

9-5-1973

## **Docket Entry 362 - Filed defendants objections to admission of Exhibit MS-1**

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

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

CIVIL NO. 9 2 1 3

DEFENDANTS OBJECTION TO  
ADMISSION OF EXHIBIT MS-1

\* \* \*

Exhibit MS-1 is a report entitled "Economic Implications of an Indian Fishery" by Gardner Brown, Jr. In a nutshell, Mr. Brown's thesis is that the present Puget Sound commercial fishery is operating at a net economic loss to the State of Washington and that if it were abandoned and the harvest of salmon were to take place in traps placed in river mouths, that there would be a net economic gain to the Indians and vicariously to the state's economy.

Defendants' objection is based on the ground that there is not a sufficient factual foundation for the opinions expressed by Mr. Brown. The deposition of Mr. Brown exposes the lack of factual foundation and the misuse of those facts upon which he did rely. The specific instances are numerous and their cumulative effect is to totally undermine the conclusions drawn by Mr. Brown. In particular the following objections are noted:

1. Misinterpretation of the catch data contained in The Department of Fisheries Statistical Report for 1969.
2. The use of British Columbia cost and efficiency data as the basis for the costs and efficiency ratings assigned to American

1 fishermen without adjusting the Canadian statistics to reflect dif-  
2 ferent regulatory patterns and fish stocks.

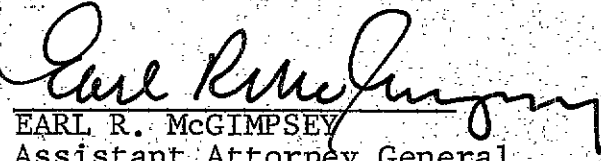
3 3. The assumptions regarding the number of traps, their  
4 construction and maintenance costs, and their acceptability to Indian  
5 people.

6 4. Mr. Brown's conclusion that Indian fishing effort reflects  
7 run size.

8 Defendants contend that the cumulative effect of Mr. Brown's  
9 errors, which can only be appreciated by a complete reading of his  
10 deposition, is sufficiently great that as a matter of law no weight  
11 can be given his opinions and that they should not become a part of  
12 the record of this case.

13 DATED this 4th day of September, 1973.

14 SLADE GORTON  
15 Attorney General

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17 EARL R. MCGIMPSEY  
18 Assistant Attorney General  
19 Attorneys for Defendant  
20 Department of Fisheries  
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