



# The Confederated Tribes of the Colville Reservation



## **Statement of the Honorable Joseph A. Pakootas, Chairman Confederated Tribes of the Colville Reservation**

### **Oversight Hearing on the Regulation of Indian Gaming**

#### **Senate Committee on Indian Affairs**

June 28, 2005

Good morning Mr. Chairman, Mr. Vice-Chairman, and distinguished members of the Committee. My name is Joseph A. Pakootas, and I am the Chairman of the Colville Business Council. I represent the Confederated Tribes of the Colville Reservation (“Colville Tribe” or “Tribe”), and more than 9,100 tribal members. Today, we are pleased to provide our views on Indian gaming regulation, specifically regulation of after-acquired trust lands for gaming purposes under the Indian Gaming Regulatory Act (“IGRA”).

The Colville Tribe is located in north central Washington State, and comprises over 1.4 million acres of trust and allotted lands. Although now considered a single Indian tribe, the Confederated Tribes of the Colville Reservation is, as the name states, a confederation of 12 smaller aboriginal tribes and bands from all across eastern and central Washington. A majority of our 9,100 tribal members live on the reservation.

Our location is quite remote from the main commercial corridors in Washington State. The nearest entrance to an interstate highway is approximately 100 miles from Nespalem, the seat of our tribal government. Our reservation encompasses lands within Okanogan and Ferry Counties,<sup>1</sup> the economies of which are primarily dependent on agriculture, limited mineral development, and timber. The federal government, on its own behalf or on behalf of the Tribes, holds the majority of the land in both counties. Ferry County was recently informed that the only federally insured bank in the county will close its doors in September. In short, our neighbors are poor, and their economic fate is closely tied to the vagaries of weather, the agricultural economy, and federal regulation.

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<sup>1</sup>We also exercise governmental authority over off-reservation allotments in a number of other counties.

The Colville Tribe has become a major contributor to these local economies. The Colville Tribe, together with its corporate entity, the Colville Tribal Enterprise Corporation, employs over 2,000 people, many of whom are non-Indians. Many of our tribal member employees own fee property off the reservation and contribute taxes to the local economy. As one of the largest employers in north central Washington, our tribal payroll contributes substantial sums to the off-reservation economy.

The economic power of the Colville Tribe has increased substantially because of Indian gaming. We have three small casinos, two located within the Reservation and a third located on allotted land in Chelan County, on Lake Chelan. Our gaming revenues have rarely approached \$25 million in any fiscal year and have declined steadily over the past several years. We are not a “rich” gaming tribe. Yet this income has enabled us to significantly expand government services to our people, and provide jobs for members and non-members alike. The Colville Tribe uses eighty percent (80%) of its casinos’ net revenues to fund essential tribal governmental functions, including services for elders, fire safety, police protection, gaming regulation, land use planning, social and health services, housing, and education. We do not utilize any gaming revenues for per capita payments.

Because we are located in an economically depressed area, it is doubtful we will ever be able to meet our own peoples' needs through gaming alone.<sup>2</sup> Our people have experienced increased unemployment during recent years. Our gaming revenues have also steadily declined during the last three years. Several factors have contributed to this decline, including the restrictive scope of games allowed under our Class III compact with Washington State, increased regulatory costs associated with the Compact, and increased competition from Indian tribes located in western Washington (where the majority of the state’s population resides). Because of these factors, the Colville Tribe would like to establish a new casino site off-reservation, at Moses Lake, Washington, which is an area within the Colville Tribe’s aboriginal territories.

Like many other remote Indian tribes, we are too far from the urban population centers and major transportation corridors to become a major “Las Vegas” superpower in Indian gaming. Our proposed venture in Moses Lake would not change this outcome. Rather, it would provide us a chance to expand our market and generate additional needed revenues to fund the Colville Tribe’s government, as well as provide jobs and economic growth for the Moses Lake area.

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<sup>2</sup>We also derive revenues from our timber products, and our two mills, which produce dimensional lumber, plywood, and veneer.

Yet we face substantial hurdles in accomplishing this task, even with a welcoming local government at Moses Lake, a willing seller ready to consummate the transaction with us, and our history of financing our gaming facilities with our own resources.<sup>3</sup>

The first hurdle is Section 20 of IGRA and its restrictions on conducting gaming on off-reservation lands acquired in trust status after 1988.<sup>4</sup> Even assuming that the federal government could act relatively quickly on our fee-to-trust application, experience shows that it is now a matter of years before the Department of the Interior completes its review of such applications. Because the Tribe would acquire the land with the intent of operating a tribal casino/destination resort, the Tribe would be required to satisfy the “two-part determination” in Section 20. The two-part determination would require the Department to determine – after consulting with Washington State and local government officials and officials of our sister Indian tribes – that the gaming establishment on the newly acquired land would be in the best interest of the Colville Tribe and its members, and would not be detrimental to the surrounding community. Assuming that the Department would make such a determination, the Department could not take the land into trust under Section 20 if and until the Governor concurs in the Department’s determination. As evidenced by the fact that since 1988 state governors have concurred in only three positive two-part determinations for off-reservation gaming on trust lands, Section 20 presents a formidable obstacle.

Complying with the existing IGRA framework will mean that the Colville Tribe will have to commit millions of Colville Tribal dollars to the Moses Lake project without any certainty that it will come to fruition. The backlog of applications at the Department, the requirements under existing law and regulations, and the inherent delays associated with the process all contribute to these hurdles. To put it plainly, no self-respecting capitalist would take those odds. Nevertheless, if Indian tribes wish to expand governmental services to our people and enhance our way of life, those are odds many of us will have to take.

Today, we ask that the Committee carefully consider the fact that not all Indian tribes are alike and not all gaming tribes are basking in the glory of multibillion-dollar revenue streams. Many of us depend on Indian gaming to provide critical support for our governments and people, and have become new partners with our non-Indian neighbors in many areas of economically depressed rural America.

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<sup>3</sup>We would have to rely on conventional borrowing to accomplish our goals. The Tribe has never associated with any private investors to build its existing casinos, and has never relied on outside management contractors or other third parties to establish or maintain its gaming facilities. We are the sole owner of our casinos.

<sup>4</sup>We note with alarm the recent developments in Oregon with the Warm Springs Tribe’s proposed casino at Cascade Locks. Even with a compact endorsed by the State of Oregon that contemplates an off-reservation site on the Columbia River, the Department has effectively delayed the project by years, if not killed it altogether.

We further ask that the Committee exercise care in developing any amendments to IGRA to address off-reservation gaming, and remember that any additional regulation that renders investment in tribal gaming risky will inevitably favor the wealthiest Indian tribes, who can most afford to take those risks. Such regulation will just as inevitably prevent those Indian tribes that most desperately need gaming revenue from participating in the market.

Thank you for the opportunity to present the Colville Tribe's views to the Committee. I will be happy to answer any questions the Committee may have.