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Swinomish Tribal Community

A Federally Recognized Indian Tribe Organized Pursuant to 25 U.S.C. § 476
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Delivered Via U.S. and Electronic Mail

June 28, 2007

Mr. Richard McAllister
Assistant Regional Counsel
Environmental Protection Agency, Region 10 (ORC-158)
1200 Sixth Avenue
Seattle, Washington 98101

Re: Supplemental Submissions in Support of Swinomish TAS Application

Dear Mr. McAllister:

Thank you for speaking with us several weeks ago regarding the Swinomish Indian Tribal Community's application for treatment as a "state" for the purpose of administering water quality standards pursuant to Sections 303(c) and 401 of the Federal Water Pollution Control Act ("Clean Water Act"), respectively codified at 33 U.S.C. § 1313(c) and 33 U.S.C. § 1341. I write to supplement the Tribe's application with additional information relevant to the Tribe's inherent sovereign authority to regulate water quality within the exterior boundaries of the Swinomish Reservation.

In its application, the Tribe discusses at length various sources of law which recognize or reaffirm the Tribe's inherent sovereign authority to regulate environmental matters, including water quality, within its Reservation boundaries. *See, e.g.*, Treaty of Point Elliott, 12 Stat. 927 (1855)(guaranteeing to the Tribe exclusive use of Reservation lands and fishing, hunting, and gathering rights)(attached as Exhibit 5 to Tribe's Application); 33 U.S.C. § 1377(e) (affirming tribal authority to administer on-reservation Clean Water Act programs where tribe satisfies three statutory requirements); *United States v. Lara*, 541 U.S. 193 (2004)(recognizing Congressional power to legislatively restore tribes' inherent authority after diminishment); *Winters v. United States*, 207 U.S. 564 (1908)(recognizing tribal reserved water rights); *Worcester v. Georgia*, 31 U.S. 515 (1832)(recognizing Indian nations as distinct, independent political communities "retaining their original natural rights").

The Tribe believes that these sources of law provide ample evidence of the Tribe's inherent authority to regulate on-Reservation environmental matters and thus render inapposite *Montana v. United States* and its progeny. Nevertheless, the Tribe recognizes that the EPA requires the Tribe to demonstrate that existing and potential non-member activities within the Reservation affecting water quality pose a serious and substantial threat to the political integrity, economic security, or health and welfare of the Tribe and its members. *See* 56 Fed. Reg. 64877-64880 (Dec. 12, 1991). Therefore, please find below the Tribe's supplemental submissions with respect to (1) current land ownership patterns within the Reservation; (2) non-members' activities on trust land; (3) the effects or potential effects on water quality of non-members' activities on trust land; and (4) the serious and substantial effects water quality has on the political integrity, economic security, and health and welfare of the Tribe and its members.

I. Current Land Ownership Patterns within the Reservation

The Swinomish Reservation consists of all lands and waters within the exterior boundaries of the Reservation. At a minimum, the regulatory boundaries of the Reservation extend to the historical midpoint of the Swinomish Channel on the east and to the extreme low water mark on the north, west, and south sides of the Reservation.[1] *See State v. Edwards*, 188 Wash. 467, 470-72 (1936)(holding that Reservation boundaries extend to line of extreme low water); Presidential Executive Order of September 9, 1873 (setting boundary of Reservation by reference to "low water mark")(attached as Exhibit 1).

Within the boundaries above described, the Swinomish Reservation contains approximately 10,452 acres of land: 7,452 acres of uplands and approximately 3,000 acres of tidelands. *See* Map 1, General Waterbodies on and around the Swinomish Indian Reservation (2007)(attached as Exhibit 2). All tidelands within the Reservation boundaries are held by the United States in trust for the Swinomish Indian Tribal Community. *See Edwards*, 188 Wash. at 470-72; *Corrigan v. Brown*, 169 F. 477, 480-81 (C.C.W.D.Wash. 1907); Memorandum from the Department of the Interior, Office of the Regional Solicitor, Portland, Regarding Ownership of Tidelands Fronting Indian Reservations (June 20, 1962)(attached as Exhibit 3).

Current data with respect to land ownership patterns within the Reservation indicate that 74.39% of Reservation lands are tribally owned, *i.e.* owned by the Tribe or individual tribal members. The Tribe owns 4,945 acres or 47.31% of Reservation lands, approximately 4,780 acres of which are held by the United States in trust for the Tribe. Individual tribal members own 2,830 acres or 27.08% of Reservation lands. *See* Map 2, Land Ownership of the Swinomish Indian Reservation (2007)(attached as Exhibit 4); Table 1, Land Ownership of the Swinomish Indian Reservation (2007)(attached as

[1] The Tribe reserves the right to argue that the actual boundaries of the Reservation extend farther than those described herein.

Exhibit 5). In addition, mineral interests in approximately 770 acres of lands held in fee by non-members are tribally owned. *See* Map 2.

The Tribe indicated in its application that it intends to acquire additional Reservation lands as they become available. Since that time, two tracts totaling an additional 825 acres were acquired by the United States in trust for the Tribe. *See* Statutory Warranty Deeds for Tracts T1019 and T1020 (December 12, 2006) (attached as Exhibits 6 and 7, respectively). The land ownership maps and figures submitted herewith as Exhibits 4 and 5 reflect these two recent acquisitions.

Although the Tribe or individual tribal members own the vast majority of Reservation lands, these lands are not evenly distributed across the Reservation. Non-member fee lands are disproportionately located along the Reservation shoreline, immediately adjacent to tidelands held by the United States in trust for the benefit of the Tribe and to waterbodies surrounding the Reservation, including but not limited to the Swinomish Channel, Similk Bay, Kiket Bay, and Skagit Bay. Non-member fee lands are also located adjacent to several of the Reservation's fresh waterbodies, including Fornsby Creek, Munks Creek, and Lone Tree Creek. *See* Map 2. Therefore, despite a relatively low percentage of non-member fee ownership within the Reservation, non-member fee owners can reasonably be expected to have a disproportionate effect on the environmental qualities of tidelands and waterbodies within and surrounding the Reservation because of the concentration of their parcels and the proximity of their parcels to the tidelands and waterbodies within and surrounding the Reservation.

II. Non-Members' Activities on Trust Land

Non-members use Reservation lands held in trust by the United States for the benefit of the Tribe or individual tribal members in numerous ways. These uses are described in detail below.

A. Leasing of Trust Lands

Non-members lease trust lands within the Reservation for a variety of purposes, including industrial, commercial, agricultural, residential and recreational purposes. Approximately 970 acres of the 4,610 acres of trust uplands within the Reservation, or 21%, are currently leased to non-members. *See* Map 3, Swinomish Indian Reservation – Leased Areas and Tribal Enterprises (2007)(attached as Exhibit 8); Table 1. Representative leases to non-members include:

- A lease of approximately 37 acres of filled and wet tribal tidelands for industrial purposes, including log storage, saw milling, bark chipping, and towing operations conducted by barge in the Swinomish Channel and by truck across Reservation rights-of-way located in whole or part on trust land. *See* Lease 1 (attached as Exhibit 9).

- A lease of approximately 106 acres of uplands and abutting tidelands for commercial and recreational purposes, including an RV park and campground and recreational use of tribal tidelands and estuarine areas associated with Lone Tree Creek. *See* Lease 2 (attached as Exhibit 10).

- A lease of approximately 400 acres of uplands and abutting tidelands for residential, recreational, and industrial purposes, including a gated residential community containing approximately 800 houses, a marina capable of accommodating approximately 300 vessels, recreational use of tribal tidelands, and a private sewage treatment plant. *See* Leases 3 and 4 (attached as Exhibits 11 and 12, respectively).

- Multiple leases totaling approximately 76 acres of uplands and abutting tidelands for residential and recreational purposes, including a residential community containing approximately 120 houses and recreational use of tribal tidelands. *See e.g.* Lease 5 (attached as Exhibit 13).

- A lease of approximately 2 acres and tribally-owned improvements thereon for commercial purposes, including fish processing and packing. *See* Lease 6 (attached as Exhibit 14).

- A lease of approximately 2 acres for commercial purposes, including a boatyard and installation and repair services for pleasure craft. *See* Lease 7 (attached as Exhibit 15).[2]

- A lease of approximately 345 acres of uplands for agricultural purposes, including the cultivation of row crops. *See* Lease 8 (attached as Exhibit 16).

The leasing of Reservation trust lands not only opens Reservation lands and waters to non-member lessees but also to a wide variety of non-members related to the lessee. Industrial, commercial, and agricultural lessees have non-member employees, suppliers, and customers who visit the Reservation and use Reservation lands and waters. Residential and recreational lessees have non-member contractors, service workers, and family and friends who visit the Reservation and use Reservation lands and waters. It is therefore reasonable to assume that the actual effects of leasing trust lands within the Reservation to non-members are greater than those caused as a result of the lease itself or by the lessee.

B. Use of Rights of Way and Easements on Trust Lands

Non-members commonly travel upon road rights-of-ways located in whole or in part on trust lands within the Reservation. Major thoroughfares include, but are not limited to: Washington State Route 20; Casino Drive; Reservation Road; Indian Road; Snee-Oosh

[2] This lease has been renewed and assigned numerous times since it was executed. We include excerpts from the original lease.

Road; and Pull & Be Damned Road. *See* Map 4, Rights-of-Way/Easements on Trust Lands - Swinomish Indian Reservation (2007)(attached as Exhibit 17).

A non-member corporation commonly uses a railroad right-of-way and easement located in part on trust lands within the Reservation. *See* Map 4.

Non-member utility companies commonly use rights-of-way or easements located in whole or in part on trust lands within the Reservation. These companies include but are not limited to: Bonneville Power Administration; Puget Sound Energy; Cascade Natural Gas; Olympic Pipeline Co.; Trans Mountain Oil Pipeline Corp.; Verizon Telephone; and Wave Broadband. *See* Map 4.

Non-Tribal municipalities or municipal corporations commonly use rights-of-way or easements located in whole or in part on trust lands within the Reservation. Specific examples include: an easement and right-of-way in favor of the City of Anacortes for a water pipeline and rights of way in favor of Skagit County for county roads. *See* Map 4.

C. Authorized and Unauthorized Shore Defense Works on Tribal Tidelands

Whether or not authorized, non-members routinely place shore defense works on tribal tidelands. Specific examples include, but are not limited to, bulkheads, revetments, and soft shore blocks. A 2005 survey of the Reservation shoreline identified 112 shore defense works on the Reservation shoreline and concluded that approximately 25% of the Reservation shoreline is armored. *See* SITC, Office of Planning and Community Development, *Nearshore Structure Survey of Swinomish Indian Reservation: Adapted Procedures and Preliminary Results* (2005)("Nearshore Survey")(attached as Exhibit 18).

D. Authorized and Unauthorized Use of Tribal Tidelands

Whether or not authorized, non-members routinely place structures on Tribal tidelands, including but not limited to, fill; decks; houses; boathouses; outfalls; stairs; piers; pilings; jetties; boat ramps; mooring buoys; boats; and aquaculture equipment, including fish pens and oyster pens. A 2005 survey of the Reservation shoreline identified approximately 450 of these types of structures. *See* Nearshore Survey; Map 5, Oyster Pens (2006)(attached as Exhibit 19).

Whether or not authorized, non-members use Tribal tidelands for a variety of recreational purposes. Specific and/or potential uses include but are not limited to: boating; swimming; bird watching; hunting; fishing; shellfishing; horseback riding; picnicking; hiking; camping; and sports activities. In addition, non-members have occasionally driven motorized vehicles on or across tribal tidelands.

E. Use of Tribal Commercial Enterprises and Tribal Facilities on Trust Lands

Non-members frequently visit commercial enterprises owned by the Tribe or individual tribal members that are located on trust lands, including but not limited to, the Swinomish Northern Lights Casino; the Swinomish Northern Lights Gas Station and mini-mart; the Trading Post; and various wholesalers and retailers of fireworks products. *See* Map 3.

Non-members commonly visit tribal facilities located on trust lands, including but not limited to, the Tribal Administration building; the Swinomish Community Center and gymnasium; the Social Services building; the fitness center; the Smokehouse; and the Swinomish Tribal Court.

Several Tribal facilities serve significant numbers of non-members. Approximately one-third of the 62 children who attended the Swinomish Child Care Center and Swinomish preschool programs in 2006 were non-members. Communication with John Stephens, SITC Social Services Director (June 27, 2007); SITC, *Annual Report* (2006)(attached as Exhibit 20). The Swinomish Medical Center accepts as patients non-member Indians and non-Indians who are pregnant with Indian children, live in a household with Indians, or have been exposed to contagious or infectious disease. The Dental Clinic located on the Reservation accepts as patients members of the Upper Skagit tribe, non-member employees of the Swinomish and Upper Skagit tribes, and non-member spouses of Swinomish and Upper Skagit members. Approximately 10% of the patients seen by the Medical and Dental Clinic are non-members. Communication with John Stephens, SITC Social Services Director (June 27, 2007). Non-member Indians and non-Indian Tribal employees or spouses also attend the Northwest Indian College – Swinomish Campus. In the last 5 years, approximately 10 non-members attended classes full time. Annually, approximately 50 non-members attend Continuing Education trainings and classes. Communication with Gaylene Gobert, Northwest Indian College – Swinomish Campus Site Coordinator (June 27, 2007).

F. Unauthorized Discharge or Dumping of Waste Products or Stormwater on Trust Lands

Although unauthorized, non-members have discharged or dumped a variety of waste products or untreated stormwater on trust lands within the Reservation. Communication with Elissa Fjellman, SITC GIS & Administrative Services Manager (June 27, 2007); Communication with Cameron Fraser, SITC Prosecutor (June 27, 2007); Communication with Todd Mitchell, SITC Water Resources Manager (various dates in May and June, 2007); Communication with Scott Andrews, SITC Environmental Management Coordinator (May 31, 2007); Communication with John Petrich, SITC Utilities & Housing Director (May 16, 2007). Specific examples include:

- Regular discharge of untreated stormwater directly to Tribal tidelands from non-member roof or foundation drains tightlined directly to Tribal tidelands or from conveyance systems with outfalls to Tribal tidelands.

- Periodic discharge of effluent on uplands and tidelands by the non-member lessee of said lands.

- Periodic discharge of offal into the Swinomish Channel and adjacent Tribal tidelands by a non-member lessee of uplands abutting the Channel.

- Failing or non-existent septic systems that serve non-member residences located on trust uplands or that discharge to Tribal tidelands, especially those located adjacent to Similk and Turner's Bays.

- Failing or insufficient sewage treatment systems or sewage conveyance systems owned by non-members.

- Various incidents involving non-members' dumping of solid waste on tribally-owned uplands and tidelands. One specific incident involved the dumping of 19 large black plastic bags filled with solid waste onto tribally-owned uplands.

- Prior to the Tribe's enactment of the Stormwater Management Code in 2004, stormwater run-off from non-member construction activities often flowed in brown silt-laden rivlets directly onto Tribal tidelands or into fresh or marine waters within or surrounding the Reservation. Currently, any construction project adding 2000 square feet or more of impervious surface must obtain a stormwater permit from the Tribe, usually in connection with a building permit. While permitting and enforcement has not completely eliminated stormwater runoff associated with construction sites, runoff from these sites is now controlled under Best Management Practices including silt fences, tarps over soil piles, stabilization of slopes, straw mulch, and bales. At larger construction sites, bioswales, settling ponds, and other treatment practices are required.

- Historically, a solid waste landfill operated on trust land within the Reservation.

Additionally, an inoperative petroleum-waste disposal site is located within the Reservation. The site was designated a Superfund site and was cleaned up pursuant to an Administrative Order on Consent, EPA Docket No. CERCLA-10-2000-0186, effective December 6, 2000. Although located on fee land, the site is adjacent to a trust parcel owned by the Tribe, within 825 feet of another trust parcel owned by the Tribe, and poses a threat to the groundwater resources because of its proximity to Reservation aquifers and tribally-owned wells.

G. Authorized and Unauthorized Harvesting of Timber

Whether authorized or unauthorized, non-members have harvested and continue to harvest timber from trust lands within the Reservation. Specific examples include, but are not limited to, various permitted timber harvests and various incidents of tree cutting, particularly by lessees of trust uplands. *See* Photographs 1 through 9, Tree Cutting

(2006)(attached as Exhibit 21). In fact, tree cutting occurs so frequently that non-member lessees of trust uplands have had protracted disputes over, and initiated litigation against each other to prevent, tree cutting. *See* Motion for Temporary Restraining Order (February 3, 2004)(attached as Exhibit 22); Letter dated January 15, 2004 (attached as 23).

H. Unauthorized Mining Operations

Whether authorized or unauthorized, non-members have historically and currently conducted sand and gravel mining operations and have historically conducted strontium mining operations on trust lands or mineral interests within the Reservation. For example, a non-Indian owned corporation has conducted sand and gravel mining operations on a parcel it owns in fee for many decades, despite the fact that mineral interests in the parcel are held in trust for individual tribal members. *See* Photograph 10, Gravel Pit (2006); Photograph 11, Gravel Pit (2004)(attached as Exhibits 24 and 25, respectively).

I. Wells

Non-members draw groundwater from wells located on trust lands within the Reservation. *See* Map 6, Approximate Well Locations from Well Logs (2007)(attached as Exhibit 26). The Tribe is currently attempting to identify and map the precise location of, and to determine the quantity of groundwater withdrawn from, each of the approximately 240 wells located within the Reservation.

J. Miscellaneous Non-member Activities on Trust Land

In addition to the activities above-described, non-members enter consensual contracts with the Tribe to perform a variety of services on trust lands; perform construction activities on trust lands; visit the homes of individual tribal members located on trust lands; and attend places of worship located on trust lands. Additional historic and/or potential uses of trust lands include development of farm fisheries and commercial shellfish production.

III. Effect of Non-Members' Activities on Water Quality

Non-member activities on trust lands within the Reservation affect or have the potential to affect water quality in a variety of ways. The Tribe has previously submitted evidence with respect to the actual and/or potential effects on water quality of non-member activities within the Reservation. *See* Application at 17-20, 23-43. A table summarizing actual and/or potential specific effects on water quality of non-member activities on trust lands is submitted herewith. *See* Table 2, Actual or Potential Effects on Water Quality of Non-Member Activity on Trust Lands (2007) (attached as 27). The Tribe relied upon various sources to develop this table including: EPA, Office of Water, *National Primary Drinking Water Standards* (2003)(attached as Exhibit 28); SITC, Office of Planning and

Community Development, *Unified Watershed Assessment of the Swinomish Indian Reservation* (2001)(attached as Exhibit 29); SITC, Office of Planning and Community Development, *Nonpoint Pollution Assessment and Management Plan* (2000)(attached as Exhibit 30); Communication with Scott Andrews, SITC Environmental Management Coordinator (May 31, 2007).

The topography of the Reservation is such that surface waters move freely between tribal lands and non-member fee lands and flow down hill to the resource-rich Tribal tidelands surrounding the Reservation or contribute to groundwater recharge. *See* Map 7, Topography of the Swinomish Reservation (2007)(attached as Exhibit 31). The hydrogeology of the Reservation is such that "ground water moves downward in the center of the island,[3] radially outward, and then upward along the coastline to discharge into adjacent salt-water bays and sea-level marshes and mudflats." USGS, *Reconnaissance Hydrogeology and Water Quality of the Swinomish Indian Reservation, Skagit County, Washington*, Water-Resources Investigations Report 96-4031 at 9 (1998)("Hydrogeology Report")(attached as Exhibit 32). Therefore, non-member activities occurring on the Reservation affect or have the potential to affect surface and ground water quality regardless of whether the non-member activity occurs on tribally-owned or non-member fee lands.

IV. Serious & Substantial Effects of Water Quality on the Tribe's Political Integrity, Economic Security, and Health and Welfare

The EPA recognizes that "any impairment that occurs on, or as a result of, activities on non-Indian fee lands [is] very likely to impair the water and critical habitat quality of the tribal lands" and that "clean water, including critical habitat (i.e. wetlands, bottom sediments, spawning beds, etc.) is absolutely crucial to the survival of many Indian reservations." 56 Fed. Reg. 64876, 64878-79 (December 12, 1991).

The Tribe has previously submitted detailed descriptions of the myriad ways the Tribe and its member use Reservation waters. Tribal use of Reservation waters includes, but is not limited to, subsistence hunting, fishing, shellfishing, and gathering; ceremonial hunting, fishing, shellfishing, and gathering; commercial fishing and shellfishing; wildlife habitat and habitat restoration; Tribal governmental, industrial, commercial and domestic uses; drinking water supply; ceremonial, cultural, and spiritual uses; and recreational and aesthetic uses. *See* Application at 20-21, 23-43. The Tribe has also previously submitted descriptions of the serious and substantial effects degraded water quality in waters within or surrounding the Reservation has, or may have, on the Tribe's political integrity, economic security, and health and welfare. *See* Application at 18-21. Some of these serious and substantial effects on the Tribe and its members are described in greater detail below and in Table 2.

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[3] The USGS study refers to the Reservation as an 'island' "because it is connected to the remainder of Fidalgo Island by only a small, low-lying landmass. As such, it has an independent hydrologic system." Hydrogeology Report at 2.

Degradation of water quality harms economically and culturally important fish and shellfish species that live in or use Reservation waters including, but not limited to, Chinook salmon, coho salmon, pink salmon, chum salmon, sockeye salmon, steelhead, bull trout, halibut, Dungeness crab, shrimp, geoduck, oysters, clams, sea urchins and sea cucumbers. It also harms or destroys habitat within or surrounding the Reservation that is essential for the survival of these species and the maintenance of healthy fish runs. Harm to fisheries resources seriously and substantially affects the Tribe's political integrity, economic security, and health and welfare by, *inter alia*,:

- Depriving the Tribe and its members of a primary benefit of its treaty with the United States, namely, the right to engage in subsistence, ceremonial, and commercial fishing and shellfishing within the Reservation and at all usual and accustomed grounds and stations. *See* Treaty of Point Elliott, Art. 5.

- Decreasing the amount of annual income the Tribe and its members generate by commercial fishing and shellfishing. In 2006, commercial fishing and shellfishing generated approximately $3,530,000.00 dollars in income for the Tribe and its members. *See* Table 3, Swinomish Catch Summary Revenue (2006)(attached as Exhibit 33).

- Decreasing the amount of Tribal revenues generated by the levying of taxes upon the sale of fish and shellfish and used for governmental purposes. In 2006, the Tribe assessed and collected approximately $176,000.00 dollars in fish and shellfish tax revenues. *See* Swinomish Tribal Code 18-03.830 (attached as Exhibit 34).

- Undermining the effectiveness of significant Tribal expenditures for the purpose of natural resource protection, habitat restoration, and fish and shellfish management. In 2006, the Tribe expended at least $2,600,000.00 for natural resource protection and habitat restoration. *See, e.g.*, 2006 Annual Report; SITC, *Tribal Habitat Management Plan* (2004)(attached as Exhibit 35).

- Threatening and decreasing the safety of food sources historically and currently essential to the diets of the vast majority of tribal members. A recent study conducted by the Tribe pursuant to an EPA grant concludes that tribal members consume significantly more fish and shellfish than non-members and that bioaccumulated toxics in subsistence-harvested shellfish gathered on and around the Reservation pose a substantial risk to tribal members' health. *See* SITC, Office of Planning and Community Development, *Bioaccumulated Toxics in Subsistence-Harvested Shellfish: Contaminant Results and Risk Assessment* (2006) (attached as Exhibit 36).

- Reducing the availability of fish and shellfish for culturally and spiritually important ceremonial purposes.

Degradation of water quality harms important and diverse wildlife species that use or depend on waters or habitat within or surrounding the Reservation, including bird

species, mammal species, reptile species, amphibian species, plant species and flora, and numerous threatened or endangered species (e.g. bald eagles, Chinook salmon, bull trout, etc.). This threat or actual harm to wildlife species has a serious and substantial effect on the political integrity, economic security, and health and welfare of the Tribe and its members by, *inter alia*,:

- Depriving the Tribe and its members of a primary benefit of its treaty with the United States, namely, the right to hunt and gather within the Reservation and on open and unclaimed lands. *See* Treaty of Point Elliott, Art. 5.

- Interfering with the Tribe's ability to reach its long-term goals with respect to natural resource protection and preservation of the wildlife resources of the Reservation. *See* Swinomish Indian Senate, *Goals for 2007* ("Senate Goals")(attached as Exhibit 37).

- Undermining the effectiveness of significant Tribal expenditures for the purpose of natural resource protection and habitat restoration. *See* 2006 Annual Report.

- Threatening, and decreasing the safety of, subsistence food sources. For example, tribal members frequently hunt birds and occasionally hunt deer for subsistence purposes and may suffer adverse health effects if bioaccumulation of toxics occurs in those species.

- Reducing the availability of wildlife species for culturally and spiritually important ceremonial purposes.

Degradation of water quality reduces and/or contaminates water used for Tribal governmental, industrial, commercial and domestic purposes, including drinking water. Reduction or contamination of water used for these purposes has a serious and substantial effect on the political integrity, economic security, and health and welfare of the Tribe and its members by, *inter alia*,:

- Depriving the Tribe and its members of a primary benefit of its treaty with the United States, namely, the right to the amount of water necessary to accomplish the purposes of the Reservation. *See Winters v. United States*, 207 U.S. 564, 576-578 (1908).

- Undermining the Tribe's ability to reach its long-term goals with respect to preservation and utilization of the water resources of the Reservation. *See* Senate Goals.

- Interfering with the Tribe's ability to perform an essential incident of sovereignty, namely, provision of public water supply within the Reservation. Currently, the Tribe obtains a portion of its public water supply from two tribally-owed wells that tap aquifers located within the Reservation boundaries. The Tribe relies upon these wells and aquifers to provide additional public water supply in the event of an emergency. Communication with John Petrich, Director, Swinomish Utility Authority (June 7,

2007). Because "precipitation ... is ... the source of recharge to the groundwater reservoir[s]" any contamination of surface waters has the potential to contaminate Reservation groundwaters and to interfere with the Tribe's ability to utilize Reservation groundwaters for public water supply purposes. *See* Hydrogeology Report at 9.

- Decreasing the quantity and quality of water available to satisfy tribal members' daily needs. For example, approximately 70% of the Reservation's population (members and non-members) wholly or partially depends upon groundwater for domestic and/or drinking water purposes. Although the Tribe's investigation regarding this issue is ongoing, it appears that a number of residences occupied by tribal members are not yet connected to public water supply and thus depend entirely on well water drawn from Reservation aquifers. *See* SITC, *Unified Watershed Assessment* at 12 (2001).

- Increasing tribal members' risk of suffering disability, disease, and death caused by exposure to contaminants in Reservation waters used for a variety of purposes, and especially in Reservation aquifers and streams that supply drinking water.

