

8-29-1972

Docket Entry 154 - Filed second set of Plaintiff's Interrogatories to Defendant Carl Crouse and Washington State Commission

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AUG 29 1972

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

CIVIL NO. 9213

QUINULT TRIBE OF INDIANS on its own behalf
and on behalf of the QUEETS BAND OF INDIANS;
MAKAH INDIAN TRIBE; LUMMI INDIAN TRIBE; HOH
TRIBE OF INDIANS; MUCKLESHOOT INDIAN TRIBE;
SQUAXIN ISLAND TRIBE OF INDIANS; SAUK-
SUIATTLE INDIAN TRIBE; SKOKOMISH INDIAN
TRIBE; CONSOLIDATED TRIBES AND BANDS OF THE
YAKIMA INDIAN NATION: UPPER SKAGIT RIVER
TRIBE; STILLAGUAMISH TRIBE OF INDIANS; and
QUILEUTE INDIAN TRIBE;

Intervenor-Plaintiffs,

v.

STATE OF WASHINGTON,

Defendant,

SECOND SET OF
PLAINTIFF'S
INTERROGATORIES
TO DEFENDANTS
CARL CROUSE AND
WASHINGTON STATE
GAME COMMISSION

THOR C. TOLLEFSON, Director, Washington
State Department of Fisheries; CARL CROUSE,
Director, Washington Department of Game;
WASHINGTON STATE GAME COMMISSION, and
WASHINGTON REEF NET OWNERS ASSOCIATION,

Intervenor-Defendants.

COMES NOW the United States, through plaintiffs' liaison
counsel, Stuart F. Pierson, and herewith propounds the following
second set of interrogatories to defendants Carl Crouse, the
Washington State Game Commission, and their authorized agents and
representatives, pursuant to Rule 33 of the Federal Rules of

154

1 Civil Procedure, and in the same manner as the first set of
2 interrogatories propounded August 18, 1972.

3 172. In the opinion of the Game Department, are there
4 topographical, chemical or environmental conditions which a body
5 of water must have to sustain

6 a. a steelhead run, or

7 b. steelhead spawning?

8 173. If the answer to Interrogatory 172a is affirmative,

9 a. What are those conditions, and

10 b. What specifically identified sources support your
11 answer?

12 174. If the answer to Interrogatory 172b is affirmative,

13 a. What are those conditions, and

14 b. What specifically identified sources support your
15 answer?

16 175. In the opinion of the Game Department, are there
17 identifiable types of food upon which steelhead subsist while in
18 any of the water systems listed in answer to Interrogatories 80
19 and 81?

20 176. If the answer to Interrogatory 175 is affirmative,

21 a. What are those types of food;

22 b. In which of the water systems listed in answer to
23 Interrogatories 80 and 81 do these food types exist naturally;

24 c. In which of the water systems listed in answer to
25 Interrogatories 80 and 81 are these food types placed artificially;
26 and

27 d. In which of the water systems listed in answer to
28 Interrogatories 80 and 81 could these food types be placed
29 artificially?
30

31
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1 177. If you answer any portion of Interrogatory 176, what
2 are the specifically identified sources of each answer?

3 178. Is it accurate to state that, in considering the problem
4 of steelhead conservation in the water systems listed in answer to
5 Interrogatories 80 and 81, it is necessary to consider the entire
6 wetted perimeter of each water system, Puget Sound and the Strait
7 of Juan de Fuca?

8 179. If the answer to Interrogatory 178 is negative, in what
9 way is the statement inaccurate?

10 180. In the opinion of the Game Department, would there
11 be any effect on the continuation of a steelhead run in any of
12 the water systems listed in answer to Interrogatories 80 and 81
13 if there were permitted unlimited fishing on that run by hook and
14 line?

15 181. If the answer to Interrogatory 180 is affirmative,

16 a. Would the affect be so great as to destroy the run if
17 there were no artificial propagation techniques used;

18 b. Would the affect be so great as to destroy the run even
19 if there were maximum usage of artificial propagation techniques?

