August 12, 2015

Honorable Members of the Whatcom County Planning Commission
5280 Northwest Drive
Bellingham, WA 98226

Subject: Cherry Point UGA – Urban Growth Area Review/Cherry Point UGA Proposal

Dear Commissioners:

We are pleased that the June 24th staff report recognizes the importance of the Cherry Point industrial job base to the welfare of the community. We commend the staff for utilizing and referring to the solid research data in the study Employment at Cherry Point-October 2014 that was produced by WWU’s Center for Economic and Business Research. We would like to see this study referenced in the Comp Plan as a resource, because it is so informative and timely.

It has come to our attention that there are those who would de-industrialize the Cherry Point UGA, but this rather radical notion would not serve the public interest. With so much reliance upon the employers within that area to fuel a thriving middle class with family wage jobs, as well as the tax base and charities in the region, diminishing the potential for the area to remain a driver of the economy would be folly—and harmful to working families. The Commission should guard against policies or actions that would encroach upon the Cherry Point industrial area.

In that light, we are aware that the current Lummi Nation leadership has filed comments suggesting a different view for the Cherry Point UGA and that they have plans to take over privately-owned, non-tribal lands for annexation to their reservation. (See attached.) The extent of the lands that they seek to acquire is not clear from the documents that we have examined. This initiative, if successful, would be contrary to decades of sound land use planning, and would be severely detrimental to working families and the general public welfare. It is a misguided, win-lose strategy that is unnecessary, impractical, and divisive. Unfortunately, it pits the interests of working families—some of the very people that patronize Lummi enterprises—against tribal aspirations and we hope that the tribe’s leadership will choose to embrace a more collaborative approach in its interaction with other interests. The Lummi occupy an important and unique role in our community, but they are just 1.5% of the County’s population.

It is important that we respect and embrace all of the rights and limitations of tribal treaties. Industry and tribal treaty rights can, must, and do exist in harmony. No one should be allowed to disregard those rights. But respect and treaty rights are reciprocal; private property rights for non-tribal lands are also part of the treaty construct and, especially at Cherry Point, are essential to investment in job-creating industry. These rights, and the needs of working people, deserve respect, as well. We see a very different vision for Cherry Point and all of its people, including
our Lummi neighbors (and their enterprises) who are direct and indirect beneficiaries of the jobs created within the industrial zone.

Our organization’s members and the groups that they represent, constituting many thousands of citizens of every type and persuasion, want to see the middle class grow, not shrink as it has been doing. That will have a lot to do with what happens at Cherry Point.

Respectfully,

[Signature]

Chair

[Signature]

President
Lummi Nation Regulatory and Treaty Rights Strategies for the Taking of Non-Tribal Private Property for the Purpose of Accomplishing a Reservation Annexation - Document Summary

1. August 1, 2012--Xwe'chi'eXen Strategy Objective Chart—Excerpt:
“The Sovereignty and Treaty Protection Office has been directed by the LIBC to design and implement a strategy to accomplish two separate, but related, goals. First, to defeat the proposed SSA project. Second, to acquire Cherry Point, have it placed in Trust status.” [Emphasis original]

2. February 7, 2012 Memorandum from “Strategic Operations Center” to Lummi Indian Business Council—Attached Tab 3 lays out “Cherry Point Option B”, described as follows in the document—Excerpt:
“Cherry Point “Option B” Function
Strategic Vision: To develop and coordinate the implementation of an alternative (Option B) to the S.S.A. Marine proposal for the ownership and uses of Xwech'iexem (Cherry Point).
Guiding Principles: To protect and enhance the inherent rights and interests of the Lummi Nation as they pertain to Cherry Point to include:
1. Promoting the conservation and restoration of the fisheries resource.
2. Protecting in perpetuity the archaeological resources.
3. Perpetuating the generational understanding of the Lummi ancestral homeland, knowledge, and lifestyle.
4. Providing for long-term, environmentally sensitive, and culturally-appropriate sustainable economic development.
5. Advancing the interests of the Lummi Nation to assert sovereignty and expand the boundaries of the reservation.” [Emphasis added]

