles long (Entrix 2005:2.4-1 to 2.4-2), distinguishing places located within about 22 miles above the river mouth as lower rather than upper valley clarifies their situation.

The Jamestown and Port Gamble S'Klallam Tribes' attorney provided most copies of source materials requested to facilitate review of the Report. An important item omitted was a comprehensive copy of anthropologist Wayne Suttles' 1950s original field notes; the provided copy appears typed and excerpted, preventing the review from verifying the context of quotations that the Report takes from the field notes.

The present report uses several conventions, including the term "tribe" even though tribes did not exist in the strict anthropological sense at treaty time. I use the term S'Klallam to include the contemporary Lower Elwha Klallam Tribe, Jamestown S'Klallam Tribe, and Port Gamble S'Klallam Tribe, as does the S'Klallam Report. I acknowledge that elk were an important resource to the S'Klallam since prehistoric times, with various parts of the animal used for food and materials. The S'Klallam likely hunted elk in upland and lowland settings throughout their aboriginal territory, using a number of methods.

3. S’Klallam Approaches to Asserting an Aboriginal Hunting Ground in the GMU Portions

The S’Klallam Report states that there are nine types of data for anthropological analysis to consider “in order to develop an accurate picture [of] treaty time hunting activities” (Wisniewski 2015:83–84). They are:

- Archeological evidence from S’Klallam settlements that includes evidence of use of elk;
- S’Klallam historic and ethnographic use of elk that includes pre-treaty and treaty citations of the use of elk;
- Historic elk biogeography, to identify the areas where hunting would have occurred based on the locational distribution of elk;
- Regional elk hunting adaptations across the western Olympic Peninsula to identifying (*sic*) broader hunting adaptations including systematic seasonal movements though (*sic*) use of trails to hunting areas and the use of game trails for the purpose of hunting elk;
- Analysis of S’Klallam of (*sic*) elk hunting adaptations in a regional framework to examine S’Klallam elk hunting in relation to regional patterns and the locational distribution of animals;
- Role and use of trails for hunting on the western Olympic Peninsula to examine the critical role of the use of trails across the Olympic Peninsula for the purpose of hunting;
- S’Klallam territoriality and resource procurement mobility in order to consider how geographic movements for purposes of hunting are consistent with broader S’Klallam adaptations;
- Overlapping hunting areas on the western Olympic Peninsula in order to consider S’Klallam hunting within the context of shared use and occupancy and joint occupancy of areas of the Olympic Peninsula; and
- S’Klallam hunting oral history from the early twentieth century to consider the continuity of use of critical areas and the continued use of elk through time.

The S’Klallam Report summarizes its findings for these types of data on pages 85–87. Sections 3.1 through 3.7 below review the seven main points of the Report, which involve the archaeology of elk hunting, elk distribution, elk hunting on the Olympic Peninsula, use of trails, mobility, overlapping resource areas, and oral histories.

3.1 Archaeology of S’Klallam Hunting

The S’Klallam Report makes several statements about archaeological data from the Hoko River site complex (Croes 1995, 2005) indicating a need for residents of S’Klallam Strait settlements to hunt elk south into the Soleduck and Dickey River drainages. The arguments essential to the author’s implication that the S’Klallam hunted in these areas include the importance of elk in archaeological sites along the Strait and a perceived lack of availability of elk in the coastal plain forests. The need to collect reeds for mat-making also is used to argue for S’Klallam movement south out of the Strait watershed.

The Hoko River archaeological site complex consists of a wet/dry site (45CA213), dating to about 3000–1700 years Before Present [BP], and a rockshelter site (45CA21), dating to about 1000–100 BP, located near the mouth of the River. Setting aside arguments about whether the archaeological materials at the Hoko River complex reflect S’Klallam, Makah, or Quileute occupation during the two occupation periods (Greene 2015:3–5; Powell 2015:18; Wisniewski 2015:17), the sections below show that the archaeological data support neither of the S’Klallam Report’s implications for hunting and reed gathering in the watersheds of the Soleduck and Dickey Rivers.

3.1.1 Elk Hunting

The S’Klallam hunted elk and used the animals for food and tools over thousands of years before treaty time. This resource was important among the many resources obtained from fishing, gathering shellfish and plant products, and hunting sea mammals, waterfowl, and large and small terrestrial animals. The territorial boundary between the S’Klallam and Makah along the Strait appears to have been fluid during the 1800s, and S’Klallam fishing use apparently overlapped with that of the Makah at the mouth of the Hoko River, perhaps at the fish trap located a few miles upriver, and may have included other shared use within the watershed.

To imply that archaeological data from sites at the mouth of the Hoko River indicate use of the Soleduck and Dickey drainages, the S’Klallam Report states there was a “statistically significant increase” in elk remains at the rockshelter site about 1000 BP (Wisniewski 2015:20), apparently reflecting the need for more intense hunting. While the author does not provide the reasoning for a significant increase in elk materials, it apparently is based on the presence of more elk remains in the rockshelter deposits than in the wet/dry site located across the river. However, Dale Croes, the

archaeologist who directed the work at both sites, concluded that the wet/dry site was a “major fishing camp,” making it unsurprising that few elk remains were found there. People used the camp from about 3000 BP to about 1700 BP during the spring and summer for marine bottom fishing, drying, and making/refurbishing tools (Croes 1995:229).

Over the occupation of the rockshelter from 1000 to 100 BP, use emphasized fall “fur seal hunting, riverine chum salmon harvest, and smoke drying” (Croes 2005:228–229). Other activities included shellfish and plant-product gathering as well as hunting birds and large and small terrestrial mammals. Deer and elk made up a portion of the mammal and bird remains that formed 11.6 percent of the elements (identified skeletal parts), by contrast with fish, which made up 88.5 percent of the faunal assemblage’s Number of Identified Specimens (NISP) (Wigen 2005:71).

Neither mammal remains nor specifically elk remains made up significant parts of the NISPs identified in the rockshelter assemblage (Wigen 2005:73–74, Figures 4.9 and 4.11). Deer NISP totaled 171 and elk 153 of the approximately 50,000 bones recovered from the site (Wigen 2005:71, 78, Table 4.4). These represent a “significant increase” (Wisniewski 2015:20) over the wet/dry site simply because it had almost no elk and deer remains. However, the densities in the rockshelter are minimal and extremely lower than those of fur seal and various fish species. The minimum number of individual (MNI) elk at the rockshelter was 19 and deer 20; this contrasts with the MNI of 230 for fur seals; even porpoise, at 25, outnumbered elk or deer. Sea lion numbered 11, harbor seal 14, and whale 4 for a total of 284 MNI sea mammals, some 73 percent of all MNI (Wigen 2005:Table 4.5, p. 79).

The S’Klallam Report states that because elk hunted in inland areas of the Olympic Peninsula were butchered, with the meat preserved, before returning the products to villages, that “faunal analysis may not provide an accurate picture of the importance of elk” (Wisniewski 2015:21). Rebecca J. Wigen, the Hoko rockshelter faunal analyst, grouped elk and deer elements “together because individually their NISPs were quite small and the distribution of their elements was very similar” (Wigen 2005:95). She stated that “[a]ll areas of the skeleton were present for both [deer and elk] animals . . . indicating whole carcasses were brought to the rockshelter” (Wigen 2005:95). This observation indicates procurement of deer and elk close to the rockshelter and within the coastal zone. It contradicts the author’s claim that site occupants would have needed to go south to the interior of the peninsula to obtain elk.

