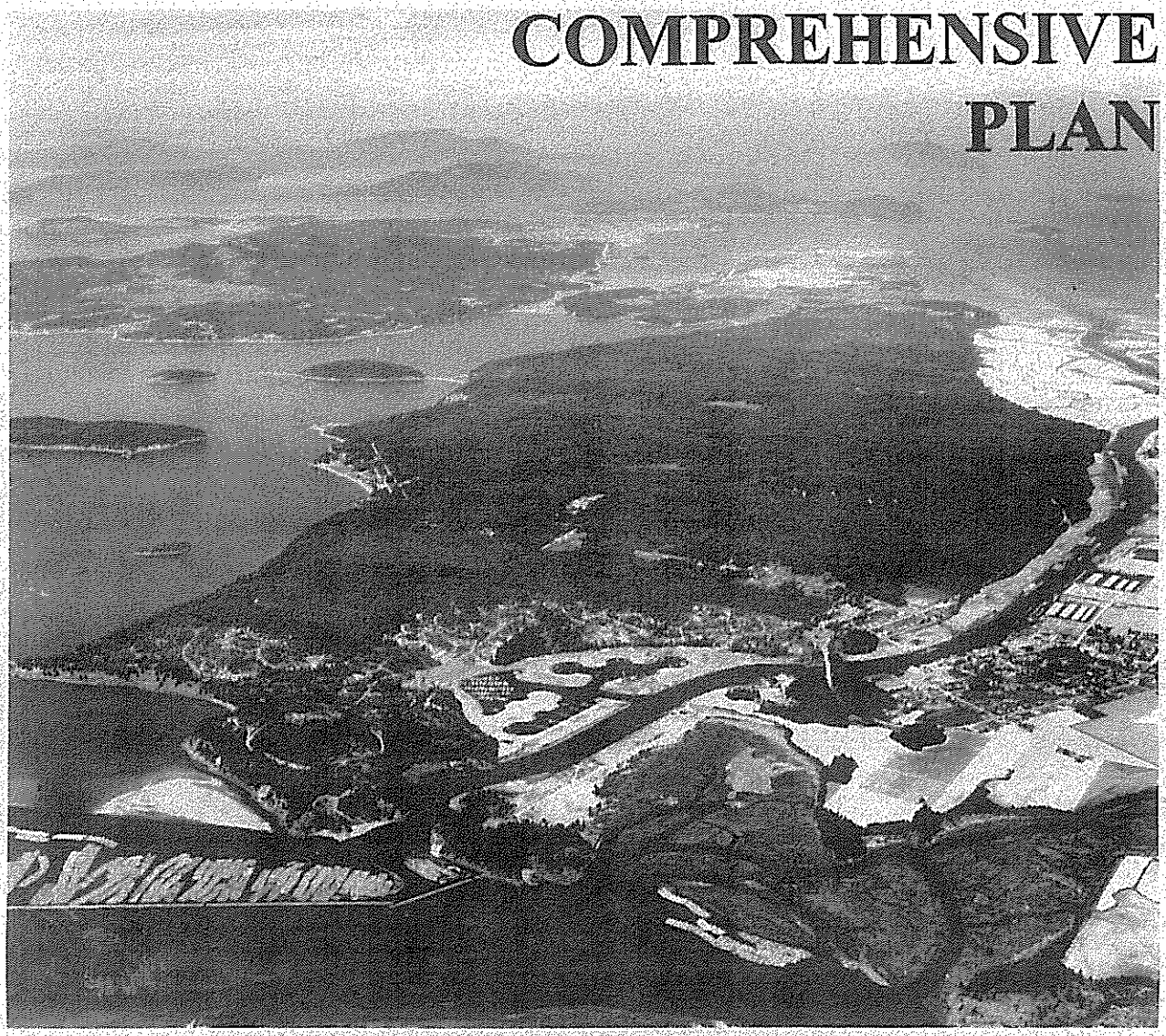
THE SWINOMISH COMPREHENSIVE PLAN



PREPARED BY THE SWINOMISH LAND USE ADVISORY BOARD
Swinomish Office of Planning and Community Development
Skagit County Department of Planning and Community Development

THE OFFICIAL LAND USE COMPREHENSIVE PLAN

FOR THE

SWINOMISH INDIAN RESERVATION

ADOPTED BY THE SWINOMISH INDIAN SENATE
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The Swinomish Indian Reservation, which occupies the southern portion of Fidalgo Island, is home to the Swinomish Tribal Community. Promised to the four related Indian bands who lived in what is now called the Skagit Valley flats by the 1855 Treaty of Point Elliott, the area was set aside by Executive Order in 1873. The last vestiges of their ancestral tribal territory, the reservation was intended as a homeland for exclusive Swinomish Tribal Community use. Today, the reservation is also home to a large number of non-Indians, a circumstance made possible by subsequent federal Indian policies, principally the General Allotment Act of 1887.

Through the provisions of the Allotment Act, reservation lands were transferred from communal to individual ownership as part of a strategy to westernize and assimilate Indians into the mainstream of American society. Today, the tribe communally owns only four percent of the reservation land base and approximately 2,900 acres of tidelands around the fringe of the reservation. Individual tribal members own 50 percent of the land base, approximately 20 percent of which is leased to non-Indians under residential lease agreements of 50 years and longer. The remaining 46 percent of the land on the reservation has passed out of Indian hands and is now in non-Indian ownership.

Over the past century the reservation changed from a communal land base to a complex "checkerboard" of landholdings and legal statuses. With regard to land use planning and regulating, this "checkerboard" has created jurisdictional problems in that the tribe claims jurisdiction over all reservation lands and the county claims jurisdiction over the non-Indian owned land. The tribe and the county both administer zoning programs which include permitting and enforcement functions on the non-Indian owned land. This situation has caused problems because of the concurrent application of sometimes conflicting regulations. Rather than dispute the jurisdictional issue, the tribe and the county agreed that the best way to resolve the conflict was to embark on a joint planning program.

Under the auspices of the Northwest Renewable Resources Center's (NRRC) Indian Land Tenure and Economic Development Project, representatives from the Swinomish Tribal Community and Skagit County began discussions on issues of mutual concern. Both acknowledged that historic events had created a situation wherein Indian and non-Indian interests are intricately interwoven. They further acknowledged that neither government could successfully act unilaterally without incurring substantial litigation costs. Both agreed that it would be advantageous to develop a formal government-to-government relationship, as both entities are regulating land use activities on the reservation. They recognized that an accommodation would facilitate the development of a working relationship and help establish much needed positive institutional linkages between the two governments.

Following talks which extended over a six-month period, the Swinomish Tribal Senate and Skagit County Board of Commissioners signed a Memorandum of Understanding (MOU) committing to pursue a process leading to the coordination of land use planning and regulatory activities for the reservation. A joint comprehensive land use plan would be collaboratively developed together with implementing ordinances and administrative procedures. The plan would be developed on the basis of sound planning principles with landownership/ jurisdiction a background issue. The tribe and county also affirmed that cooperative problem-solving and consensus decision making would be their preferred means of reaching joint decisions.

Work has been underway since October, 1987. As specified in the MOU, a nine-member Advisory Planning Board comprised of four tribal appointees, four county appointees and a facilitator from NRRC was established to oversee the effort.

Before addressing substantive issues the Board attended a series of educational sessions. Topics included federal Indian policy and law; functions of tribal and county government; history of the tribe and the county; culture, values and world view; and consensus-based negotiating and cooperative problem solving. The Board also developed a set of ground rules as a means of structuring their conduct and facilitating the cooperative process on which they had embarked.

A comprehensive land use plan for the reservation has been developed and was forwarded by the Board on October 3, 1989 to the tribal and county planning commissions for consideration. It is a plan for the future which reflects Indian traditions, protects ancient and hallowed values and maintains a sense of present day reality. It balances the interests of Indian and non-Indian while acknowledging the reservation is an Indian homeland.

Just three months earlier, on June 29, 1989, the question of jurisdiction on reservation was addressed by the U.S. Supreme Court in the Brendale v. Yakima Indian Nation case. In a complicated, split decision the Court ruled that the Yakima Tribe has jurisdiction over Indian lands and Yakima County has jurisdiction over non-Indian lands in that area of the Yakima Indian Reservation that is predominantly "checkerboard" landownership. The decision further stated that the county, its jurisdictional authority notwithstanding, must consider the tribal interest in all of its actions. It is an opinion which virtually mandates coordination, a course upon which the Swinomish Tribal Community and Skagit County embarked three years ago.

The Swinomish Joint Comprehensive Plan is the first such plan between a tribe and a county in the state of Washington. The process that was followed is, likewise, innovative and represents the willingness of two governments to use creative means to address the difficult problems of overlapping interests. By taking the initiative and pro-actively setting up procedures to break the deadlock that such a situation can create, the tribe and the county have placed themselves at the forefront of a movement within the state of Washington to address intergovernmental issues in a cooperative way.

I. INTRODUCTION

OVERVIEW

The Swinomish Comprehensive Plan articulates goals and establishes policies that will guide the stewardship of the land and resources of the Swinomish Indian Reservation. The Plan outlines the framework within which the implementation strategy will be formulated. The Comprehensive Plan is unique in that it results from a coordinated planning process involving the Swinomish Indian Tribal Community and Skagit County. Both governments agreed to work together to develop a comprehensive plan, administrative procedures, and regulatory codes for all lands (regardless of ownership) within the exterior boundaries of the Swinomish Indian Reservation. This coordinated Tribal/County regional planning program has proceeded under the directive of a "Memorandum of Understanding" (MOU) between both governments as agreed on March 18, 1987. (Attached to this Plan as Appendix 1.)

THE PURPOSE OF PLANNING

Comprehensive plans provide policy guidance for future development, both private and public, and serve to assist decision-makers and the public in evaluating public benefits associated with land use proposals. The Plan functions as a tool for the residents of the Swinomish Indian Reservation to collectively promote the general public health, safety, morals, and welfare of the community. The importance of comprehensive planning is evident as both jurisdictions seek to assure a quality of life which is deemed desireable to both present and future generations while confronting the issues of land and resource management.

The Plan seeks to promote the integration of land use policies in all future land use development regulations as well as future capital improvements, in order to provide the overall function as a growth management tool. Explicit policies of the Plan, therefore, are intended to provide direction and purpose to future implementing regulations. Those regulations must conform to the policies of the Plan in order to effectuate attainment of the Community's goals and land use policies. Implementing ordinances developed to carry out the objectives of the Plan are therefore intended to be both specific and prescriptive while insuring conformance to the Plan's overall goals and policies.

THE AUTHORITY TO DEVELOP A COMPREHENSIVE PLAN AND THE IMPLEMENTATION OF ZONING AND OTHER "OFFICIAL CONTROLS"

Each jurisdiction derives its land use planning and regulatory authority under separate powers. The structure of Tribal government differs substantially from that of County government. The Tribal government derives its authority from

three separate fundamental sources: reserved pre-treaty powers; proprietary rights; and treaty rights as conveyed by instrument of federal congressional delegation. The statutory authority for Tribal planning is established under the provision of its own enabling powers and constitutional authority pursuant to Section 16 of the Indian Reorganization Act of 1934.

Skagit County, alternatively, derives its authority directly through state enabling legislation. The statutory authority for counties to plan and regulate in Washington State is established under the provisions of the Planning Enabling Act of 1959 as amended in Chapter 36.70 of the Revised Code of Washington (RCW).

The purpose and intent of the legislation is to:

> *. . . provide the authority for and the procedures to be followed in, guiding and regulating the physical development of a county or region through correlating both public and private projects and coordinating their execution with respect to all subject matter utilized in developing and servicing land, all to the end of assuring the highest standards of environment for living, and the operation of commerce, industry, agriculture and recreation, and assuring maximum economics and conserving the highest degree of public health, safety, morals and welfare (RCW 36.70.010).*

The relationship of the Comprehensive Plan to zoning and other official controls in the enabling statute is as follows:

> *'Official controls' means legislatively defined and enacted policies, standards, precise detailed maps and other criteria, all of which control the physical development of a county of any part thereof or any detail thereof, and are the means of translating into regulations and ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include, but are not limited, ordinances establishing zoning, subdivision control, plating, and adoption of detailed maps. (RCW 36.70.020(11))*

These citations serve to illustrate the authority which both the Tribe and the County posses to plan and adopt land use regulations. Each jurisdiction applies its planning and regulatory authority based on its jurisdictional authority. The Plan does not attempt to recognize the explicit jurisdiction vested in either jurisdiction within the Reservation, rather, it seeks to represent the capacity of two adjacent public governments to join cooperatively in the development of a long term, consistent land use policy of benefit to the entire region.

THE GOALS OF JOINT PLANNING

Tribal Perspective

To the Swinomish People, the Swinomish Indian Reservation is a homeland. It is a finite resource which binds its history, culture, traditions, and identity. The Reservation offers security for its cultural preservation and promise of future opportunity. As with all people, the Swinomish aspire towards self improvement and betterment in their individual and collective conditions. A distinctive difference, however, centers on the importance placed on their "sense of place".

Unlike off-reservation societies, where mobility is viewed as an avenue for expanded opportunity, the tribal inward-focus must be understood as an essential element in the overall definition of "Indian Community".

As a finite resource, the tribe acknowledges the irreplaceability of the reservation homeland, and seeks to insure that future uses and development are both deliberate and responsive to basic community needs. The security of the community depends upon the ability to exercise guidance over reservation growth in a manner consistent with its unique vision of the future.

The task, however, is difficult. Fundamental Indian values, be they social, religious or lifestyle, differ intrinsically from those of the general anglo population. And those value differences sometimes result in conflict.

For example, cultural traditions which value the gathering of shellfish from the reservation tidelands have become impeded due to water quality degradation. This has resulted in the closure of beaches to shellfish harvesting. The source of this problem is regional in nature, and necessitates inter-governmental problem solving. The importance of this traditional use activity must be recognized and properly weighed against competing economic interests.

In another example, the value of public interest collectivism is regarded over that of individualism, presenting a philisophical difference between tribal economic self determination and the predominant western economic philosophy. While the former seeks economic improvement for the collective Tribal population, the latter emphasizes the protection and enhancement of individual opportunity. These philosophies represent differing cultural norms which must be acknowledged when determining appropriate uses of the reservation land use.

The Plan, for example, designates upland portions of the reservation for "natural resource use". This designation supports the Plan's policies for maintaining traditional use values of the forests, the collective economic interests found in forest practices, and the environmental goals for protecting wildlife habitat, groundwater quality and aquifer recharge. The social values implicit in these policies provide for a balance against solely economic criteria which may seek the conversion of forest lands to "highest and best" economic uses.

Tribal time perspectives are also implicit in the Plan's policies. Decisions about the committment of the land resource for short term use may be deferred in favor of preserving the land base for an undetermined future use. This long term perspective reflects a traditional wisdom for committing only those resources necessary to fulfill recognizable short term needs. The preference for

The commitment to coordinated long term regional planning between a federally recognized Indian Tribe and a State of Washington County government represents a unique and promising alternative approach for promoting positive land use jurisdictional coordination between two forms of government which have experienced a long tradition of conflict . . . I believe that the success . . . can serve as an important model to many other communities across our nation committed to seeking methods for enhancing jurisdictional coordination between Indian and non-Indian governments.

(Robert Joe, Sr., Chairman, Swinomish Indian Tribal Community)

protecting the land for future generations holds important value to the Tribe. Therefore, the Plan serves as a long term policy guide rather than a short term allocative strategy.

These examples suggest some of the ways the perspective of the Tribal Community differs markedly from those dominant values of western society. And it is these traditional values which the Plan seeks to protect.

Because of the Reservation demographic and land tenure conditions, the Tribe recognizes a duality of interests which coexist on the Reservation. Our anticipations in seeking to work in collaboration with Skagit County arise from our belief that the interests of the non-Indian population can become compatible with those of the tribal community.

The Plan does not compromise tribal self-determination. Rather, it attempts to embrace multi-cultural visions as it creates a reservation community which supports, in harmony, an Indian and non-Indian population. The Tribe recognizes its role as the primary government on the reservation. As such, it seeks to ensure the protection of the health, safety and welfare of all its residents. And in so doing, it seeks to ensure that its collective community interests are protected.

The Plan, then, seeks to integrate the diverse needs and interests of the entire population within the tribal circle of "community". The broadened circle of the reservation community must provide an environment for enrichment without compromising or alienating the tribal membership from its own homeland.

County Perspective

Much has been written and discussed about land use jurisdiction within the boundaries of the Swinomish Indian Tribal Communiity. The joint creation of the Swinomish Comprehensive Plan substantiates the importance of this cooperative effort to improve our unique government to government relationship. The Plan's goals can only be implemented through ongoing, positive, direct communications.

Recognizing the sovereignty of each government is the key to maintaining and improving communications. The essence of Skagit County's relationship to the Swinomish Indian Tribal Community cannot be found in court cases, memoranda of understanding, or sphere of influence agreements. In the final analysis, mutual respect and agreement on valid roles and responsibilities must be paramount if this Plan's implementation is to be successful.

Skagit County's authority for land use planning derives from the Revised Code of Washington's Planning Enabling Act at Chapter 36.70. The recently enacted state Growth Management Act (ESHB 2929), reinforces our role as the County's regional planning authority. However, the implementation of this Plan must rest on definition and achievement of mutual goals more so than mere legislative and/or court derived authority. The County recognizes that the Swinomish Indian Tribal Community has its own legislative authority for exercising its land use jurisdiction.

Skagit County has assumed regulatory jurisdiction over fee simple lands within the exterior boundaries of the Swinomish Indian Reservation, and the Tribe has assumed regulatory jurisdiction over all lands within the exterior boundaries of the Swinomish Indian Reservation. This situation has caused some problems, due to concurrent application of sometimes conflicting regulations by the Tribe and the County and the fact that ownership of property on the Reservation is nearly 50% fee simple. The resident non-Tribal members, as owners of fee simple properties within the reservation, are County residents whose land use considerations fall within the jurisdiction of Skagit County codes and ordinances. In fact, all citizens within the Reservation boundaries are citizens of Skagit County.