3. February 7, 2012 letter to Lummi Chair and Council—Center for Salish Community Strategies (an anti-GPT group), by invitation, presents Lummi Indian Business Council with ideas for opposing GPT and “to present some concrete steps toward an alternative use of the Cherry Point lands and tidelands”. Several Lummi uses of the GPT lands are suggested. Center for Salish Community Strategies offers: “If desired, our group can provide support to explore property acquisition and funding for alternative uses. A key part of this discussion could be a pathway to incorporating lands into the Lummi Reservation, because of the cultural and historical significance of Cherry Point.” [Emphasis added]

BE IT FURTHER RESOLVED that in view of the "No" [on GPT] position, the STPO will work with the Core Group (identified in 2012-079) and will assume responsibility for:
1. reviewing and making final recommendations with respect to the draft MOA between the Lummi Nation and the Corps of Engineers in the context of the "No" position,
2. reviewing and making final recommendations with respect to all Section 106 matters and other issues related to the protection of cultural and spiritual sites, waterways and landscapes at Xwe'chi'eXen,
3. defeating the proposed SSA Marine project by employing the strategic plan at Attachment 1 of Resolution 2012-079,
4. assisting the Cultural Department in applying to have Xwe'chi'eXen placed on the National Register of Historic Places; and,
5. implementing the strategic action plan to acquire Xwe'chi'eXen in order to prevent any further projects and ensure the sensitivity and integrity of natural and cultural legacy of Xwe'chi'eXen is protected in perpetuity;” [Emphasis added]

5. 2014 Annual Report of Lummi Nation—Chairman’s Goals—Excerpt:
“Continued opposition to any and all Cherry Point development”
**XWE'CHI'EXEN**

*XWE'CHI'EXEN* (Cherry Point) is once again the focus of interest on the part of a large corporation. The proposed development of a coal terminal on Cherry Point would have dramatic and long-lasting impacts on not only the fisheries and the Lummi fishing fleet, but also on the tangible and intangible values of this ancient and highly-significant spiritual, cultural, historic, and archaeological landscape.

The Sovereignty and Treaty Protection Office has been directed by the LIBC to design and implement a strategy to accomplish two separate, but related, goals. First, to defeat the proposed SSA project. Second, to acquire Cherry Point, have it placed in Trust status. Given the nature of “promises” this is, ultimately, the only way to ensure that any use of this landscape respects its natural and cultural heritage and integrity. This strategic direction has seven distinct, but interrelated tracks (pictured at right).

In the LIBC Resolution that directed the activities of the STPO, the LIBC identified a strategic team whose tasks is to develop the strategy and help monitor and evaluate the implementation of the strategic plan.

<table>
<thead>
<tr>
<th>Track</th>
<th>Strategic Objective</th>
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<tbody>
<tr>
<td>POLITICAL track</td>
<td>To secure political support for the defeat of the SSA proposal and lay the foundation for acquiring Cherry Point</td>
</tr>
<tr>
<td>COMMUNITY VISION track</td>
<td>To engage the Lummi Nation in the development of an alternative vision for Cherry Point.</td>
</tr>
<tr>
<td>COLLATERAL RESEARCH track</td>
<td>Gather Information on key historic sites in Lummi territory in conjunction with placing Cherry Point on the National Register of Historic Places.</td>
</tr>
<tr>
<td>OPPOSITION RESEARCH track</td>
<td>Locate and Investigate Information about project proponents in order to assess their strengths and</td>
</tr>
<tr>
<td>ALLIANCES track</td>
<td>Develop and coordinate a coordinated strategy with other tribes and organizations.</td>
</tr>
<tr>
<td>EVENTS track</td>
<td>Raise public awareness of, and support for, the Lummi Nation’s opposition to SSA and the Nation’s goal of acquiring Cherry Point.</td>
</tr>
<tr>
<td>STPO INSTITUTE track</td>
<td>Provide a venue for treaty-related research and practical experience for tribal leaders and the next generation of leadership.</td>
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</table>
Memorandum

To: Lummi Indian Business Council
From: Strategic Operations Center
Date: 2/6/2012
Re: Option B Strategy for Xwech'letem (Cherry Point)

Please find attached information regarding background and strategy for an Option B for Xwech'letem (Cherry Point). The alternative track in no way displaces or replaces the current efforts by the Cherry Point team to respond to the administrative processes regarding the S.S.A Marine proposal. Instead, it represents an alternative approach that will be of value to the Lummi Nation whether the Nation ultimately says yes or no to the final S.S.A Marine project.

