



Cowlitz Indian Tribe

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: BIA-2016-0007

Dear Director Appel:

I write on behalf of Cowlitz Indian Tribe and in support of the Department of the Interior's 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. Cowlitz Indian Tribe is in Southwest Washington and currently has 4,100 enrolled Cowlitz Tribal citizens.

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.

In April 2017, we opened our first enterprise, ilani Casino Resort. We currently have two businesses located on the reservation, inside the casino who do not pay taxes to the tribe. Those two pay their taxes directly to the State of Washington. All other businesses operating within the casino pay taxes only to the tribe. While the tribe maintains the right to tax those two businesses in addition to the taxes paid to the state, the tribe chooses not to impose a second tax because the threat of or possibility of dual taxes drive discourage businesses from partnerships with tribes on reservations.

Addressing dual taxation is extremely important and further justified since state governments provide few services on Indian reservations, but 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



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of respect for tribal sovereignty, and keeps Indian reservations 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 wiyall@cowlitz.org or my executive assistant Abriel Johnny at ajohnny@cowlitz.org or (360) 353-9578.

Sincerely,

A handwritten signature in black ink, appearing to read 'William Iyall'. The signature is fluid and cursive, written over a light blue horizontal line.

William Iyall, P.E.
Chairman Cowlitz Indian Tribe