

QUIL CEDA VILLAGE IN-LIEU FEE PROGRAM



**PREPARED FOR ASSOCIATION OF STATE
WETLAND MANAGERS WEBINAR**

JUNE 25, 2019

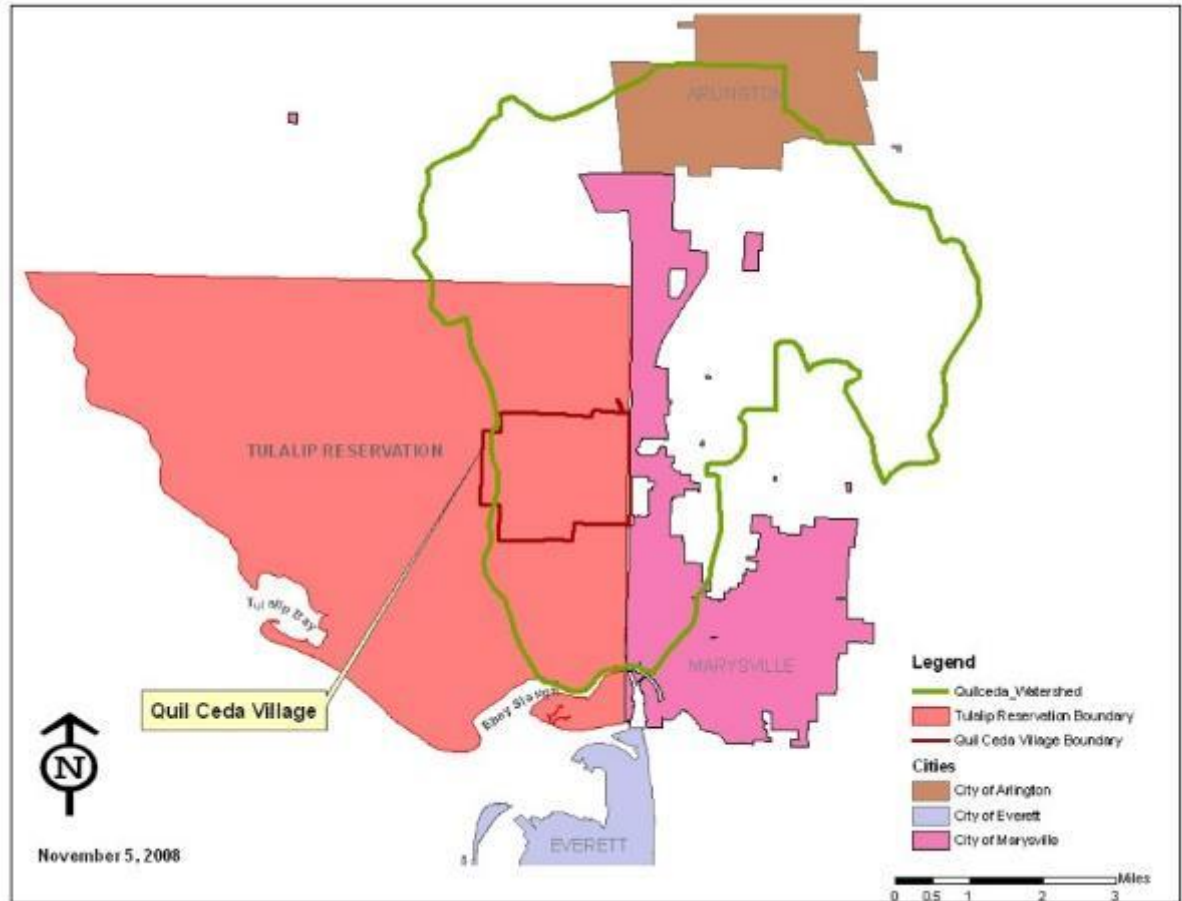
**BY ALLISON WARNER, WETLAND PROGRAM
COORDINATOR, QUIL CEDA VILLAGE**

THE TULALIP TRIBES OF WASHINGTON

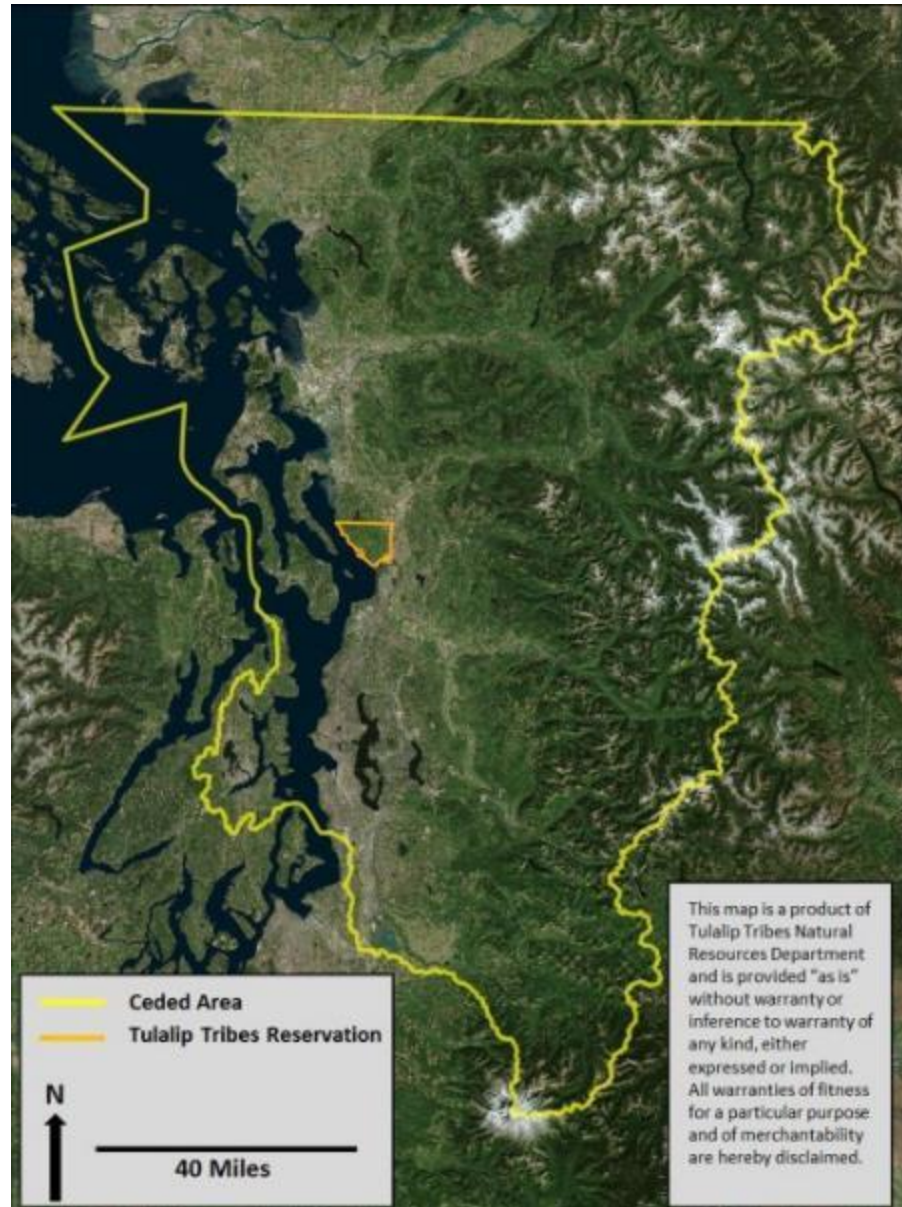
- Successors in interest to the Skykomish, Snohomish, Snoqualmie and other allied tribes and bands signatory to the 1855 Treaty of Point Elliot.
- The Tribes population is currently 4800 and growing, with about 2700 living on the reservation. Approximately 65% of the reservation currently tribally-owned.



The reservation is 22,500 acres at the mouth of the Snohomish River north of Everett and west of Marysville, WA.



- 1855 Treaty of Point Elliot Reserved rights to hunt, gather and fish at Usual and Accustomed Places (U & A)
- The Tulalip Tribes emphasize protecting Wetland Cultural Values both on and off the Reservation



Tribal Sovereignty



- The status of the Tribes as a sovereign entity maintains its right to self- govern as a “nation within a nation” and includes the inherent right as a government to raise revenue for the community.

