



1b
FEB 25 2025

BOARD of CLALLAM COUNTY COMMISSIONERS

MINUTES for the week of February 17-21, 2025

WORK SESSION – 9 a.m.

The work session convened at 9 a.m., Tuesday, February 18, 2025. Present were Commissioners French, Johnson, and Ozias and Administrator Mielke.

Items of discussion per the agenda published February 6 were:

- Calendar/Correspondence
- Agreements (2) with Department of Ecology and Washington State University for general public and technical assistance to farmers
- Sublease agreement with City of Port Angeles for shared storage facility
- Request for waiver of bid/RFP/quote requirements and purchase order with Pacific MicroRem, Inc. for courthouse security project
- Pre-application questionnaire with Washington State Archives for local records grant program
- Resolution appointing Scott Clausen to the Board of Equalization District I position
- Letter of support for Washington State Forest Legacy Program Coordinator and Department of Natural Resources for support for forest legacy program application for the Olympic Rainforest property
- Agreement amendment 2 with Washington State Department of Transportation for S. Airport Road Resurfacing Project
- Agreement amendment 1 with Washington State Department of Transportation for Clallam Slough Bridge Replacement Project
- Agreement with Natural Systems Design, Inc. for natural design and coastal geologic serves

Meeting concluded at 9:24 a.m.

REGULAR MEETING OF THE BOARD OF CLALLAM COUNTY COMMISSIONERS

Chair French called the meeting to order at 10 a.m., Tuesday, February 18, 2025. Also present were Commissioners Johnson and Ozias and Administrator Mielke.

REQUEST FOR MODIFICATIONS/APPROVAL OF AGENDA

ACTION TAKEN: CRJm to adopt the agenda as presented, CMOs, mc

PUBLIC COMMENT FOR AGENDA ITEMS

- John Worthington, Sequim, commented on item 1a, Jamestown S'Klallam Tribe, Jimmy Come Lately, investigation on Zoom
- Pepai Whipple, Sequim, commented on item 1a, Towne Road, budget
- Ed Bowen, Clallam Bay, commented on item 1d
- Karin Cummins, Sequim, commented on a quote, Towne Road,

CONSENT AGENDA

1a Approval of vouchers for the week of February 10

The Following warrants and electronic payments are approved for payment:

Accounts Payable:	Total
Warrant numbers: 9935235-9935286; 9935319-9935457; 9935489-9935490	\$869,071.11
Electronic payments dates: n/a	\$0.00
Total Accounts Payable:	\$869,071.11

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MINUTES for the week of February 17-21, 2025
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1b Approval of payroll for the period ending January 31

The following voucher/warrants/electronic payments are approved for payment:

Payroll	Total
Warrant Numbers	
174287-174784, 9934774-9934775, 9935198-9935223	\$1,848,293.38
Electronic Payment Date	
2/10/2025-2/14/2025	\$793,985.28
Total Payroll:	\$2,642,278.66

1c Approval of minutes for the week of February 10

1d Letter of support for Washington State Forest Legacy Program Coordinator and Department of Natural Resources for support for forest legacy program application for the Olympic Rainforest property

1e Resolution appointing Scott Clausen to the Board of Equalization District I position

ACTION TAKEN: CRJm to adopt the consent agenda, CMOs, mc

REPORTS AND PRESENTATIONS

- CRJ commented on testifying on Bills
- CMO commented on Dungeness River Management Team, State Emergency Management Council, County Road Administration Board CRAB
- CMF commented on department staff meetings, Juvenile services, opioid settlement funds, Clallam Bay Sekiu Community Advisory Committee meeting

CONTRACTS AND AGREEMENTS

2a Agreement with Washington Military Department and the U.S. Department of Homeland Security for Operation Stonegarden Grant

ACTION TAKEN: CRJm to approve, CMOs, mc

2b Agreement with Jefferson County for Jefferson County Public Works Road Department Noxious Weed Control Project

ACTION TAKEN: CRJm to approve, CMOs, mc

2c Agreement with Lakeside Industries for the Old Olympic Highway Resurfacing Project CRP C1263

