

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SKOKOMISH INDIAN TRIBE, a
federally recognized Indian tribe
in its own capacity as a class
representative and as parens
patriae; DENNY S. HURTADO;
GORDON A. JAMES; JOSEPH PAVEL;
ANNE PAVEL; MAURES P. TINAZA;
CELESTE F. VIGIL; ROSLYNNE L.
REED; GARY W. PETERSON; RITA C.
ANDREWS; TOM G. STRONG; MARIE
E. GOULEY; VICTORIA J. PAVEL;
DENNIS W. ALLEN; JOSEPH
ANDREWS, SR.; ZETHA CUSH; ELSIE
M. ALLEN; ALEX L. GOULEY, JR.;
LAWRENCE L. KENYON; DORIS
MILLER; GERALD B. MILLER; HELEN
M. RUDY; RONALD D. TWIDDY, SR.;
NICK G. WILBUR, SR.,

Petitioners-Appellants,

v.

UNITED STATES OF AMERICA;
TACOMA PUBLIC UTILITY, a
Washington municipal corporation;

No. 01-35028

D.C. No.
CV-99-05606-FDB

CITY OF TACOMA, a Washington municipal corporation; WILLIAM BARKER, Tacoma Public Utilities Board Member in his official capacity; TOM HILYARD, Tacoma Public Utilities Board Member in his official capacity; ROBERT LANE; TIM STREGE; G. E. VAUGHN,
Defendants-Appellees.

SKOKOMISH INDIAN TRIBE, a federally recognized Indian tribe in its own capacity as a class representative and as *parens patriae*; DENNY S. HURTADO; GORDON A. JAMES; JOSEPH PAVEL; ANNE PAVEL; MAURES P. TINAZA; CELESTE F. VIGIL; ROSLYNNE L. REED; GARY W. PETERSON; RITA C. ANDREWS; TOM G. STRONG; MARIE E. GOULEY; VICTORIA J. PAVEL; DENNIS W. ALLEN; JOSEPH ANDREWS, SR.; ZETHA CUSH; ELSIE M. ALLEN; ALEX L GOULEY, JR.; LAWRENCE L. KENYON; DORIS MILLER; GERALD B. MILLER; HELEN M. RUDY; RONALD D. TWIDDY, SR.; NICK G. WILBUR, SR., Skokomish Indian Tribal members for themselves and all others similarly situated,

Plaintiffs-Appellants,

v.

No. 01-35845

D.C. No.

CV-99-05606-FDB

OPINION

TACOMA PUBLIC UTILITY, a
Washington municipal corporation;
CITY OF TACOMA, a Washington
municipal corporation; WILLIAM
BARKER, Tacoma Public Utilities
Board Member in his official
capacity; TOM HILYARD, Tacoma
Public Utilities Board Member in
his official capacity; ROBERT LANE;
TIM STREGE; G. E. VAUGHN;
UNITED STATES INTERNAL REVENUE
SERVICE,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Washington
Franklin D. Burgess, District Judge, Presiding

Argued and Submitted
January 6, 2003—Seattle, Washington

Filed June 3, 2003

Before: J. Clifford Wallace, Stephen S. Trott, and
A. Wallace Tashima, Circuit Judges.

Opinion by Judge Trott;
Parial Concurrence and Partial Dissent by Judge Tashima

