

5-22-1973

Docket Entry 222 - Filed Plaintiff's Second Requests for Admissions (Treaty Documents)

Follow this and additional works at: <https://digitalcommons.law.uw.edu/us-v-wash-70-9213>

Recommended Citation

Docket Entry 222 - Filed Plaintiff's Second Requests for Admissions (Treaty Documents) (1973), <https://digitalcommons.law.uw.edu/us-v-wash-70-9213/157>

This Discovery Documents is brought to you for free and open access by the Federal District Court Filings at UW Law Digital Commons. It has been accepted for inclusion in 70-cv-9213, U.S. v. Washington by an authorized administrator of UW Law Digital Commons. For more information, please contact lawref@uw.edu.

1 STAN PITKIN
United States Attorney
2
3 STUART F. PIERSON
Special Assistant to the U.S. Attorney

4 1012 United States Courthouse
Seattle, Washington 98104
5 (206) 442-7970

6 GEORGE D. DYSART
Assistant Regional Solicitor
7 U.S. Department of the Interior
Post Office Box 3621
8 Portland, Oregon 97208
(503) 234-3361, Ext. 4211
9 Of Counsel

FILED IN THE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

MAY 22 1973

EDGAR SCOFIELD, CLERK
By *[Signature]* Deputy

10 Attorneys for Plaintiff
United States of America
11

12 UNITED STATES DISTRICT COURT
13 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

14 UNITED STATES OF AMERICA,)
15 Plaintiff,)

16 QUINAULT TRIBE OF INDIANS on its own behalf)
and on behalf of the QUEETS BAND OF INDIANS;)
17 MAKAH INDIAN TRIBE; LUMMI INDIAN TRIBE; HOH)
TRIBE OF INDIANS; MUCKLESHOOT INDIAN TRIBE;)
18 SQUAXIN ISLAND TRIBE OF INDIANS; SAUK-)
SUIATLE INDIAN TRIBE; SKOKOMISH INDIAN)
19 TRIBE; CONFEDERATED TRIBES AND BANDS OF THE)
YAKIMA INDIAN NATION; UPPER SKAGIT RIVER)
20 TRIBE; STILLAGUAMISH TRIBE OF INDIANS; and)
QUILEUTE INDIAN TRIBE;)

21 Intervenor-Plaintiffs,)

22 v.)

23 STATE OF WASHINGTON,)
24 Defendant,)
25

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

29 Intervenor-Defendants.)

CIVIL NO. 9213
PLAINTIFFS'
SECOND REQUESTS
FOR ADMISSIONS
[TREATY DOCUMENTS]

30
31
32 Page 1 - PLAINTIFFS' SECOND REQUESTS FOR ADMISSIONS

222

1 COME NOW all plaintiffs, herein, by Stuart F. Pierson,
2 plaintiffs' liaison counsel, acting on behalf of one or more of
3 the plaintiffs herein, and pursuant to Rule 36 of the Federal Rules
4 of Civil Procedure and paragraphs 10 and 16 of the Order of
5 April 24, 1973, herewith propound the following requests for
6 admissions with regard to the genuineness of certain documents,
7 severally to the defendant State of Washington, the intervenor-
8 defendants Thor Tollefson, Carl Crouse, the Washington State Game
9 Commission and the Washington Reef Net Owners Association through
10 defendants' liaison counsel.

11
12 PREFACE

13 It is the purpose of this set of requests for admissions to
14 request the defendants to admit the genuineness of the documents,
15 here referred to and described. Attached to this set of requests
16 for admissions are the original certified copies of the documents
17 taken by plaintiffs from the National Archives. Attached also is
18 a set of copies of these documents for use by the defendants.
19 Plaintiffs herewith request that, upon their examination of their
20 copies and the certified copies of the documents herein referred
21 to, the defendants return to the plaintiffs in Seattle (c/o Ms. Lee
22 Flesher, United States Attorney's Office) the full set of
23 certified copies.

24
25 73. Attached hereto marked USA-8a is an accurate certified
26 copy of a one-page letter dated December 6, 1856 from Isaac I.
27 Stevens (hereinafter "Stevens") to E. S. Fowler.

28
29 74. Attached hereto marked USA-8b is an accurate certified
30 copy of a three-page letter dated December 16, 1856 from E. S.
31 Fowler to Stevens.