20 182. If you answer any portion of Interrogatory 181, what
21 are the specifically identified sources of each answer?

22 183. If the answer to Interrogatory 180 is negative, what
23 are the specifically identified sources supporting your answer?

24 184. Has the Game Department formed an opinion whether any
25 one of the fourteen plaintiff tribes currently provides sufficient
26 controls on its members fishing for steelhead pursuant to treaty
27 to warrant permitting an unregulated steelhead fishery by those
28 members on any one of the water systems listed in answer to
29 Interrogatories 80 and 81?

30 185. If the answer to Interrogatory 184 is affirmative,
31 what is that opinion,

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- a. expressed generally,
- b. regarding which tribe has sufficient controls,
- c. regarding which water systems would be fished?

186. If you answer any portion of Interrogatory 185, what specifically identified sources support each answer?

187. If the answer to Interrogatory 184 is negative, what specifically identified sources support your answer?

188. Is it accurate to state that, prior to and subsequent to the treaties listed in Interrogatory 24, one or more of the plaintiff tribes' predecessors utilized the following techniques for taking anadromous fish:

- a. harpooning,
- b. drag net,
- c. hook and line,
- d. techniques listed in Interrogatory 54?

189. If the answer to Interrogatory 188 is negative, in what way is the statement inaccurate?

190. Is it accurate to state that fishing for steelhead in Western Washington is a major attraction to sports fishermen?

191. If the answer to Interrogatory 190 is negative, in what way is it inaccurate?

192. Has the Game Department ever formed an opinion as to the accurate or estimated proportion of the steelhead run which will suffer "prespawning mortality" [as the term is used in *State v. Moses*, 79 Wn.2d 104, 117 (1971); *Department of Game v. Puyallup Tribe*, 80 Wn.2d 561, 570 (1972)] by the use of any of the following techniques to harvest other anadromous fish species in any of the water systems listed in answer to Interrogatories 80 and 81:

- a. drag netting,
- b. dip netting,
- c. set netting,
- d. drift netting,
- e. gill netting,
- f. reef netting,
- g. purse seining, or
- h. beach seining?

193. If the answer to Interrogatory 192 is affirmative,

a. What is that opinion expressed generally;

b. What is that opinion as to each water system, each technique and each other species of anadromous fish being harvested;

c. What are the specifically identified sources supporting your answer;

d. How has this opinion influenced the Game Department in its determination whether to deal with the matter of plaintiff tribes' treaty fishing as a subject separate and distinct from the matter of fishing by others?

194. Has the Game Department supported any of its steelhead management, regulation or propagation operations with federal funds during the last ten (10) years?

195. If the answer to Interrogatory 194 is affirmative, for each of the last ten (10) years what amount of federal funds were used to support each of the artificial propagation techniques or facilities listed in answer to Interrogatory 107?

196. In fashioning its regulatory, propagation, or management program for steelhead during the last ten (10) years, has the Game Department considered inadequate the number of artificially produced steelhead in the run on any of the water systems listed in response to Interrogatories 80 and 81?

1 197. If the answer to Interrogatory 196 is affirmative, for
2 each year and water system having such an inadequate number,

3 a. What was the number of artificially produced steelhead;

4 b. What was the number of naturally produced steelhead;

5 c. What would have been an adequate number of artificially
6 produced steelhead; and

7 d. Upon what specifically identified sources do you base
8 your answers?

9 198. In fashioning its regulatory, propagation, or management
10 program for steelhead during the last ten (10) years, has the Game
11 Department considered inadequate the number of naturally produced
12 steelhead in the run on any of the water systems listed in
13 response to Interrogatories 80 and 81?

14 199. If the answer to Interrogatory 198 is affirmative, for
15 each year and water system having such an inadequate number,

16 a. What was the number of artificially produced steelhead;

17 b. What was the number of naturally produced steelhead;

18 c. What would have been an adequate number of naturally
19 produced steelhead; and

20 d. Upon what specifically identified sources do you base
21 your answers?

