



Lummi Indian Business Council

2665 Kwina Road · Bellingham, Washington 98226 · (360) 312-2000

'Working together as one to Preserve, Promote and Protect our Sche Lang en'

August 10, 2020

Whatcom County Planning & Development Services
Attn: Mark Personius, Responsible Official
c/o Matt Aamot
5280 Northwest Drive
Bellingham, WA 98226-9097

Re: Lummi Nation comments in the matter of Cherry Point UGA Comprehensive Plan and Zoning Code Amendments, per SEP2019-00083 DNS.

Dear Mark:

This letter presents our comments and expectations in the matter of the proposed changes to the Cherry Point UGA Comprehensive Plan and the Zoning Code by the amendments discussed in SEP2019-00083. Put simply, we expect that such changes will be compatible with our duties as they are described in the Lummi Indian Business Council (LIBC) resolutions and will abide by the implications of the "Culvert Case" (US v. Washington), upheld by the US Supreme Court on June 11, 2018.

In Resolution # 2019-011, Our Sacred Obligation to Protect Xwe'chi'eXen ("Cherry Point"), the Lummi Indian Business Council ("LIBC") reiterated its mission specified in Resolution #2012-025; "To Preserve, Promote and Protect our Sche Lang en" ("way of life") and it further resolved that the Lummi Nation's priority is protecting its inherent and acquired rights to our st'elneps (or village sites) of Xwe'chi'eXen and that we will continue to safeguard our ancestral and historical areas that hold significant and essential cultural properties. The Lummi Nation remains committed to protecting all treaty rights held by the Lummi People as associated with, but not limited to Xwe'chi'eXen.

In Resolution #2012-060, the LIBC resolved that (it) will continue to protect the Nation's rights and interest in Xwe'chi'eXen as our ancestor(s) did and reiterated that the Lummi Nation's priority is protecting our inherent rights in our original territory generally, and in Xwe'chi'eXen specifically.

On June 11, 2018, the United States Supreme Court let stand a landmark ruling in the "Culverts Case" by the 9th Circuit Court of Appeals. In that ruling, the Court upheld the permanent injunction against the State of Washington that prohibited the state from taking (isolating or destroying) habitat necessary for the production of treaty-reserved resources. That ruling applies whether the takings would occur by direct action or by inaction on the part of the state or by allowing such conduct by others, including those of subordinate jurisdictions, non-governmental agencies, or private interests within the state. We fully expect the County to abide by the underlying implications of the injunction when making decisions having the potential to affect our treaty-reserved rights and resources.

In summary, our duty to preserve and protect the Xwe'chi'eXen ("Cherry Point") is made clear by the series of resolutions passed by the LIBC. Moreover, the "Culvert Case," upholds both our right to take fish, and the state's obligation not to infringe upon that right through habitat destruction. We take our duties and our rights very seriously and we expect that you will do the same.

In conclusion, we believe that amendments to the Cherry Point UGA Comprehensive Plan and Zoning Code may create opportunities for positive changes to the management of land and aquatic uses of the local area that improve the protection of our treaty-reserved rights and resources as well as those of the other residents of the County. Nevertheless, such an outcome is by no means a certainty and it is clear that much work in crafting and refining the amendments lies ahead. We wish the County much success in addressing that important work and look forward to reviewing the products of those efforts as they become available.

In closing, I want to acknowledge the value we place on our long standing relationship with Whatcom County and also note our willingness to collaborate with the County in furtherance of this critically important undertaking that has so much potential to benefit us all.

Sincerely,



**Merle Jefferson, Director,
Lummi Natural Resources Department**

Cc: Electronic Service List

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- Matt Aamot, maamot@whatcomcounty.us