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April 23rd, 2015

The Honorable Kevin Washburn
Assistant Secretary of Indian Affairs
U.S. Department of Interior
MS-4141-MIB
Washington, D.C. 20240

Re: Yakama Nation Retrocession Petition

Dear Assistant Secretary Washburn:

I write to you as the Prosecuting Attorney of Klickitat County with the full support of the Klickitat County Board of Commissioners and the Klickitat County Sheriff. We are concerned about the current effort by the Yakama Tribe to retrocede jurisdiction. We believe inadequate attention has been paid to three areas of concern: 1) the process leading to and including the issuance of the Proclamation by Governor Inslee regarding Yakama retrocession does not define adequately what constitutes the exterior boundaries of the Yakama Reservation; 2) there has not been sufficient interlocal agreements put in place to deal with a myriad of legal issues that will result from retrocession; and 3) concern whether the Department of Interior will heed the Governor's proclamation that jurisdiction should only extend over disputes involving all native parties, for example, excluding criminal acts committed by native members upon nonnative victims.

The Yakama Tribe has persisted with the erroneous claim that a large portion of land, approximately 99,000 acres, located within Klickitat County, is within the exterior boundaries of the Yakama Reservation. This area is commonly referred to as "Tract D." Tract D is a part of Washington State and under the jurisdiction of Klickitat County. RCW 36.04.200. This was established by the United States Congress in 1904 (33 Stat. 595) and the U.S. Supreme Court in 1913 (227 U.S. 355). Moreover, the United States Congress paid the Yakama Tribe $2.1 million in settlement for claims by the Yakama Nation that the United States had unconstitutionally "taken" Tract D (84 Stat. 865 (1970)).

For over a century, federal, State and local governments (including Klickitat County) have long-treated Tract D as being outside the Yakama Reservation and have exercised their prospective jurisdiction based on this treatment. Indeed, the State of Washington has regularly recognized Tract D as being outside the Yakama Reservation. See State of Washington v. White foot, No. CY-00-3069-RHW (E.D. Wash 2000). We are concerned the Department of Interior is not

adequately informed about the nature of the disputed boundary of the Yakama Reservation and we urge any *retroceded* jurisdiction specifically exclude the area known as Tract D.

No law enforcement or public safety entity located in Klickitat County has reached agreement with the Yakama Tribe related to establishment of protocols for addressing complex public safety issues were retrocession to occur. This is contrary to the requirement under Washington law that the Governor was to consider the existence of such interlocal agreements prior to forwarding his proclamation on retrocession. See RCW 37.12.160(2) and (8). It is our understanding the request by the Yakama Tribe may be granted within the next two months. We urge you to delay final decision until local authorities and the Yakama Nation are able to reach some form of understanding as to how to handle the delicate and liability prone issues relating to law enforcement and public safety.

Finally, we are concerned the Department of Interior may not follow the Proclamation issued by Governor Inslee and accord the Yakama greater jurisdiction than what was recommended by the Governor. The Governor made clear in his proclamation that Yakama jurisdiction would only apply to disputes and controversies involving all native parties and victims. See Inslee Proclamation 14-01 at paragraph 2. The Governor also wrote to you on January 27th, 2014, to clarify for the record that the State of Washington retained jurisdiction over "non-Indian plaintiffs, non-Indian defendants and/or non-Indian victims" in criminal and civil cases involving the operation of motor vehicles and over "non-Indian defendants and/or non-Indian victims" in all other criminal cases. We urge you to heed the wishes of the Governor and appropriately exclude jurisdiction by the Yakama over non-Indian parties and/or non-Indian victims.

In summary, we urge you to postpone action on the Retrocession Petition filed by the Yakama Tribe until agreements between the Yakama Tribe and Klickitat County law enforcement and public safety entities are reached. Furthermore, we urge you not to proceed with any retrocession unless Tract D is specifically excluded and there is clarity that the Yakamas have no jurisdiction over non-Indian parties and/or non-Indian victims.

We look forward to your response.

David R. Quesnel, Prosecuting Attorney

Rex F. Johnston, Chairman

David M. Sauter, Commissioner

Jim Sizemore, Commissioner

Bob Songer, Sheriff