The S’Klallam Report asserts there was a “high percentage of elk material in the technological assemblage” in the rockshelter artifacts (Wisniewski 2015:21). The reasoning behind this statement is not provided, and it appears to be inaccurate. The archaeologist Croes reports that bone (including antler and tooth) artifacts make up 66 percent of the 1,721 total recovered in the rockshelter excavations (Croes 2005:117). Antler artifacts, including harpoon valves (3 percent) and wedges (2 percent), appear to make up about 5 percent of the listed classes (Croes 2005:Table 5.3, p. 119).

Although the material is not identified as to deer or elk, some of the antler wedges appear large enough to have been the latter (Croes 2005:Figure 5.74, p. 169).

Most of the bone artifacts are too small and lack parts for identification of species, although some of the approximately 2 percent mammal leg bone awls could be deer or elk (Croes 2005:128 lists 38 mammal leg bone awls and Table 5.3, p. 119, shows 1,654 total artifacts). By contrast, 12 percent of the artifacts are “small flat bi-points ground from splintered bird (or possibly rodent) long bones” (Croes 2005:162), and almost 3 percent of the artifacts are splinter bird bone awls (Croes 2005:131 lists 47 splinter bird bone awls). An unidentified, but likely small, number of artifacts is of sea mammal bone. Overall, a limited percentage of the bone artifacts could be identified as elk.

Based on exaggerated claims about elk remains in the Hoko River site complex, the S’Klallam Report author implies that elk were used in greater numbers at the Hoko rockshelter than could have been obtained locally and thus needed to be hunted in the Soleduck and Dickey drainages south of the Hoko River watershed, where they were plentiful. As the present and following sections show, the author’s reliance on the archaeological data fails to provide the necessary evidence for a S’Klallam aboriginal hunting in the Sol Duc and southern Dickey GMUs.

3.1.2 Reed Collection

The S’Klallam Report supports its assertion that the S’Klallam from settlements along the Strait hunted south into the Sol Duc and southern Dickey GMUs by discussing the tule (also called reed, cattail, or rush) mat remains recovered from the Hoko River wet site. Because Croes attributes occupation of the site to the Makah, he cites anthropologist Erna Gunther’s (1945:22) ethnobotany information that the Makah obtained such reeds from Lake Ozette. Although the Report’s author argues for S’Klallam rather than Makah use of the Hoko River mouth, he uses Croes’ information upon which to base his professional opinion that S’Klallam Strait settlement residents would have obtained the tule materials from the closer Dickey Lake, located in the Dickey GMU (Wisniewski 2015:23). However, the S’Klallam Report omits Gunther’s (1945:22) information, found on the same page and paragraph, about where the S’Klallam obtained reeds: “[t]he Klallam get tule in small ponds and use it for mats,” which would not have required travel outside the tribe’s traditional territory.² The Report’s author asserts several times that the S’Klallam needed to travel outside the

² Other information about S’Klallam gathering cattails for mats confirms Gunther’s information and includes this Valadez et al. (2012:53) statement: “Cattail was gathered near the mouth of the Elwha River. Adeline Smith and Bea Charles both remembered that there used to be plenty of places to get cattail until the land was sold and the landowners said no trespassing” as well as Waterman’s (1920) place description, quoted in Lane (1975:35): “88. A tiny marsh near a promontory . . . ‘where they cut cat-tail rushes’. These rushes were used for making mats.” This place may have been near the present Olele Point, about three miles north of Port Ludlow (DeLorme 2013:45). The direct relationship between the Jamestown and Port Gamble Tribes within the geographic areas discussed in the S’Klallam Report indicates that mat-making materials could have been exchanged throughout S’Klallam territory (Wisniewski 2015:2).

coastal zone to obtain reeds, which is not substantiated by the evidence presented (Wisniewski 2015:24, 41, 85). The archaeological information about reed, as well as elk, remains fails to provide evidence for aboriginal S’Klallam hunting from the settlements on the Strait south into the Soleduck and Dickey watersheds.

3.2 Elk Distribution

The S’Klallam Report asserts that because elk seasonally concentrated in mountain environments and Olympic Peninsula tribes hunted them there, S’Klallam hunters from Strait settlements must have traveled south into the interior Soleduck and Dickey drainages to get elk. The report emphasizes hunting in mountain settings practically to the exclusion of other hunting areas. The author states: “these seasonal geographic adjustments brought people to the headwaters of the Olympic Peninsula river systems” and argues that “[t]his information also suggests that S’Klallam villages located west of the Elwha River would have to make geographic adjustments into the interior of the Olympic Peninsula to access resources toward the hunting areas identified by Frachtenberg (1916:37) and Ray (1954:240-242) in the . . . Dickey and Sol Duc GMUs though [*sic*] use of overland travel routes” (Wisniewski 2015:28). The author concludes:

Analysis of the historic biogeographic distribution of elk . . . indicate [*sic*] that elk were not concentrated in [the] coastal zone. Instead, elk were located in inland alpine, subalpine and riparian settings away from the coast. This data indicates that systematic hunting of elk would have required significant seasonal movement away from coastal settlements to habitat settings during times of the year when elk were concentrated in them. This evidence supports that S’Klallams would have hunted elk in the . . . Sol Duc, Dickey and . . . GMUs. (Wisniewski 2015:86).

The S’Klallam Report states that biologist Olaus J. Murie “provides detailed accounts of elk migrations and distributions on the Olympic Peninsula” but discusses only Murie’s (1951:63) information about the elk in the mountains, omitting his discussion about elk in the lowlands (Wisniewski 2015:27). In emphasizing the animals’ seasonal use of mountain environments, including river valleys, the Report draws misleading conclusions to state: “Murie’s *first hand* observations and writings suggest that during the late nineteenth and early twentieth centuries, elk were not regularly close to the coast or found in lowland settings except during heavy snow (1951)” (Wisniewski 2015:27; emphasis in original).

A more careful reading of Murie’s work reveals: “[t]he Pacific coast of Washington, however, was occupied by *C.c. roosevelti* [the Roosevelt elk], which has persisted there to the present time. The Olympic Peninsula was the stronghold for these animals, but they ranged over the entire coastal forested area . . .” (Murie 1951:41) and “[t]he Roosevelt elk is an animal of the heavy rain forests of the Pacific coast. It, too, seeks the mountains but is not confined to them and thrives in lowland forests as well” (Murie 1951:54). In addition, riparian or riverine settings occur throughout the lowland forests.

The Report cites Suckley and Gibbs' 1860 report, saying that the authors "note that the winter of 1857 brought heavy snow and as a result, elk were found in abundance in the lowlands around Sequim Bay and were heavily hunted" (Wisniewski 2015:27). However, the statement about "heavy snow" is incorrectly attributed to the source. Instead, Suckley and Gibbs (1860:134) merely state "Near the last locality [Sequim Bay] they [elk] are very abundant during the winter, being driven down by the snows on the mountains. They run in large droves, following well beaten trails, and at that season are an easy prey to the hunter." The S'Klallam Report erroneously concludes that "[t]hese observations also suggest that elk were *not* a constant on low land prairies during that time and that their presence in high numbers during the winter of 1857 was abnormal—a response to heavy snow conditions that year" (Wisniewski 2015:27; emphasis in original).

