

# Resolutions of Tribal Council

(The following are resolutions of the Twenty-Fifth Tribal Council of the Confederated Tribes of Warm Springs.)

## PGE power line

Whereas the Tribe has exclusive use of the Warm Springs Reservation ("Reservation") which was established by the Treaty of June 25, 1855 between the Tribes and Bands of Middle Oregon and the United States and is located in North Central Oregon comprised of approximately 640,000 acres; and

Whereas PGE is Oregon's largest electric utility and has identified a need to increase electrical transmission capacity to maintain a reliable flow of electricity to its customers, enable more renewable power generation to connect to the electric grid, and to meet Oregon's overall energy needs; and

Whereas PGE is proposing to permit, construct and operate a new cross-Cascades 200 mile-long, double circuit 500 kilovolt ("kV") electrical transmission line, new substations and upgrades to existing substations ("Project"); and

Whereas the Project is subject to the State of Oregon's Energy Facility Siting Council ("EFSC") approval and the National Environmental Policy Act ("NEPA") process approval led by the U.S. Forest Service ("USFS"); and

Whereas PGE has identified a Proposed Study Corridor that follows the Bonneville Power Administration's ("BPA") South Corridor electrical transmission route, and there may be one or more alternative options ("Alternate Study Corridors") across a portion of the Reservation (collectively "On-Reservation Study Corridors") which would require Tribal approval and Department of Interior Bureau of Indian Affairs reaty approval; and

Whereas PGE desires to conclude all permitting, easement negotiations/land acquisition, financing and other activities necessary to enable a construction start date of the Project in the Spring of 2013 for a commercial operation date of Spring 2015; and

Whereas, through Tribal Council Resolution 11,143, the Tribal Council has designated a Tribal Negotiating team to undertake substantive evaluations and negotiations regarding the Project; and

Whereas the Tribal Negotiating Team and the PGE negotiating team have developed a nearly final Memorandum of Agreement ("MOA"), attached as Exhibit "A", to embark on a more formal process to consider and address issues relating to an on-Reservation route for the Project, including, but not limited to the following: (1) a transmission route location, if any; (2) location of substations, regeneration stations, and access roads, if any (3) environmental and resource impacts, on and outside the Reservation, of the proposed on-Reservation routes; (4) compensation and other terms and conditions for approval of long-term right-of-way grants; and (5) Tribal and federal environmental review, permitting and approval requirements and timeline; and

Whereas PGE has agreed to defray the Tribe's costs in evaluating the Project and such amount and descriptions of activities are under development; and

Whereas it is desirable to enter into the attached MOA to facilitate negotiations which will enable the Tribal Negotiating Team to make a recommendation to Tribal Council regarding whether to approve and consent to the siting, building and operation of new transmission facilities on the Reservation.

Be it resolved by the Twenty-Fifth Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon, pursuant to Article V, Sections 1(c), (f) and (l), of the Tribal Constitu-

tion and By-Laws, that the Tribal Council hereby approves the Memorandum of Agreement, attached as Exhibit "A" and authorizes the Secretary-Treasurer to finalize attachments to the same and costs associated with the same;

Be it further resolved by the Tribal Council that it authorizes the Secretary-Treasurer to execute Exhibit "A" in its final form and to report to Tribal Council on substantive and procedural progress. (Resolution no. 11,300.)

## CRITFC law enforcement

Whereas the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribe) is a federally recognized Tribe pursuant to the Treaty of 1855; and

Whereas the Tribal Council is the governing body of the Tribe; and

Whereas the Columbia River Inter-Tribal Fish Commission was formed by the Warm Springs, Nez Perce, Umatilla, and Yakama tribes to provide a joint effort to protect, promote, and enhance the Indian treaty fishery on the Columbia River; and

Whereas, pursuant to the Indian Law Enforcement Reform Act, 25 U.S.C. § 2801, et. Seq., the Secretary of the Interior, acting through the Bureau of Indian Affairs (BIA), is responsible for providing, or assisting in providing law enforcement in Indian Country; and

Whereas the Secretary has delegated this authority to the Assistant Secretary - Indian Affairs and the Assistant Secretary - Indian Affairs has re-delegated this authority to the Director of BIA, who has re-delegated it to the Deputy Bureau Director, Law Enforcement Services, BIA, and the Deputy Director has re-delegated it to the Special Agents in Charge; and

Whereas on February 10, 2004, the Assistant Secretary - Indian Affairs articulated policy guidance to the BIA - as published at 69 Fed. Reg. 6,321 - to govern the implementation of Special Law Enforcement Commission Deputation Agreement; and

Whereas this policy expressly lays out issues regarding good faith efforts on behalf of all parties involved in the aforementioned agreements, including as they relate to liability; and

