



Confederated Tribes and Bands
of the Yakama Nation

Established by the
Treaty of June 9, 1855

June 06, 2023

Sent via USPS and Email

Bryan Mercier
Regional Director
Bureau of Indian Affairs - Northwest Region
911 Northeast 11th Avenue
Portland, Oregon 97232
Email: Bryan.Mercier@bia.gov

SUBJECT: Case No. 49888 – Notice of Gaming Land Acquisition Application
Request for Extension of 25 C.F.R. § 151.11 Comment Period
Local Government Having Regulatory Jurisdiction Over Land

Dear Regional Director Mercier,

The Confederated Tribes and Bands of the Yakama Nation (“Yakama Nation”) writes to document and confirm the Bureau of Indian Affairs’ (“BIA”) recognition of our status as a local government having regulatory jurisdiction over lands subject to possible acquisition under 25 C.F.R. § 151.11 (*Off-Reservation Acquisitions*). As identified by the legal description included with the BIA’s May 8, 2023 Notice of Gaming Land Acquisition Application (“Notice”), the lands unquestionably fall within the Yakama Nation’s Treaty Territory established by the Treaty with the Yakamas, U.S. – Yakama Nation, June 9, 1855, 12 Stat. 951. Clearly then, if the Secretary were to exercise her discretion and approve the Acquisition Application underlying the Notice, this federal undertaking would adversely impact the Yakama Nation’s exercise of regulatory jurisdiction over the lands.¹

The Yakama Nation will submit written comments detailing the scope, nature, and extent of the jurisdictional problems and conflicts caused by possible acquisition under 25 C.F.R. § 151.11; however, at this time **the Yakama Nation writes to request that the 30-day comment period offered by the Notice be extended**. This request is not made

¹ Although the Notice states it is issued pursuant to 25 C.F.R. Part 151, the underlying basis of the application – gaming land acquisition – indicates the Indian Gaming Regulatory Act, 25 U.S. Code § 2719, and its implementing regulations at 25 C.F.R. Part 292 should be directly implicated as well. The Yakama Nation anticipates and expects relevant notice from the BIA Regional Director is forthcoming. But, to the extent the BIA finds it necessary, and to avoid any uncertainty, please consider this letter as the Yakama Nation’s formal petition for notice and consultation described at 25 CFR §§ 292.2 and 292.19.

for the Yakama Nation's singular benefit; rather, the Yakama Nation requests this extension be provided to all Notice recipients and eligible local governments.

An extension of the comment period is warranted because the BIA did not include a copy of the Acquisition Application with the Notice. It is unreasonable to expect a local government to be able to provide meaningful comment without having first received and reviewed a copy of the Acquisition Application. The Yakama Nation has already expressed this specific concern to the BIA, and despite the Yakama Nation's multiple requests – both before and after receiving the Notice – the BIA has not made the Acquisition Application available for review and has been unable to confirm when the Acquisition Application will be provided to the Yakama Nation.

The Notice states the Acquisition Application is available for review at the BIA's Regional Office upon submitting a written request for appointment. Elected officials and local government staff should not need to travel to Portland, Oregon to view a copy of the Acquisition Application. For many, this unnecessary burden is more than a mere inconvenience – it is a barrier to meaningful participation in the comment process. The subject lands are more than 200 miles from the BIA's Regional Office. Affected local governments may not have the time or budgets available to cover this travel, and for those that do, it still means weighing this allocation of limited resources against other governmental needs. In short, if a local government wishes to be fully informed about the Notice and provide meaningful comments, it must first pay for the privilege of viewing the Acquisition Application. As a consequence, there may be local governments that find such burden impractical and choose to submit unformed comment, or worse, submit no comment at all. There is something fundamentally wrong with the BIA's implementation of the 25 C.F.R. § 151.11(d) notice and comment solicitation process, especially in this digital age where information affecting the public is readily shared with the push of a button.

Regardless, for the Yakama Nation at least, the offer to view the Acquisition Application at the BIA's Regional Office has proven hollow. Despite requesting an appointment across multiple points of contact, the Yakama Nation has received no reciprocal scheduling communication from the BIA. In the event the BIA responds and schedules a viewing appointment, the Yakama Nation expects the BIA to reimburse its travel expenses and also provide assurance that the BIA's Regional Office will release a full copy of the Acquisition Application.