The Press Expedition in February 1890 found sizeable herds of elk along the lower Elwha Valley and the hills above it as well as S'Klallam hunters, in the vicinity of the Devil's Backbone, which is located on the east side of the river about a mile above the Griff Creek confluence and near the later site of Glines Canyon Dam at elevation about 400 feet above sea level (Wood 1967:Map 2, p. 51).³ The explorers saw herds of 50 to 75 elk and an old Indian smokehouse and camp with fresh elk meat hung in the trees (Wood 1967:64–67, 74). Although the S'Klallam Report refers to these encounters occurring in the "upper" Elwha Valley (Wisniewski 2015:28), the location of Griff Creek, at River Mile 11.4, is three-quarters of the distance downstream from the 45-mile-long Elwha River's mountain headwaters (Entrix 2005:2.4-1 and 2.4-2, Table 2.4-1). The area also is well within the treaty-ceded lands and aboriginal territory of the S'Klallam. Clearly, organized elk hunting was not confined to the interior of the Olympic Mountains or other interior parts of the peninsula.

The Indian Claims Commission testimony of S'Klallam tribal members also shows that elk hunting took place at lower elevations as well as in the mountain river valleys. Cynthia Larsen, Secretary of the Jamestown Tribal Council, said "we went back to the foothills. I know that's where they got their grasses and bases for the basket making and they hunted elk and they got their camas roots on Spring Prairie" (Larsen 1952:6). Lester Jackson, Chairman of the overall Tribal Council and resident of Port Gamble, agreed that there was "sufficient [elk] down on the flats" (Jackson 1952:28–29). Martin Hopie, Chairman of the Elwha and resident of Port Angeles, stated that "some [hunters] didn't need to go too far [into the mountains]" and named the Indian Creek village as "not just a campsite but a lot of the Indians would probably pull out of there in the winter, but most of them stayed there and that was more close to their hunting grounds" (Hopie 1952:44–45). The confluence of Indian Creek lies at River Mile 7.5 of the Elwha River, very much within the lower valley (Entrix 2005:2.4-2, Table 2.4-1). Hopie (1952:56) also stated that "the good, fat elks were always more or less up the prairies."

³ Elevation comes from "Elwha North/Hurricane Ridge," Green Trails Maps, Special Series, Map No. 134S, Green Trails, Inc., Seattle. Provisional issue date 2005.

While S’Klallam hunters pursued elk in late summer in the Elwha and Dungeness River valleys, the animals were also available and hunted, although in smaller numbers, in lowland environments at other times of the year. The S’Klallam Report fails to consider that elk were hunted in settings other than the mountain headwaters of the river valleys. Given similarities in hunting methods among the Olympic Peninsula tribes (Wisniewski 2015:29), S’Klallam hunters might have used dogs to hunt in forested areas as the Quinault did. While hunting was more difficult in forests than in the mountains, anthropologist Ronald Olson, for example, states that Quinault hunters used dogs to aid hunting in wooded areas:

Elk, bear, and more rarely, deer, were hunted with the aid of dogs. This method seems to have been employed along the course of the river and not in the high mountains. The hunter would take four or five dogs into the woods and set them on the scent of the game. The hunter then took a position at the margin of the river or beside a much-used game trail and waited for the dogs to drive the game past. It is said that properly trained dogs would nearly always succeed in bringing the game within shooting distance. (Olson 1936:42; see also Olson 1956:645)

As the Report points out, the S’Klallam constituted one people and traveled long distances (by canoe) (Wisniewski 2015:1, 65). The Elwha Valley and Dungeness Prairie are well within the seasonal round travel range of the S’Klallam settlements west of the Elwha River. Thus, the S’Klallam Report fails to demonstrate that elk hunting did not also take place outside the mountain valleys. The Report further does not demonstrate that S’Klallam hunters from western settlements would have to have hunted elk in areas that are now the Sol Duc and southern Dickey GMUs.

3.3 Elk Hunting in the Olympic Mountains

The S’Klallam Report claims that the tribes overlapped their hunting areas in the upper river watersheds of the Olympic Mountains, including S’Klallam hunting in the Quinault River watershed and in Quileute territory west of Mount Olympus. The author then uses this assertion to imply in other report sections that the S’Klallam must have hunted over the watershed territory boundary with the Quileute and into the areas that became Sol Duc and southern Dickey GMUs. The Report states that S’Klallam use of the peninsula’s interior “must be applied to other S’Klallam hunting adaptations east and west of the Elwha River” (Wisniewski 2015:39). In fact, however, the tribes hunting in the mountains appear generally to have respected each other’s river watershed territories. The ethnographic information on encounters among them recounts that conflict ensued when hunting parties crossed the divides beyond their watersheds. None of the Report’s information provides evidence for an aboriginal S’Klallam hunting ground beyond treaty-ceded lands.

The Report’s statements (2015:31) that “conflict does not define the interactions between the different Olympic Peninsula [speech communities] while they were hunting” “. . . in the headwaters districts and near watershed boundaries and the peripheral [sic] areas between different groups” and

that “[a]ccounts of conflicts in the shared or overlapping hunting areas were not recorded as conflict over resources” are both misleading.

Information about S’Klallam hunting in the mountains comes from Gunther’s S’Klallam ethnography and field notes, T. T. Waterman’s place names, the Press Expedition, Ronald Olson’s Quinault ethnography and field notes, Jacilee Wray’s ethnographic overview of Olympic National Park, and excerpts of Wayne Suttles’ field notes of S’Klallam interviews.⁴

Because Gunther’s and Olson’s early ethnographic works implied that hunting in the Olympic Mountains was open to the various tribes, their statements bear some consideration. In 1927, Gunther said “[t]here are no family hunting grounds but the whole Olympic range is free to everyone” (1927:205), and Olson stated that “[t]he heights about the sources of the river were more or less common hunting territory for the Quinault, Skokomish, Klallam, and Queets . . . [a]n alien hunting in the Quinault watershed might be shot at, but largely because it offered a better opportunity than if he were close by his home village” (1936:13). Gunther appears to have been remarking on the lack of family hunting territories in the mountains rather than on the hunting areas of the several tribes. Olson clarified his information during his 1956 testimony in ICC Dockets No. 155 and 242 for the Quinault and Quileute Tribes.

In his ICC testimony, Olson expressed regret, explained, and clarified the statement made in his Quinault ethnography about “common hunting territory” in the mountains (Olson 1956:698); he also recounted evidence in his field notes for stating that the tribes, including the S’Klallam, had hunting territories in the mountains and met violence when the Quinault perceived trespass.

Examples of Olson’s relevant testimony include:

- . . . and even the historical traditions – some of them, unfortunately, not published – all of them which go back 200 years – indicate that when the Quinault [*sic*] met Klallam or Skokomish, up here at the summit of the mountains, whether they quarreled or not depend on whether or not one was encroaching across the height of the land there; and I think that, according to the legends, is an indication that these are the boundaries from very remote times, that they have always been considered the boundaries, that they are natural areas, let’s say. (Olson 1956:507)
- I said, “The heights above the sources of the river were more or less common hunting territory”, and I wish I hadn’t said that because in going over my original notes and in my unpublished part of this manuscript, the part that was not published, I have a number of accounts of fights – I won’t say wars because they were merely quarrels between hunting parties – between the Skokomish, who came up here from Hood’s Canal to hunt in the heights, and Klallam, who now and then came up here to hunt. (Olson 1956:518)

⁴ Most of the Report’s examples refer to the lower third of the Elwha River valley, although the author refers to them as located in the “upper” Elwha Valley.

