

# Indian Law Handbook

## For Local Governments

By

Bart Freedman  
Will Stelle  
Denise Stiffarm  
Theodore Angelis  
Sally Brick

**Preston|Gates|Ellis** LLP

This guide is intended to provide general information only and is not intended as legal advice. Individuals and organizations should seek the assistance of experienced legal advisors before engaging in any Indian law matters.

© 2004 by Preston Gates & Ellis LLP. Reproduction of this handbook in whole or in part without written permission is prohibited.

## Table of Contents

I.	INTRODUCTION .....	3
A.	Indian Law Practice Group.....	3
II.	GUIDING PRINCIPLES FOR LOCAL GOVERNMENT-TRIBAL RELATIONS .....	4
A.	Guiding Principles .....	4
B.	Guiding Principles for the Consultation Process .....	4
III.	LEGAL/POLICY BASIS FOR LOCAL GOVERNMENT-TRIBAL RELATIONS: AN OVERVIEW ..	6
IV.	INTEGRATING TRIBAL INTERESTS: A STEP-BY-STEP APPROACH. ....	8
	Step 1: Identify Whether Project Effects Warrant Consultation .....	9
	Step 2: Identify Points of Contact with Tribes .....	9
	Step 3: Make Initial Contact with Tribal Representative .....	9
	Step 4: Meet with Tribal Contact to Indentify Project Issues of Interest to Tribe ...	10
	Step 5: Consult During Project Planning .....	11
V.	FREQUENTLY ASKED QUESTIONS .....	13
VI.	APPENDICES .....	16
	Appendix I The Legal and Policy Foundations of Local Government – Tribal Roles and Responsibilities	
	Appendix II Maps Depicting U & A Boundaries	
	Appendix III Puget Sound Tribal Governments and Contacts	
	Appendix IV Useful Internet Links	
	Appendix V Sample Documents	

## **I. Introduction**

Consultation and coordination is essential for forging a cooperative and durable relationship between local governments and Tribes. Consultation is an enhanced form of communication that emphasizes careful planning and coordination, as well as trust and respect. It requires a shared responsibility that allows an open and free exchange of information and opinion among parties that leads to mutual understanding and comprehension. In this government-to-government consultation process, the goal is to reach a shared understanding about the course of a proposed project. Consultation is undertaken with a desire to reach mutually agreeable decisions that acknowledge the broad interests within the State, including interests of concern to local government and interests of concern to Tribal governments.

These materials are intended to guide local governments in Washington on how to integrate Tribal interests into the local government's activities and undertakings.

For additional information regarding Indian law matters, please contact a member of Preston Gates & Ellis LLP's Indian law practice group.

### **INDIAN LAW PRACTICE GROUP**

#### **Bart Freedman**

Partner  
206- 370-7655  
bartf@prestongates.com

#### **William W. Stelle**

Partner  
206-370-8345  
wills@prestongates.com

#### **Denise L. Stiffarm**

Partner  
206-370-7645  
denises@prestongates.com

#### **Theodore J. Angelis**

Associate  
206-370-8101  
theoa@prestongates.com

#### **Sally Brick**

Associate  
206-370-8133  
sallyb@prestongates.com

#### **Holly A. Harris**

Associate  
206-370-8256  
hollyh@prestongates.com

#### **ONLINE**

[www.prestongates.com](http://www.prestongates.com)

## II. Guiding Principles for Local Government-Tribal Relations

### A. GUIDING PRINCIPLES

The Centennial Accord (signed in 1989) and the New Millennium Agreement (signed in 1999) establish the basic framework and provide the general foundation for Tribal/State relations. At the 1999 Tribal/State Summit held in Leavenworth, Washington, Tribal and State elected officials agreed that a well-delineated communication process was needed in order to provide for a structure to “operationalize” the Accord into a day-to-day working relationship. Thus, a set of Implementation Guidelines were developed in order to provide a consistent approach for State agencies and Tribes to follow in implementing the Accord.

The following guiding principles are intended to frame the overall strategic approach of local governments to achieving the goal of establishing and maintaining durable intergovernmental relations with the Tribes in Washington State.

“The State of Washington and the Federally recognized Tribes within the State have committed to improving and maintaining effective government-to-government relations. The State and Tribes acknowledge that while successful intergovernmental communication and cooperation is not a guarantee of agreement on every issue, it will ensure a durable, effective working relationship to the benefit of all of the citizens of Washington State. Toward this goal the State and Tribes will:

- Work directly with each other in a government-to-government fashion, rather than as subdivisions of other governments.
- Take appropriate steps to remove legal and procedural impediments to working directly and effectively with each other’s governments and programs.
- Endeavor to assure that each other’s concerns and interests are considered whenever their actions or decisions may affect the other’s governments or programs.
- Encourage cooperation between Tribes, the State and local government to resolve problems of mutual concern.
- Work with Federal agencies that have related responsibilities.
- Incorporate these Principles into planning and management activities, including budget, program development and implementation, legislative initiatives, and ongoing policy and regulation development processes.
- Coordinate and provide mutual assistance as the governments assume new regulatory and program management responsibilities.”

### B. GUIDING PRINCIPLES FOR THE CONSULTATION PROCESS

The Implementation Guidelines include guiding principles for the consultation process, which principles are designed to promote successful consultation and collaboration. While these principles were articulated to improve consultation as between the State and tribal governments, the principles are no less applicable in the local government-tribal consultation context:

1. **Commitment to Consultation.** Local governments and tribes, and their agencies and departments, should commit to consulting with each other on matters that directly affect the other.
2. **Communication and consultation is a two-way street.** Communication between tribal governments and local governments should be direct and involve two-way dialogue and feedback. Face-to-face meetings between the appropriate tribal and local government staff can increase understandings of any proposed actions and enhance the development of

effective outcomes and solutions. While face-to-face meetings are generally desirable, phone calls, correspondence and other methods of communication should also be utilized.

3. **Build upon already established and on-going relationships between tribal/local officials.** Formation of specific actions, policy and program development can be more productive if conducted within the framework of an on-going relationship. Additionally, since consultation may demand significant use of time and resources of many individuals, this on-going relationship will assist in best utilizing these resources for all parties.
4. **State governments are assuming greater responsibility under the Federal government's policy of increased "devolution" of programs.** "Devolution" is the delegation of authorities or duties to a different level of government. Before the delegation of these programs, the Tribes worked directly with the Federal administrators on issues of concerns to them. The Tribes have continuing interests in many of these delegated programs, and the tribal interests should be considered in the administration of these programs by the State/local government.
5. **Issues that require consultation should be identified as soon as possible in order to involve both parties early on in the process.** The need for consultation and who makes the determination may be difficult to define in all cases and will vary among the governments. Consultation can be initiated by either a tribal government or local government agency. As a general rule, any decision or action which would directly impact or involve tribal governments, its land base and/or operation of its programs requires consultation with those tribal governments. To ensure sufficient time for input before decisions are made and actions taken, requires early involvement of all parties affected by those actions.
6. **State/Tribes should make every effort to respond to and participate in the consultation process.** Local/tribal governments should strive to ensure that appropriate communication and response is provided to any request for consultation. If there is no response to an initial request to engage in consultation, it should not be assumed that the local government or tribes have no interest in participating in this process. Local/tribal governments and organizational structures will vary. Good faith efforts should be undertaken to involve affected governments.
7. **Parties should ensure that consultation occur through the interaction of officials with comparable governmental stature and authority.** In order to maintain the government-to-government relationship, tribes and local government agencies are encouraged to send policy officials to represent those interests which require joint final decision making on key policy issues. However, Tribes or local government agencies may identify program and/or technical staff to attend meetings when appropriate, depending on the nature of the issue, and where similar representation is anticipated.
8. **Honesty and integrity must be maintained by all parties in the consultation process.** Mutual respect and trust are fundamental elements in establishing a good consultative relationship. Tribal and local government officials should be open with information that may be beneficial or critical to making a decision or developing a position.

### III. Legal/Policy Basis for Local Government-Tribal Relations: An Overview<sup>1</sup>

Local government's obligations to Tribes derive from a wide variety of sources.

**Statutes and Regulations.** Both Washington State and Federal statutes and implementing regulations require local governments to consult with Tribes or otherwise to consider impacts on Tribes. For example, the State Environmental Protection Act ("SEPA"), the State analog to the National Environmental Policy Act ("NEPA"), directs applicants to confer with Tribes throughout the SEPA process. State officials are directed to send SEPA Determinations of Non Significance to affected Tribes for review, WAC 197-11-340(2)(b), and to also send Determinations of Significance and draft Environmental Impact Statements to affected Tribes. WAC 197-11-360(3); WAC 197-11-405, 455. The SEPA regulations define an "affected Tribe" as any Tribe "that is Federally recognized by the United States Secretary of the Interior and that will or may be affected by the proposal." WAC 197-11-710. Likewise, when a project has a federal component—such as federal funding or a federal permit—local governments must complete a NEPA analysis in which Tribes should be consulted and may, in fact, be deemed a "cooperating agency."

Other examples of federal and state statutes protecting Tribal interests include the National Historic Preservation Act ("NHPA"), which explicitly directs Federal agencies to involve Tribes along with other consulting parties in the process of identifying historic properties, and the Indian Graves and Records Act, which requires all persons in Washington, including local governments, to refrain from "knowingly remov[ing], mutilat[ing], defac[ing], injur[ing], or destroy[ing] any cairn or grave of any native Indian. . . ." RCW § 27.44.040(1).

**The Federal Trust Doctrine.** The Federal Government's obligations to Tribes are described by the Indian Trust Doctrine, which was developed by the Supreme Court. This doctrine articulates the *trust responsibility* that the Federal Government has in relation to American Indians. The Federal government has fiduciary obligations to the Tribes – in essence, a legal obligation to act in the Tribes' best interests, including duties to protect Tribal lands and cultural and natural resources.

The Trust Doctrine is in turn related to the *sovereign* status of the Tribes. In seminal cases on the subject of the Tribes' status, the United States Supreme Court described them as "domestic dependent nations." *Cherokee Nation v. Georgia*, 30 U.S. (5 Pet.) 1, 17 (1831). It is this sovereign status that distinguishes American Indians from other ethnic minorities. Similar to other self-governing entities, such as the State of Washington, Tribes have substantial governmental authority over their own members and lands. The Tribes' sovereign powers are subject, however, to the plenary power of Congress. Congress is authorized to regulate commerce "among the several States, and with the Indian Tribes" U.S. Const., art. I, § 8, cl. 3.

**Treaty Rights.** In early recognition of the Tribes' sovereign status, the U.S. government entered into a number of treaties with the Tribes. Although the Treaties were signed by the Federal government, State entities must recognize and defer to them because they are the supreme law of the land and supercede any conflicting State law. See U.S. Const. art. VI. Moreover, some of the litigation interpreting the treaties expressly applies to State entities. These treaties also serve as a basis for local government's consultation policies and obligations. In particular, in the Pacific Northwest, Governor Isaac Stevens negotiated treaties (the Stevens Treaties) that provided for the Tribes to move onto reservations, but in return provided that "*the right of taking fish, at all usual and accustomed grounds and stations, is further secured to said Indians, in common with all citizens of*

---

<sup>1</sup> Appendix 1 contains a more detailed explanation of the legal and policy foundations for local government-Tribal relations.

*the Territory*.<sup>2</sup> Treaty fishing rights, as interpreted by the courts, are comprised of two basic prongs: the right to an equal share of available harvest, and the right to fish in usual and accustomed fishing areas.

Most of the Tribes that will be affected by local government projects in the Puget Sound region and elsewhere are signatories to the Stevens Treaties. The courts have adjudicated the “usual and accustomed fishing grounds and stations” for most of these Treaty-Tribes, based on the locations where those Tribes fished at the time their treaty was signed. Appendix 2 contains maps that approximately depict the U&A areas as articulated in the leading case, *United States v. Washington*, 384 F. Supp. 312, 359-81 (W.D. Wash. 1974) (the “Boldt decision”).

**Shared Criminal and Civil Jurisdiction.** Tribes and local governments share criminal and civil jurisdiction within Indian Country. Whether federal, state, or tribal courts have jurisdiction over criminal matters depends on two factors: (1) whether the events took place in Indian Country; and (2) whether the parties involved are Indians. Civil jurisdiction is likewise split between Tribes, state and local governments, and the U.S. Government, depending upon whether the parties are Indian or non-Indian and whether the claim arose in Indian Country. Some of the most important issues for local governments are land use regulation and taxation of property. Local governments’ authority varies based on the type of land the government is attempting to regulate. In general, local governments have no authority over land held in trust or subject to restraints on alienation (i.e. limitations on its sale), and they have very limited authority over other Indian-owned land on the reservation. Their authority over non-Indian fee land on the reservation, however, is significantly greater and will be disturbed only when a tribe regulates through consensual transactions or when conduct “threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe.” *Montana v. United States*, 450 U.S. 544, 566 (1981). With respect to taxes, state and local governments can tax land that can be alienated, but cannot levy excise taxes on activities on that land.

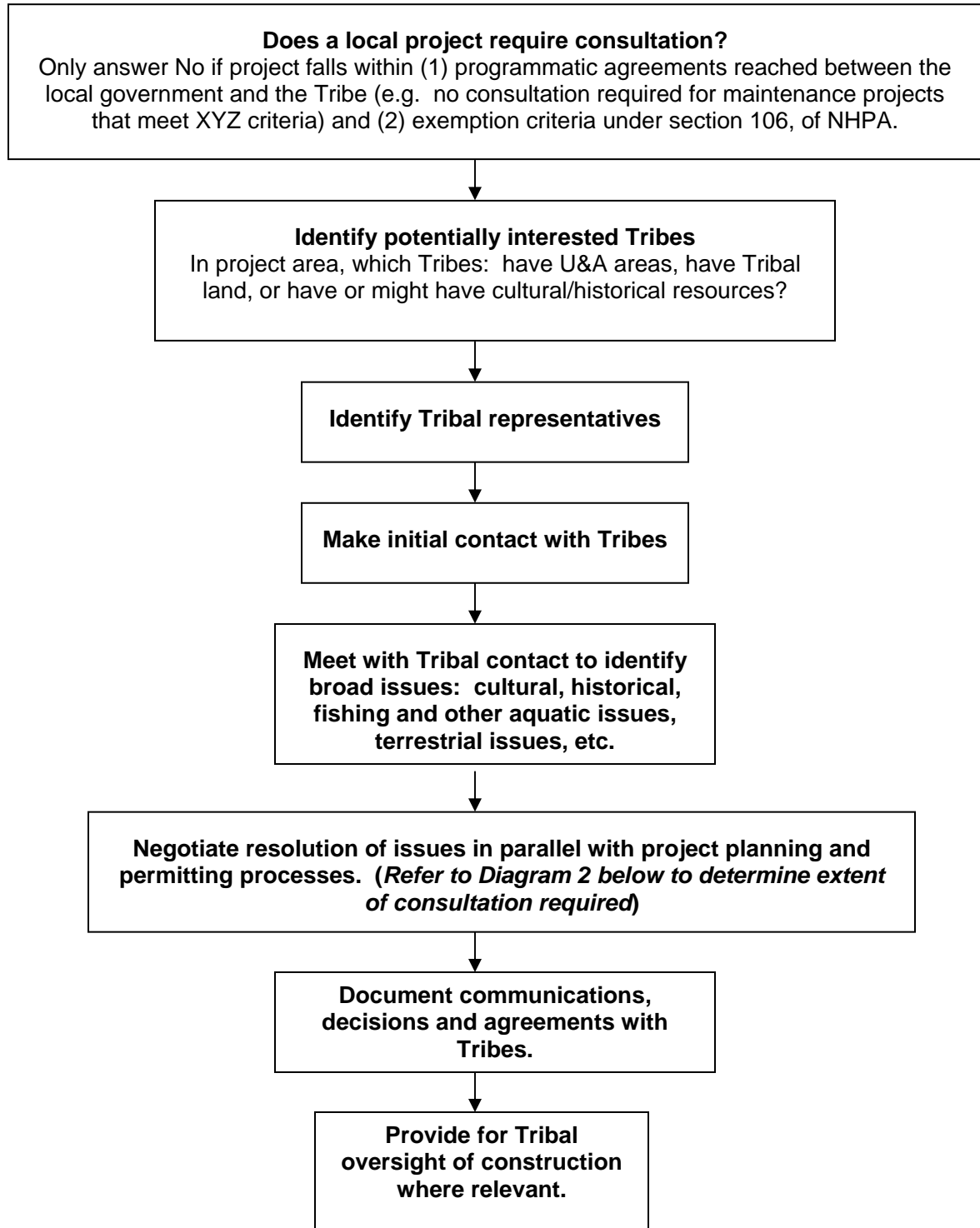
**The Fee to Trust Conversion Process.** Tribes around the country have placed a priority on reacquiring land within Indian Country that was sold to non-Indians and asking the United States to accept title to the land in trust. The fee-to-trust process is set forth in 25 C.F.R. pt. 151, and it varies depending upon whether the land is on an existing reservation or is outside a reservation. In both cases, however, the BIA looks to local governments to describe the impacts of taking the land into trust before deciding whether it will do so. For example, the BIA examines the purpose for which the land will be used, 151.10(c), the impact on the State and its political subdivision from removal of the land from the tax rolls, 151.10(e), jurisdictional problems and potential land use conflicts, 151.10(f), the BIA’s ability to discharge its new responsibilities, 151.10(g), and the extent to which the fee-to-trust applicant has provided information that allows the BIA to comply with NEPA and the Department of the Interior’s Hazardous Substances rules, 151.10(h). The BIA’s compliance with these factors and with other federal law is adjudicated by BIA officials and by the Interior Board of Indian Appeals (“IBIA”). The fee-to-trust process sometimes raises jurisdictional disputes which are expensive and difficult to resolve. Many Tribes are willing to consider government-to-government agreements covering a wide-variety of municipal services, and such agreements can not only streamline the fee-to-trust process, but also allow sharing of burdens and expertise, ensure that public services reach all residents of a locality, and foster good will between Tribes and local governments.

---

<sup>2</sup> The treaties have been the subject of many court decisions, and this phrase was ultimately interpreted to support an “equal sharing” doctrine allowing Tribes fifty percent of the salmon harvest, including hatchery fish. The equal sharing doctrine is subject to a “moderate living” limitation, which allows the Indian share of the salmon harvest to be reduced if a share of less than fifty-percent will support a moderate living for Tribal members. Ongoing litigation concerns whether the State (as well as the United States and third parties) also have a duty to refrain from degrading the fish habitat to an extent that would deprive the Tribes of their moderate living needs.

#### IV. Integrating Tribal Interests: A Step-by-Step Approach.

DIAGRAM 1 OVERVIEW OF STEP-BY-STEP APPROACH





## STEP 1: IDENTIFY WHETHER PROJECT EFFECTS WARRANT CONSULTATION

A threshold question is whether the project warrants Tribal consultation. The Tribes are a key source of information in answering this question: do they expect to be consulted? Local governments should aim to reach agreements with the Tribes about certain types of local projects that the Tribes do not wish to be consulted on.

If consultation is not required, it will be sufficient to notify the individual Tribes about the project at the outset.

## STEP 2: IDENTIFY POINTS OF CONTACT WITH TRIBES

Each Tribal organization is unique, and the appropriate contacts within each tribe may vary depending on the project. Appendix 4 of this Handbook contains a brief description of each Tribal governmental organization and Tribal contacts, and should serve as the starting point for this step. This information is taken from Tribal websites and the Governor's Office of Indian Affairs.

Many Tribes have a governing council that is established by Tribal law or charter and is comprised of elected Tribal Members. Tribal Councils usually serve a combination of executive, legislative and judicial functions. Frequently, the chairperson will designate the leader of the appropriate Tribal department or office (for example, the head of the Tribal Fisheries or Natural Resources Department) as the departmental lead for the Tribal government for purposes of conducting government-to-government discussions with local government representatives. Accordingly, as a general rule, the initial consultation will be with the chairperson of the Tribal Council or his or her designee.

## STEP 3: MAKE INITIAL CONTACT WITH TRIBAL REPRESENTATIVE

The local government contact with responsibility for the proposed activity should make the initial contact with the relevant Tribal representatives. There should ideally be some parity between the local government contact and the Tribal contact. For example, a lower-level local government who has some responsibility for the project should probably not be charged with making the initial contact with the Tribal chair.

The initial contact should be in writing to the Tribal chair and the individual tribal office of concern. The letter should:

- Address the Tribal chair as "The Honorable ..."
- Introduce the purpose of the letter.
- Contain a description of the proposed local government activity.
- Contain a request to confer on a government-to-government basis with the potentially affected Tribe.

The introductory letter may also introduce the local government representative to the Tribes and suggest that he or she will be in later communication with the relevant Tribal department, such as a Department of Fisheries or Natural Resources or Cultural Resources.

Appendix 5 contains a sample letter of introduction.

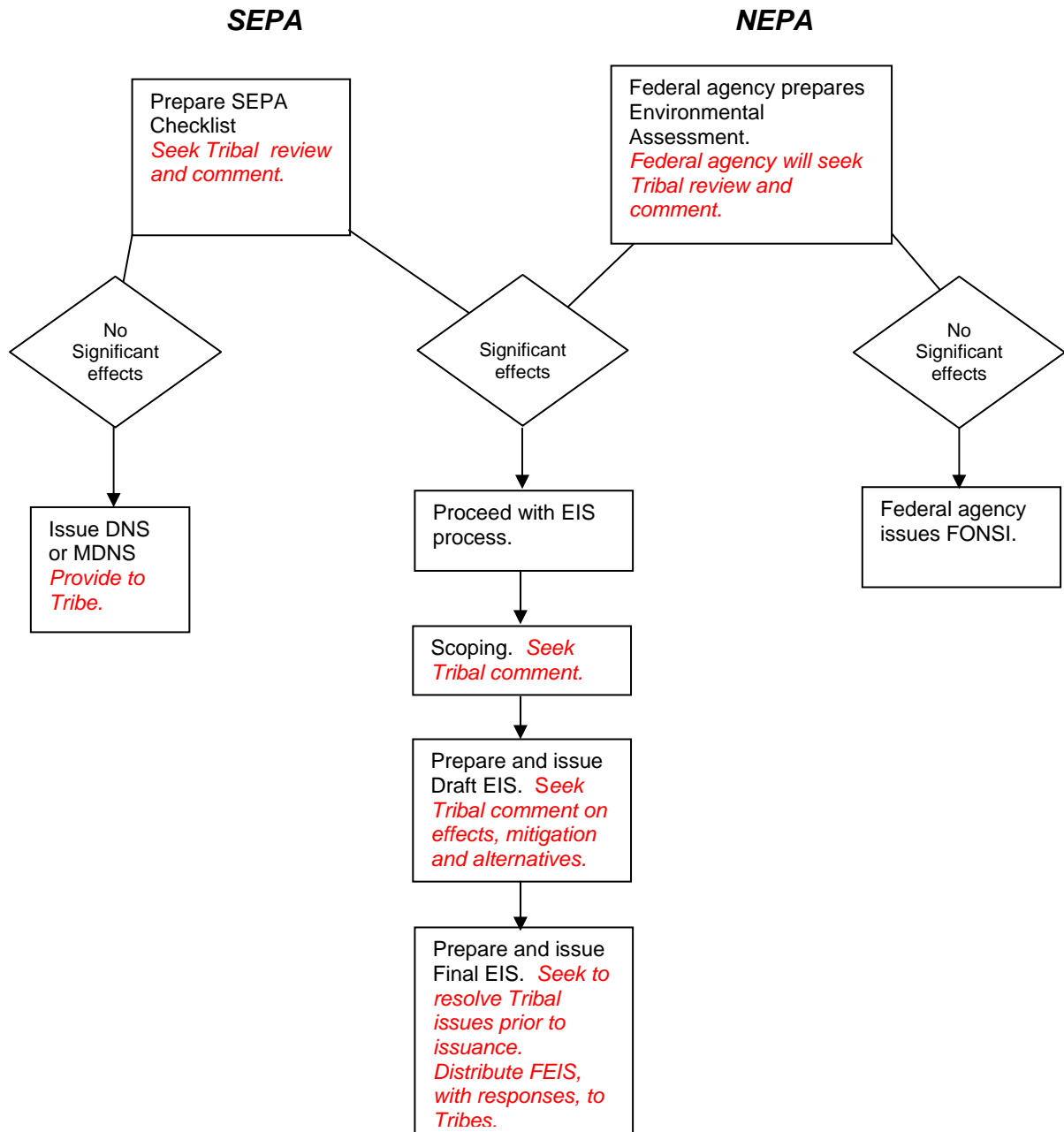
STEP 4:	MEET WITH TRIBAL CONTACT TO IDENTIFY PROJECT ISSUES OF INTEREST TO TRIBE
---------	--

The initial meeting with the Tribal contact should seek to establish which aspects of the project are likely to raise Tribal concerns, and what those concerns are likely to be. It will be an opportunity to establish good rapport with the Tribal contact and introduce the project and its scope. The Tribal contact will likely have some preliminary thoughts about whether Tribal land, historical and cultural resources, and fishing may be impacted by the project and whether there are any other additional Tribal issues that may need to be considered.

