

**GOVERNMENT – TO – GOVERNMENT
2010 ACTIVITY REPORT**

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

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PROGRAMS AND SERVICES:

The Department of Consumer and Business Services' mission is to protect and serve Oregon's consumers and workers while supporting a positive business climate in the state.

DCBS is Oregon's largest business regulatory agency. The department administers state laws and rules and protects consumers and workers in the areas of workers' compensation, occupational safety and health, financial services, insurance, and building codes.

Our agency goals are:

To protect consumers and workers in Oregon,

To regulate in a manner that supports a positive business climate, and

To be accountable to the public we serve, with excellent service to our customers.

DEPARTMENTAL STATEMENT:

The Department of Consumer and Business Services promotes positive relationships between the department and the tribes. Although few DCBS regulatory programs affect the tribes because of their sovereign status, there may be occasions when the tribes choose to receive services. In addition, the department often provides education and outreach to the tribes on issues such as homeownership, workplace safety and health, and Medicare. DCBS has an agency-wide policy that promotes such communication.

AGENCY ISSUES AND ACTIONS BY DIVISION:

A. OCCUPATIONAL SAFETY AND HEALTH DIVISION (Oregon OSHA)

1. Issue Name:

Occupational Safety and Health

Issue Description:

Tribal lands, including reservations and trust lands, pose a unique jurisdictional situation with regard to occupational safety and health regulation. The U.S. Department of Labor, Occupational Safety and Health Administration (Federal OSHA), has jurisdiction over tribal governments and tribal enterprises, as well as private sector businesses performing work on tribal and trust lands. Federal OSHA requires states to maintain jurisdiction over public sector employers performing work on tribal lands. Because federal and state occupational safety and health standards are nearly identical, this separation of authority has caused little or no confusion for affected employers and employees. Oregon OSHA maintains a close working relationship with Federal OSHA so either agency can assist employers and employees and direct them to the appropriate resources.

Oregon OSHA currently has a memorandum of understanding (MOU) with the Confederated Tribes of the Umatilla. The MOU describes Oregon OSHA jurisdiction on the Umatilla reservation, and associated rights and responsibilities. However, because of the sovereign status of tribal governments, Oregon OSHA may not regulate public sector workplace safety and health on tribal lands without the agreement of the affected tribal government.

Action Taken:

Oregon OSHA will periodically review the need to negotiate MOUs with those tribal governments with whom we do not currently have agreements.

2. Issue Name:

Occupational safety and health education, consultation, and the Resource Center

Issue Description:

Although Oregon OSHA does not have regulatory jurisdiction over tribal governments and enterprises, or private sector employers performing work on tribal lands, the division nonetheless makes education, consultation, and Resource Center services available to these entities at no cost.

For the period October 2009 through November 2010, the following services were provided to tribal governments:

Education:

Chinook Winds Casino Resort

100 – Safety and Health Management – The Basics – 3 attendees

104 – Identifying and Controlling Hazards – 2 attendees

Confederated Tribes Of Warm Springs

100 – Safety and Health Management – The Basics – 5 attendees
101 – Introduction to Safety Meetings and Committees – 1 attendee
102 – Conducting an Accident Investigation – 10 attendees
104 – Identifying and Controlling Hazards – 1 attendee
106 – What to Expect from an Oregon OSHA Inspection – 6 attendees
111 – Safety Committee Problem Solving – 1 attendee
112 – Safety and the Supervisor – 1 attendee
121 – Root Cause Analysis – 6 attendees
201 – Introduction to Ergonomics – 4 attendees
212 – Workplace Emergency Action Plan – 5 attendees
215 – Confined Space Safety – 6 attendees
301 – Fall Protection – 1 attendee
401 – Worker Protection Standard – 4 attendees

Emerald Queen Casino

101 - Introduction to Safety Meetings and Committees – 1 attendee
102 - Conducting an Accident Investigation – 1 attendee
106 - What to Expect from an Oregon OSHA Inspection – 1 attendee