This letter provides sound justification for an extension of the 30-day comment period prescribed by 25 C.F.R. § 151.11(d). Further, the comment should commence *only after* the BIA has released the Acquisition Application to local governments. Fairness dictates that the BIA issue an update to the Notice stating the same, or in the alternative, issue an announcement rescinding the Notice and taking no further action on the Acquisition Application until the BIA is prepared to release it.

The Yakama Nation received the Notice on May 15, 2023. We assume that with the BIA's receipt of this letter, at a minimum, a 30-day extension of the comment period will be granted with a comment deadline of July 14, 2023. However, in no way should this

assumption be read as conceding any of the above-detailed criticisms related to the Notice and the BIA's flawed implementation of 25 C.F.R. § 151.11(d) notice and comment solicitation process. Again, it is unreasonable to expect a local government to be able to provide meaningful comment without having first received a copy of the Acquisition Application. Appropriately then, the prescribed 30-day comment period cannot commence until the BIA is prepared to distribute the Acquisition Application and without placing unnecessary barriers to meaningful participation.

To confirm the BIA's position regarding extension, deadlines, and the requests stated herein regarding the Notice, please respond in writing with a courtesy copy to Mr. Ethan Jones, Lead Attorney for the Yakama Nation Office of Legal Counsel, at P.O. Box 150, Toppenish, WA 98948, and electronically at ethan@yakamanation-olc.org.

Respectfully,


Gerald Lewis, Chairman
Yakama Nation Tribal Council

Cc: The Honorable Bryan Newland
Assistant Secretary - Indian Affairs
United States Department of the Interior
1849 C Street, N.W. MS-4660-MIB
Washington DC 20240
Email: Bryan.Newland@ios.doi.gov



United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
NORTHWEST REGIONAL OFFICE
911 NE 11TH AVE
PORTLAND, OR 97232

IN REPLY REFER TO:
Real Estate Services
TR-4609-P5

May 8, 2023

Case Number: 49888

NOTICE OF GAMING LAND ACQUISITION APPLICATION

Pursuant to the Code of Federal Regulations, Title 25, INDIANS, 151.11 Off-Reservation, notice is given of the application filed by the CONFEDERATED TRIBES OF THE COLVILLE RESERVATION (CCT) to have real property accepted "in trust" for said applicant by the United States of America. The determination whether to acquire this property "in trust" will be made in the exercise of discretionary authority which is vested in the Secretary of the Interior, or his authorized representative, U.S. Department of the Interior. To assist us in the exercise of that discretion, we invite your comments on the proposed acquisition. In order for the Secretary to assess the impact of the removal of the subject property from the tax rolls, and if applicable to your organization, we also request that you provide the following information:

- (1) If known, the annual amount of property taxes currently levied on the subject property allocated to your organization;
- (2) Any special assessments, and amounts thereof, that are currently assessed against the property in support of your organization;
- (3) Any governmental services that are currently provided to the property by your organization; and
- (4) If subject to zoning, how the intended use is consistent, or inconsistent, with the zoning.

We provide the following information regarding this application:

Applicant:

CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

Legal Land Description/Site Location:

See "Exhibit A" for legal descriptions.

NOLA001

P. P. 03. 101. 4200388223. 49888. 101T000055

Office Codes: P-P-03-101 AD Number: 4200388223 Case: 49888

Project Description/Proposed Land Use:

The CCT intends the Pasco Property for a planned hotel and gaming facility. The acquisition will promote tribal self-determination and economic development by furthering the CCT's efforts to reestablish a trust land base in the traditional territories of the CCT's constituent tribes, which include, among others, the Palus. The CCT also intends to use the Pasco Property for economic development to generate new sources of tribal revenues and to deliver tribal services, such as health care and wellness programs.

As indicated above, the purpose for seeking your comments regarding the proposed trust land acquisition is to obtain sufficient data that would enable an analysis of the potential impact on local/state government, which may result from the removal of the subject property from the tax roll and local jurisdiction.

This notice does not constitute, or replace, a notice that might be issued for the purpose of compliance with the National Environmental Policy Act (NEPA) of 1969.

