

HONORABLE BARBARA J. ROTHSTEIN

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

)
THE TULALIP TRIBES and THE)
CONSOLIDATED BOROUGH OF QUIL)
CEDA VILLAGE,)
)
Plaintiffs,)
)
and)
)
THE UNITED STATES OF AMERICA,)
)
Plaintiff-Intervenor,)
)
v.)
)
THE STATE OF WASHINGTON, Washington)
State Governor JAY INSLEE, Washington)
State Department of Revenue Director VIKKI)
SMITH, SNOHOMISH COUNTY, Snohomish)
County Treasurer KIRKE SIEVERS, and)
Snohomish County Assessor CINDY)
PORTMANN,)
)
Defendants.)

Case No. 2:15-cv-00940
**THE UNITED STATES’
COMPLAINT IN INTERVENTION**

The United States of America, at the request of the Secretary of the Interior and pursuant to the authority of the Attorney General, complains and alleges as follows:

1 **NATURE OF THE ACTION**

2 1. The United States joins this action on its own behalf and as trustee for the Tulalip
3 Tribes (“Tulalip” or “Tribe”). This complaint seeks prospective declaratory and injunctive relief
4 to protect the Tribe’s right under the United States Constitution and federal law to collect tribal
5 tax revenues within a tribally chartered municipality designed, financed, built, regulated, and
6 managed by the Tribe and the United States on land within the Tulalip Reservation that the
7 United States holds in trust for the Tribe, and to restrain Defendants from taxing the economic
8 activities on these lands in a manner inconsistent with federal law.
9

10 **JURISDICTION AND VENUE**

11
12 2. This action arises under the Constitution and laws of the United States. The Court
13 has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1345, and 1362. Relief may be
14 awarded under 28 U.S.C. §§ 2201 and 2202. This action is brought pursuant to federal law by
15 the United States to protect the Tribe’s governmental rights and authority over land held in trust
16 by the United States. This action involves an actual controversy requiring federal judicial relief.
17

18 3. Venue in this Court is appropriate under 28 U.S.C. § 1391(b) because one or more
19 of the Defendants reside in this District; the events or omissions giving rise to the claims
20 occurred in this District; and the property that is the subject of the action is situated in this
21 District.
22

23 **PARTIES**

24 4. Plaintiff Tulalip is a federally recognized Indian tribe organized under the Indian
25 Reorganization Act of 1934, 25 U.S.C. § 476. *See* Indian Entities Recognized and Eligible to
26 Receive Services from the United States Bureau of Indian Affairs, 80 Fed. Reg. 1942, 1946 (Jan.
27 14, 2015). Tulalip is the successor in interest to tribes and bands that signed the 1855 Treaty of
28

1 Point Elliott, including the Snohomish, Snoqualmie, and Skykomish. 12 Stat. 927. Tulalip
2 exercises sovereign powers of self-governance and jurisdiction over the Tulalip Reservation,
3 which is located within the exterior boundaries of the State of Washington.

4
5 5. Plaintiff the Consolidated Borough of Quil Ceda Village (“Quil Ceda” or the
6 “Village”) is a municipal corporation chartered under Tulalip law. The municipality
7 encompasses approximately 2,163 acres of land within the Tulalip Reservation, all of which are
8 held in trust by the United States for the benefit of the Tribe. The Village is recognized as a
9 political subdivision of an Indian tribal government by the United States under federal statute.
10 The Village has been delegated and exercises broad governmental powers within Village
11 boundaries, including taxing and policing powers.
12

13 6. Plaintiff-Intervenor United States acknowledged the Tulalip Reservation by
14 Treaty and added additional lands to it by federal Executive Order. Through numerous federal
15 statutes and regulations, as well as federal financial investment and assistance, the United States
16 supported the establishment, leasing of tribal lands, economic development, and provision of
17 government services at Quil Ceda Village.
18

19 7. Defendant State of Washington, through its officers, levies, administers, and
20 enforces the taxes at issue in this Complaint.
21

22 8. Defendant Jay Inslee is the Governor of the State of Washington and the
23 administrative and executive head of the State. He is responsible for the overall adoption and
24 administration of state agency policies and for the general execution of laws within the State. He
25 is sued in his official capacity as Governor of the State of Washington.
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1 9. Defendant Vikki Smith is the Director of the Washington State Department of
2 Revenue, charged with the administration and enforcement of taxes at issue in this Complaint,
3 and is sued in her official capacity.

4
5 10. Defendant Snohomish County is a municipal government organized under
6 Washington law that administers and enforces taxes at issue in this Complaint.

