



The Confederated Tribes of the Grand Ronde Community of Oregon  
*Umpqua Molalla Rogue River Kalapuya Chasta*

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October 30, 2017

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

*sent via electronic mail to:  
consultation@bia.gov*

Re: Comments on ANPRM for 25 CFR Part 140

Dear Director Appel:

On behalf of The Confederated Tribes of the Grand Ronde Community of Oregon (“Grand Ronde” or “Tribe”), thank you for the opportunity to comment on potential revisions of the “Licensed Indian Traders” regulations found at 25 CFR Part 140 (“Regulations”). Grand Ronde is a sovereign tribal nation made up of nearly 30 antecedent tribes and bands with homelands in western Oregon, southwest Washington and northern California. The Grand Ronde Indian Reservation is in northwest Oregon. The antecedent tribes and bands of Grand Ronde entered into seven ratified treaties with the United States whereby they ceded their homelands in exchange for certain rights and benefits between 1853 and 1855:

- Treaty with the Rogue River, 1853, Sept. 10, 1853, 10 Stat. 1018
- Treaty with the Umpqua – Cow Creek Band, 1853, Sept. 19, 1853, 10 Stat. 1027
- Treaty with the Rogue River, 1854, Nov. 15, 1854, 10 Stat. 1119
- Treaty with the Chasta, Etc., 1854, Nov. 18, 1854, 10 Stat. 1122
- Treaty with the Umpqua and Kalapuya, 1854, Nov. 29, 1854, 10 Stat. 1125
- Treaty with the Kalapuya, Etc., 1855, Jan. 22, 1855, 10 Stat. 1143
- Treaty with the Molalla, 1855, Dec. 21, 1855, 12 Stat. 981

These tribes and bands were subsequently forcibly removed to the Grand Ronde Indian Reservation, which was formally established by President Buchanan’s Executive Order in 1857. Grand Ronde submits these comments in response to the Department’s Advance Notice of Proposed Rule Making (“ANPRM”) issued July 28, 2017, and the Department’s follow up letter dated September 8, 2017. Grand Ronde looks forward to additional input and consultation on this project through government-to-government consultation.

*Treaties*  
*Rogue River 1853 & 1854 ~ Umpqua-Cow Creek 1853 ~ Chasta 1854 ~ Umpqua & Kalapuya 1854*  
*Willamette Valley 1855 ~ Molalla 1855*

As an initial matter, the Regulations are very out of date, having not been updated since 1957. The Regulations do not reflect current federal law and policies or modern tribal economies and are essentially unused. It is time to either overhaul the Regulations to reflect current issues or eliminate them. Further, Grand Ronde proposes that the Regulations be overhauled in a manner that recognizes tribes' sovereign authority to determine how and with whom they will do business on Indian land. The Regulations should support tribal economic development and promote tribal self-government. Tribes are in a better position to regulate commerce within their reservations with more certainty and efficiency than the current, outdated Regulations allow. It is time that tribal self-determination be brought to Indian trade and commerce.

Grand Ronde is a self-governance Tribe and provides a multitude of services such as health care, public safety, environmental services, infrastructure (roads, water, sewer), licensing/permitting, and judicial administration. The Tribe owns and operates a gaming facility on the reservation, as well as several other economic enterprises both on- and off-reservation. Grand Ronde regulates business and commerce through our own laws. We address safety, quality, standards, environmental protection, taxation and other matters by our ordinances and policies. The Regulations should not interfere with Grand Ronde's ability to so regulate and should defer to tribal laws and authority.

Tax revenues have historically played a limited role in providing tribal services. State and local taxes imposed on entities doing business in Indian Country make it difficult, if not impossible, for tribes to fund tribal services through their own tax revenues. Any tribal tax imposed is a form of double taxation on businesses. Additionally, state and local tax revenue collected from business in Indian Country does not go to the tribes to support the services they provide. This double taxation undermines the United States Constitution's promise to respect tribal sovereignty and makes it difficult for tribal governments to provide the many services their communities need. The Regulations should be revised to address this harm to tribes.

Tribes should be permitted to regulate and tax all non-Indian economic activity on our lands. Consistent with this position, the Regulations should cover all Indian commerce activity including, but not limited to, those related to oil, gas, minerals, and natural resources. Appropriate revisions to the Regulations would: (1) support tribal regulatory authority and authorize any person to engage in trade within Indian reservations pursuant to the laws of the tribal government; (2) provide clarity and certainty as to the taxation of commerce in Indian Country by pre-empting state and local taxes on tribal trust land; and (3) eliminate regulatory burdens that are not necessary for BIA to meet its statutory and trust responsibilities and include provisions supporting tribes' sovereign rights. This action will help tribes attract economic development projects to their reservations, which in turn will promote economic viability and sustainability in Indian Country.

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Thank you for your consideration of these comments. Grand Ronde looks forward to continuing government-to-government consultation to address Indian trade and commerce.

Very truly yours,

A handwritten signature in black ink, appearing to be 'CM', written in a cursive style.

Chris Mercier  
Tribal Council Vice-Chairman

cc: Tribal Council  
Stacia Martin, Chief of Staff  
Rob Greene, Tribal Attorney