"...This process will prevent serious conflict in the future."

(Bill Vaux, Skagit County Commissioner)

As this Plan moves through the process of implementation, it must be kept in mind that conflict is avoidable if a regional and County-wide perspective is maintained for land use planning and resouces management.

Joint Perspective

An historic policy shift has recently occurred in Washington State which encourages greater governmental coordination and cooperation between the state and tribal governments. The policy shift was initiated on August 4, 1989 with the signing of the Centennial Accord by Governor Booth Gardner and the state's twenty-six federally recognized Indian Tribes. The Accord recognizes the sovereignty of the Tribes and has become a national model for relations between state governments and Indian Tribes. The Accord calls for a government to government approach between the Tribes and the state to work jointly on problems of mutual concern.

In an effort to further foster a committment to cooperation at the local governmental level, the Washington State Legislature passed the 1990 Growth Bill (ESHB 2929) during its 1990 session. The Growth Strategies Commission's draft recommendations for carrying out the legislation has prioritized the need for governments to cooperate to solve problems that cross jurisdictional boundaries, and thus, encourage regional cooperation. In addition, the Commission has specifically recognized the need for cooperative land use, environmental, and facilities planning between Indian Tribes, local governments, and state agencies.

The Commission's guidelines encourage a cooperative planning process between local governments and the Tribes to resolve land use and fish habitat issues and to achieve consistency in their plans. The Swinomish-Skagit County planning process has been recognized by both the Governor and the Growth Strategies Commission as an important precedent in carrying out the intent of these inter-governmental goals.

It is the belief of the County and the Tribe that most land use conflicts can be resolved through a process where both governments jointly develop consistent comprehensive plans and implementation ordinances. Such a process insures regional consistency while providing an interactive forum for reconciling resource management differences and for promoting broad representation for all those living within the region. While it is a process based upon the bridging of divergent views, it concurrently seeks to recognize cultural plurality as a living resource - which needs to be preserved.

II. PORTRAIT OF A HOMELAND: THE SWINOMISH INDIAN RESERVATION

AN OVERVIEW OF FEDERAL INDIAN POLICIES

The history of relations between the federal government and the Indian tribes has been one in which changing governmental policies, dealing principally with the relationship of the Indians to their land, have led to disastrous effects on Indian tribes and Indian peoples. For the past 200 years, federal policy has gone from the goals of removal, separation of Indians from the rest of society; to assimilation, absorption of Indians into the mainstream; to recognition, acknowledging the sovereign nature of Tribes; to termination, a reattempt at assimilating the Tribes; and full circle once again to the current policy era known as Self-Determination.

The policy of removal was justified by the federal government as a way to protect the Indians from repeated encroachment by white settlers. There was a fundamental flaw in the policy, however: there was no way that Indians could be removed fast enough or far enough. By the mid-1800s, the relocated eastern tribes and the original western tribes were again challenged for land and resources. In response to the repeated conflicts that arose, the federal government began a policy of establishing reservations by treaty.

Initially, reservations were seen as a means to isolate the Indians, protect them from the settlers and provide them a homeland. It soon became evident, however, that the Indians would not be able to continue their traditional lifestyles while confined to reservations. The land base in most cases was not sufficient to support their traditional economies. The reservations were then seen as places and means to "civilize" the Indians and assimilate them into the predominant white culture. According to a 1984 report by the Presidential Commission on Indian Reservation Economies:

> *. . . the reservation system, even for those Indians who acquiesced to it, contained many destructive elements. It made Indians wards of the federal government. Traditional leaders of the tribe were by-passed and made ineffective. The possibility and the need of providing their own food, clothing and shelter was taken from the reservation Indians. While there were some meager efforts of "reservation development," no significant system of economic and cultural protection was created to permit Indian tribes to achieve economic viability and independence. There was also forced breakdown of tribal traditions and native religious practices. (5)*

Attempts to "civilize" and assimilate the Indians continued with the General Allotment Act (the Dawes Act) of 1887. The main goal of the Act was to teach Indians "American" ways by converting them from a communal land use system to a system of private, individual landownership. The theory was that this would then make farmers out of the "savages." The direct result of this strategy was the undermining of traditional tribal attitudes towards land and resources.

One of the major differences between Europeans and Indians since the time of their first contact had been their attitudes towards land and landownership. Europeans viewed land as a commodity and incorporated it within a general free

enterprise system of acquisition and possession, while Native Americans almost uniformly recognized the communal sharing of land.

The Allotment Act ignored this cultural conflict. Provisions of the Allotment Act were designed to transfer reservation lands from tribal to individual ownership. Individual members of tribes were allotted from 40 to 160 acres to establish family farms. Land not allotted or otherwise reserved for the tribe was considered "surplus," sold to the government, and then opened for homesteading by non-Indians. The allotted lands were to be held in trust for a period of time (at least 25 years) thought to be sufficient for Indians to become capable of managing their own affairs. This trust period was extended several times and is now indefinite.

The Allotment Act however was not a success. In fact, according to the Bureau of Indian Affairs:

> *It is an understatement to say the allotment was not successful. In truth, it was a disaster for the nation's tribes. In the nearly 50 years of the allotment period, Indian land holdings were reduced from more than 136 million acres in 1887 to less than 50 million acres in 1934, when the policy was abandoned completely.*

Tribal communities were severely shaken by the results of allotment. Allotments were frequently of insufficient size for economic use, and the result was that they simply could not be used. Over time, after many Indian allottees were granted fee title to their lands, the fee patent allotments were sold (usually to non-Indians) to provide cash for poor families or to pay debts. As the reservations were divided up and allotments and other lands acquired by non-Indians, a "checkerboard" pattern of landownership developed.

The conditions in which tribes find themselves today are the consequence of being overrun by an alien culture and the legacy of both past and present federal Indian policies. Conquest and subsequent dependency have relegated formerly self-sufficient societies to the lowest economic level of the dominant society. Despite notable gains in many areas, economic conditions on reservations are bad and worsening. Poverty is widespread and being exacerbated by dwindling federal spending. Consequently, establishing viable, self-sustaining reservation economies is the primary challenge facing every tribe in the nation, a challenge complicated by a wide variety of cultural, organizational and historic obstacles.

One critical set of obstacles revolves around land tenure patterns and the resulting jurisdictional questions. These obstacles greatly impede the ability of tribes to use and control their land and their resources and, thus, inhibit tribal economic development endeavors. Regaining that control may well be a necessary first step in the long road back to autonomy.

Indian reservations were originally established for the exclusive use and occupancy of Indian tribes. Over time, however, many reservation lands have become alienated from collective tribal ownership as a result of allotment, conversion to fee simple title, and inheritance practices. According to Luebben, et al., this alienation of land has had a profound effect on Indian tribes:

THE STATUS OF INDIAN TRIBES

Indian tribes are governmental units which maintain a direct political relationship with the government of the United States. As a result of early legal cases, tribes have been determined to be "domestic dependent nations." This concept of "domestic dependent nations" contains two major elements: the trust relationship of tribes with the federal government, and the government status of tribes.

The trust relationship was originally characterized as one similar to that of a ward to his guardian, and has been consistently recognized by courts since then. Such a relationship bestows upon the federal government the legal and moral obligation to protect and enhance the property and resources of the tribes. The governmental status of tribes arises from the fact that they retain inherent sovereign powers and are "distinct, independent, political communities having territorial boundaries within which their authority is exclusive" (Worcester v. Georgia (31 U.S. (6 Pct.)515(1832).

The status is further defined by the plenary power of Congress. As a result of one clause in the Constitution, the Congress maintains powers to legislate in the area of Indian affairs. These powers can be a mixed blessing:

> *The plenary power of Congress has both positive and negative consequences for Indian people. On the positive side, Congress has legislatively created special protections and benefits for Indian tribes and tribal Indians . . . On the negative side, Congress has used its power unilaterally to abrogate Indian treaties, to restrict the governmental powers of tribes, to subject tribes to State jurisdiction, and to terminate tribal political existence (U.S. Commission on Civil Rights 1981:28).*

THE CIRCUMSTANCES OF TRIBAL GOVERNMENTS

Tribal governments are unique as a result of a number of historical, political, social, and cultural factors:

- Tribes are often the major landowners within their jurisdiction and tribal governments take on the dual role of government-landowner/entrepreneur. This dual role greatly complicates the tribe's performance of its governmental functions of regulating, taxing and delivering services.

- Tribes must relate to their economy both as government and entrepreneur. In many cases tribal governments act as the developer, manager and operator of tribal enterprises as well as provider of normal governmental services. This leads to a mixture of tribal politics and business which often is not effective.

- Tribal governments must deal with a complex constituency. The tribal constituency is predominantly poor and expects tribal enterprises to favor job creation over profits; an expectation which can complicate a tribal government's participation in business. The constituency is also mixed and includes tribal members living on and off reservation and non-Indians living within the reservation boundaries. This can complicate the job of public policy making.

- Tribal governments, as domestic sovereign nations, must function within the trust relationship that tribes maintain with the federal government. Because the role of the federal government and its policies towards tribes change, problems result in defining the specific role of the tribal government. This is in contrast to municipal governments which derive their power from the state and whose responsibilities are well defined

The existence of an adequate tribal land base has always been the most important factor in the ability of tribes to maintain traditions and culture, and to maintain effective tribal relations. A tribe is not simply an association of members, it is a nation which possesses a degree of sovereignty. The maintenance of nationhood and sovereignty requires the existence of a geographical area which is the domain of that nation. This will be as true in the future as it has been in the past.

Most of the tribes in the United States have suffered devastating land losses throughout the last two centuries. The transfer of title in Indian lands within reservation boundaries to non-Indians, thereby enabling the establishment of large non-Indian populations on the reservation, has probably been the single most important factor in the severe erosion of tribal sovereignty and jurisdiction since the early nineteenth century. The presence of non-Indian lands within the reservation changes radically the character of the reservation as a permanent homeland for the tribe, and drastically impairs the ability of the tribal government to govern and effectively control the reservation. (5-1)

The landownership patterns on many Indian reservations today consist of a comingling of Indian and non-Indian owned lands of many types--trust, fee, allotted, tribal, and individually owned. This jumbled pattern greatly impedes the ability of tribes to adequately manage their land base, generally hampers Indian control of reservation resources and creates a myriad of jurisdictional problems.

Jurisdiction within the boundaries of Indian reservations is a complex issue, consisting of several elements, including civil matters, criminal matters, hunting and fishing rights, and land use. The inherent right of tribes to exert jurisdiction in these various matters is constantly being questioned and threatened. This leads to ongoing confusion as to the current status of tribal jurisdictional authority, including that related to land use.

Several governmental entities claim jurisdiction over these lands and the activities that occur on them. For example, tribes claim the sole authority to establish and enforce land use policies on all lands within reservation boundaries. This assertion is often challenged by state and county governments which maintain that they have authority over non-Indian fee lands. Because each of these governmental entities has its own laws, goals and constituencies to consider, problems often exist.

Recent court decisions have affirmed the tribal rights to establish and enforce certain regulatory codes applicable to all reservation lands, including those held in fee simple by non-Indians. These decisions rest upon the principle that Indian tribes possess powers of sovereignty over their territory as well as their members.

The Supreme Court, in the landmark case of Montana v. United States, found that the inherent sovereignty of the Crow Tribe did not authorize them to regulate hunting and fishing of non-members on fee lands due to a presumption against comprehensive tribal authority to regulate non-Indian activity on non-Indian owned land. However, the Court identified some significant exceptions to this rule:

To be sure, Indian tribes retain inherent sovereign power to exercise some forms of civil jurisdiction over non-Indians on their reserva-

tions, even on non-Indian fee lands. A tribe may regulate, through taxation, licensing, or other means, the activities of nonmembers who enter consensual relationships with the tribe or its members, through commercial dealing, contracts, leases, or other arrangements . . . . A tribe may also retain inherent power to exercise civil authority over the conduct of non-Indians on fee lands within its reservation when the conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe. . . . Montana v. United States, 450 U.S. 544 (1981) at 565-566).

The Montana v. United States decision affirmed that a tribe's assertion of authority to regulate non-Indian activities on non-Indian lands must be grounded upon the demonstration of potential effects or impacts to the political integrity, economic security, or the health or welfare of the tribe.

In three recent court decisions, the courts have found that tribal regulation of non-Indian activity comes within the scope of retained tribal authority under the Montana test.

In Knight v. Shoshone and Arapahoe Tribes, 670 F.2d 900 (10th Cir. 1982), the Tenth Circuit Court of Appeals held that the Shoshone and Arapahoe Tribes have authority to zone non-Indian owned land with the Wind River reservation. The court cited the trial court's finding that the tribes had a significant interest in the area subject to zoning and stated that "the absence of any [state or local] land use control within the reservation and the interest of the tribes in preserving and protecting their homeland from exploitation justifies the zoning code" (670 F.2d at 903).

In Cardin v. De La Cruz, 671 F.2d (9th Cir. 1982), the Ninth Circuit Court of Appeals upheld the authority of the Quinault Tribe to enforce its building, health and safety regulations against a non-Indian owner of a store on fee lands within a predominantly Indian community on the Quinault reservation. The court found that tribal regulation was permissible under both tests in Montana because the non-Indian had entered into commercial dealing with the tribe and its members and because the regulated conduct threatened the health or welfare of the tribe (671 F.2d at 366).

In Confederated Salish and Kootenai Tribes v. Names, 665 F.2d 951 (9th Cir. 1982), the Ninth Circuit Court of Appeals upheld the authority of the Confederated Salish and Kootenai Tribes to regulate riparian rights of non-Indian owners of land bordering on the south half of Flathead Lake, the bed and banks of which are held in trust for the tribes. Using a dual analysis, the court found the regulation permissible because the regulated activities were in effect uses of tribal trust property and because the regulated activities had the potential for significantly affecting the economy, welfare and health of the tribes (665 F.2d at 964).

During the summer of 1989, the U.S. Supreme Court released its decision on Brendale and Wilkinson v. Confederated Tribes and Bands of the Yakima Indian Nation (U.S. Supreme Court Nos. 87-1622, 87-1697, 87-1711). The court's majority opinion permits tribal zoning authority over fee lands within the reservation only in very exceptional cases and, as a general rule, appears to replace tribal zoning authority over fee lands with county zoning authoriity.

The problem in determining the extent of tribal jurisdiction over non-Indians is now one of defining and measuring the tribal interest when exercising such jurisdiction.

THE CIRCUMSTANCES OF TRIBAL GOVERNMENTS

in state law.

- Tribal governments operate under a constant anxiety that economic achievement will be used as an excuse to terminate the federal-Indian relationship and therefore the recognition of tribal existence, governmental powers and nature.

- Tribes, for the most part, lack a healthy economy to provide a revenue base on which to operate and therefore depend on social welfare programs and grants to operate. This occurs within the context of a federal policy which stresses economic development but whose funding pattern focuses on the social welfare symptoms of poverty rather than on capital investment.

- A special relationship exists between tribal government and Indian culture. Tribal governments are perceived by many as protectors of a threatened Indian culture and therefore tribal governments sense that every policy decision can effect their cultural existence. There is a fear that increasing involvement in the complex non-Indian society and economy will lead to the destruction of Indian culture. The existence of such concerns results in a special situation for tribal governments which must make decisions based on cultural considerations. This can result in difficulties not encountered by other governments.

Land is the basis of all things Indian: the source of subsistence, food and shelter; the hope for income from its natural resources; and the embodiment of the relationship between man and his universe.

Native American values lean toward a cosmic identity, a harmony of the individual with the tribe, the tribe with the land, and the land with the spirit of life in the universe ... Just as most Native Americans view their tribe as unique and special, they also look upon the tribal homeland with reverent spirituality and respect for the place where sacred forces are at work.

(Olsen and Wilson 1984: 216)

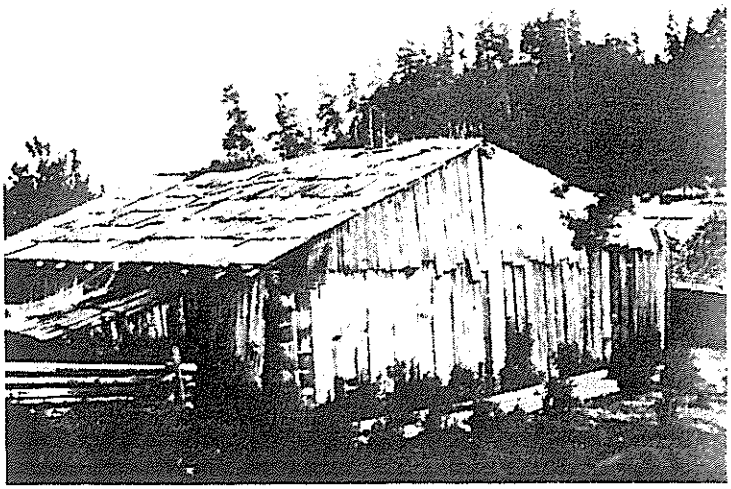
HISTORY OF A PEOPLE

Members of the modern Swinomish Tribal Community are composed of descendants of the Swinomish, Kikiallus, Samish and Lower Skagit Tribes. The ancestors of these groups lived in the Skagit River valley and on the coastline and islands around the river's mouth. All spoke the Coast Salish language.

The culture and economy of the inhabitants of the Skagit region was centered around natural resources, including salmon, shellfish and other marine life, as well as upland resources such as cedar, camus, berries and wildlife. There were a variety of abundant resources in the region, and the aboriginal groups often travelled over long distances to obtain them. Every kind of food used by these people was a product of nature, and its gathering continued periodically throughout the year.