22 200. Has the Game Department ever conducted, sponsored or
23 utilized any studies or reports which address the question of

24 a. Whether the Washington State game fish statutes are
25 reasonable and necessary for conservation of game fish;

26 b. Whether, upon supporting facts and data, the Washington
27 State game fish regulations are reasonable and necessary for
28 conservation of game fish;

1 c. Whether the Washington State statutes and regulations
2 governing the taking of steelhead are, as to Indian treaty fisher-
3 men, the least restrictive that can be imposed consistent with
4 assuring the escapement necessary for conservation;

5 d. Whether the Washington State prohibition against fishing
6 for steelhead by means of a net is both reasonable and necessary
7 for the conservation of steelhead;

8 e. Whether steelhead fishing by any members of any of the
9 plaintiff tribes by means of a net could be restricted as to time,
10 place and manner sufficiently to permit a treaty Indian net
11 fishery while at the same time conserving the steelhead resource;

12 f. Whether steelhead fishing by any members of any of the
13 plaintiff tribes by means of a net could be restricted as to
14 volume of take sufficiently to permit a treaty Indian, net fishery
15 while at the same time conserving the steelhead resource;

16 g. Whether steelhead fishing by any members of any of the
17 plaintiff tribes by means of a net could be restricted as to
18 purpose for taking sufficiently to permit a treaty Indian, net
19 fishery while at the same time conserving the steelhead resource;

20 h. Whether the Washington State statutes and regulations
21 governing the taking of steelhead should be applied to any member
22 of any of the plaintiff tribes fishing outside his reservation;

23 i. What specific factors have caused a depletion of steel-
24 head runs in any of the water systems listed in answer to
25 Interrogatories 80 and 81?

26 201. If the answer to Interrogatory 200 is affirmative, how
27 may each such study or report be specifically identified and
28 where may it be obtained?

29 202. Does the State of Washington separate fisheries data

30 a. between steelhead take and the take of other anadromous
31 fish;

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1 b. between commercial take and non-commercial take;

2 c. between one water system's run and another water
3 system's run?

4 203. If the answer to any portion of Interrogatory 202 is
5 affirmative, as to each such portion, when was such data first
6 kept?

7 204. In the opinion of the Game Department, are there any
8 "commercial aspects" to the operation of a boat for hire to persons
9 who wish to fish for steelhead by hook and line on the water
10 systems listed in response to Interrogatories 80 and 81? [The
11 term "commercial aspects" is meant here to be used as it was in
12 *Puyallup Tribe v. Department of Game*, 391 U.S. 392, 398 (1968).]

13 205. If the answer to Interrogatory 204 is affirmative,
14 what are those aspects, specifically described?

15 206. If the answer to Interrogatory 204 is negative, to the
16 extent the Game Department knows,

17 a. Is it accurate to state that the boat operation described
18 in Interrogatory 204 includes the operator taking a fee to trans-
19 port and to aid the hiring fisherman in his attempt to catch
20 steelhead;

21 b. Is it accurate to state that the boat operator rarely
22 engages in the act of bringing in the fish;

23 c. Is it accurate to state that the success of the boat
24 operator's business depends upon the number of fishermen who will
25 pay the fee to hire the boat;

26 d. Is it accurate to state that the primary motive of the
27 boat operator in his hiring operation is to have his boat engaged by
28 the most people for the highest fee; and

29 e. Is it accurate to state that the sport aspect of steel-
30 head fishing is not the primary aspect of the boat operator's role
31 in steelhead fishing?

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1 207. If the answer to any portion of Interrogatory 206 is
2 negative, in what way is the statement inaccurate?

3 208. To the extent the Game Department knows, which of
4 those persons appointed to the Washington State Game Commission
5 during the last twenty-five (25) years have not been either
6 recommended or endorsed by the Washington Sportsman's Council?

7 209. To the extent the Game Department knows, which
8 organizations have favored the classification of steelhead as a
9 game fish?

10 210. Is the Game Department aware of any western state which
11 permits fishing for steelhead by any of the techniques described
12 in Interrogatory 188?

