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OREGON'S TRAILS, Page A1B

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Land buy signals intent for casino near Hood River

The Warm Springs tribes add 202 acres in their push for a casino, which faces regulatory hurdles and residents' opposition

By **STU WATSON**
CORRESPONDENT, THE OREGONIAN

HOOD RIVER — The Confederated Tribes of Warm Springs in the past month have spent \$1.5 million to buy 202 acres adjacent to their proposed

casino site just east of Hood River. Dennis Karnopp, a Bend attorney for the tribes, says the purchases are "a fairly strong indication of tribal commitment to build a casino" on its trust land near Hood River.

The purchases are only the latest move in a chess game that is far from finished. A majority of Hood River-area residents oppose the casino. To open a casino and support facilities on adjacent land, the tribes would have to gain approvals from the governor, the Bureau of Indian Affairs, Hood River

County and the Columbia River Gorge Commission.

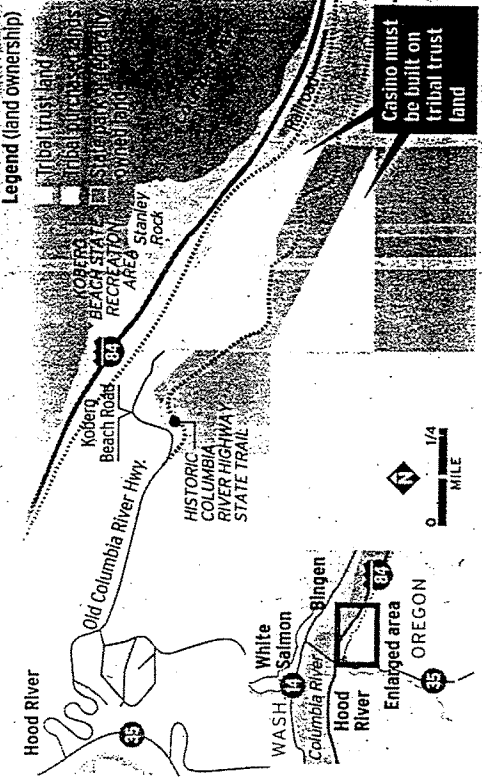
"It's far from a fait accompli at this point," said Chip Lazenby, legal counsel to Gov. John Kitzhaber.

Although the tribes face opposition in Hood River, its members know the welcome mat is still out 20 miles west in Cascade Locks. Two years ago, tribal leaders proposed building the casino on their 34-acre Government Rock property at the east end of Cascade Locks.

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COLUMBIA RIVER GORGE CASINO

The Confederated Tribes of Warm Springs spent \$1.5 million for land around its trust lands within the Columbia River Scenic Area. The additional land helps provide access from Interstate 84 to a casino and room for parking and other facilities.



MICHAEL MOORE/THE OREGONIAN

Casino: Road access still an issue

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"We think that makes more sense than putting it in a scenic area developed for bike use and paths, and an area that would be very visible from anywhere in the gorge," said Cascade Locks City Administrator Bob Willoughby.

Kitzhaber rejected that proposal, so the tribes turned their sights again to Hood River and have asked to put the Cascade Locks land in trust so they can develop a 200-bed destination resort there. That project involves removal of 600,000 cubic yards of rock and creation of freeway access.

People involved in the recent Hood River land purchases say the transactions address two needs:

- ◆ They improve access to the 40-acre site of the proposed casino, possibly from Interstate 84 near Koberg Beach State Park.
- ◆ They provide land on which the tribes could put casino support facilities, such as a parking structure and facilities for water and waste treatment.

Under the Indian Gaming Regulatory Act, the tribes could develop a casino on their trust land if they can negotiate terms with Kitzhaber. So far, Lazenby said, the governor's office has seen only a proposal to expand gaming at the tribes' Indian Head Casino near the Kah-Nee-Tah Resort.

Small and isolated, that casino generates limited revenues. Faced with declining income from timber operations and rising joblessness on the Warm Springs Reservation, the tribes are looking to generate a stronger cash flow from a casino closer to the populous Portland metro area.

Since announcing the renewed focus on Hood River earlier this year, tribal gaming officials have shunned the spotlight.

Federal trust request

The waiting game is about to end.

Gerald Henrikson, environmental coordinator with the BIA's

Warm Springs Agency, said he expects the Tribal Council "in the next 10 days to two weeks" to ask that all or part of the new land purchases be put in federal trust.