32 Page 2 - PLAINTIFFS' SECOND REQUESTS FOR ADMISSIONS

1 75. Attached hereto marked USA-9 is an accurate copy of a
2 35-page document (pages 8 through 42) consisting of the Report
3 of Mr. George Gibbs, dated March 4, 1854, and published as
4 Executive Document No. 91, House of Representatives for the
5 Second Session of the 33rd Congress.

6
7 76. Attached hereto marked USA-10 is an accurate certified
8 copy of a 12-page document consisting of portions of the
9 Journal of James Doty, Secretary for Treaties in the Washington
10 Territory, showing proceedings between January 20 and May 21,
11 1855, in assembling Indian people for councils in the Walla Walla
12 Valley.

13
14 77. Attached hereto marked USA-11 is an accurate certified
15 copy of a 22-page document consisting of an original copy of the
16 Treaty of June 9 and 11, 1855 with the Yakima and Confederated
17 Tribes in the Walla Walla Valley, a letter from Stevens to the
18 Commissioner of Indian Affairs dated June 14, 1855 enclosing said
19 Treaty and the official proceedings with the Yakima Nation, and
20 a copy of the official proceedings.

21
22 78. Attached hereto marked USA-12 is an accurate certified
23 copy of a 14-page document consisting of a partial record of
24 proceedings of the Commission to hold treaties with the Indian
25 Tribes in the Washington Territory and the Blackfoot country,
26 during the period between December 7, 1854 and March 3, 1855.

27
28
29
30
31
32 Page 3 - PLAINTIFFS' SECOND REQUESTS FOR ADMISSIONS

1 79. Attached hereto marked USA-13 is an accurate certified
2 copy of a 14-page document consisting of another copy of the
3 proceedings of the Commission to hold treaties with the Indian
4 Tribes in the Washington Territory and the Blackfoot country
5 between December 7, 1854 and January 3, 1855.
6

7 80. Attached hereto marked USA-14 is an accurate certified
8 copy of a 12-page document consisting of a letter dated
9 December 30, 1854 from Stevens to the Commissioner of Indian
10 Affairs transmitting the Treaty of Medicine Creek and the proceed-
11 ings of the Treaty Commission between December 7 and 26, 1854,
12 and tracings of the Nisqually, Puyallup and Squawskin Reservations.
13 The Nisqually Reservation is referred to as the Shenahnam
14 Reservation; the Squawskin Reservation is referred to as the
15 Klah-che-min Reservation; and the Puyallup Reservation is referred
16 to as the Choche-oot-luts Reservation. The reservations thus
17 traced by Stevens are his proposals and not necessarily the
18 boundaries of the reservations as later established.
19

20 81. Attached hereto marked USA-15 is an accurate certified
21 copy of a seven-page document consisting of a partial record of
22 the proceedings on January 22, 1855 wherein the Treaty of Point
23 Elliott was negotiated and executed.
24

25 82. Attached hereto marked USA-16 is an accurate certified
26 copy of a five-page document consisting of a draft of the Treaty of
27 Point Elliott drafted by the United States Treaty Commission.
28
29
30
31

32 Page 4 - PLAINTIFFS' SECOND REQUESTS FOR ADMISSIONS

1 83. Attached hereto marked USA-17 is an accurate certified
2 copy of a 14-page document consisting of a letter dated May 4,
3 1855 from Stevens to the Commissioner of Indian Affairs transmit-
4 ting a record of the proceedings of the Treaty of Point Elliott
5 Treaty Commission, between January 5 and 23, 1855, and transmitting
6 the Treaties of Point No Point and Neah Bay, negotiated and
7 executed respectively on January 26 and 31, 1855. Included also
8 in this document is a record of the proceedings of negotiation and
9 execution of the Treaty of Point No Point, January 26, 1855.

10
11 84. Attached hereto marked USA-18 is an accurate certified
12 copy of a seven-page document consisting of a record of council
13 and negotiation proceedings prior to and including execution of
14 the Treaty of Neah Bay, January 29-31, 1855.

15
16 85. Attached hereto marked USA-19 is an accurate certified
17 copy of a two-page document consisting of a rough draft of the
18 Treaty of Neah Bay drafted by the United States Treaty
19 Commissioners.