STEP 5: CONSULT DURING PROJECT PLANNING

The following flow chart provides a broad overview for tribal consultation during project planning under SEPA and NEPA:

DIAGRAM 2 FLOW CHART FOR TRIBAL CONSULTATION DURING PROJECT PLANNING (SEPA/NEPA)



**DIAGRAM 3 TRIBAL CONSULTATION DURING SECTION 106 REVIEW<sup>3</sup>**

<b>Procedures for Federal Regulations 36 CFR Part 800, Section 106</b>	<b>Improving Tribal relations for Centennial Accord</b>
<b>1. Initiate Tribal Consultation:</b> <ul style="list-style-type: none"> <li>• Contact Tribes by phone after sending consultation letters.</li> <li>• Request Tribe to provide concurrence on the area of potential effects.</li> <li>• Request information on areas of traditional cultural properties and traditional use areas.</li> <li>• Provide required minimum 30-day Tribal response time.</li> </ul>	<ul style="list-style-type: none"> <li>• Meet on-site with Tribes for individual projects whenever possible.</li> <li>• Ask Tribes whether they prefer to talk with your consultant or City official, for project information.</li> <li>• Send out courtesy letters to Tribes on State funded projects.</li> </ul>
<b>2. Identify Historic Properties:</b> <ul style="list-style-type: none"> <li>• Conduct Cultural Resources Survey. (Ensure consultant scope of work includes Tribal coordination).</li> <li>• If tribe(s) indicate there may be Traditional Cultural Properties (TCP) or other historic properties affected, contact the Tribe directly, and report the results in the survey.</li> <li>• Use Tribal provided lists of reference/resources information.</li> <li>• Review GIS database for known properties.</li> <li>• Allow 30 to 90-days to complete Cultural Resource Survey.</li> </ul>	<ul style="list-style-type: none"> <li>• Hire qualified Tribal staff to conduct the survey when possible.</li> <li>• Local Agencies conduct meetings with Tribes to review projects.</li> <li>• If area is rich in resources provide education at pre-construction meeting with contractors</li> </ul>
<b>3. Determine Historic Properties National Register Eligibility:</b> <ul style="list-style-type: none"> <li>• Prepare and provide copy of survey to Tribes and other consulting parties for comments.</li> <li>• Send original survey to SHPO/THPO for review, and concurrence.</li> <li>• Provide required minimum 30-day response time.</li> </ul>	<ul style="list-style-type: none"> <li>• Recognize Tribes may not want TCP's determined National Register eligible.</li> <li>• Keep communication lines open</li> </ul>
<b>4. Apply criteria of Adverse Effect:</b> <ul style="list-style-type: none"> <li>• Upon SHPO/THPO concurrence of eligibility, FHWA makes determination of effects.</li> <li>• Send to THPO/SHPO for concurrence.</li> <li>• If adverse, the agency notifies the Advisory Council on Historic Preservation</li> </ul>	<ul style="list-style-type: none"> <li>• Discuss with Tribes ways to avoid, minimize adverse effects.</li> <li>• Incorporate any possible avoidance measures into project</li> </ul>

<sup>3</sup> See also the Advisory Council on Historic Preservation's guidance: "Consulting with Indian Tribes in the Section 106 Review Process" at <http://www.achp.gov/regs-Tribes.html>.

## **V. Frequently Asked Questions**

### **Q. How are Tribes organized?**

Appendix 3 contains a brief description of each Tribal governmental organization and the most relevant Tribal departments.

Local governments should, as a general rule, initially consult the chairperson of the Tribal Council or his or her designee. Frequently, the chairperson will designate the head of the Tribal Fisheries or Natural Resources Department as the departmental lead for the Tribal government for purposes of conducting government to government discussions with local government representatives. Note, however, that Tribal governments may, like other governments, delegate certain responsibilities to one or more departments, and local government should make sure that it is discussing the proper topics with the proper Tribal departments. For instance, it is common for the NHPA cultural responsibilities to be assigned to a different department or office than the fisheries or environmental responsibilities. Do not assume that just because you have made contact with one Tribal office or staffer that that single contact will suffice for all issues.

### **Q. When are we required to consult with Tribes? Does it depend on the magnitude of my project?**

A threshold question is whether the project warrants Tribal consultation. Local governments should aim to reach agreements with the Tribes about certain types of local government projects that the Tribes do not wish to be consulted on. This could, for example, include maintenance projects that meet certain agreed-upon criteria. Thus, in relation to an individual project, the representative should check for any prior agreements regarding projects considered exempt from consultation. The representative must also check to see whether the project is exempt under the terms of Section 106 of the NHPA.

Even if Tribal consultation and coordination is warranted, the intensity and frequency with which local government representatives should involve Tribes in the permitting and regulatory processes will vary. If a project triggers significant environmental or cultural/historical reviews, the local government should actively seek Tribal comment throughout the permitting and regulatory approval processes. Conversely, if the project does not trigger significant environmental or cultural/historical review, contact should be maintained with Tribes throughout the permitting and regulatory approval processes, but it is probably not necessary to actively seek their input.

### **Q. Which Tribes should I talk to?**

Local governments should identify those Tribes located in the surrounding area who may have an interest in the project from a treaty, environmental or historical resources perspective.

### **Q. Who should make formal contact with Tribes?**

Please see Appendix 5 for a sample letter of introduction. Initially, the appropriate local government representative with responsibility for the proposed activity should make the initial contact with the relevant Tribal representatives. The initial contact should be in writing to the relevant Tribal policy representative and should introduce the purpose of the letter, a description of the proposed local government activity, and a request to confer on a government-to-government basis with the potentially affected Tribe. The introductory letter may also introduce the local government representative to the Tribes and suggest that he or she will be in later communication with the relevant Tribal department, such as a Tribal Department of Fisheries or Natural Resources or Cultural Resources.

**Q. Why aren't the public processes associated with SEPA and NEPA and regulatory permits sufficient for gathering comments from individual Tribes?**

Tribes are governments, not "constituents" or "special interest groups," but separate, co-equal sovereign governmental entities. Moreover, receiving and reading comments is not the same as consultation, which connotes a meaningful exchange of views and ideas and is far less linear than a receive-and-respond-to-comments exercise, which is entirely unilateral. While individual Tribal governments will frequently choose to participate in the public processes associated with many of the Federal, State and local regulatory processes, these choices should not be construed as fulfilling the government-to-government responsibilities of local governments.

**Q. What happens if there is no clear Tribal position on the proposed project?**

Tribes should be fully informed of the activity, the reasons for that proposed activity, and the schedule and processes by which the local government intends to make decisions and proceed with the implementation of those decisions. In the event that the interested Tribes do not articulate a position or a set of recommendations or requests to local government on the proposed activity, then the local government representative should document that fact in the record for the project and ensure that local government policy makers are informed of it prior to any final decisions on the proposed project.

If Tribes disagree with one another, local governments should be sensitive to the differences among the Tribes and the reasons for those differences. Where it appears that the differences may not be reconcilable, representatives should confer with legal counsel.

**Q. What happens if a Tribe doesn't respond?**

Proceed. Your obligation is to ensure that you have made reasonable efforts to communicate with the interested Tribes about the project and to meet with them to discuss it. If the Tribe chooses not to respond or otherwise pay attention, then that choice is well within their prerogative. Local government personnel should, however, take care to document their efforts to work with the interested Tribes in case questions about it arise later.

**Q. Is consultation with Indian Tribes required only when an undertaking will occur on or affect historic properties on Tribal lands?**

No, NHPA and ACHP's regulations require consultation with Indian Tribes when they attach religious and cultural significance to a historic property *regardless of the location of that property*. The circumstances of history may have resulted in an Indian Tribe now being located a great distance from its ancestral homelands and places of importance. It is also important to note that while an Indian Tribe may not have visited a historic property in the recent past, its importance to the Tribe or its significance as a historic property of religious and cultural significance may not have diminished for purposes of Section 106.

**Q. How should local government consult with an Indian Tribe that does not want to divulge information about a historic property of religious and cultural significance?**

An Indian Tribe may not wish to divulge information, or may be prohibited from disclosing certain kinds of information, about certain historic properties. Therefore, local government should remain flexible in its approach to identification and evaluation of historic properties and consultation to resolve adverse effects.

Section 304 of NHPA provides protection from public disclosure of information about a historic property that might result in harm to the property, a significant invasion of privacy, or impediments to traditional religious practice at a site. ACHP's regulations include reminders of the need for Federal agencies to consider Tribal and public concerns regarding sensitivity of information.

**Q. Where can I get help?**

Where a representative encounters an issue involving the proper execution of the government-to-government responsibilities, there are multiple sources of assistance.

**General.** Where the matter may entail policy or strategic issues that could have ramifications for the project, the representative should confer with the local government Environmental Manager.

**Cultural-historical issues.** The State Historic Preservation Officer routinely participates closely with the implementation of the NHPA in Washington State. The SHPO is experienced in coordinating with Tribal governments on NHPA compliance activities, and is a wealth of useful information on how local government representatives may ensure full compliance with NHPA requirements and useful protocols to assist in that full compliance. Washington State Office of Archeology and Historic Preservation, phone: 360-586-3066, <http://www.oahp.wa.gov/>. The NHPA allows tribes to assume all or any of the functions of the SHPO with respect to tribal land. It is therefore advisable to also refer to the National Association of Tribal Historic Preservation officers website for further information, [www.nathpo.org](http://www.nathpo.org).

**Treaty rights and other legal issues.** Many Tribal issues have involved a complicated history of lawsuits and litigation for a variety of historical reasons, and there continues today a notable amount of litigation on a variety of fronts. Therefore, it is important to confer with the Office of the Attorney General where an issue might involve Tribal legal issues or issues with legal ramifications. The attorney assigned to advise the project will likely have considerable experience in the area or, alternatively, know the individual attorney for the department who has been assigned Tribal law responsibilities.

## **VI. Appendices**

**APPENDIX I THE LEGAL AND POLICY FOUNDATIONS OF LOCAL GOVERNMENT –  
TRIBAL ROLES AND RESPONSIBILITIES**

**APPENDIX II MAPS DEPICTING U & A BOUNDARIES**

**APPENDIX III PUGET SOUND TRIBAL GOVERNMENTS AND CONTACTS**

**APPENDIX IV USEFUL INTERNET LINKS**

**APPENDIX V SAMPLE DOCUMENTS**



## **APPENDIX I**

### **THE LEGAL AND POLICY FOUNDATIONS OF LOCAL GOVERNMENT – TRIBAL ROLES AND RESPONSIBILITIES**

## LEGAL AND POLICY FOUNDATIONS OF LOCAL GOVERNMENT-TRIBAL ROLES AND RESPONSIBILITIES

### A. The Basics of Tribal Sovereignty and the Indian Trust Doctrine

Washington is home to 29 Federally recognized Tribes with whom the Washington State Department of Transportation maintains government-to-government relations, and a total of 37 Tribes with varying degrees of interest in transportation projects.<sup>§</sup> A brief overview of Tribal sovereignty, treaty rights, and Federal trust responsibilities is set forth below.

A few basic first principles provide important guidance in the field of Indian affairs: (1) the Constitution vests Congress with plenary power over Indian affairs; (2) Indian Tribes retain important sovereign powers over “their members and their territory,” subject to the plenary power of Congress; and (3) the United States has a trust responsibility to Indian Tribes, which guides and limits the Federal Government in dealings with Indian Tribes. Thus, Federal and Tribal law generally have primacy over Indian affairs in Indian country, except where Congress has provided otherwise.

Indian Tribes have a unique legal status. From its earliest days, the United States has recognized the sovereign status of Indian Tribes as “domestic dependent nations.” *Cherokee Nation v. Georgia*, 30 U.S. (5 Pet.) 1, 17 (1831). Similar to other self-governing entities, such as the State of Washington, Tribes have substantial governmental authority over their own members and lands. American Indians are also citizens of the United States and the State of Washington. Because of their unique sovereign status, Federally recognized Tribes have the inherent power to make and enforce laws on their lands, and to create governmental entities.

Key principles of Tribal sovereignty include:

- Tribal Sovereignty is the right of Tribes, as “domestic dependent nations,” to exercise self-determination and the right to self-government, unless these powers have been modified by treaty or by an act of Congress. Sovereignty ensures control over the future of the Tribes and encourages preservation of Tribal culture, religions, and traditional practices.
- Tribes have the authority to, among other things, govern their people and their land; define their own Tribal membership criteria; create Tribal legislation, law enforcement, and court systems; and to impose taxes in certain situations.
- Membership in a sovereign Tribe is what distinguishes American Indians as a political group rather than solely an ethnic minority.

As local government undertakes activities affecting Tribal rights or trust resources, such activities should be implemented in a knowledgeable manner that is respectful of Tribal sovereignty.

### B. Federal Trust Responsibilities

The United States Supreme Court has long recognized a trust relationship between the Federal government and American Indian Tribes. The concept of a trust relationship between the Tribes and the government is generally referred to as the Indian Trust Doctrine. Trust responsibilities emanate from Indian treaties, statutes, executive orders, and the historical relationship between the Federal government and Indian Tribes.

---

<sup>§</sup> “Federally recognized” means these Tribes and groups have a special, legal relationship with the U.S. government. This relationship is referred to as a government-to-government relationship.

The trust responsibility applies to all executive departments and Federal agencies that may deal with American Indians. This responsibility is rooted, in large part, in the treaties through which Tribes ceded portions of aboriginal lands to the United States government in return for promises to protect Tribal rights as self-governing communities within the reserved lands, and certain rights to use resources off of the reserved lands. For example, in those early treaties, the United States pledged to “protect” Indian Tribes, thereby establishing one of the bases for the Federal trust responsibility in our government-to-government relations with Indian Tribes. These principles continue to guide national policy toward Indian Tribes. Congress, with plenary power over Indian affairs, plays a primary role in defining the trust responsibility, and Congress recently declared that the trust responsibility “includes the protection of the sovereignty of each Tribal government.” 25 U.S.C. § 3601.

In general, the trust responsibility establishes fiduciary obligations to the Tribes including duties to protect Tribal lands and cultural and natural resources for the benefit of Tribes and individual Tribal members/land owners. This trust responsibility must guide Federal policies and provide for government-to-government consultation with Tribes when actions may affect Tribes and their resources. The Federal government has an obligation and trust for resources held by the government on behalf of Federally recognized Tribes and their members, who are properly concerned that trust resources should be conserved for the benefit of present and future generations.

Tribes are given special consideration by Federal agencies when those agencies take actions that affect Tribal interests. As one commentator noted, “the Federal government has a duty to take legal action to protect Indian treaty rights when they are threatened, to promote Tribal self-government, and to preserve Tribal sovereignty.” Thus, whenever one of local government’s projects involves both a Federal agency and a Tribe, local government must be aware of the general legal responsibilities that the agency has to the Tribe.

### **C. Tribal Treaty Rights in the Pacific Northwest**

From the formation of the United States to the present, Federal law has recognized Indian Tribes as independent political entities with powers over their members and territory. The Constitution provides Congress with the authority to regulate commerce “among the several States, and with the Indian Tribes.” See U.S. Const. art. I, § 8, cl. 3. This power to regulate commerce with Indian Tribes includes the exclusive authority to deal with Indian Tribes respecting their rights to aboriginal lands, which have always been protected from trespass or other interference by States or private parties. Central to the protection of lands has always been, and continues to be, the need to provide for Indian hunting, gathering and fishing rights. In addition, the Federal government has a legal obligation to act in the best interest of Indian Tribes.

Prior to 1871, most dealings pertaining to Tribal lands were accomplished pursuant to treaties entered into between the United States government and Indian Tribes. The treaties typically provided for the surrender of large areas of land owned and occupied by the Indians to allow the westward expansion of non-Indians. In exchange, the United States recognized permanent homelands (reservations), and sometimes explicitly provided for off-reservation hunting and fishing rights. Treaties with Indian Tribes are recognized as the supreme law of the land and trump any conflicting State law. See U.S. Const. art. VI.

The treaties most relevant to local governments are the Stevens Treaties, which arose out of increased white settlement in the Pacific Northwest in the early- to mid-1800s. Governor Isaac Stevens was commissioned to negotiate treaties that would induce the Tribes to move voluntarily onto reservations. Stevens executed the treaties on behalf of the United States during 1854 and 1855. Each of the treaties contains the provision that,

***“the right of taking fish, at all usual and accustomed grounds and stations, is further secured to said Indians, in common with all citizens of the Territory”***

This provision has been the source of decades of litigation, beginning in 1970 and continuing to this day. In 1970, the United States filed an action against the State of Washington on behalf of the treaty Tribes. The lawsuit sought (1) a “fair share” of the salmon harvest, which the Federal government alleged to be fifty percent; (2) inclusion of hatchery fish in the fifty percent calculation; and (3) protection of the habitat upon which the salmon populations depended.<sup>\*\*</sup> After four years of litigation, the court reached only the first issue, determining that the Tribes were in fact entitled to half of the available salmon harvest.<sup>††</sup> The Supreme Court eventually affirmed, holding that this “equal sharing” doctrine was subject only to a “moderate living” limitation, which allows the Indian share of the salmon harvest to be reduced if a share of less than fifty percent will support a moderate living for Tribal members.<sup>‡‡</sup>

Thus, these treaties have been recognized as protecting several rights, including an “equal sharing” doctrine allowing Tribes fifty percent of the salmon harvest, including hatchery fish, subject to a “moderate living” limitation, which allows the Indian share of the salmon harvest to be reduced if a share of less than fifty percent will support a moderate living for Tribal members. Tribal members have also been assured the right to cross private lands to fish, but the State may impose non-discriminatory conservation regulations on Indian fishing, including limitations on the amount of salmon Tribes may harvest.

Currently unresolved is the question of whether the treaties impose on the State (as well as the United States and third parties) a duty to refrain from degrading the fish habitat to an extent that would deprive the Tribes of their moderate living needs. That issue forms the basis for a pending lawsuit against the State of Washington alleging that the State has a duty to remove culverts that have the effect of diminishing salmon populations. Whatever the outcome, the decision is likely to be appealed, and a final appellate ruling is probably several years away.

Each of the Puget Sound Treaty Tribes have adjudicated “usual and accustomed fishing grounds and stations” based on the locations those Tribes fished at the time their treaty was signed. (Please see Appendix 2 for the Maps of Tribal U&A Areas.) While these treaties were signed by and between the Federal government and the Tribes, treaties with Indian Tribes are recognized as the supreme law of the land and trump any conflicting State law. Thus, State agencies are unquestionably subject to the terms of these treaties.

#### **D. State Responsibilities**

While there is an extensive list of Federal laws, executive orders, policy directives, and Federal regulations that place legal responsibilities on Federal agencies, State agencies and departments owe certain responsibilities to Tribes.

The State recognizes all Federally recognized Tribes within the State of Washington. Each sovereign Tribe has an independent relationship with each other and with the State. In 1989, the State of Washington and the Federally recognized Tribes located within the State signed the *Centennial Accord between the Federally Recognized Tribes in Washington State and the State of Washington*. Referred to as the Centennial Accord, this document provides a framework for a State-Tribal government-to-government relationship. Following a summit between State and Tribal leaders in 1999, a set of Implementation Guidelines were developed, providing for a consistent

---

<sup>\*\*</sup> *Washington I*, 384 F. Supp. 312.

<sup>††</sup> *Id.* at 409.

<sup>‡‡</sup> *Fishing Vessel*, 443 U.S. at 684-86.

approach for State agencies and Tribes to follow in implementing the Accord. Independent Executive Officers and Boards and Commissions are encouraged to develop government-to-government procedures as well.

## E. Criminal and Civil Jurisdiction in Indian Country.

All but two counties in Washington contain Indian Country; and Washington tribes occupy more than 3.2 million acres of reservation lands.<sup>§§</sup> Washington tribes currently employ nearly 15,000 Indian and non-Indian employees.<sup>\*\*\*</sup> In 1997, Washington tribes paid \$57 million dollars in federal and state taxes, and annually, Washington tribes contribute \$1 billion to the state's overall economy.<sup>†††</sup> However, how these resources are regulated and the role municipalities may take in regulating them is often controversial. Jurisdictional questions in Indian Country are complex and can be the source of significant disputes.<sup>†††</sup> Careful attention to regulatory limitations and timely negotiation can limit the need for expensive and divisive litigation.

### 1. Criminal Jurisdiction in Indian Country.

Whether federal, state, or tribal courts have jurisdiction over criminal matters depends on two factors: (1) whether the events took place in Indian Country; and (2) whether the parties involved are Indians.

#### Criminal Jurisdiction in Indian Country<sup>§§§</sup>

Crime by Parties	Jurisdiction	Statutory Authority
Major Crimes by Indians Against Indians	Concurrent (federal, tribal)	18 U.S.C. § 1153 (Major Crimes Act)
Other Crimes by Indians Against Indians	Tribal	18 U.S.C. § 1153 (Major Crimes Act)
Major Crimes by Indians Against Non-Indians	Concurrent (federal, tribal)	18 U.S.C. § 1153 (Major Crimes Act)
Other Crimes by Indians Against Non-Indians	Concurrent (federal, tribal)	18 U.S.C. § 1153 (Major Crimes Act)
Victimless Crimes by Indians	Tribal	18 U.S.C. § 1152 (General Crimes Act)
Crimes by Non-Indians Against Indians	Federal	18 U.S.C. § 1152 (General Crimes Act)
Crimes by Non-Indians Against Non-Indians	State	
Victimless Crimes by Non-Indians	State	

Source: William C. Canby, *American Indian Law in a Nutshell* 168 (1998).

<sup>§§</sup> The two counties that seem not to contain Indian Country are Wahkiakum and Pend Oreille County. Demographic and economic statistics taken from, Gabriel S. Galanda, *What's Indian Law Got To Do With It?*, *Washington State Bar News*, at 1 (Nov. 2002).

<sup>\*\*\*</sup> *Id.*

<sup>†††</sup> *Id.*

<sup>†††</sup> The term "Indian Country" is defined in 18 U.S.C. §1151: "(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependant Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same."

<sup>§§§</sup> This table does not apply to Indian Country over which a state has assumed jurisdiction pursuant to Public Law 280, nor does it reflect federal crimes that are generally applicable such as RICO.

**a. Crimes Committed by Indians in Indian Country.**

- **In the absence of contrary federal statute, tribal criminal jurisdiction over Indians is exclusive with respect to conduct in Indian Country.** Unless federal statutes limit it, tribal criminal jurisdiction over Indians in Indian Country is complete and exclusive. *See, e.g., ex parte Crow Dog*, 109 U.S. 556 (1883). As discussed below, several federal criminal statutes explicitly limit tribal jurisdiction over Indians.
  - **Major crimes committed by Indians in Indian Country:** Major crimes, which are 14 named crimes set forth in the Major Crimes Act, 18 U.S.C.A. §1153, are subject to federal jurisdiction whether the victim is Indian or non-Indian. The Ninth Circuit has ruled that tribes may exercise concurrent jurisdiction to punish major crimes. *Wetsit v. Stafne*, 44 F.3d 823 (9th Cir. 1995). But under the Civil Rights Act of 1968, a tribe cannot impose a sentence that exceeds one year's imprisonment and/or a \$5,000 fine. 25 U.S.C. §1302(7).
  - **Non-major crimes committed by Indians against non-Indians** are subject to tribal court jurisdiction; but this jurisdiction is shared with the federal courts under the General Crimes Act. 18 U.S.C. §1152. The General Crimes Act does not apply if an Indian has been punished by his or her own tribe or when a treaty gives exclusive jurisdiction to the tribe. *Id.*

**b. Crimes Committed by Non-Indians in Indian Country.**

Tribes have no general criminal jurisdiction over non-Indians. *See, e.g., Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978). Thus, crimes committed by non-Indians are governed by federal law if the victim is an Indian, pursuant to the General Crimes Act, and by state law if the victim is a non-Indian or if the crime is victimless.

**c. Crimes Outside of Indian Country.**

State courts have general criminal jurisdiction over all persons, including Indians, outside of Indian Country. Tribal criminal jurisdiction has also been found to extend to Indians committing crimes off the reservation in limited circumstances. For example, the Ninth Circuit held that a tribe may exercise criminal jurisdiction against a member whose off-reservation actions violated treaty rights. *See Settler v. Lameer*, 507 F.2d 231 (9th Cir. 1974).

**2. Civil Jurisdiction in Indian Country.**

The general rule is that local governments do not have civil jurisdiction in Indian Country, but courts have held that state laws may apply in Indian Country when expressly allowed by Congress.

**a. Civil Litigation.**

Plaintiff	Defendant	Source of Claim	Jurisdiction
Indian	Indian	Indian Country	Tribal
		Non-Indian Country	Concurrent (tribal or state)
Non-Indian	Indian	Indian Country	Tribal
		Non-Indian Country	State; possibly tribal
Indian	Non-Indian	Indian Country excluding non-Indian fee lands	Tribal (if code allows); State
		Indian Country non-Indian fee lands	State; possibly tribal
		Non-Indian Country	State
Non-Indian	Non-Indian	Indian Country	State; possibly tribal
		Non-Indian Country and Indian Country fee lands	State

Source: William C. Canby, *American Indian Law in a Nutshell* 210-11 (1998).

