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52 GIRAUD, V. H. (for defendants)
in-chief by Ms. Koenigsberg

1 VICTOR HERBE GIRAUD: A witness
2 called on behalf of the defendants
3 having been previously sworn,
4 testifies as follows:

5

6 EXAMINATION-IN-CHIEF BY MS. KOENIGSBERG CONTINUED:

7 Q Mr. Giraud, you are still under oath from yesterday?

8 A Yes.

9 Q As we adjourned yesterday, we were discussing the
10 correspondence which has been marked as Exhibits 31, 32 and
11 33 and perhaps the majority of that correspondence had to
12 do with problems relating to the tagging of Pinks and the
13 taking of Pinks for the tags?

14 A Hm hhm.

15 Q Can you recall if weekend closures were ever imposed on the
16 Indian food fishing?

17 A Weekend closures, yes, were a regular thing. In most of
18 the instance, closing was either -- could be Thursday or
19 Friday nights till Sunday night, hey?

20 Q All right, and what was the purpose of -- why would you
21 impose a weekend closure; what were some of the reasons:

22 A Well, one of the reasons was that people -- that was the
23 days that a lot of the Indian people went to town and they
24 could -- weren't tending their nets and it was a
25 conservation deal too, to let more fish up, make sure we
26 had enough, hey?

27 Q What observations or what did you personally note, if you
28 can recall, of nets being left untended:

29 A Well, there was, oh, several -- I had several instances of
30 that. I had one instance, the Kitsumkalum River, where
31 there was three nets had been left there. They had fish
32 carcasses, skeletons, dead fish in them, and even live fish
33 in them. I don't know how long they had been in there. I
34 pulled them out with the winch of my truck anyhow; that's
35 how I got them out.

36 Q If I understand you correctly, weekend closures would be
37 one of the measures that you would impose to try and deal
38 with untended nets:

39 A That's right.

40 Q Were there any other reasons to impose --

41 MR. RUSH: He didn't say that. He said there were two reasons. 42
One was this was the day Indian people went to town and the
43 second reason was conservation to let more fish up. So you
44 just gave him the third reason.

45 MS. KOENIGSBERG: With the greatest respect, although you may
46 not have picked it up, I believe he said they didn't tend
47 their nets but I'll ask him simply to elaborate.

53 GIRAUD, V. H. (for defendants)
in-chief by Ms. Koenigsberg

1 QThe weekend closures that you've talked about, would you
2 tell us again for what reason you would have imposed it:
3 AWell, I said the Indians would go to town on the weekends,
4 hey, and they -- nets would be left, wouldn't be tended
5 every day, and if you don't tend a net every day, well, you
6 waste fish and there's -- it does also allow for a small
7 amount of escapement on those closed days if the river is
8 wide.

9 QWas a six-day-per-week closure ever imposed that you can
10 recall:

11 AIt was imposed at one time when the Pinks were heavy and .
12 they were tagging them and we came to the conclusion that
13 the -- that's where the full usually allowed week -- it was
14after the main Sockeye season and they had -- the Indians
15had a pretty fair amount of fish by this time but they
16 fished longer hours for tag Pinks. There was tag Pinks in
17the river, many tag Pinks that was tagged down at the coast
18picked up all the month, and we came to the conclusion that
19 they were killing a lot of Pink that they weren't using.
20 They'd just take the tag out and fire them away.

21 QI'd like you to look at Document No. 2176. Are you the
22 author of this document?

23 AYes, I'm the author of it.

24 QIt's dated November 23rd, 1973?

25 AYes, that's right.

26 QAt this time you held the position of Supervisor, Skeena
27 District?

28 AThat's right.

29 QAnd it was to Mr. R. N. Palmer who at that time was Chief
30 of the North Coastal Division?

31 AThat's right.

32 QAnd what was the subject of this memorandum?

33 AWell, it just -- I suggested that,
34 . . "One-day fishing periods are used to
35 conServe -- are used to conserve
36 Pink stocks. They do not cause any
37 undo hardship on bona fide food
38 fishermen taking the fish for their
39 own use as they have a good supply
40 of Sockeye at this time and do not
41 want Pinks. The day's fishing
42 allows them to take their required
43 fresh fish. Fishermen who wish to
44 fish longer are mostly ones who have 45
45 a market and don't care how many
46 Pinks they kill and throw away while
47 catching a few Sockeye and Cohoe."

