

Tribal Council Resolutions

(The following are recent resolutions of the Tribal Council of the Confederated Tribes of Warm Springs.)

Metolius basin

Resolution no. 11,036

Whereas the Confederated Tribes of the Warm Springs Reservation of Oregon ("Tribe") is a federally recognized Indian tribe; and,

Whereas the Metolius River Basin, off the Reservation, is part of the area ceded by the Tribe in the Treaty of June 25, 1855 to the United States (the "1855 Treaty"); and,

Whereas in the 1855 Treaty, the Tribe retained important sovereign and legal rights in those lands, including the right to hunt, fish, gather roots and berries, and pasture livestock; and,

Whereas the Tribe has reserved important instream water rights in both the Deschutes and Metolius rivers under a 1997 Settlement Agreement with the State of Oregon and the United States Government to protect instream flows necessary to support the aquatic ecosystem for the benefit of fish and wildlife; and,

Whereas the Tribe has important current and historic cultural, economic, spiritual, and religious interests in the Metolius River Basin, including the reintroduction of anadromous fish in connection with the Tribe's Pelton Round-Butte Hydroelectric Project and protection of cultural sites and cultural foods and plants; and,

Whereas a guiding principle of the Tribe's fishery management program is to protect and restore harvestable sustainable populations of culturally significant fisheries, including threatened summer steelhead, Spring Chinook, and sockeye populations; and,

Whereas a guiding principle of the Tribe's wildlife management program is to maintain or enhance wildlife populations, habitats, species diversity, and environmental and ecological components that ensure wildlife species viability and genetic vigor; and,

Whereas the Tribe is a co-manager with the State of Oregon of fishery and wildlife resources in the Deschutes and Metolius river basins, which provide habitat for bull trout, a species listed as threatened under the Endangered Species Act ("ESA"), and habitat for the reintroduction of threatened Summer Steelhead, Spring Chinook, and Sockeye populations; and,

Whereas the Metolius River Basin has unique ecological, hydrological, and geological attributes; and,

Whereas the Tribe has consistently participated in major federal, state, and local legislation and plans that impact the Metolius River Basin, including U.S. Forest Service recreation management plans, the Metolius River Federal Wild and Scenic River Plan, and Jefferson County local plan amendments; and,

Whereas the Tribe has participated on a government-to-government basis with the Land Conservation and Development Commission ("LCDC") in its efforts to recommend that the Oregon legislature designate the Metolius River Basin as an Area of Critical State Concern; and,

Whereas the Tribe has submitted information to LCDC identifying the potential for direct and indirect impacts to tribal interests in the Metolius River Basin, including, but not limited to, federally protected treaty rights, tribal trust resources, wildlife resources on and off the Reservation, tribal sovereign interests in natural resources management and adjudicated instream water rights, and fishery management goals, including the reintroduction of threatened summer steelhead, Spring Chinook, and sockeye populations; and,

Whereas the Tribe understands the need for economic development and, itself, pursues economic development on and

off the Reservation only after a comprehensive integrated resources management evaluation proves that the development will not hinder progress toward the Tribe's natural, recreation, and cultural resource management goals; and,

Whereas the Tribe believes that, standing alone, current state and local laws, mitigation rules, and localized planning efforts are insufficient to identify, assess, or mitigate the potential impacts of large scale development to the Metolius River Basin and, therefore, are inadequate to protect the Metolius River Basin's unique features or the Tribe's interests in the area; and,

Whereas the Tribe supports a state-initiated effort through legislation or management planning that will expressly recognize and protect the multiple federal, state, and tribal interests in the Metolius River Basin; and,

Whereas it is imperative for any such legislation or management effort to include provisions that will not only prevent harm to those interests, but will ensure consistency with the restoration and natural, recreation, and cultural resource management goals of the federal, state, and tribal fish, water, natural resource, and wildlife agencies, including the Tribe's Branch of Natural Resources, Oregon Department of Fish and Wildlife, Oregon Water Resources Department, Oregon Department of Environmental Quality, U.S. Forest Service, U.S. Department of Interior Fish and Wildlife Service, and U.S. Department of Commerce National Marine Fisheries Service; now therefore,

Be it resolved by the Twenty-Fourth Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon, pursuant to Article V, Section 1(a) and (l), and (u) of the Tribal Constitution and By-Laws and Section 4 of the Tribal Corporate Charter, that the Tribe supports efforts by the Oregon legislature to enact a state-level regulatory scheme that expressly recognizes the particularly unique, sensitive, and interrelated resources of the Metolius River Basin, as well as the interrelated federal, tribal, and state interests in the Basin; that recognizes the statewide importance of protecting the Metolius River Basin's natural, historical, and cultural resources, including cultural foods and plants, wildlife habitat, fisheries, and scenic values; and that imposes adequate, measures to prevent harm to those resources and to ensure consistency with the restoration and natural, recreation, and cultural resource management goals of the applicable federal, tribal, and state management agencies.

