



## SQUAXIN ISLAND LEGAL DEPARTMENT

February 14, 2000

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Mr. Chuck Clarke  
Regional Administrator  
United States Environmental Protection Agency  
Region 10  
1200 Sixth Avenue  
Seattle, Washington 98101

*Re: Application for Clean Water Act Section 319 Program*

Dear Sir:

In 1998, the Environmental Protection Agency reviewed and approved the Squaxin Island Tribe's application for the Clean Water Act (CWA) Section 106 Water Pollution Control Program. In accordance with Section 518 of the CWA and implementing regulations found at 40 CFR Part 130, as amended, and 40 CFR part 35.260(b), the application included a demonstration of the Tribe's eligibility to administer programs for the prevention, reduction and elimination of water pollution, including the development and implementation of ground-water protection strategies. The application also included a demonstration of the Tribes authority comparable to Section 504 of the CWA. The EPA approved the Tribe's eligibility under Section 518(e) and 504 of the CWA and an award a Section 106 grant.

The Squaxin Island Tribe is returning seeking a determination that the Tribe is eligible for an award of a Section 319 grant. Enclosed for your review is the Tribe's previous submission with amendments specific to Section 319, including compliance with 40 CFR 35.755, 130.6(d) and 130.15. It is our understanding that after an initial approval, applicants for each additional program need provide only that additional information unique to the additional program. Accordingly, please find the following enclosures:

1. Application of the Squaxin Island Tribe for Treatment as a State pursuant to the Water Quality Act of 1987 together with its attached exhibits.
2. Letter dated January 29, 1998 from the Regional Administrator requesting additional information.
3. Letter dated February 17, 1998, in response to January 29, 1998 letter request with Resolution 98-11 authorizing specific Tribal officials to exercise certain emergency powers.
4. Resolution 2000-12 authorizing Section 319 application and expressing the Tribal government's commitment to compliance with 40 CFR 35.77, 130.6(d) and 130.15.

Thank you for your consideration. If you have any questions please contact Ms. Kim Taylor 360-426-9782 or me 360-786-5005.

Sincerely,

  
Kevin K. Lyon

Encl.:

cc: Ms. Teena Reichgott (Region 10 EPA)  
Squaxin Island Tribe

TAS/00214.ltl

**APPLICATION OF THE  
SQUAXIN ISLAND TRIBE  
FOR TREATMENT AS A STATE (TAS)  
PURSUANT TO THE WATER QUALITY ACT OF 1987**

**I. GENERAL INFORMATION**

**A. Applicant:** The applicant is the Squaxin Island Tribe (Tribe).

**B. Applicant's Address:** The mailing address of the Tribe is S. E. 70 Squaxin Lane, Shelton, WA 98584.

**C. Applicant's Telephone Number:** The telephone number for the Tribe is (360) 426-9781.

**D. Applicant's Representatives:** Representatives of the Tribe with regard to this application are as follows:

1. Mr. David Whitener, Sr., Chairman, Squaxin Island Tribal Council  
S.E. 70 Squaxin Lane, Shelton, WA 98584
2. Mr. Jim Peters, Director, Squaxin Island Department of Natural Resources  
S.E. 3100 Old Olympic Highway, Box 3, Shelton, WA 98584; (360) 426-9783
3. Mr. Jeff Dickison, Environmental Program Manager  
Squaxin Island Department of Natural Resources  
S.E. 3100 Old Olympic Highway, Box 3, Shelton, WA 98584; (360) 426-9783
4. Mr. Kevin Lyon, Tribal Attorney  
122 4<sup>th</sup> Avenue, Olympia, WA 98501; (360) 786-0970

This application was prepared for the Tribe by the Tribal Attorney with the assistance of the Squaxin Island Natural Resources Department and the Squaxin Island Planning Department.

**E. Purpose of Application:** The Tribe seeks treatment as a state pursuant to section 518 of the Clean Water Act, 33 U.S.C. § 1251 et seq. as amended by the Water Quality Act of 1987 (P.L. 100-4, February 4, 1987). This application will support the submission by the Tribe to EPA applications for grant funding through EPA's Section 106 Program for the Tribe's continuing participation in the Washington State Coordinated Water Quality Program.

**F. Resolution:** This application has been approved by the Squaxin Island Tribal Council by Resolution 97-58, adopted on November 13, 1997, which Resolution is attached to this application as Exhibit 1.

**G. Date of Application:** The date of this application is November 28, 1997.

## **II. FEDERAL RECOGNITION**

The United States first recognized the Squaxin Island Tribe by the Treaty of Medicine Creek, signed by the Tribe and the United States on December 26, 1854, ratified by the United States Senate on March 3, 1855, and signed by President Franklin Pierce. This recognition has continued to this day as evidenced by notice appearing in the Federal Register on December 29, 1988 (53 FR 52829, 52831). A copy of the Medicine Creek Treaty is attached as Exhibit 2, and a copy of the Federal Register notice is attached as Exhibit 3.

## **III. SUBSTANTIAL GOVERNMENTAL DUTIES AND POWERS**

**A. Form of Tribal Government:** Pursuant to an election authorized by the Secretary of the Interior on December 29, 1964 in accordance with Sec. 16 of the Indian Reorganization Act of June 18, 1934 as amended by the Act of June 15, 1935, the Constitution and Bylaws of the

Squaxin Island Tribe was submitted to qualified Tribal voters on May 15, 1965 and duly adopted, which Constitution and Bylaws were approved by the Secretary of Interior, Stewart L. Udall, on July 8, 1965. The Constitution and Bylaws established the Squaxin Island Tribal Council as the governing body of the Squaxin Island Tribe and charges the Tribal Council with the duty of protecting the health, security, and general welfare of the Squaxin Island Tribal Reservation residents. A copy of the Constitution and Bylaws of the Squaxin Island Tribe is attached as Exhibit 4.

**B. Authority of the Tribal Council:** The Constitution and Bylaws of the Squaxin Island Tribe authorize the Tribal Council with the following Powers of the Governing Body:

- Article III, Section 1(a) To negotiate with Federal, State and local governments and others on behalf of the tribe and to advise and consult with representatives of the United States government on all activities which may affect the tribe.
- Article III, Section (b) To acquire, manage, lease, or use tribal real property and other tribal assets, together with all improvements ...
- Article III, Section (e) To advise the Secretary of the Interior with regard to all appropriation estimates of Federal projects for the benefit of the tribe prior to the submission of such estimates to the Bureau of the Budget and the Congress.)
- Article III, Section (f) To administer any funds within the control of the tribe and to make expenditures of available funds for tribal purposes in accordance with a budget approved by the tribal council ...
- Article III, Section (g) To determine its own rules of procedures.
- Article III, Section (h) To promulgate and enforce ordinances ...
- Article III, Section (i) To take such actions as are necessary to carry into effect any of the foregoing powers and duties.

The Tribal Council consists of five members including: a Chairman, a Vice Chairman, a Secretary, a Treasurer, and one at-large member. All Tribal Council members and officers are elected to serve a three-year term. Elections are held every third year, beginning in 1965, at the annual January meeting of the General Council. Any enrolled Tribal member, 21 years of age and older, is eligible to vote. Members meeting voting eligibility and living within a fifty-mile radius from any point on Squaxin Island are eligible to serve on the Tribal Council.

The Chairman of the Tribal Council presides over meetings of the Tribal Council and the General Council and exercises any authorities specifically delegated to him by the Tribal Council. In the absence of the Chairman, the Vice Chairman assumes all the rights, privileges, duties, and responsibilities of the Chairman; otherwise, the Vice-Chairman assists the Chairman when called upon to do so. The Secretary is responsible for the preparation of all Tribal correspondence, taking minutes, recording official actions, and maintaining custody of all files and records pertaining to matters transacted at Tribal Council and General Council meetings. The Secretary signs notices and documents only as authorized by the Tribal Council. The Treasurer maintains custody of and is responsible for all funds in the Control of the Tribal Council. The Treasurer must be bonded and may not disburse Tribal funds except as duly authorized by the Tribal Council. The Tribal Council delegates its authorities by appointing committees and other personnel as required and outlining their duties and responsibilities by proper resolution.

**C. Tribal Programs:** The Tribe has an extensive governmental organization and is currently administering numerous programs for the benefit of Tribal members and for residents of the Squaxin Island Indian Reservation. A copy of the Organizational chart for the Tribe is attached as Exhibit 5.

The Tribe has nine major departments performing governmental functions and reporting to the Tribal Executive Director. The departments are the Administrative Services Department, Department of Finance, the Health and Human Services Department, the Human Resources Department, the Life Skills Center (formerly Education Department), the Natural Resources Department, the Northwest Indian Treatment Center, the Planning Department, and the Public Safety and Justice Department (Law Enforcement and Tribal Courts).

Additionally the Tribal Enterprises Manager, the Director of the Tribal Gaming Authority, and the Chief Operating Officer of the Little Creek Casino report to the Tribal Council. The Legal Office reports through the Executive Director. The Tribe's Deputy Executive Director assists the Executive Director, manages the Administrative Services Department and Public Works programs, and carries on the duties of the Executive Director in his absence. Tribal designees sit on the boards of directors of the Southern Puget Sound Inter-Tribal Housing Authority and the South Puget Intertribal Planning Agency (SPIPA). The Housing Authority, located on the Squaxin Island Reservation and representing six western Washington tribes, was designated by the Tribal Council per Resolution 97-42 as the Tribally Designated Housing Entity effective October 1, 1997 under the Native American Housing Assistance and Self Determination Act of 1996. SPIPA serves five tribes and is also located on the Reservation.

The principal Tribal department relative to this application is the Natural Resources Department. The Department has 21 employees operating programs for Aquatics, Enhancement Management, Shellfish Management, Hatchery Management, Fisheries Management, Environmental Management (Including Coordinated Water Quality Program, Timber Fish and Wildlife, and Wetlands Conservation), and Forest Management.

**D. Tribal Law:** Tribal- law is established by resolution and ordinance as enacted by the Tribal Council. During 1997 the Administrative Services Department initiated work on a project to codify all Tribal laws. The codification work is being accomplished under contract with the Book Publishing Company of Seattle, Washington. When completed in early 1998, the Squaxin Island Code is anticipated to run about 360 pages. The following Titles, reflecting adopted ordinances and resolutions, are anticipated within the published code:

Constitution and Bylaws

1. General Provisions: Code Adoption; Definitions and Rules; General Penalty
2. Administration: Tribal Council; Southern Puget Sound Inter-Tribal Housing Authority; Fair and Uniform Services Policy; Exclusion Policy; Tribal Employment Rights; Tribal Employee Firearms Policy; Nonprofit Corporation Act; Abandoned and Confiscated Property
3. Personnel System: Squaxin Island Tribe Employee Handbook; Office of Human Resources Operating Manual
4. Deleted
5. Court System: Squaxin Island Tribal Court Established; Administrative Rules; Rules Governing Representatives; Rules for Conduct of Judges; Rules of Evidence; Rules of Civil Procedure; Rules of Criminal Procedure; Rules of Appellate Procedure; Petition for Release of Custody; Informal Tribal Court
6. Reserved
7. Tribal Enterprises: Fireworks; The Squaxin Island Gaming Ordinance; Liquor Sales; Landlord-Tenant Regulations; Commercial Brush Picking



8. Deleted
9. Deleted
10. Fishing Code: General Provisions, Administration, Fishing Regulations, Violations and Penalties, Shellfish Regulations, Finfish Farming
11. Hunting Code: General Provisions, Hunting Commission, Hunting Regulations, Penalties
12. Reserved
13. Health and Safety: Sewage Treatment Systems (To be combined w/17, 18, 19)
14. Law and Order: General Provisions; Homicide; Assault and Other Offenses Involving Physical Harm; Kidnapping, Unlawful Imprisonment and Custodial Interference; Arson, Reckless Burning, Malicious Mischief and Other Property Crimes; Burglary and Trespass; Theft and Robbery; Fraud; Family Offenses; Bribery, Corrupt Influence and Official Misconduct; Perjury; Obstructing Governmental Operation; Public Disturbance; Rape, Prostitution, Sex Crimes; Offenses Against Animals; Firearms; Liquor Offenses; Libel and Slander; Motor Vehicle Offenses; Controlled Substances; Domestic Violence; Police Department Family Violence Policy and Procedure; Miscellaneous Offenses; Prosecution and Sentencing; Bail Schedule for Criminal Offenses; Animal Control Code
15. Youth Code: General Provisions and Definitions; Youth in Need of Care Actions; Guardianship; Termination of Parental Rights; Adoption
16. Vehicles and Traffic: Preliminary Provisions; Definitions; Privilege to Drive on Reservation; Civil Traffic Violation Procedure; Vehicle Safety Equipment; Rules of the Road; Accident Reports; Schedule of Fines
17. Utility Code: General Provisions and Definitions; Utility Program and Utility Commission; Management and Finances; Utility Program Operation; Customer Obligations; Fee Schedule and Billing; Enforcement (To be combined with 13, 18, 19)
18. Water Code: General Provisions and Definitions; Administration; Water Use Regulations; Enforcement (To be combined with 13, 17, 19)
19. Buildings and Construction: Building Code Adopted (Combining w/13, 17, 18)

The Tribal Administration is adopting by section by Executive Order dated August 4, 1997 the Squaxin Island Tribe "Operations Manual." The Operations Manual is intended to be a complete collection of staff policies, procedures, and guidelines for the routine operations of the Tribal government.