ACTION TAKEN: CRJm to approve, CMOs, mc

ADMINISTRATION

3a Purchase order with Brite for patrol mobile data terminals

ACTION TAKEN: CRJm to approve, CMOs, mc

PUBLIC COMMENT

- Ed Bowen, Clallam Bay, commented on the channel migration zone, Department of Community Development
- John Worthington, Sequim, commented on pictures on the screen, Tribes
- Pepai Whipple, Sequim, commented on conflict of interest, exposing the Board, property taxes, cost of living, she is seeking legal counsel, Charter Review Commission
- Karin Cummins, Sequim, commented on position of power, nonprofits, non-governmental organization, 3% tax increase, property taxes, how people dress, President Trump and Elon Musk interview
- Denise Lapio, Sequim, commented on property taxes, special elections
- Jeff Tozzer, Sequim, commented on the Clallam County vision statement, House Bill 1334 raise property taxes, Commissioner Ozias, financial struggle, tax increases (see attached)

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Meeting concluded at 10:48 a.m. and continued to an Executive Session to be held on Tuesday, February 18, 2025 at 3:30 p.m.

EXECUTIVE SESSION – February 18, 2025 at 3:30 p.m.

The Board convened in open session at 3:30 p.m. to evaluate the qualifications of an applicant for public employment, or to review the performance of a public employee. Present were Commissioners Ozias, French and Johnson, and Administrator Mielke.

The Board may recess into Executive Session to consider employment or dismissal of personnel, to review the performance of a public employee, to consult with legal counsel, to consider the position to be taken in collective bargaining, to consider acquisition or sale of real estate, or other matters per RCW 42.30.110.

ACTION TAKEN: CMOM to moved to executive session for 1 hours, CRJs, mc

The Board recessed into executive session at 3:30 p.m.

The Board convened in open session at 4:30 p.m. and CMF noted no action will be taken.

Meeting concluded at 4:30 p.m. and continued to 9 a.m., Monday, February 24, 2025

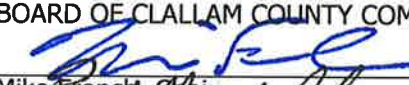
The Board of Commissioners attended a Board of Health Meeting, Executive Session, Coffee with Colleen and Clallam Transit Meeting during the week of February 17, 2025.

PASSED AND ADOPTED this 25th day of February 2025

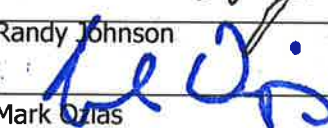
ATTEST:


Loni Gores, MMC, Clerk of the Board

BOARD OF CLALLAM COUNTY COMMISSIONERS


Mike French, Chair


Randy Johnson


Mark Ozias

KEY TO ABBREVIATIONS:

ATM Administrator Todd Mielke
CMO Commissioner Mark Ozias
CRJ Commissioner Randy Johnson
CMF Commissioner Mike French

m moved
mc motion carried
s seconded



Public comment
JEFF TOZZER
2/18/25

I want to take a moment to remind you of the very first line in the **Clallam County Commissioners' vision statement**: *"Putting the translated desires of our residents into action through effective communication."*

Yet, Commissioner Mark Ozias, instead of communicating openly with the public, has been working behind the scenes as First Vice President of WASAC to push for **House Bill 1334**—a bill that would allow counties to **raise property taxes by 3% annually without voter approval**. That's triple the current cap, and it would burden families already struggling with inflation, housing costs, and economic uncertainty.

So, I ask: **When did Clallam County residents ever ask for this?** Where was the open communication about this plan? Raising taxes behind closed doors is not "translating the desires of residents into action"—it's betraying them.

And while you push for higher taxes, we continue to see reckless spending. Despite warnings that delaying the Towne Road project could forfeit grant funding, the commissioners halted its completion. Taxpayers ended up paying an extra **\$1.4 million** for a 0.6-mile stretch of road, while original funds were redirected to Commissioner Ozias's top campaign donor, the Jamestown Tribe.

Instead of ensuring current funds are used effectively, you're looking for ways to **take more from taxpayers** without their consent. How do you expect the public to trust that their money is being handled responsibly?

Commissioner Ozias, you ran on a platform of making housing more affordable, yet you're leading an organization that's working to **make it more expensive for people to stay in their homes**. Raising property taxes without voter approval is not just bad policy—it's bad leadership.

If the county is struggling financially, the first step should be **fiscal responsibility**, not reaching deeper into taxpayers' pockets. Before pushing for tax increases, show the public where the money is going, control spending, and build trust through **real transparency**.

