

5-25-1973

Docket Entry 228 - Filed answers to Interrogatories of Intervenor Lummi Indian Tribe to Washington Reef Net Owners Association

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MAY 25 1973

EDGAR SCOFIELD, CLERK

By eh Deputy

1 ZIONTZ, PIRTLE & MORISSET
2 Alvin J. Ziontz
3 3101 Seattle-First National Bank Bldg.
4 Seattle WA 98154 623-1255
5 Attorneys for Plaintiffs Makah, Lummi,
6 Quileute and Quinault Indian Tribes

7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 UNITED STATES OF AMERICA, et al.]

11 Plaintiffs,] CIVIL NO. 9213

12 v.]

13 STATE OF WASHINGTON, et al.,]

14 Defendants.]

Answers to
INTERROGATORIES OF INTERVENOR
LUMMI INDIAN TRIBE TO DEFENDANT
WASHINGTON REEF NET OWNERS
ASSOCIATION

15 COMES NOW the plaintiff-intervenor Lummi Indian Tribe and
16 pursuant to the Federal Rules of Civil Procedure, submits the
17 following Interrogatories to the Washington Reef Net Owners
18 Association. Where answers to a question cannot be completed in
19 the space provided herein, please attach separate sheets setting
20 forth the answers in full.

21 1. QUESTION: State the names and addresses of all members
22 of your Association.

23 ANSWER: See attached list designated as "Exhibit A".

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28 Interrogatories to Defendant Wash-
ington Reef Net Owners Assoc. - 1

228
ZIONTZ, PIRTLE & MORISSET
ATTORNEYS AT LAW
3101 SEATTLE-FIRST NATIONAL BANK BLDG.
SEATTLE, WASHINGTON 98104
MAIN 3-1255
332 D 228

1 2. QUESTION: When was your organization established? If
2 there was a predecessor organization, state when it was establish-
3 ed.

4 ANSWER: January 8, 1955.

5 Predecessor organizations consisted of an unaffiliated
6 "union" from 1938 to 1940, which in 1940 affiliated with I.F.A.W.A.
7 This affiliation terminated and subsequently, on July 1, 1950, the
8 union affiliated with the International Longshoremen's and Ware-
9 housemen's Union, receiving a charter as Local No. 3-4 on that
10 date. This union, and the Longshoremen's affiliation, were
11 dissolved in January of 1954.

12 3. Attach a copy of the Constitution and By-laws of your
13 Association if any are in existence, or state where and how a
14 copy can be secured by plaintiff-intervenor for inspection and
15 copying.

16 ANSWER: Copy attached.

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20 4. QUESTION: State the names of the present officers,
21 trustees and directors of the Association.

22 ANSWER: Tom Philpott, President
23 Jerry Anderson, Vice President
24 Robert Jewell, Executive Secretary
25 Willis Wright, Treasurer
26 Andrew Yurovchak, Trustee
27 Glenn Schuler, Trustee
28 John Brown, Trustee

Interrogatories to Defendant Wash-
ington Reef Net Owners Assoc. - 2

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332 E

1 5. QUESTION: What functions does your organization perform?

2 ANSWER: See Constitution and Bylaws hereto attached.

14 6. QUESTION: How is it determined which fisherman will
15 occupy which reef net sites?

16 ANSWER: Historically, in order to operate as a viable
17 industry, a spot once occupied by a reef netter and his necessary
18 boats and equipment, remains his so long as he continues to own
19 his equipment and to fish actively. Heavy cement anchors and
20 lines are necessary for locating and operating the necessary gear
and these are left in place year-round and re-activated when the
following season commences. Conservation and practical consider-
ations dictate that a known space be left between the various
gears while they are in operation thus creating so-called "rows".
Thereafter, the various operators are referred to as fishing in
"Row 1" or "Row 2", etc.

21 So that adequate conservation measures can be maintained by
22 the State Department of Fisheries, reef net operators each year
23 obtain a license, but the license is in no way restricted to, or
24 intended to cover, any given "location" or fishing spot.

