



Oregon

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State Land Board

2017 Annual Government-to-Government Report

Kate Brown

Governor

For the Department of State Lands

Dennis Richardson

Secretary of State

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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.

Tobias Read

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 adopted an agency policy (Attachment A) 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 and Natural Resources Workgroup prior to being formally adopted on June 26, 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 2017, 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 Tribal Governments Day at the Capitol on February 9, 2017; and the Annual State-Tribal Summit on November 2, 2017 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. In addition, the November All staff meeting included a presentation on cultural resources by David Harrelson (with Briece Edwards), Cultural Resource Department and Tribal Historic Preservation Officer for the Confederated Tribes of Grande Ronde.

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.

Operations Division: Real Property Unit & Aquatic Resource Management Program

DSL continues to participate in the Cultural Resources Cluster and the Natural Resources Workgroup. DSL is represented by Chris Castelli, Senior Policy and Legislative Analyst. Mr. Castelli provides updates on agency rulemaking, policy issues and specific issues raised by Tribal representatives attending the meetings.

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 notifying potentially affected tribes regarding 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 agency director is available for formal consultation on any agency action.

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 Cow Creek Band of Umpqua Tribe of Indians; the Confederated Tribes of the Coos, Lower Umpqua, & Siuslaw Indians; the Confederated Tribes of the Grand Ronde Community; Confederated Tribes of Siletz Indians; and the Coquille Indian Tribe all participated in the Department's Elliott Ownership 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.

At their May 9, 2017 meeting, the State Land Board terminated the Elliott State Forest Ownership Transfer Opportunity, and directed DSL to pursue two separate but interrelated tracks:

- 1) Habitat Conservation Plan Development: Contracting with a third party to complete the development of the federal Habitat Conservation Plan (HCP).
- 2) Common School Fund Decoupling: Contracting with an additional and separate third party to lead and manage the discussions and negotiations

towards potential decoupling the Elliott State Forest from Common School Fund ownership.

DSL will keep the Cow Creek Bank of Umpqua Tribe of Indians; the Confederated Tribes of the Coos, Lower Umpqua, & Siuslaw Indians; the Confederated Tribes of the Grand Ronde Community; Confederated Tribes of Siletz Indians; and the Coquille Indian Tribe informed of its progress and will provide them the opportunity to participate in public discussions moving forward. DSL will also continue to provide updates to the LCIS Cultural Resource Cluster and Natural Resource Workgroup.

Senate Bill 144

Senate Bill 144 passed during the 2017 legislative session. This bill removes exemption from prosecution for possession of archeological objects unintentionally discovered on public lands. It also requires the district attorney to determine if Indian tribes claim seized contraband and to notify the Commission of Indian Services upon recovery.

From 2014 to 2016, DSL enacted emergency restrictions to entry and uses on dry lakebeds in Lake County. The purpose of the restrictions was to prevent the removal of Tribal cultural resources from the lands. The enactment of Senate Bill nullifies the need for the emergency restrictions. DSL has been in contact with the Oregon State Police and Department of Justice to discuss how to coordinate on the implementation of Senate Bill 144.

Willamette Falls Fishing Platforms

The Confederated Tribes of the Grande Ronde applied for an authorization to construct ceremonial fishing platforms at Willamette Falls. This application drew comments from the Confederated Tribes of Warm Springs and the Confederated Tribes of the Umatilla Indian Reservation. Director Paul engaged in formal consultation with the Confederated Tribes of the Grande Ronde, the Confederated Tribes of Warm Springs and the Confederated Tribes of the Umatilla Indian Reservation on the proposed project and the application process.

Jordan Cove / Pacific Connector Project

Jordan Cove Energy Project withdrew their initial removal/fill applications in August of 2017. DSL received a new removal-fill permit application for the Jordan Cove Energy Project on November 3, 2017. The application covers the three main elements of the project: 1) the liquefied natural gas (LNG) slip and access channel; 2) the LNG terminal; and 3) the natural gas pipeline.

DSL concluded its completeness review of the application on Dec. 3, 2017 and notified the applicants that the application is incomplete. Additional information is needed in a variety of areas, including but not limited to impacts to recreation in the bay, compensatory wetland mitigation, and ODFW fish-passage requirements. The applicant has up to 120 days to provide this additional information. If a revised application is

received, another 30-day completeness review begins. Once the application is deemed complete, there is a minimum 30-day public review period.

