



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Northwest Regional Office
911 N.E. 11th Avenue
Portland, Oregon 97232-4169



MAR 17 2011

RECEIVED

MAR 21 2011

PETE KREMEN
COUNTY EXECUTIVE

Mr. Pete Kremen, County Executive
Whatcom County Executive's Office
County Courthouse
311 Grand Avenue, Suite #108
Bellingham, Washington 98225-4082

Dear Mr. Kremen:

This letter is in response to the request by letter dated March 2, 2011 from Senators Murray and Cantwell and Representative Larsen that the Bureau of Indian Affairs respond to your letter of February 23, 2011 and provide guidance and clarification on the BIA's role as it relates to the lease of tribal lands on the Lummi Reservation for a ferry terminal.

As we believe you are aware, the United States has held title to the tidelands surrounding the Lummi Indian Reservation in trust for the Lummi Tribe since the founding of the Reservation. This was confirmed once again in *United States v. Milner*, 583 F.3d 1174, 1183-1186 (9th Cir. 2009), *cert. denied sub nom. Sharp v. United States*, 130 S. Ct. 3273 (2010). The Lummi Tribe is authorized to grant a lease of tribal trust land pursuant to 25 C.F.R. §162.602. The authority of the Secretary of the Interior to approve leases by tribes of tribal trust lands is provided by 25 U.S.C. §415(a).

With respect to the lease of tribal lands executed by the Tribe and the County in 1988, the BIA Puget Sound Agency has researched its records and cannot find any evidence that the lease was provided to the Agency for approval in 1988, or anytime soon thereafter. The records of the Puget Sound Agency indicate that efforts by the County to obtain BIA review and approval did not begin until 2005. By that time the Tribe had decided that the lease should not be approved for reasons provided to the County in the negotiations with the Tribe for the past two years.

Given the significant passage of time and the current tribal position in opposition to the lease, we conclude that the BIA cannot now approve the 1988 lease. We urge the County to negotiate a lease mutually satisfactory to both parties as soon as possible.

Please contact the Superintendent of the Puget Sound Agency, Ms. Judy Joseph, at (425) 258-2651 if you have any questions on this matter.

Sincerely,

Acting 
Northwest Regional Director

cc: The Honorable Patty Murray
The Honorable Maria Cantwell
The Honorable Rick Larsen