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UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

CONFEDERATED TRIBES OF THE CHEHALIS
RESERVATION
420 Howanut Road
P.O. Box 536
Oakville, WA 98568

TULALIP TRIBES
6406 Marine Drive
Tulalip, WA 98271

HOULTON BAND OF MALISEET INDIANS
88 Bell Road
Littleton, ME 04730

AKIAK NATIVE COMMUNITY
P.O. Box 52127
Akiak, AK 99552

ASA'CARSA MIUT TRIBE
P.O. Box 32249
Mountain Village, AK 99632

ALEUT COMMUNITY OF ST. PAUL ISLAND
2050 Venia Minor Road
P.O. Box 86
St. Paul Island, AK 99660

Plaintiffs,

Case No.: ___1:20-cv-01002_____

DECLARATION OF HARRY PICKERNELL

1 v.

2 STEVEN MNUCHIN, SECRETARY, UNITED
3 STATES DEPARTMENT OF THE TREASURY
4 1500 Pennsylvania Ave., N.W.
5 Washington, D.C. 20220

6 Defendant.

7 I, Harry Pickernell, Sr., declare the following on the basis of personal knowledge to which I am
8 competent to testify:

- 9 1. I am the Chairman of the Confederated Tribes of the Chehalis Reservation (“Tribe”).
- 10 2. The Tribal member population is 979 members, over 40% of whom are under the age of
11 18.
- 12 3. The Tribe has lived from time immemorial at the confluence of the Chehalis River and
13 the Black River in Southwest Washington state.
- 14 4. In 1864, the United States, by Executive Order, created the Chehalis Reservation at the
15 confluence of the Chehalis River and the Black River in what became Washington state
16 (the “Original Reservation”).
- 17 5. The Tribe is governed by the Business Committee, the equivalent of other tribes’ tribal
18 councils.
- 19 6. The Tribe is a small fishing tribe with the Original Reservation comprised of 4,400 acres.
- 20 7. Since the 1990s, the Tribe has added an additional 1,020 acres of fee and trust land, all of
21 which trust land has been added to the Chehalis Reservation, making the Reservation into
22 a checkerboard Reservation.

- 1 8. The Original Reservation, in a rural area located between Oakville and Rochester,
2 Washington eight miles from Interstate 5 (I-5), is the center of the tribal government and
3 the Tribe's housing.
- 4 9. The Original Reservation also houses, inter alia, the Tribe's wellness clinic, water
5 system, membrane bioreactor (MBR) wastewater treatment plants, public safety
6 department, and Early Head Start and Head Start operations.
- 7 10. In addition, the Original Reservation is the home to the Tribe's casino and casino hotel,
8 as well as its gas station and convenience store.
- 9 11. The majority of the checkerboard portion of the Chehalis Reservation is located
10 immediately adjacent to I-5 at Grand Mound (the "Grand Mound" Reservation). Other
11 than the casino operation, the Grand Mound Reservation is the center of the Tribe's
12 economic development tax base.
- 13 12. The Grand Mound Reservation is home to the Tribe's Fairfield Inn and Suites by
14 Marriott, the Great Wolf Lodge, two tribal gas stations with associated convenience
15 stores and adjacent fast food franchise restaurants, and the currently under construction
16 Talking Cedar Brewery, Distillery and Restaurant.
- 17 13. In 2018, the Tribe promoted legislation in the United States Congress, which repealed an
18 1834 statute that prohibited the construction of distilleries on Indian Reservations. This
19 not only permitted the Talking Cedar venture, but opened the way for all tribes in the
20 United States to operate distilleries on tribal lands.
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1 14. The Tribe's Great Wolf Lodge, an indoor waterpark, was the first such venture on tribal
2 lands and also houses a Starbuck's franchise, the first Starbuck's franchise in Indian
3 Country.

4 15. Even though the Tribe only has an on-Reservation fishery, the Tribe uses other parcels of
5 its checkerboard Reservation to protect the Chehalis River for the benefit of the salmon
6 and steelhead and to engage in aquatic restoration projects to further enhance the survival
7 of salmon and steelhead for all users—Indian and non-Indian—of the Chehalis River
8 fishery.

9 16. On a daily basis, the Tribe provides the following services on the Original Reservation
10 and the checkerboard Reservation:

11 a). Public safety and police services with its own police force, which is also cross-
12 deputized with Thurston County;

13 b) The Chehalis Jail, which houses inmates for other tribes in Western Washington and
14 Chehalis inmates;

15 c) The Chehalis Tribal Court, an independent tribal court with three judges, a tribal
16 prosecutor and a public defender, which hears civil and criminal cases;

17 d) The Tribal facilities department, which operates the Tribe's water system and two
18 MBR wastewater treatment plants and maintains all tribal buildings, such as the tribal
19 center, the elder center, and the tribal community center;

20 e) The Tribe's Wellness Clinic, which provides medical, dental and pharmacy services;

21 f) The Tribe's Behavioral Health and Social Services Departments;

22 g) The Tribe's K-12 and Early Head Start and Head Start departments;

1 h) The Tribe's Natural Resources Department, which, among other things, was granted
2 treatment in a manner similar to a state (TAS) status and delegated authority from EPA
3 under the Clean Water Act to regulate water quality on the Chehalis and Black Rivers on
4 the Reservation;

5 i) The Tribe's Planning Department, which creates and monitors zoning and master
6 planning on the Reservation and issues business licenses to businesses seeking to operate
7 on and/or come to the Reservation;

8 j) Elder care programs; and

9 k) Programs for youth and adults at the Tribe's community center and gymnasium.