We are requesting the LIBC to authorize, by motion: 1) the authority of the Strategic Operations Center to facilitate the development of Option B and to bring back to the LIBC a draft strategic plan no later than April 3 that will provide a blueprint for pursuing this Option if and when it is needed (Tab 3), 2) approval to work with Center for Salish Community Strategies as part of this strategic planning process, 3) that two members of the LIBC participate as a Council Subcommittee in the development of this Option, 4) the Chairman be authorized to submit to the Whatcom County Council a request for an emergency interim moratorium on the acceptance of new applications for shoreline substantial development permits at Cherry Point (Tab 5 as previously handed out at the January 13, 2012), and 5) that the LIBC go on record opposing any further disturbance of the archaeological sites, areas, resources and landscape on Cherry Point.

Please find enclosed a letter from Tom Erlichman of Salish Community Strategies followed by the following tabs:

Tab 1: All the Way to Cherry Point that provides historical and contemporary background for Cherry Point and a series of recommended actions.

Tab 2: Cherry Point Fact Sheet that provides information about coal, coal trains, coal terminals, associated human and environmental concerns, and some clarifications on the S.S.A Marine proposal

Tab 3: Cherry Point Option B that presents the suggested involvement of the SOC in the Option B process (Function, Process, and Structure)

Tab 4: Cherry Point Checklist that presents for your consideration a review of why the Lummi Nation said “no” to previous proposals for the development of Cherry Point.

Tab 5: Suggested Moratorium to Whatcom County Council

Tab 6: Background on S.S.A Marine, Carrix, and the China Ocean Shipping Group.
Contents

1. Tab 1: All the Way to Cherry Point

2. Tab 2: Cherry Point Fact Sheet

3. Tab 3: Cherry Point Option B (SOC Engagement: Function, Process, Structure)

4. Tab 4: Cherry Point Checklist

5. Tab 5: Suggested Moratorium Letter to Whatcom County Council

6. Tab 6: Background (SSA, Carrix, and China Ocean Shipping Group)
Center for Salish Community Strategies
A Washington Non-Profit Public Interest Law and Policy Center
Navigating Toward the Future

February 7, 2012

Lummi Indian Business Council
Attn: Chairman Clifford Cultee
2616 Kwina Road
Bellingham, WA 98226

Re: Alternative to Cherry Point Coal Terminal

Dear Chairman Cultee and Councilmembers:

We welcome the invitation to address the Lummi Business Council. We consider it an honor to present some concrete steps toward an alternative use of the Cherry Point lands and tidelands. This letter describes the Cherry Point coal terminal, our request to join you in exploring an alternative vision, and the steps that might be taken to bring it forward. At the end, we describe who we are and the staying power of our group. Our group does not seek any funding from or contracts with the Lummi Nation.

A. Background.

1. The Coal Terminal Proposal. Carrix, Inc. and its subsidiary, SSA Marine, are seeking tribal, federal, state and county approvals for the largest coal export facility in the Americas (48 million tons/year). A new dock over six football fields in length will be reached by pushing a long pier out into the Georgia Strait. Over a hundred acres of coal will be stockpiled in upland areas, after filling over 140 acres of wetlands. This immense coal pile will be fed by mile and a half long trains moving from the mines in the Powder River Basin of Wyoming, along the Columbia River, and up the entire edge of Puget Sound.

Burlington Northern Railroad and Peabody Coal are supporting the project. The parent corporation for this proposal, Carrix, Inc., is 49% owned by Goldman Sachs.
2. **The Site.** The shoreline at this site contains artifacts of Lummi reef fishing. The upland site is the number-one registered archeological site in Whatcom County. The site contains evidence of settlements dating back 3,500 years. Currently, the upland wetland system is the source of water for the stream that descends to a shoreline intertidal wetland. Historically, the marine shore supported one of the largest herring spawning areas in all of Puget Sound. Herring comprise over 50% of the diet for Chinook salmon, which are listed as a threatened species in the Nooksack River watershed.

3. **Over 480 Giant Ships per Year.**

The port will attract over 480 of the largest bulk carriers in the world per year to Rosario Strait. These are a mix of “capesize” ships (up to 180,000 DWT), “babycapes” (up to 120,000 DWT) and “panama” bulk carriers (up to 80,000 DWT). The capesize ships are over three football fields long. A reef net fishing boat 30 feet long would be less than 1/30th the length of a capesize (the speck in the picture below is the reef net boat shown on the next page, shrunk to scale against the capesize vessel).

