

The proposed Cowlitz casino-resort timeline: A pattern of deceit

The Cowlitz casino-resort project has been based on deception from the start, when Cowlitz developer David Barnett began pushing for the Tribe to set up its initial reservation and a casino in Clark County, far from the Tribe's aboriginal homeland. His goal: to site the casino as close as possible to the Portland-Vancouver metropolitan area and its high concentration of gamblers.

At the outset, the Tribe's plans seemed murky, but what soon became clear is that developer Barnett and others pursuing the casino project were engaging in a pattern of deception. What emerged is a strategy to keep concerned citizens and local governments either uninformed or misinformed about what casino developers were proposing for their community.

The Timeline that follows tells that story. The Status Report includes the current state of applications submitted by the casino developers. To date, nothing has been approved.

Note: The Timeline is color-coded by topic, as presented in the Status Report. A *Glossary of Acronyms* is available.

STATUS REPORT

The fee-to-trust application: The Bureau of Indian Affairs (BIA) has yet to make a decision on whether to take the land at the Interstate 5 La Center junction into trust. The Cowlitz Tribe's 2007 loss of its Memorandum of Understanding with Clark County could be a major stumbling block.

The Environmental Impact Statement (EIS): The Bureau of Indian Affairs decided Dec. 17, 2010, to take nearly 152 acres at the La Center junction with Interstate 5 into trust for the Cowlitz Tribe's proposed casino and resort project. Local jurisdictions and opposition groups immediately began considering options for appeal and litigation. The Final EIS had been released May 30, 2008, and relied very heavily on a Memorandum of Understanding between the Cowlitz Tribe and Clark County that had been invalidated in 2007.

The Clark County-Cowlitz Tribe Memorandum of Understanding (MOU): It is invalid, and in 2007 a top DOI official characterized the loss of this MOU as a potential deal-breaker for the Cowlitz Tribe's application to take land into trust.

The MOU was initially declared invalid in June 2007 by the Western Washington Growth Management Hearings Board, which determined that the county did not allow for sufficient public participation -- as required by state and county law -- before it approved the MOU in March 2004. Although the

county appealed the decision (arguing that it was less interested in maintaining the MOU than in determining that the growth board, an appointed body, does not have authority to override an agreement made by the County Commission, an elected body), on Dec. 14, 2007, Thurston County Superior Court concurred with the growth board, and the MOU remains invalid. In January 2008, the county appealed the Thurston County decision to the state Court of Appeals but dropped it in February 2009 as it faced possible state economic sanctions for violating state law.

After the document was invalidated, the casino developers struggled to keep the MOU's contents alive. First they attempted to insert them into the Tribe's gambling ordinance, which originally had been approved in November 2005 by the National Indian Gaming Commission (NIGC). They withdrew this proposal, however, after hearing negative feedback from decision-makers at the Department of the Interior (DOI). Then they took the contents of the MOU and made them into unilateral tribal ordinances. The NIGC accepted the ordinances in January 2008, with the caveat that enforceability had not been addressed.

In March 2008, the City of Vancouver sued the NIGC in federal court over this latest attempt to replace the now-invalid MOU. The suit was dismissed, but the city appealed. In September 2010, the city lost its second round in federal court. However, it gained an important concession: The city now has standing to challenge the federal government's decision if it takes the land at the La Center junction into trust for the Cowlitz Tribe.

The initial reservation application: The Department of the Interior (DOI) has made no decision.

The restored lands application: The National Indian Gaming Commission (NIGC) released an opinion in November 2005 that the proposed casino site could be considered restored lands. However, DOI, which has the final say, took the unusual step of initiating an independent review of the NIGC opinion.

DOI's rulemaking process: The final rule was published May 20, 2008.

TIMELINE

2000-2001

Summer 2000 and spring 2001—David Barnett, son of Cowlitz Tribe Chairman John Barnett, purchases land or options to purchase land at the La Center interchange with Interstate 5.

2002

January 4, 2002—The Cowlitz Indian Tribe is granted federal acknowledgement.

March 12, 2002—The Cowlitz Tribe applies to the BIA Northwest Regional Office in Portland, Ore., to place 150 acres at the La Center-Interstate 5 interchange in trust. No change from the existing agricultural zoning is requested of the county.