Degradation of water quality reduces the recreational and aesthetic value of waters within or surrounding the Reservation. Tribal members use Reservation waters for a variety of recreational and aesthetic purposes, including but not limited to boating, swimming, and sports activities. Reduction in the recreational and aesthetic value of Reservation waters has a serious and substantial effect on the political integrity, economic security, and health and welfare of the Tribe and its members by, *inter alia*,:

- Depriving the Tribe and its members of a primary benefit of its treaty with the United States, namely, the right to a permanent and exclusive homeland. *See* Treaty of Point Elliott, Art. 2.

- Decreasing the Tribe's ability to use Reservation lands and waters for economic advantage, including but not limited to the development and/or expansion of tourism and commercial outdoor recreational activities.

- Threatening the health and safety of tribal members who have physical contact with, or accidentally swallow, contaminated water during the course of recreational activities on or in Reservation waters.

- Decreasing the ability of the Tribe and its members to participate safely in traditional and culturally important water travel and sports. For example, tribal members use Reservation waters to participate in canoe travel and canoe racing, traditional activities that are culturally important to the Tribe. Members of the Swinomish Canoe Club practice racing in waters surrounding the Reservation to prepare to participate in inter-tribal canoe races that occur throughout the region in the late summer and early fall.

The information included herein and in the Tribe's original application for treatment as a "state" amply demonstrates the Tribe's inherent sovereign authority to regulate water quality within the exterior boundaries of the Reservation. Even if *Montana* applies,[4] both of the *Montana* exceptions justify the Tribe's exercise of its authority to regulate non-member activities within the Reservation that affect, or potentially affect, water quality. Non-members have entered into a variety of consensual relationships with the Tribe and its members (including, but not limited to, leases, contracts, and permits) by which non-members are permitted to use Reservation lands, waters, or other natural resources; whether authorized or not, the activities stemming from those consensual relationships may degrade water quality. In fact, non-member activities on Reservation lands, including Reservation trust lands, have degraded water quality and seriously and substantially affected the political integrity, economic security, and health and welfare of the Tribe and its members by damaging fisheries and other natural resources vitally important to the Tribe and its members politically, economically, nutritionally, and culturally; contaminating and forcing closures of certain surface waters, including surface waters used since time immemorial for subsistence and ceremonial fishing; and interfering with the safe use of Reservation waters for a variety of purposes, including domestic and drinking water supply. The EPA can only conclude that this degradation of water quality, and the serious and substantial threat it poses to the Tribe and its members, will continue if appropriate on-Reservation water quality standards are not imposed and enforced against *all* individuals who use Reservation lands, waters, and other natural resources.

I am happy to discuss with you any of the supplemental information the Tribe has submitted and to provide to you any additional information you require. Please feel free to contact me at (360) 466-7248.

Sincerely,

Emily R. Hutchinson
Tribal Attorney

[4] Of course, the Tribe maintains that it does not for the reasons set forth in the Tribe's original application and reiterated above.

List of Exhibits:

Exhibit 1. Presidential Executive Order of September 9, 1873.
Exhibit 2. Map 1. General Waterbodies on and around the Swinomish Indian Reservation (2007).
Exhibit 3. Memorandum from the Department of the Interior, Office of the Regional Solicitor, Portland, Regarding Ownership of Tidelands Fronting Indian Reservations (June 20, 1962).
Exhibit 4. Map 2. Land Ownership of the Swinomish Indian Reservation (2007).
Exhibit 5. Table 1. Land Ownership of the Swinomish Indian Reservation (2007).
Exhibit 6. Statutory Warranty Deed for Tract T1019 (December 12, 2006).
Exhibit 7. Statutory Warranty Deed for Tract T1020 (December 12, 2006).
Exhibit 8. Map 3. Swinomish Indian Reservation – Leased Areas and Tribal Enterprises (2007).
Exhibit 9. Lease 1.
Exhibit 10. Lease 2.
Exhibit 11. Lease 3.
Exhibit 12. Lease 4.
Exhibit 13. Lease 5.
Exhibit 14. Lease 6.
Exhibit 15. Lease 7.
Exhibit 16. Lease 8.
Exhibit 17. Map 4. Rights-of-Way/Easements on Trust Lands - Swinomish Indian Reservation (2007).
Exhibit 18. SITC, Office of Planning and Community Development, *Nearshore Structure Survey of Swinomish Indian Reservation: Adapted Procedures and Preliminary Results* (2005).
Exhibit 19. Map 5. Oyster Pens (2006).
Exhibit 20. SITC, *Annual Report* (2006).
Exhibit 21. Photographs 1 through 9, Tree Cutting (2006).
Exhibit 22. Motion for Temporary Restraining Order (February 3, 2004).
Exhibit 23. Letter dated January 15, 2004.
Exhibit 24. Photograph 10. Gravel Pit (2006).
Exhibit 25. Photograph 11. Gravel Pit (2004).
Exhibit 26. Map 6. Approximate Well Locations from Well Logs (2007).
Exhibit 27. Table 2. Actual or Potential Effects on Water Quality of Non-Member Activity on Trust Lands (2007).
Exhibit 28. EPA, Office of Water, *National Primary Drinking Water Standards* (2003).
Exhibit 29. SITC, Office of Planning and Community Development, *Unified Watershed Assessment of the Swinomish Indian Reservation* (2001).
Exhibit 30. SITC, Office of Planning and Community Development, *Nonpoint Pollution Assessment and Management Plan* (2000).

Exhibit 31. Map 7. Topography of the Swinomish Reservation (2007).

Exhibit 32. USGS, *Reconnaissance Hydrogeology and Water Quality of the Swinomish Indian Reservation, Skagit County, Washington*, Water-Resources Investigations Report 96-4031 (1998).

Exhibit 33. Table 3. Swinomish Catch Summary Revenue (2006).

Exhibit 34. Swinomish Tribal Code 18-03.830.

Exhibit 35. SITC, *Tribal Habitat Management Plan* (2004).

Exhibit 36. SITC, Office of Planning and Community Development, *Bioaccumulated Toxics in Subsistence-Harvested Shellfish: Contaminant Results and Risk Assessment* (2006).

Exhibit 37. Swinomish Indian Senate, *Goals for 2007*.

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Indian Affairs
Laws and Treaties

EXHIBIT 1

Compiled and Edited By Charles J. Kappler, LL.M.,
Clerk to the Senate Committee on Indian Affairs

Washington: Government Printing Office.

1904

Swinomish Reserve. (Perry's Island.)

[In Tulalip Agency: occupied by Dwamish, Etakmur, Lummi, Snohomish, Sukwamish, and Swinomish; area, 21 square miles: treaty January 22, 1855.]

EXECUTIVE MANSION, *September 9, 1873.*

Agreeably to the within request of the Acting Secretary of the Interior, it is hereby ordered that the northern boundary of the Swinomish Reservation, in the Territory of Washington, shall be as follows, to wit: Beginning at low-water mark on the shore of Sim-ilk Bay at a point where the same is intersected by the north and south line bounding the east side of the surveyed fraction of 9.30 acres, or lot No. 1, in the northwest corner of section 10 in township 34 north, range 2 east; thence north on said line to a point where the same intersects the section line between sections 3 and 10 in said township and range; thence east on said section line to the southeast corner of said section 3; thence north on east line of said section 3 to a point where the same intersects low-water mark on the western shore of Padilla Bay.

U. S. GRANT.

EX 1

File copy

Executive Mansion

September 9th

Agreeable to the within request of the Acting Secretary Interior. It is hereby ordered that the Northern bound. Swinomish reservation in the Territory of Washington as ~~as follows, to wit: Beginning at low-water mark on~~ of Sim-ilk Bay at a point where the same is intersected north and south line bounding the East side of the survey fraction of 9 30/100 acres or Lot No 1. in the Northwest corner ten (10) in township 34 North, Range 2 East. thence North o. line to a point where the same intersects the Section line Sections three and ten in said township and range - thence on said Section line to the South-East corner of said 3 - thence North on East line of said Section three, to where the same intersects low-water mark on the shore of Padilla Bay."

U. S. Grant

EX 2

General Waterbodies on and around the Swinomish Indian Reservation

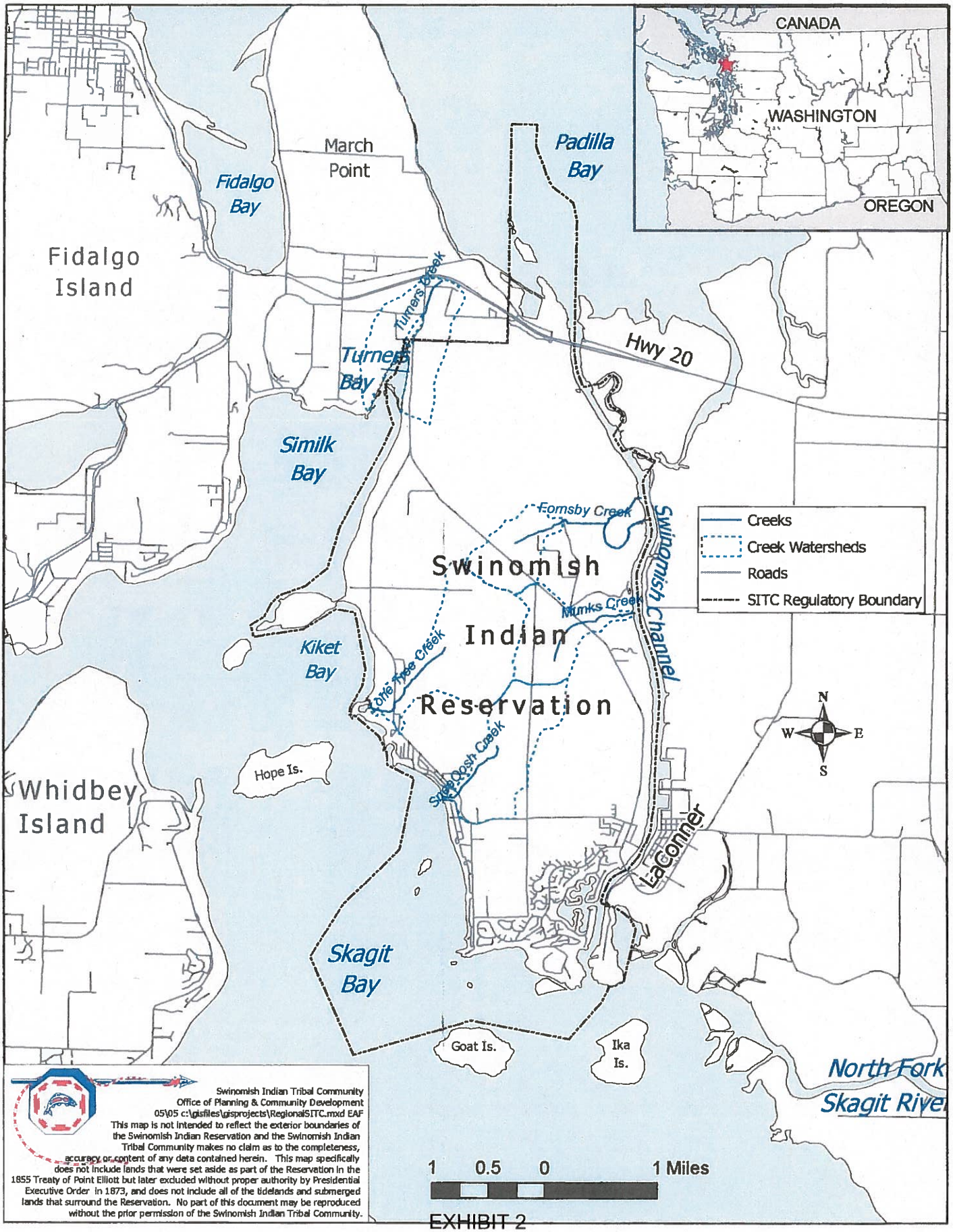


EXHIBIT 2

EX 3

EXHIBIT 3

C O P Y

Memorandum June 20, 1962

To: Bureau of Indian Affairs (Realty)

From: Office of the Regional Solicitor, Portland

Subject: Ownership of tidelands fronting Indian reservations

This is in response to former Superintendent Ringey's memorandum of February 19, 1962 to the Area Director requesting that we review the tidelands situation on various Western Washington reservations. This opinion is intended to supersede and replace prior opinions of this office pertaining to the ownership of tidelands in front of various Western Washington Indian reservations. These prior opinions, which are hereby withdrawn insofar as they express views on the status of tidelands and river or lake beds, are the following:

1. Opinion of March 18, 1960, concerning ownership of tidelands on the Swinomish and Tulalip Reservations.

2. Opinion of August 19, 1960, pertaining to Makah Reservation tidelands.

3. Opinion of September 23, 1960, Skokomish Reservation tidelands.

4. Opinion of September 26, 1960, Port Madison Reservation tidelands.

5. Opinion of February 10, 1961, Shoalwater Reservation tidelands.

6. Opinion of July 12, 1961, Quinault Reservation as including area between high and low water of Quinault Lake.

7. Opinion of August 31, 1961, Quinault Reservation tidelands.

In addition, any statements in the opinions of March 16, 1961 and July 12, 1961, pertaining to the Puyallup Reservation tidelands and river bottom, and the opinion of November 8, 1961 dealing with Makah Reservation tidelands, which are at variance with the views contained herein, are likewise withdrawn.

At the outset we should note that the question of whether the grants or reservations made or established by the Federal government extend to high or low tide is a question of Federal, rather than State, law and the rights conferred or recognized, including the effect of imperceptible accretions, are to be determined by Federal law. United States v. State of Washington, 294 F.2d 830 (9th Cir. 1961), cert. denied 82 Sup. Ct. ____, 7 L.Ed 2d 783. Federal law follows the common law in this regard in recognizing that a party owning the upland bordering the sea or a lake or river owns any additions thereto resulting from imperceptible accretion. The instant case also holds that mean high water mark, such as was there involved, means the line of high water as determined by the course of the tides - the average elevation of all high tides as observed at a location through a complete tidal cycle of 18.6 years. Presumably the same applies in determining the line of mean low tide where that line is involved.

As a rule, general legislation pertaining to the public lands does not extend to tidelands, and unless the contrary is clearly indicated, withdrawals, grants or patents of public lands normally do not include the tidelands or lands under navigable waters. Mann v. Tacoma Land Company, 153 U.S. 273, 14 Sup. Ct. 822, 38 L.Ed. 714 (1894); McGilvra v. Ross, 215 U.S. 70, 30 Sup. Ct. 27, 54 L.Ed. 95 (1909); United States v. Ashton, 170 Fed. 509 (Cir. Ct. W.D. Wash. W. D. 1909) app. Dismissed sub nom Bird v. Ashton, 220 U. S. 604, 55 L.Ed. 605 (1911). The general rule is that prior to statehood the United States Government holds the tidelands and beds of navigable rivers in trust for the states which are to be carved out of the area. United States v. Holt State Bank, 270 U.S. 49, 46 Sup. Ct. 197, 70 L.Ed. 465 (1926). The United States is not precluded from conveying tidelands prior to statehood but such disposals "are not lightly to be inferred, and should not be regarded as intended unless the intention was definitely declared or otherwise made very plain." 70 L.Ed. at 469. Normally it is left to the states to determine by state law "what rights, if any, littoral proprietors have to the soil below high water mark." Montana Power Co. v. Rochester, 127 F.2d 189, 191 (9th Cir. 1942). In the words of the court in the Ashton case, supra, at p. 513, "If there is any exception to /the/ general rule, it must rest upon a special grant expressly authorized by a law enacted by Congress /GDD note: or a treaty of the United States/ to provide for some peculiar requirement of the national government."

In Washington the beds and shores of all navigable waters up to and including the line or ordinary high tide in tidal areas and high water in navigable rivers and lakes belong to the state. Washington State Constitution, Article XVII. Congress, in the Washington State Enabling Act, required, and the state in Article XXVI of the State Constitution accepted the requirement, that the state disclaim all right and title to all lands

within the boundaries of the state owned or held by any Indian or Indian tribes. The courts of both the United States and the State of Washington have repeatedly recognized this disclaimer in those cases in which the record clearly shows a Federal intent to include tidelands within a particular Indian reservation established prior to statehood (November 11, 1889). U.S. v. Ashton, supra, at p. 519. Such an intent has been found in those several instances in which the Executive Order establishing the reservation describes the applicable boundary as extending to or along the low-water mark. See for example the Lummi Reservation 1/ discussed in United States v. Stotts, 49 F. 2d 619 (DC Wash. WD, 1930), and United States v. Romaine, 255 Fed. 253 (9th Cir. 1919); Swinomish Reservation 2/ discussed in United States ex rel Corrigan v. Brown, 169 Fed. 477, 480 (DC Wash. WD 1907) (but see discussion of this case in U.S. v. Ashton, supra, at p. 520), State v. Edwards, 188 Wash. 467, 62 P. 2d 1094 (1936), (Western boundary - - "Low-water mark" - - held to mean line of "extreme low tide"), and State v. McCoy, No. 2187, Superior Court for Skagit County (1961 ; appeal pending) (southern boundary defined along Skagit River channel through tide flats); and Tulalip Reservation 3/discussed in Jones v. Callvert,73 Pac. 701 (Wash. 1903). United States v. Snohomish River Boom Co., 234 Fed. 95 (W. D. Wash. 1916), affd. 246 Fed. 112 (9th Cir., 1917) held that a tidelands area near the mouth of Ebey Slough was not a part of the Tulalip Reservation . It affirms that the reservation boundary runs "coincident with the line of low-water mark along the shores of Port Susan, Port Gardner, and Tulalip Bay, "with all the meanderings thereof." but that "tidelands which were wholly separated from the land of the reservation" were not granted to the Indians. 246 Fed. 114, 115.

The seaward boundary of the Quinault Reservation 4/is also expressed in terms of the "low-water mark." The lake boundary runs "around the east shore" of Lake Quinault. See Quinaielt Tribe of Indians v. U.S., 102 Ct. Cl. 822 (1945) for a discussion of the portion of the reservation "taken" by the United States. The Quinault Treaty reserves for the use and occupation of the Indians a tract or tracts of land sufficient for their wants, "to be selected by the President * * * and hereafter surveyed or located **." (Emphasis added.) Article II, Treaty of July 1, 1855 and January 25, 1856, 12 Stat. 971.

1/ Executive Order of November 22, 1873
2/ Executive Order of September 9, 1873
3/ Executive Order of December 23, 1873.
4/ Executive Order of November 4, 1873

In at least two cases where an entire island was reserved as a part of an Indian reservation, the courts have construed this as including the tidelands. United States v. Romaine, supra, (Lummi) and United States v. O'Brien, 170 Fed. 508 (DC Wash. WD 1903), involving the Squaxin Island Reservation. In the latter case, the court stressed the language of the Washington Constitution disclaiming all right and title to all lands "owned or held" by any Indian or Indian tribes. The court construed the reference to lands "held" as meaning "occupied and used" and it held that the Indians were the only ones who occupied and used Squaxin Island.

In the case of the Puyallup Reservation, a court has held that the Executive Orders did not reserve the tidelands as a part of the reservation, or at least not irrevocably so as to be effective after survey and platting of the reservation. U.S. v. Ashton, supra, at p. 517. This is on the basis of a detailed analysis of the many documents and actions affecting that reservation and is made notwithstanding an expression of intent in the communication of the Acting Commissioner of Indian Affairs, upon which the 1873 order was based, that the line was "to follow the shoreline at low-water mark."

The Ninth Circuit Court of Appeals has recognized that the general rule stated in Shively v. Bowlby, 152 U.S. 1, 14 Sup. Ct. 548, 38 L.Ed. 331, that title runs only to the high-water mark "has no relevance to the title to tidelands enclosed by an Indian Reservation made before the entry of the state into the Union." Moore v. United States, 157 F.2d 760 (1946); cert. den. 330 U.S. 827, 67 Sup. Ct. 867, 91 L.Ed. 1277. As indicated in the Moore case, and the cases cited therein, the question of whether tidelands are included within an Indian reservation is one of the intent of the Government when it established the reservation. See United States v. Holt, supra; Alaska Pacific Fisheries v. United States, 248 U.S. 78, 39 Sup. Ct. 40, 63 L.Ed. 138 (1918); Donnelly v. United States, 228 U.S. 243, 33 Sup.Ct. 449, 57 L.Ed. 820, Ann. Case. 1913E, 710 (1913); United States v. Walker River Irrigation District, 104 F.2d 334 (9th Cir. 1939). Among the factors that must be considered in a given case are "the circumstances in which the reservation was created * * * the location and character of the area reserved, the situation and needs of the Indians, and the object to be attained." Alaska Pacific Fisheries v. United States, supra.

As was pointed out in United States v. Stotts, supra, "Each treaty and proclamation must rest upon its own provisions." The Stotts case also pointed out "It is primer law that Indian treaties are to be liberally construed, to the end that Indians will retain the benefits conferred by the treaty at the time of its execution." It also stated that where the treaty

or executive order clearly reserved the tidelands to the Indians, the rights of the Indians could not be prejudiced by the fact that the tidelands were not included in a survey, made after the reservation was established for the purpose of allotting lands to individuals. But see U.S. v. Ashton, supra, and Skokomish Indian Tribe v. France, infra, for examples of weight given to subsequent surveys. One possible distinction is that where the treaty reserves a tract in terms of a geographical description, as in the Point Elliott Treaty, the later survey of that tract cannot omit areas within the description, whereas, when the treaty reserves a tract by reference to a legal subdivision such as a given number of sections, then the survey is necessary to delimit the tract. Note that in the case of Quinault, the treaty reference was to the tract being later "surveyed or located."

Where the Act or executive order establishing a pre-statehood reservation uses express language that shows a clear intent to include the tidelands, such as a reference to the low-water mark, there is usually no problem. Not all of the Western Washington reservations, however, are described in this manner and in those cases we must look to all of the facts in order to ascertain the Federal intent at the time the reservation was established. It is difficult, if not impossible, to reconcile all of the various cases and the statements which they contain in support of the result in each one. One generalization that appears to apply is that the courts are extremely reluctint to upset titles which have been asserted over many years where expensive improvements or operations have been made or conducted in reliance upon present or prior state ownership of the tidelands.

In the case of Quillayute Reservation, the Ninth Circuit Court of Appeals, after reviewing the facts pertaining to that reservation in considerable detail, held that the tidelands were a part of the reservation. Moore v. United States, supra. The treaty had promised the Indians a reservation "sufficient for their wants" and the facts that these Indians were fishermen by occupation, that the lands of the reservation were not suited for agriculture and that the Indians needed the beaches and tidelands to carry on their livelihood, combined to form the basis for the court's conclusion. In a prior case involving the same reservation, the court had found to the contrary, but that holding was on the basis of an erroneous factual premise, namely that the reservation was created after Washington statehood and after the tidelands had already been conveyed to the State of Washington. Taylor v. United States, 44 F. 2d 531 (1930).

In the case of the Skokomish Reservation, the United States District Court for the Western District of Washington has recently held, after reviewing all of the facts presented to it, that the reservation does not include the tidelands on Hood Canal. Skokomish Indian Tribe v. France, No. 1183, decided January 22, 1962. (Appeal pending.) There the court found that neither the treaty nor the executive order described the tidelands nor purported to include them in the description of the reservation. The court found that the Point No Point Treaty reserved an area of six sections or 3,840 acres at the head of Hood Canal "to be hereafter set apart and so far as necessary surveyed and marked out * * *." (Emphasis the court's.) The executive order defined the Hood Canal portion of the reservation boundary as "thence southerly and easterly along said Hood's Canal to the place of beginning." The actual reservation was 4,173.31 acres computed shoreward of the meander line. The court further found that the entire frontage of the reservation along Hood Canal was surveyed into Indian lots, allotted and disposed of by the allottee, and that no portion of such frontage remains in the reservation. The court also found that at the time of the treaty and executive order, these Indians were dependent for their livelihood in part upon fish, but that the primary fish so used was salmon which were easily procured in the rivers and creeks. Shell fish were used by the Indians only to a limited extent and "the livelihood of the Indians was not dependent in material degree upon shell fish or any type of fishing on or from the tidelands in issue." The usual locations at which shell fish were procured were miles from the reservation and the tidelands in issue here were not a source of native shell fish in usable quantities. Moreover, a portion of the reservation was purchased by the United States for the purpose of adding it to the then existing reservation. In none of the proceedings connected with the purchase was any interest shown or attempt made to encompass into the reservation any of the tidelands abutting thereon. In its conclusion of law the court held that as used in the executive order "the expression 'along Hood's Canal' means the official government meander line according to the official government survey of the exterior boundaries of the reservation." In this case, the court stated:

> "* * * this court is fully satisfied that not any one of the parties negotiating the Treaty of 1855 /Point No Point Treaty/ had the slightest thought or intention that the Treaty or the Executive Order to follow would vest ownership of the tidelands in question in the Skokomish or in any other Indian Tribe * * * . Nothing in the Treaty or in the Treaty negotiations suggests the parties intended or the Indians thought ownership of land above or below water at Indian fishing grounds or stations was to vest in the Indians merely because they were to have the right to fish at those places."

This opinion, unless overturned on appeal, nullifies the decision of this office on the tidelands situation in the Skokomish Reservation and casts considerable doubt on our prior opinions concerning the tidelands situation at the Port Madison Reservation, the Shoalwater Reservation, and to a lesser extent, the Makah Reservation and the shoreline of Lake Quinault on the Quinault Reservation. Those opinions relied heavily upon the headnote in the Moore case, supra, which stated that:

> "The means by which the Indian tribes earn their living determines the Government's intent in making reservations for them."

However, as seen above, this is only one of the factors which helps determine the Government's intent.

It is interesting to note that in the Stotts case, supra, the District Court in support of its conclusion that the Lummi Reservation included tidelands, stated:

> "* * * I think the court may judicially know that the Indians subsisted during this time by hunting and fishing, and the tidelands were a necessary perquisite to the enjoyment of fishing * * *."

Apparently, however, the court felt a little unsure that this by itself was enough, for it went on to point out that the proclamation establishing the reservation expressly extended the boundaries to the low-water mark, And, in an apparently not too well researched effort to distinguish the Ninth Circuit Court's holding that the Quilayute Reservation did not include tidelands, he added that the proclamation establishing the Quilayute Reservation "does not contain any inference that the reserve for the Indians extended below high tide * * *." This was before the Moore case had found otherwise.

In State v. Edwards, supra, the Washington court put emphasis upon the Indians' use of the tidelands for the digging of clams as supporting the inclusion of the area within the Swinomish Reservation.