7 11. Defendant Kirke Sievers is the Snohomish County Treasurer, charged with the
8 administration and enforcement of taxes at issue in this Complaint, and is sued in his official
9 capacity.

10
11 12. Defendant Cindy Portmann is the Snohomish County Assessor, charged with the
12 administration and enforcement of taxes at issue in this Complaint, and is sued in her official
13 capacity.

14
15 **THE TULALIP RESERVATION AND THE
DEVELOPMENT OF QUIL CEDA VILLAGE**

16 13. Tulalip is the political successor in interest to the Snohomish, Snoqualmie,
17 Skykomish, and other allied tribes and bands that signed the 1855 Treaty of Point Elliott with the
18 United States. Lands comprising the Tulalip Reservation were reserved by the Treaty of Point
19 Elliott, as well as by Executive Order of President Grant on December 23, 1873.

20
21 14. The Tulalip tribal government organized under section 16 of the Indian
22 Reorganization Act of June 18, 1934, 48 Stat. 987, 25 U.S.C. § 476. The Tribe's Constitution
23 and Bylaws were approved by the United States Department of the Interior.

24
25 15. Tulalip chartered Quil Ceda Village as a municipal corporation within its
26 Reservation under a tribal code and delegated to the Village Council broad governmental
27 powers, including taxing and police powers.

1 16. Quil Ceda is governed by a Village Charter, Village Council, and federally
2 approved tribal ordinances.

3 17. The Village also received formal written approval from the United States to be
4 treated as a political subdivision of the Tribe and of the State for certain tax purposes after an
5 additional review by the United States Internal Revenue Service and the United States
6 Department of the Interior pursuant to federal statute.

7 18. Recognizing the commercial value of the Quil Ceda Village site, Tulalip, with
8 financial support and other assistance from the federal government, designed and constructed the
9 infrastructure necessary to support a major retail, tourism, entertainment, and commercial center
10 at Quil Ceda, including but not limited to the design, construction, and maintenance of the roads,
11 sidewalks, parking areas and medians; traffic control, signage, and lighting; an electrical
12 substation and electrical utility lines; freshwater, wastewater, stormwater, and sewer systems;
13 water reservoirs, waterlines, and pumping stations; a sewage treatment facility; fire hydrants and
14 an irrigation system; natural gas lines; and data and telecommunications lines.

15 19. The Tribe and the federal government contributed tens of millions of dollars and
16 provided other infrastructure and development support to construct Quil Ceda Village.

17 20. Upon information and belief, the Tribe managed and completed the Quil Ceda
18 infrastructure projects with tribal staff and Native American employees and businesses, without
19 non-Indian developer participation in the projects.

20 21. Upon information and belief, the planning, engineering, design, construction, and
21 installation of this infrastructure at Quil Ceda, and its ongoing management and maintenance,
22 have provided significant employment and business opportunities for tribal members, including
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1 as contractors, government officials, and employees, and these projects are subject to federal and
2 tribal Indian preference in employment laws and regulations.

3 22. Upon information and belief, tribal and Village funds dedicated to planning and
4 development have remained under direct tribal control, and the Tribe has not contracted with any
5 outside developer in connection with economic development activities within the Village.
6

7 23. The design, planning, financing, and construction of Quil Ceda Village came
8 primarily – if not exclusively – from the Tribe and the federal government.

9 24. Neither the State of Washington nor Snohomish County contributed in any
10 significant respect to the design, planning, financing, or construction of Quil Ceda Village.
11

12 25. The State of Washington performed few, if any, of the infrastructure development
13 activities within Quil Ceda Village.

14 26. Snohomish County performed few, if any, of the infrastructure development
15 activities within Quil Ceda Village.
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17 **TRIBAL LEASING AND BUSINESS ACTIVITIES AT QUIL CEDA VILLAGE**

18 27. After developing the necessary infrastructure, Tulalip entered into long-term
19 leases on its trust lands at Quil Ceda with retailers such as Wal-Mart and Home Depot.

20 28. Tulalip also entered into build-to-suit leases on its trust lands at Quil Ceda with
21 retailers such as Cabela's. Tulalip owns the building in which Cabela's conducts its operations.
22

23 29. Tulalip completed additional build-to-suit infrastructure on Village lands for
24 Chelsea Property Group and Seattle Premium Outlets, which today have approximately 140
25 subleases.

