



OREGON
DEPARTMENT OF
ENERGY

Leading Oregon to a safe, clean, and sustainable energy future.

2016 Government to Government Activity Report



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ODOE GOVERNMENT-TO-GOVERNMENT REPORT

Introduction

In this report, the Oregon Department of Energy looks back at ways our agency has interacted with and learned from Oregon's nine federally-recognized Indian tribes over the course of our work in 2016. We believe that continuing to build on our long-standing relationships with the tribes makes our agency more effective overall while supporting our energy work across the state and region. Further, by better understanding how we can work more collaboratively and effectively with tribes, we know we can more successfully take on challenges and opportunities facing Oregon's energy landscape in the coming years. Finally, we recognize that tribes are advancing innovative energy programs and projects; we are committed to learning from the tribes about this work and finding opportunities where our programs and expertise can be valuable resources for tribes. We also are committed to looking for opportunities where our programs and projects can be improved with input from tribes.

Over the past year, the Oregon Department of Energy has been the subject of a Legislatively-appointed Joint Oversight Committee charged with conducting a thorough review of the department and making recommendations to the 2017 Oregon Legislature. As of December 1, 2016, the committee has met nine times, with more than 25 hours of testimony from the department, stakeholders, and the public. Our agency has worked closely with the committee, providing extensive resources, documents, and information about our agency's many programs and responsibilities. The Committee maintains a website with all meeting materials and documents at <https://olis.leg.state.or.us/liz/201511/Committees/JCDEO/Overview>.

In November, the Joint Interim Committee on DOE Oversight released draft recommendations for discussion and review. We look forward to receiving the committee's final recommendations and moving our agency forward under renewed legislative guidance and stability.

We expect that our agency will look different in the future, and we welcome changes that support the energy needs and concerns of everyone in this state. We know, however, that our commitment to the nine federally recognized tribes in Oregon remains and will remain strong. We will use the recommendations and guidance coming from the Joint Interim Committee on DOE Oversight to align our interests, strengthen our communications, and enhance the services that tribes find beneficial.

This report provides an overview of ODOE programs and projects and the collaborative ways we have engaged with tribal governments over the last year.

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Nuclear Safety and Energy Emergency Preparedness Division

The Nuclear Safety and Energy Emergency Preparedness Division supports and interacts with the nine federally-recognized tribes in Oregon on a variety of topics, including Hanford cleanup; restoration of injured natural resources; radioactive waste transport safety; and allocation of petroleum (diesel and gasoline) during times of shortage.

Hanford Cleanup

The Hanford Site is on land ceded by the Confederated Tribes of the Umatilla Indian Reservation. The state of Oregon and the CTUIR have a Memorandum of Understanding for coordination on Hanford issues. As the lead state agency for Hanford oversight, that coordination falls to the Oregon Department of Energy.

ODOE's technical staff work closely with their counterparts from the CTUIR on a variety of cleanup issues, including groundwater remediation, Columbia River corridor cleanup, and closure planning.

The CTUIR participates as a member of the Oregon Hanford Cleanup Board. The 20-member board provides policy recommendations to ODOE, the Oregon Legislature, and the Governor. The board met three times in 2016, including a meeting on tribal lands at the Tamastslikt Cultural Institute in Mission, Oregon on May 9 and 10. Board members received a briefing on the Tribe's project to provide native vegetation for restoring portions of the Hanford Site and toured the CTUIR laboratory and greenhouses. Other topics discussed included an update on Hanford's efforts to immobilize its 56 million gallons of high-level waste stored in aging underground tanks, and final preparations to demolish the Hanford Plutonium Finishing Plant.

ODOE represents Oregon on the State and Tribal Government Working Group and serves on the Executive Committee. STGWG includes states and tribes near U.S. Department of Energy nuclear weapons production cleanup sites. The CTUIR, the Yakama Nation, the Nez Perce Tribe and the State of Washington are all members of STGWG. ODOE attended two meetings in 2016, where discussions focused on the restoration of natural resources and how best to ensure long-term safety when contamination is left behind.