Tanker traffic in Rosario and Haro Straits is expected to rise out of Vancouver B.C. by a significant amount in the next few years, upon completion of an oil pipeline. In combination with the existing oil tanker traffic -- at BP Cherry Point, Conoco-Phillips Cherry Point, and Tesoro Anacortes-- the addition of 480 new ships to service SSA’s coal exports raises the risks of marine accidents substantially.

The capesize ships carry up to a million gallons of heavy bunker fuel oil and discharge enormous amounts of ballast water as they enter port. They are not maneuverable on their own. They require four of the largest-size tugboats to steer them to port. The pier would load coal into three of these ships at a time.
While waiting their turn, several ships at a time would likely anchor off the north shore of Samish Island, as tankers currently do. Anchoring impacts to the water include chain oil, ballast and waste discharge, diesel emissions as engines idle, and the risk of groundings during storms.

Recent scientific studies demonstrate the immediate and fatal effects of even small bunker fuel spills on herring, salmon juveniles and oysters.¹

B. An Alternative to Cherry Point Coal Exports.

We seek a partnership with the Lummi Nation to first explore ideas for an alternative use of the Cherry Point site and to collaborate on steps needed to implement that vision. We believe there is a future for Cherry Point that has the potential to better represent the long-term interests of the Lummi Nation, the local community and the Salish Sea region.

1. **Our Agenda:** As explained in more detail below, our personal agenda is a longstanding desire to see the north-coast region used for economic and cultural activities that have integrity long-term. Our goal is to help facilitate a vibrant regional economy that grows without sacrificing the health of our natural systems and cultural heritage.

   While we come from a different culture, we believe we share this goal in common with the Lummi Nation and can work together to help each other achieve it for the benefit of our entire community and future generations. While our group does not seek compensation from the Lummi or a return on investment for this process, we are available to help facilitate, when appropriate to you needs and interests, community investment in this alternative.

2. **Immediate Steps:** From our outside perspective, the Lummi hold a great deal of power over whether the coal terminal gets approved quickly or is reviewed more deliberatively, thus allowing time to develop an alternative. Each week that passes of continued processing makes an alternative that much more difficult to achieve.

Based on our extensive research into the set-up by the applicant for process and permitting, we believe a "No" position is essential by the Lummi at this time, in order to retain the leverage needed to make a

¹ [http://www.pnas.org/content/early/2011/12/22/1108884109.abstract](http://www.pnas.org/content/early/2011/12/22/1108884109.abstract)
reasoned determination of whether to support the coal export facility or not. For example, the Tribe can insist to the U.S. Army Corps of Engineers that it does not support the proposal, unless the Lummi Nation is given time to complete the following studies:

- Its own archeological study (literature review and on-site), performed by the Tribe for itself, without distribution to the applicant or the public;
- Its own vessel traffic study, to assess the effect of 480 new ships per year on the continued viability of fishing by the Lummi and other Treaty Tribes;
- Completion of the herring decline study initiated earlier by the Tribe; and
- An independent economic analysis by and for the Tribe to determine the cost/benefit to the Tribe of a coal export facility. The study should explore other possible port uses that would be of benefit.

3. **First Steps: Defining Values and Historical Ties to the Site.**

We propose to work with the Tribe to develop a baseline of Tribal and community values and principles guiding future uses of the Cherry Point shoreline and upland. As a first step in developing the alternative, we would envision the Lummi conducting an internal values assessment. At the same time, we would conduct a similar assessment with core outside community leaders known to us. We imagine the two groups coming together for a joint exploration at the conclusion of their respective sessions, to share their findings. Our group is willing to commit funding to support both the internal and outside community values exercise.

The kinds of questions we might imagine the groups would want to look at during the initial values examination are as follows:

**Lummi**

(a) What are the core principles and values that are important to Tribal identity?

(1) How does the site help define the Tribe? Are there historical and cultural features of the site that continue to have meaning?

(2) How does the Cherry Point fishery help define the Tribe? What would a decline in Georgia Strait fishing do to Tribal identity?

(b) How do those core principles help shape a vision for a possible alternative use of the Cherry Point site?
Community

(a) What are the core principles that are important to a sustainable coastal economy?

(1) How does the Cherry Point site help define the region? Are there special features of the site that are significant to the regional identity?

(2) In light of this answer, would heavy industry seem appropriate for Cherry Point?

