



**MAILED**  
5.4.17

**SKAGIT COUNTY  
BOARD OF COMMISSIONERS**

RON WESEN, Chair, First District  
KENNETH A. DAHLSTEDT, Second District  
LISA JANICKI, Third District

May 2, 2017

Stanley M. Speaks, Regional Director  
Attn: Greg Norton, Tribal Government Specialist  
United States Department of the Interior  
Bureau of Indian Affairs, Northwest Region  
911 N.E. 11<sup>th</sup> Avenue  
Portland, OR 97232-4169

**RE: Bureau of Indian Affairs' Response To Second Objection of Skagit County to Proposed Changes to Swinomish Indian Tribal Community (SITC) Constitution Regarding Off-Reservation Jurisdiction Pursuant to 1855 Treaty of Point Elliott**

Director Speaks,

We have your April 24, 2017 letter responding to our letter dated April 11, 2017, which objects to the Swinomish Indian Tribal Community's ("SITC") ongoing attempt to amend their Constitution to claim jurisdiction, outside SITC's treaty reservation, over all "open and unclaimed lands" as well as "usual and accustomed areas." We understand that the Department of the Interior will either approve or reject SITC's Constitutional Amendment, in whole or in part.

For your convenience, we attach a copy of the informational document that SITC has circulated to its tribal members in advance of SITC's forthcoming May 23, 2017 Constitutional Amendment vote.

SITC represents approximately 0.4% of Skagit County's population, and the plain language contained in the SITC Constitutional Amendment Article 1, Section 3 can easily be read to mean governance by a small minority over our community's substantial majority – an outcome that we would find both unacceptable and unconstitutional. Given SITC's history of aggressive litigation over the course of the past two decades against Skagit County and others in our community, we feel justifiably concerned by the extreme ambiguity inherent in Article 1 Section 3 of the proposed SITC Constitutional Amendments.

Our concern is heightened by the fact that, despite repeated requests, we have yet to receive any response from SITC as to their intent in asserting off-reservation jurisdiction and territory

**SKAGIT COUNTY COMMISSIONERS ADMINISTRATIVE BUILDING**

1800 CONTINENTAL PLACE, SUITE 100, MOUNT VERNON, WA 98273 PHONE (360) 416-1300 FAX (360)336-9307

pursuant to the 1855 Treaty of Point Elliott. See, Proposed SITC Constitutional Amendments, Article 1, Sections 2 and 3 (attached). Accordingly, we are forced to rely entirely on information from your office about this forthcoming federal agency action.

In your April 24 letter, in response to our April 11 letter, you explain the situation, writing that "Indian tribes have the inherent sovereign right to regulate the conduct of tribal members' exercise of treaty-reserved hunting, fishing and gathering rights." BIA Letter to Skagit County Board of Commissioners dated April 24, 2017 at 1.


For the purposes of SITC's Constitutional Amendment Article 1, Section 3 (and any subsequent judicial interpretation), we are relying on your assurance that SITC's off-reservation jurisdiction claim is concerned solely with "regulat[ing] the conduct of tribal members' exercise of treaty-reserved hunting, fishing and gathering rights," as opposed to any broader jurisdictional assertion.

This is a sensible and legally-supportable interpretation. If it is an accurate description of the situation, our concerns are largely resolved. To be clear, we are substantially relying to our detriment on your above statement as an accurate and complete reflection of the United States' publically-communicated interpretation of SITC's proposed Constitutional Amendments, Article 1, Section 3.

We are copying SITC on this letter, and, to the extent that SITC's intent differs from yours, we explicitly request that SITC furnish written explanation as part of this agency action.

Sincerely,

BOARD OF SKAGIT COUNTY COMMISSIONERS


  
\_\_\_\_\_

RON WESEN, Chair

**ABSENT**

\_\_\_\_\_

KENNETH DAHLSTEDT, Commissioner

  
\_\_\_\_\_

LISA JANICKI, Commissioner

- Cc: Senator Maria Cantwell
- Senator Patty Murray
- Representative Rick Larsen
- Representative Dan Newhouse
- Representative Cathy McMorris Rodgers
- Governor Jay Inslee
- The Hon. Ryan Zinke, Director, US Department of the Interior
- M. Brian Cladoosby, Swinomish Indian Tribal Community
- Jennifer Washington, Chair, Upper Skagit Indian Tribe
- Tom Wooten, Chair, Samish Indian Tribe

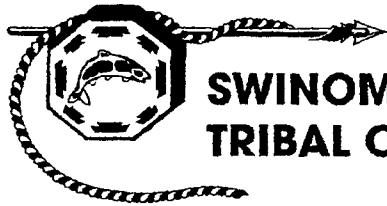
Norma Joseph, Chair, Sauk-Suiattle Indian Tribe  
The Hon. Robert Ferguson, Washington State Attorney General  
Vikki Smith, Acting Director, Washington Department of Revenue  
Allen Rozema, Director, Skagitians to Preserve Farmland  
Brandon Roozen, Director, Western Washington Agricultural Association  
Richard Weyrich, Skagit County Prosecuting Attorney  
Cory Ertel, Shell Puget Sound Refinery  
Matt Gill, Tesoro Anacortes  
Dr. Mark Wenzel, Superintendent, Anacortes School District  
Chief Roy Horn, Fire District No. 13  
Mayor Laurie Gere, City of Anacortes  
Dave Thomas, Skagit County Assessor  
Island County Board of Commissioners  
San Juan County Board of Commissioners  
Board of Directors, Wash. Ass'n of Counties  
Mary Anne Kenworthy, Attorney, US Department of the Interior  
Christina Parker, Attorney, US Department of the Interior