Tribal Sovereignty and Importance of Economic Development to The Tribes

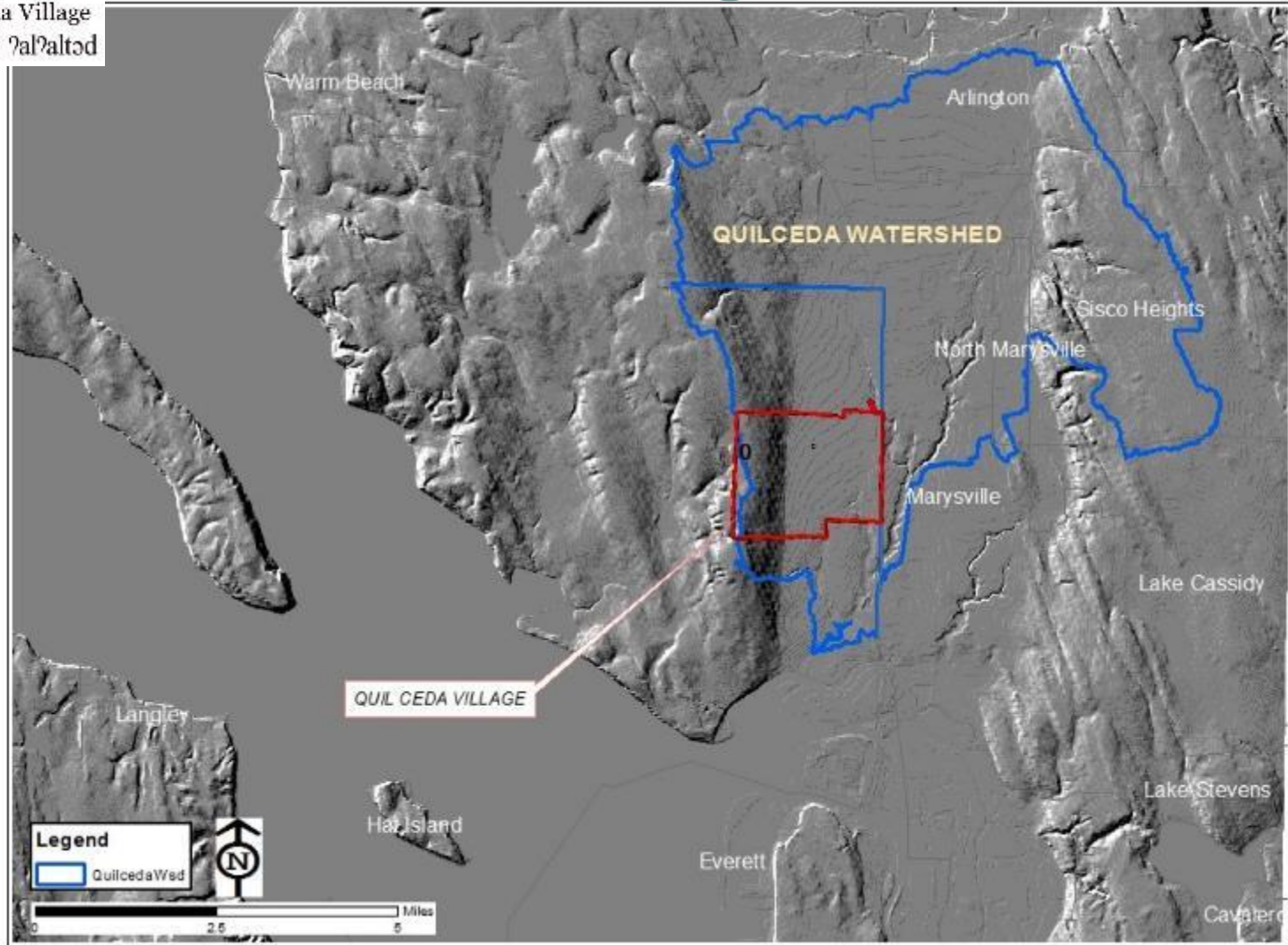
- Today, 92% of
 - government services,
 - tribal member entitlements,
 - family and senior housing,
 - education,
 - health and dental services,
 - law enforcement,
 - fire protection,
 - infrastructure improvements
 - and economic growth

are funded from within,
due to economic development provided by business park
leases and casino at Quil Ceda Village (QCV) .



