



August 29, 2017

VIA EMAIL: consultation@bia.gov

Attn: Revised Indian Trader Rules
Office of Regulatory Affairs & Collaborative Action
Office of the Assistant Secretary – Indian Affairs
1849 C Street NW, Mail Stop 4660-MIB
Washington, DC 20240

RE: Comments on ANPRM for Indian Trader Regulations

Dear Dr. Gavin Clarkson:

The Redding Rancheria submits these comments in response to the Bureau of Indian Affairs' ("BIA") Tribal Leader Letter dated July 28, 2017 requesting additional information on the BIA's proposal to revise the Indian Trader Regulations currently found at 25 CFR Part 140. Redding Rancheria appreciates the opportunity to submit comments on these important rules and looks forward to additional dialogue and opportunity for input on this project through government-to-government consultation.

I. SUMMARY OF COMMENTS

Redding Rancheria supports efforts to revise the Indian Trader Regulations to reflect tribal self-determination and self-governance. Redding Rancheria requests that the regulations be revised to eliminate the threat of dual taxation and regulation of economic activity by state and local governments, and to grant deference to tribal regulatory authority with regard to on-reservation commerce.

II. REDDING RANCHERIA COMMENTS

Economic activity for tribes, like Redding Rancheria, has changed significantly since the Indian Trader Regulations were last updated in 1957. Over the last several decades, more and more tribes have opted to exercise self-governance and assume greater regulatory functions. The current regulations are outdated and fail to recognize the more recent federal policy of self-determination.

1. Dual taxation and regulation by state and local governments.

Redding urges the BIA to revise the Indian Trader Regulations to eliminate the threat of dual taxation and regulation of Indian commerce by state and local governments. While tribal governments, like Redding Rancheria, have sovereign authority to tax and regulate on-reservation commercial activity, court decisions, like *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136 (1980), have allowed state and local governments to regulate tribal commerce by introducing a balancing test to consider state interests. Tribes, on the other hand, have no similar influence over State and local regulation of off-reservation commerce. The result is that commerce on reservation may be subject to state, local and tribal regulation, making commerce more costly. Redding contends that the regulations should support preemption of on-reservation commerce, eliminating the use of a balancing test.

2. The regulations should defer to tribes' own tax and regulatory structures.

Redding Rancheria also agrees with other commenters that the Indian Trader Regulations should defer to tribal regulatory schemes for those tribes who elect to enact tribal laws regarding commerce and taxation. The regulations should recognize tribes' ability to adequately regulate and police trade within their communities.

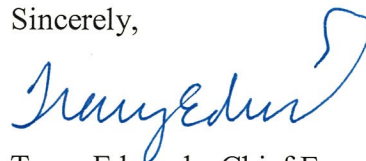
3. Expanded concept of Indian country.

Redding Rancheria also urges BIA to expand the definition of Indian country – a concept which appears in the current regulations and has been incorporated into a number of other areas affecting tribal commerce. Many tribes, particularly in California, have small reservations and land bases that are insufficient to support economic activity. In these cases, the concept of Indian country may be used to promote tribal economic development in traditional tribal lands beyond reservation boundaries.

V. CONCLUSION

For the foregoing reasons, the Redding Rancheria Indian Tribe urges the BIA to revise the Indian Trader Regulations to align with current federal policy and promote tribal economic development. Of particular concern are the need to (1) eliminate the threat of dual taxation and regulation of commerce by state and local governments on tribal lands, and (2) afford deference to tribal regulatory structures regarding trade within Indian country.

Sincerely,



Tracy Edwards, Chief Executive Officer