



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

JUN 15 2015

The Honorable Jay Inslee
Governor of Washington
Olympia, Washington 98504

Dear Governor Inslee:

On February 24, 2006, the Spokane Tribe of Indians (Spokane Tribe) submitted a request to the Bureau of Indian Affairs asking that the Department of the Interior (Department) determine that land taken into trust on August 16, 2001, for economic development purposes by the United States for the Tribe in Airway Heights (Site), is eligible for gaming pursuant to the Indian Gaming Regulatory Act (IGRA).

As explained in the enclosed Record of Decision, we have completed our review of the Spokane Tribe's request under applicable law and have determined, subject to your concurrence, that the Spokane Tribe's proposed gaming establishment at the Site would be in the best interest of the Tribe, and would not be detrimental to the surrounding community.

Poverty, and the tragedies that sometimes accompany distressed areas, are among the most serious challenges that we face in Indian country. The Spokane Tribe has significant economic challenges. The unemployment rate on its Reservation is nearly double that of the surrounding communities and 25 percent of Reservation families live in poverty. Approximately 10 percent of the Spokane Tribe's population is on a waiting list for housing that the Tribe cannot provide. Living conditions for the 2,849 members of the Spokane Tribe are, on average, far below the standards of surrounding communities.

The Spokane Tribe has always sought self-sufficiency, but the traditional economic activities of the Tribe are no longer viable as sources of sustainable income. From the Spokane Tribe's early history until the late 1930s, the Tribe depended on salmon for food and income. However, the construction of the Grand Coulee Dam in 1939 barred salmon migration to the Reservation. Following the destruction of the Spokane Tribe's fishing industry, the Tribe turned to timber and uranium mining for sources of employment and revenue. A decline in the uranium industry in the early 1980s forced mining operations on the Reservation to be terminated, but left a troubling legacy of contamination. Consequently, the community is facing significant health problems. The Spokane Tribe is also facing serious environmental remediation issues from contamination at the Midnight Mine Superfund site located on the Reservation. While the Spokane Tribe still engages in the timber industry, it has proven to be an unstable source of revenue. For example, from 2007 to 2009, the Spokane Tribe's timber revenue fell 65 percent.

The Spokane Tribe has high hopes for gaming revenues, and gaming at the Site would provide a new economic engine to lift the Tribe's members out of poverty by providing revenues for employment on the Reservation and in the surrounding area. The Spokane Tribe plans to use gaming revenues to address uranium contamination (using 27 percent of expected gaming revenue), governmental programs including healthcare (27.5 percent), education (1.2 percent), and cultural preservation (25 percent). It should be noted that Airway Heights, Washington, where the facility would be located, is within the Spokane Tribe's aboriginal territory and is located in an area with historical significance to the Spokane Tribe.

There is, of course, precedent for this action. The Kalispel Tribe successfully navigated the same process, in the same State, in the same city, in 1997. In that year, then-Secretary of the Interior Bruce Babbitt and Governor Gary Locke concurred in a similar determination that a gaming establishment on a 40.06 acre parcel of land in Airway Heights was in the best interest of the Kalispel Tribe and would not be detrimental to the surrounding community. As a result of that 1997 Determination, the Kalispel Tribe developed the Northern Quest Casino and Resort, a gaming facility that has for several years brought increased economic opportunity to the Kalispel Tribe through its gaming revenues. The Kalispel Tribe have had nearly 2 decades with little or no direct competition.

The success of the Kalispel Tribe has been inspirational. We visited the Kalispel Reservation in the course of considering the Spokane Tribe's application. The Kalispel Tribe, which has approximately 434 members and is located approximately 60 miles north of Spokane, has used gaming revenues to support important governmental purposes, including cultural preservation. The Kalispel Tribe has a beautiful community center that likely would not have been possible without gaming revenues, and has made significant progress addressing its own serious economic and natural resource challenges. Indeed, one of the most difficult aspects of this action is the potential economic impact on the Kalispel off-reservation casino in Airway Heights.

The proposed Spokane gaming operation is roughly 2 miles from the Kalispel Tribe's existing Indian gaming operation in Airway Heights, but is clearly located within the Spokane Tribe's aboriginal lands. Both Tribes' Reservations are some distance from Airway Heights. In 1997, Secretary Babbitt approved the Kalispel Tribe's proposed gaming operation in Airway Heights over the Spokane Tribe's concerns that the project would negatively impact the Spokane Tribe's existing casinos, which are located farther outside the city. Secretary Babbitt, in his determination in favor of the Kalispel Tribe's gaming operation, recognized that the Spokane Tribe's existing casinos would experience intense competition from the new Kalispel operation, but decided that competition alone was not sufficient to conclude that the project would be detrimental to the surrounding community. We reach the same conclusion as Secretary Babbitt. The IGRA does not guarantee that tribes operating existing facilities will conduct gaming free from competition.