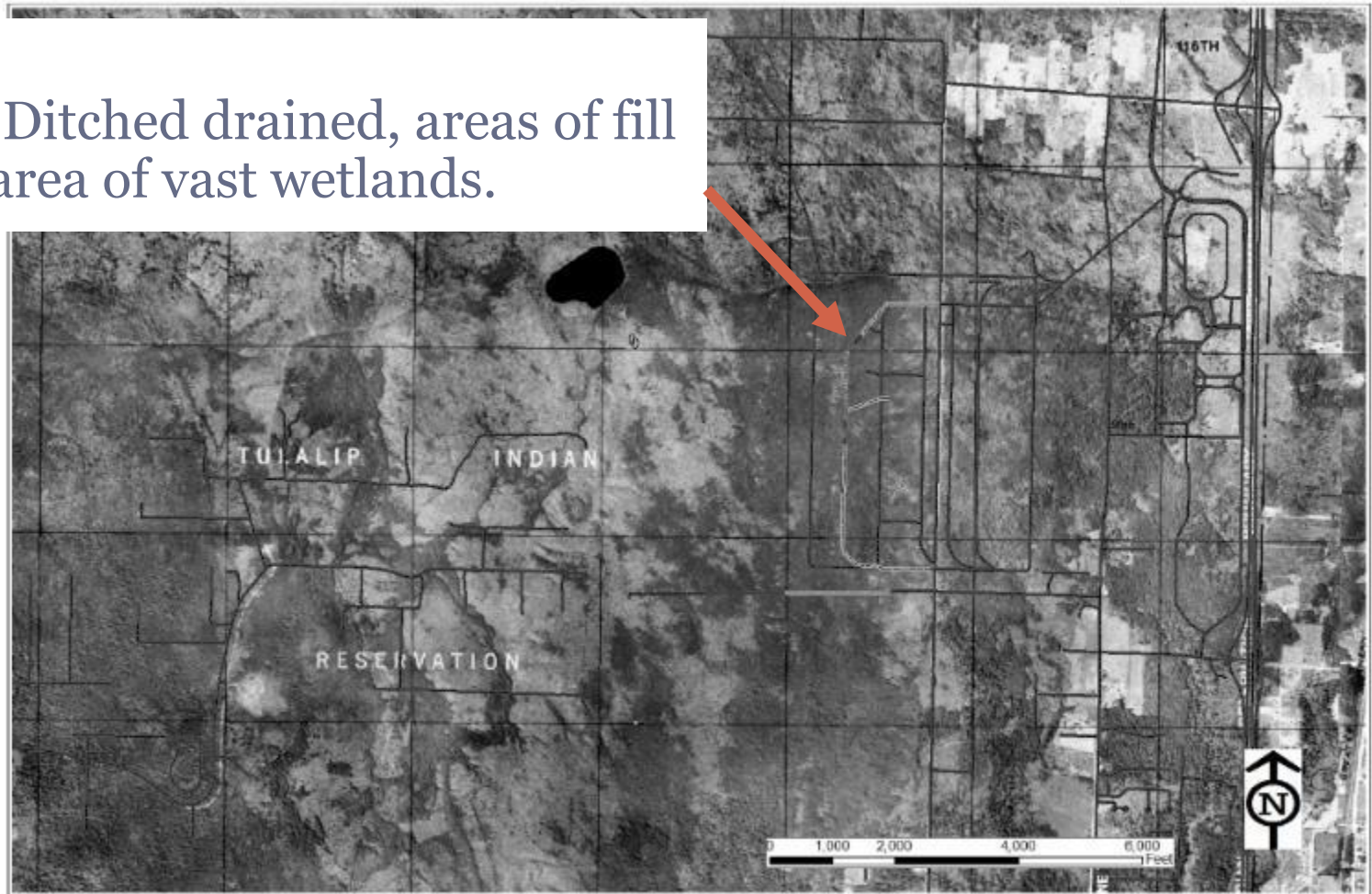
Quil Ceda Village
q'w'ol'sidə? ʔalʔaltəd

Quil Ceda Village Location



Legacies of US Army Mmunition Depot

- 1944- Ditched drained, areas of fill in an area of vast wetlands.



Coho Creek Restoration



Quilceda Watershed

Tulalip Reservation

The Quil Ceda Village municipal boundary is the impact area within this In-lieu Fee service area, with receiving areas both within and outside Quil Ceda Village boundaries.