Stop making decisions in Olympia that hurt the people who elected you here at home. Start listening to the residents of Clallam County. **And honor the commitment you made to serve them.**

Jeff Tozzler, Sequim

in this week's voucher, a \$59,418.55 payment is being made to Shannon & Wilson, the consulting firm that worked on Towne Road—the same project that never had a budget. Not one that was planned, not one that was made public, and certainly not one that kept spending in check. Yet, we're still paying for it.

Shannon & Wilson is also consulting on the Dungeness Off-

Channel Reservoir, the county's next major infrastructure

project. One project never had a budget, and the other is just beginning. Do we really think this time will be any different?

This isn't just bad planning. It's bad governance. Imagine running your household this way—spending freely with no budget, no plan, and no accountability. That wouldn't fly in your home, and it shouldn't fly in our county government either.

So here's the question: How much more will we pay?

If the commissioners never set a budget, then there's no cap, no limit—just an open tab, and guess who's picking up the check? It's time to demand transparency. It's time to demand answers. And it's time to remind our elected officials that our tax dollars are not their personal slush fund. If they can't tell us how much these projects are really costing, maybe they shouldn't be trusted with our money at all.

Jeff Toney, Bendigo

BOCC Mail Correspondences Received from other Jurisdictions

Gores, Loni

From: Ozias, Mark
Sent: Monday, February 10, 2025 2:14 PM
To: Gores, Loni
Subject: FW: America250 and Clallam County (meeting Feb 25)

FYI

Mark Ozias

Clallam County Commissioner

** Please note my new email address: mark.ozias@clallamcountywa.gov*

** This correspondence may be subject to disclosure under the Public Records Act.*

From: Lorraine Ralston <Lorraine.Ralston@wshs.wa.gov>
Sent: Monday, February 10, 2025 11:49 AM
To: Ozias, Mark <mark.ozias@clallamcountywa.gov>; Johnson, Randy <randy.johnson@clallamcountywa.gov>; French, Mike <Mike.French@clallamcountywa.gov>
Cc: Mielke, Todd <Todd.Mielke@clallamcountywa.gov>
Subject: America250 and Clallam County (meeting Feb 25)

Some people who received this message don't often get email from lorraine.ralston@wshs.wa.gov. [Learn why this is important](#)

Dear Commissioners:

My name is Lorraine and I am the Washington state coordinator for the upcoming semiquincentennial celebration of America in 2026, commemorating the 250th anniversary of the signing of the Declaration of Independence in 1776.

This is a once-in-a-lifetime opportunity for us to reflect on our past and look to the future. Washington State has established a state committee (chaired by the lieutenant governor) to plan commemoration activities, and the committee is eager to have participation in every county across the entire state.

I will be in **Clallam County (Port Angeles) on Tuesday Feb 25** and was hoping I could meet with one of you to chat about how the county can get engaged. While the state has identified a number of initiatives it would like to do, the 250th anniversary will very much be a local activity. We want to start the conversation with each county now to see how America 250 can be incorporated into events that are already happening.

Would one of you -- or someone on your staff -- be available at **9 am on Feb 25**? I would only need about 30 minutes of your time.

In the meantime, please visit our website, www.america250WA.org, to learn more about the state's plans for 2026.

Thank you for your time and consideration.

Kind regards
Lorraine Ralston

PS: Commissioner Ozias, you may remember me from the 2020 Census!



Lorraine Ralston
America 250 Coordinator

253.478.8589

info@america250wa.org

www.America250WA.org

Washington State Historical Society
1900 Pacific Ave
Tacoma, WA 98402

Learn more about America's 250th Commemoration on our website.

FEB 11 2025

1...2...3...A...

152 W. Cedar Street, Sequim, WA 98382
PH (360) 683-4908 FAX (360) 681-0552



**CITY OF SEQUIM
NOTICE OF PUBLIC HEARING
BELLA VISTA ESTATES MAJOR SUBDIVISION
SUB-24-004**

NOTICE IS HEREBY GIVEN, that the City of Sequim received the following permit application and determined that it was complete for processing as of May 13, 2024. The hearing is scheduled for 10:00 am on February 27, 2025 and will be conducted by the Hearing Examiner. This is also a reminder that you can still submit public comments for this project until the close of the public hearing.