**b. Land Use Regulation in Indian Country**

Reservations in Washington were originally created pursuant to treaties, signed in the mid 1800s, which restricted the alienation and leasing of reservation land. However, the restrictions were removed when Washington became a state in 1889. Indian fee owners were then able to sell, lease, or otherwise encumber their own fee land in the same manner as U.S. Citizens. *Goudy v. Meath*, 203 U.S. 146, 147 (1906).

As discussed in detail below, state and municipal governments have no authority over land held in trust or subject to restraints on alienation, and they have very limited authority over other Indian-owned land on the reservation. Their authority over non-Indian fee land on the reservation, however, is significantly greater and will be disturbed only when a tribe regulates through consensual transactions or when conduct “threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe.” *Montana v. United States*, 450 U.S. 544, 566 (1981).

**i. How do municipalities determine whether lands may be regulated?**

Because Indian tribes and Indians hold land both in fee simple and land subject to restraints on alienation, municipalities must first determine what type of land they are attempting to regulate.

- **Restricted lands are free from municipal jurisdiction.** Counties may not assert jurisdiction over restricted lands owned by the tribes. Restricted lands may be either (1) held in trust by the U.S. for the benefit of tribes or (2) held by Indians subject to limits on their alienation.
- **Municipalities may, in theory, regulate on-reservation activities of Indians in exceptional circumstances, but those circumstances are rare:** Land owned by tribal members in conventional fee simple may be subject to county and state jurisdiction, but only in “exceptional circumstances.” *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324, 331-32 (1983). One respected Indian law commentator, Judge William C. Canby, has noted that

these circumstances must be “rare and truly exceptional.” William C. Canby, *American Indian Law in a Nutshell* 271 (1998).

- **States and municipalities may assess property, but not other, taxes on Indian-owned fee land on the reservation.** Recent cases in the Supreme Court and Ninth Circuit have held that if Indian lands are found to be alienable, they will also be subject to state and local taxation. See, e.g., *Lummi Indian Tribe v. Whatcom County*, 5 F.3d 1355, 1358 (9th Cir. 1993); *Cass County v. Leech Lake Band of Chippewa Indians*, 524 U.S. 103, 114 (1998). The courts have reasoned that if Congress intended to make land freely alienable by the Indians, allowing the Indians to dispose of the land in any way, then that land should also be subject to taxation by the state. Authority to tax land does not provide other taxing authority to Indian activities on such land. *Yakima County v. Confederated Tribes and Bands of Yakima Indian Nation*, 502 U.S. 251 (1992) (rejecting Yakima County’s attempt to impose excise tax on Indian lands because Congress’ decision to allow state “taxation of land” did not include excise taxes).

## ii. The *Gobin* case.

In *Gobin*, the Ninth Circuit Court of Appeals held that Congress has not expressly authorized state regulation of the Indian-owned fee lands on a reservation when it made those lands freely alienable. *Gobin v. Snohomish County*, 304 F.3d 909, 915 (9th Cir. 2002). The Ninth Circuit held that Snohomish County could not assert jurisdiction over fee simple lands owned by members of the Tulalip Tribes when the lands were part of the reservation and Congress had not explicitly granted Snohomish authority over them: “We hold that the right of Indians to alienate their lands freely does not provide the County with a concomitant right to exert *in rem* land use regulation over those lands.” *Id.*

## F. Land Acquired by the United States in Trust for Tribes

**1. Repurchasing Land with Trust Monies.** If a native individual or a tribe repurchases land with trust monies supplied by the government, that land can sometimes be taken into trust immediately. Trust land cannot be regulated by the State or by its Municipalities.

**2. The Fee-to-Trust Process.** Tribes are increasingly devoting their economic resources to repurchasing allotted lands and seeking to have them transferred to trust status. The fee-to-trust process is set forth in 25 C.F.R. pt. 151, and it varies depending upon whether the land is on an existing reservation or is outside a reservation. In both cases, however, the BIA must examine the authority for acquiring the land in trust, 151.10(a), the need for the tribe or the Indian for the land, 151.10(b), the purpose for which the land will be used, 151.10(c), the impact on the State and its political subdivision from removal of the land from the tax rolls, 151.10(e), jurisdictional problems and potential land use conflicts, 151.10(f), the BIA’s ability to discharge its new responsibilities, 151.10(g), and the extent to which the fee-to-trust applicant has provided information that allows the BIA to comply with NEPA and the Department of the Interior’s Hazardous Substances rules, 151.10(h). The BIA’s compliance with these factors and with other federal law is adjudicated by BIA officials and by the Interior Board of Indian Appeals (“IBIA”). If the IBIA decides that the land can be taken into trust, its decision can be challenged in federal court pursuant to the Administrative Procedure Act.

Municipalities must pay close attention to the fee-to-trust applications that they receive. Ignoring these applications or missing appeals deadlines could prevent the municipality from challenging a potentially disastrous development program.



**3. Municipalities Should Consider Negotiating Jurisdictional Disputes with Indian Tribes.** Jurisdictional disputes are often intractable and can consume massive resources. Many tribes are willing to consider government-to-government agreements covering a wide-variety of municipal services. These agreements can ensure that public services reach all residents of a municipality, can foster good will between tribes and municipalities, and can help in sharing burdens and expertise.

## **G. Statutes**

There is an extensive list of Federal statutes that place legal responsibilities on Federal agencies with respect to Tribes, including the Native American Graves Protection and Repatriation Act, the American Indian Religious Freedom Act, and the Archeological Resources Protection Act. The statutes of particular interest in this context are the National Historic Preservation Act and the National Environmental Policy Act (along with its State analogue, the State Environmental Policy Act of 1971). Collectively, these legally binding authorities, which continue to form the basis of how consultation is conducted, have had an important impact on government-to-government relations.

### **1. The National Historic Preservation Act**

The National Historic Preservation Act ("NHPA") of 1966 explicitly directs Federal agencies to involve Tribes along with other consulting parties in the process of identifying historic properties. The NHPA also established the Advisory Council on Historic Preservation ("ACHP") in 1966. The ACHP is an independent Federal agency that promotes the preservation, enhancement, and productive use of the nation's historic resources, and advises the President and Congress on national historic preservation policy.

NHPA and ACHP's regulations require Federal agencies to consult with Indian Tribes on projects that could affect properties to which Tribes have attached religious and/or cultural significance, regardless of the location of that property. Cultural properties significant to traditional communities have become a type of historic property that Federal agencies must identify and manage. The obligation to seek Tribal involvement on such projects is outlined in Section 106 of NHPA, which requires Federal agencies to consider the effects of their actions on historic properties and to seek comments from ACHP. Section 106 applies when two thresholds are met: (1) there is a Federal or Federally licensed action, including grants, licenses, and permits, and (2) that action has the potential to affect properties listed in or eligible for listing in the National Register of Historic Places. Commonly known as "Section 106 review," the procedure for meeting Section 106 requirements is defined in ACHP's regulations, "Protection of Historic Properties" (36 C.F.R. pt. 800). The regulations include both general direction regarding consultation and specific requirements at each stage of the review process.

The two amended sections of NHPA that have a direct bearing on the Section 106 review process are Section 101(d)(6)(A), which clarifies that historic properties of religious and cultural significance to Indian Tribes may be eligible for listing in the National Register, and Section 101(d)(6)(B), which requires Federal agencies, in carrying out their Section 106 responsibilities, to consult with any Indian Tribe that attaches religious and cultural significance to historic properties that may be affected by an undertaking. ACHP's regulations incorporate these provisions and reflect other directives about Tribal consultation from Executive orders, Presidential memoranda, and other authorities.

ACHP's regulations recognize an Indian Tribe's sovereign authority on its Tribal lands in several ways. The regulations require a Federal agency to provide an Indian Tribe an opportunity to review and, thus, to concur with or object to, agency findings and determinations. The regulations also require Federal agencies to invite the Tribe to sign memoranda of agreement. If the Tribe

terminates consultation, ACHP must comment to the head of the agency rather than execute an agreement without the Tribe. Agencies should be aware, however, that the sovereign status of Indian Tribes on their lands may dictate other obligations and requirements in addition to those outlined in ACHP's regulations.

A Federal agency must make a reasonable and good faith effort to identify Indian Tribes that attach religious and cultural significance to historic properties affected by the undertaking. Some Tribes may attach such significance to historic properties located on another Tribe's lands. The Federal agency must consult with them as well. While this may present challenges in carrying out consultation, it does not absolve the Federal agency from the obligation to consult. The Federal agency must respect a Tribe's sovereignty in matters such as access to historic properties within the reservation. Accordingly, it may be necessary for the agency to consult with each Tribe individually and to do so off the reservation.

The Office of Archaeology and Historic Preservation ("OAHP") is the Washington State primary agency with knowledge and expertise in historic preservation. It fulfills the State Historic Preservation Office ("SHPO") functions for Washington State. The OAHP, or the Tribal Historic Preservation Office, plays an important role in determining whether historic properties are eligible for the National Register.

In sum, whenever local government projects have the potential to affect historic properties of Indian Tribes, the agency should (1) coordinate with the Section 106 protocols of the lead Federal agency on the project; (2) identify the Historic Properties; (3) initiate Tribal consultation to request that the Tribe provide concurrence on the area of potential effects; (4) determine whether these Historic Properties are eligible for the National Register; and (5) determine whether the effects on these properties are adverse, in which case the FHWA must notify the ACHP.

## **2. The Indian Graves and Records Act**

The Indian Graves and Records Act ("IGRA") requires all persons in Washington to refrain from "knowingly remov[ing], mutilat[ing], defac[ing], injur[ing], or destroy[ing] any cairn or grave of any native Indian. . . ." RCW § 27.44.040(1). That section also states "[p]ersons disturbing native Indian graves through inadvertence, including disturbance through construction, . . . or any other activity, shall reinter the human remains under the supervision of the appropriate Indian tribe." *Id.*

Those who knowingly disturb a native Indian grave are guilty of a Class C felony. *See id.*<sup>\*\*\*\*</sup> This criminal provision has a civil counterpart, RCW § 27.44.050. Section .050 allows a tribe or any enrolled tribal member, to seek "an injunction, damages, or other appropriate relief against any person who is alleged to have violated RCW 27.44.040." That relief includes emotional distress damages, punitive damages, and attorneys' fees.

The sole published Washington case interpreting the Act, *Swinomish Indian Tribal Community v. Island County*, 87 Wn. App. 552, 558-59 (1997), interpreted its provisions broadly. In particular, it relied on the Legislature's pronouncements that "Native Indian burial grounds . . . are acknowledge to be a finite, irreplaceable, and nonrenewable cultural resource," and "[t]here has been careless indifference in cases of accidental disturbance of sites, graves, and burial grounds," as well as its instruction that the Act be liberally construed to effect its purposes. *See id.* at 557-58.

---

<sup>\*\*\*\*</sup> A defendant's proof by a preponderance of the evidence that the alleged acts were accidental or inadvertent, that reasonable efforts were made to preserve the remains, and that the accidental discovery or disturbance was properly reported, is a complete defense to a felony prosecution under the criminal portion of the statute. *See* RCW § 27.44.040(4).

### **3. The National Environmental Policy Act**

The National Environmental Policy Act of 1969 (“NEPA”) established the basic framework for integrating environmental considerations into Federal decision making. However, it did not provide the details of the process for how this would be accomplished. Federal implementation of NEPA was the charge of the Council on Environmental Quality (“CEQ”) which interpreted the law and addressed NEPA’s action forcing provisions in the form of regulations and guidance.

CEQ introduced a lead agency/cooperating agency concept to aid in early coordination and faster and better processing. A lead agency is responsible for supervising the preparation of the environmental documentation. Cooperating agencies are those agencies specifically requested by the lead agency to assist during the environmental process. The CEQ regulations addressing cooperating agencies implement the NEPA mandate that Federal agencies responsible for preparing NEPA analyses and documentation do so “in cooperation with State and local governments” and other agencies with jurisdiction by law or special expertise. When Tribal interests may be affected by a proposed development, the Tribe may be deemed a “cooperating agency.” CEQ’s regulations require that those Federal agencies with jurisdiction by law be requested to be cooperating agencies for environmental assessments and environmental impact Statements. Examples include the Corps where Section 404 permits are involved, the U.S. Coast Guard where a Section 9 permit is involved, the EPA for sole-source aquifers, and other Federal agencies where a land transfer from that agency is needed. As noted above, Tribes may also be included as a cooperating agency.

In a February 2, 2002 memorandum to Tribal Leaders, James Connaughton, Chair of the CEQ, noted that Federal agencies had been reminded “of the importance of including Tribes in the NEPA process and emphasizes the importance of establishing cooperating agency status when appropriate.” The memorandum also encourages Tribal leaders “to consider accepting or requesting an invitation to participate in the NEPA process as a cooperating agency” or, where cooperating status is not appropriate, to “consider opportunities to provide information and comments to the agencies preparing the NEPA analysis and documentation.”

### **4. State Environmental Policy Act**

The State Environmental Policy Act of 1971 (“SEPA”) is very similar to NEPA in that it requires State agencies to integrate environmental considerations in State decision making. SEPA also directs local jurisdictions to develop local SEPA policies and to adopt rules, consistent with State rules, integrating SEPA into the “various programs under their jurisdiction for implementation.” SEPA overlays and supplements all other State laws, RCW 43.21C.030, .060, and “mandates governmental bodies to consider the total environmental and ecological factors to the fullest in deciding major matters.” *Eastlake Cmty. County, Inc. v. Roanoke Assocs., Inc.*, 82 Wn.2d 475, 490 (1973).

In a variety of contexts, the SEPA administrative code directs applicants to confer with Tribes throughout the SEPA process. See, e.g., WAC 197-11-340(2)(b) (stating that, with respect to proposals that receive “determinations of nonsignificance,” the State officials should send the DNS to affected Tribes for review); WAC 197-11-360(3) (requiring that responsible officials should send “determinations of significance” to “affected Tribes”); WAC 197-11-405, 455 (stating that agencies should send draft environmental impact Statements to affected Tribes). Moreover, the SEPA regulations define an “affected Tribe” as any Tribe “that is Federally recognized by the United States Secretary of the Interior and that will or may be affected by the proposal.” WAC 197-11-710. Thus, local government is required to include affected Tribes in its SEPA review process.

## APPENDIX II

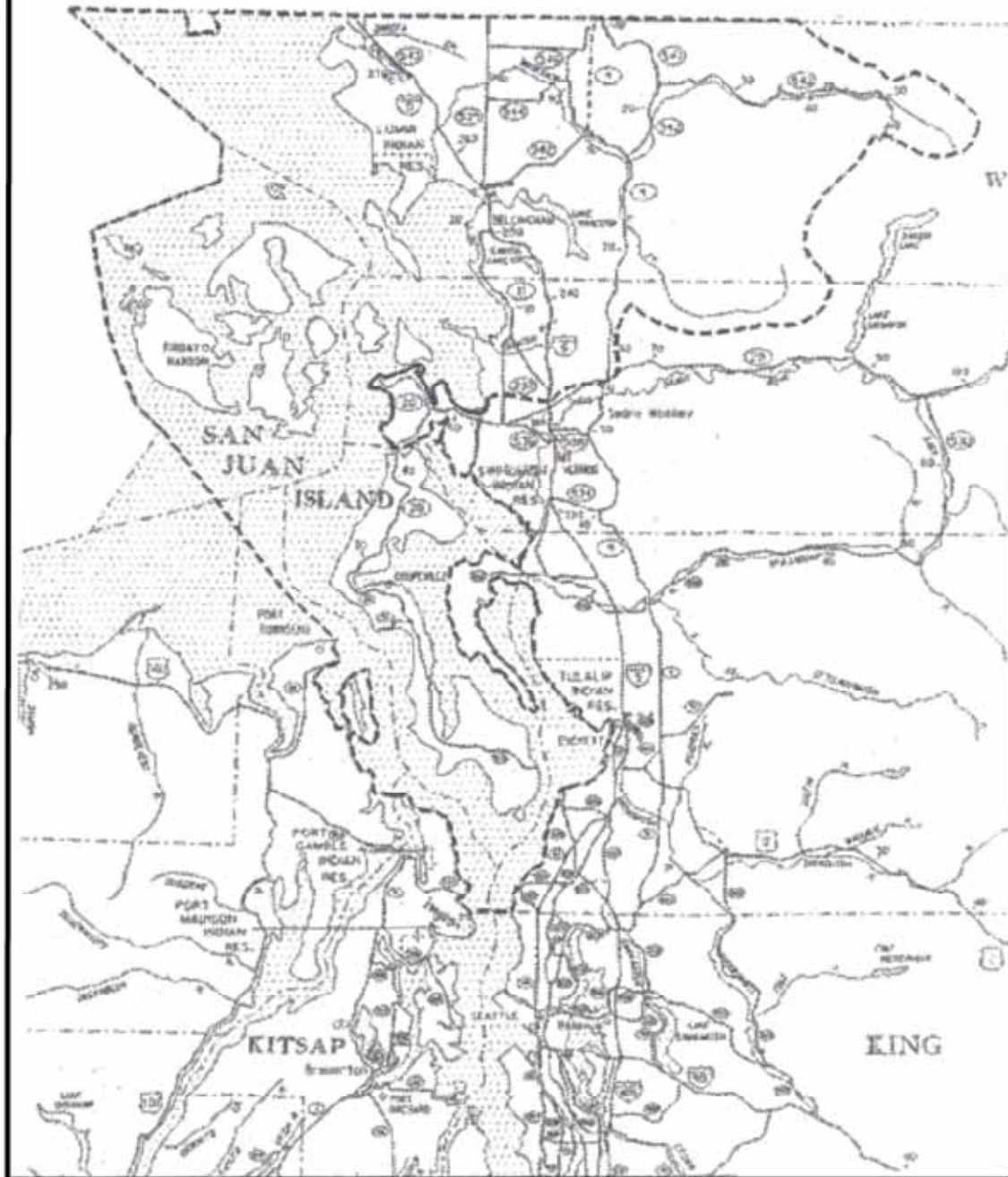
## MAPS DEPICTING U&A BOUNDARIES

## MAPS DEPICTING U&A BOUNDARIES

Please note that these maps are approximations of Tribal U and A areas only. Where questions arise on whether a particular local government undertaking may be in the U and A area of a particular Tribe, local government personnel should consult with the Office of Tribal Liaison and the Office of the Attorney General.

