

7-6-1973

Docket Entry 264 - Filed Answers of Carl Crouse, Director Washington Department of Game, Washington State Game Commission, Washington Department of Fisheries, Washington Reef Netters Association to Plaintiffs 1st request for admission (Treaty Status and Standing)

1 corporations or municipal corporations have a legal capacity to
2 succeed to hereditary tribal rights secured to members of a
3 treaty tribe of Indians. We have further reservations whether
4 it is sufficient to establish that the present day entities are
5 successor to only "some of the treaty bands" in order to secure
6 to the present day members of said organizations rights secured
7 by treaty. Defendants note the distinction made by the plaintiffs
8 in their requests for admission between those whom they assert
9 are presently incorporated under the Wheeler-Howard Act and
10 successors to "some" of the interests of treaty tribes, and the
11 Yakima Tribe which in Request for Admission No. 33 plaintiffs
12 refer to as "a party to the treaty."

13 In spite of these reservations and in light of the fact that
14 the United States of America is a party to this action and is
15 representing to the Court and to the State and to the defendants
16 that the facts sought to be admitted are true, then, upon this
17 understanding of representation by the United States through its
18 counsel, defendants answer the requests for admission as set forth
19 hereinafter.

20 1, 2 Admitted.

21
22 3 Admitted except that the defendants deny that the Puyallup
23 Tribe of the Puyallup Reservation owns any tribal property because
24 this Court in United States v. Washington, No. 39-7103, has ruled
25 that no Puyallup Reservation exists. Game further denies that
26 the Puyallup Indians or tribe have any ownership interest in the
27 anadromous fish runs of the Puyallup River.

28
29 4-20 Admitted.

30
31 21 The Quinault Tribe has taken a voluntary nonsuit and
32 the order of dismissal will be submitted to the Court according
33 to their counsel.

1 22. The Quinault Tribe has taken a voluntary nonsuit, and
2 the order of dismissal will be submitted to the Court according
3 to their counsel.
4

5 23. The Quinault Tribe has taken a voluntary nonsuit, and
6 the order of dismissal will be submitted to the Court according
7 to their counsel.
8

9 24-40 Admitted
10

11 41. Admitted, but deny that the Bureau of Indian Affairs
12 or the Secretary of Interior has or had the power to promulgate
13 the same and does state that this matter was argued on behalf
14 of the Federal Government before the United States Supreme Court
15 in Puyallup Tribe v. Department of Game, 391 U.S. 392 (1968).
16 The United States' argument to the United States Supreme Court
17 on this point was unsuccessful.
18

19 42-49 Admitted
20

21 50. Admitted, but deny that the present Muckleshoot Indians
22 were parties to the treaty or to any treaty. This denial is
23 based upon subsequent Congressional recognition of their nontreaty
24 status and the fact that the Muckleshoot Tribe of Indians sued
25 the United States for compensation pursuant to the Indian Claims
26 Commission Act as nontreaty Indians and on the testimony of
27 Riley (p. 30). See also: State v. Moses, 70 Wn.2d 282, 422
28 P.2d 775 (1967).
29

30 51. Admitted, but state that not all Indians placed on the
31 reservation were parties to any treaty and deny that the present
32 day Indians of the Muckleshoot Reservation have any treaty rights.
33 (Testimony of Riley at p. 30 and answer to Request 50 above)

1 52 Admitted.

2
3 52 (sic) Admitted. Said exhibit is attached, but deny that
4 legal opinions written by opposing counsel on an issue while an
5 action is pending are properly admissible as exhibits herein.
6 Further deny that said memorandum has any particular validity or
7 accurately states the law.

8
9 53-57 Admitted.

10
11 58 Admit while recognizing that the same is not a state-
12 ment that they voted to include themselves.

13
14 59 Deny for the reasons stated in answer to Request for
15 Admission 51.

16
17 60-62 Admitted.

18
19 63 Deny that it is legally possible for some of the
20 descendants of parties to a treaty to organize themselves into
21 a tribe possessing treaty rights.

22
23 64 Deny that it is legally possible for such a group of
24 persons to establish standards of membership in the alleged
25 Upper Skagit River Tribe by articles of association adopted
26 in 1962.

27
28 65 Denied on the ground that there is no foundation for
29 the legal assertion that a group of individuals who are not
30 successors in interest to the tribe which was signatory to the trea-
31 ties by lineal descent and are not organized under any law of the
32 United States can by mere association and establishment of articles
33 of association in 1962 establish themselves as successors in

1 interest to treaty rights of some Indian tribes or bands.

2
3 66, 67 Admitted

4
5 68. Deny that it is legally possible for a corporation
6 created under the laws of the State of Washington to have a
7 treaty with the United States of America or any treaty right
8 as successor in interest to the Indian tribes or bands signatory
9 to a treaty.

10
11 69. Admitted, but deny that the Western Washington office
12 of the Bureau of Indian Affairs had any authority to establish
13 membership of the Stillaguamish Tribe or to approve any tribal
14 constitution and by-laws of that tribe by law.

15
16 70. Admitted

17
18 71. Deny upon plaintiffs' representation made in Request
19 for Admission 69 and for the reason stated in response thereto.

20
21 72(a)-72(d) Admitted

22
23 72(e) Deny. The Quinault Tribe has taken a voluntary
24 dismissal in this case, and the order of dismissal will be
25 submitted to the Court according to their counsel.

26
27 72(f)-72(j) Admitted

28
29 72(k) Deny for the reasons stated in previous responses
30 with reference to the Muckleshoot group.

31
32 72(l) Deny for the reasons previously stated with reference
33 to the Sauk-Suiattle group.

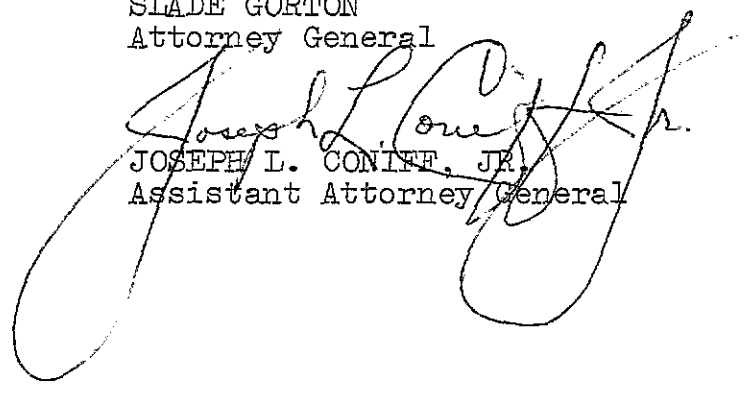
1 72(m) Deny for the reasons previously stated with reference
2 to the Upper Skagit River group.

3
4 72(n) Deny for the reasons stated with reference to the
5 Stillaguamish group.

6
7 It is noted by defendants that plaintiffs assert that various
8 communities, tribes, or groups were approved by the Secretary
9 of the Interior, Assistant Secretary of Interior; some are
10 Federal corporations; some are merely private associations
11 while another is a Washington corporation. Defendants have
12 made the within admissions based upon the representations of
13 the United States as previously stated. Defendants expressly
14 reserve their right to raise to the Court the question of the
15 legality or legal effect of these asserted approvals or
16 association and further do not admit that any treaty rights
17 which may be secured to plaintiffs as representative of treaty
18 tribes may be enjoyed by all members of the present day groups
19 as members of successors to the treaty tribes.

20 Respectfully submitted:

21 SLADE GORTON
22 Attorney General



23 JOSEPH L. CONITT, JR.
24 Assistant Attorney General