- The fact that they did fight I think indicates that, instead of this being common hunting territory, there was Quinaielt hunting territory and Skokomish hunting territory and evidently Klallam.

In one instance, the Quinaielt and Klallam met up in this area here [perhaps pointing to a map exhibit].

That would be the head waters of the North Fork.

A number of the Klallam were killed.

The survivors went back home to the Klallam villages and organized a party to come back to seek revenge.

By this time the Quinaielt hunting party had returned down here to Quinault Lake.

The Klallam came down, over into Quinaielt territory, and were going to surprise and annihilate this hunting party, but they were careless. The Quinaielt, instead, surprised them, killed all but two men of the Klallam. To these, they said, “Go back home. If you want to come over and fight again, all right.”

I think those incidents perhaps illustrate better than my statement the attitudes toward the ownership and use of that high mountain area – that it was not a common territory, but that each tribe felt that they owned on their side of the range. (Olson 1956:519–520)

In response to Chief Commissioner Edgar Witt’s questions about the cause of the incident, Olson answered:

- The fact they said, “Go back home,” meaning “Go back to your own country”, as in contradistinction, “Don’t come into our country”; the feeling that these Klallam were trespassing.

I think that is what is implied there . . . I think the original killing was because – the Quinaielt felt the Klallam were on Quinaielt territory. (Olson 1956:533)

- As regards the statement about the common hunting territory in the high mountains by various tribes, I think that my original notes plus the manuscript unpublished, which I have, which tells the stories about the fighting at the point of contact, where the areas meet, led me to change my mind about that statement. (Olson 1956:698)

In addition, more context for Olson’s field notes shows the lack of overlapping hunting territories when more of the passage is included, for example: “When hunting they [Quinault] would often meet Jamestown & Skokomish people on the divides” (Olson 1925: Notebook 2:87–88 [the S’Klallam Report’s mystifying citation to “Vol II, n.b. no 4 pp. 47–48” (Wisniewski 2015:35), is incorrect]). The entry goes on to describe what ensued when a Quinault hunting party found a Skokomish camp in which only women were present because the men were out hunting. The Quinault kidnapped the Skokomish women, whose men “came down to the lake and camped on the north side.” The Quinault attacked the sleeping men and “killed them all” (Olson 1925:Notebook

2:88). The information about Quinault meeting people from Jamestown must describe incidents that occurred well after the treaties because Gunther (1927:180) states when Jamestown received that name: “Jamestown, called by the Klallam Nuxia”^{antc}, white firs, was founded about 1875 when the whites asked the Indians to leave Dungeness. The Indians under the leadership of their chief, James Balch, bought a tract of land along the shore . . . [t]he settlers at Jamestown were principally from Dungeness with a few families from Washington Harbor and Port Discovery.”

Also in the field notebooks, Olson wrote: “Once the people from that village [the one above Lake Quinault at the river forks] went up the north fork to the mountains top. That top was the dividing line & if the Q. should hunt out the other side there would be a fight & if the Klallam came on this side the Q. would take after them” (1926:Notebook 4:15). And in Notebook 4, 1926:47, Olson wrote “. . . there was a line & they must not cross the headwaters summit into Klallam or Skokomish country.”

While the S’Klallam Report emphasizes the initial “common hunting territory” quote found in Olson (Wisniewski 2015:75), the Report omits the clarification provided in Olson’s (1956) ICC testimony, which clearly states that the tribes hunted in the mountain watersheds of their territory rivers and that trespass brought conflict. This indicates a lack of shared or overlapping hunting areas in the mountains.

Other evidence is consistent: anthropologist Leo J. Frachtenberg wrote in 1916 that Quileute tribal members Arthur Howeattle (“A. H.”) and Tommy Payne said that

The hunting grounds up the several rivers were also family inheritable and indivisible property. As such grounds only these places were considered which were full of game. The places that had hardly any game, as for instance, the stretch about 3 miles from the ocean, were common property and anybody could hunt there.

Berrying and root digging grounds were also common property. These common grounds were accessible only to the members of the tribe. Outsiders were excluded from them. (Frachtenberg 1916:4:59)

Anthropologist Verne Ray provided testimony to the Indian Claims Commission on behalf of the Quileute and Quinault in 1954, stating his opinion that neighboring tribes did not “use or occupy” the aboriginal areas of the Quinault and Quileute Tribes, saying “[a]ctual warfare developed as a consequence of this when there was occasional encroachment, even in the high mountain regions of the ~~Cascades~~ Olympics” (Ray 1954:80; cross-out appears handwritten in the original typescript). Ray also said that he had “evidence that the Quileute Indians sometimes crossed over the divide into Klallam The Klallam were not generally encountered on these occasional excursions beyond Quileute territory, but it was always feared that they might be encountered; and the Quileute knew that if they were, they would be faced with a fight” (Ray 1954:120). While the S’Klallam Report

quotes from Ray’s ICC testimony of this date, it omits mention of these two informative and pertinent statements (Wisniewski 2015:31).

The S’Klallam Report also implies that tribal relationships might have led to overlapping hunting areas. The author refers to a marriage arranged between a Quinault boy and a Dosewallips girl: “Elmendorf (1960; 1993), in fact, provides an example of alliance building between Quinault and Twana while interacting in the watershed divides” (Wisniewski 2015:31). In a deposition given for a subproceeding of *U.S. v. Washington*, Elmendorf (1982:75) clarified that the three groups involved—Skokomish, Dosewallips, and Quinault—were camping in their own territories:

Q How far up the south fork would the Twana people hunt?

A Apparently up to about the headwaters. One account I have of elk hunting on the upper south fork had a Skokomish hunting party camped directly across a ridge which was apparently the south fork divide from a Quinault hunting party and across another ridge to the north Dosewallips hunting party.

Q Which would be Twana?

A Of course they were Twana. There were complicated goings on between the three camps. The Quinault were negotiating for a Dosewallips girl, and the Skokomish acted as intermediaries in arranging this marriage between Dosewallips Twana , and Quinault.

Q Were territorial limits recognized in that process of negotiation?

A It sounds as if everyone was staying in his own side of the divide. (Elmendorf 1982:75, who made a few handwritten corrections in the transcript, see p. 3 of his corrections sheet)

Additional statements about the non-overlap of tribal hunting territories in the Olympic Mountains appear in Elmendorf’s 1982 testimony as well as that given to the ICC in 1956.

