

1-10-1972

## **Docket Entry 106A - Filed stipulation regarding Discovery Agreements**

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FILED IN THE  
UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

JAN 10 1972

CHARLES A. SCHAAF, CLERK

By                      Deputy

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,  
  
                                Plaintiff,  
  
                                v.  
  
STATE OF WASHINGTON,  
  
                                Defendant.

CIVIL NO. 9 2 1 3  
  
STIPULATION RE DISCOVERY  
AGREEMENT

IT IS HEREBY STIPULATED that the following agreement regarding discovery has been entered into by the parties hereto and the Court is hereby requested to authorize the parties to commence discovery pursuant to same.

PURPOSES:

The purposes of this agreement are:

- (1) To avoid multiple discovery of the same documents and testimony;
- (2) To provide a convenient and informal program for the discovery of much of the data;
- (3) To assure active and good faith coordination of discovery by each side as a group;
- (4) To provide an approach to discovery which will, by successive stages, refine the matters sought to be discovered and thereby save all parties time, money and unnecessary inconvenience. (For example, under this agreement, one would
  - (a) seek first general scientific reports and data informally,
  - (b) in light of this data propound written interrogatories and finally
  - (c) seek through oral deposition deeper examination of those answers to the interrogatories felt to be

(106)

1 unsatisfactory. Such an approach would assure that both  
2 deposer and deponent have not only reduced the area of in-  
3 quiry to the smallest possible but are both at the same time  
4 fully prepared to make the best use of that time to the mutual  
5 convenience and economy of all.)

6 INTERPRETATION:

7 The parties to this agreement will use the utmost  
8 good faith in fulfilling its letter and spirit as concerns  
9 facilitating discovery by procedures reflecting mutuality,  
10 fairness, convenience and economy of time and resources.

11 TERMS:

12 Informal request: A request for documents orally, or by  
13 letter.

14 Refusal: A refusal to produce a document upon informal re-  
15 quest under this agreed procedure will have no effect other  
16 than to designate that request as one for normal discovery.  
17 Fed. R. Civ. P. 37 will apply to any refusal to answer any  
18 question propounded upon oral examination.

19 Normal Discovery: Discovery according to procedures set  
20 forth in Fed. R. Civ. P.

21 PROCEDURES:

22 (1) Each party to the lawsuit will appoint one or  
23 more representatives as the designated contact men for each  
24 agency, tribe or other body which is or becomes the object  
25 of discovery. In addition, each party will designate those  
26 persons who may seek discovery of documents on its behalf.

27 (2) The plaintiffs as a group, and the defendants  
28 as a group, will each appoint one attorney to act as liaison  
29 counsel for discovery. On all matters of common concern,  
30 the parties on each side (or all such parties as have an  
31 interest in the object of the particular discovery), shall  
32 coordinate their discovery request through such liaison counsel.

1 Where any party requests a document or information which has  
2 already been furnished to the liaison counsel for his group  
3 of parties, the party or agency from whom the information is  
4 requested may advise the requestor of this fact in lieu of  
5 furnishing it again.

6 (3) Documentary discovery

7 (a) Each counsel will be responsible for  
8 instructing the various designated contactees in the agencies,  
9 tribes or other bodies under his representation, as to what  
10 may or may not be delivered upon informal request without  
11 further consultation with the responsible counsel as well as  
12 what informal requests must be referred to counsel for prior  
13 review. Informal requests referred to counsel for prior  
14 review will be treated by him in one of two ways: Returned  
15 to the contactee to be treated as set forth above, or refusal.

16 (b) No material need be provided by a designated  
17 contactee upon informal request if he has not had at least  
18 forty-eight hours notice, excluding holidays and weekends,  
19 so that he may have an opportunity to consult with counsel if  
20 necessary. In addition, any designated contactee of whom one  
21 or more documents are requested orally may, in instances in  
22 which he deems it appropriate, require that such requests be  
23 submitted or confirmed in writing.

24 (c) Informal requests which are submitted in  
25 writing shall be in duplicate or greater number if it is  
26 known that responses must be obtained from more than one  
27 branch or agency.

28 (d) If the designated contactee honors the in-  
29 formal request, he will cause a copy of the document or in-  
30 formation requested to be sent to the requesting party. He  
31 shall also inform his own counsel of such reply and may send  
32 one copy of the document or information to the discovery

1 liaison counsel for the person requesting it. The contactee  
2 will keep a record of all requests. If any party subsequently  
3 requests a document or information (whether informally or by  
4 normal discovery), that has already been furnished to the  
5 requestor's liaison counsel, the requestor may be referred to  
6 such counsel.