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Interrogatories to Defendant Wash-
ington Reef Net Owners Assoc. - 3

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MAIN 3-1255 332 F

1 7. QUESTION: Is there any limit to the number of boats
2 owned or operated by any single person or group of persons?

3 ANSWER: No.

11 8. QUESTION: Were any boats owned or operated by Lummi
12 Indians during the 1972 fishing season?

13 ANSWER: No.

17 9. QUESTION: How did it come about that there are almost
18 no Lummi Indians presently occupying reef net sites as reef net
19 fishermen?

20 ANSWER: This interrogatory basically calls for speculation
21 as to decisions made in the minds of the Lummis themselves and
22 hence cannot be fully nor accurately answered. Certain members
23 of the Association have in the past sought and hired Lummis to
24 work as crew members;. Lummis applying for positions as crew
25 members have always been considered on an equality with all other
26 applicants when crew member vacancies existed.

27 Further, it is believed by members of the Association that
28 the seasonal nature of reef netting, operating as it presently
does on restricted hours and fishing periods, does not lend
itself to meeting the economic and support requirements of the
tribal members for the remainder of the year whereas the owners
and crew members--the latter frequently being high school or
college students--have other resources or activities for the non-
fishing portion of the year.

Interrogatories to Defendant Wash-
ington Reef Net Owners Assoc. - 4

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1 10. QUESTION: What are the sources of the information for
2 the above answer?

3 ANSWER: Experience and observation.
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11 11. QUESTION: State the names of all persons having special
12 knowledge or personal experience which would explain in any manner
13 why Lummi Indians are not participating in the reef net fishery?

14 ANSWER: All members of the Association have such
15 knowledge in varying degrees but, because of their extensive
16 experience with the operations, members, John Brown, Tom Philpott,
17 Jerry Anderson, Glenn Schuler, Will Wright, Jack Giard and ^{retired member} Marion
18 Tuttle could confirm, and possibly expand upon, the foregoing
19 answers including, if necessary, giving specific names and
20 instances.
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Interrogatories to Defendant Wash-
ington Reef Net Owners Assoc. - 5

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SEATTLE, WASHINGTON 98104
MAIN 3-1255

332 H

1 12. QUESTION: What rights do you claim under the allegations
2 of paragraph 1 of your third affirmative defense?

3 ANSWER: We are unable to determine specifically at
4 what this interrogatory is directed, there being no specific
5 "Third affirmative defense" set forth. The complete answer will
6 be supplied upon receipt of clarification of the request.
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15 13. QUESTION: What persons are entitled to such rights.

16 ANSWER: See answer to 12 above.
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Interrogatories to Defendant Wash-
ington Reef Net Owners Assoc. - 6

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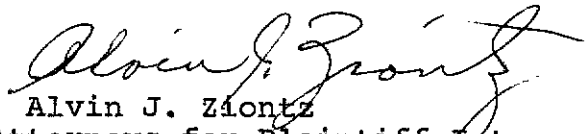
332 I

1 14. QUESTION: What is your position regarding entry of
2 Lummi Indians into the reef net fishery at this time?

3 ANSWER: They are equal before the law with all others
4 and hence have the right to acquire, either by construction or
5 purchase, all of the necessary gear, acquire a license and there-
6 after fish on an equal basis with others, observing the same
7 conservation requirements and principles that apply to the other
8 owners and crew members.
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15 DATED this 27th day of April, 1973.
16

17 ZIONTZ, PIRTLE & MORISSET

18 
19 By: Alvin J. Ziontz
20 Of Attorneys for Plaintiff-Inter-
21 venor Lummi Indian Tribe
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Interrogatories to Defendant Wash-
ington Reef Net Owners Assoc. - 7

ZIONTZ, PIRTLE & MORISSET
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SEATTLE, WASHINGTON 98104
MAIN 3-1255 332 J

1 STATE OF WASHINGTON)
2) ss.
3 COUNTY OF WHATCOM)

4 TOM PHILPOTT, being first duly sworn, on oath says:

5 He is the president of the Washington Reef Net Owners
6 Association and is authorized to answer the foregoing interrogatories
7 upon its behalf. He has read the foregoing answers to the
8 interrogatories, and believes them to be correct, reserving,
9 however, the right to amend or supplement the foregoing answers
10 for clarification or if further information becomes relevant.