(b) How do those core principles help shape a vision for a possible alternative use of the Cherry Point site?

At the conclusion of these sessions, the community group would meet with the Tribal participants to share findings. The purpose of this meeting would be to explore interest in continuing to develop an alternative vision and plan.


At this stage, we do not presuppose the outcome of the visioning process. One can imagine the discussion might cover some of the following alternative uses:

(a) A new Coast Salish marine science research complex, bringing together research from around the entire Salish Sea, as the premier center for Native marine and fisheries research. This center would further the work of:

- the National Indian Center for Marine Environmental Research and Education;
- the Northwest Indian College; and
- the Northwest Indian Fisheries Commission;

A regional center could provide collaboration among the Lummi and Tribes throughout the Salish Sea, on both sides of the border.

One of the objectives of the research center might be to develop a plan for long-term restoration of historic native fishing grounds off Cherry Point, with the opportunity for recovery of:

(1) the crab fishery;
(2) a reef net fishery; and
(3) the Pacific Herring stock, which in turn could help in the recovery of threatened Chinook salmon in the Nooksack River;

(b) Funding of a research project at the Coast Salish Institute to develop a documented history of the significance of this site to native people, in partnership with the ongoing work of the Coast Salish Institute;

(c) Preservation of key upland areas, including primary cultural and archeological sites;

(d) Development of a world-class Coast Salish cultural center;

(e) Possible alternative homesites for flood-damaged residences;

(f) Closed system fish rearing; and/or

(g) Hydroponic agriculture (utilizing steam from the BP site) or other food production.

In the past, many of these ideas have been discussed in other locations, but capitalization has always been an unresolved issue.

5. Implementation Plan. If invited into this second phase of discussions, our group would be committed to partnering with the Lummi to develop an implementation plan, with clear roles and objectives. If desired, our group can provide support to explore property acquisition and funding for alternative uses. A key part of this discussion could be a pathway to incorporating lands into the Lummi Reservation, because of the cultural and historical significance of Cherry Point.

If desired, this phase of the discussion could be a partnership with our group to conduct negotiations with SSA over acquisition of the site; exploration of possible federal and state funding; near and long-term site planning; master planning and permitting; partnerships with local venture capital and charitable groups for ongoing funding of planning and permitting.

C. Who we are. Our emerging vision is shared by our clients and colleagues in Bellingham, who are established investors and community leaders, including two former mayors, Tim Douglas and Ken Hertz. Together, we have formed a relatively new non-profit – Salish Community Strategies.

The mission of our non-profit is to promote innovative policy actions that bring the community together in a shared vision of a strong regional economy reflective of the beauty of our surrounding natural world. We share a common feeling that the natural landscape of Whatcom County, from the mountains to the Salish Sea.

>>> 909 Harris Avenue, Suite 202c, Bellingham, WA 98225 www.salishcommunity.org <<<
provides the basis and moral imperative for our future economic and spiritual growth. We all have a profound respect for the cultural heritage and birthright of the Lummi people. Some of our group has worked in the past with the Lummi. We look forward to your consideration of this approach to developing a viable alternative for the future of Cherry Point. We believe it affects the future of all of us.

Tom Ehrlichman
Co-Executive Director

Barbara Dykes
Co-Executive Director
Cherry Point "Option B" Function

Strategic Vision: To develop and coordinate the implementation of an alternative (Option B) to the S.S.A. Marine proposal for the ownership and uses of Xwech'łexem (Cherry Point).

Guiding Principles: To protect and enhance the inherent rights and interests of the Lummi Nation as they pertain to Cherry Point to include:

1. Promoting the conservation and restoration of the fisheries resource.
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3. Perpetuating transgenerational understanding of the Lummi ancestral homeland, knowledge, and lifestyle.
4. Providing for long-term, environmentally sensitive, and culturally-appropriate sustainable economic development.
5. Advancing the interests of the Lummi Nation to assert sovereignty and expand the boundaries of the reservation.
Key:

Cherry Point
Lummi Reservation ——→
East Sound (Madrona Point), Orcas Island — —→
Cherry Point “Option B” Process (Quarter 1)

1. Complete for the Office of the Chairman a Situation Report that includes:
   - An assessment of the progress to date and projected targets and timelines of the Cherry Point Team re: the S.S.A. Marine Proposal.
   - Opposition research to include an evaluation of S.S.A. Marine, its parent company, and Cherry Point development partners, proponents and opponents, critical timelines, likely strategies, and contacts to-date with impacted tribes.
   - An assessment of the likely allies and opponents, their networks, contacts, and resources: (1) if Lummi rejects the SSA proposal, and (2) of the Lummi preferred optional uses of Cherry Point.