IHS MOU

Resolution no. 11,031

Whereas on October 17, 2007, The Confederated Tribes of the Warm Springs Reservation of Oregon ("Tribe") commenced a lawsuit in United States District Court for the District of Oregon, Case No. CV07-1558P-PK ("Action"), seeking to compel the Secretary of Health and Human Services and the Area Director of Indian Health Services ("I.H.S.") to award and fund the Tribe's Proposed Area Shares Contract; and,

Whereas pursuant to the Action, in January of 2008, the Parties commenced a mediation process with the Honorable Edward J. Leavy, Senior Judge of the United States Court of Appeals for the Ninth Circuit, serving as the mediator. The parties participated in five mediation sessions with Judge Leavy on January 25, 2008, February 21, 2008, June 13, 2008, September 29, 2008, and January 9, 2009; and,

Whereas in those mediation sessions, the Tribe and I.H.S. sought to resolve a broad range of issues between the parties relating to the delivery of healthcare services to the Warm Springs Tribe. Specifically, the

Tribe sought meaningful participation in setting goals and priorities for those healthcare services delivered on the Warm Springs Reservation and in making high-level and long-term planning and policy decisions regarding the healthcare system on the Warm Springs Reservation. Additionally, the Tribe sought access to and an accounting of unspent federally appropriated funds ("carryover funds"); and,

Whereas during those mediation sessions, the parties identified a mechanism by which to assist the parties in resolving the broad range of issues discussed in the mediation sessions. Specifically, the parties have agreed to the establishment of a Warm Springs Joint Health Commission (the "Commission") to plan, coordinate, monitor and evaluate the delivery of health care services provided by the Tribe and by the I.H.S. and on the Warm Springs Reservation; and,

Whereas the Tribe and I.H.S. intend the Commission to create an opportunity for consultation, cooperation, coordination, and participation between the Tribe and I.H.S. to maximize the beneficial use of the joint resources available and to enhance the delivery of healthcare services on the Warm Springs Reservation. Additionally, the Tribe and I.H.S. believe the Commission can be a vehicle to advance the parties existing Joint Venture relationship as reaffirmed in the Agreement Reaffirming the Joint Venture Demonstration Project executed in 1998; and,

Whereas the parties have drafted and revised a Memorandum of Understanding for the establishment of the Commission, the form of which is attached hereto as Exhibit "A" ("Commission MOU"), which has been approved as to form and recommended to Tribal Council for approval by the Tribe's attorneys; now, therefore,

Be it resolved by the Twenty-Fourth Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon, pursuant to Article V, Section 1 (a), (d), (l), and (u) of the Tribal Constitution and By-Laws, that the Commission MOU attached hereto as Exhibit "A" is accepted and approved and the Chairman of the Tribal Council is authorized to execute the Commission MOU on behalf of the Tribe at a joint signing ceremony with the I.H.S. where both the Tribe and I.H.S. execute the Commission MOU.

OSU Extension

Resolution no. 11,014

Whereas the Confederated Tribes of the Warm Springs Reservation of Oregon and the State of Oregon acting by and through the State Board of Higher Education on behalf of Oregon State University ("OSU"), have enjoyed a mutually beneficial relationship for the past 50 years; and,

Whereas OSU, through the OSU Extension Service, maintains a continued presence at the Warm Springs Reservation of Oregon in the form of a Warm Springs Extension Office, offering educational programs and information to Tribes and community youth and adults through a Memorandum of Understanding dated March 28, 1991; and,

Whereas it is the desire of both the Confederated Tribes and OSU leadership, acting on behalf of Tribal members and the faculty and staff of OSU, to continue a long standing commitment of mutual support and interest whereby OSU will maintain a presence of education, research, and demonstration on the Warm Springs Reservation of Oregon based on current needs, priorities, and circumstances; now, therefore,

Be it resolved by the (Twenty-Fourth) Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon pursuant to Article V, Section 1(a), (d), and (l) of the Tribal Constitution and By-Laws

that a renewed Memorandum of Understanding attached hereto as Exhibit "A" is approved and that the Secretary-Treasurer is authorized to execute such Memorandum of Understanding on behalf of the Tribes.