13 211. If the answer to Interrogatory 210 is affirmative, as
14 to each state, which techniques are permitted and where may the
15 appropriate regulations be found?

16 212. Has the Game Department sponsored, conducted or
17 utilized any reports or studies which address the question of

18 a. Where members of the plaintiff tribes have fished
19 pursuant to treaty during the last twenty-five (25) years;

20 b. Whether an unregulated gillnet fishery has destroyed a
21 run of steelhead on any of the water systems listed in response
22 to Interrogatories 80 and 81;

23 c. Whether an unregulated gillnet fishery has prevented
24 proper escapement on a steelhead run on any of the water systems
25 listed in response to Interrogatories 80 and 81;

26 d. What regulations of time, place and manner would provide
27 the most efficient harvest of steelhead on any of the water systems
28 listed in response to Interrogatories 80 and 81; [as used here,
29 the term "efficient" is intended to connote the taking of the
30 most fish, in the least time, with the least labor, with the
31 least expense, under the best escapement control.]

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1 e. What net fishing for steelhead has been carried on by
2 members of any of the plaintiff tribes, in any of the last ten
3 (10) years, on any of the water systems listed in response to
4 Interrogatories 80 and 81;

5 f. What fishing for steelhead according to Game Department
6 regulations (e.g., by angling instead of by net) has been carried
7 on by members of any of the plaintiff tribes in any of the last
8 ten (10) years, on any of the water systems listed in response to
9 Interrogatories 80 and 81?

10 213. If you answer affirmatively to any portion of
11 Interrogatory 212, when was each study or report compiled and
12 where may a copy be obtained?

13 214. Has the Department of Game ever estimated or established
14 what percentage of the steelhead are taken incidentally or
15 inadvertently by fishermen harvesting other species of fish at
16 locations outside the water systems listed in response to
17 Interrogatories 80 and 81?

18 215. If the answer to Interrogatory 214 is affirmative, what
19 is that estimate or established percentage

20 a. Statewide, for each of the years for which such a figure
21 was compiled;

22 b. For runs in each of the water systems listed in
23 response to Interrogatories 80 and 81, for each of the last
24 ten (10) years for which such a figure was compiled?

25 216. If the answer to Interrogatory 214 is negative, is the
26 Game Department aware of any taking of steelhead by any fishermen
27 at locations outside the water systems listed in response to
28 Interrogatories 80 and 81?

29 217. If the answer to Interrogatory 216 is affirmative, for
30 each year in which such taking occurred:

1 a. Where did the taking occur;

2 b. Who took the steelhead;

3 c. What technique was used;

4 d. Why were the steelhead taken;

5 e. How many steelhead were taken?

6 218. If you answer any portion of Interrogatories 215 and
7 217, what are the specifically identified sources for each answer?

8 219. Prior to May 4, 1972, did the Game Department notify
9 any of the plaintiff tribes or any of their members in advance

10 a. That regulations prohibiting treaty Indian net fishing
11 for steelhead were being considered;

12 b. That regulations prohibiting treaty net fishing for
13 steelhead were being issued;

14 c. That the Department would enforce against members of
15 plaintiff tribes regulations which prohibit treaty Indian net
16 fishing for steelhead outside the boundaries of Indian reservations
17 and lands under exclusive federal jurisdiction?

18 220. If the answer to any portion of Interrogatory 218 is
19 affirmative, as to each such answer:

20 a. What standard procedure of the Game Department required
21 such notification;

22 b. For each tribe notified, how many times was such
23 notification given, when was it first given and when was it last
24 given; and

25 c. Upon what specifically identified sources were the
26 regulations based?

27 221. Is it accurate to state that the Game Department has
28 never given consideration to the claimed treaty fishing rights of
29 any of the plaintiff tribes as either an interest to be promoted
30 or a fishery to be promoted in the Department's regulatory,
31 management and propagation program?

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1 222. If the answer to Interrogatory 221 is negative, in
2 what way is the statement inaccurate?