The S’Klallam Report accurately cites the Press Expedition of 1889–1890 as showing S’Klallam late winter hunting in the Elwha Valley, going into the Olympic Mountains, along with the use of trails for hunting (Wisniewski 2015:34–35). But the Report author states this as usage of the “upper Elwha River watershed,” a term incorrectly applied to areas located less than about halfway upriver from the Strait (Wisniewski 2015:34–35; Wood 1967:88, Map 3, 100).⁵

Similarly, the S’Klallam Report lists anthropologist T. T. Waterman’s (1920) place names, which the author characterizes as “limited geographic descriptions” (Wisniewski 2015:33). Lane (1975:21–24) provides a typescript of Waterman’s introduction to the list of names in which he indicates he was only able to obtain “a few names for places up the Pysht River, Clallam River (which drains a large

⁵ The information about an ancient Indian “wringing post” appears on page 99 of Wood 1967, not page 65 as cited in the S’Klallam Report. The Press Expedition appears to have made this find below the confluence of the Lillian River, located at River Mile 20.9 (Entrix 2005:2.4-1 to 2.4-2, Table 2.4-1; Wood 1967:88, Map 3,100).

lake known as Lake Crescent) and especially up Elwha River.” The S’Klallam Report again incorrectly identifies the place names as located “in the upper Elwha River Valley” (Wisniewski 2015:33). All of Waterman’s names for places along the Elwha River appear to occur well below the Lost River confluence and within the lower half of the valley (Entrix 2005:2.4-1 to 2.4-2, Table 2.4-1). Lane (1975:31) identifies Waterman’s No. 55. as “[a] place near the present [about 1920] boundary of the Mt. Olympus National Monument, Tete toIn. I am uncertain about this term, but it is said to mean ‘farthest up-stream’.” The Elwha area place names reflect elk hunting in the lower valley.

Anthropologist Jacilee Wray’s (1997) ethnographic overview of Olympic National Park is cited in the Report as also identifying some hunting camps in the Elwha watershed (Wisniewski 2015:36–37). The author locates the site of Boston Charlie Camp as “above the headwater of Cat Creek at the base of Carrier [apparently Mount Carrie] Peak,” adding that it “was a high alpine camp believed to have been used by Boston Charlie for spiritual purification based [sic] his role as a medicine man (Wray 1997:23)” (Wisniewski 2015:36). Wray (1997:55), however, identifies Boston Charlie Camp as located at the base of Cat Peak (not “Carrier Peak”). Despite the Report’s statement that the “location and use of this camp also appears to be consistent with Gibbs description of travel from the Elwha River into the Hoh drainage” (Wisniewski 2015:36), the camp would have been separated from the Hoh River watershed by a very steep scarp called the “High Divide” (DeLorme 2013:43).

The S’Klallam Report provides some excerpts from Wayne Suttles’ 1952–1953 interviews with S’Klallam tribal members Bobby Charles, Henry Charles, and Sam Ulmer (Wisniewski 2015:37–38). The information shows that S’Klallam hunted elk in the mountains, mentions hunting “west and east of Mount Olympus,” states they fought with the Quinault “on the other side of the mountains,” but “[t]here was *no* trouble with Quileute, though the two must have met” (Wisniewski 2015:38; emphasis in original). The author’s statement that “[a]t least one of Suttles’ informants reported that S’Klallam and Quileute also interacted during elk hunts but the informant was not aware of conflict between the S’Klallam and Quileute (Bobby Charles interviewed 11/7/53)” is inaccurate (Wisniewski 2015:31). Mr. Charles did not state that hunters from the two tribes actually interacted but offered his view that “the two must have met” (Wisniewski 2015:23, 38). Information in the Suttles interview notes could not be reviewed in context because the S’Klallam Tribes provided WDFW with typed notes, excerpted by topic, in response to a request for a copy of the raw, unexcerpted notes.

As this section has shown, the Olympic Peninsula tribes hunted in the mountains within the watersheds of the rivers in their respective territories, their hunting areas did not overlap. Whenever one tribe detected trespass by another, conflict resulted. For the S’Klallam, considerable evidence exists for hunting elk in the vicinity of the lower Elwha River valley. None of this information

indicates that the S’Klallam hunted elk in the areas that became the Sol Duc and southern Dickey GMUs.

3.4 S’Klallam Use of Trails

The S’Klallam Report attempts to show that several aspects of trails, primarily the existence of trails between S’Klallam and Quileute territories, indicate that the S’Klallam used the trails to hunt in areas that became the Sol Duc and southern Dickey GMUs. The author reasons that the S’Klallam used trails to access hunting areas in the Elwha River Valley and game trails for hunting; trails gave access for trade and visiting as well as for subsistence activities; and trails between S’Klallam western Strait settlements and Quileute territory existed around treaty time and covered relatively short distances over the drainage divide between Strait-confluence and Pacific Ocean-confluence streams. Thus, the Report concludes, the S’Klallam must have used those trails to hunt in the GMU portions.

Certainly, trails were used for hunting as well as other activities, but to argue for the existence of an aboriginal hunting ground outside one tribe’s territory and treaty-ceded area and inside those lands of another tribe requires showing more than the ability to travel between the two areas: the claimant needs to show actual hunting use, and such evidence is lacking in the pages of the S’Klallam Report. The Report extensively reviews information on the existence, age, and uses of trails, particularly those connecting S’Klallam and Quileute territories, but fails to show that the S’Klallam actually hunted in the Sol Duc and southern Dickey GMU areas.

3.4.1 *Trail Existence at Treaty Time*

Various sources cited in the Report discuss the existence of travel routes connecting S’Klallam and Quileute territories in the aboriginal and historical periods, including treaty time. While the routes are referred to as trails and this report follows that usage, the routes often involved canoe travel in rivers with a portage over the drainage divide or a hike between canoes left at the head of navigation on each river. Trails generally ran between the Pysht and Hoko Rivers and Clallam Bay on the Strait and La Push or other destinations on the Pacific Ocean side (e.g., Gibbs 1855, 1856, 1877,⁶ cited in Wisniewski 2015:42–47; Frachtenberg 1916, Powell and Erickson 1997, Singh 1966, Swan 1971, and U.S. GLO 1890, cited in Wisniewski 2015:47–50, 52–54).

⁶ While Gibbs (1877:167) states that a trail “from the Chahlatt [Hoh] River” is “said to exist,” the S’Klallam Report provides no other information on such a trail, except a mention from a S’Klallam informant that the S’Klallam hunted “both west and east of Mount Olympus” and an observation that a historic trail built along the upper Hoh River may have followed an aboriginal one (Wisniewski 2015:38, 53).

3.4.2 Trail Geographic Locations

Trails followed stream valleys within a tribe's territory as shown in the examples of the Press Expedition encountering various game trails and S'Klallam elk hunters in the lower Elwha Valley in February 1890 (Wisniewski 2015:56–57) and Wray (1997). Frachtenberg (1916) stated that Quileute hunters traveled into the Olympic Mountains (Wisniewski 2015:49). The S'Klallam Report's author reasons that another Frachtenberg statement that Quileute hunting in the vicinity of Beaver Lake and Lake Pleasant would have involved access through the Pysht trail, which “provides very strong indication [*sic*] that S'Klallam from Pysht hunted these locales, located in the Sol Duc GMU” (Wisniewski 2015:49). However, the Quileute likely traveled most of the distance to the Lake Pleasant and Beaver Lake areas by canoe on the Soleduck River and its tributaries, because the head of canoe navigation on the river was well above these places (Powell 2012:6), suggesting little use of the Pysht trail. And any Quileute use of the Pysht trail for hunting would provide no evidence for S'Klallam use of the trail to hunt in Quileute territory.

