

5-29-1973

## **Docket Entry 230 - Filed Defendant Washington Department of Game's answers to Plaintiffs' last set of Interrogatories**

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

15 UNITED STATES OF AMERICA, et al., )

16 Plaintiffs, )

17 v. )

18 STATE OF WASHINGTON, et al., )

19 Defendants. )  
20

CIVIL NO. 9 2 1 3

DEFENDANT WASHINGTON  
DEPARTMENT OF GAME'S  
ANSWERS TO PLAINTIFFS'  
LAST SET OF INTERROGATORIES

21 COMES now the Defendant Washington Department of Game  
22 and hereby submits its answers to Plaintiffs' last set of  
23 interrogatories dated April 30, 1973.

24 261. Do the defendants contend that any agent or agency  
25 of the Federal Government has within the past decade contributed  
26 to the decline of, destruction of, or adverse effects upon any  
27 anadromous fish runs subject to regulation by the defendants.

28 A. Yes.

29 262. If the answer to Interrogatory 261 is affirmative,

30 a. Who is contended to have so contributed,

31 A. United States Forest Service and federally  
32 authorized dams.

33 b. What runs were involved,

1 A. Runs in streams within and tributary to areas  
2 logged in last decade and areas affected by federally licensed  
3 dams.

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4 c. Where did the contended contributory action  
5 take place, and

6 A. Where logging occurred or dams were constructed.

7 d. In what manner did the action contribute to  
8 such decline, destruction or adverse effects.

9 A. Siltation of stream bed, adverse change in  
10 water flow characteristics and fish losses due to impoundments  
11 of waters.

12 263. If the answer to Interrogatory 261 is affirmative,  
13 in defendant's opinion has the defendant or any of its agents  
14 contributed to the decline of, destruction of, or adverse  
15 effects upon the runs involved.

16 A. Yes, to the extent that federal employees have  
17 encouraged Indians to violate state conservation laws in  
18 off-reservation waters.

19 264. If the answer to Interrogatory 263 is affirmative,

20 a. Who so contributed,

21 b. What runs were involved,

22 c. Where did the contributory action take place, and

23 d. In what manner did the action contribute to such  
24 decline, destruction, or adverse effects.

25 A. Same as 263.

26 265. Do the defendants contend that any of the tribes  
27 represented in this case, or their members, has within the  
28 past decade contributed to the decline of, destruction of,  
29 or adverse effects upon any anadromous fish runs subject to  
30 regulation by the defendants.

31 A. Yes.

32 266. If the answer to Interrogatory 265 is affirmative,

33 a. Who is contended to have so contributed,

1 A. All tribes involved in net fisheries and who  
2 control lands on which logging has occurred.

3 b. What runs were involved,

4 A. In all river systems involved in (a).

5 c. Where did the contended contributory action  
6 take place, and

7 A. Indian controlled land

8 d. In what manner did the action contribute to  
9 such decline, destruction, or adverse effects.

10 A. Siltation and reduction of upriver escapement  
11 of steelhead.

12 267. If the answer to Interrogatory 265 is affirmative,  
13 in defendant's opinion has defendant or any of its agents  
14 contributed to the decline of, destruction of, or adverse  
15 effects upon the runs involved.

16 A. No.

17 268. If the answer to Interrogatory 267 is affirmative,  
18 a. Who so contributed,  
19 b. What runs were involved,  
20 c. Where did the contributory action take place, and  
21 d. In what manner did the action contribute to  
22 such decline, destruction or adverse effects.

23 A. Not applicable.

24 269. Do the defendants contend that any agency, or agent  
25 of the Federal Government has within the past decade exercised  
26 regulatory or management authority over any anadromous fish  
27 runs subject to regulation by the defendants.

28 A. No, except for legal arguments presented and rejected  
29 by the United States Supreme Court in Puyallup Tribe v.  
30 Department of Game, 391 U.S. 392 (1968).

31 270. If the answer to Interrogatory 269 is affirmative,

32 a. Who is contended to have exercised such authority,

33 b. When was the authority exercised,

1 c. Where was the authority exercised,  
2 d. What runs were involved, and in what manner  
3 was the authority exercised.

4 A. Not applicable.

5 271. In determining what management techniques, activities  
6 or regulations you will utilize, have you relied within the  
7 past decade upon any persons or agencies outside your own.

8 A. Yes.

9 272. If the answer to Interrogatory 271 is affirmative,  
10 what persons or agencies have been relied upon and generally  
11 what assistance has been given from each such person or agency.

12 A. Consulted with the National Park Service establishing  
13 regulations on streams involved in their contiguous jurisdiction.  
14 Consulted with Department of Fisheries and with sportsmen in  
15 formulation of regulations and establishing management programs.

16 273. (As to those defendants who have permitted fishing  
17 in marine areas:) Is it accurate to say that a restriction  
18 on the amounts of fish harvested within the run is passing  
19 through northern Puget Sound (i.e., areas 1 and 2) will usually  
20 cause an increase in the volume of fish in that run when it  
21 enters southern Puget Sound waters.

22 A. Not significant for steelhead because they are not  
23 taken in any great numbers in salt water.

24 DATED this 26th day of May, 1973.

25  
26 *Clifford Millenbach*  
27 CLIFFORD MILLENBACH  
28 *by [Signature]*

29 \* Witness Millenbach prepared  
30 answers but not available  
31 for signature within  
32 deadline for filing.  
33

**ASMUNDSON, RHEA & ATWOOD**

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733-3370

May 24, 1973

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**MAY 25 1973**

Office of Clerk  
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Tacoma, Washington

Clerk of U. S. District Court  
United States Court House  
Tacoma, Washington 98402

Dear Sir:

In re: U. S. vs. Washington  
No. 9213

Herewith the Answers of the Washington Reef Net Owners  
Association to the interrogatories propounded by plaintiff  
intervenor Lummi Indian Tribe.

Very truly yours,

ASMUNDSON, RHEA & ATWOOD



David E. Rhea

DER/ss

Enclosure

cc: Ziontz, Pirtle & Morisset