3 223. Has the Game Department ever seized nets, boats, motors,
4 vehicles or other types of equipment or property during the last
5 ten years from persons who claimed they were, were in fact, or
6 were believed to be, members of any of the plaintiff tribes?

7 224. If the answer to Interrogatory 223 is affirmative, as
8 to each such seizure:

- 9 a. When was the seizure;
- 10 b. Where was the seizure;
- 11 c. Who seized it;
- 12 d. What kind of item was seized;
- 13 e. Why was it seized;
- 14 f. In what manner, if at all, was the seized item being
15 used;
- 16 g. Who had possession of the item prior to seizure;
- 17 h. Which of the plaintiff tribes was the user or possessor
18 claiming to be, was actually, or was believed to be, a member;
- 19 i. Was the item seized marked with any identification;
- 20 j. How has the Department disposed of the seized item (if
21 it has been disposed of);
- 22 k. Under what authority was the item seized;
- 23 l. Under what authority has the item been disposed of (if
24 it has been disposed of);
- 25 m. If the item has not been disposed of, where is it;
- 26 n. If the item is still held, under what authority is it
27 held;
- 28 o. What procedures are there for handling items seized
29 under such circumstances;
- 30 p. What proceedings (charge and outcome) have been conducted
31 against the user or possessor of the item?
- 32

1 225. Has the State of Washington or the Game Department,
2 during the last ten (10) years, expended any funds to advertise
3 Washington State steelhead fishing or to induce persons to come
4 from outside the State to fish for steelhead in Washington?

5 226. If the answer to Interrogatory 225 is affirmative, for
6 each of the last ten (10) years in which there were such
7 expenditures, what was the total amount expended?

8 227. What is the total revenue realized in each of the last
9 ten (10) years from the sale of Department of Game Steelhead
10 (punchcard) Fishing Permits?

11 228. What portion of the revenue described in response to
12 Interrogatory 227 did the Game Department have primary authority
13 to expend?

14 229. What is the total revenue realized in each of the last
15 ten (10) years from the sale of Washington State Fishing Licenses?

16 230. What portion of the revenue described in response to
17 Interrogatory 229 did the Game Department have primary authority
18 to expend?

19 231. In addition to federal funds, Department of Game
20 Steelhead Fishing Permits and Washington State Fishing Licenses,
21 what sources of revenue are utilized by the Game Department in its
22 fisheries management, regulation and propagation program, and what
23 was the total amount received from each such source in each of the
24 last ten (10) years?

25 232. To the extent the Game Department knows, for each of
26 the last ten (10) years, how much money was spent in the State of
27 Washington by persons fishing for steelhead?

28 233. If you answer Interrogatory 232, what specifically
29 identified sources support your answer?
30
31
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1 234. From the figures given in response to Interrogatories
2 228, 230 and 231, what portion of each was expended in support of
3 the Game Department steelhead management, propagation and regulation
4 program in each of the last ten (10) years?

5 235. Have live steelhead of any age been transported out of
6 the State of Washington by any state agency during any one of the
7 last ten (10) years?

8 236. If the answer to Interrogatory 235 is affirmative, for
9 each place to which such transportation was made in each of the
10 last ten (10) years,

- 11 a. Why were the steelhead transported;
12 b. How many steelhead were transported;
13 c. What money or property was exchanged for the transported
14 steelhead;
15 d. Upon what authority were the steelhead transported?

16 237. Is the Game Department aware of a method whereby the
17 volume of a season's steelhead run in any of the water system's
18 listed in answer to Interrogatories 80 and 81 could be predicted
19 from

- 20 a. number of fish planted,
21 b. spawning-ground count,
22 c. previous season's count?

23 238. If the answer to Interrogatory 237 is affirmative,
24 please describe each method?

25 239. With regard to the hatcheries operated by the Game
26 Department to aid steelhead management, propagation or regulation
27 during the last twenty-five (25) years,

- 28 a. Where is each hatchery located;
29 b. When was each hatchery first operational;
30
31
32

1 c. Which water systems' runs are aided by each hatchery;
2 d. What was the initial cost of each hatchery;
3 e. Who decided when and where to establish each hatchery;
4 f. What is the total number of steelhead produced from each
5 hatchery?