USUAL & ACCUSTOMED  
AREAS  
LUMMI TRIBE

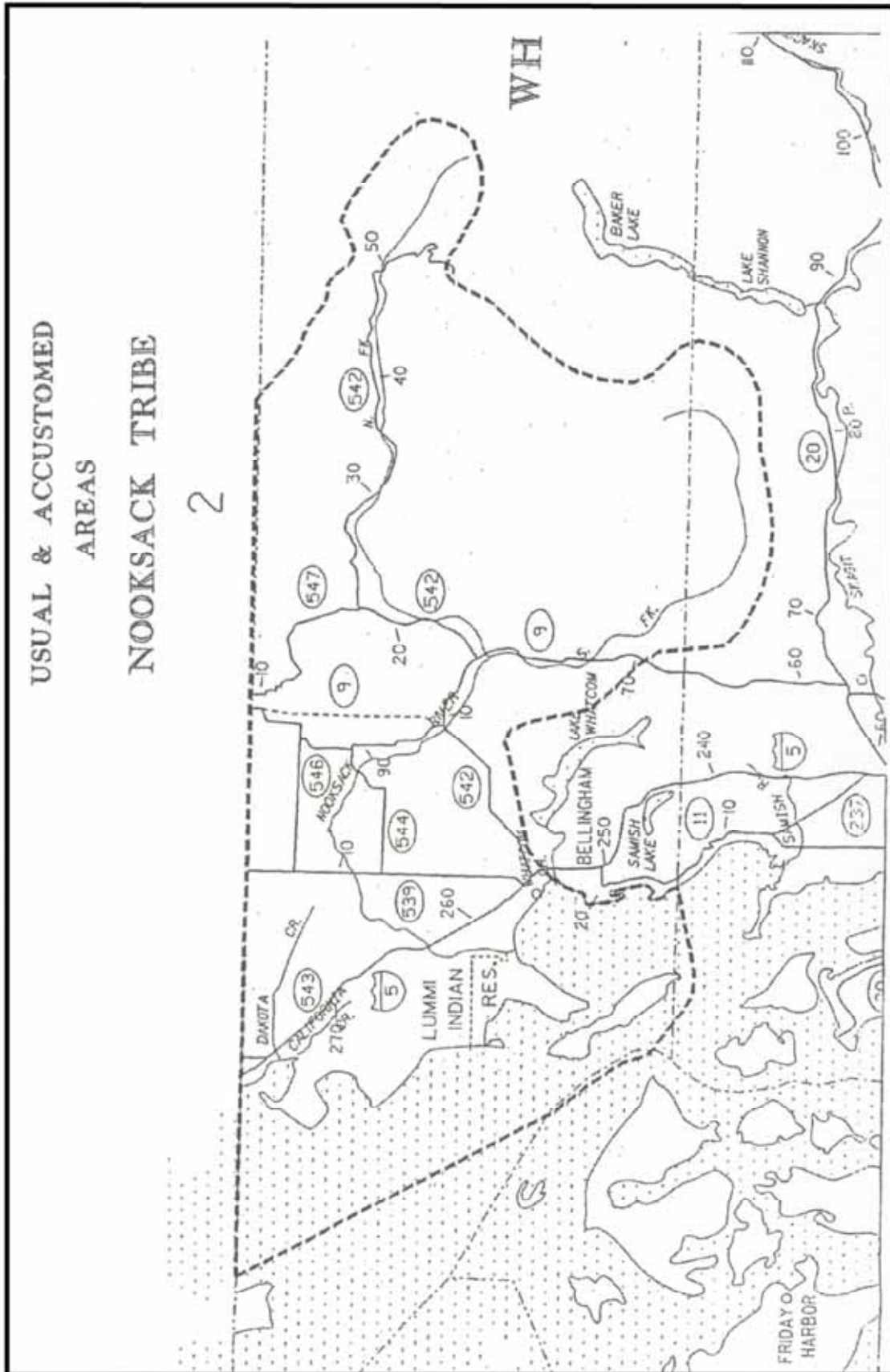
1



USUAL & ACCUSTOMED  
AREAS

NOOKSACK TRIBE

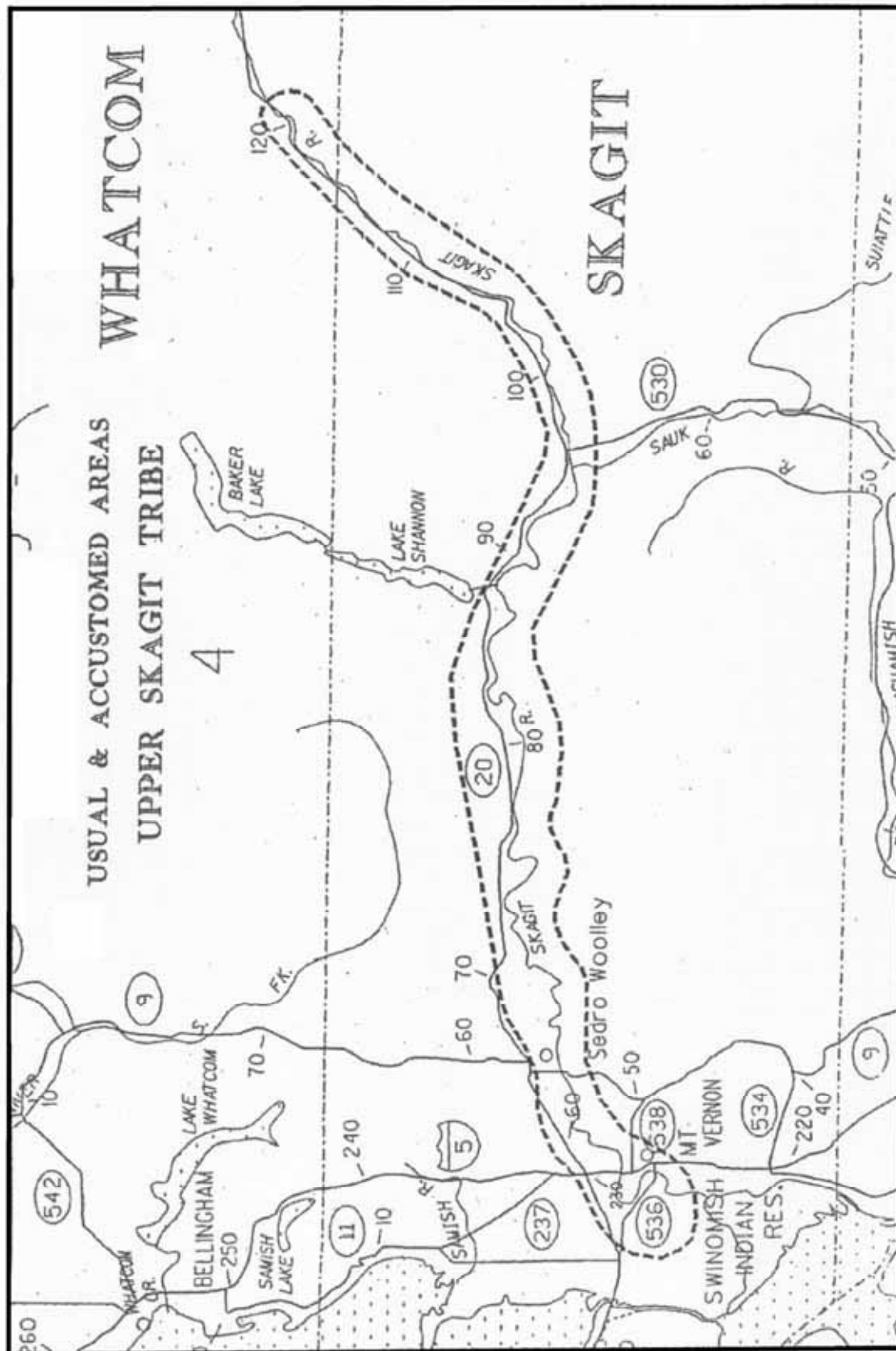
2

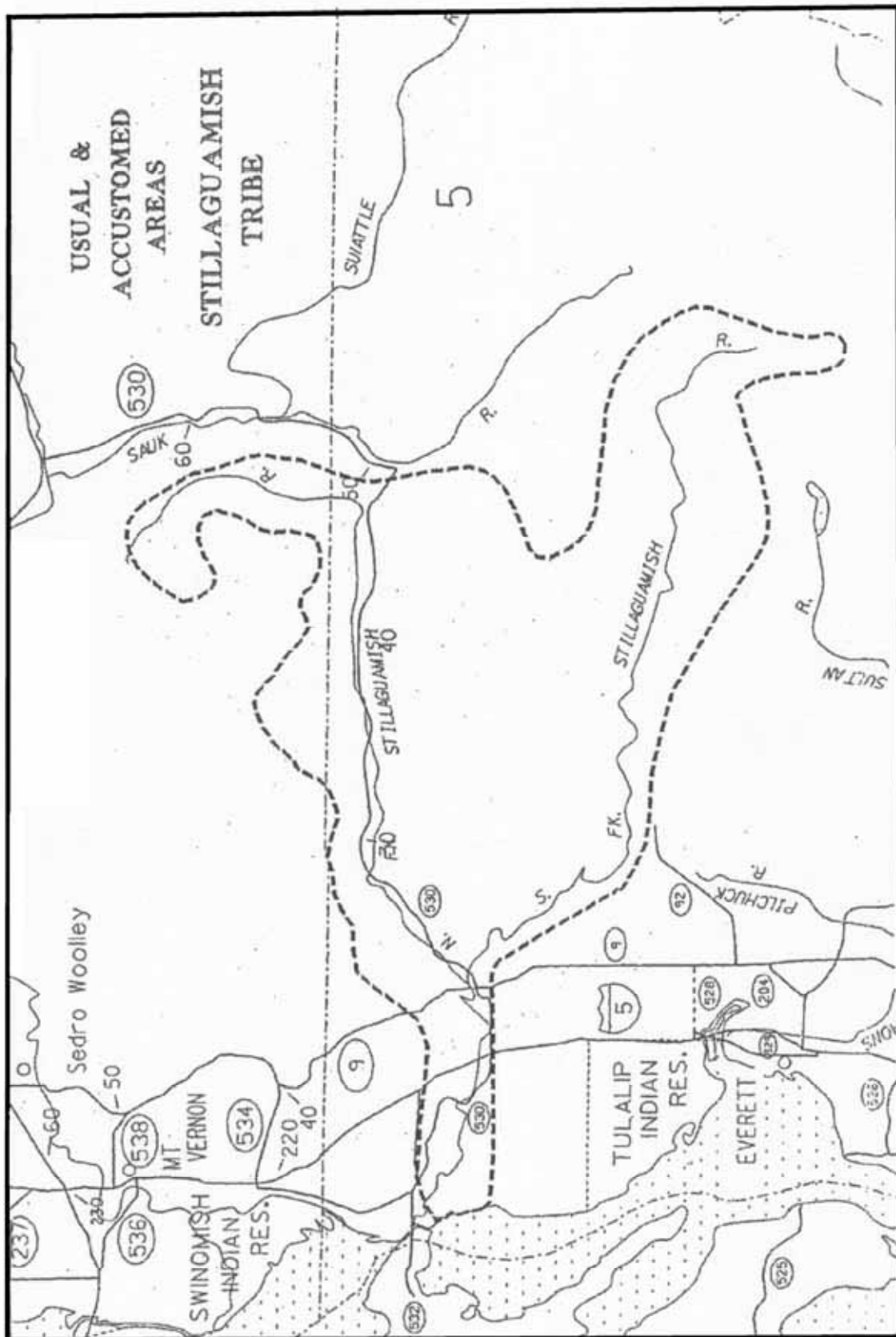


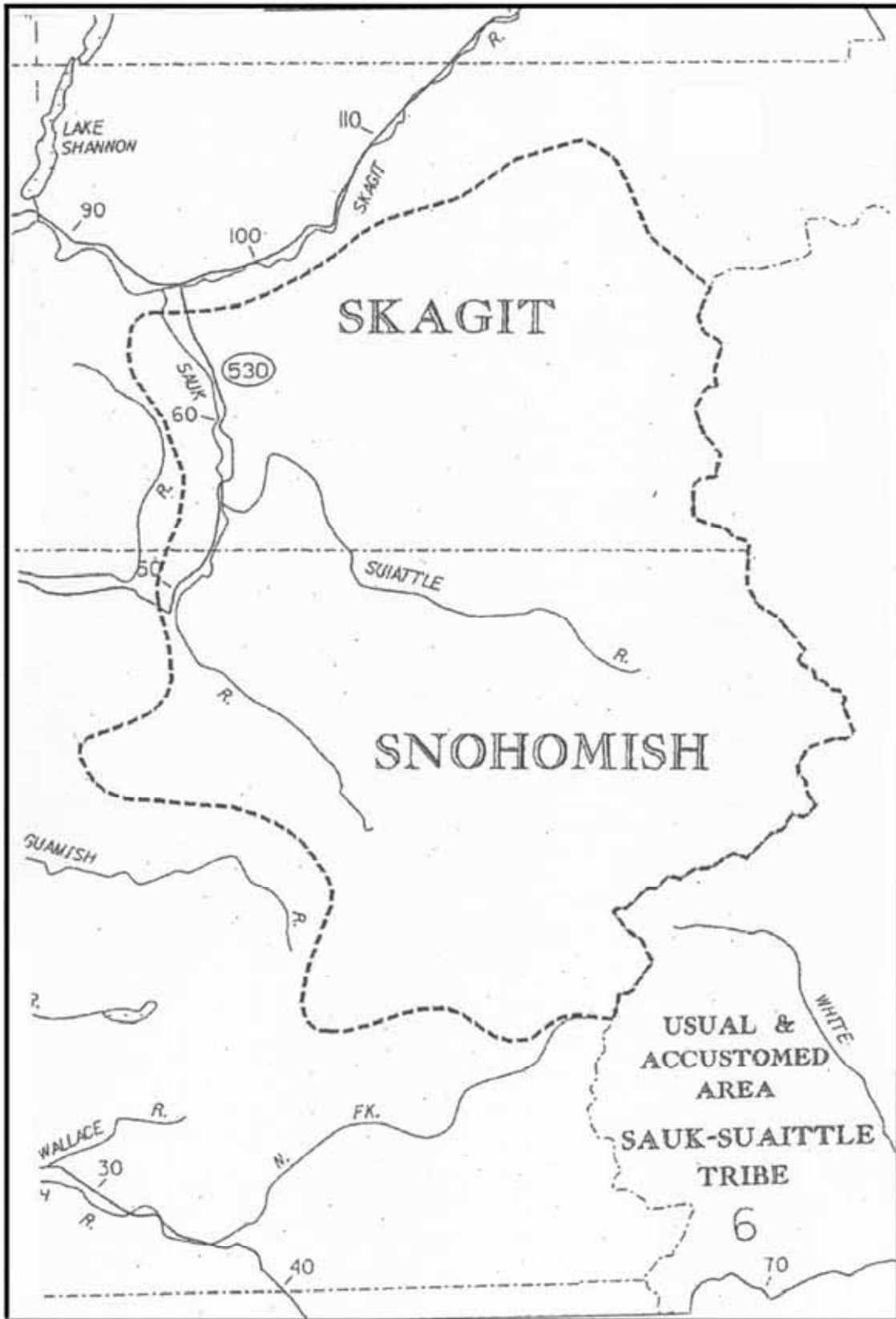
USUAL & ACCUSTOMED AREAS  
SWINOMISH TRIBE 3

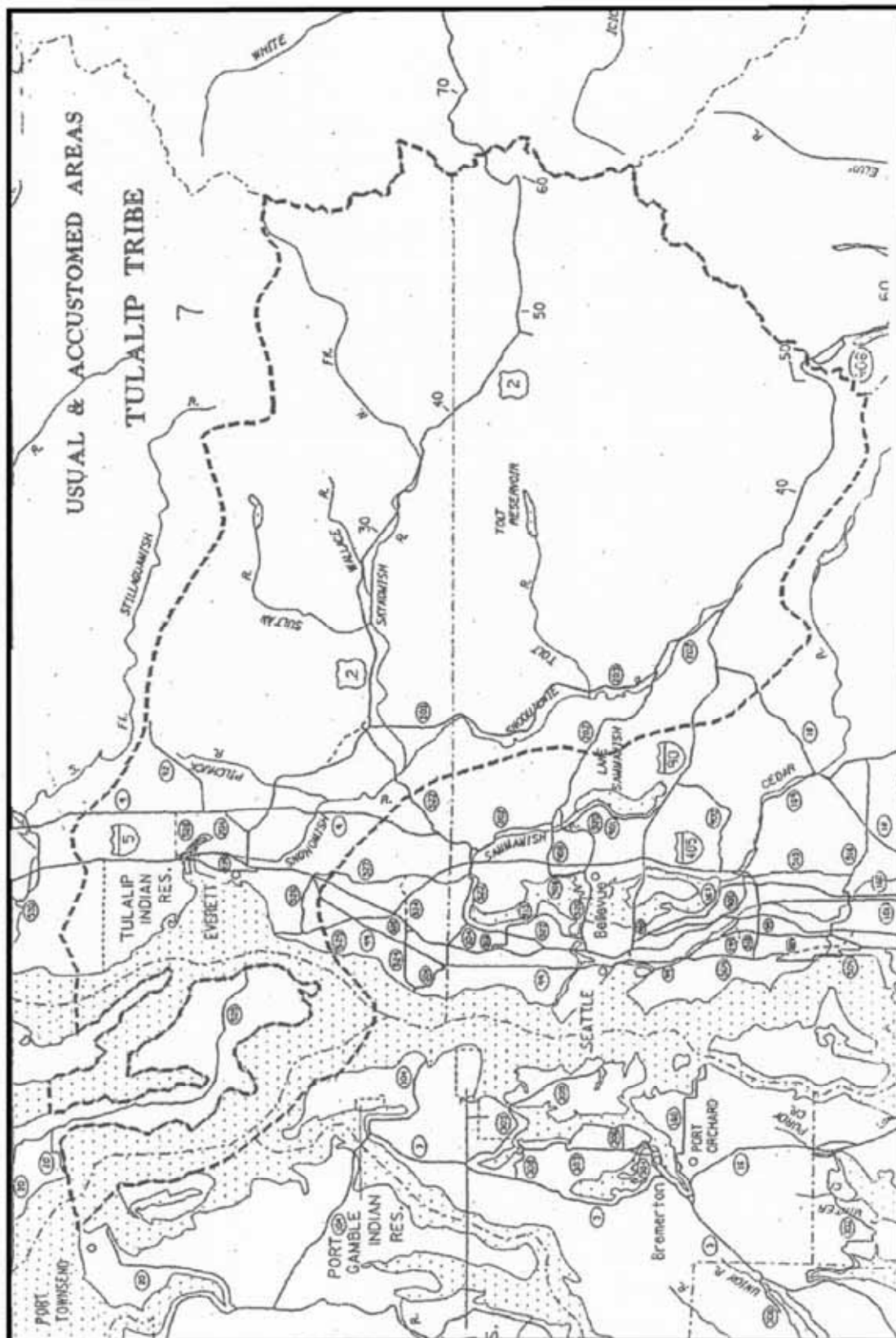
Map showing the Swinomish Tribe 3 area, including the San Juan Islands, Skagit County, Whatcom County, Snohomish County, and Chelan County. The map displays various Indian Reservations (e.g., Tulalip, Snohomish, Port Madison) and geographical features (e.g., Skagit River, Whatcom River, Snohomish River, Chelan River). The map is titled "USUAL & ACCUSTOMED AREAS SWINOMISH TRIBE 3".