7 (4) Parties desiring to inspect or copy records  
8 appropriate for such inspection shall in the first instance  
9 direct their requests to their respective discovery liaison  
10 counsel. Liaison counsel will be responsible for coordinating  
11 such requests and for advising the parties for whom they are  
12 acting of the agreed upon date, time and place for such group  
13 inspections. Each party whose records are the object of such  
14 inspection shall endeavor to make arrangements to facilitate  
15 the centralization and accessibility of such of its records  
16 and other data under its control as is appropriate for inspec-  
17 tion or review.

18 (5) Discovery Depositions and Interrogatories

19 (a) Parties will endeavor to obtain information  
20 by written interrogatories prior to seeking oral depositions  
21 on the subject. As a part of this approach every effort will  
22 be made to propound written interrogatories of persons subject  
23 to oral deposition prior to taking such deposition, and to  
24 the extent feasible, counsel seeking oral deposition will note  
25 those areas of such interrogatories not answered to their  
26 satisfaction and thus requiring oral interrogation. It is  
27 the purpose of this requirement to limit to the extent pos-  
28 sible the time and expense of oral examinations regarding  
29 matters on which discovery can be as effectively accomplished  
30 by written interrogatories.

31 (b) Plaintiffs and defendants will submit their  
32 proposed interrogatories to their respective liaison counsel

1 prior to submission to insure that the same or similar ques-  
2 tions are not unnecessarily duplicated. To the extent pos-  
3 sible, each side will prepare joint interrogatories to avoid  
4 the necessity of asking more than once the majority of ques-  
5 tions in the answers to which they have a common interest.

6 (c) Upon determination of the need for oral  
7 depositions, each side will, to the extent possible, coordinate  
8 their request so that all depositions of an individual can  
9 take place on the same day or days.

10 MODIFICATION:

11 It is understood that this agreement is designed to  
12 facilitate discovery in a multi-party lawsuit with maximum  
13 economy of effort and minimum overlap. However, it is also  
14 recognized that several of the parties to the suit have raised  
15 issues which are not common to issues raised by other parties  
16 on their side. If the development of such issues requires  
17 a modification of this agreement, the parties will endeavor  
18 to reach agreement prior to requesting court approval on any  
19 such modification.

20 LIABILITY:

21 It is understood that any designation of liaison  
22 counsel is solely for the convenience of the parties and no  
23 party shall be bound by any actions or inactions of any counsel  
24 other than its own, except to the extent necessary to carry  
25 out the purposes of this agreement.

26 DATED this \_\_\_\_\_ day of November 1971.

27  
28 Douglas D. McBroom  
29 DOUGLAS D. McBROOM  
30 Assistant United States Attorney  
Attorney for Plaintiff

31 Edward B. Mackie  
32 EDWARD B. MACKIE  
Deputy Attorney General  
Attorney for Defendant

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*Joseph L. Coniff*

JOSEPH L. CONIFF  
Assistant Attorney General  
Attorney for Carl Crouse, Director  
Washington Department of Game and the  
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*William M. Gingery*

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Washington Department of Fisheries

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Attorney for the Stillaguamish,  
Muckleshoot, Squaxin Island,  
Sauk-Suiattle and Skokomish  
Tribes of Indians (also represented  
by David Getches)

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Attorney for the Quinault Tribe  
of Indians

JAMES B. HOVIS  
Attorney for the Confederated Tribes  
and Bands of the Yakima Indian Nation

WILLIAM A. STILES, JR.  
Attorney for the Upper Skagit River  
Tribe of Indians

LESTER STRITMATTER  
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26 DATED this \_\_\_\_\_ day of November 1971.

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DOUGLAS D. McBROOM  
Assistant United States Attorney  
Attorney for Plaintiff

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EDWARD B. MACKIE  
Deputy Attorney General  
Attorney for Defendant

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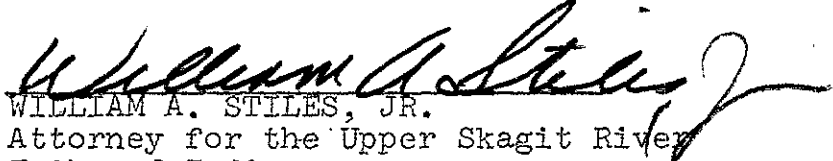
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