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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

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Agua Caliente Band of Cahuilla Indians

18 UNITED STATES DISTRICT COURT
19 CENTRAL DISTRICT OF CALIFORNIA
20 EASTERN DIVISION

21 ED CV 14 - 00007 JGB

(DTBx)

22 AGUA CALIENTE BAND OF
23 CAHUILLA INDIANS, a federally
recognized Indian tribe, on its own behalf
24 and as parens patriae for its members,

25 Plaintiff,

26 v.

27 RIVERSIDE COUNTY, LARRY W.
WARD, in his Official Capacity as
28 Riverside County Assessor, PAUL
ANGULO. in his Official Capacity as

CASE NO.:

COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

1 Riverside County Auditor-Controller, and
2 DON KENT, in his Official Capacity as
3 Riverside County Treasurer-Tax
4 Collector,

5
6 Defendants.

7 Comes now the Agua Caliente Band of Cahuilla Indians (Tribe) and shows as
8 follows:

9 **JURISDICTION AND VENUE**

10 1. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331
11 and 1362 because the Tribe is a federally recognized Indian tribe and its claims arise
12 under the Constitution, laws, and treaties of the United States.

13 2. The Court has personal jurisdiction over each of the Defendants because
14 each of them resides and/or conducts business in the State of California and the facts,
15 actions, and occurrences giving rise to this litigation take place within the Central
16 District of California.

17 3. Venue is appropriate in this Court under 28 U.S.C. § 1391(b) because (1)
18 the Defendants are located within this district; (2) the taxes at issue are assessed and
19 collected within this district; and (3) the property on which the taxes are assessed and
20 collected is located within this district.

21 **NATURE OF THE ACTION**

22 4. The Tribe brings this action to stop Riverside County from imposing
23 unlawful taxes on lessees using and occupying Indian trust land within the Tribe's
24 Reservation pursuant to Federal law and a comprehensive federal regulatory scheme.
25 The Riverside County taxes at issue are preempted by federal law, as confirmed by
26 recently promulgated federal regulations, and unlawfully infringe upon and burden the
27 Tribe's sovereign right of self-governance. Accordingly, in its sovereign capacity and
28 as *parens patriae* on behalf of its tribal members, the Tribe seeks (1) a declaration that
the assessment and collection of taxes on lessees' possessory interests in lands and

1 permanent improvements on lands held in trust by the United States for the benefit of
2 the Tribe and its members are unlawful, and (2) an injunction against Riverside
3 County's future assessment or collection of these unlawful taxes.

4 **PARTIES**

5 5. Plaintiff, the Agua Caliente Band of Cahuilla Indians, is a federally
6 recognized sovereign Indian tribe operating under a Constitution and by-laws
7 approved by the Commissioner of Indian Affairs on April 18, 1957 (as amended). The
8 Tribe brings this action on its own behalf and as *parens patriae* on behalf of its
9 members, a substantial number of whom are lessors of trust land within the Tribe's
10 Reservation.

11 6. Defendant Riverside County is a municipal governmental entity.

12 7. Defendant Larry W. Ward is sued in his official capacity as the Riverside
13 County Assessor.

14 8. Defendant Paul Angulo is sued in his official capacity as the Riverside
15 County Auditor-Controller.

16 9. Defendant Don Kent is sued in his official capacity as the Riverside
17 County Treasurer-Tax Collector.

18 **FACTS**

19 10. The Tribe is composed of Cahuilla Indians who have lived in the
20 Coachella Valley since time immemorial.

21 11. The lands at issue are a part of the Tribe's Reservation, which was
22 established on May 15, 1876 by an executive order of President Ulysses S. Grant from
23 lands in the Coachella Valley that the Cahuilla Indians have used and occupied since
24 time immemorial. The Reservation was expanded by an executive order of President
25 Rutherford B. Hayes on September 29, 1877, and currently covers more than 31,396
26 acres of land within the exterior geographic boundaries of Riverside County, all of
27 which is within the Tribe's aboriginal territory.

28

1 12. As a sovereign Indian nation, the Tribe has legal jurisdiction over its
2 Reservation lands, and it has enacted a number of statutes and ordinances regulating
3 the use and possession of those lands, including a comprehensive land use ordinance,
4 building and safety code, environmental laws, and a tribal tax code.

5 13. Much of the land comprising the Tribe's Reservation is held in trust by
6 the United States for the benefit of the Tribe and its members as authorized by the
7 Mission Indian Relief Act of January 12, 1891 (26 Stat. 712). These lands are referred
8 to herein as Reservation trust lands.