The Makah Reservation is described in somewhat different terms from the others which have been discussed above. The Treaty of January 31, 1855 reserved a tract of land described in part as "commencing on the beach at the mouth of a small brook * * * thence along the shore * * *." The executive order of October 21, 1873 which enlarged the reservation

used this same term with reference both to the Neah Bay and Pacific Ocean portions of the boundary. While the case is not as strong as those in which the term "low-water mark" is used; nevertheless, we are of the opinion that this description placed the tidelands, including those bordering the so-called agency reserve (see our opinion of November 8, 1961), within the reservation. There is no evidence of any intention to make a distinction between reservations created by or pursuant to these almost simultaneously negotiated treaties with these western tribes, most or all of which depended heavily upon fishing for their livelihood.

In Elliot v. Stewart, 14 Pac. 416 (Ore. 1887), the court quoted with approval the following statement as indicating the nature of the term "shore":

> "Lands belonging to the state by reason of its sovereignty include the shores of the sea, and its bays and inlets, in the common law definition of the word 'shore;' that is, the land usually overflowed by neap or ordinary tides."

In other words, the shore lands go to the political body by reason of its sovereignty. There would therefore be a strong argument that in recognizing the rights of the Indians to a specific reservation, the Government intended to recognize their rights to the shorelands.

The construction of the term "along the shore" as including the tidelands is given support in Oakes v. DeLancey, 24 N. Y. Supp. 539 (Sup.Ct. N.Y. 1893), in which the court was construing a deed which contained a description "along the shore." It stated that this deed would go to the low-water mark to fill the requirements of a deed which reserved nothing to the grantor. It pointed out that the original English patent to the area in question included all woods, beaches, marshes, pastures, creeks, waters, lakes, fishing, hunting and fowling. In other words, where the deed intended to convey the entire area and reserve, no part of it to the grantor, the phrase "along the shore" was taken to mean along the seaward side of the shore. We believe the same argument would apply in the case of the Makah Reservation, both in terms of the original reservation as set out in the treaty and the enlarged reservation as described in the 1873 Executive Order. It is to be noted that this order was prior to Washington statehood.

As noted earlier, the description of the Lake Quinault portion of the Quinault Reservation boundary also refers to the shore. The words are "around the east shore." In view of the apparent intent to place this entire inland lake within the reservation, we would construe this language as referring to the high-water mark of the lake. While this may sound inconsistent with our view on the Makah boundary, we believe the interpretations are compatible. In both cases, our interpretation results in the reservation to the tribe of all of the land or water described. In the case of the Makahs, it was a reservation of land and extended as far as the land went even at the tide, or at least the average tide, which produced the greatest amount of land - i.e., low tide. In the Quinault case, this portion of the description was to encompass within the reservation an inland body of water and our interpretation likewise extends the reservation to encompass the entire body of water at the tide, or at least average tide at which that body is the greatest, namely, high tide. Since under Washington law, the upland owners own only to the high tide line, a contrary view of the reservation boundary wouldleave a narrow strip of lake shore between high and low tide in state ownership - a result which finds no support in logic or on any other basis.

In the case of the Port Madison Reservation, the Point Elliot Treaty reserves "two sections or twelve hundred and eighty acres, surrounding the small light at the head of Port Madison." This was enlarged by an October 21, 1864 order of the Secretary of the Interior reserving an additional area as shown on an "accompanying plat." This information is not sufficient to enable us to give an informed opinion as to whether tidelands are included in this reservation.

The Shoalwater Reservation was created by Executive Order of September 22, 1866 which refers to a tract "as indicated on the within diagram" and to a letter of the Secretary of the Interior dated September 18, 1866. From this meager information, we cannot say whether it includes the tidelands. However, we are inclined to agree with the analysis and conclusion stated in Mr. Vaninetti's memorandum of October 2, 1961 to the Western Washington Agency Superintendent that the reservation does not include tidelands.

Finally, it should be noted that the question of Indian ownership of tidelands is not affected by the Submerged Lands Act of 1953 (67 Stat. 29). Section 5(b) of that act excepts from the operation of Section 3, the section confirming tidelands rights in the states,

> "Such lands beneath navigable waters held, or any interest in which is held by the United States for the benefit of any tribe, band, or group of Indians or for individual Indians."

For the Regional Solicitor

(Signed) GEORGE D. DYSART

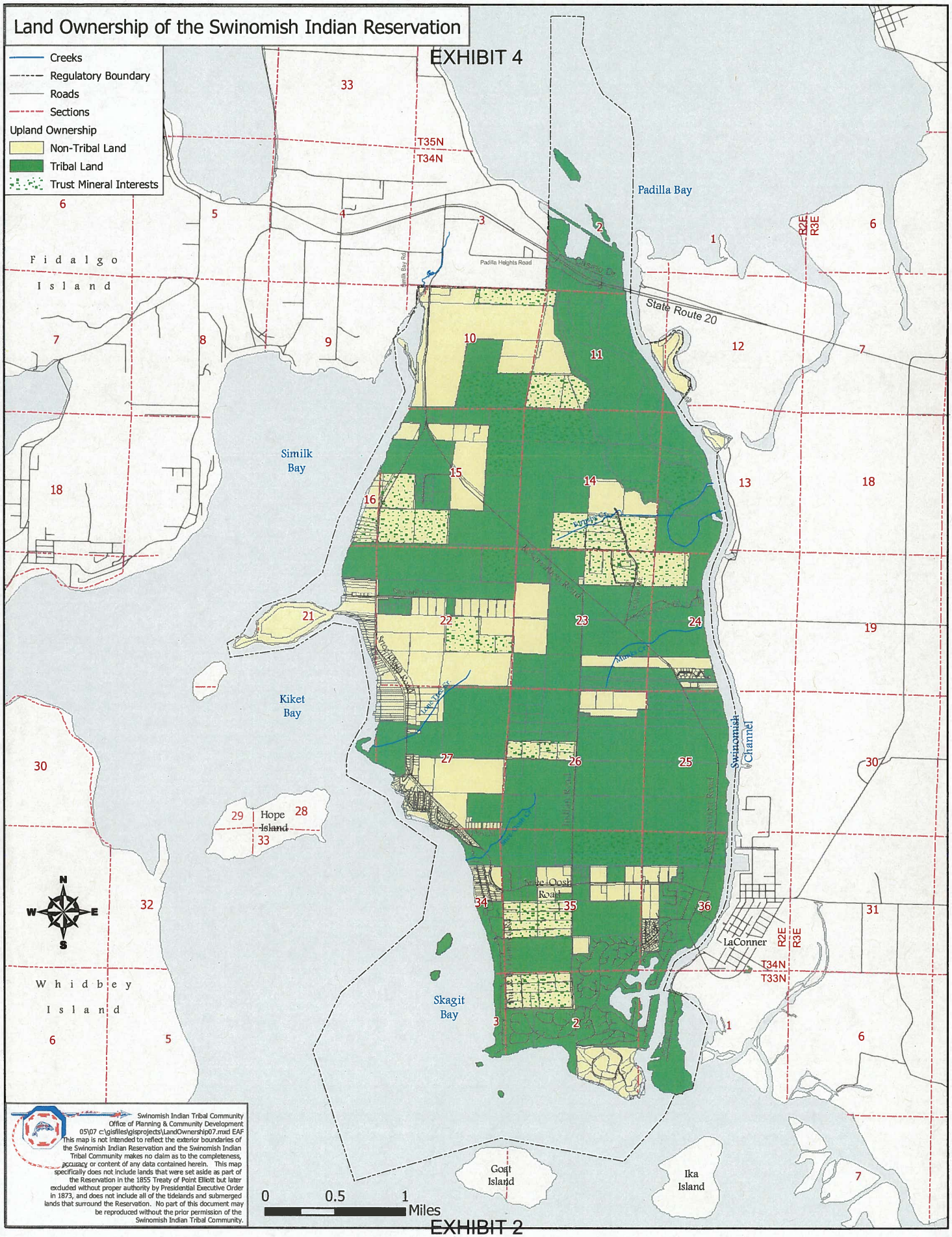
Assistant Regional Solicitor

cc: W.Wash.Agency
Asst.Sol.,Indian Affairs

EX 4

Land Ownership of the Swinomish Indian Reservation

EXHIBIT 4



Swinomish Indian Tribal Community
Office of Planning & Community Development
05\07 c:\gisfiles\gisprojects\LandOwnership07.mxd EAF
This map is not intended to reflect the exterior boundaries of the Swinomish Indian Reservation and the Swinomish Indian Tribal Community makes no claim as to the completeness, accuracy or content of any data contained herein. This map specifically does not include lands that were set aside as part of the Reservation in the 1855 Treaty of Point Elliott but later excluded without proper authority by Presidential Executive Order in 1873, and does not include all of the tidelands and submerged lands that surround the Reservation. No part of this document may be reproduced without the prior permission of the Swinomish Indian Tribal Community.

EXHIBIT 2

EX 5

Table 1. Land Status of the Swinomish Indian Reservation (May 2007).

	Uplands Only		**Entire Reservation**	
	Acres	Percent	Acres	Percent
Tribal Trust	1,780	23.89	4,780	45.73
Tribal Fee	165	2.21	165	1.58
Individual Indian Trust	2,830	37.98	2,830	27.08
Total Indian Ownership	4,775	64.08	**7,775**	**74.39**
Non-Indian Fee	2,675	35.92	2,675	25.61
Total Ownership	7,450	100	10,450	100

EXHIBIT 5

EX 6

EXHIBIT 6

DOCUMENT TRANSMITTAL MEMO

fee-to-trust conveyance
Needs a tract number

To: Portland Title Plant Date: _____

From: Swinomish Realty

Please record the attached document and:

- [x] Return
- [ ] Retain in Title Plant
- [ ] (Other - Specify) New tract

Reservation (Code No. only) 122 Tract No. T 1019

Type Document (Code No.) 10

Agency's File No. (if any) _____

Elsie Bell

Authorized Signature

TRANSMITTAL ACKNOWLEDGEMENT

To: Swinomish Date: 4/2/07

From: Portland Title Plant

The document identified above has been recorded under No. 122 1194 (see date-time stamp on reverse) and is:

- [x] Returned herewith
- [ ] Retained
- [ ] _____

Dana M. Wilson

Authorized Signature

(TITLE PLANT USE ONLY)

Date entered in Recordation Register 4/2/07

EXAMINER'S REMARKS:

RECEIVED

MAR 2 2007

BIA, Northwestern Regional Office
Titles & Records

dana

INITIAL

Q(11-69)

WHEN RECORDED RETURN TO:
Swinomish Indian Tribal Community
P.O. Box 817
La Conner, WA 98257

122 1194

200612120114
Skagit County Auditor
12/12/2006 Page 1 of 3 11:42AM

STATUTORY WARRANTY DEED

THE GRANTOR, The Swinomish Indian Tribal Community, for and in consideration of ONE DOLLAR AND OTHER GOOD AND VALUABLE CONSIDERATION in hand paid, conveys and warrants to THE UNITED STATES OF AMERICA IN TRUST FOR THE SWINOMISH INDIAN TRIBAL COMMUNITY, the following described real estate, situate in the County of Skagit, State of Washington:

PARCEL "A":
The Northwest ¼ of the Southeast ¼ and the South ½ of the Southeast ¼ of Section 10, Township 34 North, Range 2 East, W.M.
Situate in the County of Skagit, State of Washington.

P20261

PARCEL "B":
The Northeast ¼ of the Northeast ¼ of Section 15, Township 34 North, Range 2 East, W.M., and the Northwest ¼ of the Northwest ¼ of Section 14, Township 34 North, Range 2 East, W.M., and that portion of Government Lot 4 of Section 14, Township 34 North, Range 2 East, W.M., lying Westerly of the following described line:
Beginning at a point on the South line of said Government Lot 4, which point bears South 89°07'31" East, a distance of 1,311.42 feet from the Southwest corner of said Government Lot 4; thence North 19°35'23" West, a distance of 1,388.32 feet to a point on the North line of said Government Lot 4, which point bears South 89°20' East a distance of 786.60 feet from the Northwest corner of said Government Lot 4 and the terminal point of said line.
Situate in the County of Skagit, State of Washington.

PARCEL "C":
The South ½ of the Northwest ¼ and that portion of Government Lot 5, all in Section 14, Township 34 North, Range 2 East, W.M., lying Westerly of the following described line:
Beginning at a point on the South line of said Government Lot 5, which point bears South 88°55'00" East, a distance of 400.00 feet from the Southwest corner of said Government Lot 5; thence North 14°30'03" West, a distance of 1,352.45 feet to the Northwest corner of said Government Lot 5 and the terminal point of said line.
Situate in the County of Skagit, State of Washington.

PARCEL "D":
That portion of the West ½ of the Southwest ¼ of Section 14, Township 34 North, Range 2 East, W.M., lying Northerly of the now established County road commonly known as Reservation Road.
Situate in the County of Skagit, State of Washington.

PARCEL "E":
That portion of Government Lot 4 of Section 14, Township 34 North, Range 2 East, W.M., lying East of the following described line:
Beginning at a point on the South line of said Government Lot 4, which point bears South 89°07'31" East, a distance of 1,311.42 feet from the Southwest corner of said Government Lot 4; thence North 19°35'23" West, a

distance of 1,388.32 feet to a point on the North line of said Government Lot 4, which point bears South 89°20' East a distance of 786.60 feet from the Northwest corner of said Government Lot 4 and the terminus of said line.
Situate in the County of Skagit, State of Washington.

PARCEL "F":
All that portion of Government Lot 5 of Section 14, Township 34 North, Range 2 East, W.M., lying East of the following described line:
Beginning at a point on the South line of said Government Lot 5, which point bears South 88°55'00" East a distance of 400.00 feet from the Southwest corner of said Government Lot 5; thence North 14°30'03" West, a distance of 1,352.45 feet to the Northwest corner of said Government Lot 5 and the terminal point of said line.
Situate in the County of Skagit, State of Washington.

PARCEL "G":
The Southeast ¼ of the Northeast ¼ of Section 15, Township 34 North, Range 2 East, W.M.
Situate in the County of Skagit, State of Washington.

PARCEL "H":
The South ½ of the Southeast ¼ of the Southwest ¼ of Section 14, Township 34 North, Range 2 East, W.M.
Situate in the County of Skagit, State of Washington

PARCEL "I":
That portion of the Northwest ¼ of the Northwest ¼ of Section 23, Township 34 North, Range 2 East, W.M., lying Northeasterly of the County Road.

Title to the land herein described shall be subject to any existing easements for public roads and highway, for public utilities and for railroads and pipelines and any other rights of way of record.

This conveyance is made pursuant to the Act of June 18, 1934 (48 Stat. 984).

#6253
SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

DEC 12 2006

Amount Paid $
Skagit Co. Treasurer
By Deputy

200612120114
Skagit County Auditor
12/12/2006 Page 2 of 3 11:42AM

Tax Account Number(s): P20261, P20262, P20347, P20320, P20321, P20322, P20323, P20324, P20333, P20334, P20338, P20355, P20670

Brian Cladoosby
Brian Cladoosby, Chairman,
Swinomish Indian Tribal Community

December 5, 2006
Dated:

STATE OF WASHINGTON)

COUNTY OF SKAGIT)

On this 5th day of December, 2006, before me, the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Brian Cladoosby, to me known to be the Chairman, respectfully of the Swinomish Indian Tribal Community of Washington, a federally recognized Indian Tribe, that executed the foregoing instrument, and acknowledged the said instrument to be his free and voluntary act and deed of said Tribe, for the uses and purposes therein mentioned and on oath stated that he is authorized to execute the said instrument.

Given under my hand and official seal this 5th day of December, 2006.

SHELLEY A. PRESTON
COMMISSION EXPIRES
NOTARY
PUBLIC
6-19-10
STATE OF WASHINGTON

Shelley A. Preston
Printed Name: Shelley A. Preston
Notary Public in and for the State of Washington
Residing at Burlington
My Commission expires: June 19, 2010

Approved pursuant to 209 DM 8, 230 DM 1, 3 IAM 4, 4a

Dated: 12/8/06

Judith K. Joseph
Judith Joseph,
Superintendent

200612120114
Skagit County Auditor
12/12/2006 Page 3 of 3 11:42AM

EX 7

EXHIBIT 7

DOCUMENT TRANSMITTAL MEMO

Fee-to-Trust Conveyance needs a tract number.

To: Portland Title Plant Date: 4/11/07

From: Swinomish Realty

Please record the attached document and:

- [x] Return
- [ ] Retain in Title Plant
- [ ] (Other - Specify) New tract

Reservation (Code No. only) 122 Tract No. T1020

Type Document (Code No.) 10

Agency's File No. (if any)

Elsie Bell

Authorized Signature

TRANSMITTAL ACKNOWLEDGEMENT

To: Swinomish Realty Date: 4-16-07

From: Portland Title Plant

The document identified above has been recorded under No. 122 1195 (see date-time stamp on reverse) and is:

- [x] Returned herewith
- [ ] Retained
- [ ]

Janice Footman-Lee

Authorized Signature

(TITLE PLANT USE ONLY)

Date entered in Recordation Register 4-16-07

EXAMINER'S REMARKS:

RECEIVED

APR 1 7 2007

BIA, Northwestern Regional Office
Titles & Records

INITIAL

Q(11-69)

WHEN RECORDED RETURN TO
Swinomish Indian Tribal Community
P.O. Box 817
La Conner, WA 98257

122 1195

200612120115
Skagit County Auditor
12/12/2006 Page 1 of 3 11:43AM

STATUTORY WARRANTY DEED

THE GRANTOR, The Swinomish Indian Tribal Community, for and in consideration of ONE DOLLAR AND OTHER GOOD AND VALUABLE CONSIDERATION in hand paid, conveys and warrants to THE UNITED STATES OF AMERICA IN TRUST FOR THE SWINOMISH INDIAN TRIBAL COMMUNITY, the following described real estate, situate in the County of Skagit, State of Washington:

P19667

PARCEL "A"
Government Lots 2 and 3 of Section 14, Township 34 North, Range 2 East, W.M.;

PARCEL "B"
Government Lots 4 and 5 of Section 2, Township 34 North, Range 2 East, W.M., EXCEPT those portions thereof conveyed to Skagit County for road purposes by deeds recorded under Auditor's File Nos. 27083, 168349, and 295588, AND EXCEPT those portions thereof condemned by the State of Washington for highway purposes in Skagit County Superior Court Cause Nos. 26128 and 31913.;

PARCEL "C"
Government Lots 3, 4, 7, 8, 9, 10, 11, 12, 13, 16, 17 and 18 of Section 11, Township 34 North, Range 2 East, W.M., EXCEPT that portion of said Government Lot 3 condemned by the State of Washington for highway in Skagit County Superior Court Cause Nos. 26128 and 31913, AND EXCEPT those portions of said Government Lots 11 and 18, lying Northeasterly of the midpoint of Swinomish Channel, as presently located.;

PARCEL "D"
Government Lot 9 of Section 12, Township 34 North, Range 2 East, W.M., EXCEPT those portions lying Northeasterly of the midpoint of Swinomish Channel as presently located.;

PARCEL "E"
Government Lots 13 and 14 of Section 13, and Government Lot 10 of Section 14, all in Township 34 North, Range 2 East, W.M., EXCEPT mineral rights as reserved in deed recorded March 31, 1966, under Auditor's File No. 680848, records of Skagit County, Washington, for their benefit.

Containing 350.0 acres, more or less.

Title to the land herein described shall be subject to any existing easements for public roads and highway, for public utilities and for railroads and pipelines and any other rights of way or record.

This conveyance is made pursuant to the Act of June 18, 1934 (48 Stat. 984).

#6252
SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

DEC 12 2006

Amount Paid $
Skagit Co. Treasurer
By Deputy

200612120115
Skagit County Auditor
12/12/2006 Page 2 of 3 11:43AM

Tax Account Number(s): P19667, P19668, P20278, P20277, P20272, P20271, P20270, P20269, P20268, P20265, P20263, P20319, P20318, P20311, P20312, P20327

122 1195

Brian Cladoosby
Brian Cladoosby, Chairman,
Swinomish Indian Tribal Community

December 5, 2006
Dated:

STATE OF WASHINGTON)

COUNTY OF SKAGIT)

On this 5th day of December, 2006, before me, the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Brian Cladoosby, to me known to be the Chairman, respectfully of the Swinomish Indian Tribal Community of Washington, a federally recognized Indian Tribe, that executed the foregoing instrument, and acknowledged the said instrument to be his free and voluntary act and deed of said Tribe, for the uses and purposes therein mentioned and on oath stated that he is authorized to execute the said instrument.

Given under my hand and official seal this 5th day of December, 2006.

SHELLEY A. PRESTON
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
6-19-10

Shelley A. Preston
Printed Name: Shelley A. Preston
Notary Public in and for the State of Washington
Residing at Burlington
My Commission expires: June 19, 2010

Approved pursuant to 209 DM 8, 230 DM 1, 3 IAM 4, 4a

Dated: 12/8/06

Judith K. Joseph
Judith Joseph,
Superintendent

200612120115
Skagit County Auditor
12/12/2006 Page 3 of 3 11:43AM

EX 8

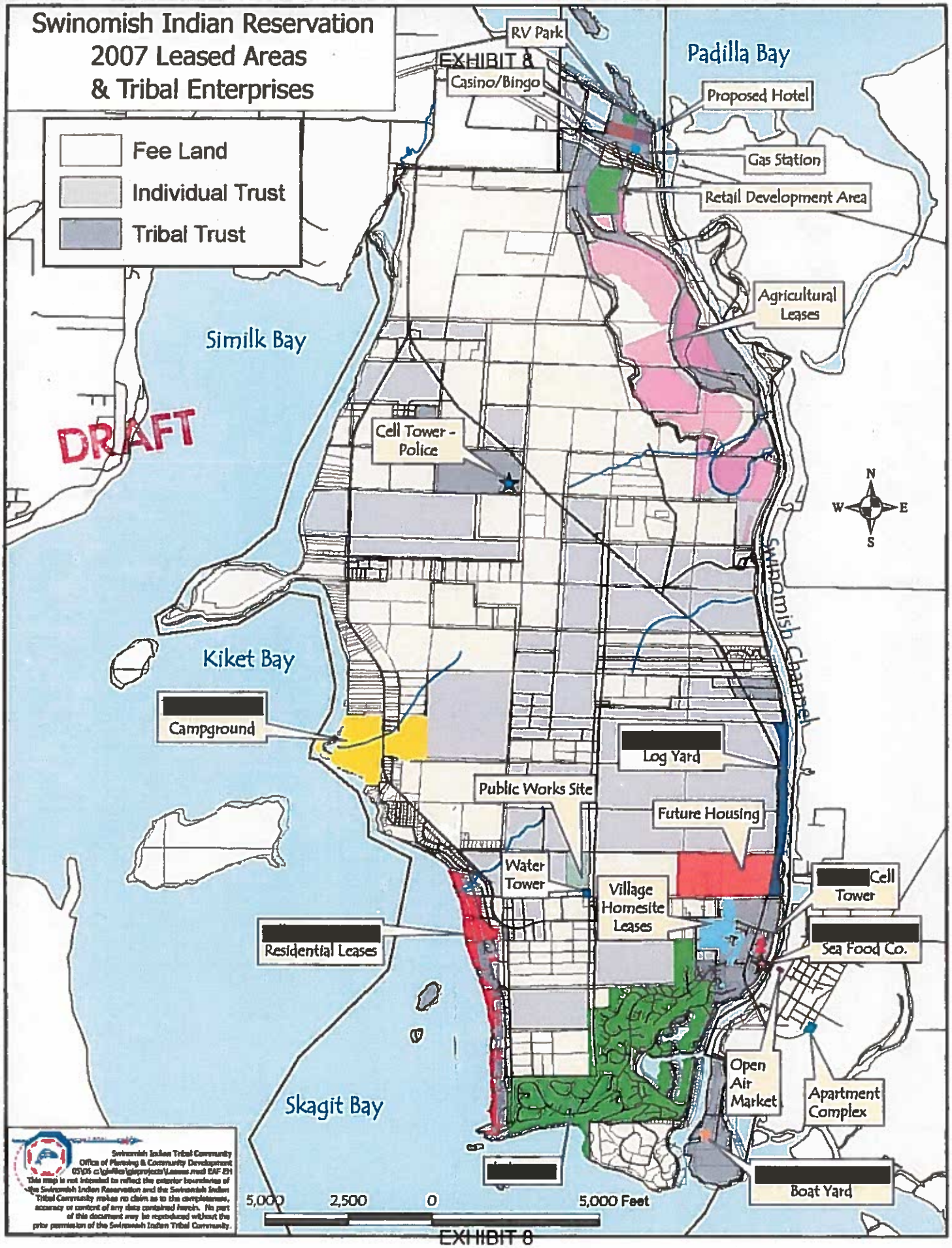

Swinomish Indian Reservation
2007 Leased Areas
& Tribal Enterprises
Fee Land
Individual Trust
Tribal Trust
RV Park
EXHIBIT 8
Casino/Bingo
Padilla Bay
Proposed Hotel
Gas Station
Retail Development Area
Agricultural Leases
Similk Bay
DRAFT
Cell Tower - Police
N
W
E
S
Swinomish Channel
Kiket Bay
[redacted] Campground
[redacted] Log Yard
Public Works Site
Future Housing
Water Tower
Village Homesite Leases
[redacted] Cell Tower
[redacted] Residential Leases
[redacted] Sea Food Co.
Open Air Market
Apartment Complex
Skagit Bay
[redacted]
[redacted] Boat Yard
5,000
2,500
0
5,000 Feet
Swinomish Indian Tribal Community
Office of Planning & Community Development
This map is not intended to reflect the exterior boundaries of the Swinomish Indian Reservation and the Swinomish Indian Tribal Community makes no claim as to the completeness, accuracy or content of any data contained herein. No part of this document may be reproduced without the prior permission of the Swinomish Indian Tribal Community.

EXHIBIT 8

EX 9

File

EXHIBIT 9

5-5445
10-61

Fee [redacted]
Lease: [redacted]
Bond: None

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

LEASE

[redacted]

Allotment No. Swinomish Tribal Tidelands
Lease No. [redacted]

Puget Sound Indian Agency

THIS CONTRACT, made and entered on this 1st day of June, A.D. 2006, by and between the Swinomish Indian Tribal Community hereinafter called the "lessor" and: [redacted] hereinafter called the "lessee" in accordance with the provision of existing law and the regulations (25 CFR 162) which by reference are made a part hereof.

