



# Oregon

Kate Brown, Governor

## Department of State Lands

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### State Land Board

## 2016 Annual Government-to-Government Report

For the Department of State Lands

December 15, 2016

Kate Brown

Governor

Jeanne P. Atkins

Secretary of State

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.

Ted Wheeler

State Treasurer

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

In 2006, the Department of State Lands (DSL) adopted the agency's [State Agency Coordination Program](#) (SAC). Section 5 of the program outlines DSL's efforts and procedures to coordinate with tribal governments. DSL's SAC program commits DSL to do the following:

- 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.

DSL recently drafted an agency policy that works to establish, promote and improve government-to-government relations between DSL and Oregon's federally recognized tribes. DSL presented this draft policy to the Legislative Commission on Indian Services Cultural Resource Cluster on December 6, 2016. DSL plans to adopt a final version of the policy in 2017.

### 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 SAC Program. 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.

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 2016, DSL's efforts to promote communication between the agency and tribes included a number of areas. By program area, these efforts include:

#### **Agency-wide**

Staff participated in the Cultural Resources and Natural Resources Workgroup meetings throughout the year. In addition, executive staff attended the LCIS Spring Gathering on May 19, 2016; and the Annual State-Tribal Summit on December 7, 2016 in Lincoln City.

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

Senior Policy and Legislative Analyst Chris Castelli serves as the agency's Citizen Advocate on the Environmental Justice Task Force (EJTF). One of his roles is 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. 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, all communities potentially affected by environmental justice. The goal is to provide more effective interactions with these communities, including the tribes.

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

DSL continues to participate in the Cultural Resources Cluster and is now represented by Chris Castelli, Senior Policy and Legislative Analyst. Representation is inclusive of the Aquatic Resource Management Program.

The Real Property Unit, now managed out of Bend, oversees management of all common school trust lands statewide as well as all land transactions such as sales, exchanges, release of mineral rights and granting of use authorizations such as leases and easements.

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 all proprietary authorizations statewide. For agency initiated ground disturbing projects, field surveys and testing are completed as needed.

### *Elliott State Forest*

The Confederated Tribes of the Coos, Lower Umpqua, & Siuslaw Indians (CTCLUSI); the Confederated Tribes of the Grand Ronde Community; Confederated Tribes of Siletz Indians; the Coquille Indian Tribe; the Cow Creek Bank of Umpqua Tribe of Indians; and the Coquille Indian Tribe participated in the Department's Elliott Opportunity Transfer Opportunity Project. All five of these Indian tribes submitted an expression of interest in the Elliott State Forest Ownership Transfer Opportunity, and were engaged with the Department throughout the year on this effort. The Cow Creek and CTCLUSI partnered with Lone Rock Timber Management Company in the submission of a proposed acquisition plan for the Elliott State Forest On November 15<sup>th</sup>, 2016. Additionally, the Confederated Tribes of the Siletz Indians and the Confederated Tribes of the Grand Ronde provided support and advice for the proposed plan.

The Department's archaeologist, supported by other real property staff and contractor support for field work, conducted an extensive cultural resource investigation of the Elliott State Forest. A field survey based on modeling of high probability locations was

conducted in 2016. Contact was made with potentially interested tribes, including information sharing at cultural resource cluster meetings. The CTCLUSI have actively engaged in information sharing and providing contacts to support the effort. DSL reported on this effort at the July 20, 2016 Natural Resource Cluster meeting.

### *Lake County Lake Closures*

In 2014, the Department enacted an emergency closure to entry and all uses on lakebeds in Lake County. A modified use restriction was extended into 2016 that left the lakebeds open to recreational use, but prohibited the collection of any items, unless authorized by the Department.

On October 8, 2016, after monitoring water levels and law enforcement activity, the Department of State Lands (DSL) decided to let the emergency closure of Hart Lake and Crump Lake expire. Both lakes continue to have water, and to the Department's knowledge no new cases have been reported by law enforcement. Agency staff alerted local and state elected officials, tribal representatives and state agencies, including the State Historic Preservation Office and Oregon State Police, about lifting the closures. DSL staff continues to monitor the lakes, along with assistance from state and local law enforcement. The agency may impose new emergency closures in the future, if needed.

### **Aquatic Resource Management Program**

DSL continues to participate in the Natural Resources Workgroup and has been represented by Bill Ryan, Deputy 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. DSL is in the process of transitioning this position from Deputy Director Ryan to a policy staff person.

### *Coyote Island Terminal*

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 in 2014. Coyote Island Terminal LLC, the Port of Morrow, and the states of Wyoming and Montana contested the permit denial. The Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of Warm Springs, the Yakama Nation, and the Nez Perce joined the contested case as limited parties regarding fishing issues. The contested case was settled collaboratively with the applicants and Tribes in November 2016.

