



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240



DEC 12 2008

The Honorable Charlotte Williams  
Chairperson, Muckleshoot Indian Tribe  
39015 172<sup>nd</sup> Avenue, S.E.  
Auburn, Washington 98092

Dear Chairperson Williams:

On September 17, 2007, the Muckleshoot Indian Tribe of Washington (Tribe) submitted to the Bureau of Indian Affairs (BIA) an application to acquire in trust two parcels consisting of 22-acres of land located within the exterior boundaries of the Muckleshoot Indian Reservation, in King County and Pierce County, Washington. The first parcel, known as the "Wynn Property" consists of 20-acres and is currently used for the Tribe's bingo operations. The second parcel, known as the "Casino Parking Lot Property", contains 2-acres and is used for additional parking at the Tribe's casino. The Tribe currently owns both parcels in fee simple.

By memorandum dated May 27, 2008, the Regional Director, Northwest Region Office (NRO) transmitted to the Assistant Secretary - Indian Affairs (ASIA), his recommendation that the property be accepted into trust (*Office of Indian Gaming Tab 1*), along with the Tribe's request and supporting documentation in accordance with a July 19, 1990, Secretarial Directive, which requires all acquisitions for gaming and gaming-related purposes to be approved or disapproved by the ASIA. The duties of the ASIA were delegated to me on May 23, 2008, as the Acting Deputy Assistant Secretary for Policy and Economic Development.

It is the determination of this office that the 22-acres be taken into trust. We have determined that this acquisition meets the requirements and goals of the Indian Reorganization Act (IRA). We have also determined that the administrative record adequately documents and analyzes each relevant provision of the IRA implementing regulations, 25 C.F.R. Part 151. This decision constitutes final agency action and therefore, pursuant to the regulations in 25 C.F.R. § 151.12(b), publication in the *Federal Register* will proceed.

## BACKGROUND

The Muckleshoot Tribe is a federally recognized Indian Tribe located in Auburn, Washington. The Constitution and Bylaws of the Tribe were ratified by the members of the Muckleshoot Tribe of the Muckleshoot Indian Reservation on April 4, 1936 and approved by the Secretary of the Interior on May 13, 1936. The tribal headquarters are located in Auburn, Washington.

Muckleshoot Tribal Council Resolution No. 07-039 dated February 2, 2007, requests the Secretary to acquire in trust a 20-acre parcel, known as the Wynn Property, which is currently used for Muckleshoot Bingo. The resolution was adopted by a vote of six for, zero against, and zero abstentions.

Muckleshoot Tribal Council Resolution No. 07-040 dated February 2, 2007, requests the Secretary to acquire in trust a 2.00-acre parcel, known as the Casino Parking Lot Property, which is located adjacent to the existing Muckleshoot Casino. The resolution was adopted by a vote of six for, zero against, and zero abstentions.

### **DESCRIPTION OF THE PROPERTY**

The NRO Land Titles and Records Office located in Portland, Oregon certify that the following described real estate is situated within the boundaries of the Muckleshoot Indian Reservation, County of King, State of Washington (*NRO Exhibit 5*).

The Wynn Property is described as follows:

PARCEL A (202105-9021-02):

The West half of the Southeast quarter of the Southwest quarter of Section 20, Township 21 north, Range 5 East, W.M., records of King County, Washington;

EXCEPT county road; AND

EXCEPT portion taken for state highway.

PARCEL B (292105-9059-08)

That portion of the Northeast quarter of the Northwest quarter, lying northerly of Enumclaw-Franklin-Howard Road, in Section 29, Township 21 North, Range 5 East, W.M., in King County, Washington.

The Casino Parking Lot Property is described as follows:

PARCEL A:

The north 97.95 feet of the following described property:

That portion of the west half of the southeast quarter of Section 20, Township 21 north, Range 5 east, W.M., in King County, Washington, described as follows:

Beginning at the intersection of a line which is 330 feet northerly of and concentric with the center line of Primary State Highway Number 5 revised, with the east line of the southwest quarter of the southeast quarter of said Section 20;

thence northerly along said east line 225 feet;

thence west 30 feet to the TRUE POINT OF BEGINNING of the tract herein described;

thence continuing west 120 feet;

thence north parallel with the east line of said west half of the southeast quarter, 217.95 feet;  
thence east 120 feet to a point on a line 30 feet west of the east line of said west half of the southeast quarter.  
thence south 217.95 to the TRUE POINT OF BEGINNING.