26 30. Tulalip constructed, owns, and operates an additional 16-storefront Tulalip Retail
27 Center within the Village, which includes a tribally owned pharmacy, United Parcel Service
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1 store, salon, restaurants, and the Greater Marysville Tulalip Chamber of Commerce, which
2 Tulalip financially supports.

3 31. Tulalip owns, operates, and leases additional trust lands for other retail and
4 business purposes within Quil Ceda Village.

5 32. The Quil Ceda Village Administration Center is located within the Village.

6 33. The Tribe also built and operates its own hotel, resort, gaming facilities,
7 amphitheater, cultural center, and natural areas within Quil Ceda.

8 34. Quil Ceda Village includes tribal artwork, tribal signage, and tribal businesses
9 that contribute to its unique character and atmosphere as an upscale tribal retail and
10 entertainment destination.

11 35. Through their planning, design, and development activities, their investment in
12 infrastructure, their provision of government services and amenities, and their selection and
13 management of commercial tenants, Tulalip and the Village have implemented federal goals of,
14 *inter alia*, tribal economic development, self-sufficiency, and self-determination, arising out of
15 federal statutes and regulations, and have converted a vacant stretch of land on the Tulalip
16 Reservation into a thriving regional retail and entertainment destination.

17 36. Tulalip and the Village have attracted more than 150 businesses, millions of
18 dollars of commercial investment, and hundreds of thousands of visitors to the Reservation. In
19 doing so, they have generated hundreds of millions of dollars in annual sales activities and tens
20 of millions of dollars in annual tax revenues.

21 37. On-reservation tribal commerce exists at Quil Ceda Village without respect to any
22 competitive tax advantage or exemption from state or local taxation. Businesses locate at Quil
23 Ceda Village, and customers visit Quil Ceda Village, because of the destination, including retail,
24

1 tourism, entertainment, and commercial facilities, which were designed, financed, built, and
2 regulated, and which continue to be managed, regulated, and maintained, by the Tribe.

3 38. Leasing and retail activities at Quil Ceda Village are an integral and essential part
4 of the municipality built by the Tribe.

5 39. Quil Ceda Village also provides a significant source of employment and business
6 opportunities for tribal members and other Native Americans.

7
8 **TULALIP GOVERNMENT SERVICES AT QUIL CEDA VILLAGE**

9 40. Tulalip comprehensively regulates all aspects of the leasing of trust lands within
10 the Village, and the activities on those lands, pursuant to the Tulalip Leasing Code, other
11 federally approved tribal ordinances, and lease provisions.

12 41. The federally approved Tulalip Leasing Code, for example, includes provisions
13 regarding land-use planning and zoning, building codes, environmental impacts, taxation, dispute
14 resolution and court jurisdiction, mandatory lease provisions, rental requirements and
15 adjustments, bonds and insurance, assignments, subleases, encumbrances, improvements, and
16 lease fees.

17 42. Lessee activities are also regulated by other tribal codes and ordinances including
18 land use and zoning; air-pollution control; building and construction; business licensing; fire
19 safety; electrical; traffic; right to work; tribal and Indian hiring and contracting preference; rights
20 of way and easements; health and safety; food-service sanitation; liquor sales; civil and
21 environmental infractions; sewer and water sanitation; noise control; public assemblage;
22 transient accommodation; and tort liability.

1 43. In addition to the Tribe's substantial investment, planning, design, and
2 construction of Quil Ceda Village, and its extensive tribal leasing regulatory regime, the Tribe
3 also provides a vast range of governmental services to those operating at or visiting Quil Ceda.
4

5 44. These tribal services include police protection; fire protection; emergency medical
6 and 911 services; water supply and transmission services; sewer, stormwater, and wastewater
7 services; garbage and debris collection and disposal; road and sidewalk maintenance; snow
8 removal; environmental protection; landscaping and maintenance of common areas; pest control;
9 phone, internet, and cable television services; utility maintenance and planning; crowd, security,
10 and traffic control; parking design and construction; and a civil court system for the resolution of
11 disputes arising at Quil Ceda.
12

13 45. Quil Ceda Village also has its own Tax Commission, established by the Quil Ceda
14 Village Municipal Tax Code, which oversees Village tax policy and the administration of the
15 Village's tax laws.
16

17 46. The Code imposes, among other taxes, a sales and use tax and a business and
18 occupation tax.

19 47. The Village Charter prohibits double taxation by providing that the cumulative
20 tax burden imposed within the Village may not exceed the tax burden imposed upon property,
21 transactions, persons, and entities within any incorporated municipality in Snohomish County,
22 Washington.
23

24 48. The governmental services at Quil Ceda Village come primarily – if not
25 exclusively – from the Tribe and the federal government.

