



The Confederated Tribes of the Colville Reservation



Prepared Statement of the Honorable Michael Marchand, Chairman
Confederated Tribes of the Colville Reservation

Field Hearing on
Removing Barriers to Homeownership for Native Americans

Before the U.S. House Committee on Financial Services
Subcommittee on Housing and Community Opportunity

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INTRODUCTION

Good morning Chairman Ney, Congressman Renzi and distinguished members of the Subcommittee. My name is Michael Marchand, and I am the Chairman of the Colville Business Council, the governing body of the Confederated Tribes of the Colville Reservation (“Colville Tribe” or “Tribe”). Today, I am pleased to provide our views on several issues relating to removing barriers to homeownership in Indian country, specifically the Colville Tribe’s experience assuming land title functions that were previously provided by the Bureau of Indian Affairs (“BIA”).

Since assuming control of land title functions from the BIA in 1997, the Colville Tribe can generate Title Status Reports and begin processing loan applications for potential tribal member homeowners in as little as one business day. This process generally took 60 to 90 days, even longer, when the BIA was responsible for generating TSRs.

BACKGROUND ON THE COLVILLE TRIBE

The Colville Indian Reservation is located in north central Washington State and comprises more than 1.4 million acres of trust and allotted lands. Although now considered a single Indian tribe, the Confederated Tribes of the Colville Reservation is a confederation of 12 smaller aboriginal tribes and bands from across eastern and central Washington. The majority of our 9,200 tribal members live on the Reservation.

The Colville Indian Housing Authority (“CIHA”) administers the Tribe’s housing programs. CIHA began construction of its first housing units in 1977 under the 1937 Housing Act. From 1977 to 1985, CIHA built 506 units and, by the mid-1990s, 74 of these units had conveyed to tribal members. Since the passage of the Native American Housing Assistance and Self-Determination Act (“NAHASDA”), CIHA has built 42 low-income rental units and is

currently working on the infrastructure of a 40 acre housing site. In addition to building houses, CIHA also provides down payment assistance to tribal members, and since NAHASDA's passage, has provided 126 down payment assistance grants to tribal members totaling \$475,489 for total home values of more than \$9 million.

A critical component to homeownership by tribal members on the Colville Reservation is Colville Tribal Credit ("CTC"), a tribally owned and controlled financial service provider originally established in 1959. CTC's mission is to enhance the quality of life of tribal members by providing home, business and consumer loans. The governing body of the Colville Tribe establishes CTC's operating policies through the enactment of tribal resolutions. Pursuant to a 2003 tribal resolution, CTC may provide home loans of up to \$125,000 to Colville tribal members. Funding for these loans comes from CTC's cash on hand, repayment of existing loans and annual profits from existing loans. The overwhelming number of home loans obtained by Colville tribal members are funded, at least in part, by CTC.

TRUST LAND AND THE IMPORTANCE OF TITLE STATUS REPORTS

As the Subcommittee is aware, one of the biggest challenges to expanding homeownership in Indian country is the fractionated nature of Indian trust lands and the necessity of accurately determining ownership of the lands. The responsibility for certifying title to Indian trust lands has traditionally been vested with the Land and Title Records Offices ("LTRO") within the various BIA Regional Offices.¹ One of the key responsibilities of LTROs is to generate Title Status Reports ("TSRs"). A TSR is a report that provides a legal description of a parcel of Indian land and current ownership information, such as easements, mortgages or other encumbrances. For most lenders, including our own CTC, a BIA-certified TSR is a prerequisite to begin processing an application for a home loan.

THE COLVILLE TRIBE'S ASSUMPTION OF LTRO FUNCTIONS FROM THE BIA

In the early 1990s, local BIA agency offices, including the Colville Agency, became capable of accessing the Land Records Inventory System ("LRIS") database for purposes of obtaining TSRs. When our Colville Agency staff began accessing the LRIS (previously accessible only from the BIA's Northwest Regional Office), they discovered that our Northwest Regional Office LTRO staff had not updated the history or chain of title on the majority of the Indian lands within the Colville Reservation for eight years.

