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Docket Entry 250 - Filed Deposition of Herman Olsen

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,)	No.: Civ. No. 9213
et al.,)	
)	PRETRIAL ORAL DEPOSITION
Plaintiffs,)	OF
)	<u>HERMAN OLSEN</u>
vs.)	
)	220 Bellingham National
STATE OF WASHINGTON, et)	Bank Building
al.,)	Bellingham, Washington
)	
Defendants.)	May 17, 1973.
)	

FILED IN THE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

JUN 14 1973

EDGAR SCOFIELD, CLERK

By eh Deputy

(Original)

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CORRECTION SHEET

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"64" for "63."

Herman Olsen
HERMAN OLSEN

Subscribed and sworn to before me this 8th day
of June 1973.

Paul H. Hansen
Notary Public in and for the
State of Washington, residing
at Bellingham.

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STATE OF WASHINGTON, et)	Bank Building
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)	
Defendants.)	May 17, 1973.
)	

APPEARANCES:

ALVIN J. ZIONTZ, of Messrs. Ziontz, Pirtle
& Morisset, 3102 Seattle-First National Bank
Building, Seattle, Washington (98154),
For the Plaintiff Intervenor
Lummi Indian Tribe.

DAVID E. RHEA, of Messrs. Asmundson, Rhea &
Atwood, 220 Bellingham National Bank Building,
Bellingham, Washington (98225),
For the Defendant Intervenor
Washington Reef Net Owners
Association.

1 Deposition of HERMAN OLSEN, a witness of
2 lawful age, taken in the above-entitled cause, wherein
3 UNITED STATES OF AMERICA, et al., are plaintiffs and
4 STATE OF WASHINGTON, et al., are defendants, pending in
5 the United States District Court for the Western District
6 of Washington, prusuant to oral stipulation between
7 counsel, at the instance of Defendant Intervenor Wash-
8 ington Reef Net Owners Association, before Basil D.
9 Rasmussen, a notary public in and for the State of
10 Washington, County of Whatcom, residing at Bellingham,
11 at 220 Bellingham National Bank Building, Bellingham,
12 Washington, on the 17th day of May, 1973, commencing at
13 the hour of 5:45 o'clock p.m.

14
15 (It was stipulated by and between counsel,
16 Mr. Rhea and Mr. Ziontz, that the deposition
17 was being taken on oral stipulation, and that
18 oral notice of said deposition had been
19 given to defendants' liaison counsel, counsel
20 for the Department of Game and the United
21 States of America.)

22
23 HERMAN OLSEN,
24 a witness of lawful age, and being first duly
25 sworn in the above cause, testified on his oath,
as follows:

1 BY MR. RHEA:

2 Q Give us your full name and your address, please.

3 A Herman Olsen, Marietta, Washington, Box 108.

4 Q And what is your occupation?

5 A Nothing, because I quit working.

6 Q What is your age?

7 A What?

8 Q What is your age; how old are you?

9 A Sixty-three today. Sixty-three.

10 MR. ZIONTZ: Happy birthday.

11 BY MR. RHEA:

12 Q What occupation did you follow before you retired?

13 A Well, I was a, well, a commercial fisherman; fish
14 cutter, filleter.

15 Q Where were you a filleter?

16 A Oh, for Beach Fish Company, to start with, Dahl Fish
17 Company, Bornstein's, Washington Fish & Oyster, Keystone
18 Fish Company, New England Fish.

19 Q How many years altogether, then, Mr. Olsen?

20 A Thirty-seven, I think altogether.

21 Q And how long did you do any form of commercial fishing?

22 A I fished every year in between times.

23 Q All right.

24 I mean how long, how many years in all?

25 A All my life. I fished pretty near all my life. I

1 started in reefnetting when I was twelve years old.

2 Q Where was that, Mr. Olsen?

3 A Open Bay, Henry Island.

4 Q Is that still reefnetted there?

5 A Yes.

6 Q By whom?

7 A Little. A fellow by the -- some people by the name of

8 Little runs that now.

9 Q How long did you fish at that location there on Henry

10 Island?

11 A Oh, I started when I was twelve and I quit when I was

12 about twenty-one, I think.

13 Q What did you do by way of commercial fishing after that

14 when you became twenty-one?

15 A Oh, I fished mostly out of Marietta -- gillnetting.

16 Q That was the next question I was going to ask, how

17 did you fish. That was gillnetting?