Whereas Public Law 93-638, as amended, provides that a tribal organization such as the Columbia River Inter-Tribal Fish Commission may enter into an agreement under Public Law 93-638, as amended, to perform services benefiting more than one tribe so long as it has the approval of each such tribe; and

Whereas the Confederated Tribes of Warm Springs believes that it is in the best interests of the Tribe and its members to authorize CRITFC to enter into a Public Law 93-638 agreement on behalf of the Confederated Tribes of Warm Springs and the other three tribes named in Public Law 100-581 to assume law enforcement responsibilities and associated funding for law enforcement in the area of the Columbia River, including law enforcement responsibilities for the sites named in Public Law 100-581 and Public Law 79-14, which have been judicially determined to be Indian Country, now therefore;

Be it resolved by Twenty-Fifth 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 the Tribal Council approves the BIA, Office of Law Enforcement Services and Security (OLES) and the Columbia River Inter-Tribal Fish Commission to enter into this Deputation Agreement to govern the issuance of Special Law Enforcement Commissions; and

Be it further resolved that the Confederated Tribes of Warm Springs approves of and consents to the proposed Intergovernmental Agreement attached as Exhibit "A"; provided that, and with the intent that nothing in the Intergovernmental Agreement authorizes a waiver of the Tribe's sovereign immunity; and

Be it further resolved that the Tribe does authorize the CRITFC to negotiate, enter and execute a Title I self-determination contract and funding agreement with the BIA under Public Law 93-638, as amended, on behalf of the Confederated Tribes of Warm Springs and the other three tribes named in Public Law 100-581 to assume law enforcement responsibilities and associated funding for law enforcement in the area of the Columbia River, including law enforcement responsibilities for the sites named in Public Law 100-581 and Public Law 79-14. (Resolution no. 11,305.)

## Bull trout

Whereas the Confederated Tribes of the Warm Springs Reservation through the Treaty of Middle Oregon reserved the "exclusive right of taking fish in the streams running through and bordering said Reservation"; and

Whereas, pursuant to Article V, Section 1(l) of the Constitution, the Tribal Council has the right and the duty to preserve natural resources; and

Whereas the United States Fish and Wildlife Service and the Oregon Department of Fish and Wildlife have proposed that thirty adult bull trout and thirty sub adult bull trout be recruited from Lake Billy Chinook; and

Whereas the Metolius / Lake Billy Chinook bull trout population is the strongest population in the contiguous forty eight states; and

Whereas the use of these fish would lead to the reintroduction and a new population in the Clackamas River Basin; and

Whereas the Confederated Tribes of Warm Springs have reserved treaty rights in the Clackamas River Basin; and

Whereas the Confederated Tribes of Warm Springs tribal members regularly exercise their treaty rights; and

Whereas these bull trout populations are proposed for the recovery process of a listed species; and

Whereas the Branch of Natural Resources fisheries department is working in cooperation with the United States Fish and Wildlife Service and Oregon Department of Fish and Wildlife as a co-manager to increase the number of populations of bull trout that would meet the United States Fish and Wildlife Service recovery plans leading towards delisting; and

Whereas, as these new populations become established, would provide harvest opportunities for future generations

Be it resolved that the Twenty-Fifth Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon, pursuant to Article V, Section 1 (a) and (l) of the Constitution, that the Tribal Council hereby supports

and endorses the transfer of thirty adult bull trout from Lake Billy Chinook to the Clackamas River Basin.

Be it further resolved that the Tribal Council directs the Branch of Natural Resources to oversee this transfer in order to ensure that the public welfare and resources of the Confederated Tribes of the Warm Springs are preserved. (Resolution no. 11,306.)

## Rock extraction site restoration

Whereas the Tribal Council, through Resolution #9511 adopted on March 25<sup>th</sup>, 1998, directed the BIA Superintendent to issue a single Master Mineral Resource Permit to CTWS Crushing (now known as Warm Springs Construction Enterprise (WSCE)); and

Whereas a comprehensive restoration plan needs to be developed for all of the permitted active and closed extraction sites; and

Whereas this comprehensive restoration plan will require the administration, monitoring, mitigation and maintenance of each of the extraction sites; and

Whereas the Tribes recognize that rock aggregate material processed, used or taken from the Reservation has monetary value; and

Whereas WSCE has been responsible for monitoring rock material taken from active Tribal extraction sites and collected Restoration and Royalty Fees that are deposited to special accounts set up by the Tribes; and

Whereas there is a need to define the purpose of the fees collected for Restoration so that these active extraction sites can be managed and maintained in compliance with Tribal Ordinances; and

Whereas the BIA, as trustee, has maintained protection of the reservation rock resources by maintaining a rock management plan including administrative oversight of the Master Mineral Resource Permit issued to WSCE as the sole agent to the Tribes; and

