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Safe, Clean Waters Lummi Tribal Sewer and Water District Lummi Indian Nation (Bellingham, Washington)

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The Lummi Indian Nation established the Lummi Tribal Sewer and Water District in 1983 to ensure the Nation's role in the provision of safe drinking water and discharge of clean wastewater across its reservation, located 100 miles north of Seattle. The District's managerial, financial, and technical competence—emerging at a time when the Lummi Nation confronted serious challenges to its jurisdiction over non-tribally owned lands within the reservation—has enhanced tribal sovereignty while providing critical infrastructure services to the reservation's five thousand Native and non-Native residents.

For the Lummi Indian Nation, access to clean, safe water is important not only for community health and welfare, but also for cultural and economic reasons—historically, salmon fishing and shellfish harvesting have been a way of life and livelihood for Lummi citizens. Regrettably, since the creation of the Lummi Reservation under the Point Elliot Treaty of 1855, the Nation has been confronted with frequent challenges to its rights to fish on traditional waters and to access to adequate clean water supplies. While Lummi leaders have responded to these challenges by vigorously defending the tribe's treaty rights, still other forces have worked against them. Years of high unemployment and economic hardship have thwarted tribal efforts to maintain water quality on the reservation, which includes eight thousand acres of tidelands. And, the problem of insufficient economic resources has been compounded by a history of jurisdictional and regulatory disputes with surrounding governments and resident, non-Indian landowners.

For many years, the Lummi Indian Nation relied on the Bureau of Indian Affairs (BIA) to administer its water-related services. This proved to be an unsatisfactory arrangement, as the Bureau was either unable or uninterested in organizing a water and sewer utility on the Lummi Reservation, and the absence of a utility resulted in unsanitary conditions and degradation of the Nation's water quality and shellfish beds. In the 1970s the Lummi Indian Business Council resolved to address these problems through the creation of a reservation-wide, tribal sewer utility that would serve all residents, Indian and non-Indian alike. Unfortunately, a group of non-Indian property owners, who had acquired much of the desirable waterfront property on the 21,000-acre reservation, prevailed in urging Whatcom County to authorize their preferred alternative—the creation of small, gerrymandered sewer and water districts within the Lummi Indian Reservation that included only non-Indian properties. These districts, in cooperation with Whatcom County, then used their taxation and other municipal powers to oppose state and federal grants to the Lummi Nation, effectively stopping construction of the tribal sewer system.

In response, the Lummi Indian Nation, which already had begun to exercise greater self-determination by assuming responsibility for other BIA programs, brought a federal court lawsuit against Whatcom County, the newly formed sewer and water districts, and several individuals. The Nation alleged violation of federal civil rights statutes and asserted tribal sovereignty over the formation and operation of sewer districts within the reservation. The case resulted in a ruling affirming the Nation's authority to administer sewer and water utilities throughout the Lummi Indian Reservation and to compel non-Indians to connect to the system and obey tribal rules. Following that decision, Whatcom County, the newly formed non-Indian districts, and the individual defendants all negotiated settlements of the claims against them, which resulted in the dissolution of the districts and the County's recognition of the Lummi Nation's right to govern the reservation. Additionally, the State of Washington released grant funds to the Nation, and the tribal system was built. In 1983, under a tribal enabling ordinance in the Lummi Nation Code of Laws, the Nation formally established the Lummi Tribal Sewer and Water District to provide water and sewer infrastructure and services to all reservation residents, Indian and non-Indian alike.

The Lummi Tribal Sewer and Water District currently provides water and sewer services to approximately five thousand residents living within the boundaries of the Lummi Indian Reservation. To provide potable water services, the District operates four wells and two storage reservoirs. All delivered water is chlorinated; soon it will be fluoridated. On the wastewater side, the District operates two treatment plants, collecting and treating more than two hundred million gallons of wastewater per year. Mindful of future population growth, the District is developing three additional water supply wells to accommodate anticipated economic development and population growth at the rate of approximately thirty additional homes each year.

Statements from tribal leaders and community members confirm that the Lummi Tribal Sewer and Water District is succeeding in its mission of providing safe drinking water to reservation residents and returning clean, clear wastewater to the water environment. While community members' statements are largely impressionistic—their sense is that the reservation environment is now safer and healthier for all residents—board members cite more technical evidence of the District's success. In particular, they extol its professionally managed, modern, reservation-wide water and sewer systems, which have allowed the District to prioritize and realize its goals in three major areas: biosolids recycling, drinking water conservation, and river water withdrawal reduction. All biosolids are now tested, stabilized, and returned to the earth. The District's promotion of drinking water conservation has resulted in the reduction of water leakage to negligible levels. In the last year, the District also reduced dependence on river water withdrawals by 91 percent in favor of reservation-based groundwater sources, thereby protecting instream flows vital for healthy salmon populations. These positive changes have meant that despite a customer growth rate of more than 5 percent per year in the last three years, there has been only a nominal increase in water consumption. Remarkably, the District has achieved these gains while remaining entirely self-sufficient. It charges rates that are comparable to those paid by off-reservation residents of Whatcom County, does not charge assessment fees to either tribal or non-tribal members (which has elicited broad community support), and yet collects adequate monies to support its operations and facilities improvements.