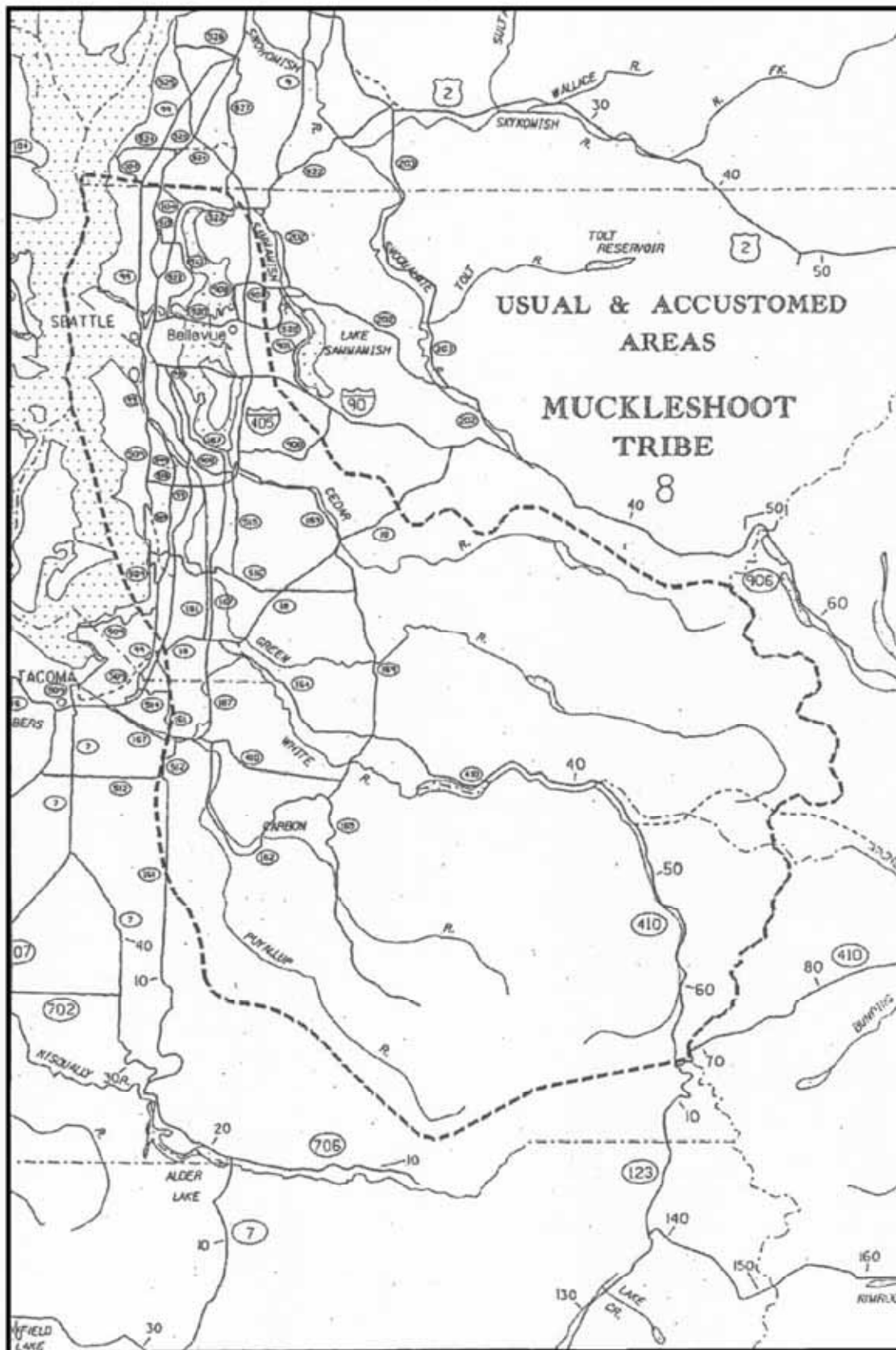


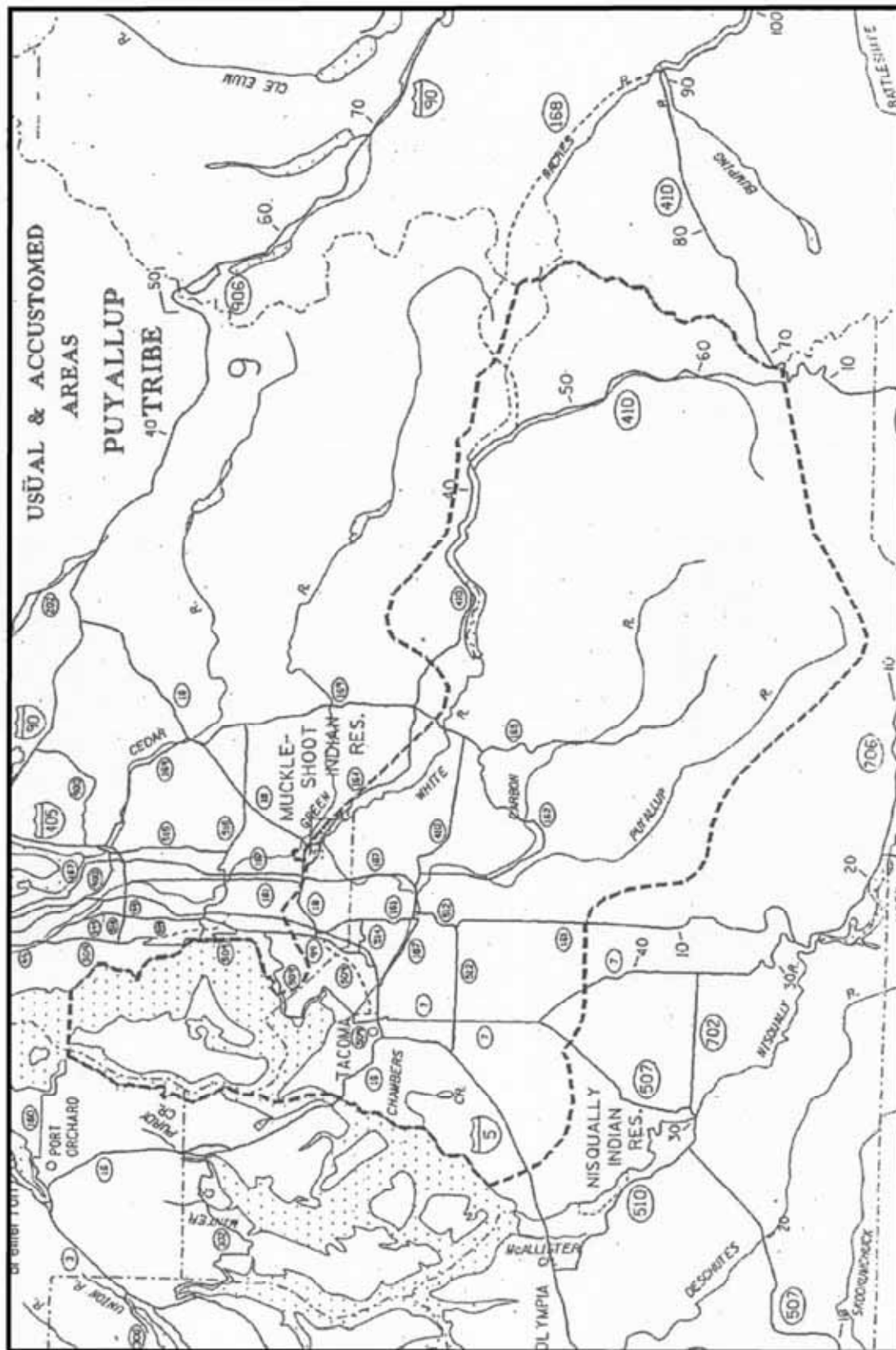


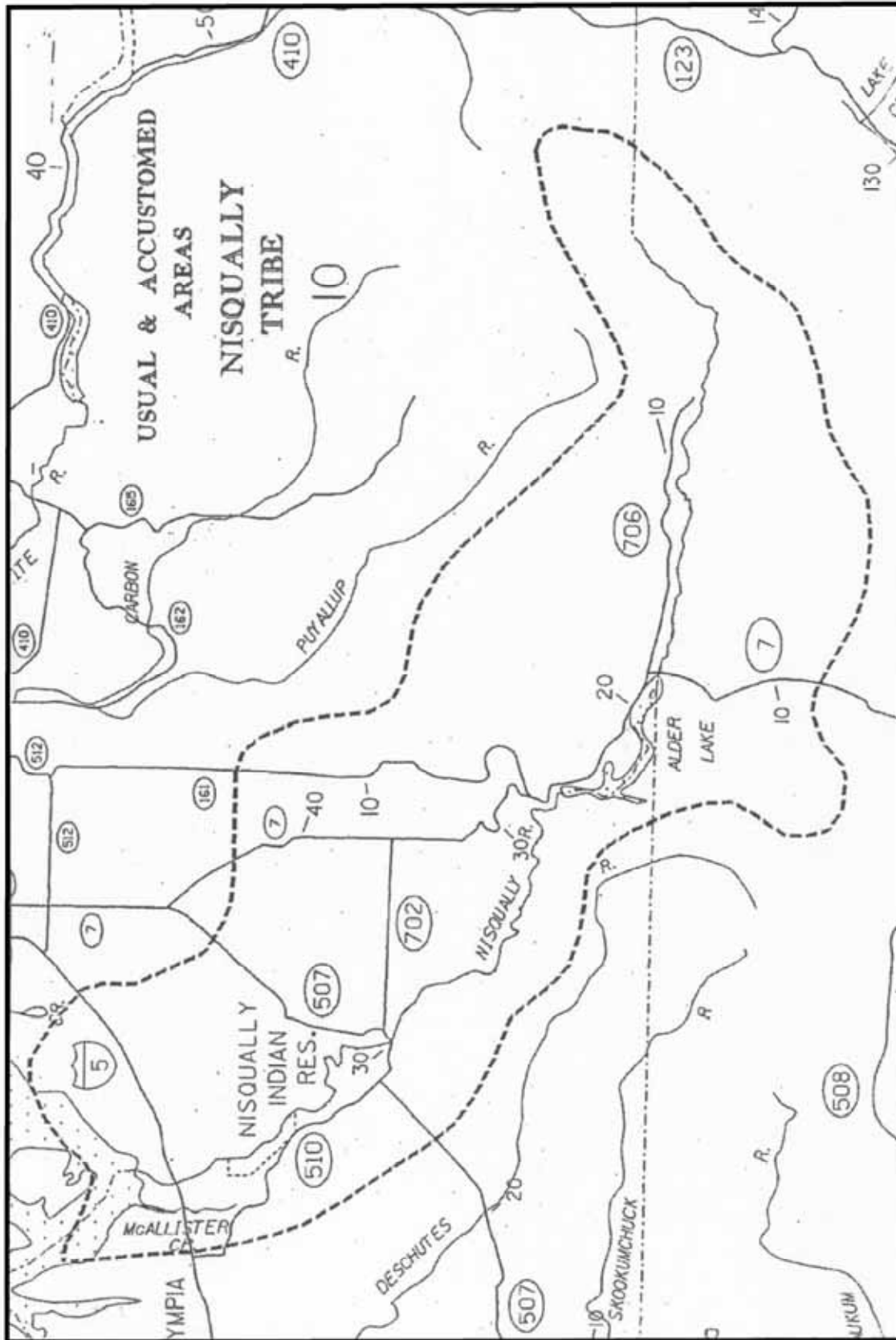


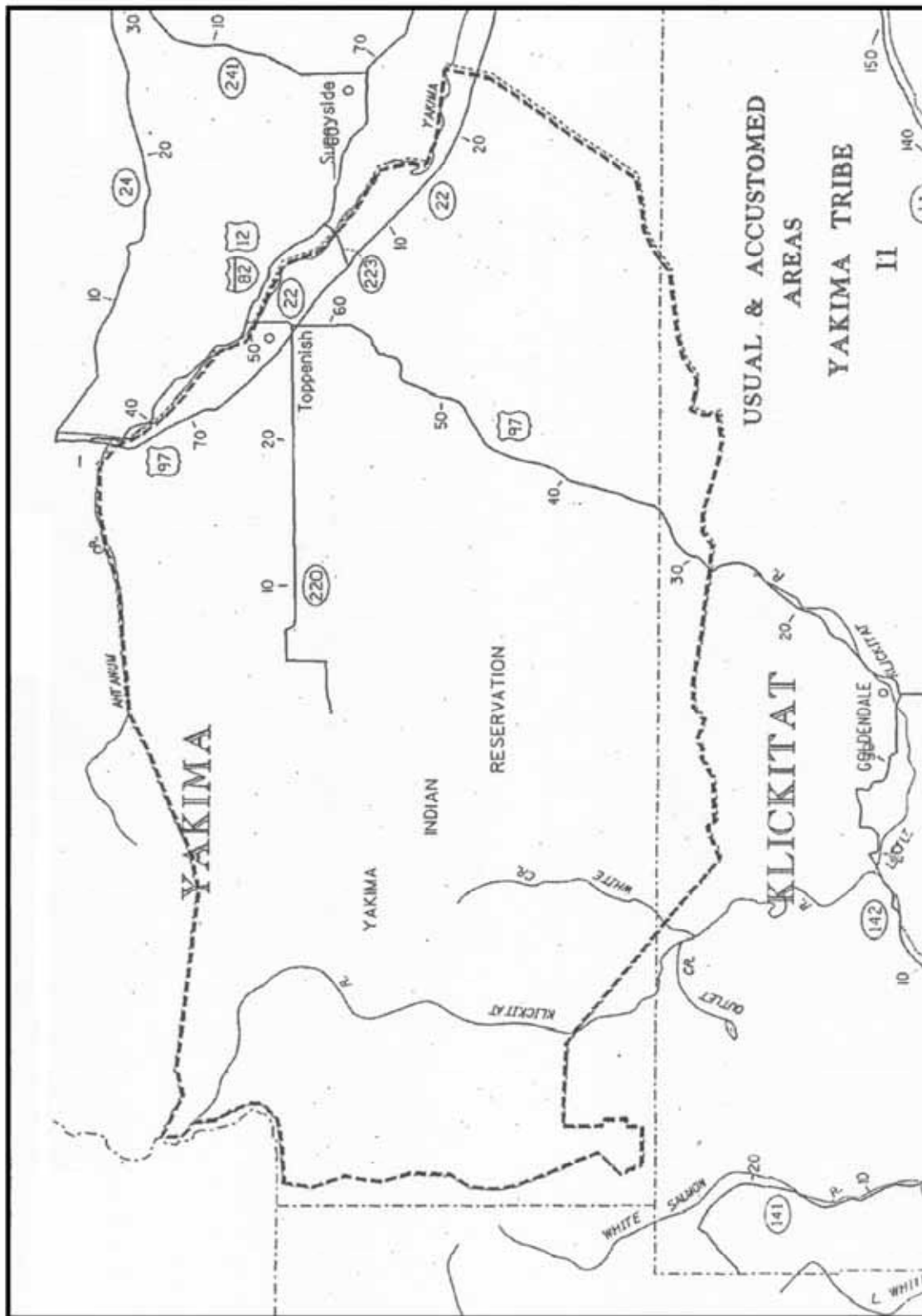




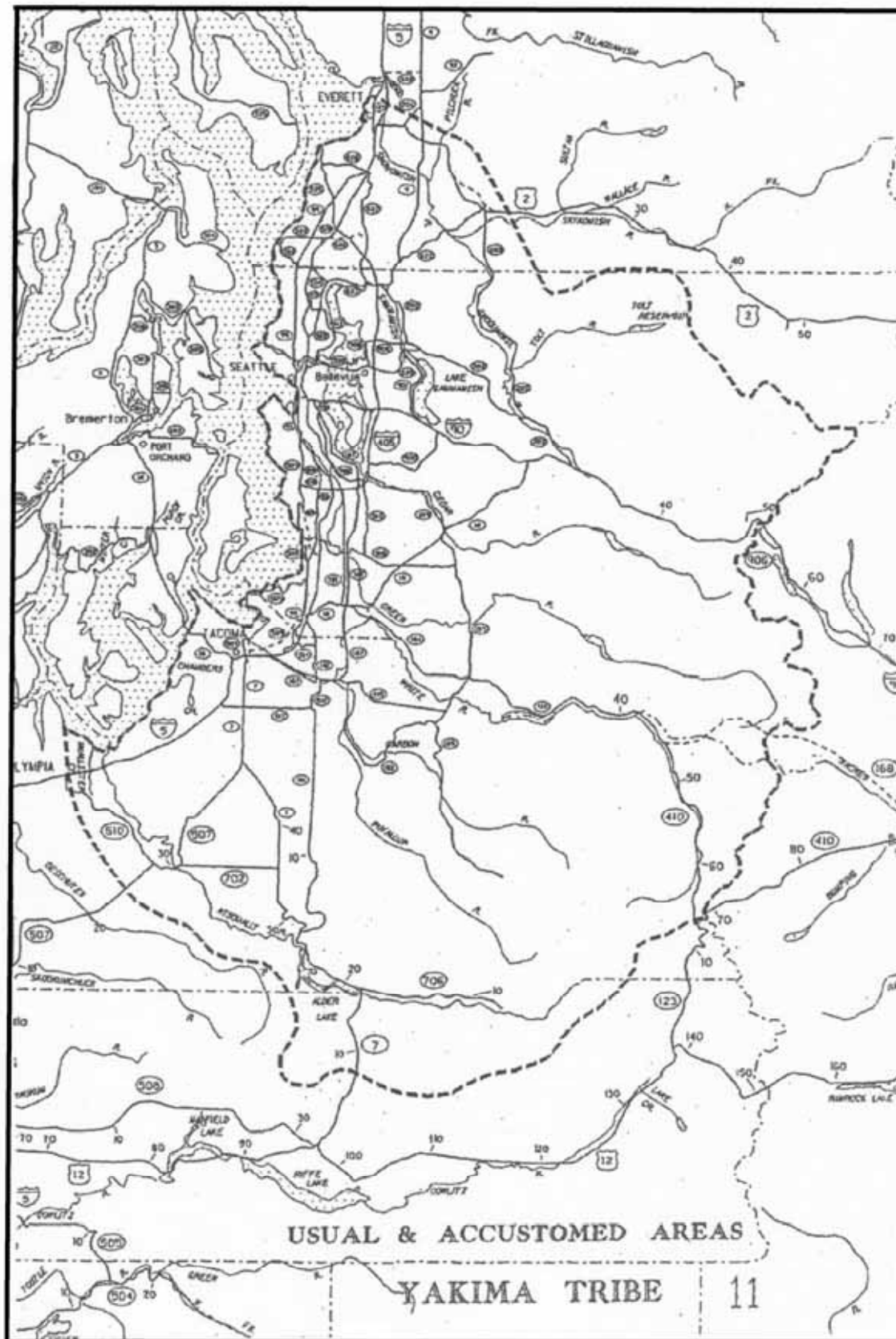


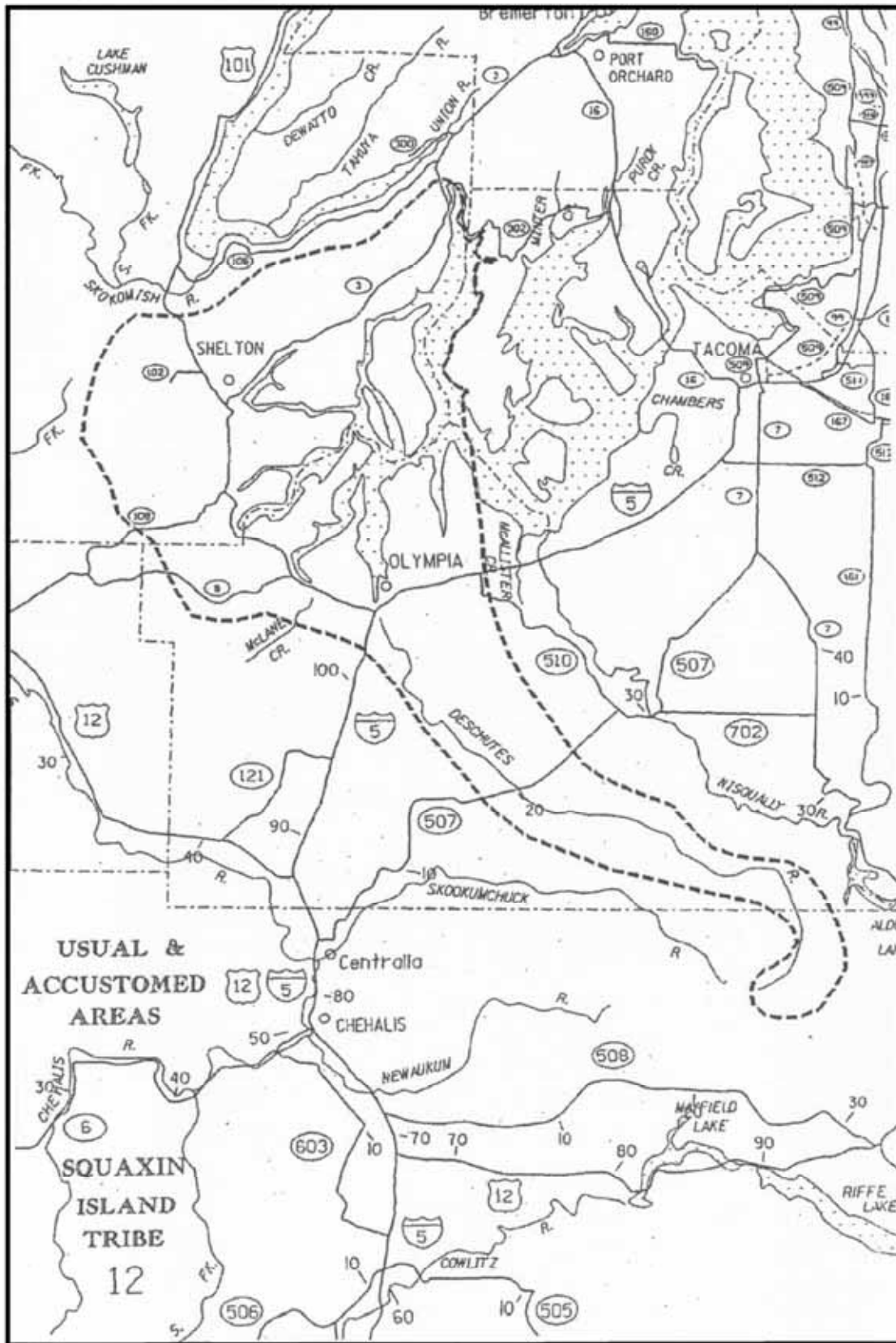


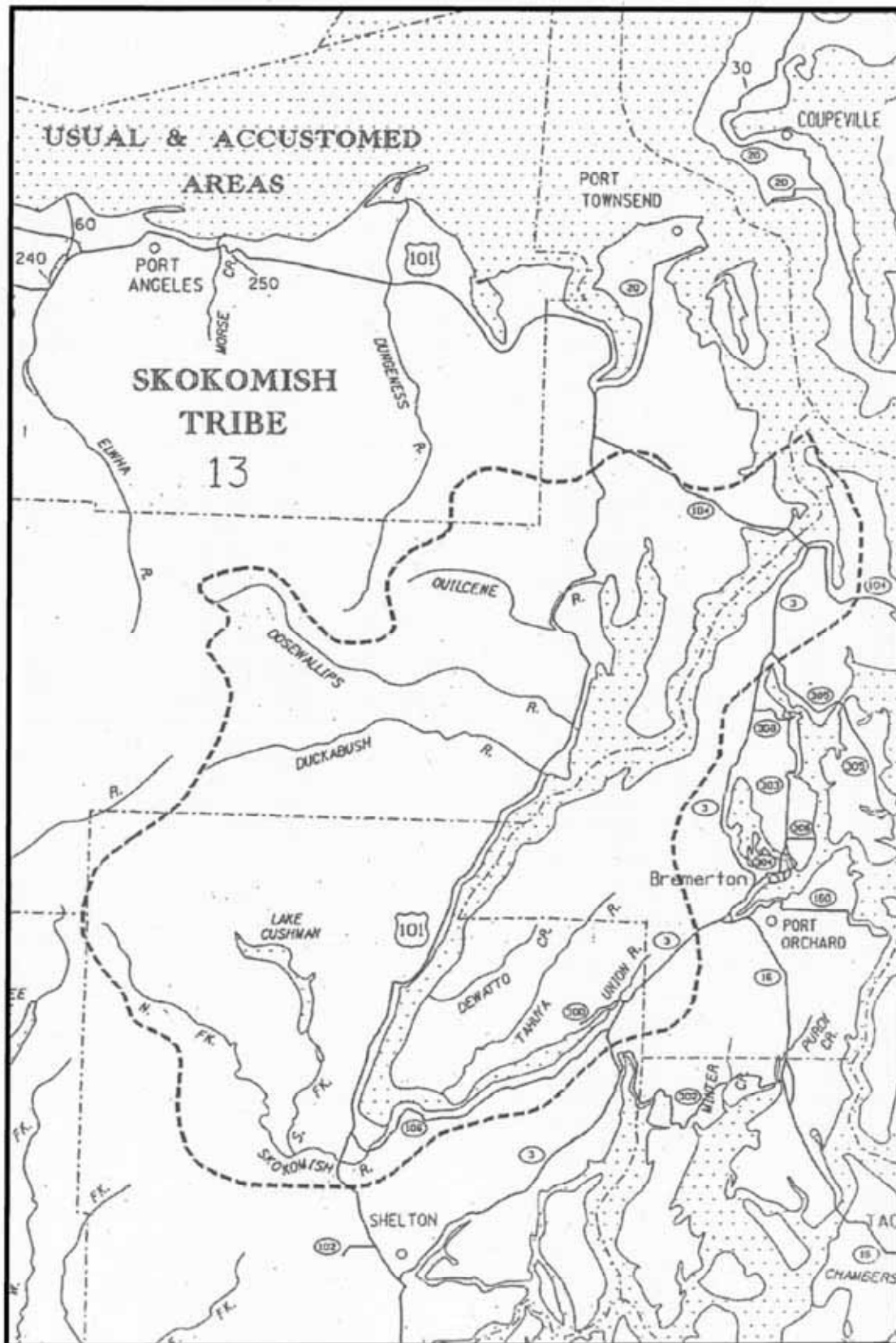


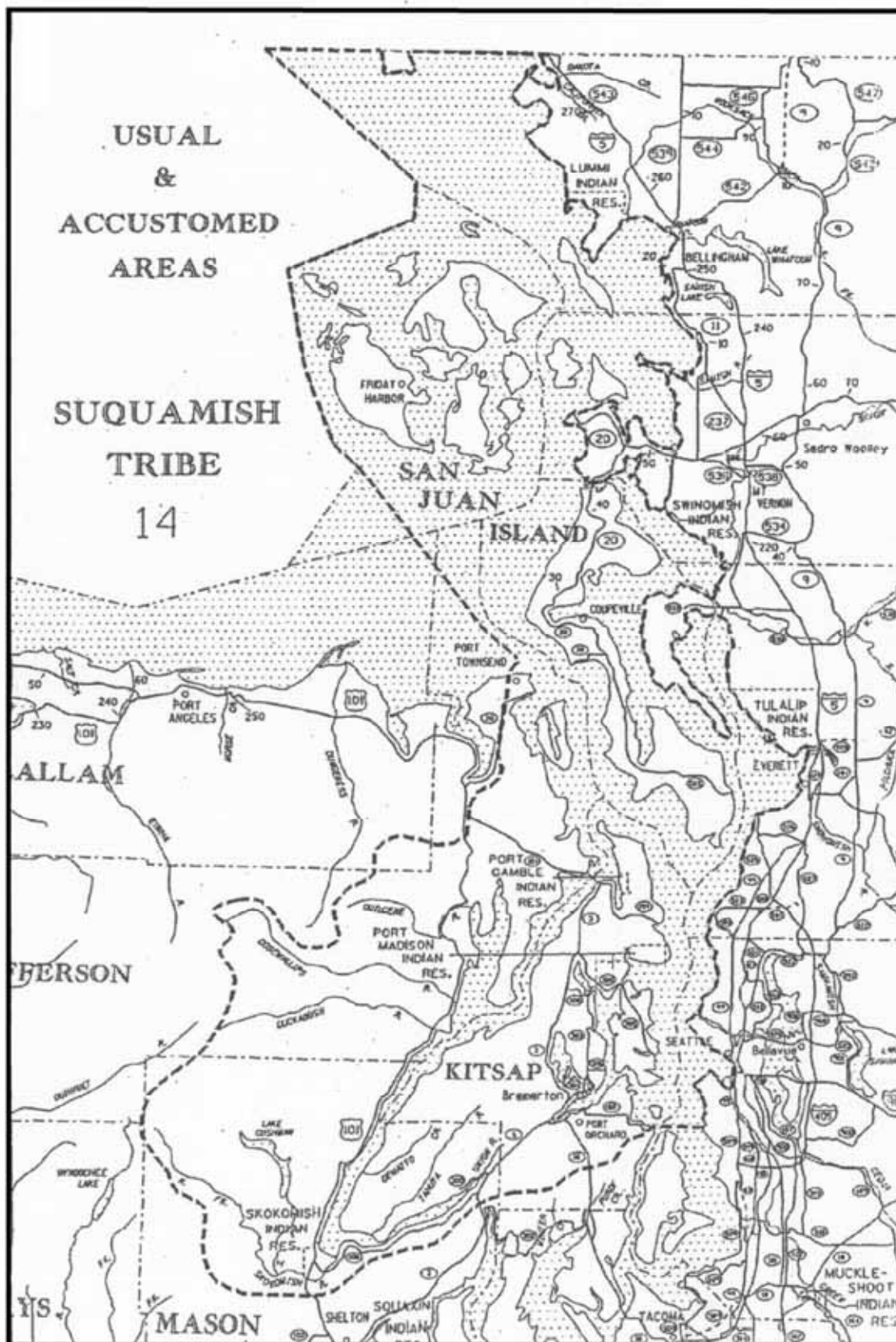


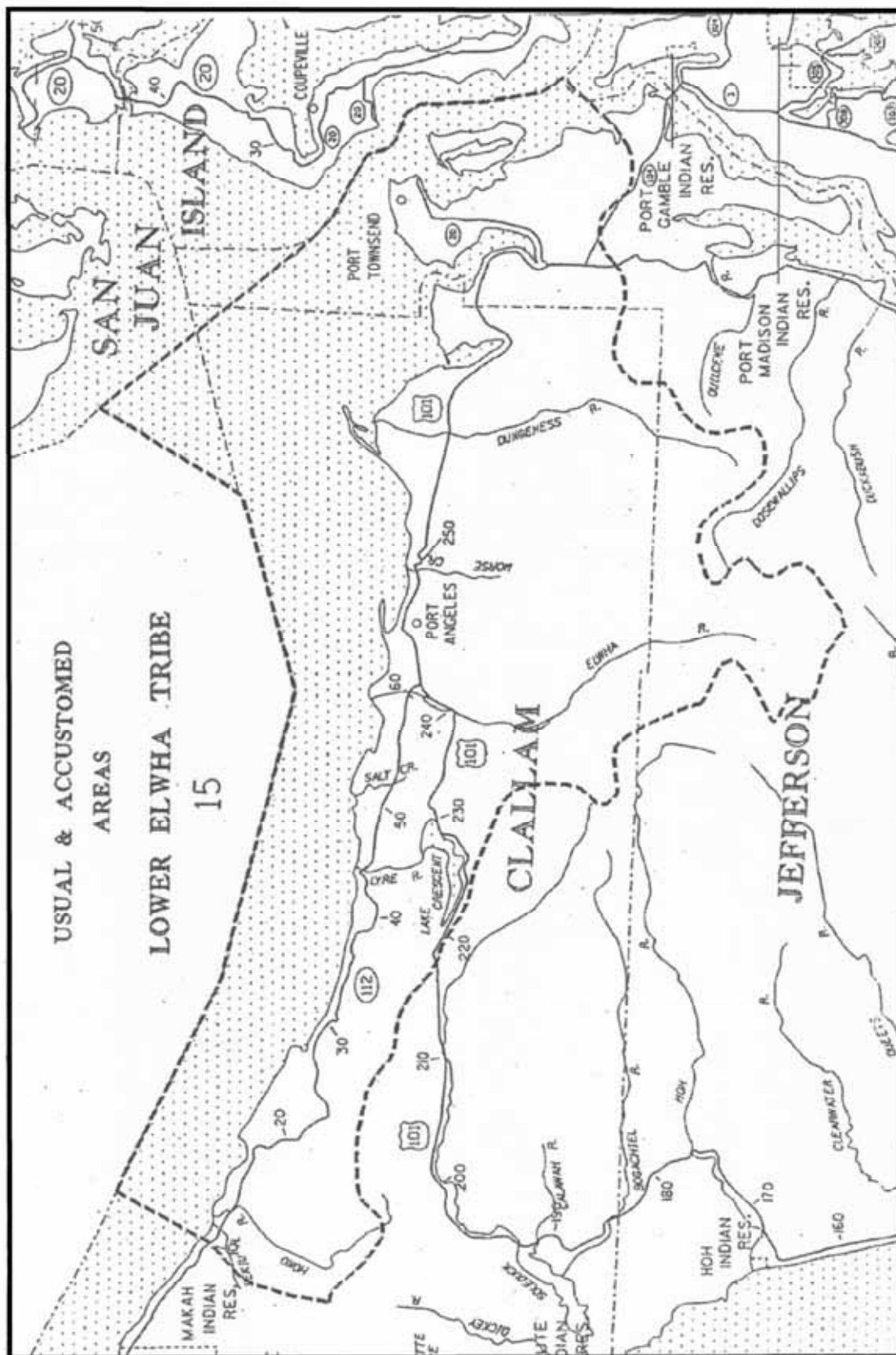






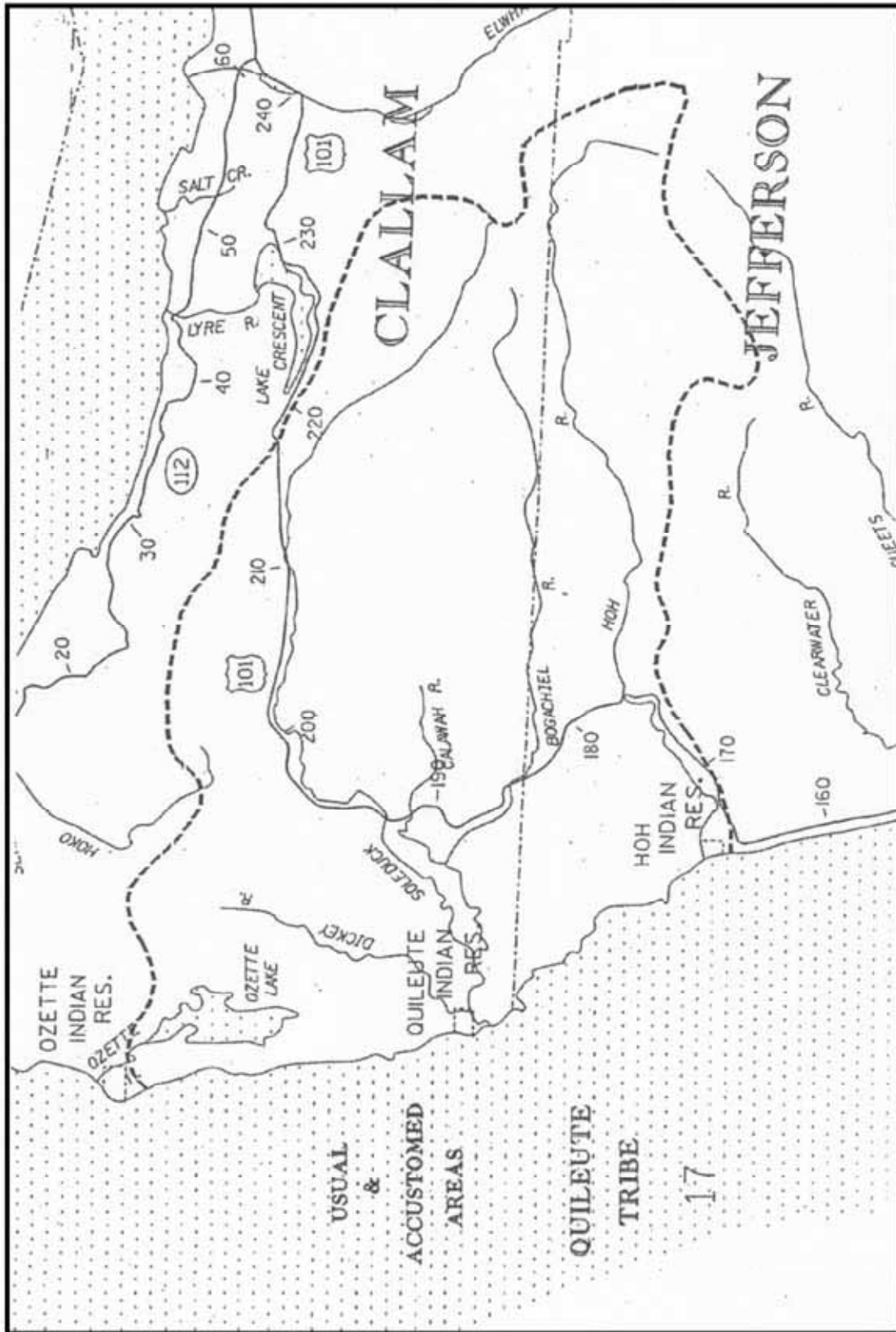


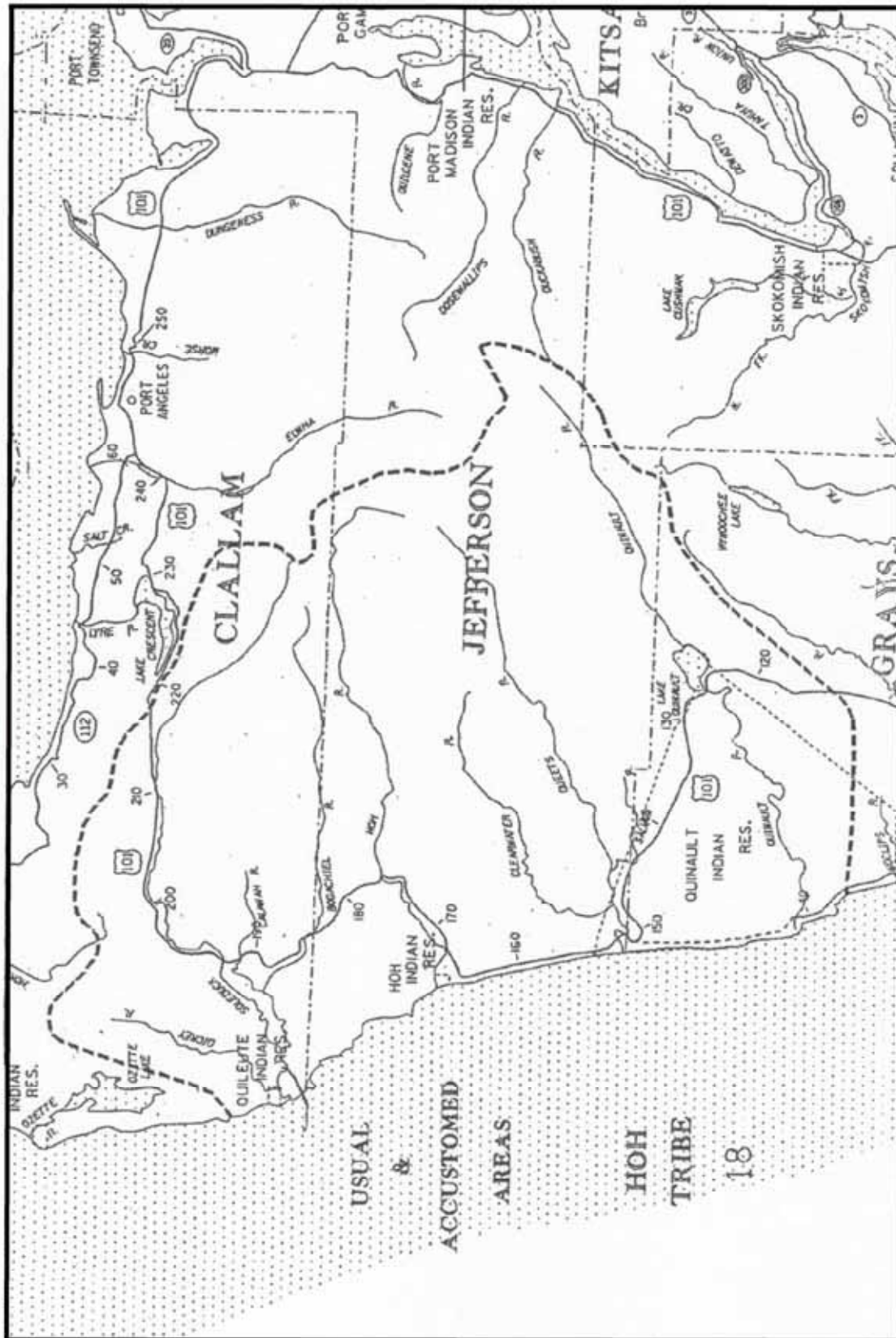




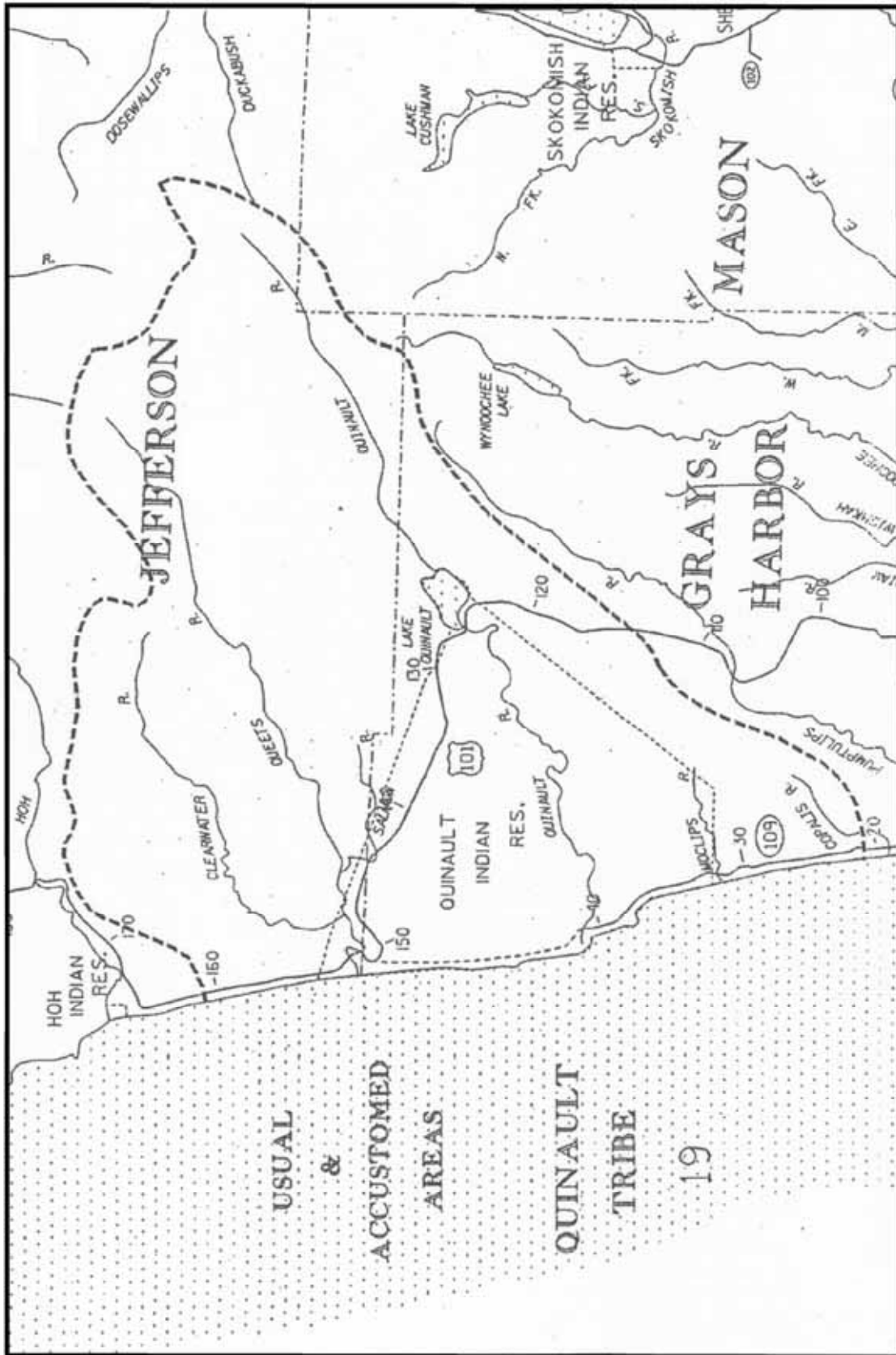


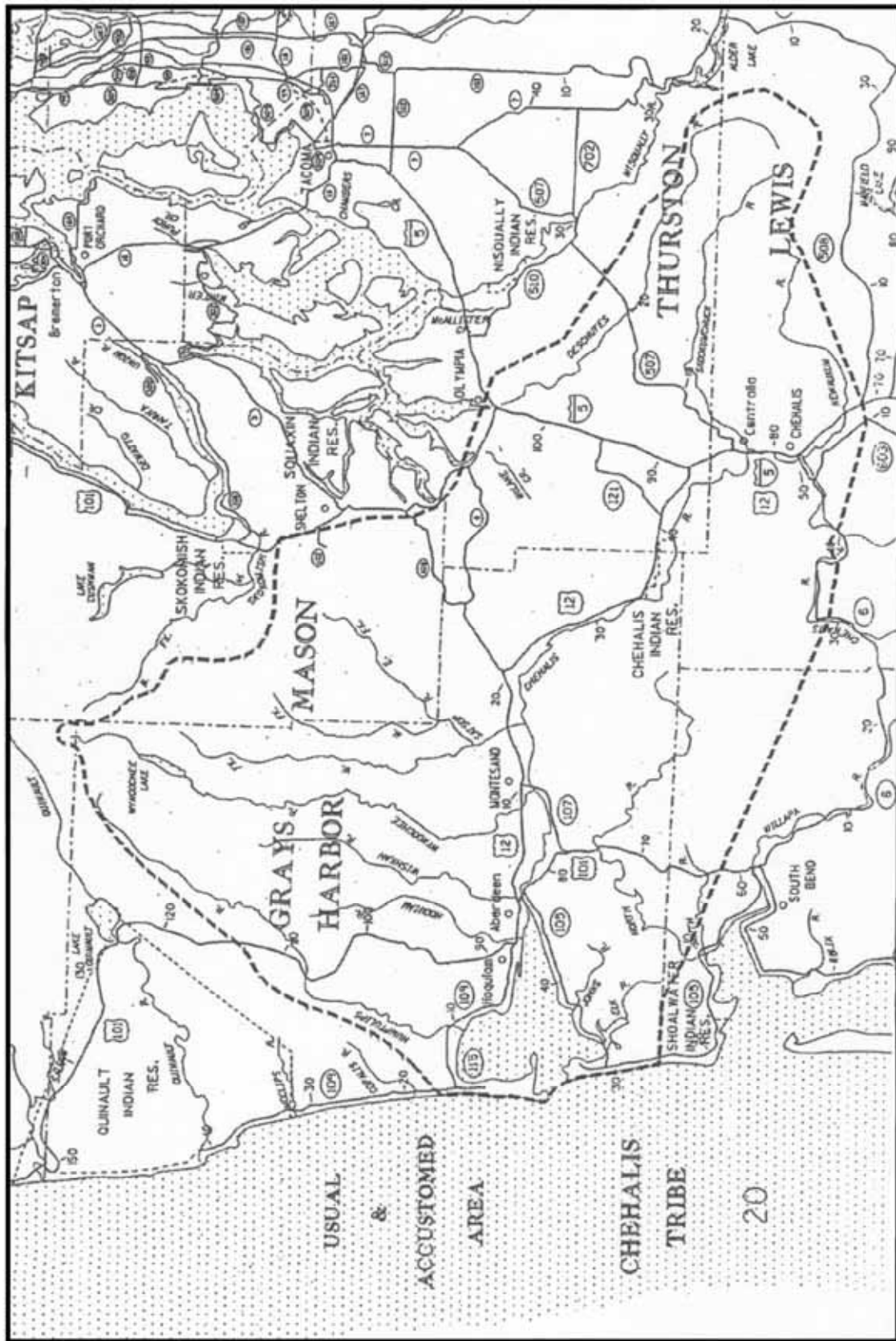






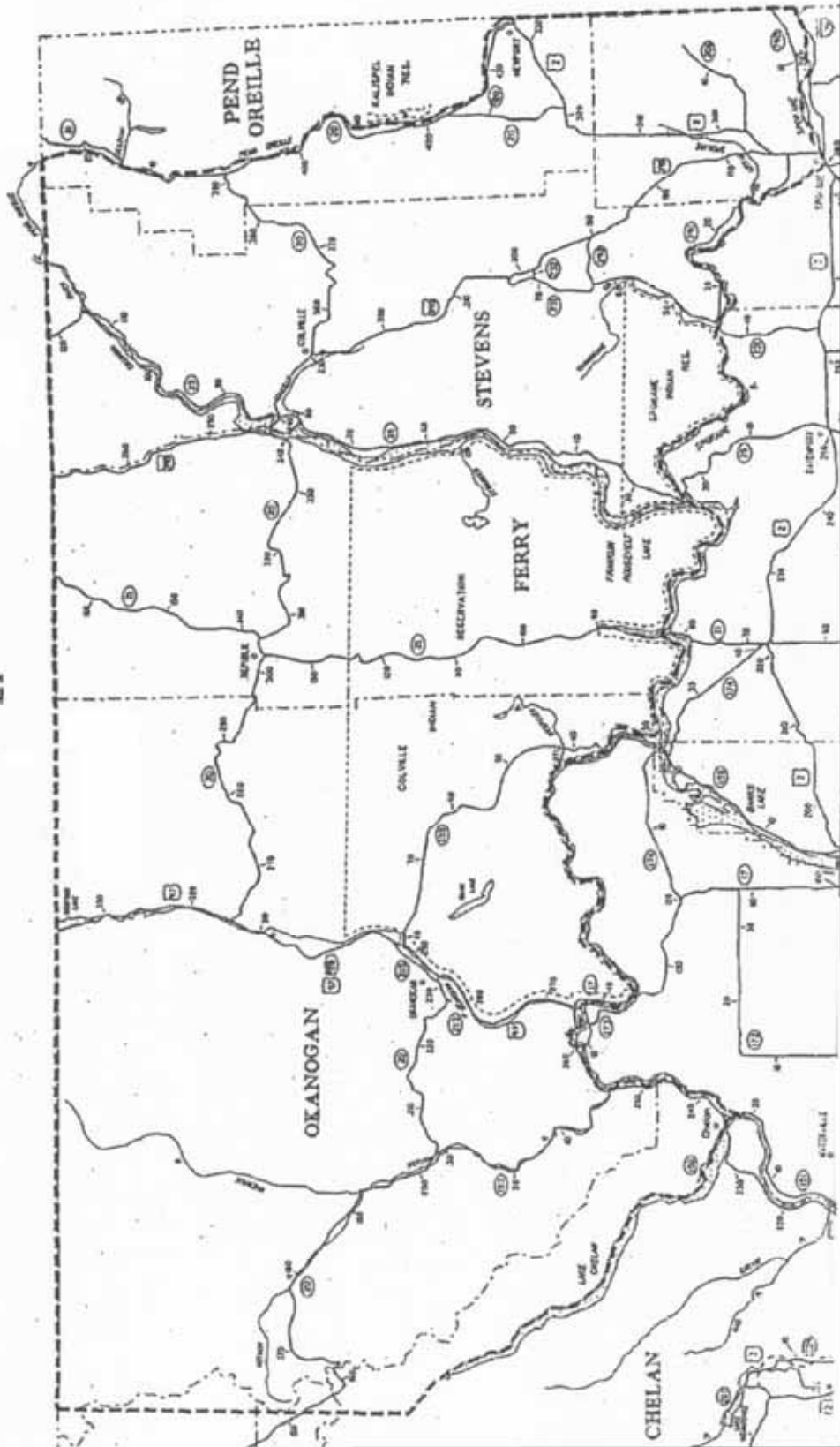


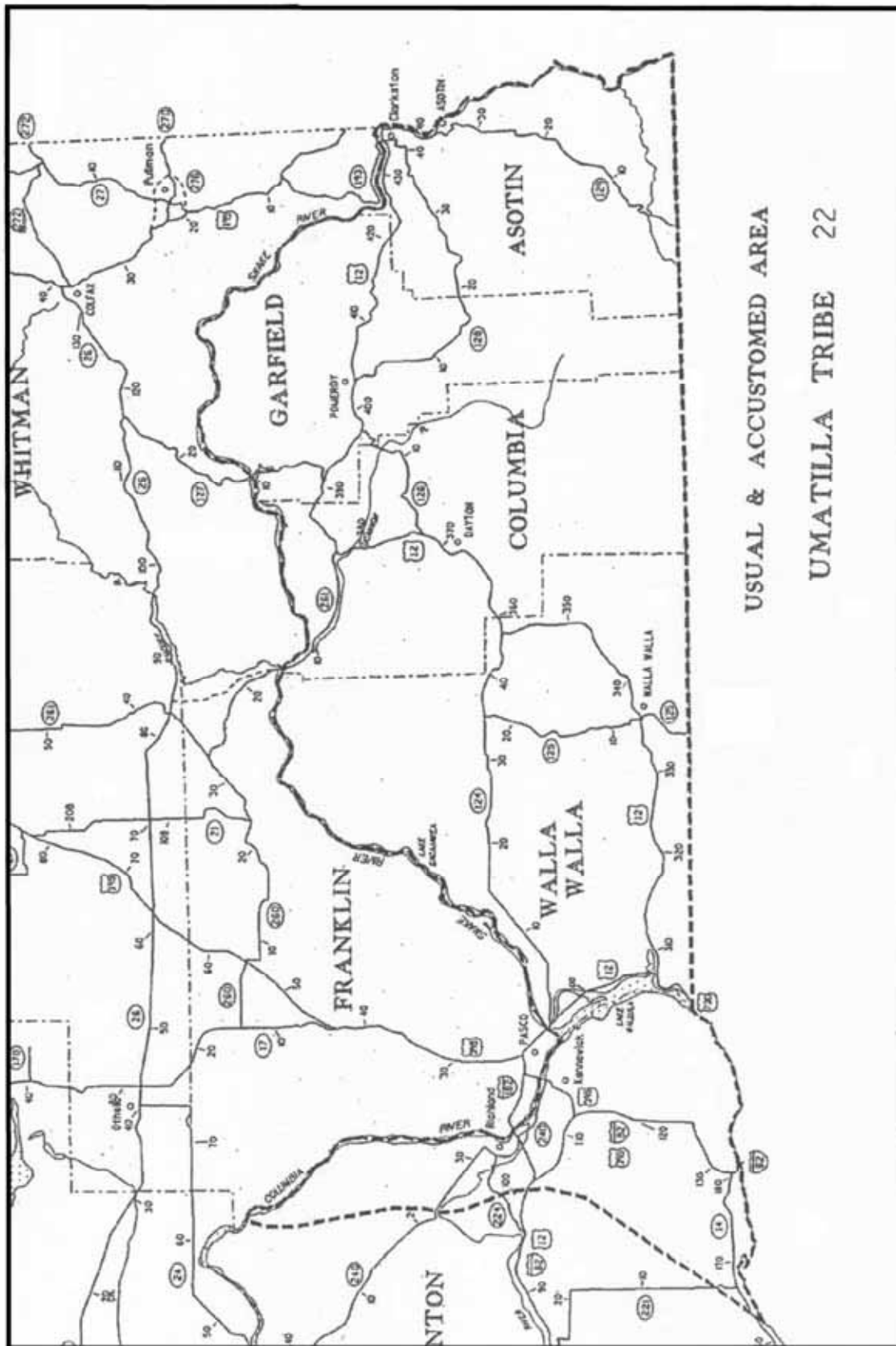


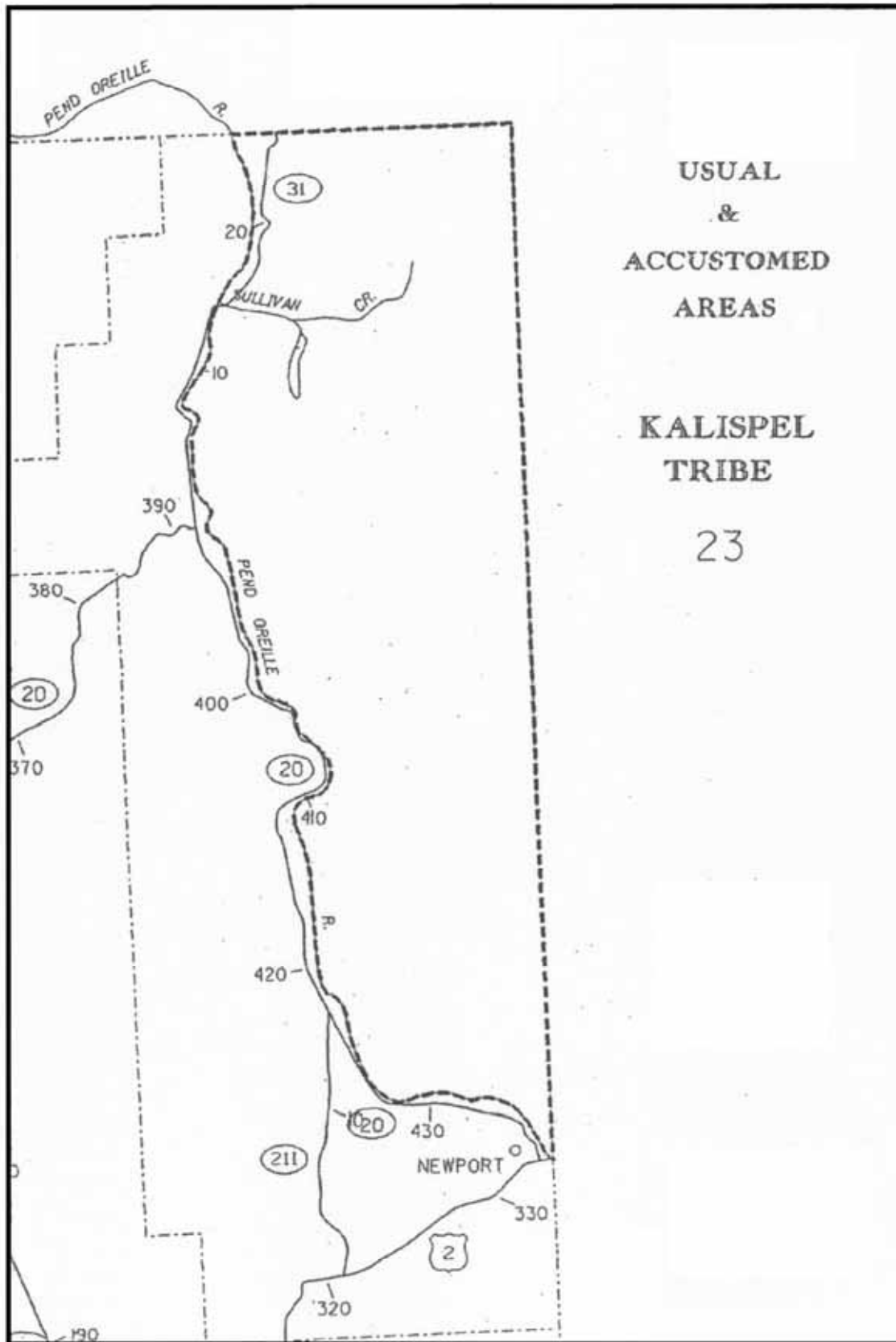


USUAL & ACCUSTOMED AREAS  
COLVILLE TRIBE

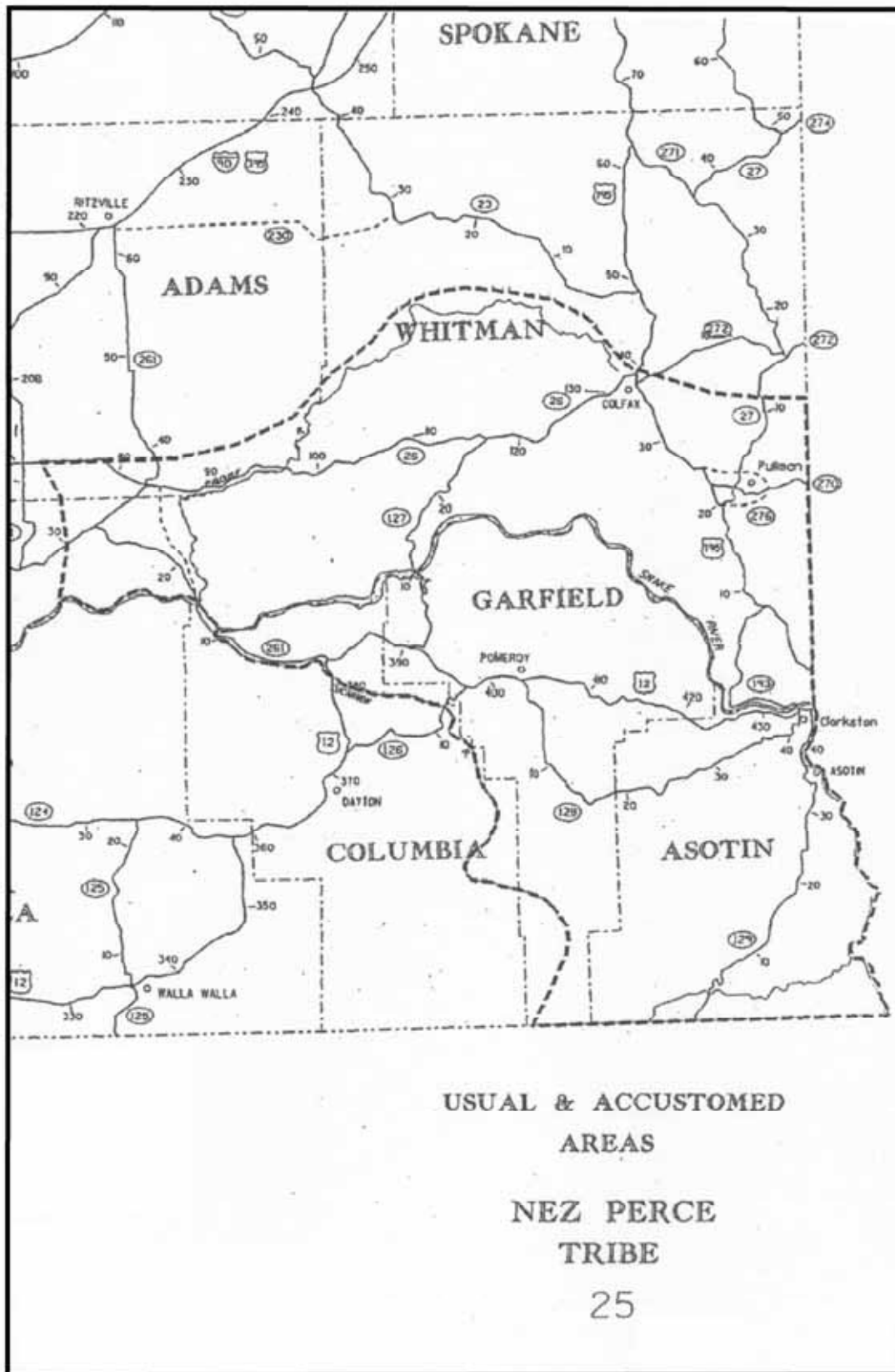
21

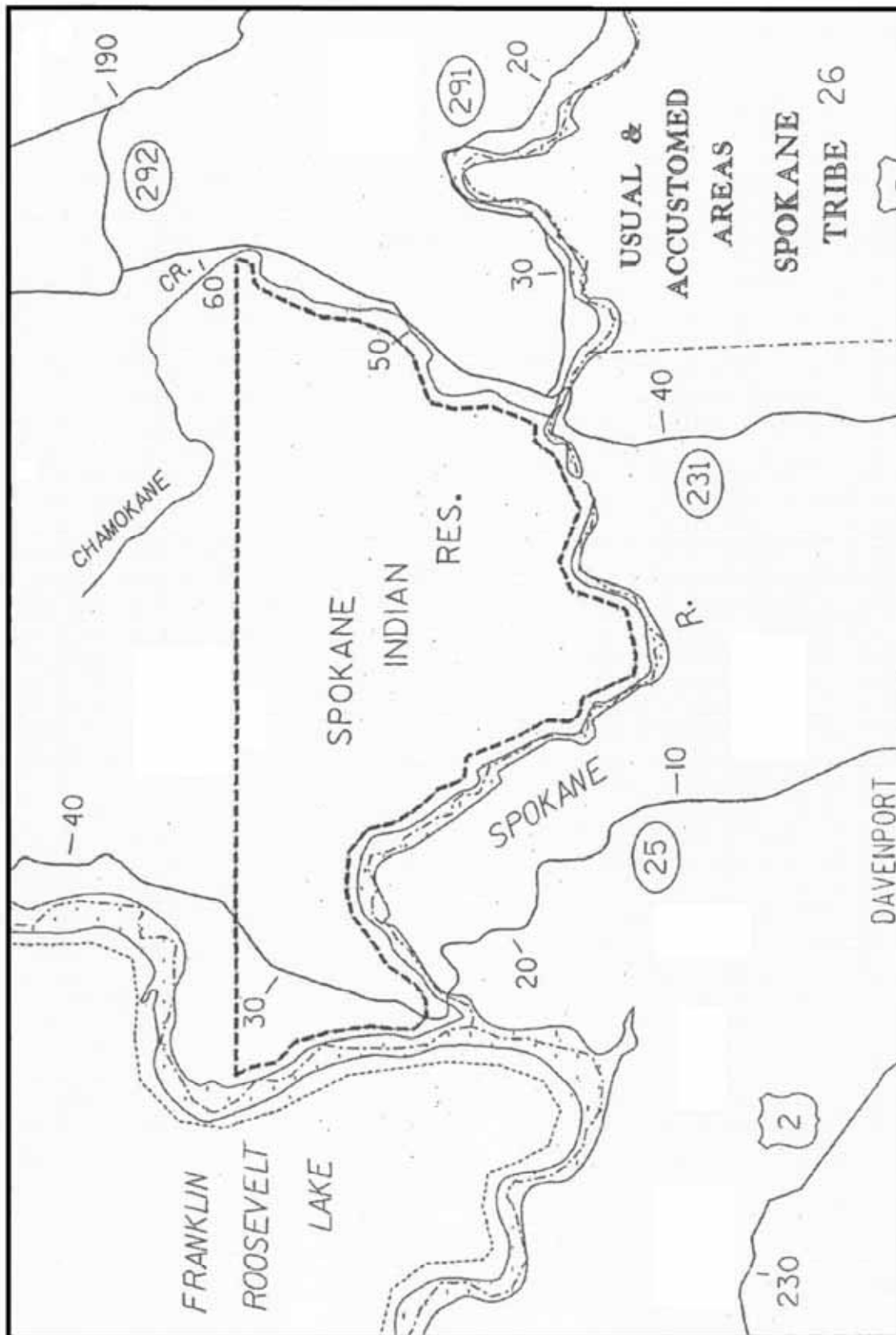














## APPENDIX III

## PUGET SOUND TRIBAL GOVERNMENTS AND CONTACTS

# PUGET SOUND TRIBAL GOVERNMENTS AND CONTACTS

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Chehalis Confederated Tribes</b>	The tribe has its own independent government with a constitution and bylaws which was adopted July 15, 1939. Qualified voters vote in the Chehalis Community Council. The Council enforces tribal ordinances, elects a business committee that manages all the Confederated Tribes, real property and other assets and administers funds within tribal control.	<p><u>Business Manager:</u> Richard Bellon (360) 273-5911, ext. 1304</p> <p><u>Council Staff:</u> Janet Havelick, Business Committee Asst. (360) 273-5911, ext. 2204</p> <p><u>Economic Dev.:</u> John May (360) 273-5911, ext. 1302</p> <p><u>Fisheries:</u> Raman Iyer (360) 273-5911, ext. 1508</p> <p><u>Gaming Commsn:</u> Joe Keliholokai (360) 273-7723</p> <p><u>Legal Counsel:</u> Harry Chesnin, Attorney (360) 273-5911, ext. 1606</p> <p><u>Nat. Resources:</u> Mark White, Director (360) 273-5911, ext. 1403</p> <p><u>Planning:</u> Lennea Magnus (360) 273-5911, ext. 1407</p> <p><u>Transp. Planner:</u> Keith G. Kramer (360) 273-5911, ext. 1301</p> <p><u>Tribal Secretary:</u> Cheryle Starr</p>	<p>PO Box 536, Oakville, WA 98568  (360) 273-5911  <a href="http://www.chehalistribe.org">www.chehalistribe.org</a></p> <p><u>Chair:</u> The Honorable David Burnett (360) 273-5911, ext. 1205</p> <p><u>Vice Chair:</u> Ray Canales (360) 273-5911, ext. 1308</p>	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Colville Confederated Tribes</b>	The Confederated Tribes and the Colville Indian Reservation are governed by the Colville Business Council, a group of 14 adult Colville tribal members who are elected to two-year terms in a democratic election process that is held each year in the month of June to fill seven open council positions. The federal government approved the Tribes' constitution and bylaws on February 26, 1938—from this document, the Colville Business Council was established as the governing body of the Tribes.	<u>Community Dev.:</u> Mary Beth Clark (509) 634-2573  <u>Council:</u> Support Staff - Patti Davis (509) 634-2203; Emby Stensgar (509) 634-2204; Shelley Davis (509) 634-2237; Lorna Simpson (509) 634-22236  <u>CTEC Economic Director:</u> Sharon Holmdahl (509) 634-3234  <u>Cultural Resources:</u> John Sirois, Manager (509) 634-2712  <u>Env't Programs:</u> Gary Passmore (509) 634-2426  <u>Fisheries/Wildlife:</u> Joe Peone, Manager (509) 634-2113  <u>Gaming Commnsn:</u> John Whitener, Director (509) 634-7716  <u>Gov't Affairs:</u> Gene Nicholson, BIA Superint. (509) 634-2316  <u>Nat. Resources:</u> John St. Pierre (509) 634-2324  <u>Reservation Atty:</u> Rit Bellis, Lead Attorney (509) 634-2381	PO Box 150, Nespelem, WA 99155  (509) 634-2200  <a href="http://www.colvilletribes.com">www.colvilletribes.com</a>  <u>Chair:</u> The Honorable Joseph A. Pakootas (509) 634-2208  <u>Vice Chair:</u> Jeanne A. Jerred (509) 634-2215	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Cowlitz Indian Tribe</b>	Tribal Council.	<u>Env't Programs:</u> Taylor Aalvik (360) 575-1952  <u>Nat. Resources:</u> Mike Iyall, Robin Torner (360) 577-8140  <u>Transp. Planner:</u> Fred Eckenberg (360) 864-8720	PO Box 2547, Longview, WA 98632-8594  (360) 577-8140 <a href="http://www.cowlitz.org">www.cowlitz.org</a>  <u>Chair:</u> The Honorable John Barnett (509) 577-8140  <u>Vice Chair:</u> Robin Torner (509) 577-8140	X
<b>Duwamish Tribe</b>	Seven member tribal council.		14235 Ambaum Blvd SW, Burien, WA 98166-1464  (206) 431-1582  <a href="http://www.duwamishtribe.org">http://www.duwamishtribe.org</a>	
<b>Hoh Tribe</b>	The Hoh Tribe has formed a Tribal Government under Public Law 89-655, providing for a basic roll of tribal members. The Governing body is elected by secret ballot biannually in November.	<u>Council:</u> Annette Hudson, Secretary (360) 374-7775  <u>Economic Dev.:</u> Vacant  <u>Fisheries/Forestry:</u> Jim Jorgenson, Biologist (360) 374-6548  <u>Gov't Affairs:</u> David Hudson (360) 374-6582  <u>Legal Counsel:</u> Vacant  <u>Nat. Resources:</u> Rodney Thysell (360) 374-6735  <u>Tribal Enterprise:</u> Vacant	2464 Lower Hoh Road. Forks, WA 98331  (360)374-6582  <u>Chair:</u> The Honorable Mary Leitka (360) 374-6582  <u>Vice Chair:</u> Herbert Fisher, Jr. (360) 374-6582	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Jamestown S'Klallam Tribe</b>	The Jamestown S'Klallam Tribal Council is a five-member governing body for the Tribe with each person elected to a two-year term. The Council is guided by the Jamestown S'Klallam Tribal Constitution.	<u>Council Staff:</u> Ann Sargent, Executive Asst. (360) 681-4661  <u>Cultural Resources:</u> Kathy Duncan, Specialist (360) 681-4638  <u>Economic Dev.:</u> Marlin Holden, JKT, Inc. Director (360) 683-2025  <u>Fisheries:</u> Jeff Allen, Chair (360) 457-2747  <u>Gaming:</u> Scott Chitwood, Manager (360) 681-4616  <u>Legal Counsel:</u> Leo Gaten, Attorney (360) 681-3118  <u>Nat. Resources:</u> Ann Seiter, Director (360) 681-4617  <u>Self-Governance Coordinator:</u> Cyndi Holmes (360) 681-4612  <u>Transp. Planner / Planning:</u> Annette Nesse (360) 681-4620	1033 Old Blyn Highway Sequim, WA 98382  (360) 683-1109  <a href="http://www.jamestowntribe.org">www.jamestowntribe.org</a>  <u>Chair:</u> The Honorable W. Ron Allen (360) 681-4621  <u>Vice Chair:</u> Liz Mueller (360) 681-4628	X
<b>Kalispel Tribe</b>	The Kalispel Council, consisting of five members, is a self-governing entity which oversees services, programs and business endeavors. Council members are democratically elected by the tribal membership and serve three-year terms. The Kalispel Council is organized into office positions including Chair, Vice Chair, Secretary and two Council members. The Chairman doesn't	<u>Tribal Admin.:</u> Michael Jones (509) 445-1147, ext. 235  <u>Community &amp; Economic Dev.:</u> Paul Wilson (509) 445-1147, ext. 287  <u>Council Staff:</u>	PO Box 39. Usk, WA 99180  (509) 445-1147  <a href="http://www.Kalispeltribe.com">www.Kalispeltribe.com</a>  <u>Chair:</u> The Honorable Glen Nenema (509) 445-1147, ext. 241	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