The Report cites Wray's (2004)⁷ information on S'Klallam use of trails within their territory along the Strait coast “to access resource harvesting locations” (Wisniewski 2015:55). And trails also crossed the divides between stream watersheds within and between the S'Klallam and other tribes' territories. The Report cited Wood (1967) and Wray (1997) reports of a Quinault individual and a S'Klallam family crossing between the two tribes' territories as examples of such trails (Wisniewski 2015:55, 57). Similarly, the Report cites Powell and Erickson's (1997) information about Quileute use of the Calawah River watershed as an example of trails crossing stream drainage divides within a tribe's territory. The author reasons that this information:

suggests that trails within the Sol Duc watershed were part of a broader regional network of trails that cross boundaries of territories associated with different speech communities consistent with Olympic Peninsula ethnographically identified land use patterns This evidence suggests a more complex picture of overlapping land use patterns as part of a broader set of socio-ecological adaptations across the Olympic Peninsula, which is inconsistent with a simplistic Eurocentric construction of territoriality, composed of fixed boundaries. (Wisniewski 2015:54)

In the author's apparent haste to demonstrate that the S'Klallam used an overland travel route to move seasonally from the Dungeness River and Skokomish Territory to hunt as well as fish and pick berries, the author misreads Gunther's field notes (Wisniewski 2015:52). Gunther's statement is: “Klallam hunted in mts while along canal. Would walk up into mountains, not in canoes” (Gunther 1925, not paginated, interview with Robert Collier, April 12, 1923). By contrast with the author's interpretation, Gunther's notes show that the S'Klallam were entering the Olympic Mountains on foot from Hood Canal and not traveling overland from the Dungeness River through the mountains

⁷ The S'Klallam Report's citation is incorrect and should instead be Charles et al. 2004.

to Hood Canal. Gunther's ethnography emphasizes canoe use for travel to seasonal use places (1927:195).

The Report mentions some more regional travel routes, including Swan's (1972) mention of Puget Sound Indians traveling overland to Shoalwater (now Willapa) Bay to harvest oysters for sale to ships (Wisniewski 2015:48–49)⁸; another between the Columbia River and Neah Bay (described by Olson 1936 and cited in Wisniewski 2015:57–58); and Elmendorf's (1992:287) description of a trail leading from a place on Vance Creek to the Satsop River, along the Chehalis River to Grays Harbor (Wisniewski 2015:59). However, these routes appear to lack relevance to any overland connection for hunting from S'Klallam into Quileute territory.

3.4.3 Trail Use

Game such as elk made trails, and hunting took place along game trails, which themselves were often used for travel. The tribes used trails for some subsistence activities, including hunting in interior parts of their territories. However, the mere existence of trails connecting two tribes' territories does not provide evidence for the purpose of travel along the trails; additional evidence is needed to conclude they were used for hunting or any other specific activity.

Trail use for travel, as cited in the Report, includes the following: examples from Swan (1971) that the Quileute traveled in summer from La Push to Pysht by canoe and portaged over the drainage divide (Wisniewski 2015:47); S'Klallam hunters told Press Expedition members “their fathers recalled a time when a member of the Quinault Tribe had to cross⁹ the mountains and remained for some time with the Clallams” (Wisniewski 2015:57); and S'Klallam consultants told Wray (1997) “their great grandmother traveled across the Olympic Mountains with her children to visit relatives in Tahola [*sid*]” (Wisniewski 2015:55). The latter two examples pertain to travel through the Elwha and Quinault Valleys.

Trails accessed elk hunting areas, as the Report relates, include examples from Wood (1967) and Wray (1997) for the Elwha Valley, Olson (1936) for the Quinault Valley, and Elmendorf (1992) for the Skokomish Valley (Wisniewski 2015:55–59). The tribes also hunted along game trails according to Frachtenberg (1916), Olson (1936), and Elmendorf (1992, 1993) (Wisniewski 2015:59–60).

Trail use for trade includes examples from Frachtenberg (1916) and Singh (1966) (Wisniewski 2015:47, 49). In describing trade with the Clallam at Pysht, the S'Klallam Report omits

⁸ The S'Klallam Report erroneously states that this is “an important example of the type of seasonal terrestrial geographic adaptations mid-nineteenth western Washington aboriginal societies made to acquire resources, which included travel into the territories of other speech communities for harvesting” (Wisniewski 2015:49).

⁹ The S'Klallam Report uses the inaccurate wording “had to cross” instead of “had crossed” (Wisniewski 2015:57, citing Wood 1967:65).

Frachtenberg's statement that "[t]o the Clallams they [Quileute] sold elk meat, fat and hides, camas" (1916:3:136), which even suggests that the S'Klallam acquired elk products from the areas of the Sol Duc and southern Dickey GMUs by trade with the Quileute, who occupied and hunted these locations. Carrying trade goods over the trails would not have been harder than transporting tools and products of the hunt, as suggested by the Report (Wisniewski 2015:49).

3.4.4 Trail Discussion

Some of the Report's information regarding trails lacks relevance. Examples include the following: Gunther's field notes on a trail between Neah Bay and LaPush used for mail delivery; Gunther's discussion of a Makah man taking a horse from Elwha to Ozette; and Taylor's (1974:41) mention of Makah hunting from Ozette as far as Lake Pleasant (Wisniewski 2015:51; see Thompson 2015:16–17 for a review of this information). Despite the marginal relevance of Makah trail use, the S'Klallam Report cites such reported use of trails and overland travel as evidence for:

the widespread usage of trails on the Olympic Peninsula by multiple speech communities, including S'Klallams, for multiple purposes including visitation, trade, and resource harvesting. This data supports a western Olympic Peninsula model of overland travel for purposes of hunting that involve overlapping use patterns and supports claim [sic] that S'Klallam used overland trails to travel to multiple areas across the western Olympic Peninsula for hunting. In my opinion, this data establishes that during the nineteenth century terrestrial resource harvesting and travel into the parts of the Hoko, Dickey and Sol Duc GMUs that bordered multiple speech communities, including S'Klallams' was common across the western Olympic Peninsula. (Wisniewski 2015:51)

Some of the Report's information represents incorrect analysis. To emphasize the "significant role of overland travel," the author cites James Swan's (1972:59) description of "annual seasonal migrations to Shoalwater [Bay] to harvest shellfish" made by "Indian people from Puget Sound" (Wisniewski 2015:48). He concludes that this "seasonal adjustment":

highlights long distance, overland travel for the purpose of harvesting resources as part of the regional adaptations in western Washington. It provides significant inferential evidence supporting S'Klallam travel to much closer areas in the Hoko, Dickey and Sol Duc GMUs. This is an important example of the type of seasonal terrestrial geographic adaptations mid-nineteenth western Washington aboriginal societies made to acquire resources, which included travel into the territories of other speech communities for harvesting. (Wisniewski 2015:49)

However, Swan explains that the Indians "during the summer months resort to Shoal-water Bay to procure clams and crabs for their own eating, and oysters to sell to the whites" (Swan 1972:59), indicating that the Indians were subsisting themselves while collecting oysters as part of the wage-labor economy that resulted from the early commercial oyster industry at Shoalwater (now Willapa) Bay, where the Chinook Tribe's population had been greatly reduced by introduced diseases (Boyd 1990:146). Because this seasonal movement did not form part of the aboriginal subsistence-settlement pattern of the Puget Sound tribes (Suttles and Lane 1990:486, 488–489) and the Chinook

Tribe could not provide enough laborers or defend its territory, the example fails to provide evidence of aboriginal long-distance overland travel into other tribes' territories to obtain resources.

