

## Press Release

### **Agencies approve first Native American commercial wetland and habitat mitigation bank in U.S. with Lummi Nation**

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Contact: Public Affairs Office 206-764-3750

SEATTLE—Federal agencies worked together with the Lummi Nation to establish the first federally authorized Native American sponsored commercial wetland and habitat mitigation bank in the nation.

Merle Jefferson, the Lummi Natural Resource Department Executive Director signed the Document establishing the mitigation bank June 20. Kate Kelly, the Office of Ecosystems, Tribal and Public Affairs Director Environmental Protection Agency Region 10 approved the bank July 2. Col. Bruce Estok, the Army Corps of Engineer's Seattle District Commander, signed July 6.

The bank sites are located near the city of Bellingham, on or adjacent to the Lummi Indian Reservation in Whatcom County, Wash. The complete Lummi Bank proposal includes approximately 1,945 acres of land that the Tribe intends to develop in four phases. The approved Phase 1A of the bank comprises 842 acres located within the Nooksack River estuary – the largest acreage for a wetland mitigation banking site in Washington to date.

Mitigation banking involves the restoration, enhancement, creation, and preservation of aquatic ecosystem functions to compensate *in advance* for similar adverse unavoidable impacts caused by activities authorized by the Department of the Army and other regulatory agencies.

"The Seattle District believes that an effective mitigation banking program is vital to helping us protect the aquatic environment, efficiently administer our regulatory program, and provide the regulated public with fair, timely, and reasonable decisions," said Muffy Walker, Regulatory Branch chief at Seattle District.

"The Lummi Nation has worked with our federal and state partners for over a decade to develop our mitigation bank, which we intend to use to effectively and efficiently mitigate for unavoidable impacts associated with critical housing, municipal and commercial development, primarily on but also off-Reservation," said Lummi Nation Chairman Cliff Cultee.

"The Lummi Nation has taken a leadership role in protecting and restoring water quality in Puget Sound and Whatcom County," said EPA's Kate Kelly. "Current and future regulated disturbances to valuable wetlands can now be offset with improvements to this nearly 2000 acre ecosystem."

The bank service area includes the entire Lummi Indian Reservation, the Nooksack River watershed generally downstream of Deming and certain other coastal watersheds within Whatcom County. Phase 1A of the bank aims to enhance about 380 acres of riparian wetlands by planting conifers in a deciduous riparian floodplain forest, planting willows and controlling invasive plant species. In addition to the enhancement activities, the Conservation Easement will protect a total of 842 acres.

Traditionally, compensatory mitigation has been implemented on a project-by-project basis at or near each impact site. Mitigation banking is a form of compensatory mitigation that can consolidate what would

otherwise be several smaller, lower quality compensatory mitigation projects into a single project that provides greater overall environmental benefit. Mitigation banks can provide effective compensation when other forms of compensatory mitigation are not available, practicable, or environmentally preferable.

A bank sponsor typically establishes a mitigation bank with the expectation of recouping the costs of establishing and operating the bank by selling credits that represent portions of the environmental improvement realized by the bank's construction and operation. Credits may be purchased by Army permit applicants to offset the likely adverse impacts of their projects on the aquatic ecosystem.

The mitigation sequence (avoid, minimize, mitigate) established by the Clean Water Act is still in effect. Permit applicants must still avoid impacts to the maximum extent practicable; remaining unavoidable impacts must then be minimized, and finally compensated for to the extent appropriate and practicable.

As of this signing, the Seattle District has authorized 13 mitigation banks, providing approximately 1,934 acres of ecological benefit.

Establishing high functioning mitigation banks is in keeping with the Puget Sound Region Federal Agency Action Plan to protect and restore habitats important to salmon, shellfish and other species.



Col. Bruce Estok, Seattle District, U.S. Army Corps of Engineers, District Commander and Merle Jefferson, Lummi Natural Resource Department Executive Director, meet July 6 for final signatures.