



ANACORTES EXECUTIVE DEPARTMENT

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May 17, 2017

The Honorable Ryan Zinke
Secretary of the Interior
1849 C Street, NW
Washington, DC 20240

Re: Proposed amendments to the Constitution of the Swinomish Indian Tribal
Community

Dear Mr. Secretary:

The City of Anacortes was incorporated as a City in Washington in 1891. The City has, over the subsequent years, maintained a constructive and cooperative relationship with the Swinomish Indian Tribal Community ("SITC"). For example, the City provides SITC with water under contract, similar to the City's relationship with other neighboring governments. But the City has substantial concerns over a number of emerging issues regarding disputed claims of jurisdiction and reservation boundaries raised in the SITC's proposed constitutional amendments. The City understands that a Secretarial election on the proposed amendments is scheduled for May 23, 2017, after which the Bureau of Indian Affairs has 45 days to either approve or disapprove the amendments. Based on the concerns described herein, the City urges the Department to disapprove those amendments that address SITC Reservation boundaries and expand SITC jurisdiction. Such amendments are (1) contrary to federal law, (2) subject to an ongoing intertribal dispute, and (3) potentially detrimental to the future structure of local government in the Skagit community.

The City has the utmost respect for Swinomish sovereignty and applauds the good work the SITC has done in governing its Reservation and caring for the local community. The City and SITC have worked together successfully to provide for and improve the overall welfare of the people of Fidalgo Island for many years. Though at times disagreements have arisen, the City and Swinomish have achieved success by listening to each other's concerns and finding collaborative solutions. This relationship has allowed the SITC and the City to navigate challenging issues like preservation of Skagit River flows, water rights protection, emergency services, and water utility services.

Those successes in large part have been attributable to open and transparent dialogue between the parties. The City's desire and plan remain to work closely with the Swinomish for many years to come. However, the City is concerned that some of the proposed constitutional amendments create direct conflict or at least ambiguity that could undermine the clear relationships between the parties.

One area of concern is that the proposed amendment to Article 1, Section 2 opens the door to future litigation over the location of the Reservation boundary. Article 1, Section 2 currently defines the boundary of the Swinomish Reservation in reference to a September 9, 1873 Executive order, which clearly defines the northern boundary of the Swinomish Reservation to exclude March's Point. March's Point is an area that lies partially within the boundaries of the City of Anacortes and partially within unincorporated Skagit County. Two major refineries and countless other businesses and residents occupy this area.

In an early proposed amendment, SITC sought to define its territory in reference to a different interpretation of the 1855 Point Elliott Treaty, which the Swinomish assert defines their Reservation to include March's Point. The BIA rejected this amendment by letter dated September 13, 2016. The Samish Tribe also disputes SITC's interpretation of the Treaty. In response to BIA's rejection of the amendment, SITC took out the reference to the Point Elliott Treaty, but did not reinsert the reference to the 1873 Executive Order. As a result, the territorial definition in the proposed amendment is vague and leaves the door open to future claims of expanded Reservation territory. This is of concern to the City because any changes to the SITC Reservation boundary would directly impact the City's boundary, jurisdiction, and tax base.

Similarly, the City is concerned about amendments to Article I, Sections 2 and 3; Article VI, Section 1; Article VI, Section 5; and Article IX, which seem to expand SITC jurisdiction. The City respects the SITC's jurisdiction within its Reservation boundaries and will continue to support its lawful exercise thereof. However, the proposed sections listed above could open the door to the SITC asserting jurisdiction over non-Indians within Reservation boundaries, actions outside the Reservation boundary, and other future unnamed expansions. The proposed language is vague and creates uncertainty for surrounding local jurisdictions about where one agency's jurisdiction ends and the next begins. The SITC attempts to characterize its ambiguous proposed language as affecting only intramural matters, but the amendments actually reach far beyond the SITC's borders. If the SITC is allowed to expand their jurisdiction as proposed, the City and its neighboring agencies will be impacted by inevitable clashes over competing jurisdictional claims, including disputes over what Interior did (and did not) intend in approving the amendments.

The City is concerned that the proposed vague provisions will lead to conflict by creating confusion. The City supports the SITC in amending its Constitution to strengthen

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their sovereignty and eliminate outdated and patriarchal oversight by the BIA of day-to-day operations. However, the City asks that those changes be accomplished in a way that does not foment confusion and discord in our community. The best way to move forward is with a clear understanding of each other's boundaries and jurisdiction. Therefore, the City respectfully requests that the Department reject the proposed amendments that change the SITC Reservation boundaries and expand jurisdiction.

The City and Swinomish have worked cooperatively for over 100 years to address needs in our vibrant community and the City looks forward to the opportunity to do so for the next 100 years and beyond. Thank you for your valuable time and attention to this matter, and please don't hesitate to contact me with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Laurie Gere", written in a cursive style.

Mayor Laurie Gere
City of Anacortes

cc: Honorable Patty Murray
Honorable Maria Cantwell
Honorable Rick Larsen
Honorable John Hoeven
Honorable Tom Udall
Honorable Rob Bishop
Honorable Raul Grijalva
Swinomish Indian Tribal Community
Samish Indian Nation
Upper Skagit Indian Tribe
Suak-Suiattle Indian Tribe
Stanley Speaks, Regional Office Director, Bureau of Indian Affairs
Skagit County
Anacortes School District