54 GIRAUD, V. H. (for defendants)
in-chief by Ms. Koenigsberg

1 QOkay, and you sent this off to Mr. Palmer?
2 APardon?
3 QYou sent this memo to Mr. Palmer?
4 AMr. Palmer, yeah.
5 QDo you recall if, in fact, this was an instance then in
6 which a six-day closure was imposed?
7 ASomehow I slipped a cog here. I don't -- I don't remember
8 whether there wa.
9 QOkay, that's fine.
10 AI suggested it but whether it cone about, I don't know.
11 QOkay.
12 MS. KOENIGSBERG: Can we mark Document 2176 as the next exhibit,
13 please? That would be Exhibit 34.
14
15 (EXHIBIT 34: Memorandum dated November 23, 1973
16 to R. N. Palmer from V. H. Giraud)
17
18 MS. KOENIGSBERG:
19 QWould you look at Document 2181, please: This document is
20 dated March 4th, 1974.
21 AYes.
22 QHad you been transferred to Prince Rupert at that time?
23 AYes, that's right.
24 QYou were then Supervisor of the Skeena District:
25 AThat's right.
26 QOkay, and did you receive this? It's headed, "Annual
27 Narrative Babine/Morice 1973," and if you turn to Page 9 of
28 this document we see that A. M. -- is it Groat (phonetic)?
29 AThat's right, yes.
30 QWas the Fisheries Officer?
31 AHe was the Fisheries Officer in Smithers at that time, yes.
32 QHe was the author of this document?
33 AYes, that's right.
34 QDid he submit this document to you as the Supervisor of the
35 Skeena District:If you look over on the first page at the
36top --
37 AYes, that's right. That would be his Annual Report for
38 that district.
39 QSo was he fulfilling the function that you had earlier been
40 fulfilling in doing annual reports as the Fisheries
41 Officer?
42 AAs a fisheries officer in Smithers, yes.
43 QYou were now were in this position of receiving these
44 reports?
45 AThat's right.
46 QOkay. To your recollection did you receive this report?
47 AYes, I received this report.

55 GIRAUD, V. H. (for defendants)
in-chief by Ms. Koenigsberg

1 QOn Page 8 of this report --
2 AYes.
3 QUnder, "Enforcement" --
4 AHm hmm.
5 QWhat can you tell us, if you look at that one, that topic,
6 about whether closures were observed:
7 AWell, it says there,
8 "Closed season trends in sport and
9 Indian food fisheries seem to be
10 observed this year without too much
11 complaint. Closures to the upper
12 Bulkley and Houston July 1st to
13 October 15th remain in effect for
14 conservation of low returns of
15 Chinook Salmon to the system.
16 Closures on the Bear River remain in
17 effect July 1st to September 30th
18 for conservation of Spring Salmon."
19 MS. KOENIGSBERG: Can we mark Document 2181 as the next exhibit,
20 please? That would be Exhibit 35. .
21
22 (EXHIBIT 35: Annual Narrative Babine/Morice 1973 dated
23 March 4, 1974)
24
25 MS. KOENIGSBERG:
26 QWould you look at Document 2018? I'd like to ask you what
27 this document is but, first, you are the author of this
28 document?
29 AThat's right. This document is a statement of the number
30 of food fish taken under Indian permit at the Lower Skeena
31Sub-District. That is actually during the inter-commercial
32fishing area, like.
33 QAll right and the commercial fishing area in your district
34 was of concern to you; that was one of your duties?
35 AWell, yes, it was, sure.
36 QThis document is from 1963:
37 APardon?
38 QThis document is from 1963?
39 AThat's right, yes.
40 QAnd can you tell us from looking at this document what it
41 is that it represents?
42 AI've got to read this over carefully.
43 QOkay.
44 AYeah, this was I believe, if I remember correctly, this was
45 a time when there was a strike on in the commercial
46 fishery. .
47 QWhere would that commercial fishery have been located?

56 GIRAUD, V. H. (for defendants)
in-chief by Ms. Koenigsberg

1 ADown in the Lower Skeena Sub-District, and permits were
2 issued -- oh, -- it was -- these fish were taken during
3 regularly closed times. Indians took other food fish
4 during this period under their commercial fishing licence.
5 That was the deal. They was closed so they went fishing on
6 their own on their Commercial licence. The commercial
7 licence was the -- the Commercial licences were still valid
8 during that closed time but there was just a shutdown on --
9 I imagine some bit of a strike, if I remember rightly, a
10 bit of a strike they had, and some of these Indian food
11 fish were taken at this time by legitimate Indian
12 commercial fishermen, hey?

