

RESOLUTION #2009-___ OF THE LUMMI INDIAN BUSINESS COUNCIL

TITLE: Approval of Acquisition and Use Plan for Reservation Lands in the Flood Plain for the Purposes of Establishing the Lummi Nation Wetland and Habitat Mitigation Bank and Implementing Habitat Restoration Projects

WHEREAS, the Lummi Indian Business Council (LIBC) is the duly constituted governing body of the Lummi Indian Reservation by the authority of the Constitution and By-laws of the Lummi Tribe of the Lummi Reservation, Washington; and

WHEREAS, the LIBC is responsible for the protection, restoration, enhancement, and management of the natural resources within the exterior boundaries of the Lummi Reservation and throughout the Usual and Accustomed Fishing and Gathering Grounds and Stations; and

WHEREAS, estuaries are critical salmon habitat as they provide a protected and food-rich environment for juvenile salmon growth and allow a transition for both juvenile and adults between the fresh and salt water environments; and

WHEREAS, reestablishing and rehabilitating salt marsh habitat in the estuary is desirable because salt marshes are among the most productive ecosystems in the world and will improve both salmon and shellfish habitat; and

WHEREAS, dike and levee construction activities, which were accompanied by agricultural ditching to drain fields and wetlands, have resulted in a reduction of wetland/estuary areas in the lower Lummi River; and

WHEREAS, chinook salmon, steelhead, and bull trout in the Nooksack River basin have been listed as "Threatened" under the United States Endangered Species Act; and

WHEREAS, restoring wetland and estuary habitats is believed to be a critical step in the recovery of the salmonid stocks in the Nooksack River basin; and

WHEREAS, the LIBC adopted Resolution No. 98-062 to authorize the Lummi Natural Resources Department to evaluate the Nooksack Estuary Recovery Project, which is intended to improve habitat for Nooksack River salmon stocks by increasing the size of the Lummi River and Nooksack River wetlands and estuaries and to re-establish the Lummi River channel as a salmon migration corridor; and

WHEREAS, the Lummi Code of Laws Title 17 and applicable federal laws require that impacts to wetlands and their buffers be avoided and minimized as practicable and that any unavoidable impacts are mitigated to achieve the goal of no net loss of wetland functions, values, or acreage; and

WHEREAS, wetland mitigation banks have been evaluated by the Lummi Natural Resources Department and determined to be a useful tool to effectively and efficiently provide compensatory mitigation for unavoidable impacts to wetlands and related habitat occurring on the Lummi Indian Reservation (Reservation) and in adjacent watersheds; and

WHEREAS, the Lummi Natural Resources Department has been working with federal and state agencies to establish a Lummi Nation Wetland and Habitat Mitigation Bank within the flood plains of the Lummi and Nooksack rivers; and

WHEREAS, the Lummi Indian Business Council must own the land used to establish a Lummi Nation Wetland and Habitat Mitigation Bank within the flood plains of the Lummi and Nooksack rivers and designate and protect this land into perpetuity to be used for the purposes of a wetland and habitat mitigation bank; and

WHEREAS, land acquired by the Lummi Indian Business Council for a Lummi Nation Wetland and Habitat Mitigation Bank or for restoration projects must be protected into perpetuity through a legal mechanism such as a conservation easement that preserves, restores, and protects the ecological values; ecological process; and salmon and wildlife habitats of the property; and

WHEREAS, a conservation easement that protects land into perpetuity for the Lummi Nation Wetland and Habitat Mitigation Bank or for restoration projects must also not infringe on the Treaty rights of enrolled members of the Lummi Nation and must allow tribal members to conduct traditional uses such as hunting, gathering, and religious activities that do not adversely affect the purposes of a conservation easement; and

WHEREAS, the Lummi Indian Business Council currently owns as Tribal Trust lands approximately 1,117 acres (62 percent) of the approximately 1,805 acres of land identified by the Lummi Natural Resources Department within the flood plains of the Lummi and Nooksack rivers for the Lummi Nation Wetland and Habitat Mitigation Bank and needs to acquire the remaining approximately 688 acres within the flood plains; and

WHEREAS, some parcels of land located within the flood plains of the Lummi and Nooksack rivers are owned by tribal members or are in fee status and no longer generate significant agricultural revenues for various reasons, yet the parcels cannot be easily developed for other uses because they are located in the flood plain, have wetlands, and zoning makes them impractical to develop; and

WHEREAS, purchase of these parcels by the Lummi Indian Business Council at fair market value will provide income to the land owners, consolidate ownership, and provide opportunities to preserve and restore the salmon habitat potential of these parcels; and

WHEREAS, the Lummi Natural Resources Department has been working with federal and state agencies to acquire land within the flood plains of the Lummi and Nooksack rivers to implement restoration projects; and

WHEREAS, the Lummi Natural Resources Departments efforts to establish a Wetland and Habitat Mitigation Bank and to acquire land and implement restoration projects within the flood plains of the Lummi and Nooksack rivers are complementary; and

WHEREAS, the Lummi Fisheries and Natural Resources Commission and the Lummi Planning Commission have each passed a motion in support of this acquisition and use plan for Reservation lands in the flood plain for the purposes of establishing the Lummi Nation Wetland and Habitat Mitigation Bank and implementing habitat restoration projects.