Restoration of Injured Natural Resources

Oregon and the CTUIR are both trustees of natural resources on the Hanford Site as part of the federal Superfund Cleanup program. Other trustees are the State of Washington, the Yakama Indian Nation, the Nez Perce Tribe, and two federal agencies. The trustees work through a Trustee Council to determine the extent of natural resource injury caused by the

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release of radioactive materials and chemicals into the environment. After the extent of the injury has been determined, the Council will determine actions necessary for restoration of the injured resources. Oregon works with CTUIR staff on a variety of technical issues related to this work.

In 2016, the department continued its work with the tribe and other trustees to begin setting injury thresholds for Hanford contaminants in surface water, sediment, and soil, and to begin early planning and design for several injury studies. This work has generally focused on assessing and recovering damages in near- shore aquatic ecosystems, ground water injury areas, terrestrial ecosystems, and from loss of tribal services. Specifically, some of the work consists of planning for soil sampling in the areas of Hanford where there are no known hazardous substances, so parts of Hanford can be designated safe for public and tribal use. Other areas of work included vegetation restoration planning, fish population damage assessments, and mapping areas where physical disturbance has occurred from the creation of pits, roads or bull dozing.

ODOE participated in ten Technical Trustees meetings of the Hanford Natural Resource Trustee Council during 2016. Most of the meetings were held in the Richland, Washington area.

Radioactive Waste Transport Safety

ODOE regulates the transport of radioactive materials and waste in and through Oregon, and publishes an annual report on radioactive material transport. Approximately 400 to 600 shipments of radioactive material move through Oregon each year. The primary transportation corridor in Oregon for radioactive waste is Interstate 84 through northeast Oregon, which runs through the CTUIR Reservation.

Oregon compiles an annual report on radioactive material transport through the state. We will publish our 2016 report in advance of the 2017 legislative session. The 2015 report can be found on our website:

<http://www.oregon.gov/energy/NUCSAF/docs/Radioactive%20Materials%20Transport%20in%20Oregon%202015.pdf>.

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Emergency Allocation of Petroleum – The Oregon Fuel Action Plan

The Oregon Department of Energy is the lead agency representing the fuel sector for energy emergencies and emergency contingency planning. ODOE is responsible for providing adequate fuel supplies to maintain essential services, transportation, and the operation of the economy, whenever emergency energy conditions exist that would jeopardize the health, safety, and welfare of the residents of the state of Oregon. This includes developing and maintaining the Oregon Fuel Action Plan.

ODOE does not have the authority to require seismic upgrades to privately-owned fuel tank farms, pipeline systems, marine docks, or other fuel infrastructure facilities. However, ODOE is responsible for ensuring the state can respond to a catastrophic event like a 9.0 Cascadia Subduction Zone earthquake. We developed the Oregon Fuel Action Plan to address this type of event. It is designed to bring bulk fuel supplies into the state from outside the region to support the state's ongoing emergency response and recovery efforts until the regional infrastructure can be restored. The Plan designates priority fuel users, which includes the nine federally-recognized tribes in Oregon, 36 county emergency management agencies, and 18 state agencies.

During 2016, ODOE's Emergency Preparedness Manager worked with all nine federally-recognized tribes to prepare for the statewide 2016 Cascadia Rising Exercise. The work focused on ensuring that tribal leadership, emergency planners, and their staff were all familiar with the Oregon Fuel Action Plan and understood how ODOE will work with Oregon tribes to ensure tribes are ready and able to request and receive emergency bulk fuel supplies in the event of a catastrophic earthquake.

Following the June Cascadia Rising Exercise, ODOE has continued working with tribes and made presentations on Oregon's Fuel Action Plan at the following events:

Cultural Resources Cluster meeting – July, 2016, Mill Casino, Coos Bay, Oregon

Cow Creek Band of Umpqua Tribe of Indians Tribal Leadership meeting – July, 2016, Seven Feathers Casino, Canyonville, Oregon

Legislative Commission on Indian Services meeting – August, 2016, Seven Feathers Casino, Canyonville, Oregon

In addition, ODOE attended and provided an overview of the Oregon Fuel Action Plan at the Annual Emergency Management Workshop at Kah-Nee-Ta in Warm Springs, Oregon. The workshop, hosted by the Confederated Tribes of Warm Springs of Oregon, had representation from all nine federally-recognized Oregon tribes.