PROJECT DESCRIPTION: Major Subdivision for the development of 24-lots for single family residential use. Project includes a concurrent Boundary Line Adjustment with a single neighboring property, and a SEPA review. Undeveloped parcel that slopes upward to the south. Existing Highland Irrigation District (HID) infrastructure is present along southern portion of site and has required coordination with HID.

PROPONENT: Bella Vista Estates, Inc./Chris Weymouth

PROJECT LEAD: Goldsmith Land Development Services

LOCATION: Parcel #'s 033029240100 & 033029249015

PUBLIC HEARING TIME AND LOCATION: The public hearing will be held virtually via Teams.

The public can attend the February 27, 2025, Public Hearing starting at 10am. Those interested can attend via the following options below:

Website for Audio Streaming: [Microsoft Teams Link - Public Hearing](#), Meeting ID# 215 662 440 841

People may also join by calling 1-253-363-9585, Phone Meeting ID# 741 892 173

If you cannot attend online you may attend in person at the Civic Center Council Chambers located at 152 W Cedar St.

CONSISTENCY W/APPLICABLE CITY OF SEQUIM PLANS & REGULATIONS: The proposal will be reviewed for compliance with all applicable codes and standards, including the Comprehensive Plan & Sequim Municipal Code.

COMMENTS / APPEALS: Any person has the right to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and may appeal the decision. Public comments will be accepted until the close of the public hearing scheduled for **February 27, 2025**. Comments may be submitted in person via hardcopy at the Civic Center (address noted above), or by U.S. Mail. Comments may also be submitted electronically to dcdpubliccomment@sequimwa.gov. The application materials are available on the City of Sequim's website at <https://www.sequimwa.gov/471/Current-Projects>.

STAFF CONTACT: Travis Simmons, Senior Planner (360)683-4908



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Northwest Regional Office

911 Northeast 11th Avenue

Portland, Oregon 97232

RECEIVED
CLALLAM CO. COMMISSIONERS

FEB 11 2025

1...2...3...A...

IN REPLY REFER TO:
Division of Realty

February 4, 2025

CERTIFIED MAIL - 7020 0640 0002 1037 1544 - RETURN RECEIPT REQUESTED

The Honorable W. Ron Allen
Jamestown S'Klallam Tribe
1033 Old Blyn Highway
Sequim, Washington 98382-7670

Dear Chairman Allen:

This is the decision of the Bureau of Indian Affairs ("BIA"), Northwest Regional Director, on the Jamestown S'Klallam Tribe's ("Tribe") contiguous land-into-trust application for the property more fully identified below, known as the Blyn Basin IX Property ("Property" or "Land") consisting of 3.73 acres, more or less, located in Clallam County, Washington. The proposed acquisition for the property: residential, Tribal self-determination, and consolidating land ownership. The application is not for gaming purposes. For the reasons set forth below, it is my decision to approve the Tribe's request to acquire the Blyn Basin IX Property into trust.

By Tribal Resolution Number 43-2024 dated July 17, 2024 and Fee-to-Trust Application dated July 17, 2024¹, the Tribe requested that the United States acquire 3.73 acres in trust for the use and benefit of the Tribe.

The Tribe acquired the Property from Rita C. Meyer by Statutory Warranty Deed dated March 5, 2013, and recorded in Clallam County, Washington, on March 27, 2013, under document number 2013-1292485.

Location/Land Description

According to the fee-to-trust application and review of the location map, the Property is contiguous to the Jamestown S'Klallam Reservation. The property is described as follows:

¹ The fee-to-trust application was submitted after January 11, 2024; therefore, the revised 25 CFR 151 regulations apply to this fee-to-trust application and decision.

Parcels Number(s) 032912429010 and 032912429020

PARCEL A:

PARCEL "C" OF MEYER BOUNDARY LINE ADJUSTMENT SURVEY, RECORDED DECEMBER 14, 2004 IN VOLUME 57 OF SURVEYS, PAGE 1, UNDER CLALLAM COUNTY RECORDING NO. 2004 1147158, BEING A PORTION OF LOTS 1 AND 4 OF MEYER SHORT PLAT RECORDED IN VOLUME 5 OF SHORT PLATS, PAGE 39, BEING A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 29 NORTH, RANGE 3 WEST, W.M., CLALLAM COUNTY, WASHINGTON.

SITUATE IN CLALLAM COUNTY, STATE OF WASHINGTON.

