

*Estimated Annual Reporting and Recordkeeping "Hour" Burden:* We estimate the public reporting burden to be 36 hours per response. This includes 24 hours per applicant to prepare and submit the application; and 12 hours (total) per grantee to complete the interim and final technical reports.

*Annual Burden Hours:* 1656.

*Estimated Annual Reporting and Recordkeeping "Non-Hour Cost":* We have not identified any "non-hour cost" burdens associated with this collection of information.

*Public Disclosure Statement:* The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

*Comments:* Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) (44 U.S.C. 3501, *et seq.*) requires each agency " \* \* \* to provide notice \* \* \* and otherwise consult with members of the public and affected agencies concerning each proposed collection of information \* \* \*". Agencies must specifically solicit comments. We invite comments concerning this information collection on:

(1) Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on respondents.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done. To comply with the public process, we publish this **Federal Register** notice announcing that we will submit this ICR to OMB for approval. The notice provided the required 60 day public comment period.

*USGS Information Collection Clearance Officer:* Phadrea D. Ponds 970-226-9445.

Dated: October 1, 2008.

**John E. Schefter,**

*Water Resources Research Act Program Coordinator.*

[FR Doc. E8-23646 Filed 10-6-08; 8:45 am]

**BILLING CODE 4311-AM-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Indian Gaming

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of Tribal—State Class III Gaming Compact taking effect.

**SUMMARY:** This publishes notice of the 2008 Class III Gaming Compact between the Nez Perce Tribe and the State of Idaho taking effect.

**DATES:** *Effective Date:* October 7, 2008

**FOR FURTHER INFORMATION CONTACT:** Paula L. Hart, Acting Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary for Policy and Economic Development, Washington, DC 20240, (202) 219-4066.

**SUPPLEMENTARY INFORMATION:** Under Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100-497, 25 U.S.C. 2710, the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal—State compacts for the purpose of engaging in Class III gaming activities on Indian lands. This Compact is entered into in connection with the state lottery litigation between the parties and thus presents unique circumstances resulting in our decision to neither approve nor disapprove the Compact within the 45-day statutory time frame.

Dated: September 26, 2008.

**George T. Skibine,**

*Acting Deputy Assistant Secretary for Policy and Economic Development.*

[FR Doc. E8-23710 Filed 10-6-08; 8:45 am]

**BILLING CODE 4310-4N-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Land Acquisitions; Habematolel Pomo of Upper Lake, CA

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of Final Agency Determination to take land into trust under 25 CFR part 151.

**SUMMARY:** The Acting Deputy Assistant Secretary for Policy and Economic Development made a final agency determination to acquire approximately 11.24 acres of land into trust for the Habematolel Pomo of Upper Lake of California on September 8, 2008. This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1. The duties of the Assistant Secretary—Indian Affairs were delegated to the Acting Deputy Assistant Secretary for Policy and Economic Development on May 23, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Paula Hart, Office of Indian Gaming, MS-3657 MIB, 1849 C Street, NW., Washington, DC 20240; Telephone (202) 219-4066.

**SUPPLEMENTARY INFORMATION:** This notice is published to comply with the requirement of 25 CFR part 151.12(b) that notice be given to the public of the Secretary's decision to acquire land in trust at least 30 days prior to signatory acceptance of the land into trust. The purpose of the 30-day waiting period in 25 CFR part 151.12(b) is to afford interested parties the opportunity to seek judicial review of final administrative decisions to take land in trust for Indian tribes and individual Indians before transfer of title to the property occurs. On September 8, 2008, the Acting Deputy Assistant Secretary for Policy and Economic Development decided to accept approximately 11.24 acres of land into trust for the Habematolel Pomo of Upper Lake of California under the authority of the Indian Reorganization Act of 1934, 25 U.S.C. 465. The 11.24 acres are located in Upper Lake, Lake County, California. The parcel will be used for the development and operation of a class II and class III gaming facility.

The land proposed for acquisition is referred to herein below and is situated the unincorporated area, County of Lake, State of California, and is described as follows:

All that property within a portion of Section 7, Township 15 North, Range 9 West, M.D.B. & M., in the County of Lake, State of California, and being a portion of those lands described by those Grant Deeds to Luna Gaming-Upper Lake LLC, one filed February 15, 2006 as Document Number 2006003927, and one filed February 17, 2006 as Document Number 2006004152, Lake County Records, described as the following three parcels:

**DEEMED APPROVED**

## 2008 CLASS III GAMING COMPACT

This Tribal-State Compact is made and entered into by and between the Nez Perce Tribe, a federally recognized Indian Tribe, and the State of Idaho, pursuant to the provisions of the National Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq.