2. Present results of SitRep and evaluation to LIBC.

3. Coordinate in conjunction with a Council-approved Option B Subcommittee two, three-hour focus group sessions with the General Council and two sessions with the Fish Commission on an optional highest and best uses of Cherry Point.

4. Present the results of the focus group session to the LIBC for their review, revision, and/or approval.

5. Coordinate with the Option B Council Subcommittee a SWOT analysis (see example below) of the selected highest and best use approved by the LIBC.

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<thead>
<tr>
<th>Opportunities (external)</th>
<th>Threats (external)</th>
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<tbody>
<tr>
<td><strong>Opportunity 1</strong></td>
<td><strong>Threat 1</strong></td>
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<tr>
<td><strong>Opportunity 2</strong></td>
<td><strong>Threat 2</strong></td>
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<tr>
<td>S-O Strategies</td>
<td>S-T Strategies</td>
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<td><strong>Strength 1</strong></td>
<td><strong>S-T Strategy 1</strong></td>
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<tr>
<td><strong>Weakness 3</strong></td>
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6. Based on the results of the SWOT analysis develop in conjunction with the Option B Cherry Point Subcommittee for presentation to LIBC by April 3, 2012, an 18-month strategy (goals, objectives, activities, benchmarks and timelines, outcomes, impacts, and roles/responsibilities) with respect to the Lummi Nation’s Option B alternative position on Cherry Point to include the following planning elements: Cultural/Historic, Political/Congressional, Fisheries, Economic, Financial/Fundraising, Legal, Educational (NWIC), Public Information/Media.

Cherry Point “Option B” Structure
Operational Strategy: Continue to pursue due diligence with regard to environmental assessment while developing and preparing to implement no later than April 2, 2012 an alternative plan for the high and best use of Xwech’iexem (Cherry Point).

Participants

- General Council
- LIBC
- Lummi Fish Commission
- Other fishing Tribes impacted by potential vessel traffic
- Office of the Chairman (SOC)
- Option B Team

Structure

LIBC
(Direction to SOC to Proceed with Alternative Option for Cherry Point)

Office of the Chairman

SOC (Option B)
Chief of Staff

- Situational Analysis
- Coordination/Facilitation of Strategic Team(s)
- Document Results of Strategic Team Planning
- Monitoring Progress and Hot Sheets
- Reporting to Chairman/LIBC

Cherry Point Team (reso. #2011-030)

- Fisheries/Technical
- Governmental/Administrative
- Economic
- Cultural and Historic
- Legal
- Public Information/Media
RESOLUTION #2012- 102 OF THE LUMMI INDIAN BUSINESS COUNCIL

TITLE: Strategic Action Plans for Xwe’chi’eXen as a Historical, Cultural and Spiritual Landscape of Great Significance to the Lummi Nation Assigned to STPO

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 Tribe of the Lummi Reservation, Washington; and

WHEREAS, the Lummi Nation’s ancestors occupied extensive territory throughout the ceded area, including, but not limited to village sites at the areas of Cherry Point, Birch Bay, Semiahmoo and throughout the San Juan Islands; and

WHEREAS, the Lummi Indian Nation negotiated and entered the Treaty of Point Elliot (Treaty with the Dwanish, Squamish, et. al., 12 Stat. 927) in 1855, as negotiated by Isaac Stevens (Commissioner of Indian Affairs and Washington Territorial Governor), as ratified by the U.S. Senate and proclaimed by the President in 1859; and

WHEREAS, as sovereigns, the Treaty was entered into on the basis of relations between sovereigns and the primary purpose for the United States was to resolve Indian claims to the Washington Territory; and

WHEREAS, the Treaty in no way diminished our Schelangen (way of life), which includes, but is not limited to the inherent and unalienable rights of traditional and spiritual laws, ancestral knowledge, and forms of governance; and

WHEREAS, LIBC Resolution # 2012-060 affirmed the importance of sacred sites, such as Xwe’chi’eXen and surrounding area, and affirmed the Lummi Nation’s duty to protect and ensure the integrity of Xwe’chi’eXen; and