18 A Uh-huh.

19 Q What other form of fishing have you followed?

20 A I have purse seined, reefnetted.

21 Q Have you ever owned a purse seine?

22 A I tried it once and I just lasted one year.

23 Q Have you ever owned a gillnetter?

24 A Not a big gillnetter. I own all my own gear, have owned

25 all my own river gear.

1 Q Do you still own it?

2 A I have still got some, yes.

3 Q When did you resume reefnetting there after you had

4 stopped it for a while when you attained the age of

5 twenty-one?

6 A Oh, I come over here on the mainland and I don't remember

7 what year it was when I went to Lummi Island. I think

8 it was in the second year or third year that they had

9 them out there that I went out.

10 Q On Lummi Island?

11 A Uh-huh.

12 Q For whom did you work then?

13 A I went to work for Spence Collett.

14 Q Collett, you say?

15 A Uh-huh.

16 Q How long did you work for him?

17 A By golly, I couldn't tell you how many years.

18 Q Did you do any reefnetting after you reefnetted for

19 Mr. Collett?

20 A Oh, yes. I owned a rig of my own out there.

21 Q Where was it?

22 A It was in -- oh, it was right in front. I think it was

23 in Row 5, wasn't it? Where did John go? It was in

24 Row 5, wasn't it, a row ahead of old man Wagon Wheels?

25 Six.

1 Q How long did you own this one in Row 6?
2 A Two years. Me and another fellow owned it together.
3 Q Did just the two of you fish it or did you have a
4 crew?
5 A No, we had a full crew.
6 Q Four?
7 A Five.
8 Q Five.
9 Did you sell the gear?
10 A Yes.
11 Q To whom?
12 A We sold that to John Barlean.
13 Q Approximately when was that that you sold your gear to
14 John Barlean?
15 A By God, I don't even know that. 1940, I think.
16 Q Why did you sell?
17 A We didn't have no room to put one out there. We got
18 kind of squeezed out, our space got too short.
19 Q Well, caused by what?
20 A The reef nets behind us was -- I was too close to the
21 fellow behind us and the fellow was too close to me in
22 front.
23 Q Who were they?
24 A I don't remember who they were. I really don't. I
25 don't remember who they were.

1 Q Do you want to say that that was a deliberate action
2 on their part?

3 A No, I was just the last one setting in, that was the
4 trouble.

5 Q To whom did you sell?

6 A Barlean.

7 Q Yes. You've answered that.
8 Did he fish it?

9 A No. Unh-unh. He put it somewhere else. I don't
10 know where he put it. I never went back to Lummi
11 Island after that.

12 Q I was going to ask you have you ever noticed whether
13 anyone was fishing in the location that you fished
14 when you owned the gear which you later sold to Bar-
15 lean?

16 A I don't hardly think so.

17 Q You think that was approximately 1940 that you sold to
18 Barlean?

19 A Uh-huh.

20 Q Did you attempt to acquire or operate the reefnet
21 gear after that?

22 A Yeah, I went back out for Harold Eldred one year.

23 Q Did you work as a crew member for him?

24 A Uh-huh.

25 Q But did you attempt to purchase or to build a reefnet

1 set of your own --

2 A No. Unh-unh.

3 Q -- (continuing) after you sold to Barlean?

4 A No.

5 Q Have you ever had any desire, did you have any desire
6 after 1940 to do so?

7 A Yeah, I did. I would have liked to put in reef nets
8 in three or four other good locations. I know of.

9 Q Where? Where?

10 A I don't like to tell that. I might want to go out
11 there one of these days. In fact, there's six of them
12 that I'd like to fish.

13 Q Off of Lummi Island?

14 A Well, for Lummi Island there's no room for me.
15 Everything is pretty well taken up that's any good.

16 Q Have you heard -- well, strike that.

17 Have you looked into the possibilities of any
18 reefnetting at places other than Lummi Island, such as
19 Cherry Point or Point Roberts or at Lopez or Orcas or
20 San Juan Island?

