

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda date	Assigned to:
Originator: Marlene Dawson		7/1/94		10/11/94	Council
Division Head:		4		10/25/94	Council
Dept. Head:					
Prosecutor:					
Purchasing/Budget:					
Executive:					

SUBJECT:

Lummi Tribe Jurisdiction

ATTACHMENTS:

Memo of 7/1/94

SUMMARY STATEMENT:

Please complete sections of box as appropriate & explain the item below.

Related County contract #:	Should Clerk schedule a hearing? NO / / YES / / Requested date:
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CLERK'S RECOMMENDED MOTION (for final action):

"I move that the Council "

COMMITTEE ACTION TAKEN:

COUNCIL ACTION TAKEN:

10/11/94: Held in committee until 10/25/94
 10/25/94: Council approved the substitute resolution. 7-0.

Related File Numbers:

Ordinance or Resolution Number (this item only):

RESOLUTION NO. 94-052

1 **DECLARATION OF POLICY REGARDING JURISDICTION RIGHTS BETWEEN**
2 **WHATCOM COUNTY AND THE LUMMI NATION**

3 WHEREAS, the issue of appropriate jurisdictional power has often been a subject
4 of discussion between county residents, elected officials and the Lummi Nation; and

5 WHEREAS, confrontation between tribal authorities, county authorities and non-
6 tribal residents and visitors within historical reservation boundaries is detrimental to the
7 interests of all parties involved and should be avoided; and

8 WHEREAS, the elected officials of Whatcom County have a responsibility to address
9 issues brought forth by constituents and serve as the duly constituted governmental authority
10 representing county residents; and

11 WHEREAS, a clear statement of interest and jurisdictional authority on the part of
12 Whatcom County may provide a basis for mutual understanding of the rights and
13 responsibilities of all parties involved and lead to the lessening of tensions concerning these
14 issues;

15 NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that
16 Whatcom County recognizes and respects the Lummi Nation as a quasi-sovereign domestic
17 dependent nation with the right to govern its own members in the course of its own internal
18 affairs.

19 BE IT FURTHER RESOLVED that Whatcom County recognizes and respects the
20 rights of the Lummi Nation to maintain a system of criminal justice and jurisdiction over
21 members of federally recognized tribes who commit crimes within the confines of the
22 reservation, further recognizing that such authority does not extend to prosecution or
23 adjudication of crimes alleged to have been committed by persons who are not members of
24 the federally recognized tribes.

25 BE IT FURTHER RESOLVED that Whatcom County recognizes and respects the
26 authority and duty of Lummi Nation law enforcement officers to detain and remand
27 to the proper authorities any individuals including those who are not tribal members who
28 violate any state laws within the boundaries of the reservation.

1 BE IT FURTHER RESOLVED that Whatcom County recognizes that when a Tribe
2 or tribal member conveys ownership of trust land to non-members a Tribe loses absolute
3 use and occupation of land conveyed. Consequently, a Tribe no longer has the incidental
4 power to regulate the use of those lands. Regulation is understood to pertain to taxing,
5 zoning and building permits. The County's jurisdiction extends into all regulation of fee land
6 within the reservation. Furthermore, Whatcom County recognizes and respects the existence
7 of a limited civil jurisdiction of the Lummi Nation within the confines of the reservation,
8 which does not extend, however, to taxing, zoning, and building permits on fee land

9 BE IT FURTHER RESOLVED that Whatcom County desires to cooperate with the
10 Lummi Tribe in achieving compatible zoning and enforcement of that zoning within the
11 boundaries of the Reservation.

12 BE IT FURTHER RESOLVED that tidelands within the political boundary of the
13 Lummi Reservation are owned by the United States Government as a trustee for the Tribe.
14 The upper boundary is the mean high tide. Manmade tidelands on fee land, such as those
15 at Sandy Point where canals were dredged, are all outside tribal regulatory jurisdiction.
16 Excepting any land held in trust for the Tribe or its members, county and state jurisdiction
17 apply to lands below mean low and to lands above mean high.

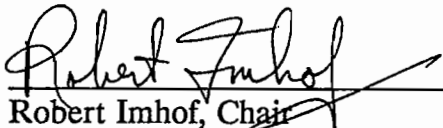
18 THEREFORE, BE IT FINALLY RESOLVED that Whatcom County recognizes that
19 Indian water rights are governed by federal law while appropriative rights are governed by
20 state law.

21 APPROVED this 25th day of October, 1994.

22
23 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

24 
25 _____
26 Ramona Reeves, Council Clerk


27 _____
28 Robert Imhof, Chair

26 APPROVED as to form:

27 _____
28 Civil Deputy Pros. Atty.