Villages and seasonal encampments were located along the coast or at the mouths of rivers and streams, and at springs where there was ready access to fresh water, wood and supplemental food resources. Longhouses were constructed of cedar posts, cross beams, and stringers. The roof and walls were made of split cedar planks which could be disassembled and transported to other locations when necessary. House size and village composition varied considerably, with a high incidence of relatively small permanent villages and an even higher incidence of seasonally or sporadically occupied sites.

Resource gathering activities, in response to seasonal availability of various resources found in different microenvironments, resulted in a fluctuation of village demography throughout the seasonal round. Spring, summer, and fall saw families disperse to seasonal resource locations. Temporary camps consisted of simple shed roof or A-framed structures, which were covered with mats. In some cases, families built semipermanent cedar plank structures where various resources could be exploited from the same locale. Seasonal campsites were scattered throughout the landscape at locations where shellfish were abundant, where herring spawned, where duck nets were effective, and at prairies and marsh areas where bulbs, tubers and berries were especially abundant. In addition, seasonal fishing stations were as numerous as the means

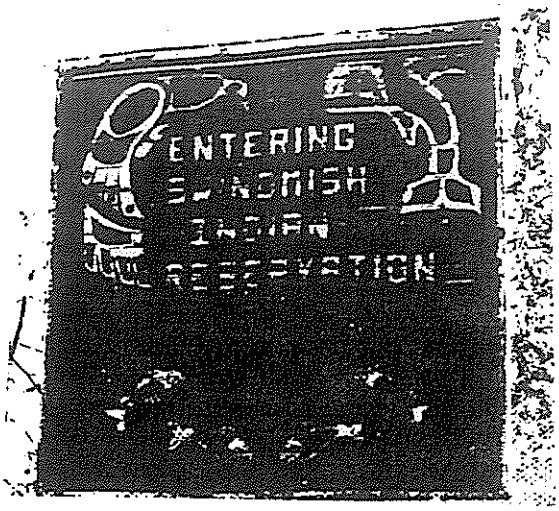


The teaching of history, which is largely based on the family history of chiefs, legends and mythology, was generally carried out by the women. Family tradition was never taught in public, but was passed on to the children in the family's own council. This was done to keep the knowledge secret as it was believed that when they told what the spirit was which guided them to greatness, then their power was lessened.

by which various species were taken. Encampments were located where drift netting was good, and at embayments where tidal traps were constructed and attended. Along the Swinomish slough, traps and weir nets were constructed which were capable of trapping fish on both movements of the tide. Weirs were maintained at the confluence of streams and rivers. In addition to the above methods of taking salmon, the people of the Lower Skagit area used a hook and line troll fishery for salmon and bottom fish. They also used gill nets, trawl nets, beach seines, dip nets, harpoons, leisters and gaff-hooks to procure salmon, bottom fish and marine mammals.

The greater part of the year, possibly seven or eight months, was spent in resource gathering activities, including travel to and from various, sometimes scattered, seasonal resource locations. In the spring, camas and other bulbous tubers were dug. In the late spring, herring were exploited in Skagit and Padilla Bays where they spawned. During the spring, deer were hunted at the prairies on Whidbey Island and in meadow areas on the mainland some of which where kept open by periodic burning. This practice encouraged the growth of various berries which were harvested during the summer and early fall. Salmon trolling and bottom fishing continued into the summer as family groups constructed and repaired salmon traps in Skagit, Similk, Turner and Padilla Bays. Weirs which were maintained throughout the Swinomish slough areas were readied to fish. Seal, sea lion and other marine mammals were taken incidental to salmon fishing or, by design, at exposed reefs and rocky headlands where they hauled out. Fall saw a gradual movement back to a chosen winter village site to prepare for fall fishing activities, which for the Swinomish was along the slough. At this time, large numbers of waterfowl were trapped using duck nets that extended hundreds of feet in length. At the same time beaver, muskrat, otter, mink, elk and bear were hunted and trapped in the numerous sloughs of the area and on the mainland. The meat was used fresh or dried for storage. Some waterfowl hunting continued into early winter, however the majority of the winter was spent in ceremonial activities.

According to their tradition, the Swinomish tribe originated when a chief's son wandered from camp with his dog and suffered many hardships. Through purification of the spirit, he obtained great powers that enabled him to convert his dog into a beautiful princess, who became the wife and mother of the peoples whom he created by sowing rocks on the earth.



Fishing for steelhead and smelt seining continued until these runs abated. Occasional hunting sorties were made during the winter, usually to obtain a modest supplement to the wide range of food which was stored for winter consumption. The picture that emerges from this review suggests that very few differences existed in subsistence strategy among what are similar peoples. Salmon, taken by various means, was a principal focus of all groups and other resources supported this base. What modest differences that did exist resulted not in what was exploited, but the means by which the resource was exploited. The Samish, for example, took sockeye salmon using the reef net method. The Swinomish used the drift net and weir net in the slough for the same species, possibly for a function of exploiting different microenvironments. The Skagit and Kikiallus used weirs, located at the various forks of the Skagit River Delta.

During aboriginal times, the most salient units of social organization in the Skagit region were the nuclear and extended family; the household; the winter village community; and, sometimes, a group of loosely affiliated villages. A great deal of contact occurred between neighboring tribes who relied on each other for marriage partners, trading partners, and ceremonial visits. Relations were usually peaceful between groups in the region and there was comparatively little war and feuding.

The first non-Indians to enter the Skagit region were Spanish, British and Russian explorers who arrived on explorer ships in the late 1700s. They were competing as representatives of their countries, seeking to expand their political influence. These explorers were received cordially by the people of the Skagit region (Roberts 1975). The fur traders were the next to arrive. They also were initially well received by the natives. Only later, when fur traders began to set up permanent residences, with buildings and fences, did conflicts begin to arise. With those early white men came smallpox, measles, and tuberculosis which proved fatal to the Indians. It is estimated that 80-90 percent of Indian populations died from by these diseases.

Settlers and miners began moving into the Skagit region in the late 1840s and 1850s. This was the beginning of a period of increasing conflict because the issues of rights to resources and the use of land arose continually. These tensions eventually led the non-Indians to push for a treaty and confinement of the Indians to reservations.

The Treaty of Point Elliott, known by the Indians as the Mukilteo Treaty, was negotiated in 1855. In this treaty, tribes from the Skagit region agreed to give up their lands to the U.S. government and move to the Swinomish Reservation. However, the move to the Reservation took place gradually over the next 20 years because the U.S. Senate took a long while to ratify the treaty. In the interim, the Indians were temporarily relocated during the Yakima War, and during the 1860s they scattered to various points around Puget Sound seeking employment.

The ancestors of those tribes now living on the Swinomish Reservation were not strong on political organization. Their territorial unit was the village although they did recognize special ties among those who lived on the same river system. They had no heads of government--no chiefs, no presidents, or kings. They had no officers, no courts, and, lacking writing, of course, no written law. Without any of this apparatus they were able to live in a regulated society and to maintain law and order. Lacking a formal government, they were nevertheless able to govern themselves.

In the 1860s and 1870s, large numbers of white settlers arrived at the Skagit area, first establishing trade mercantiles with the Indians then transforming the land for agriculture. During the next 40 years, the early settlers cleared forests, diked marshes, and built homes and farms. Massive log jams on the Skagit River were cleared, thereby opening it to navigation and exploration upriver. Later, railroads for overland travel were built.

As the western flat lands were developed, settlers began to look elsewhere for other opportunities. What they found in the mountains to the east were valuable minerals and the emergence of mining became a common landscape activity. Also, the abundance of cedar and other forest vegetation gave rise to sawmills, which fostered an active boat building industry in the area.

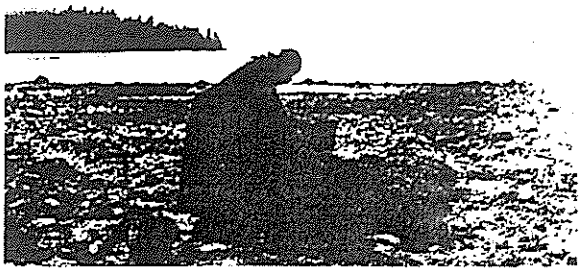
It was during this time period that the region began to take shape and its character become defined as towns developed rapidly, with schools, churches, governments, and commerce. By 1884, Skagit was established as a separate county of the Washington Territory. Five years later, Washington would become the 42nd state of the Union.

PORTRAIT OF A
HOMELAND

The various bands shared an ideology which sounds much like the classic Protestant ethic. They placed great value on work. One of the highest acclaims given anyone was to describe him as "working all the time." Children were taught that it was admirable to be employed constantly while awake. Women or men who customarily did hand work when sitting down were praised, and where thought to have the assistance of guardian spirits. The religious life supported the idea of industry; in turn the fruits of industry were the signs of both devotion and success in the religious life.

There was also a high regard for hoarding rather than consuming food and property. People who ate relatively little in daily life and who used few possessions were highly regarded. The emphasis on abstinence was linked with the positive value placed on fasting to attain religious purification. The person who overate regularly was unlikely to be able to fast for days. Similarly the person who wore out household items rapidly could not be expected to accumulate enough property to hold his own in the gift exchange relationships and in the ceremonies.

As a result, ownership of property was interwoven with the religious life. A sign of ownership of guardian spirits was physical possessions. The idea was not that these came directly from the spirit but that the spirit conveyed the ability to get them and that its owner would get them "easily." There were also at least three "wealth" spirits who gave power specifically for the accumulation of property. Other spirits, such as the ones who enabled their human owners to fish, hunt, or engage in crafts successfully were also thought to make their owners well-to-do. A poor person who claimed to have a guardian spirit was derided behind his back or at least doubted by others who felt his claim to be incompatible with his poverty.



THE SWINOMISH INDIAN TRIBAL COMMUNITY TODAY

The people of the Swinomish Indian Tribal Community have retained many aspects of their traditional culture. The importance of the group, and a person's place in it, is an integral part of the Tribe's cultural identity. Fishing is one group activity providing an important point of cultural association. Traditional salmon barbecues, races and games held on holidays are other major cultural events. Many of the people still practice traditional arts and crafts, and others move with the seasons as they have always done. In the summer they may go to the berry or hop fields or to camps to gather berries, and in the winter the inter-reservation basketball tournaments take the place of earlier inter-tribal visits. Many people continue to practice Seowyn, the traditional religious and cultural traditions.

The Swinomish Indian Tribal Community voted to accept the Indian Reorganization Act of 1934 and is organized under the provisions of that act. A Tribal charter, constitution and by-laws were adopted by the Tribal general council and approved by the Secretary of the U.S. Department of the Interior.

The governing body of the Swinomish Indian Tribal Community is the Swinomish Indian Senate. The Senate consists of 11 members who are elected to five-year terms. The principal Tribal officers (chairman, vice chairman, secretary, and treasurer) are elected from this 11-member group.

As previously mentioned, an important component of the economy of the Swinomish Indian Community is the salmon fishery. The harvesting and processing of this resource is significant for cultural as well as economic reasons. There are, however, many more facets to the Tribal economy, and the Swinomish Tribe has focused significant efforts toward economic development over the past decade.

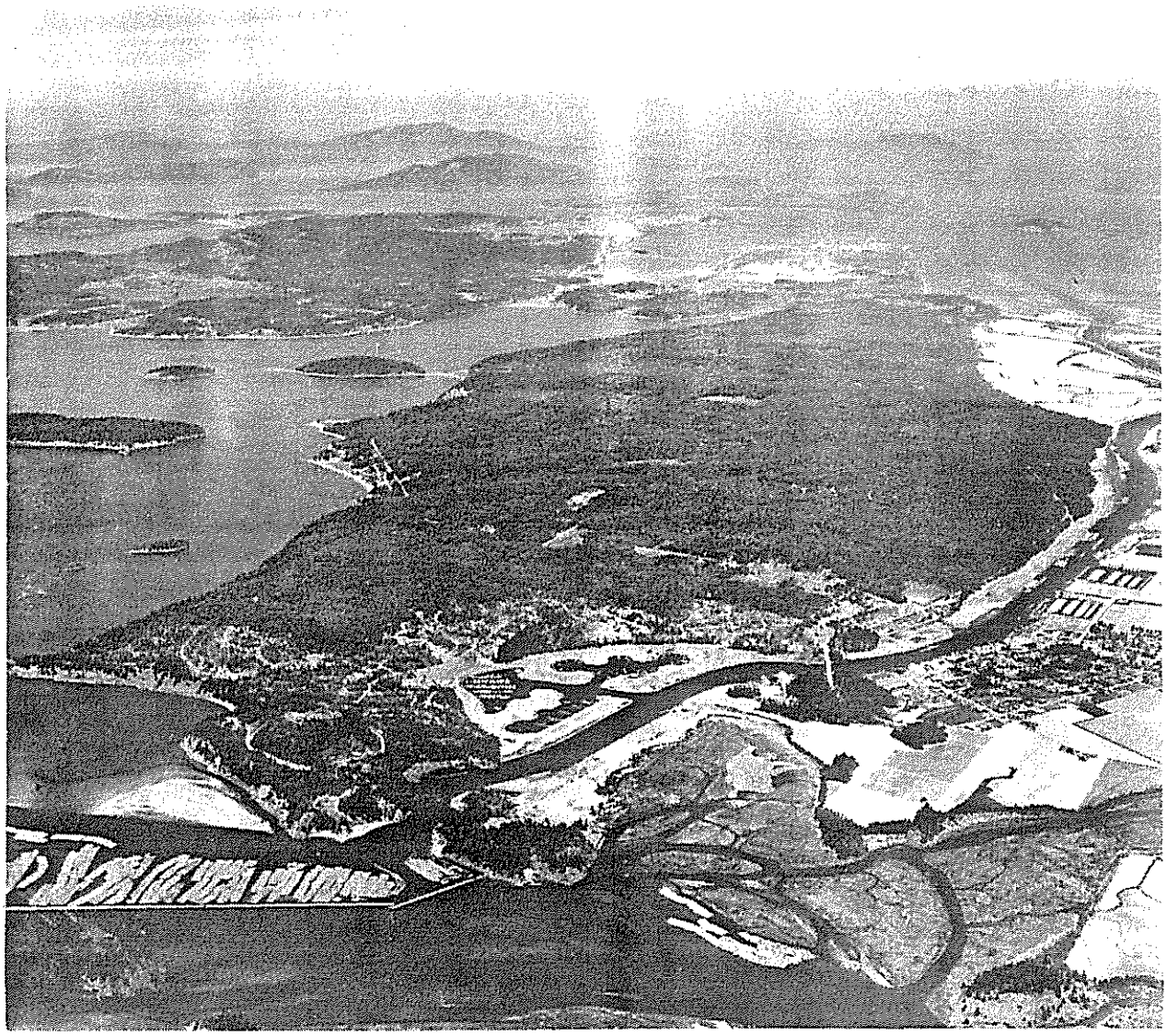
The mythology and legends passed through the many generations claim that at one time the Indian and all living things, trees, animals, birds, etc., had a common language and helped each other in their struggle for existence.

Income producing activities have been a major focus of Swinomish economic development planning since the establishment of the Reservation. The percentage of the Tribal gross product accounted for by such activities has risen from 17 percent in 1979 to 90 percent in 1989. The increase in income producing activities reflect the growing diversification of the economic base on the reservation. Continued expansion of the economic base ensures that future generations of the community will be provided opportunities for economic enrichment and individual betterment.

Spiritual meaning permeated nearly all other aspects of Indian culture and was (and still is for many) the central theme of their lives.

III. EXISTING CONDITIONS

THE NATURAL ENVIRONMENT



Geology

Located east of the Olympic Mountains and the Puget Sound, and west of the Cascade Mountain Range, the Reservation is in an area geologically known as the "Puget Lowland of Western Washington." The geology of the Reservation on Fidalgo Island consists of Quaternary alluvium and glacial deposits. The quaternary period is known as the age of sculpturing and sedimentation by glaciation. These deposits are typically 500 feet thick and consist of gravel, sand, silt, clay and peat. This period occurred during the last 2 million years and included extended periods during which the Puget Sound lowlands were below sea level. The glaciers retreated from the Puget lowlands 8,000 to 12,000 years ago.

The Reservation is overlain by deposits of glacially derived sediments varying in thickness from 900 feet to zero feet where bedrock is exposed.

Hope Island and Sneeoosh Rock outcroppings consist of serpentine and ultrabasic rocks that perhaps correlate with Twin Sisters west of Mt. Baker which originated in the Early Tertiary period about 10 million years ago. The Eagle's Nest area south of Shelter Bay consists of Jurassic- Cretaceous sedimentary and volcanic rocks about 100 million years old.

Topography

The topography of the Reservation is the result of lowland glaciation. The land surface consists almost entirely of glacial till and the elevation ranges from the tidelands at sea level to the rock outcrops some 400 feet above the Eagle's Nest area.

Generally, the eastern portion of the Reservation is gradually sloped, 0-8 percent grade, while the western and southern parts consist of slopes averaging 9-15 percent, and greater in some areas. The northeastern portion is relatively flat, with gentle slopes of 0-3 percent. (Figure 1)

Soils

The United States Department of Agriculture (USDA) Soil Conservation Service has an unpublished, revised Soils Survey of Skagit County which supercedes the 1960 publication. The revised Soils Survey, although unpublished, is used for describing soil conditions, limitations, and capabilities for this document. Soil information can provide data on flooding, high water table, sanitary facilities, building site development, road construction, water management, recreational development, crops and pasture management, and woodland and wildlife suitability, etc.

Fifteen (15) different soil series are found on the Reservation, with two types predominating: Swinomish gravelly-loam and Coveland-Bow complex. The Swinomish series consists of moderately deep, moderately-well drained soils formed in till and ash on upland portions of the Reservation. These soils are level (0-8 percent slopes) with some smaller areas exceeding 15 percent slopes. They are productive and can be cultivated with almost no risk of erosion (except on steeper slopes) and will remain productive if managed appropriately.

The Coveland-Bow complex soils are generally level (0-10 percent slope) and are described as having moderate to slow drainage characteristics. The level or nearly level (0-5 percent) occurrences of these soils are prime farmland (if artificially drained).