21 A Yeah, I've been around pretty near all of them, but --

22 Q Have you ever endeavored to acquire a gear and set it
23 out at any of those locations?

24 A No. I would liked to have went back to Open Bay. I was
25 going to. I was going to go back to Open Bay.

1 Q Where and how were you going to acquire your reefnetting
2 gear?
3 A Well, the reason I didn't go is because I couldn't
4 afford to build an outfit and then lay off work that
5 long.
6 Q But you could have fished at Open Bay, couldn't you?
7 A What?
8 Q You could have fished at Open Bay if you had the
9 gear, couldn't you?
10 A Oh, yes.
11 Q Now, it has been said earlier this afternoon by Jerry
12 Anderson and by Glenn Schuler that there are various
13 openings there in various rows along Legoe Bay. Would
14 you be interested in acquiring gear and fishing
15 there?
16 A Well, if I -- health was real good, I would go back
17 there, but the only way I would go back is if there was
18 space in front of you for fish to get through.
19 Q Well, isn't there space in front for the fish to get
20 through for the other gears that are operating in those
21 rows?
22 A That's the reason there isn't anybody fishing them
23 now is because she was pretty well plugged off.
24 Q Do you think you have been consciously prevented from
25 fishing in waters here in upper Puget Sound with reef

1 nets?

2 A Well, I tell you. I couldn't see where I could go
3 out there and tell anybody to move, even though I
4 figured I owned the place.

5 Q How did you figure you owned the place?

6 A Well, it's an old family fishing grounds, we all know
7 that.

8 Q But the way, I didn't ask you this. I assume you're
9 a full member of the Lummi Tribe, are you not?

10 A Uh-huh.

11 Q Now, where did you mean the old tribal fishing grounds
12 that you've just referred to now?

13 A Well, pretty near all the reefnet, the old reefnet gears
14 were.

15 Q Which is where?

16 A Well, all of them. They were all run by Indians at one
17 time.

18 Q But where were they located then?

19 A Well, Lummi Island.

20 Q Where the present ones are?

21 A Yeah. Oh, yeah.

22 Q How about Village Point; wasn't that used by the Lummis?

23 A Yeah, that was Lummi-owned reef nets.

24 Q Why isn't it being reefnetted now?

25 A That was just a couple. There wasn't room enough left

1 for them.

2 Q At Village Point?

3 A Well, traps run them off, to start with. They didn't

4 have money to go ahead and fight the traps out.

5 Q Is it your position that no matter where you wanted to

6 have reefnetted you wouldn't have had room?

7 A That's right.

8 See, the traps in Open Bay, when the traps moved

9 into Open Bay, that knocked off three reefnet locations

10 there.

11 Q I'm sure that's true, but I say since the traps were

12 outlawed is it your feeling you couldn't have gone

13 anywhere and operated a reef net?

14 A Uh-huh. I did.

15 Q Why?

16 A I went in -- I did go out and put in a reef net.

17 Q Oh. All right.

18 And after you discontinued that is it your position

19 you couldn't have resumed reefnetting anywhere, gone

20 back to it?

21 A Oh, I guess I could have, yes.

22 Q These other fellows who are reefnetting yet they manage

23 to have enough leeway around themselves, don't they?

24 A Well, yeah, they have, but they would have a whole lot

25 better chance if there was less of them.

1 Q They might agree with you on that, but nonetheless --
2 A You see, -- I don't know -- but I believe in room; I
3 don't believe in being crowded.
4 Q I see.
5 Would you feel crowded if you fished with the same
6 distances between gears that these fellows are
7 operating with?
8 A No, I wouldn't feel it is.
9 Q You wouldn't feel crowded?
10 A No, that's not enough room.
11 Q Oh, you say that isn't enough room?
12 A It isn't.
13 Q It's not?
14 A No. Eight hundred feet isn't enough.
15 MR. RHEA: Off the record.
16 (Discussion off the record.)
17 BY MR. RHEA:
18 Q Do you have any close friends or close relatives whom
19 you feel have been excluded in any fashion from reef-
20 netting in the suitable waters of upper Puget Sound?
21 A No, I don't think I have. I don't think that there's --
22 well, as far as I'm concerned, I just walked off and
23 left and said nothing.
24 Q After selling to Mr. Barlean or after you had gone
25 back --

1 A No, after I --

2 MR. ZIONTZ: I don't know if Mr. Olsen under-
3 stood the drift of your last question.

4 MR. RHEA: Tell me which question it was
5 and I'll have Basil read it.

6 MR. ZIONTZ: Well, do you feel that any of
7 your -- do you have any friends or relatives that
8 you feel have been excluded from suitable waters
9 in upper Puget Sound.

10 MR. RHEA: Yes.

11 MR. ZIONTZ: Now, I'm not sure if he got that
12 question.

13 MR. RHEA: Yes.

14 BY MR. RHEA:

15 Q Do you understand my question?

16 A Well, I didn't understand that in the first place.

17 Q I am very glad to rephrase it.

18 Do you have any close friends or relatives whom
19 you feel have been denied the right to reefnet in
20 these waters where reefnetting is permissible?