13 QWere fishermen from other districts or areas participating
14 in this fishery:

15 AYes, they could be because there would be fishermen from
16 down at -- in other areas of the coast there. We had
17 people from Nass River and up and down the coast that were
18 actual fishermen, Indian fishermen that worked in the
19 commercial fishing would be there, yes.

20 MS. KOENIGSBERG: Can we mark Document 2018 as the next
21 exhibit, please:

22

23 (EXHIBIT 36: Statement of Number of Food Fish Taken under
24 Indian Permit from Lower Skeena Sub-District dated 1963).

25

26 MS. KOENIGSBERG:

27 QGo ahead.

28 AYou understand that fishing was not under Indian Food
29 Permits. It was a fishery done by commercial fishermen
30 that were working at the canneries from different parts of
31 the coast and using their commercial fishing boats under
32 their commercial licence and it was open for that -- the
33 area was still open for commercial fishing.

34 QI see. Food fish were taken during that time?

35 AWell, they took them for their own use because there was no
36 market for them at the canneries, if I remember correctly.

37 QI think we have already mentioned that you were transferred
38 from Terrace

39 AHm hmm.

40 QWhere you were the Fisheries Officer to Prince Rupert?

41 AThat's right.

42 QWas that in 1959:

43 AI imagine it was. I'm not sure. I think it was.

44 QOkay.

45 AIt was in there; it's got to be somewhere in there.

46 QIt probably is. You don't have to be precise.

47 ANo.

57 GIRAUD, V. H. (for defendants)
in-chief by Ms. Koenigsberg

1 QCan you tell us what your position was when you were
2 transferred to Prince Rupert:
3 AWell, I was Fisheries Officer in charge of the Skeena
4 commercial gillnet area, the commercial fishing area that
5 is, and I also had responsibilities of spawning grounds
6 right in the immediate Lower Skeena District.
7 QOkay. Can you tell us what area you were responsible for
8 in total when you were transferred to Prince Rupert?
9 AWell, it would be the Eckstall River and the Skeena up to
10 the fishing boundary.
11 QWhich was where: DO yoU mean the tidal boundary:
12 ANo -- yeah, the -- the commercial fishing boundary. There
13 is a commercial fishing boundary on the Skeena River and it
14 moves from -- I mean, it could be moved. Sometimes for
15 part of the tear for Spring Salmon they fish up -- one time
16 it can be -- it's moved by public notice from time to time
17 but... Of course, at the same time I was in charge of the
18 spawning grounds that came into that Skeena area, the
19 spawning creeks that came into the Skeena area.
20 QCan you give us just an indication of the areas where the
21 spawning grounds would have been?
22 AYeah, there was the Eckstall River, the Shiwatlen Lake
23 (phonetic) and River system, Diana Creek -- what the heck's
24 the name --
25 QIt will come to you. When it does, you just tell us.
26 MR. RUSH: DO yoU know: You can suggest it to him.
27 MS. KOENIGSBERG: No, I don't.
28 AThat was the creek that came into Cloyah Bay and it was the
29 system that was dammed up by Columbia Cellulose when they
30 put in their -- to get their water system.
31 QCloyah Creek? .
32 ACloyah Creek and the lakes that -- it drained lakes,
33 smaller lakes.
34 QWere you responsible for Indian food fishing during that
35 time?
36 AWell, there was a small food fishery at odd times there,
37 yes.
38 QYou've told us you were responsible for the commercial --
39 AThat's right.
40 Q-- fishery at that time. To your knowledge, did the
41 Indians from the Upper Skeena whom you've told us
42 participated in the coastal commercial fishery, fish for
43 food on the coast:
44 ANot -- they didn't have permits to fish for food but they
45 did fish that one time that they -- with their own
46 commercial boats when the area was closed by union -- not
47 closed by -- this area wasn't closed by Fisheries, it was

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in-chief by Ms. Koenigsberg

1 closed by some -- I think some union bit, and so it was
2 still open for commercial fishing so they used their
3 commercial boats.