### *Siuslaw River Permit Denial*

The Department denied a permit to place a gangway, boat lift and mooring buoys in the Siuslaw River Estuary, based, in part, on comments submitted by the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians (CTCLUSI) and from SHPO.

Concerns were expressed about impacting potential cultural resources in the area. An appeal of the Department's permit denial is pending.

#### *Motorized Placer Mining (SB 838)*

SB 838 imposed a moratorium on motorized mining for gold, silver and other precious metals that went into effect on January 2, 2016 and continues until January 2, 2021. The intent was that the 2015 legislature would have the opportunity to implement legislation that would improve the regulatory framework and remove the moratorium provision. Legislation was proposed in 2015 and 2016, but did not pass. The moratorium does not prohibit all motorized placer mining for precious metals but it establishes certain restrictions and prohibitions. The moratorium reduces the number of streams that are open to motorized suction dredge mining.

The Department initiated temporary rulemaking in late 2015, in order to address the imminent moratorium. A temporary rule was filed and took effect on January 2, 2016 to align with the effective date of SB 838. The temporary rule expired on June 29, 2016 and the permanent rule went into effect on June 30, 2016.

#### *Jordan Cove / Pacific Connector Project*

Department staff attended a Jordan Cove Cultural Resources Outreach Meeting in Eugene on January 15, 2016, to hear and understand tribal concerns about the Jordan Cove liquefied natural gas and pipeline project. Subsequent to that meeting, on January 28, 2016, Director Stephanie Hallock and senior staff from the Department held a conference call with the Cow Creek Band of Umpqua Tribe of Indians and on January 29, 2016, Director Hallock and senior staff met with representatives from CTCLUSI to further understand Tribal concerns about the Jordan Cove project prior to the Department's scheduled permit decision date of February 8, 2016 (subsequently extended and is now scheduled for August 7, 2017).

#### **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 maintains formal Memorandums of Understanding with both the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians (CTCLUSI) and the Coquille Indian Tribe. These cooperative agreements facilitate the exchange of information and data, shared use of equipment and facilities, and joint proposal development and project management.

SSNERR science staff continues to collaborate with the Coquille Tribe and CTCLUSI to manage real-time water quality stations and to discuss data quality issues related to water quality in Coos Bay. SSNERR staff is also currently working with both Tribal Historical Preservation Officers (THPOs) to address any Tribal concerns associated with the installation of a piling and tide gauge instrument to monitor water levels over time in the Reserve. The Tribes met with SSNERR staff in November to explore the site and assess potential cultural impacts of the project.

SSNERR is working with the Coquille Indian Tribe to restore the Frederickson Barn, a culturally significant structure located in the southern end of the Reserve. A proposal to arrest the decay of the barn was funded in early 2016 and SSNERR staff worked with the Friends of South Slough (FOSS) to implement the project. A re-visioning of the project by the Tribe, to further improve the structure, resulted in a subsequent FOSS proposal submission to the Coquille Tribal Community Fund for the 2017 funding cycle. Whether or not that proposal is funded, the SSNERR is working to protect the culturally and tribally significant building and incorporate it into educational programming.

SSNERR staff has regular ongoing meetings with CTCLUSI and Coquille staff in order to coordinate cultural reviews for restoration project sites and newly acquired lands in the Reserve. SSNERR continues to meet with tribal staff to coordinate the Section 106 compliance of the Wasson Creek restoration planning effort (meetings were held in February and July). Since May, both Tribal governments and SSNERR have been working on cultural documentation for the 2014 Indian Point acquisition. The Coquille Tribe has agreed to lead the cultural surveying and Section 106 compliance for Indian Point as well. SSNERR staff will continue to work with the Tribes for all cultural and archeological reviews regarding the Reserve.

A SSNERR staff member also serves on CTCLUSI's Citizen Advisory Committee for the Coos Head Area Master Plan currently in development.

SSNERR staff participated in the annual Mill-Luck Salmon Celebration and canoe races held in Coos Bay on September 10-11, 2016. They joined men's and co-ed teams that included members of the Friends of South Slough, Summer Science Camp, Coos Watershed Stewards and other SSNERR volunteers. Named for the SSNERR's tribal-style canoe, Chmoosh teams were awarded third place in the co-ed race. Additionally, SSNERR staff and volunteers operated an education booth at the festival on September 10<sup>th</sup> and 11<sup>th</sup>. SSNERR has been invited to participate again next year.

Nan MacDonald, a local artist skilled in Native American weaving techniques is currently working with tribal education and cultural staff to teach native basketry techniques. Nan has helped make arrangements with South Slough staff to provide access for a Coquille Tribal artisan to obtain natural materials for educational weaving with tribal youth.

### **Anticipated Activities for 2017**

During 2017, the Department will:

- Continue participation in government-to-government activities such as the Cultural Resources and 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 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.
- Adopt and implement an updated State/Tribal Government to Government Relations policy.