



# LUMMI INDIAN BUSINESS COUNCIL

2616 KWINA RD • BELLINGHAM, WASHINGTON 98226-9298 • (206) 734-8180

DEPARTMENT \_\_\_\_\_

EXT \_\_\_\_\_

## RESOLUTION #94-02 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 Tribe is a signatory party to the Treaty of Point Elliot, 12 Stat. 927, as negotiated between the United States, in accordance to the powers conferred to the President and Senate, under Article II, Section 2, Clause 2 of the 1787 U.S. Constitution, and as ratified and proclaimed in 1859, and such treaty is a 'supreme law of the land' under Article VI of said Constitution;

WHEREAS, Article 2 of said 1855 Treaty of Point Elliot specifically set aside the Lummi Indian Reservation for the exclusive use and occupancy for the tribe, as a permanent winter village, nor shall any white man be allowed to reside thereon without their permission and the superintendent's or his agent, and that such Lummi Reservation is the permanent home to the Lummi People and its future generations; and,

WHEREAS, the Lummi Indian Reservation has been assigned out into parcels of land for individual families, as authorized by the 7th Article of the Point Elliot Treaty (12 Stat. 927) in accordance to the 6th Article of the Treaty With The Omaha of 1854 (10 Stat. 1043), and that such assignments are permanently protected by Restricted Fee Patents, restricting ownership such that the land cannot be sold, forfeited, levied, or leased for a period of two years or longer, and such lands were to be inherited by the Indian heirs of the heads of households assigned said parcels of land on the Lummi Reservation; and,

WHEREAS, the jurisdiction over the land, natural resources, and rights of the Lummi Tribe, Indian people, and Reservation was addressed by the United States requirement for the State of Washington to have in its 1889 Constitution a Compact XXVI- by which the State declares that it does not have and shall not have jurisdiction over said Indian land, resources, rights, and reservations, as protected by the above mentioned Treaty of 1855, and said State of Washington has never amended its constitution to exclude, remove, or change said Compact XXVI and the same is as binding in the instant year as it was upon the State entry into the Union; and,

WHEREAS, in the landmark decision of United States v. Washington, 384 Fed. Supplement at 331, the federal district court found: "The right to resort to the [usual and accustomed] fishing places in controversy was a part of larger rights possessed by the Indians, upon the exercise of which there was not a shadow of impediment, and which were not much less necessary to

the existence of the Indians than the atmosphere they breathed. . . The treaty was not a grant of rights to the Indians but a grant of right from them- a reservation of those not granted." And, in this First Phase of the Decision the Court has ruled the Indians are entitled to fifty-percent of the harvestable stocks of all salmon (wild and hatchery stocks) and in the Second Phase the Court has ruled the Indians are entitled to have the Salmon/Fish Habitat protected from environmental degradation; and,

WHEREAS, the Lummi Reservation was not only established as an exclusive reserve of lands for the permanent home of the Indians, but was and is still a winter village site from which the tribal population bases all of its fishing rights operations throughout the usual and accustomed fishing grounds and stations and all other ceded territory of the Lummi; and,

WHEREAS, the U.S. Supreme Court had the opportunity to rule upon the right of Indian tribes and people to have all the water necessary to meet the needs and the intent of the establishment of the reservation, in the landmark case of Winters v. United States, 207 U.S. 564 (1908), and said water rights are superior and have prior appropriation rights above and beyond all citizens; and,

WHEREAS, the State of Washington, the U.S. Presidency, and the U.S. Congress have all declared, in separate statements, that it is their governmental policy to recognize, maintain, and respect the 'government-to-government' relationship with the Indian tribes/nations, and the Lummi Indian Nation is a strong advocate and supporter for the maintenance of the said policy statements and their implementation, especially in recognition that the Lummi Indian Nation is recognized as a 'Self-Governance' Tribe under federal legislation (P.L. 100-472, Title III); and,

WHEREAS, the United States has a long established "Trust Responsibility" to protect the interests, rights, and natural resources of the Indian people and tribes, and this "sacred trust of civilization" duty is recognized in all aspects of the U.S. national governance and perceived internationally as a duty the United States owes to its indigenous nations and peoples, and the Lummi Indian Nations water rights are also covered by said Trust Doctrine and Fiduciary obligations of the federal government; and,

NOW, THEREFORE, BE IT RESOLVED that the Lummi Indian Nation declares it a matter of self-governance policy to protect both the rights of the Lummi People to have their salmon and fish resources protected, the respective habitat throughout the usual and accustomed grounds and stations and the alleged ceded territory, and to assure and guarantee that the on-reservation and off-reservation water rights of its present and future generations are secured to the maximum quantity and quality without manmade interference and impacts; and

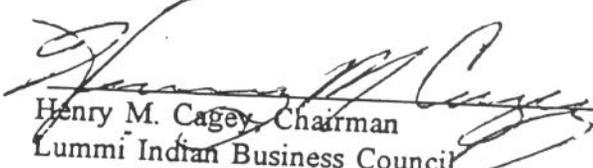
BE IT FURTHER RESOLVED that the Lummi Indian Nations declares that it is a self-governance policy to protect the maximum water interests of the Lummi People, irrespective of differences of opinions that may be advocated by non-Indian bureaucrats, administrators, solicitors, lawyers, and politicians, etc., that may challenge the said water rights and

entitlements - in response to the lobbying by non-Indian constituents attempts to secure Indian water rights- whether represented by private organizations, associations, corporations, counties, cities, the State of Washington, or various federal departments and independent agencies; and

BE IT FURTHER RESOLVED, that the Lummi Indian Nations calls upon the United States, especially the U.S. Department of Interior, Bureau of Indian Affairs, and all other respective federal departments and agencies, to cooperate and work with the Lummi Indian Nation to protect the short-term and long-term water rights and interests of the Lummi people, in accordance to said trust doctrine and duty; and

BE IT FURTHER RESOLVED, that the Chairman (or 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 #94-02 was adopted at a Regular Meeting of the Council held on the 3rd day of May, 1994, at which time a quorum of 10 was Present, and was adopted by a Vote of 7 For, 0 Against, and 0 Abstention(s).

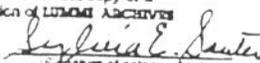
  
Levi Jefferson, Secretary  
Lummi Indian Business Council

OFFICE of the ARCHIVIST  
LUMMI NATION

STATE of WASHINGTON  
COUNTY OF WHATCOM

I certify that this is a true and correct copy of a document in the possession of LUMMI ARCHIVIST as of this date.

Correct: 6-23-95

  
SYLVIA E. SAUTER  
Signature of notary public

My appointment expires

9/9/96  
Name printed