EXCEPT that portion of any lying within dogwood Street Southeast.

PARCEL B:

That portion of the west half of the southeast quarter of Section 20 Township 21 north, Range 5 east, W.M., in King County, Washington described as follows:

Beginning at the intersection of a line which is 330 feet northerly of and concentric with the center line of Primary State Highway Number 5 revised, with the east line of the southwest quarter of the southeast quarter of said Section 20;  
thence northerly along said east line 285 feet;  
thence west 30 feet to the TRUE POINT OF BEGINNING of the tract herein described;  
thence continuing west 120 feet;  
thence north parallel with the east line of said west half of the southeast quarter, 60 feet;  
thence east 120 feet to a point on a line 30 feet west of the east line of said west half of the southeast quarter;  
thence south 60 feet to the TRUE POINT OF BEGINNING.

EXCEPT that portion if any lying within Dogwood Street Southeast;

PARCEL C:

That portion of the west half of the southeast quarter of Section 20, Township 21 north, Range 5 east, W.M., in King County, Washington, described as follows:

Beginning at the intersection of a line which is 330 feet northerly of and concentric with the center line of Primary State Highway Number 5 revised, with the east line of the southwest quarter of the southeast quarter of said Section 20;  
thence northerly along said east line 225 feet;  
thence west 30 feet to the TRUE POINT OF BEGINNING of the tract herein described;  
thence continuing west 120 feet;  
thence north parallel with the east line of said west half of the southeast quarter, 60 feet;  
thence east 120 feet to a point on a line 30 feet west of the east line of said west half of the southeast quarter;  
thence south 60 feet to the TRUE POINT OF BEGINNING.

EXCEPT that portion if any lying within Dogwood Street Southeast.

PARCEL D:

That portion of the Southwest quarter of the southeast quarter of Section 20, Township 21 north, Range 5 east, W.M., in King County, Washington, described as follows:

Beginning at the intersection of the west line of the southwest quarter of the southeast quarter of Section 20, Township 21 north, Range 5 east, W.M., in King County, Washington, with the northerly line of Primary State highway Number 5 Revision, according to the plan on file in the Office of State Highway Department approved June 17, 1941;  
thence easterly along said northerly line 60 feet;  
thence north 20°31' east, perpendicular with the tangent of said highway, 280 feet, more or less, to a line which is concentric with and 330 feet northerly of the center line of said highway;  
thence easterly along said concentric line to the east line of said southwest quarter of the southeast quarter and the TRUE POINT OF BEGINNING of the tract of land herein described;  
thence northerly along said east line 225 feet;  
thence due west 330 feet;  
thence due south to a line, which is concentric with and 330 feet northerly of the center line of said Primary State Highway No. 5;  
thence easterly along said concentric line to the TRUE POINT OF BEGINNING;  
EXCEPT the east 30 feet thereof.

**TITLE TO THE PROPERTY**

The Tribe owns the Wynn Property in fee status. This site was acquired by the Tribe by Statutory Warranty Deed, dated September 18, 1989. The deed was recorded in King County, Washington on October 10, 1989, as document number 891010541 (*NRO Exhibit 5*).

The Tribe also owns the Casino Parking Lot Property in fee status. This parcel was acquired by the Tribe by Statutory Warranty Deed, dated October 12, 1999. The deed was recorded in King County, Washington on October 15, 1999 as document number 19991015001060 (*NRO Exhibit 6*).

On November 16, 2007, the Office of the Solicitor, Northwest Region, issued a Preliminary Opinion of Title for the two parcels and found the titles to be vested in the Muckleshoot Indian Tribe.

**COMPLIANCE WITH THE INDIAN GAMING REGULATORY ACT**

The Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.* (IGRA), prohibits gaming on land acquired in trust after October 17, 1988, but provides several exceptions in section 2719. One exception provides that after-acquired land that is located within or contiguous to the boundaries of the tribe's reservation as the reservation existed on October 17, 1988, is eligible for gaming. *See* 25 U.S.C. § 2719 (a)(1).