David Barnett is quoted in The Oregonian saying, “We are not doing a casino. We have no plans to do a casino. We are recently recognized, and we want to make sure that everyone knows, including our neighbors, that we are good people and that we are good stewards of the land.”

He says that the Tribe is considering a cultural enterprise for the site, like Tillicum Village near Seattle.

April 2002—The county submits an objection outlining the impacts putting the land in trust would have on its comprehensive plan, public facilities, individual lands and schools.

About the same time, a lawyer working for the Tribe contacts Clark County and suggests they begin working on a Memorandum of Understanding (MOU) to address concerns should the land be taken into trust.

August 23, 2002—The Cowlitz Tribe asks the state of Washington to begin negotiations on a gaming compact. Tribes are required to have a gambling compact in place before offering casino gambling. (Note: The Spokane Tribe, however, has offered casino gambling without a compact. In February 2007, the governor signed a compact with the Spokane Tribe, and it will go to DOI for approval.)

Summer 2002—The U.S. Department of the Interior (DOI) tells the BIA Northwest Regional Office that it must require the Tribe to state a specific land use and declare whether the land will ever be used for gaming.

2003

Summer 2003—The Cowlitz Tribe withdraws its fee-to-trust application.

October 2003—A draft environmental assessment (EA) being prepared for the BIA by the Cowlitz Tribe to support its fee-to-trust application (see the March 2, 2004, entry) includes a 41,800-square-foot casino enterprise. The facility description has 12,500 square feet of gaming floor plus a restaurant and a gift shop, and parking for 350 cars. An introduction to the EA says that the Tribe did not want to rule out gaming because “the Tribe did not wish to exclude any potentially lawful use of the subject lands.”

2004

March 2004—The EA is released for public comment.

March 2, 2004—Before knowing the Cowlitz Tribe's specific plans for the site, Clark County Commissioners negotiate with its representatives and sign an MOU that requires the Cowlitz Tribe to compensate the county for property and sales taxes that the Tribe, as a sovereign entity, would otherwise not have to pay, and to be in compliance with local health codes and consistent with building codes. The commissioners include a disclaimer in their resolution stating that, "Nothing in this Memorandum of Understanding should be construed as evidencing County support for or endorsement of the Tribe's trust application."

The same day, a Cowlitz Tribe representative reads the following message from Tribe Chairman John Barnett at a meeting of the La Center City Council: "We have always lived up to our word and treated our neighbors with the same respect and integrity we would expect to be shown in return."

March 2, 2004—The Tribe submits what it calls an "amended" fee-to-trust application.

March 12, 2004—Clark County receives two letters from the BIA Northwest Regional Office. One alerts the county that the Tribe has requested the land be placed in trust for the purpose of building a casino; the other alerts the county that the Tribe also has requested the land be named its initial reservation.

The second letter is the most shocking. While negotiating the MOU, the county had never been told that the Tribe might pursue a reservation at the Clark County site. It believed that the Tribe simply wanted to take the land into trust. If granted, a reservation designation would take away the state's ability to override a federal decision to allow gaming on trust land.

April 2, 2004—Clark County commissioners send a letter to the BIA Northwest Regional Office making clear their surprise and dismay at the Cowlitz Tribe's application for initial reservation status—and their concern over casino-driven land use at a junction that had been intended for industrial uses that would bring family-wage jobs to the northern county. The commissioners request that the BIA "treat the fee-to-trust application in accordance with the initial application, which did not request a proclamation of reservation status."

June 2, 2004—A property owner adjacent to the proposed casino site along with owners of the La Center cardrooms appeal Clark County's MOU adoption to the Western Washington Growth Management Hearing Board. The petitioners contend that in the MOU, the county agrees to extend services to a site that is not intended for intense commercial development. Further, they say it is a violation of state law for the county to agree to the MOU without first amending the county's land use plan to reflect this type of development.

July 23, 2004—The Hearings Board dismisses the MOU appeal stating that it is not responsible for this subject matter. Later, the petitioners appeal to Superior Court, which affirms the Hearing Board's decision. Still later, the petitioners take their case to Appeals Court.

July 26, 2004—Cowlitz developer David Barnett announces that the Mohegan Tribe of Connecticut—owner of the second-largest casino in the country—has agreed to help the Cowlitz Tribe develop and operate a casino.