26 49. The State and County do not contribute in any significant respect to the leasing,
27 retail activities, governmental services, or other on-reservation activities at Quil Ceda Village.
28

1 50. The regulatory functions and services, if any, provided by the State and the
2 County to Quil Ceda Village are minimal.

3 51. The taxpayers at Quil Ceda receive few, if any, State or County services related to
4 their on-reservation activities.
5

6 **FEDERAL INTERESTS IN THE TULALIP TRIBE’S SELF-DETERMINATION, SELF-**
7 **SUFFICIENCY, AND ECONOMIC DEVELOPMENT AT QUIL CEDA VILLAGE**

8 52. For over 150 years, tracing back to the 1855 Treaty of Point Elliott, the federal
9 government has maintained a consistent role in the Tribe’s use of the lands that today comprise
10 Quil Ceda Village. Federal statutes, treaties, and regulations demonstrate the federal interests in
11 providing Tulalip more control over its property to attract development; promoting tribal
12 economic development and economic self-sufficiency; comprehensively regulating both licensed
13 Indian traders and the leasing of tribal trust lands within the Village; encouraging economic
14 development through business partnerships, trade and tourism, and engaging non-Indian
15 communities that surround Indian lands; and assisting Tulalip to secure maximum economic
16 benefits through the leasing of Tulalip tribal trust lands.
17

18 **1855 Treaty of Point Elliot**

19 53. Quil Ceda Village sits on land reserved by the 1855 Treaty of Point Elliot, which
20 expressly refers to “Kwilt-seh-da” (*i.e.*, Quil Ceda) Creek.
21

22 54. The development of Quil Ceda Village furthers the Treaty’s broader purpose of
23 assisting Tulalip and its members to develop a homeland on which they are able to live and
24 thrive in a modern economy.
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1 **Indian Reorganization Act of 1934**

2 55. Congress’s intent to promote economic growth and independent tribal economies
3 is also evident in the passage of the Indian Reorganization Act of 1934, 48 Stat. 984, as
4 amended, 25 U.S.C. § 461 *et seq.* (the “IRA”), under which Tulalip organized pursuant to a
5 Secretari ally approved constitution and bylaws.
6

7 56. The IRA was designed, in part, to “rehabilitate the Indian’s economic life” and
8 “to give the Indians the control of their own affairs and of their own property” by placing it in
9 the hands of the tribal government or a tribal corporation. *Mescalero Apache Tribe v. Jones*, 411
10 U.S. 145, 152 (1973) (citations and quotations marks omitted); *see also Washington v.*
11 *Confederated Tribes of the Colville Indian Reservation*, 447 U.S. 134, 155 (1980) (IRA
12 expresses federal interest in fostering tribal self-government and economic development).
13

14 **Tulalip Leasing Act of 1970**

15 57. Congress specifically addressed Tulalip economic development through the
16 leasing of Tulalip tribal trust lands in the Tulalip Leasing Act of 1970. Pub. L. No. 91-274, 84
17 Stat. 302, *amended by* Act of Oct. 18, 1986, Pub. L. 99-500, 100 Stat. 1783 (codified at 25
18 U.S.C. § 415(b)).
19

20 58. The Tulalip Leasing Act eliminated the requirement for the Secretary of the
21 Interior to approve certain leases, such as leases on tribal trust lands not exceeding 75 years, as
22 long as such leases are executed under tribal leasing regulations previously approved by the
23 Secretary of the Interior.
24

25 59. The Secretary of the Interior, acting through the Bureau of Indian Affairs, retains
26 lease-approval authority over other types of leases, such as leases exceeding 75 years on tribal
27 trust land or any type of lease on individually held trust land.
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1 60. In 1981, the Secretary of the Interior approved Tulalip’s leasing regulations
2 concerning its tribal trust lands.