	<p>vote unless there is a tie.. A central theme for the Council is the importance of consensus. All aspects of an issue are thoroughly discussed before reaching a decision. Business Committee meetings are open to the membership with the exception of closed executive sessions dealing with confidential matters.</p>	<p>Donna Molvik, Executive Asst. (509) 445-1147, ext. 225</p> <p><u>Cultural Resources:</u> Kevin Lyons (509) 445-1147, ext. 275</p> <p><u>Env't Programs:</u> John Grass (509) 445-1147, ext. 272</p> <p><u>Fisheries:</u> Joseph Maroney (509) 445-1147, ext. 272</p> <p><u>Forestry:</u> Annette Breuer (509) 445-1652</p> <p><u>Gaming Agency:</u> Phil Haugen, Director (509) 444-2100</p> <p><u>Gov't Affairs:</u> Curt Holmes. (509) 445-1147, ext. 240</p> <p><u>Legal Counsel:</u> Kathy Jensen (509) 445-1664</p> <p><u>Nat. Resources:</u> Deane Osterman, Director (509) 445-1147, ext. 282</p> <p><u>Planning:</u> Wally Hubbard (509) 445-1147, ext. 300</p> <p><u>Transp. Planner:</u> Rick Galloway (509) 536-4033</p>	<p><u>Vice Chair:</u> Stan Bluff, Sr. (509) 445-1147, ext. 244</p>	

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
		<u>Wildlife:</u> Ray Entz (509) 445-1197, ext. 278		
<b>Kikiallus Indian Nation</b>	Incorporated per WA Senate Bill 8672: <a href="http://www.kikiallusnation.org/res8672.htm">http://www.kikiallusnation.org/res8672.htm</a>  Not federally recognized.		3933 Bagley Avenue, N. Seattle, WA 98103  206-632-2512  <a href="http://www.kikiallusnation.org">http://www.kikiallusnation.org</a>	
<b>Lower Elwha Klallam Tribe</b>	The Lower Elwha Klallam Tribe was not organized under the Indian Reorganization Act of 1937 until 1968, although trust lands were purchased in 1937. The reservation was established in 1960. They developed a constitution and bylaws in 1968. The governing body is the Lower Elwha Tribal Community Council, elected by all qualified voters. There are approximately 650 Tribal members	<u>Council Staff:</u> Verna Henderson (360) 452-8471, ext. 111  <u>Economic Dev.:</u> Rachel Hagamen (360) 452-8471, ext. 142  <u>Env't Programs:</u> Carol Brown, Director (360) 452-8471, ext. 135  <u>Fisheries:</u> Ted Schmidt, Manager (360) 457-4012, ext. 18  <u>Legal Council:</u> Russ Busch, Attorney (206) 517-5011  <u>Planning:</u> Ralph Kopansky, Director (360) 452-8471, ext. 126	2851 Lower Elwha Rd. Port Angeles, WA 98363  (360) 452-8471  <a href="http://www.elwha.org">www.elwha.org</a>  <u>Chair:</u> The Honorable Francis Charles (360) 452-8471, ext. 149  <u>Vice Chair:</u> Dennis Sullivan (360) 452-8471, ext. 111	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Lummi Nation</b>	The Lummi Nation is governed by its General Council. The General Council are all Lummi Tribal members who are 18 years and older and are voting members of the tribe, meaning they have registered to vote for Tribal elections.	<u>Council Operations:</u> Teresa Butler (360) 384-2215  <u>Cultural Resources:</u> Al Scott Johnnie (360) 384-2312  <u>Economic Dev.:</u> Henry Cagey (360) 384-7134  <u>Env't Programs:</u> Leroy Deardorff (360) 384-2272  <u>Gaming Operations:</u> Joe Mace (360) 758-4241  <u>Office of Self Governance:</u> David Bunton (360) 384-2297  <u>Nat. Resources:</u> Merle Jefferson (360) 384-2225  <u>Planning:</u> Richard Jefferson (360) 384-2307	2616 Kwina Road, Bellingham, WA 98226  (360) 384-1489  <a href="http://www.lummi-nsn.org/">www.lummi-nsn.org/</a>  <u>Chair:</u> The Honorable Darrel Hillaire (360) 384-1489  <u>Vice Chair:</u> Perry Adams (360) 384-1489	X



TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Makah Tribe</b>	The Reorganization Act was voted in by the Makah's in 1934. They received their constitution in 1936 and in 1937, they got a tribal council consisting of five Makah members.	<p><u>Council Staff:</u> Jodean Haupt-Richards, Secretary (360) 645-3235</p> <p><u>Cultural Resources:</u> Rebekah Monette (360) 645-2711</p> <p><u>Env't Programs:</u> Vince Cooke (360) 645-3263</p> <p><u>Fisheries:</u> Russ Svec, Manager (360) 645-3155</p> <p><u>Forestry:</u> Jonni Trettevick, Manager (360) 645-3036</p> <p><u>Gaming:</u> Cheryl Buttram, Manager (360) 645-2264</p> <p><u>Gov't Affairs:</u> Ben Johnson Jr., Chair (360) 645-3155</p> <p><u>Legal Counsel:</u> Morisset, Schlosser, Jozwiak &amp; McCaw (206) 386-5200</p> <p><u>Planning / Economic Dev.:</u> Leonard Denney (360) 645-3287</p> <p><u>Self-Governance:</u> Mary Jo Butterfield, Budget Officer (360) 645-3204</p> <p><u>Transp. Planner:</u> Vacant</p>	<p>PO Box 115 Neah Bay, WA 98357  (360) 645-2201</p> <p><u>Chair:</u> The Honorable Ben Johnson Jr. (360) 645-3231</p> <p><u>Vice Chair:</u> Dave Sones (360) 645-3230</p>	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Muckleshoot Indian Tribe</b>	The Muckleshoot Tribal Council consists of nine members elected annually and is subject to the Muckleshoot General Council.	<u>Community Dev.:</u> Walter Pacheco, (253) 939-3311, ext. 3153  <u>Council Staff:</u> Mardee Marquard, (253) 939-3311, ext. 3202, Lavern Mathias (253) 939-3311, ext. 3168  <u>Cultural Resources:</u> Donna Hogerhuis (360) 802-2202  <u>Economic Dev.:</u> John Halliday (253) 939-3311, ext. 3136  <u>Gaming:</u> Joel Wong (253) 753-2050  <u>Gov't Affairs:</u> Claudia Kauffman (253) 939-3311, ext. 3167  <u>Legal Counsel:</u> Rob Otsea (253) 939-3311, ext. 3146  <u>Nat. Resources:</u> Isabel Tinoco (253) 939-3311, ext. 3109  <u>Planning:</u> Steven Taylor (253) 876-3329  <u>Public Works:</u> Lee Lusier, Manager (360) 802-1921, ext. 3166  <u>Self-Governance:</u> Steve Maurer (253) 939-3311, ext. 3138	39015 172 <sup>nd</sup> Avenue SE, Auburn, WA 98092  (253) 939-3311  <a href="http://www.muckleshoot.nsn.us">www.muckleshoot.nsn.us</a>  <u>Chair:</u> The Honorable John Daniels, Jr. (253) 939-3311, ext. 3194  <u>Vice Chair:</u> Stanley Moses (253) 939-3311, ext. 3171	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