PARCEL B:

LOT 2 OF MEYER SHORT PLAT, RECORDED JULY 18, 1978 IN VOLUME 5 OF SHORT PLATS, PAGE 39, UNDER CLALLAM COUNTY RECORDING NO. 484569, BEING A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 29 NORTH, RANGE 3 WEST, W.M., CLALLAM COUNTY, WASHINGTON.

SITUATE IN CLALLAM COUNTY, STATE OF WASHINGTON.

A Land Description Examination and Validation ("LDEV") Request was submitted on August 1, 2024 and certified by BIA OTS Liaison, Trisha Johnson on August 30, 2024. The LDEV received a *concur, low risk* and stated the following:

The Land description is that of multiple parcels. Parcel A being described as Parcel "C" of Meyer Boundary Line Adjustment Survey. Recorded December 14, 2004 in Volume 57 of Surveys, Page 1 under Clallam County recording 2004 1147158. And Parcel B being Lot 2 of Meyer Short Plat, recorded in July 18, 1978 in Volume 5 of short plats, Page 39, under Clallam County recording 484569. The land description being in the Northwest Quarter of the Southeast Quarter of Section 12, Township 29 North, Range 03 West, Willamette Meridian, Clallam County, Washington. According to the survey as provided. By nature of the description, the description closes within an acceptable amount and conforms to the PLSS. The Land description is deemed acceptable for the stated purpose.

The GIS acreage was calculated to be within the 5% of the 3.730 TAAMS acres. It is deemed acceptable of stated purpose.

Based on most recent available satellite imagery theres does not appear to be any unauthorized encroachment or encumbrances.

I find that the Tribe has fulfilled the requirements of 25 CFR § 151.8 governing requests for approval of acquisition because Resolution Number 43-2024 dated July 17, 2024, sets out the

identity of the parties, a description of the land, and other information showing the acquisition comes within 25 CFR Part 151.

REGULATORY REQUIREMENTS, 25 CFR Part 151 (2024)

The BIA Northwest Regional Director's decision is discretionary. This application was submitted after the Bureau of Indian Affairs issued the revised 25 CFR Part 151 regulations for fee-to-trust acquisitions, effective January 11, 2024 ("2024 Regulations"). Therefore, this decision is issued pursuant to the revised 25 CFR Part 151 regulations.

§ 151.3 – Land Acquisition Policy

Section 151.3 of Title 25 of the *Code of Federal Regulations* set forth the Department's land acquisition policy. I find that the acquisition is consistent with the policy because of the following:

1. The land is contiguous to the Jamestown S'Klallam Reservation.
2. The Tribe already owns the land, as evidenced by the Statutory Warranty Deed and the title evidence. The Office of the Solicitor, Pacific Northwest Region, reviewed the title evidence, provided Preliminary Title Opinion BIA-00091534 dated November 4, 2024, and found the title vested in the United States of America in trust for the Jamestown S'Klallam Tribe.
3. The acquisition furthers tribal interests by consolidating land ownership—contiguous to the Jamestown S'Klallam Reservation, and facilitating Tribal self-determination and Indian housing.

25 CFR § 151.3(b) (1)-(3).

§ 151.10(a)(1) – Statutory Authority

Section 5 of the Indian Reorganization Act of 1934 (IRA) (Section 5) authorizes the Secretary to acquire land in trust for "Indians," which includes all persons of Indian descent who are members of "any recognized Indian tribe now under federal jurisdiction." In 2009, the United States Supreme Court (Supreme Court) in *Carcieri v. Salazar* construed the term "now" to refer the year of the IRA's enactment 1934; however, the Supreme Court did not interpret the phrase "under federal jurisdiction." In 2014, the Department's Solicitor provided guidance on the phrase "under federal jurisdiction" by issuing Solicitor Opinion M-37029 (Sol. Op. M-37029). Multiple federal court decisions hold that the Department's interpretation memorialized in Sol. Op. M-37029 is reasonable.

The Tribe was under federal jurisdiction in 1934. The Tribe's predecessor was party to the 1855 Treaty of Point No Point with the United States, the Tribe received benefits and annuities

pursuant to that treaty and the federal government continued to provide services and benefits to the Tribe up to, and after, 1934. During the implementation of the IRA, the federal government endeavored to organize the Tribe and acquire land for it and made the determination that the Tribe was eligible for the benefits of the IRA.

