

8-24-1979

Memorandum of Department of Ecology Re: Motion of Spokane Tribe to Amend Findings and Motion of Department of Natural Resources to Reconsider

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10 Department of Ecology

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

AUG 24 1979

J. R. FALLOQUIST, Clerk
[Signature]
Deputy

11 UNITED STATES DISTRICT COURT
12 FOR THE EASTERN DISTRICT OF WASHINGTON

13 UNITED STATES OF AMERICA,)
14)
15 Plaintiff,)
16)
17 v.)
18)
19 BARBARA J. & JAMES J. ANDERSON,)
20 et al.,)
21 Defendants.)

CIVIL NO. 3643

MEMORANDUM OF DEPARTMENT OF
22 ECOLOGY RE: MOTION OF SPOKANE
23 TRIBE TO AMEND FINDINGS AND
24 MOTION OF DEPARTMENT OF
25 NATURAL RESOURCES TO
26 RECONSIDER

27 The State of Washington, Department of Ecology, requests this
28 Court to defer briefing on and consideration of the Motion of the
29 Spokane Tribe to Amend Findings in the Court's Memorandum Opinion
30 and the Motion of the Department of Natural Resources to Reconsider.
31 These pending motions and all similar motions which may be filed
32 should be noted for argument at the same time as hearing on ex-
33 ceptions to the proposed Judgment expressly directed for submission,
to the Court, July 23, 1979.

Federal Rule 52(b) governs motions to amend findings. It does
not clearly state that motions to reconsider or motions to amend
findings may not be made or heard before entry of judgment. However,
in this case, given the local rules for the eastern district and the
Court's express directions to plaintiffs, waiting until after pre-
sentation of the proposed Judgment is the better procedure.

The Court in its Memorandum Opinion of July 23, 1979, allowed
the plaintiffs 20 days to submit a proposed Judgment. Given the

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1 briefing schedule set out in Local Rule 11 and the 5 day notice
2 requirement for hearing motions, we note that a hearing on a pre-
3 Judgment motion could not have taken place before the expiration of
4 this 20-day period.

5 Although we understand that the United States may seek an
6 extension of the 20-day period for submission of the proposed
7 Judgment, the Court nevertheless should defer consideration of
8 motions until such time as all parties have a draft Judgment before
9 them. This will allow the Court to make one order on all such
10 motions and exceptions to the proposed Judgment. Once Judgment is
11 entered, parties may move to amend findings or move to reconsider.
12 The Court also should hear all post-Judgment motions at once and
13 issue an order relating to them. That order would commence the time
14 in which any appeals could be taken.

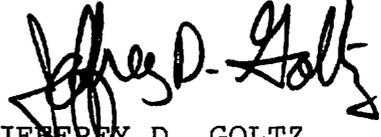
15 We have discussed this procedure with the attorney for the
16 Department of Natural Resources, and he has no objection to this approach.

17 DATED this 21st day of August, 1979.

18 Respectfully submitted,

19 SLADE GORTON
20 Attorney General

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22 CHARLES B. ROE, JR.
23 Senior Assistant Attorney
24 General

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26 JEFFREY D. GOLTZ
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32 MEMO OF DOE, RE:
33 MOTS TO AMEND AND
TO RECONSIDER

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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF WASHINGTON

10 UNITED STATES OF AMERICA,)
11)
12 Plaintiff,)
13 v.)
14 BARBARA J. & JAMES J. ANDERSON,)
et al.,)
15 Defendants.)

CIVIL NO. 3643
AFFIDAVIT OF MAILING

16 STATE OF WASHINGTON)
17) ss.
COUNTY OF THURSTON)

18 SUSAN CLINTON, being first duly sworn on oath, deposes and
19 says:

20 That she is a secretary in the legal division of the Department
21 of Ecology and that on the 32nd day of August, 1979, she duly
22 forwarded by United States mail, postage prepaid, copies of the
23 Memorandum of Department of Ecology Re: Motion of Spokane Tribe
24 to Amend Findings and Motion of Department of Natural Resources to
25 Reconsider to the following people at the following addresses:

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13
14 Susan Clinton
SUSAN CLINTON

15 SUBSCRIBED AND SWORN TO before me this 22nd day of

16 August, 1979.
17

18 Robert V. Jensen
19 NOTARY PUBLIC, in and for the
State of Washington, residing
20 at Cassidy.