In the northeastern agricultural portion of the Reservation, the soils are Sumas silt loam and Tacoma silt loam. The Soil Conservation Service defines both as prime farmland soils.

Soil has been classified into capability classes by the Soil Conservation Service to show the relative suitability of soils for crops, grazing, forestry, and wildlife. It is a practical classification based on the needs and limitations of the soils, the risks of damage to them, and also their response to management.
Of the eight capability classes, four classes are found on the Reservation: Class III, IV, VI, and VII. Soils that are suitable for annual or periodic cultivation of annual or short-lived crops are Classes I, II, and III. Class III soils can be

cropped regularly but need careful management. In Classes IV, VI, and VII are soils that normally should not be cultivated for annual or short-lived crops, but may be used for pasture or range, for woodland, or for wildlife. More specifically, Class IV soils should be cultivated only occasionally or only under very careful management; Class VI soils are not suitable for crops because they are steep or have drought characteristics which limit their use, but may yield fair amounts of forage or forest products; and, Class VII soils may produce forage or forest products, but only fair to poor yields may be obtained.

All soils on the Reservation rated low for drainfield suitability. Various factors can be given for this low rating; including poor soil drainage, cemented hard pan, slow percolation, wetness, ponding, and excessive slope. Information on land capability classification, prime farmland, drainfield suitability, drainage, slope, and erosion for each soil are found in the Soil Survey of Skagit County.

Climate

The Reservation is located in the "rainshadow" of the Olympic Mountains and its climate is typically associated with that of the west coast marine weather conditions. The cool and dry summers, and mild, moist winters are the result of prevailing westerly winds from the Pacific Ocean and Puget Sound.

The average annual precipitation is approximately 28.5 inches per year. The distinct wet season occurs during October - April. In an average winter, afternoon temperatures are in the high 40's and low 50's (degrees F.) and nighttime temperatures are in the high 30's and low 40's (degrees F.).

As a result of prevailing west and northwest air flows, the summer months are usually dry with precipitation averaging about an inch per month. Precipitation during the summer is in the form of gentle rains, showers, fog, or mist. Afternoon temperatures are close to 70 (degrees F.) and nighttime temperatures fall to the low 50's (degrees F.). Relative humidities in summer range from about 60 percent in the afternoon to 90 percent at night.

The average annual temperature range is about 40 (degrees F.) in January, with minimum winter time temperatures seldom dropping below 15 (degrees F.). In July, the average annual temperature range is about 62 (degrees F.) and during the summer the maximum daytime temperature rarely exceeds 90 (degrees F.).

Skies are predominately cloudy on the Reservation. During the winter months, the skies are cloudy-to-partly cloudy 80 percent of the time; however, cloud cover declines to about 37 percent through the summer months. Prevailing winds usually blow 12-18 mph. Those exceeding 18 mph predominantly blow from the southeast. The average frost-free growing season is from March 28 to November 10, or 227 days.

Air quality over the Reservation is generally good to excellent. However, activities at the Marches Point industrial area have been issued "notices of violation" and have been levied penalties for air quality degradation problems. Sampling stations have been established in that vicinity to monitor ambient air quality.

The airshed over the Reservation is designated Class II under the terms of the Federal Clean Air Act. The highest quality designation, Class I, is reserved for National Parks and designated wilderness areas, and other areas that complete the redesignation process. Both designations entail "prevention of significant

deterioration" procedures for the siting and regulating of air pollution point sources.

Federal Clean Air Act implementation authority has been delegated by the U.S. Environmental Protection Agency to the State of Washington, and then further delegated by the State to the Northwest Air Pollution Authority for the Skagit/ Whatcom/Island County area. Recent Federal policy statements and court rulings have upheld that the State of Washington was not delegated authority to implement Clean Air Act programs on Indian Reservations. The Environmental Protection Agency retains authority to enforce the Clean Air Act statutes on Indian Reservations unless that authority is delegated to the Indian government. The Swinomish Indian Tribal Community currently maintains an informal cooperative relationship with the Northwest Air Pollution Authority.

WATER

Surface water

The primary surface marine water systems on the Reservation are the Swinomish Channel, Skagit Bay, Similk Bay, and Padilla Bay.

The only significant upland freshwater body on the Reservation is a marshy area located 1/4 mile northwest of the intersection of Indian and Sneeoosh roads which contains a year-round shallow pond. Three freshwater streams flow through the Reservation: Sneeoosh, Munks and Unnamed No. 1. The three systems are perennial and fed by precipitation and all maintain a minimum flow of about 0.05 cubic ft/sec (20 gal/min).

The Reservation is not within the 100+ year floodplain of the Skagit river. Chance of flooding by any of the streams is remote. Major flooding concerns are tidal and stormwater flooding, in the cases of extraordinary high rainfall occurring during times of peak tidal floods. Areas subject to periodic flooding are the coastal areas adjacent to the Swinomish Channel, and generally limited to the agricultural lowlands on the northernmost portion of the Channel. The Federal Emergency Management Agency has not conducted a formal mapping of potential flood prone areas on the reservation.

Ground Water

In order to understand the hydrologic system, the geology of the area must first be understood. Most of the Reservation is a remnant of a glacial drift plain, underlain by bedrock and overlain by three types of unconsolidated deposits, although in some places the bedrock is exposed. The uppermost unit, the till unit, consists primarily of till; the intermediate unit, the stratified drift, is predominantly sand and gravel, with an average thickness of about 60 feet and a maximum thickness of about 170 feet near the center of the Reservation; the lowermost unit, the clay unit, is comprised predominately of clay and silt. The total storage capacity of these unconsolidated deposits is estimated at 6.3 billion cubic feet of water.

All three units in the unconsolidated deposits are water bearing to some degree, but the bedrock is not known to yield any significant amount of water. The stratified drift is by far the most productive water bearing unit. Some of the sand layers in the clay unit yield sufficient amount of water to wells to supply single family households and public water supply systems.

The unsaturated zone is the zone between the land surface and the top of the deepest water table. There is an estimated 2.9 billion cubic foot reserve of water stored in the unsaturated zone. Groundwater movement there is constrained except where perched water bodies occur, and hence is not available for direct use. However, this zone is important because many significant changes in the water quality occur within this zone, nearly all recharge to the reservoir must pass through it, and most recycled waste water is returned to it.

Under natural conditions the hydrologic system is in a state of dynamic equilibrium. On a long-term basis inflow to the system is equal to outflow and there is no change in the amount of water in storage at land surface, in the unsaturated zone, or in the groundwater reservoir.

Precipitation is the major source of the Reservation's groundwater and of all naturally occurring freshwater. Precipitation falling on the land surface follows three paths: direct runoff to the surrounding saltwater bodies, evapotranspiration at land surface, and infiltration to the unsaturated zone. Natural outflow occurs primarily as evapotranspiration from the land surface and unsaturated zone and as subsurface outflow. Direct runoff and spring flow account for a small amount of outflow.

Potential recharge--that part of precipitation not lost as evapotranspiration or stored as soil moisture--either goes to direct runoff or recharges the groundwater reservoir. The potential recharge averages about 14.2 inches per year.

Water flowing through the groundwater system undergoes changes in quality. Precipitation contains a small amount of dissolved substances (generally 10-20 mg/L of dissolved solids.) After the precipitation reaches the land surface, evapotranspiration concentrates the dissolved substances and increases their concentration to about 15-35 mg/L. Precipitation reaching the water table is in direct contact with soil that causes many of the water quality changes to take place.

Water collected from wells in the uppermost part of the freshwater-saltwater zone of diffusion shows only slight changes in quality, mostly small increases in chloride and sodium concentrations. However, water which moves deep into the reservoir - to be discharged eventually to saltwater bodies below mean sea level - can undergo significant changes in water quality as it passes through the zone of diffusion.

Groundwater quality on the Reservation is generally within the acceptable limits of the Federal Safe Drinking Water Act. The maximum contaminant levels for turbidity, arsenic, and coliform bacteria have been exceeded in a few selected samples. On the basis of the available water quality data, most of the water in the study area is chemically suitable for drinking without treatment.

Humans affect the quality of groundwater in three general ways: importing water with chemical characteristics differing from the naturally occurring water, introducing materials to the land surface and atmosphere which alter the natural chemical equilibrium, and changing the quality of water during various types of water-use activities and discharging this changed water to the hydrologic system.

The factors which could affect Reservation groundwater quality include but are not limited to March Point petrochemical facilities; impacts from the former P.M. Northwest Dump, a petroleum waste disposal site used between 1960-1970;

failing residential septic systems; crop debris and pesticides from the agricultural zone; timber harvesting and management practices; and saltwater intrusion into the groundwater aquifer.

Vegetation

The Uplands of the Reservation are primarily dense forest. Seventy five percent of the land is covered with mixed deciduous/coniferous forest. Timber resources are considerable; over half of the forested land is merchantable. Harvesting and replanting would result in even more productive yields and higher timber values.

Of the 102 different forest species which grow on the Reservation, trees of commercial value include the Puget lowland climax forests of Western Red Cedar and Western Hemlock, and the sub-climax forest Douglas Fir. Grand Fir, Red Alder, Bigleaf Maple, and Black Cottonwood also have commercial value. Noncommercial trees include Western Yew, Bitter Cherry, Cascara, Hawthorne Sap, Quaking Aspen, Willow Sap, Western Hazel, and Vine Maple. Present on the coastal margin are Pacific Madrona, Shore Pine, Western White Pine, Western Yew, and Sitka Spruce.

The understory shrubs include gooseberry sap, scotch broom, blackberry, Indian-Plum, ocean spray, red huckleberry, salmonberry, and wild rose. Many herbaceous species, such as bleeding heart, bracken fern, sword fern, wild Lily-of-the-Valley, and youth-on-age, grow close to the soil surface.

Historically and today, the Swinomish culture and livelihood is linked to the forest and its wood resources. The Coast Salish Indian lifestyle depended heavily on cedar, using cedar bark, limbs, roots, and wood for canoe travel, shelter, dress, hunting spears and bows, blankets, and baskets. Tools, masks, rattles, gaming pieces, and medicines were also fabricated from wood. This indigenous technology has largely been supplanted.

Trees, as well as on the forest's streams and pools, remain important in many religious and cultural activities. Questing, cleansing, gathering of ceremonial material, depositing traditional regalia, and burial are traditional Native American activities that take place in the forest. Old growth cedar is held sacred by tribal cultures, and cultural use of the forest remains important to many Swinomish people. (Figure 2)

Prior to treaty times, management of forest lands consisted of controlled burning, as the resulting open spaces and clearings attracted deer and allowed for propagating berries and camas. Today the forest is used primarily as an economic resource, although Tribal foresters still respect the cultural uses of the land and trees and the management objectives of groundwater protection.

Wildlife

Waterfowl are abundant on the Reservation. The northeastern section of the Reservation is directly in the path of the Pacific Flyway, which hosts migrations of approximately 100,000 waterfowl annually. Loon, grebe, cormorant, brant, heron, geese, duck, gull and tern migrate, rest, and forage through the Padilla, Similk and Skagit Bays, and through the sloughs and marshes. Duck habitat is found on the northeastern upland area, west of the Channel. Several duck species inhabit Padilla Bay and southern Skagit Bay. A glaucous- winged gull rookery is located on one of the man-made dredge spoil islands in southern Padilla Bay. Sensitive bird area habitat, rookery and roosting sites are shown

in Figure 1.

Other species found on the Reservation include the bald eagle, peregrine falcon, black brant, kingfisher, osprey, and the great blue heron. Black brant use the intertidal areas northeast of the Channel for foraging on eelgrass and inhabit the island on the west bank of the Channel. Padilla Bay is a major habitat and staging area for the black brant, where up to 45,000 gather in April to prepare for their northward migration. Eagles and peregrine falcon roost and nest on the northern upland area and on Deadman and Ika Island. A roosting site is also located behind the Village recreational area. Heron rookeries are located near Knutsen Farms, north of the Village on the forested hill, at the Village entrance, west of the bingo hall, and on Ika Island.

Horned owl have been observed on the Reservation in areas of thick trees. Terrestrial mammals sighted on the Reservation include elk, black-tailed deer, bobcat, red fox, rabbit, raccoon, porcupine, and numerous other small mammals. Mountain lion and coyote have been sighted in the northern areas.

Tidelands & Fisheries

Salmon runs and the tribe's commercially valuable fishery resources are dependent on the marine vegetation surrounding the Reservation.(Figure 1) The abundance of eelgrass and kelp beds are critical resources for supporting juvenile fish. Large eelgrass beds are found northwest of Goat Island and in Padilla Bay, which is the most extensive in North America. Smaller beds are found along the west shore surrounding Kiket Island and in Similk Bay. Bull kelp and seaweed are also abundant on the west shore near Kiket Island.

Surrounding the Reservation are several water bodies important for fish habitat and migration. Padilla, Skagit, and Similk Bays act as rearing, schooling, and holding areas for salmon, flatfish and sculpins.

Padilla Bay, a national estuarine research reserve, is abundant with marine life and provides habitat to 58 species of fish from 26 families. The Bay is an important route of migration for juvenile Chinook, coho, pink, and chum salmon, as it offers a rich feeding area, limited competition for food, and protection from predators. Predominant epibenthic organisms in Padilla Bay include several species of copepods, amphipods, and crustaceans. These organisms provide an abundant food supply to juvenile salmon. Many species of baitfish, particularly herring, use the Bay as a spawning, nursery, and holding area. Predominant flatfish species in the Bay are English sole, Dover sole, rock sole, sand sole, and starry flounder. Also abundant in the Bay are staghorn sculpins, shiner perch, Pacific tomcod, and Pacific sandlace.

All five salmonid species are represented in the water surrounding the Reservation. Adult anadromous fish migrate to the Skagit River system via Skagit and Similk Bays; a small portion migrate via Padilla Bay and the Swinomish Channel.

Upon emergence from the spawning beds, the young salmon begin their seaward migration. Juveniles originating from the northerly river systems such as the Nooksack, Samish, and the Chuckanut, Oyster and Colony Creeks travel south to the waters surrounding the Reservation where they spend up to four months. An abundance of juveniles occurs along the shoreline areas of North Skagit Bay, in the Swinomish Channel, and around Hope, Skagit, and Kiket Islands. Pacific tomcod, English sole, herring, and smelt, as well as pink salmon, rear in Similk Bay. Pink salmon predominate during odd years while chum

predominate during even years. Schooling areas are in Skagit and lower Similk Bay.

Shellfish are important subsistence and commercial resources for the Tribe. Cultivation of shellfish, through aquaculture and enhancement strategies, would provide viable commercial and enhanced subsistence value. Similk Bay and Northern Skagit Bay are traditional tribal shellfish gathering grounds. Areas with intertidal shellfish enhancement potential include Similk Bay, the Kiket Island beaches, Hope Island, northern Skagit Bay, and a large area west of Pull and Be Damned Point in Skagit Bay. Abundant shellfish found on the Reservation are dungeness crab and several clam species, including the heart or basket cockle, Macoma, Native Littleneck, Butter, Manila, Horse, and Eastern soft-shell clams. Fourteen species of crab are found in the Padilla Bay tidelands.

Sea mammals inhabiting the region include the harbor seal, elephant seal, Stellar's sea lion, harbor porpoise, river otter, minke whale, and the orca whale.

Scenic Resources

The natural landscape of the Reservation is of a high scenic quality. Notable visual elements of the area include Puget Sound, distant mountain vistas, agricultural fields, forestlands, off-shore islands, coastlines and rocky coves and river estuaries.(Figure 2)

The entire coastal shoreline, particularly Deadman and Little Deadman Islands, Martha's Bay, Hole in the Wall Beach and Lone Tree Point, has high aesthetic value. All shorelines of Padilla, Skagit, and Similk Bays have been designated as shorelines of statewide significance by the State. The Padilla Bay Estuary offers a unique scenic setting with its natural features, diversity of wildlife and noted ecosystem.

The forested hill at the village entrance and the forested uplands of the Reservation also have great visual appeal. Rock outcroppings in the Eagle's Nest area, on several of the off-shore islands and along the shoreline, display interesting forms and textures and contribute to the general high quality of the views.

THE HUMAN ENVIRONMENT

To the Indian in times past, real estate was inalienable. The idea of selling a house or land was not known. The right to live in a house or a village was acquired by inheritance or by marriage. Within their territory, villages' rights to the food-gathering sites such as fishing sites, berry patches, and meadows, could not be sold or traded.

Land Ownership

The General Allotment Act of 1884 divided the Swinomish Indian Reservation into parcels ranging from 40 to 160 acres for ownership by individual members of the tribe. The only land remaining in collective tribal ownership was the tideland around the fringe of the Reservation and an 80-acre parcel, the traditional winter Village site, reserved for community purposes. As a result of the allotment system and subsequent transfer of ownership from Indians to non-Indians, approximately half of the Reservation has become alienated from Indian ownership.

Presently, as noted in the table below, landownership on the Reservation includes tribal community holdings of 275 acres of uplands and an undertermined number of tideland acres. Fifty percent of the land base is owned by individual tribal members, and of that approximately 20 percent is leased to non-Indians on a long-term basis. Fee-simple, non-Indian owned land on the Reservation accounts for 46 percent of the total land base.

Total Reservation Land Area by Type of Ownership

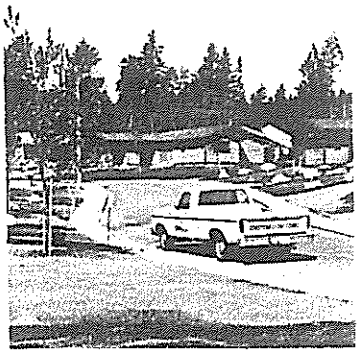
	Acres	*Percentage*
Non-Indian	3,317	46.0
Individual Indian	3,577	50.0
Tribal	275	4.0
Total	**7,169.0**	**100.0%**
Tidelands	2,900	

Land and Shoreline Use Patterns

Land use on the Reservation can be characterized as rural, waterfront, or residential. The only town is the Swinomish Village. About 75 percent of the Reservation, or 5,405 acres, is in active forest use; agriculture occupies 1,150 acres (16 percent); residential areas occupy 572 acres (8 percent); and industrial use constitutes about 40 acres (less than 1 percent). The total Reservation acreage is 7,169 acres.

