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

SNOQUALMIE INDIAN TRIBE, a  
federally recognized Indian tribe on its own  
behalf and as *parens patriae* on behalf of its  
members,

Plaintiff,

v.

STATE OF WASHINGTON; and  
GOVERNOR JAY INSLEE and  
WASHINGTON DEPARTMENT OF FISH  
AND WILDLIFE DIRECTOR KELLY  
SUSEWIND, in their official capacities,

Defendants.

Civil Action No.

COMPLAINT FOR DECLARATORY  
RELIEF AS TO TREATY STATUS AND  
INJUNCTIVE RELIEF

**INTRODUCTION**

1. Plaintiff Snoqualmie Indian Tribe (“Tribe”), a federally-recognized sovereign Indian tribe, seeks a declaration as to its status as a signatory to the Treaty with the Duwamish, Suquamish, et al. (“Treaty of Point Elliott”), January 22, 1855, Art. V, 12 Stat. 927, entered into with the United States of America for the “privilege of hunting and gathering roots and berries on open and unclaimed lands” off-reservation throughout the modern day state of Washington, and injunctive relief to compel Defendants to comply with Federal law.

2. The Tribe asks this Court to declare that the Tribe (1) is a signatory to the Treaty of Point Elliott and (2) the Tribe’s reserved rights under the Treaty of Point Elliott have not been abrogated by Congress.



1 action on its own behalf and as *parens patriae* on behalf of its members who exercise treaty-  
2 reserved rights.

3 7. Defendants are the State of Washington (“State”), and State officials responsible  
4 for the implementation and enforcement of the State’s hunting and gathering laws and  
5 regulations. As described more fully below, Defendants have and continue to deprive the Tribe  
6 of the exercise of the hunting and gathering rights reserved by it and guaranteed to it by the  
7 Treaty of Point Elliott as follows:

8 (a) Defendant Jay Inslee is Governor of Washington and is sued in his official  
9 capacity as Washington’s chief executive officer. The Governor has a constitutional obligation to  
10 “see that the laws are faithfully executed.” Wash. Const. art. III, § 5.

11 (b) Defendant Kelly Susewind is sued in his official capacity as the Director  
12 of the Washington Department of Fish and Wildlife (“WDFW”) and exercises authority granted  
13 to him under Washington law and/or delegated to him by the Governor, including the authority  
14 to implement and enforce State hunting laws.

15 **STATEMENT OF FACTS**

16 **Snoqualmie Pre-Treaty Hunting and Gathering**

17 8. Since time immemorial, hunting and gathering has been a way of life for the  
18 Snoqualmie people.

19 9. In *Snoqualmie Tribe of Indians v. United States*, 372 F.2d 951 (Ct. Cl. 1967), the  
20 court found that “the Snoqualmie were land hunters” and that “Snoqualmie relied on hunting for a  
21 large part of their subsistence.” The Court of Claims further noted that “the Snoqualmie Indians,  
22 who had horses, were rated as one of the better hunting tribes[,]” and that “the Snoqualmie ...  
23 wandered and roamed through the Cascade Mountains on hunting expeditions.”

24 **Snoqualmie Signatories to the Treaty of Point Elliott**

25 10. In 1854 and 1855, the United States and various tribes signed treaties commonly  
26 known as the “Stevens Treaties”. In the Stevens Treaties, the tribes relinquished their interests in  
27

1 most of the Washington Territory; however, the tribes expressly reserved to themselves certain  
2 rights.

3 11. In Article V of the Treaty of Point Elliott, the tribes expressly reserved to  
4 themselves:

5 The right of taking fish at usual and accustomed grounds and stations is further secured to  
6 said Indians in common with all citizens of the Territory, and of erecting temporary houses  
7 for the purpose of curing, together with the privilege of hunting and gathering roots and  
8 berries on open and unclaimed lands. Provided, however, that they shall not take shell-fish  
9 from any beds staked or cultivated by citizens.

