Interrogatories by defendants propounded to plaintiff

Richard B. Price
Nansen and Price Attorneys at Law

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TO: COLVILLE CONFEDERATED TRIBES:

Please take notice that the defendants herein request that the following interrogatories be answered under oath by any one of your officers or officials competent to testify in your behalf who know the facts and law about which inquiry is made and that the answers be served on defendants within 30 days from the date of service hereof, all pursuant to Rule 33 of the Federal Rules of Civil Procedure.

**Interrogatory No. 1.** What is the status (legal title) of the property asserted to be owned by plaintiff over which certain waters are asserted to flow?

**Interrogatory No. 2.** If any of the property asserted to be owned by plaintiff has been allotted or deeded, please list names and dates regarding any such conveyances or transfers.

**Interrogatory No. 3.** Has any person requested of the plaintiff, the Bureau of Indian Affairs, or other agency that said property be
allotted or conveyed in fee to them?

Interrogatory No. 4. If the answer to No. 3 is affirmative, please list the names of any such persons, the date of the request, and the current status of such request.

Interrogatory No. 5. Is there a discernable channel or bed through which the water flows over the land in the particular Section, Township, and Range claimed to be damaged?

Interrogatory No. 6. What is the average flow of water across the land, in cubic feet per second, during the following periods:

<table>
<thead>
<tr>
<th>Period (avg.)</th>
<th>Cu. ft. per sec.</th>
</tr>
</thead>
<tbody>
<tr>
<td>March - May</td>
<td></td>
</tr>
<tr>
<td>June - Aug.</td>
<td></td>
</tr>
<tr>
<td>Sept. - Nov.</td>
<td></td>
</tr>
<tr>
<td>Dec. - Feb.</td>
<td></td>
</tr>
</tbody>
</table>

Interrogatory No. 7. What was the flow of water across the land, in cubic feet per second, during the following periods in 1970-71?

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>March - May</td>
<td></td>
</tr>
<tr>
<td>June - Aug.</td>
<td></td>
</tr>
<tr>
<td>Sept. - Nov.</td>
<td></td>
</tr>
<tr>
<td>Dec. - Feb (approximate)</td>
<td></td>
</tr>
</tbody>
</table>

Interrogatory No. 8. What is the topography of the land owned by plaintiff adjacent to the water flow? (i.e. level, steep hillside, rolling hill, etc.)

Interrogatory No. 9. What type of soil adjoins the water flow? (i.e. sand, rock, etc.)

Interrogatory No. 10. Is the channel or creek bed, if there is one, a clean cut or is it overgrown and in poor repair so as to impede the flow of any water coming through it?

Interrogatory No. 11. Has any attempt been made by plaintiff to improve the channel or bed of the creek, or to actually create a channel or bed through which a source of water from above could flow?

Interrogatory No. 12. If the answer to the above is affirmative,
please list the dates when any improvement or development was attempted, 
the nature of the improvement or development, and the names of all those 
persons involved.

Interrogatory No. 13. What are the sources of supply that provide a 
water flow over plaintiff's land?

Interrogatory No. 14. What other alternative sources of supply 
are there available for beneficial application to the adjacent land?

Interrogatory No. 15. What effort has plaintiff made to locate 
or provide alternative sources of water supply for beneficial use on the 
land in question?

Interrogatory No. 16. What underground sources of water supply 
are available in this area and is there enough to adequately supply the 
land area in question, in terms of beneficial use of that land?

Interrogatory No. 17. What beneficial use of the land will be 
deterred at the present from the lack of water flowing on to plaintiff's 
land?

Interrogatory No. 18. Exactly what use is being made of the land 
adjacent to the water flow?

Interrogatory No. 19. Exactly how many acres are under cultivation 
on plaintiff's land adjacent to the water flow?

Interrogatory No. 20. Exactly how many of the acres listed 
immediately above are irrigated from the water flow complained about?

Interrogatory No. 21. From what source is water being supplied to 
irrigate those acres under cultivation not supplied by the water flow 
complained about?

Interrogatory No. 22. How many irrigable acres does plaintiff 
own that can be beneficially irrigated from the water flow?

Interrogatory No. 23. How many pumps, and what horse power of 
pumps would be required to supply the number of acres listed in answer to 
No. 22 above?
Interrogatory No. 24. How many of the last fifteen years has the entire flow, of those waters complained about, been inadequate to reach plaintiff's land?

Interrogatory No. 25. List those years in which the flow did not reach your land and indicate from what other sources water was obtained to supply those lands under cultivation.

Interrogatory No. 26. Explain the nature of the irreparable damage being incurred by virtue of the lack of water complained about.

Interrogatory No. 27. To your knowledge, how long has the water been beneficially applied to land now owned by defendants?