July 28, 2004—The Cowlitz Tribe announces that it has “volunteered” to prepare an Environmental Impact Statement (EIS), an evaluation of its proposal that is more detailed than an EA. However, according to the U.S. Environmental Protection Agency, federal agencies often choose to prepare the EIS instead of an EA when they anticipate that “an undertaking may significantly impact the environment, or if a project is environmentally controversial.”

Nov. 12, 2004—The *Federal Register* publishes notice of the BIA's intent to prepare an EIS for the proposed Cowlitz casino project. It spells out a greatly expanded proposal “for approximately 160,000 square feet of gaming floor, 210,000 square feet of restaurant and retail facilities, 150,000 square feet of convention and entertainment facilities, an approximately 250 room hotel, tribal governmental offices, a tribal cultural center and approximately 10 to 25 housing units. The proposed development would also include parking facilities for approximately 8,500 vehicles for patrons and employees, and an RV park with approximately 200 RV spaces.” It would be the largest casino on the West Coast.

2005

March 15, 2005—Without any notice, the Cowlitz Tribe applies for restored lands status with the National Indian Gaming Commission (NIGC). Restored lands status, like the initial reservation, takes state and local governments out of the decision-making process.

June 2005—Longtime Vancouver businessman and civic leader Ed Lynch forms Citizens Against Reservation Shopping (CARS) to oppose the Cowlitz Tribe's plan to build a casino in Clark County. CARS' board of directors includes two of the three Clark County commissioners who had signed the 2004 MOU, current and former legislators and community leaders.

July 27, 2005—Testimony submitted by the BIA Central Office to the Senate Committee on Indian Affairs includes a document listing pending requests for initial reservation and restored lands designations. The list includes the Cowlitz Tribe's initial reservation application but fails to include the Tribe's restored lands application—a disturbing omission on the part of the BIA Central Office that prevented local challenge to the application (filed in March

2005) for several additional months.

October 2005—The BIA Northwest Regional Office releases a preliminary DEIS to cooperating agencies.

October 2005—CARS learns from the BIA Central Office that the Tribe has submitted a restored lands application, triggering local municipalities and other stakeholder groups to challenge assertions made in the application.

October 27, 2005—Rep. Brian Baird (D-Wash.) sends a letter to Secretary of the Interior Gale Norton telling her that southwest Washington residents are concerned and confused about the Cowlitz Tribe's application process. He requests that she arrange a public meeting in southwest Washington to include representatives of all of the relevant agencies and offices, appoint an ombudsman to field questions about the process as it proceeds and **delay all recommendations—including the restored lands opinion—until at least 30 days after the public meeting is held.**

November 23, 2005—The NIGC issues an opinion stating that the land at the Interstate 5-La Center interchange can be considered restored lands as it proceeds in **the fee-to-trust process.** DOI later initiates an independent review of the opinion, which had broken with precedent and relied almost exclusively on information provided by supporters of the proposed Cowlitz casino. As of January 2007, the review is ongoing.

December 2005—The City of Vancouver sends a letter to the BIA stating that it is "exceptionally disappointed in the quality of the analysis" it sees in a preliminary draft of the EIS. The letter, signed by City Manager Pat McDonnell, also says, "It is our opinion that this draft does not adequately meet reasonable standards as an objective and thorough analysis of the socioeconomic and transportation impacts... If the quality of analysis in these sections is not significantly improved from this draft, it is likely that the city will challenge the adequacy of the EIS."

2006

First week of January 2006—Rep. Baird receives a letter from DOI stating that it will appoint a federal ombudsman to take questions about the proposed Cowlitz casino-resort project and will schedule a public meeting in the 3rd Congressional District involving officials from various federal agencies.

January 9, 2006—CARS, Stand Up For Clark County Citizens and American Land Rights Association ask Interior Secretary Gale Norton to reject the NIGC's opinion that the 152 acres at the La Center interchange can be considered restored lands. **The three anti-casino groups also ask DOI to establish formal rules for processing tribal applications for restored lands status.**

February-March 2006—Numerous state and local officials write letters asking Interior Secretary Norton to ignore the restored lands opinion that the NIGC issued in November 2005.

