



# Oregon

John A. Kitzhaber, MD, Governor

## Department of State Lands

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### State Land Board

## 2014 Annual Government-to-Government Report

For the Department of State Lands

December 15, 2014

John A. Kitzhaber, MD

Governor

Kate Brown

Secretary of State

Ted Wheeler

State Treasurer

This annual report is submitted in response to ORS 182.166 (3), which requires agencies to submit a report on agency activities under ORS 182.162 to 182.168.

### Department of State Lands Policy on Relationship with Tribes

The government-to-government policy of the Department of State Lands (DSL) was originally established in August 1998 in response to the Governor's Executive Order No. EO 96-30 on state/tribal relations. This policy remains in effect and commits DSL to:

- Include affected tribal interests in the review/comment of agency actions likely to affect tribal members or resources of tribal interest.
- Carefully and thoughtfully consider tribal comments concerning pending decisions and actions.
- Provide materials to natural resource agencies within each tribal government that explain DSL's roles and responsibilities in natural resource management.

More specific information about coordination with tribal governments is included in the [DSL State Agency Coordination Plan](#), which includes a separate section addressing coordination with tribal governments.

### Agency Contacts

Our primary agency contact is:

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In order to participate more fully in activities of the Cultural Resources and Natural Resources Workgroups, the agency will also be represented by:

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### **Process to Identify Programs of DSL that Affect Tribes**

The primary means DSL uses to identify agency programs and activities that may affect tribes is spelled out in the agency's State Agency Coordination Plan. DSL regularly includes tribes in notification of possible actions on state lands owned and managed by DSL, giving the respective tribe(s) an opportunity to comment on the proposed action. Additionally, when DSL receives an application to remove material from or fill in the waters of the state, the agency routinely provides the application to the potentially affected tribe(s) for review and comment.

Through trainings and presentations, DSL also raises staff awareness of the need to consult with tribes on a government-to-government basis.

## **Efforts to Promote Communication between DSL and Tribes / Government-to-Government Relations between DSL and the Tribes**

During FY 2014, DSL's efforts to promote communication between the agency and tribes included a number of areas. By program area, these efforts include:

### **Agency-wide**

Agency leadership attended the Tribal Spring Gathering at Grand Ronde in spring 2014.

Staff participated in the Cultural Resources and Natural Resources Workgroup meetings throughout the year.

Annually in November, DSL's Multicultural Appreciation Committee provides information on National American Indian Heritage Month for all staff and posts the Governor's proclamation.

### **Common School Fund Property Program: Real Property Unit**

DSL continues to participate in the Cultural Resources Cluster and is represented by Lanny Quackenbush, Eastern Region Manager of the Real Property unit. Representation is inclusive of the Aquatic Resource Management Program. Mr. Quackenbush is also currently chairing the cluster.

The Real Property unit continues its policy of mailing each potentially affected tribe a copy of applications received for activities proposed on Department owned and managed lands. The tribes are afforded the opportunity to comment on the proposed activities set forth in the applications and staff work closely with tribal staff to address any concerns they may have.

The Real Property unit's archaeologist continues to review authorization applications for western Oregon as well as eastern Oregon.

Real Property unit staff continues coordination and funding of the Natural Resources Damage Assessment studies and Cost Allocation Process for the Portland Harbor Superfund site; and has reached out to the tribes to invite participation in the Department's Rules Advisory Committee for remediation and restoration activities on state-owned waterways.

The agency has been working with affected tribes to address the ongoing removal of artifacts from the currently dry beds of shallow lakes in Lake County. This year this activity has seemingly increased and has included the disturbance of at least one burial and the removal of funerary objects. Strong support by Oregon State Police has resulted in filing a number of cases with the local District Attorney, who has at this writing refused to prosecute. As a result the agency has closed access to the affected lakebeds (Crump, Harney, and Goose) by emergency order and will undertake permanent rulemaking to inform and engage local community members and assist law enforcement with effective means of stopping the activity.

## **Common School Fund Property Program: Unclaimed Property Unit**

On June 25, 2014, Unclaimed Property unit staff provided an owner outreach booth at the Confederated Tribes of the Warm Springs Annual Pi Ume Sha Health Fair. This was the fourth year unclaimed property was asked to attend. The half-day event was comprised of diverse vendors promoting subjects from health and mental wellness to educational and social programs.

The fair was held in the community center, and more than 300 individuals and families attended. The Unclaimed Property booth provided attendees the opportunity to search for unclaimed funds being held by the Department.

In August, Unclaimed Property staff provided an owner outreach booth as part of the South Slough National Estuarine Research Reserve 40<sup>th</sup> Anniversary Celebration with attendees and presentations from both the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw; and Coquille Tribe, as well as the local community.

## **Aquatic Resource Management Program**

DSL continues to participate in the Natural Resources Workgroup and is represented by Bill Ryan, Assistant Director of the Aquatic Resource Management Program. Mr. Ryan has continued to provide updates on the removal-fill program and address issues raised by tribal representatives attending the workgroup meetings.

The Department is currently exploring the opportunity to assume implementation of Section 404 of the Clean Water Act from the U.S. Army Corps of Engineers (404 assumption). The Department made a presentation regarding 404 assumption at the Oregon Environmental Tribal Forum in Pendleton on October 30, 2014. Tribes have indicated concerns with 404 assumption, particularly with respect to cultural resource protections and the potential loss of consultation under Section 106 of the National Historic Preservation Act. The Department continues to investigate potential gaps in cultural resource protections if 404 assumption is approved and will be working with tribal representatives to explore options for addressing those concerns.

