



LUMMI INDIAN BUSINESS COUNCIL

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DEPARTMENT _____ EXT: _____

RESOLUTION #93-135 OF THE LUMMI INDIAN BUSINESS COUNCIL

WHEREAS, the Lummi Indian Business Council is the duly constituted governing body of the Lummi Indian Reservation by the authority of the Constitution and By-Laws of the Lummi Nation of the Lummi Reservation, Washington, as approved on April 10, 1970, by the Assistant Commissioner of Indian Affairs; and

WHEREAS, the Lummi Indian Business Council has officially formulated a Lummi Flood Committee to coordinate technical and policy direction to various policy groups and for LIBC to make final decision; and

WHEREAS, the Lummi Nation and its members are dependent on the natural resources of the Nooksack Basin for cultural, spiritual, and economic subsistence; and

WHEREAS, In 1855, by the Treaty of Point Elliott, there was reserved a sufficient quantity of water to meet the future off and on reservation needs of the Lummi Indian Tribe and its members, and

WHEREAS, the reserved waters of the Lummi Nation are superior Water Rights which predate all other water users in the Nooksack Basin and on the Lummi Reservation, and

WHEREAS, existing and past land-uses and land-use practices upstream from the Reservation have affected both the magnitude and duration of flooding and have made key factors, such as sediment load worse. This has produced ever increasing levels of flood damage on the Lummi Reservation at the mouth of the Nooksack River; and

WHEREAS, this flooding has resulted in material damage to the natural resources reserved for the Lummi Nation under the Treaty of Point Elliott of 1855 and to tribal and private property on the Lummi Reservation; and

WHEREAS, federal, state, and local agencies and private diking districts are currently planning and constructing structural controls, such as levees, and are actively supporting gravel removal from the active channel with the intent to reduce flood damage on limited reaches of the Nooksack River and that these activities may produce negative impacts to the Lummi nation; and

WHEREAS, these flood control projects are being conducted in the

absence of a watershed scale comprehensive plan that addresses the man-made factors that make flood levels and damage to public resources worse, such as those outlined in the LIBC Resolution 90-19, and that these factors which contribute to flooding are not considered on an equal priority basis as are structural projects to control flood damage in the lower to mid reaches; and

WHEREAS, impacts from existing and past structural control methods have significantly reduced both available fish habitat and fish production in significant reaches of the Nooksack River; and

NOW THEREFORE BE IT RESOLVED, that only until such time as a coordinated flood control program, that addresses the control of flood waters and sediment at their source, and clearly incorporates the past, present, and future economic and cultural values of treaty resources into cost/benefit analysis, and which has been agreed to through government-to-government discussions between agents of the LIBC and appropriate federal, state, and local governments, will the Lummi Nation consider structural controls, but at no time will it approve structural control measures which threaten the safety and welfare of the reservation or treaty protected resources; and

BE IT FURTHER RESOLVED, that the following recommended objectives and needs must be addressed within this comprehensive plan:

1. Those land uses that proportionally contribute to flooding and flood related damage must be identified on a Nooksack Watershed scale;
2. Treaty resources that have been damaged by structural flood controls and by landuses that directly damage the resource by contributing to flooding must be identified, protected, and restored;
3. Preferred alternatives for flood damage reduction which weigh the benefits of resource protection more equitably must be developed and must place particular emphasis on non-structural and storm-water and sediment source control options;
4. The effects of projects on lower river navigation by fishing craft, on fish passage, and on harvest management must no be overlooked and the long-term projects effects must be addressed;
5. Any alternative proposed must reduce flood damage on and adjacent to the reservation and must include the community of Marietta;
6. Fish and wildlife habitats and productivity must be mitigated and/or restored in reaches currently impacted by levees, dikes, and gravel removal;
7. The effects of landuses (agriculture, urbanization, forestry) on natural stormwater retention must be assessed and natural flood storage in upper watershed basins and on and adjacent to the flood plain must be

preserved and/or increased to lesson flooding downstream at the mouth of the Nooksack River;

8. A stable long-term water supply in Kwina Slough, for Sea Ponds and Mamoya Ponds, and in the Red River must result.

BE IT FURTHER RESOLVED, that the Lummi Indian Business Council expresses its disappointment that the Army Corps of Engineers proposal did not include impacts to treaty resource in their cost/benefit analysis and did not take a watershed perspective in developing this plan; and

BE IT FURTHER RESOLVED, that the LIBC opposed the following alternatives proposed by the U.S. Army Corps as follows:

1. The structural controls (increased levee heights and newlevees) on the Nooksack River at Everson and Ferndale do not produce additional flood protection or benefit to the Lummi Reservation or treaty protected resources; and,
2. The proposed dam at Edfro Creek. This proposal would eliminate access and use of approximately 25 river miles of anadromous fish habitat already damaged by logging, including vital areas for the South Fork Spring Chinook (a critical stock), and would flood habitats critical to the survival of the Nooksack elk herd; and,
3. Gravel removal (dredging and scalping). Opposition may be modified if a comprehensive gravel removal plan is developed and if this comprehensive plan includes documented opportunities to benefit and restore fisheries resources, subject to Lummi Natural Resource review and agreement.

BE IT FURTHER RESOLVED, that upon approval of the above listed items by the Lummi Indian Business Council, or their designee, Merle Jefferson, Natural Resource Director, these recommendations shall become the official policy of the LIBC for the purpose of discussions with federal, state, and local agencies for use by designated policy staff of the Lummi Nation;

BE IT FURTHER RESOLVED, that the Chairman (or the Vice Chairman in his absence) is hereby authorized and directed to execute this resolution and any documents connected therewith, and the Secretary (or the Recording Secretary in his absence) is authorized and directed to execute the following certification.

LUMMI INDIAN NATION



Henry M. Cagey, Chairman
Lummi Indian Business Council

C E R T I F I C A T I O N

As Secretary of the Lummi Indian Business Council, I hereby certify that the above Resolution 93-135 was adopted at a special meeting of the Council held on the 10th day of September, 1993, at which time a quorum of 8 was present, and was adopted by a vote of 7 For, 0 Against, and 0 Abstention(s).

Mavis Bevey - Recording Secretary
Levi Jefferson Sr., Secretary
Lummi Indian Business Council