11 Tom Philpott
12 TOM PHILPOTT

13 Subscribed and sworn to before me this 12 day of May,
14 1973.

15 John L. Larson
16 NOTARY PUBLIC in and for the
17 State of Washington, residing
18 at Bellingham.

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Answers

ASMUNDSON, RHEA & ATWOOD
ATTORNEYS AT LAW
SUITE 220 BELLINGHAM NATIONAL BANK BUILDING
BELLINGHAM, WASHINGTON 98225
TELEPHONE 733-3370

332 K

EXHIBIT A

5/10/73 Members of the WASHINGTON REEF NET OWNERS ASSOCIATION

Jerry M. Anderson, Box 1, Lummi Island 98262
Don Adema, 1555 Seacrest Rd. Lummi Is.
John R. Brown, 4098 Logoe Bay Rd., Lummi Is.
Stanley Bianchi, RFD # 1, Blaine, 98230
Dave Barlean, 101 Everson Goshen Rd. Everson 98247
Norman Boyes, P.O. Box 71, Lummi Is
Richard Cline, 1322 paradise Rd. Ferndale, WA 98248 * owned jointly with B. Cline
Robert L. Cline, 2476 Crestline Rd. Ferndale 98248
Herbert B. Cole, 1929 Lake Whatcom Blvd, Bellingham 98225
Jack Giard, Lopez Island, WA 98261 * owned with 3 names below.
T.J. Blake, Lopez Island 98261
Roy Buzzard, Lopez Island 98261
Ted E. Rickey, Lopez Island 98261
Warren C. Granger, 2100 Tuttle Lane, Lummi Island 98262
Calvin Graham, 17823 24th Ave N.E., Seattle, WA 98108
James Hawley Jr., P.O. Box 474, Ferndale 98248
Robert E. Jewell, 2417 View Ridge Dr., Bellingham 98225
Mrs. Violet Jewell, 2409 Grant St., Bellingham 98225
Robert E. Jenison (Island Fisheries), Rt # 1., Box 74, Lopez Island 98261
Jay T. Jackson, Friday Harbor, WA 98250
C. Bruce Lintz, Lane Spit Dr., Lummi Island, WA 98262
Lloyd Lillie, Shaw Island, WA 98286
Ralph Lillie, Shaw Island, WA 98286
Tom B. Philpott, 3760 E. Smith Rd., Bellingham, WA 98225
Larry Roughton, P.O. Box 105, Lummi Island 98262
Ron Roughton, 2807 1/2 Birchwood Ave, Bellingham, WA 98225
Willis Roughton, P.O. Box 22, Lummi Island, WA 98262
Will Roughton Jr., 3359 Hollywood St., Bellingham, WA 98225
Glenn Schuler, 2467 North Nugent Rd., Lummi Island, WA 98262
Craig Smith, 1981 1/2 80th Pl. West, Edmonds, WA 98020
Rodney Vroman, 320 15th St., Snohomish, WA 98290
Willis K. Wright, P.O. Box 9, Lummi Island, WA 98262
Thelbert R. Woods, 104 Emerson, Everson, WA 98247
Wayland Woddlle (R.E. Wood), 7390 Theal Rd, Lynden, WA 98264
Andrew Yurovchak, 2209 Huron St., Bellingham, WA 98225
Ralph Pauley, 4354 Northwest Rd., Bellingham, WA 98225
Robert Suggs, 1450 Telegraph Rd., Bellingham, WA 98225
Charles Brown, Friday Harbor, WA 98250
Harold Ogdon, Rt. # 1 Box 55, Lopez Island, WA 98261

CONSTITUTION

WASHINGTON REEF NET OWNERS ASSOCIATION

ARTICLE I

NAME

- SECTION 1. This organization shall be known as the Washington Reef Net Owners' Association

ARTICLE II

OFFICE

- SECTION 1. The headquarters, City and Office of this corporation shall be the address of the executive secretary.