**E. Public Safety and Justice - Tribal Courts:** The Squaxin Island Tribal Court is granted authority as set forth by the Squaxin Island Court Procedures Ordinance codified as Title 5 of the Tribal Code. Its purpose is to ensure peace and order on the Squaxin Island Reservation, to promote the welfare of members of the Squaxin Island community, to safeguard individual rights, and to secure rights and powers which are both inherent in the Squaxin Island Tribe's sovereign status and guaranteed to the Tribe by treaty and by the laws of the United States. The Court consist of two divisions: a trial court and an appellate court.

The Squaxin Island Tribal Court is staffed by an Administrator and Court Clerk. The Court Clerk is certified with the National American Indian Court Clerks Association. The Tribe has also contracted the services of a Judge and a Prosecuting Attorney, both of whom are licensed members of the Washington State Bar.

The Tribe's own court system with the court official and staff described herein has operated under the Court Procedures Ordinance since 1996. Court is held twice per month on the second and fourth Mondays. In 1996, 201 cases were disposed, up 29 percent from 1995 when the judge employed for the court system rode a circuit between several tribal court systems. During this first year the Tribal court system also contracted with a credit bureau to collect fines from non-Indians.

**F. Public Safety and Justice - Law Enforcement:** The Squaxin Island Tribal Police Department is established by ordinance and is granted authority to enforce the laws and regulations as set forth by the Squaxin Island Tribe. The goal of the Department is to protect human life and to maintain the peace, to protect the property and resources of the Tribe and its members, and to serve the Squaxin Island Tribe in a reasonable and prudent manner.

The Department is composed of a Chief of Police, a lieutenant, four patrol officers, seven reserve officers, and office support staff. A patrol officer is also based in the Natural Resources Department to assist with enforcement of Tribal harvest regulations. This staff investigated 1181 cases in 1996, up by 34 percent from the previous year. The increased case load is attributed to increased patrol of expanding housing development, addition of the Little Creek Casino, and initiation of geoduck harvesting (Natural Resources Aquatics Program).

#### **IV. LAND AND RESOURCES OVER WHICH THE TRIBE ASSERTS REGULATORY AUTHORITY**

The management and protection of all Tribal resources is a primary concern to the Tribe. The Tribe's authority to regulate its own natural resources is firmly established as a matter of federal and tribal law. Therefore, it is important to clearly set out the land base and the Tribe's regulatory authority over water pollution sources within the Squaxin Island Reservation.

**A. Tribal Land Base:** The Squaxin Island Indian Reservation was originally set aside by the Treaty of December 26, 1854, referred to as the Treaty of Medicine Creek. Under the Treaty, the Squaxin Island Reservation originally included only Squaxin Island, a 1,487-acre land mass with 492 acres of adjacent tidelands. This 4½-mile by 2-mile island is located in the southern Puget Sound of Washington State. A copy of the Bureau of Indian Affairs map displaying the land status of the Squaxin Island Reservation as of January 4, 1988 is attached as Exhibit 6.

Reservation lands include 150 acres located both east and west of the intersection of U.S. Highway 101 and State Route 108 at Kamilche. Approximately 107 acres, Klah-che-min Village, is located one mile east of the intersection and another 43 acres, Kamilche, lies immediately west of US 101. The Tribe owns several additional smaller parcels scattered

throughout Mason County. These lands, for which the Tribe is applying to the Bureau of Indian Affairs for conversion to trust status, are listed as follows:

- Approximately three acres of uplands and 2000 feet of tidelands on the west shore of Harstene Island provides siting for the Harstene Oyster Company, a subsidiary of Island Enterprises, a Tribal for-profit business enterprise.
- Approximately one acre at Arcadia Point is used for parking and access to a Tribal boat ramp which is a shoreline public access facility.
- Approximately seven acres of tidelands near the northeast tip of Oakland Bay at the mouth of Malaney Creek is owned by the Tribe and used for shellfish production.
- One acre at Church Point on Hammersley Inlet was acquired by the Tribe in 1995.
- A small parcel is leased by the Tribe at Elson Creek on the north shore of Skookum Inlet for use as a salmon hatchery.

Additionally individual Tribal members collectively own a forty-acre parcel in Thurston County seven miles northeast of Olympia that is held in trust status and is described as the southeast  $\frac{1}{4}$ , of the southwest  $\frac{1}{4}$ , of Section 24, Township 19 North, Range 3 West, Willamette Meridian.

The Tribe holds a vital interest within a geographic region referred to as the Tribe's "Usual and Accustomed Area" for hunting and fishing. The area includes all watersheds draining into the southern Puget Sound southwest of the Tacoma Narrows Bridge including Carr Inlet, Case Inlet, Henderson Inlet, Budd Inlet, Eld Inlet, Totten/Little Skookum Inlet, Hammersley Inlet and Oakland Bay. Within this area the Tribe shares resource regulatory responsibility with the State Department of Fish and Wildlife for management of fisheries resources. The Tribe licenses and polices Tribal fishers, hunters, and shellfish diggers.

**B. Statement by the Squaxin Island Legal Department:** The statement with attachments by the Squaxin Island Legal Department, titled Analysis of Tribal Regulatory Authority over Water Pollution Sources within the Squaxin Island Indian Reservation, describes the basis for the Tribe's assertion under section 518(e)(2) of the Clean Water Act as Amended by the Water Quality Act of 1987 and is attached as Exhibit 7.

**C. Copies of Documents:** Copies of the following documents supporting the Tribe's assertion of authority are attached to this application as follows:

- Exhibit 1: Resolution No 97-58 of the Squaxin Island Tribal Council
- Exhibit 2: Treaty of Medicine Creek
- Exhibit 3: Federal Register notice of December 29, 1988: 53 FR 52829, 52831
- Exhibit 4: Constitution and Bylaws of the Squaxin Island Tribe of the Squaxin Island Indian Reservation, Washington
- Exhibit 5: Organizational Chart for the Squaxin Island Tribe
- Exhibit 6: Land Status of the Squaxin Island Reservation as of January 4, 1988
- Exhibit 7: Analysis of Tribal Regulatory Authority over Water Pollution Sources within the Squaxin Island Indian Reservation

## **V. TRIBAL CAPABILITY**

**A. Previous Management Experience:** The Squaxin Island Tribe can reasonably be expected to be capable of carrying out functions consistent with the terms and purposes of the Clean Water Act as amended by the Water Quality Act of 1987 and all applicable regulations. The Tribe has considerable experience in receiving and performing various activities under grants

and contracts with various federal agencies. The Tribe has been the recipient of multiple EPA grants and receives funding through the BIA and IHS in the amount of \$ 4,678,995 (FY97 Budget figures) to operate a broad array of law enforcement, judicial, natural resource protection, health and sanitation services, and education and training programs. The Tribe is a "Self-governance" Tribe, having met all the criteria for this classification. The Tribe also operates a Class "A" water distribution system and owns and operates its own community sewer collection and treatment system.

The Tribe has a senior staff with considerable administrative and financial experience. The day-to-day operations of the Tribe are conducted by its Executive Director, Robert Whitener, Jr. The Tribe's contract management and administrative matters are handled by Brian L. Thompson. The Tribe's Comptroller is Deborah Stoehr, CPA. The Tribes finances are audited annually by the firm of Baker, Overby & Moore, INC, PS, of Port Angeles, WA.

**B. List of Existing Environmental and Public Health Programs:** The Tribe administers the following environmental and public health programs:

- Fishery Management including codes, regulations, enforcement, administration, and scientific oversight. The Tribe is vested with the authority to manage its fishery under the provisions of the U.S. v Washington court decisions. The BIA provides funding through the Tribe's self governance contract to accomplish this purpose.
- Shellfish Management including codes, regulations, enforcement, administration, scientific oversight, and coordination of National Shellfish Sanitation Program with Washington Department of Health. The Tribe is authorized through U.S. v Washington supplemental decisions in subproceeding 89-3 to manage its shellfish harvests. Limited funding has been

authorized from the BIA to implement these authorities. However, the Tribe considers it a priority and directs self-governance contract dollars to fulfilling these obligations.

- Tribal Shellfish Sanitation Program development through a grant with the Administration for Native Americans. The Tribe has received funding to improve its capabilities to implement the requirements of the National Shellfish Sanitation Program working in cooperation with the State of Washington program. This will ultimately result in shared jurisdiction concerning shellfish sanitation issues consistent with the resolution of the U.S. v Washington court case.
- Coordinated Tribal Water Quality Program based on EPA grants. The Tribe has been a participant from inception in the Coordinated Tribal Water Quality Program, an effort to coordinate Tribal water quality issues with the State of Washington.
- Forestry Management Program in coordination with the Bureau of Indian Affairs. This program includes on-Reservation forestry management and participation in the Timber, Fish, and Wildlife program for off-Reservation forestry activities which impact treaty-protected resources of the Tribe.
- Watershed Restoration under a Bureau of Indian Affairs Jobs-in-the-Woods contract. This project includes riparian restoration activities in the Kennedy Creek watershed as an implementation of Watershed Analysis recommendations.
- Public Water Supply System: Owning, operating, and regulating Reservation water system consistent with the Safe Drinking Water Act. The drinking water system also serves approximately 35 off-Reservation residences owned predominantly by non-Indians.
- Tribally Owned Treatment Works: Owning, operating, and regulating a sanitary waste disposal system for Reservation housing and governmental facilities.

**C. Exercise of Executive, Legislative, and Judicial Functions:** The Squaxin Island Tribe is organized under a Constitution approved by Tribal members and the Secretary of the Interior ("Secretary"), pursuant to Section 16 of the Indian Reorganization Act. 25 U.S.C. Section 476. (Please refer to the "Attorney General Statement" for a detailed analysis of the tribal powers under the Constitution and inherent sovereignty.) The Tribe is governed by a five member Tribal Council elected by the membership.

The Tribe's Constitution authorizes the Tribal Council to negotiate with Federal, State and local governments; to appropriate Tribal funds for public purposes; to levy and collect taxes; and to promulgate and enforce ordinances for the administration of justice and for the establishment of Tribal Courts; to safeguard and promote the peace, safety, morals and general welfare of the Reservation; and to charter subordinate organizations for economic purposes.

The Tribal Council in its exercise of its Constitutional and sovereign powers, has created the Squaxin Island Natural Resources Department. This agency holds the responsibility for the administration of Tribal environmental programs, delegated by the Tribal Council to the Natural Resources Department. Within the Natural Resources Department is the Environmental Services Division which is comprised of biological staffs whose expertise covers the range of resource management functions the Squaxin Island Tribal Council sets as priorities. Water quality protection is a vital an ongoing function of the Natural Resources Department.

In addition to the agencies of the Squaxin Island Tribe, the Squaxin Island Tribal Council has created the Squaxin Island Tribal Court. This Court is well developed and handles a broad range of criminal and civil cases, applying Tribal ordinances, as well as



Federal and State law, where appropriate. The Tribal Court Judge is a well qualified member at bar. The Tribal Court is authorized and able to enjoin and enforce water quality standards and protections mandated by the CWA.

The Tribal Council is represented by a legal department, which represents the Tribe in various cases before the Tribal Court. This department is comprised of two attorneys with a wide range of experience in Indian and environmental law, including the CWA. This department represents the Squaxin Island Tribe and holds the responsibility to enforce the ordinances and standards adopted and administered by the Squaxin Island Tribe. The expertise, familiarity and availability of the Squaxin Island Legal Department affords the Squaxin Island Tribe quick and efficient enforcement of water quality protection measures, including the CWA.

**D. Tribal Agency Assuming Clean Water Act Programs:** The Squaxin Island Tribe's Natural Resources Department will assume the responsibility and authority for Clean Water Act programs. The Department has been a part of the organizational structure of the Tribal government for over twenty years. It is comprised of 21 employees organized under a director and three program managers with five scientists, eight technicians, and administrative staff.

The Department operates programs responsible for fishery management, shellfish management including intertidal and subtidal species, wildlife and hunting. It also operates an environmental program including water resources, water quality, forestry, and fish and shellfish habitat components. These function as integrated elements of the Department with individual programs having multiple responsibilities across the landscape.

The Department coordinates closely with the Law Enforcement Division of the Tribe for matters relating to enforcement of the various codes related to natural resource issues.

The Natural Resources Department reports directly to the Tribal Council and at least annually to the General Council of the Tribe. The Department is assisted by several advisory committees in developing policy positions for Tribal Council consideration.

**E. Tribe's Authority Equivalent to Administrator's under CWA Section 504:** The Squaxin Island Tribe, under its Constitution and inherent sovereign powers, has the authority to bring suit in Tribal, State or Federal Court, wherever appropriate, to enjoin activities which present an imminent and substantial endangerment to human health or welfare.

As noted in section 10, *supra*, the Squaxin Island Tribe has created the Squaxin Island Tribal Court which exercises civil and criminal jurisdiction over activities that occur on and off the Reservation. The jurisdiction of this Court holds the express ability to enforce both Tribal and Federal regulations of pollution activities on the Reservation.

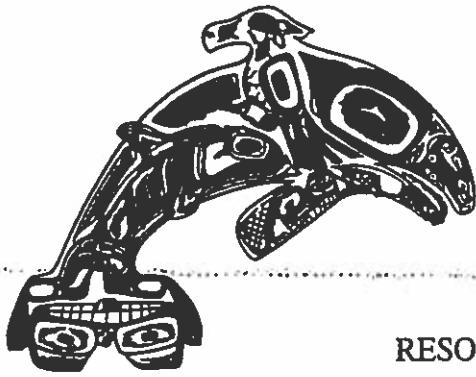
Also noted in section 10, *supra*, the Squaxin Island Tribe has created the Natural Resources Department. This agency is familiar with the CWA and its requirements and currently acts as oversight on all activities on the reservation with implications on the environment. This Department has the ability and familiarity with the local circumstances to act quickly to enforce CWA requirements.