February 1, 2006—U.S. Sen. John McCain tells the Senate Committee on Indian Affairs that the Cowlitz Tribe's application for restored lands status caught communities and the state of Washington off guard and asks for an explanation from the NIGC. The NIGC counsel tells the committee that the manner in which the Tribe applied—tying the restored lands application to the time-sensitive gaming ordinance—is “an anomaly” and that “we were not exactly thrilled with it because we knew this was a very unusual situation.”

Sen. McCain rebukes DOI for not having already created rules implementing the 17-year-old Indian Gaming Regulatory Act and charges the agency to write those rules.

February 15-16, 2006—Casino opponents and supporters address DOI officials at special public meetings set in Vancouver for hearing concerns and answering questions related to the Cowlitz Tribe's proposed casino-resort.

February 22, 2006—The Columbian reports that proposed Cowlitz casino developer David Barnett, his wife and two companies, all using the same Seattle address, collectively contributed \$100,000 in October to the Progressive Majority, a political action committee in Washington, D.C. The Progressive Majority supported Steve Stuart's campaign for the Board of Clark County Commissioners with \$86,000, primarily spent on negative mailings against candidate Tom Mielke, who had said he was opposed to the Cowlitz Tribe's project. Stuart beat Mielke in November 2005 by a narrow margin. Barnett told The Columbian, “People can speculate to when the sun goes down, but the reality is that PACs do with their money what they want.”

February 23, 2006—David Barnett makes his last known public appearance related to the proposed casino project. After speaking to the Greater Clark County Rotary, he disappears from public view.

February 24, 2006—Clark County District Court issues a restraining order against proposed casino developer David Barnett prohibiting contact with Kamie Biehl or her children. Biehl, who founded the casino opposition group Stand Up For Clark County Citizens, requested the order after a 6 a.m. phone call from Barnett, who allegedly threatened to post embarrassing photographs online and to make accusations of her son.

March 15, 2006—DOI releases draft IGRA regulations that require a majority of tribal members to live within 50 miles of its requested initial reservation or restored lands site. According to the 2000 U.S. Census, the Cowlitz Tribe would be unable to meet this requirement. Also, in 2005, a representative of the Tribe had said that the majority of Cowlitz Tribe

members live in the Olympia area.

March 24, 2006—CARS writes to DOI charging that the preliminary draft of the DEIS violates the National Environmental Policy Act (NEPA) and must be altered to address 1) its failure to consider an adequate range of alternatives and 2) the need for a review of tribal gaming nationwide.

March 30, 2006—CARS and four other community groups in three states join together to propose regulations for IGRA that would help protect states, local governments and communities from the uncontrolled spread of tribal casinos. The rules would require that public notice be provided, public comment be mandatory and that a tribe demonstrate it has a significant historical and cultural connection to the land. They also call for a moratorium on decisions until rules are implemented, and for initial reservation and restored lands determinations to be appealable.

March 31, 2006—Cowlitz Tribe councilman Philip Harju makes news while attending a meeting on the proposed rules at Connecticut's Mohegan Sun casino. He balks at the proposed requirement that to take land into trust for gaming as an initial reservation or as restored lands, a majority of a tribe's members must live within 50 miles of the site. The Norwich (Conn.) Bulletin paraphrases Harju saying "that would be almost impossible for the 3,500-member tribe unless it took downtown Seattle into trust."

April 14, 2006—The DEIS is released for public comment.

June 6, 2006—The Cowlitz Tribe files a new application for putting the land at the Interstate 5-La Center junction into trust. It includes new, loosely related information used in an attempt to create the appearance of a longstanding relationship with Clark County.

June 14-15, 2006—The DOI holds public hearings on the DEIS in Vancouver. Board of Clark County Commissioners Chairman Marc Boldt tells the DOI representatives, "In local government, we see many EISs. If we received this report, we would send it back to the applicant and ask them to do a better job. The Cowlitz Tribe deserves better information, and so do we."

July 14, 2006—The initial comment period for the DEIS closes.

July 28, 2006—The BIA extends the comment period on the DEIS to Aug. 25 to allow time for comments on the Tribe's revised trust land application.

August 3-14, 2006—Nearly 1,100 signatures are collected on a petition against the proposed casino by volunteers staffing a booth at the Clark County Fair.