The Department received comments from several tribes regarding the Coyote Island Terminal LLC permit application for a dock at the Port of Morrow that would be used to transport coal down the Columbia River. The information received from the tribes regarding tribal fishing at the proposed terminal location at the Port of Morrow was a significant consideration in the Department's denial of the permit application.

The Department participated in the Senate Bill 838 motorized placer mining study group which met April through October 2014. The effort included seven meetings with the study group which included representatives from the Cow Creek Band of Umpqua Tribe of Indians; Confederated Tribes of Warm Springs; Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw; Confederated Tribes of Siletz; and the Confederated Tribes of Grand Ronde. The SB 838 project team also had separate focused meetings with representatives of the above mentioned tribes to focus on tribal concerns regarding natural and cultural resource effects of motorized placer mining. Input from the tribes

was used in making the recommendations in the “Proposed Approach in Response to SB 838 Directive for a Revised Regulatory Framework for Certain Types of Motorized Mining Activity” provided to the Oregon Legislature November 30, 2014.

A wetlands staff person in the Wetlands and Waterways Conservation Division participated on the Environmental Justice Task Force (EJTF) during 2014, in order to provide feedback on how environmental justice concerns may be incorporated into agency actions and decisions. Tribal communities are identified as communities who potentially have been affected by environmental justice issues, which emphasizes the importance of the Department's government-to-government and tribal outreach efforts. The Department is committed to building staff understanding of environmental justice to provide a common foundation for fostering further innovation for outreach with, and inclusion of, communities potentially affected by environmental justice. The goal is to provide more effective interactions with these communities, including the tribes.

### **South Slough National Estuarine Research Reserve (SSNERR)**

The SSNERR Management Commission reserves one commission seat for tribal representation to include consideration of tribal issues in management of the SSNERR.

SSNERR science staff continues to collaborate with the Coquille Tribe and Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians (CTCLUSI) to manage the real-time water quality station at North Spit/BLM Boat launch and to discuss data quality issues related to water quality in Coos Bay. The Coquille Tribe has established their first water quality station in the Coos estuary near the Mill Casino. This collaboration was formalized by the Partnership for Coastal Watersheds project, a joint community-based project between SSNERR and the Coos Watershed Association to understand watershed conditions and local climate change impacts in the Coos estuary. SSNERR and CTCLUSI have a cooperative agreement to facilitate working together including exchanging information and data, shared use of equipment and facilities, and joint proposal development and project management.

SSNERR has met on several occasions with the Coquille Tribe concerning the Frederickson Barn, an historic structure located in the southern end of the reserve. They will continue to work together on a cooperative agreement to address the use and potential restoration and maintenance of the structure.

SSNERR staff met with the CTCLUSI Natural Resources Division for general discussions about potential cooperative projects, and established a time to meet again to look at the current cooperative agreement for revisions.

SSNERR education staff participated in the 12th annual Mill-Luck Salmon Celebration and canoe races held in Coos Bay on September 13, 2014. They joined men's, women's and co-ed teams that included members of the Friends of South Slough and other SSNERR volunteers. Named for the SSNERR's tribal-style canoe, Chmoosh teams were awarded first place in both the co-ed and the women's races, and third place in the men's race. Additionally, SSNERR staff and volunteers operated an

education booth at the festival on September 13<sup>th</sup> and 14<sup>th</sup>. SSNERR has been invited to participate again next year.

In August, SSNERR staff, the Friends of South Slough, and both the CTCLUSI and Coquille Tribes hosted a paddle down the slough as part of the SSNERR 40<sup>th</sup> Anniversary Celebration featuring native canoes. That same evening included a picnic celebration in which both tribes and community members participated; representatives from both the CTCLUSI and the Coquille presented information to the Anniversary Celebration participants.

Nan MacDonald, a local artist skilled in Native American weaving techniques, continues to offer basketry classes, using Pacific Northwest plants, at the SSNERR interpretive center.

### **Anticipated Activities for 2015**

During 2015, the Department will:

- Continue participation in government-to-government activities such as the Cultural Resources Cluster meetings and the Natural Resources Workgroup meetings; and in providing tribes with opportunities to comment on DSL activities.
- Continue to highlight tribes through the Multicultural Appreciation Committee, focusing particularly on National American Indian Heritage Month in November.
- Continue participation on the Environmental Justice Task Force.
- Continue funding for Natural Resource Damage Assessment and Cost Allocation Process for the Portland Harbor Superfund site.
- Continue outreach efforts with Oregon tribes on searching for and claiming unclaimed property that the agency may be holding for tribal members.
- Continue to cooperate and coordinate with representatives of the Coquille Tribe to locate and protect cultural heritage sites in the SSNERR. Implement the cooperative agreement with the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians and continue tribal participation on the SSNERR Management Commission.
- Continue to participate in and/or coordinate educational and cultural experiences with local tribes.
- Work with affected tribes to facilitate the reburial of human remains disturbed at Crump Lake as near the original burial site as possible.
- Review its tribal relations policy to determine whether it needs to be updated and seek further opportunities to provide training for DSL staff.