On May 27, 2008, the NRO Plant Manager provided a certification (*NRO Exhibit 4*) that the property is located within the boundaries of the Muckleshoot Indian Reservation; was located within the boundaries of the Reservation on October 17, 1988; and was part of the Reservation established by the Medicine Creek Treaty dated December 26, 1854. Therefore, the 22 acres are eligible for gaming under section 2719(a)(1) because the lands are located within or contiguous to the boundaries of the reservation of the tribe as it existed in on October 17, 1988. The ASIA agrees with the NRO conclusion and analysis, and therefore has decided the Tribe may conduct gaming on this property pursuant to 25 U.S.C. § 2719 (a)(1) and the implementing regulations set forth in 25 C.F.R. Part 292.

The Muckleshoot Indian Tribe and the State of Washington entered into a Class III gaming compact which was approved on April 23, 1993. The Department of the Interior published a notice of effect of the Tribal-State Compact for the Muckleshoot Indian Tribe and the State of Washington on May 6, 1993. The Compact was subsequently amended and approved on January 14, 1999, and the notice of effect was published on January 28, 1999. The Compact was amended again on February 8, 2002, and the notice of effect was published on February 19, 2002.

The Tribe's Gaming Ordinance was approved by the National Indian Gaming Commission (NIGC) on March 21, 1994. The Ordinance was subsequently amended and approved by the NIGC on July 10, 1995, June 21, 1996, and April 19, 2002.

### **COMPLIANCE WITH 25 C.F.R. PART 151**

The authority for acquiring the land is section 5 of the IRA. The implementing regulations are set forth in 25 C.F.R. Part 151. The ASIA has determined that the administrative record supports the trust acquisition as being in accordance with the IRA and the Part 151 regulations.

#### **A. 25 C.F.R. 151.3. Land acquisition policy.**

As a matter of statute and regulation, the Secretary may acquire land in trust for a tribe under 25 C.F.R § 151.3(a)(1) when the property is located within the exterior boundaries of the tribe's reservation or adjacent there to, or within a tribal consolidation area.

The Regional Director has determined that the acquisition of the 22-acres is authorized under 25 CFR 151.3(a)(1) because the land is located within the exterior boundaries of the Muckleshoot Indian Reservation (*NRO Exhibit 4*).

In Addition, the ASIA concurs with the Regional Director's determination that acquiring the land in trust for the Tribe is necessary to facilitate tribal self-determination and economic development.

**B. 25 C.F.R. 151.10(a). The existence of statutory authority for the acquisition and any limitations contained in such authority.**

The statutory authority used by the Tribe to acquire the land in trust is the IRA, 25 U.S.C. 465; *see also* 25 U.S.C. § 2202.

**C. 25 C.F.R. 151.10(b). The need of the individual Indian or tribe for additional land.**

Until the early part of the 20<sup>th</sup> century, the entire Muckleshoot Reservation was held in trust by the United States for the benefit of the Tribe. The Reservation was allotted in 1903-1904 by the United States to members of the tribe. Nearly 2,800 acres of allotted land were taken out of trust status and sold to non-Indians during the middle of the 20<sup>th</sup> century. The Tribe has taken an active role in reacquiring land within the boundaries of the Muckleshoot Indian reservation that have passed into non-Indian ownership.

These properties are located within the exterior boundaries of the Tribe's Reservation and are currently owned in fee by the Tribe. They are important to the economic future of the Tribe because the Tribe's bingo operation and parking facilities or spaces related to the gaming operations are located on these properties.

Based on this information the Regional Director had determined that the need for the additional land is adequately justified, and the ASIA concurs.

**D. 25 C.F.R. 151.10(c). The purposes for which the land will be used.**

The 22 acres are located within the exterior boundaries of the Tribe's Reservation. The 20-acre, Wynn property is being used as a Bingo Hall, located two blocks away from the Tribe's Casino. The 2-acre, Casino Parking Lot Property is used for additional parking and is located adjacent to the existing Casino. The Tribe has no plans to change the current land use.

The ASIA has determined that the land is eligible for gaming and gaming-related purposes pursuant to 25 U.S.C. § 2719 § 2719 (a)(1).

