



Washington State Liquor and Cannabis Board

To: WSLCB Board Members

From: Licensing and Regulation Division

Date: November 16, 2021

Subject: Yakama Nation – Liquor Applications for Non-Tribal Land

History:

In 1855, an agreement was signed with the Confederated Tribes and Bands of the Yakama Nation, officially known as the Treaty of 1855. The Yakama Nation* agreed to surrender to the United States ceded lands within Washington Territory. Since no longer considered Tribal lands, the land was not excluded when congress approved the admission of Washington as a state. See Attachment A - a copy of the Treaty of 1855. Article IX of the treaty provides: “The said confederated tribes and bands of Indians desire to exclude from their reservation the use of ardent spirits, and to prevent their people from drinking the same . . .”

The Yakama Nation bans alcohol and cannabis sales and/or use on its Tribal land. In the year 2000, the Tribal council voted to extend its alcohol ban to privately owned land that included approximately 20,000 non-Tribal members. Initially, Washington State moved to sue the Tribe but the suit was later dismissed on the grounds of ripeness** since the Tribe had not moved forward with any enforcement against privately owned land or non-Tribal members. In 2001, the acting U.S. Attorney for the Eastern District of Washington issued an opinion letter stating that federal prosecutors would enforce existing federal liquor laws, but would not enforce a ban on the sale of alcohol on privately owned, non-Indian communities within the reservation. Please refer to Attachment B, where at the bottom of page #3 it lists the towns in consideration:

1. Glenwood
2. Toppenish
3. Wapato
4. Harrah
5. Brownstown
6. White Swan
7. Parker
8. Satus
9. Tampico (part)
10. Union Gap (part)

* In 1994, the Tribal Council voted to change the spelling of the Tribe’s name from “Yakima” to “Yakama”.

** A claim is not ready for litigation even though a law was enacted it had not yet been applied.

Licensing Background:

In 1997, the Washington State Liquor Control Board (WSLCB) agreed to notify Yakama Nation of liquor license applications submitted for incorporated towns within the boundaries of the Yakama Tribal Lands as a courtesy. Since these lands had been ceded to Washington, they were no longer considered Tribal land. As a result, the local authority notice would go to the Mayor of the town, not the Confederated Tribes and Bands of the Yakama Nation. An extensive search was conducted; however, we were unable to locate any documentation supporting this change in practice.

If an objection was received, Licensing would notify the applicant and ask them how they would like to proceed, as noted in Attachment C. The primary option presented is that the application would go for a “threshold decision” completed by the Director of Licensing or their designated manager. These objections were considered a “public protest” and not a local authority objection, as Yakama Nation was not the local jurisdiction, nor was the location on Tribal land. Once reviewed by a manager, if approved, a Courtesy Letter would be sent acknowledging the objection and informing the Tribe that we would be issuing the license over their protest. Please see Attachment D for examples reports of application for two locations: one within the City of Wapato; and one within the City of Toppenish, that a Licensing manager reviewed and approved to move forward with issuance. In verifying these locations on the Yakima County Assessors page, the jurisdictions show as the City of Wapato and the City of Toppenish are listed as to where taxes are paid. This is not the case if the property is on Tribal land. Please see Attachment E for the two locations listed on the reports of applications along with an example for a property located on Puyallup Tribal land. We searched many addresses located on Yakama Nation land but they were not in the County Assessor’s site.

In August 2014, Licensing was notified that the Board was going to make decisions on any applications within the incorporated towns if an objection was received from Yakama Nation. Please see Attachment F for a copy of this email.

Re-evaluation:

More recently, Licensing received an objection from Yakama Nation regarding a tavern license application that had applied to open in the City of Harrah, as noted in Attachment G. It should be noted that the Mayor of Harrah approved the applicant and location, as noted in Attachment H. Licensing researched the history and supporting documentation that we could present to the Board for a decision about appropriate next steps on how we should proceed with the review of these objections.

Board Considerations:

Licensing is asking the Board to consider delegating approval to the Licensing Director when the Yakama Tribe objects to an application on ceded land.

Would the Board like to:

- a. Delegate authority to the Licensing Director or their designee.
- b. Maintain the Board's review and decision-making authority, without delegating authority to the Licensing Director.

This memo was presented, discussed and approved on November 16, 2021.

David Postman, Board Chair

Ollie Garrett, Board Member

Russ Hauge, Board Member