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May 15, 2019

Greg Snow, Community Development Director
418 S. Scott Ave.
Newport, WA 99156

Sent by email to: gsnow@pendoreille.org

RE: Kalispel Tribe Comments on the DNS for CPU-18-001

Dear Mr. Snow:


The Kalispel Tribe of Indians urges Pend Oreille County to withdraw its Determination of Nonsignificance (DNS) for Comprehensive Plan Amendment CPU-18-001. Withdrawal is necessary because the DNS was procured by lack of material disclosure in violation of WAC 197-11-340(3)(a)(iii).

In its September 4, 2018 SEPA Checklist on which the DNS relies, the County fails to answer nearly 75% of the questions due to the fact that the amendment is a non-project action. This omission is contrary to the Checklist's instructions, which direct a proponent of a non-project action to treat questions pertaining to the "property or site" as applying to the entire "affected geographic area." Because the Checklist provides essentially no analysis of the environmental effects of the amendment on the lands affected by the proposed zoning change, the Checklist does not support a DNS finding. The absence of information in the Checklist is particularly egregious because the "affected geographic area" is at least as large as the area impacted by the rezone, which amounts to nearly 65% of the land in Pend Oreille County.

The Checklist and resulting DNS are also materially misleading because they do not discuss the probable impacts of the proposed PacWest silicon smelter. The rezone is fundamentally an accommodation to PacWest because industrial uses are prohibited by the PL designation on the lands PacWest acquired from the County and Pend Oreille PUD. A DNS would not be possible if the Checklist properly considered the impacts of the proposed smelter.

By correcting the above problems in a proper EIS, the County will also avoid unintended consequences that the proposed blanket rezone creates.

Thank you for your consideration,


Zach Welcker
Natural & Trust Resources Attorney
Kalispel Tribe of Indians