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ODOE's Emergency Preparedness Manager continues to work with the nine federally-recognized tribe's law enforcement agencies, fire services, and other tribal first responders through the Public Safety Cluster of the Legislative Council on Indian Services.

Energy Facility Siting

Energy Facility Siting Council

The Oregon Energy Facility Siting Council is a seven-member volunteer board appointed by the Governor and confirmed by the Senate. EFSC is responsible for reviewing applications for site certificates for all state-jurisdictional energy facilities. ODOE administers the EFSC facility siting process, which consolidates state agency and local government regulation into a single review process.

EFSC meets regularly throughout the year in locations geographically near proposed facilities.

Energy Facility Siting Division

The Energy Facility Siting Division provides staff to the Energy Facility Siting Council, helping the Council complete its oversight responsibilities related to proposed energy generating facilities. This effort brings together project developers, local and regional governments, citizens, and others to make sure proposed projects are approved, built, operated, and decommissioned consistent with all applicable laws and regulations. The division also provides compliance functions for facilities that are up and running.

Project Notification

Energy facility siting rules require the siting division to provide notices and requests for input to tribal governments, the public, local governments, and state agencies at designated steps throughout the site certification application and amendment processes. Through these notices and requests, the siting division provides details of proposed energy facilities to the tribes and invites the tribes' participation in the site certificate application review process. Specifically, the siting division seeks the tribes' input and expertise on each proposed facility's potential impacts on tribal historic and cultural resources. In addition to the formal notices, siting division staff are available to meet with tribal representatives to discuss both the EFSC process and specific site certificate application issues.

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Implementation of Siting-Related Legislation from 2015

On January 1, 2016, Senate Bill 259 went into effect. The bill, introduced by our agency in 2015, amended ORS 469.360 and ORS 469.421 to add authority for the Energy Facility Siting Council to compensate the nine federally-recognized Oregon tribes for their review of historical and cultural resources, and related Tribal Codes during the Notice of Intent and Application review phases of the EFSC process. Applicants for a site certificate fund the compensation, which is paid through a reimbursement agreement between the Oregon Department of Energy and each tribal government.

During the past year, ODOE staff have been working with all nine federally recognized Oregon tribes to draft, revise, and execute the reimbursement agreements. Reimbursement Agreements and a guide to reimbursement were sent out to all tribes in January 2016. To date, one reimbursement agreement has been fully executed between ODOE and the Confederated Tribes of the Umatilla Indian Reservation.

Siting-Related Project Outreach to Tribes

During 2016, Siting Division staff have communicated with tribal governments, requesting comments and guidance for several energy projects around the state. Generally, the communication consists of a notice requesting review and comment during specific application stages for Receipt of Notice of Intent under OAR 345-015-0120, Receipt of Preliminary Application for Site Certificate under OAR 345-015-0180, and Determination of a Complete Application for Site Certificate under OAR 345-015-0200. It is customary for the communication with each tribal government to be accompanied by an offer for ODOE to visit tribal offices to discuss the notice and the EFSC review process in person. The following is a list of current projects and outreach conducted during 2016.

Carty Generating Station (Morrow and Gilliam Counties)

Communication was initiated with Confederated Tribes of the Umatilla Indian Reservation and Confederated Tribes of Warm Springs requesting comments on the Carty Generating Station Site Certificate amendment request.

Columbia Ethanol (Morrow County)

Communication was initiated with Confederated Tribes of the Umatilla Indian Reservation and Confederated Tribes of Warm Springs requesting comments on the Columbia Ethanol Project Site Certificate amendment request. ODOE received comments from CTUIR on the eligibility status determination of a historic resource and concerns regarding potential impacts to a historic resource from the facility.

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The comments were provided to the certificate holder and will be considered in ODOE's proposed order, to be issued during the first quarter of 2017.