Whereas the Confederated Tribes of Warm Springs is responsible for the proper use and control of all rock resources as steward of the lands on the Warm Springs Reservation; and

Whereas Restoration funds have been collected over the years and there is an immediate need to use them to monitor and manage extraction sites, and develop restoration plans; and

Whereas complete restoration of extraction sites may take more funds than are collected in any one year; now therefore

Be it resolved by the Twenty-Fifth Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon, pursuant to Article V Section 1 (a), (f), (k) and (l) of the Tribal Constitution and By-Laws as amended, that the Tribal Council hereby adopts the Royalty and Restoration Fee Schedule attached as Exhibit "A" with the following conditions or stipulations:

1. that the WSCE will collect Royalty and Restoration fees; track extracted materials; market materials for both on-reservation and off-reservation use; and maintain extraction sites before, during, and after material extraction; and

2. that all Fees collected for the Restoration of Tribal extraction sites will be placed into a special account to be managed by the Branch of Natural Resources; and

3. the Secretary-Treasurer/CEO to work closely with the General Manager of the Branch of Natural Resources, the BIA Realty Office and the Manager of WSCE to review the Fee Schedule and establish appropriate changes as needed; and

4. the Branch of Natural Resources to develop comprehensive management, monitoring and restoration plans for each of the active extraction sites on the Reservation; and

5. restoration plans will be developed under the Integrated Resource Management Plan (Ordinance 74) which will require a Project Assessment to address environmental and cultural resource issues before any restoration of the extraction site is undertaken; and

6. existing restoration funds are immediately available for the Branch of Natural Resources to monitor, manage, and implement these plans; and

7. the funds in the restoration account will be carried forward each year until needed; and

8. a minimum of 20% of the fees paid annually into this account will be retained for necessary restoration of the land upon final closure of these sites; and

9. certain tribal projects already planned and budgeted according to the existing fee schedule will proceed according to the old fee rates; and

10. existing construction contract projects on the 2010-2013 Tribal Transportation Improvement Program, and existing Tribal Branch of Natural Resources

projects are exempt from the new fee schedule until January 2013. (Resolution no. 11,314.)

## Fiber optic

Whereas the Confederated Tribes of the Warm Springs Reservation of Oregon (the "Tribe") and Wasco Electric Cooperative Inc. ("Wasco Electric"), have negotiated a "Pole Attachment License Agreement" ("Agreement"), Exhibit "A", which allows the Tribe to attach to Wasco Electric's utility poles located on the Warm Springs Reservation ("Reservation") fiber optic cable and other telecommunications equipment as specifically provided for in the attached Agreement; and

Whereas the use of Wasco Electric's utility poles on the Reservation for purposes of carrying tribal fiber optic cable and other equipment would greatly assist the Tribe in fulfilling its goal of bringing high speed broadband internet access to tribal members throughout the Reservation; and

Whereas the Tribal Council believes that the Tribes/Wasco Electric Agreement is in the best interest of the Tribe and its members because it will facilitate the availability of high speed broadband internet access for tribal members throughout the Reservation; and

Whereas the Section 27 of the Agreement contains a limited waiver of tribal sovereign immunity to permit judicial enforcement of the Agreement, which must be approved by the Tribal Council by resolution pursuant to Warm Springs Tribal Code, Section 30.004; now, therefore,

Be it resolved by the Twenty-Fifth Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon, pursuant to Article V, Section 1 (f), (1), and (u), of the Tribal Constitution and By-Laws, and Section 30.004 of the Warm Springs Tribal Code, that the Tribal Council hereby approves the limited waiver of sovereign immunity as set out in Section 27 of the Tribes/Wasco Electric Agreement, attached as Exhibit A to this Resolution; and

Be it further resolved that the Tribal Council approves the Agreement in its entirety as in the best interest of the Tribe and its members; and

Be it further resolved that the Tribal Council Chairman, or his designee, is hereby authorized to execute the Agreement, attached hereto as Exhibit A, on behalf of the Tribe. (Resolution no. 11,320.)

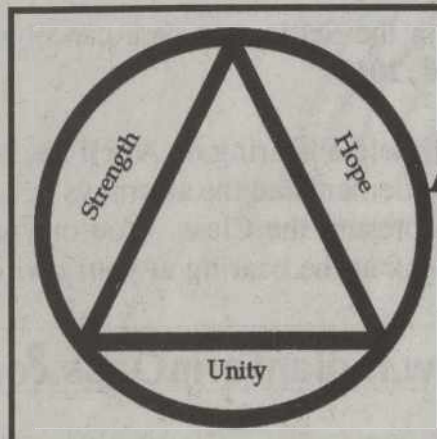
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Warm Springs Community Counseling  
Wednesday - 12-Noon & 7:00 p.m.  
Saturday - 10 a.m.