21 A Yeah, lots of them. All kinds of them.

22 Q Tell me how and why.

23 A Well, there's at least fifty or seventy-five Indians,
24 I imagine, that could go out there and go reefnetting
25 now if there was a place for all of them to put in their

1 outfits.

2 Q Well, wouldn't they be willing to operate within the
3 same restrictions that the others have?

4 A I don't think so.

5 Q Why?

6 A Because there isn't room enough.

7 Q You feel they would feel as you do on that?

8 A Yeah, that's right.

9 Q It was said earlier this afternoon that the State
10 has required of these other licensed fellows who are
11 pursuing that game that the rows be eight hundred
12 feet apart. You realize, then, that's a State
13 regulation?

14 A Uh-huh.

15 See, we started out with twelve hundred to start
16 with years ago and then they started to whittle down to
17 a thousand feet, and then it was down to eight hundred
18 feet. Then I quit.

19 MR. RHEA: Excuse me.

20 (Discussion off the record.)

21 A Booth Fish Company set a trap right in front of us and
22 they took that to law and Booth Fish Company had to
23 move. They moved.

24 Q The traps, of course, were outlawed in early 1930's.

25 A Yeah, they went out, that was a long time after before

1 they went out, but they had to get back to twelve
2 hundred feet. They just moved their traps further
3 ahead, that was all; put in a bigger one.

4 Q Now, when you observed these Lummi using reef net gear
5 back when you were young and first started reefnetting,
6 did they differ much from the reef nets that are now being
7 operated say, for example, in Legoe Bay?

8 A Yes, quite a little bit.

9 MR. ZIONTZ: Okay. Let me just interrupt
10 here, Herman. I don't know if you've ever been
11 in a deposition before, but if you have any trouble
12 understanding what Mr. Rhea means by his question,
13 don't you hesitate to say, "I'm sorry; I don't
14 understand your question."

15 Q I agree with that advice. I want you to be sure you
16 understand what I am asking, both over the noise in
17 here and what it is I am saying, so for heaven's sake
18 stop and ask and say, "I don't understand your
19 question." I will be glad to rephrase it or repeat
20 it. All right.

21 Now to get back to the question we were just
22 asking, the differences, and you were just starting to
23 say what the differences were between the early Lummi
24 gear that you first saw and those that are being used
25 now.

1 A There's a lot of differences, a lot of changes, and I
2 made lots of them myself.

3 Q Let's hear about them. It sounds interesting.

4 A Well, I made them bigger. Made them deeper, made
5 bigger nets.

6 The first reef nets that was put in, I imagine
7 they was all put in just by guessing, just guess at
8 them. When I put in reef nets I put them in just
9 like a carpenter builds a house, everything was
10 measured, and I think they still go the same way. I
11 don't think there's been any changes made outside of
12 having divers to go down and change the anchors is
13 about the only difference.

14 Q Are the boats much different that they're using now
15 from those that you saw being used by the Lummis or
16 that you were using when you were reefnetting?

17 A Well, there isn't too much difference. There's a
18 difference in some of them, yeah, they have changed a
19 little bit.

20 Q Quite a bit of difference in the gear, though, isn't
21 there, Mr. Olsen?

22 A No, there isn't too much difference in the gear, the
23 setup of the gear, outside of all being electric outfit.

24 Q That's what I meant. They have mechanized it further,
25 have they not?

1 A Yeah. When I quit they were still all armstrong, but
2 when they first started they all had canoes, dugouts.
3 When I first started fishing I fished out of dugout
4 canoes myself.

5 Q Were they used in reefnetting?

6 A Uh-huh.

7 Q Would they suspend a net between them and put out the
8 lines and the leads?

9 A Yes, they were the same.

10 Q Well, Mr. Olsen, do you feel that only the Lummis should
11 have the right to fish there in Legoe Bay?

12 A I know for one I sure would like to go back there and
13 fish. If there's a good opening and clear sailing, I would
14 sure like to be there.

15 Q Have you in late years made any efforts to determine
16 the availability of a location, and by availability I
17 mean that there was a spot where you could put your
18 gear?

19 A Well, I thought of it lots of times but I knew there
20 wasn't.

21 Q Why did you know there wasn't?

22 A Well, that is the good pay ones. If there was any good
23 pay reefnet locations there would be somebody on them.

24 Q Well, with your experience in reefnetting couldn't you
25 have taken some of those other locations that others

1 have taken and built up?

