



Squaxin Island Tribe

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Submitted electronically to <http://www.regulations.gov>

October 30, 2017

Elizabeth Appel, Director
Office of Regulatory Affairs & Collaborative Action
Bureau of Indian Affairs
U.S. Department of the Interior
1849 C Street, NW, Mailstop 3642-MIB
Washington, DC 20240

Re: Docket ID: BIA-2016-0007, Comments on ANPRM for 25 CFR Part 140

Dear Director Appel:

I write on behalf of the Squaxin Island Tribe and in support of the Department of the Interior's (the Department) efforts to modernize the Department's regulations at 25 C.F.R. Part 140.

Our Tribe believes modernized 25 C.F.R. Part 140 regulations are in the best interest of Indian Tribes, the Department as trustee, and will provide more certainty to Tribes, states and local counties with respect to commerce in Indian country. The Squaxin Island Tribe is located in rural Mason County, Washington State. It has met with some economic success – generating new employment for both Tribal members and non-members through its own economic endeavors. But it could do much, much more if provided with clear, fair rules that would allow it to partner with local businesses without the threat of dual taxation.

The regulations should address the discriminatory effect of singling out commercial activity and natural resource development in Indian Country with dual taxation. Assessment of State and local taxes obstructs Federal policies supporting Tribal economic development, self-determination, and strong Tribal governments. 25 U.S.C. § 262 states "Any person desiring to trade with the Indians on any Indian reservation shall...be permitted to do so under such rules and regulations as the Commissioner of Indian Affairs may prescribe for the protection of said Indians." This broad statutory authority provides the Department the regulatory discretion to speak clearly in support of Tribal Self-Governance over commerce occurring in Indian country. In other words, the Department can modernize its regulations to reflect current practice where Tribal civil regulatory authority is recognized to be at its zenith within Indian country.

In addition, the Department is authorized to address dual taxation, an issue that has handicapped Tribal governments through a series of common law decisions made which allow states to intrude on Tribes'

sovereign tax base. The Squaxin Island Tribe is always looking for opportunities to improve the local economy. Many promising opportunities involving energy companies, outdoor recreation, light manufacturing, and more have been derailed by the threat of dual taxation.

Addressing dual taxation is extremely important and further justified since state governments provide few services on Indian reservations, but they impose taxes on natural resources, retail sales, and personal property (e.g. wind energy-generating facilities). In addition, if Tribal governments impose a tax, the resulting dual taxation drives business away. If Tribes collect *no* taxes, they suffer inadequate roads, schools, police, courts and health care. Dual taxation effectively undermines the Constitution's promise of respect for Tribal sovereignty, and keeps Indian reservations as the most underserved communities in the nation.

For these reasons we support modernized Indian Trader Regulations at 25 C.F.R. Part 140 which declare:

- 1) "Any person or business desiring to trade with the Indians on any Indian reservation shall be permitted to do so under the laws of the tribal government."
- 2) "Trade and business activity on trust or restricted fee lands is not subject to any fee, tax, assessment, levy, or other charge imposed by any State or political subdivision."

Tribal governments are taking on increasing levels of government responsibility, but receive inadequate Federal funding for roads, schools, police and all government services. Through its proposal to modernize the Indian Trader Regulations, the Department has an opportunity to end centuries of dishonorable commercial dealings, fulfill trust responsibilities, and create a revenue base for Tribal governments.

In addition, tax, regulatory, and service agreements with states and local governments would be encouraged but not required. For all of the aforementioned reasons, the Department should take the next step. Initiating a regulatory process will send a strong message to states and local governments that they must deal fairly on taxes and services. If you have any questions or concerns, please contact me at rpeters@squaxin.us.

Sincerely,



Ray Peters, Director
Intergovernmental Affairs