WHEREAS, development is again proposed at Cherry Point and the LIBC, in Resolution #2011-030, appointed the Cherry Point Team to gather information, conduct studies and assessments, meet with government officials from other jurisdictions, private business representatives and engage in other activities related to developing the Lummi Nation’s position on the proposed development at Cherry Point, impact mitigations and other related matters; and,

WHEREAS, the Lummi Nation in Resolution 2012-079 created a division of government to focus on strategic plans, operations, and decision-making with respect to tribal “Sovereignty” and “Treaty Rights” protection called the “Sovereignty and Treaty Protection Office” (STPO), and that office was directed to work on subject matters affecting the tribes sovereignty, jurisdiction, commerce, territory, spirituality and traditional laws, and government-to-
government relationships with the United States, or international relationships with other indigenous peoples and nations within their domain of review and strategic planning; and

WHEREAS, shortly after signing an agreement to share information about the impacts of the project and explore whether mitigation is possible, Pacific International Terminals damaged Xwe’chi’eXen (Site 45WH1), and was in a position to know and understand the historic significance of Xwe’chi’eXen, a site which is eligible for listing on the National Register of Historic Places.

NOW, THEREFORE BE IT RESOLVED, that the Cherry Point Team, having brought forth the “No” position of the Lummi Nation will continue to exercise their delegated authority to complete the necessary scientific studies and technological reviews in a manner consistent with the Lummi Nation’s “No” position; and

BE IT FURTHER RESOLVED that in view of the “No” position, the STPO will work with the Core Group (identified in 2012-079) and will assume responsibility for:

1. reviewing and making final recommendations with respect to the draft MOA between the Lummi Nation and the Corps of Engineers in the context of the “No” position,
2. reviewing and making final recommendations with respect to all Section 106 matters and other issues related to the protection of cultural and spiritual sites, waterways and landscapes at Xwe’chi’eXen,
3. defeating the proposed SSA Marine project by employing the strategic plan at Attachment 1 of Resolution 2012-079,
4. assisting the Cultural Department in applying to have Xwe’chi’eXen placed on the National Register of Historic Places; and,
5. implementing the strategic action plan to acquire Xwe’chi’eXen in order to prevent any further projects and ensure the sensitivity and integrity of natural and cultural legacy of Xwe’chi’eXen is protected in perpetuity; and,

BE IT FURTHER RESOLVED, that the Chairman (or Vice Chair 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 NATION

Clifford Cultee, Chairman
Lummi Indian Business Council
CERTIFICATION

As Secretary of the Lummi Indian Business Council, I hereby certify that the above Resolution #2012-102 was adopted at a Special Meeting of the Council held on the 31st day of July, 2012, at which time a quorum of 8 was Present by a vote of 7 For, 0 Against and 0 Abstention(s).

Levi Jefferson, Secretary
Lummi Indian Business Council
OFFICE OF THE CHAIRMAN

MISSION:
"To Preserve, Promote, and Protect our Sache Langen in our work together as one mind and one spirit."

STAFFING:
Chairman, Executive Assistant, Chief of Staff, Policy Analyst, Grandparents Committee Coordinator—All Lummi Tribal members.

GOALS:
Fee-to-trust for I-5 property
Fee-to-trust for Lummi Fishermen’s Cove property
Federal Taxation Policy Reform
Title 19 Fireworks Code Amendments
Continued opposition to any and all Cherry Point development
Capital Improvement Plan
Build stronger relationships with our Trustees—Legislative and Executive
Stronger presence at National Congress of Americans and Affiliated Tribes of Northwest Indians

ACCOMPLISHMENTS:
• Fee-to-trust for I-5 property
• Fee-to-trust for Lummi Fishermen’s Cove property
• Posted Lummi Nation flag and the American flag at our I-5 property
• Awarded Honors for the Harvard Project on American Indian Economic Development Honorning Nations for the Wetland and Habitat Mitigation Bank project
• Held 11 General Council meetings as requested by the General Council
• Officially requested US Army Corps of Engineers to deny any and all permits at Cherry Point due to treaty rights impacts and fishing impacts that cannot be mitigated
• Brought Senator Patty Murray and Maria Cantwell to Lummi Nation for a visit
• Sought and received renewal of Dislocated Fisher’s Program funding
• Participant in the Land Consolidation component of the Cobell Settlement known as the Land Buy-Back Program for Tribal Nations (cooperative agreement will be finalized in 2015)
• Sought Declaration of 2013 Fraser River Sockeye disaster which Commerce Declared in January 2014
• Lobbied efforts for legislation known as the Tribal General Welfare Exclusion Act of 2014