### ARTICLE 1. TITLE

These Articles of Compact collectively comprise, and may be cited as, "The 2008 Class III Gaming Compact By and Between the Nez Perce Tribe and the State of Idaho."

### ARTICLE 2. RECITALS

2.1 The Tribe and the State recognize and respect the laws and the authority of each other.

2.2 In 1989 the State of Idaho initiated the Idaho State Lottery pursuant to the laws of the State of Idaho.

2.3 From the inception, the Idaho State Lottery operated on the Nez Perce Reservation and as of April, 1993, there were a total of 32 retail lottery outlets at various locations throughout the Nez Perce Reservation.

2.4 In 1993, litigation between the State of Idaho and three Indian Tribes situated within the State of Idaho was filed as a means of resolving issues regarding rights and obligations under the National Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*

2.5 In that litigation, the Nez Perce Tribe asserted that the operation of the Idaho State Lottery within the Nez Perce Reservation was unlawful in the absence of a tribal ordinance or resolution and a tribal-state compact which authorized the operation of the Lottery on the reservation.

2.6 The United States District Court found that "in the absence of a tribal gaming ordinance and a compact, neither the Tribe nor any non-tribal entity, including the State of Idaho, may conduct Class III gaming on the reservation." Coeur d'Alene Tribe Kootenai Tribe of Idaho and Nez Perce Tribe v. State of Idaho, 842 F. Supp. 1268, 1282 (D. Idaho 1994).

2.7 Immediately subsequent to the District Court decision the Tribe and State exchanged positions regarding the terms by which the Idaho State Lottery could remain on the Nez Perce Reservation. On April 1, 1994, the Idaho State Lottery removed all lottery equipment and material from all lottery vendors within the Nez Perce Reservation.

2.8 This year, 2008, the State of Idaho and the Nez Perce Tribe agreed that it would be

in their collective best interests to have the Idaho State Lottery operating within the Nez Perce Reservation and the parties have, accordingly, negotiated the terms of this Compact.

### **ARTICLE 3. PURPOSE**

The purpose of this Compact is to define the terms and conditions by which the Idaho State Lottery may operate within the Nez Perce Reservation.

### **ARTICLE 4. DEFINITIONS**

Idaho State Lottery - Means the state agency created by Idaho Code Chapter 74, §§ 67-7401 - 67-7452 and all gaming activities operated by the Idaho State Lottery as authorized by state law currently or in the future.

### **ARTICLE 5. AUTHORIZED CLASS III GAMING**

Upon formal approval of this Compact by both parties and the National Indian Gaming Commission, the State of Idaho may operate the Idaho State Lottery within the Nez Perce Reservation.

### **ARTICLE 6. FEE**

6.1 Idaho agrees to pay to the Nez Perce Tribe an annual fee equal to 12% of the total annual net sales made by the Idaho State Lottery in the communities and surrounding unincorporated trading areas listed in Exhibit A attached to this Compact. The Nez Perce Tribe will be provided with a complete list of all retail outlets located within the areas listed in Exhibit A that offer or sell products of the Idaho State Lottery. An updated list will be provided to the Nez Perce Tribe if additional retail outlets begin offering or selling products of the Idaho State Lottery or if any retail outlets within the areas listed in Exhibit A cease offering or selling products of the Idaho State Lottery. Total net sales shall mean the Idaho State Lottery's total sales of all on-line (lotto) tickets, instant (Scratch Games®) tickets, and pull-tab tickets, less returns. Free replays as prizes, promotional free tickets, or cancelled transactions are not considered a ticket sold.

6.2 After ten years from the effective date of this Compact, the annual fee shall be 10% of the total annual net sales made by Idaho State Lottery in the communities and surrounding unincorporated trading areas listed in Exhibit A attached to this compact.

6.3 Fees shall be paid annually based upon the Idaho State Lottery's fiscal year. The Idaho State Lottery shall provide the Nez Perce Tribe with all the documentation used in determining and calculating the fees paid under this compact.

6.4 The Nez Perce Tribe will utilize all fees received under this compact consistent with uses permitted under the federal Indian Gaming Regulatory Act, 25 U.S.C. § 2710(2)(B), which are:

- to fund tribal governmental operations or programs;
- to provide for the general welfare of the Indian tribe and its members;

- to promote tribal economic development;
- to donate to charitable organizations;
- to help fund operations of local governmental agencies.