Oral history

Resolution no. 11,013

Whereas the Washington State Department of Transportation ("WSDOT") has a project that affects the Columbia River area called the Columbia River Crossing Project ("CRCP") around which numerous tribes, including the Warm Springs Tribes (the "Tribe"), claim historical use; and,

Whereas the WSDOT desires to have the Tribe provide an oral history compilation of the Tribe which may provide discrete insight as to the identification of Traditional Cultural Properties under the National Historic Preservation Act and other resources of significance to the Tribe which could be affected by the CRCP; and,

Whereas the Tribe, through GeoVisions, wishes to provide the oral history compilation in an effort to conserve, preserve, and protect resources of significance to the Tribe; and,

Whereas the Tribal Council believes it is desirable to enter into a Tribal Oral History Compilation Agreement ("Agreement") with the WSDOT, attached hereto as Exhibit "A," for the above purposes; now, therefore,

Be it resolved by the Twenty-Fourth Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon, pursuant to Article V, Section 1 (a), (f), and (l) of the Tribal Constitution and By-Laws, that Tribal Council approves the attached Exhibit "A" and authorizes the Secretary-Treasurer to execute a finalized version of the attached Exhibit "A"; and,

Be it further resolved that Tribal Council agrees to waive the Tribe's sovereign immunity for the limited purposes of this Agreement under the terms contained in Section 19 of the Agreement as authorized by WSTC Chapter 30; and,

Be it further resolved that Tribal Council reserves the opportunity to review and comment on any draft/final work product to ensure the accuracy and validity of report contents.

Attorneys

Resolution no. 11,012

Whereas the firm of Karnopp Petersen LLP and its predecessors, have served the Confederated Tribes as tribal attorneys for many years; and,

Whereas the Tribal Council desires to have such attorneys continue as tribal attorneys for the Confederated Tribes; now, therefore,

Be it resolved by the (Twenty-Fourth) Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon, pursuant to Article V, Section 1(b) of the Tribal Constitution and By-Laws that the attached Attorneys' Contract between the Confederated Tribes and the law firm of Karnopp Petersen LLP is approved, and the Chairman and Secretary-Treasurer of the Tribal Council are authorized to execute such contract on behalf of the Confederated Tribes.

Land purchase

Resolution no. 11,011

Whereas portions of allotments 532 and 528 are utilized and will continue to be utilized for the Pelton Round Butte Hydroelectric Project ("Project"), of which the Tribe is a joint licensee along with Portland General Electric; and,

Whereas allotments 528 and

532 are necessary for the continued operation of the Project; and,

Whereas the Tribe owns a two-third majority interest in allotments 532 and 528; and,

Whereas the heirs of Vernon Jackson (the "Jacksons") own a minority interest in allotments 532 and 528; and,

Whereas the Project licensees have been unable to come to an agreement with the Jacksons regarding a rental value for the use of their interests in the portions of allotments 532 and 528 within the Project boundary for the new 50-year license period; and,

Whereas in the event that the Tribe and PGE are unable to come to an agreement with the Jacksons regarding a reasonable rental value that is in the best interest of the Tribe, the Tribe would like to purchase the Jacksons' interests in allotments 528 and 532 to allow the Tribe to use those allotments for the purposes of the Project in addition to other future related energy projects; and,

Whereas the Tribe has the authority to purchase the Jacksons' interests in allotments 532 and 528 under the Indian Land Consolidation Act, 25 U.S.C. § 2204(a) and the Tribal Constitution; now, therefore,

Be it resolved by the Twenty-Fourth Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon, pursuant to Article V, Section 1(c), (f), (j), and (u) of the Tribal Constitution and By-Laws, that the Tribal Council hereby authorizes the Chairman to initiate by a letter to Stanley Speaks the purchase of the remaining interests in allotments 528 and 532 pursuant to the Indian Land Consolidation Act, 25 U.S.C. § 2204(a), to be completed in the event that the Tribe is unable to reach a reasonable settlement with the Jacksons that is in the best interest of the Tribe.