9 14. Because the United States holds title to the Reservation trust lands, those
10 lands are subject to a vast array of federal statutes and regulations that govern their
11 use and disposition. Included among these are numerous federal statutes setting
12 federal standards and requirements for surface leasing of the Reservation trust lands

13 15. Subject to the approval of the United States Secretary of the Interior and
14 various applicable federal statutes and regulations, the Tribe and its members lease
15 certain parcels of Reservation trust land for commercial development and other
16 purposes.

17 16. There are approximately 20,000 master leases, mini-master leases,
18 subleases, and sub-subleases for use and occupancy of Reservation trust land. These
19 leases are governed by an array federal statutes governing surface leasing on Indian
20 trust land, such as 25 U.S.C. § 415, and regulations, such as 25 C.F.R. pt. 162.

21 17. Many parcels of the leased Reservation trust lands include permanent
22 improvements, which are either owned outright by the Indian lessor or owned by the
23 lessee for the term of the lease with a reversionary ownership interest in the Indian
24 lessor that vests upon expiration or termination of the lease.

25 18. Both the Tribe and Tribal member lessors derive critical income from
26 surface leasing interests in allotted Reservation trust lands. Income generated from
27 the leasing of Reservation trust lands and associated improvements plays a critical role
28 in funding the Tribe's government, its ability to provide governmental services to

1 tribal members, and the ability of the Tribe and its members to be economically self-
2 sufficient.

3 19. The Defendants presently assess, levy, and collect a possessory interest
4 tax (PIT) on the lessees of Reservation trust lands and permanent improvements
5 thereon. Under California state law, when a person or entity leases, rents, or uses real
6 estate owned by a government agency for its exclusive use, a taxable possessory
7 interest occurs.

8 20. The PIT is assessed by County Tax Assessors against the person or entity
9 in possession of the property.

10 21. While the Defendants assess the PIT on the lessees in possession of
11 Reservation trust lands, the Defendants' unlawful actions have the direct effect of
12 decreasing the lands' lease value, and the economic burden of the PIT falls on the
13 Tribe and its members as lessors.

14 22. The Defendants' unlawful collection and assessment of the PIT also
15 directly harms the Tribe by limiting the Tribe's tax revenue. Lawfully enacted
16 provisions of the Tribe's own tax code provide for the taxation of possessory interests
17 in Reservation trust lands and permanent improvements situated thereon, but to avoid
18 double taxation of Reservation trust land lessees, the Tribe has voluntarily agreed to
19 hold the assessment and collection of its lawful tribal tax in abeyance until the
20 Defendants cease the assessment and collection of Riverside County's unlawful PIT.

21 23. Assessors use the income, comparative sales, or cost approach to
22 determine value. As applied on the Tribe's Reservation, the PIT is based upon the
23 value of Reservation trust lands and permanent improvements erected thereon by the
24 Tribe, its members, or their lessees.

25 24. The PIT is a general revenue generating tax that has no direct bearing on
26 or nexus with services provided by Riverside County to the Tribe or its members on
27 the Tribe's Reservation. Riverside County covers approximately 7,300 square miles of
28 land, which is roughly the size of the state of New Jersey. The majority of Riverside

1 County's PIT revenues are spent or otherwise disbursed outside of the Tribe's
2 Reservation. Defendants spend a substantial percentage of PIT revenues collected
3 from the Tribe's Reservation outside the Coachella Valley.

4 25. On January 4, 2013, as part of a comprehensive federal regulatory
5 scheme governing the leasing of Indian lands issued under the authority of federal
6 law, a new federal regulation specifically governing the taxation of Reservation trust
7 lands went into effect. That regulation confirms that Riverside County's tax is
8 unlawful due to the strong federal interests in such surface leasing, providing that with
9 respect to Reservation trust land, "[s]ubject only to applicable federal law, [a]
10 leasehold or possessory interest is not subject to *any* fee, tax assessment, levy, or other
11 charge imposed by any State or political subdivision of a State...." 25 C.F.R. §
12 162.017(c) (emphasis added).

13 26. Section 162.017(c) also confirms the Tribe's jurisdiction to tax leasehold
14 and possessory interests within its Reservation.

15 27. On January 15, 2013, the Tribe wrote to the Riverside County Board of
16 Supervisors to notify them of the newly effective federal regulation and to propose a
17 meeting between Tribal Council members and staff and Riverside County officials to
18 discuss the new regulation.