10 12. At the time of the Treaty of Point Elliot, the Snoqualmie consistent of eighteen or  
11 more winter villages under the leadership of Chief Pat Kanim. The Tribe is a signatory to the  
12 Treaty of Point Elliott under its Chief Pat Kanim. Among the other thirteen Snoqualmie signors  
13 of the Treaty, who continued as important sub-chiefs in the ensuing years, were: John Kanim  
14 (listed as John Kanam in the Treaty), Klemish Kanam (spelled as Klemsh-ka-nam in the Treaty),  
15 Huddy Kanim, and Chush Kanim.

16 13. Numerous Federal Court and Indian Claims Commission cases confirm the Tribe  
17 was a treaty signatory. *See U.S. v. Washington*, 641 F. 2d 1368, 1370, n. 1 (9th Cir. 1981) (“The  
18 Duwamish, Samish, Snohomish, and **Snoqualmie Tribes were parties to the Treaty of Point**  
19 **Elliott**, 12 Stat. 927 (signed January 22, 1855; ratified March 8, 1859; proclaimed April 11,  
20 1859.)” (emphasis added); *Snoqualmie Indian Tribe, et al. v. United States*, 9 Ind. Cl. Comm. 25,  
21 48 (June 30, 1960) (recognizing Snoqualmie title to lands ceded under the Treaty of Point Elliott);  
22 *Snoqualmie Indian Tribe, et al. v. United States*, 15 Ind. Cl. Comm. 267, 310, 314 (May 7, 1965)  
23 (finding that “Governor Stevens concluded the Treaty at Point Elliott on January 22, 1855 with . .  
24 . Snoqualmie”); *Upper Skagit Tribe of Indians, et al. v. United States*, 13 Ind. Cl. Comm. 583,  
25 585-86, 588 (Aug. 13, 1964) (finding that “Snoqualmie” were among the signatories to the Treaty  
26 of Point Elliott, and awarding Snoqualmie monetary compensation).

27 14. Most recently, the United States noted that “The Snoqualmie tribe was  
28 acknowledged by the Treaty of Point Elliott in 1855 and continued to be acknowledged after that

1 point” in the Assistant Secretary of the Interior’s 1997 Summary Under the Criteria and Evidence  
2 for Final Determination of Federal Acknowledgement of the Snoqualmie Tribal Organization,  
3 which confirmed Snoqualmie’s continuous and unbroken tribal organizational structure from  
4 Treaty times to the present day.

5 15. The Tribe reserved to itself the same rights and privileges as the other Indian treaty  
6 signatories of the Treaty of Point Elliott.

7 16. At no time has Congress abrogated the Tribe’s rights under the Treaty of Point  
8 Elliott.

9 **Prior State Position Recognizing Tribe’s Treaty Status**

10 17. On April 16, 1969, Walter Neubrech, Chief of the Enforcement Division of the  
11 Washington Department of Game, issued a letter providing that the Tribe could participate in a  
12 deer hunt within the entirety of the Point Elliott ceded area because “The above described lands  
13 were ceded to the United States Government by the Snoqualmie and other tribes. It is on this land  
14 that tribes who were a party to the Elliott Treaty may hunt or fish without first acquiring a license  
15 but who are required to abide by all other necessary conservation laws.”

16 18. This letter establishes the WDFW’s previously long-held and correct recognition  
17 of Snoqualmie as a Treaty signatory with reserved rights thereunder.

18 **State’s 2019 Adverse Actions**

19 19. WDFW provides a process whereby Washington State Indian tribes who are  
20 signatories to the Stevens Treaties can obtain traditional area hunting designations from the State.

21 20. A number of Washington State Indian tribes who are signatories to the Stevens  
22 Treaties have sought and received such a designation.

23 21. By letter dated May 7, 2019, WDFW sent a letter to various Washington State  
24 Indian tribes who are signatories to the Stevens Treaties that WDFW intends to update the  
25 procedural guidelines for evaluating a tribe’s asserted traditional hunting area and seeking input  
26 from certain tribes on those revisions.

27 22. The Tribe did not receive a copy of that letter.

1 23. On or about June 30, 2019, the Tribe sent a letter to WDFW expressing its dismay  
2 that it was excluded from the May 7, 2019 letter, and providing information supporting the fact  
3 that the Tribe is a signatory to Treaty of Point Elliott.