Quil Ceda Village

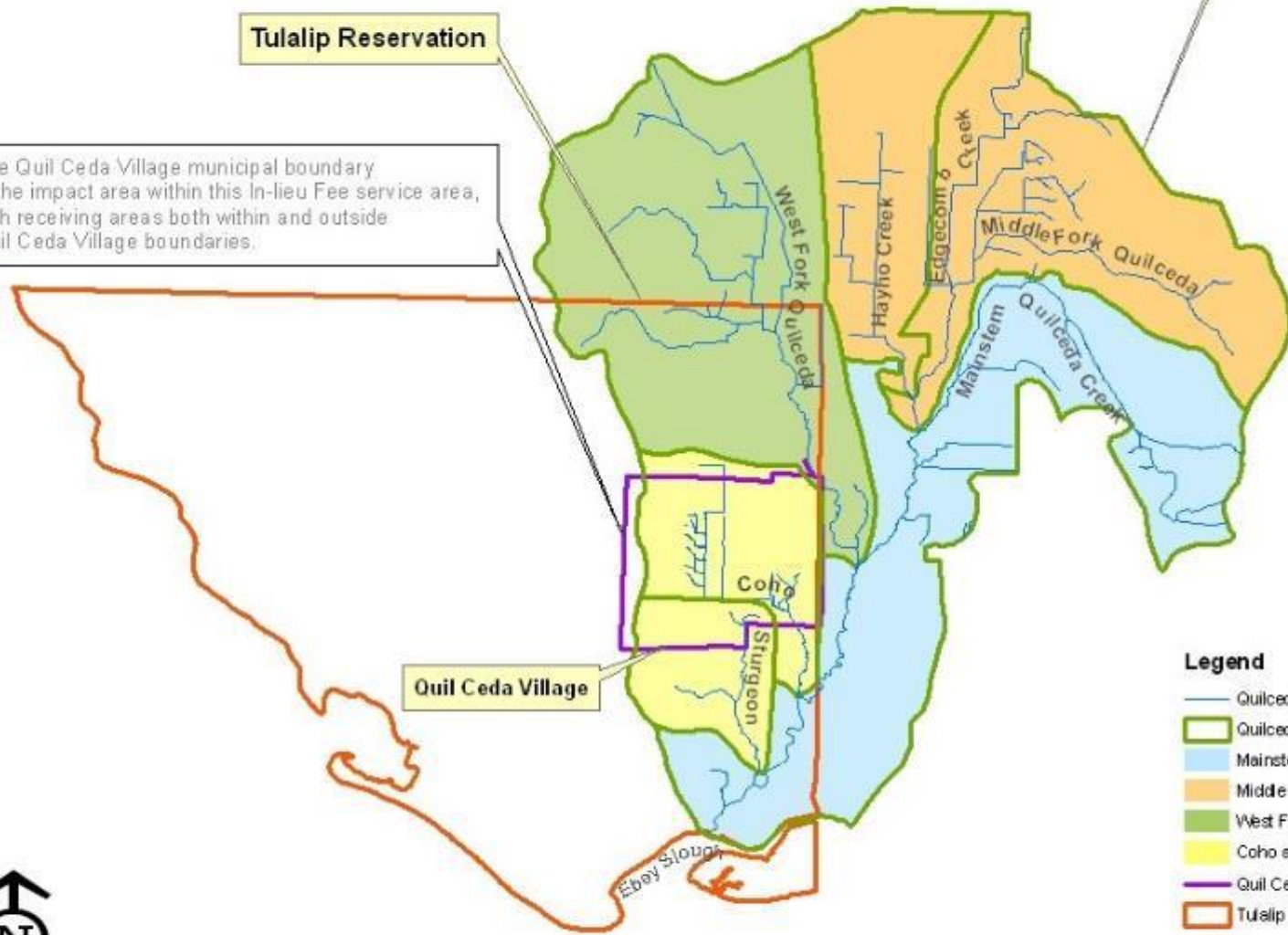
Legend

- Quilceda_Streams
- Quilceda_Watershed
- Mainstem Quilceda Subbasin
- Middle Fork Quilceda Subbasin
- West Fork Quilceda Subbasin
- Coho and Sturgeon Creeks Subbasin
- Quil Ceda Village Boundary
- Tulalip Reservation Boundary



November 4, 2009

Quilceda Watershed Fee in Lieu Service Area



QUIL CEDA VILLAGE IN-LIEU FEE PROGRAM



- an ecologically-based approach to compensate for unavoidable impacts to aquatic ecosystems caused by development projects. The program will establish, restore, enhance and protect aquatic ecosystems in the Quil Ceda watershed to replace lost ecosystem functions within QCV.
- A company or permittee (lessees) with a project pays a fee to the ILF, and that funding represents the expected cost of replacing the wetland or aquatic resources lost or degraded as a result of the permittee's project.

