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Docket Entry 124C - Filed Affidavit of Clifford Millenbach

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA, et al., Plaintiffs, v. STATE OF WASHINGTON, et al., Defendants.	NO. 9213 AFFIDAVIT OF CLIFFORD MILLENBACH

STATE OF WASHINGTON)
COUNTY OF THURSTON) ss.

I, CLIFFORD MILLENBACH, being first duly sworn upon oath, depose and say:

After graduation from the University of Washington with a B.S. degree in Fisheries in 1940, I obtained employment with the State of Washington Department of Game where I am still employed. My first assignment involved hatchery operations. After six months I was placed in charge of the statewide hatchery program which position I held for 15 years. During this period I was directly involved in research on steelhead trout. Experiments with marked fingerlings proved that steelhead runs could be increased by raising the young fish to smolt (seaward migrant) size and releasing

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them during the natural downstream migration period.

In 1956 I was promoted to the position of Assistant Chief of the Fisheries Division. My duties were much broader and encompassed all activities of the Division. Ten years later I moved into my present position - Chief, Fisheries Management Division. Duties now include all activities of the Division. I am responsible for statewide programming, development of fishing season regulation recommendations for Game Commission action, recommending legislation needed for fisheries management, directing research, selecting professional personnel, and supervising the operations of the largest operating division of the Department.

Professionally, I have served in all offices of the Western Division of the American Fisheries Society and on many committees of the International American Fisheries Society. I have served as a consultant to the States of Alaska and Michigan in hatchery design and the development of management programs. I am a member of the University of Washington School of Fisheries faculty serving as a special lecturer.

Steelhead trout are classified as a game fish by statute and are under the jurisdiction of the State Game Commission. Under direction from the Commission, the Department of Game has greatly increased steelhead runs through an extensive hatchery program. In many streams there are more steelhead of hatchery origin than from natural reproduction. The total program, however, is tied to the biology of the fish and is rather complex. A brief description of the life history of steelhead will demonstrate this.

Steelhead alevins emerge from stream gravel in the late spring and early summer. Most juvenile fish spend nearly two years in fresh water before smolting and moving seaward in April and May. A few fingerlings reach smolt

size in one year and a small percentage spend three years in fresh water. The smolts average seven to nine inches in length, move downstream in schools, and may be readily taken on sports angling gear. The protection of these smolts is a fundamental part of current Game Commission fishing regulations. Because of varying conditions this is accomplished in two ways: (1) angling closure during the seaward migration period and (2) a minimum size limit of 10 inches or more.

Most steelhead spend 18 or more months in the marine environment, returning to parent streams in the winter months to reproduce in the spring. Spawning usually begins in February, peaks in March and April, and continues into June. Steelhead will utilize suitable spawning gravel in stream systems from just above tidewater to headwater areas. Most spawning occurs in the main stems but all suitable tributaries are also used. To insure an adequate escapement of fish to spawn, tributaries of major river systems are closed to angling during the winter months and in addition upstream closures have been established to insure spawning sanctuaries.

The final regulation fundamental to the proper conservation of steelhead is the limitation of gear to hook and line, a daily limit of two fish and a season limit of thirty. Water conditions may also aid spawning escapement by reducing the effectiveness of angling gear. These angling regulations apply equally to everyone.

Steelhead trout are different to salmon in many ways. As a segment of the anadromous fishes common to Washington streams, they are a minority group. Their numbers are much more drastically controlled by their fresh-water residency; most commonly two years, compared to one for coho salmon and 90 days for chinook salmon. Their marine

migrations are by far the longest, extending to the outer Aleutians. Both because of their long journey and relatively low abundance, generally they are not harvested in the marine environment.

Unquestionably their abundance as mature fish in relation to salmon in streams varies considerably. It is pertinent to note, however, that as a segment of anadromous fish runs, they are known to make up about 10% of the total. A prime example are the early counts of anadromous fish at Bonneville dam on the Columbia River where steelhead represented about 9% of the total.

Steelhead differ, too, in that they do not all die after spawning, as do all salmon. In streams they are generally more readily caught by hook and line than mature salmon. Because they are such an excellent sport fish and can be readily taken by nets in rivers, the State Legislature, 46 years ago, decreed that they should be classified as a game fish and protected from commercial exploitation.