Klamath Tribal Health & Family Services

100 - Safety and Health Management - The Basics – 1 attendee
101 - Introduction to Safety Meetings and Committees – 2 attendees
102 - Conducting an Accident Investigation – 2 attendees
104 - Identifying and Controlling Hazards – 1 attendee
106 - What to Expect from an Oregon OSHA Inspection – 1 attendee
108 - OSHA 300 Recordkeeping – 1 attendee
112 - Safety and the Supervisor – 1 attendee
216 - Bloodborne Pathogens – 1 attendee

Plum Creek Timber Company

205 - Hazard Communication Program – 1 attendee
401 - Worker Protection Standard – 2 attendees

Sprague River Water Quality Lab

100 - Safety and Health Management - The Basics – 1 attendee
106 - What to Expect from an Oregon OSHA Inspection – 1 attendee
112 - Safety and The Supervisor – 1 attendee

The Mill Casino

100 - Safety and Health Management - The Basics – 1 attendee
101 - Introduction to Safety Meetings and Committees – 1 attendee
103 - Conducting a Job Hazard Analysis – 1 attendee

Wemble House

112 - Safety and The Supervisor – 2 attendees

A total of 35 educational workshops were offered.

Consultation

Confederated Tribes of The Warm Springs

4 Health Consultations

6 Safety Consultations

Resource Center:

Video Lending Library

Wildhorse Resort & Casino – 4 safety & health video(s) requested

Publications

Wildhorse Resort & Casino – 1 publication requested

Actions Planned:

For 2011, Oregon OSHA will continue to provide consultation, education, and Resource Center services upon request and at no cost.

Oregon OSHA would welcome the opportunity to make a presentation to the Commission on Indian Services so that all tribes are aware of the occupational safety and health services available to them.

B. FISCAL & BUSINESS SERVICES (FABS) and WORKERS' COMPENSATION DIVISION

1. Issue Name:

Workers' Benefit Fund assessment overpayment

Issue Description:

Three Rivers Casino	BIN 1206937-0
Siletz Tribal Gaming Commission	BIN 1374818-0
Siletz Tribal Business Corporation	BIN 1375546-6
Siletz Tribal Business Corporation	BIN 1201199-4

Although not required, tribes may choose to participate in Oregon's workers' compensation system. When making this choice, the participating tribal entity also elects to report and pay the Workers' Benefit Fund (WBF) assessment. Three Rivers Casino had elected Oregon workers' compensation insurance coverage, but then canceled that coverage in April 2003. They chose instead to obtain workers' compensation coverage

outside the Oregon workers' compensation system. With this decision, they no longer were required to report and pay the WBF assessment effective the date of Oregon insurance cancellation. However, their payroll company continued to deduct and remit the WBF assessment to the state through the first quarter of 2010. Half of the WBF assessment is a payroll deduction and half is contributed by the employer.

The three Siletz Tribal entities chose to obtain workers' compensation coverage outside the Oregon workers' compensation system, which exempted these entities from having to report and pay the WBF assessment. However, their payroll company erroneously deducted and remitted the WBF assessment to the state through the first quarter of 2010.

Action Taken:

The tribes notified their payroll service provider to stop deducting and remitting the WBF assessment that was reported with other payroll-related taxes on the Oregon Combined Payroll Tax reporting form. They did so effective first quarter 2010.

In April 2010, at the request Three Rivers Casino (BIN 1206937-0), DCBS processed adjusting entries to reverse hours and reported assessment to zero for first quarter 2004 through first quarter 2010. A refund was issued for \$81,657.90.

In May 2010, at the request of the Siletz tribal entities, DCBS processed adjusting entries to reverse hours and report assessment to zero for the following:

- Siletz Tribal Gaming Commission (BIN 1374818-0) for first quarter 2009 through first quarter 2010. A refund was issued for \$773.90.
- Siletz Tribal Business Corporation (BIN 1375546-6) for first quarter 2009 through first quarter 2010. A refund was issued for \$728.85.
- Siletz Tribal Business Corporation (BIN 1201199-4) for first quarter 2004 through first quarter 2010. A refund was issued for \$1,614.78.

The total refund for the three Siletz Tribal entities totaled \$3,117.53.

Actions Planned:

No further action is required.