Finally, as noted in section 10, the Squaxin Island Tribe has created the Squaxin Island Legal Department, comprised of attorneys with the knowledge of the CWA and the ability to enforce its requirement in Tribal, State or Federal Courts as need be.

As noted in the Attorney General's Memorandum attached to this application as Exhibit 7, the Squaxin Island Tribe, as a federally recognized tribe, holds the inherent sovereign ability to regulate activities that occur within the Squaxin Island Reservation. (Please refer to this memorandum for a detailed legal description of that authority.) With this authority, and with the technical and legal.

**F. Regulatory Programs:** The Tribe is not applying for treatment as a state at this time in an area where they may be called upon to regulate a Tribal entity.

**VI. REQUEST FOR APPROVAL:** Based upon the foregoing, the Tribe respectfully requests that the Environmental Protection Agency approve the Tribe's application for treatment as a state pursuant to Section 518 of the Clean Water Act, 33 U.S.C. § 1251 et seq. as amended by the Water Quality Act of 1987 (P.L. 100-4, February 4, 1987).



## SQUAXIN ISLAND TRIBE

RESOLUTION NO. 97-58  
of the  
SQUAXIN ISLAND TRIBAL COUNCIL

**WHEREAS**, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965; and,

**WHEREAS**, under the Constitution and Bylaws of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, and general welfare of the Squaxin Island Tribal Reservation residents; and,

**WHEREAS**, the Squaxin Island Tribal Council, pursuant to Article 3 of the Treaty of Medicine Creek, reaffirms that "the right of taking fish, at all usual and accustomed grounds and stations, is further secured to said Indians in common with all citizens ...;" and,

**WHEREAS**, the Squaxin Island Tribal Council is aware of the new requirement by the Environmental Protection Agency that tribes must first be approved for "treatment in a manner similar to a state" (TAS) in order to receive EPA funding for certain Clean Water Act program activities; and,

**WHEREAS**, the Squaxin Island Tribal Council recognizes that submission of an application for TAS requires that the Squaxin Island Tribe demonstrates that it has the ability to respond to and abate any discharges of pollutants to the waters of the U.S. over which the Tribe exercises its legitimate legal authority; and,

**WHEREAS**, such emergency response authority is essential to the protection of the water resources upon which the Squaxin Island Tribal Reservation residents depend for their health, security, and general welfare; and,

**WHEREAS**, the Squaxin Island Tribal Council observes that the State of Washington exercises responsibilities delegated by the U.S. EPA for certain waters of the U.S. under the Clean Water Act; and,

**WHEREAS**, the Squaxin Island Tribal Council, in order to secure the right of taking fish, at all usual and accustomed grounds and stations, by the descendants of parties to the Treaty of Medicine Creek in common with all citizens, participates with the State of Washington to manage water resources within certain waters of the U.S.

**THEREFORE BE IT FINALLY RESOLVED** that the Squaxin Island Tribal Council approves that the attached TAS Application for "Treatment in a Manner Similar to A State" be submitted to EPA in support of applications for grant funding through EPA's Section 106 Program for the Tribe's continuing participation in the Washington State Coordinated Water Quality Program.

## TREATY WITH THE NISQUALLI, PUYALLUP, ETC., 1854.

*Articles of agreement and convention made and concluded on the She-nah-nam, or Medicine Creek, in the Territory of Washington, this twenty-sixth day of December, in the year one thousand eight hundred and fifty-four, by Isaac I. Stevens, governor and superintendent of Indian affairs of the said Territory, on the part of the United States, and the undersigned chiefs, head-men, and delegates of the Nisqually, Puyallup, Steilacoom, Squawskin, S'Homamish, Stehchass, T'Peek-sin, Squ-aitl, and Sa-heh-wamish tribes and bands of Indians, occupying the lands lying round the head of Puget's Sound and the adjacent inlets, who, for the purpose of this treaty, are to be regarded as one nation, on behalf of said tribes and bands, and duly authorized by them.*

ARTICLE 1. The said tribes and bands of Indians hereby cede, relinquish, and convey to the United States, all their right, title, and interest in and to the lands and country occupied by them, bounded and described as follows, to wit: Commencing at the point on the eastern side of Admiralty Inlet, known as Point Pully, about midway between Commencement and Elliott Bays; thence running in a southeasterly direction, following the divide between the waters of the Puyallup and Dwamish, or White Rivers, to the summit of the Cascade Mountains; thence southerly, along the summit of said range, to a point opposite the main source of the Skookum Chuck Creek; thence to and down said creek, to the coal mine; thence northwesterly, to the summit of the Black Hills; thence northerly, to the upper forks of the Satsop River; thence northeasterly, through the portage known as Wilkes's Portage, to Point Southworth, on the western side of Admiralty Inlet; thence around the foot of Vashon's Island, easterly and southeasterly, to the place of beginning.

ARTICLE 2. There is, however, reserved for the present use and occupation of the said tribes and bands, the following tracts of land, viz: The small island called Klah-che-min, situated opposite the mouths of Hammersley's and Totten's Inlets, and separated from Hartstene Island by Peale's Passage, containing about two sections of land by estimation; a square tract containing two sections, or twelve hundred and eighty acres, on Puget's Sound, near the mouth of the She-nah-nam Creek, one mile west of the meridian line of the United States land survey, and a square tract containing two sections, or twelve hundred and eighty acres, lying on the south side of Commencement Bay; all which tracts shall be set apart, and, so far as necessary, surveyed and marked out for their exclusive use; nor shall any white man be permitted to reside upon the same without permission of the tribe and the superintendent or agent. And the said tribes and bands agree to remove to and settle upon the same within one year after the ratification of this treaty, or sooner if the means are furnished them. In the mean time, it shall be lawful for them to reside upon any ground not in the actual claim and occupation of citizens of the United States, and upon any ground claimed or occupied, if with the permission of the owner or claimant. If necessary for the public convenience, roads may be run through their reserves, and, on the other hand, the right of way with free access from the same to the nearest public highway is secured to them.

ARTICLE 3. The right of taking fish, at all usual and accustomed grounds and stations, is further secured to said Indians in common with all citizens of the Territory, and of erecting temporary houses for the purpose of curing, together with the privilege of hunting, gathering roots and berries, and pasturing their horses on open and unclaimed lands: *Provided, however,* That they shall not take shell-fish from any beds staked or cultivated by citizens, and that they shall alter all stallions not intended for breeding-horses, and shall keep up and confine the latter.

ARTICLE 4. In consideration of the above session, the United States agree to pay to the said tribes and bands the sum of thirty-two thousand five hundred dollars, in the following manner, that is to say: For the first year after the ratification hereof, three thousand two hundred and fifty dollars; for the next two years, three thousand dollars each year; for the next three years, two thousand dollars each year; for the next four years fifteen hundred dollars each year; for the next five years twelve hundred dollars each year; and for the next five years one thousand dollars each year; all which said sums of money shall be applied to the use and benefit of the said Indians, under the direction of the President of the United States, who may from time to time determine, at his discretion, upon what beneficial objects to expend the same. And the superintendent of Indian affairs, or other proper officer, shall each year inform the President of the wishes of said Indians in respect thereto.

ARTICLE 5. To enable the said Indians to remove to and settle upon their aforesaid reservations, and to clear, fence, and break up a sufficient quantity of land for cultivation, the United States further agree to pay the sum of three thousand two hundred and fifty dollars, to be laid out and expended under the direction of the President, and in such manner as he shall approve.

ARTICLE 6. The President may hereafter, when in his opinion the interests of the Territory may require, and the welfare of the said Indians be promoted, remove them from either or all of said reservations to such other suitable place or places within said Territory as he may deem fit, on remunerating them for their improvements and the expenses of their removal, or may consolidate them with other friendly tribes or bands. And he may further, at his discretion, cause the whole or any portion of the lands hereby reserved, or of such other land as may be selected in lieu thereof, to be surveyed into lots, and assign the same to such individuals or families as are willing to avail themselves of the privilege, and will locate on the same as a permanent home, on the same terms and subject to the same regulations as are provided in the sixth article of the treaty with the Omahas, so far as the same may be applicable. Any substantial improvements heretofore made by any Indian, and which he shall be compelled to abandon in consequence of this treaty, shall be valued under the direction of the President, and payment be made accordingly therefor.

ARTICLE 7. The annuities of the aforesaid tribes and bands shall not be taken to pay the debts of individuals.

ARTICLE 8. The aforesaid tribes and bands acknowledge their dependence on the Government of the United States, and promise to be friendly with all citizens thereof, and pledge themselves to commit no depredations on the property of such citizens. And should any one or more of them violate this pledge, and the fact be satisfactorily proved before the agent, the property taken shall be returned, or in default thereof, or if injured or destroyed, compensation may be made by the Government out of their annuities. Nor will they make war on any other tribe except in self-defence, but will submit all matters of difference between them and other Indians to the Government of the United States, or its agent, for decision, and abide thereby. And if any of the said Indians commit any depredations on any other Indians within the Territory, the same rule shall prevail as that prescribed in this article, in cases of depredations against citizens. And the said tribes agree not to shelter or conceal offenders against the laws of the United States, but to deliver them up to the authorities for trial.

ARTICLE 9. The above tribes and bands are desirous to exclude from their reservations the use of ardent spirits, and to prevent their people from drinking the same; and therefore it is provided, that any Indian belonging to said tribes, who is guilty of bringing liquor into said reservations, or who drinks liquor, may have his or her proportion of the annuities withheld from him or her for such time as the President may determine.

general agency for the district of Puget's Sound, within one year from the ratification hereof, and to support, for a period of twenty years, an agricultural and industrial school, to be free to children of the said tribes and bands, in common with those of the other tribes of said district, and to provide the said school with a suitable instructor or instructors, and also to provide a smithy and carpenter's shop, and furnish them with the necessary tools, and employ a blacksmith, carpenter, and farmer, for the term of twenty years, to instruct the Indians in their respective occupations. And the United States further agree to employ a physician to reside at the said central agency, who shall furnish medicine and advice to their sick, and shall vaccinate them; the expenses of the said school, shops, employées, and medical attendance, to be defrayed by the United States, and not deducted from the annuities.

ARTICLE 11. The said tribes and bands agree to free all slaves now held by them, and not to purchase or acquire others hereafter.

ARTICLE 12. The said tribes and bands finally agree not to trade at Vancouver's Island, or elsewhere out of the dominions of the United States; nor shall foreign Indians be permitted to reside in their reservations without consent of the superintendent or agent.

ARTICLE 13. This treaty shall be obligatory on the contracting parties as soon as the same shall be ratified by the President and Senate of the United States.

In testimony whereof, the said Isaac I. Stevens, governor and superintendent of Indian Affairs, and the undersigned chiefs, headmen, and delegates of the aforesaid tribes and bands, have hercunto set their hands and seals at the place and on the day and year hereinbefore written.

Isaac I. Stevens, [L. s.]

Governor and Superintendent Territory of Washington.

|                                |         |                                |         |
|--------------------------------|---------|--------------------------------|---------|
| Qui-ce-metl, his x mark.       | [L. s.] | Klo-out, his x mark.           | [L. s.] |
| Sno-ho-dumget, his x mark.     | [L. s.] | Se-uch-ka-nam, his x mark.     | [L. s.] |
| Leah-high, his x mark.         | [L. s.] | Ske-mah-han, his x mark:       | [L. s.] |
| Slip-o-elm, his x mark.        | [L. s.] | Wnts-un-a-pum, his x mark.     | [L. s.] |
| Kwi-ats, his x mark.           | [L. s.] | Quuts-a-tadin, his x mark.     | [L. s.] |
| Stee-high, his x mark.         | [L. s.] | Quut-a-heh-miten, his x mark.  | [L. s.] |
| Di-a-keh, his x mark.          | [L. s.] | Yah-leh-chn, his x mark.       | [L. s.] |
| Hi-ten, his x mark.            | [L. s.] | To-lahl-kut, his x mark.       | [L. s.] |
| Squa-ta-hun, his x mark.       | [L. s.] | Yul-lout, his x mark.          | [L. s.] |
| Kahk-tae-min, his x mark.      | [L. s.] | See-ahts-oot-soot, his x mark. | [L. s.] |
| Sonan-o-yutl, his x mark.      | [L. s.] | Ye-takho, his x mark.          | [L. s.] |
| Kl-tehp, his x mark.           | [L. s.] | We-po-it-ee, his x mark.       | [L. s.] |
| Sahl-ko-min, his x mark.       | [L. s.] | Kah-ald, his x mark.           | [L. s.] |
| T'bet-ate-heh-bit, his x mark. | [L. s.] | La'h-hom-kan, his x mark.      | [L. s.] |
| Tcha-hous-tan, his x mark.     | [L. s.] | Pah-how-at-ieh, his x mark.    | [L. s.] |
| Ke-cha-hat, his x mark.        | [L. s.] | Swe-yehm, his x mark.          | [L. s.] |
| Spee-peh, his x mark.          | [L. s.] | Sah-hwill, his x mark.         | [L. s.] |
| Swe-yah-tum, his x mark.       | [L. s.] | Se-kwaht, his x mark.          | [L. s.] |
| Cha-achah, his x mark.         | [L. s.] | Kah-huni-klt, his x mark.      | [L. s.] |
| Pich-kehld, his x mark.        | [L. s.] | Yah-kwo-bah, his x mark.       | [L. s.] |
| S'Klah-o-sum, his x mark.      | [L. s.] | Wut-ash-le-wun, his x mark.    | [L. s.] |
| Sah-le-tatl, his x mark.       | [L. s.] | Sah-ba-hat, his x mark.        | [L. s.] |
| See-lup, his x mark.           | [L. s.] | Tel-e-kish, his x mark.        | [L. s.] |
| E-la-kah-ka, his x mark.       | [L. s.] | Swe-keh-nam, his x mark.       | [L. s.] |
| Slug-yeh, his x mark.          | [L. s.] | Sit-oo-ah, his x mark.         | [L. s.] |
| Hi-nuk, his x mark.            | [L. s.] | Ko-quel-a-cut, his x mark.     | [L. s.] |
| Ma-mo-nish, his x mark.        | [L. s.] | Jack, his x mark.              | [L. s.] |
| Cheels, his x mark.            | [L. s.] | Keh-kise-bel-lo, his x mark.   | [L. s.] |
| Knutcanu, his x mark.          | [L. s.] | Go-yeh-hn, his x mark.         | [L. s.] |
| Bats-ta-kobe, his x mark.      | [L. s.] | Sah-putah, his x mark.         | [L. s.] |
| Win-ne-ya, his x mark.         | [L. s.] | William, his x mark.           | [L. s.] |

Executed in the presence of us—

M. T. Simmons, Indian agent.  
 James Doty, secretary of the commission.  
 C. H. Mason, secretary Washington Territory.  
 W. A. Slaughter, first lieutenant, Fourth Infantry.  
 James McAlister,  
 E. Giddings, jr.  
 George Shazer,  
 Henry D. Cock,

S. S. Ford, jr.,  
 John W. McAlister,  
 Clovington Cushman,  
 Peter Anderson,  
 Samuel Klady,  
 W. H. Pullen,  
 P. O. Hough,  
 E. R. Tyerall,  
 George Gibbs,  
 Benj. F. Shaw, interpreter,  
 Hazard Stevens.

## DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

**Intent To Prepare an Environmental Impact Statement for the Proposal To Lease Approximately 1,000 acres of the Ft. Mojave Indian Reservation, Nevada for a Mixed Residential, Commercial and Recreational Project**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of intent and public scoping meetings.

**SUMMARY:** This notice advises the public that the Bureau intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for the proposal to lease approximately 1,000 acres of the Ft. Mojave Indian Reservation, Nevada, for a mixed residential, commercial and recreational project in Clark County. Public scoping meetings will be held to receive input and questions from members of the public regarding this proposal and preparation of this EIS. This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

**DATES:** Written comments should be received on or before January 30, 1989.

Scoping meetings to identify issues and alternatives to be evaluated in the EIS will be held on Tuesday, January 10, 1989, at the Mojave High School, 1414 Hancock Road, Riveria (Bullhead City area) Arizona, at 7:00 pm. and on Wednesday, January 11, 1989, at the Fort Mojave Indian Tribal Chambers, 500 Merriman, Needles, California, at 7:00 pm. Comments and participation in the scoping process are solicited and should be directed to the BIA at the address provided below or to Carter Associates, Inc., Attention: Ms. Leslie J. Stafford, 5080 North 40th Street, Suite 300, Phoenix, Arizona 85018.

Significant issues to be covered during the scoping process include biotic; archeological, cultural and historic sites; socioeconomic conditions; visual and land use; air and water quality; and resource use patterns.

**ADDRESSES:** Comments should be addressed to Mr. Wilson Barber Jr., Area Director, Phoenix Area Office, Bureau of Indian Affairs, P.O. Box 10, Phoenix, Arizona 85001.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy L. Heuslein, Area

Environmental Protection Specialist, Bureau of Indian Affairs, Phoenix Area Office, P.O. Box 10, Phoenix, Arizona 85001, telephone (602) 241-2281 or FTS 281-2281.

**SUPPLEMENTARY INFORMATION:** The Bureau of Indian Affairs, in cooperation with the Ft. Mojave Indian Tribe, will prepare an Environmental Impact Statement (EIS) on a proposed lease site located on the Ft. Mojave Indian Reservation on the Nevada side of the Colorado River north of the junction of Nevada, California and Arizona. The proposed lease would include approximately 1,000 acres of mixed residential, commercial and recreational development. The current proposal is divided into two phases of development. The first phase would include one hotel with approximately 150 rooms, 500 residential units, and an artificial lake of approximately 40 acres. The second phase would include two hotels, one with approximately 300 rooms and one with about 800 rooms, 1,000 residential units, lake expansion to a total of 75 acres, and an 18-hole golf course. The Ft. Mojave Indian Tribe had identified this area as a future new townsite as early as 1955 and more recently adopted land use plans which support this type of development.

Information describing the proposed action will be sent to the appropriate Federal, tribal, state and local agencies and to private organizations and citizens expressing an interest in this proposal.

The principal alternatives identified are to build the project as planned, not to build the project, build a smaller project, use a different location, or use the land for other purposes. Potential Environmental Impacts that may be of concern are to Water Resources, Biological Resources and Transportation.

This notice is published pursuant to § 1501.7 of the Council of Environmental Quality regulations (40 CFR Parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 *et seq.*), Department of the Interior Manual (516 DM 1-6) and is in the exercise of authority delegated by the Secretary of the Interior to the Deputy Assistant Secretary-Indian Affairs by 209 DM 8.

Date: December 20, 1988.

W.P. Ragdale,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 88-29904 Filed 12-28-88; 8:45 am]

BILLING CODE 4310-02-M

**Indian Entities Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the annual update of the list of entities recognized and eligible for funding and services from the Bureau of Indian Affairs is published pursuant to 25 CFR Part 83.

**FOR FURTHER INFORMATION CONTACT:** Bureau of Indian Affairs, Division of Tribal Government Services, 18th & C Streets NW., Washington, DC 20240, telephone number: (202) 343-7445.

**SUPPLEMENTARY INFORMATION:** This notice is published in exercise of authority delegated to the Assistant Secretary-Indian Affairs under 25 U.S.C. 2 and 9 and 209 DM 8.

**Indian Tribal Entities\* Within the Contiguous 48 States Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs**

- Absentee-Shawnee Tribe of Indians of Oklahoma
- Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California.
- Ak Chin Indian Community of Papago Indians of the Maricopa, Ak Chin Reservation, Arizona
- Alabama and Coushatta Tribes of Texas—Alabama-Quassarte Tribal Town of the Creek Nation of Oklahoma
- Alturas Rancheria of Pit River Indians of California
- Apache Tribe of Oklahoma
- Arapahoe Tribe of the Wind River Reservation, Wyoming
- Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana
- Augustine Band of Cahuilla Mission Indians of the Augustine Reservation, California
- Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin
- Bay Mills Indian Community of the Sault Ste. Marie Band of Chippewa Indians, Bay Mills Reservation, Michigan
- Barry Creek Rancheria of Maidu Indians of California
- Big Lagoon Rancheria of Smith River Indians of California
- Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California
- Big Sandy Rancheria of Mono Indians of California
- Big Valley Rancheria of Pomo & Pit River Indians of California
- Blackfeet Tribe of the Blackfeet Indian Reservation of Montana
- Blue Lake Rancheria of California

\* Includes within its meaning Indian tribes, bands, villages, communities and pueblos as well as Alaska Native entities.



- Mescalero Apache Tribe of the Mescalero Reservation, New Mexico
- Miami Tribe of Oklahoma
- Miccosukee Tribe of Indians of Florida
- Middletown Rancheria of Pomo Indians of California
- Minnesota Chippewa Tribe, Minnesota (Six component Reservations: Bois Forte Band (Nett Lake), Fond du Lac Band, Grand Portage Band, Leech Lake Band, Mille Lacs Band, White Earth Band)
- Mississippi Band of Choctaw Indians, Mississippi
- Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada
- Modoc Tribe of Oklahoma
- Mooretown Rancheria of Maidu Indians of California
- Moronogo Band of Cabuilla Mission Indians of the Morongo Reservation, California
- Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington
- Narragansett Indian Tribe of Rhode Island
- Navajo Tribe of Arizona, New Mexico and Utah
- Nex Perce Tribe of Idaho
- Nisqually Indian Community of the Nisqually Reservation, Washington
- Nooksack Indian Tribe of Washington
- Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana
- Northfork Rancheria of Mono Indians of California
- Northwestern Band of Shoshoni Indians of Utah (Washakie)
- Ogala Sioux Tribe of the Pine Ridge Reservation, South Dakota
- Omaha Tribe of Nebraska
- Oneida Nation of New York
- Oneida Tribe of Wisconsin
- Ojibwa Nation of New York
- Osage Tribe of Oklahoma
- Ottawa Tribe of Oklahoma
- Otoe-Missouria Tribe of Oklahoma
- Paiute Indian Tribe of Utah
- Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California
- Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada
- Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California
- Pala Band of Luiseno Mission Indians of the Pala Reservation, California
- Pascua Yaqui Tribe of Arizona
- Passamaquoddy Tribe of Maine
- Pauma Band of Luiseno Mission Indians of the Pauma & Yuma Reservation, California
- Pawnee Indian Tribe of Oklahoma
- Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California
- Penobscot Tribe of Maine
- Peoria Tribe of Oklahoma
- Picayune Rancheria of Chukchansi Indians of California
- Pineville Rancheria of Pomo Indians of California
- Pit River Tribe of California (includes Big Bend, Lookout, Montgomery Creek & Roaring Creek Rancheries & XL Ranch)
- Poarch Band of Creek Indians of Alabama
- Pocca Tribe of Indians of Oklahoma
- Port Gamble Indian Community of the Port Gamble Reservation, Washington
- Potter Valley Rancheria of Pomo Indians of California
- Prairie Band of Potawatomi Indians of Kansas
- Prairie Island Indian Community of Minnesota
- Minnesota Mdewakanton Sioux Indians of the Prairie Island Reservation, Minnesota
- Pueblo of Acoma, New Mexico
- Pueblo of Cochiti, New Mexico
- Pueblo of Jemez, New Mexico
- Pueblo of Isleta, New Mexico
- Pueblo of Laguna, New Mexico
- Pueblo of Nambe, New Mexico
- Pueblo of Picuris, New Mexico
- Pueblo of Pajarito, New Mexico
- Pueblo of San Felipe, New Mexico
- Pueblo of San Juan, New Mexico
- Pueblo of San Ildefonso, New Mexico
- Pueblo of Sandia, New Mexico
- Pueblo of Santa Ana, New Mexico
- Pueblo of Santa Clara, New Mexico
- Pueblo of Santo Domingo, New Mexico
- Pueblo of Taos, New Mexico
- Pueblo of Tesuque, New Mexico
- Pueblo of Zia, New Mexico
- Puyallup Tribe of the Puyallup Reservation, Washington
- Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada
- Quapaw Tribe of Oklahoma
- Quartz Valley Rancheria of Karok, Shasta & Upper Klamath Indians of California
- Quechan Tribe of the Fort Yuma Indian Reservation, California
- Quileute Tribe of the Quileute Reservation, Washington
- Quinault Tribe of the Quinault Reservation, Washington
- Ramona Band or Village of Cabuilla Mission Indians of California
- Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
- Red Lake Band of Chippewa Indians of the Red Lake Reservation, Minnesota
- Redding Rancheria of Pomo Indians of California
- Redwood Valley Rancheria of Pomo Indians of California
- Reno-Sparks Indian Colony, Nevada
- Rincon Band of Luiseno Mission Indians of the Rincon Reservation, California
- Robinson Rancheria of Pomo Indians of California
- Rohnerville Rancheria of Bear River or Mattole Indians of California
- Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota
- Rumsy Indian Rancheria of Wintun Indians of California
- Sac & Fox Tribe of the Mississippi in Iowa
- Sac & Fox Tribe of Missouri in Kansas and Nebraska
- Sac & Fox Tribe of Oklahoma
- Saginaw Chippewa Indian Tribe of Michigan, Isabella Reservation
- Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona
- San Carlos Apache Tribe of the San Carlos Reservation, Arizona
- San Manuel Band of Serrano Mission Indians of the San Manuel Reservation, California
- San Pasqual Band of Diegueno Mission Indians of California
- Santa Rosa Indian Community of the Santa Rosa Rancheria, California
- Santa Rosa Band of Cabuilla Mission Indians of the Santa Rosa Reservation, California
- Santa Ynez Band of Chumash Mission Indians of the Santa Ysabel Reservation, California
- Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California
- Santee Sioux Tribe of the Santee Reservation of Nebraska
- Sauk-Sisseton Indian Tribe of Washington
- Sault Ste. Marie Tribe of Chippewa Indians of Michigan
- Seminole Nation of Oklahoma
- Seminole Tribe of Florida, Dania, Big Cypress & Brighton Reservations
- Seneca Nation of New York
- Seneca-Cayoga Tribe of Oklahoma
- Shskopee Mdewakanton Sioux Community of Minnesota (Prior Lake)
- Sheep Ranch Rancheria of Me-Wuk Indians of California
- Sherwood Valley Rancheria of Pomo Indians of California
- Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California
- Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington
- Shoshone Tribe of the Wind River Reservation, Wyoming
- Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho
- Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada
- Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota
- Skokomish Indian Tribe of the Skokomish Reservation, Washington
- Skull Valley Band of Goshute Indians of Utah
- Smith River Rancheria of California
- Soboba Band of Luiseno Mission Indians of the Soboba Reservation, California
- Sokoogon Chippewa Community of the Mole Lake Band of Chippewa Indians, Wisconsin
- Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado
- Spokane Tribe of the Spokane Reservation, Washington
- Squaxin Island Tribe of the Squaxin Island Reservation, Washington
- St. Croix Chippewa Indians of Wisconsin, St. Croix Reservation
- St. Regis Band of Mohawk Indians of New York
- Standing Rock Sioux Tribe of North & South Dakota
- Stockbridge-Munsee Community of Mobicain Indians of Wisconsin
- Stillaguamish Tribe of Washington
- Summit Lake Paiute Tribe of Nevada
- Suquamish Indian Tribe of the Port Madison Reservation, Washington
- Susanville Indian Rancheria of Paiute, Maidu, Pit River & Washoe Indians of California
- Swinomish Indians of the Swinomish Reservation, Washington
- Sycuan Band of Diegueno Mission Indians of California
- Table Bluff Rancheria of Wiyot Indians of California
- Table Mountain Rancheria of California
- Tc-Moak Tribe of Western Shoshone Indians of Nevada
- Thlopthlocco Tribal Town of the Creek Nation of Oklahoma

Exhibit 4

CONSTITUTION AND BYLAWS  
of the  
SQUAXIN ISLAND TRIBE  
of the  
SQUAXIN ISLAND INDIAN RESERVATION, WASHINGTON

CONSTITUTION AND BYLAWS  
of the  
SQUAXIN ISLAND TRIBE  
of the  
SQUAXIN ISLAND INDIAN RESERVATION, WASHINGTON

PREAMBLE

We, the people of the Squaxin Island Indian Tribe of the Squaxin Island Indian Reservation in the State of Washington, in order to establish our tribal organization, to develop our community resources, to administer justice and to promote the economic and social welfare of ourselves and our descendants, do hereby establish this constitution and bylaws.