BACKGROUND



- **2008 Compensatory Mitigation Rule -**
 - April 10, 2008, the Department of the Army (DA) and U.S. Environmental Protection Agency (EPA) published **a final rule governing compensatory mitigation**. The rule constitutes the first time that the agencies have issued regulations – rather than non-mandatory guidance – on in-lieu fee mitigation.
 - The Rule establishes a “watershed approach” to mitigation and prioritizes mitigation banks and in-lieu fee programs over “permittee responsible,” on-site mitigation.
 - Extensive rule governing process for establishing the ILF program, and governing ILF operation and management of mitigation sites.

IN-LIEU FEE PROGRAM, DEFINED

- The 2008 Rule defines In-Lieu Fee mitigation as:
 - “a program involving the **restoration, establishment, enhancement, and/ or preservation** of aquatic resources through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation requirements **for DA permits**.
 - Similar to a mitigation bank, an in-lieu fee program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu program sponsor.
 - The operation and use of an in-lieu fee program are governed by an **in-lieu fee program instrument**.

Quil Ceda Village Program Instrument

- November 26, 2013, The Tulalip Tribes and Army Corps of Engineers signed the program instrument for the Quil Ceda Village In-Lieu Fee Program
 - The instrument (26 pp) is the legal document with Appendices and Exhibits (203 pp) that have all of the program workings in them.
 - The document was developed in consultation with an Interagency Review Team including USFWS, EPA, NMFS.
 - The instrument was also signed by EPA as a member of the Interagency Review Team.



Quil Ceda Village ILF Program Instrument



- Appendices -- all aspects of program operation of the ILF program
- The Appendices contain a **Compensation Planning Framework**, essentially a watershed planning document guiding selection of all future mitigation projects within the program- they must be in conformance with the prioritization strategy outlined in the CPF for types of projects needed in the watershed
- Site selection and approval of specific mitigation projects are done in consultation with the IRT and must be approved by the Corps.
- Any in-lieu fee site is considered an addendum to the instrument, and is done via exchange of letters upon approval to the Corps.

Quil Ceda Village ILF Program Instrument



- Sponsor (TT) accepts full legal responsibility for satisfying mitigation requirements for all Corps and Tribal permits for which mitigation fees are sold to permittees.
- Corps has ability to direct funds if TT fails to implement mitigation, or fails to properly maintain mitigation sites such that they are unsuccessful

What does the QCV ILFP do for The Tulalip Tribes



- LEASED LAND SCENARIO - Ability to separate mitigation from the permitting process, which allows for leases to be negotiated in a timely way where wetland impacts will occur with site development.
- Direct mitigation funds to watershed restoration the Tribes want to do, rather than have permittees (lessees) determine mitigation on Tribal property.
- Ensure that full cost of mitigation is paid by lessees up front, with long term protection and maintenance costs included in fees collected by the program.

How the Program Works



- Within Quil Ceda Village jurisdiction, “permittees” may purchase ILF credits to compensate for wetland impacts
- “Permitees” transfer their mitigation responsibility through credits purchase from TT
- TT must complete “by the end of the third full growing season,” (1)land acquisition (if necessary), and (2)“initial physical and biological improvements” at a mitigation site, approved by the Corps, in consultation with the IRT.

How the Program Works

- Mitigation sites have an “establishment phase” and a “long term management phase”
- Establishment phase must start within 3 years of accepting mitigation fees (sale of credits)
- Establishment of sites includes a “long term protection instrument” (conservation easement)
- 5 - 10 years of monitoring for the establishment phase.
- Long term management phase must have a long term management plan and transfer of responsibilities to a long term steward