The request would include casino project details because development on land proposed for trust status must first be reviewed under the National Environmental Policy Act.

The tribes' recent property purchases included:

- ◆ About 76 acres from John C. Bryant, for \$750,000. The land lies between I-84 and the Historic Columbia River Highway State Trail, and a road through the property once linked motorists with Koberg Beach.

Del Towell, general manager of Warm Springs Construction Enterprise, said the tribes have considered using that road grade to access the casino site from I-84.

- ◆ Eighty acres from Richard Christian and Christian Futures Inc. for \$400,000. The land lies directly west of the tribal trust property.

- ◆ About 46 acres from Howard W. Houston Jr. for \$395,000. The land lies south of the historic highway trail's west entrance.

Even with the new property, the tribes still have no direct access to their proposed casino site. Karnopp said it's "certainly a possibility" that the tribes might request an easement across Oregon State Parks land. Parks spokesman Tom Towslee said the tribes haven't requested an easement.

Towell said the tribes also have discussed seeking an easement across land owned by Walter Wells and Sons. Family member Gary Wells said he has not been approached by the tribes.

Regulations of the Columbia River Gorge National Scenic Area present a further quandary. When the management plan for the Scenic Area was adopted in 1991, it excluded tribal trust lands from Scenic Area oversight.

Lazenby, the governor's legal counsel, said it isn't clear if land

acquired and put in trust after adoption of the management plan would get the same exemption.

In any case, if the land is subject to Scenic Area rules, development could face steep or insurmountable hurdles. The land is in the Scenic Area's general management zone, which allows development that supports farming, forestry and rural recreation but not much else.

Policies, for example, limit new structures within a quarter mile of "scenic travel corridors," which are defined as I-84 and the Historic Columbia River Highway. Policies also prohibit new buildings on steep land "visible from key viewing areas."

Toni Vakos, coordinator of the No Casino group in Hood River, said she can't imagine the gorge commission permitting parking, sewage treatment or other large-scale urban facilities.

"Even though it is tribal trust land, that fact does not automatically guarantee a casino," Vakos said. "A lot of things have to happen first."

Down the road in Cascade Locks, different rules apply. The destination resort would be inside the Cascade Locks city limits, exempt from Scenic Area rules.

Willoughby, the city administrator, said the community still hopes the governor will rethink his opposition to a casino there.

Even Towell, the tribal construction manager, said the Cascade Locks site makes more sense. He said that developing a casino near Hood River would require removal of "at least" 3 million cubic yards of rock.

"As I look at it, it bothers me," Towell said. "I don't like seeing a big scar like that taken out of our country. It'll be huge."

"When the casino is done, it'll be beautiful. But during construction, it'll be nasty."



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TRIBE WANTS EXEMPTION FOR PARCELS AT CASINO SITE

Wednesday, August 8, 2001

By KATHIE DURBIN, Columbian staff writer

The Confederated Tribes of Warm Springs has bought 160 acres surrounding its proposed casino site east of Hood River, Ore., and wants the Bureau of Indian Affairs to exempt the property from state and local land use laws.

The Columbia River Gorge Commission, Forest Service, state of Oregon and Hood River County are scrambling to respond to the tribe's application by Aug. 23.

The transfer would confer trust status on three parcels surrounding the nearly 50 acres on which the tribe plans to build a 75,000-square-foot casino and parking garage in the heart of the gorge. The tribe would use the land for parking, access roads, wastewater treatment and other support services.

Converting the land to trust status would transfer it to tribal jurisdiction and exempt it not only from local zoning rules but from provisions of the Columbia River Gorge National Scenic Area Act. The casino site already is trust land and thus in control of the tribe.

U.S. Interior Secretary Gale Norton will make the final decision on whether to grant trust status for the land. No public comment is being accepted by the BIA.

Kevin Gorman, executive director of Friends of the Columbia Gorge, said the approval of trust land status for the Warm Springs property could open the door to wholesale commercial development in one of the most spectacular sections of the gorge.

"Right now, you have 160 acres that could become hotels, restaurants, RV parks, gas stations," he said. "It has the potential to become a casino village up there."

Engineering and architectural plans commissioned by the tribe call for carving out a bluff to form a semicircle around the casino and an adjoining eight-story parking garage.