2 A I suppose I could have, but I didn't. just for the
3 reason I wanted a good one. I wanted a good one, that's
4 the reason I never done it.

5 Q One of the other witnesses earlier this afternoon
6 said it takes about three years to become familiar with
7 the location so that you get your gear, boats, all
8 the anchors proper location so that you make the
9 maximum use of the fish run.

10 Would you agree with that?

11 A Yes, I will agree with that.

12 Q Then don't you think it would be feasible --

13 A There's other fellows that maybe learn a lot quicker
14 than that, but I think the average person would maybe
15 go more than three years.

16 Q But with your knowledge of this reefnetting from the
17 early days to the later days then you could take one
18 of these open spots and develop it by this method we
19 were just talking about until you had a producing
20 operation, couldn't you?

21 A I imagine I -- I imagine I could have made, oh, there's
22 a couple of them pay off, but it still wouldn't be
23 good ones.

24 Q Wouldn't they be good ones after you built them up?

25 A No, they wouldn't be really good ones.

1 Q Even after you built them up?

2 A No, I don't think I could get them up to a good
3 location. A good location is the whole thing.

4 Q Were the observation towers when you first started
5 reefnetting as high as they are now?

6 A I didn't get that.

7 Q Were the observation towers on the boats, you know,
8 from which the watchman goes up to look down for the
9 fish, --

10 A Uh-huh.

11 Q -- (continuing) were they as high on the boats when you
12 first started reefnetting as they are now?

13 A Oh, no. Unh-unh.

14 Q About how high were they?

15 A They were about two feet off the bow of the boat when
16 I first started fishing. About two feet.

17 Q And when you sold your last gear in 1940 to Barlean,
18 how high were they by then?

19 A They was about six or eight feet. About around eight
20 feet.

21 Q And they are higher now are they?

22 A I think some of them are.

23 Q Have you ever discussed this in any fashion with the
24 Washington State Department of Fisheries, this idea that
25 you'd like to reefnet?

1 A I have never discussed it with them, no.

2 Q With whom have you discussed it?

3 A Oh, I had to call on the Indian Agency in Everett a
4 few yearstack. That was quite a while ago.

5 Q What was that about?

6 A Oh, that was just mostly just being too close to the
7 other fellow behind me and one thing and another. They
8 told me I couldn't fish there any more.

9 Q Who told you?

10 A That is the union then.

11 They had a committee come out and tell me that I
12 couldn't fish there because they would blackball my
13 fish if I --

14 Q What did the Indian Agent say when you went down there?

15 A He told me not to move and just stay right where I
16 was at, and if there was any fish lost he would see they
17 were paid for.

18 Q Did you then continue to fish there?

19 A No, he never had to come up.

20 Q Because there wasn't any problem then, is that right?

21 A It was all called off. They let me stay there all
22 season.

23 Q Right.

24 A I didn't hurt anybody. I didn't make much money.

25 Q Why didn't you go back the next season?

1 A Well, I thought I would make more money gillnetting.

2 Q Have you gillnetted since then?

3 A Yeah, I gillnetted pretty near every year since.

4 Q How much average would you make from gillnetting?

5 A Oh God, I wouldn't know. You go out and catch a fish

6 and you take him up and sell him right now and take it

7 right out and spend it -- most of us.

8 Q You feel, don't you, that you've made more money in these

9 later years gillnetting than you would have if you had

10 retained your reefnetting operations, don't you?

11 A Well, that's a kind of a bad one. I'd say no to that

12 one because I used to make some good money in reef-

13 netting.

14 Q Haven't you made good money gillnetting?

15 A I have never made that kind of money gillnetting, no.

16 Q Where did you make this good money reefnetting?

17 A Lummi Island, --

18 Q Your own gear?

19 Q -- (continuing) Open Bay. Yeah, both places. I

20 fished on Lummi Island -- oh, not my own gear. I

21 fished --

22 Q Did you make it as a crew member?

23 A I was foreman on one of the reefnet gear.

24 Q Is that when you made the good money you were referring

25 to?

1 A Yeah, good money.

2 Q Has anyone turned you down on any application to serve
3 as a foreman on their gear in late years?

4 A No. Unh-unh.

5 Q Have you applied?

6 A No. I asked one fellow for a job once and he put me
7 to work the next morning.

8 Q Well, don't you think you're just about as experienced
9 a reefnetter as there is around?

10 A Well, I don't know. I think there's lots of them now.

11 Q Have you made any other applications to go out as a
12 crew member or a foreman other than this time the fellow
13 put you to work the next morning?