WITNESSETH, That for and in consideration of the rents, covenants and agreements hereinafter provided, the lessor hereby lets and lease unto the lessee the land and premises described as follows, to wit:

The following filled and wet tidelands abutting Government Lot [redacted] in Section [redacted] and Government Lots [redacted] in Section [redacted] all in Township 34 North Range 2 East, Willamette Meridian: beginning at the southeast corner of Government [redacted] Section [redacted] thence northerly along the eastern boundary line of said Government Lot [redacted] a point that is [redacted] of the southern boundary line of said Government Lot [redacted] the TRUE POINT OF BEGINNING; thence due east along a line that is [redacted] of the southern boundary line of said Government Lot [redacted] to point where said line intersects the line of mean higher high water ("MHHW") on the west side of [redacted] thence northerly along the MHHW line to the point where the MHHW line intersects the boundary line between Sections [redacted] thence east along the boundary line between Sections [redacted] to the point where said line intersects the mean lower low water ("MLLW") line on the west side of [redacted] thence northerly along said MLLW line land east of Government Lots [redacted] in Section [redacted] to a point that is [redacted] of the southern boundary of Government Lot [redacted] Section [redacted] thence due west along a line parallel to and [redacted] of the southern boundary of Government [redacted] in Section [redacted] to the point where said line intersects the MHHW line on the west side of [redacted] thence southerly along the MHHW line to the point where said line intersects the boundary line between Government Lots [redacted] in Section [redacted] thence west along the boundary line between Government Lots [redacted] in Section [redacted] to the northeast corner of Government Lot [redacted] thence southerly along the eastern boundaries of Government Lots [redacted] in Section [redacted] and Government Lot [redacted] in Section [redacted] to the true point of beginning

containing 37 acres, more or less, for the term of five (5) years, beginning on the 1st day of June, 2006, to be used only for the following purposes: Dry and wet log storage and bark chipping and saw milling.

The lessee, in consideration of the foregoing, covenants and agrees, as rental for the land and premises to pay:

TO	DATE DUE	AMOUNT
Swinomish Indian Tribal Community	[redacted] and on every	[redacted]
P.O. Box 817	monthly anniversary	
La Conner, WA 98257	thereafter	
Direct Pay		

While the lease premises are in trust or restricted status, the Secretary may in his discretion, and upon notice to the lessee, suspend the direct rental payment provisions of this lease in which event the rentals shall be paid to the office of the Bureau of Indian Affairs having jurisdiction over the leased premises.

COPY

EX 10

LEASE

This lease is entered into this 31st day of October, 1978, between the Swinomish Indian Tribal Community, lessor, hereinafter referred to as "Tribe", and [redacted], a Washington corporation, lessee, hereinafter referred to as [redacted].

I. PURPOSE

The purpose of this lease is to provide land to [redacted] for the development and operation of a campground which is marketed on a membership basis rather than on a sublease or rental basis.

II. DESCRIPTION OF LAND

For the term and rental as hereinafter set forth, the Tribe hereby leases to [redacted] the following described tribal-trust land:

Parcel I - Commonly Called [redacted]

Lots [redacted] of Section [redacted] and lots [redacted] of Section [redacted] Township 34 North, Range 2 East, Willamette Meridian, Skagit County, Washington, except the following parcel of land:

Beginning at a point which is [redacted] nship 34 North, Range 2 East, Willamette Meridian; [redacted] thence in a northwesterly direction along the beach of [redacted] thence [redacted] feet to point of beginning, all in [redacted] of Section [redacted] Township 34 North, Range 2 East, Willamette Meridian, containing 5.01 acres, more or less.

Containing, after the above exception, 76.34 acres, more or less, as shown on the attached map designated Exhibit A.

Parcel II - Commonly Called [redacted] (Being a portion of the northwest quarter of [redacted] Township 34 North, Range 2 East, W.M.), containing approximately 30 acres as shown on the attached *map designated as Exhibit B.*

Both parties acknowledge that the land herein described is being acquired by the United States in trust for the Tribe. As trust property, it will be administered by the Bureau of Indian Affairs, Department of the Interior. This lease is being entered into pursuant to 25 U.S.C. § 415 and 25 CFR 131, and shall be subject to all provisions contained therein.

Official Record

[redacted]

III. TERM OF LEASE

The term of the lease is 50 years, beginning on the date above and ending on the 30th day of October, 2028.

[redacted]

In addition to the boat launch and moorages, [redacted] shall provide to the beach seiners water, sewer, electric power, site fill above flood level, parking, road access and $[redacted] worth of building improvements over and above the site development. The type, design, and location of the building improvements are to be mutually agreed upon by [redacted] and the Tribe. The Tribe shall have the right anytime during this lease to expand these improvements on the bar north of the traditional [redacted]

[redacted] shall also construct a salmon rearing pen in the lagoon, said pen to be designed with the assistance of the Tribe's marine biologist. The Tribe shall be responsible for the management, operation and maintenance of this salmon pen.

XI. TIDELAND PRIVILEGES FOR [redacted] MEMBERS

[redacted] members shall have access for recreational purposes to all beach and tidelands fronting the subject property subject to prior rights of the Tribe as herein set forth. This shall include swimming, picnicking, controlled beach fires, beach-combing and boating. No other uses of tidelands is permitted without written approval of the Tribe. Salmon fishing, oyster gathering, clam digging and crabbing are expressly prohibited [redacted] members between mean high tide and extreme low water on all Tribe tidelands including those fronting the campground.

[redacted] shall post and maintain notices of these restricted rights and maintain boundary signs on the tidelands and around the preserve. Further, [redacted] shall control their members to insure that the members obey these signs, especially on the tidelands where it is easier to wander.

XII. LEASEHOLD RIGHTS OF RESIDENT LESSEES

[redacted] shall take subject to any rights of lessees now resident on the above-described property. [redacted] assume full responsibility for negotiating with such residents, acquiring their rights and paying equitable compensation therefor.

XIII. EMPLOYMENT

It is understood that a training and employment plan will be developed jointly by [redacted] and the Swinomish Tribal Community within 30 days after sales and construction begins. The purpose of the plan will be to establish procedures insuring as many jobs in campground sales, construction, and operation for Indian Community members as is reasonably possible. This plan shall include subcontracting as well as direct employment consideration.

XIV. TRIBAL SERVICES AND ENTERPRISES

The Tribal Community shall have first right of refusal on any campground security contract or [redacted]

Official Records

[redacted]

EX 11

EXHIBIT 11

LESSEE: [redacted]

LESSOR: THE SWINOMISH INDIAN TRIBAL COMMUNITY, [redacted]

LEASE NO. [redacted]
CONTRACT NO. [redacted]
Swinomish Reservation

PAO Copy

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RECEIVED OR FILED
BUR. INDIAN AFFRS.
PORTLAND AREA OFFICE

'08 AUG 16 PM 3:08

[redacted]

REALTY
TITLES & RECORDS
SECTION

Filed in Official Records, Skagit County

[redacted]

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31	NOTICES	40
32	INSPECTION	40
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UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Indian Affairs

LEASE NO. [redacted]
CONTRACT NO. [redacted]
SWINOMISH RESERVATION

BUSINESS LEASE

THIS LEASE, in triplicate, is made and entered into this 16th day of August, 1968, by and between the Indian Owners of trust or restricted lands herein demised, said owners and their respective interests being identified in Exhibit "A" attached hereto and made a part hereof, hereinafter referred to as Lessor, and [redacted] hereinafter referred to as the Lessee.

Said lease is granted pursuant to the provisions of the Act of August 9, 1955, 69 Stat. 539, as amended by the Act of November 4, 1963, 77 Stat. 301, 25 USCA Sec 415; as implemented by Part 131, leasing and permitting of the Code of Federal Regulations, Title 25, and amendments thereto which are by this reference made a part hereof.

1. DEFINITIONS.

The term "Secretary" shall mean the Secretary of the Interior of the United States Government, or his authorized representative, delegate, or successor.

"Gross receipts" shall mean all income computed on the "cash basis", including money and any other thing of value, received by or paid to Lessee or its affiliates, whether individuals, corporations, partnerships, or other legal entity, or received by or paid to others for Lessee's or its affiliate's use and benefit and which is derived from business done, sales made or services rendered directly or indirectly from or on the leased premises by Lessee, sublessees, or assigns in the conduct of any commercial operation, including but not limited to restaurant, bar, motel, store and moorage fees. All income accruing from credit transactions shall be treated as "gross receipts" as of the date credit is extended.

"Gross receipts" shall include any ad valorem taxes paid by other than the Lessee for the account of the Lessee.

"Gross receipts" shall not include income or money derived from the purchase or sale of subleases or assignments of subleases, or interests in the leased premises herein described by way of purchase money agreement, contract or other instrument.

"Gross receipts" shall not include amounts collected and paid out for a sales or excise tax imposed by a duly constituted governmental authority where such tax is billed to the purchaser as a separate item. It shall not include credits for the exchange of goods or merchandise between the stores, if any, of Lessee or its affiliates where such exchange is made solely for the convenient operation of business and not for the purpose of consummating a sale previously made directly or indirectly from or on the leased premises. It shall not include the amount of any refund where the merchandise sold, or some part thereof is returned by the purchaser and accepted by Lessee or its affiliates. It shall not include receipts from the sale of businesses, including both tangible and intangible assets thereof when sold in bulk, receipts from the sale of fixtures, or the sale of improvements, including but not limited to condominium units, cooperative apartments, apartment houses and single or multiple family residences; nor receipts from charges or assessments for police and fire protection, for the construction and maintenance of roads and improvements, for utilities and community services, and for moorages and other facilities where the use is restricted to the lessee and sublessees and the fees charged for the use thereof are for construction and maintenance only.

2. LAND DESCRIPTION.

For and in consideration of the rents, covenants and agreements hereinafter set out, the Lessor hereby leases to the Lessee those certain tribal and allotted lands located in Sections [redacted]

Township 34 North, Range 2 East, and Sections [redacted] Township 33 North, Range 2 East, Willamette Meridian, Skagit County, Washington, within the Swinomish Indian Reservation, as more particularly described in Exhibit "B" attached hereto and made a part hereof.

3. TERM.

A. The initial term of this lease shall be for twenty-five years beginning on the first day of the eleventh month following the month in which the lease is approved by the Secretary, and it shall be extendable for an additional twenty-five year term at any time prior to the end of the initial term at the option of the Lessee. The Lessee's act of entering into this lease by subscribing its name hereto shall be deemed as the exercise of its option to extend this lease for the additional twenty-five year term and the initial approval of this lease by the Secretary shall be deemed to be an acceptance by the Secretary of such extension for which execution of a new lease is not required.

The Lessor and Lessee hereby acknowledge that a total term in excess of fifty (50) years is desirable but not possible under existing laws and regulations. It is mutually agreed that in the event it shall become possible within the term of this lease to legally contract for an additional term or terms, whether by a change in the laws regulating the Secretary or by termination of the trust or restricted status of the land, then Lessor and Lessee intend to immediately enter into an agreement increasing the lease term to an aggregate of seventy-five (75) years (initial term plus extensions). It is agreed by both parties that this provision merely expresses the willingness of the parties, entirely in their own discretion, to voluntarily contract to increase the lease term to an aggregate of seventy-five (75) years (original term plus extensions), if permitted by law and regulations; conversely, this provision is not a lease covenant or contractual commitment upon the parties.

EX 12

EXHIBIT 12

[redacted]

adjoining Uplands.

[redacted]

LESSEE: [redacted]

LEASE NO. [redacted]
CONTRACT NO. [redacted]

LESSOR: THE SWINOMISH INDIAN TRIBAL COMMUNITY
Swinomish Reservation

[redacted]

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UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Indian Affairs

LEASE NO. [redacted]
CONTRACT NO. [redacted]
SWINOMISH RESERVATION

BUSINESS LEASE

THIS LEASE, in triplicate, is made and entered into this 31st day of July, 1969, by and between the Indian Owners of trust or restricted lands herein demised, said owners and their respective interests being identified in Exhibit "A" attached hereto and made a part hereof, hereinafter referred to as Lessor, and [redacted] hereinafter referred to as the Lessee.

Said lease is granted pursuant to the provisions of the Act of August 9, 1955, 69 Stat. 539, as amended by the Act of November 4, 1963, 77 Stat. 301, 25 USCA sec 415, and the Act of September 28, 1968, 82 Stat. 884, 25 USC 415; as implemented by Part 131, leasing and permitting of the Code of Federal Regulations, Title 25, and amendments thereto which are by this reference made a part hereof.

1. DEFINITIONS.

The term "Secretary" shall mean the Secretary of the Interior of the United States Government, or his authorized representative, delegate, or successor.

from the sale of fixtures, or the sale of improvements, including but not limited to condominium units; cooperative apartments, apartment houses and single or multiple family residences; not receipts from charges or assessments for police and fire protection, for the construction and maintenance of roads and improvements, for utilities and community services, and for moorages and other facilities where the use is restricted to the lessee and sublessees and the fees charged for the use thereof are for construction and maintenance only.

2. LAND DESCRIPTION.

For and in consideration of the rents, covenants and agreements hereinafter set out, the Lessor hereby leases to the Lessee those certain tribal and allotted lands located in Section [redacted] Township 33 North, Range 2 East, Willamette Meridian, Skagit County, Washington, within the Swinomish Indian Reservation, as more particularly described in Exhibit "B" attached hereto and made a part hereof.

3. TERM.

The term of this lease shall be for a term beginning on July 1, 1970 and terminating on June 30, 2044.

4. RENTAL.

A. The Lessee, in consideration of the foregoing covenants and agreements, agrees to pay the rentals hereinafter set forth, in lawful money of the United States of America to the Secretary, for the use and benefit of the Lessor; provided, that the Lessee shall not be responsible for the distribution of such rentals after payment of the same to the Secretary. The rentals to be paid shall be as follows:

(1) [redacted] a guaranteed minimum annual rental of [redacted] and [redacted] a guaranteed minimum annual rental of [redacted] allocation by ownership parcels to be as follows: [redacted]

EX 13

EXHIBIT 13

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

Lease [redacted]
Bond [redacted]
Admin. Fee [redacted]

LEASE

Allotment [redacted]

Puget Sound Agency

Lease # [redacted]

THIS CONTRACT, made and entered on this...1st....day of..January .,A.D. 2006, byand between the Indian or Indians named below (the Secretary of the Interior acting for and on behalf of the Indians) hereinafter called the "landowner" and:

[redacted]

hereinafter called the "lessee" in accordance with the provision of existing law and the *regulations (25 CFR 162) which by reference are made a part hereof.*

WITNESSETH, That for and in consideration of the rents, covenants and agreements hereinafter provided, the lessor hereby lets and leases unto the lessee the land and premises described as follows, to wit:

[redacted] the [redacted] Waterfront Home Sites, within Government Lot [redacted] Section [redacted] Township 33 North, Range 2 East, W.M., Skagit County, Washington on the Swinomish Indian Reservation.

containing .....**15**....acres, more or less, for the term of ..50...years, beginning on the ...**1st**.....day of ...**January 2006**....., to be used only for the following purposes:

Home Site & Recreation

The lessee, in consideration of the foregoing, covenants and agrees, as rental for the land and premises to pay:

TO	DATE DUE	AMOUNT
.....BUREAU OF INDIAN AFFAIRS.....	[redacted] ..AND UPON.....	[redacted]
.....FOR THE LESSORS.....	.....EACH SUCCESSIVE ANNIVERSARY.....	
.....	.....DATE OF THE LEASE THEREOF.....	
.....	.....FOR THE TERM OF THE EASE.....	

** NOTE: THE LEASE IS SUBJECT TO RENTAL ADJUSTMENT [redacted]

*** NOTE: IT HAS BEEN DETERMINED THAT LEASING THIS LAND WILL HAVE NO SIGNIFICANT IMPACT ON THE..SURROUNDING ENVIRONMENT.....

.....Lease payments are due on or before the due date, if not paid in full a late fee of 18% will be charged until paid in full, PAYMENT IS TO BE MADE IN THE FORM OF A CASHIERS CHECK OR MONEY ORDER ONLY, PERSONAL CHECKS ARE NOT ACCEPTABLE.

This lease is subject to the following provisions:

1. *"Secretary"* as used herein means the Secretary of the Interior or his authorized representative.
2. **Improvements** - Unless otherwise provided herein, it is understood and agreed that any building or other improvements placed upon the said land by the lessee become the property of the lessor upon termination or expiration of this lease.
3. **Unlawful Conduct** - The lessee agrees that he or she will not use or cause to be used any part of said premised for any unlawful conduct of purpose.
4. **Subleases of Assignments** -Unless otherwise provided herein, a sublease, assignment or amendment of this lease may be made only with the approval of the Secretary and written consent of all parties to this lease, including the surety or sureties.
5. *Interest - It is understood that any payment* not made by the anniversary date of said lease shall accrue interest at the rate of 18% until payment is made in full.
6. **Relinquishment of Supervision By The Secretary** - Nothing contained in this lease shall operate to delay or prevent a termination of Federal trust responsibilities with respect to the land by the issuance of a fee patent or otherwise during the term of the lease; however, such termination shall not serve to abrogate the lease. The owners of the land and the lessee and surety of *sureties shall be notified by the Secretary of* any such change in the status of the land.
7. **Rental Adjustment** - The rental provisions in all leases which are granted for a term of more than five (5) years and which are not based primarily on percentages of income produced by the land shall be subject to review and adjustment by the Secretary at not less than five-year intervals in accordance with the regulations in 25 CFR 162. Such review shall give consideration to the economic conditions at the time, exclusive of improvements or development required by the contract or the contribution value of such improvements.
8. **Interest of Member of Congress** - No Member of, Delegate to, Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any *benefit that may arise here from, but this* provision shall not be construed to extend to this contract if made with a corporation of company for its general benefit.
9. **Violators of Lease** - It is understood and agreed that violations of this lease shall be acted upon in accordance with the regulations of 25 CFR 162. Lessee will be charged $15.00 for any and all notice of violations given by the Bureau of Indian Affairs.
10. **Assent Not Waiver Of Future Breach Of Covenants** - No assent, express or implied, to any breach of any of the lessee's covenants, shall be deemed to be a waiver of any succeeding breach of any covenants.
11. *Upon Whom Binding - It is understood and* agreed that the covenants and agreements hereinbefore mentioned shall extend to and be binding upon their heirs, assigns, successors, executors, and administrators of the parties of this lease. While the leased premised are in trust or restricted status, all of the lessee's obligations under this lease, and the obligations under this lease, and the obligations of its sureties, are to the United States as well as to the owner(s) of the land.
12. **Approval** - It is further understood and agreed between the parties hereto that this lease shall be valid and binding only after approval by the Secretary.
13. **Additions** - Prior to execution of this lease, provision(s) Number(s) 14-22 has (have) been added hereto and by reference is (are) made a part of hereof.

WINOMISH WATERFRONT LOTS SUPPLEMENTAL SHEET

4. It is understood and agreed that this lease is subject to existing and future rights-of-way granted by the lessor.

5. It is understood and agreed that the lessee shall submit by mail to the Tribal Planning Commission, Box 416, LaConner WA 98257, plans and specifications for any proposed improvements. The Tribal Planning Commission will establish the conditions for improvements and issue a building permit if the Planning commission so rules.

6. It is understood and agreed that it shall be the Lessee's responsibility to ascertain any improvements, including landscaping constructed on the leased premises are within the lot boundary lines. In the event the Lessee violates this provision, he shall be liable for all costs incurred in moving said improvements.

17. It is understood and agreed that any improvements owned by the Lessee may be removed by him at any time within sixty (60) days after the expiration or termination of this lease. In the event the improvements are not removed within the specified sixty (60) day period, they shall become the property of the Lessor. The Lessee shall restore the premises to the same condition as that existing at the time of entering upon the same under this lease, reasonable and ordinary wear and tear and damages by the elements or by circumstances over which the Lessee has no control excepted. It is further understood and agreed that if the Superintendent finds there is damage to the Lessors property, once this lease expires; the lessee is obligated to pay such amount as appraised by the Superintendent.

18. It is a condition of this lease that the Lessee shall faithfully comply with all ordinances or resolutions, as approved by the Secretary of the Interior, enacted by the tribal governing body of the particular reservation, relating to the use of the above described premises.

19. Liens, Taxes, Assessments, Utility Charges--Lessee shall not permit to be enforced against the leased premises or any part thereof, any liens arising from any work performed, materials furnished, or obligations incurred by Lessee, and Lessee shall discharge or post bond against all such liens before any action is brought is brought to enforce same. Lessee shall pay, when and as the same become due and payable all taxes, assessments, licenses, fees and other like charges levied during the term of this lease upon or against the leased land, all interests therein and property thereon. Lessee shall also promptly pay all taxes, assessments, license fees and other like charges levied against the Lessee by the Tribe during the term of this lease. Upon written request, the Lessee shall furnish to the Secretary written evidence, duly certified, that any and all taxes required to be paid by Lessee have been paid, satisfied or otherwise discharged. Lessee shall have the right to contest any claim, asserted tax, or assessment against the property by posting bond to prevent enforcement of any lien resulting therefrom, and Lessee agrees to protect and hold harmless the Lessor, the Secretary and the leased premises and all interests therein and improvements thereon from any and all claims, taxes, assessments and like charges and from any lien therefore or sale or other proceedings to enforce payment thereof, and all costs in connection therewith. Lessor shall execute and file any appropriate documents with reference to real estate tax exemption of the land when requested by the Lessee. Lessee shall hold harmless the Lessor for all charges for water, sewage, gas, electricity, telephone, and other utility services supplied to said premises as they become due.

20. It is understood and agreed that this lease includes beach privileges, for recreational uses only and no improvements shall be built upon the tidelands without the written permission of the Swinomish Tribe. There is reserved to the Swinomish Indian Tribal Community, and to it's members, the right to use or cross said tidelands at any time. The Lessee does not have the right to dig clams or harvest oysters on the tidelands.

21. That the Lessee is authorized to encumber his leasehold interest in the premises for the purpose of borrowing capital for the development and improvement of the leased premises. The encumbrance instrument must be approved by the Secretary. If a sale or foreclosure under the approved encumbrance occurs and the encumbrancer is the purchaser, he may assign the leasehold without the approval of the Secretary or the consent of the other parties to the lease, provided; however, that the assignee accepts and agrees in writing to be bound by all the terms and conditions of the lease. If the purchaser is an party other than the encumbrancer, approval by the Secretary of any assignment will be bound by the terms of the lease and will assume in writing all obligations thereunder.

22. Septic and water systems shall meet Tribal standards which are the same as those administered by Skagit County Health Department.

I agree to these terms and conditions.

[redacted]

[redacted]

TRUST SIGNATORIES:

[redacted]

Power of Attorney
For Ownership Percentage 0.2223706

[redacted]

Power of Attorney
For Ownership 0.06444832022

[redacted]

Power of Attorney
For Ownership Percentage .21743548

[redacted]

Power of Attorney
Ownership Percentage 0.2110723

This new lease is hereby approved and declared to be made in accordance with the law and the rules and regulations prescribed by the Secretary of the Interior thereunder, and now in force.

Approved pursuant to 209 DM 8, 230 dm1, 3 IAM 4, 4a and 25 CFR Part 162.

Superintendent, Puget Sound Agency

Date Approved

EX 14

EXHIBIT 14

[redacted]

SWINOMISH INDIAN TRIBAL COMMUNITY
COMMERCIAL LEASE AGREEMENT

THIS LEASE is made and entered into on 1st day of August, 2004 by and between the UNITED STATES OF AMERICA, in trust for the **SWINOMISH INDIAN TRIBAL COMMUNITY**, a federally recognized Indian Tribe reorganized pursuant to section sixteen of the Indian Reorganization Act of 1934 (hereinafter Swinomish) and [redacted] (hereinafter Tenant).

1. LEASE

Swinomish hereby leases to Tenant, and Tenant hereby leases from Swinomish, the real property described in Section 2 including all improvements located on said Real Property (hereinafter Premises) upon the terms and conditions herein set forth.

2. DESCRIPTION OF PREMISES

See **Exhibit A** depicting leased premises boundaries and buildings incorporating 25,820 square feet of building and surrounding premises.

3. ACCEPTANCE BY TENANT

Tenant accepts the Premises, as well as the improvements thereon and the facilities appurtenant thereto, in their present condition.

4. TERM OF LEASE

This lease shall commence upon the above date, and shall be for a period not to exceed five (5) years from that date.

5. OPTION

a) Tenant shall, have one option to renew this Lease for an additional five (5) years upon twelve (12) months written notice six months prior to the expiration of this Lease and approval by Swinomish.

b) If Tenant remains in possession of the Premises at the expiration of this lease without a written agreement, such tenancy shall be deemed a month-to-month tenancy under the same terms and conditions of this lease at a month-to-month rental rate in effect at theexpiration of the lease, plus 10 percent (10%) for each additional twelve month period after the expiration of the lease.

6. USE OF PREMISES

a) Tenant shall use the Premises for seafood processing and canning, as well as the non-exclusive use of areas indicated in Exhibit A for marine and shore-side activities associated with these above-mentioned activities, and for no other activities without the prior written permission of Swinomish.

b) All uses of the Premises must be in full compliance with all Swinomish zoning, permitting and building codes, health and sanitation codes, ordinances, and land use and environmental laws.

c) The Tenant shall ensure that no odor resulting from, or caused by, its use of the Premises is detectable beyond the Premises. In the event that such odor does emanate from the Premises, Tenant shall cease and desist the operation that is the cause of the odor until the odor does not exist and shall take such steps to remove the odor as may be necessary.

d) The Tenant shall allow Swinomish to use the freezer near the bottom of the stairway in the center of the facility for the storing of salmon caught as ceremonial and subsistence (C&S) fish by Swinomish fisherman for the benefit of the Swinomish Community as determined by the Swinomish Senate. In addition, the Tenant shall provide reasonable space forcleaning C&S fish.

e) All inventories of products and receivable, excluding products owned by Swinomish stored pursuant to Section 6(c) above, shall be the sole property and responsibility of the Tenant.

f) Tenant shall work cooperatively with Swinomish Planning Office, Skagit System Cooperative and the Swinomish Fish Commission to develop and provide crab pot and fishing gear storage for the Swinomish Commercial Fishing Fleet.

EX 15

EXHIBIT 15

ORIGINAL

LEASE AGREEMENT

BETWEEN THE UNITED STATES OF AMERICA IN TRUST FOR THE SWINOMISH INDIAN TRIBAL COMMUNITY AND

THIS LEASE made and entered into on December 11, 1992 by and between the UNITED STATES OF AMERICA, in trust for the SWINOMISH INDIAN TRIBAL COMMUNITY, a federally recognized Indian Tribe reorganized pursuant to section sixteen of the Indian Reorganization Act of 1934 (hereinafter "Swinomish"), and , husband and wife, who do business as (hereinafter .

1. Lease. Swinomish hereby leases to , and hereby leases from Swinomish, the real property described in paragraph 2 hereof upon the terms and conditions herein set forth.

