



United States Department of the Interior

Bureau of Indian Affairs
Northwest Regional Office
911 NE 11th Avenue
Portland, Oregon 97232-4169

APR 24 2017



In Reply Refer To:
Division of Tribal Government

Skagit County Board of Commissioners
1800 Continental Place, Suite 1100
Mount Vernon, Washington 98273

Dear Commissioners:

This responds to your April 11, 2017 letter wherein you voice your second objection to the amendments the Swinomish Indian Tribal Community (Tribe) proposes for its constitution. We have accepted your additional letter of objection which is again focused on jurisdiction, territory, and potential impact to your county constituents.

You state that since your last letter, you obtained documents through a FOIA request that reflect the Tribe's most recent proposed amendments and our response. Further, you indicate your concurrence with the change in the proposed language to remove all reference to the Treaty of Point Elliott, March Point, and the 1873 Executive Order. The resulting proposed wording has mitigated the concerns we expressed in our initial informal review of the Tribe's proposed constitutional amendments. It should be further noted that amending a tribal constitution cannot and will not allow for a tribe to expand its reservation boundaries or 'annex' non-Indian land. Establishing or expanding reservation boundaries is a separate process involving Congressional action; it is entirely different than the governing tribal body amending its own internal governing documents. (See 25 U.S.C. § 461 et. al).

You additionally request notice of any future decision, determination, approval or their action by the BIA regarding the Tribe's proposed constitutional amendments. While the BIA is under no obligation to provide notice to a third party as to the proceedings of a Secretarial election, we are informing you the Tribe has submitted a request for a Secretarial Election; and the election is scheduled for May 23, 2017.

Lastly, you voice concerns that the Tribe has expressed its assertion of regulatory jurisdiction "off-reservation" through the proposed language to amend its constitution. Please note that this language existed prior to the Tribe's recent plan to amend its constitution and similar language exists in tribal constitutions nationally. Indian tribes have the inherent sovereign right to regulate the conduct of tribal members' exercise of treaty-reserved hunting, fishing, and gathering rights. *See New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324, 330 (1983). As you state in your letter, the Tribe has specific right to exercise treaty-reserved hunting, fishing, and gathering rights in the Tribe's "usual and accustomed" fishing grounds. *United States v. Washington*, 384 F. Supp. 312, 332 (W.D. Wash. 1974), *affirmed*, 520 F.2nd 676 (9th Cir. 1975).

If you have any further questions, please contact Greg Norton, Tribal Government Specialist, at (503) 231-6723.

Sincerely,

ACTING

Northwest Regional Director

cc: ✓ Senator Maria Cantwell
✓ Senator Patty Murray
✓ Representative Rick Larsen
✓ Representative Suzan DelBene
✓ Governor Jay Inslee
✓ Ryan Zinke, Director, US Department of the Interior
✓ Jennifer Washington, Chair, Upper Skagit Indian Tribe
✓ Tom Wooten, Chair, Samish Indian Tribe
✓ Norma Joseph, Chair, Sauk-Suiattle Indian Tribe
✓ Stanley Speaks, Regional Director, Bureau of Indian Affairs
✓ Robert Ferguson, Washington State Attorney General
✓ Vikki Smith, Acting Director, Washington Department of Revenue
✓ Richard Weyrich, Skagit County Prosecuting Attorney
✓ Dr. Mark Wenzel, Superintendent, Anacortes School District
✓ Chief Roy Horn, Fire District No. 13
✓ Mayor Laurie Gere and Council, City of Anacortes
✓ Mayor Ramon Hayes and Council, Town of La Conner
✓ Dave Thomas, Skagit County Assessor
✓ Island County Board of Commissioners
✓ San Juan County Board of Commissioners
✓ Eric Johnson, Washington State Association of Counties
✓ Cory Ertel, Shell Puget Sound Refinery
✓ Matt Gill, Tesoro Anacortes