Population

The Reservation has a population of 2,000. The population of the Swinomish Indian Tribal Community was estimated to be 635, with 465 of these tribal members living on the Reservation and 170 living adjacent to it. Of those 635 Reservation residents, approximately 200 are under 16 years of age (1986 figures). Absolute estimates of tribal population are difficult, however, because the number of tribal members residing on the Reservation varies seasonally in relation to fishing and other economic activities. In addition, those living near or adjacent to the Reservation sometimes return when housing and jobs are available. Approximately 21 percent of the tribal labor force is unemployed and another 28.5 percent is under-employed.



EXISTING AND PROJECTED POPULATION

SUBAREA	1980	1990	2000	2010	2020
Pull'Be'Damned	162	188	298	400	538
Dist. no. 1 *	233	260	297	358	412
Kiket	84	93	104	117	132
Village	425	459	501	553	617
Shelter Bay	740	1135	1725	1925	2100

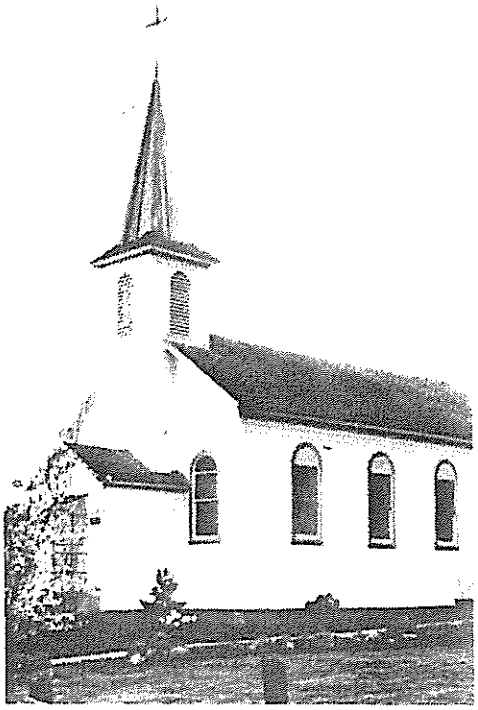
* Encompasses Shorewood, Sunnyslope, SneeOosh and Reef Point

Housing

The Indian population lives, for the most part, in Swinomish Village, on the east side of the island. A few Indian residences are scattered throughout the rest of the Reservation. The non-Indian population is primarily located in Shelter Bay. Vacation homes and permanent residences are also located along the west shore of the Reservation.

Housing is provided by both the private sector and the Swinomish Housing Authority which runs the Tribally-administered program providing public housing to Swinomish tribal members. There are currently 98 public housing units in the Village. The Authority's goal is to build another 100 units within the next 15 years.

The remaining residences, located primarily on the Reservation's west shore and in Shelter Bay, are privately owned and provide housing to both Indians and non-Indians living within the Reservation boundaries. The subdivisions of Sneeoosh, Shorewood, Sunnyslope and Reef Point together consist of 101 homes on 128 lots. The Kiket subarea consists of 50 residences, mostly beach homes, on 85 lots. The Pull and Be Damned subarea has 125 residences on about 298 lots, of which 254 are owned in trust by Tribal members and 44 are on fee-simple land.



Shelter Bay is a private, planned residential development, consisting of 508 residences on 935 lots. The 260-acre parcel is held in trust by the U.S. Government and is currently under a 75-year lease to the Shelter Bay Company until the year 2042.

Altogether, about 875 housing units exist within the Reservation boundaries. Reservation population is expected to grow at a rate of 2 to 3 percent, annually; hence further residential development is expected.

Cultural Resources

Swinomish ancestors have inhabited the Reservation area for several thousands of years, and numerous known archaeological sites are located within the Reservation boundaries.(Figure 2)

Several historic villages and midden sites are located around the Reservation coastline. Qaliqet, located at the north end of the Swinomish Channel was a permanent aboriginal village. It later became the site of a large Indian gillnet drift. Farther south along the Channel was another village. Located at the end of Smokehouse Road, it later became the site of a Seowyn smokehouse, built

around 1912-13. At the site of the present Swinomish Village was Twiwok, a 2,000+ year old Indian settlement. Lone Tree Point was the location of a campsite where the Lower Skagit constructed a temporary village. The southern-most point of Eagle's Nest also was a historical campsite.

Plans are currently underway for a publicly oriented archaeological excavation of Twiwok and the reconstruction of a longhouse and fish trap. The Twiwok project is designed to connect the ancient settlement with the modern Swinomish Indian Tribal Community and will be a commercially-supported Salish Indian heritage institution. Preservation of these non-renewable cultural resources is important, as the data from these sites serve as an archaeological record of the Swinomish heritage.

Several sites near Munk's Creek have been designated as high priority for preservation. Portions of two baskets and shell, stone, and mammal remains were unearthed there. The area is also an important religious site. Historical shellfish collecting and fishing sites are around Kiket Island, at Lone Tree Point and in Similk Bay.

Historical sites on the Reservation built since treaty times include the Catholic Church, built at the Swinomish Village in 1868, enlarged in 1877, and still standing; the fish trap, acquired and rebuilt in the early 1930s north of Deadman Island and operated until the late 1970s; and Deadman and Little Deadman Islands, historical Indian burial grounds. The fish trap was the last remaining Indian fish trap in the Pacific Ocean. The Shaker Church, erected in 1939, is still used and is also of historical significance.

Transportation/Circulation

Vehicular Traffic

The roadway network of the Reservation consists of a state highway, street, and roads which provide vehicular mobility and/or access to land and its associated uses . (Figure 3)

County roads on the Reservation are classified as major and minor collector roads and local roads.

Skagit County's six year road program (1989-1994) is a plan which looks to the future for carrying out a coordinated road construction program. The Reservation's major and minor collector roads are considered under the program.

Both Reservation Road and Sneeoosh Road are eligible for inclusion in the six-year program should their ratings rank above other county roads. However, the 1989-1994 six year road program does not specify any improvements or construction projects for either road.

The Skagit County Public Works Department has indicated that road improvements (paving) are planned for both Maple Lane and Golden View Lane. County public works personnel hope to realign the intersection at Reservation Road and Sneeoosh Road (the northern most origin of theroad) if easements or minor amounts of right-of-way can be obtained. Local government funds are currently available for such work. Realignment of the intersection would provide improved traffic visibility where the average daily traffic count reaches 1400 vehicles. Although responsible for repairs and improvements for the LaConner bridge, the county has no immediate or long range plans for any future work on the bridge, except for annual maintenance.

Under the Federal-aid Secondary (FAS) System only Reservation Road is able to receive federal funding (in addition to state and local funds) because of its classification as a rural major collector route. Sneeoosh Road is eligible for state/local fundings, while other roads on the Reservation may receive only local fundings. In all cases the county determines the allocation of such fundings, using the monies for priority projects identified in the six year road program.

The Tribal Community has access to the Federal Highway Trust Fund for roadway improvement, requesting such funds through the BIA and competing with other federal land and Reservation projects for priority. Funding is currently scheduled to upgrade the Pull and Be Damned area roads in 1990.

Traffic accident history during a two year period (1985-1987) reflects twenty (20) personal injuries and eighteen (18) accidents involving property damage only. From State Highway 20 south to the northern intersection of Reservation Road and Sneeoosh Road traffic related accidents have occurred at a rate twice that of other county roads. Other roads on the Reservation have accident rates similar to those of other county roadways.

Waterborne, Air and Rail Traffic

Because of the lack of congestion and proximity to the San Juan Islands, the waters surrounding the Swinomish Reservation are extremely attractive to boaters. There are currently five marine facilities in the greater Anacortes-LaConner area, together comprising more than 2,500 boat slips.

Located east of and adjacent to the Reservation is the LaConner Marina, owned and operated by the Port of Skagit County. Facilities include boat repair, maintenance, dry dock, haul out capability, boat charter/sales and a recreational vehicle park. The 65.7 acre marina is presently at or near capacity.

Approximately 1,300 boaters in the area have an expressed demand for moorage which is not presently being met. To meet this demand and to provide economic development opportunities for the Tribal Community, the Tribe is planning to develop an 800-slip pleasure craft marina complex. Located on the west shore of the Channel, north of Highway 20 near LaConner, the 132-acre Swinomish Marina project would feature over 60 acres of surrounding commercial businesses.

Further south on the Channel, the Shelter Bay Community features two private marinas for its residents' use. Across the Channel under the bridge, boat owners can launch their vessels at LaConner's public boat launch. The tribe is currently upgrading its fishing docks at the Village for use by tribal fishermen.

Located about 10 miles northeast of the Reservation is the Skagit Regional Airport, owned and operated by the Port of Skagit County. The Burlington Northern Railroad runs through the northern portion of the Reservation.

Public Transit

Public transportation services in Skagit County are available for elderly and handicapped persons. While there is no organized system of public mass transporation currently in place within the county, Skagit County officials are presently reviewing public transit needs. In 1988, a random sample of Skagit County residents was surveyed by the Washington State Department of Transportation to determine their interest and need in public transportation. Survey results indicate that there seems to be broad-based support for some form of public transit.

The Tribe maintains a senior citizens services transport service to local doctors offices. The Tribal recreation program transports children to off Reservation recreation sites.

School bus service is provided to the Reservation school children by the LaConner School District.

Public Services and Utilities

Fire Protection

The Reservation is within the boundaries of Fire District #13, comprised of volunteer firefighters who respond to all fire and emergency calls.

Law Enforcement

The Swinomish Tribe provides law and order protection for the Reservation residents, Indian and non-Indian. With passage of the Retrocession Bill in 1988, providing additional funds for enforcement activities, the Tribe Has expanded its law and order department.

Currently, six officers comprise the Swinomish Police force; hence 24 hour coverage is limited. Problems arising during times not covered by Swinomish are handled by the Skagit County Sheriff Department. LaConner provides back-up and emergency assistance when requested.

Schools

The entire Reservation is part of School District No. 311. The elementary and secondary schools are located in LaConner, and children on the Reservation attend public school there. In addition to public school service provided by LaConner School District, the Swinomish Tribal Community provides a variety of supplemental educational services.

The LaConner School District receives funding through the Federal Impact Aid program, federal financial assistance given to the District in lieu of property tax payments. The District contracts with the Tribe to provide a Tribal/School Liaison, the Indian Educational Activities Coordinator, the Attendance Office, and some of the School Aids.

The Tribe has connducts several supplemental education programs designed for every age group. The "Birth to Three" program, a joint effort by the Tribe and the LaConner School District, provides skills development to family members with children three years of age and younger. The Tribally operated Johnson-O'Malley program is aimed at improving three to five year olds' ability to succeed in future education. Similarly, the Head Start Program helps prepare 3 to 4 year olds for school. The LaConner School District provides on-Reservation school help through the After School Tutoring Program. The Tribal/ School Liaison and the Indian Education Activities Coordinator provide supplemental aid. The LaConner School District finances the Summer School Program for grades K- 6.

Adult educational assistance is also provided. Skagit Valley College offers on-Reservation GED classes. The Bureau of Indian Affairs provides a general assistance fund for adult education and training. The Northwest Indian College, based on the Lummi Reservation, offers a wide range of college-level courses at Swinomish.

Health Care

The Indian Health Service (IHS) environmental health program administered by the federal Department of Health and Human Services has a broad and comprehensive number of services.

The IHS staff offers technical advice, services, and funding for enhancing the availability and quality of water used for domestic purposes and to assure that safe and sanitary solid/liquid waste disposal systems are available and operable. Other related activities include environmental planning, occupational health and safety, community injury control, air, water and solid waste pollution control, and institutional environmental health.

Health care services are provided to Tribal members by the IHS. A Tribal Community Health Representative provides emergency response coordination services on the Reservation. The Swinomish Tribe currently operates a dental and health clinic for Tribal members, both of which are located in the village area of the Reservation. No other environmental health or medical facilities or offices are located on the Reservation. Outpatient services are available in LaConner, and hospitals are located in Mount Vernon and Anacortes.

The Skagit County Health Department offers the region a wide range of clinical and nurisng services through its Health Clinic in Mount Vernon. the department also provides many environmental health services; such as, but not limited to, food protection, water supply protection, water quality monitoring, chemical and physical hazards, solid waste, and on-site sewage disposal.

Recreational Facilities

Many opportunities for both passive and active recreation are available on the Reservation. The Tribally-owned beach area surrounding the Reservation is currently open to the public. Those beaches having exceptional recreational value are the Turner Bay Spit, the Kiket Island causeway, Martha's Bay, the Padilla Bay shoreline, the west bank of the Swinomish Channel (from the Longhouse Restaurant to the end of Smokehouse Road), Tosi Point, and Hole in the Wall, Sneeoosh, and Pull and Be Damned beaches. No beach area, however, has been designated solely for recreation.

Improved public recreational facilities include the John K. Bob Memorial ball park, the Tribal Community Center/Gymnasium, and the Village tennis courts. Commercial recreation areas include the planned public marina at the north end of the Reservation and the Thousand Trails campground, a private facility. Shelter Bay maintains private recreational facilities.

Sport fishing is a main recreational pastime on the Reservation. Smelt, Dolly Varden, cod, salmon, trout and cutthroat are popular catches. Crabbing and clam digging are also favorite recreational activities.

Tribally-sponsored athletic tournaments include the inter-tribal softball games and the County-wide grade school basketball tournament, now in its twentieth year.

Traditional recreational activities still performed are bonegames such as sla-hal, canoe racing, and dancing.

Public Water Supply Systems

Water is provided to the residents of the Reservation by a number of public water supply systems and by individual wells providing water outside those service areas. (Figure 4)

The areas served by the Tribal public water system are the Swinomish Village and the Shorewood subdivision. The Swinomish Utility Authority extracts groundwater from the Tribally-owned well field, where future drilling and subsequent expansion of the Tribe's groundwater system is anticipated. Treatment facilities include a treatment plant/pump station and a 218,000 gallon reservoir. The Utility has a separate supply from the City of Anacortes servicing the Bingo Hall and the Marina/Industrial Park at the north end of the Reservation.

Privately owned systems on the Reservation include the Shelter Bay Community system and those serving most of the west shore developments. The Shelter Bay Community obtains water from the Town of LaConner via a pipe located underneath the Swinomish Channel. It operates its own distribution system. The developments at Sneeoosh, Hope Island, Sunnyslope and Reef Point have private community systems. A few residences at the southern tip of Pull and Be Damned obtain water from Shelter Bay, but most residences there are served by individual systems. The area is severely limited in development potential due to its inadequate water system. The other Reservation residences are served by individual private systems. The Thousand Trails campground uses a community system of wells, a storage reservoir, and private distribution.

The publicly-owned water systems are now interconnected into a "looped" system, as recommended in the Fidalgo Island Critical Water Service Supply Area Coordinated Water System Plan. The Swinomish Utility Authority, Shelter Bay, the Town of LaConner, and the City of Anacortes systems can provide each other with water in an emergency.

Sewer Systems

The Reservation is served by six community sewer systems and, in areas outside these systems, by individual on-site systems.(Figure 4)

The Swinomish Village community system, operated by the Swinomish Utility Authority, serves the Village area. A portion of the sewage (25-40%) is treated by a community septic tank/drainfield; the remainder is pumped across the Channel to the Town of LaConner's sewage treatment plant.

The Shelter Bay Community is completely sewered. Sewage is treated at the Community's secondary sewage treatment plant, and treated effluent is discharged into the Channel. The Skagit County Sewer District #1, which includes the plats of Shorewood, Sunnyslope, Sneeoosh, and Reef Point, provides primary sewage treatment. This primary treated sewage is currently discharged into Skagit Bay. The federal mandate of secondary sewage treatment and the Tribe's ban on west shore outfalls, however, require that the District take corrective action.

Thousand Trails campground is served by community sewage collection and an aeration lagoon/forest land irrigation system, which fulfills secondary treatment requirements. The Marina/Industrial site and the Bingo Hall currently haul sewage to Anacortes for treatment. Plans are underway for a secondary treatment facility for the area, in anticipation of the proposed Channel Marina development. The Kwonesum community, located on the East Shore, uses a community septic tank/drainfield system.

On-site systems are used in other east shore residences and in the Kiket and Pull and Be Damned areas. Conventional on-site systems include holding tanks, conventional septic tanks/drainfields, outhouses, compost toilets, and mounds. Because of bacterial contamination along the west shore, a Facilities Plan has been adopted to provide for sewage treatment and disposal on the western shore of the reservation.

Under the Facilities Plan, the Pull and Be Damned area is to be provided a low pressure sewer system using effluent pumps. The Kiket area is to remain on septic tanks providing that certain criteria are met. This criteria includes keeping minimum lot size to two acres and assuring suitable drainfields, eliminating existing outfalls from individual homes, correcting any problems with existing septic tanks, and regularly inspecting tanks. Also, under the Plan, Pull and Be Damned and District sewage is to be transported to the regional treatment facility in LaConner for secondary treatment and disposal.

Solid Waste Disposal

Solid waste materials are currently taken to the Skagit County incineration facility. At the Burlington Sewage Treatment Plant, septic tank, chemical toilet, and holding tank wastes are treated and stabilized.

Due to the increasing cost and the limited life of the County's remaining landfills, the County developed an incineration facility. The incinerator's rated capacity a maximum of 178 tons of refuse per day. Anticipated average daily processing levels will be 140 tons of waste material. The incinerator became fully operational in 1989.