14 A No, I never tried any more. I felt it was kind of bad
15 so I stayed away from it.

16 MR. RHEA: I have nothing further of Mr.
17 Olsen.

18 MR. ZIONTZ: I would like to ask a few
19 questions.
20

21 BY MR. ZIONTZ:

22 Q When you first started working as a reefnetter how
23 old were you, Mr. Olsen?

24 A Well, I was twelve years old. I fished for my
25 dad when I was twelve years old and I put in my first

1 reef net by myself. When I was seventeen years old
2 I put in the first reef net I ever fished.

3 Q Was that over on Henry Island?

4 A Yes, Open Bay, for Friday Harbor Packing Company.

5 Q They were the ones that financed the gear?

6 A They were the ones that give me the gear to put in
7 there.

8 Q Were there all Lummis reefnetting then?

9 A No, I had just old man Johnny Tom and Mason Fitzhugh
10 to start with, and then we had another fellow come in.
11 I don't know where he was from. I never did find out.

12 Q Okay.

13 These two men, Fitzhugh and Mason (sic) Tom and
14 this other man, they were not Lummis?

15 A One of them. I guess Mason Fitzhugh was, wasn't he?
16 Yeah, Mason Fitzhugh was a Lummi.

17 Q All right.

18 Was that the only reefnet set of boats that were
19 there -- just yours?

20 A No, there was two other reef nets in there that year.

21 Q But they were not Indians, or were they?

22 A Yeah, they was half.

23 Q Half of them Indians?

24 A Yeah. My dad was a white man and he had one of them
25 right in the middle.

1 Q I see.

2 How old were you when you started to work in the

3 reefnet boats over in Legoe Bay?

4 A How old was I? Oh, God, I don't remember.

5 Q Were you under twenty-one?

6 A No, I was older than that. Let's see.

7 Q Do you know what year it was?

8 A I don't even know that.

9 Q Was it before the First World War?

10 A Yeah.

11 Q All right.

12 Would it have been 1936, 1937?

13 A '37, I think, wasn't it, Johnny?

14 Q '37. All right.

15 A '37 or '39. It was the second year after Largaud

16 had it out there, anyway.

17 Q All right.

18 Now, did you have your own boat or were you work-

19 ing for somebody?

20 A No, I was working for Spence Collett.

21 Q How many Lummis had their own boats out there at that

22 time?

23 A Oh, there wasn't any.

24 Q They were all white men?

25 A They were all white men.

1 Q Do you know when the last time was that the Lummis owned
2 their own boats out there, had their own reefnet
3 operations going at Legoe Bay?

4 A Well, there was just Ted Plaster and I that had the
5 reef net gears out there. Ted Plaster, he was there
6 about two years after I quit.

7 Q And when did you quit, what year?

8 A Darn if I know.

9 Q Was it after the War began, after the Second World War;
10 say after Pearl Harbor?

11 A I think it was the same year.

12 Q Pearl Harbor, that would be 1941?

13 A I think that -- yeah, it was either in '40 or '41.

14 Q Now, you have explained before that the reason you
15 quit was because you were getting squeezed out you
16 felt?

17 A Uh-huh.

18 Q And why did Ted Plaster quit?

19 A I don't know. I don't know why he, he never went back,
20 but he always tells me he sure would like to get back out
21 there.

22 Q Now, you mentioned that you think there may be fifty or
23 seventy-five Lummis that would like to go out reefnet-
24 ting?

25 A Oh, yes, there would be all of that that would like to

1 go out. We had quite a few out there the first two
2 or three years.

3 Q Now, what's holding them back?

4 A Oh, I don't know. It's the same thing as what's hold-
5 ing me back, I guess.

6 Q And that is?

7 A Wasn't no room. Everybody -- there's more reef-
8 netters now than there was when I was out there,
9 you know. There's a lot of fellows their crews got
10 shortened up, in other words.

11 Q Now, as far as you personally are concerned, you don't
12 have anything against the white man fishing there,
13 do you?

14 A Well, there's only one thing I do have against it.

15 Q And what is that?

16 A That I would like to see white men and Indians, I
17 would like to see the Indian out there.

18 Q And as matters stand now the Indian can't get out
19 there unless he buys out the white man; is that
20 right?

21 A That's right.

22 Q Now, these fellows have been saying that you can buy
23 out a white man. Can you buy him out?

24 A If you have money enough, yes.

25 Q Do you know how much it costs to buy one of those

1 locations?