3 61. The purpose of the Tulalip Leasing Act was to give Tulalip more control over its
4 property, attract development, and allow the Tribe to secure maximum economic benefits, all
5 through the leasing of Tulalip tribal trust lands.
6

7 62. Such objectives can be achieved only if the Tribe is able to tax business activity
8 on the Reservation; recover the Tribe’s infrastructure investment costs; provide ongoing tribal
9 services at Quil Ceda; make improvements necessary to maintain the Village’s competitiveness;
10 and continue with the development of currently undeveloped Village lands.
11

12 **Tribal Government Tax Status Act of 1982**

13 63. In the Tribal Government Tax Status Act of 1982, Pub. L. No. 97-473, 96 Stat.
14 2601 (codified as amended at 26 U.S.C. § 7871), Congress granted tribal governments, and
15 certain political subdivisions of tribes, a federal tax status under the Internal Revenue Code
16 similar to that of the states for certain tax purposes.
17

18 64. Pursuant to the Act, Quil Ceda Village received formal written approval to be
19 treated as a political subdivision of the Tribe and of the State for certain tax purposes after an
20 additional review by the United States Internal Revenue Service and the United States
21 Department of the Interior.
22

23 65. The United States Internal Revenue Service and the United States Department of
24 the Interior approved Quil Ceda to take advantage of tax-preferred treatment under federal law,
25 including the authority to issue tax-exempt municipal bonds to finance infrastructure
26 development and government services.
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1 66. State and local taxation of businesses at Quil Ceda deprives the Tribe of its own
2 stream of tax revenues that could be used to take advantage of such federal statutory bonding
3 activity.

4 **Native American Business Development, Trade Promotion, and Tourism Act of 2000**

5 67. Congress continued to support tribal economic development, and the evolution of
6 independent tribal economies, through the Native American Business Development, Trade
7 Promotion, and Tourism Act of 2000, Pub. L. No. 106-447, 114 Stat. 1934 (2000) (codified at 25
8 U.S.C. § 4301 *et seq.*)
9

10 68. In the Act, Congress expressly recognized that Indian tribes' capacity to build
11 strong tribal governments and vigorous economies is hindered by tribes' inability to engage
12 communities that surround Indian lands and outside investors in economic activities on Indian
13 lands.
14

15 69. In the Act, Congress also expressly recognized the United States' obligation to
16 assist Indian tribes to encourage investment from outside sources that do not originate with the
17 tribes and to facilitate economic ventures with outside entities that are not tribal entities.
18

19 70. The Act expressly encourages economic development through partnerships with
20 outside business entities, through trade and tourism, and through engaging non-Indian
21 communities that surround Indian lands.
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23 71. For Quil Ceda Village, economic ventures with outside entities and engaging non-
24 Indian communities that surround Indian lands depend on avoiding the burden of double-
25 taxation.
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1 72. Lessees are unlikely to locate their businesses on Indian lands and non-Indians are
2 unlikely to visit Indian lands for commercial and tourism purposes if they are subject to a higher
3 tax burden than they would be elsewhere.

4 73. The Native American Business Development Act also includes a Native
5 American tourism program designed to assist tribes in planning, developing, and implementing
6 tourism-development projects that have the potential to increase travel and tourism revenues by
7 attracting visitors to Indian lands.
8

9 **Indian Self-Determination and Education Assistance Act of 1975**

10 74. While the Native American Business Development Act is a recent pronouncement
11 by Congress of the federal government's interest in fostering strong tribal economies and
12 economic self-sufficiency, similar interests have been articulated throughout other federal
13 legislative actions.
14

15 75. For example, the Indian Self Determination and Education Assistance Act of
16 1975, 25 U.S.C. § 450 *et seq.*, was enacted to promote objectives related to self-determination
17 and economic opportunity, including the effective and meaningful participation by Indian people
18 in the planning, conduct, and administration of federal programs and services.
19

20 76. As a self-governance tribe, Tulalip has assumed control over many federal
21 programs at Quil Ceda Village and provides a wide range of government services, including
22 police protection, emergency services, water supply, utility services, and a civil court system.
23

24 **Indian Gaming Regulatory Act of 1988**

25 77. Congress provided in the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et*
26 *seq.*, that "a principal goal of Federal Indian policy is to promote tribal economic development,
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1 tribal self-sufficiency, and strong tribal government.” 25 U.S.C. § 2701(4); *see also id.* §
2 2701(1).

3 78. This goal is hindered at Quil Ceda Village, where the Tribe is forced to replace
4 the revenue stream that could be generated by tribal taxation, and must instead fund Quil Ceda
5 infrastructure maintenance and government services with earnings from its gaming operations.
6 As a result, these redirected gaming revenues are not available to fund other essential tribal
7 programs and services.

8 79. Additionally, necessary improvements at Quil Ceda Village and future
9 development of the currently undeveloped Village lands must also be funded by gaming and
10 other governmental revenues rather than tax revenues.

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13 **Indian Trader Statutes**

14 80. The Indian Trader Statutes, originally enacted during the presidency of George
15 Washington, provide the federal government with exclusive authority to regulate trading
16 activities between Indians and non-Indians for the purpose of protecting Indians from fraud and
17 ensuring fair dealings. *See* 25 U.S.C. § 261 *et seq.*

18 81. The statutes and their implementing regulations evince federal intent to
19 comprehensively and exclusively regulate licensed Indian traders.