Nisqually Tribe	The governing body of the Tribe is the General Council comprised of all enrolled Tribal members 18-years-of-age or older. The day-to-day business and economic affairs of the Tribe are overseen by a Tribal council comprised of seven Tribal members elected by the tribe's voting membership.	<p><u>Council Staff:</u> Natalie McCloud, Admin. Secretary (360) 456-5221, ext. 122</p> <p><u>Cultural Resources:</u> vacant (360) 456-5221, ext. 600</p> <p><u>Economic Dev.:</u> Cynthia Iyall-Peabody (360) 456-5221, ext. 115</p> <p><u>Env't Programs:</u> Curtis Stanley (360) 456-5221, ext. 182</p> <p><u>Fisheries / Natural Resources:</u> David Trout (360) 438-8687</p> <p><u>Gaming:</u> Denese LaClair (360) 407-0022</p> <p><u>Legal Counsel:</u> Bill Tobin, Joe Edgell (360) 456-5221, ext. 152</p> <p><u>Planning:</u> Joe Cushman, Director (360) 456-5221, ext. 112</p> <p><u>Self-Governance:</u> Allen Frazier, Asst. Administrator (360) 456-2822</p> <p><u>Water Quality:</u> Clark Halvorson (360) 456-2822</p>	<p>4820 She-Nah-Num Dr. SE, Olympia, WA 98513 (360) 456-5221</p> <p><u>Chair:</u> The Honorable Dorian Sanchez (360) 456-5221, ext. 122</p> <p><u>Vice Chair:</u> Reggie Wells (360) 456-5221, ext. 122</p>	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Nooksack Tribe</b>	The Council consists of 8 elected officials: One Chairman, one Vice-Chairman, one Treasurer, one Secretary, and four Council members.	<u>Cultural Resources:</u> Peter Joseph (360) 966-7704  <u>Economic Dev.:</u> Patrick Check (360) 592-5176, ext. 3245  <u>Gaming:</u> Kevin Hogan. General Manager (360) 592-5472  <u>Gov't Affairs:</u> Art George (360) 592-5176, ext. 3212  <u>Legal Counsel:</u> Jerrie Marie Simmons (360) 592-5176, ext. 3235  <u>Nat. Resources:</u> Bob Kelly, Jr. Director. (360) 592-2632  <u>Planning:</u> Phillip Narte, Acting Director. (360) 592-5176, ext. 3264  <u>Transp. Planner:</u> Phillip Narte, Director. (360) 592-4562	PO Box 157 Deming, WA 98244  (360) 592-5176  <u>Chair:</u> The Honorable Narcisco Cunanan. (360) 592-0162  <u>Vice Chair:</u> George Swanaset (360) 592-0162	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Port Gamble S'Klallam Tribe</b>	The Tribe is governed by a six member Tribal Council which was delegated legislative authority by the General Council. The Tribe's primary governing document is its Constitution which was adopted in 1939 and has been subsequently amended. An extensive code of laws with more than 20 chapters regulates fishing, hunting, gaming, traffic, domestic relations, and public health; protects children and vulnerable adults; sets forth the criminal laws of the Tribe, court and appellate procedures; and covers a growing list of other subject matters.	<p><u>Administrator for Community Dev. &amp; Planning:</u> Dallas DeGuire (360) 297-2646, ext. 224</p> <p><u>Council Staff:</u> Mandi Moon, Assistant (360) 297-2646, ext. 236</p> <p><u>Cultural Resources:</u> Marie Hebert, Director. (360) 297-2646, ext. 241</p> <p><u>Economic Dev.:</u> Phil Dorn (360) 297-2646, ext. 247</p> <p><u>Gaming Board:</u> Leo Culloo (360) 297-0070, ext. 105</p> <p><u>Gov't Affairs:</u> Laurie Mattson (360) 297-2646, ext. 274</p> <p><u>Legal Counsel:</u> King George, Attorney. (360) 297-2646, ext. 237</p> <p><u>Nat. Resources:</u> Sharon Purser (360) 297-2646, ext. 237</p> <p><u>Self-Governance:</u> Greg Anderson, Manager (360) 297-2646, ext. 249</p>	<p>31912 Little Boston Rd NE Kingston, WA 98346</p> <p>(360) 297-2646</p> <p><a href="http://www.pgst.nsn.us">www.pgst.nsn.us</a></p> <p><u>Chair:</u> The Honorable Ronald Charles (360) 297-2646, ext. 342</p> <p><u>Vice Chair:</u> Harry Fulton (360) 297-2646, ext. 305</p>	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Puyallup Tribe</b>	The Puyallup Tribe is governed by a seven member Tribal Council elected by the Tribal members, who also act as the Board of Directors for PTHA.	<u>Council Staff:</u> Michelle Hamilton, Director (253) 573-7828  <u>Economic Dev.:</u> Ron Wrolson, Chair (253) 383-2820  <u>Env't Programs / Nat. Resources:</u> Bill Sullivan, Director., (253) 573-7850  <u>Fisheries:</u> Joe Anderson, Director., (253) 845-9225  <u>Gaming Commsn:</u> Lena Landry, Director (253) 272-1234  <u>Gaming Reg. Dept:</u> Vernetta Miller (253) 272-1234  <u>Legal Counsel:</u> John Bell, Attorney (253) 573-7877  <u>Museum/Cultural Center:</u> Mary Frank, Director, (253) 573-7701  <u>Transp. Planner:</u> Mike Bowechop, Director (253) 573-7821	1850 Alexander Ave. Tacoma, WA 98421  (253) 573-7800  <u>Chair:</u> The Honorable Herman Dillon, Sr. (253) 573-7836  <u>Vice Chair:</u> William Sterud (253) 573-7828	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Quileute Tribe</b>	In 1936 the tribe adopted a constitution and bylaws. The governing body of the tribe is the Quileute Tribal Council. The power of the tribal council has the power to veto any sales, disposition, lease, or other encumbrance of tribal lands. They also have the power to advise on and approve of appropriations: to levy and collect taxes and license fees from nonmembers doing business on the reservation; to enforce ordinances dealing with visitors, trespassers, and tribal memberships; to establish tribal court and to maintain law and order.	<u>Attorney:</u> Lisa Atkinson (425) 640-1024  <u>Council Staff:</u> Linda Reid, Exec. Secretary (360) 374-7413  <u>Court Admin. / Prosecutor:</u> Paul Siewell (360) 374-6294  <u>Cultural Resources:</u> vacant (360) 374-7414 (msg)  <u>Economic Dev.:</u> Dennis Crawford, Planning Dir. / Grants Writer, (360) 374-7414  <u>Env't Atty / Policy / Grant Writer:</u> Katie Krueger (360) 374-2265  <u>Gov't Affairs:</u> Russell Woodruff  <u>Nat. Resources:</u> Mel Moon, Director, (360) 374-3133	PO Box 279 La Push, WA 98350  (360) 374-6163  <u>Chair:</u> The Honorable Russell Woodruff (360) 374-6154  <u>Vice Chair:</u> Bert Black, (360) 374-6154	X
<b>Quinault Nation</b>	The Quinault Tribe is governed by an 11-member business committee, which meets with officers of the General Council. It functions under a set of bylaws, which the Tribe adopted August 24, 1922.	<u>Cultural Resources:</u> Leilani Chubby, Manager (360) 276-8211, ext. 245  <u>Economic Dev.:</u> Max Stocks, Economic Planner (360) 276-8211, ext. 239  <u>Env't Programs:</u> Mark Mobbs, Manager (360) 276-8211, ext. 292  <u>Fisheries:</u>	PO Box 189 Taholah, WA 98587  (360) 276-8211  <a href="http://www.quinaultindiannation.com">www.quinaultindiannation.com</a>  <u>Chair:</u> The Honorable Pearl Capoeman-Baller (360) 276-8211, ext. 206  <u>Vice Chair:</u> Guy Capoeman-Baller, (360) 276-8211, ext. 293	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
		<p>Ed Johnstone, Policy Spokesperson (360) 276-8211, ext. 368</p> <p><u>Forestry:</u> Dawn Houle, Manager (360) 276-8211, ext. 291</p> <p><u>Gaming - Policy:</u> Pearl Capoeman-Baller ext. 206, Guy Capoeman ext. 293, and James DeLaCruz ext 285 (360) 276-8211, ext. 291</p> <p><u>Legal Counsel:</u> Fawn Sharp (360) 276-8211, ext. 329</p> <p><u>Nat. Resources:</u> Bruce Jones, Director (360) 276-8211, ext. 374</p> <p><u>Planning:</u> Rich Wells, Tribal Planner (360) 276-8211, ext. 325</p> <p><u>Public Works:</u> Michael Cardwell, Manager (360) 276-8211, ext. 369</p> <p><u>Resource Protect.:</u> Doug Washburn, Manager (360) 276-8211, ext. 540</p> <p><u>Tribal Gaming Agency:</u> Warren Shale, Dir. (360) 289-6250</p> <p><u>Tribal Operations:</u> Gregory Law, Director (360) 276-821, ext. 302</p>		



TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Samish Indian Nation</b>	Governed by an eleven member Tribal Council elected to oversee the welfare and resources of the Tribe: its constitution, economic development, policies, legislation, enrollment, and justice. A General Council, all voting age members, maintains active participation in both the governance responsibilities and cultural gatherings of the Tribe.	<u>Cultural Committee:</u> Rita Louis (360) 293-6404, ext. 118  <u>Economic Dev.:</u> Tom Sperling (360) 293-3415  <u>Env't Programs:</u> Christine Woodward (360) 293-6404, ext. 112  <u>Gov't Affairs:</u> Kenneth Hansen, Chair (360) 293-6409  <u>Legal Counsel:</u> Craig Dorsay (360) 293-6404  <u>Museum/Cultural Center:</u> Megan Jones (360) 293-6404	P.O. Box 217 Anacortes, WA 98221  (360) 293-6404  <a href="http://www.samishtribe.nsn.us">www.samishtribe.nsn.us</a>  <u>Chair:</u> The Honorable Kenneth Hansen (360) 293-6404  <u>Vice Chair:</u> Tom Wooten, (360) 293-6404	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Sauk-Suiattle Indian Tribe</b>	The Tribe elects a seven member Tribal Council to staggered three-year terms. The Sauk-Suiattle Tribe has a constitution, by-laws, fishing, and election ordinance and law and order code.	<p><u>Council Staff:</u> Joanne Ognibene, Recording Secy. (360) 436-0131</p> <p><u>Court:</u> Chief Judge Martin Bahl (425) 436-0131</p> <p><u>Court Clerk:</u> Nancy and Katie DeCoteau (360) 436-0131</p> <p><u>EPA Department / Water Quality Standards:</u> Doug McMurtrie, Director (360) 436-0738</p> <p><u>Gov't Affairs:</u> Jason Joseph (360) 436-1124</p> <p><u>Nat. Resources:</u> James L. Joseph (360) 436-0347</p> <p><u>Water Quality:</u> Watershed Fisheries: James Joseph (360) 436-0738</p>	<p>5318 Chief Brown Lane Darrington, WA 98241  (360) 436-0131  <a href="http://www.sauk-suiattle.com">www.sauk-suiattle.com</a></p> <p><u>Chair:</u> The Honorable Jason L. Joseph (360) 436-1124</p> <p><u>Vice Chair:</u> Janice Mabee, (360) 436-0131</p>	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Shoalwater Bay Tribe</b>	The tribe rejected the Indian Reorganization Act in 1934 but adopted a constitution and became formally organized on May 22, 1971. The Shoalwater Bay Tribal Council was elected shortly after this. Their descendants gained federal recognition on March 10, 1971.	<u>Administrator / Economic Dev. / Planning:</u> Carol Johnson (360) 267-6766, ext. 104  <u>Council Staff:</u> Lynn Clark, Secretary (360) 267-6766, ext. 142  <u>Cultural Resources:</u> Tom Anderson, Director (360) 267-6766, ext. 133  <u>Env't Programs / Nat. Resources:</u> Gary Burns, Director (360) 267-3101  <u>Gaming / Gov't Affairs:</u> Pam Norris (360) 267-6766, ext. 125	P.O. Box 130 Tokeland, WA 98590  (360) 267-6766  <u>Chair:</u> The Honorable Carl Johnson, Jr. (360) 267-6766, ext. 130  <u>Vice Chair:</u> Doug Davis, (360) 267-6766	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Skokomish Tribal Nation</b>	<p>A seven-member Tribal Council is elected to serve four-year staggered terms, and meets twice a month, or as needed. Elections are held each June to fill vacant or expiring positions. The Tribal Council itself fills, from its own members, the offices of Chairperson, Vice-Chairperson and Secretary/Treasurer.</p> <p>At the annual General Council meeting held in June, Tribal members elect a General Council President. Under the direction of planning strategies and vision statements established by enrolled Skokomish Tribal members and the General Council, the Tribal Council enacts policies and priorities for its staff to carry out the delivery of governmental and community services to the Skokomish People.</p>	<p><u>Community Dev.:</u> Ed Binder, Senior Planner (360) 426-4232, ext. 218</p> <p><u>Council Staff.:</u> Eleanor Smith, Admin. Secretary / Council Recorder (360) 426-4232, ext. 238</p> <p><u>Court:</u> Toni Smith, Admin. Asst. / Court Clerk (360) 426-4232, ext. 247</p> <p><u>Cultural Resources:</u> Tom Strong, Cult. Tech/Enrollment Clerk (360) 426-4232, ext. 247</p> <p><u>Economic Dev.:</u> Vacant (360) 426-4232</p> <p><u>Fisheries:</u> Dave Herrera, Director (360) 877-5213</p> <p><u>Gov't Affairs:</u> Darlyn Warren, Asst. Tribal Mgmt (360) 426-4232, ext. 228</p> <p><u>Museum/Cultural Center:</u> Delbert Miller, Tribal Historic Preservation Officer (360) 426-4232, ext. 234</p> <p><u>Nat. Resources:</u> Keith Dublanica, Director (360) 877-5943</p>	<p>80 North Tribal Center Road, Skokomish Nation, WA 98584  (360) 426-4232  <a href="http://www.skokomish.org/">www.skokomish.org/</a>  <u>Chair:</u> The Honorable Gordon James (360) 426-4232  <u>Vice Chair:</u> Carol Cordova (360) 426-5755</p>	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Snoqualmie Tribe</b>	Governed by a Tribal constitution and elected Council. The Tribe's governing structure includes building codes, health codes and other standard governmental functions.	<u>Economic Dev.:</u> Ray Mullen / Mary Anne Hinzman (425) 333-6551, ext. 228  <u>Env't Programs / Nat. Resources:</u> Ian Kanair (425) 333-6551, ext. 5  <u>Transp. Planner:</u> Matt Mattson (425) 333-6551, ext. 1	P.O. Box 280 Carnation, WA 98014  (425) 333-6551  <u>Chair:</u> The Honorable Joseph O. Mullen (425) 333-6551  <u>Joseph's mailing address:</u> 6304-269 <sup>th</sup> Avenue Carnation, WA 98014  <u>Vice Chair:</u> Mary Anne Hinzman (425) 333-6551  <u>Mary's mailing address:</u> P.O. Box 736 Duvall, WA 98019	X
<b>Spokane Tribe</b>	The governing body of the tribe is a business council consisting of five members elected at large by the tribal membership.	<u>Council Staff:</u> Tammy Boyd, Secretary (509) 258-4581, ext. 48  <u>Court:</u> Trudy Flammand (509) 258-7717  <u>Cultural Resources:</u> Tribal Council (509) 258-4060  <u>Gaming Commsn:</u> Ron Samuels (509) 258-4222  <u>Gov't Affairs:</u> Tribal Council (509) 258-4581, ext. 48  <u>Legal Counsel:</u> Margo Hill , Attorney (509) 258-7550  <u>Nat. Resources:</u> Rudy Peone, Director (509) 258-9042  <u>Planning:</u> David Ernest, Director (509) 258-4581, ext. 30	P.O. Box 100 Wellpinit, WA 99040  (509) 258-4581  <a href="http://www.spokanetribe.com">www.spokanetribe.com</a>  <u>Chair:</u> The Honorable Warren Seyler (509) 258-4581  <u>Vice Chair:</u> Gregory Abrahamson (509) 258-4581	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Squaxin Island Tribe</b>	The Squaxin Island Tribe is governed by a Tribal Council consisting of seven members who are elected during annual general body meetings and serve staggered terms.	<u>Community Dev.:</u> Mike Poier, Director (360) 432-3953  <u>Council Staff:</u> Joanna R. Fuller, Secretary (360) 432-3909  <u>Court:</u> Nancy Barker, Court Clerk (360) 432-3828  <u>Cultural Resources:</u> Rhonda Foster, Director (360) 432-3850  <u>Economic Dev.:</u> Robert Whitener, Jr. (360) 426-3442  <u>Env't Programs:</u> Jeff Dickison (360) 432-3815  <u>Gaming Commsn:</u> Lisa Bielski, Director (360) 427-7711  <u>Legal Counsel:</u> Kevin Lyon (360) 432-1771  <u>Nat. Resources:</u> Jim Peters, Director (360) 432-3800  <u>Planning / Transp. Planner:</u> Brian Thompson, Director (360) 432-3907	SE 70 Squaxin Lane Shelton, WA 98584  (360) 426-9781  <a href="http://www.squaxinisland.org">www.squaxinisland.org</a>  <u>Chair:</u> The Honorable David Lopeman (360) 426-9781  <u>Vice Chair:</u> Andy Whitener (360) 432-3809	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Stillaguamish Tribe of Indians</b>	The Tribe's constitution, approved by the Tribal council on January 31, 1953, provides for the administration responsibilities of Tribal government to be handled by the popularly elected six-member Stillaguamish Tribal Council.	<p><u>Council Staff / Gov't Affairs:</u> Shawn Yanity (360) 652-7362, ext. 282</p> <p><u>Court:</u> Donna Easley, Court Clerk (360) 652-7362, ext. 241</p> <p><u>Cultural Resources / Env't Programs:</u> Pat Stevenson, Biologist (360) 652-7362, ext. 27</p> <p><u>Economic Dev.:</u> Ed Goodridge, Jr., Planner (360) 652-7362, ext. 229</p> <p><u>Legal Counsel:</u> Geoff Strommer, Attorney (503) 272-1745, and Ater Wynne, Attorneys (206) 623-4711</p> <p><u>Nat. Resources:</u> John Drotts, Director (360) 435-2755, ext. 26</p> <p><u>Planning / Transp. Planner:</u> Casey Stevens (360) 652-7362, ext. 234</p>	<p><u>Physical Address:</u> 3439 Stoluckquamish Lane Arlington, WA 98223</p> <p><u>Mailing:</u> P.O. Box 277 Arlington, WA 98223  (360) 652-7362  <a href="http://www.stillaguamish.nsn.us/">www.stillaguamish.nsn.us/</a></p> <p><u>Chair:</u> The Honorable Shawn Yanity (360) 652-7362</p> <p><u>Vice Chair:</u> Eddie Goodridge, Jr. (360) 652-7362</p>	X
<b>Suquamish Tribe</b>	The Suquamish General Council is made up of all enrolled Tribal Members. The General Council meets at least once annually and gives direction to the Suquamish Tribal Council. The seven Suquamish Tribal Council members are elected by the members of voting age of the Suquamish General Council. Each council member serves a three-year term; terms are staggered.	<p><u>Community Dev.:</u> Scott Crowell, Director (360) 394-8415</p> <p><u>Council Chambers:</u> Connie Ellis, Executive Assistant (360) 394-8405</p> <p><u>Court:</u> Randal Steckel, Chief Judge – Suquamish Tribal Court</p>	<p><u>Physical Address:</u> 15838 Sandy Hook Road Poulsbo, WA 98370</p> <p><u>Mailing:</u> P.O. Box 498 Suquamish, WA 98392-0498  (360) 598-3311  <a href="http://www.suquamish.nsn.us">www.suquamish.nsn.us</a></p>	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
	The Elders' Council and the Youth Council act in an advisory capacity to Tribal Council. Both councils bring forth pertinent issues for Tribal Council consideration	<p>(360) 394-8501</p> <p><u>Cultural Resources:</u> Charlie Sigo, Cultural Resources Specialists (360) 394-8501</p> <p><u>Economic Dev.:</u> Chuck Deam, Sr., Specialist (360) 394-8420</p> <p><u>Env't Programs:</u> Cherrie Crowell, Env't Program Manager (Natural Resources) (360) 394-8506</p> <p>Rich Brooks, Env't Program Manager (Fisheries) (360) 394-8442</p> <p><u>Fisheries:</u> Rob Purser, Director (360) 394-8436</p> <p><u>Forestry:</u> David Mills, Forest Resource Manager (360) 394-8504</p> <p><u>Gaming Commsn:</u> James Armstrong, Executive Director (360) 598-6889</p> <p><u>Gov't Affairs:</u> Bennie Armstrong, Chairman (360) 598-3311</p> <p><u>Legal Counsel:</u> Michelle Hansen, Tribal Attorney (360) 394-8490</p> <p><u>Museum/Cultural Center:</u> Marilyn Jones, Director (360) 394-8496</p> <p><u>Nat. Resources:</u> Denise Williams,</p>	<p><u>Chair:</u> The Honorable Bennie J. Armstrong (360) 394-8405</p> <p><u>Vice Chair:</u> Linda Holt (360) 394-8464</p>	



TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
		<p>Director (360) 394-8502</p> <p><u>Planning:</u> Tina Jackson, Tribal Planner (360) 394-8418</p> <p><u>Transp. Planner:</u> Charlie Sigo, Council Member (360) 394-5241</p> <p><u>Water Quality:</u> Cathy Houston, Water Quality Program Manager (360) 394-8505</p>		

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Swinomish Indian Tribal Community</b>	The governing body is the 11 member Swinomish Indian Senate, members of which are elected to five-year terms.	<u>Community / Economic Dev./ Planning:</u> Charlie O'Hara (360) 466-7203  <u>Council Staff:</u> Lydia Charles, Secretary (360) 466-7212  <u>Court:</u> Allan E. Olson, Administrator (360) 466-7255  <u>Cultural Resources:</u> Linda Day (360) 466-1058  <u>Env't Programs:</u> Scott Andrews (360) 466-7299  <u>Fisheries:</u> Lorraine Loomis, Director (360) 466-7240  <u>Gaming Commsn:</u> Glen Edwards, Chair (360) 466-3163  <u>Legal Counsel:</u> Alix Foster, Jamie Weber, Marty Loesch (360) 466-7220  <u>Natural Resources:</u> Allen Rozema, Director (360) 466-5318	P.O. Box 817 LaConner, WA 98257  (360) 466-3163  <a href="http://www.swinomish.org">www.swinomish.org</a>  <u>Chair:</u> The Honorable Brian Cladoosby (360) 466-7205  <u>Vice Chair:</u> Barbara James (360) 466-7276	X
<b>Tulalip Tribes</b>	The Tulalip Tribes was organized under the Indian Reorganization Act of 1934. Tulalips' Constitution and Bylaws were approved January 24, 1936 and a Charter ratified October 3, 1936. The governing body is the seven member Tulalip Board of Directors.	<u>Board of Directors:</u> Judy Gobin, Admin. Asst. (360) 651-4444  <u>Community Dev.:</u> Joe Sparr (360) 651-4027  <u>Compliance:</u> Paula Cortez	6700 Totem Beach Road Tulalip, WA 98271-9694  (360) 651-4000  <a href="http://www.tulaliptribes-nsn.gov">www.tulaliptribes-nsn.gov</a>  <u>Chair:</u> The Honorable Stanley G. Jones, Sr. (360) 651-4500  <u>Vice Chair:</u>	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
		(360) 651-4294  <u>Court:</u> Anna Moses, Court Clerk (360) 651-4049  <u>Cultural Resources:</u> Hank Gobin, Manager (360) 651-3310  <u>Economic Dev.:</u> Marilyn Sheldon, Director (360) 651-4022  <u>Env't Programs:</u> Richard Young (360) 651-4495  <u>Fisheries.:</u> Dan Simpson (360) 651-4153  <u>Forestry:</u> Terry Grinaker, Manager (360) 651-4014  <u>Gaming Commsn:</u> Lena Hammons (360) 651-3018  <u>Gov't Affairs:</u> John McCoy (360) 651-3225  <u>Legal Counsel:</u> Mike Taylor, Attorney (360) 651-4046  <u>Natural Resources:</u> Terry Williams (360) 651-4471  <u>Planning:</u> Marilyn Sheldon, Executive Director (360) 651-4022  <u>Transp. Planner:</u> Peter Mills (360) 651-4082	Marie M. Zackuse (360) 651-4500	

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
<b>Upper Skagit Tribe</b>	The Upper Skagit Tribe is governed by a seven member Tribal Council elected in accordance with the Tribal Constitution and by-laws approved by the Secretary of the Interior in 1974. Council members serve for staggered three-year terms.	<u>Council Staff:</u> Stephanie Arnold (360) 854-7000  <u>Court:</u> David Hawkins (360) 854-7017  <u>Cultural Resources / Nat. Resources:</u> Scott Schuyler (360) 854-7000  <u>Cultural Center:</u> (360) 854-9450  <u>Env't Programs:</u> Lauren Rich (360) 854-7000  <u>Fisheries:</u> Doreen Maloney, Manager (360) 854-7000  <u>Forestry:</u> Robert Schuyler (360) 854-7000  <u>Gaming Commsn:</u> Bill Richardson, Director (360) 854-7017  <u>Legal Services:</u> Harold Chesnin, Attorney (360) 854-7000  <u>Planning:</u> Lauren Rich (360) 854-7000  <u>Public Works / Transp. Planner:</u> Joe Hemmerich (360) 854-7040	25944 Community Plaza Sedro Woolley, WA 98284  (360) 854-7000  <u>Chair:</u> The Honorable Marilyn M. Scott (360) 854-7070  <u>Vice Chair:</u> Floyd Williams (360) 854-7000	X
<b>Yakama Indian Nation</b>	The Yakama Reservation and its members are governed by the Yakama Nation Tribal Council. Self-government was re-established among the Yakamas in 1935. Since the Indian Nation was	<u>Council Chambers:</u> Cynthia Yellow Owl (509) 865-5121, ext. 4347  <u>Court:</u>	P.O. Box 151 Toppenish, WA 98948  (509) 865-5121  <u>Chair:</u>	X

TRIBE	GOVERNMENT	RELEVANT DEPTS.	CONTACT INFO.	FED. RECOGN.
	made up of 14 bands and tribes, each group selected a representative, forming the modern tribal government. In 1947 a rule change provided for election by the General Council of half of the Tribal Council members every two years for four-year terms. All enrolled Yakamas become voting members of the General Council on their eighteenth birthday.	<p>(509) 865-5121</p> <p><u>Cultural Resources:</u> Johnson Meninick, (509) 865-5121, ext. 4737</p> <p><u>Economic Dev.:</u> Terri Johnson-Davis (509) 865-5121 ext. 4411</p> <p><u>Env't Programs:</u> Moses Dick Squeochs (509) 865-5121, ext. 4659</p> <p><u>Fisheries:</u> Paul Ward (509) 865-6262, ext. 4626</p> <p><u>Legal Counsel:</u> Tom Zeilman, Lead Attorney (509) 865-5121, ext. 4719</p> <p><u>Nat. Resources:</u> Carrroll Palmer (509) 865-5121, ext. 4655</p>	<p>The Honorable Ross Sockzehigh (360) 865-5121, ext. 4340</p> <p><u>Vice Chair:</u> Jerry Meninick (360) 865-5121, ext. 4346</p>	

#### APPENDIX IV

#### USEFUL INTERNET LINKS

## USEFUL INTERNET LINKS

<http://www.goia.wa.gov/govtogov/guidelines.html>

Washington State Governor's Office of Indian Affairs: Includes copies of the Centennial Accord, State Centennial Accord Plans, and Implementation Guidelines. See also <http://www.goia.wa.gov/directory/index.htm> for the Washington State Tribal Directory (updated approximately every 6-8 months).

<http://www.wsdot.wa.gov/tribal/default.htm>

Washington State Department of Transportation Tribal Liaison, including WSDOT's Tribal Consultation Directive E1025.00.

<http://www.oahp.wa.gov/>

Washington State Office of Archaeology and Historic Preservation

<http://www.achp.gov/regs-Tribes.html>

Advisory Council on Historic Preservation:

Section 106 Users Guide, including "Consulting with Indian Tribes in the Section 106 Review Process."

[www.nathpo.org](http://www.nathpo.org)

National Association of Tribal Historic Preservation Officers

<http://wdfw.wa.gov/>

Washington Department of Fish and Wildlife

<http://www.nwifc.wa.gov/>

Northwest Indian Fisheries Commission

<http://www.atniTribes.org>

Affiliated Tribes of Northwest Indians

[www.indians.org](http://www.indians.org)

American Indian Heritage Foundation

<http://www.cr.nps.gov/hps/tribal/>

National Parks Service Tribal Preservation Program

## APPENDIX V

## SAMPLE DOCUMENTS



## SAMPLE LETTER REQUESTING GOVERNMENT-TO-GOVERNMENT CONSULTATIONS

Date

The Honorable [name]  
Chairperson  
[name of Tribe]  
[address]

Re: \_\_\_\_\_ Project

Dear Mr. Chairman:

[Name of Local Government agency] is planning the [name of] Project in the City of [name], [name of] County, Washington. The project is located near the [describe geographic location in detail].

[Agency] would very much appreciate the opportunity to meet with you and other appropriate representatives of the [tribe/nation/community] in order to commence government-to-government consultation on the [name of ] project. The goal of the consultation is to reach mutually agreeable decisions, taking into account the interests of both the Tribe and State government. Among other issues, the consultation will address cultural and historic resource issues, pursuant to section 106 of the National Historic Preservation Act.

As an initial step in the consultation process, we wish to seek your advice on the scope of the environmental review for the project. As you may be aware, [the agency] is in the early stages of conducting an environmental review of the project. A draft statement of the purpose and need for the project is enclosed with this letter for your review.

A first and important stage of this environmental review is the scoping process. Through the scoping process, we are identifying those aspects of the human and natural environment that should have a detailed environmental review. The scoping process also provides an important opportunity to refine the project that will be analyzed during the detailed environmental review. We have scheduled our first public meeting for the scoping process for [add date, time and place], and have enclosed information about the public meeting. We would encourage a representative of the [name of Tribe] to attend and participate if possible.

We would also like to discuss with you the most suitable and appropriate way for the project team and the [tribe/nation/community] to continue coordinating with each other on a government-to-government basis as we proceed.

Thank you for taking the time to review these materials. I will be in touch with your office in the coming weeks to inquire about scheduling a meeting to discuss these matters

further, which I look forward to doing. In the meantime, if you have any questions, please call me directly.

Sincerely

Director  
[name of agency]

cc: [relevant Federal agencies]  
Washington SHPO  
Selected Tribal Staff