On February 10, 1981, the Tribe was acknowledged as a federally recognized Indian tribe, effectively confirming its continuing existence and supervision by the federal government. 45 Fed. Reg. 81890 (Dec. 12, 1980). The federal acknowledgment of the Tribe through the process set forth in 25 C.F.R. Part 83 in 1981 further confirms that the Tribe was under federal jurisdiction in 1934 and has existed continuously and autonomously since at least 1855.

Finally, the Tribe's continuing relationship to the United States was also confirmed when the Tribe intervened in *United States v. Washington* and established its continuing right to exercise treaty fishing activities reserved to it under the 1855 Treaty of Point No Point.

For purposes of the “under federal jurisdiction” analysis, the United States understood that the Tribe was under the federal jurisdiction and supervision of the United States in 1934, and that the adult residents of the Reservation met the IRA’s definition of “Indian.” That understanding was re-affirmed when the Tribe was acknowledged by the United States in 1981 and was also confirmed when the Tribe intervened in *United States v. Washington*.

§ 151.10(a)(3) – Purposes for which the land will be used

The Tribe’s proposed/current purposes of the acquisition is residential, Tribal self-determination, and consolidating land ownership—the Property is contiguous to the Jamestown S’Klallam Reservation.

According to the Tribe’s fee-to-trust application, the Tribe does not have any plans to develop the property.

§ 151.10(a)(4) – BIA’s ability to discharge additional responsibilities

The Puget Sound Agency and Northwest Regional Office programs can handle the additional responsibilities brought by acquiring this land into trust. Realty, the Division of Environmental, and the Land Titles and Records Office are the principal programs affected.

Based on the above facts, the additional 3.73 acres will not unduly burden the BIA staff. Therefore, I also find that the BIA is equipped to discharge the extra responsibilities of bringing this land into trust status.

§ 151.10(b) – Great Weight

The Secretary shall give great weight to acquiring land that serves specific tribal interests. This acquisition furthers tribal interests by consolidating land ownership—property is contiguous to the Jamestown S’Klallam Reservation and facilitating Tribal self-determination and Indian housing. I find that this interest weighs in favor of the acquisition of the Property in trust for the Tribe.

25 CFR § 151.10(b) (4) and (8).

§ 151.10(c) – Tribal Interests

I find that the acquisition will further Tribal interests by facilitating Indian housing, Tribal self-determination and consolidating land ownership. Any adverse impacts to local governments’ regulatory jurisdiction, real property taxes, and special assessments will be minimal; therefore, the application should be approved.

§ 151.10(d) – Impacts on regulatory jurisdiction, real property taxes, and special assessments

A Notice of Application was sent to the Governor of Washington (“State”), Clallam County (“County”), and the City of Sequim (“City”) on September 10, 2024. The notices provided 30 days for a written response. The State, County, and the City received its Notice on September 12, 2024.

The State, County and City did not respond to the Notice of Application; therefore, I cannot determine any impact on the local governments due to their failure to respond to the Notice.

There were no written comments to rebut the presumption of minimal adverse impacts to regulatory jurisdiction, real property taxes and special assessments. Therefore, I find that the Tribal community will benefit from the acquisition.

§ 151.14 – Title Review

A Request for a Preliminary Title Opinion (“PTO”) was submitted to the Office of the Solicitor, Pacific Northwest Region, and a Preliminary Title Opinion, BIA-00091534, was issued on November 4, 2024. The PTO stated that items 1 and 2 (real estate excise taxes, general taxes, and liens/assessments) of Schedule B, Part II of the title evidence must be eliminated from the final title evidence. All taxes and assessments must be paid through the date of closing.

§ 151.15 – Review of Environmental Conditions

The Secretary shall comply with the requirements of the National Environmental Policy Act (NEPA), applicable Council on Environmental Quality regulations, and Department of Interior regulations and guidance (59 IAM 5 dated January 10, 2025) regarding Hazardous Substances Determinations. An Exception Checklist for BIA Categorical Exclusions dated October 8, 2024, indicates that an Environmental Assessment is not required because the tribe stated that no development, physical alteration, or change of land use after acquisition is planned or known. Therefore, approval of this acquisition falls under 516 DM 10.5 (I) and is categorically excluded. Should future development occur, compliance with NEPA will be required if federal funding or a federal decision is involved.