4 QWould you look at Document 2022? Are you the author of
5 this Annual Narrative Report for 1963? If you look at Page
6 7 --

7 AYes, I was.

8 QOkay. Would you look at Page 5, please:

9 AYes, I've got it now.

10 QDo you want to read that to yourself? Just read the top
11 under, "Lower Skeena Indian Food Fisheries," and you've
12 done a comparison there, but do you want to read the
13 paragraph under that and then I'm going to ask you a
14 question about it?

15 A"The sudden increase in the Indian
16 food catch and the number of
17 families partaking in this fishery
18 were due to the Salmon strike in the
19 middle of Salmon season. Indians
20 from the Nass River and Upper Skeena
21 were fishing from Skeena canneries
22 -- obtained permits to take fish for
23 their own use during these closed
24 times when a strike was in progress.
25 They could not fish for their own
26 use under a regular commercial
27 licence at that time because it was
28 contrary to union rules. This
29 fishing was done under supervision
30 of Skeena officer and Skeena patrol
31 boat."

32 Yeah, there was that bit come in there. There was nothing
33 to stop them but the union had some kind of a deal.

34 QDoes that paragraph accurately reflect --

35 APardon: . .

36 Q-- the strike and the effect of the strike that you were
37 st telling us about:

38 ADid it what?

39 QDoes this paragraph accurately reflect what was going on at
40 that time?

41 AThat's right.

42 MS. KOENIGSBERG: Could we mark Document 2022 as the next
43 Exhibit 37?

44

45 (EXHIBIT 37: Annual Narrative Report for 1963)

46

47 MS. KOENIGSBERG:

59 GIRAUD, V. H. (for defendants)
in-chief by Ms. Koenigsberg

1 QI'd like you next to look at Document 2143. I think we
2 could call this a magnum opus.
3 APardon?
4 QLook at Page 35:
5 AYes.
6 QAre you the author of this document?
7 AThat's right, yes, I was.
8 QAnnual Narrative Report for 1971?
9 AThat's right.
10 QAnd at this time you were holding the position of
11 Supervisor, Skeena District?
12 AThat's right.
13 QWere you located in Prince Rupert at this time?
14 AI was located in Prince Rupert.
15 QOkay.
16 AThat Skeena District but that -- and the Nass River down to
17 the coast to Skeena, Grenville-Principe.
18 QIf you turn to Page 21, I believe you were summarizing
19 there the Indian food fishery for the Skeena area, is that
20 correct:
21 AI't looks like that, yes.
22 QNow, Mr. Giraud, to yourself -- you don't have to read it
23 out loud -- do you want to just look at that summary, read
24 over that summary, and then I'm going to ask you just a
25 couple of questions about it?
26 Have you had a chance to read it?
27 AYeah, but I've got to do some thinking.
28 QOkay. Looking at what are two paragraphs of that
29 summary --
30 AHm hmm.
31 QYou seem to be describing the food fishery in relation to
32 some canning of salmon:
33 AThat's right.
34 QUpon reviewing that, can you tell us what was occurring --
35 MR. RUSH: Excuse me, sir. Is this on Page 21:
36 MS. KOENIGSBERG: Yes.
37 MR. RUSH: All right.
38 MS. KOENIGSBERG:
39 QLet me ask you, when you review that, do you happen to have
40 any recollection of what you were describing there?
41 AWell, I thought -- 1971 -- I don't know whether that was --
42 I just have to do some thinking on that. It might come
43 back to me, it might not.
44 QLet me ask you this --
45 AI'm not --
46 QI notice that this narrative --
47 AYeah.

60 GIRAUD, V. H. (for defendants)
in-chief by Ms. Koenigsberg

1 Q-- is quite large compared to many others?

2 AWell, it is. Yes, it is but there's got to be a
3 description of the other districts in there as well; the
4 Nass and Grenville-Principe as well as the Skeena.

5 QAt this time you had jurisdiction over all of those?

6 AYeah.

7 QAnd while you held the position in Prince Rupert as
8 Supervisor of the Skeena District, was it part of your duty
9 to submit an annual report of this sort?

10 AThat's right.

11 QTo whom did you submit it?

12 AThat was submitted to Vancouver to the regional -- or
13 the -- oh, the Chief Supervisor of the whole B.C., the
14 whole B.c. District.

15 QOkay.

16 AThe whole province. It was in Vancouver and the District
17 Officers were all responsible to his office.

18 QWas it part of your function and your duty to report on the
19 Indian food fishery and the relationship of the Indian food
20 fishery to the canneries as you have done here?