ARTICLE III

TERRITORY

- SECTION 1. The territory to which this group shall confine its operations is the entirety of all waters outside of the so called "77 line" in Puget Sound.

ARTICLE IV

OBJECTS

- SECTION 1. To promote the continued propagation, restoration and rehabilitation of salmon runs in the State of Washington.
- SECTION 2. To cooperate with all other groups interested in our fisheries resources in striving for a continually better conservation program, and practice of that program in the State of Washington.
- SECTION 3. To work with the other segments of the commercial fishing industry in an attempt to gain the respect of all of the citizens of the State of Washington.
- SECTION 4. To create and foster public sentiment in favor of the protection and restoration of Salmon.
- SECTION 5. To promote increased scientific research and scientific management of our salmon resources.
- SECTION 6. To keep partisan politics out of the management of the fishing industry.
- SECTION 7. To promote more efficiency in fishing methods within our own segment of the industry.
- SECTION 8. To govern and regulate the Reef Net fishing industry.
- SECTION 9. To handle all public relations for the Reef Net fishing industry.
- SECTION 10. To cooperate with all other Associations or Agencies having similar objectives.

332M

ARTICLE V

VOTING MEMBERSHIP

- SECTION 1 Voting membership in the Washington Reef Net Owners' Association is limited to owners of Reef Net Fishing Gears.
- SECTION 2 In the case of one owner having in his possession ownership of several reef net gears, he may still have only one vote.
- SECTION 3 In the case of plural ownership on one gear, the gear shall be represented by only one vote, the castor of that vote to be decided by the owners of the gear. However, all of the owners shall be considered members of the Association

ARTICLE VI

FEES, DUES, AND ASSESSMENTS

- SECTION 1 Dues in the Association shall be assessed at the annual meeting.
- SECTION 2 The association may place an assessment upon the membership as suggested and recommended by the Executive Board, providing all members have been notified in advance of the meeting that the question of assessment is to come up. A three fourths vote of the membership present at the called meeting shall be necessary to place an assessment upon the Association.
- SECTION 3 All payment of dues, fees or assessments shall be paid to the treasurer.
- SECTION 4 Any member failing to pay his dues or assessments more than three months after due shall be suspended from membership in the Association.
- SECTION 5 The Executive Secretary shall notify any member upon his suspension, at which time the member shall be allowed a maximum period of three months in which to re-instate himself by paying all dues, fees, or assessments owed the Association.

ARTICLE VII

SUSPENSION

- SECTION 1 The Association may suspend or expel any member by a two thirds vote of all members at the meeting called for that purpose, on receiving evidence of his having committed acts inconsistent with objects of this Association.

ARTICLE VIII

OFFICERS

- SECTION 1. The officers of this Association shall be a President, a Vice-President, an Executive-Secretary, a Treasurer and three Trustees. The foregoing seven members to make up the Executive Board.

ARTICLE IX

DUTIES OF OFFICERS

- SECTION 1 The President shall have the following duties:
- (a) He shall be chief executive of the organization and shall serve in this capacity.
 - (b) He shall preside at all general and special meetings and shall call any and all special meetings.
 - (c) He shall have such other duties and powers as shall be assigned to him by the Executive Board or the general membership.
- SECTION 2 The Vice-President shall perform the following duties:
- (a) He shall be vested with all powers and shall perform all duties of the President in case of absences or disability of the President.
 - (b) He shall have such other duties and powers as shall be assigned to him by the Executive Board or the general membership.
- SECTION 3 The Executive Secretary shall perform the following duties:
- (a) He shall keep a full and complete record of the proceedings of all meetings.
 - (b) He shall have charge of all books, papers, and documents belonging to the Association and shall deliver same to his successor.
 - (c) He shall send out notices to the members of all meetings and perform such other duties incident to the office of Executive-Secretary, subject to the control of the President and the Executive Board.
 - (d) The Executive-Secretary shall serve without salary, unless otherwise ordered by majority of the Executive Board.
- SECTION 4 The Treasurer shall have the following duties:
- (a) He shall collect all dues and keep roll of all members in conjunction with the Executive Secretary.
 - (b) He shall have custody of all moneys of the organization and shall pay all bills, claims, or rewards as approved and directed by the Executive Board, unless otherwise authorized and entered in the record.
 - (c) He shall keep an accurate and full account of all receipts and disbursements and shall exhibit a full written statement of financial affairs of the Association at the completion of the fiscal year or at the request of the Executive Board.
 - (d) He shall give a financial report at each meeting, listing receipts, disbursements and money on hand.
 - (e) The Executive Board may request an audit of the books at any time.
 - (f) The Treasurer shall hand over to his successor in office within ten days after the election of his successor, a complete and accurate financial statement together with all funds, books, and records pertaining to his office.
 - (h) He shall perform such other duties incident to the office of Treasurer, subject to the control of the President and the Executive Board.