When our local agency staff visited the Northwest Regional LTRO, they observed piles of recorded documents that had yet to be inputted into the LRIS database. The Northwest Regional LTRO would generate a TSR by searching through these piles in hopes of finding documents relevant to the subject parcel of land. Having observed the conditions in the

¹ The Colville Tribe is located in the BIA's Northwest Region and is served by the Northwest Regional Office in Portland, Oregon. The Colville Tribe is also served by a local BIA agency office, the Colville Agency.

Northwest Regional Office, the Colville Agency staff—many of whom were Colville tribal members—knew that they had the capability of maintaining land title records in a more accurate and efficient manner.

In early 1996, the Colville Tribe initiated negotiations with the Northwest Regional Office to assume its LTRO and perform all of the LTRO functions locally at the Colville Agency. Our request was met with skepticism and resistance by the BIA. The Northwest Regional Office claimed that the LTRO was an “inherently federal function” and, therefore, could not be contracted. After we demonstrated that the LTRO could, in fact, be contracted, the BIA tried to discourage us from doing so by insisting the Northwest Regional Office did not have a work backlog. After the Colville Tribe prepared a document outlining the nature and severity of the backlog, the BIA finally relented and began negotiations. In short, the BIA fought us every step of the way in an effort to maintain control of the LTRO at the Regional Office level.

The Colville Tribe finally reached an agreement with the BIA in April 1997 to assume LTRO functions locally. Under the existing arrangement, the Colville Tribe’s staff performs the following land title functions:

- Recording all documents submitted by Colville Agency staff relating to lands being acquired into trust status, currently in trust status, or leaving trust status;
- Maintaining records of ownership, leasing activity and other encumbrances pertaining to lands held in trust;
- Upon request, examining records relating to parcels of Indian lands and maintaining current maps of Indian lands; and
- Generating TSRs.

The BIA’s role is limited to certifying that the TSRs that the Colville Tribe prepares are accurate.

HOMEOWNERSHIP ON THE COLVILLE RESERVATION SINCE THE COLVILLE TRIBE ASSUMED CONTROL OF LAND TITLE FUNCTIONS

Before the Colville Tribe contracted the LTRO functions, obtaining a TSR took from 60 to 90 days, sometimes longer, and required the Northwest Regional Office staff to manually search through piles of recorded documents. Now that the Colville Tribe performs these services locally and has access to its own records, our staff can generate—on an expedited basis—a TSR in one business day. Our staff completes most TSRs in approximately five business days.

The ability to obtain TSRs in a timely manner has proven critical to homeownership on the Colville Reservation. Most of our tribal members rely on CTC to obtain home loans, and the ability of CTC to receive a TSR in a timely manner ensures that we can process loan applications

for tribal members quickly. A timely TSR also allows tribal members to sell or exchange real estate held in trust status without undue delay. In sum, the ability to obtain TSRs in a timely manner promotes a vibrant tribal housing market by eliminating the long lag times traditionally associated with buying and selling homes on Indian lands.

OTHER BARRIERS TO HOMEOWNERSHIP FOR NATIVE AMERICANS

Although the Colville Tribe's assumption of LTRO functions has solved some problems, others remain. For example, we continue to experience delays in other areas critical to homeownership that are attributable to the BIA's resources. Limited BIA funding translates into a shortage of surveyors and land appraisers, and the services of both are needed to complete transactions involving trust land.

Also, we were recently informed that two of our regional banks, Washington Mutual and AmericanWest Bank, intend to discontinue offering HUD-184 mortgage products. The stated rationale for the decision was that the HUD-184 loans have not proven economically viable. The Colville Tribe is obviously concerned when regional financial institutions conclude that it is no longer economically viable to provide products that have proven critical to expanding homeownership in Indian country.

Finally, the Colville Tribe is generally interested in exploring the possibility of marketing its home loans to secondary markets. Because loan funds made available to CTC come exclusively from the Colville Tribe, when CTC expends its available funds it can no longer provide home loans. This occurred in 2004 during the home refinancing boom when CTC expended all of its available home loan funds in the first quarter of that year. Exploring ways that allow Indian tribes to market their loans and leverage their resources might ensure this type of situation is never repeated.

The Colville Tribe greatly appreciates the opportunity to testify at this hearing and looks forward to assisting the Subcommittee in any way it can in addressing these issues. At this time, I would be pleased to answer any questions the Subcommittee might have.