19 28. Riverside County officials rebuffed the Tribe's overtures and indicated
20 that they would continue to assess and collect the unlawful PIT in disregard of federal
21 law including § 162.017 unless and until a court ordered them to stop doing so.

22 29. Assessment and collection of the PIT on possessory interests in
23 Reservation trust lands, as well as permanent improvements situated on such lands, is
24 preempted by federal law.

25 30. The balance of federal, state, and tribal interests militates in favor of the
26 Tribe and establishes that Reservation trust lands, permanent improvements situated
27 thereon, and any rights to the possession and use of such lands or improvements
28 should be exempt from state and local taxation as a matter of federal law.

1 31. Assessment and collection of the PIT on possessory interests in
2 Reservation trust lands, as well as permanent improvements situated on such lands,
3 impermissibly interferes with the sovereign right of the Tribe to govern itself and its
4 Reservation.

5 32. Based on their prior conduct and present representations, unless
6 restrained by this Court, Defendants will continue to collect the PIT in violation of
7 federal law and to inflict upon the Tribe injuries for which there can be no full
8 monetary compensation.

9 **COUNT I – FEDERAL PREEMPTION**

10 33. Plaintiff hereby incorporates all preceding paragraphs of this Complaint
11 as if fully set forth herein.

12 34. The surface leasing of Reservation trust lands is subject to a vast and
13 comprehensive array of federal statutes, such as 25 U.S.C. § 415, and regulations,
14 such as 25 C.F.R. pt. 162, that leave no room for the taxation or other regulation of
15 Reservation trust land leases by state or local governments.

16 35. Governing federal law, including 25 C.F.R. § 162.017, makes clear that
17 federal interests related to surface leasing of Reservation trust lands preempts state or
18 municipal taxation of possessory interests in Reservation trust lands and permanent
19 improvements situated thereon, regardless of whom the tax is assessed against or
20 collected from.

21 36. The strong federal and tribal interests in promoting and maximizing tribal
22 economic development, self-determination, self-sufficiency, and strong tribal
23 governments outweigh any state or local interests in assessing and collecting a general
24 revenue tax such as the PIT on Reservation trust lands or interests therein

25 37. Accordingly, the assessment and collection of the PIT is preempted by
26 federal law, and any efforts by the Defendants to assess or collect the tax are *per se*
27 unlawful.

28 38. Defendants have acted, and continue to act, in violation of Federal law.

1 39. The Tribe has suffered and will continue to suffer irreparable harm
2 caused by Defendants' actions and omissions in assessing and collecting the PIT on
3 possessory interests in Reservation trust lands.

4 **COUNT II – INJURY TO SOVEREIGN INTERESTS**

5 40. Plaintiff hereby incorporates all preceding paragraphs of this Complaint
6 as if fully set forth herein.

7 41. The Tribe, as a sovereign Indian nation with jurisdiction over its
8 Reservation, has an inherent and federally-recognized, Constitutionally-based right to
9 make its own laws and be ruled by them.

10 42. By assessing and collecting the PIT from lessees of Reservation trust
11 lands beneficially owned by the Tribe and its members, the Defendants decrease the
12 lease value of the Reservation trust lands and limit the Tribe's ability to exercise its
13 inherent, sovereign rights to enact, levy, and collect tribal taxes on the possessory
14 interests in question and to use those tax proceeds to provide essential governmental
15 services for the betterment of all Reservation residents.

16 43. This, in turn, limits the Tribe's ability to raise revenues necessary to
17 provide governmental services necessary to the Tribe and its members.

18 44. Accordingly, the PIT violates federal law by infringing on the Tribe's
19 inherent, federally-recognized sovereign rights and interests.

20 45. Defendants have acted, and continue to act, in violation of Federal law.

21 46. The Tribe has suffered and will continue to suffer irreparable harm
22 caused by Defendants' actions and omissions in assessing and collecting the PIT on
23 possessory interests in Reservation trust lands.

24 **REQUEST FOR RELIEF**

25 WHEREFORE the Tribe, on behalf of itself and its members, is entitled to and
26 respectfully requests the following relief:

27 ///
28 ///

1 1. A declaration that the Defendants' assessment and collection of taxes
2 on possessory interests in Reservation trust lands and permanent improvements
3 situated thereon is a violation of federal law and the Tribe's sovereign authority.

4 2. An injunction prohibiting all future efforts to assess or collect possessory
5 interest taxes on Reservation trust lands and permanent improvements situated
6 thereon.

7 3. Such additional relief as the Court deems just and proper.
8

9 DATED: January 2, 2014

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12
13 By: 

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