August 11, 2006—The Cowlitz Tribe files a new application for its initial

reservation designation. In it, the Tribe requests that the DOI make its initial reservation decision concurrently with its trust acquisition decision—not the typical procedure. It also includes a tribal history that makes reference to unsubstantiated historical connections in the area of the proposed casino.

August 25, 2006—The extended comment period on the DEIS is closed. During the comment period the BIA Northwest Regional Office receives comments from approximately 2,000 respondents. CARS' comments dated July 13 focus on traffic and National Environmental Policy Act (NEPA) concerns; CARS comments dated Aug. 25 focus on historical issues and the Cowlitz Tribe's June 6 fee-to-trust application. Area municipalities pan the DEIS in their written comments.

October 5, 2006—The BIA Central Office releases proposed rules easing a requirement that would have been impossible for the Cowlitz Tribe to fulfill at the La Center site. In contrast to draft rules for implementing IGRA, which were released March 15, the new rules would enable tribes to receive restored lands or initial reservation designations for land within 25 miles of their headquarters. This is tailor-made for the Cowlitz Tribe, which has its headquarters at Longview, just under 25 miles from its proposed casino site. (The Tribe's headquarters previously had been in Tacoma.)

The rules fail to establish criteria for the location of tribal headquarters and they do not establish processes for the designation of restored lands and initial reservations.

October 17, 2006—A court ruling raises serious questions about the validity of the Cowlitz Tribe's 2004 MOU with Clark County. The state Appeals Court declares the MOU a "de facto amendment" to the county's Comprehensive Plan and sends it back to the Growth Management Hearings Board. All sides agree that the Board of Clark County Commissioners did not follow the state-required public process to make changes to the county's land use plan.

December 6, 2006—Clark County commissioners decide not to appeal a ruling regarding the county's MOU with the Cowlitz Tribe to the state Supreme Court.

2007

January 5, 2007—The Columbian newspaper reports that the BIA Northwest Regional Office expects to send its final work on the DEIS to the BIA Central Office in Washington, D.C., for review by the end of January.

January 13, 2007—The Columbian newspaper reports that the BIA Central Office contradicts the timeframe of the Northwest Regional Office saying that it is "highly unlikely" that the Final EIS will be completed in January.

January 18, 2007—The state Appeals Court mandates the case involving

the Cowlitz Tribe-Clark County MOU to Superior Court in Thurston County. Its next stop: the Growth Management Hearings Board.

March 2007—Regional BIA releases the preliminary Final EIS to cooperating agencies. The document includes two new reports—the project’s Business Plan and Unmet Needs Statement—that should have been included in the Tribe’s new trust application that was submitted in June 2006. These two key reports contain highly controversial “needs” and numbers that regional BIA uses in an attempt to justify its dismissal of sites in the Tribe’s aboriginal homeland. The report says a northern site would not make enough money to fulfill an alleged \$113.6 million in “unmet needs.”

The preliminary Final EIS also attempts to dismiss local concerns about the effects a casino would have on traffic, social problems and the economy.

April 30, 2007—Vancouver Mayor Royce Pollard announces his “strong opposition” to the proposed casino project. He says the city’s concerns include traffic snarls on the interstates and over the Interstate 5 and Interstate 205 bridges, increased competition for affordable local housing, increased crime rates, and increased bankruptcies and other fallout due to problem gambling. Pollard says that the low-paying jobs a casino would bring to the county are “not the kind of jobs that we see for the future of our community.”

May 7, 2007—Vancouver’s City Council and mayor unanimously approve a resolution asking the Secretary of the Interior to reject the Tribe’s trust application for land in north Clark County as long as plans include a casino. The resolution authorizes legal action if the project receives federal approval.

May 23, 2007—La Center’s City Council passes a resolution stating the city’s opposition to the proposed Cowlitz casino. The resolution voices frustration at having its concerns ignored by the BIA and threatens legal action if its concerns are not addressed.

Late May 2007—Rep. Brian Baird (D-Wash.) sends a letter to Interior Department associate deputy secretary Jim Cason requesting a 30-day public comment period on the Cowlitz Tribe’s proposed Business Plan. The plan had been missing from the Tribe’s June 2006 trust application and includes a controversial Unmet Needs Statement.