4 24. By letter dated September 24, 2019, WDFW sent a letter to the Tribe, signed by  
5 Defendant Susewind, indicating that “the Snoqualmie Tribe does not have off-reservation hunting  
6 and fishing rights under the Treaty of Point Elliott.”

7 25. In a subsequent letter dated October 15, 2019, Defendant Susewind invited various  
8 Tribal leaders to an “October 30, 2019 meeting regarding WDFW’s procedural guidelines to  
9 evaluate treaty tribes’ asserted traditional hunting areas” and “to also discuss a process at the  
10 meeting on how best to consult with you on those guidelines.” The letter was not sent to the Tribe  
11 and contained an attachment that did not list the Tribe as a Tribe with Treaty status.

12 26. On December 11, 2019, representatives for the Tribe met with Defendant Susewind  
13 and representatives of WDFW in an effort to avoid litigation. On December 17, 2019, WDFW  
14 reiterated its position that the Tribe does not have Treaty rights.

15 27. The Tribe’s treaty reserved off-reservation hunting and gathering rights, which  
16 have never been abrogated by Congress, have been and continue to be directly and adversely  
17 impacted by Defendants’ conduct which deny to the Tribe the benefit of their treaty-reserved rights  
18 as a Treaty signatory.

19 **FIRST CAUSE OF ACTION**

20 **(Declaration of Treaty Status)**

21 28. Plaintiff hereby incorporates all preceding paragraphs of this Complaint as if fully  
22 set forth herein.

23 29. The Tribe is a signatory to the Treaty of Point Elliott.

24 30. As a tribe that signed the Treaty of Point Elliott and has maintained a continuous  
25 organized structure since, the Tribe is entitled to exercise rights thereunder.

26 31. The Tribe’s treaty reserved hunting and gathering rights are a property right  
27 which is protected by Article V of the United States Constitution, as applied through the

1 Fourteenth Amendment, which cannot be deprived without due process of law and just  
2 compensation.

3 32. Treaties are the supreme law of the land, and are binding within the territorial  
4 limits of the states, and can only be modified or abrogated by an act of Congress. U.S. Const.,  
5 art. VI, cl. 2. The Tribe's reserved treaty hunting and gathering rights are privileges recognized  
6 by the U.S. Constitution and the Tribe's treaty with the United States.

7 33. There is no act of Congress modifying or abrogating the Tribe's treaty rights.

8 34. The Tribe's treaty reserved off-reservation hunting and gathering rights continue  
9 against the United States and its grantees, as well as against the State and counties, and their  
10 grantees.

11 **SECOND CAUSE OF ACTION**

12 **(Violation of Equal Protection)**

13 35. Plaintiff hereby incorporates all preceding paragraphs of this Complaint as if fully  
14 set forth herein.

15 36. The Equal Protection Clauses of the Fourteenth Amendment to the United States  
16 Constitution and Washington Constitution at Article 1, Section 12 both require that persons  
17 similarly situated with respect to the legitimate purpose of the law receive like treatment.

18 37. Acting under color of state law, Defendants have denied the Tribe and its  
19 members the same protection of fundamental rights afforded to other Washington State Indian  
20 tribes who were treaty signatories and their members.

21 38. The Tribe's treaty hunting and gathering rights may not be qualified by any action  
22 of the State.

23 39. The Tribe's members have, are and continue to be harmed by the actions of  
24 Defendants unlawfully treating the Tribe and its members differently than similarly situated  
25 Washington State Indian tribes who were treaty signatories when they omit the Tribe from the  
26 list of tribes with reserved hunting and gathering rights secured under the Treaty of Point Elliott,  
27

1 seek to deny the Tribe's treaty status, and exclude the Tribe from opportunities pertaining to  
2 Treaty hunting and gathering on that basis.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, the Tribe prays for the following relief:

- 5 A. For a declaration that the Tribe is a signatory to the Treaty of Point Elliott and that  
6 such rights have not been abrogated by Congress;
- 7 B. For an injunction requiring Defendants to comply with Federal law; and
- 8 C. For such other relief as the Court deems just, equitable and proper.

9  
10 DATED this 20th day of December, 2019.

11 By: /s/ Rob Roy Smith

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