2. Legal Description. (a) A diagram of the leased property is attached as Exhibit A and incorporated by reference herein. The leased premises include the entire boat repair building constructed for use in 1987 and now owned by Swinomish, which is approximately 4800 square feet in size, and in addition to the boat repair building, that portion of the property adjacent to the building of the location, size and shape shown on the diagram. The premises include the area on the diagram labelled "original Lease" that is approximately one hundred fifty (150) feet by two hundred (200) feet in size located at the eastern edge of the boat basin. The premises also include three additional parcels described in the diagram which include the property between the building and the road (east of the building), an area fifty (50) feet west of the building and an area approximately fifty (50) feet by two hundred (200) feet north of the building. The leased property is located in the County of Skagit, State of Washington, upon the Swinomish Indian Reservation.

(b) The leased property also includes the use of the approximately 80 foot existing dock on the North side of the marina for temporary non-livaboard moorage of boats or customer's boats, and the property upon which the marine lift system constructed by is located.

(c) The leased property also includes unimpeded access by land and water across property owned by Swinomish to the property described herein. Such land access shall be by way of the existing causeway which has heretofore provided access to the leased property.

EX 16

5-5445
10-61

EXHIBIT 16

Fee:
Lease:
Bond:

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

LEASE

Allotment No [redacted]
Lease No AG-2007-01

Puget Sound Indian Agency

THIS CONTRACT, made and entered on this 1st day of March, A.D. 2007., by and between the Indian or Indians named below (the Secretary of the Interior acting for and on behalf of the Indians) hereinafter called the "lessor" and [redacted] hereinafter called the "lessee" in accordance with the provision of existing law and the regulations (25 CFR 162) which by reference are made a part hereof.

WITNESSETH, That for and in consideration of the rents, covenants and agreements hereinafter provided, the lessor hereby lets and lease unto the lessee the land and premises described as follows, to wit:
Allotment [redacted] described as: Lots [redacted] in Section [redacted] Township 34 North, Range 2 East, Williamette Meridian, Skagit County, Washington, containing 18.0 acres, more or less for the term of 1 years, beginning on the 1st day of March, 2007, to be used only for the following purposes: Agricultural Use.

The lessee, in consideration of the foregoing, covenants and agrees, as rental for the land and premises to pay:

TO--	DATE DUE	AMOUNT
Bureau of Indian Affairs for Lessors	Total Due	[redacted]
		subject to Prov.7 of the lease.
	[redacted]	[redacted]

Note: It has been determined that leasing this land will not have significant impact on the the surrounding environment.

In the event of the death of any of the owners to whom, under the terms of this lease, rentals are to be paid direct, all rentals remaining due and payable shall be paid to the official of the Bureau of Indian Affairs having jurisdiction over the leased premises. This provision is applicable only while the leased premises are in trust or restricted status.

While the lease premises are in trust or restricted status, the Secretary may in his discretion, and upon notice to the lessee, suspend the direct rental payment provisions of this lease in which event the rentals shall be paid to the office of the Bureau of Indian Affairs having jurisdiction over the leased premises.

5-5445
10-61

Fee:
Lease:
Bond:

This lease is subject to the following provisions:

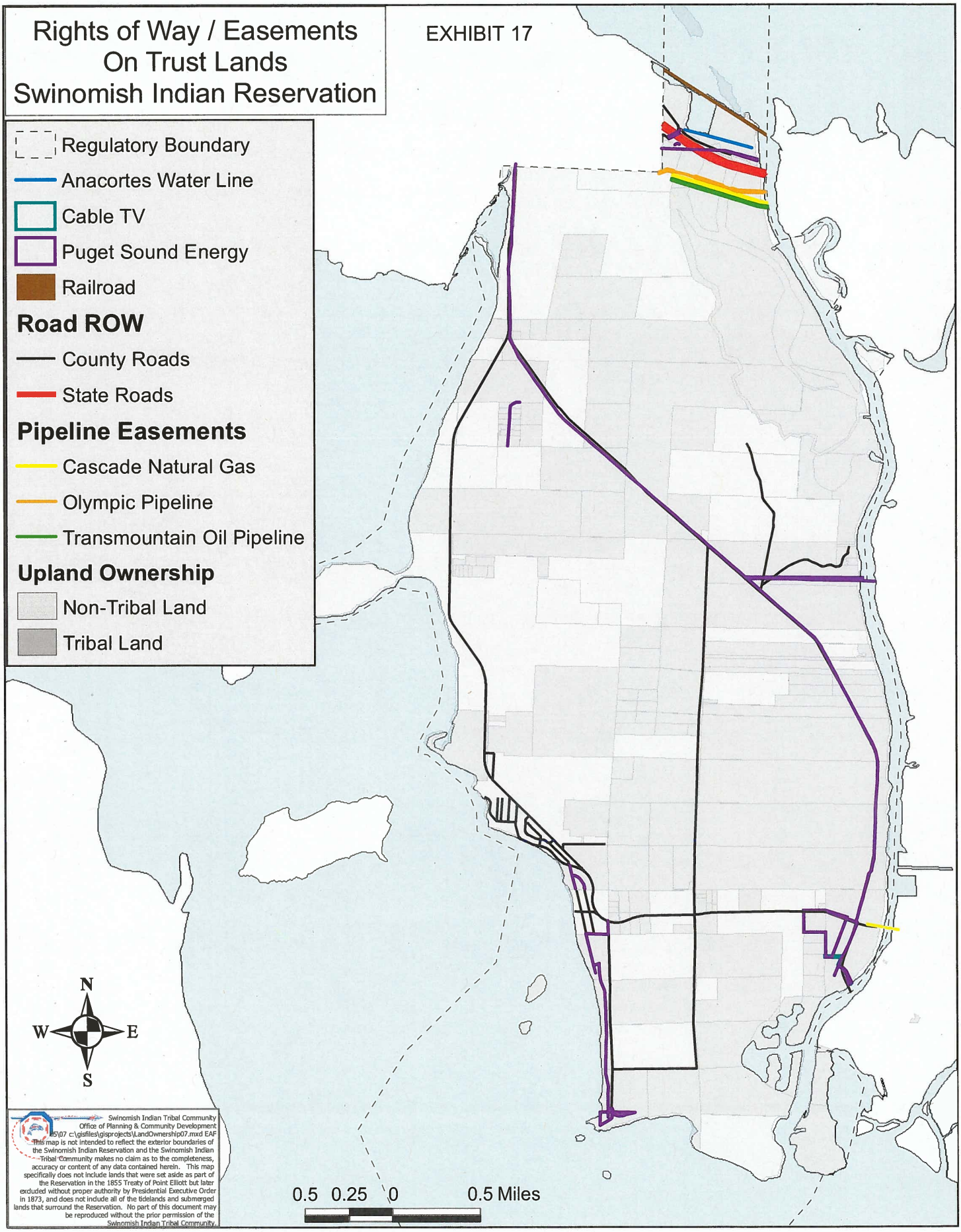
This lease is subject to the following provisions:

1. "SECRETARY".-- as used herein means the Secretary of the Interior or his authorized representative.
2. IMPROVEMENTS.-- Unless otherwise provided herein it is understood and agreed that any buildings or other improvements placed upon the said land by the lessee become the property of the lessor upon termination or expiration of this lease.
3. UNLAWFUL CONDUCT.—The lessee agrees that he will not use or cause to be used any part of said premises for any unlawful conduct or purpose.
4. SUBLEASES AND ASSIGNMENTS.—Unless otherwise provided herein, a sublease, assignment or amendment of this lease may be made only with the approval of the Secretary and the written consent of all parties to this lease, including the surety or sureties.
5. INTEREST.—It is understood and agreed between the parties hereto that, if any installment of rental is not paid within 30 days after becoming due, interest at the rate of 18 percent per annum will become due and payable from the date such rental became due and will run until said rental is paid.
6. RELINQUISHMENT OF SUPERVISION BY THE SECRETARY.—Nothing contained in this lease shall operate to delay or prevent a termination of Federal trust responsibilities with respect to the land by the issuance of a fee patent or otherwise during the term of the lease; however, such termination shall not serve to abrogate the lease. The owners of the land and the lessee and his surety or sureties shall be notified by the Secretary of any such change in the status of the land.
7. RENTAL ADJUSTMENT.—The rental provisions in all leases which are granted for a term of more than five years and which are not based primarily on percentages of income produced by the land shall be subject to review and adjustment by the Secretary at not less than five-year intervals in accordance with the regulations in 25 CFR 162. Such review shall give consideration to the economic conditions at the time, exclusive of improvement or development required by this contract or the contribution value of such improvements.
8. INTEREST OF MEMBER OF CONGRESS.—No Member of, or Delegate to, Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation or company for its general benefit.
9. VIOLATIONS OF LEASE.—It is understood and agreed that violations of this lease shall be acted upon in accordance with the regulations in 25 CFR 162.
10. ASSENT NOT WAIVER OF FUTURE BREACH OF COVENANTS.—No assent, express or implied, to any breach of any of the lessee's covenants, shall be deemed to be a waiver of any succeeding breach of any covenants.
11. UPON WHOM BINDING.—It is understood and agreed that the covenants and agreements hereinbefore mentioned shall extend to and be binding upon the heirs, assigns, successors, executors, and administrators of the parties of this lease. While the leased premises are in trust or restricted status, all of the lessee's obligations under this lease, and the obligations of its sureties, are to the United States as well as to the owner of the land.
12. APPROVAL.—It is further understood and agreed between the parties hereto that this lease shall be valid and binding only after approval by the Secretary.
13. ADDITIONS.—Prior to the execution of this lease, provision (s) number (s) 14, 15 and 16 has (have) been added hereto and by reference is (are) made a part hereof.

EX 17

Rights of Way / Easements On Trust Lands Swinomish Indian Reservation

EXHIBIT 17



Swinomish Indian Tribal Community
Office of Planning & Community Development
05/07 c:\gisfiles\gisprojects\LandOwnership07.mxd EAF
This map is not intended to reflect the exterior boundaries of the Swinomish Indian Reservation and the Swinomish Indian Tribal Community makes no claim as to the completeness, accuracy or content of any data contained herein. This map specifically does not include lands that were set aside as part of the Reservation in the 1855 Treaty of Point Elliott but later excluded without proper authority by Presidential Executive Order in 1873, and does not include all of the tidelands and submerged lands that surround the Reservation. No part of this document may be reproduced without the prior permission of the Swinomish Indian Tribal Community.

EX 18

EXHIBIT 18

Nearshore Structure Survey of Swinomish Indian Reservation: Adapted Procedures and Preliminary Results

LovellFord, R.M.[1], Mitchell, T.M., Klein, L.A and E. Haskins
Swinomish Indian Tribal Community, Planning Department, Water Resources Program; P.O.Box 817, LaConner, WA 98257; rlovellford@swinomish.nsn.us; 360.466.3374

Keywords: nearshore, tidelands, structures, bulkheads

Introduction

The Swinomish Indian Tribal Community (SITC), a Federally Recognized Tribe, is located near LaConner, WA on Fidalgo Island east of LaConner, WA in between Skagit and Padilla Bays (Figure 1). The reservation currently has housing and development on its shoreline ranging from log yards to beach houses, though the extent of this development has historically been until recently unmonitored. Under the Point Elliot Treaty of 1855, SITC has the right to manage the shoreline up to the High High Water Mark (HHWM).

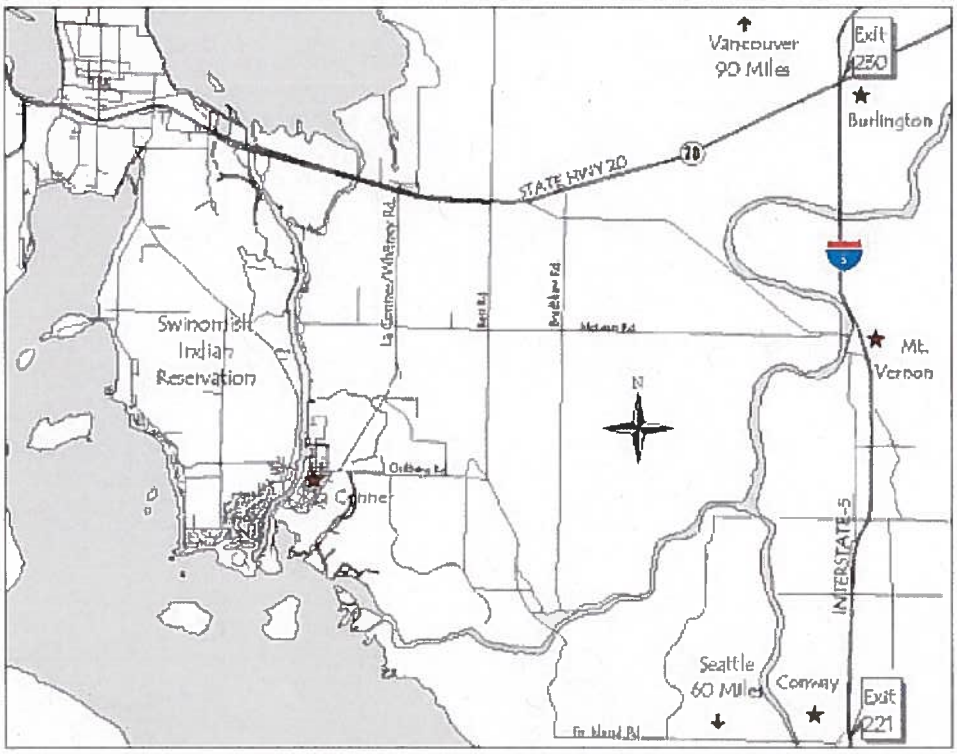


Figure 1. Vicinity map of the Swinomish Indian Reservation, LaConner, WA.

In order to manage the shoreline per the tribal Coastal Zone Management Plan, an assessment needed to be performed on the presence and type of shoreline development. Following the counsel of Pete Best of Bainbridge Island City Planning and his report on the shoreline assessment of Bainbridge Island, the Swinomish Water Resources Program (WRP) set out to reapply Best's mapping and analysis methods (Best 2002). The influence of shoreline development on the formation of beaches of the reservation, the quality of health and potential risks to environmental and human health and safety along the shoreline are a few of the issues that may be examined once the extent of shoreline modification is known. It is suspected that some of the structures along the shoreline are abandoned and may be sources of pollution. Many of the bulkheads may be within the tide line enough to be disturbing to natural shoreline processes. This study will also report on the application of the Bainbridge island study to another Salish Sea island community.

Methods

The surveying materials consisted of: a map grade GPS (Trimble), a team of 2-3 people, tape measure (m), oblique

photos, field book, compass, camera and extra batteries, oblique photos with features key, map of beach sections, paper copy of procedures/data dictionary and photo flipchart .

The surveying was test run in the summer of 2003 in order to find out what procedures did and did not work from the Bainbridge study. This study consisted of field runs with the GPS in order to adapt the data dictionary to the needs of the reservation land uses. Field work began in June of 2004 and was finished in October. Data was gathered either by walking the shoreline or by motorboat with the GPS depending on access issues. All buoys were gathered by boat. Pilings were GPSed using field counts and oblique photos.
Oblique photos were used to verify location on the shoreline, to note changes on the shoreline since their taking (2002), and to note locations of objects and photos. In the field book were recorded descriptions of objects, field numbers, photo numbers, and comments. In order for some initial land use analysis to be completed, the shoreline was broken up into eight sections related to land-use or natural barriers, for instance the northern boundary of the reservation or the agricultural area. Section four was divided into 4 and 4-1 due to field sampling difficulties. Structures or modifications to the shoreline were named with categories as suggested by Best, though several were added or definition changed to accommodate current reservation land use (Table 1).

Table 1. List of items surveyed and simple definitions for quick reference in field collection. Directions for collection included more in-depth definitions.

GPS Field / Definition
Armor-includes all bulkheads, revetments, and soft shore blocks
Groin-a small jetty made of rock, concrete, or mixed materials
Fill-includes soil, construction debris, and trash that is being used to fill land
STRover(structure over water)-includes decks, houses, boathouses, piers, and pilings involved in the structure
Pilings-those not attatched to an overwater structure
OHWM (Ordinary High Water Mark)-defined by debris collection on the shoreline
Stairs-along the shoreline, touching the beach or not
Pollution-sheen, odor, or other; includes garbage
Marine Railways-any railroad tracks
Ramp-all boat ramps
Outfall-pipe or natural (seep, stream, spring)
USAWL(Upland Structure Above Water Level)-includes only buildings within 30'
Monument-aka benchmarker; can be USGS, NGS, State, NOAA, Tribal, or other
Point of Interest-anything interesting!
Buoy-only semi-permanent buoys
Boat-only moored boats

Results

The entire shoreline was less than half developed, with the majority of the shoreline development being on the east shore as expected (Figure 2)(Figure 3). No section is more than half armored. One third of the 610 structures on the reservation shoreline are stairs, pilings, and armor (Table 2). Most beachside residences had private beach accesses. Most pilings were creosote covered. Monuments were found that were previously not known of or were rediscovered. Only four or five structures had been abandoned along the shoreline.

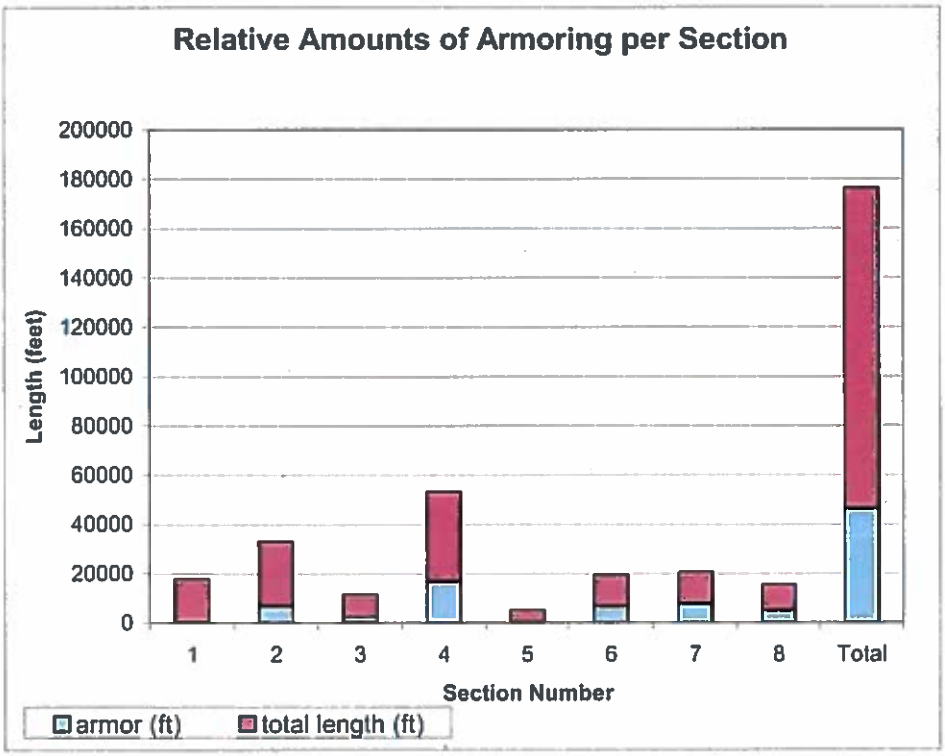


Figure 2. Relative feet of armoring per total feet of section. Included is a comparison of total armoring to total shoreline. Section four had the largest percentage of armored shoreline.

Table 2. Total number of each structure found on the entire reservation shoreline. Section total is the sum of all structures

Type of Structure	Number of Structures
Armor	112
Boat	14
Fill	1
Buoy	41
Stair	106
Monument	10
Pilings	118
Ramp	15
Outfall	86
USAWL	19
Strover	52
Railway	1
Pollution	2
Point of Interest	33
Section Total	**610**

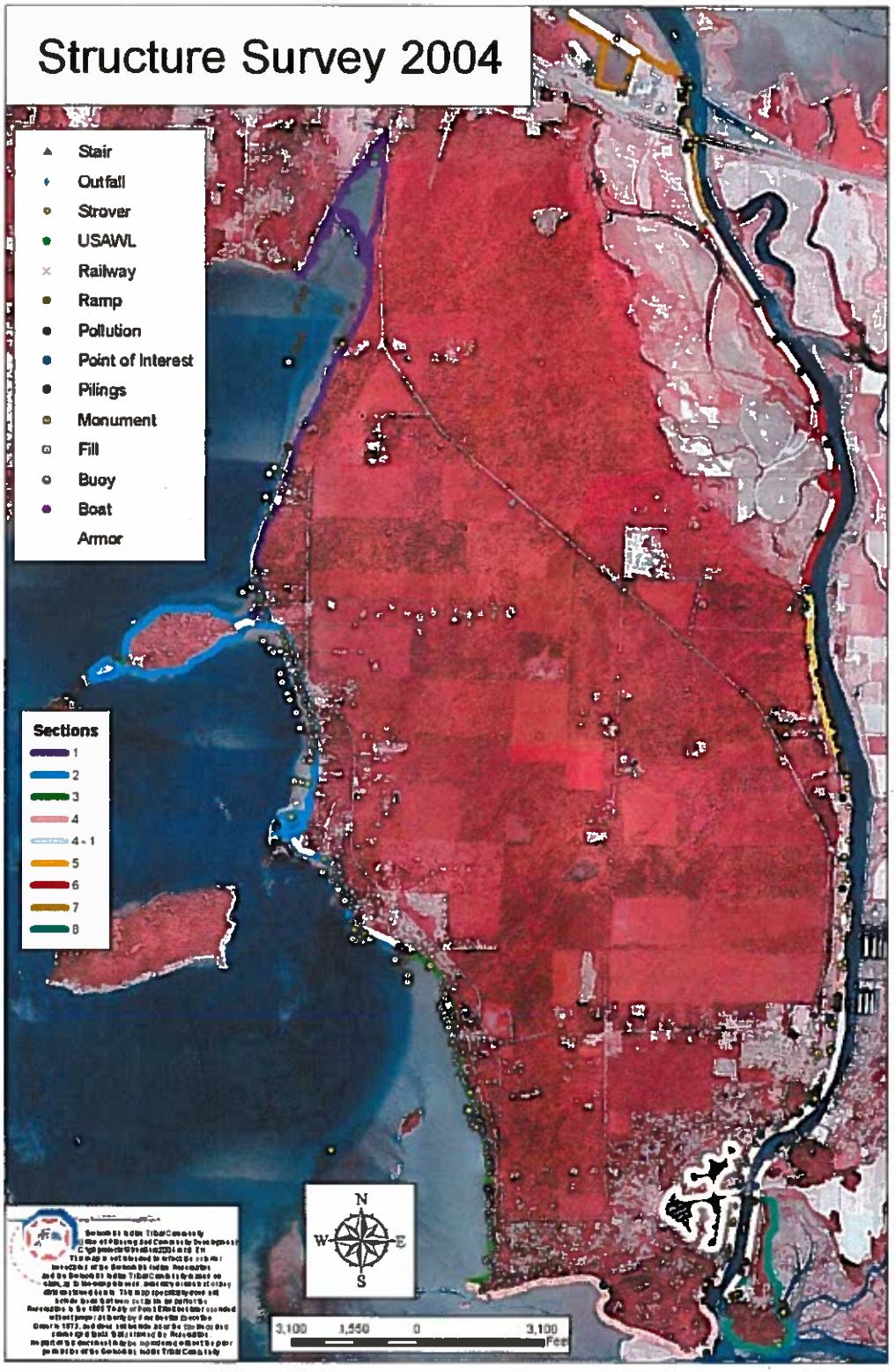


Figure 3. Resulting map of shoreline structures and sections as delineated by use.

Discussion

The Swinomish shoreline, although less than half bulkheaded is in a more natural state relative to other similarly inhabited Salish islands, there is a potential for shoreline modification and habitat threat due to the density of bulkheads in certain areas. Although a majority of the bulkheaded areas are along the Swinomish Channel, there are also bulkheads along the west shore where much shellfish harvest is done.

Pilings are the main source pollution problem along the shoreline and work will be done to see to the removal or covering of those that threaten tideland health.

Stairs, being one of the major structures on the shoreline, bring issues of access and beach activity which introduces another health issue to shoreline health. No use studies have been completed on the beach, though the tribe is in the process of completing a seafood consumption survey which will give an estimate of tribal harvest rates or seashore organisms.

Best's example worked well for the reservation, most likely because of the similar island size. This similarity made the survey possible to complete in a summer's time without having to do timely survey work every day. Also, four to five people were able to help with the survey, all with knowledge of GPS workings, and boat access was guaranteed. That, combined with the property rights of the tribe presented little, if any obstacles to the gathering of data. Modifications of Best's methods existed only in our definitions and data dictionary of shoreline structures as was specific to the area for example whether or not the tribe installed a benchmark versus the USGS. Included in Best's report was a review of the Rapid Shoreline Inventory along with other inventory methods. We concur with Best's review and suggest the implementation of his methods for further Salish Sea island shoreline structure surveys.

For more information about the application of the shoreline data, please contact the author.

Reference

Best, P; Williams, G; Evans, N; Thom, R; Miller, M and D. Woodruff, 2002, Bainbridge Island Nearshore Assessment: Summary of Best Available Science, City of Bainbridge Island.

EX 19

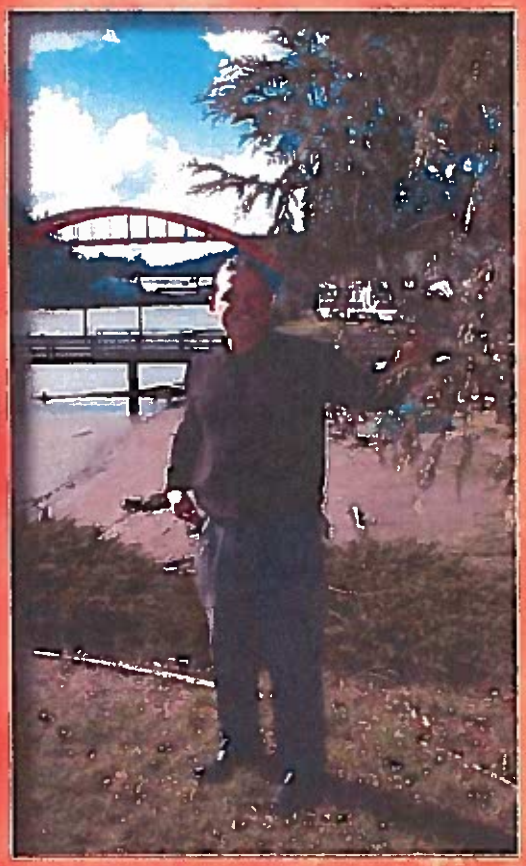
N
W
E
S
P20582
CRAM HERBERT S
P20575
BARTLETT PETER
P20581
COLLINGE JAMES L
P20580
COLLINGE JAMES L
P20583
EASTHAM RICHARD M
Oyster Pen
Floating Dock
P66246
CARR JERRY A
P66247
JOHNSTON WAYNE M
P66255
SMILEY BRUCE G
P66256
JOHNSON ALERD C
UNKNOWN
P66253
HUSON SHIRLEY D LVG TRUST
P20579
FINSEN DONALD J
P20577
SIBLE MICHAEL D
P20576
OPDYCKE LINDA
100 50 0 100 Feet

EXHIBIT 19

EX 20

EXHIBIT 20

Swinomish Indian Tribal Community
Annual Report 2006



As I look over 2006, I thank our Creator for all the blessings he has given to the Swinomish Indian Tribal Community.