June 19, 2007—The Western Washington Growth Management Hearing Board declares the Cowlitz Tribe-Clark County MOU invalid, based on the determination that the county did not allow for sufficient public participation before it approved the agreement in March 2004. The county later appealed the ruling arguing that it is less interested in maintaining the MOU than in determining that the growth board, an appointed body, does not have authority to override an agreement made by the County Commission, an

elected body. Thurston Superior Court is expected to hear the county's appeal of the growth board's decision in late September or early October.

July 16, 2007—In a letter to The Reflector, the Chairman of the Chinook Indian Nation writes that the Chinook Nation does not support the Cowlitz Tribe's effort to establish an initial reservation outside its aboriginal territory and is "firmly against the re-writing of history to support such a move."

July 20, 2007—The Cowlitz Tribe sends a memorandum to the U.S. Department of the Interior (DOI) blasting La Center's opposition to the Tribe's proposed mega-casino and resort. The memorandum includes a section describing the Tribe's "local outreach" efforts and lists 41 local leaders with whom it has met, juxtaposing the text and names in such a way as to make it appear that all in the list support or do not oppose the proposed casino, although some are casino opponents.

August 17, 2007—Thurston County Superior Court says no to the Cowlitz Tribe's request to insert itself into Clark County's appeal regarding a ruling on the county's Memorandum of Understanding (MOU) with the Tribe. The Tribe had wanted to join the case so it could move to have it dismissed, which would reinstate the MOU, a document that is a key part of its [Environmental Impact Statement](#).

December 14, 2007—The Cowlitz Tribe's MOU with Clark County is found invalid -- again -- this time by Thurston County Superior Court. Judge Gary Tabor affirmed the June decision issued by the Western Washington Growth Management Hearings Board invalidating the MOU. The growth board had determined that the county had not allowed for sufficient public participation -- as required by state and county law -- before it approved the MOU in March 2004.

2008

January 8, 2008—The NIGC approves the Cowlitz Tribe's effort to replace its intergovernmental agreement (MOU) with Clark County. The Tribe's latest request was for the NIGC to accept ordinances approved by the Tribe. The ordinances are problematic, because in addition to being unsatisfactory (as was the initial MOU), they are unilateral. Plus, they might not be enforceable. Even in his approval letter the NIGC chairman writes, "the issues concerning enforceability are not properly addressed here."

January 11, 2008 - Clark County appeals Thurston County Superior Court's December decision to maintain the invalidation of the county's MOU with the Cowlitz Tribe.

March 28, 2008 - The City of Vancouver files a lawsuit in federal court against the NIGC over the Tribe's attempt to replace its now invalid memorandum of understanding (MOU) with Clark County with a unilateral

ordinance. Assistant city attorney Brent Boger told *The Columbian*, "We're going to fight this thing until we get some resolution ..."

April 7, 10 and 15, 2008—The Clark County commissioners hold three public hearings where the public is invited to offer suggestions for improvements to the county's now-invalid MOU with the Cowlitz Tribe. Citizen speakers at the hearings are largely opposed to the casino and tell the commissioners to let the MOU die and not negotiate a new one.

April 8, 2008—Clark County passes resolution of opposition to "the development of a major commercial gaming facility in the unincorporated area of Clark County."

May 14, 2008—Even before its release, the Final EIS for the Cowlitz casino suffers a major blow: A Washington State Growth Management Hearings Board removes the proposed casino site from Clark County's urban growth plan and returns it to agricultural zoning. The Final EIS relies heavily on the urban development zone, in part because the county's Comprehensive Plan prohibits the county from providing services to rural land at urban levels.

May 20, 2008—DOI publishes rules implementing IGRA, 20 years after the law took effect.

May 30, 2008—The Bureau of Indian Affairs abruptly releases the Final EIS for the proposed Cowlitz casino. Then-Assistant Secretary for Indian Affairs Carl Artman had signed off on the document two days before leaving his post. Like the Draft EIS and preliminary Final EIS, it continues to dismiss local concerns and make unrealistic assertions. Hearing numerous concerns from cooperating agencies, citizens and groups including CARS, DOI more than doubled the length of the required 30-day comment period until August 11.

August 11, 2008—Comment period ends on the Final Environmental Impact Statement. (*The Columbian* subsequently reported that at least 1,000 people submitted comments.)

October 21, 2008—*The Seattle Times* reports that Cowlitz casino developer David Barnett has been conducting a mail-based smear campaign against a Snohomish County councilman. He also threatened that he will spend \$2.5 million to unseat the councilman if he continues to oppose Barnett's proposed 6,000-house development there.