ARTICLE X

EXECUTIVE BOARD

- SECTION 1 The Executive Board shall have control and management of the property and affairs of the Association.
- SECTION 2 In addition to having supervision and control of the Association, the Executive Board shall have power to suspend members of the Association pending a full hearing and action by the membership.
- SECTION 3 They may also prescribe rules regulating the affairs and conduct of the Association not inconsistent with this Constitution for approval of the Association at its next meeting.
- SECTION 4 The Executive Board shall be authorized to sanction payment of all bills by the Treasurer.
- SECTION 5 An elected Representative from each geographical area may attend each meeting of the Executive Board, in an advisory capacity. The Executive-Secretary shall be instructed to notify the representative of each area before each Executive Board meeting.

ARTICLE XI

QUORUM

- SECTION 1 An attendance of seven members at a meeting shall constitute a quorum.
- SECTION 2 A majority of the Executive Board shall be required to constitute a quorum of that body.

ARTICLE XII

VACANCIES

- SECTION 1 The Executive Board shall have full power to fill any vacancies among offices which shall occur from resignation or otherwise, until the next election.

ARTICLE XIII

MANNER OF ELECTIONS

- SECTION 1 There shall be elected a President, a Vice-President and Executive Secretary, and a Treasurer, to be elected each year. Three Trustees shall also be elected, one each year, and shall serve three year terms.
- SECTION 2 Nominations for these offices shall be made at the annual meeting.
- SECTION 3 Elections shall be conducted and held at the annual meeting.
- SECTION 4 Only regular members in good standing shall make nominations or vote at elections. Each voting member is entitled to only one vote for each office.

SECTION 5 A simple majority shall elect an officer provided, however, that if no one candidate receives a majority of votes cast, a run-off election shall be held between the two candidates receiving the highest number of votes.

SECTION 6 The President shall have power to appoint necessary committees and persons to efficiently carry out elections.

SECTION 7 All new officers elected at the annual meeting shall take office before adjournment at that meeting.

ARTICLE XIV

MEETINGS

SECTION 1 The only set meeting date for the Association shall be the annual meeting which shall be held the second Saturday in January of each year.

SECTION 2 The President or the Executive Board shall call all other meetings.

ARTICLE XV

COMMITTEES

SECTION 1 Committees shall be appointed by the President or selected by the membership at the pleasure of the membership.

ARTICLE XVI

AMENDMENT

SECTION 1 A proposed amendment shall be presented to the Executive Board in writing for referral to the general membership.

SECTION 2 Before an amendment can pass, each member shall be sent a copy of the amendment before the meeting at which it is to be voted upon.

SECTION 3 An amendment may be passed by a two thirds majority of the members present at the regular meeting.

BY-LAWS

WASHINGTON REEF NET OWNERS' ASSOCIATION

ARTICLE I

ORDER OF BUSINESS

- SECTION 1 The order of business at any regular meeting of the Association shall be as follows:
- a. Call to Order
 - b. Reading of Minutes
 - c. Reading of Communications
 - d. Reports of Committees and Officers
 - e. Unfinished Business
 - f. New Business
 - g. Election of Officers
 - h. Good of the Order
 - i. Adjournment
- SECTION 2 Order of business may be altered as the occasion may require by a majority of members present.
- SECTION 3 The rules contained in Roberts Rules of Order, Revised, shall govern all meetings where they are not inconsistent with these By-Laws.