## **ARTICLE 7. REQUIREMENTS**

7.1 This compact authorizes and permits the State of Idaho to operate the Idaho State Lottery and to license any number of retail outlets within the Nez Perce Reservation subject to the terms of this compact.

7.2 The Idaho State Lottery shall have the sole authority and responsibility for the selection, licensing, inspection and regulation of retail outlets for the Idaho State Lottery within the Nez Perce Reservation.

7.3 The Nez Perce Tribe agrees that the provisions and requirements of Idaho law adequately insure the security and integrity of the Idaho State Lottery and that the operation of the Idaho State Lottery within the Nez Perce Reservation will not be subject to any further or additional regulation by the Nez Perce Tribe beyond the specific provisions of this Compact.

7.4 The Nez Perce Tribe and the State of Idaho agree that the provisions and requirements of the National Indian Gaming Regulatory Act will be adhered to under this compact.

## **ARTICLE 8. TRIBAL ORDINANCE OR RESOLUTION**

The Nez Perce Tribe will adopt an ordinance or resolution as required by the National Indian Gaming Regulatory Act, consistent with the terms of this Compact which authorizes and permits the operation of the Idaho State Lottery within the Nez Perce Reservation.

## **ARTICLE 9. PARTIES AND AUTHORITY**

9.1 The Governor has authority to execute this Compact on behalf of the State pursuant to Idaho Constitution, Art. IV, Sec. 5, and Idaho Code §§ 67-429A, 67-802 and 67-4002(1).

9.2 The Nez Perce Tribal Executive Committee has authority to execute this Compact on behalf of the Nez Perce Tribe pursuant to Article VIII, Section 1(a) and (b) and Section 2(b) and (c) of the Constitution and By-Laws of the Nez Perce Tribe.

## **ARTICLE 10. TERMINATION**

Either party may terminate this Compact by delivery of written notice to the other at least sixty (60) days prior to the effective termination date. Written notice shall be deemed delivered when it is physically delivered by one party to the other or when it is deposited in the United States Mail and sent certified, return receipt requested with postage pre-paid and addressed to the officials executing this compact on behalf of the parties at the

addresses given below with copies of the notice also being sent to their respective legal counsel.

#### ARTICLE 11. EFFECTIVE DATE

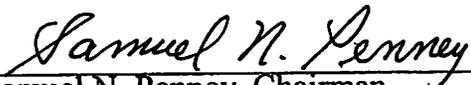
This Compact shall become effective upon signature by both parties, approval by the Secretary of the Interior and publication of that approval in the Federal Register in accordance with federal law. This Compact is entered into pursuant to federal, state and tribal law.

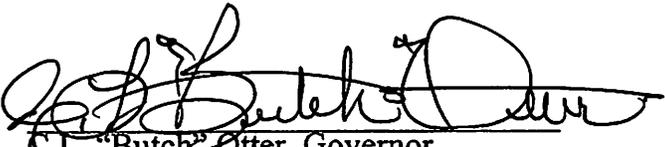
#### ARTICLE 12. ENTIRE AGREEMENT

This Compact and its Exhibit A constitute the entire understanding between the parties with respect to the subject matter herein. It may not be amended except by an agreement signed by the authorized representatives of the Tribe and the State of Idaho. This Compact may be amended at any time by mutual consent of the parties involved if such amendments are in writing and signed by each of them.

NEZ PERCE TRIBE

STATE OF IDAHO

  
\_\_\_\_\_  
Samuel N. Penney, Chairman  
PO Box 305  
Lapwai, Idaho 83540

  
\_\_\_\_\_  
C.L. "Butch" Otter, Governor  
PO Box 83720  
Boise, Idaho 83720-0034

**EXHIBIT A**

Pursuant to Article 6 of this Compact, fees paid to the Nez Perce Tribe shall be based on total net sales from these Idaho communities and their surrounding unincorporated trading areas:

**Ahsahka**

**Craigmont**

**Culdesac**

**Kamiah**

**Kooskia**

**Lapwai**

**Lenore**

**Nez Perce**

**Orofino**

**Peck**

**Winchester**

The area approximately three miles east of Lewiston on U.S. Hwy 12 representing Nez Perce Tribal enterprises.