20
21 86. Attached hereto marked as USA-20 is an accurate certified
22 copy of a nine-page document consisting of a record of the council
23 proceedings, wherein the Treaty of Point No Point was negotiated
24 and executed during January 24-26, 1855.

25
26 87. Attached hereto marked as USA-21 is an accurate certified
27 copy of a six-page document consisting of a letter dated
28 December 21, 1854 and a letter dated January 6, 1855 from
29 George Gibbs, surveyor under the Treaty of Medicine Creek to
30 Stevens, reporting the survey of the proposed Puyallup Reservation.

31
32 Page 5 - PLAINTIFFS' SECOND REQUESTS FOR ADMISSIONS

1 88. Attached hereto marked USA-22 is an accurate certified
2 copy of a four-page document consisting of a letter dated
3 February 14, 1855 from Commissioner of Indian Affairs to the
4 Office of Indian Affairs reporting on the Treaty of Medicine
5 Creek.

6
7 89. Attached hereto marked USA-23 is an accurate certified
8 copy of a four-page document consisting of an accurate copy of
9 a letter dated August 28, 1856 from Stevens to the Commissioner
10 of Indian Affairs recommending a change in the reservations
11 initially proposed for the Nisqually and Puyallup Indians.

12
13 90. Attached hereto marked USA-24 is an accurate certified
14 copy of a seven-page document consisting of a report dated
15 November 29, 1856 by a board appointed by Stevens to formulate
16 a plan for carrying into effect the Treaty of Medicine Creek.
17 This report followed upon a visit to the four reservations pro-
18 vided by that treaty, in accordance with instructions issued on
19 November 15, 1856.

20
21 91. Attached hereto marked USA-25 is an accurate certified
22 copy of a letter dated May 22, 1856 from Stevens to the Commissioner
23 of Indian Affairs enclosing "Journal of Operations of Governor
24 Stevens, Superintendent Indian Affairs and Commissioner treating
25 with Indian Tribes East of the Cascade Mountains in Washington
26 Territory and the Blackfeet and neighboring Tribes near the
27 Great Falls of the Mifsourie in the Year 1855", which journal
28 covers the period between January 20, 1855 and January 4, 1856.

29
30
31
32 Page 6 - PLAINTIFFS' SECOND REQUESTS FOR ADMISSIONS

1 92. Attached hereto marked USA-26 is an accurate certified
2 copy of a 12-page document consisting of another copy of the
3 document described in paragraph 76 above with respect to USA-10.
4

5 93. Attached hereto marked USA-27 is an accurate certified
6 copy of a 93-page document consisting of the certified record of
7 the official proceedings at the council in the Walla Walla Valley,
8 the negotiation and execution of the Treaty with the Yakima at a
9 council between June 9-11, 1855, which record covers the period
10 between May 22 and June 11, 1855.
11

12 94. Attached hereto marked USA-28 is an accurate copy of
13 a four-page document consisting of a letter dated August 30,
14 1854 from Charles E. Mix, Acting Commissioner of Indian Affairs
15 to Stevens.
16

17 95. Attached hereto marked USA-29 is an accurate copy of
18 a six-page document consisting of an accurately typed version of
19 the Treaty with the Yakimas, June 9, 1855, 12 Stat. 951.
20

21 96. Attached hereto marked USA-30 is an accurate copy of
22 a 75-page document (including pages 80 through 154) consisting of
23 an accurately typed copy of the record of proceedings at the
24 council in the Walla Walla Valley, June 9-11, 1855.
25

26 97. Attached hereto marked USA-31 is an accurate copy of
27 a 21-page document (including pages 8 through 26, 109, 109A)
28 consisting of portions of a Report on Source, Nature and Extent
29 of Fishing, Hunting, and Miscellaneous Related Rights of Certain
30

31
32 Page 7 - PLAINTIFFS' SECOND REQUESTS FOR ADMISSIONS

1 Indian Tribes in Washington and Oregon, which is relevant to the
2 claim of the Yakima Tribe in this case.

3
4 98. Attached hereto marked USA-32 is an accurate copy of
5 a four-page document consisting of pages 15, 16 and 117 from the
6 1972 State of Washington Pocket Data Book.