Process of Developing the In Lieu Fee Program



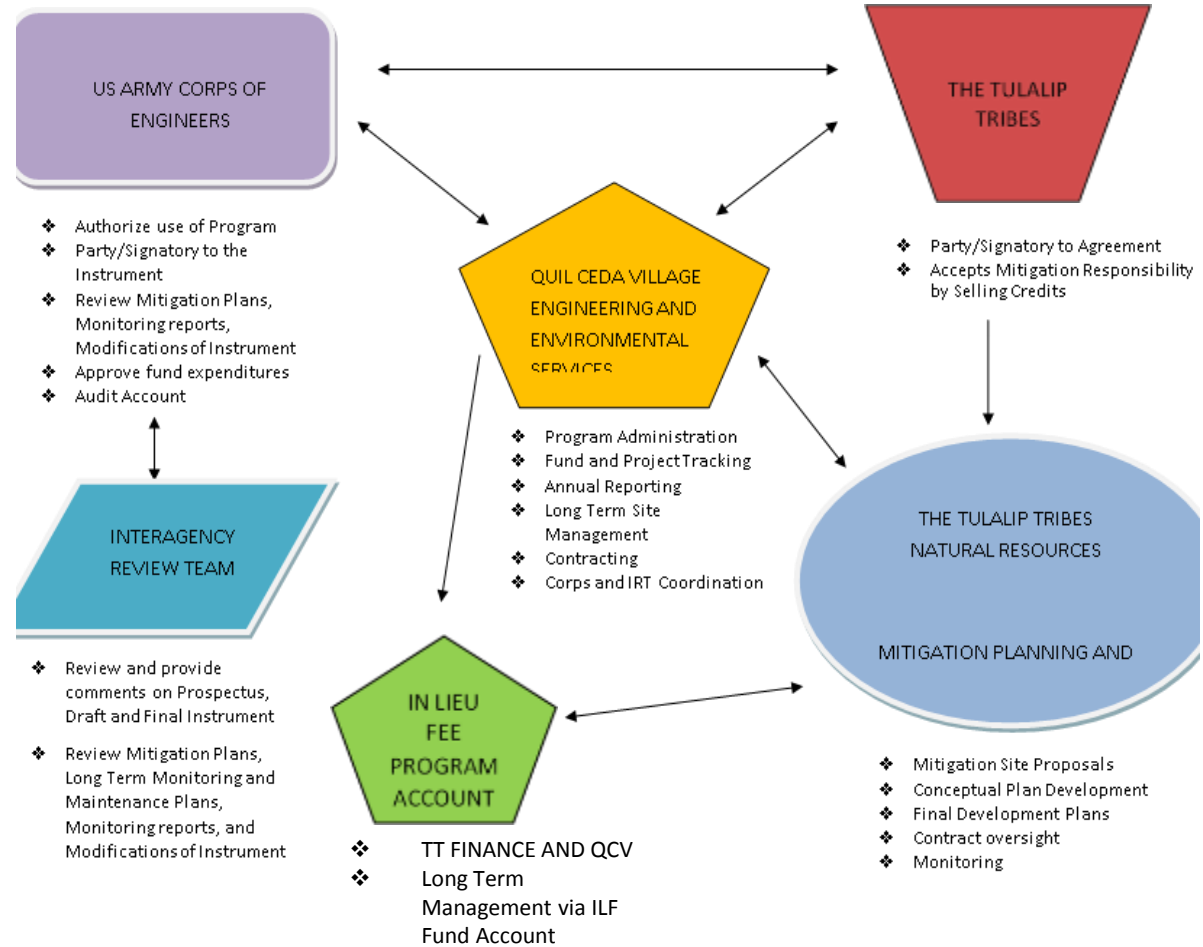
- Development of trust
- Difficulty for the parties to understand the nature of QCV, as a functioning municipal government functioning under a charter rather than a for profit municipal corporation.
- Money management- clear boundaries