November 1 and 3, 2008—*The Columbian* reports that proposed Cowlitz casino developer David Barnett spent \$76,500 on last-minute mailers and robocalls opposing Clark County commission candidate Tom Mielke, who has long been known as a casino opponent. Barnett took similar action against Mielke in 2005, when he gave \$100,000 to an out-of-state PAC that spent

\$86,000 on last-minute mailers. (See the February 22, 2006, entry in this timeline.)

November 2008—The City of Vancouver announces that it will continue to fight the NIGC's decision that unilateral tribal ordinances can replace the Cowlitz Tribe's invalidated MOU with Clark County. The city had filed its lawsuit in March 2008, and in September the 9th U.S. Circuit Court of Appeals tossed out the city's lawsuit saying it did not have the grounds to challenge the NIGC decision. In November the city declared it would contest the court's decision.

November 21, 2008—*The Columbian* reports that Cowlitz developer David Barnett has sold nearly half his interest in the proposed Cowlitz casino to a California tribe, the Paskenta Band of Nomlaki Indians. If correct, that means the proposed casino is now owned 57 percent by the Mohegan Tribe, 22.4 percent by Barnett and 20.6 percent by the Paskenta Band of Nomlaki Indians. In other words, 77.6 percent of the venture is likely owned by out-of-state investors.

November 26, 2008—Tom Mielke claims a seat on the Board of Clark County Commissioners after late-arriving mail-in ballots tipped the tight race in his favor. He blasts casino developer David Barnett for spending \$76,500 on mail and phone attacks against him in the final four days of the race.

2009

February 24, 2009—The U.S. Supreme Court issues a ruling (*Carcieri v. Salazar*) that prohibits DOI from taking land into trust on behalf of tribes acknowledged by the federal government after 1934, when the Indian Reorganization Act was passed. The Cowlitz Tribe received recognition in 2002. It appears Congressional action might be required to sort out the legal quagmire this creates for any number of tribes, including the Cowlitz Tribe.

April 2009—The Cowlitz Tribe enters into an agreement with Clark County rescinding the 2004 Memorandum of Understanding (MOU) regarding services, payments and other provisions that would enable a casino in Clark County. The MOU had been invalidated in 2007 by the state Growth Management Hearings Board.

May 21, 2009—A Clark County Superior Court ruling returned the proposed casino site, in addition to thousands of other acres, to an urban designation. In 2008, the state's Growth Management Hearings Board had removed that acreage from urban status, as defined in the county's Comprehensive Growth Management Plan, and returned it to agricultural status. That had made the proposed casino site ineligible to receive from the county the urban-level services a casino-resort would need.

June 10, 2009—The La Center City Council rejects a proposal to negotiate a Memorandum of Understanding (MOU) with the Cowlitz Tribe.

November 16, 2009—Cowlitz casino developer David Barnett is seriously injured in an accident in which he is thrown from the bed of his own pickup truck, which was being driven by his girlfriend, near his Shoreline, Wash., home. Police reported in April 2010 that drugs were a factor in the crash, and in May 2010, the girlfriend, Sarah Rutyne, was charged with driving under the influence and reckless driving.

August 2010—King County Sheriff vehicle crash investigator James Leach tells CARS that David Barnett would not be charged in connection with the incident despite the discovery of drugs and associated paraphernalia found at his house following the November 2009 incident. Leach said many people, including girlfriend Sarah Rutyne, had access to the house and proving ownership of the materials would be extremely difficult.

September 2010—Despite losing the second round of its federal court battle against the NIGC's attempt to replace the Tribe's invalid MOU with Clark County, the City of Vancouver gains an important concession: The city now has standing to challenge the federal government's decision if it takes the land at the La Center junction into trust for the Cowlitz Tribe.

December 17, 2010—The Bureau of Indian Affairs announces its decision to take 152 acres into trust for the Cowlitz Tribe's proposed casino project. Local jurisdictions and casino opponents immediately begin exploring their options for appeal and litigation.

January 12, 2011—Clark County announces it will appeal the BIA's decision to take land near La Center into trust for the Cowlitz Tribe by filing a lawsuit in U.S. District Court in Washington, D.C.