Despite the S'Klallam Report's discussion of trails used for travel, trade, and access to resource harvest places, including elk hunting areas as well as hunting along game trails (Wisniewski 2015:60–62), none of the information about trails shows S'Klallam aboriginal hunting in areas that became the Sol Duc and southern Dickey GMUs. While the S'Klallam used trails in their aboriginal territory for elk hunting, claims that they used trails to hunt outside their territory are unproven (Wisniewski 2015:61). The Report reasons that if some trails were used for hunting, the existence of trails connecting some S'Klallam Strait settlements with Quileute territory means that the S'Klallam hunted in parts of that territory. The fallacy with this reasoning is that the *Buchanan* standard requires evidence that an area was “actually used for hunting and occupied” to identify an aboriginal hunting ground located outside a tribe's treaty-ceded lands. The mere existence of trails fails to provide such evidence because trails in and of themselves show no information on whether hunting took place, by whom, when, and where. In fact, the statement by Frachtenberg (1916:3:136) that the Quileute traded elk products to the S'Klallam may provide evidence for some use of the connecting trails.

3.5 S'Klallam Mobility

The S'Klallam Report seeks to establish that treaty-time S'Klallam would have hunted in the areas of the Sol Duc and southern Dickey GMUs because the access to these areas starts about 15 miles¹⁰ south of the S'Klallam Strait settlements, and the S'Klallam traveled much greater distances during yearly seasonal rounds of subsistence activities. According to the Report's conclusions, “The S'Klallam were a highly mobile society that traveled extensive distances as part of their annual round of subsistence hunting and gathering practices. . . . The distances that S'Klallam had to travel inland using established trails for the purposes of hunting in the Hoko, Dickey and Sol Duc GMUs were insignificant in the boarder [*sic*] context of S'Klallam mobility. . . .” (Wisniewski 2015:86–87).

The S'Klallam Report cites travel from settlements on the Strait to obtain resources at Sehome/Marietta on Bellingham Bay, locations on Hood Canal, Beecher Bay on Vancouver Island, places on Whidbey Island, Fisherman's Bay on Lopez Island, and other sites listed in the text but not shown on Maps 9 and 10 (Wisniewski 2015:65–66, 68, 71). Fort Nisqually is also shown (Wisniewski 2015:68,71), based on trade at this Hudson's Bay Company post in the nineteenth century. However, most of these places lie outside aboriginal S'Klallam territory and came to be used after non-Indians began trading and settling the region in the nineteenth century (Boxberger

¹⁰ The S'Klallam Report uses the figure 6.55 miles, which represents the approximate distance from the upper part of the Pysht River in S'Klallam territory over the drainage divide to Lake Pleasant in Quileute territory (Wisniewski 2015:65).

1989:17; Deur 2009:62–66; Elmendorf 1992:295; Gunther 1927:177; Suttles 1953:20–22). Suttles discusses S’Klallam territory as stretching along the Strait east from the mouth of Hoko River on the west to Discovery Bay on the east and south from the Strait to the drainage divide between waters emptying into the Strait and those running into the Pacific Ocean, including the Elwha and Dungeness River valleys extending into the Olympic Mountains (Suttles 1953:11–16, 1990:454).

The S’Klallam Report provides no actual evidence for hunting in the Sol Duc and southern Dickey GMU areas, and the S’Klallam accomplished their seasonal-round mobility primarily using canoes to places located within their territory (Gunther 1927:195–205; Suttles 1990:454, 457–459). Tribal members used more distant areas outside their territory such as Hood Canal by means of kinship relations with the Skokomish (Elmendorf 1992:295–297). Changes that accompanied non-Indian settlement of the region stimulated the use of these areas as well as Beecher Bay, Marietta/Marietta, and Fort Nisqually (Boxberger 1989:17; Gunther 1927:179).

While the distances of maritime travel reached beyond the aboriginal S’Klallam territory, based on changes associated with non-Indian influence, the more important point is the Report’s faulty reasoning: if the S’Klallam travelled relatively widely by canoe to subsistence sites, they surely would have traveled relatively short distances by trail land, over drainage divides, to hunt elk. However, because the Report argues for S’Klallam traditional hunting in Quileute territory ceded in the Treaty of Olympia, evidence is needed, but the author fails to provide enough evidence to form a reasonable inference that the S’Klallam hunted in the Sol Duc and southern Dickey GMUs. In the absence of other evidence, the relatively shorter distance does not constitute evidence for such hunting. Thus, S’Klallam mobility does not provide evidence of S’Klallam aboriginal hunting in the subject GMUs.

3.6 Overlapping Use of Resource Areas

The S’Klallam Report attempts to establish that tribes shared some resource harvest areas in the mountains and lowlands to conclude that the S’Klallam had an aboriginal hunting ground in the Sol Duc and southern Dickey GMUs. This attempt fails, because Section 3.3 shows a lack of evidence for S’Klallam hunting in other tribes’ watersheds in the Olympic Mountains. The following sections investigate the Report’s discussion about joint tribal use in lowland areas on the northwestern part of the peninsula.

The S’Klallam Report cites examples of the Makah and Quileute Tribes both using Lake Ozette as well as Makah and S’Klallam use of the Hoko River area. The Report asserts that the Makah, Quileute, and S’Klallam shared hunting use of the Lake Pleasant area in the Soleduck River drainage. It implies that tribes regularly shared resource harvest areas (Wisniewski 2015:72–73). However, the examples are unusual and consist of lowland areas along the Pacific Ocean and Strait of Juan de

Fuca coastlines of the northwestern Peninsula that lack distinct geographic boundaries. The large Lake Ozette hosts blueback or sockeye salmon, which is unusual for both the Makah and Quileute tribal territories. The Makah occupied the Ozette village and seasonal sites and fished in the northern part of the lake, while the Quileute maintained seasonal sites and fished in the southern part of the lake (Powell 1990:431–432; Renker and Gunther 1990:422–425).

Streams entering the Strait of Juan de Fuca shoreline also lack high watershed divides and were used by the Makah from the west and the S’Klallam from the east. Not only did the two tribes share use of the Hoko River mouth and the Falls fish trap around treaty time, but other areas as well, with both tribes reporting fish camps at Sekiu, and the Makah reporting seasonal fishing at the Lyre River (Swindell 1942:138–139, 196).

The S’Klallam Report asserts that the Makah, Quileute, and S’Klallam shared elk hunting in the vicinity of Lake Pleasant in the Soleduck River drainage located in Quileute aboriginal territory (Wisniewski 2015:72–73). Reported Makah use of this area is not the subject of the present report, which focuses on whether evidence exists for a S’Klallam aboriginal hunting ground in the Sol Duc and southern Dickey GMUs. This area differs from the areas with shared tribal resource harvest along Pacific and Strait coasts in having a distinct drainage divide separating streams that flow into these saltwater bodies and separating S’Klallam aboriginal territory on the north from Quileute territory on the south. In addition, while ICC Docket No. 155 Finding of Fact No. 13.b, discussed in my January 2015 report (Thompson 2015:13–14) states that the S’Klallam and other tribes (presumably the Makah) were seasonal users of Lake Pleasant, research has not revealed credible evidence to support that finding for the S’Klallam.