In addition to the landfills and incinerators, the County has five transfer stations (compactor collection boxes) which act as a regional solid waste depository before disposal material reaches the incinerator. The nearest transfer station to the Reservation is the Similk Beach location. The Tribal Housing Authority operates an additional transfer station within the Swinomish Village serving the solid waste disposal needs of the Reservation public housing.

The Swinomish Utility Authority and Rural Skagit Sanitation provide collection services on the Reservation and haul all wastes to the incinerator. Swinomish Utility Authority operates a solid waste collection system, providing service to many homes and commercial offices on the Reservation. The Swinomish Utility Authority intends to expand its solid waste collection services Reservation-wide.

County officials are planning a county-wide recycling program. A few communities on the Reservation, including Shelter Bay, have recycling programs for the residents of the Reservation.

Abandoned landfills on and near the Reservation are a major concern. Wastes, which may contain hazardous or toxic substances, were deposited at an unofficial dump site on Indian Road . The site was used by local residents for depositing such items as paint cans, used motor oil, detergents, and aerosol cans, etc., along with household garbage. Located north of and adjacent to the Reservation is the Whitmarsh landfill site which was used prior to 1974 and before the county's current landfill site, Inman, became operational. The old dump was used by the incorporated cities of the County as a garbage site. In addition, industrial facilities on March Point used this location for depositing wastes. Hazardous or toxic substances were likely to have been placed at the site.

IV. COMPREHENSIVE GOALS AND POLICIES

GENERAL GOALS

The explicit goals and policies of this Plan address the physical, social and economic environment of the Swinomish Reservation and, when implemented, will guide future development in such a way as to ensure their achievement.

GENERAL GOALS

To promote the general welfare of the residents, both Indian and non-Indian living on the Reservation, by creating and maintaining conditions under which humanity and nature can exist in productive and enjoyable harmony.

To ensure that the Reservation is a place of safe, healthful, productive and aesthetically and culturally pleasing surroundings.

To preserve areas of historic, archaeological, and cultural significance.

To foster and encouarge the purchase of non-trust or tidelands on Reservation by the Tribal Community or individual Tribal members when available.

To ensure an environment that is compatible with the purposes for which the Reservation was created.

To attain the widest range of beneficial uses of the environment without degradation, risk to health and safety, or other undesirable and unintended consequences.

To promote the highest state of environmental compatibility, economic value, and productivity in the development of housing, employment, economic base activities, and leisure activities while ensuring the maintenance of the Swinomish Reservation as a social, cultural, political, and economic unit for the continuing benefit of the Tribal members and all residents of the Reservation.

To promote the maximum fulfillment of traditional cultural and religious tribal values and the continuance of a heritage of balanced dependence of community members on the renewable resources of the Reservation.

To preserve, enhance, rehabilitate and utilize the natural resources and amenities of the Reservation; and to recognize an obligation to future generations in the comprehensive management of the natural resources and amenities of the Reservation.

To protect the maximum fulfillment of traditional tribal values and to continue a heritage of balanced dependence of community members on the tribal natural resources.

To utilize renewable resources for the long term benefit of the Reservation.

To limit the use of the Reservation resources to economic development which results in positive long-term cost/benefit ratios.

GOALS AND POLICIES

POLICIES

THE NATURAL ENVIRONMENT

Geology

The visual integrity of the shoreline should be protected. Encroachment on geohydraulic processes should be discouraged.

The visual integrity of the uplands should be protected. Forestry practices should be consistent with watershed management practices.

All land clearing shall be regulated to avoid potential erosion. Development should be prohibited on unstable slopes.

Mineral Resource Extraction

Mineral resource extraction and disposal practices shall be regulated.

The reuse of dredged spoil disposal material shall be encouraged wherever possible.

Mineral resource removal and disposal within and on environmentally sensitive areas should be prohibited.

Rehabilitation for recreation and open space purposes shall be required for all extraction and disposal sites that are unsuitable for other uses.

Extraction and disposal of mineral resources shall not adversely impact established or planned uses on land and water areas of the coast.

Extraction and disposal on designated sites of archaeological or traditional value shall be prohibited except for purposes of site examination and excavation.

Offshore Islands

The unspoiled natural character of the islands, under Tribal ownership, shall be preserved and be maintained for traditional tribal uses, including shellfish gathering, fishing, aquaculture and cultural and religious practices.

Air Quality

The land use authority shall endeavor to maintain excellent air quality standards on the Reservation.

Water

The waters--fresh and salt--of the Reservation shall be protected and preserved for this generation and future generations.

The quantity and quality of surface and ground water supplies shall be maintained for long-term natural, physical, and human uses.

Pollution and significant interruption of recharge to aquifers and the development of wetland areas shall be strictly prohibited.

Environmentally sensitive areas designation shall be established for essential groundwater recharge areas.

Water budget and management standards shall be established to enhance the traditional fishery and shellfish resources utilized by the community.

Upland development standards shall be designed to protect ground, surface and marine waters.

Development in the groundwater recharge area should be restricted and a buffer established between any such recharge area and urban development.

Habitat, water quality, and stream flow should be maintained for hunting, fishing, and salmon rearing.

Estuaries should be maintained as productive, natural environments. Water quality should be maintained.

Habitat, water quality and stream flow of the Reservation's wetlands should be maintained. The freshwater marshes should be protected from encroachment in order to maintain the productivity these units provide the ecosystem.

Surface water runoff and drainage facilities shall be designed and utilized in a manner which protects against the destruction of private property, the disruption of natural drainage ways and the degradation of water quality.

Reservation groundwater aquifer should be investigated for designation as a sole source aquifer and managed to preserve long term quantity and quality. A water budget will be established to ensure long term resource availability. Withdrawn water should be recycled back to the groundwater to the greatest extent possible.

Direct outfall of wastewater into marine waters shall be prohibited unless authorized by the land use authority.

Marine Plants

Kelp and eelgrass beds and other marine plants surrounding the Reservation shall be protected and enhanced.

Vegetation and Wildlife

Biotic productivity and species diversity within the coastal zone should be maintained and enhanced.

Natural habitat should be protected to the greatest extent possible from development and other interferences.

Subsistence hunting and gathering of renewable resources by the Swinomish Community shall be promoted.

Habitat disruption and pollution of areas of existing or potentially high biotic productivity shall be mitigated, compensated for or otherwise prohibited.

Traditional hunting and gathering activities shall be given priority in allocating use of highly productive coastal areas.

Unique Wildlife Species

Critical habitat of threatened, rare and endangered wildlife species shall be preserved and protected.

Public access to critical wildlife habitats shall be controlled.

Tidelands and Fisheries

The fishery and shellfish resources of the Reservation shall be restored and enhanced, maintaining the traditional livelihood based upon these resources.

Techniques of artificial enhancement and pollution abatements shall be implemented. Dredging operations should be improved to minimize impacts to habitat.

Access to Tribally owned fish and shellfish resource areas should be limited and harvesting allowed to non-members by permit only.

Shoreline access for shellfish harvest and beach/drift net activities of the Swinomish Community should be provided wherever possible.

Fishery enhancement and/or mitigation shall be required if development or surface modification within the coastal zone is shown to negatively impact fisheries habitat.

Development activities which impede mating, brooding, nursery, and feeding areas of value to the coastal fishery should be avoided.

No activity should occur which will significantly interfere with natural fish migrations and/or the fishery resources.

Restoration of productive sites for traditional fishing and gathering activities shall be promoted.

Access roads for shore dependent uses should be designed to avoid significant impacts to the coastal fishery.

Coastal fishery areas should be insulated from the secondary impacts of upland development.

Land and water use activities which are incompatible with fish and shellfish production shall be prohibited or their impacts effectively mitigated.

Traditional harvest and resources processing shall be promoted and updated through technical advancements.

Aquaculture

The Tribe and the County should cooperatively seek to promote regional pollution abatement programs to provide opportunities for long-term aquatic resource utilization.

Promotion of shellfish aquaculture on Tribal tidelands shall be encouraged, emphasizing subsistence harvest practices.

Scenic Resources

The scenic visual amenities of the Reservation land base shall be protected, maintained, and enhanced.

Modification of unique physical features should be prohibited.

Access to scenic vistas should be protected and encouraged.

Access to view overlooks should be required.

Utility or road construction which disrupts significant views or unique features should be avoided.

THE HUMAN ENVIRONMENT

Land and Shoreline Use

Development which significantly impacts productive resource areas should be prohibited or be designed to mitigate or compensate for such impacts.

Shoreline regulatory and management programs should identify and protect vital ecosystems and be conducive to implementing enhancement proposals. The programs should promote: compatible, shore dependent, economic development; access to coastal resources as limited by the inherent capability of the resource for such activity; passive recreational use of fragile areas; and active use in areas of greater tolerance. The programs should also give emphasis to compatible historic uses over marginal new development, and direct non-shore dependent road, utility, and circulation facilities upland from wetland, beach, and offshore resources.

Forestry and Timber Management

The area's forests should be protected, enhanced, and managed to produce long-term, sustainable yields.

Sustained yield forestry and ground cover management programs and controls should be developed on a Reservation-wide basis. The multiple use concept of forest management should be encouraged and utilized in appropriate areas. Forestry practices shall discourage the use of herbicides and/or other potential contaminants of the Reservation groundwater unless use of said substances can be demonstrated harmless to that resource.

Forestry and agricultural areas should be preserved and protected from incompatible land uses. Logging and land clearing practices shall be prohibited unless accompanied with appropriate revegetation plans, except where a conversion to a non-forestry use occurs. Logging and ground cover removal on designated archaeological and historic sites shall be prohibited except for purposes of site examination and archaelogical excavation.

Agriculture

Agricultural landowners should be encouraged to maintain their properties in parcels of sufficient size so that it is economically feasible to farm the land.

Prime agricultural lands should be protected and preserved as a non-renewable food production resource to benefit present and future generations. Incompatible uses should be prohibited from expanding onto agricultural lands. Whenever possible, buffers between agricultural and potentially conflicting uses should be established.

Potentially arable lands of class II and class III soils should not be used in a manner that would prevent their potential future use for food production.

Housing

Housing diversity should be encouraged on the Reservation and include both rental and ownership units. Housing diversity should be fostered by the availability of affordable homesites. By administrative process, the efforts of the Probate Courts, Bureau of Indian Affairs, and the Tribe should be coordinate to establish legal lots of record consistent with the policies of this Plan. The comprehensive plan shall support the desires of tribal members wishing to establish future homesites on their Reservation trust lands.

Quality housing diversity of the broadest possible type should be available to residents of the Reservation.

Codes and standards which promote quality residential development and protect the environment should be established.

Residential development should be designed to enhance traditional activities of the occupants and to respect archaeological and historic sites.

Incompatible use activities should be isolated from areas planned or developed for residential use.

Clustered development shall be a preferred alternative for new homesite development at designated scattered housing sites. The use and establishment of best management practices for scattered site development shall be encouraged.

Adequate roads, bicycle paths, and walkways linked to regional multi-modal transportation systems should accompany housing development.

Whenever possible, planned unit developments should be encouraged to accomodate residential expansion.

The areas designated for high density residential development should be developed only when all urban services are available.

Low residential densities should be assigned to areas where sewer and water systems are not planned. Lot sizes should be large enough to safely accomodate onsite sewage disposal and water supply and should be related to availability of services, need, and natural constraints.

Indian Public Housing

Every member family should be assured decent, safe housing according to its individual needs. The availability of high quality, low income public and private housing for occupancy by tribal members should be promoted, as should the long range usefulness of the housing stock developed on the Reservation. Units designed to accomodate extended families should be provided.

Affordable housing opportunities for low and moderate income families, with emphasis on the elderly and young families, should be actively promoted.

Cultural Resources

Cultural and historic sites that have historical significance or are used for tribal cultural activities should be designated. Every effort will be made to preserve the history and traditional culture of the Swinomish Tribe. Designated or established sites of cultural value should be protected, maintained and enhanced.

Valuable cultural and historical lands should be acquired by the Tribe when available. Sites should be officially designated on the state and federal registers of historic places.

Planning for an on-Reservation Cultural Resources Center should be considered in a ten-year Capital Facilities Plan.

Public Recreation

Recreational development should emphasize the heritage of the Tribe. Traditional forms of Indian recreation, such as sla-hal, canoe racing, and dancing, should be promoted where appropriate. Planning for a new Tribal Youth Center should be considred in a ten-year Capital Facilities Plan.

Public Beaches

Every attempt shall be made to preserve the aesthetic value and natural systems of the beaches. Taking of marine tidal resources, including shellfish and beachwood on Tribally owned beaches, shall be limited to tribal members unless authorized by the Tribe.

Transportation

A transportation network should be provided that will adequately satisfy the requirements for everyday access, tourism, and emergency vehicle access and evacuation in a safe and effective manner.

The Swinomish Transportation Plan should be updated every 5 years and modified on a yearly basis to reflect current transportation improvement needs. These efforts should coordinate county, state, federal and tribal road systems and their respective transportation improvement needs.

Acknowledging that transportation problems and solutions are often regional in nature, the Tribe shall actively seek to coordinate its planning with regional planning agencies.

Future expansion of the SKAT Public Transportation Bus Service shall be coordinated to reflect on-Reservation transportation needs and shall emphasize the needs of senior citizens, the physically challenged, and the non-driving public and youth. Future SKAT services should meet seek to serve Reservation employment centers.

The ongoing maintenance and improvement of federal and county

roads shall remain a priority for near-term Tribal Transportation Improvement Project (TIP) listings.

Coordinated road and utility networks should be planned to avoid encroachment onto critical aquifer recharge and watershed areas.

Road and utility construction should be prohibited from areas subject to excessive erosion and/or accretion.

Transportation routes should provide adequate rights-of-way to accomodate anticipated traffic volumes.

Disruption of established communities and residential areas by new transportation facilities should be avoided.

Public Economic Development

An effective long range economic development strategy should be formulated and implemented for the promotion of a diversified local economy and improved local conditions. The strategy should be designed to alleviate the substantial and persistent unemployment and underemployment within the Swinomish Indian Reservation, while generating revenues for the support of essential tribal government services and programs within a framework of tribal self-governance.

Commercial Development

Commercial development should be carefully planned, designed and located to ensure optimal service to the Reservation's residents and tourists.

Planned commercial growth in the village should be encouraged.

Commercial development should be directed away from productive resource areas, floodplains, and areas of seasonally high ground-water table, or should be effectively buffered/mitigated. Agricultural related limited commercial activities may be allowed in agricultural areas provided they support the agricultural activity.

Strip commercial development should be prohibited. Commercial areas and activities should be adequately buffered and landscaped to avoid potential conflict with adjacent land uses.

Highway related and neighborhood commercial services should be located at major intersections and should be designed to minimize interference with through traffic.

Commercial areas should be aggregated in cluster form with specific design standards.

"Home" or "Cottage" occupations that do not change or impact the character of the neighborhood should be encouraged.

A regional planned unit commercial center should be promoted and developed to provide a long-term economic base.

Industrial Development

Industrial areas should be developed and located near or adjacent to the established industrial development of Marches Point.

The clustering of industrial uses in planned industrial parks should be encouraged. Industrial areas should be adequately buffered and landscaped to avoid potential conflict with adjacent land uses.

Industrial areas should be located adjacent to or near major transportation systems such as highways, railroads and waterways.

Air pollution problems resultant from the existing developed industries should be seriously considered when contemplating future industrial expansion.

Public Water Supplies

The Tribe should provide a drinking water supply system throughout the Reservation which meets the drinking water quality standards as set forth in the Federal Safe Drinking Water Act, in accordance with the Swinomish Water Plan. All future wells on the Swinomish Reservation shall require Tribal permit and shall be consistent with applicable Tribal land use policy.

Public Energy Supply

Reservation wide utility systems should be planned and developed in order to direct the quality and location of development.

Development which would lack needed utilities should be prohibited. The extension of urban services and utilities should be confined to areas of high residential density and designated commercial and industrial uses.

Plans for new utilities should be coordinated where possible on a regional basis to attain more efficient, equitable, and economical levels of service throughout the region.

Public facilities and utilities should be designed, located, and constructed in a manner which will preserve the integrity of the existing landforms, drainage ways, and natural systems. Wherever possible, new utility systems should be incorporated into existing easements and rights of way.

Noise

Uses on the Swinomish Reservation should not present incompatible noise nuisances to adjacent land uses.

Toxic or Hazardous Materials

Activities that involve the use or handling of toxic or hazardous materials should incorporate safe and responsible management techniques, prevent adverse effects on the environment, and assure that the public's health and safety is protected.

V. THE LAND USE CLASSIFICATIONS

INTRODUCTION

Land use activities on the Swinomish Reservation have been classified into the following districts: Residential, Agriculture, Open Space, Natural Resource Management, Tribal Economic (providing emplyment to the tribal workforce), and Village (mixed residential, public, commercial and administrative uses).

Under this Comprehensive Plan, the various land use districts have been allocated to specific geographic areas on the basis of a number of factors: existing uses, availability of utilities and services, anticipated future services areas, access, environmental constraints, preferred future uses, natural resources, environmental and cultural resources, optimum land carrying capacity and population projections.

LAND USE CLASSIFICATION DEFINITIONS

Natural Resource

The purpose of the Natural Resource classification is to designate natural resource land for timber production and processing, watershed management, groundwater protection, recreation, and fish and wildlife conservation.

Agriculture

The purpose of the Agricultural classification is to establish and preserve land for the production of crops, livestock, or agricultural products. The intent of this classification is to restrict residential, commercial, and industrial development on land suited for agriculture, and to preserve the open space character of farmland and rural lifestyles associated with agriculture, and to discourage land use activities which conflict with agricultural production.

Open Space

The purpose of the Open Space classification is to retain or conserve the open natural character of the landscape and protect the natural biophysical processes of these areas. It is the intent to maintain such open spaces by encouraging and providing a means by which desirable planned unit development may occur.

Rural

The purpose of the Rural classification is to provide for low density development and to preserve the rural open space character of the land in those areas that are not considered as major resource areas (agriculture, timber).