Historic/Endangered Species Compliance

Since the Tribe has no plans for further development of this property, I anticipate no impact on any historic or archaeological resources or threatened or endangered species that may exist on the property. Should future development occur, compliance with laws governing landmark properties and endangered species, if applicable, will be required.

Phase I and II Environmental Site Assessments

Kristen Burgess EP, LG of ESA Associates, Inc. (ESA AI), completed a Phase I Environmental Site Assessment (ESA) on July 10, 2024, for fee-to-trust application purposes. The consultant found no known or suspected Recognized Environmental Conditions (RECs), controlled RECs, Business Environmental Risks (BERs), or other evidence of environmental liability at this property.

The following historical REC was identified:

An old log home from the late 1800s burned down on the subject property and was pushed over an embankment on the eastern side of the property. Another area in front of the home located at 296 Woods Road was used to burn garbage.

Follow-up Phase II ESA Investigation:

On January 23, 2024, ESA AI conducted a Phase II ESA on the subject property. An area on the mid-eastern portion of the property [near Test Pit 5 (TP-5)] was identified as an area of concern due to burning unknown waste material. Chemical analytical results within the burned debris indicated concentrations of the volatile organic compound (VOC), benzene, at a concentration of 0.947 milligrams per kilogram (mg/kg), which is above the Washington Dept. of Ecology's (WADOE's) most stringent MTCA Method A cleanup level for benzene (0.030 mg/kg). The area of the eastern embankment, within the burned debris of the old log house, contained concentrations of arsenic (281 mg/kg), cadmium (9.34 mg/kg), chromium (137 mg/kg), and lead (340 mg/kg). The sample (TP-6-2) was above the MTCA Method A cleanup levels for arsenic, cadmium, and lead at 20 mg/kg, 2 mg/kg, and 250 mg/kg, respectively.

WA Ecology Consultation

ESAAI contacted Mr. Tim Mullin, WADOE Director Southwest Regional Office Toxics Cleanup Program and discussed the findings of the burned log house and burn pile on the subject property.

According to Mr. Mullin, any contaminants found in the burned debris from the burning of an old wood framed house and the associated burn pit on the subject property would be considered solid waste and "do not constitute a [reportable] release" as long as the soil is tested *below* the burned debris and those chemical analytical results do not show any contaminants of concern above the MTCA Method A thresholds. Mr. Mullin confirmed that the burned debris and solid waste must be removed and disposed of at an appropriate landfill but does not need to be reported to WADOE.

Additional Phase II ESA investigation & Water Well Sampling:

On March 19-21, 2024, ESAAI conducted a second Phase II investigation, to direct removal of the burned debris and solid waste in the areas previously discovered. They also collected water samples from the on-site water well on February 20 and February 28, 2024.

Chemical analytical results from the soil beneath the burned log house and burn pile were below MTCA Method A clean up levels for petroleum hydrocarbons, VOCs, semi-volatile VOCs, and RCRA metals. ESAAI concluded that contaminants associated with the burning of debris at the subject property did not significantly leach into the subsurface soils beneath the discovered burned debris. The burned debris mixed with a thin layer of soil was removed from the identified areas of concern and transported to a licensed landfill in Cowlitz and Lewis County, Washington.

Chemical analytical results for the well (W-1) indicated that lead was detected at a concentration of 60.1 micrograms per liter ($\mu\text{g/l}$), which is above the Washington State Department of Health's (DOH's) Maximum Contaminant Level (MCL) of 15 $\mu\text{g/l}$. The water from the well was resampled one week later after purging the water lines. The water samples at the wellhead, the distribution line (W-1), and the two houses (House-1 & 2) were then reanalyzed for total lead. The subsequent water sampling events for well, distribution line, and the residences at 294 & 296 Woods Road, and the at 294 Woods Road were all non-detect for lead. The W-1 distribution line water sample contained lead at a concentration of 3.38 $\mu\text{g/l}$ and the 296 Woods Road residence at 1.33 $\mu\text{g/l}$, which are both below the MTCA Method A cleanup level and the MCL of 15 $\mu\text{g/l}$. The 294 Woods Road was non-detect. ESAAI concluded that the initial lead sample for the well exceeding the MCL was due to limited use of the distribution line over the last several years. Once the lines were purged and resampled the lead concentration in the distribution line at a concentration far below the DOH MCL.