The record is clear that salmon are properly classified as a commercial fish and subjected to commercial utilization. In spite of extensive commercial and sports trolling fisheries, a very intensive gill net and purse seine fisheries and frequently a river hook and line sports fishery, surplus coho and chinook salmon returns to hatcheries are commonplace. On the other hand, almost the total fishery for steelhead occurs in streams and very restrictive sports fishing regulations have proven necessary to insure sufficient spawning escapement for preservation of the runs. The limit of two steelhead per day by hook and line contrasts dramatically to the capability of gill nets which have been observed to take 45 steelhead in a single drift. In my opinion, an Indian set net commercial fishery and a non-Indian hook and line sports fishery cannot exist simultaneously in the

steelhead streams of the State of Washington. In a special study on the Fraser River, it was established that gill nets were capable of taking 95% of a salmon run.

All anadromous fish stocks in Washington have suffered from stream destruction and alterations. Steelhead being most dependent on the streams' environment for the longest period of time, have undoubtedly suffered proportionately more. To counteract lowered stream production and over exploitation of certain runs, the Department of Game developed an extensive and successful artificial propagation program. Through a long series of fish marking experiments and scientific research, a program of rearing young steelhead to smolt size, six to eight inches in length, and releasing them into rivers in the spring of the year when wild smolts are migrating to the ocean, has been established. Currently, the Department of Game is releasing 8,000,000 steelhead smolts annually to augment runs of steelhead. This program involves the annual expenditure of $800,000 for hatchery operations. Funds for this program are provided through fishing license and other revenue accrued to the Game fund. Approximately one-half the expenditures on the steelhead program are reimbursed through mitigation programs relating to construction projects affecting anadromous fish runs. Two years ago steelhead fishermen supported the establishment of a $2 fee for steelhead punch cards, in addition to the basic fishing license fee, to support the steelhead program.

These funds are being used to operate the Bogachiel rearing pond and other steelhead rearing facilities. The Bogachiel rearing pond is located on the Bogachiel River, a tributary of the Quilleute River. Last year 255,000 steelhead smolts were released from this rearing pond. The annual cost of operations is about $27,000. Steelhead planted in the Bogachiel River in 1969 were marked by the removal of the

adipose fin. Through a creel census of the fishery last year, it was determined that the Bogachiel rearing pond contributed 76% of the catch.

The planting of steelhead smolts into the Quilleute River system has increased the sports catch by 80%. Records on the total catch by nets in the Quilleute River, unfortunately, are not available to the Department. Records of one of the two principle buyers, which has been described as about 40% of the total, show a catch of 18,000 pounds for November and December, 1971. On this basis, the total catch of the Indian net fisheries on the Quilleute River for these two months would be about 45,000 pounds. The total sports catch for November and December in the Quilleute system a year ago was 4,000 fish, or about 36,000 pounds. Creel census records this season indicate a slightly greater catch.

The Indians are receiving 50 to 65 cents per pound for steelhead this season. This is the gross value to the state as all fish are delivered outside the state as a commercial item. The value of the estimated catch for this season through December, then, would be about $25,000. The value of a steelhead in the sports fishery was determined to be $60 in 1968. If the net fishery catch were taken by sports fishermen, the value to the economy of the state would be $300,000 (9 lb./fish).

In summary, I would like to point out that: (1) steelhead trout have been most affected by the deteriorating environment; (2) that naturally produced steelhead generally are about 10% of the total anadromous fish resource in Washington rivers; (3) that sportsmen, through their license dollar, have supported a hatchery program which has greatly enhanced steelhead runs; (4) that the state rearing pond on the Bogachiel River provided 70% of the run of steelhead to the Quilleute system last year; (5) that the Indian net

fisheries benefits significantly from the Bogachiel pond rearing program; (6) that the state would lose literally millions of dollars if Indians could fish in all "usual and accustomed" fishing areas as a special class of citizens; and (7) finally, that an effective conservation management program for steelhead would be impossible in the face of a net fisheries reserved for an unaccountable special class of citizens.

Clifford Millenbach

CLIFFORD MILLENBACH

SUBSCRIBED AND SWORN to before me this 1st day of February, 1972.

Mary E. Love

NOTARY PUBLIC in and for the State of Washington, residing at Olympia