

BOARD OF COUNTY COMMISSIONERS

LINCOLN COUNTY

STATE OF MONTANA

ANTHONY J. BERGET, Commissioner  
DISTRICT NO. 1, LIBBY

RON DOWNEY, Commissioner  
DISTRICT NO. 2, TROY

MIKE COLE, Commissioner  
DISTRICT NO. 3, EUREKA

TAMMY D. LAUER  
CLERK OF THE BOARD AND COUNTY RECORDER

April 3, 2013

Julian C. Courville, Superintendent  
Flathead Agency  
U.S. Department of Indian Affairs  
P.O. Box 40  
Pablo, MT 59855

**NOTICE OF APPEAL**

Dear Mr. Courville:

Please accept this correspondence as a Notice of Appeal in your decision to acquire property in trust for The Confederated Salish and Kootenai Tribes referred to in your decision as "the former Kootenai Falls" property.

The property in Exhibit A of your decision describes this property in part as: Government Lot 7 in the Southeast Quarter of the Northeast Quarter in Section 14, Township 31 North of Range 33 West, P.M.M., Lincoln County, Montana.

STATEMENT OF REASONS

Our reasons for appeal of your decision will be addressed below the specific review statements of your approval letter.

2) *151.10(b) NEED: This land is needed to fulfill your goal of Reservation Land Consolidation and in pursuit of tribal self-determination by expanding your land base. Also, this fulfills the BIA policy because it is outside the boundaries of the reservation.*

**Comment and objection:** We are not aware that this property is within any plan for Reservation Land Consolidation. It is an isolated parcel markedly distant from reservation lands and does not therefore meet the reasons outlined in your approval.

5) *151.10(e) OM REMOVAL FROM TAX ROLLS: Notice of the proposed fee to trust acquisition was sent to Lincoln County on 08/20/94. The County did not respond. Current taxes levied on this property as of 06/01/2012, amounted to \$745.66, paid in full. In addition, you list the property as 8.3 acres in size. Our tax rolls show this as 13.36 acres. We are unsure if this is a transfer of all property or only a portion.*

**Comment and objection:** Lincoln County has no knowledge of receiving the notice mentioned above as it was almost 19 years ago. According to your approval letter, the Tribes' request was dated 07/28/89 and that notice of the fee to trust acquisition was sent to Lincoln County on 08/20/94, over 5 years after the date of the request. 25

512 CALIFORNIA AVENUE  
LIBBY, MONTANA 59923  
(406) 293-7781 • (406) 293-7057 Fax  
E-mail: lccomms@libby.org

CFR 151.11(d) requires that "Upon receipt of a tribe's written request to have lands taken in trust, the Secretary shall notify the state and local governments having regulatory jurisdiction over the land to be acquired." Certainly, the notification sent to Lincoln County 5 years after the Tribes' request does not meet the requirements of "Upon receipt".

6) *151.10(f) JURISDICTIONAL: The local county and Tribes work together to provide police and fire services. This cooperation shall continue even with the property being placed into trust.*

**Comment and objection:** Lincoln County has no knowledge of any cooperative agreement between the County and Tribes to provide police and fire services or any knowledge of equipment or personnel that the Tribes have in this area to cooperate in such an arrangement.

8) *151.10(h) ENVIRONMENTAL: since the Tribes have contracted and perform the trust real estate services, a NEPA-checklist will be completed prior to approval of New Phase 1. An updated Phase 1 Environmental Site Assessment has been ordered.*

**Comment and objection:** No information is provided on what "New Phase 1" is or entails. Also, the NEPA checklist and any required environmental site assessments should be completed and reviewed by your agency prior to any approval of the request.

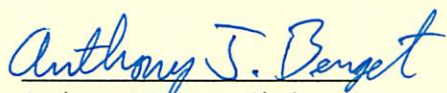
In addition to the above comments and objections, your approval does not address 25 CFR 151.11(b) as required. This code states:

*25 CFR 151.11(b) The location of the land relative to state boundaries, and its distance from the boundaries of the of the tribe's reservation, shall be considered as follows: as the distance between the tribe's reservation and the land to be acquired increases, the Secretary shall give greater scrutiny to the tribe's justification of anticipated benefits from the acquisition. The Secretary shall give greater weight to the concerns raised pursuant to paragraph (d) of this section.*

This parcel of land is over 125 miles from the nearest border of the Flathead Reservation. We can see no justification under these current codes to approve the Tribes' request without further information.

Your approval of the Tribes' request appears to be voidable and should be withdrawn since you have not followed the code as required. We formally request that this process be started at the beginning to provide adequate notice and discussion for all parties involved.

Sincerely,

  
Anthony J. Berget, Chairman

  
Ron Downey, Member

  
Mike Cole, Member

Cc: Confederated Salish and Kootenai Tribes  
NW Regional Director, BIA, Portland