The source of the water for the homes was from a natural spring that was collected into a cistern that was dug by hand many years ago. For that reason, ESAAI recommended discontinuing the use of this water source and connecting the homes to the Tribal water

system. The cistern was subsequently sealed and disconnected from the homes on the subject property. The homes are currently hooked up to Tribal water.

ESAAI concluded that based on their Phase I ESA and subsequent Phase II ESA, that the subject property was suitable for acquisition. BIA concurs with their assessment. No additional environmental investigation appears to be warranted at this time.

Brian J. Haug, Northwest Regional Environmental Scientist, reviewed the Phase I ESA report on September 30, 2024, and stated: "The Phase I-II ESA and supporting documents fulfill the requirements of NEPA, 40 CFR § 312, ASTM E 1527-13/21 Standard Practice, and 25 CFR Part 151, and the property is suitable for acquisition under the U.S. Department of the Interior Manual 602 DM 2.13 Acquisition, A & B."

Please note: The Phase I ESA report components will be 180 days old on December 7, 2024, and the report will expire on July 10, 2025, 12 months from the issue date.

If the fee-to-trust application package reaches *Step 13-Acceptance of Conveyance*, and the Phase I ESA report date exceeds 180 days (December 7, 2024), an updated Phase I ESA is required.

Decision

The proposed uses and purposes of the property are non-gaming, not illegal, and not in conflict with existing land use. Given the preceding, all applicable legal requirements have been satisfied, and I hereby approve the Tribe's fee-to-trust application for the Blyn Basin IX Property.

Appeal Rights

This decision may be appealed by any person or entity who is adversely affected by the decision of the Regional Director. A Notice of Appeal shall be in writing, signed by the appellant or by his attorney of record or other qualified representative as provided by 43 CFR 1.3, and filed with the Interior Board of Indian Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203, within 30 days after receipt by the appellant of the decision from which the appeal is taken.² A copy of the Notice of Appeal shall simultaneously be filed with the Assistant Secretary—Indian Affairs. As required by § 4.333 of this part, the Notice of Appeal sent to the Board shall certify that a copy has been sent to the Assistant Secretary—Indian Affairs. A Notice of Appeal not timely filed shall be dismissed for lack of jurisdiction.

² The regulations governing appeals to the Board from decisions of BIA officials are contained in 43 CFR §§ 4.310, 4.332-4.333.

A Notice of Appeal shall include:

- (1) A full identification of the case;
- (2) A statement of the reasons for the appeal and of the relief sought; and
- (3) The names and addresses of all additional interested parties, Indian tribes, tribal corporations, or groups having rights or privileges which may be affected by a change in the decision, whether or not they participated as interested parties in the earlier proceedings.

In accordance with 25 CFR 2.20(c) a notice of appeal shall not be effective for 20 days from receipt by the Board, during which time the Assistant Secretary—Indian Affairs may decide to review the appeal. If the Assistant Secretary-Indian Affairs properly notifies the Board that he has decided to review the appeal, any documents concerning the case filed with the Board shall be transmitted to the Assistant Secretary-Indian Affairs.

When the appellant is an Indian or Indian tribe not represented by counsel, the official who issued the decision appealed shall, upon request of the appellant, render such assistance as is appropriate in the preparation of the appeal.

At any time during the pendency of an appeal, an appropriate bond may be required to protect the interest of any Indian, Indian tribe, or other parties involved. *See* 43 CFR § 4.332

Service of Notice of Appeal

On or before the date of filing of the notice of appeal the appellant shall serve a copy of the notice upon each known interested party, upon the official of the Bureau of Indian Affairs from whose decision the appeal is taken, and upon the Assistant Secretary—Indian Affairs. The notice of appeal filed with the Board shall certify that service was made as required by this section and shall show the names and addresses of all parties served.

The notice of appeal will be considered to have been served upon the date of personal service or mailing or electronic transmission in accordance with § 4.310(f). *See* 43 CFR § 4.333.

Sincerely,

**DANIEL
GALVAN**

Daniel A. Galvan
Acting Northwest Regional Director

Digitally signed by DANIEL
GALVAN
Date: 2025.02.04 16:24:00
-08'00'

cc: Leo Gaten, Governmental Policy Advisor
Jamestown S'Klallam Tribe

Distribution List of Notice of Decision

State of Washington
Governor's Office of Indian Affairs
1110 Capital Way South, Suite 225
Olympia, Washington 98501
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Clallam County
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