ARTICLE I - TERRITORY

The territory in which the Squaxin Island Tribe has a beneficial ownership interest includes that portion of the Squaxin Island Reservation remaining in an unallotted status at the time of the approval of this constitution and bylaws, and any other lands which may be acquired for or by, and held in the name of, the Squaxin Island Tribe. The jurisdiction of the tribe over such lands, and over the allotted lands within the original boundaries of the Squaxin Island Reservation, shall not be inconsistent with applicable Federal and State laws. However, nothing in this Article shall be construed as restricting the treaty hunting and fishing rights of members, including the right to fish in usual and accustomed places.

ARTICLE II - MEMBERSHIP

Section 1. The membership of the Squaxin Island Tribe shall consist of:

- (a) All persons of Indian blood whose names appear on the official census roll of the tribe as of January 1, 1940, and their children born between January 1, 1940, and the date of approval of this Constitution.
- (b) All original Squaxin Island Allottees and their direct descendants who are of 1/8 degree or more Indian blood.
- (c) All persons whose names appear on Charles Roblin's Schedule of Unenrolled Indians of the Squaxin Island Tribe as of January 1, 1919, and their direct descendants who are of 1/8 degree or more Indian blood.
- (d) Any persons who have relinquished their rights or membership in the Squaxin Island Tribe prior to the approval of this constitution and bylaws will be considered members of the Squaxin Island Tribe if, within one year from the date of approval of this constitution, they submit official evidence that they have given up their membership in any other tribe.

(e) All persons of 1/8 degree or more Indian blood born to any member of the Squaxin Island Tribe, after the date of approval of this constitution and bylaws.

(f) Corrections may be made in the tribal membership roll by the tribal council at any time, with the approval of the Secretary of the Interior or his authorized representative.

Sec. 2. An application for membership by adoption from any person of 1/8 degree or more Indian blood regardless of tribe, may be approved by a majority of members at a regular or special general council meeting, and must also be approved by the Secretary of the Interior.

### ARTICLE III - POWERS OF THE GOVERNING BODY

Section 1. The governing body of the Squaxin Island Indian Tribe shall be known as the Squaxin Island Tribal Council. The Council shall have the following powers and duties subject to any limitations imposed by applicable State laws or statutes of the United States and the regulations of the Secretary of the Interior:

(a) To negotiate with Federal, State and local governments and others on behalf of the tribe and to advise and consult with representatives of the United States government on all activities which may affect the tribe.

(b) To acquire, manage, lease, or use tribal real property and other tribal assets, together with all improvements which may be acquired by the tribe from the United States government or elsewhere, with the approval of the Secretary of the Interior wherever required by Federal law.

(c) To prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe.

(d) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior, so long as such approval is required by law.

(e) To advise the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Bureau of the Budget and the Congress.

(f) To administer any funds within the control of the tribe and to make expenditures of available funds for tribal purposes in accordance with a budget approved by the tribal council. All expenditures of the tribal funds under the control of the tribal council shall be made only by resolution duly approved by the tribal council in regular or special meetings, and the amount so expended shall be a matter of record available to all tribal members and to the Bureau of Indian Affairs at all reasonable times.

(g) To determine its own rules of procedures.

(h) To promulgate and enforce ordinances which shall be subject to review by the Secretary of the Interior governing the conduct of members of the Squaxin Island Indian Tribe regarding hunting, fishing, and shell fishing.

(i) To take such actions as are necessary to carry into effect any of the foregoing powers and duties.

#### ARTICLE IV - MANNER OF REVIEW

Section 1. Any resolution or ordinance, which by the terms of this constitution is subject to review by the Secretary of the Interior, shall within 10 days of its enactment be presented to the Superintendent or Officer in Charge of the Agency exercising jurisdiction, who shall within 15 days after its receipt, approve or disapprove it.

Sec. 2. If the Superintendent or Officer in Charge approves any resolution or ordinance which is subject to review, it shall thereupon become effective, but he shall transmit the enactment bearing his endorsement to the Secretary of the Interior, who may within 90 days of the receipt, rescind the resolution or ordinance for any cause by notifying the Squaxin Island Tribal Council of his veto.

Sec. 3. If the Superintendent or Officer in Charge disapproves any resolution or ordinance which is subject to review, he shall within 15 days after its receipt, advise the Squaxin Island Tribal Council of his reasons therefor, and if these reasons appear to the council insufficient, it may, by vote of the majority of all members, refer the resolution or ordinance to the Secretary of the Interior and if approved by him in writing, it shall become effective.

#### ARTICLE V - ELECTIONS

Section 1. The Squaxin Island Tribal Council shall consist of a Chairman, a Vice-Chairman, a Secretary, a Treasurer, and one member. All shall serve for a three-year term. Those officers and members elected at the annual meeting in January, 1965, shall form the first tribal council under this constitution and bylaws.

Sec. 2. Nominations for council positions shall be made from the floor and votes are to be cast for their election by secret ballot at the annual January meeting every third year. Procedures to be followed in this election will be in accordance with an electoral code adopted by the general council. There must be at least two candidates for each position and the candidate receiving the highest number of votes shall be elected.

Sec. 3. The election will take place after all annual reports and old business have been presented. Newly elected officers will assume their duties immediately and serve until their successors have been duly elected.

Sec. 4. Any enrolled member of the tribe, 21 years of age or older, shall have the right to vote; and provided he has been domiciled within a fifty-mile radius from any point on Squaxin Island for one year immediately preceding the election, he shall be eligible to serve on the tribal council.

Sec. 5. All election disputes, including the determination of the qualifications of any voter, if questioned, will be resolved by the general council.

#### ARTICLE VI - DUTIES OF OFFICERS

Section 1. The Chairman of the tribal council shall preside over tribal and general council meetings. He shall be allowed to vote only in case of a tie. He shall countersign all checks involving the expenditure of tribal funds and exercise any authorities specifically delegated to him by the tribal council. He shall sign all correspondence.

Sec. 2. The Vice-Chairman of the tribal council shall assist the Chairman when called upon to do so and in the absence of the Chairman, he shall preside. When so presiding, he shall have all the rights, privileges, and duties, as well as the responsibilities of the Chairman.

Sec. 3. The Secretary shall prepare all tribal correspondence and shall not sign notices or documents unless authorized by the tribal council. It shall be the duty of the Secretary to keep a complete and accurate record of all matters transacted at council meetings and to submit copies of minutes of all meetings of the tribal council and general council to the Western Washington Agency. He shall mail notices of special meetings to all qualified voters at least 10 days prior to such meetings.

Sec. 4. The Treasurer shall have custody of and be responsible for all funds in the control of the tribal council. The Treasurer shall deposit all funds in Federally insured banks as directed by the tribal

council and shall keep and maintain adequate and correct records of such funds and of business transactions of the tribe. The Treasurer shall report on all receipts and expenditures and the amount and nature of all funds on hand at the annual general council meeting, and upon the request of the tribal council. The Treasurer shall not pay out or authorize payment of any funds except when properly authorized to do so by a resolution of the tribal council. All checks shall be signed by the Treasurer and countersigned by the Chairman. The tribal council shall decide when the amount of funds being handled by the Treasurer has become large enough to justify the need for an annual audit. It shall then require that the books and records of the Treasurer be audited either by a competent auditor or by a Federal employee appointed by the Secretary of the Interior or his authorized representative. The Treasurer will be required to have a surety bond satisfactory to the tribal council and to the Superintendent of the Agency. The surety bond will be obtained at the expense of the Squaxin Island Indian Tribe.

Sec. 5. The tribal council shall appoint such committees and other personnel as required and shall outline their duties and responsibilities by proper resolution.

#### ARTICLE VII - VACANCIES AND REMOVAL

Section 1. If any member of the council shall die, resign, move from the area designated under Article V, Section 4 of this constitution, or shall be found guilty of a felony or misdemeanor involving dishonesty, in any Indian, Federal or State court, a vacancy in his office shall automatically be created and at its next regular or special meeting the tribal council shall appoint someone to fill the office until the next annual meeting, at which time a successor shall be elected pursuant to Article V to fill the office for the balance of the unexpired term.

Sec. 2. The members of the general council shall have the power to remove any member of the tribal council by filing a petition with the Secretary of the tribal council, signed by at least 50 percent of the eligible voters, asking for the removal of said member of the tribal council; provided, that no such person may be removed except at a special general council meeting at which he shall have an opportunity for a hearing. The vote of the qualified voters at such meeting will decide whether such person is to be removed; provided, that 50 percent or more of the eligible voters vote in favor of removal at such meeting which shall be held within 30 days after the filing of the petition.

## ARTICLE VIII - MEETINGS

Section 1. The tribal council shall hold meetings as called either in writing or verbally by the Chairman or three members of the council at any time when tribal business is to be transacted. No business shall be transacted unless a quorum of three voting members is present.

Sec. 2. There shall be an annual meeting of the general council on the second Sunday of January of each year. Special meetings of the general council may be called at the discretion of the Chairman, and shall be called by him at the request in writing of the majority of the tribal council, or by a written request of 30 percent of the members of the general council. At either the annual meeting or at special meetings of the general council, 30 percent of the eligible tribal voters must be present to constitute a quorum.

Sec. 3. The general council shall be composed of all tribal members who are at least 21 years of age.

## ARTICLE IX - REFERENDUM

Upon receipt of a petition of at least 50 percent of the eligible voters of the tribe, or upon the request of the majority of the members of the tribal council, the Chairman shall call a general council meeting to be held within 30 days of receipt of such petition or request, to consider any enacted or proposed ordinance or resolution and the vote of the majority of the qualified voters in such referendum will decide whether the enacted or proposed ordinance or resolution shall thereafter be in effect; provided that 50 percent or more of the eligible voters shall vote in such referendum.

## ARTICLE X - AMENDMENTS

Section 1. This constitution and bylaws may be amended by a majority vote of the qualified voters of the tribe voting at an election called for that purpose by the Secretary of the Interior; provided that at least 50 percent of those entitled to vote shall vote in such an election, but no amendment shall become effective until it shall have been approved by the Secretary of the Interior.

Sec. 2. It shall be the duty of the Secretary of the Interior to call such an election on any proposed amendment upon receipt of a petition signed by 50 percent of the qualified voters of the tribe, or by a majority of the tribal council

## ARTICLE XI - BILL OF RIGHTS

All members of the Squaxin Island Tribe shall be accorded equal rights pursuant to tribal law. No member shall be denied any of the



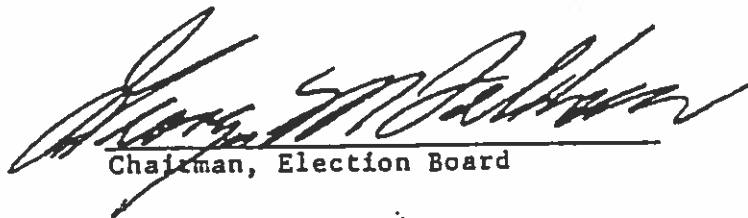
rights or guarantees enjoyed by non-Indian citizens under the Constitution of the United States, including, but not limited to, freedom of religion and conscience, freedom of speech, the right to orderly association or assembly, the right to petition for action or the redress of grievances, and due process of law.

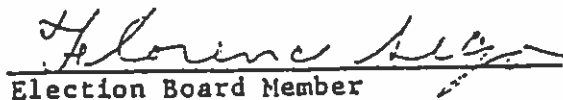
#### ARTICLE XII - ADOPTION

This constitution and bylaws, when adopted by a majority vote of the qualified voters of the Squaxin Island Tribe of Indians of Washington, voting at an election called for that purpose by the Secretary of the Interior, provided at least 30 percent of those entitled to vote shall vote in such an election, shall be submitted to the Secretary of the Interior, and if approved, shall be effective from the date of approval.