20 82. Under the regulations, all non-Indian businesses at Quil Ceda hold a federal
21 Indian trader’s license issued by the United States Bureau of Indian Affairs, which is obtained
22 only after submitting to a federal background check, including personal and corporate financial
23 status, capital to finance the business, prior business experience, and criminal and licensing
24 history.
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1 83. The United States Bureau of Indian Affairs and Tulalip, among others, entered
2 into a memorandum of agreement to memorialize procedures for reviewing and acting upon
3 applications for Indian trader's licenses at a portion of the Village site to provide certainty that
4 potential subtenants will be able to obtain Indian trader's licenses prior to negotiating subleases.
5

6 **Federal Leasing Regulations**

7 84. The United States Department of the Interior's leasing regulations, 25 C.F.R. Part
8 162, provide a comprehensive scheme for the surface leasing of Indian lands, including tribal
9 trust lands.
10

11 85. The purpose of the regulations is to promote leasing of Indian land for economic
12 development and other purposes.

13 86. The preamble accompanying the final rule states:

14 The Federal statutes and regulations governing leasing on Indian lands . . . occupy and
15 preempt the field of Indian leasing. The Federal statutory scheme for Indian leasing is
16 comprehensive, and accordingly precludes State taxation. In addition, the Federal
regulatory scheme is pervasive and leaves no room for State law.

17 Final Rule, Residential, Business, and Wind and Solar Resource Leases on Indian Lands, 77 Fed.
18 Reg. 72,440, 72,447 (Dec. 5, 2013).
19

20 87. Tulalip has adopted the relevant provisions of 25 C.F.R. Part 162 into its federally
21 approved Tulalip Leasing Code.

22 **Other Federal Actions and Investments at Quil Ceda**

23 88. The federal interests at Quil Ceda Village are not limited to federal statutes,
24 treaties, and regulations, but are also evident from the federal government's substantial financial
25 investment in the Village's commercial development, and in the ongoing regulatory and
26 government activities at Quil Ceda by federal agencies, including but not limited to the U.S.
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1 Environmental Protection Agency, the Indian Health Service, and the U. S. Army Corps of
2 Engineers.

3 **TAXATION AND ITS ECONOMIC IMPACTS AT QUIL CEDA VILLAGE**

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5 89. Defendants State of Washington and Snohomish County, to the exclusion of
6 Tulalip and the Village, collectively impose approximately \$40 million annually in property
7 taxes, business and occupation (B&O) taxes, and sales and use taxes on the property, retail sales,
8 services, businesses, and economic activities occurring on the Tribe's leased trust lands within
9 Quil Ceda Village.

10
11 90. The Tribe, in its sovereign capacity, has authority to impose its own sales and use,
12 B&O, and property taxes on the property, businesses, and activities at Quil Ceda Village. Retail
13 items are sold at fair market price; the rates for the taxes the Tribe is authorized to impose are
14 roughly comparable to the taxes imposed by the State and County; and proceeds from the taxes
15 the Tribe is authorized to impose would fund infrastructure, development, and governmental
16 services.

17
18 91. State and County taxation is directed at, and burdens, on-reservation activities and
19 reservation value generated by the Tribe. State and County taxation imposes a direct and
20 substantial financial burden on Tulalip and Quil Ceda Village; unduly burdens Tulalip and its
21 role in the on-reservation commerce within the Village; and interferes with Tulalip's ability to
22 fund governmental services, as well as the achievement of the self-determination, self-
23 sufficiency, and economic development goals that inform the law and policy of both the United
24 States and the Tribe.
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1 92. If Defendants did not impose some or all of their sales and use, B&O, and
2 property taxes in connection with the economic activities at Quil Ceda Village, Tulalip and the
3 Village would be able to impose and enforce their own like tribal taxes.

4 93. Tribal tax revenues are necessary to support the infrastructure and government
5 services essential to pay for the Village development, attract and retain commercial tenants and
6 visitors, finance further infrastructure and economic development activities within the Village,
7 and support essential government services for Tribal members and the Reservation community.

8 94. The Tribe and Village tax structure would advance the sovereign interests of the
9 Tribe as opposed to merely enabling customers to avoid the payment of the taxes of another
10 sovereign.