First of all I would like to thank each and every tribal member who has taken time to come to this very important meeting. The General Council meeting is a chance for every member to review the past years accomplishments and to look forward to our next years goals.

On the cover you will see that we have provided a cedar bough for everyone who will receive a copy of our annual report. Our elders and our members continue to put a great emphasis on cedar. It has been a way of life for our people for thousands of years.

We used cedar for just about everything in our daily lives for generations. We built homes, canoes, clothes, baskets and many other things. Everyday our elders had some sort of cedar in their hands for some purpose.

Education will continue to be our top goal. We continue to increase our scholarships to our tribal members who graduate from High School or receive their GED. We are allowing up to $24,000 per tribal member for going to college or trade school. I know many of our tribal members have already benefited from these scholarships.

With the opening of our youth center, daycare, head start, it has become a lighthouse for our children. We have on staff in the community center at any given time up to 38 employees working with our children. Headstart-9, Daycare-8, Youth Prevention-8,

Front Cover: Hand of Janet Wilbur giving Cedar to her Grandson Danny Rapada Jr.

Education Paraprofs-6, Recreation-3, and 2 Receptionists. Not to mention our wonderful maintenance staff that is there daily to make sure the community center is clean. We have also hired a kitchen manager to oversee after school snacks for our children and to also over see all tribal gatherings.

We are also thankful for the 5 or so volunteers that come over to help out with after school study hall. We are also grateful for the LCSD teachers that come over every week to help our children. Also, the Boys and Girls club sends over a volunteer to do arts and crafts with our children.

The number of children that utilize our newly remodeled community center is just amazing and I want to thank all those who work so hard in making our children's lives a little easier.

Housing continues to be our goal. This last year we began the Tallawhalt housing project. This is being built with all tribal dollars. It is the first time we will be able to do this for our tribal members and hopefully not the last. Our goal is to have homes occupied by tribal members at the end of this year.

Another part of our Tallawhalt project will be the completion of a new NWIC building. Our current space has been, to say the least, a little cramped at times. This building will be much bigger to accommodate our ever increasing enrollment at NWIC.

These are just a few of the highlights over the last year. I would like to thank our Senators who put so much time in to make our tribal members lives a little easier. Also our staff who are so dedicated to the Swinomish Tribe.

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Barbara James
Dianne Edwards
Lydia Charles

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Tandy Wilbur, Vice Chair
Barbara James
Merril Burke
Marty Loesch
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Glen Edwards
Fred Cayou
Ivan Willup
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Steve Edwards
J.J. Wilbur
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Fred Cayou – Crab Adv Board
Kurt Bassford – Crab Adv Board
Leon John – Crab Adv Board
Brian Cladoosby, Ex-Officio

Gwadzadad (SCEPA) Committee
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Sophie Bailey, Vice-Chair
Dennis Donoghue
Ray Williams
Noah Martin
Lona Wilbur
Joe McCoy
Merla Martin
Chester Cayou, Sr.
Brian Cladoosby, Ex-Officio

Fireworks Committee
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Merril Burke, Vice-Chair
John Stephens
Charlie O'Hara
Brian Wilbur
Brian Cladoosby, Ex-Officio

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Lois Formsby
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Rick Thompson
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Cheryl Rasar, Alternate

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Cheryl Rasar
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Darlene Peters-Edwards
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Lona Wilbur
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Todd Wilbur, Alternate

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Lorraine Loomis, Board Member
Tandy Wilbur, Board Member

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Glen Edwards, Vice-Chair
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Janie Beasley
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Warren James
Josephine Finkbonner
Brian Cladoosby, Ex-Officio

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Sophie Bailey, Alternate

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Ray Williams, Vice-Chair
Tony Cladoosby
Cheryl Rasar
Eric Day
Brian Cladoosby, Ex-Officio

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Skagit Council of Governments
Brian Cladoosby

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Ivan Willup
Cathi Bassford
Brian Porter

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Barbara James
Lydia Charles
Dianne Edwards
Sophie Bailey
John Petrich
Martin Loesch

Sub-Regional Transportation Planning Organization – RTPO
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American Indian Health Committe
Leon John, Delegate
John Stephens, Alternate
Cheryl Rasar, Alternate

Legal Committee
Glen Edwards, Chair
Steve Edwards, Vice Chair
Brenda Williams
Scott Andrews
Brian Cladoosby, Ex Officio

Enrollment Committee
Barbara James, Chair
Roberta Wilbur, Vice-Chair
Dianne Edwards
Sophie Bailey
Ivan Willup
Maureen Martin
Marvin Cladoosby
Brian Cladoosby, Ex-Officio

IPAC
John Stephens, Delegate
Dianne Edwards, Delegate
Tracy Edwards, Alternate
Mario Quintasket, Alternate

Swinomish Development Authori
Steve Edwards, President
Tandy Wilbur, Vice-President
Lydia Charles
Leon John
Vince Wilbur
Martin Loesch
Merril Burke
Charles O'Hara
Brian Cladoosby, Ex-Officio

Portland Area Indian Health Boa
Leon John, Delegate
Cheryl Rasar, Alternate
John Stephens, Alternate

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Senate 2006

Brian Cladoosby

Barb James

Lydia Charles

Dianne Edwards

Chester Cayou Sr.

Sophie Bailey

Glen Edwards

Tandy Wilbur

Leon John

Kevin Paul

Steve Edwards

SWINOMISH SENATE

The governmental and business affairs of the Swinomish Indian Tribal Community are conducted by the Swinomish Senate, the duly elected governing body of the Tribe. The Senate governs the affairs of the Tribe through Boards and Committees appointed by the Senate and composed primarily of elected Senators. Five separate Tribal Agencies with independent Boards of Directors have been created by Tribal Ordinance as political subdivisions of the Tribe with specific delegated authority to manage selected areas of tribal governance: (1) the Swinomish Housing Authority, (2) the Swinomish Utility Authority, (3) the Swinomish Development Authority, (4) the Swinomish Gaming Enterprise which operates the Swinomish Northern Lights Casino and (5) the Swinomish Gaming Commission which monitors the Casino's compliance with tribal regulations. Each Board is authorized to hire its own staff and for the most part operate independent from the Tribe and Swinomish Senate. In addition, 20 primary Senate Committees and several other more limited and ad hoc Committees have been created to oversee the administration of tribal affairs. With limited exceptions, Senate Committees make recommendations to the Senate but do not exercise any delegated decision making authority. Each Senator serves as the chair and vice-chair of at least one Board or Committee. The Senate reappoints the members of Tribal Boards and Senate Committees annually.

TRIBAL ADMINISTRATION

The Swinomish Senate employs an administrative staff of 221 full and part time governmental employees to implement and fulfill its goals and policies. The Tribe's Administration Department oversees the work of tribal staff and coordinates with the Boards and the Directors of the five separate Tribal Agencies. The Administration Department is comprised of the Tribe's Chairman, the General Manager, the Senate Recording Secretary and the Receptionist for the Tribe's main office in the Administration Building. In addition to presiding over meetings of the Swinomish Senate and performing other duties prescribed by the Tribe's Constitution and Bylaws, the Chairman oversees the Senate Committees, works with Committee Chairmen to make sure that the goals and policies of the Tribe are implemented in a consistent and comprehensive manner and supervises the General Manager and the Director responsible for Government Affairs and Economic Development. The Tribe's General Manager oversees tribal staff and directly supervises the directors of the Tribe's ten principal departments who in turn supervise and direct the administrative programs of the Tribe in conjunction with one or more Senate Committees responsible for policy and guidance in that particular administrative function. The Administrative Assistant and the Receptionist both provide information and answer questions for tribal members, vendors and the general public.

SOCIAL SERVICES DEPARTMENT

EARLY LEARNING AND YOUTH CENTER

The highlight of the year was the grand opening of the newly renovated and expanded Youth Center, Early Learning Center and Gymnasium. The dedication of this new facility in the name of Lop-She-Ahl (Susan Edwards-Wilbur) was the culmination of years of effort, planning, budgeting and dreaming. This new facility has already been a positive influence in the lives of our young people.

Included as part of the building changes on the lower level are the new Lop-She-Ahl Early Learning Center, which includes the new and expanded Childcare Center and Birth to Six Program and offices for preschool and childcare. On the upper level of the building we have a new 28 station computer lab, a new arts and crafts classroom, a new multipurpose study hall and social room, a new snack bar, new offices for the education, prevention, and recreation programs, a new barbeque pit, new meeting rooms, a new dining room addition, all new electrical system and lighting, new plumbing, a new sprinkler system, all new heating, ventilation and air conditioning system, a switch to natural gas for heat and hot water, new roofing and replacement of all existing windows.

COMMUNITY SERVICES

The Social Services Department provides a range of income support activities, including Commodity foods, Christmas food vouchers, child Christmas gift certificates, food baskets, BIA General assistance application assistance, technical assistance in obtaining DSHS and Social Security benefits and Low Income Home Energy Assistance (LIHEAP). Last year, the energy assistance program served 110 households with 445 people and the food voucher program served 118 families. Under our current policy, all applicants for food vouchers must be eligible for LIHEAP and take a one-hour class, which will make them eligible for the entire year. Elders are exempt from the new policy and these requirements.

SENIORS

Senior services are provided in the Tribe's Senior Center located on the ground floor of the Dental Clinic overlooking Swinomish Channel. The Senior Center provided 5,341 meals this year from its kitchen facilities. This included 2,698 meals served at the Center and 2,643 home delivered meals. The services improve the nutritional status and social and recreational opportunities for elders of the tribe over age 55. This year we served 71 elders living in Skagit County. Menus are required to be planned for special dietary needs in consultation with a dietitian. A Friday brunch is also being served. This additional meal is paid for with tribal funds. Menus are published monthly in the Kee-Yoks.

TERO

As the Swinomish Tribal Employment Specialist, I would like to thank all the participants who utilized our employment programs in 2006. TERO programs are designed to assist our community and our members to obtain employment and job training opportunities. The TERO office also encourages and enforces tribal preference for all contracts and employment on or near the Swinomish Indian Reservation. We are also a part of the Regional TERO Council.

WIETP. The Western Washington Indian Employment Training Program was designed to supplement eligible

clients for first time employment and on the job training. We had a very successful summer youth program that combined our WWIETP budget with additional tribal funds. There were over 30 participants in this year's summer work program. We have had a good success rate on the completion of individual contracts and also on the transition to permanent employment with our tribal workforce. The adult program wasn't as successful. This year, we will work with department supervisors to better utilize these funds to place new hires and potential trainees. For adults, there are temporary work experience (WEX) dollars, job training (OJT) dollars and some classroom training funds.

Native Employment Works. The NEW program is designed to assist Swinomish tribal members who are in a transition from one means of support to another. Emphasis is provided to clients moving from welfare to work, and also to clients addressing addiction and other issues. Eligible clients can utilize this program to also assist in employment, job retention or equipment.

We currently have a 30% rate of unemployment in the off peak season of our fisheries. Our goal is to utilize the down time in the off-season to help tribal members obtain trade skills and work experience and to reduce the rate of Swinomish unemployment. As a fishing community we exercise our treaty rights but at the same time we can supplement income with a specific trade or skill. We are now working on a Workforce Protection Plan that will assist our programs and encourage tribal preference in our tribal businesses.

CHILDCARE

Childcare services are provided in the new State Certified Childcare Center. The program has expanded to provide free childcare services to any enrolled member child, whose parent(s) is working, attending school or training in order to be able to work, or is receiving needed counseling in order to be able to work. Childcare program services are educationally focused, with appropriate nutrition services provided. This vital service assures that parents, especially single parents, have support services available so that they can pursue training and employment opportunities. The Center works cooperatively with the LaConner School District to provide transportation for After-School children to the facility. We currently operate many days at the allowed capacity of 18 children. We served 62 children this past year. As part of the Youth Center Project, we have more than doubled the square footage of Child Care space to improve efficiency and this will ultimately allow many more children to participate as we expand program and staffing.

FAMILY SERVICES

The purpose of the Swinomish Family Services Program is to help protect children, help strengthen families, and be a positive resource for the community. Family Services provides support, and referral services to families in the community. The Program also helps to connect the community with resources throughout Skagit County. In addition Family Services assists children and families experiencing domestic violence with emergency shelter, food clothing, transportation, and referrals to agencies that specialize in domestic abuse as well as utilizing the Swinomish Tribal Mental Health Program. The staff of Family Services works closely with State and Tribal courts to insure that both the legal rights and best interests of Swinomish children are protected.

The accomplishments of the Swinomish Family Services Program include positive collaboration with service providers and programs throughout Skagit County, which in turn has strengthened services to Swinomish clients and families. The Senate has shown full support for requiring community members that perpetrate domestic violence to attend a Domestic Violence Impact Panel as part of their sentencing, which focuses primarily on the effects of domestic violence on the children. This Panel assures that perpetrators realize how their acts of domestic violence and their behavior take a toll on the victim, the community, and on any children who may be in the home.

MENTAL HEALTH

Mental health counseling services are provided to individuals and groups in the community in a culturally relevant and confidential manner. A variety of male and female counselors are available on site from tribal and community mental health agencies. We have developed our policies and procedures and added consultation services from a Psychiatrist so that we may now bill for services as a State Certified Mental Health Program.

WELLNESS PROGRAM - CHEMICAL DEPENDENCY SERVICES

The Wellness Program experienced a 200% increase in our adult client population this year and provided 1171 hours of face-to-face contact for adults, a 550% increase! A number of clients have successfully completed treatment and graduated from the program. Groups and classes are conducted regularly and we continue to develop and provide more creative treatment options. In June, new counselors, Marty Barnett and Dave Allen, started work and have been busy ever since. They bring many years of experience in addiction/recovery issues with them.

The Youth Wellness Program (Drug Court) continues to facilitate services for our young people. We have been able to provide consistency and structure for the youth we serve. Structure is provided by having counselors see young clients more than once a week and sometimes, 2 or even 3 times a week. In 2006 we added a Cognitive Behavioral Therapy group for adolescents (MRT), as part of the vision of providing additional structure and services. Research has shown that this type of therapy is successful with people who have substance use disorders. We hope to continue adding programs as the need or opportunity arises. We have a strong relationship with LaConner School District and are working together to provide wrap-around services to support kids as they attempt to make healthy choices for themselves. It is not unusual for kids to "just drop in" to visit. We are always open to having young people involved in our program.

2006 was just the beginning of what the Wellness Program hopes is a change for the better for all of us that have been affected by our own or someone else's substance abuse. More good things and exciting challenges are awaiting us. We're looking forward to providing more services in 2007.

HEALTH CLINIC

The Health Clinic provides medical services to the Swinomish and Upper Skagit Tribes. Direct care services only are available to any member of a Federally recognized tribe living in the area. Office hours are 8:30 am to 5:00 pm, Monday through Friday, except for major holidays when the clinic is closed. A Physician will now be available five days per week with the addition of Dr. Wilbert James, an enrolled Swinomish Member. We were short staffed for a portion of this year but we are now fully staffed again and able to provide more services to the community.

The clinic had 3,642 patient visits last year and had the largest percentage increase (20%) in user population within the Portland Area of Indian Health Service. We continue to emphasize prevention of disease and accidents through our Pop in for your Pap Day, Women's Wellness Week, Men's Wellness Day, Sport's Physical Day and this year we added a Fireworks Safety Day. We have programs in place to track health issues so we can send reminders to patients to follow up for important medical tests. We also are participating in the Tribal Emergency Preparedness and Pandemic Flu planning so that we can have systems in place should we have a major disaster or health pandemic.

The Clinic also provides a Fitness Center to meet the needs of diabetic patients that is also open to the entire community. In addition to weight lifting equipment, the Fitness Center has six cardiovascular machines, two treadmills, two elliptical machines and two recumbent bicycles. We have various health promotional activities through the year including the Four Tribes Fitness Challenge, Virtual Canoe Journey, and Just Move It Walk. Many brochures are provided that answer almost any health question you might have.

The Clinic has continued to participate in various grant programs including the Washington Breast and Cervical Health Program, the Chlamydia Project, Take Charge and Veterans Administration Native American Outreach program. These programs help to get additional services covered that would not be covered under our limited Contract Health Service (CHS) budget. Since CHS is still on Priority 1 status (and will likely be for the foreseeable future), we have tried to identify as many programs grants and funding sources as possible to try to stretch contract health funds. We also assist patients who might qualify to apply to state or federally subsidized insurance programs such as The Basic Health Plan of Washington, DSHS and Medicare. We have a Medical Social Worker, a DSHS representative and a VA representative in the clinic most days of the week who can assist patients with applications to these programs.

DIABETES PROGRAM

The Tribe's diabetes program is a joint project of Swinomish, Upper Skagit, Nooksack and Lummi tribes, designed to prevent and delay the onset of diabetes in tribal communities. A Family Nurse Practitioner, a Dietitian, and other support staff operate the program which provides diabetes care services and prevention education to community members.

Tribal members again attended the annual one-day diabetes education workshop that was offered to people with diabetes, their family members and caregivers. The educational focus was on weight management through healthy lifestyle changes. Native motivational speakers presented the information.

Tribal members with diabetes are eligible to participate in the Heart Healthy Project through the Northwest Washington Indian Health Board. The goal of the project is to reduce cardiovascular disease risk in individuals with diabetes by following national and IHS standards of care for type-2 diabetes. Participants receive individual case management services and health education following the Honoring The Gift Of Heart Health curriculum.

Tribal members and staff participated in two fitness events. The first event was the annual thirteen-week fitness challenge. The goal was to exercise for a minimum of 30 minutes 5 days a week. This year 101 people from our area participated. The second event was the virtual family canoe journey walking program where 57 participants walked an equivalent 137 nautical miles.

DENTAL CLINIC

We have been operating now in the Dental Clinic for 10 years. The primary duties of the Dental Program are to provide basic dental care to direct care eligible patients, with an emphasis on the promotion of good dental hygiene and prevention for youth. We are currently able to provide dental services to all patients who request them, without a waiting list.

This past year was another fantastic year at our dental clinic. We had a very successful Sealant Day where we provided sealants to 30 children in 1st, 2nd, 5th, and 6th grades. We also provide fluoride varnishes at the Swinomish Daycare and Head Start Program 3 to 4 times each year. These practices ensure that each child's smile will continue to be bright into the future. We also hosted two dental interns, who provided dental services to over 50 patients. Additionally, we have expanded services to all Swinomish/Upper Skagit tribal employees and spouses of Swinomish/Upper Skagit tribal members.

Hours of operation. Monday through Thursday, 8:00 a.m. – 4:00 p.m., and Friday, 8:00 a.m. – 12:00 p.m. with Emergencies 8:00 a.m. – 9:00 a.m.

EDUCATION DEPARTMENT

The Education Department is comprised of the Birth to Three Program, Headstart, Pre-School, Study Hall, After School Tutoring Program, GED and Adult Education, Library, Job Training and Vocational Rehabilitation, Secondary Education Assistance, Life Skills and Attendance, and the Northwest Indian College ("NWIC") programs. The Education Director supervises the Birth-Grade 12 component of the program. This year, six new Para-professionals were added to the staff to assist Native students in grades K-12.

Pre-School. We had 40 students on average enrolled in the Preschool program this year, which moved into the new Early Learning Center in the Youth Center. The LaConner School District, Headstart, and the Tribe currently collaborate to provide every Native preschool student with an early education.

LaConner Schools K-12. The Department's main goal has been to assist LaConner High School students and implement programs that will increase the graduation rate for tribal members. We have 7 students on track to graduate in June. One student has already completed the Washington State Diploma with Alger School and another student will complete it in June. One student dropped out completely and two seniors may come back next year due to cultural ceremonies and health issues. We currently have about 175 Native Students enrolled in the LaConner School District and almost 100 of those are enrolled Swinomish members. With our JOM monies, we have been able to fund many curriculum and academic assistance requests for ASB cards, activity fees, library fees, Camp Orkila, Mountain School, yearly school supplies, Band instrument rentals and Caps and Gowns for graduates who met financial assistance criteria.

Early College Classes. Many of our 6th-12th grade have benefited from the Early College Grant from the Gates Foundation. We currently have 27 Native students in our AVID (Advancement Via Individual Determination) classes whose main goal is to prepare students for college success and target students who are willing to work hard towards their goals. Students at the High school can enroll in college level classes such as Lushootseed 101 and Native American Studies and can earn up to 45 college credits while they are still enrolled in high school.

Study Hall/Computer Lab. We opened the new computer lab this school year with 28 iMac computers provided by the LaConner School District. Staff tutored an average of 40 students at the study hall and computer lab, and in collaboration with LaConner School District teachers, we provided a reading program on Wednesday nights that helped an average of 30 elementary school students improve their reading skills. We also have six community volunteers helping to tutor students in their spare time at the Youth Center. Study hall provides an informal family atmosphere where students can talk and work together and "peer tutoring" with students helping each other with their homework.

Northwest Indian College. "Tribal colleges have two jobs: to ground people in their culture and to give them a good, solid education," said Cheryl Crazy Bull, President of NWIC. The tribal college movement began in the 1960s, in order to provide Native Americans - especially those living on reservations - with increased access to economic opportunities and employment through post-secondary education.

The Swinomish Extension Site has experienced an increase in the number of students enrolling in classes. Enrollment for Winter Quarter 2007 is 62 full time students. Many of the students are in the ITV (interactive television) classes, and also take either online or independent courses. The college has had many changes in the past several years. One change has been to focus on specific areas, such as– Native Studies, Education, Chemical Dependency and Science, that lead to degrees that support student higher education and employment goals. Swinomish is also part of the Gates Distant Learning Grant. It is a three year grant that funds a position of Instructional Technician, (Dorraine Booth) along with a second classroom with ITV and new computers.

Adult Education and GED Programs. Located in the Swinomish Social Services Building, the Adult Learning Center is open year around and offers a variety of Adult Basic Education (pre-GED) and GED preparation courses. GED stands for "General Educational Development" and is based on senior high performance across the country. Students must be at least 16 years of age, and officially withdraw from high school. Registration is through Northwest Indian College, whose main campus is located in Bellingham on the Lummi Reservation. The Swinomish program follows NWIC's four quarter schedule, and students must re-register each quarter in the Swinomish Learning Center office. Enrollment averages 15 to 30 students per quarter. Books and materials are provided by the Swinomish Tribe and grading is on a satisfactory/unsatisfactory basis. Course work can be completed independently or with help from a state licensed secondary education teacher and registered counselor. Study skills and computer basics are taught here, as well as basics in math, reading, science, social studies, and essay writing.

New Programs/Collaboration. In collaboration with the Boys and Girls club in LaConner, we now have an Art teacher who teaches art classes on Thursday afternoons for two hours a week. We are also collaborating with Skagit Valley College and the LaConner School District to implement a year-round Lushootseed class that will continue for college credit after the Gates Grant ends in September. Education Programs are operated in conjunction with a number of other tribal programs, including Kitchen staff who provide nutritional snacks for our students every school day, Planning staff who organize and implementing environmental education programs, mental health counselors who provide QPR and team building training for our Youth Center staff, Alcohol and Tribal Court staff who maintain our Wellness Court to help keep our kids stay healthy and in school, TERO staff who run work programs for our students after they graduate, Indian Child Welfare staff, Prevention and Recreation staff that work late hours on high risk nights to keep our students clean, safe, and healthy, and many other programs designed to help youth be healthy and succeed.

YOUTH PREVENTION AND RECREATION PROGRAMS

Youth Prevention and Recreation has seen the largest increase in personnel with the opening of the new Youth Center. We now have a coordinated program that provides healthy and positive activities for youth Monday through Saturday. We are open every day for youth activities during the school year till 9:00 p.m. and have expanded hours on Friday and Saturday so we can run the program till 12:00 midnight. Kids now have an after school snack program, daily gym activities, a game room, a video option, social room activities, art program, language class, and others. We work cooperatively with the Education program and Social Services to provide the best possible environment and positive activities for youth. We operate under a set weekly schedule for the entire year so that families can plan their children's activities.

The recreation program provides a number of programs and activities that involve the community and families throughout the year. Family activities for the summer included several trips to the waterslides, special annual events included our Memorial Day Tournament, our Easter egg hunt, the Halloween party & the Christmas program. We also provided many tickets to Mariner games for entire families. This year, we had a swimming program and a skating program, and we sponsored kids of all ages in sports camps and cheer leader camps throughout the year. We provided swim lessons & gymnastics during the summer and into the fall. For adults we sponsored a men's softball team, a co-ed softball team and a men's basketball team in leagues and tournaments.

Our goals for next year include getting more kids involved in K-12 sports, developing more adult activities and increasing parent involvement with kids as coaches and chaperones.

ENROLLMENT DEPARTMENT

Tribal enrollment is an important aspect of Tribal sovereignty. By exercising the right to determine its membership, the Tribe assures the continuity and integrity of the Swinomish Indian Tribal Community. Through enrollment, the individual obtains the rights and benefits of membership in the Tribe, which maintains a unique status and special relationship to the federal government. The Swinomish Tribal Enrollment Committee members appointed by the Swinomish Indian Senate are: Barbara James (Chairperson), Roberta Wilbur (Vice Chair), Ivan Willup Sr., Maureen Martin, Diane Edwards, Sophie Bailey and Marvin Cladoosby. The Swinomish Enrollment Officer is Tribal member, Lona Wilbur.

The Enrollment Committee meets once a month to review completed enrollment applications that have been submitted to the Tribal Enrollment Office prior to the scheduled meeting date. A completed enrollment application file is comprised of a fully completed enrollment application (front and back), a photocopy of a state certified birth certificate, a photocopy of social security card, a photograph of the applicant, and a written letter to the Enrollment Committee stating why the applicant desires to become a tribal member. In examining each application for tribal enrollment, the Enrollment Committee uses the Swinomish Constitution and Bylaws, and the Tribal Enrollment Ordinance to determine tribal membership eligibility.