The Lummi Tribal Sewer and Water District is also succeeding in other dimensions. A tribally administered sewer and water district—unique in Indian Country—is an effective and practical tool for asserting sovereignty over a critical natural resource. On a daily basis, the District exercises vital control over infrastructure decisions throughout the reservation.

Notably, the District's managers make these decisions subject to the constraints of their mandate, which is to maintain quality service for all reservation residents while exhibiting sensitivity to the traditional values of the Lummi people. And while the District is under the plenary authority of the governing body of the Lummi Nation, implementation of its mandate is eased by the fact that the District's five-member board enjoys relative autonomy from the tribal government—tribal government officials have not made it a practice to interfere with the District's management and day-to-day operations. This healthy relationship between the District and the tribal government has been an important means both of reversing the history of tension between the Lummi Nation and non-Indian reservation residents and of ensuring that management decisions are not compromised by political expediency. For its part, the District is committed to running a first-rate utility: it has been able to implement strict design, construction, and monitoring standards – all of which contribute to the District's operations meeting or exceeding national standards.

Another critical component of the District's success is its innovative approach to working with neighboring governments and individual non-Indian residents. In fact, the District has increased the Nation's control over water resources by negotiating agreements with other stakeholders. Two examples—the Nation's 1991 Memorandum of Agreement (MOA) with Whatcom County and the District's decision to be governed by a board comprised of both Indians and non-Indians—stand out. In 1991, the Lummi Indian Nation signed an MOA with Whatcom County affirming a government-to-government relationship between the two parties and establishing a coordinated planning process for land use. The MOA recognizes that “the Nation has asserted regulatory jurisdiction for all land areas within the exterior boundaries of the Reservation, regardless of ownership type, and that the County has asserted partial regulatory jurisdiction for those lands held in fee title by non-tribal members.” Although neither government conceded the other's position on jurisdiction, the MOA allowed for the beginning of a comprehensive planning process even as it acknowledged the complexity of jurisdiction. The MOA's broad mandate has been strengthened on an operational level by the tribal government's decision to include non-Lummi reservation residents in decision-making positions on the District's governing board. Two of the five board seats are open to—and are currently held by—non-Indians. This commitment to broad representation has paid off: non-Indian reservation residents have expressed their support of the Nation's efforts at community meetings, referring specifically to the fact that they have a voice on the board. In reserving such positions for non-Lummi residents, the Nation has gained unexpected allies while retaining its sovereign authority to regulate its natural resources.

A final element that is foundational to the Lummi Tribal Sewer and Water District's success is its dedicated, technically competent, and highly trained staff, 80 percent of whom are tribal citizens. Recognizing the ever-changing nature of state and federal regulations regarding safe drinking water levels and waste discharge, the District's leadership is committed to recruiting skilled employees and to keeping them up-to-date on the latest technology and services. For example, the District pursues an aggressive training and certification program and provides numerous opportunities for employees to participate in other professional development activities. Further, the District requires staff members interested in wage and status advancements to receive state-agency certification in industry operations, even though such certification is not required by U.S. Environmental Protection Agency regulations. One staff member was recently honored as “Operator of the Year” for the entire state of Washington—persuasive evidence of the District's success in staff recruitment and training. Investing in professional development and embracing high standards are hallmarks of governmental excellence, and in these respects, the Lummi Tribal Sewer and Water District clearly excels.

In a pioneering assertion of self-governance, the Lummi Indian Nation created the Lummi Tribal Sewer and Water District to ensure the availability of safe drinking water and the clean discharge of wastewater. By planning for sustainable and responsible growth, adhering to strict health and environmental standards, and operating in a manner responsive to tribal and non-tribal residents, the District presents an inspirational example of how Indian nations can advance their sovereignty by building capable governmental institutions that satisfy vital public needs.

Lessons:

- When Indian nations take on management responsibility for broad public service delivery – and execute those responsibilities well – they expand their self-governing power. Like other governments throughout the United States, tribal governments can create and use public boards, commissions, and management districts to govern service delivery.
- For tribal governments that provide services to non-Indian clients, it may be desirable to have non-Indian representation on tribal service delivery boards, commissions, or management districts to help ensure broad legitimacy and foster accountability to all stakeholders and clients.
- The effectiveness and efficiency of tribal services is directly tied to the quality of staff. Tribal governments can encourage staff development by providing incentives (for example, bonuses, advancement opportunities) for additional training and certification.

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