11 95. But as a practical matter, tribal taxation cannot co-exist with State and County
12 taxation for economic, business, and legal reasons. Because of State and County taxation, the
13 Tribe cannot impose its taxes without adversely affecting on-reservation business at the Village.

14 96. Defendants' taxes completely preclude Tulalip and the Village from imposing and
15 enforcing their own like tribal taxes, and deprive the Tribe of the tax base that other sovereigns
16 use to fund important government activities.

17 97. Double taxation would significantly reduce or extinguish sales and commerce
18 within the Village, would significantly reduce the Village's success as a commercial center, and
19 would strongly deter new and existing businesses from locating and remaining there.

20 98. In addition, business at Quil Ceda Village would be significantly harmed by
21 double taxation without a tax credit, as compared to a State tax with a credit for tribal-tax
22 payments.

1 99. The imposition of State and County taxes to the exclusion of Tribal taxes
2 frustrates the federal interests in providing Tulalip more control over its property to attract
3 development; promoting tribal economic development and self-sufficiency; and assisting Tulalip
4 to secure maximum economic benefits through the leasing of Tulalip tribal trust lands.
5

6 100. Federal interests at Quil Ceda Village can be protected only if the Tribe is able to
7 tax business activity on the Reservation; recover the Tribe's infrastructure investment costs;
8 provide ongoing tribal services at Quil Ceda; make improvements necessary to maintain the
9 Village's competitiveness; and continue with the development of currently undeveloped Village
10 lands.
11

12 101. As a result of Defendants' actions, the Village must depend on other funding
13 sources to subsidize the government services and infrastructure provided within the Village and
14 the future infrastructure, government services, and economic development that is necessary to
15 maintain the success and competitiveness of the Village.
16

17 102. As a result of Defendants' actions and this subsidization, Tulalip cannot fully
18 devote its tribal funds to other essential government services for tribal members and the
19 Reservation community, which services include, *inter alia*, police protection; schools and
20 education funding; health care; job training and counseling; senior citizens' housing; elder care;
21 emergency housing for parents and children; child care, youth, and family services; alcohol
22 counseling and rehabilitation; veterans' programs; water-quality and environmental programs;
23 natural-resources management; and cultural-resources protection.
24

25 103. Defendants' imposition and collection of sales and use, B&O, and property taxes
26 at the Village target reservation value, unduly burden the Tribe and Village, and interfere with
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1 the comprehensive infrastructure, service, regulatory, and tax scheme that Plaintiffs have
2 implemented pursuant to federal laws and policies and their inherent sovereignty.

3 104. In imposing taxes on Quil Ceda sales, services, and business activities, the State
4 and County seek to raise revenues from activities that cost them nothing, and over which they
5 exercise no control.
6

7 105. The State and County use few, if any, revenues derived from activities within the
8 Village to provide day-to-day government services within the Village.

9 106. No clear relationship exists between any State or County services within the
10 Village and the taxes imposed by the State and County within the Village.
11

12 107. There is no direct connection between any State or County services and the taxes
13 imposed by the State and County within the Village, particularly where the Tribe may already be
14 paying significant sums of money for any such services.
15

16 **COUNT I**
(PREEMPTION)

17 108. State and local taxation of non-Indians and their activities within Indian country is
18 preempted by federal law where that taxation undermines, interferes with, or is incompatible
19 with tribal and federal interests, and where the state and local interests in taxing those activities
20 are insufficient to justify the tax.
21

22 109. The Tribe and the Village have significant interests in generating revenues from
23 activities at the Village through the imposition of their own tribal taxes. Their interests are
24 further demonstrated through the millions of dollars in tribal financial investment in the Village;
25 the tribal planning, design, and construction of the Village; the legal formation and operation of a
26 tribal municipality and municipal governance structure; detailed tribal-code provisions and
27 ordinances comprehensively regulating all aspects of leasing trust lands within the Village and
28

1 the activities on those lands; the ongoing provision of governmental services to lessees and those
2 visiting Quil Ceda; employment and business opportunities for tribal members created by the
3 Village; and the economic effects and burdens of State and County taxation on the Tribe's
4 economy and ability to provide governmental services.
5

6 110. Federal statutes, treaties, and regulations demonstrate the significant federal
7 interests in building and maintaining vigorous and self-sufficient tribal economies; providing
8 Tulalip more control over its property to attract development; regulating both licensed Indian
9 traders and the leasing of tribal trust lands within the Village; encouraging economic
10 development through business partnerships, trade and tourism, and non-Indian communities that
11 surround Indian lands; and assisting Tulalip to secure maximum economic benefits through the
12 leasing of Tulalip tribal trust lands. Relevant federal interests are also demonstrated by the
13 federal government's substantial financial investment in the Village's commercial development,
14 and in the ongoing provision of federal regulatory and government services at Quil Ceda.
15

16
17 111. Neither the State of Washington nor Snohomish County contributed in any
18 significant respect to the design, planning, financing, or construction of Quil Ceda Village.