In the past year, seventeen individuals became Tribal members, thirteen through automatic enrollment. Several individuals relinquished their tribal membership. This brings the total Swinomish Tribal Enrollment to 800 members: 165 members are of Kindergarten age through twelfth grade; 542 members are 21 years of age or older; 116 members are 55 years of age or older. 1,222 individuals are recorded on the enrollment database, including the Base Roll established in 1934, the Current Roll established in 1978 and the subsequent First to twentieth Supplement Rolls. The Enrollment Committee and Tribal Senate recommended three/six individuals to 2007 General Council meeting for approval of Optional membership.

Under new rules recently adopted by the Senate, a tribal member that relinquishes Swinomish membership may not be eligible to re-enroll. Relinquishment of Swinomish tribal membership now has to be approved by the Enrollment Committee, recommended to the Senate and approved by Senate Resolution. A tribal member must now appear in person before the Swinomish Senate to request his/her relinquishment. If a member is eighteen years of age or younger, both parents must approve and sign the Swinomish relinquishment form. Minors who relinquish membership may re-apply for Swinomish membership for a period that ends eighteen months after the date of their twenty first birthday.

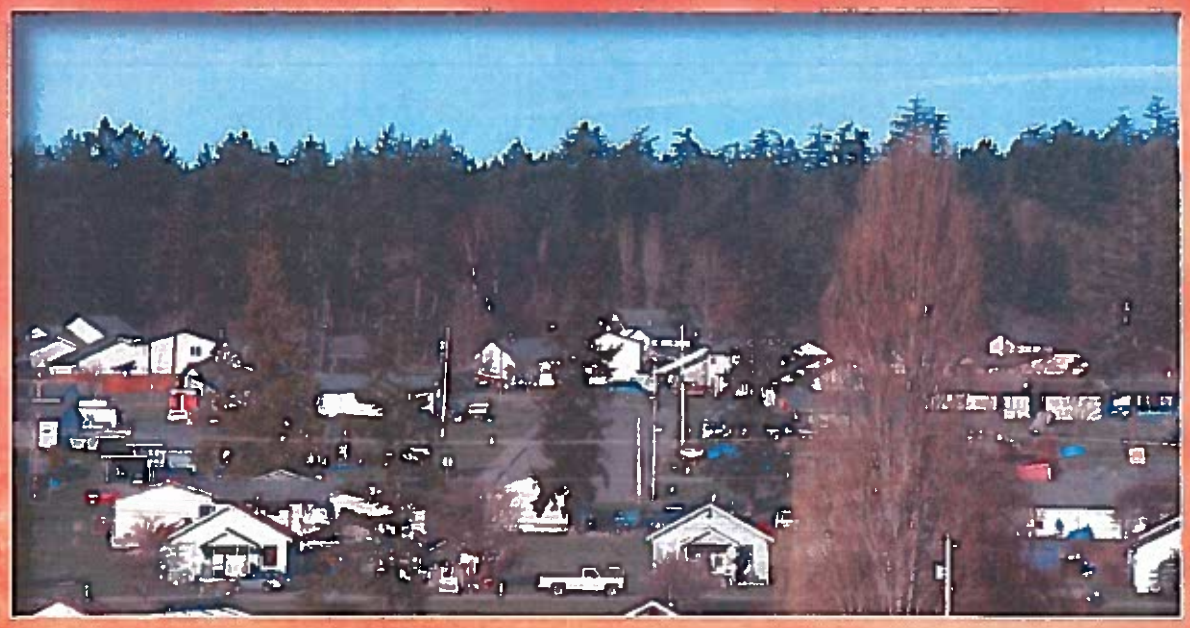
SWINOMISH HOUSING AUTHORITY

The Swinomish Housing Authority (SHA) was formed by Tribal ordinance in 1964. The SHA is governed by a separate Board of Directors appointed by the Senate and its primary responsibilities are to remedy unsafe and unsanitary housing conditions that are injurious to public health, safety and morals, alleviate the acute shortage of decent, safe and sanitary dwellings for persons of low income, and provide employment opportunities through the construction, reconstruction, improvement, extension, alteration or repair and operations of low-income dwellings.

Home Rehabilitation and Construction. Over the past nine years the Authority has rehabilitated 95 of its "assisted" homes and 20 Tribal "non-assisted" homes (homes not under contract with the Housing Authority). In 2007, the Housing Authority will continue to plan for additional housing rehabilitation needs and secure funding to continue this program. There are no current plans for constructing new housing units since the Tribal administration is currently involved in new home construction on the Tallawhalt site. Future construction plans for the Authority will most likely focus on housing for elders, handicap and small family units.

Conner Place Apartments. All of the Conner Place apartment units have been rehabilitated and 15 of the 16 units are occupied by Tribal members. The cost of purchase and rehabilitation was approximately $1.5 million.

Home Readiness Program. The Authority is developing a resident readiness program to assist homebuyers and the Tribe to prepare homebuyers for the Tallawhalt project. The program will include an on-going curriculum in financial literacy, credit repair, household budgeting and home repair and upkeep. The project is being developed in conjunction with six other northwest Tribes with funding provided by the Authority, USDA and Washington Mutual Savings.



SWINOMISH UTILITY AUTHORITY

The Swinomish Utility Authority was formed by Tribal ordinance in 1986. The Utility Authority is governed by a separate Board of Directors appointed by the Senate and its primary responsibilities are to operate, maintain and manage public utilities on the Reservation, protect the physical and environmental health of the Tribal community and all Reservations residents, and develop a safe and efficient program that will deliver public utility services in a financially responsible, cost-effective and self-sufficient manner.

Water. The Utility Authority annually provides up to 40 million gallons of safe drinking water to 370 water connections serving Reservation residences, governmental buildings and businesses. Water is purchased from the City of Anacortes system. There is also a groundwater well field that can provide back-up water supply if needed in an emergency. Water quality meets or exceeds all water quality standards mandated by the federal Safe Drinking Water Act. The Authority is currently updating the water and sewer comprehensive plan for the Tribe. This is a 20-year planning document that will be used as a tool for planning and funding upgrades to the existing system and future expansion of the system to meet the needs for a growing population and Tribal economic development.

Wastewater and Solid Waste. The Utility Authority collects 30+ million gallons of wastewater each year from 450 Reservation connections. All collected wastewater is conveyed to the La Conner Regional Wastewater Plant for treatment and disposal. The Authority also collects over 200 tons of solid waste from 145 residences and businesses in the Village through a contract collection service.

Utility Expansion. The Utility Authority assumed the ownership and operation of the water and sewer system of the Kwonesum subdivision in 2005. The Utility Authority completed 90,000 worth of improvements in 2006 with most of this cost paid for by the subdivision developer.

New Projects. In 2007, the Utility Authority will oversee two major construction projects. The construction of a wastewater treatment plant for the Casino and other north end development and the construction of a second water line for the Village will commence this summer. The Tribe has provided $2+ million for the wastewater treatment plant and the Indian Health Service has provided $400,000 for the water line which will support the Tallawhalt development.

TRIBAL PUBLIC WORKS

In 2006, due to staff attrition, the Public Works Department was reorganized into two separate divisions: (1) Facilities Maintenance, and (2) Streets, Utilities and Special Projects. One management position was eliminated and one additional Maintenance Technician was added to accomplish the goals of the department. All new or vacated positions were filled with highly qualified Tribal Members.

During the past year, the Facilities Maintenance Division continued to provide day-to-day maintenance of Tribal governmental buildings, lawns, gardens, grounds, cemetery, docks, drainage and other common areas and facilities. In 2006, the remodeled and expanded Youth Center and Gymnasium added significant square footage and associated maintenance responsibilities for the Department. Facilities staff also assisted in the McGlynn Island cleanup project with funding from a grant administered by the Department of Community Development, the Tribal dock clean up and repair, and various other projects. .

The Streets, Utilities and Special Projects Division performed functions previously performed by the Natural Resources crew such as the noxious weed and reforestation programs. This division also performed the following project functions: (1) provided labor and equipment for the soft armoring of the Swinomish Channel adjacent to the Planning office, (2) continued work on the McGlinn Island clean-up program, (3) neared completion of the new public works office and equipment yard on Indian Road, (4) assisted the Planning Department's Lone Tree Creek restoration project, (5) provided labor and equipment for the north end property clean-up, and (6) provided engineering and construction management services for the repair of the "dip" in Casino Drive. This Division also performed the following general activities: (1) street sweeping on village streets, (2) storm drain and ditch cleaning, (3) community wide clean-up projects, and (4) cut, split and hauled over 75 cords of firewood to Tribal members and elders.

The goal of the Department is to grow in skill and knowledge and increase tribal employment so that it can take on projects previously performed by outside contractors.

TALLAWHAT HOUSING PROJECT

The Tallawhalt Development Committee has been busy in the last year. The Committee worked closely with the contractor to ensure that the project got off to a good start. The clearing for roads and lots has already been completed. The original plan was revised substantially in concert with the Cultural Committee in response to sensitive cultural areas that turned out to be larger than originally anticipated. The revised site plan for the new development has been submitted for permitting. The Committee intends to begin construction of $2.5 million in infrastructure, including roads, sewer, water, power and approximately 40 residential building sites for the new village area as soon as weather permits. Homes will begin to be constructed as soon as the site work is completed.

FISHERIES DEPARTMENT

The Swinomish Fisheries Department works in close collaboration with the Skagit River System Cooperative (SRSC), a consortium that is now composed of the Swinomish and Sauk-Suiattle tribes. In 2006, SRSC provided habitat protection, restoration, salmon recovery planning, and fish research services to the Swinomish and Sauk-Suiattle tribes, while the Swinomish Fisheries Department provided fish and shellfish harvest management services to the Swinomish Tribal Community.

HARVEST MANAGEMENT

The Swinomish Harvest Management Department provides technical assistance needed to manage salmon and bottom fish to achieve optimum harvests for the Swinomish Tribe. Harvest Management developed preseason forecasts and in-season updates for the salmon run sizes, monitored the harvests, conducted test fisheries, negotiated fisheries affecting Skagit coho and chinook, and represented the Tribes in management of Fraser sockeye. This was also the fourth year after the completion of a US-Canada Agreement that limits Canadian interceptions of Skagit coho to an acceptable percentage of the run (instead of a fixed catch number that was way too high). SRSC Salmon Recovery staff participated in the technical committee activities required to implement this agreement. In most years, this has improved coho catches in the Skagit terminal area.

Harvest. In 2006, the Baker sockeye run was substantially later than normal, and lower than forecast. The Chinook run size was about the same as predicted preseason; the chum run was better than expected, and the coho run was much worse than expected. The Skagit coho run was the poorest on record due to miserable marine survival. The Swinomish Tribe conducted fisheries on Skagit coho and chum, and, for the first time in several years, conducted ceremonial & subsistence fisheries directed at Chinook.

Escapement and Chinook Recovery. Spawning escapements were adequate for Baker sockeye and Skagit chum, and were terrible (the lowest ever recorded) for Skagit coho. Due primarily to harvest restrictions throughout the Northwest, spawning escapement of Skagit summer/fall chinook exceeded 20,000 for the third year in a row. This level of spawning is well above the 14,500 threshold required to conduct directed chinook fisheries. Although this threshold has been exceeded in five of the last seven years, there are no clear indications that this has resulted in any increase in overall production. Unfortunately, the benefits of the high spawning level in 2006, and the extreme restrictions on harvest, were probably wiped out by subsequent floods in November 2006. Now that harvest management restrictions have ensured that Chinook escapement goals are being met, it is up to habitat managers to improve the quality and productivity of fish habitat so that all of the spawners can maximize productivity. Nevertheless, habitat managers, some federal agencies and some federal legislators have continued to focus on harvest management and seek additional harvest restrictions rather than recognize the critical need for habitat improvement.

Preterminal Fisheries. Fraser sockeye runs were lower than expected for all stock groups except Early Summers, and the U.S. catch was consequently less than preseason expectations – preseason TAC was 1.3 million, and the actual U.S. catch was about 700,000 (485,000 of which was Treaty catch). In the Area 7/7A chum fishery, there were no Canadian preseason forecasts or in-season updates, except for a report that runs were not critical, so fisheries were conducted as scheduled. The Treaty fishery opened October 15, and was open nearly continuously from October 22 through November. Catches were generally slow throughout the period. The total Treaty and Non-treaty harvest of Fraser chums was about 110,000, which was higher than in 2005, but less than the U.S. quota of 191,000.

Halibut. Harvest Management staff also issued regulations for halibut, smelt, and bottom fish. Swinomish fishermen landed about 800 lbs of halibut in 10 landings. Total tribal catch of halibut was about 476,000 lbs.

Chinook Recovery Plan. The Puget Sound Chinook Recovery Plan, which includes the Skagit Chinook Recovery Plan, was circulated for public comment and has now been adopted by the federal government. SRSC efforts have now shifted to implementation of this plan. Each SRSC department has submitted prioritized lists of recovery actions in harvest management, artificial production, habitat restoration, habitat protection, and research, and has worked with the Skagit Watershed Council to establish an organization and committee structure, comprised of all parties interested in Skagit Chinook recovery, to implement these actions. If this plan is fully implemented by all the affected parties, it will lead to recovery of Skagit Chinook.

SHELLFISH

The purpose of the Shellfish Department is to provide technical assistance needed to manage the shellfish resource to achieve optimum benefits for the Swinomish Tribal Community and member fishermen. Prior to opening each fishery, twenty annual management plans were developed and negotiated with the State of Washington and affected tribes. Continued emphasis has been put on allocated harvest goals and scheduled updates for adjusting harvest quotas in-season to help managers meet the court requirement for 50/50 sharing.

Crab. Swinomish crab harvests for the 2006 season showed an increase of 2% (83,000 pounds) over the 2005 season. This increase was the result of increased effort in Regions 1, 2 West and 3 where there were significant improvements in catch, most notably in Region 1 (Blaine) where there was an increase of 6% over last season. Although the Region 2 East (Skagit Bay) treaty harvest increased by 152,000 pounds, the Swinomish share dropped by 6% compared to last season.

Shrimp. More fishermen are participating in the spot shrimp fishery each year. The fishery has become important to the fishermen because it is the first fishery of the year, however, increased effort has again shortened the number of fishing days, which affects the price paid per pound. The high end market is for live product delivered to the dock, which can be difficult at times for fishermen as well as for buyers. The price paid per pound had been decreasing each year since the fishery began, but seems to have stabilized the past couple of seasons. State and Tribal technical staff have been meeting to develop studies that are needed to aid in future management decision making for this complex fishery.

Dive Fisheries. There are three dive fisheries that Swinomish participates in: Sea Urchin, Sea Cucumber and Geoduck. The Sea Urchin fishery continues to be underutilized primarily because of the low price in recent years and in some cases because there have been no buyers for the product. Sea Cucumber prices have continued to remain high and as a result, Swinomish harvests increased significantly over the 2005 season. With the increased number of divers, the Geoduck fishery only lasts a few days. The price paid remains about the same each season, with small spikes in the market at certain times during the season.

RESEARCH

SRSC research functions have been divided into Juvenile Studies and Adult Studies, with a different field biologist in charge of each function. This year, Juvenile Studies staff concentrated on sampling smolts in the Skagit delta and nearshore areas. The purpose of these studies is to identify freshwater and estuarine constraints on juvenile fish production so that we can propose restoration actions that will remove or reduce those constraints and increase overall production. Juvenile Studies staff spent a considerable amount of time describing those constraints, and the analyses used to determine what those constraints are, for the Skagit Chinook Recovery Plan (see Harvest Management, above).

Adult Studies consisted of test fishing, collecting summer and fall chinook broodstock for indicator stock research, chum spawner surveys, a chum mark-recovery project to estimate chum escapement, and surveying in the area around Marblemount Hatchery to estimate the number of hatchery spring Chinook that spawn in the wild. The purpose of these studies is to determine how many adult fish there are, the composition of these runs, and where they are caught outside the Skagit. Broodstock collection goals (about 90 fish for each program) were exceeded for summer Chinook, and fell a bit short of the goal for fall chinook.

ENVIRONMENT, HABITAT PROTECTION, AND RESTORATION

The purpose of the Environmental Services Program is to develop and carry out activities that protect and enhance salmon, bottom fish, and shellfish habitat. As with the Research and Harvest Management departments, the Environmental Services department spent considerable time working on implementing the Skagit Chinook Recovery Plan. Environmental Services' role was to list project priorities and begin to implement the highest priority actions.

We also provided technical support to the Swinomish Tribe in a series of cases dealing with agricultural impacts before the State's Growth Management Hearing Board. ESA will hopefully provide the enforcement mechanism to implement recovery plan measures needed to protect and restore fisheries.

We were also involved with the implementation of the relicensing agreement for Baker Dam with Puget Sound Energy, and have worked with Seattle City Light on the implementation of the requirements of their federal hydropower license. We continue to review all local, State, and Federal permits that may have an impact on salmon and shellfish. In this capacity, we work with the County and WDFW in order to prevent loss of habitat. As part of these efforts, we have continued water quality monitoring throughout the Skagit Basin lowlands.

HUNTING AND WILDLIFE

Western Washington Treaty Tribes share a mutual apprehension of the continuous efforts of the State to erode our treaty hunting rights. To combat these efforts, Tribes urgently need to develop a united policy position and have the assistance of legal counsel to protect and defend our hunting rights. Because Tribes need immediate treaty rights protection for hunting and gathering, our main goal for 2007 is to address these issues in an effort to arrive at mutually agreeable solutions with the State of Washington.

Nooksack elk project. The Nooksack elk herd suffered a precipitous population decline several years ago from a peak of 1700 elk to a population believed to be less than 300. The Swinomish Tribe and others took the lead in a three year effort to capture and relocate 100 cow elk from Mount Saint Helens. To re-establish hunting for Nooksack elk, we must meet the following criteria: (1) reach an agreement amongst the parties that set harvest goals based on 50/50 sharing, (2) a spring population of at least 400 elk, (3) positive population growth for two years running, (4) spring calf to cow ratio of at least 25 to 100 and (5) fall bull to cow ratio of at least 25 to 100. Based on an analysis of the last three years of data, the Tribe will be able to re-open a limited hunt for bull elk this year. As a conservative start to hunt, each tribe will get two permits (18 permits for the Point Elliott Tribes). W are currently doing late winter bull capture and radio collaring that will be used for modeling the elk population which is now estimated to be between 556 and 789. Elk have been captured in Acme Washington and relocated to Rinker Mountain to establish an elk population south of the Skagit River. After relocating 12 cow elk in the last two years, the population is now estimated to be 30 elk. Our goal this year is to relocate elk into low abundance areas in the North Bend area in order to provide an increase in the herd and hunting opportunities for tribal members.

Co-Management. The Western Washington Treaty Tribes are continuing to develop co-management agreements with WDFW. This has been a long process that will better the overall management of wildlife resources. Todd Wilbur has served 4 terms as the Chair of the Inter-Tribal Wildlife/Hunting Committee of the Northwest Indian Fisheries Commission, a forum for tribes to discuss hunting issues and management development for big game resources.

Fish and Game Enforcement Report. Officers Scott Miller and Ray Erps logged 260 vehicle patrol hours and 820 boat patrol hours to enforce tribal fisheries regulations assist tribal fishermen. 80 patrol hours were logged for hunting. Fisheries Enforcement Patrol logged 67 incidents in 2006 and issued 32 permit violations, 20 gear violations (typically unmarked gear), 11 season violations, and 14 over-limit violations. They also made 10 assists to citizens, had 11 miscellaneous incidents and referred 5 incidents to other agencies.

Shellfish Fishery. Fisheries Enforcement focused most of their patrol hours monitoring Swinomish Shellfish harvests, primarily crab and clams. Most of the over-limit violations were clammers digging more than the authorized five gallons of clams each. Most of the gear violations were unmarked crab pot buoys. One of the Department's goals is to get better gear marking compliance in-season.

Fin Fishery: Fisheries Enforcement did marine patrols to monitor the 2006 Sockeye fishery and conducted shore patrols to monitor fishing on the Skagit River. There was a marked increase in harassment and intimidation of tribal fisherman on the Skagit River which was addressed both by visible patrol to prevent problems before they happened and covert patrols to identify the troublemakers.

THE OFFICE OF PLANNING AND COMMUNITY DEVELOPMENT

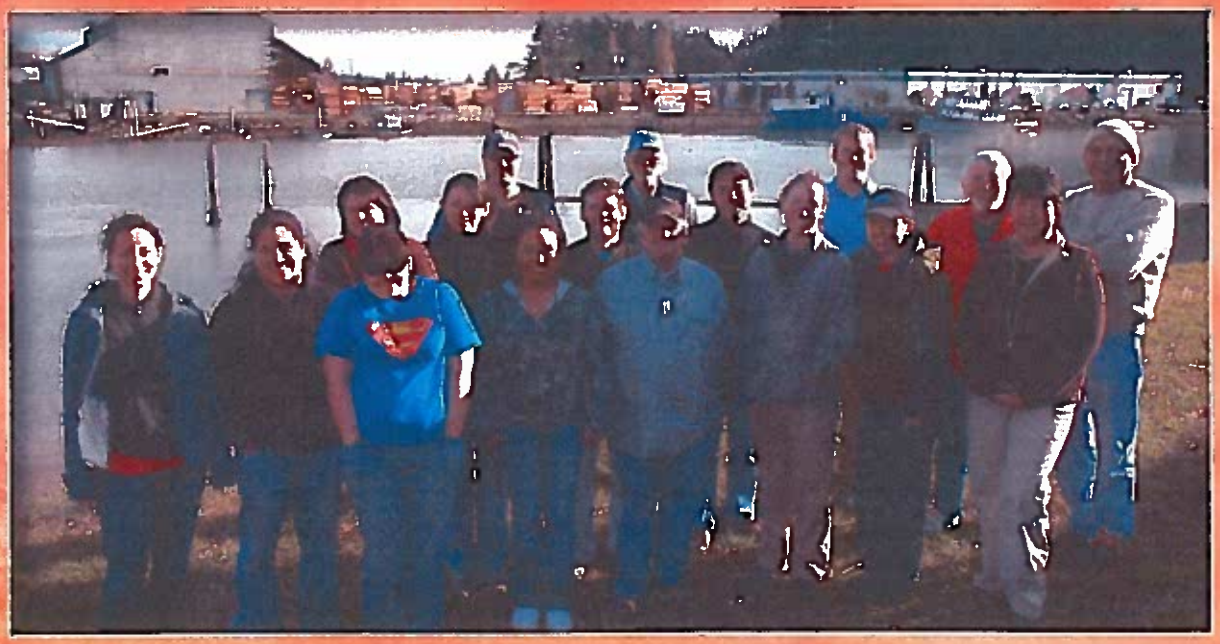
The Swinomish Office of Planning and Community Development's mission is to promote sustainable community development and ecological functions, and to expand the Tribe's capacity to exercise its sovereign rights through planning, analysis, education, and implementation. To accomplish its mission and the goals and objectives of the Swinomish Tribal Community, the Department works closely with the Swinomish Development Authority, the Swinomish Planning Commission and other committees of the Swinomish Tribal Senate.

The Office of Planning and Community Development is organized into five functional "Teams" to better address the complex issues that are handled by our department. The five Teams include the Community Development Team, the Environmental Science Team, the Environmental Compliance and Management Team, the Administrative Support Team and the Realty Team. A sixth team, the Permit Team, operates under Community Development to coordinate permitting program activities between various department staff with specific permitting responsibilities. Team Coordinators/Leaders report to the Department Director and work together to provide the most effective teamwork to accomplish the Department's mission.

COMMUNITY DEVELOPMENT TEAM

The Community Development Team oversees the building and permitting, current planning, long range planning, transportation planning and forestry programs. The Team's mission is to ensure quality in development activities to protect the environment, health, welfare and safety of all residents of the Swinomish Reservation while providing excellent and friendly customer service.

Permitting Program. Following the addition of a certified Building Official to the Building and Permitting Program in 2005, program staff continued making significant improvements in the efficiency and quality of permitting services provided to the Tribe and the Community. These improvements have helped to ensure the quality and safety of housing and structures on the Swinomish Reservation. The program continues to work cooperatively with neighboring jurisdictions on permitting activities, contributing crucial support to land use control within the Swinomish Reservation. Coordination continues with Skagit County on permits for fee land owners under a Memorandum of Understanding (MOU) between the Tribe and the County.



Permit activity increased again in 2006, and more permits were issued last year than in any previous year, as leasing activity in the west shore area and new development activity elsewhere continues to stay busy. Major development projects processed in the past year include completion of the Susan Edwards Wilbur Youth and Recreation Center, permits for the Swinomish Northern Lights Hotel, Tallawhalt Plat and Housing Project, Northwest Indian College satellite campus, and the new wastewater treatment facility for the north end. Current Permit Team members include: Ed Knight, Senior Planner and Zoning Official (team coordinator); Building Official; Scottie MacMurchie, Building Inspector; Summer Charles, Permit Technician; Scott Andrews, Environmental Management Coordinator; Tony Basabe, Air Quality specialist; and Dave Nellis, Compliance Specialist. Permit activity as of December 31, 2006, was as follows:

Building permits	60
Demolition	4
Excavation & Grading	6
Mechanical & Plumbing	30
Major Development	1
Accessory Dwelling Unit	1
Long Plat Subdivision	2
Lot Line Adjustment	2
Rezone	1
Zoning Variance	4
On-Site Septic	3
Shorelines & Sensitive Areas	28
Land Clearing	5
Burning	3
Special Use	1
Total permit activity for 2006	151 (14% increase from 2005)

Current (short range) Planning. The preparation of new and revised land use ordinances and the review of development activity for compliance with Tribal land use ordinances are often referred to as Current Planning. Following the adoption of a new Subdivisions & Binding Site Plans ordinance in 2005, Planning staff began implementing these new regulatory tools for governing land divisions within the Reservation (short plats, long plats, lot line adjustments, and non-residential development plans). In 2006, Planning staff entered a new phase of coordination with Skagit County for activities on fee lands, expanding coordination to include plat applications and other planning actions. In an effort to update and revise land use policies and regulations, planning staff continued to review amendments to the Zoning Ordinance in concert with a proposed update to the Comprehensive Plan. The Department's goal is to ensure the Tribe's ability to govern land development activity within the Reservation.

Comprehensive (long range) Planning. Work continued in 2006 on the update of the land use policies in the Swinomish Comprehensive Plan. Staff also reviewed proposed revisions to the Skagit County Comprehensive Plan in order to identify land use planning issues of mutual interest and coordinate with the County under the umbrella of the MOU. Changes in the Comprehensive Plan will be implemented through amendments to the Tribe's zoning and other ordinances.

Transportation Planning. Under an agreement with the Washington Department of Transportation (WSDOT), and with funding secured by Senator Patty Murray, initial design work was completed for a road extension on Tribal development property south of Highway 20. The new road construction will serve future Tribal economic development projects in that area. Repairs were completed on the SR20 interchange route for the casino, south of the SR20 bridge.