CONTINUED EFFORTS:
• Fisherman’s disaster proclamation for the 2014 salmon run season
• Fee-to-trust process for 2nd application for I-5 property
• Capital Projects list
• Support of Lummi Nation Housing Authority’s Turkey Shoot transformational housing project
• Opposition to any and all Cherry Point Development

BUDGETS:
Percentage Spent at year-end
Chairman - 100%
Council Operations - 90%
Council - 100%
Policy Travel - 115%
Gaming Protection - 153%

OFFICE OF THE CHAIRMAN - STATE OF THE NATION

As we bring in the New Year, the Lummi Indian Business Council, as the governing body of the Lummi Nation, continues to exercise its constitutional powers and duties, as sworn to oath to protect the best interest of the tribe. As the governing body, the constitution and bylaws and our code of laws, are a constant reminder of our duties as elected officials, as a self-governing and sovereign Nation. We are also reminded of the rights that are reserved to us by being signatory’s of Treaty of Point Elliot Treaty of 1855. As a fishing people, Article 5 in the Treaty is important to our existence as a Nation as it allows us to continue the right of harvesting fishing at usual and accustomed (U & A) grounds and stations. Our past ancestors governed themselves far different than today; this new form of governance we are practicing will take time to adjust to it does not incorporate tribal and family law. But as a sovereign Nation and tribal community the ability for LIBC to make appropriate changes is reserved to reflect our past concepts and traditional and family laws.

Since the Boldt Decision, it has forced us to become co-managers of our harvest with the State of Washington, along with other signatory tribes of the Treaty. This process has caused turmoil, pitting tribes vs. tribes and forcing tribes to seek legal remedies rather than coming to common ground and using the nation-to-nation approach. We have inherent rights to fish in our U & A, also reserved rights in the Treaty as described in the Boldt decision and numerous court cases. The rulings in a string of court cases with other tribes regarding our U & A have been favorable and not favorable. Recently, as most of you know in August 2014, the United States Court of Appeals issued its decision in the ongoing dispute between the Lummi Nation and the three S’klallam tribes, which favors the Lummi Nation. LIBC is fully committed to preserving, protecting and fighting for our fishing rights and territories even if it means in the legal arena. But by all means, we will try to seek other remedies rather than taking the legal route if another tribe has a dispute with our U & A territories and harvest. Recently, along with fellow Council members and Fish Commission members we attended a meeting with the suite of three S’Klallam tribes, to begin peace treaty negotiations. I encourage all tribes to keep our treaty rights out of federal courts and come to mutual terms regarding our treaty fishing rights. Also, we will continue to address the concerns of un treaty treatment by Washington State Department of Fish & Wildlife officers towards our fishermen during our harvest openings.

We must not forget our ancestors, especially those whose remains and belongings still remain at Xwe’chi’sen (Cherry Point). LIBC opposes all and any proposed development at Cherry Point and recently unanimously passed a resolution stating that the Lummi Nation formally requests that the U.S. Army Corps of Engineers deny any and all permits under its jurisdiction with regard to the development of the proposed Gateway Pacific Terminal at Xwe’chi’sen (Cherry Point) because of the significant and detrimental unmitigable impact that the project would have on the Lummi Nation’s treaty protected fishing rights and cultural resources. Furthermore, LIBC authorized a permit denial letter to the U.S. Army Corps. LIBC has acted and will continue to act in the best interest of our past, current and future tribal members to protect our treaty rights, our sacred sites and our community. Also, LIBC passed a resolution consolidating the efforts of protecting Cherry Point and surrounding areas.

As a Nation, I believe we need to do more to direct our resources towards jobs and hiring qualified tribal members to fulfill these positions. Employing our own tribal member employees will be a priority and goal for LIBC and all our entities. Tribal preference should mean tribal preference and it should be used to exercise our sovereignty by hiring our own people. As our population grows which at its current rate will see an increase in the need to employ 1,500 more tribal members joining the workforce by 2020. This growth will lead to tribal members earning college degrees and we need to be prepared to give them the opportunity to fill LIBC positions or train on-the-job to be qualified and have the skills and knowledge to take over the job duties and responsibilities that serve our people. There are some departments that are