



# MUCKLESHOOT TRIBAL COUNCIL

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June 26, 2018

Acting Assistant-Secretary John Tahsuda  
Department of the Interior  
1849 C Street, N.W.  
MS-4004-MIB  
Washington, D.C. 20240

Re: Opposition to proposed rulemaking on 25 C.F.R. 151

Dear Acting Assistant Secretary—Indian Affairs Tahsuda,

I write to express the Muckleshoot Indian Tribe's ("Tribe") opposition to the Department of the Interior's proposed rulemaking to overhaul its fee-to-trust regulations found at 25 C.F.R. 151 ("Part 151"). This effort is almost universally opposed by Indian Country and should be abandoned.

The Department announced this effort in late 2017, but it is unclear what precipitated its desire to revise one of the most important regulations to Indian Country. The Department's tribal consultation policy states that "consultation is built upon government-to-government exchange of information and promotes enhanced communication that emphasizes trust, respect, and shared responsibility."<sup>1</sup> *Department of the Interior Tribal Consultation Policy* at 2. The Department's rollout of this proposed rulemaking lacks the transparency that its own tribal consultation policy demands.

The Tribe is still waiting for an appropriate explanation from the Department about what exact problem it is trying to solve by changing the fee-to-trust process. This appears to be a results-driven rulemaking that has little to do with improving the fee-to-trust process. The Tribe is unwilling to submit responses to the ten questions posed by the Department because the Tribe does not believe that this effort has the support of Indian Country and therefore participation beyond voicing our opposition could be seen as acquiescence. The Tribe refuses to offer any legitimacy to this effort and will not allow our responses to be cherry-picked and used against our sovereign interests.

Indeed, the National Congress of American Indians, the largest intertribal organization in the country, passed a resolution stating that it "strongly opposes the proposed revisions to 25 C.F.R. Part 151 and asks that the Department immediately withdraw and cease any efforts to amend the land into trust regulations." *See* MKE-17-059 (2017). Tribal leaders have shown up in force to voice their adamant opposition to this proposal at each of the Department's listening sessions. So, why does the Department persist down this path? The trust responsibility demands that tribal nations' voices be considered when undertaking an effort that has the potential to change one of

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<sup>1</sup> Found here: <https://www.doi.gov/sites/doi.gov/files/migrated/cobell/upload/FINAL-Departmental-tribal-consultation-policy.pdf>

the best tools that Indian Country has to revitalize and rebuild our tribal homelands and economies.

The Department's proposal also contains two dangerous aspects when it comes to gaming and off-reservation acquisitions. The Department's questions reference gaming several times but the gaming eligibility of the lands are not determined by the Indian Reorganization Act or the Part 151 regulations, they are governed by the Indian Gaming Regulatory Act and 25 C.F.R. 292. Conflating these two separate processes will make it harder for tribal nations to pursue economic development and place "gaming" scrutiny on non-gaming applications. The proposal also seems to favor on-reservation acquisitions even though the Indian Reorganization Act was clear when it states that the Secretary may acquire "any interest in lands...within or *without* existing Indian reservations." 25 U.S.C. § 465 (emphasis added). The proposal ignores the fact that many tribal nations are forced to look outside their reservation boundaries for viable land and the proposal could erect additional and new barriers to those essential acquisitions.

The Muckleshoot Indian Tribe urges the Department to listen to the loud voice of Indian Country and abandon this proposed rulemaking. The current Part 151 works and the Department should focus its resources on helping tribal nations to rebuild their homelands through that process.

Sincerely,

  
Virginia Cross  
Chair

cc: The Honorable Patty Murray, U.S. Senate  
The Honorable Maria Cantwell, U.S. Senate  
The Honorable David Reichert, U.S. House of Representatives