Planning staff also initiated a comprehensive reassessment of development activity and transportation needs within the Reservation, which will become part of an update to the Swinomish Transportation Plan. The Tribe's inventory of road and transportation facilities was updated, and road project priorities were re-evaluated and revised. Under new program authority from the BIA, the Tribe has received funding to begin routine road maintenance projects throughout the Reservation. Planning staff are also coordinating with Skagit County Public Works on road project priorities affecting County roads within the Reservation. The ultimate goal of this work will be to help ensure that roads within the Reservation are adequate and safe to serve the needs of the Tribe and the community and that funding will be secured to support needed road projects.

Economic and Community Development. The Community Development Team continued to work with the SDA on a number of major development projects, including an extension of water and sewer line south or SR20, a proposed hotel project and the Tribe's Tallawhalt housing project. The Tribe also continues to maintain membership in the Economic Development Association of Skagit County (EDASC).

Forestry Program. Planning staff continued to provide services to the Tribe and tribal members on timber sales. Activities completed in 2006 activities included the replanting of an 18-acre harvest on Allotment 33, a 60-acre harvest on Allotment 18, and a pilot project for mulching of timber slash debris on Allotment 18. Mulching is now preferred over burning as a means of reducing air pollution and smoke problems for residences within the Reservation. Planning is continuing for three more timber sales, including a 9-acre harvest on Allotment 6BJ, a 15-acre harvest on Allotment 34-2, and a 3-acre harvest on Allotment 47J. Harvest on Allotments 6BJ and 47J is expected to occur during the summer of 2007.

ENVIRONMENTAL SCIENCE TEAM (Water Resources Program)

The Environmental Science Team is responsible for water quality monitoring of fresh, marine, wetland, and groundwaters; Reservation salmon habitat restoration; environmental and ecological education; nearshore and beach habitat monitoring; toxics in shellfish and marine sediment monitoring; and, water protection policy development. Current Team members include: Todd Mitchell, Water Resources Manager and Team leader; Jamie Donatuto, Environmental Specialist; Karen Mitchell, Hydrogeologist; Rachel LovellFord, Water Resources Specialist; Sarah Akin, Water Quality Tech II; Tiffany Hoyopatubbi, Water Quality Tech I; Kaia Smith, Environmental Educator; and, Corey Contreras, Videographer.

Fornsby Creek Self-Regulating Tidegate (SRT) Restoration Project. The 2+ miles of channels in the Flats have been restored with riparian plantings on 70+ acres of adjacent land and made accessible to juvenile salmon by installing 2 fish passable tidegates. One more tidegate and remaining buffer plantings will be installed in 2007. Extensive water quality monitoring will continue to determine if there are any effects to the farmland due to increased saltwater flow through the tidegates.

The Lone Tree Creek Restoration Project. This project is within 1000 Trails campground and replaced several of the undersized and fish blocking culverts with a bridge and larger culverts to allow juvenile salmon, including Chinook, to access the stream. Buffer plantings and water quality improvement features were installed in the buffer areas next to the stream. The opening ceremony was held in October 2006 and speakers included Adeline Black and Neah Martin.

Bioaccumulative Toxics in Subsistence-Harvested Shellfish Project. Results show contamination level similar to other areas of Puget Sounds, except for a few "hot spots" with higher levels. Swinomish fish consumption rates are currently being calculated. Complete results are posted on the Swinomish website.

Clam Bake at Lone Tree Point: A traditional clam bake was held in August on the beach. Oysters, mussels, littlenecks, butters, crabs, and salmon, and frybread were served. In all, 700 pounds of shellfish were prepared including clams from Turners Bay and Lone Tree.

Fourth Annual Earth Day Celebration: In April 2006, about 300 volunteers helped clean up Lone Tree and Channel beaches, planting in the Seniors' garden and scotch broom weed removal.

ENVIRONMENTAL COMPLIANCE AND MANAGEMENT TEAM

The Environmental Management and Compliance Team is responsible for environmental permitting and compliance, environmental regulatory coordination and development, and air quality protection including indoor air assessments. We also coordinate with other Departments on noxious weed control, solid and hazardous waste management and clean-up, and emergency response planning. Current Team members are: Scott Andrews Environmental Management Coordinator and Team Leader; Tony Basabe, Air Analyst; Lynette Ikebe, Air Technician; and Dave Nellis, Environmental Specialist - Compliance

Environmental Permits. To protect the environment and natural resources of the Reservation and the environmental health of the community the Team writes environmental permits and enforces compliance with the Tribe's environmental laws including the Shorelines and Sensitive Areas (26 permits in 2006), timber harvest and land clearing (4 permits), 2 septic system permits, 4 burn permits, and Tribal Environmental Policy Act and storm water management reviews (over 40 for each).

Our stormwater control efforts have been greatly improved with the addition of Dave Nellis, a certified erosion control lead, providing stormwater inspections and compliance at construction projects and development of a database for tracking these inspections.

Compliance Assurance. We have been building capacity for improved environmental compliance assurance under an EPA grant with a focus on reviewing Tribal facilities for ways to make them "greener" in their operation. This includes development of a manual for Tribal facilities on indoor air quality, lead, asbestos and voluntary "green" practices. The program is also reviewing compliance with federal rules on handling and storage of hazardous materials. Two public meetings were organized and presented on Tribal Environmental Regulations, Low Impact Development (LID) and Green Practices in an effort to improve understanding of Tribal environmental requirements and encourage use of other voluntary techniques to lower the impact of developments.

Regulatory and Policy Development. We have begun work on updating Tribal Air ordinances to fit with the new Federal Air Rules for Reservations in the Northwest as part of a process to develop a Tribal Implementation Plan and take delegation of parts of the Federal Clean Air Act.

Solid and Hazardous Waste and Emergency Response Planning and Cleanup. The Team coordinates with the Public Works and Police Departments on planning and funding solid and hazardous waste response and clean-ups and on emergency spill response. Funding was provided for updating certification and training for hazardous waste and oil spill response for three Tribal Staff. The Team participated in the annual oil spill exercise with the Shell Refinery. A clean-up project on McGlinn Island near the boat yard was completed for part of the area, but continued dumping will require additional cleanup.

Air Quality Program. Air quality analyst Tony Basabe and our new air quality technician, Lynette Ikebe, continued air quality and metrological monitoring at the station near the casino and the weather station on top of the Social Services Building. Construction began on a new monitoring building which will be operational in the spring of 2007, replacing the old trailer and providing better protection for the equipment.

To provide improved indoor air quality and health to Tribal members the Team replaced 25 woodstoves with new efficient, certified stoves in the Village. This program will continue in 2007 with a goal to replace the stoves in all qualifying homes. The air program also provided indoor air quality assessments for the gym remodel and for 13 homes in the Village.

Efforts continued with EPA and the Shell Refinery to reduce toxic dust emissions of petroleum coke from rail cars on the north end of the Reservation, and to urge EPA investigation of spills of this material along the tracks and into Tribal tidelands. The air program has played a leading role among Tribes in the Georgia Basin / Puget Sound International Airshed, pushing for efforts to decrease deposition of air toxics to marine resources. The Team also developed a partnership with the Puget Sound Air Agency to explore ways to reduce toxic air emissions from certain diesel sources on the Reservation.

Noxious Weeds. Control of noxious and invasive weeds, especially Spartina, continues to be a high priority for natural resource management. The aquatic weed Spartina displaces native plants and animals in tidelands. We continue to administer grants, monitor and coordinate with on-the ground efforts in weed control provided by the Public Works Department. A project grant in Turner's Bay to control Spartina through non-chemical means was completed including use for a second year of an aquatic tracked vehicle called the Marsh Master in cooperation with Washington State Fish and Wildlife.
Special Projects. The team also completed a shoreline bank protection demonstration project adjacent to the Planning Office with "fish friendly" soft armoring and planting riparian vegetation.

ADMINISTRATIVE & TECHNICAL SUPPORT TEAM

The Administrative & Technical Support Team ensures the efficiency of the Planning Staff as a whole by providing administrative and technical assistance to staff in a positive and supportive manner. The Team's goal is to establish, maintain, and foster positive and harmonious working relationships with those contacted in the course of work and to support a dynamic, growth-oriented environment that promotes teamwork, develops efficient management strategies and provides a healthy work environment through cultural sharing, leadership development and team building. Current Team members include: Elissa Fjellman, GIS & Administrative Services Manager and Team Leader, Debra Lekanoff, Grants Administrator, Eric Haskins, GIS Technician, Mary Cladoosby, Office Assistant and Summer Charles, Permit Technician & Administrative Assistant.

Geographic Information Services ("GIS"). The Swinomish GIS program is responsible for providing mapping and database support to the Swinomish Planning Department and other Tribal Departments. The GIS program maintains and creates information to aid in the development of maps and data analysis to support departmental activities and issues. The GIS staff includes a GIS & Administrative Services Manager and GIS Technician.

In 2006, the Team provided mapping for the Lone Tree Restoration project, Dumpsite Inventory, Roundabout Extension Project, and the Tallawhalt Development project. Mapping support was also provided for ongoing programs such as the realty program, annual shellfish study, cemetery mapping project, the spartina and noxious weed surveys, the bioaccumulate toxics in native american shellfish project, wood stove changeout project, Coast Salish Gathering, and various economic development and land use & zoning projects. The GIS staff provided continuing support to the Bureau of Land Management, who completed the Geographic Coordinate Database Project, to find more accurate locations for the Public Land Survey monumentation on the Swinomish Reservation. Now that this project is completed, the project of correcting the on-reservation parcel data can begin.

Grants Administration. In 2006, the Grant Administrator, Debra Lekanof, managed approximately 30 grants and federal funding contracts for the Planning Department. Our Grants Administrator also collaborated with Western Washington Tribes, BC First Nations, EPA, and Environment Canada to facilitate and coordinate a second Coast Salish Gathering, held in Duncan, BC in January 2007. The objective of the gathering was to share our aboriginal perspective on the current state and trends of the environment and to provide a forum for Tribal and First Nations leaders to collaborate on environmental issues and share that information with policy makers to assist them in making more protective decisions concerning the future of this richly endowed yet fragile region that call "home."

Office Administration. Our office administration staff includes Summer Charles as Permit Technician/ Administrative Assistant, and Mary Cladoosby as Office Assistant. The office administration staff provides clerical support to the Planning Director, office reception, maintaining office supplies, and records management. Summer has done a wonderful job balancing her Permit Technician and Administrative duties and has continued to increase her capabilities through training. Mary continues to work on archiving of all of the Planning documents, which date back to the 1960's. In addition, she has acted as fill-in receptionist, has received training in GIS and begun working on GIS projects. Mary is also pursuing her college degree at Western Washington University.

REALTY TEAM

The Realty Team is comprised of Janie Beasley, Realty Specialist and Elissa Ejellman. The Team assists individual Indians with the Bureau of Indian Affairs requirements for a variety of real estate transactions that require BIA approval and are governed by Tribal ordinances and federal regulations. In 2006, the Realty Office processed several fee-to-trust conversions, resulting in 865 acres of land being brought back into Tribal Trust status. There have been several inquiries and one application for partitionment awaiting an appraisal; two right of way applications are pending; twelve gift conveyance inquiries with several completed gift this year; three inquiries for homesite leases with one completed and two in process; five inquiries for negotiated sales with one completed this past year. Several of these procedures require surveys and appraisals, and then BIA approval, which make them fairly lengthy processes.

TRIBAL COURT

In March of 2004 the Senate resolved to develop a complete and independent tribal justice system for the Swinomish Community. The journey began by ending the Tribe's dependence on services from the Northwest Intertribal Court System and hiring its own full time judicial staff. In 2006 the Court finds itself well down the projected path of development. Hearings are held on a regular and predictable schedule, allowing timely and efficient processing of cases. Technology has been purchased and installed allowing for utilization of state of the art case management and hearing procedures. Each court clerk is nationally certified as a tribal court clerk. The probation officers complete on-going training. The judge is on the Board of Directors of the National American Indian Court Judge's Association (NAICJA). The staff continues to benefit from training opportunities and works hard to display professionalism at all times when providing services to the community.

The Swinomish Tribal Court represented the Swinomish Community to a worldwide audience in 2006. The Court was one of the regional hosts of the 2006 NAICJA Annual Conference held in Seattle in October attended by 145 judges and court personnel from around the nation. In November the Swinomish Tribal Court hosted the visit of sixteen legal scholars from Afghanistan. The scholars, enrolled in a post-graduate program at the UW Asian Law Center, spent a day on the Swinomish Reservation touring some of our facilities and observing a regular criminal court docket. The Swinomish legal department provided lunch for the scholars and invited Swinomish staff and Senators to share with our guests some of the work we do here.

Court staff includes Judge Mark Pouley; Blair Page, Senior Court Clerk/Wellness Court Coordinator; Beth Willup, Deputy Court Clerk; Ida Edwards, Wellness Court Clerk; Pat Lujan, Adult Probation Officer and Bev Peters, Juvenile Probation Officer. All of the members of the Court staff look forward to the challenge of continuing to develop the Swinomish Tribal Court System to better serve the needs of the entire Community.

Caseload. Midyear 2005 the number of hearing dates nearly doubled from previous years and a new case-management system was adopted and 2006 was the first full year of the integration of the new case management system and revised docketing. The court began 2006 with 334 pending cases and ended the year with 324 pending cases. In 2006 715 new cases were filed (51 civil, 139 adult criminal, 16 juvenile criminal and 509 civil traffic infractions) and 664 were disposed. On average, 60 new cases are filed each month (4 civil, 2 juvenile criminal, 12 adult criminal and 42 civil traffic infractions). The court collected $51,969.84 in fines and fees, an increase of $44,439.10 from 2005, primarily from increased traffic enforcement. Each month there are approximately 70 adults and 10 juveniles on active probation.

Tribal Prosecutor. The Tribal Prosecutor, Cami Fraser, is a full time attorney who maintains an office in the Social Services Building. She represents the Tribe in a wide variety of civil and criminal cases in Tribal Court. Her primary responsibility is to maintain a safe community by holding individuals accountable for actions that violate tribal law, including violations of the Tribe's criminal code, natural resources violations, traffic infractions, exclusions, asset forfeiture, juvenile dependencies and other juvenile matters.

Tribal Advocate. The Tribe has a full-time Tribal Advocate, Carol Edson, that represents indigent defendants in criminal court proceedings and serves as a member of the Swinomish Youth Wellness Court. Additional lawyers are available to represent individuals that the Tribal Advocate is unable to represent because of possible conflicts. In 2007, the Tribal Advocate's responsibilities will be expanded to include certain probation cases. In order to qualify for a Tribal Advocate, criminal defendants must apply to the Court Clerk's office and demonstrate that they meet certain income and financial requirements. In November of 2006, a new Tribal Advocate's office was opened in the Social Services Building. The Tribal Advocate and the Court Clerk's office will move in March of 2007 to a new location next to the entrance to the Courtroom on the second floor of the Social Services Building.

Youth Wellness Court. The Swinomish Youth Wellness Court completed its second full year of operation in 2006. The mission of the Youth Wellness Court is to promote a substance-free lifestyle for our youth and their families through the cooperation of the Court, Tribal Services and the Community. The wellness court's mission is consistent with the court's overall mission of being an agent for healing in the community. The Wellness Court team is composed of interdepartmental personnel including staff from the court, the Wellness Program, family services, education, mental health, police social services and representatives from the La Conner schools. The Wellness Court team meets weekly to discuss each client's progress and plan the coming week's activities. During this year three Swinomish youth graduated from the program. Beyond the primary goal of successfully maintaining a clean and sober lifestyle, each of the graduates demonstrated significant growth in their maturity and ability to be responsible members of the Swinomish Community today and in the future.

SWINOMISH POLICE DEPARTMENT

The Swinomish Police Department consists of thirteen full-time employees: the Chief of Police, a Lieutenant, two Sergeants, six Patrol Officers, two Record Clerks and a Code Enforcement Officer. The department also has four volunteer reserve police officers. The department enforces Tribal ordinances along with State and Federal laws.

Caseload: In 2006, the Department handled a total of 2,622 cases compared to 2,499 in 2005. Cases handled in 2006 include: 448 civil traffic infractions; 127 court papers served; 76 alarms; 157medical assists; 48 animal problems; 43 reported DUI's; 59 non-reportable traffic collisions; 30 DV arrests; 173 alcohol related incidents; 31 drug related incidents and 219 total department arrests.

Comparison: 2006 department cases as compared to earlier years;

YEAR	2003	2004	2005	2006
Domestic Violence Arrests	23	15	20	30
Reported DV Incidents	46	49	51	60
Alcohol Related DV	25	24	27	45
Department Arrests	125	105	149	219
Alcohol Related Incidents	335	275	236	173
Drug Related Incidents	34	34	34	31

Accomplishments: In 2006 the department acquired a twenty-one foot command trailer. The trailer can be utilized as a "command post" for police, fire and emergency type incidents when needed. The department also acquired an oil spill response trailer with grant funding. The trailer houses oil spill response gear and booms for dealing with oil or fuel spills. For 2007, the Department plans on creating a new on-line web page for the police department and coordinating training with supporting agencies for responding to oil spills.

SWINOMISH GAMING COMMISSION

The Swinomish Gaming Commission consists of five members, plus an alternate, appointed by the Senate. The Commission oversees the regulation of tribal gaming and compliance with tribal laws and internal controls that govern gaming activities within the boundaries of the Reservation. The Commission develops internal control procedures to insure the integrity of gaming activities, assures that the highest gaming standards are met, protects tribal assets, and protects the health and safety of both guests and employees of the Swinomish Northern Lights Casino.

Commission staff are employees of the Tribe and include the Director of Gaming, his executive secretary, gaming agents, a licensing agent, the surveillance department and on-call employees that are capable of filling in for gaming agents and surveillance observers. The staff implements the Commission's broad oversight of gaming activities. In a given year, agents will conduct numerous audits to determine if the gaming operation is in compliance with the National Indian Gaming Commission's minimum internal control standards and the Tribal-State Compact, the Tribal Gaming Ordinance, and the regulations and internal controls adopted by the Swinomish Gaming Commission.

Gaming Agents. Gaming agents contact Casino management when there are compliance issues and develop corrective actions. Gaming agents also work very closely with surveillance and licensing units for investigative purposes and are responsible for pursuing gaming infractions as well as documentation of criminal activity. Gaming agents play an integral role in the updating of electronic gaming equipment being installed throughout the year. Games are constantly being developed to keep the gaming floor fresh and exciting. All new games are tested by gaming agents for accuracy before they are made available to the public.

Licensing. The licensing agent is responsible for conducting background investigations on new applicants, casino employees who are renewing their tribal work license(s) and those businesses that supply the casino with merchandise and/or services. This is an in depth procedure that involves the investigation of civil and criminal background information, financial records, associates, past work history, and past residences. The licensing agent works very closely with their federal and state counterparts to accomplish the Gaming Commission's goals. To better assist in obtaining our goals, we have decided to install a new digital fingerprinting system that will enable us to receive backgrounds at a much quicker rate.

Surveillance. Surveillance is the "eye" of the Gaming Commission that monitors all gaming activities. Surveillance observers operate sophisticated electronic video equipment to observe the conduct of individuals who enter the gaming facility and surrounding properties. Observers work closely with the gaming agents to protect the Tribe's assets and ensure that all regulations and controls are properly adhered to. Surveillance staff also includes a technician who installs, cleans, and repairs equipment, saving the Tribe money. A digital surveillance system will be implemented in the near future. This will enable us to have 100% coverage of the entire property.

Our goal into the future is to maintain a positive relationship with the Casino management and assist them in the Tribe's continued success.

SWINOMISH NORTHERN LIGHTS CASINO

The Casino experienced a healthy growth in revenues in 2006. A solid marketing program providing diverse and high quality entertainment helped provide a steady stream of new and repeat guest visits. Highlights from the entertainment program included live boxing and headliner acts such as Ron White and Jim Gaffigan. A steady stream of live entertainers throughout the year contributed to the Casino's branding as an entertainment venue. The RV park occupancy rates continued to improve in 2006, with the park frequently at full capacity during peak periods.

Limited floor space for the expansion of gaming continues to be a problem. However an additional 60 slot terminals were installed during 2006, bringing the total to 475 units. We now have slots from four different manufacturers in operation, providing a diverse selection of games.

Revenues increased approximately 17% from the previous year. Operating expenses were up approximately 11%. Payroll costs were under budget as most departments were understaffed due to increased difficulty in recruiting employees in an increasingly competitive labor market. Net income as a percentage of revenue increased from 30% to 36% of revenue. The casino transferred 100% of net income and depreciation to the tribe's general fund.

Total employment decreased significantly in 2006 to 278 from a peak of 328 in 2005. There were 247 Full-time employees, 23 part-time employees and 8 on call employees. Tribal member and spouse employment decreased from 34 to 29. The Casino is providing an ongoing management training program to management and supervisory employees to help provide skills for future advancement.

In the upcoming year, a major remodel in the Bingo hall will provide additional space for gaming and services. The project will include the installation of approximately 150 new slots, improvements to the deli, a new bar and cashier station. This area will offer an entirely non-smoking environment.

Long term, increasing net income will become more difficult due to limitations of the current facility. Additional space for expanded gaming and associated services is essential. Hotel, convention, restaurant and entertainment facilities are key elements to expanding the Casino customer base and remain long term goals.

LEGAL SERVICES

The Office of Tribal Attorney (OTA) provides legal support and advice to the Community through the Swinomish Senate, its committees and governmental departments. It seeks to aid the Senate in making its visions echoed in its annual goals a reality.

TREATY FISHING RIGHTS
Much of the fisheries related work this year continued to focus on resisting the Samish Nation's attempt to reopen U.S. v. Washington, on protecting the Tribe's fisheries in Sarotoga Passage, on further defining the Tribes' shellfish rights, and on improving and obtaining additional protections for salmon habitat.

Threat to Salmon Fishery. In 1999, Puget Sound Chinook was listed as a threatened species under the Endangered Species Act (ESA). Several years later, Washington Trout filed suit against the U.S. , claiming that federal approval of the Tribes' and State's harvest management plan violated the ESA. The Tribes successfully mediated a settlement in that case, but that settlement simply put off to another day a challenge to the plan. Late last year several environmental organizations, including Washington Trout, again sued the U.S. If they succeed, there could be no salmon fishery this next season. Swinomish will join with the other Tribes to defend the plan against this attack.

Suquamish Incursion into Skagit Bay and Saratoga Passage. In 2003, Suquamish, for the first time, filed a regulation opening up Saratoga Passage for crabbing, thereby threatening the balance struck by Swinomish, Tulalip and Upper Skagit. We immediately, but unsuccessfully, sought to stop Suquamish from fishing in those areas by filing a motion to restrain Suquamish in federal court. The motion was denied. In 2005, Swinomish and Upper Skagit filed new lawsuits, in which each separately asked the Court to limit Suquamish fishing areas (U&A) to the west side of Puget Sound. After a hearing in 2006, the Court ruled in favor of Swinomish and Upper Skagit and held that Suquamish's U&A did not include Skagit Bay or Saratoga Passage. Suquamish has appealed to the Ninth Circuit. The OTA will defend this win in the lower court.

Samish Treaty Rights. In 2005-06, the Ninth Circuit Court of Appeals reversed Swinomish's win in the District Court with the result that the issue of whether the Samish can reopen a decision in U.S. v. Washington that denied Samish treaty rights now goes back to the district court for further proceedings. An effort was made to resolve some of the issues in the court in which Samish obtained recognition in the Greene case, but that court sent the issue back to the district court in U.S. v. Washington. We expect a ruling on whether the Samish can join this case and, if so, on what terms, in 2007.

Shellfish - Commercial Grower Settlement. Finalization of the settlement agreement crafted by the Tribes and commercial growers which would require the Tribes to give up their right to harvest shellfish on natural beds on grower tidelands in exchange for, among other things, $33 million, the right to purchase 80 acres of grower tidelands in North Puget Sound, and the right to lease certain tidelands upon expiration of the current lease with the growers, has been delayed because of a dispute amongst the Northern Tribes concerning the 80 acres. After mediation, a tentative settlement has been reached on that issue as well as the allocation of funds for purchase of shellfish beds.

Shellfish - Minimum Density Settlement. In order to determine the minimum amount of clams (the "clam density") required for a shellfish bed to be determined a "natural bed" under the Shellfish Implementation Plan, the Tribes sought court intervention. A tentative settlement agreement has been reached with the State, the Growers and the Tribes in 2006.

Shellfish Implementation Plan Revisions. When the Tribes' treaty right to harvest shellfish was recognized by the Court, the Court issued a plan which was to govern the management and the conduct of the shellfishery. The State and the Tribes have proposed revisions addressing the development of annual management plans, fishing outside of a plan, and dispute resolution.

Fishery Allocation Principles. In 2005, the Skokomish Indian Tribe filed a lawsuit against the Port Gamble S'Klallam and the Jamestown S'Klallam in which Skokomish requested that the court allocate fishery resources between it and the S'Klallam Tribes in Hood Canal. While Swinomish was not concerned with that particular intertribal allocation, it was concerned about which principles the court might apply to the issue of intertribal allocation. To the surprise of the Tribes, the court ruled that it had no jurisdiction over intertribal disputes. Swinomish will join with other tribes in an appeal to the Ninth Circuit.

Washington State Ferries (WSF) Agreement. We continue to assist Fisheries and Planning in negotiations with WSF over the impacts of various WSF construction projects on fisheries habitat, cultural resources and treaty fishing rights.

TREATY HUNTING RIGHTS

Access. The OTA assisted the Game Manager in negotiating an agreement to provide access to lands formerly owned by Crown Pacific. This agreement expands the areas in which tribal members may hunt for game.

TRIBAL WATER RIGHTS

Skagit Instream Flow Rule. In 2003 the Tribe joined a lawsuit filed by Skagit County against the Department of Ecology to invalidate an administrative rule that protects fisheries by preventing additional water withdrawals from the Skagit River when flow levels necessary to sustain healthy fisheries aren't met. Despite our efforts in aiding Ecology in defending the new rule, Ecology settled with the County, adopted rule amendments, and got court approval of the settlement—unbeknownst to the Tribe. After learning of the settlement, we were able to overturn court approval of the settlement. However, even without court approval, the rule amendments and settlement continue in effect. The Tribe is considering its options. Anacortes, one of the other parties, recently filed three new lawsuits against the County to try to overturn the settlement.

Samish Instream Flow Rule. Ecology has also begun the process of adopting a similar instream flow rule for the Samish. It is expected that a formal Rule proposal will be circulated late in 2006 and that we will participate in meetings on Ecology's ideas for the proposed rule, comment on Rule proposals and make sure that Ecology has scientific information on fisheries needs.