10 17. The Tribe, in all of its departments and enterprises, employs 1,609 employees, both
11 Indian and non-Indian.

12 18. By the first week of March 2020, the Tribe began monitoring the COVID-19 situation in
13 Washington State.

14 19. On or about March 8, 2020, the Tribe's Emergency Management Team began discussions
15 in anticipation of the potential of a closure of the government and all its enterprises.

16 20. On March 13, 2020, in order to protect the 250 residents of the Reservation from the
17 COVID-19 epidemic, the Tribe declared a State of Emergency and required all
18 Reservation households to shelter in place.,

19 21. On March 18, 2020, the Tribe closed the Tribal Government and all of its enterprises
20 except its gas stations. The gas stations remain open to provide gas and diesel necessary
21 for travel for the general public and emergency vehicles.
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1 22. Pursuant to its previously adopted pandemic management plan, the Tribe created the
2 Incident Operation Center tasked with providing assistance to the Reservation (in
3 particular, tribal elders) and maintaining basic services, such as health clinic operations,
4 meals for elders and school children (who are no longer in school as a result of the
5 Washington State school closure order), garbage and sanitation services, policing and
6 other basic services.

7 23. Even though the Tribe's pandemic management response effectively eliminated the
8 Tribe's tax base and other revenue from its enterprises, it has had the desired effect of
9 keeping the COVID-19 virus off the Reservation through the date of this Declaration.

10 24. Even though the Tribe's revenue stream has essentially been destroyed, the Tribe
11 continues to employ not only its essential services providers, but kept all of its other
12 employees on paid administrative leave through April 15, 2020, in order to prevent the
13 residents of Southwest Washington from suffering immediate effects of the Tribe's
14 business closures.

15 25. After April 15, 2020, the Tribe's employees were moved from paid administrative leave
16 to furloughs without pay, necessitating a move to unemployment insurance. Because the
17 Tribe is not a participant in Washington State's Unemployment Insurance program, the
18 Tribe, after payments through the CARES Act, will owe the State 30% of all of the
19 payments made to its furloughed employees.

20 26. As a result of the Tribe's COVID-19 enterprise closures, the Tribe's budget, which was
21 \$261,335,807 in 2019 for hard dollar government programs and all of its enterprises, has
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1 been decimated and will not recover no matter when the Tribe reopens in 2020 or, more
2 likely, 2021.

3 27. The COVID-19 epidemic has strained and jeopardized every aspect of Tribal government
4 described above, as well as every aspect of the Tribe's enterprises.

5 28. All of the emergency services provided by the Tribe during the State of Emergency are
6 unbudgeted expenses. This includes but is not limited to obtaining COVID-19 clinic
7 workers, providing cleaning, sanitation, and personal protective equipment supplies
8 above and beyond the normal supply level, delivering meals to elders and school age
9 youth, providing accounting services to track all ordering and expenditures above normal
10 budgeted activity, attending daily and numerous conference calls explaining the meaning
11 of the federal response and the access to financial assistance, planning for reopening, and
12 hundreds of other COVID-19 related activities.

13 29. The immediate and near total decimation of the Tribe's tax base and other revenues from
14 the Tribe's enterprises means that the revenues projected in the 2020 budget will never
15 materialize. Over the course of this year and next year, the Tribe may have to cut its
16 work force and reduce its hard dollar government programs.

17 30. This outcome is especially likely if limited remaining Tribal funds continue to need to be
18 diverted from normal government functions to the COVID-19 response. Without
19 CARES Act monies to stop the hemorrhage, the Tribe anticipates that it will need to
20 severely diminish or entirely shut down essential government services to tribal members,
21 such as programs that feed elders, provide nutritional support for other tribal members,
22 treat common illnesses in the tribal community like diabetes, keep tribal members' homes
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1 warm in winter and their electricity on, and keep tribal members off the State's welfare
2 rolls.

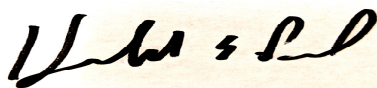
3 31. CARES Act monies will also allow the Tribe to prioritize reopening its enterprises, so
4 that it can bring its employees back to work as soon as it is safe to do so and to re-
5 establish the Tribe's tax base and other revenue streams to support all of its programs.

6 32. The Confederated Tribes of the Chehalis Reservation has submitted the certification form
7 through the Treasury web portal necessary to participate in the disbursement of CARES
8 Act Title V funding, so that it is eligible to receive a portion of the \$8 billion set aside for
9 Tribal governments.

10 33. Any diversion of the CARES Act's \$8 billion set aside from Tribal governments to for-
11 profit corporations would damage the Tribe irreparably because it would diminish the
12 funds available to Chehalis, regardless of the formula Treasury ultimately uses for the
13 disbursement of critical funds between Tribal governments.

14 I declare under penalty of perjury that the foregoing is true and correct.

15 Executed on the Chehalis Reservation on April 17, 2020.

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19 _____
20 Harry Pickernell, Sr.