

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

LAC COURTE OREILLES BAND OF
LAKE SUPERIOR CHIPPEWA INDIANS, et al.,

Plaintiffs,

vs.

Civil Case 74-C-313-C

STATE OF WISCONSIN, et al.,
Defendants.

Madison, Wisconsin
August 9, 1989
9:02 a.m.

STENOGRAPHIC TRANSCRIPT OF TESTIMONY HELD DURING THE THIRD DAY
OF COURT TRIAL BEFORE THE HONORABLE BARBARA B. CRABB.

APPEARANCES:

For the Plaintiffs:

ATTORNEY KATHRYN TIERNEY
(Lac du Flambeau Band of Lake
Superior Chippewa Indians)

ATTORNEY MILTON ROSENBERG
(Red Cliff Band of Lake Superior
Chippewa Indians)

ATTORNEY TRACEY SCHWALBE
(Lac Courte Oreilles Band of Lake
Superior Chippewa Indians)

ATTORNEY EARL CHARLTON
(Sokaogon Chippewa Indian Community,
Mole Lake Band)

ATTORNEY HOWARD BICHLER
(St. Croix Chippewa Indians
of Wisconsin)

ATTORNEY DAVID SIEGLER
(Bad River Band of Lake Superior
Chippewa Indians)

EXHIBIT

2

tabbies

1 Question: Do you believe that under your legal
2 interpretation that consent is necessary for treaty hunters to
3 hunt on private lands?

4 Answer: No, I don't.

5 Did you give that answer to that question?

6 A Yes, I did.

7 Q Now, I would like to turn to the subjects of deer shining
8 and the summer firearms deer harvest season. You have been here
9 for the duration of this trial; haven't you?

10 A Yes, I have.

11 Q So you have heard all the testimony or practically all of
12 it?

13 A Yeah, most of it.

14 Q You are familiar with what the issues are in this case;
15 aren't you?

16 A Yes, I am.

17 Q Now, before drafting the Model Code's shining provisions you
18 never looked into the question of whether any other state in
19 this country allowed deer shining for firearm hunting; did you?

20 A I did not personally do research, no.

21 Q And similarly before drafting --

22 THE COURT: Excuse me just a minute.

23 MR. DOSCH:

24 Q Similarly before you drafted the provisions that would allow
25 summertime, July and August, firearm deer hunting by the tribal

1 members in this Model Code, you didn't look to see if summer
2 hunting was allowed in any other state of this country; did you?

3 A Could I just ask a clarifying question? By "state" I assume
4 you mean by state law.

5 Q By the state governments.

6 A Right. No, I did not.

7 Q Before drafting the deer shining provisions in the Model
8 Code you didn't consult with any experts in hunter safety
9 either; did you?

10 A Was that on shining?

11 Q On shining.

12 A No, I did not.

13 Q Instead you relied simply on your assumption that deer
14 hunting by shining presented no dangers in addition to those
15 that the state tolerates for raccoon and fox and coyote hunting
16 at night; isn't that correct?

17 A I looked to the provisions of Chapter 29 that define shining
18 under state law, and I presumed that the safety involved in that
19 was equivalent to that involved with deer, yes.

20 Q Now, although you didn't consult any safety experts on the
21 safety aspects of deer shining and hunting by firearms before
22 you drafted that provision, you did receive some unsolicited
23 advice on the subject from the chief law enforcement officer at
24 GLIFWC; didn't you?

25 A Yes, that's correct.