Revolving fund

Resolution no. 11,010

Whereas the Tribal Council would like to reinstate the budgeted funds, (eliminated during the term of the 22nd Tribal Council) and to restore the positions of the General Manager of Public Utilities and General Manager of Human Services for Calendar Year 2009; and,

Whereas the (Twenty-Fourth) Tribal Council is authorized to approve annual budgets under the Constitution and By-Laws, Article V, Section 1 (t) as amended by Amendment X and Ordinance 67; and,

Whereas funds have been appropriated over the years into the Capital Project Housing Revolving Fund 307 for housing construction and infrastructure expenditures; and,

Whereas the Capital Project Housing Revolving Fund 307 has been dormant since 2002 with no current project activity being planned or anticipated, the Fund has unallocated and unencumbered funds to allow for the current year funding to reinstate the above mentioned positions at a total cost of \$187,036 or \$93,518 each for salary and benefits; and,

Whereas Warm Springs Administrative Rules, Chapter 120.107 (5) requires Tribal Council approval to move the budgets between major categories; now, therefore,

Be it resolved by the Twenty-Fourth Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon, pursuant to the authority of the Constitution and By-Laws Article V, Section 1 (t) and Warm Springs Tribal Code Chapter 10, Article IV, Section 6, approves \$187,036 currently in the Capital Project Housing Revolving Fund 307 residual fund balance be transferred to the 2009 Operations budget; and,

Be it further resolved that the Secretary-Treasurer of the Confederated Tribes of the Warm Springs Reservation of Oregon is hereby authorized to proceed to transfer the funds in

the amounts listed, provided all constitutional and administrative requirements are met.

Stimulus act

Resolution no. 11,009

Whereas the Confederated Tribes of the Warm Springs Reservation of Oregon ("Tribe") is a federally recognized Indian tribe; and,

Whereas Tribal Council desires to develop a comprehensive economic development strategy for the Tribe for both short term and long term considerations; and,

Whereas Tribal Council believes that fast action is needed to pursue economic opportunities that present themselves; and,

Whereas that from time to time economic development committees will need to be developed to take advantage of opportunities that present themselves; and,

Whereas Tribal Council believes it is desirable to authorize the Secretary-Treasurer to form economic coordinating committees as necessary and desirable to further the economic development strategy of the Tribe; and,

Whereas the United States Congress is considering passage of the American Recovery and Reinvestment Act of 2009 (the "Act") which is designed to provide one-time, short term economic stimulus to the U.S. economy and to provide strategic investment for long-term economic recovery; and,

Whereas Tribal Council expects passage of the Act within the next two weeks and that the Act will provide significant funding opportunities; and,

Whereas Tribal Council believes that it is necessary to form such an economic coordinating committee focused on stimulus funding opportunities in the Act to be comprised of:

(1) Tribal Council member designees

(2) Secretary-Treasurer

(3) Chief Operations Officer

(4) General Manager, Warm Springs Ventures

(5) Manager, Warm Springs Economic Development and Planning Office

(6) Tribal Attorney (the "Stimulus Funding Coordinating Committee"); and,

Whereas the purpose and charge of the Stimulus Funding Coordinating Committee will be to evaluate and make recommendations on tribal projects to pursue stimulus funding and to assist in providing needed expertise to government or enterprise managers to pursue and obtain necessary project funding; now, therefore,

Be it resolved by the Twenty-Fourth Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon, pursuant to Article V, Section 1(a), (d), (e), (f) and (s) of the Tribal Constitution and By-Laws, that the Secretary-Treasurer is authorized to form economic coordinating committees as necessary and desirable to further the economic development strategy and needs of the Tribe, provided that such committees inform Tribal Council of their activities; and,

Be it further resolved that formation of a Stimulus Spending Coordinating Committee be formed, with the following members:

(1) Tribal Council member designees

(2) Secretary-Treasurer

(3) Chief Operations Officer

(4) General Manager, Warm Springs Ventures

(5) Manager, Warm Springs Economic Development and Planning Office

(6) Tribal Attorney; and,

that the Stimulus Spending Coordinating Committee is authorized to evaluate and make recommendations on tribal projects to pursue stimulus funding and to assist in providing needed expertise to government or enterprise managers to pursue and obtain necessary project funding.