

7-23-1973

**Docket Entry 296 - Filed Intervenor-Plaintiffs answers to  
Intervenor-Defendants Washington Reef Net Owners Association  
filed association requests for admissions**

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FILED IN THE  
UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

JUL 23 1973

Attorneys for Intervenor-Plaintiff,  
Lummi Indian Tribe

UNITED STATES DISTRICT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

EDGAR SCOFIELD, CLERK

Deputy

UNITED STATES OF AMERICA, et al., )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
STATE OF WASHINGTON, et al., )  
 )  
Defendants. )

CIVIL NO. 9213

INTERVENOR-PLAINTIFF'S  
ANSWERS TO INTERVENOR-  
DEFENDANT'S WASHINGTON  
REEF NET OWNERS ASSOCIA-  
TION REQUESTS FOR  
ADMISSIONS

COMES NOW the Lummi Indian Tribe and responds to the  
Requests for Admissions of the Intervenor-Defendant Washington Reef  
Net Owners as follows:

I. Intervenor-Plaintiff is unable to admit or deny the  
truth of the assertion made in Request No. 1, for the following  
reasons:

A. There are at present approximately 1,500 members of the  
Lummi Indian Tribe living on or near the Lummi Indian  
Reservation. In addition, other enrolled members do not live  
on or near the Reservation and are not available for inquiry.  
Additionally, in the past 20 years there have been many  
Lummi, both on and off the Reservation, who have died. It  
is therefore possible that some enrolled member of the Lummi  
Tribe has within the past 20 years applied to the Department  
of Fisheries of the State of Washington, or some other  
agency, for a license to reef net, but this cannot be admitted  
or denied on the basis of any knowledge available or readily  
obtainable to the Intervenor-Plaintiff.

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1 B. It is believed that the Washington State Fisheries De-  
2 partment does not identify applicants by race so that this  
3 information is not readily obtainable from said defendant.

4 II. For the reasons set forth in the answers to Request  
5 No. 1, this Intervenor-Plaintiff is unable to admit or deny the  
6 assertion contained in Request No. 2, although Intervenor-Plaintiff  
7 is unaware of any members of the Tribe who have complained about  
8 denial of employment by reason of membership in the Lummi Tribe.

9 III. For the reasons set forth in the answers to Request  
10 No. 1, Intervenor-Plaintiff is unable to admit or deny Request  
11 No. 3, although Intervenor-Plaintiff is unaware of any member of the  
12 Tribe who has been refused the right to purchase reef net gear.

13 IV. For the reasons set forth in the answers to Request  
14 No. 1, Intervenor-Plaintiff is unable to admit or deny Request No.  
15 4; but, to the extent that the term "denied" can be construed as  
16 intimidated or discouraged from, Intervenor-Plaintiff denies this  
17 Request for Admission. Intervenor-Plaintiff asserts that, in that  
18 sense, members of the Tribe have been denied the right to use reef  
19 net equipment in usual and accustomed locations for reef netting  
20 which are unoccupied by reason of the proximity of non-Indian  
21 reefnetters who have left only undesirable reef net sites available.

22 V. Intervenor-Plaintiff denies Request No. 5. Interven-  
23 or-Plaintiff Lummi Indian Tribe denies that the reef net operation  
24 is non-discriminatory since, in fact, all Indians have ceased to  
25 participate in the reef net fishery as owners over the past 25  
26 years. The manner in which the reef net operation has been con-  
27 ducted has, in fact, operated to discriminate against Lummis who  
28 would otherwise own and operate their own reef net boats.

29 VI. Intervenor-Plaintiff denies the Request for Admis-  
30 sion in Request No. 6 and asserts that said distances represent  
31 minimum distances, below that necessary to sustain a proper and

Intervenor-Plaintiff's  
Answers to Requests for  
Admissions - 2

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1 economic reef net fishery.

2 VII. Intervenor-Plaintiff admits that the State of Wash-  
3 ington, through its Department of Fisheries, does not specifically  
4 attempt to allocate rights to any given location, but does in  
5 fact, through its licensing, authorize a fishing device which can  
6 be used in a monopolistic and exclusive manner.

7 VIII. Intervenor-Plaintiff denies Request No. 8.

8 IX. Intervenor-Plaintiff admits that there are no express  
9 regulations which prevent members of the Lummi Indian Tribe from  
10 using their usual and accustomed locations for reef net fisheries,  
11 and denies that actions of the members of the Washington Reef  
12 Net Owners Association have not prevented members of the Lummi  
13 Indian Tribe from using such locations.

14 X. Intervenor-Plaintiff denies that the Lummi Indian  
15 Tribe in pre-treaty times would not attempt to reef net at a prior  
16 user's location until he had abandoned it or moved away where such  
17 prior user was one who had no rights to the reef net site or was  
18 a usurper of a site belonging to a Lummi family.

19 XI. Intervenor-Plaintiff Lummi Tribe denies Request No.  
20 11.

21 XII. To the extent it is possible to define "fixed nature"  
22 as being at the same approximate site from one season to the next,  
23 Intervenor-Plaintiff denies Request No. 12.

24 XIII. Intervenor-Plaintiff denies Request No. 13.

25 XIV. Intervenor-Plaintiff admits that it may be possible  
26 to use reef net equipment with concrete anchors and steel cables  
27 in places not possible using pre-treaty Indian equipment.

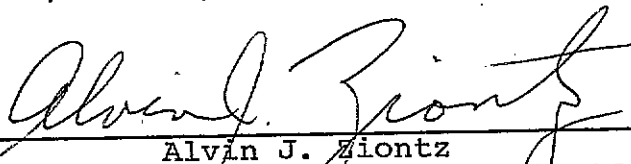
28 XV. Intervenor-Plaintiff admits Request No. 15.

29 XVI. Intervenor-Plaintiff admits Request No. 16.  
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1 DATED this 20th day of July, 1973.

2 Respectfully submitted,

3 ZIONTZ, PIRTLE, MORISSET & ERNSTOFF

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5 Alvin J. Ziontz  
6 Of Attorneys for Intervenor-Plaintiff  
7 Lummi Indian Tribe

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Intervenor-Plaintiff's  
Answers to Requests for  
Admissions - 4

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