C. WORKERS' COMPENSATION DIVISION (WCD)

1. Issue Name:

Workers' compensation insurance coverage

Issue Description:

Because of their sovereign status, tribes are not generally subject to Oregon workers' compensation law. However, tribes can opt to secure coverage outside of Oregon's workers' compensation system or elect workers' compensation coverage through Oregon's workers' compensation system. There is at least one tribe (Confederated Tribes of the Grand Ronde) and some separate tribal enterprises (such as casinos) that continue to elect workers' compensation coverage through Oregon's workers' compensation

system. When a tribe or tribal enterprise elects to obtain coverage through Oregon's workers' compensation system, the procedures and benefits under the state system apply.

Actions Taken:

In 2010, an injured worker of The Old Camp Casino associated with the Paiute tribe sought benefits under Oregon's Preferred Worker Program. WCD is working with the employee and employer to secure a worksite modification for the worker.

When claims are misrouted by medical providers for any tribe not in Oregon's system, WCD forwards those claims directly to the tribe. Referral of claims continues to go smoothly for those tribes that are not part of Oregon's workers' compensation system.

D. DIVISION OF FINANCE AND CORPORATE SECURITIES (DFCS)

1. Issue Name:

Homeownership and foreclosure prevention

Issue Description:

DFCS participated in the 5th-annual 2010 Native American Housing to Homeownership Fair sponsored by the Native American Youth Association in Portland on July 31, 2010. Approximately 400 individuals attended this Portland-based housing fair. Many of the attendees were members of Oregon Tribes.

Action Taken:

The division participated as a vendor. Fernando Velez, consumer information specialist, staffed an information booth and taught two workshops about foreclosure prevention.

Action Planned:

DFCS would welcome the opportunity to participate in housing fairs and/or other consumer-related events sponsored by any of the Oregon Tribes.

E. SENIOR HEALTH INSURANCE BENEFITS ASSISTANCE (SHIBA)

1. Issue Name:

Medicare education, training, and enrollment assistance

Issue Description:

Cynthia Hylton is the state lead for SHIBA on tribal outreach. She conducts outreach to the Oregon tribes through Area Indian Health Boards and other partnerships with the Indian Health System.

Actions Taken:

- Participated at a Tribal Meeting in Portland – 2/24/10
- Participated at a Coquille Elders Meeting – 5/14/10
- Attended Siletz Pow Wow – 8/14/10
- Attended Grand Ronde Pow Wow – 8/21/10

- Participated at a Klamath Tribe Meeting – 10/26/10
- Participated at a Confederated Tribes Elders Meeting – 12/1/10
- Continued participation in health cluster quarterly meetings – Senate Bill 770

2. Issue Name:

Klamath Tribal Health and Family Services – SHIP grant

Issue Description:

The SHIP grant provides a \$4,000 annual sub-award to the tribe.

Actions Taken:

Klamath Tribal Health and Family Services is a local SHIBA sponsor and has provided funding to help provide tribal elders local help with their Medicare information and assistance needs.

Actions Planned:

SHIBA will continue outreach to Oregon’s tribes and will continue offering Medicare education, training, counseling services, and enrollment assistance.

3. Issue Name:

Annual Native Caring Conference – March 2011

Issue Description:

Oregon Tribes Annual Native Caring Conference will be held in Warm Springs in March 2011.

Actions Planned:

SHIBA will attend the Annual Native Caring Conference and have an exhibit. SHIBA will continue outreach to Oregon’s tribes and will continue offering Medicare education, training, counseling services, and enrollment assistance.

F. DIRECTOR’S OFFICE (DO)

General Activities:

1. The DO has attended and actively participated in the Health Services and Economic Development Cluster meetings. DCBS Deputy Director Mark Long and Ruth Kemmy, manager of multicultural communications, are the tribal liaisons for the department.
2. Ruth Kemmy attended the meeting with tribal leaders on May 13, 2010 in preparation to the 2010 Tribal Day.
3. DCBS staff attend the Tribal Day events and meetings held at the Capitol on May 14, 2010.

Actions Planned:

DCBS will continue to attend and support the SB 770 Health Services and Economic Development clusters and their activities.

The department will continue to provide information about its services/programs, and will continue to identify areas that could benefit or serve the tribes.

DCBS will continue to maintain its positive relationships with all the tribes.