The S’Klallam Report argues that the tribe would have hunted in areas that became the Sol Duc and southern Dickey GMUs based on the purported but unsupported tribes’ shared use of mountain hunting areas and shared use of Lake Ozette and parts of the Strait shoreline. The Report also cites the proximity of Quileute territory to the S’Klallam use sites along the Strait, the richness of elk in the area, and the existence of trails between S’Klallam and Quileute territories. None of these facts show S’Klallam aboriginal hunting in the areas of the Sol Duc and southern Dickey GMUs.

3.7 S’Klallam Oral Histories

The S’Klallam Report provides more information than the Interim Report from the oral history interviews of Ron Charles and Russell Fulton of the Port Gamble Tribe, and Lincoln T. Sands and Ron Allen of the Jamestown Tribe, including expanded material in the S’Klallam Report’s Appendix 3. The Report contends that the oral history information is:

remarkably consistent with nineteenth century S’Klallam hunting patterns on the western Olympic Peninsula, and throughout this report demonstrate that S’Klallam hunters have hunted widely across the western Olympic Peninsula without interruption as part of a continued set of socio-ecological

adaptations dating to the nineteenth century, if not earlier. Contemporary S’Klallam hunting in the Hoko, Dickey, Sol Duc, Wynoochee, and Quinault Ridge GMUs demonstrates a continuity of hunting practices with historic precedence that is consistent with regional hunting adaptations, described throughout this report. (Wisniewski 2015:83)

I agree that oral histories can provide important information about traditional activities, which needs to be consistent with data from other sources. However, the information in the S’Klallam interviews shows hunting well after treaty time and family homesteading after treaty time, with no evidence for a S’Klallam aboriginal hunting ground in the Sol Duc or southern Dickey GMUs. Absent is information that indicates use for an extended period before treaty time of the GMU portions or about traditional hunting practices in these areas. Thus, the oral history accounts cannot represent a continuation of hunting there. Nor are they consistent with regional hunting adaptations, in which the Olympic Peninsula tribes hunted in the watersheds of their territories or risked conflict.

As pointed out in my previous review (Thompson 2015:17–18), the content of the oral history information states: “Ron Charles recounts his father and cousin hunting in the Sol Duc and Dickey in the first half of twentieth century” (Wisniewski 2015:82), and Russell Fulton’s information also dates to the twentieth century. Ron Allen’s hunting in the Dickey and Sol Duc GMUs also dates to the twentieth century. The hunting practices involved the use of guns, pickup trucks, and roads, with no information on aboriginal hunting practices. Lincoln T. Sands’ parents and grandparents homesteaded near Dickey Lake and Forks Prairie, which also does not document S’Klallam aboriginal hunting in the GMU portions.

Thus the oral history information fails to show treaty-time S’Klallam hunting in the Sol Duc and southern Dickey GMUs, continuity of hunting there from treaty-time, or aboriginal hunting consistent with that in other areas. The oral history accounts provide no evidence to support a S’Klallam aboriginal hunting ground or traditional hunting in the subject GMUs.

4. Conclusions

The S’Klallam Report is the second of two reports that aim to establish S’Klallam aboriginal hunting in the WDFW Sol Duc and southern Dickey GMUs that are located in the aboriginal territory of the Quileute Tribe and within the ceded lands of the Treaty of Olympia, signed by the Quileute and Quinault Tribes (Wisniewski 2014, 2015). These GMUs lie south of the drainage divide separating waters that flow north into the Strait of Juan de Fuca from those running southwest into the Pacific Ocean. The 1999 Washington State Supreme Court *Buchanan* decision established a standard for tribes to prove an aboriginal hunting ground outside their own treaty-ceded land, which involves providing evidence that the tribe “actually used for hunting and occupied” the area claimed for an extended period before the treaty was signed, creating an expectation that the area would be reserved for continued hunting on “open and unclaimed land” (*Buchanan* 978 P.2d 1070 at 1080,1081.).

In the S’Klallam Report and the earlier Interim Report, the S’Klallam Tribes provided information they assert demonstrates their use of the Sol Duc and southern Dickey GMUs. The information included archaeological data, distribution of elk, ethnographic hunting methods and locations, the presence of trails, mobility for resource harvest, tribal territories in shared geographic features, and oral histories. My January 2015 report and the present one investigated this information, including the research, analysis, reasoning, and arguments used to state that it demonstrates S’Klallam aboriginal hunting in the two GMU portions (Thompson 2015). I found clear evidence that the S’Klallam hunted in their aboriginal territory and the Quileute in theirs. However, I found that none of the information provides evidence of S’Klallam aboriginal hunting in those GMU locations. There is even some evidence that the S’Klallam received elk products in trade from the Quileute (Frachtenberg 1916:3:136).

My conclusions about the S’Klallam Report are:

- Archaeological data of elk remains at the Hoko Rockshelter site shows that the animals likely came from nearby, such that the inhabitants were not required to obtain them in the Sol Duc and southern Dickey GMUs.
- Elk were available for hunting in the coastal zone year round, even though the numbers were not as great or the groups as large as in the mountains in late summer and late winter.
- S’Klallam hunting in the Olympic Mountains focused on the Elwha Valley (and Dungeness Valley); any discovered crossing of hunting parties into the watersheds of the Quinault and Quileute Indians would have brought conflict.

- Some trails connected S’Klallam and Quileute territory and were used for travel and trade; while the S’Klallam could have used the trails for various subsistence activities, there is no evidence that the S’Klallam aboriginally used these trails to hunt in the Sol Duc and southern Dickey GMUs.
- The S’Klallam were quite mobile using canoes to travel over water, and they expanded the overall area of their activities as a result of early historic non-Indian trade and settlement; this mobility fails to show that the S’Klallam maintained an aboriginal hunting ground in the Sol Duc and southern Dickey GMUs, which lay overland (and across a drainage divide) beginning several miles south of the Strait settlements.
- Quileute and Makah co-use of Lake Ozette, and S’Klallam and Makah co-use of the Hoko River do not demonstrate S’Klallam hunting in the Sol Duc and southern Dickey GMUs, the ICC Docket No. 155 Finding of Fact 13.b notwithstanding.
- The S’Klallam oral histories do not establish aboriginal hunting in the GMU portions.

The S’Klallam reports have fully researched, analyzed, and discussed the information that could demonstrate S’Klallam hunting in the Sol Duc and southern Dickey GMUs. The Quileute, Hoh, and Makah Tribes have provided their views and information on the subject (Boxberger 2015a; Easton 2014; Greene 2014, 2015; King 2014a, 2014b; Powell 2014a, 2014b, 2015). Because evidence that the tribe “actually used for hunting and occupied” the claimed area is needed under the *Buchanan* standard and such evidence is lacking, I conclude and confirm my opinion that there is almost no evidence of S’Klallam aboriginal hunting in the Sol Duc and southern Dickey GMUs.

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¹¹ The information on this reference comes from Wisniewski (2014:21, 49). The Lower Elwha Klallam Tribe provided a copy of the journal page.

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