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# Interrogatories by defendants propounded to plaintiff

Richard B. Price

*Nansen and Price Attorneys at Law*

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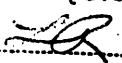
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1 NANSSEN & PRICE  
2 P.O. Box 0  
3 Omak, Washington 98841  
4 509 826-0420

FILED IN THE  
U. S. DISTRICT COURT  
Eastern District of Washington

JAN 12 1971

J. R. FALLQUIST, Clerk  
 Deputy

8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF WASHINGTON  
10 NORTHERN DIVISION

11 COLVILLE CONFEDERATED TRIBES,                    §                    No. 3421  
12    §  
13    §                    Plaintiff,  
14    §  
15    §                    vs.  
16    §                    INTERROGATORIES BY DEFENDANTS  
17    §                    PROFOUNDED TO PLAINTIFF  
18    §  
19    §                    WILLIAM BOYD WALTON and KENNA  
20    §                    JEANNE WALTON, his wife,  
21    §  
22    §                    Defendants.  
23    §

24 TO: COLVILLE CONFEDERATED TRIBES:

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

31                    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

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1 allotted or conveyed in fee to them?

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

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

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

<u>Period (avg.)</u>	<u>Cu. ft. per sec.</u>
March - May	
June - Aug.	
Sept. - Nov.	
Dec. - Feb.	

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

<u>Period (1970-71)</u>	<u>Cu. ft. per sec.</u>
March - May	
June - Aug.	
Sept. - Nov.	
Dec. - Feb (approximate)	

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

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

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

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

31 Interrogatory No. 12. If the answer to the above is affirmative,

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1 please list the dates when any improvement or development was attempted,  
2 the nature of the improvement or development, and the names of all those  
3 persons involved.

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

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

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

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

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

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

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

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

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

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

28 Interrogatory No. 23. How many pumps, and what horse power of  
29 pumps would be required to supply the number of acres listed in answer to  
30 No. 22 above?

31

1           Interrogatory No. 24. How many of the last fifteen years  
2 has the entire flow, of those waters complained about, been inadequate to  
3 reach plaintiff's land?

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

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

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

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

	<u>Period each year (future)</u>	<u>Cu. ft. per sec.</u>
14		
15	March - May	
16	June - Aug.	
17	Sept. - Nov.	
	Dec. - Feb.	

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

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

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

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

31           Interrogatory No. 33. If plaintiff claims that water rights do

1 vest in the allottee or Indian receiving fee simple title, explain  
2 what the disposition of water rights is upon the transfer of such land to  
3 a non-Indian and the legal theory supporting such disposition.

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

- 7 1)  $W\frac{1}{2} W\frac{1}{2} W\frac{1}{2} NE\frac{1}{4}$  Sec. 21, Twp. 33 N. R. 27 E.W.M.  
8  $E\frac{1}{2} NE\frac{1}{4}$  " " " " " " "  
9 2)  $W\frac{1}{2} W\frac{1}{2} W\frac{1}{2} SE\frac{1}{4}$  " " " " " " "  
10  $E\frac{1}{2} SW\frac{1}{4}$  " " " " " " "  
11 3)  $SE\frac{1}{4} SE\frac{1}{4}$  )  
12  $E\frac{1}{2} SW\frac{1}{4} SE\frac{1}{4}$  ) " " " " " " "  
13  $E\frac{1}{2} W\frac{1}{2} SW\frac{1}{4} SE\frac{1}{4}$  )  
14  $W\frac{1}{2} NE\frac{1}{4}$  Sec. 28, Twp. 33 N. R. 27 E.W.M.

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

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

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

26 Interrogatory No. 38. By what Act, Treaty, Agreement, transaction  
27 or otherwise did plaintiff derive title to land in Section 33, Township  
28 33 North, Range 27 E.W.M. claimed to be owned by it?

29 Interrogatory No. 39. What water rights, if any, were acquired by  
30 plaintiff when it derived title to the above described land and how were  
31 those water rights acquired?

1           Interrogatory No. 40. What is the extent of the water rights  
2 claimed, if any, in answer to Interrogatory No. 39 above?

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

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

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

13           Interrogatory No. 44. Please furnish or list by item and make  
14 available for copying all documents, exhibits, and written material  
15 you intend to use and offer in evidence at the trial of this action.  
16

17           NANSEN & PRICE  
18           Attorneys for Defendants

19           By Richard B. Price  
20                                 Richard B. Price

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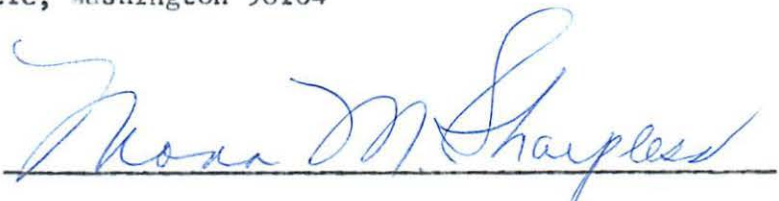
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8 UNITED STATES DISTRICT COURT  
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10 NORTHERN DIVISION

11 COLVILLE CONFEDERATED TRIBES,                    ¶  
12    ¶  
13    ¶                    No. 3421  
14    ¶                    AFFIDAVIT OF MAILING  
15    ¶  
16    ¶  
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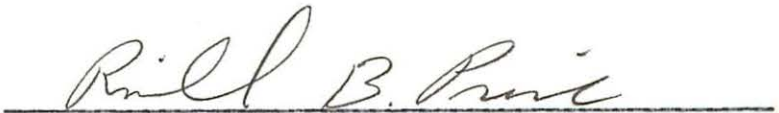
STATE OF WASHINGTON ¶  
  : SS  
County of Okanogan ¶

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.

  
Notary Public in and for the State  
of Washington, residing at Omak