Your written comments should be addressed to the Bureau of Indian Affairs office listed at the top of this notice. Any comments received within thirty days of your receipt of this notice will be considered and made a part of our record. You may be granted one thirty day extension of time to furnish comments, provided you submit a written justification requesting such an extension within thirty days of receipt of this letter. Additionally, copies of all comments will be provided to the applicant for a response. You will be notified of the decision to approve or deny the application.

If any party receiving the enclosed notice is aware of additional governmental entities that may be affected by the subject acquisition, please forward a copy to said party.

A copy of the application, excluding any documentation exempted under the Freedom of Information Act (FOIA), is available for review at the above address. A request to make an appointment to review the application, or questions regarding the application, may be directed to the NORTHWEST REGIONAL OFFICE attention: SARRAYE FORREST-DAVIS, REALTY SPECIALIST, (503) 736-4710.

Sincerely,

**KURT
FREDENBERG**

Digitally signed by KURT
FREDENBERG
Date: 2023.05.08 12:35:43 -07'00'

REGIONAL DIRECTOR

Enclosure(s)

NOLA001

P. P. 03. 101. 4200388223. 49888. 101T000055

Office Codes: P.P.03.101 AD Number: 4200388223 Case: 49888

CC:

BY CERTIFIED MAIL:

STATE OF WASHINGTON, GOVERNOR'S OFFICE
P.O. BOX 40002
OLYMPIA, WA 98504-0002
Certified Mail ID: 70151520000267230759

CRAIG A. BILL, EXECUTIVE DIRECTOR
GOVERNOR'S OFFICE OF INDIAN AFFAIRS, STATE OF WA
P.O. BOX 40909
OLYMPIA, WA 98504-0909
Certified Mail ID: 70151520000267230766

FRANKLIN COUNTY COMMISSIONERS
1016 N 4TH AVENUE A102/A103
PASCO, WA 99301
Certified Mail ID: 70151520000267230742

MAYOR BLANCHE BARAJAS
PASCO CITY HALL
525 NORTH 3RD AVENUE
PASCO, WA 99301
Certified Mail ID: 70151520000267230773

CONFEDERATED TRIBES AND BANDS OF YAKAMA NATION
PO BOX 151
TOPPENISH, WA 98948
Certified Mail ID: 70151520000267230735

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P. P. 03. 101. 4200388223. 49888. 101T000055
Office Codes: P.P.03.101 AD Number: 4200388223 Case: 49888

Case Number: 49888

Applicant Name: CONFEDERATED TRIBES
OF THE COLVILLE
RESERVATION

LEGAL DESCRIPTION EXHIBIT A

Tract ID:

Tract Name: PASCO PROPERTY

<u>Land Area</u>	<u>Land Area Name</u>	<u>Tract Number</u>	<u>LTRO</u>	<u>Region</u>	<u>Agency</u>	<u>Resources</u>	
151	COLVILLE PUBLIC DOMAIN		PORTLAND, OR	NORTHWEST REGIONAL OFFICE	COLVILLE AGENCY	Both (Mineral and Surface)	
<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>State</u>	<u>County</u>	<u>Meridian</u>	<u>Legal Description</u>	<u>Acres</u>
8	009.00N	030.00E	WASHINGTON	FRANKLIN	Willamette		164.630

METES AND BOUNDS: THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 9 NORTH, RANGE 30 EAST OF THE WILLAMETTE MERIDIAN, RECORDS OF FRANKLIN COUNTY, WASHINGTON; TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS AND ROAD RIGHT OF WAY OVER THE WEST 30 FEET OF THE NORTHEAST QUARTER OF SECTION 8; EXCEPT THAT PORTION CONVEYED TO THE STATE OF WASHINGTON FOR ROAD PURPOSES AS DISCLOSED BY DEED RECORDED MARCH 26, 2002, UNDER AUDITOR'S FILE NO. 1603490, RECORDS OF FRANKLIN COUNTY, WASHINGTON. SITUATE IN THE COUNTY OF FRANKLIN, STATE OF WASHINGTON.

WD AEA01

P ; P ; 03 ; 101 ; 4200388223 ; 49888 ; 101T000055

Office Codes: P-P-03-101 AD Number: 4200388223 Case: 49888