Interrogatory No. 28. In terms of cubic feet per second, how much water does plaintiff assert the right to during the following periods:

<table>
<thead>
<tr>
<th>Period each year (future)</th>
<th>Cu. ft. per sec.</th>
</tr>
</thead>
<tbody>
<tr>
<td>March</td>
<td></td>
</tr>
<tr>
<td>June</td>
<td></td>
</tr>
<tr>
<td>Sept.</td>
<td></td>
</tr>
<tr>
<td>Dec.</td>
<td></td>
</tr>
</tbody>
</table>

Interrogatory No. 29. Please set forth in detail the factual situation and legal theory or theories applied thereto from which you assert the right to those quantities of water listed in No. 28 or to any water from this creek at all.

Interrogatory No. 30. What water rights are acquired by an Indian to whom reservation land has been allotted?

Interrogatory No. 31. What water rights are acquired by an Indian who receives fee simple title from the U.S. Government to heretofore reservation land?

Interrogatory No. 32. If plaintiff claims that water rights do not vest in the allottee or Indian receiving fee simple title, explain what the disposition of the water rights is with regard to these situations and the legal theory upon which your opinion is based.

Interrogatory No. 33. If plaintiff claims that water rights do
vest in the allottee or Indian receiving fee simple title, explain what the disposition of water rights is upon the transfer of such land to a non-Indian and the legal theory supporting such disposition.

Interrogatory No. 34. By what Act, Treaty, Agreement, transaction, or otherwise did plaintiff derive title to the following described tracts of land now owned by defendants:

1) W₁/₂ W₁/₂ W₁/₂ NE₁/₂ Sec. 21, Twp. 33 N. R. 27 E.W.M.
2) W₁/₂ W₁/₂ W₁/₂ SE₁/₂
   E₁/₂ SW₁/₂
3) SE₁/₂ SE₁/₂
   E₁/₂ SW₁/₂ SE₁/₂
   E₁/₂ W₁/₂ SW₁/₂ SE₁/₂
   W₁/₂ NE₁/₂ Sec. 28, Twp. 33 N. R. 27 E.W.M.

Interrogatory No. 35. What water rights, if any, were acquired by plaintiff when it derived title to the above described land and how were those water rights acquired?

Interrogatory No. 36. List the chain of title in terms of allotments, or other trust ownership of the above described lands, including therein names and dates, up through such time as plaintiff was fully divested of any legal or beneficial interest in the above described lands.

Interrogatory No. 37. With regard to the transaction divesting plaintiff of all legal interest in the above described tracts, indicate the disposition of any water rights theretofore claimed by plaintiff in said lands.

Interrogatory No. 38. By what Act, Treaty, Agreement, transaction or otherwise did plaintiff derive title to land in Section 33, Township 33 North, Range 27 E.W.M. claimed to be owned by it?

Interrogatory No. 39. What water rights, if any, were acquired by plaintiff when it derived title to the above described land and how were those water rights acquired?
Interrogatory No. 40. What is the extent of the water rights claimed, if any, in answer to Interrogatory No. 39 above?

Interrogatory No. 41. If a specified amount of water is asserted in answer to Interrogatory No. 40, indicate the legal theory for such position.

Interrogatory No. 42. Give the name and addresses of the witnesses you intend to call at the trial and state what you propose to prove by these witnesses.

Interrogatory No. 43. Give the name and addresses of expert witnesses you intend to call at the trial and specify the subject matter, the substance of facts and conclusions, and a summary of grounds from which and about which each expert is expected to testify.

Interrogatory No. 44. Please furnish or list by item and make available for copying all documents, exhibits, and written material you intend to use and offer in evidence at the trial of this action.

NANSEN & PRICE
Attorneys for Defendants

By /s/ Richard B. Price

Richard B. Price
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
NORTHERN DIVISION

COLVILLE CONFEDERATED TRIBES,

Plaintiff,

No. 3421

AFFIDAVIT OF MAILING

WILLIAM BOYD WALTON and KENNA
JEANNE WALTON, his wife,

Defendants.

STATE OF WASHINGTON

County of Okanogan

MONA M. SHARPLESS, being first duly sworn, on oath, deposes and
says: that she is competent to be a witness; on the 6th day of January,
1971, she did cause to be deposited in the United States mail at the post
office at Omak, Washington, with postage prepaid, an envelope containing
a true copy of the Interrogatories by Defendants Propounded to Plaintiff
in the above entitled action, addressed as follows:

Mr. Thomas H. S. Brucker
Stern, Gayton, Neubauer & Brucker
7th Floor Hoge Building
Seattle, Washington 98104

SUBSCRIBED AND SWORN TO before me on January 6, 1971.

Mona M. Sharless
Notary Public in and for the State
of Washington, residing at Omak