



Oregon

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State Land Board

2015 Annual Government-to-Government Report

For the Department of State Lands

December 1, 2015

Kate Brown

Governor

Jeanne P. Atkins

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

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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. 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 2015, 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 January 2015, DSL's Multicultural Appreciation Committee (MAC) invited Michael Karnosh with the Confederated Tribes of Grand Ronde to speak at the Department's monthly all staff meeting. Mr. Karnosh provided information about the Tribe's history and culture, as well as consulting with the Tribe. In addition, annually in November, the

MAC provides information on National American Indian Heritage Month for all staff and posts the Governor's proclamation.

A senior policy analyst in the Director's Office participated on the Environmental Justice Task Force (EJTF) during 2015 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. 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 continued to participate in the Cultural Resources Cluster and was represented by Lanny Quackenbush, Eastern Region Manager of the Real Property unit. Representation is inclusive of the Aquatic Resource Management Program. Mr. Quackenbush chaired the cluster during 2015.

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.

The archaeologist, supported by other real property staff, is currently conducting an extensive cultural resource investigation of the Elliott State Forest prior to the expected sale of the Forest. Research of available information and efforts to locate previously mentioned sites are ongoing. A field survey based on modeling of high probability locations will be conducted in 2016. Contact has been made with potentially interested tribes, including information sharing at cultural resource cluster meetings. The Coos, Lower Umpqua and Siuslaw have actively engaged in information sharing and providing contacts to support the effort. Other tribes have expressed interest and will continue to be kept informed as the project continues.

The Department continues with 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.

On October 9, 2015 the Department closed the state-owned lands of Hart and Crump Lakes (Lake County) to the collection of any arrowhead, archaeological object, rock, mineral, soil, plant material, or other natural resource. Severe drought conditions in Southeastern Oregon persist, and have led to the exposure of Native American artifacts and burial sites. The ongoing drought makes these restrictions necessary to protect natural, historical, cultural and archaeological resources.

In 2014, the Department enacted an emergency closure on these lakebeds to entry and all uses. Since that closure, the Department has had an opportunity to meet with the Lake County Commissioners and other stakeholders, and to visit the areas in question. The Department took the opportunity to continue the dialog including discussions with the Burns Paiute and Klamath tribes through the spring and summer of 2015 as we faced a major drought, and the need to impose emergency restrictions again this year. The result is a compromise that leaves the lakebeds open to recreational use but prohibits the collection of any items, unless authorized by the Department. The hope is that this restriction appropriately protects Native American artifacts and burial sites, and is easily enforceable, taking into account the limited resources of law enforcement.

Department staff will monitor the rainfall and lake levels through the fall and winter. The Department plans to lift the closure if these lakes refill with water and the problem is alleviated. The agency has received strong support by Oregon State Police, however the local District Attorney has indicated a lack of willingness to prosecute. The agency will undertake permanent rulemaking to inform and engage local community members and assist law enforcement with effective means of stopping the activity, however without support from the District Attorney the effort is unlikely to be effective.

Common School Fund Property Program: Trust Property Unit

Trust Property staff provided an unclaimed property search booth at the Confederated Tribes of the Warm Springs Annual Pi Ume Sha Health Fair. Attendees were able to search for missing funds, and in many cases we were able to get all the information needed to process their claim at the event. This was the fifth year we were invited to attend. The half-day event was comprised of diverse vendors promoting subjects from health and mental wellness to educational and social programs.

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 gave a presentation regarding DSL's Aquatic Resource Mitigation Framework project at the joint State-Tribal Natural Resources Workgroup and Cultural Resources Cluster meeting on January 28, 2015. He described the Department's efforts developing a watershed and functions based method for quantifying and directing wetlands and waterway mitigation requirements and asked for input from the tribes. 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 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 have joined the contested case as limited parties regarding fishing issues. The Oregon Department of Justice on behalf of DSL continues to coordinate with the tribes regarding the contested case.

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. 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. The Department was part of the state agency team that worked with Senator Alan Bates in developing legislation to implement many of those recommendations including those designed to address tribal concerns regarding the effects of motorized placer mining. Senate Bill 830 was introduced in the 2015 legislative session but did not become law. The Department continues to work with Senator Bates on legislation that may be introduced in the 2016 legislative session and will keep the tribes informed of developments.

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 real-time water quality stations and to discuss data quality issues related to water quality in Coos Bay.

SSNERR now has a formal Memorandum of Understanding with both the 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 has met on several occasions with the Coquille Tribe concerning the Frederickson Barn, a historic structure located in the southern end of the reserve. A proposal for funding to arrest the decay of the barn was made in November by the

Friends of South Slough to the Coquille Tribal Community Fund. SSNERR staff will help facilitate project management if the proposal is funded.

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 staff met with tribal staff on numerous occasions in 2015 to coordinate the Section 106 review of the Wasson Creek drainage for restoration planning (meetings were held in February, June, and October). In December, SSNERR, Coquille, and CTCLUSI staff met to discuss a cultural assessment of the newly acquired Indian Point parcels in the Reserve. SSNERR staff will continue to work with the tribes for all cultural and archeological reviews regarding the Reserve.

SSNERR education staff participated in the 13th annual Mill-Luck Salmon Celebration and canoe races held in Coos Bay on September 12, 2015. They joined youth, women'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 both the co-ed and the women's races, and second place in the youth race. Additionally, SSNERR staff and volunteers operated an education booth at the festival on September 12th and 13th. 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 2016

During 2016, 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 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.
- Continue to include and work with tribes in the completion of the Elliott State Forest cultural resource survey.