The casino itself would be located about a half-mile inside the west end of the Historical Columbia River Highway State Trail. A section of the old highway was reopened as a trail for hikers and cyclists in 2000 after completion of a \$20 million restoration project.

Mike Clements, the Warm Springs tribe's economic development manager, said the tribe would try to minimize the casino's impact on the trail and on scenic views.

"We'll do everything possible to make it blend in," he said. "On the other hand, casinos

have lots of lights, and there's a reason for that."

Gerald Henrikson, acting superintendent of the BIA's Warm Springs Agency, said the availability of an additional 160 acres actually could reduce the visual impact of the casino and the parking structure by making it possible to build out rather than up.

"If we brought these lands into trust, the casino would have a lot lower profile on the landscape," he said.

A casino in Hood River, just an hour by freeway from the Portland-Vancouver area, likely would draw business away from more distant Indian gaming establishments.

Clements said the tribe desperately needs the gaming receipts the casino would provide as its natural resource base shrinks. "It's the only real revenue generator we have right now for the kinds of funds we need to replace timber and hydroelectric energy," he said.

The Warm Springs casino is highly controversial in Hood River, where more than 100 people turned out Monday night for a hearing on the proposed transfer. The Hood River County Commission is on record opposing siting of a casino on the town's eastern outskirts.

The Forest Service, which administers federal land in the Columbia River Gorge National Scenic Area, wants more information so it can determine if the tribe's plans for the 160 acres are compatible with the scenic area.

"Because this is a federal action, we have a role to play with respect to reviewing consistency with the scenic area act," said scenic area manager Dan Harkenrider.

In 1999, Oregon Gov. John Kitzhaber rejected the Warm Springs tribe's first choice for a casino, an island in the Columbia River at Cascade Locks. Kitzhaber has sought to halt the proliferation of Indian casinos on off-reservation land.

Chip Lazenby, Kitzhaber's legal counsel, said he convened government and tribal officials last week to try to figure out what comes next. He also asked the BIA for more time to respond to the application.

"The ownership and cross-jurisdictional issues are very complicated and it's very difficult for any one party to know what the interests of any other party are," he said.

The gorge commission will decide Tuesday whether to take a position on the tribe's application.

Some commissioners may not want to weigh in on the topic of Indian gaming, said Martha Bennett, the commission's executive director. She explained the commission has no power to stop the casino itself, but noted development of nontrust lands surrounding the casino could be subject to review by the commission at some future date.

"It's a tough place for the gorge commission to be," she said.

Gorman said he hopes the Forest Service and the Gorge Commission state their concerns forcefully and that BIA officials heed them.

"You set a precedent," he said, "and if you can set that precedent in one of the most important areas of the gorge, then I think there is a great chance that you will see more development of a type that the crafters of the (scenic area) act never would have imagined."



Constitution of Oregon (2000 Edition)

ARTICLE XV

MISCELLANEOUS

Section 4. Regulation of lotteries; state lottery; use of net proceeds from state lottery. (1)

Except as provided in subsections (2), (3), (4), (5) and (6) of this section, lotteries and the sale of lottery tickets, for any purpose whatever, are prohibited, and the Legislative Assembly shall prevent the same by penal laws.

(2) The Legislative Assembly may provide for the establishment, operation, and regulation of raffles and the lottery commonly known as bingo or lotto by charitable, fraternal, or religious organizations. As used in this section, charitable, fraternal or religious organization means such organizations or foundations as defined by law because of their charitable, fraternal, or religious purposes. The regulations shall define eligible organizations or foundations, and may prescribe the frequency of raffles, bingo or lotto, set a maximum monetary limit for prizes and require a statement of the odds on winning a prize. The Legislative Assembly shall vest the regulatory authority in any appropriate state agency.

(3) There is hereby created the State Lottery Commission which shall establish and operate a State Lottery. All proceeds from the State Lottery, including interest, but excluding costs of administration and payment of prizes, shall be used for any of the following purposes: creating jobs, furthering economic development, financing public education in Oregon or restoring and protecting Oregon's parks, beaches, watersheds and critical fish and wildlife habitats.

(4)(a) The State Lottery Commission shall be comprised of five members appointed by the Governor and confirmed by the Senate who shall serve at the pleasure of the Governor. At least one of the Commissioners shall have a minimum of five years experience in law enforcement and at least one of the Commissioners shall be a certified public accountant. The Commission is empowered to promulgate rules related to the procedures of the Commission and the operation of the State Lottery. Such rules and any statutes enacted to further implement this article shall insure the integrity, security, honesty, and fairness of the Lottery. The Commission shall have such additional powers and duties as may be provided by law.

