



March 1, 2023

**Sent via Electronic Submission**

Hon. Bryan Newland  
Assistant Secretary-Indian Affairs  
Bureau of Indian Affairs MS-4606  
1849 C Street, N.W.  
Washington, D.C. 20240

RE: Notice of Proposed Rulemaking (NPRM) for the Departments Land Acquisition regulations, 25 C.F.R Part 151 and the NPRM for the Departments Class III Tribal Gaming Compact Process, 25 C.F.R. parts 293.

Dear Assistant Secretary Newland,

I write on behalf of the Confederated Tribes and Bands of the Yakama Nation (“Yakama Nation”) to thank the United States Department of the Interior for inviting the Yakama Nation to submit comments on the proposed rulemaking. The Yakama Nation supports streamlining the fee to trust process, especially for lands that are located within or adjacent to existing reservations, but streamlining must be done responsibly to avoid unnecessary and costly disputes between Tribes.

**I. *Treaty of 1855.***

On June 9, 1855, the Yakama Nation’s ancestors met with Territorial Governor Isaac Stevens to executed the Treaty with the Yakamas of June 9, 1855. 12 Stat. 951. Our Treaty reserved our inherent sovereign rights to the 1.4 million acre Yakama Reservation for our exclusive use and benefit, along with certain reserved rights throughout our Treaty and traditional territories. Under the Supremacy Clause of the United States Constitution, our Treaty of 1855 remains the supreme law of the land. Today, the Yakama Nation is comprised of more than 11,000 enrolled Yakama Members, who continue to practice and protect our culture and traditions throughout our territory as we have since time immemorial.

**II. *Distance from Reservation.***

The new proposed 25 C.F.R. 151.11 improperly de-emphasizes the role of the distance of a subject parcel from the applicant tribe's reservation in the acquisition analysis. By reducing the importance of distance, the proposed regulation dramatically increases the likelihood of disputes amongst tribes encroaching on each other’s territory. For example, the Yakama Nation is currently facing threats from another tribe attempting to put land into trust in the Yakama Nation's Treaty Territory, defined in Article I of our Treaty. The land is located more than 100 miles from the intruding tribe's executive order reservation. The



Yakama Nation is concerned that this proposed change to Section 151.11 will increase the frequency of these incursions between tribes, which are extremely costly and resource intensive to resolve for tribal governments operating with limited resources. This distance element of the acquisition analysis should be maintained as a co-equal consideration alongside the other new criteria set forth in Section 151.11.

### III. *Tribal Consultation.*

The new proposed 25 C.F.R. 151.11 needs to more clearly set forth the federal government's obligation to consult on a government-to-government basis with nearby tribes affected by an applicant tribe's fee to trust application. For example, the Yakama Nation has Treaty-reserved rights throughout more than 10 million acres of off-Reservation lands in the Pacific Northwest, with inherent sovereign and Treaty-reserved exclusive jurisdiction throughout those lands. The Yakama Nation should be consulted on any fee to trust applications submitted within the Yakama Nation's Treaty Territory, defined in Article I of our Treaty of June 9, 1855. The new regulations should clearly require the United States to consult with affected tribes on a government to government basis on every fee to trust application within their respective jurisdictions and submitted by another tribe. Tribal consultation is a critical step to uphold the integrity of our Treaty throughout the Part 151 procedures. Part 151 must clearly set forth those procedures.

### IV. *Compact Amendments.*

For "deemed approved" compacts that have not been affirmatively approved by the agency, if a provision in an existing compact includes a term disallowed today; the remedy should be outlined with the proposed changes.

### V. *Conclusion.*

We would like to thank you for the opportunity to provide comments for the proposed rulemaking. The Yakama Nation supports streamlining the fee to trust process, but the streamlining must be done responsibly to avoid unnecessary and costly disputes between Tribes while ensuring the protection of the Yakama Nation Treaty of 1855. If you have any questions please contact Ethan Jones, Yakama Nation Lead Attorney by email at [ethan@yakamanation-olc.org](mailto:ethan@yakamanation-olc.org).

Sincerely,

Kahloola (Gerald Lewis), Chairman  
YAKAMA NATION TRIBAL COUNCIL