This Constitution and By-Laws adopted in
Bellingham, Washington, January 8, 1955.

ADDRESS REPLY TO
UNITED STATES ATTORNEY
REFER TO
AND NUMBERS

SEP:lf

9213

States Department of Justice

UNITED STATES ATTORNEY

WESTERN DISTRICT OF WASHINGTON
UNITED STATES COURT HOUSE
SEATTLE, WASHINGTON 9814

May 21, 1973

FILED IN THE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

MAY 22 1973

EDGAR SCOFIELD, CLERK

By _____ Deputy

Mr. Joseph L. Coniff
Assistant Attorney General
Department of Game
600 N. Capitol Way
Olympia, Washington 98501

Re: United States v. Washington
No. 9213, W.D. Wash.

Dear Mr. Coniff:

Attached are Sets II through VIII of our requests for admissions, due to be propounded today under the terms of Paragraph 10 of the April 24 order regarding the pretrial schedule. Set I [Treaty Status and Standing] was propounded to you and served by hand on April 24, 1973.

1. Since the design and structure of these requests may not appear self-evident, I am setting forth below a brief index:

Set II [Treaty Documents], 9 pages; numbers 73 through 103, consecutive;

Set III [Expert Anthropological Facts and Opinions], 82 pages; numbers 3.001-.055 (Summary), 3.100-.127 (Puyallup), 3.150-.170 (Nisqually), 3.200-.210 (Squaxin Island), 3.250-264 (Skokomish), 3.300-.315 (Muckleshoot), 3.350-357 (Stillaguamish), 3.400-.428 (Quileute and Hoh), 3.450-.477 (Makah), 3.500-.517 (Lummi), 3.550-.565 (Sauk-Suiattle), 3.700-.718 (Yakima), 3.800-.801 (Re: Carroll Riley), and 3.850-.851 (Re: Agreed Testimony, etc.);

Set IV [Expert Economic Findings and Opinions], 3 pages; numbers 4.000-.009;

Set V [Current Indian fishing practices] 28 pages, numbers 5.001-.005, 5.006-.013 (Summary), 5.200-.226 (Squaxin Island), 5.250-.276 (Skokomish), 5.300-.326 (Muckleshoot), 5.350-.372 (Stillaguamish), 5.550-.577 (Sauk-Suiattle);

Mr. Joseph L. Coniff

Set VI [Expert Biological Facts and Opinions], 12 pages, numbers 6.001-.021;

Set VII [Regulatory Patterns, Policies and Practices], 68 pages, numbers 7.100-.116 (Coffin), 7.200-.252 (Crouse), 7.300-.383 (Millenbach), 7.400-.427 (Lasater), 7.500-.518 (Neubrech), 7.600-615 (Interrogatories, etc.), 7.700-.725 (Tollefson), 7.800-.805 (Agreed Testimony, etc.);

Set VIII [Additional Sub-ultimate Issues], 6 pages, numbers 8.001-.019.

2. Note that the requests are not consecutive, but instead are split into sections. This arrangement will facilitate any reworking which we may find desirable before the final material is inserted into the pretrial order (as either stipulations or contentions).

3. Note also that we have not enclosed all of the exhibits. You already should have Exhibits USA-1 through 7, with Set I. The following exhibits are herewith enclosed: USA-8a, 8b through 34; USA-36 through 57a, b, c; USA-66 through 71; and USA-85 through 94. We are not enclosing Exhibit 35 at this time because of an unanticipated delay in copying the material; this exhibit will be forwarded to you shortly. We are not enclosing Exhibits USA-58 through USA-65 because those items (Indian Claims Commission Reports of Carroll Riley) have been delayed in the mail; they also will be forwarded very shortly. We assume that Dr. Riley has made copies of those items available to you already. We are not enclosing Exhibits USA-72, 73, and 76 through 83 because those items are tribal fishing regulations which we have already sent to you and which you should mark as follows: USA-72 - Nisqually (10/30/68), USA-73 - Quinault (3/29/69), USA-76 - Squaxin Island (10/27/67), USA-77 - Makah [3] (10/18/48 - 7/6/70), USA-78 - Muckleshoot (3/6/71), USA-79 - Quileute (10/11/41), USA-80 - Skokomish (1/21/64), USA-81 - Puyallup [3] (6/26/62 - 4/17/73), USA-86 - Yakima (3/23/66), USA-83 - Lummi (4/9/64).