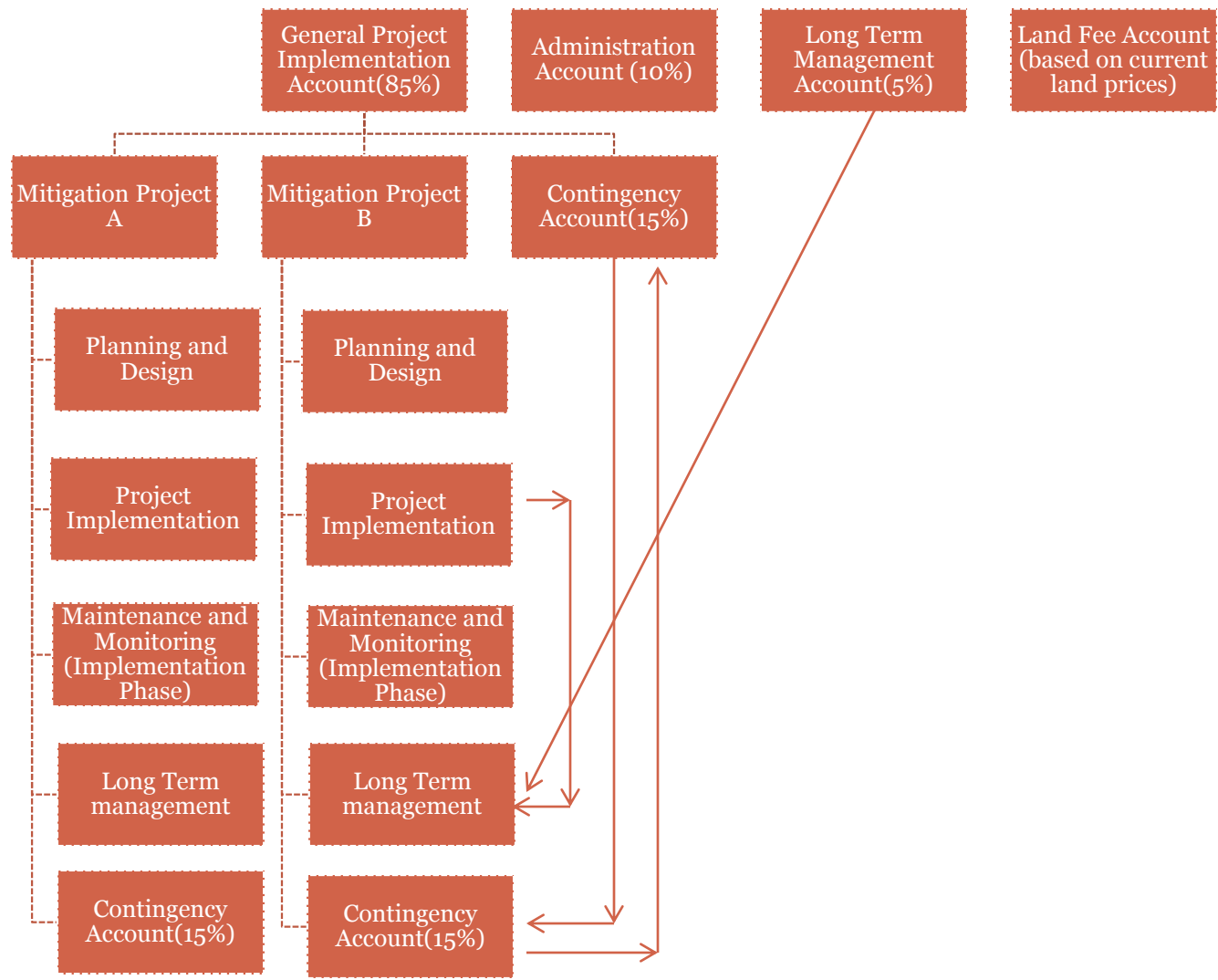
Program Structure

Tulalips Tribes is the Natural Resource Governmental Entity Sponsoring the Program.

Quil Ceda Village Administers and Partners with NR to plan and implement mitigation projects

Corps, in consultation with an Interagency Review Team, review and approve all projects implemented by the program as well as program disbursements





Long Term Protection Instrument- A Challenge to Tribal Sovereign Immunity.

- Conservation easements vs Federal Integrated Resource Management Plan

Tribal Restoration Goals



- This In Lieu Fee program will be used to achieve restoration goals in the entire Quilceda watershed thru mitigation planning and funding.
- Within QCV, ditching, draining of wetlands and stream straightening into ditches will be reversed, and stream temperatures and fecal coliforms will be addressed thru riparian restoration to go with wetland creation and re-establishment.

Signing of the Agreement



"The Quil Ceda Village In-Lieu Fee Program is for the future of the Tulalip people. It is only by protecting and restoring our tribal watershed lands, do we fulfill our obligations to future generations to leave them a healthy, productive environment, while also allowing us to develop and manage our lands to yield a stronger and even more diverse tribal economy,"

- Mel Sheldon, QCV Council Chair



Thank You

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