21 AThat's right.

22 QDid you gather this information, both yourself and
23 through --

24 AWell, through --

25 QYour officers?

26 AMy other fisheries officers, through my fisheries officers.
27 That was all gathered up together and put together from
28 their reports.

29 MS. KOENIGSBERG: Okay, let's mark this report then as the next
30 exhibit.

31

32 (EXHIBIT 38: Annual Narrative Report for 1971)

33

34 MS. KOENIGSBERG:

35 QWe have talked briefly about the food fishery, the
36 commercial fishery, and yesterday we talked about the
37 sports fishery. I want to ask you some questions about
38 other users that you would have had concern with for the
39 Skeena River Salmon, okay?

40 AOkay.

41 QWere there other users than the Upper Skeena people of the
42 Skeena River Salmon?

43 AI just don't understand the question.

44 QLet me ask you; to your knowledge did the Kitwancool
45 Indians fish for Salmon in the Skeena river:

46 AWell, if they were down at the commercial fishery, they
47 could have got into that type of fishing but they fish in

61 GIRAUD, V. H. (for defendants)
in-chief by Ms. Koenigsberg .

1 Kitwancool River right from their village, from the
2 Kitwancool Village, yes, they do.
3 QAny place else that you knew of in this Skeena fishery?
4 AWell, all the -- there was net fishing by Indians at their
5 own villages all the way up the Skeena River and on into
6 the Bulkley.
7 QHow about the Bear Lake Indians?
8 ABear Lake Indians, they had a fishery up there.
9 QDO you recall where it was?
10 AI never did inspect that fishery when I was in the
11 Fisheries. At the time of the year, I was busy at the
12 coast. If my fishery officers did inspect -- but I can't
13 offhand tell you how many fish were taken or anything like
14 that.
15 QWell, that's fine. How about the Babine Lake Indians?
16 ABabine Lake there was quite a big fishery there.
17 QOn Babine Lake:
18 AOn Babine Lake, yes, for Indian food purposes, yes.
19 QDO you have any recollection of the Bulkley River Indians?
20 AThe Bulkley River Indian fishery was Hagwilget Canyon and
21 Moricetown, the Falls of Moricetown.
22 QWere you aware of Indians who lived on the Skeena below
23 Cedarvale?
24 AThere was. Yes, I was.
25 QThey participated in the fishing:
26 AThey did.
27 QDo you recall any other Indians from other districts who
28 would have fished for food or participated in the
29 commercial fishery on the Skeena:
30 AI thought I answered that before but that was the time that
31 we had an open -- we didn't at all times -- but the
32 commercial fishery was open. There was a couple of
33 times -- we just went through that, hey -- that the
34 commercial fishermen are allowed to take some fish but they
35 fished -- they were fishermen in the Nass River which came
36 into the mouth of the Nass River; Kincolith and places like
37 so, Port Simpson, that they came under my control at that
38 time when I was -- they weren't Skeena people but they were
39 in that whole Skeena or that whole district area for --
40 that took in, as I say, from Babine Lake right down to the
41 coast and north to the Nass River and south to
42 Grenville-Principe, if you're talking about the whole
43 Skeena deal, hey, Area 4.
44 QOkay. While you were employed by the Department of
45 Fisheries, who supervised and regulated the Skeena River
46 Salmon resource?
47 AWhile I was in Prince Rupert: Well, I did, but with

62 GIRAUD, V. H. (for defendants)
in-chief by Ms. Koenigsberg

1 fishery officers, other fishery officers. I didn't do it
2 myself.

3 QWas there any other agency or group of people that you knew
4 of who participated in supervising and regulating that
5 resource?

6 ARegulating, yes. Yes, that was -- I forget the name of it
7 now, what they call themselves, but Skeena River Management
8 Committee, that's right.

9 QWhat was that?

10 AWell, that was -- it was a group of people that -- let me
11 think a little while.

12 QOkay.

13 AExcuse me, my mind is a blank this morning.

14 QWe could take a little bit of a break.

15 AI think maybe we could, yeah.

16 QOkay.

17

18 (PROCEEDINGS ADJOURNED)

19

20

21 I hereby certify the foregoing to be
22 a true and accurate transcript of
23 the proceedings herein, transcribed
24 to the best of my skill and ability:

25

27

28 Ruth V. Spencer
29 Official Court Reporter.

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