6 240. With regard to the spawning channels operated by the
7 Game Department to aid steelhead management, propagation or
8 regulation during the last twenty-five (25) years,

9 a. Where is each spawning channel located;
10 b. When was each spawning channel first operational;
11 c. Which water systems' runs are aided by each spawning
12 channel;
13 d. What was the initial cost of each spawning channel;
14 e. Who decided when and where to establish each channel;
15 f. What is the total number of steelhead produced from each
16 spawning channel?

17 241. With regard to the rearing ponds operated by the Game
18 Department to aid steelhead management, propagation or regulation
19 during the last twenty-five (25) years,

20 a. Where is each rearing pond located;
21 b. When was each rearing pond first operational;
22 c. Which water systems' runs are aided by each rearing
23 pond;
24 d. What was the initial cost of each rearing pond;
25 e. Who decided when and where to establish each rearing
26 pond;
27 f. What is the total number of steelhead produced from each
28 rearing pond?

29 242. In the opinion of the Game Department, what effect, if
30 any, does each of the following factors have on the percentage of
31 steelhead returning to a water system for the first time:

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- 1 a. The size of the steelhead when planted;
2 b. The distance upriver where the steelhead is planted;
3 c. The time of year when the steelhead is planted;
4 d. The amount of other fish planted in the same water
5 system?

6 243. According to the Game Department, do steelhead return
7 to streams or water systems different from those into which
8 they have been planted?

9 244. If the answer to Interrogatory 243 is affirmative,

10 a. Approximately what percentage return to different water
11 systems or streams;

12 b. Upon what specifically identified sources do you base
13 your answer to Interrogatory 243?

14 245. Has the Game Department conducted, sponsored or
15 utilized any report or study which addresses the question of

16 a. What are the comparative returns from artificially
17 produced steelhead and from naturally produced steelhead;

18 b. Whether there is any prospect that introduction of a
19 non-indigenous fish species into a water system will be harmful
20 to the natural fish running therein;

21 c. Whether artificial planting results in earlier runs
22 than would occur with naturally produced fish?

23 246. If you answer any portion of Interrogatory 245, when
24 was the report or study compiled and where may a copy of it
25 be obtained?

26 247. How does the Game Department dispose of hatchery
27 carcasses or surplus hatchery fish, and under what authority does
28 it so dispose of them?

29 248. How would the Game Department describe the fish which
30 was called "salmon trout" during treaty times, and upon what
31 specifically identified sources do you base your answer?

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1 249. Is it accurate to state that, in the opinion of the
2 Game Department, the following typical treaty language gives the
3 treaty Indians only the same rights as given to all other citizens:

4 The right of taking fish, at all usual and
5 accustomed grounds and stations; is further
6 secured to the Indians, in common with all
citizens of the territory . . .

7 250. If the answer to Interrogatory 249 is negative, in what
8 way is the statement inaccurate?

9 251. Does the Game Department contend that the fishing
10 rights provisions of the treaties listed in Interrogatory 24 were
11 in any manner altered by the admission of Washington to the Union
12 on an "equal footing" basis subsequent to the time those treaties
13 were signed?

14 252. Does the Game Department agree with the following
15 statement:

16 The Supreme Court has said that the right to
17 fish at all usual and accustomed places may not
18 be qualified by the state. *Puyallup Tribe*
19 *et al. v. Department of Game, et al., supra,*
20 *391 U.S., p. 398, 88 S.Ct. 1725, 20 L.Ed.2d 689.*
21 I interpret this to mean that the state cannot
so manage the fishery that little or no harvest-
able portion of the run remains to reach the
upper portions of the stream where the historic
Indian places are mostly located.

22 *Sohappy v. Smith*, 302 F.Supp. 899, 911 (D. Ore. 1969)?

23 253. Which, if any, of the holdings in the case of
24 *Sohappy v. Smith*, 302 F.Supp. 899 (D. Ore. 1969) does the Game
25 Department consider influential in adopting regulations regarding
26 the time, place and manner of taking steelhead, and what influence
27 does each such holding have?