Residential

The purpose of the Residential classification is to provide for and protect land for development at a density designed to meet contemporary building and desirable residential living standards in areas recognized as urban or having the potential of urbanization within the foreseeable future.

Commercial

The purpose of the Commercial classification is to provide for and designate land for the development of those business activities which serve regional and community trade areas; are compatible and largely devoid of nuisance factors, hazards or exceptional demands upon public facilities or services.

Tribal Economic District

The purpose of the Tribal Economic Development classification is to identify areas that will provide opportunities for Tribal (public) economic development activities which support the Tribal and federal Self-Determination Policy and Economic Self-Sufficiency Policy. Developments within these areas must be supported by the Tribal economic development plan and strategic economic policy.

Village

The Village land use classification refers to all uses encompassed within the Tribal village area, a trust parcel of land set aside during the Allotment Period to provide for a variety of urban uses. The Village currently contains mixed use activities, including the location of public housing, tribal administrative functions, a community cemetary, playgounds facilities, and a variety of commercial business serving the residential and employment needs of the Village community. The classification provides for Tribally determined uses pursuant to the Tribe's Village Plan, which identifies specific uses proposed for the Village land areas.

Public

The purpose of the Public Use classification is to identify or set aside areas for common public uses and investments when the need arises for such public uses, and prevent incompatible uses from encroaching upon such areas. Current recognized public uses include the Sneeoosh fire department; the Shaker, Catholic, and Assembly of God Churches; the John Bobb Ball field and park; and the community water reservoir and well fields.

VI. PLAN IMPLEMENTATION

PREAMBLE

The objective of this section is to outline an implementation framework to guide the future resident population growth and overall development of the reservation while ensuring the achievement of the Plan's land use goals and policies.

The implementation framework of this Plan shall consist of future implementation regulations and management programs formulated to achieve the Plan's land use objectives and policies, and shall include: a housing program; a utilities program; a capital facilities program; a natural resources program; and a transportation program. The implementation programs shall provide for innovative techniques for attaining the Plan goals and policies within each of these specified functional areas.

Implementation regulations shall be developed to further direct the development of the reservation. These tools shall include a zoning ordinance; a subdivision ordinance; a shoreline management ordinance; a building code; and other regulatory programs deemed necessary to carry out the intent of the Plan.

The Plan is consistent with the intent of the recently enacted ESHB2929 (and RCW36.70A), the State Growth Management Legislation, which seeks to adopt a regional approach to land use and resource management.

IMPLEMENTATION GUIDELINES

The Plan seeks to direct future development on the Reservation in such a manner that both the quality and quantity of future development comply with the Plan's policies. The policies contained in this Plan are intended to promote the long term quality of the Reservation's physical, social and economic environment.

The Plan provides for the allocation of reservation land resources to serve a variety of complex land uses. The allocation of land resources has been established to meet the long term objectives for desirable future population and urbanization levels. Because the availablity of land supply for residential uses represents the primary inducement to resident population growth, future companion implementation strategies should focus on methods to determine and manage the quantity and density of the residential land supply. The following characteristics of growth should be fully considered in future implementation mechanisms and programs adopted to carry out the goals and policies of the Comprehensive Plan:

Consideration of the Characteristices of Growth

1. **Cost of Growth:**

   Physical Cost: The Plan seeks to ensure that costs associated with future development are anticipated and efficiently managed. The provision of urban services is necessary to support a resident population base on the Reservation. Capital improvement planning should provide for the timely extension of services to all residential designated land areas based on the economic feasibility of services delivery. Extension of services to non-residential or non-economic development areas should be discouraged. Sizing of utility service capacity should be based upon the Plan's growth objectives.

Cultural Cost: The Plan seeks to prevent the alienation of Indian members from their reservation community. Currently, the non-Indian residential population is three times that of the resident Indian population. It is the goal of this Plan to insure that the future residential Indian population does not become socially alienated by the effects of uncontrolled or disproportionate growth.

Environmental Costs: Uncontrolled Reservation development threatens valued natural and cultural resources of the Reservation, and this Plan seeks to avoid the inadvertant loss of those resources. The Reservation marine water quality is already degraded from inadequately treated residential wastewater. This has resulted in loss of traditional shellfish harvesting on Tribal tidelands. Groundwater quality also faces risk of contamination from residential and industrial sources. Plan policies promote the preservation of environmental quality in order to minimize future costs of corrective measures.

2. **Location of Development:**

The Plan provides a specific allocation of the Reservations land resources for various uses. Factilities planning activities should seek to provide an adequate level of services to these designated locations.

3. **Timing or Rate of Growth**:

The projected resident population level has been established based upon the provision of residential land supply and anticipates the incremental increase of population at an average rate of two to three percent per year (of the 1990 population base) for twenty five years. It is anticipated that growth rates over the next two decades may fluctuate depending upon economic factors, with certain years resulting in increased levels of growth. Provisions for extension of services should occur based upon demand for said services and feasibility of service delivery.

4. **Quality of Development:**

The Plan seeks to maintain a high level of environmental and human development quality on the reservation. Explicit plan policies provide directives for natural, social and economic qualitative considerations. The Plan's Implementing ordinances should seek to fulfill these policy directives.

5. **Density of Development:**

The Plan provides for the allocation of land areas and proposed allowable development densities within the various districts. Population projections are based on the allocation of land for residential use and on specific densities determined desireable for the reservation.

POPULATION AND CARRYING CAPACITY

This section identifies the approximate supply of land allocated to residential uses, and establishes a level of land supply to accomodate a projected population growth through the year 2015. Targeted annual growth rates are based upon a number of factors, including historic growth trends, urban infrastructure capacity to support the future resident population, the natural environmental constraints to extended urbanization, and desires to preserve forestry, open space, and scenic and natural resources. The population target represents a projected growth rate for the reservation while insuring the attainment of the comprehensive goals and policies of this Plan.

The Reservation's 1989 population is approximately 2,000. The Plan provides sufficient land supply to accomodate 2,500 additional residents for a projected total population of 4,500 residents. These population figures represent anticipated Indian and non-Indian growth through the year 2015. Hence, the Plan provides for a growth management policy of approximately 2-3 percent population growth per year over the next two and one half decades. A reevaluation of the population projections should be conducted periodically to insure an adequate future land supply. Based on an available land supply for 1,702 residential units and State of Washington 1988 population trends of 2.65 persons per housholds, forecasted population levels through the year 2015 is 4,510 persons, approximating the projected population target in this Plan.

The Plan's allocation of land resources assures an adequate land supply to accomodate these population growth rates while providing additional land resources to fulfill the Plan's comprehensive goals.

Summary of Residential Land Use Supply Provided within Plan

a. Residential Designated Lands: The following approximates the number of existing lots of record within the proposed residential land use designated lands allocated within the Comprehensive Plan:

NUMBER OF LOTS OF RECORD (Approx.)	NUMBER OF LOTS DEVELOPED (Approx.)	NUMBER OF LOTS UNDEVELOPED (Approx.)
1,539	888	651

b. Rural Designated Lands: The following approximates the number of five acre parcels existing within the proposed Rural land use designation permitting a 5 acre minimum lot size for residential uses:

LOTS OF RECORD	DEVELOPED	UNDEVELOPED (Approx.)	POTENTIAL NEW
	45	70	48

Summary of Residential Lots Inventory:

Developed:	933
Undeveloped:	721
Undeveloped Potential Additional:	769

Total estimated residential land supply: **1,702 Lots**

source: original data obtained from the Swinomish Office of Planning through extrapolation of existing lots of record and average existing rural zoning densities, and assumes availability of infrastructure services

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IX. GLOSSARY

Accretion Beach. A shoreline with a continuous, relatively wide backshore which has been built up by long-term deposition of sand and gravel carried by littoral drift or stream currents along a driftway with the material coming from a feeder or erosion bluff, upstream river banks, or other sources. Such shoreforms are scarce locally in a natural condition and include barrier beaches, points, spits, pocket beaches, and point or channel bars in streamways.

Aquaculture. The farming or culture of food fish, shellfish, or other aquatic plants and animals in fresh or salt water areas, and may require development such as fish hatcheries, rearing pens and structures, and shellfish rafts, as well as use of natural spawning and rearing areas. (County definition)

Clustered Housing Development. The grouping of two or more housing units that are arranged so as to minimize the costs and impact to site development and maximize the use of surrounding open space.

Coast Salish. The group of Native Americans which historically inhabited the Puget Sound region. Swinomish is a member of the Coast Salish band.

Culturally Sensitive Area. Areas of archaeological, cultural, religious, and historical significance which should be protected. Because of certain religious practices which require these areas not to be disclosed and for protection of archaeological sites and artifacts, the identification of some of these sites has been withheld.

Dredged Spoil. Material consisting mostly of sand and clay dredged from dredgedupfrom the Swinomish Channel. The U.S. Army Corps of Engineers is responsible for dredging and disposal of spoil material.

Environmentally Sensitive Area. Critical habitat areas, watersheds, natural scenic resources, and other environmentally important areas on the Reservation which should be protected from encroachment.

Erosion. The wearing away of the earth's surface by the forces of water and wind. Soil erosion may be accelerated by disturbing the natural landscape or native soil by land management activities or development actions (i.e. road construction, building site preparation and increased impermeable surfaces).

REFERENCES

Essential Groundwater Recharge Area. A technically determined area where precipitation replenishes an aquifer.

Hazardous materials. Any substance other than oil containing such elements or compounds which when discharged in any quantity presents an imminent and substantial danger to public health or welfare; including but not limited to humans, fish, shellfish, wildlife, water quality, and other natural elements.

Hazardous Area. Any area which is hazardous for intensive human use or structural development due to inherent and/or predictable physical conditions; such as but not limited to steep slopes, unstable soils or bedrock, feeder bluffs, other erosion prone uplands, floodways, or marine storm tide inundation areas.

Mineral Resources. A natural inorganic substance forming a part of the soil or crust of the earth. Any natural substance having sufficient value to be mined, quarried, or extracted for its own sake or its own specific use.

Mineral Right. An ownership interest in minerals in land. A right to take minerals or a right to receive a royalty.

Multiple use concept of forest management. Management of the forested land for multiple uses, including timber production and processing, watershed management, recreation, religious use, and fish and wildlife conservation.

Planned Unit Development. A harmonious selection of uses and groupings of housing, buildings, services, parking areas, circulation, and open spaces planned and designed as an integrated unit in such a manner as to constitute a safe, efficient, and convenient development.

Priority Array Ranking. A systematic approach to evaluate a road's traffic accident history (property and personal injury), volume (average daily traffic), and condition (alignment, width, and surface, etc.)

Road Classification. The designation of highways, roads, and streets into groups having similar characteristics of providing vehicular mobility and/or access to land and its associated uses. It is the method of defining the major role that a road or street serves in providing vehicular mobility.

Sensitive Area. Any area which is naturally unsuitable or undesirable for intensive human use or structural development due to its relatively higher value to region or community in its natural or present condition; such as but not limited to estuaries, wetlands, accretion beaches, historic and cultural sites, and unique or scarce fish and wildlife habitat.

Shoreline Dependent Use. Any reasonable use that requires a shoreline or water surface location because of its functional nature, including but not limited to navigation, ports, marinas, docks, piers, floats, boat fueling stations, shipyards, seafood harvest, aquaculture, recreational boating and swimming, and research and observation of natural shoreline phenomena.

Shorelines of Statewide Significance. A designation given by the Washington State legislature to certain shorelines--both marine and freshwater--from which all of the people in the state derive benefit so that these shorelines, therefore, are managed with the interests of all of the people in mind. The entire shoreline of the Reservation, with the exception of the Swinomish Channel, has been designated as such.

Sole-source aquifer. An EPA-determined aquifer - any geological formation that will yield water to a well--which is the sole or principal source of drinking water for an area.

Unconsolidated Deposits. Any naturally occurring loosely compacted earth material, usually consisting of gravel, sand, silt or clay.

Usual and Accustomed Areas. Those areas traditionally used by Native Americans for subsistence living--i.e., fishing, hunting and gathering, The use of these sites is guaranteed to Swinomish community members by the Treaty of Point Elliot.

Wetland. An area inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. (Definition from U.S. EPA and U.S. Army Corps of Engineers)

Wet Site. A water-saturated archaeological site where freshwater works to preserve the integrity of the artifacts. Artifacts of hundreds of years have remained intact in these sites.

GLOSSARY

APPENDIX "A"

MEMORANDUM OF UNDERSTANDING

ADMINISTRATIVE PROCEDURES FOR IMPLEMENTING A COORDINATED LAND USE POLICY

Between
The Swinomish Indian Tribal Community
and
Skagit County

DRAFT MEMORANDUM OF UNDERSTANDING

FOR ESTABLISHING PROCEDURES FOR THE ADMINISTRATION OF A
COOPERATIVE LAND USE PLANNING PROGRAM
BETWEEN
THE SWINOMISH INDIAN TRIBAL COMMUNITY
AND
SKAGIT COUNTY.

This Memorandum of Understanding (MOU) is made by and between the Swinomish Indian Tribal Community, a federally recognized Indian Tribe organized pursuant to Section 16 of the Indian Reorganization Act of 1934, hereinafter the "Tribe", and Skagit County, a political subdivision of the State of Washington, hereinafter the "County", both hereinafter collectively referred to as "governments".

This Memorandum of Understanding represents good faith commitments which are being made by each of the parties in a spirit of cooperation and are not intended as obligations that may be compelled by either party if both parties are not in full agreement. Rather, this MOU represents the belief that these commitments will be of mutual benefit to the parties.

WHEREAS, the Tribe and the County recognize that a common interest exists between the two governments with respect to land use regulation on the Swinomish Indian Reservation in that the Tribe claims regulatory authority over all lands within the Reservation and the County claims regulatory authority over non-trust property within the Reservation; and

WHEREAS, the interest of the Tribe extends to all lands within the exterior boundaries of the Swinomish Indian Reservation and to land use activities in areas beyond the exterior boundaries of the Swinomish Indian Reservation that may affect or have impacts on Reservation lands; and

WHEREAS, the interests of the County extends to non-trust lands within the exterior boundaries of the Swinomish Indian Reservation; and

WHEREAS, the Tribe and the County have, with assistance from the Northwest Renewable Resources Center, cooperatively developed and independently adopted a Joint Comprehensive Land Use Plan for the Swinomish Indian Reservation pursuant to a Memorandum of Understanding passed by the Skagit County Board of Commissioners and the Swinomish Indian Senate in March, 1987; and

WHEREAS, the Tribe and the County agree that it is in both their interests to cooperatively administer the plan and associated regulations and continue to build on the cordial government-to-government relationship established through the collaborative planning process; and

WHEREAS, the Tribe and County agree that in order to address conflicts that may arise in the long-term implementation of this plan, the Tribe and the County should adopt an administrative procedure that involves joint review and consultation regarding proposals for land use actions so that mutually agreeable decisions which acknowledge the broad interests of the community, both Indian and non-Indian, may be reached, and jurisdictional disputes avoided; and

WHEREAS, the Tribe and the County affirm that cooperative problem solving and consensus decision-making will be the preferred means of reaching consensus decisions relating to land use planning and regulatory activities on the Swinomish Indian Reservation; and

NOW THEREFORE, the Tribe and the County agree to proceed as follows:

I. AREAS OF INTEREST

Those lands subject to Swinomish Comprehensive Plan Map attached hereto will be the areas covered by this agreement.

II. SWINOMISH PLANNING ADVISORY BOARD

A Swinomish Planning Advisory Board, (hereinafter referred to as the "Advisory Board"), is a citizen board established to settle disagreements regarding land use actions by means of cooperative problem-solving and consensus-based negotiations. The Board will also make recommendations to each government's Planning Commission regarding land use activities on the Swinomish Reservation. The Advisory Board will be comprised of five members, with two appointments made by the Tribe, two appointments made by the County, and one made jointly. The Advisory Board will facilitate the resolution of disputes stemming from any jurisdictional conflicts regarding the implementation of the plan and related regulatory codes. The Advisory Board will also monitor the progress of the cooperative planning processes and make recommendations to the County Planning Commission and the Swinomish Planning Commission to improve the future effectiveness of these processes.

III. COMPREHENSIVE PLANS AND ZONING ORDINANCES

Both governments have jointly prepared a Comprehensive Land Use Plan and are jointly preparing implementing ordinances including, but not limited to, zoning and subdivision ordinances. It is the intent of the parties that these land use policy documents remain compatible, and that any future modification to these documents take place through the joint review process established in this Memorandum of Understanding. Notwithstanding the fact that land use policy and regulatory documents are compatable, they remain separate and distinct codes of each government.

IV. ADMINISTRATIVE RESPONSIBILITIES FOR JOINT PERMIT REVIEW

In order to avoid the economic burden on each government of independently administering separate permit review processes, both governments agree that a unified procedure for the administration of permitting services will be established providing for the designation of the planning departments of each government to assume lead responsibility for accepting and administering permit applications. It is in the interest of achieving the joint implementation of the plan and related codes to reduce unncessesary duplication in administration while providing for the fullest participation of each government agency.

V. JOINT PERMIT REVIEW PROCESS

Discretionary Permits: Permit applications requiring discretionary review (i.e. requiring a public hearing and/or notice to adjacent landowners) will be forwarded by the lead agency to the planning department of the other government within 5 working days from the filing of a complete application. In the event that the lead agency does not receive written comments back within the 15 working days from the date the application is sent, the application will be presumed acceptable to the other government and the lead agency will process the application pursuant to prescribed procedures. In the event comments are submitted, technical staff review pursuant to Section VI shall take place. The lead agency will give full consideration to the other government's concerns and make every attempt to address them. If the concerns cannot be resolved at the technical staff level, Advisory Board review pursuant to Section VII shall take place.