7
8 99. Attached hereto marked USA-33 is an accurate copy of
9 a seven-page document consisting of portions of the December 1972
10 Report entitled "An Economic Analysis of the Labor Market for
11 the Yakima Indian Nation" (including pages 16, 17, 19, 20, 168,
12 and 171), compiled by Battelle Northwest Pacific Laboratories.

13
14 100. Attached hereto marked USA-34 is an accurate copy of
15 a 33-page document consisting of a study by the Washington
16 State Extension Service in connection with mitigation funds
17 relating to the Dalles Dam.

18
19 101. USA-35 is an accurate copy of a document consisting of
20 a letter dated July 22, 1942 from the Superintendent for Indian
21 Affairs to the Commissioner of Indian Affairs, relating to the
22 reliance of the Yakima Tribe on fish. [This document will be
23 forwarded when received by James Hovis from the National Archives.]

24
25 102. Attached hereto marked USA-36 is an accurate copy of
26 a two-page document reporting on the fish landings during
27 treaty times (1853-1858) of the predecessors to the present-day
28 Yakima Tribe.

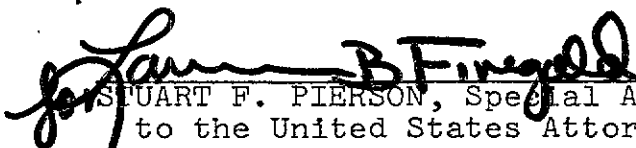
29
30
31
32 Page 8 - PLAINTIFFS' SECOND REQUESTS FOR ADMISSIONS

1 103. Each of the documents listed in this set of requests
2 for admissions (namely those designated USA-8a through USA-36)
3 and those documents listed in the first set of requests for
4 admissions (namely documents designated USA-1 through USA-7) are
5 admissible in evidence at trial of this case without objection
6 from defendants, as partial proof of the events therein described
7 during negotiation and execution of the treaties at issue in this
8 case and with respect to the treaty status of the various plaintiff
9 tribes in this case. [If the defendants object to any portion of
10 any of the exhibits as to admissibility, please specify the
11 objectionable exhibit and the reason for the objection.]

12 DATED this 21st day of May, 1973.

13 Respectfully submitted,

14 STAN PITKIN
15 United States Attorney

16 
17 STUART F. PIERSON, Special Assistant
18 to the United States Attorney

19
20
21
22
23 **CERTIFICATE OF MAILING**

24 I certify that I mailed a copy of the foregoing
25 document to which this certificate is attached, to
26 the attorneys of record of plaintiff, defendant,
27 on the 21st day of MAY, 1973.

28 UNITED STATES ATTORNEY

29 By C. Garrigus

30
31
32 **CERTIFICATE OF SERVICE**

I certify that in accordance with Local Rule 5,
a copy of the foregoing document was delivered
to Judge GEORGE H. BOLDT
on MAY 21, 1973

UNITED STATES ATTORNEY

By C. Garrigus

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

United States Department of Justice

9213

UNITED STATES ATTORNEY

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

May 21, 1973

RECEIVED

MAY 22 1973

Clerk of Court
U. S. District Court
Western District of Washington
Post Office Box 1935
Tacoma, WA 98401

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

Re: United States of America, et al. v. State of Washington,
et al., No. 9213, U.S.D.C. W.D. Wash.

Dear Sir:

Please file the enclosed listed pleadings for the above-captioned cause:

- a. Plaintiffs' Second Requests for Admissions [Treaty Documents];
- b. Plaintiffs' Third Requests for Admissions [Anthropology];
- c. Plaintiffs' Fifth Requests for Admissions [Current Indian Fishing Practices];
- d. Plaintiffs' Sixth Requests for Admissions [Expert Biological Facts and Opinion, In Addition to that in the Seventh Requests for Admissions];
- e. Plaintiffs' Seventh Requests for Admissions [State Regulatory Patterns, Policies and Practices]; and
- f. Plaintiffs' Eighth Requests for Admissions [Additional Sub-Ultimate Issues].

Clerk of Court
May 21, 1973
Page 2

Please indicate the date of filing on the copy of this letter to be returned to this office in the enclosed self-addressed envelope. Thank you.

Sincerely,

STAN PITKIN
United States Attorney

Stuart F. Pierson
esg

STUART F. PIERSON
Special Assistant to
the United States Attorney

Enclosures