We are not sending USA-74 or 75, because those are the economic expert reports of Gardner Brown and Robert Thomas, respectively, which have been sent to you under separate cover. Finally, we are not enclosing USA-84, because that item (an overlay map showing ceded areas and designated discovery document I-39) has already been forwarded to you by George Dysart.

Mr. Joseph L. Coniff

Also, I should note that I have not at this stage undertaken to reproduce a set of all exhibits for each counsel. You will have one set for the defendants. The Court will have a clean set for our later use in connection with formulating the pretrial order. There will be a plaintiffs' set in Seattle or Portland (or both); and I will have a set in Washington.D.C. I am hoping that, in line with the spirit of earlier discovery stipulations, we can retain the depository concept with regard to exhibits and thereby avoid excessive and costly reproduction. Let me know if you would prefer to proceed in a different manner.

Due to the unusual reproduction difficulties associated with Exhibits USA-85 through USA-94, we have not reproduced any copies from the originals at this time. We are sending the originals to you and we will make arrangements for appropriate reproduction shortly.

4. Jim Heckman is preparing some illustrative material which we anticipate using with his testimony, primarily with respect to his references regarding the Columbia and Fraser River fisheries. These items have been delayed somewhat due to the time Mr. Heckman has recently been spending in deposition and in preparing the Joint Biological Statement. These materials will be available within two weeks.

5. George Dysart will be sending you, in advance of the depositions of the Puyallup and Nisqually tribal witnesses, brief summaries of their anticipated trial testimony, which should aid and facilitate your expeditious deposition of those witnesses.

6. During the deposition of Walter Neubrech, we agreed that you would provide a letter of counsel as an exhibit to the deposition. I have not received that letter with my copy of the deposition. Could you please forward it to me at your earliest convenience.

7. On April 30, 1973, I wrote you asking for a certified copy of the official minutes of the Game Commission meeting of October 2, 1972 and for similar copies of each Game Commission meeting since October 2. I have not received these items. Could you please forward them to me at your earliest convenience. We expect to offer them in our case in chief.

Mr. Joseph L. Coniff

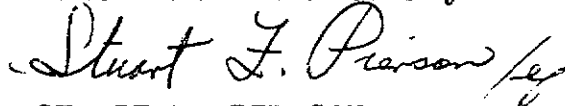
8. I called your office May 18 to discuss with you the interpretation which I have shared with co-counsel regarding provisions of the April 24 order relating to Requests for Admissions (paragraph 10 and 16). I dictated the message to your secretary, who advised that you were in Court. My purpose was to explicitly point out, so as to avoid any misunderstanding, that since there are still some uncompleted depositions and interviews, and problems related to plugging in the input of all plaintiffs' counsel on these Requests for Admission, there are likely to be some subsequent modifications, clarifications, or supplements. My point of reference is the approach we all followed in the "Puyallup Reservation Boundary" case and your previously expressed views as to the proper interpretation of the April 24th Order in this case.

My attempt to keep the ball rolling with as comprehensive and detailed a breakdown of currently available information as possible should accomplish the purpose of informing the defense about the Government's case at this stage of the proceedings, such a mammoth undertaking, regrettably long-distance from Washington, D.C., is bound to include some error or omission not now known to me. As discovery proceeds and consultation with co-counsel develops, such errors or omissions will be made known to you and the Court post haste - certainly well in advance of the occasion for submitting the proposed pretrial order. Of course there is also the potential for negotiating consensus language between Plaintiffs and Defendants to cover troublesome language in my proposed Request for Admissions which may be standing in the way of agreement or substance.

Should you have any questions concerning the matters discussed herein, please contact me by phone in Washington, D.C.

Sincerely,

STAN PITKIN
United States Attorney



STUART F. PIERSON
Special Assistant to the
United States Attorney

cc: Honorable George H. Boldt
All Counsel