Golden Hills Wind Project (Sherman County)

Communication was initiated with Confederated Tribes of the Umatilla Indian Reservation and Confederated Tribes of Warm Springs requesting comments on amendment #3 and on the Proposed Order for Amendment #3 for the Golden Hills Wind Project. The CTUIR submitted a letter to ODOE stating the project was outside the CTUIR ceded lands and deferred comments to the Confederated Tribes of Warm Springs.

Mist Underground Gas Storage Facility (Columbia County)

Communication was initiated with the Confederated Tribes of Warm Springs, Confederated Tribes of Siletz Indians, and Confederated Tribes of Grand Ronde Community requesting comments on amendment #11 and Proposed Order on Amendment #11 for the Mist Underground Gas Storage Facility.

Summit Ridge Wind Farm (Wasco County)

Communication was initiated with the Confederated Tribes of Siletz Indians, Confederated Tribes of Grand Ronde Community, Confederated Tribes of the Umatilla Indian Reservation, and Confederated Tribes of Warm Springs providing notice of the Proposed Order for the Summit Ridge Wind Farm. The CTUIR provided comment on the Proposed Order on Amendment #2 but expressed no concerns.

South Dunes Power Plant (Coos County)

The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians is a party to the South Dunes Power Plant contested case proceeding, and contests the facility's compliance with the EFSC Historic, Cultural, and Archaeological Resources standard under OAR 345-022-0090.

Wheatridge Wind Project (Morrow and Umatilla Counties)

Communication was initiated with the Confederated Tribes of the Umatilla Indian Reservation and Confederated Tribes of Warm Springs, with a request for comments on the draft proposed order and proposed order for the Wheatridge Wind Energy Facility Application for Site Certificate.

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Training Opportunities – EFSC Seminar for Reviewing Agencies

ODOE's Siting Division conducts training for tribal governments, state agency, and local government staff approximately every 18 months. All nine of the federally-recognized Oregon tribes were invited to the day-long EFSC Application for Site Certificate Reviewing Agency Seminar held January 20, 2016. The event was held in The Dalles, Oregon, and two members of the Confederated Tribes of Warm Springs were in attendance.

Agency Outreach, Communications, and Diversity

Along with ODOE's participation in the Natural Resource and Cultural Clusters meetings during 2016, over the past year, staff from several of ODOE's divisions have taken advantage of opportunities to participate in tribal events, including:

The Affiliated Tribes of Northwest Indians mid-year convention held in Grand Ronde, Oregon – ODOE's Tribal Liaison and Facilities Engineer attended and provided an overview of the agency's programs, and presented the Planning and Innovation Division's Strategic Framework and how it relates and interacts with tribal energy projects.

Oregon Cultural Resources Center of Excellence (CRCE) Pilot program – Energy Siting Division Administrator attended a meeting with other state agencies and representatives from the Governor's office to discuss and develop the pilot.

Cultural Cluster and Natural Resource Cluster meetings – Tribal Liaison attended meetings throughout the year.

As part of our agency's internal communications, we have also looked for opportunities to educate staff about the nine federally-recognized tribes in Oregon. Actions include our communications team sharing stories about energy issues on tribal lands in our internal news digest and our human resources team featuring information about tribes in Oregon on an internal informational board.

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Policy on Government to Government Relations

ODOE has recently completed a review and revision of our Government to Government Internal Policies and Procedures. The policy has been strengthened to recognize the sovereign status of Oregon's nine federally-recognized tribes, and to more fully promote government to government relations with tribal governments. The ODOE/Tribal Policy on Government to Government Relations is attached and made a part of the 2016 Government to Government Report.

Conclusion

During 2016, the Oregon Department of Energy continued our focus on new ways to engage and collaborate with the nine federally-recognized tribal governments in Oregon. These efforts have been focused on strengthening our relationships with tribal representatives and providing services and information that is beneficial. We have also sought out tools to help our employees improve their understanding of tribes and the importance of promoting government to government relations with the nine federally-recognized tribal governments in Oregon. We will continue to ensure this is part of our agency culture. We welcome any and all input on how we can assist tribal governments, improve our relationships, and collaborate more effectively.