For the Jordan Cove project, DSL expects to schedule at least two public hearings in areas where the project would be located. DSL has discussed the proposed project with Tribal staff from the Confederated Tribes of the Coos, Lower Umpqua, & Siuslaw Indians, Coquille Indian Tribe, and the Cow Creek Band of Umpqua Indians. These tribes will be notified of the public review period and the public hearing times and locations once they are established. DSL has given, and will continue to give, updates on the Jordan Cove Energy Project to the Cultural Resources Cluster and the Natural Resources Workgroup.

South Slough National Estuarine Research Reserve (Reserve)

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

The Reserve maintains formal Memorandums of Understanding with both the Confederated Tribes of the Coos, Lower Umpqua, & Siuslaw Indians 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.

As part of the agency's 2017-2021 Strategic Plan, DSL will complete an evaluation to determine the best administrative location (host partner) for management of the Reserve. The evaluation of a host partner for the Reserve will consider all alternatives that include, but are not limited to:

- Remain with Department of State Lands
- University of Oregon
- Oregon State University Extension
- Combination of the aforementioned entities
- Another State Department
- Local Tribes

Director Paul and Deputy Director Wickham engaged in formal consultation with the Coquille Indian Tribe and the Confederated Tribes of the Coos, Lower Umpqua, & Siuslaw Indians with regards to this strategic plan objective.

Reserve science staff continues to collaborate with the Coquille Tribe and Confederated Tribes of the Coos, Lower Umpqua, & Siuslaw Indians to manage real-time water quality stations and to discuss data related to water quality in Coos Bay. Reserve staff has also been providing technical support to Coquille staff for new water quality monitoring efforts in Coos Bay and to help link Tribal station data into the Northwest Association of Networked Ocean Observation Systems (NANOOS).

Reserve staff wrapped up working with both Tribal Historical Preservation Officers (THPOs) to address cultural concerns associated with the installation of a piling and tide

gauge instrument to monitor water levels over time in the Reserve. The piling was installed in February without issue.

Both the Coquille Tribe and Confederated Tribes of the Coos, Lower Umpqua, & Siuslaw Indians are active participants in the Partnership for Coastal Watersheds (PCW), a stakeholder group that is currently sourcing and providing information for an update to the County's Coos Bay Estuary Management Plan. Reserve staff helped facilitate a series of workshops to garner input from stakeholders and end-users, with respect to economic, sociocultural, and natural resource uses of the estuary. Tribal staff participated and continues to participate in these ongoing PCW efforts.

Reserve staff has regular ongoing meetings with Confederated Tribes of the Coos, Lower Umpqua, & Siuslaw Indians and Coquille Tribe staff to coordinate cultural reviews for restoration projects and newly acquired lands in the Reserve. Both Tribes serve as partners on the current Wasson Creek Watershed Restoration project and on the Indian Point Restoration project. The Tribes have been integral in providing labor and information to meet Section 106 compliance for restoration planning.

Reserve management also worked with both Tribal groups to broker the donation of an estuarine land parcel for the purpose of conservation and education.

Reserve staff participated in the annual Mill-Luck Salmon Celebration and canoe races held in Coos Bay on September 9-10, 2017. They joined race teams that included members of the Friends of South Slough, Summer Science Camp, Coos Watershed and other Reserve volunteers. Additionally, Reserve staff and volunteers operated an education booth at the festival. The Reserve has been invited to participate again next year.

The Reserve also regularly works with Tribal staff and Tribal members to provide opportunities for cultural plant gathering and Tribal program requests, as needed.

Anticipated Activities for 2018

During 2018, 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 (lost funds) that the agency may be holding for Tribal members.

- Continue to cooperate and coordinate with representatives of the Coquille Tribe and Confederated Tribes of the Coos, Lower Umpqua, & Siuslaw Indians to locate and protect cultural heritage sites in the Reserve. Implement the cooperative agreements with both Tribal governments and continue Tribal participation on the Reserve Management Commission.
- Continue to participate in and/or coordinate educational and cultural experiences with local tribes.

Attachments:

- A. State/Tribal Government-to-Government Relations Policy