2 A Oh, God, I don't know.

3 Q Do you have any idea at all how much they ask for

4 them?

5 A No, I wouldn't, I wouldn't even attempt to say anything

6 on that.

7 Q Now, these fellows have been telling us --

8 A I know they paid an awful price for some of them.

9 Q What do you figure is an awful price?

10 A Oh, I imagine around fifteen, twenty thousand dollars.

11 Q You have heard that there has been as much as fifteen

12 or twenty thousand paid?

13 A I imagine, yeah, somewhere in that neighborhood.

14 Q Do you remember hearing any names mentioned?

15 A No. Unh-unh.

16 Q Where did you hear these figures? Any place special?

17 A No, I have never heard of anybody exactly on it.

18 Q You couldn't name anything specific?

19 A Unh-unh.

20 Q Now, these fellows from the Reef Net Association say

21 that they don't buy locations, they only buy equipment.

22 A Yeah, that's true. They can't buy the location.

23 The only way they can get the location is buy a

24 reef net with it.

25 Q Oh. So you have to buy the reef net in order to get the

1 location?

2 A Yeah, that's about the size of it.

3 Q Now, you said that you could have gone back and gotten jobs
4 and made money.

5 A Uh-huh.

6 Q But you didn't?

7 A No, I didn't.

8 Q And why is that?

9 A Well, my health was one thing, but I was offered jobs
10 to just go out there and stand there and tell them
11 what to do but I just don't want to work that way.

12 Q I see.

13 Does a man make more money if he owns his own boat
14 than he does as a foreman working on shares?

15 A Oh, yes.

16 Q What's the usual breakdown of the shares? What share
17 does a man get if he owns his own boat?

18 A There's different cuts on it. Some fellows make more
19 than others on their gear. I don't know what it is
20 now.

21 Q Are you considered one of the top men in the business?

22 A Well, no, I wouldn't say that. There's lots of
23 other fellows that can do the job as good as I could,
24 and better, I imagine.

25 I do know all about a reef net. You know, as much

1 about it as I want to know.

2 Q When the Indians fished in the old days you said that

3 they maybe got two feet up above the prow of the

4 boat for a platform; is that right?

5 A Uh-huh.

6 Q Is it better now to be able to get up as high as --

7 A I don't know. We seem to get up higher, anyway. I

8 even went up higher myself.

9 Q Does it seem to get you more fish?

10 A Well, you can see a lot better.

11 Q You can?

12 A Yeah.

13 Q Have you ever gone to any meetings of the Reef Net

14 Association?

15 A No, I haven't.

16 Q Anybody ever invited you to join that Association?

17 A No, I left there before they made an Association of it.

18 I was there when they had the union.

19 Q Oh.

20 Why did the boat pullers ever join that union?

21 A I don't know.

22 Q They ever get any benefit out of it?

23 A Well, we all got the same price.

24 Q Oh, I see.

25 It was strictly a price fixing --

1 A I, I belonged to the union when they had one here. I
2 didn't have to. They even told me I didn't have to
3 join them but I joined them as a good sportsman I
4 figured.

5 Q Have you ever seen anybody having guns out on the
6 boats?

7 A No. I heard of them but I never seen them.

8 Q Have you ever seen any threats or fights over locations
9 or positions of boats?

10 A No. I have heard a lot of cussing and one thing and
11 another but I don't think it amounted to anything.

12 Q As far as you know are any of the Lummi people fearful
13 that if they tangled with the Reef Net Association
14 there might be violence?

15 A Well, I don't know, but I think that they would want
16 everything understood before they went out there and
17 put a reef net in there.

18 Q What do you mean by that?

19 A Well, you know, before I would, you know, if I was to
20 go out there I would want to make sure that I was all
21 in the clear; that nobody would take a shot at me going
22 out.

23 Q Nobody would take a shot at you?

24 A No.

25 Q You think that might happen?

1 A No, I don't think so.

2 Q What do you think would happen if you were to go out
3 there next season and put a -- let's say a young man,
4 a Lummi man, came to you and said, "I don't want
5 to have anything to do with that Association but I'm
6 going to put a boat out on our usual and accustomed
7 grounds. Would you come out and show me how to set it
8 up?"