CERTIFICATE OF RESULTS OF ELECTION

Pursuant to an election authorized by the Secretary of the Interior on December 29, 1964 the attached Constitution and Bylaws of the Squaxin Island Tribe of the Squaxin Island Indian Reservation, Washington, was submitted to the qualified voters of the tribe and was on May 15, 1965, duly ~~rejected~~ <sup>adopted</sup> by a vote of 29 for and 8 against, in an election in which at least 30 percent of the 67 members entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

  
Chairman, Election Board

  
Election Board Member


  
Election Board Member

APPROVAL

I, \_\_\_\_\_, Stewart L. Udall Secretary of the Interior of the United States of America, by virtue of the authority granted me by the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Constitution and Bylaws of the Squaxin Island Tribe of the Squaxin Island Indian Reservation, Washington.

Approval recommended:

*James E. Office* JUN 15 1965  
Commissioner  
Bureau of Indian Affairs

  
Secretary of the Interior  
(SEAL)

Washington, D. C.

Date: ! JUL - 8 1965



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C. 20240

RECEIVED  
WESTERN WASH. INDIAN AGENCY  
EVERETT, WASH.

JUL 12 1965

Attn: \_\_\_\_\_

AIRMAIL

JUL - 8 1965

Through: Area Director, Portland

Dear Mr. Felshaw:

We have received the results of a referendum election held on May 15, by the qualified voters of the Squaxin Island Tribe of the Squaxin Island Indian Reservation, Washington. This election was called in accordance with Departmental Order approved December 29, 1964, to permit the eligible voters to vote on the adoption or rejection of the proposed Constitution and Bylaws of the Squaxin Island Tribe.

As evidenced by the Certificate of Results of Election, signed by you and members of the election board, the proposed constitution and bylaws was duly adopted by the voters of the Squaxin Island Tribe.

The constitution and bylaws, as approved, is hereby returned for delivery to the Squaxin Island Tribe.

Sincerely yours,

  
Secretary of the Interior

Mr. George M. Felshaw  
Superintendent, Western Washington Agency  
1620 Hewitt Avenue  
Everett, Washington

Enclosure

Noted JUL 9 1965



Acting Area Director

JUL 13 1965  
59-186-501-765

RECEIVED  
WESTERN WASH. INDIAN AGENCY  
EVERETT, WASH.

AUG 16 1965

.lfr \_\_\_\_\_

August 11, 1965

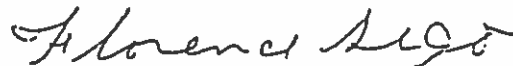
George M. Felshaw, Superintendent  
Western Washington Agency  
1620 Hewitt Avenue  
Everett, Washington 98201

Dear Mr. Felshaw:

We are forwarding attached hereto the original signed copy of the Constitution and Bylaws of the Squaxin Island Tribe for safekeeping.

We believe this to be in the best interest of the Squaxin Island Tribal Council as the Squaxin Island Tribe does not have a suitable office centrally located or files to retain such a valuable tribal document. You are requested to file the attached Constitution and Bylaws for ready reference. It is understood that this Tribal Constitution and Bylaws will be returned to the Squaxin Island Tribal Council upon request for its return by resolution of the Squaxin Island Tribal Council.


Sincerely yours,



Florence Sigo, Chairman  
Squaxin Island Tribal Council

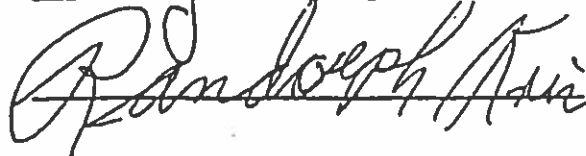
Enclosures

APPROVED:

 , Vice Chairman

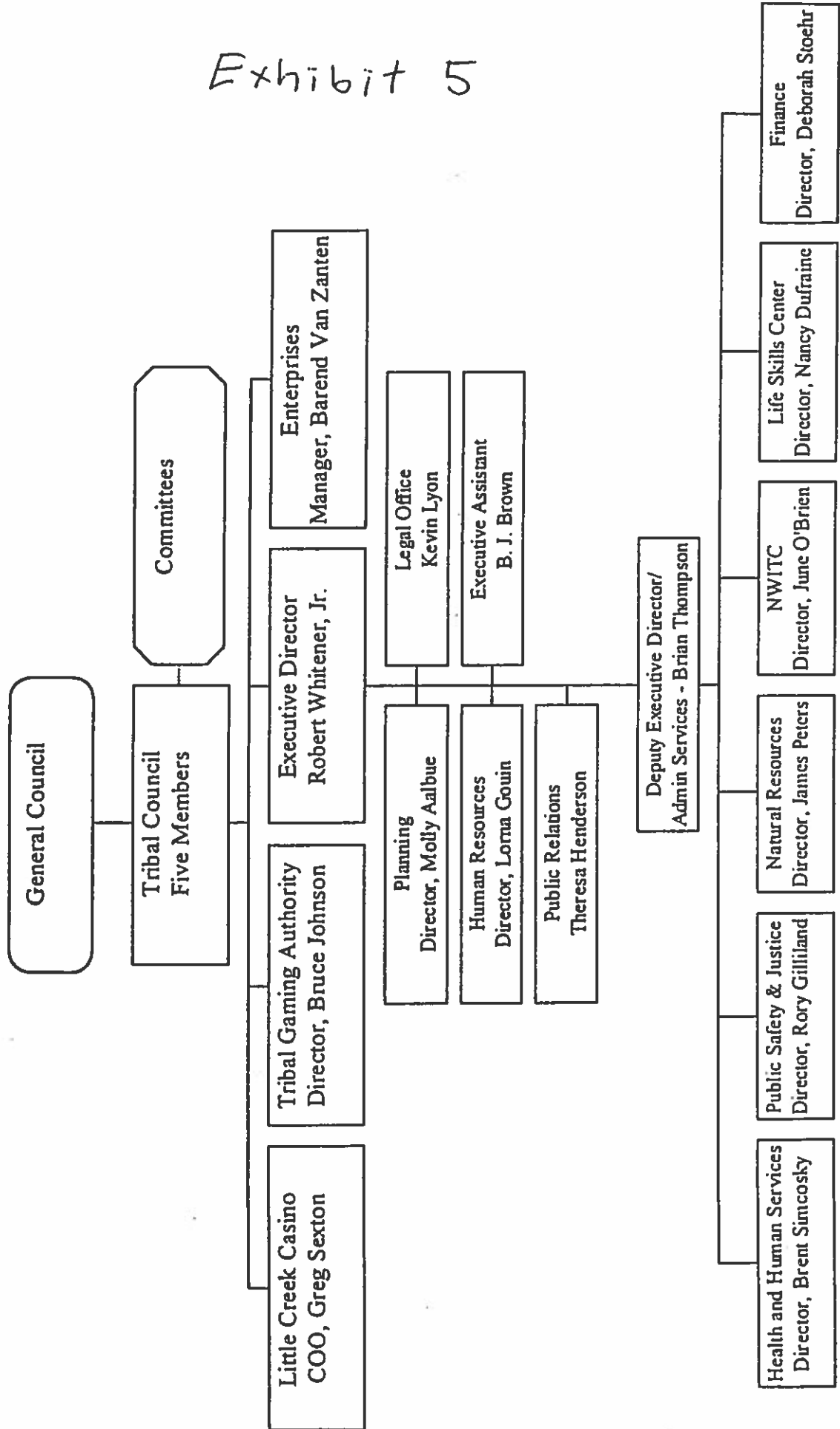
 , Secretary

 , Treasurer

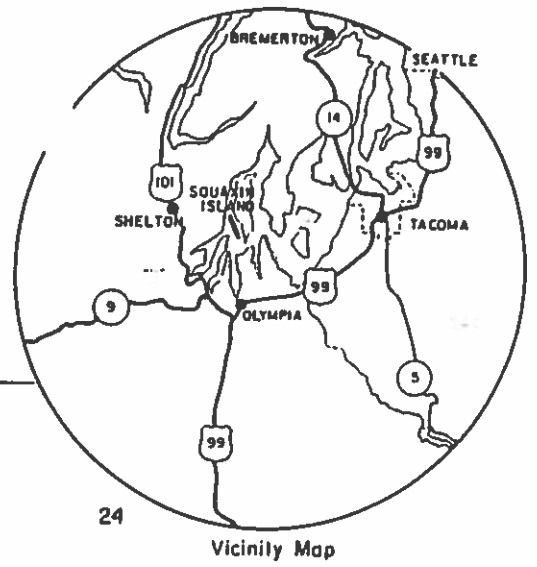
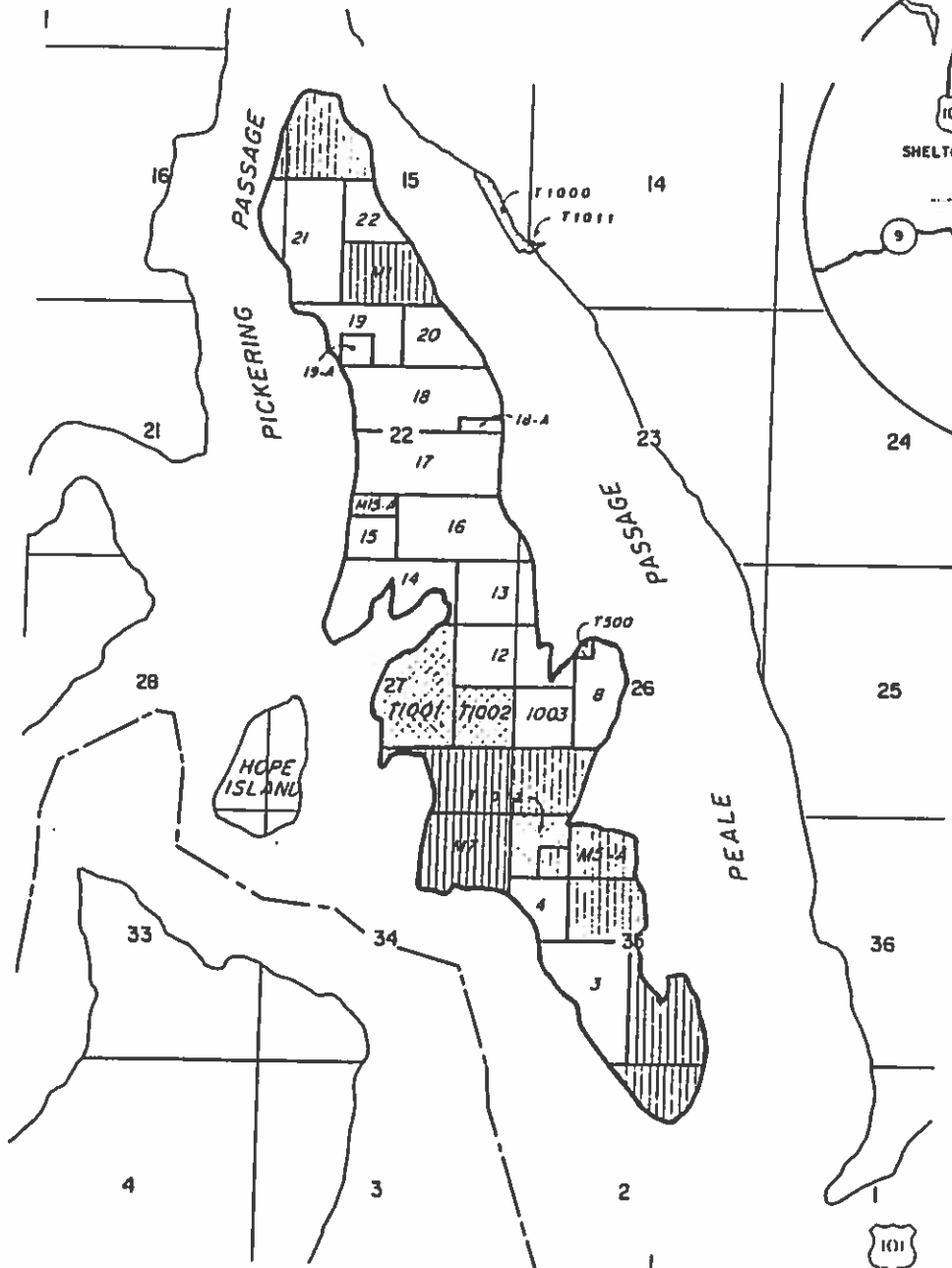
 Member

# Squaxin Island Tribe

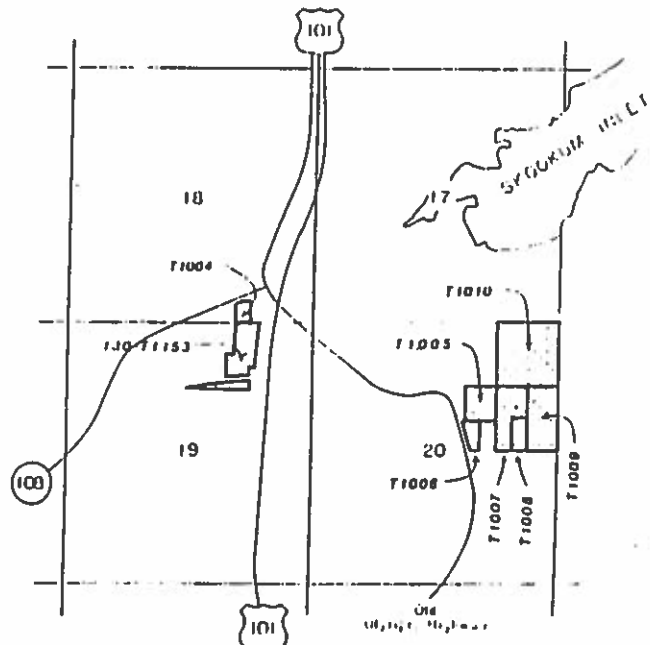
Exhibit 5



# Exhibit 6



TRIBAL LAND APART FROM  
MAIN RESERVATION



T. 19 N. R. 3 W.

# Exhibit 7

**ANALYSIS OF TRIBAL REGULATORY AUTHORITY  
OVER WATER POLLUTION SOURCES  
WITHIN THE  
SQUAXIN ISLAND INDIAN RESERVATION**

**By**

**The Squaxin Island Legal Department  
of the  
Squaxin Island Tribe of Indians**

**112 East Fourth Avenue - Suite 200  
Olympia, Washington 98501**

**Telephone: (360) 786-0970  
Facsimile: (360) 786-5034**



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3. FEDERAL INDIAN POLICY
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- 3, CONCLUSION

## 1. INTRODUCTION

This legal analysis is submitted in our capacity as legal counsel to the Squaxin Island Tribe of Indians ("Tribe"). The Tribe requested that this legal analysis be provided to the U.S. Environmental Protection Agency ("EPA"), pursuant to 40 C.F.R. Part 131.8(b)(3)(ii), in support of the Tribe's application for state-like treatment under the Clean Water Act ("CWA") Sections 303, 401 and 518 ("Application").<sup>1</sup>

For the reasons set forth below, the Squaxin Island Tribe has legal authority for state-like treatment by the EPA under CWA sections 106, 303, 401, and 518, as requested in the Tribe's application.