19 112. The governmental services at Quil Ceda Village are primarily – if not exclusively
20 – funded and provided by the Tribe and the federal government.
21

22 113. The State and County do not contribute in any significant respect to the leasing,
23 retail activities, governmental services, or other on-reservation activities at Quil Ceda Village.

24 114. The taxpayers at Quil Ceda receive few, if any, State or County services related to
25 their on-reservation activities.
26
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28

1 115. In imposing taxes on Quil Ceda sales, services, property, and business activities,
2 the State and County seek to raise revenues from activities that cost them nothing, and over
3 which they exercise no control.

4 116. No clear relationship exists between any State or County services within the
5 Village and the taxes imposed by the State and County within the Village.
6

7 117. The Tribe has generated on-reservation value through (a) the ongoing and long-
8 term development and substantial investment in complex, high-quality infrastructure, where none
9 existed before, to create a unique municipality that is now a major retail, tourism, entertainment,
10 and commercial center; (b) the comprehensive regulation of lessees, visitors, and Village
11 activities; (c) and the Tribe's ongoing and long-term funding and provision of services necessary
12 to its lessees and those visiting Quil Ceda.
13

14 118. The revenues subject to taxation in this case are derived in large measure from
15 value generated on the reservation by activities involving the Tribe, and the taxpayers are the
16 recipients of tribal services.
17

18 119. Federal and tribal interests in the economic activities within Quil Ceda Village
19 outweigh Defendants' interests in administrating and enforcing State and County sales and use,
20 B&O, and property taxes in connection with those activities.
21

22 **COUNT II**
(INFRINGEMENT ON TRIBAL SELF-GOVERNMENT)

23 120. Tulalip has the inherent and federally recognized sovereign right to make its own
24 laws and be ruled by them.
25

26 121. The Tribe's creation, development, and management of the Village, and the
27 delivery of essential government services to Village businesses, their employees, suppliers, and
28 patrons, are an exercise of Tulalip's federally protected power of self-government.

1 122. The Tribe's ability to exercise its taxation authority and financially support
2 government services, infrastructure projects, and economic development is a federally protected
3 and promoted right of self-government.

4
5 123. State and County taxation at Quil Ceda Village interferes with and precludes
6 Tulalip's exercise of its sovereign taxation authority and deprives the Tribe and the Village of
7 the ability to raise tax revenues to support infrastructure and essential governmental services and
8 to ensure the health, safety, and welfare of tribal members.

9
10 124. Defendants' administration and enforcement of State and County sales and use,
11 B&O, and property taxes in connection with activities at Quil Ceda Village interferes with and
12 frustrates Tulalip's inherent right of self-governance and its ability to further economic self-
13 sufficiency.

14
15 **COUNT III**
(INDIAN COMMERCE CLAUSE)

16 125. Defendants' administration and enforcement of some or all of State and County
17 sales and use, B&O, and property taxes in connection with activities at Quil Ceda Village
18 prevent appropriate taxation by the Tribe necessary to fund essential government services.

19
20 126. Defendants' administration and enforcement of State and County sales and use,
21 B&O, and property taxes in connection with activities at Quil Ceda Village are not tailored to
22 government services provided by the State and County within the Village to businesses, their
23 employees, suppliers, and patrons.

24
25 127. The Indian Commerce Clause of the United States Constitution prohibits these
26 State and local actions that impose such undue burdens on Tulalip, the Village, and on-
27 reservation commerce, and that displace the ability of the Tribe and Village to act as a taxing
28 authority and thereby enable them to fund essential government services within the Village.

1 (D) A permanent injunction prohibiting the Defendants from imposing, seeking to
2 collect, collecting, or enforcing the collection of State and County sales and use, B&O, and
3 property taxes in connection with the economic activities at Quil Ceda Village or, in the
4 alternative, prohibiting the Defendants from imposing, seeking to collect, collecting, or enforcing
5 the collection of said taxes, through double taxation, in a manner that precludes Tulalip and the
6 Village from imposing and enforcing their own like tribal taxes.
7

8 (E) An order granting such other further relief as the Court deems just and
9 appropriate.
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Respectfully submitted this 4th day of August 2015.

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