28 254. With reference to an opinion of June 18, 1968, signed
29 by Assistant Attorneys General of Oregon, Washington and Idaho,
30 interpreting the opinion in *Puyallup Tribe v. Department of*
31 *Game*, 391 U.S. 392 (1968), wherein it is stated ". . . all

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1 state laws must be adhered to . . .," are the opinions therein
2 expressed currently the opinions of the Department of Game?

3 255. If the answer to Interrogatory 254 is negative,

4 a. How have the Game Department's opinions changed;

5 b. Why did they change;

6 c. When did they change?

7 256. Does the Game Department feel bound by the following
8 requirement in establishing who may fish and the time, place and
9 manner of fishing:

10 [The State] must so regulate the taking of
11 fish that the treaty tribes and their members
12 will be accorded an opportunity to take, at
13 their usual and accustomed fishing places, by
reasonable means feasible to them, a fair and
equitable share of all fish which it permits to
be taken from any given run.

14 *Sohappy v. Smith*, 302 F.Supp. 899, 911 (D. Ore. 1969)?

15 257. Is it accurate to state that the Game Department's
16 regulation of members of the plaintiff tribes in the exercise of
17 their claimed treaty fishing rights is premised upon the belief
18 that, except for a right of access over private lands and the
19 exemption from the payment of license fees, the treaties listed
20 in Interrogatory 24 afforded the Indians no rights beyond those
21 accorded under the Fourteenth Amendment to the United States
22 Constitution and the provisions of the Washington State
23 Constitution?

24 258. If the answer to Interrogatory 257 is negative, in
25 what way is the statement inaccurate?

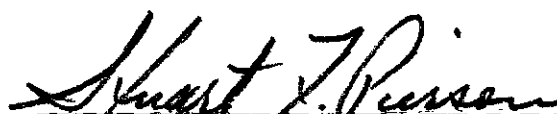
26 259. In the opinion of the Game Department, must members
27 of the plaintiff tribes utilize the same materials as were used
28 by their treating predecessors to exercise now what treaty fishing
29 rights they claim to have on the basis of the treaties listed in
30 Interrogatory 24?

1 260. In the opinion of the Game Department, does the
2 statutory classification of steelhead as a game fish require it
3 to manage, regulate and propagate the steelhead resource solely
4 for recreational use, even when such action conflicts with
5 plaintiff tribes' claimed treaty fishing rights?

6 DATED this 25th day of August, 1972.

7 Respectfully submitted,

8 STAN PITKIN
9 United States Attorney

10 
11 STUART F. PERSON
12 Assistant U.S. Attorney

13
14
15
16
17 CERTIFICATE OF MAILING

18 I certify that I mailed a copy of the foregoing
19 document to which this certificate is attached, to *all*
20 ~~the~~ attorneys of record of plaintiff ~~defendants~~ *and amici*
21 ~~on the 25th day of August, 1972.~~

22 UNITED STATES ATTORNEY

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ADDRESS REPLY TO
UNITED STATES ATTORNEY
AND REFER TO
INITIALS AND NUMBERS
SFP:bwm

United States Department of Justice

9213

UNITED STATES ATTORNEY

WESTERN DISTRICT OF WASHINGTON
UNITED STATES COURT HOUSE
SEATTLE, WASHINGTON 98104

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AUG 29 1972

Office of Clerk
U. S. District Court
Tacoma, Washington

August 28, 1972

U. S. District Court Clerk
U. S. Post Office and Courthouse
11th and A Streets
Tacoma, Washington 98402

RE: United States v. State of Washington
W. D. Wash. U.S.D.C. No. 9213

Dear Sir:

Enclosed for filing are plaintiffs'
second set of interrogatories to the Department
of Game and Carl Crouse.

Sincerely,

STAN PITKIN
United States Attorney

Stuart F. Pierson

STUART F. PIERSON
Assistant U. S. Attorney

Enclosure