## RESOLUTION

WHEREAS, the Nez Perce Tribal Executive Committee has been empowered to act for and on behalf of the Nez Perce Tribe, pursuant to the Revised Constitution and By-Laws, adopted by the General Council of the Nez Perce Tribe, on May 6, 1961 and approved by the Acting Commissioner of Indian Affairs on June 27, 1961; and

WHEREAS, the National Indian Gaming Regulatory Act requires a compact between a tribe and state that defines which Class III games will be played within that Tribe's reservation; and

WHEREAS, the United States District Court ruled in Coeur D'Alene Tribe, Kootenai Tribe of Idaho and Nez Perce Tribe v. State of Idaho, 842 F. Supp. 1268 (D. Idaho 1994) that in the absence of a tribal gaming ordinance or resolution and a compact, the state of Idaho is prohibited from operating the Idaho State Lottery within the boundaries of the Nez Perce Reservation; and

WHEREAS, a compact was negotiated between the state of Idaho and the Nez Perce Tribe that would allow the state of Idaho to operate the Idaho State Lottery within the boundaries of the Nez Perce Reservation in exchange for a negotiated fee; and

WHEREAS, the compact provides that the state of Idaho may operate the Idaho State Lottery through the use of retail outlets in communities within the boundaries of the Nez Perce Reservation; and

WHEREAS, the State of Idaho agrees to pay the Nez Perce Tribe, on an annual basis; twelve percent (12%) of the total annual net sales made by the Idaho State Lottery through the retail outlets in communities within the Nez Perce Reservation for the first ten (10) years of the compact; and

WHEREAS, the state of Idaho agrees to pay the Nez Perce Tribe, on an annual basis, ten percent (10%) of the total annual net sales made by the Idaho State Lottery through the retail outlets in communities within the Nez Perce Reservation after the first ten (10) years of the compact; and

WHEREAS, the parties agree that the Nez Perce Tribe may utilize the fees paid under the compact in a manner consistent with the National Indian Gaming Regulatory Act and that either party may terminate the compact upon sixty (60) days written notice.

NOW, THEREFORE BE IT RESOLVED, the Nez Perce Tribal Executive Committee (NPTEC) approves the terms and conditions negotiated in the 2008 Class III Gaming Compact to allow the State of Idaho to operate the Idaho State Lottery within the Nez Perce Reservation by and between the Nez Perce Tribe and the State of Idaho; and

BE IT FINALLY RESOLVED, the NPTEC Chairman or designee is authorized to sign the 2008 Class III Gaming Compact by and between the Nez Perce Tribe and the State of Idaho on behalf of the Tribe.

CERTIFICATION

The foregoing resolution was duly adopted by the Nez Perce Tribal Executive Committee meeting in Regular Session, April 8, 2008 in the Richard A. Halfmoon Council Chambers, Lapwai, Idaho, a quorum of its Members being present and voting.

BY:   
Brooklyn D. Baptiste, Secretary

ATTEST:

  
Samuel N. Penney, Chairman

## 2008 CLASS III GAMING COMPACT

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- 2.4 In 1993, litigation between the State of Idaho and three Indian Tribes situated within the State of Idaho was filed as a means of resolving issues regarding rights and obligations under the National Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*
- 2.5 In that litigation, the Nez Perce Tribe asserted that the operation of the Idaho State Lottery within the Nez Perce Reservation was unlawful in the absence of a tribal ordinance or resolution and a tribal-state compact which authorized the operation of the Lottery on the reservation.
- 2.6 The United States District Court found that "in the absence of a tribal gaming ordinance and a compact, neither the Tribe nor any non-tribal entity, including the State of Idaho, may conduct Class III gaming on the reservation." Coeur d'Alene Tribe Kootenai Tribe of Idaho and Nez Perce Tribe v. State of Idaho, 842 F. Supp. 1268, 1282 (D. Idaho 1994).
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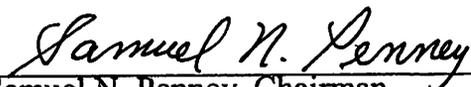
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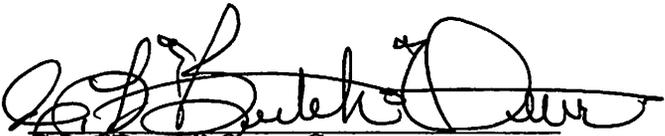
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NEZ PERCE TRIBE

STATE OF IDAHO

  
\_\_\_\_\_  
Samuel N. Penney, Chairman  
PO Box 305  
Lapwai, Idaho 83540

  
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## EXHIBIT A

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Ahsahka

Craigmont

Culdesac

Kamiah

Kooskia

Lapwai

Lenore

Nez Perce

Orofino

Peck

Winchester

The area approximately three miles east of Lewiston on U.S. Hwy 12 representing Nez Perce Tribal enterprises.