9 A I would go and show him how it's done.

10 Q And would you go out on the boat with him?

11 A Yes.

12 Q What do you think would be the result as far as the
13 present reef net people are concerned?

14 A Well, I don't know, but they know.

15 Q And what do you think they would do?

16 A I don't know what they would do; it would be hard to
17 tell.

18 Q I see.

19 A We might not come back. But I would be glad to go out
20 there and put one in just to prove to myself I still
21 know how to do it.

22 MR. ZIONTZ: I have nothing further.

23

24 BY MR. RHEA:

25 Q Back in your earlier reefnetting days you saw Lummi

1 operating reefnet gear I believe you have already told
2 me; isn't that correct?

3 A Yeah, I've seen quite a few.

4 Q Yes, as the owners and operators of it?

5 A Uh-huh.

6 Q All right.

7 Wouldn't they customarily return and use the same
8 location the following year?

9 A Well, I'll tell you how the Indian done it. Long
10 years ago when they had their own location and nobody
11 else, nobody else got on it, one family was allowed to
12 have one reef net. No two members of the family would
13 have a reef net, it was only just one reef net for one
14 family. That was their own. That was an agreement
15 among themselves. If they had let everybody that wanted
16 to put in a reef net, some families would have had a
17 half a dozen reef nets or more. Then there wouldn't
18 have been room for the other ones, the other families
19 to have one, because the good reef net locations, there
20 was just so many of them.

21 Q Now, that was before you were actually yourself reef-
22 netting, though, isn't this correct?

23 A Uh-huh.

24 Q This is the word that you've heard from older members?

25 A Yeah. Uh-huh.

1 Q Isn't that right?

2 A That's right.

3 Q And so they would honor one another's location and go
4 back and fish the same spot each year, wouldn't they?

5 A Uh-huh. It was handed down.

6 Q They couldn't have had any successful operation if
7 it had been done otherwise; if they had started crossing
8 nets with one another?

9 A No. If there wasn't a reef net out there right
10 now and if there was a member of the Kwina family come
11 along -- they owned reef nets there -- if they was to
12 come along and go out there, nobody could stop them from
13 putting their reef net right where they had it before.
14 I know no member of the Lummi Tribe would want to go and
15 stop them.

16 Q So, in other words, they did that so they would be
17 able to fish successfully without crossing nets --

18 A Uh-huh.

19 Q -- (continuing) and fouling anchors and everything else;
20 is that right?

21 A Well, they kind of respected one another pretty close.

22 Q Yes.

23 MR. RHEA: I have no further questions.

24 MR. ZIONTZ: I have nothing more.

25 (Deposition concluded at 6:15 o'clock p.m., May 17, 1973.)

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STATE OF WASHINGTON
COUNTY OF WHATCOM

SS.

C E R T I F I C A T E

I, HERMAN OLSEN, the witness in the foregoing deposition, do hereby certify that I have read the foregoing deposition, being pages 1 to 33 inclusive, and that the answers as given by me therein, are true and accurate save and except for corrections, if any, as indicated by me on the correction flyleaf sheet attached hereto.

Herman Olsen
HERMAN OLSEN

Subscribed and sworn to before me this 8th day
of June 1973.

Basil P. Asmussen
Notary Public in and for the State
of Washington, residing at
Bellingham.

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STATE OF WASHINGTON
COUNTY OF WHATCOM

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C E R T I F I C A T E

I, BASIL D. RASMUSSEN, a notary public duly commissioned and qualified in and for the State of Washington, County of Whatcom, residing at Bellingham, do hereby certify that, pursuant to oral stipulation of counsel, there came before me on the 17th day of May, 1973, at 5:45 o'clock p.m., at 220 Bellingham National Bank Building, Bellingham, Washington, the following named person, to-wit: HERMAN OLSEN, who was by me duly sworn to testify to the truth and nothing but the truth of his knowledge touching and concerning the matters in controversy in this cause; that he was thereupon carefully examined upon his oath and his examination reduced to writing by me; that the deposition is a true record of the testimony given by the witness; and that the said witness read the same and subscribed his name thereto before me.

I further certify that I am neither attorney or counsel for, nor related to or employed by, any of the parties to the action in which this deposition is taken, and further that I am not a relative or employee of any attorney or counsel employed by the

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parties hereto or financially interested in the
action.

In witness whereof I have hereunto set my
hand and affixed my notarial seal this 9th day
of June, 1973.

(SEAL)



BASIL D. RASMUSSEN
Notary Public in and for the State
of Washington, residing at
Bellingham.