## 2. THE SQUAXIN ISLAND TRIBE'S ENVIRONMENTAL REGULATORY AUTHORITY

### 1.1 *The Squaxin Island Tribe.*

The Squaxin Island Tribe has existed in and around the head of Puget Sound since time immemorial. The Tribe is successor in interest to the bands that existed on Henderson Inlet, Budd Inlet, Eld Inlet, Totten/Skookum Inlet, Hammersley Inlet/Oakland Bay, and Case Inlet. *United States v. Washington*, 384 F.Supp. 312, 377-78 (W.D.Wash. 1974), *aff'd sub nom, Washington v. Washington Commercial Passenger Fishing Vessel Association*, 443 U.S. 658 (1978).

In 1854, the Squaxin Island Tribe and the United States agreed as separate

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<sup>1</sup> Pursuant to CWA Sections 106 and 518, tribal governments are authorized to access funds for water quality protection and administration. Pursuant to CWA Sections 303 and 518, tribal governments are authorized to establish water quality standards for surface waters. Pursuant to CWA Sections 401 and 518, tribal governments are authorized to issue certifications that discharges from facilities requiring federal licenses and permits will comply with applicable tribal water quality standards. CWA Section 518 authorizes EPA to treat tribes as states for purposes of certain specified sections of the CWA. *See* Final Rule, Amendments to Water Quality Standards Regulation That Pertain to Standards on Indian Reservations ("Final Rule"), 56 Federal Register ("Fed. Reg.") 64876 (December 12, 1991).

sovereigns to the Treaty of Medicine Creek. 10 Stat. 1132. The Treaty is a binding inter-sovereign agreement between the Tribe and the United States. *U.S. v. Washington*, 384 F.Supp. 312.

The Squaxin Island Tribe is organized as a governmental body under a Constitution approved by the tribal membership and the Secretary of the Interior on July 8th, 1965, and pursuant to Section 16 of the Indian Reorganization Act. 25 U.S.C. § 476 (1934).

The Squaxin Island Tribe is recognized by the United States as a distinct, sovereign tribal government with whom the United States maintains a government-to-government relationship. 53 Fed. Reg. 52829, 52831 (December 29, 1988). *See also, United States v. Washington*, 384 F.Supp. at 377.

#### 2.1 *The Squaxin Island Reservation.*

The original Squaxin Island Reservation was reserved pursuant to the Treaty of Medicine Creek. The treaty reserved all of what was known as Klah-Che-Min Island in 1854, and subsequently known as Squaxin Island. Included in the reservation were the tidelands adjacent to the Island, and those waters of Puget Sound midway between the Island and opposite shores.

In the years following the Treaty of Medicine Creek, the Squaxin Island Tribe acquired new trust lands through allotments pursuant to the General Allotment (Dawes) Act of 1887<sup>2</sup>, and through acquisition of fee uplands and tidelands and their subsequent conversion into trust status. A map of the reservation lands is attached to the Tribe's application.

The Tribe's application extends to all lands encompassed within the original Klah-Che-

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<sup>2</sup> Ch. 119, 24 Stat. 288, *codified as amended at* 25 U.S.C. §§ 331-334, 339, 341, 342, 348, 349, 354, 381.

Min Island Reservation and trust and restricted lands acquired after creation of the original Treaty reservation.<sup>3</sup>

### **2.3 Tribal Environmental Programs**

The Squaxin Island Tribe's Constitution authorizes the Squaxin Island Tribal Council to exercise substantial governmental powers and duties within the Squaxin Island Reservation. *See* Constitution, Article III, §1, which accompanies the Tribe's Application. A partial list of substantial governmental actions taken by the Tribe includes the following:

- a. Adoption of a Forest Practices Code, described in the Tribe's Application.
- b. Establishment of the Squaxin Island Environmental Division of the Natural Resources Department, described in the Application.
- c. Establishment of the Environmental Planning Division of the Tribal Planning Department, described in the Application.
- d. Establishment of the Squaxin Island Planning Commission, described in the Application.
- e. Adoption of the Squaxin Island Sanitary Code, described in the Application.
- f. Adoption of the Squaxin Island Tribal Utility Ordinance, described in the Application.
- g. Establishment of the Squaxin Island Utilities Commission, described in the

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<sup>3</sup> Within the original treaty reservation (Squaxin Island), there currently exists some parcels which have lost their trust or restricted status and now are in fee status. These lands are subject to tribal jurisdiction, a fact recognized in the Preamble which accompanied promulgation of EPA's Final Rule. The Rule explains, in general, why tribal governments have environmental jurisdiction to regulate water quality on reservation fee lands, as well as on reservation trust lands. 56 Fed. Reg. at 64877-78.

Application.

h. Establishment of the Squaxin Island Tribal Court, as described in the Tribe's Application. The Tribal Court's jurisdiction includes authority to review actions taken by Tribal administrative agencies enforcing Tribal environmental programs.

i. Participation in litigation and administrative proceedings to protect the habitat and environment of fishery resources secured by the Treaty of Medicine Creek. *E.g., United States v. Washington*, 384 F.Supp. 312.

As indicated by the foregoing, the Tribe has given the highest priority to protection, management and enhancement of environmental and natural resources on and around the Squaxin Island Reservation.

2.4 *The Squaxin Island Tribe has Authority to Receive Delegations From EPA Under CWA Sections 106, 303, 401, and 518.*

The Squaxin Island Tribe has inherent sovereignty to regulate activities of members and non-members on trust and restricted lands of the Tribe. The U.S. Supreme Court held in *Washington v. Confederated Colville Tribes*, 447 U.S. 134, 152-53 (1978), that all three branches of the federal government have a shared understanding that tribal governments have a broad measure of civil authority.

Pursuant to its Constitution, Article III, §1, the Tribe has authority to receive delegation of program authority from EPA under CWA Sections 106, 303, 401, and 518.

2.5 *EPA's Authority to Delegate Environmental Programs to the Squaxin Island Tribe.*

On trust and restricted land within the Squaxin Island Reservation, the Tribe and EPA have exclusive environmental regulatory authority. This is confirmed by general principles of

Indian law. *Bryan v. Itasca County*, 426, U.S. 373 (1976) (states lack regulatory authority over Indian reservations absent express congressional delegation of such authority); *Washington Department of Ecology v. U.S.E.P.A.*, 752 F.2d 1465 (9th Cir. 1985) (states are precluded from exercising environmental regulatory authority over Indian lands absent express congressional delegation of such authority).

Through CWA Section 518, Congress clarified EPA's authority to delegate environmental program authority on Indian reservations to tribal governments.<sup>4</sup> The Preamble to the Final Rule authorizing delegation to tribal governments of EPA programs under CWA Sections 303 and 401 recognizes that tribal governments have primary responsibility for protection of reservation water resources. 56 Fed. Reg. 64876, 64879 (Dec. 12, 1992). Since the Squaxin Island Tribe's Application applies to all lands within the Tribe's reservation, Section 518 of the CWA provide clear support for delegation of Section 106, 303 and 401 programs to the Tribe. EPA's statutory responsibility for implementing the CWA requires that EPA's determination to treat the Squaxin Island Tribe as a state for Section 106, 303, 401, and 518 program delegations be granted substantial deference. *Washington Dept. of Ecology v. U.S.E.P.A.*, 752 F.2d at 1469.

In sum, tribal and federal law provide the Squaxin Island Tribe and the United States with exclusive environmental regulatory authority over water quality on trust and restricted land within the Tribe's reservation. The CWA provides ample authority for the Squaxin Island Tribe to receive state-like treatment by EPA for delegation of Section 303 and 401 programs.

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<sup>4</sup> Delegation of federal authority to the Squaxin Island Tribe under the CWA is appropriate since, as demonstrated above, the Tribe has independent governmental duties, powers and responsibilities within the reservation boundaries. See, *United States v. Mazurie*, 419 U.S. 544, 556-57 (1976)

### 3. FEDERAL INDIAN POLICY

#### 3.1 *Federal Trust Obligation*

The federal government generally, and EPA in particular, have trust obligations to Indian Tribes. Federal common law recognizes that the Federal government's fiduciary obligation toward Indian Tribes incorporates protection of tribal resources. The trust obligation is particularly significant with regard to the Squaxin Island Tribe's water resources because of EPA's broad authority and responsibility to oversee the protection of the Tribe's natural resources under the CWA.

In *United States v. Mitchell*, 463 U.S. 206 (1983), the Supreme Court found that the Federal government owed fiduciary obligations to the Quinault Tribe due to the Government's management of tribal forest resources. The Court stated that "[a] fiduciary relationship necessarily arises when the Government assumes such elaborate control over forests and property belonging to Indians." 463 U.S. at 225. EPA's management and control of the Tribe's waters under the CWA evidences similar comprehensive control over the Squaxin Island Tribe's water resources.<sup>5</sup> The method that Congress identified for partial fulfillment of this trust obligation is to assist the Tribe in development and implementation of delegable Federal environmental programs.

#### 3.2 *General Federal Indian Policies*

The Squaxin Island Tribe's assertion of regulatory control over water quality is also consistent with Indian policies of the United States Government. Federal policy supporting the tribal authority to protect water quality within reservation boundaries extends the mandate of the

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<sup>5</sup> See also, *Department of Ecology v. U.S.E.P.A.*, 752 F.2d 1465 (9th Cir. 1985); *Blue Legs v. United States BIA*, 867 F.2d 1094 (8th Cir. 1989).

CWA. In turn, this creates a federal policy mandate that the Tribe has the authority for, and opportunity to receive, CWA program delegations from EPA.

In 1983, President Reagan endorsed the twin themes of Tribal self-government and economic self sufficiency. He defined Federal Indian Policy in the following manner:

Tribal governments, like state and local governments, are more aware of the needs and desires of their citizens than is the Federal Government and should, therefore, have the primary responsibility for meeting those needs... our policy is to reaffirm dealing with Indian Tribes on a government-to-government basis and to pursue the policy of self-government of Indian tribes without threatening termination. (Emphasis added).<sup>6</sup>

In furtherance of this policy, EPA promulgated its Indian Policy in November of 1984. EPA's Indian Policy acknowledges the primary role of Tribal Governments in the implementation of tribal and federal environmental law within the exterior boundaries of their reservations. EPA further developed this policy in November 1985, by adopting its Interim Implementation Strategy.<sup>7</sup>

In 1991, EPA reviewed its 1984 Indian Policy. On behalf of the Puyallup Tribe (a co-signatory with the Squaxin Island Tribe to the Treaty of Medicine Creek), the Du Bey Law Firm submitted comments to EPA requesting the Agency to reassert its commitment to support Tribal Governments in the administration of environmental programs within Indian reservations.<sup>8</sup> On

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<sup>6</sup> President Reagan, Statement of Indian Policy, 19 WEEKLY COMP. PRES. DOC. 98 (January 24, 1983); *See also*, President Nixon, Statement of Indian Policy, 6 WEEKLY COMP. PRES. DOC., 894 (July 1970) (promoting Indian self-determination and the right of Indian tribes to improve their social and economic well being.)

<sup>7</sup> Office of Federal Activities, Office of External Affairs, Interim Strategy for the Implementation of the EPA Indian Policy, p. 11 (November 1985).

<sup>8</sup> A copy of the comment letter submitted by the Du Bey Law Firm to EPA on behalf of the Puyallup Tribe of Indians accompanies this Memorandum as Attachment I.



July 10, 1991, EPA Administrator William K. Reilly issued a memorandum reaffirming EPA's 1984 Indian Policy. In his memorandum, Administrator Reilly stated that the Agency should strengthen tribal capacity for environmental management.<sup>9</sup>

Congress codified EPA's Indian Policy by authorizing Indian Tribes to participate in federal environmental programs in the same manner as states. Like states, Indian Tribes are eligible for environmental programs delegations under the CWA, the Safe Drinking Water Act, the Clean Air Act, and contractual enforcement agreements with EPA under Superfund.<sup>10</sup>

Congressional and Executive support for Tribal activities implementing environmental protection programs is consistent with the fiduciary obligation the federal government has to support and protect tribal interests.<sup>11</sup> The Squaxin Island Tribe's authority to manage and protect water quality within the exterior boundaries of the Reservation is recognized and supported by Federal Indian policy.