**E. 25 C.F.R. 151.10(e). If the land to be acquired is in unrestricted fee status, the impact on the State and its political subdivisions resulting from the removal of land from the tax rolls.**

The Tribe owns the parcels in fee simple. By letters dated October 26, 2007, comments on the potential impacts of the proposed acquisition on regulatory jurisdiction, real property taxes and special assessments were solicited from the following state and local political subdivisions (*NRO Exhibit 9-11*):



Governor of Washington

No Response

King County Board of Commissioners

No Response

City of Auburn

By letter dated November 21, 2007, the Mayor, City of Auburn responded in support of the proposal and expressed appreciation of the timely notice and continuing to work cooperatively on land use issues of mutual interest (*NRO Exhibit 12*).

The Governor of Washington and the Commissioner of King County did not respond nor provide comments on the trust acquisition or the impacts resulting from the removal of the land from the tax rolls. The Mayor of the City of Auburn did provide a letter of support for the trust acquisition and that the utility easements will have little or no impact on the trust acquisition.

The Tribe currently pays state, county and local fees, realty property taxes, and special assessments on the parcels. The 2007 tax assessment for the Wynn Property was \$3,378.31 and the Parking Lot Parcel was \$2,560.10 (*NRO Exhibit 1*).

The City of Auburn (city) provides Community infrastructure and services, including police and fire protection, water, wastewater management, utilities, solid waste management, public education, and parks and recreation. The City will continue to provide these services when the property is placed into trust. The City also provides police, fire, and EMT services which will continue when the property is placed into trust (*NRO Exhibit 1*). As noted above, on November 21, 2007, the Mayor of the City of Auburn provided a letter of support of the for the trust acquisition (*NRO Tab 12*).

**F. 25 C.F.R. 151.10(f). Jurisdictional problems and potential conflicts of land use which may arise.**

Because the parcels are located within the exterior boundaries of the Tribe's Reservation, they have been subject to the Tribe's zoning and land use authority since their acquisition. The Tribe's current zone designation for the on-reservation properties is "commercial development." No jurisdictional issues or potential conflicts are anticipated.

**G. 25 C.F.R. 151.10(g). If the land to be acquired is in fee status whether the BIA is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.**

The properties serve as the site of the Tribe's bingo operations and as a parking area for the existing Casino. Because the properties are located within the exterior boundaries of the Reservation and the BIA already provides services to the Tribe, the Regional Director has determined that the addition of the Wynn and Casino Parking Lot Properties will not result in a significant increase in the BIA's workload.

The ASIA concurs in this determination.

**H. 25 C.F.R. 151.10(h). The extent of information to allow the Secretary to comply with 516 DM 6, appendix 4, National Environmental Policy Act Revised Implementing Procedures and 602 DM 2, Land Acquisitions: Hazardous Substances**

The NRO concluded that because there is no immediate or anticipated change in land use, the acquisition qualifies for a categorical exclusion Pursuant to 516 DM 6, Appendix 4, Part 4.4.I. The ASIA concurs.

In June 20007, a Phase I Environmental Site Assessment was prepared by Robinson Noble Saltbush, Inc. The BIA's NRO personnel concluded that there are no contaminants present and there is no evidence of recognized environmental conditions. On February 8, 2008, the Regional Environmental Scientist approved the Phase I Environmental Site Assessment (*NRO Exhibit 4*).

**TWO PART DETERMINATION UNDER SECTION 20 OF IGRA**

The two-part determination pursuant to Section 20 of IGRA, 25 U.S.C. § 2719(b)(1)(A) is not applicable because the land is "located within or contiguous to the boundaries of the reservation of the Indian Tribe." 25 U.S.C. § 2719 (a)(1). *See* discussion under Section V, *supra*.

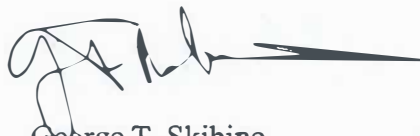
**REGIONAL DIRECTOR'S RECOMMENDATION**

By memorandum dated May 27, 2008, (*Office of Indian Gaming Tab 1*) the Regional Director, Northwest Region, recommends that the property be accepted in trust for the benefit of the Muckleshoot Tribe.

**DECISION**

I am pleased to convey to you my final decision to acquire the 22-acres into trust on behalf of your Tribe. I have transmitted my decision to the Regional Director granting him authority to acquire the land in accordance with the applicable regulations and have proceeded with publication in the *Federal Register* of notice to acquire the land.

Sincerely,



George T. Skibine  
Acting Deputy Assistant Secretary  
for Policy and Economic Development