Economic competition between tribes is one of the most difficult issues facing a Federal trustee with the responsibility to support all tribes. We realize that a second casino could create competition for the gaming revenues earned by the Kalispel Tribe, which leveraged itself financially to build its beautiful new casino. The question is whether the Spokane Tribe should

be denied a similar opportunity because the Kalispel Tribe is already there. The Kalispel Tribe's leadership is opposed to the Spokane Tribe's proposed gaming establishment for fear that it would harm the Kalispel's revenues. In our analysis below, we conclude that the proposed site for the Spokane Tribe's casino in Airway Heights is within the aboriginal area of the Spokane Tribe, and that Airway Heights is not within the aboriginal lands of the Kalispel Tribe. We note that it would be deeply ironic to allow the Kalispel Tribe to develop a casino within the Spokane Tribe's aboriginal area, while denying the Spokane Tribe the opportunity to use its own aboriginal lands for the same purpose.

Perhaps the best solution to the problem of a potentially diffused market share for each Tribe involves negotiation toward a model that benefits both Tribes. Cooperation could preserve the capital investments made for the Kalispel Tribe and simultaneously increase the number of Indian people benefiting from gaming. The recently signed compact appears to increase gaming and opportunities for Washington tribes, so it may be a convenient time for a compromise. Of course, it is a matter of relationships between sovereign tribal governments whether to engage in an effort to benefit both tribes or, instead, to risk a costly battle over market share. As trustee, we can merely ask tribal nations to try to work together for the good of both.

We know that this kind of negotiation would not seriously begin without the decision that we are issuing today. We know that each Tribe will be tempted to spend millions of dollars on lobbyists and lawyers to fight rather than cooperate. While the Governor considers whether to concur, we respectfully encourage the Kalispel Tribe and Spokane Tribe to take a higher path and engage in mediated negotiations to determine the best course of action to benefit both Tribes and their citizens. Such decisions should be made on the basis of economics and the public good, not on politics. Barring a compromise, however, both Tribes should have the opportunity to conduct gaming on trust lands to benefit their tribal communities.

In our work, we have carefully considered the views of local municipalities and other residents. While the City of Airway Heights fully supports the Spokane Tribe's request, the City of Spokane's views have been more mixed, and have evolved over time. Virtually all of the members of the community seem to share the desire to ensure that Fairchild Air Force Base (AFB), the community's largest employer, continues to operate uninhibited. We recognize the importance of Fairchild to the regional economy.

Thus, prior to making our determination, we considered the concerns of all those who submitted comments and met several times with local government and community groups. Some initially questioned aspects of the Spokane Tribe's plans, including whether the proposed facility's height, lighting, and noise might encroach upon the flight path of aircraft at Fairchild AFB. When the City of Spokane, Greater Spokane, Incorporated, or others raised concerns, the Spokane Tribe listened, conducted studies, and/or altered its plans to address them. For example, the Tribe participated in a Joint Land Use Study, which provided recommendations for land use restrictions designed to protect the integrity of operations at Fairchild AFB. The Spokane Tribe then requested that the Federal Aviation Administration (FAA) conduct a further study to determine whether the project would be hazardous to air navigation. Despite the FAA's determination that a structure up to 140 feet high could be erected safely at the site, the Spokane Tribe nevertheless agreed to limit the height of the proposed structure to 60 feet. After the City

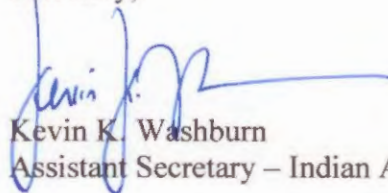
of Spokane's concerns were addressed, the City has since amended its comments to support the project, noting that the proposed project is important to the Spokane region and that the region has few similar opportunities for substantial private investment.

The Department worked with the Spokane Tribe and the United States Air Force to establish procedures to mitigate any potential encroachment and to ensure that the base will operate undisturbed. Cooperation is critical to the success of Fairchild AFB and the proposed gaming operation. The U.S. Air Force, which operates Fairchild AFB, did not submit comments opposing the project. Notably, the Principal Deputy Assistant Secretary of the Air Force wrote a letter dated February 3, 2015, expressing the Air Force's commitment to work collaboratively with the Spokane Tribe as the project moves forward.

Major economic developments can be controversial. It is our responsibility to determine whether the Spokane Tribe's proposed casino is in the best interest of the Tribe and to consider whether the project would be detrimental to the surrounding community. Critical in our determination is weighing the creation of employment opportunities by the project as well as our commitment to implementing the intent of IGRA. The Spokane Tribe's proposed project would create jobs and increase tribal public service programs on the Spokane Reservation. As Federal resources shrink, tribes must necessarily become more self-sufficient to sustain their communities. As a result, economic development for Indian tribes is a top priority. Accordingly, we have determined that this proposal is in the best interest of the Spokane Tribe and its members and is not detrimental to the surrounding community.

We request your concurrence with the determination pursuant to 25 U.S.C. § 2719(b)(1)(A). Thank you for your consideration.

Sincerely,



Kevin K. Washburn
Assistant Secretary – Indian Affairs

Enclosure

cc: Chairman, Spokane Tribe of Indians
Regional Director, Northwest Regional Office