NOW, THEREFORE, BE IT RESOLVED, that the Lummi Indian Business Council hereby approves the acquisition and use plan shown in Attachment 1 for approximately 2,649 acres of Reservation lands in the flood plain for the purposes of establishing the Lummi Nation Wetland and Habitat Mitigation Bank and implementing habitat restoration projects; and

BE IT FURTHER RESOLVED, the acquisition and use plan shown in Attachment 1 for Reservation lands in the flood plain for the purposes of establishing the Lummi Nation Wetland and Habitat Mitigation Bank and implementing habitat restoration projects shall be effective as of the adoption of this Resolution; 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.

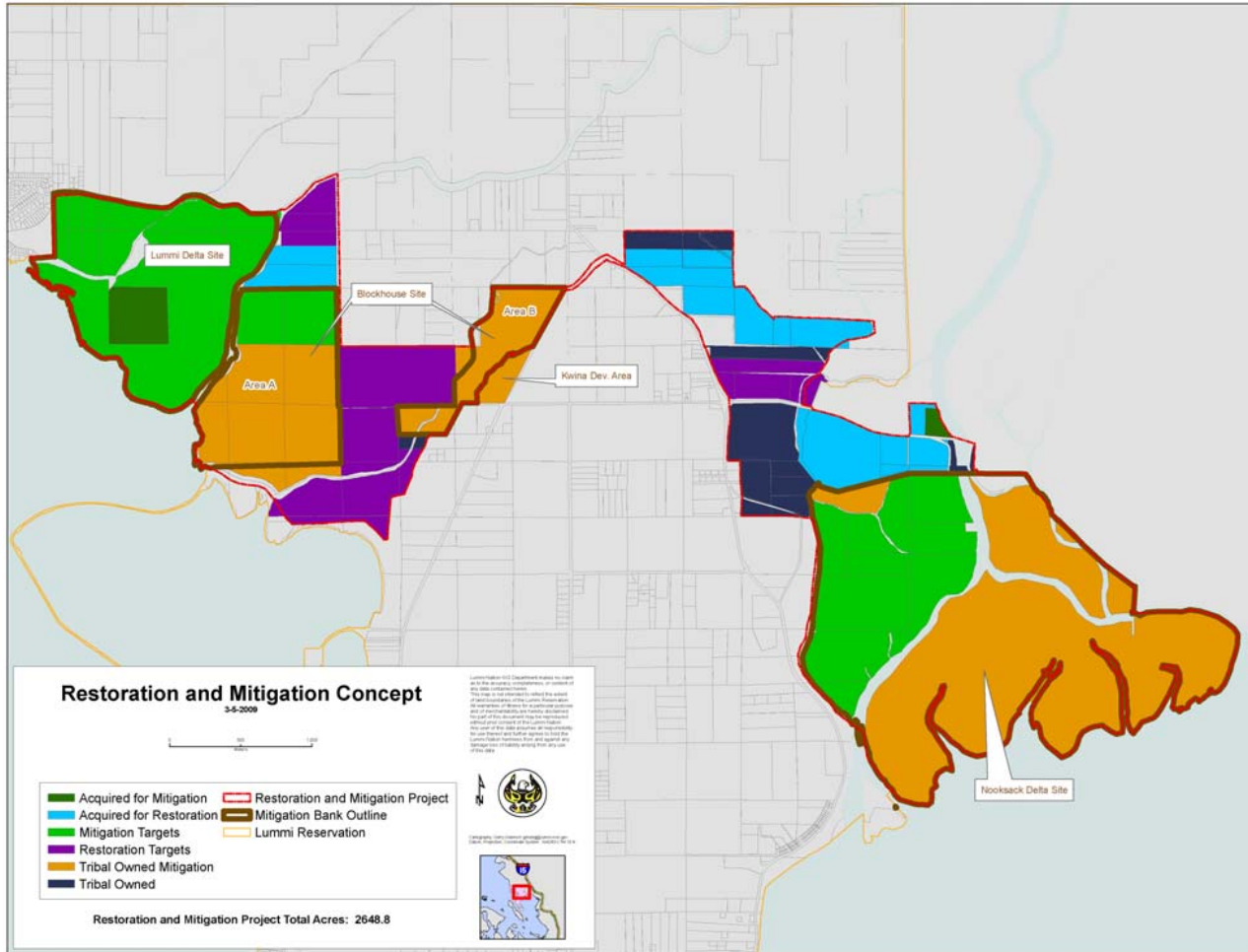
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Henry Cagey, Chairman
Lummi Indian Business Council

CERTIFICATION

As Secretary of the Lummi Indian Business Council, I hereby certify that the above Resolution #2009-___ was adopted at a Regular Meeting of the Council held on the ___th of ___ 2009, at which time a quorum of ____ was present by a vote of ____ For, ____ Against, and ___ Abstentions(s).

Jim Wilson, Secretary
Lummi Indian Business Council



Attachment 1. Acquisition and Use Plan for Reservation Lands in the Flood Plain for the Purposes of Establishing the Lummi Nation Wetland and Habitat Mitigation Bank and Implementing Habitat Restoration Projects