VI. CONSULTATION PROCESS

In the event that either government provides written comments, concerns and/or recommendations, they will be conveyed within the time prescribed in Section V, thereby triggering a staff-level consultation meeting. The consultation process will provide the opportunity for both governments to come together and discuss the various issues related to the specific application under review. The intent is to procedurally provide a mechanism through which to voice concerns, identify problems, and explore solutions in a professional review manner, during the early stages of the permit process.

VII. RESOLUTION OF DISPUTES

Should agreement not be reached at the staff-level through the consultation process, each government will prepare a staff report for submittal to the Advisory Board which will seek to bring about a mutually acceptable resolution. The Advisory Board will assist the governments in their search for agreement and will use conciliation, mediation, fact-finding, or any other method deemed appropriate, to reach a resolution.

In the event the Advisory Board is unsuccessful in bringing about agreement, it will forward its recommendations to the County Planning Commission/Hearing Examiner, and the Tribal Planning Commission. Each planning commission will follow their own prescribed procedures for decision-making and will forward their recommendations to their respective governing bodies. Should the recommendations be in conflict, the Tribal Senate and the Board of County Commissioners may decide to confer on the issue and may call a special meeting for that purpose. In the event that consensus is not reached, each government will issue its decision and be free to pursue its interests independent of the other government.

VIII. ANNUAL REVIEW

The Advisory Board will report to both governments after one year, biannually thereafter, regarding its activities. A joint review of the cooperative planning process will be conducted after two years. Based on the results of the review, as well as recommendations from the Advisory Board, the process will be refined as needed.

IX. AMENDMENTS

The provisions of this Memorandum of Understanding may be amended by parallel resolutions of the respective governing bodies.

XI. JURISDICTION

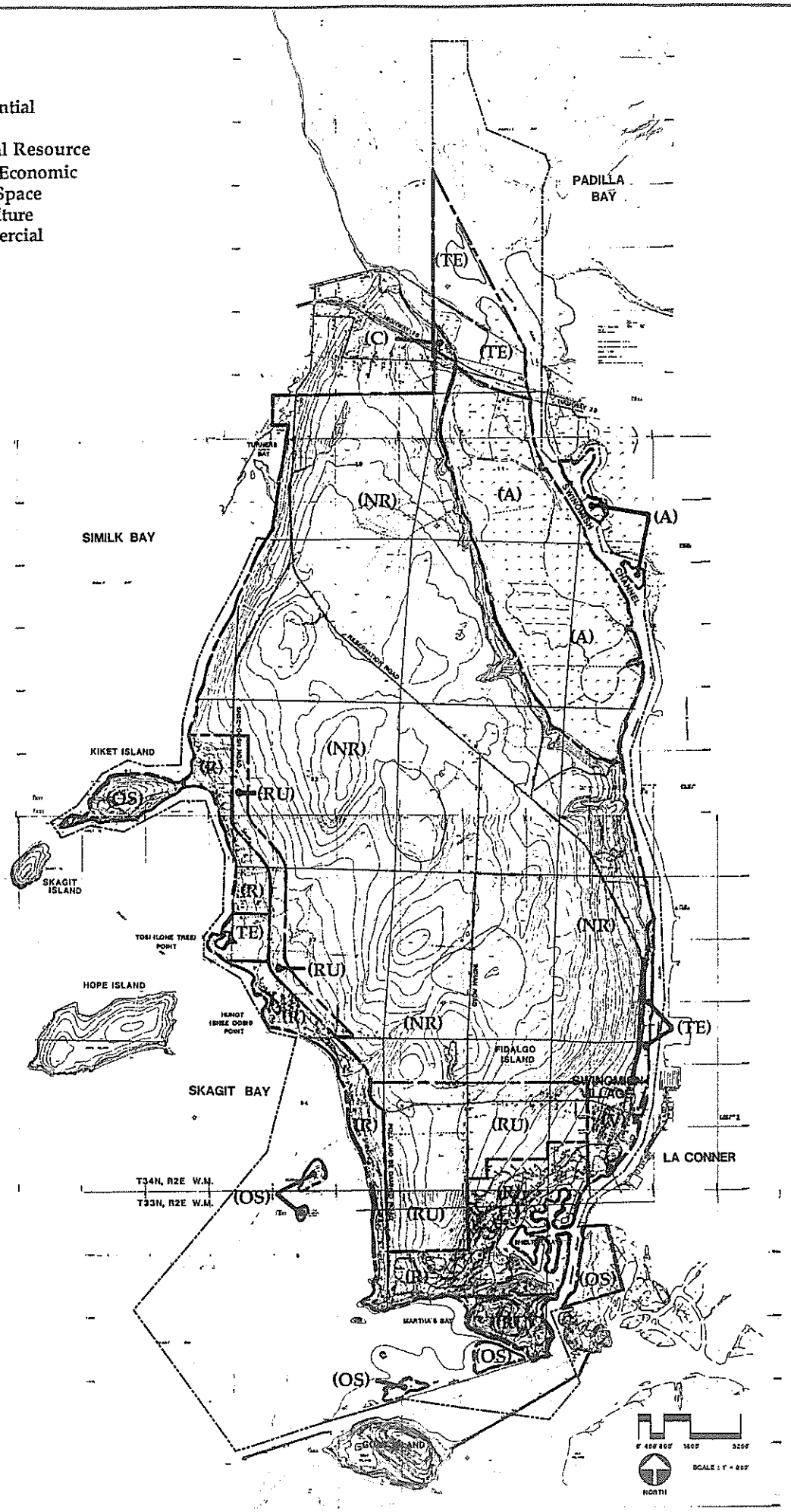
Nothing in this Agreement shall limit or waive the regulatory authority or jurisdiction of either party. Likewise, nothing in this agreement nor any decision made by the Tribe or the County, whether or not the decision is consistent with this Memorandum of Understanding, shall give any third party any cause of action or claim. This Agreement is not intended to provide any remedy not already provided by law.

APPENDIX "B"

COMPREHENSIVE PLAN MAPS

LEGEND

(RU)	Rural
(R)	Residential
(V)	Village
(NR)	Natural Resource
(TE)	Tribal Economic
(OS)	Open Space
(A)	Agriculture
(C)	Commercial

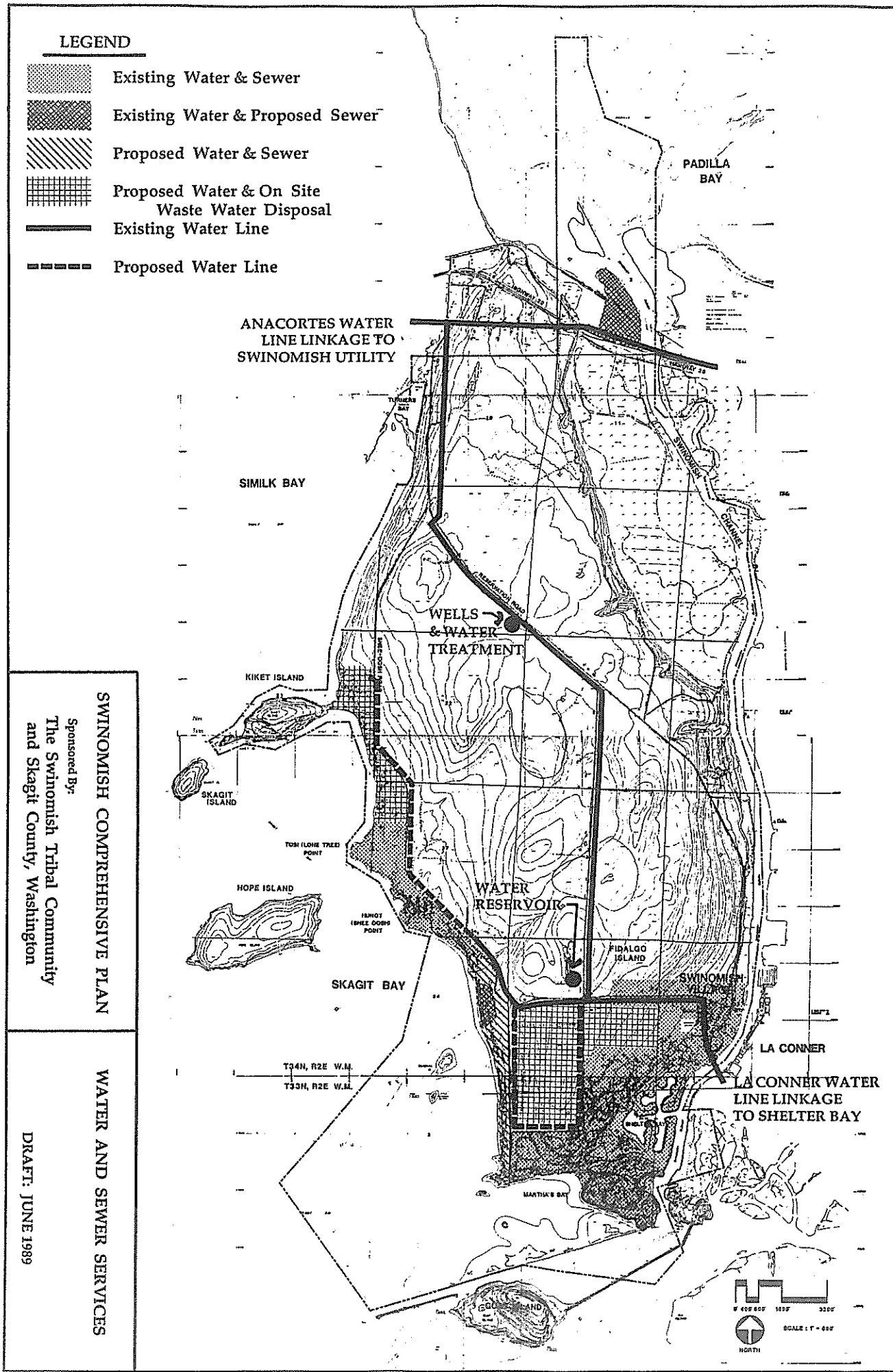


SWINOMISH COMPREHENSIVE PLAN

Sponsored By:
The Swinomish Tribal Community
and Skagit County, Washington

COMPREHENSIVE PLAN

DRAFT: JUNE 1989



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WATER AND SEWER SERVICES

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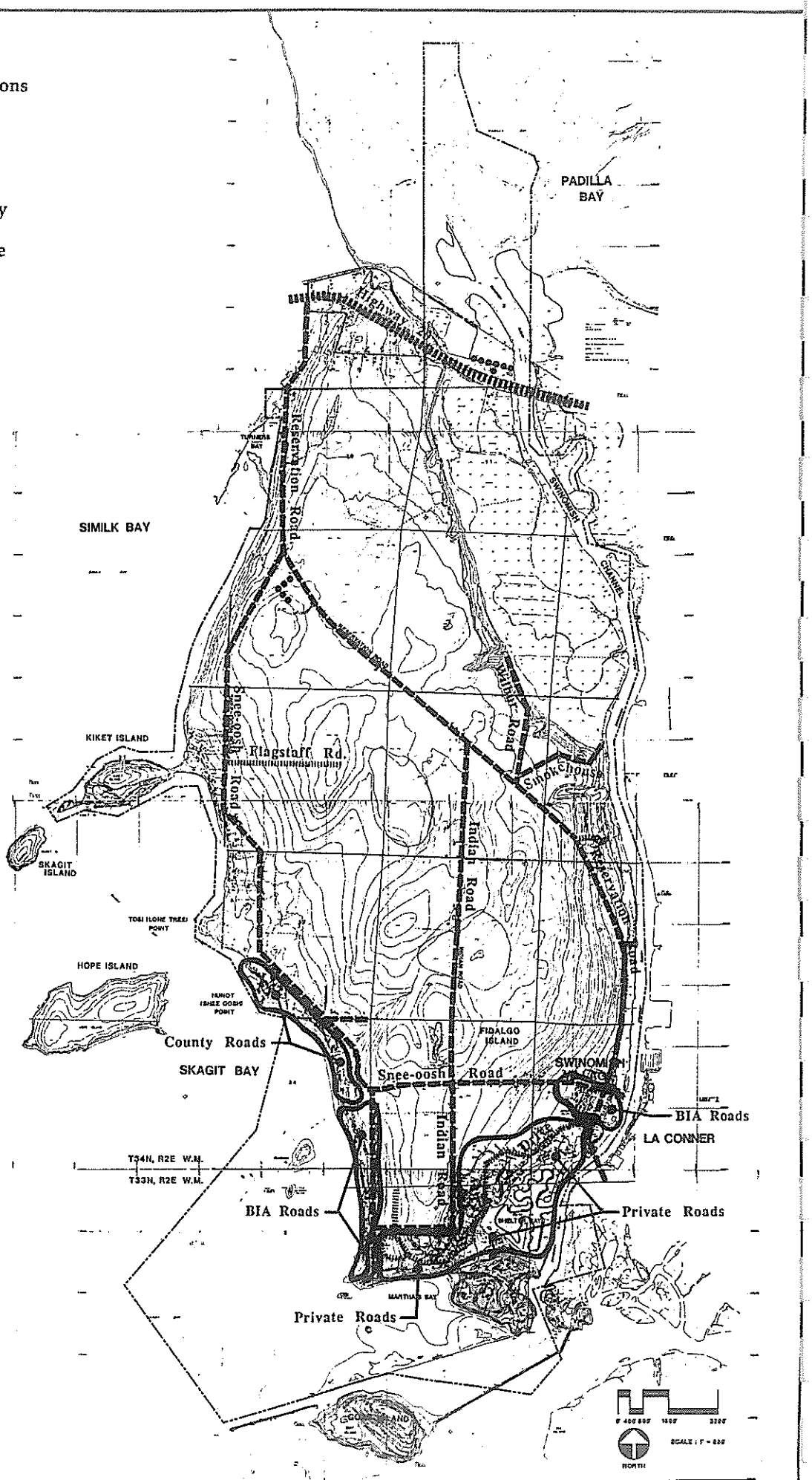

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CIRCULATION AND ROADS

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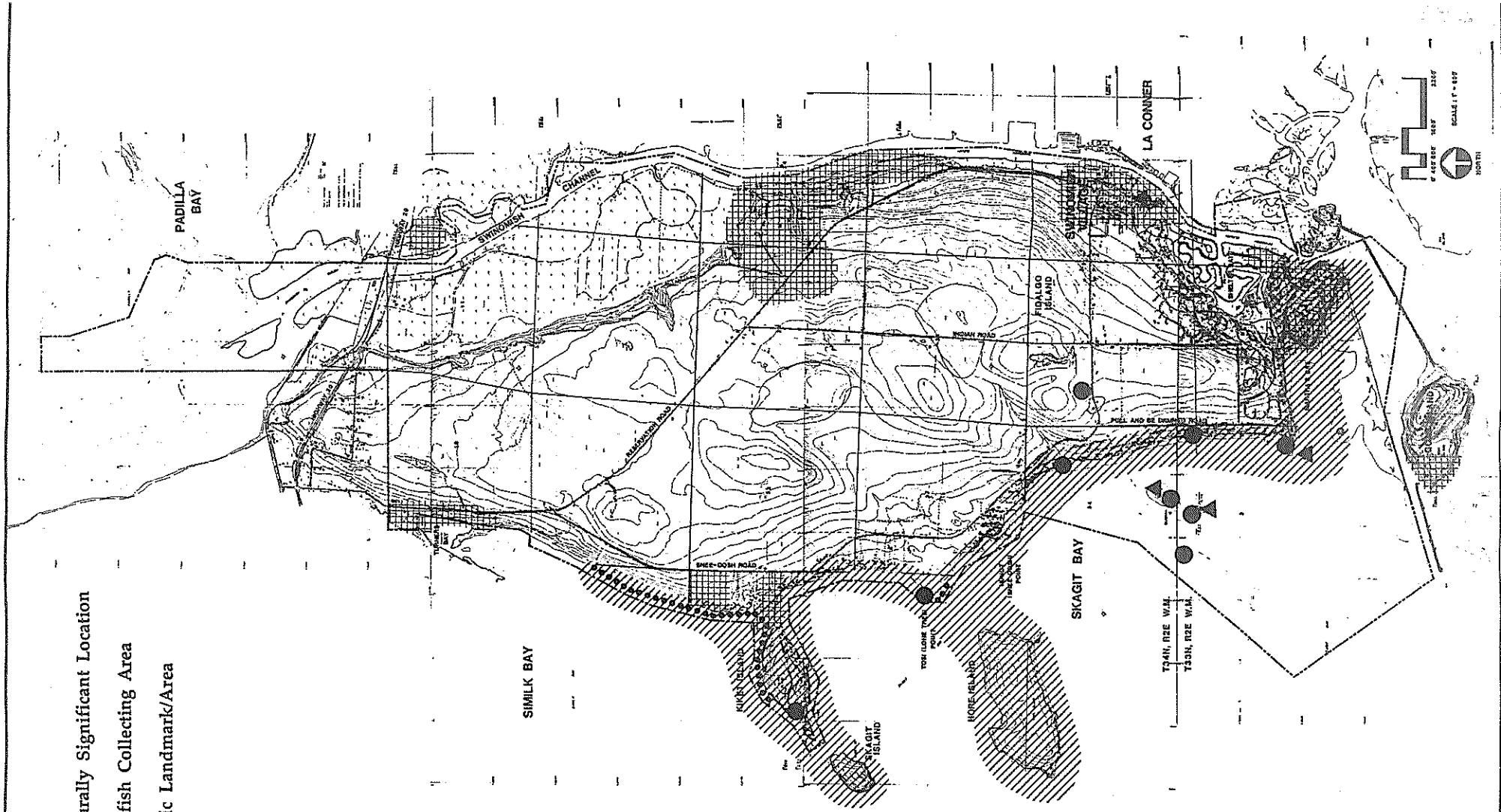

LEGEND

- Culturally Significant Location
- Shellfish Collecting Area
- Scenic Landmark/Area

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SIGNIFICANT CULTURAL RESOURCES

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SENSITIVE ENVIRONMENTAL AREAS

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