# STAND FIRM

- FOR SOVEREIGNTY -

AMENDMENT  
EXPLANATION  
GUIDE



**SWINOMISH INDIAN  
TRIBAL COMMUNITY**

---

**A SIDE BY SIDE COMPARISON**

---

**CURRENT CONSTITUTION**

**PROPOSED AMENDMENTS**

**-AND-**

**AMENDMENT EXPLANATION**

**SECRETARIAL ELECTION TO BE HELD  
MAY 23, 2017**

## **Explanation of This Document**

This document is Swinomish's Side-By-Side Comparison of the Current Constitutional Language, Proposed Language, and *Changes Explained*. The key component of this document is the *Changes Explained* portion which is located in the GREY AREAS located on the right side of each page. This guide is a replica of the booklet that you received from the Secretarial Election Board, EXCEPT it adds explanations for each of the amendments proposed by the Senate that you will vote on at the Secretarial Election.

If you look at the Side-By-Side Comparison booklet the Secretarial Election Board mailed you and compare it to this one, you will notice there are no greyed out areas in theirs but everything else is identical to ours. This is so you can utilize both, using the Swinomish guide to view *Changes Explained* located in the grey areas to understand the proposed amendment changes.

It is the goal of the Constitutional Reform Committee to help you, the Swinomish Tribal member, understand the Proposed Amendments. Please join us at an Informational Meeting (April 5 at 6PM, April 13 at Noon, May 3 at 6PM in Social Services) with this document in hand and your questions. The Constitutional Reform Committee will be there to present, discuss, and answer your questions. The website [standup.vote](http://standup.vote) also may be of assistance.

Red color shows the current language that is to be deleted

Blue color shows the proposed amendments.

**Amendment B**  
**(Amends Title and Article I, Sections 1 and 2 and Adds Section 3)**

**Amendment B**  
**(Amends Title and Article I, Sections 1 and 2 and Adds Section 3)**

**Changes Explained**

**Current Constitutional Language**

**ARTICLE I-NAME AND TERRITORY**

**SECTION 1.** The name of this organized body shall be the Swinomish Indian Tribal Community, hereinafter called the community.

**SEC. 2.** The jurisdiction of the Swinomish Indians shall include all the territory within the original confines of the Swinomish Reservation boundaries, as set forth by Executive order of September 9, 1873, in pursuance of article III of the Treaty of Point Elliott, January 22, 1855 (12 Stat. 928), and shall extend to such other lands as may be hereafter added thereto under any law of the United States, except as otherwise provided by law.

*(New Section)*

**Proposed Constitutional Language**

**ARTICLE I-NAME, TERRITORY, AND JURISDICTION**

**SECTION 1. *Name.*** The name of this organized body shall be the Swinomish Indian Tribal Community, hereinafter called the community or Tribe.

**SEC. 2. *Territory.*** The territory of the Swinomish Indian Tribal Community shall include, to the fullest extent possible consistent with applicable federal law and the sovereign powers of the Tribe, all lands, water, property, airspace, surface rights, subsurface rights, and other natural resources

- (a) in which the Tribe now or in the future has any interest, or
- (b) which are owned now or in the future by the United States for the exclusive or non-exclusive benefit of the Tribe or for individual tribal members, or
- (c) which are located within the Swinomish Reservation, notwithstanding the issuance of any existing or future patent or right-of-way

**SEC. 3. *Jurisdiction.*** To the fullest extent possible consistent with applicable federal law and the sovereign powers of the Tribe, the Swinomish Indian Tribal Community shall have jurisdiction over all persons, subjects, property and activities occurring within

- (a) its territory as defined by this Article; and
- (b) the Tribe's usual and accustomed fishing grounds and stations and all open and unclaimed lands, as guaranteed by treaty for fishing, hunting and gathering, and on such other lands and waters as is necessary for access to such fishing, hunting and gathering areas

Further, jurisdiction shall extend to all persons, subjects, property and activities that may hereafter be included within the jurisdiction of the Tribe.

**Category: Our Territory and Jurisdiction**

1. Describes and confirms the Tribe's territory as including not only the land, but also water, airspace, surface and subsurface rights as well as natural resources, and
2. Updates and strengthens our current Constitution's description of our Territory to include off-Reservation lands owned by the Tribe or the U.S. in trust for the Tribe.

**Category: Our Territory and Jurisdiction**

By clarifying and strengthening our jurisdiction (authority) over our territory broadly, we

1. protect our territory and natural resources to the fullest extent allowed by applicable federal law. Examples of harmful activities: solid waste dumping on our lands; and harvesting on our tidelands.
2. can better manage our treaty resources for all; and
3. better enforce laws protecting treaty resources.
4. ensure that our Constitution is a living, flexible document that is able to change as federal law changes.