(b) The Governor shall appoint a Director subject to confirmation by the Senate who shall serve at the pleasure of the Governor. The Director shall be qualified by training and experience to direct the operations of a state-operated lottery. The Director shall be responsible for managing the affairs of the Commission. The Director may appoint and prescribe the duties of no more than four Assistant Directors as the Director deems necessary. One of the Assistant Directors shall be responsible for a security division to assure security, integrity, honesty, and fairness in the operations and administration of the State Lottery. To fulfill these responsibilities, the Assistant Director for security shall be qualified by training and experience, including at least five years of law enforcement experience, and knowledge and experience in computer security.

(c) The Director shall implement and operate a State Lottery pursuant to the rules, and under the guidance, of the Commission. The State Lottery may operate any game procedure authorized by the commission, except parimutuel racing, social games, and the games commonly known in Oregon as bingo or lotto, whereby prizes are distributed using any existing or future methods among adult persons who have paid for tickets or shares in that game; provided that, in lottery games utilizing computer terminals or other devices, no coins or currency shall ever be dispensed directly to players from such computer terminals or devices.

(d) There is hereby created within the General Fund the Oregon State Lottery Fund which is continuously appropriated for the purpose of administering and operating the Commission and the State Lottery. The State Lottery shall operate as a self-supporting revenue-raising agency of state government and no appropriations, loans, or other transfers of state funds shall be made to it. The State Lottery shall pay all prizes and all of its expenses out of the revenues it receives from the sale of tickets or shares to the public and turnover the net proceeds therefrom to a fund to be established by the Legislative Assembly from which the Legislative Assembly shall make appropriations for the benefit of any of the following public purposes: creating jobs, furthering economic development, financing public education in Oregon or restoring and protecting Oregon's parks, beaches, watersheds and critical fish and wildlife habitats. Effective July 1, 1997, 15% of the net proceeds from the State Lottery shall be deposited, from the fund created by the Legislative Assembly under this paragraph, in an education endowment fund. Earnings on moneys in the education endowment fund shall be retained in the fund or expended for the public purpose of financing public education in Oregon as provided by law. Moneys in the education endowment fund shall be invested as provided by law and shall not be subject to the limitations of section 6, Article XI of this Constitution. The Legislative Assembly may appropriate other moneys or revenue to the education endowment fund. The Legislative Assembly shall appropriate amounts sufficient to pay lottery bonds before appropriating the net proceeds from the State Lottery for any other purpose. At least 84% of the total annual revenues from the sale of all lottery tickets or shares shall be returned to the public in the form of prizes and net revenues benefiting the public purpose.

(5) Effective July 1, 1999, 15% of the net proceeds from the State Lottery shall be deposited in a parks and natural resources fund created by the Legislative Assembly. Of the moneys in the parks and natural resources fund, 50% shall be distributed for the public purpose of financing the protection, repair, operation, and creation of state parks, ocean shore and public beach access areas, historic sites and recreation areas, and 50% shall be distributed for the public purpose of financing the restoration and protection of native salmonid populations, watersheds, fish and wildlife habitats and water quality in Oregon. The Legislative Assembly shall not limit expenditures from the parks and natural resources fund. The Legislative Assembly may appropriate other moneys or revenue to the parks and natural resources fund.

(6) Only one State Lottery operation shall be permitted in the State.

(7) The Legislative Assembly has no power to authorize, and shall prohibit, casinos from operation in the State of Oregon. [Constitution of 1859; Amendment proposed by H.J.R. 14, 1975, and adopted by the people Nov. 2, 1976; Amendment proposed by initiative petition filed April 3, 1984, and adopted by the people Nov. 6, 1984 (paragraph designations in subsection (4) were not included in the petition); Amendment proposed by H.J.R. 20, 1985, and adopted by the people Nov. 4, 1986; Amendment proposed by H.J.R. 15, 1995, and adopted by the people May

16, 1995; Amendment proposed by initiative petition filed March 11, 1998, and adopted by the people Nov. 3, 1998]

Note: The amendments to section 4, as adopted by the people in Measure No. 66, 1998, incorrectly set forth the text of section 4 as it existed at the time the measure was submitted to the people. The text of the measure, as approved by the voters, has been printed here.