#### 4. CONCLUSION

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<sup>9</sup> A copy of the Administrator's Memorandum accompanies this Memorandum as Attachment 2.

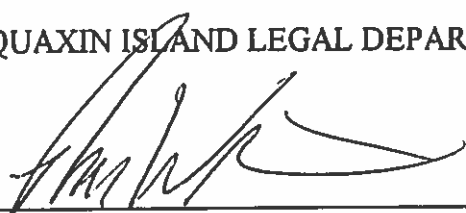
<sup>10</sup> The Clean Water Act, 33 U.S.C. §1377; the Safe Drinking Water Act, 42 U.S.C. §§ 300(f) and 300 (j)-11; The Clean Air Act, 42 U.S.C. §7601(d); the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA" or "Superfund"), 42 U.S.C. §9626. Other Federal environmental statutes provide Indian Tribes with opportunities to participate in environmental programs. *See also*, the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), 7 U.S.C. §136(u); The Nuclear Waste Policy Act of 1982, 42 U.S.C. §10121; the Uranium Mill Tailings Radiation Control Act of 1978, 42 U.S.C. §7915; the Surface Mine Control and Reclamation Act; 30 U.S.C. §1300; the Indian Environmental Regulatory Enhancement Act of 1990, P.L. 101-408; the National Historic Preservation Act, 16 U.S.C. § 470 a(d); and the Energy Policy Act of 1992, 25 U.S.C. §3501.

<sup>11</sup> *See, United States v. Kagama*, 118 U.S. 375, 383-84 (1886), *cited in Department of Ecology v. U.S.E.P.A.*, 752 F.2d at 1470.

In light of the analysis set forth above, we conclude that the Squaxin Island Tribe has ample legal authority to adopt and enforce water quality management and protection measures applicable to all waters and water pollution sources on lands within the Reservation. This authority is sufficient to allow EPA to approve the Squaxin Island Tribe's Application for state-like treatment under Sections 106, 303, 401 and 518 of the Clean Water Act.

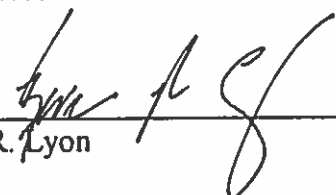
Respectfully submitted this 26th day of November, 1997.

SQUAXIN ISLAND LEGAL DEPARTMENT



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Ron J. Whitener



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Kevin R. Lyon



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue  
Seattle, Washington 98101

January 29, 1998

Reply To

Attn Of:

TO-149

David Whitener, Sr., Chairman  
Squaxin Island Tribe  
SE 70 Squaxin Lane  
Shelton, Washington 98584

Dear Chairman Whitener:

The Environmental Protection Agency (EPA) has reviewed the Squaxin Island Tribe's application for the Clean Water Act (CWA) Section 106 Water Pollution Control Program. In accordance with Section 518 of the CWA and implementing regulations found at 40 CFR Part 130, as amended, and 40 CFR Part 35.260(b), the application included a demonstration of the Tribe's eligibility to administer programs for the prevention, reduction and elimination of water pollution, including the development and implementation of ground-water protection strategies.

I am pleased to inform you that EPA has approved your eligibility under Section 518(e) of the CWA. However, before we can award a CWA Section 106 grant, the tribe needs to demonstrate that it has a tribal authority comparable to Section 504 of the CWA. The application did not provide enough information for EPA to make this determination.

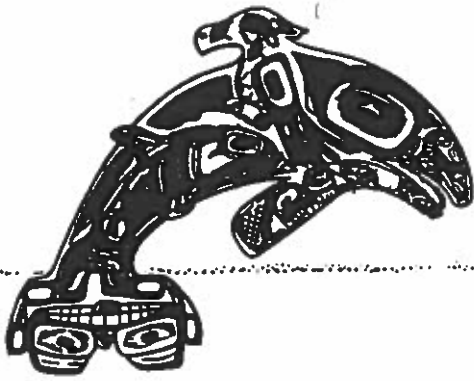
EPA Tribal Coordinator Robin Slate will be contacting your tribal environmental staff to discuss what types of information needs to be submitted. If you have further questions or for assistance, please contact Robin at (360) 753-9082. Or you may contact Rich McAllister in the Office of Regional Counsel at (206) 553-8203, or Alan Moomaw in the Tribal Office at (206) 553-1603.

Sincerely,

A handwritten signature in cursive script that reads "Chuck Clarke".

Chuck Clarke,  
Regional Administrator

cc: Environmental Contact w/attachments  
Robin Slate, EPA Tribal Coordinator



## SQUAXIN ISLAND TRIBE

February 17, 1998

Ms. Diane Boquist  
US Environmental Protection Agency  
Region 10  
1200 Sixth Avenue, MS TO-149  
Seattle, WA 98101

Dear Ms. Boquist:

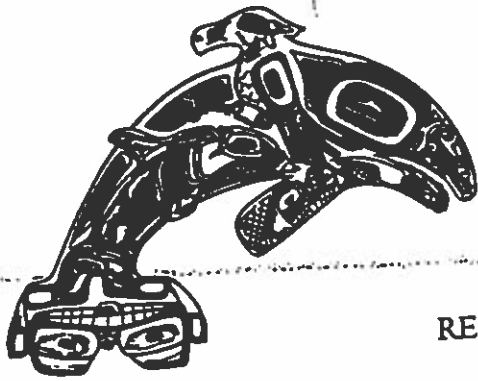
Enclosed, please find Resolution 98-11 of the Squaxin Island Tribal Council to be added to the Tribe's "Treatment as a State" application. The resolution authorizes specified Tribal officials to exercise certain emergency powers to enforce environmental laws. This resolution was requested by Robin Slate to complete the Tribe's application for "Treatment as a State" under the Clean Water Act.

Please forward copies of the resolution to the appropriate federal officials involved in reviewing the Tribe's TAS application.

Sincerely,

A handwritten signature in black ink, appearing to read "David G. Frey". The signature is written in a cursive, flowing style.

David G. Frey  
Community Planner



# SQUAXIN ISLAND TRIBE

## RESOLUTION NO. 98- 11 Of The SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and approved by the Secretary of the Interior on July 8, 1965; and,

WHEREAS, under the Constitution and Bylaws of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, and general welfare of the Squaxin Island Tribal Reservation residents; and,

WHEREAS, the Squaxin Island Tribal Council, pursuant to Article 3 of the Treaty of Medicine Creek, reaffirms that "the right of taking fish, at all usual and accustomed grounds and states is further secured to said Indians in common with all citizens..." and,

WHEREAS, the Squaxin Island Tribal Council has applied for "treatment in a manner similar to a state" (TAS) in order to receive EPA funding for certain Clean Water Act program activities; and,

WHEREAS, the Squaxin Island Tribal Council recognizes that submission of an application for TAS requires that the Squaxin Island Tribe demonstrate that it has the ability to respond to and abate any discharges of pollutants to the waters of the U.S. over which the Tribe exercises legitimate legal authority; and,

WHEREAS, such emergency response authority is essential to the protection of the water resources upon which the Squaxin Island Tribal Members depend for their health, security, and general welfare; and,

WHEREAS, the Squaxin Island Tribal Council finds that it is authorized and empowered to authorize the Tribal Chairperson and/or the Natural Resources Department Director to exercise certain emergency powers on behalf of the Squaxin Island Tribe in certain emergency circumstances.

NOW THEREFORE BE IT RESOLVED, that the Squaxin Island Tribal Council hereby authorizes the Tribal Chairperson and/or the Natural Resources Department Director to exercise the following emergency powers where the conditions dictate that immediate and necessary action as follows:

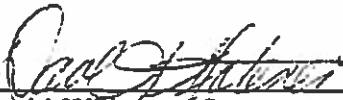
Squaxin Island Tribal Resolution No. 98-\_\_  
Page 1 of 3

The Tribal Chairperson or Natural Resources Department Director, upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of tribal members within the Tribe's established Reservation or Usual and Accustomed Areas, or to the welfare of tribal members where such endangerment is to the Reservation or Treaty resources utilized and managed by the Squaxin Island Tribe, bring suit on behalf of the Squaxin Island Tribe in the tribal court or other court with jurisdiction to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to such pollution or to take such other action as may be lawful and necessary.

For purposes of this resolution, pollution means those substances defined in Environmental Laws. "Environmental Laws" mean any and all present and future federal laws, statutes, ordinances, rules, regulations, relating to protection of human health and the environment from contaminants including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act, (42 USC 9601 *et seq.*), the Federal Clean Air Act (42 U.S.C. § 7401 *et seq.*) and the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*)


#### CERTIFICATION

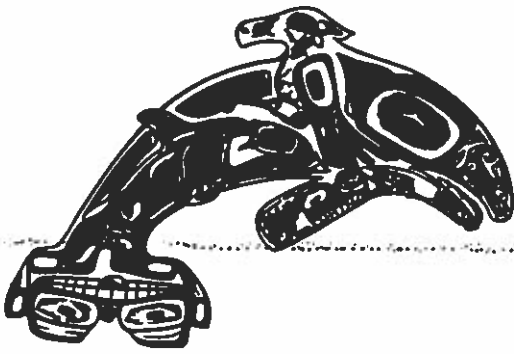
The Squaxin Island Tribal Council does hereby certify that the foregoing Resolution was adopted at a regular meeting of the Squaxin Island Tribal Council, held on this 12<sup>th</sup> day of February, 1998, at which a quorum was present and was passed by a vote of 3 for, and 0 against with 0 abstentions.

  
\_\_\_\_\_  
David Whitener, Sr.  
Tribal Chairman

  
\_\_\_\_\_  
Calvin Peters  
Vice Chairman

Attest:

  
\_\_\_\_\_  
Susan McFarlane  
Secretary



# SQUAXIN ISLAND TRIBE

## RESOLUTION NO. 00 - 12 of the SQUAXIN ISLAND TRIBAL COUNCIL

**WHEREAS**, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe, its members, its lands, its enterprises and its agencies by authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965; and

**WHEREAS**, the Tribe is a federally recognized Indian Tribe possessing reserved powers, including the powers of self-government; and

**WHEREAS**, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education and general welfare of tribal members, and with protecting and managing the lands and treaty resources and rights of the Tribe; and

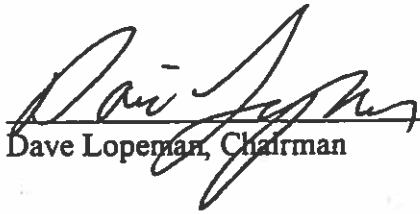
**WHEREAS**, the Squaxin Island Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill their duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe; and

**WHEREAS**, the Squaxin Island Tribal Council, pursuant to Article 3 of the Treaty of Medicine Creek reaffirms that "the right of taking fish, at all usual and accustomed grounds and stations is further secured to said Indians in common with all citizens ...;" and,

**WHEREAS**, the Squaxin Island Tribal Council observes that the State of Washington exercises responsibilities delegated by the U.S. EPA for certain waters of the U.S. under the Clean Water Act; and,

**WHEREAS**, the Squaxin Island Tribal Council, in order to secure the right of taking fish, at all usual and accustomed grounds and stations, by the descendents of parties to the Treaty of Medicine Creek in common with all citizens, participates with the State of Washington to manage water resource within certain waters of the U.S.; and,

00-12

  
\_\_\_\_\_  
Dave Lopeman, Chairman

Attested by:   
\_\_\_\_\_  
Sue McFarlane, Secretary

  
\_\_\_\_\_  
Cal Peters, Vice Chairman

template.res





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue  
Seattle, WA 98101

David Lopeman, Chairman  
Squaxin Island Tribe  
S.E. 3100 Old Olympic Highway Box 3  
Shelton, WA 98584

MAR 14 2000

Dear Mr. Lopeman,

EPA is pleased to approve the following documents, establishing eligibility for the Squaxin Island Tribe to receive funding under Section 319 of the Clean Water Act:  
1) Application for "treatment as state," 2) Nonpoint Source Assessment Report, and 3) Nonpoint Source Management Program. This approval is based on legal analysis of the "treatment as state" application by Regional Counsel, review and approval of documents by the Nonpoint Source Program in the Office of Ecosystems and Communities, and the experience of the Tribal Office.

Please note that we are specifically approving only those portions of these documents that *pertain to waters of a reservation*. We are interpreting this to mean that the Tribe may use CWA grant funds outside the Reservation or tribal trust lands if the eligible activity pertains to management of the waters within the Reservation or tribal trust lands, and this relationship is explained in its work plan. If the work plan includes such off-reservation activities, the grant agreement will condition the use of the funds on the Tribe obtaining necessary access agreements or permission to do such activities because the CWA does not provide additional authority over rights of access to off-reservation waters.

The nonpoint source assessment reports and management programs also include information and planned activities for waters in treaty-reserved "usual and accustomed" areas outside of reservations which tribes have traditionally used for hunting, fishing, and gathering. These may be important aspects of tribes' overall strategies to reduce the impacts of nonpoint source pollution on tribal resources. However, activities that do not pertain to waters of the reservation are outside the scope of tribal authority under section 518 of the CWA, as presently interpreted, and cannot be approved or funded.

Now that eligibility is established we will review your work plan which requests \$30,000 to support the base nonpoint source control program. You will be notified if revisions are necessary. Awards are anticipated for late May or June of this year. Congratulations. We look forward to working with you as you carry out your new Nonpoint Source Management Program.

Sincerely,

A handwritten signature in black ink that reads "Chuck Clarke". The signature is written in a cursive, flowing style.

Chuck Clarke  
Regional Administrator

cc: Kim Taylor